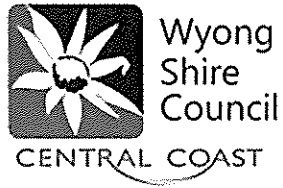


POLICY NO: WSC123

POLICY FOR PROPERTY TRANSACTIONS – SALES AND ACQUISITIONS

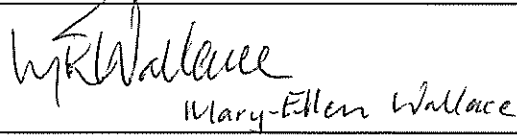
© Wyong Shire Council
Wyong Shire Council
2 Hely Street Wyong
PO Box 20 Wyong NSW 2259
P 02 4350 5555 F 02 4351 2098
E wsc@wyong.nsw.gov.au
W www.wyong.nsw.gov.au





AUTHORITY	NAME & TITLE
AUTHOR	Jari Ihalainen, Director Property and Economic Development
MANAGER	
DIRECTOR	
GENERAL MANAGER	Michael Whittaker

CERTIFIED A TRUE COPY OF POLICY ADOPTED BY COUNCIL

SIGNATURE	 Mary-ElLEN Wallace
COUNCIL RESOLUTION DATE	22/10/2014

History of Revisions:

Version	Date	TRIM Doc. #
1	16/4/2014	D06914286
2	22/10/2014	D11762460

A. POLICY SUMMARY

- A1 The policy provides guidance in relation to all prospective property transactions in accordance with Council's strategic priorities, service delivery, operational and legislative requirements.

B. POLICY BACKGROUND

- B1 This Policy has been prepared by Wyong Shire Council to provide guidance for staff members that are responsible for selling, acquiring or exchanging ownership of land.
- B2 From time to time, land owned by Wyong Shire Council may be identified as surplus to operational requirements and be offered for sale. Similarly, Council may identify the need for new assets and resolve to acquire property.
- B3 Council owned land is a valuable public asset owned by Council on behalf of ratepayers. The adoption of this policy will ensure the sale and acquisition of Council land (real property) with or without buildings or other improvements, and the granting of easements in land owned by Council, is transparent, consistent and has regard to Council's strategic aims and statutory responsibilities.
- B4 The *Local Government Act 1993* ('Local Government Act') sets out specific legislative requirements in regard to the management and disposal of public land by Councils. This policy is intended to provide further guidance on property dealings in addition to the statutory obligations under the Local Government Act.

C. DEFINITIONS

- C1 **Council** means Wyong Shire Council, being the organisation responsible for the administration of Council affairs and operations and the implementation of Council policy and strategies.
- C2 **Property Transactions.** For the purpose of this Policy, 'Property Transactions' means the sale and acquisition of real property and the grant of easements.

D. POLICY STATEMENTS

Jurisdiction

- D1 This Policy covers all elected members of Council, all personnel employed by Council, any person or organisation contracted to or acting on behalf of Council, any person or organisation employed to work on Council premises or facilities and all activities of the Council.
- D2 This policy does not confer any delegated authority upon any person. All delegations to staff are issued by the General Manager.

General

OBJECTIVES

- D3 The objectives of this policy are to:
- Ensure property transactions comply with statutory obligations
 - Ensure property transactions are transparent, robust and aligned to Council's Strategic Plan
- D4 The following principles and practices will apply in governing the effective and efficient conduct of prospective property transactions.
1. **Principle: Strategic Resourcing**
In accordance with the changing economic environment the transactions of land and buildings will be governed by the priorities outlined in the WSC Property Strategy and Strategic Plan.
Practice:
Property transactions will be conducted in accordance with this Policy for Property Transactions – Sales and Acquisitions.
 2. **Principle: Legislation Framework**
All property transactions are to comply with relevant legislative requirements.
Practice
Applicable legislative requirements will be identified and managed during all contractual negotiations with prospective parties.
 3. **Principle: Basis of Property Transactions**
All property transactions will be conducted in a fair and equitable basis in the overall interests of the Shire.
Practice
All real property should generally be transacted at market value including that transacted with private entities, government departments and agencies, unless there is a Council resolution that authorises the transaction to proceed at other than market value.
 4. **Councillors will be advised of any pending property transactions.**
A report to Council relating to a property transaction should be considered in open Council, with commercially sensitive information contained in confidential attachments.

ACQUISITION AND DISPOSAL OF REAL PROPERTY ASSETS

- D5 There must be a Council resolution for any land to be sold or acquired. Council officers may undertake preliminary enquiries and processing of applications for the closure of roads and sale or purchase of land prior to reporting to Council but cannot agree to the sale or purchase of any Council land in the absence of a Council resolution.

Classification

- D6 Under the Local Government Act, land under Council's control, other than roads and crown land, must be classified as either "community land" or "operational land."
- D7 Council cannot sell, exchange or otherwise dispose of land classified as community land (s. 45 of the Local Government Act). Accordingly, where Council has resolved to dispose of property, it would first have to reclassify the land as operational land, which must be done by a Local Environmental Plan (LEP) and requires public exhibition of the proposed LEP, community consultation, a public hearing conducted by an independent chairperson and consent of the Minister.
- D8 Public land owned by Council and classified as operational land can be sold at the discretion of Council, subject to a resolution endorsing the sale.
- D9 Land acquired by Council must be designated as 'community' or 'operational' at the time of acquisition. All future land purchases by Council should generally be designated as operational land irrespective of the intended or existing use.
- D10 The Roads Act sets out some requirements for the formal and permanent closure of parts of public roads and lanes. Under s. 43(2) of the Roads Act land vested in a Council and forming part of a former public road is classified as operational land for the purpose of the Local Government Act, unless Council resolves before the land vests that it is to become community land.

PROPERTY DIVESTMENT

General Principles

- D11 All sales of land must comply with the provisions of the Local Government Act.
- D12 Sales should be conducted through a competitive public process (i.e. public auction, public tender or by registration of expressions of interest or advertising) unless circumstances exist that justify an alternative method of sale, such as sale or exchange of land by private treaty (for example where the only viable purchasers are the adjoining owners). Council must outline the reasoning which led to its decision to use an alternative method of sale in the interests of probity, public accountability and transparency.
- D13 Sales should be in the best interests of the community and provide the best result, both financial and non-financial, for the Council and the community.
- D14 Generally, all sales should occur at not less than the market value assessed by an independent valuer engaged by Council.

- D15 The assessment of market value may be based on a market appraisal carried out by a Council officer with appropriate skills and experience who is independent from the Business Unit responsible for the property transaction, instead of an external valuation, if the land proposed to be sold:
- Is unimproved land; or
 - Is improved land with a market value likely to be less than \$300,000 (ex GST); or
 - An external valuation of the property was obtained by Council less than 3 years previously.
- D16 In the event that land is sold for less than the assessed market value, the Council should explain the circumstances, reasons or factors which led to the decision to accept a sale price that is less than market value.
- D17 Prior to being offered for sale, property should be appropriately zoned or arrangements made in preparation for re-zoning. This will ensure that the ultimate use of the land is determined by that zone and the highest possible sale price is achieved.
- D18 Where an opportunity exists to substantially increase the potential value of a site through development consent, Council should consider securing such consent prior to the sale of the land if appropriate in the circumstances.
- D19 Council policy is not to sell land which is used by the community as a public pedestrian thoroughfare, pathway, access way or the like, unless full details have been disclosed in the Report to Council recommending the sale, including potential impacts on the community.
- D20 Applications for the closure and sale of part of a lane or road are looked at individually. Amongst other things, Council's operational requirements are considered, effects on streetscape and access are considered, and any affected neighbours must be consulted.
- D21 Roads can only be closed by the Minister, even for roads owned by Council. Council can make the application to the Minister but cannot guarantee to any potential purchaser that such application will succeed.

CATEGORIES

- D22 There are three types of sales which are dealt with separately.
- **Section A** deals with the sale of stand-alone properties, that is properties that can be sold to any person (not just a neighbour) and can be used separately from neighbouring land.
 - **Section B** deals with sales to adjacent property owners without a public sales campaign of closed roads, drainage reserves and other small areas of land to be used and consolidated with the purchaser's existing property.
 - **Section C** deals with grants of rights of way and other easements over Council's land that benefit privately owned land

"Stand Alone" Properties

- D23 Without limiting Council's powers under the Local Government Act, Council may sell operational land if that sale is to provide funds for future asset acquisition through the Property Reserve.
- D24 Prior to the sale of land, Council must:
- Determine the property to be surplus to requirements, or
 - Where it is commercial property, prepare a Business Case outlining the reason for divestment.
- D25 Reports to Council recommending a property sale must include, where relevant:
- i. a detailed description of the property, its address, size, improvements and brief history of use;
 - ii. details of why the property is deemed surplus to Council's current and future service delivery requirements;
 - iii. disclosure of current or estimated maintenance costs or requirements;
 - iv. assessment of alternatives to disposal including potential interim uses to which the property may be put and the likely revenue (if any) from such interim uses;
 - v. an indicative value for the property (to be confirmed by independent valuation or internal market appraisal);
 - vi. any proposal for use of the sale proceeds
- D26 In the absence of a specific resolution for other application, the sale proceeds are to be paid into the Property Reserve for reinvestment into other land or property assets. The sale proceeds are not to be used for Council's recurrent or operational expenses. This requirement does not apply to proceeds from the sale of former public roads, on the basis that section 43(4) Roads Act requires these proceeds to be used for acquiring land for public roads or carrying out roadwork on public roads.
- D27 Prior to sale, Council will obtain an assessment of the market value from an external registered valuer, or an internal market appraisal if permitted under Paragraph D15 of this Policy. This will be used to set the reserve price at auction and for any negotiations.
- D28 Council may appoint a licensed real estate agent to act on the sale.
- D29 Sales should be structured to obtain the highest price for the land.
- D30 Sales will generally be conducted through a public competitive process (tender, EOI, auction, advertising).
- D31 The sale will be advertised in accordance with usual industry practice for the sale of similar types of properties by private sellers. If the property is auctioned but does not reach the reserve price, Council may negotiate a sale to the highest bidder.
- D32 In rare cases, stand-alone properties will have only one potential purchaser and in that case, Council may negotiate a private treaty sale with that purchaser, for not less than the market price, in accordance with the valuation received, or an internal market appraisal if permitted under

Paragraph D15 of this Policy.

Sales to Adjacent Property Owners

- D33 In some cases, such as small lots created through road closures, surplus land may have little commercial appeal to the broader market. In such cases a sale may be negotiated directly with adjoining land owners.
- D34 The sale of Council owned property to the adjacent property owner may be instigated by either Council or by the adjacent property owner interested in purchasing.
- D35 Council may be willing to sell drainage reserves to adjacent property owners, provided there is no impact on service delivery.
- D36 Any sale of a drainage reserve will require the creation of a drainage easement in Council's favour over the land to be sold.
- D37 Where the purchase is not instigated by Council, the purchaser must pay all costs and expenses incurred by Council in connection with the road closure (if relevant), subdivision (if any) and sale including but not limited to:
- i. surveyor's fees (if a road closure or subdivision of a drainage reserve is involved and/or if a plan of consolidation is required), and registration fees for the plan/s of subdivision and/or consolidation;
 - ii. development application fees, or the fees of an external assessor of the development application for subdivision (if any);
 - iii. fees payable to any other authority, for example the road closure application fee to the Department of Lands;
 - iv. valuer's fees; and
 - v. legal fees incurred by Council in connection with the sale
- D38 Where the purchase is instigated by Council, Council may require the purchaser to pay some or all of the costs and expenses referred to above.
- D39 In all cases, the purchaser must pay:
- a. the sale price of the land being the amount assessed by an external registered valuer, or an internal market appraisal if permitted under Paragraph D15 of this Policy, having regard to the amount by which the addition of the land will increase the market value of the purchaser's existing property with which it is to be consolidated and used; and
 - b. the purchaser's own costs in connection with the sale including but not limited to surveyor's fees for any plan of consolidation of the land sold with the purchaser's existing property and solicitor's costs and disbursements.
- D40 Net proceeds from the sale of land (other than for former public roads) will be paid into Council's Property Reserve.

Grants of Easements

- D41 An easement is a right burdening one parcel of land and benefitting another parcel of land owned by a different person. It allows the owner of the benefitted land to use part of the burdened land of another person for purposes which would not be permitted in the absence of the easement. For example, a right of way permits access over the burdened land to the benefitted land, which would otherwise be trespass without the easement. The easement is attached to the land and registered on the title of both properties, so that it automatically passes to purchasers of the land. It continues indefinitely unless and until, for example, it is expressly released by the owner of the benefitted land or extinguished by the Supreme Court on evidence that it is no longer used. It is a valuable interest in land.
- D42 Properties adjacent to Council owned land do not have a right to use the Council owned land for access to their private properties without a registered right of way, lease or licence agreement. Similarly, a private property owner does not have the right to run pipes or other services across, through or under Council owned land unless there is a legal registered easement allowing this. In this respect, Council owned land is no different from land owned by a private owner.
- D43 Council cannot grant rights of way over community land for access to private properties, and has very limited rights to grant easements for underground pipes under community land. Council can grant easements over its operational land the same as any private owner.
- D44 The grant of an easement over Council land reduces the value of that Council land. It also restricts the use of part of the Council land. Council cannot block any right of way and usually cannot build over the site of an easement for drainage or other services. The same restrictions would apply to any purchaser of Council land which is burdened by an easement and so reduces the sale value.
- D45 The grant of a right of way or other easement benefitting an adjacent or nearby private property increases the value of that property. It can give vehicular access to a property that otherwise does not have vehicular access. It can give rear access to a property that otherwise would not have rear access. It can allow development on that other property that may not otherwise be possible. It can allow increased development on that property because provision for access does not have to be made on that property to the road but only to the Council land and then along the right of way to the road. It can reduce the costs of development on that property if pipes can be taken under Council's land rather than on a longer route along the public road.
- D46 Any agreement by Council to create or grant an easement over Council land benefitting private land is on the basis that the grantee must pay:
- all costs and expenses in connection with creation of the right of way, including but not limited to survey, valuation, legal and registration fees; and
 - the consideration (sale price) for the easement being the amount assessed by an external registered valuer having regard to the amount by which the easement increases the market value of the benefitted land and the amount by which the easement reduces the market value of the burdened Council land.

- D47 The consideration for the easement may be based on a market appraisal carried out by a Council officer with appropriate skills and experience who is independent from the Business Unit responsible for the property transaction, instead of an external valuation, if the easement proposed to be created or granted:
- Is over unimproved land only; or
 - The consideration for the grant of easement is likely to be less than \$50,000 (ex GST); or
 - An external valuation of the affected property was obtained by Council less than 3 years previously

Compliance

- D48 Purchasers of Council land are expected to comply with the terms and conditions of any formal agreement and contract for sale entered into by them, including as to the time for completion and amounts to be paid. Grantees of easements over Council's land are expected to comply with the registered terms of the easement. The obligations are not reduced and will not be waived because the vendor/grantor is Council rather than a private seller/grantor.

E. POLICY IMPLEMENTATION - PROCEDURES

- E1 This policy should be read in conjunction with the Wyong Council Code of Conduct.
- E2 It is the personal responsibility of all Council employees and agents thereof to have knowledge of, and to ensure compliance with this policy.

PROCEDURE FOR THE SALE OF LAND

Preparation of land for sale

- E3 Council should ensure that land is offered for sale in a manner that will ensure the maximum price is achieved while protecting both the Council and the public interest. Some examples of matters which should be addressed before offering land for sale include:
- The land proposed for sale being sold at its highest and best use and is zoned appropriately, or arrangements made for re-zoning.
 - Presentation of the land should expose its best attributes. Preparation for sale should include (where appropriate) repairs, cleaning, painting, clearing of vegetation, pegging of boundaries and associated works.
 - The optimum development potential of the land should be considered.
 - The need for any continuing interest in the land such as covenants, easements, leases, licenses, planning protections or controls and so on.
 - Is subdivision required?
 - Structural and engineering reports may be required.
 - Environmental reports should be obtained where there is possible contamination.
 - Land must be offered for sale with full disclosure of relevant information to enable a full and proper due diligence enquiry.

- If land proposed for sale is contaminated, a strategy for its remediation (including the responsibility for and the funding of remediation works) needs to be developed.
- A site survey is to be commissioned if required to accurately define the asset being sold.

E4 As each sale is different, the above matters are only examples of the many potential matters that should be addressed before offering land for sale. In all cases, the preparation of land for sale should be cost-effective and be consistent with the nature of the land being proposed for sale as well as the circumstances which have led to the proposed sale.

Appointment of consultants and real estate agents

E5 Consultants may be appointed to give advice or to assist with the preparation of the land for sale. Consultants may include valuers, surveyors, engineers, environmental assessors (i.e. in relation to soil contamination and remediation), demolition specialists, town planners, legal advisers and so on.

E6 Consultants must be independent and not have any personal or pecuniary interest in the transaction. A written declaration or disclosure in this regard is essential.

E7 A consultant must not be appointed as valuer and selling agent for the same land. Careful selection of consultants will ensure best results are achieved. Consultants should be fully briefed on the scope of their engagement. Only those consultants who are adequately qualified, skilled and experienced should be invited to tender for the services to be performed. This will generally enable acceptance of the lowest quote or tender.

E8 Consultants must provide evidence of professional indemnity insurance.

Instructions for Valuers

E9 Valuers should receive unbiased instructions to carry out the valuation independently, free from influence or collusion with the selling real estate agent and Council officers, and in the case where land is being exchanged, with the owners of property which are the subject of the exchange. In appointing the valuer, the Council must ensure that the preferred valuer does not have any conflict of interest.

E10 Generally, valuers should be instructed to provide a valuation on the basis of highest and best use of the land proposed for sale. However, where land is proposed for sale for some purpose other than the highest and best use, the valuer should be instructed to provide a valuation on both bases. This will enable the Council to make an informed decision on the sale of this land. Further, the community can be fully informed of the value of any community service obligation that might arise as a result of the land being used for a purpose other than highest and best use.

- E11 Generally, valuers should be instructed to provide a valuation on the basis of highest and best use of the land proposed for sale. However, where land is proposed for sale for some purpose other than the highest and best use, the valuer should be instructed to provide a valuation on both bases. This will enable the Council to make an informed decision on the sale of this land. Further, the community can be fully informed of the value of any community service obligation that might arise as a result of the land being used for a purpose other than highest and best use.
- E12 If the value of the land is high and/or the land is complex in nature, it would be prudent to have a second valuation done by an independently instructed valuer on the same instructions. If there is a difference of opinion in the valuation, a valuer's conference should be called to work out the differences and arrive at an agreed valuation. An impartial chairperson should preside over the conference.

Instructions for Real Estate Agents

- E13 Real estate agents should be required to provide a report, which outlines:
- details of the proposed marketing and advertising campaigns;
 - the expected selling price; and
 - details of any works required to be undertaken on the land being offered for sale
- E14 Where the sale is by auction, the real estate agent should nominate the auctioneer prior to the appointment.

Method of Sale

Sale by public auction

- E15 Where the Council has decided that land is to be sold by public auction, the sale of this land before auction must not be permitted.
- E16 Sale of land by public auction should be conducted in the following manner:
- After the selection and appointment of a real estate agent, the date of auction should be set, allowing approximately four to six weeks for an advertising campaign. The period may need to be varied depending on the type of land. The agent should be required to submit a summary to the Council of the marketing campaign, enquiry rate and anticipated result seven days before the auction.
 - The advertising campaign should be conducted in a manner that adequately exposes the land to the market.
 - If an external valuation is required, the valuer(s) should provide valuations to the Council at least two to three weeks before the auction date. This will allow sufficient time to arrange a conference of valuers, or to confer with the valuer(s) if there is any concern about or disagreement over the valuations provided.
 - When the valuation(s) and the selling agent's report have been received, the Council should determine a reserve price. The reserve price should be not less than the market value, unless there is a Council resolution that authorises the transaction to proceed at

other than market value. The reserve price must be set before the auction and must remain confidential at all times.

- Security must be maintained over documentation relating to the reserve price.

- E17 Documents such as valuations, agent's reports and related correspondence must be provided on a confidential basis and only to the Council representatives responsible for the transaction.
- The reserve price or valuation advice must not be disclosed, particularly to the selling agent, before the auction.
 - If the land fails to sell at auction, it is to be passed in for negotiation with the highest bidder and offered for sale to that person at not less than the reserve price, unless there is a Council resolution that authorises the transaction to proceed at other than at the reserve price or market value.
 - If the land remains unsold following negotiations after auction, it should be left on the market for private sale at not less than the reserve price, unless there is a Council resolution that authorises the transaction to proceed at other than market value, for an appropriate or reasonable period of time as determined by the Council.
 - If an offer is received which is lower than the market value and the Council is considering acceptance of the offer, it should be submitted to Council for consideration with an explanation as to why the lower value should be considered, unless there is a Council resolution that authorises the transaction to proceed at other than market value.

Sale by public tender

- E18 Where the Council has decided that land is to be sold by public tender, the sale of this land before the close of tenders must not be permitted.
- E19 Most of the procedures described in the conduct of a sale by public auction are relevant to a sale by public tender, and it is recommended that they be read in conjunction with this section.
- E20 Sale of land by public tender should be conducted in the following manner:
- Tender documents must be prepared which outline the process for the sale and all relevant timelines. The documents should also outline the broad objectives the Council wishes to achieve through the sale, how tenders will be received and assessed, and how any post tender negotiations will be conducted.
 - Where appropriate the Council should appoint a probity auditor to oversee the entirety of the sale process.
 - The reserve price must be set before the close of tenders and must remain confidential to ensure the integrity of the sale process. Tenders must not be opened until the reserve price is set (i.e. if a reserve price had not been set before the close of tenders).
 - Tenders must be lodged with the Council or its legal representative. Tenders must not be lodged with the selling agent. Tenders lodged with the selling agent should not be accepted. Tenders submitted by facsimile or by e-mail should also not be accepted.

- Late tenders must not be accepted.
- Tenders should only be opened by a formally appointed panel comprising representatives of the Council and may include its legal representative and, if appointed, the probity auditor.
- The conforming tender that offers the best result, both financial and non-financial, for Council and the community, at or above the reserve price should be accepted. If no conforming tenders are received at or above the reserve price, the Council may commence post tender negotiations in accordance with its pre-determined strategy. This may involve negotiations with the highest tenderer or may involve inviting tenderers to consider increasing their offers for the property. Post tender negotiations should only be conducted for the duration allowed in the tender documentation. If the land remains unsold, it should be formally passed in and all tenderers must be advised. The land should continue to be marketed for an appropriate or reasonable period of time as determined by the Council.
- If an offer is received which is lower than the reserve price or market value and the Council is considering acceptance of the offer, then Council should disclose the reasons for its decision to sell the land for a price lower than valuation, unless there is a Council resolution that authorises the transaction to proceed at other than market value.

Sale by Public Registration or Expression of Interest

- E21 This method of sale is useful where the Council wishes to expose land to the market without the assistance of an agent. It can be used as a public marketing process that is an alternative to an auction or tender.
- E22 This method of sale is also appropriate in circumstances where, in addition to selling the land, a Council wishes to control the future use or development of the land.
- E23 Potential purchasers can be invited to provide details of a design concept or to make a commitment to enter into an agreement to develop the land in accordance with the Council's brief. Interested parties may also be required to provide details of their ability to perform and of their history of achievements.
- E24 Registration of expressions of interest may or may not be binding on either party.
- E25 The reserve price for the land should be set before the receipt of offers. Again, the reserve price must remain confidential to ensure the integrity of the sale process.
- E26 The marketing of the land should be conducted in the same manner as sales by auction or tender. If a Council has a desired development outcome for the land, the advertising campaign must include details of the proposal.

Sale/Exchange by Private Treaty

- E27 There may be circumstances where it may be more appropriate to sell/exchange land by private treaty. Generally, it will be determined by:
- the nature of land that is proposed for sale/exchange; and
 - how the proposed sale/exchange is initiated, e.g. often it is an external person who has initiated discussions with the Council with regard to the sale/exchange of land, that will determine if a sale/exchange by private treaty is appropriate
- E28 The nature/type of land may include:
- rear laneways and rights-of-way;
 - disused/closed roads; and
 - small allotments from previous subdivisions
- E29 Prospective purchasers of this type of land may include:
- owners of adjacent properties;
 - developers;
 - community groups;
 - State/Commonwealth Government; and
 - other parties with a particular interest in that land
- E30 An important consideration is the value of land proposed for sale/exchange. The value of this land to the Council may be different (and in some cases, significantly different) to the value of land to the prospective purchaser. For example:
- The addition of small allotments or part of a laneway or disused/closed road to an adjoining owner's property may increase the value of the combined property.
 - The availability of the additional land could mean the difference between not being able to and being able to develop or subdivide the purchaser's property.
 - The sale/exchange of land to a developer could reap the developer a significant return on their investment.
- E31 Additionally, the sale/exchange of land may result in a loss of general public access to land which may become restricted as a consequence of the sale/exchange. Any change in public access needs to be balanced with the public/community benefit which may arise from the sale/exchange and managed properly.
- E32 Given the nature of land generally offered for sale/exchange, the differences in value of the land for the vendor and the prospective purchaser, and the likely public perceptions of the proposed transaction, the highest standards of probity and transparency must be applied and be seen to be applied.

PROCEDURE FOR ACQUISITION OF LAND

E33 At times Council will resolve to acquire new real property assets. These assets may be acquired to assist in current or future delivery of Council Services or to supplement Councils revenue – generating investment/development portfolio.

General Principles

E34 All property acquisitions must be supported by a Council resolution.

E35 New acquisitions should generally be classified as operational land.

E36 Purchases will be conducted through private treaty negotiation, tender or expressions of interest. Purchases through public auction should not be pursued.

E37 The purchase price should not be more than the market value as determined by an independent valuation, or an internal market appraisal if permitted under Paragraph D15 of this Policy, unless there is a Council resolution that authorises the transaction to proceed at other than market value. The valuation must be based on the current state, condition and zoning of the property and not the development potential of the site.

E38 Negotiations with potential vendors/owners of sites identified for acquisition can be conducted without a Council resolution, however, no binding offer to purchase can be made until a resolution supporting the acquisition has been pursued.

E39 Council must undertake detailed due diligence on the site including, but not limited to;

- Property and title searches
- Contamination
- Zoning development potential
- Registered interests (easement and rights of way, etc.)
- Structural/engineering reports
- Environmental constraints (flooding, EECs, etc.)
- Surveys.

E40 Associated documents

- Council Code of Conduct
- Local Government Act 1993
- Environmental Planning and Assessment Act 1979
- Crown Lands Act 1989
- Roads Act 1993