



Title	Acquisition of Property Policy
Related Documentation	Code of Conduct Statement of Business Ethics Procurement Policy Investment Property Portfolio - Strategy for Revenue Growth Policy Unsolicited Proposals Policy Urban Renewal and City Revitalisation Policy
Relevant Legislation	<i>Conveyancing Act 1919</i> <i>Environmental Planning and Assessment Act 1979</i> <i>Land Acquisition (Just Terms Compensation) Act 1991</i> <i>Local Government Act 1993</i> <i>Local Government (General) Regulation 2005</i> <i>Roads Act 1993</i> <i>Real Property Act 1900</i>
Responsible Officer	Executive Manager, City Revitalisation and Urban Renewal

Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.

Objectives

The objectives of this Policy are:

- To ensure that Council meets its legislative obligations under the relevant Act(s) for the acquisition of property.
- To ensure that Council has transparent and accountable processes in place for the acquisition of property.

Policy Statement

When deciding whether to acquire Property, Council will consider the purposes for such action, which can be to provide:

- A public purpose for which it is reserved or zoned under an environmental planning instrument, including community services, open space and recreation, and stormwater management
- Public infrastructure, including roads
- A strategic property acquisition in line with Council long term priorities and objectives
- An opportunity for Council to conduct urban renewal activities to catalyse city transformation
- An investment opportunity

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Council may acquire land, including an interest in land, by the following:

- Acquisition by agreement
- Compulsory acquisition, or
- Owner-initiated acquisition, including hardship claim

Acquisitions

Council may acquire Property for strategic and investment purposes.

Property acquired for strategic purposes has attributes that will generate current or future income for Council, or be purchased for development or redevelopment into future growth opportunities.

Council, at its discretion, may strategically acquire a property via a private treaty sale.

Definitions

For the purposes of this policy:

- **Compulsory Acquisition** – means the process of acquisition under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.
- **Council** – means the elected body of the City of Campbelltown that makes decisions through a formal meeting process.
- **Due Diligence** – means research undertaken before entering into an agreement or a financial transaction with another party.
- **Hardship** – :
 - the owner is unable to sell the land, or is unable to sell the land at its Market Value, because of the designation of the land for acquisition for a public purpose, and
 - it has become necessary for the owner to sell all or any part of the land without delay:
 - for pressing personal, domestic or social reasons, or
 - in order to avoid the loss of (or a substantial reduction in) the owner’s income.

If the owner is a corporation, the corporation does not suffer hardship unless it has become necessary for the corporation to sell all or any part of the land without delay:

- for pressing personal, domestic or social reasons of an individual who holds at least 20 per cent of the shares in the corporation, or
- in order to avoid the loss of (or a substantial reduction in) the income of such an individual.
- **Hardship Claim** – is an application made by an Owner that is designated for acquisition by Council for a public purpose and the Owner considers that they will suffer hardship if there is a delay in the acquisition.
- **Interest in land** – is a legal or equitable estate or interest in the land, or an easement, right, charge, power or privilege over, or in connection with, the land.
- **Market Value** – means the amount that would have been paid for Property to be acquired under this policy if it had been sold at a particular time by a willing but not anxious buyer, disregarding (for the purpose of determining the amount that would have been paid):

- Any increase or decrease in the value of the Property caused by the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired, and
 - Any increase in the value of the Property caused by the carrying out (by the Acquiring Authority) of improvements for the public purpose for which the land is to be acquired, and
 - Any increase in the value of the Property caused by its use in a manner or for a purpose contrary to law.
- **Owner** – is the person/s who has the fee simple estate in a Property or a person who has become entitled to exercise a power of sale over the Property.
 - **Property** – is the land in fee simple to be acquired under this policy together with any improvements (e.g. buildings or other fixed structures).
 - **Property Acquisition** – is the purchase of Property by agreement or compulsory acquisition.
 - **Valuer General** – is the independent statutory officer appointed by the Governor of New South Wales. The Valuer General is required to independently determine the amount of compensation to be paid by the Acquiring Authority to the Owner when an agreement cannot be reached

Scope

This policy applies to all Property acquisitions within the Campbelltown local government area.

All staff, contractors and consultants involved in any aspect of Property acquisition must adhere to this policy.

Methods of Acquisition.

Council may acquire Property by the following means:

- **Acquisition by Agreement**
 - Council may acquire privately-owned Property for public or infrastructure purposes.
 - Council may acquire privately-owned Property as a Strategic Property.
 - When Council identifies Property to be acquired, Council will aim to acquire the Property via a negotiated private treaty sale if practicable
- **Compulsory Acquisition**
 - Compulsory Acquisition is a statutory process available to Council under the *Land Acquisition (Just Terms Compensation) Act 1991*, to acquire land for a public purpose if Council and the Owner have failed to reach agreement on the terms of the sale for at least six months.
 - If Council undertakes the Compulsory Acquisition process, the Valuer General determines the amount of compensation.
- **Owner-Initiated Acquisition (Hardship Claim)**
 - Council may only accept Hardship Claims if they are made in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
 - Council will consider a Hardship Claim if an Owner can demonstrate that he or she will suffer hardship if there is any delay in the acquisition of the land in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Strategic Acquisitions

Council may strategically acquire property for future planning, development or investment purposes. Generally, these Property acquisitions will have attributes that could generate income for Council or provide future growth opportunities.

Strategic property acquisitions are transacted in accordance with the relevant sale method available, including private treaty or auction. Council may acquire land that is available for public sale under the same terms as any other prospective purchaser without having to satisfy the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Urban Renewal and City Revitalisation acquisitions

Urban Renewal and City Revitalisation provides the framework for Council to conduct urban renewal activities to catalyse the transformation of our City. It gives effect to the *Community Strategic Plan (CSP)*, *Delivery Program and Operational Plan (DPOP)*, and other plans and strategies in which we commit to the revitalisation of our city.

Council may strategically acquire property for future planning, development or investment purposes. This includes potential projects, which may sit outside Council's normal business activities, such as undertaking the planning and development of strategic sites, the creation of vibrant places, and the generation of future revenue streams for Council by leveraging our extensive property portfolio.

Investment acquisitions

Council may acquire property for the purposes of investment and ongoing revenue. The principles and criteria for Investment acquisitions are set out in the *Investment Property Portfolio – Strategy for Revenue Growth Policy*.

Acquisition of an Interest (Easements)

Where the public purpose can be achieved via the grant of an easement or a right in favour of Council, Council may, at its discretion, decide to negotiate the terms of the easement or right with the Owner.

Partial Property Acquisition

In some circumstances, Council will only require the partial acquisition of a Property.

In this situation, Council will provide the Owner with a plan outlining the area of the Property to be acquired. It will also include the proposed new boundary as a result of the partial acquisition.

Where partial acquisition of the Property is required, Council will hold discussions with the Owner and agree what property adjustments are required as a result of the acquisition, such as modifications to driveways or fencing.

Property Valuation and Compensation

Council will engage an independent registered valuer to determine the Market Value of the Property. Where Council considers the Property to have a Market Value over \$1 million (excluding GST), Council may engage two independent registered valuers to assist Council to determine the Market Value. Council will take Market Value into account in any negotiations with Owners.

Owners are entitled to engage an independent registered valuer to carry out a valuation of the Property.

Process of Property Acquisitions

The process for Property acquisition will depend on the purpose of the acquisition, the legislative requirements and the ability to negotiate the agreed sale terms.

Owner-Initiated Acquisition in Cases of Hardship

An Owner may initiate the acquisition of their Property by Council if:

- Their property is designated for acquisition for a public purpose, and
- They can satisfy the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Land is designated for acquisition for a public purpose if:

- Council has, in connection with an application for development consent or building approval, given the local authority or other person dealing with the application written notice that the land has been designated by Council for future acquisition for a public purpose, or
- The land is reserved by an environmental planning instrument for use exclusively for a purpose referred to in section 3.14(1)(c) of the *Environmental Planning and Assessment Act 1979* and the instrument (or some other environmental planning instrument) specifies the Council as the authority required to acquire the land.

Council will consider a Hardship Claim if an owner can demonstrate that he or she will suffer hardship if there is any delay in the acquisition of the land in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Council is not required to acquire the land unless it is of the opinion that the owner will suffer hardship if there is any delay in the acquisition of the land under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Each party will be responsible for their own costs incurred during the process outlined in this policy (e.g. valuation fees, legal fees etc.).

Council cannot provide advice in relation to an owner's situation or Hardship Claim. The owner should obtain independent legal and financial advice prior to submitting a Hardship Claim to Council.

The owner must provide supporting documentation with their Hardship Claim. Council may request that the owner provide further information to support their claim. Failure to supply the information will not enable a suitable assessment of the Hardship Claim.

If Council officers are not satisfied that there is enough evidence to form an opinion of hardship, the owner will be advised that the claim cannot be assessed.

Categorisation

Land and/or land and buildings acquired for strategic or investment purpose should be assessed for categorisation. If it is deemed that the acquisition is to be categorised as operational this should be noted in the formal recommendation to Council.

Funding

As part of the overall assessment process and recommendation to Council a funding strategy for the acquisition must be determined and support obtained from Council's Executive Group.

Approval by Council

In accordance with section 377(1) of the *Local Government Act 1993*, the compulsory acquisition, purchase, or exchange of any land or other property by Council requires a resolution of Council.

All acquisitions of Property will be reported to Council for a resolution.

Entry for Civil Works

Once an acquisition has been settled, entry to the Property for civil works can take place.

In some circumstances, Council may require early entry to the Property prior to the completion of the acquisition. If required, and the Owner is agreeable, Council may arrange formal right of entry via a Deed of Access.

If a Deed of Access is not achievable and early entry is required to facilitate the delivery of a public purpose that includes roadworks, Council may issue a notice pursuant to section 175 of the *Roads Act 1993*, to use and occupy the land to carry out roadworks.

Responsibility

The acquisition of any property requires the formal approval of Council.

Departure from this Policy

Any provision of this Policy may be varied to meet the needs of a particular matter by resolution of Council.

END OF POLICY STATEMENT