

## *Our Vision*

Nambucca Valley ~ Living at its best

## *Our Mission Statement*

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

### **1.0 Policy objective**

- 1.1 The objective of this policy is to clearly define the processes for the acquisition of land by Council, and:
- 1.2 To provide a framework for a transparent process that adheres to the relevant legislation, and:
- 1.3 To ensure that Council has open and accountable processes in place for the acquisition of land, and:
- 1.4 To ensure that best value is achieved in Council property dealings.
- 1.5 This policy must be read in conjunction with Council's Land Acquisition Procedure No. G 10

### **2.0 Related Documents**

#### **2.1 Related Legislation**

- *NSW Land Acquisition (Just Terms Compensation) Act 1991*
- *NSW Local Government Act 1993*
- *NSW Roads Act 1993*

#### **2.2 Related Documents**

- Nambucca Valley Council – Debt Recovery Policy CS11
- Nambucca Valley Council – Land Acquisition Procedure G10
- Nambucca Valley Council – Sale of Land for Unpaid Rates & Charges Procedure CS07

### **3.0 Policy Content**

#### **3.1 Background**

Council is responsible for providing public infrastructure and services to the residents within the Local Government Area (LGA). Council performs a range of functions for public purposes, such as building roads or upgrading infrastructure. Council may need to acquire

privately owned land or government land to deliver these projects. This may be all or part of a land holding or an interest in land, for example, an easement for sewerage or water.

In NSW, state agencies including Local Councils can acquire land for a public purpose.

Council may acquire land (including any interest in land) under the *Local Government Act 1993* for the purpose of any of its functions and for road matters under the *Roads Act 1993*.

Council may seek to acquire improved or unimproved land or interests in land in fee simple to upgrade existing infrastructure, provide access or additional infrastructure to facilitate the growth of the LGA.

Council may acquire land strategically for investment purposes. Generally, land acquired for investment purposes has attributes that will generate income for Council or provide future growth opportunities.

### **3.2 Methods of Acquisition**

**3.2.1** Land can be acquired by Council in two ways:

- 1 By agreement between the property owner and the Council, or
- 2 By Compulsory Acquisition.

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

**3.2.3** Sometimes Council will only require the partial acquisition of property. In this situation, Council will provide the owner with a map outlining the area of the land to be acquired. It will also include the proposed new boundary because of the partial acquisition. Where partial acquisition of the property is required, Council will hold discussions with the owner and agree if any land adjustments are required because of the acquisition, for example modifications to driveways or fencing.

### **3.3 Scope**

**3.3.1** Council may accept owner-initiated Hardship Claims if they are made in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (Just Terms Act). This may occur in situations where the Council has designated land for future acquisition for a public purpose, even though it may not need the land for some time. 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 Just Terms Act.

**3.3.2** Council must identify all parties with an interest in the land being acquired and deal with each separately.

## **4.0 Approval by Council**

**4.1** In accordance with Section 377(1) (h) of the *Local Government Act 1993*, the Compulsory Acquisition or purchase of land cannot be delegated by a Council.

**4.2** All acquisitions of land will be reported to Council for a resolution once an agreement is reached with the landowner but prior to any formal commitment of the Council.

**4.3** A specific resolution of Council would be sought prior to commencing a Compulsory Acquisition.

**4.4** All land acquired by Council requires classification under the *Local Government Act 1993* as either Operational or Community Land. The recommended classification will in most circumstances be included as part of the report to Council when seeking to formally proceed with the acquisition of the land. The exception would be in the case of acquired land to be dedicated as road.

**4.5** In rare occasions Council may need to attend a public auction to acquire land. In such circumstances a Council resolution will be required prior to the auction date delegating any combination of two from the General Manager, Director Corporate Services and Manager Economic Development to bid and purchase the land and execute contractual documents. The Council would approve purchase of the land up to a maximum amount or authorise appropriate flexibility.

An example of such a public auction process includes the Sale of Land for Unpaid Rates and Charges per Section 713 of the *Local Government Act 1993* and as covered in the Nambucca Valley Council – Debt Recovery Policy CS11.

## **5.0 Post Settlement**

Any variance to the proposed land acquisition as resolved by Council will need to be reported back to Council.

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