

CM13.1. Acquisition and Disposal of Land Policy

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CONFIDENTIAL	No		
FURTHER ENQUIRIES	Steven Millett Assets, Sustainability & Environment	PHONE:	6023 8111
AUTHOR	Charles Fransen		

Purpose of Report

For Council to consider and endorse the revised draft Acquisition and Disposal of Land Policy for public exhibition.

Background

In response to recommendations by the NSW Department of Local Government's 2012 report 'Promoting Better Practice Review', AlburyCity developed an appropriate policy to streamline and better co-ordinate processes associated with property management and land acquisition or disposal.

Council's original Acquisition and Disposal of Land Policy ('the Policy') was drafted in October 2013, and adopted by Council on 9 December 2013. The purpose of the Policy is as a general guide to the principles and criteria that is to be followed when Council acquires or disposes of land.

Issues

The NSW Independent Commission Against Corruption (ICAC) and the NSW Government have both released guidelines to help NSW public sector agencies involved in direct negotiations with external parties to manage corruption risks. Copies of these guidance notes are shown as Attachments 1 & 2, respectively.

Kell Moore Lawyers were provided with this information to update Council's existing Policy with a view to appropriately manage and mitigate our exposure to corporate risk. Other significant updates reflect changes in legislation and Council terminology.

The general overall content and meaning of the original Policy is unchanged. Revised copies of Council's Acquisition and Disposal of Land Policy are shown as Attachment 3 (with tracked changes) and 4 (on new template).

A summary of the significant changes to the Policy, (shown as tracked changes in Attachment 3) including recommendations from the Independent Commission Against Corruption (ICAC) are provided in Table 1 below.

Paragraph	Previous	Proposed
3.4(f)	Nil	Paragraph added to refer to ICAC/NSW guidelines to manage risk.
5.2 (a)	Was 'Use of Council Seal'.	Now 'Council Seal and Management of Legal Documents and Advice Procedure'.

Table 1: Summary of significant changes to the existing Acquisition and Disposal of Land Policy

The revised Policy will be subject to a public exhibition process for a period of 28 days with Council considering any submissions received.

This draft Policy will be further guided by a future AlburyCity Property Strategy, due to be drafted in the coming 12 months. The Property Strategy will provide a framework for the strategic direction of the ownership, maintenance, retention and disposal of properties with a focus on financial sustainability and community need.

Risk

- **Business Risk** – The disposal and acquisition of property has potential financial and business risks to Council if the processes are not properly and transparently managed. The Policy seeks to mitigate this risk by providing clear guidance for Council decision making and setting out established processes in such matters. This Policy update will provide a clear process to support the application of Council's Property Strategy once it is complete, and the subsequent execution of property transactions in support of financial sustainability.
- **Corporate Risk** – There is a high level of expectation from the community and government with respect to the openness, transparency and probity applied to Council land transactions. The draft Policy considers these issues with a view to ensuring Council's risk exposure is appropriately managed and mitigated. The updated text will ensure that by incorporating current legislation and best practice, Council can be assured that future property acquisitions and sales will take place within clear guidelines and support the future implementation of our Property Strategy and drive towards financial sustainability.
- **WHS and Public Risk** – There were no risks identified.
- **Environmental Risk** – Any environmentally sensitive land proposed to be acquired or disposed of will be subject to relevant environmental policies.
- **Delivery Program Risk** – Council has an adopted Policy, so future land acquisitions or disposals in support of planned projects will not be adversely affected by any delays to their adoption by Council.

Engagement

The draft Acquisition and Disposal of Land Policy will go on public exhibition for a period of 28 days and Council will consider all submissions received. Public Notice will be by Border Mail notification and Council's website – Have Your Say.

Options

1. Endorse the draft Acquisition and Disposal of Land Policy without amendment and place on public exhibition for a period of 28 days and consider any submissions. **Recommended.**
2. Not endorse the draft Acquisition and Disposal of Land Policy and request further information prior to public exhibition. **Not Recommended.**

Conclusion

Council's draft Acquisition and Disposal of Land Policy has been reviewed to incorporate legislative changes and guidance, as well as updates to Council terminology.

The Policy is a general guide to the principles and criteria that are to be followed when Council acquires or disposes of land.

Recommendation

That Council:

- a. receive and note the draft Acquisition and Disposal of Land Policy;
- b. place the draft Acquisition and Disposal of Land Policy on public exhibition for 28 days; and
- c. if no submissions are received seeking amendments, the draft Acquisition and Disposal of Land Policy be adopted and included on AlburyCity's Public Policy Register.

Attachments

1. ICAC guidelines for managing risk in direct negotiations (DOC24/259494).
2. NSW Government Unsolicited Proposals Guide (DOC24/259498).
3. Draft Acquisition and Disposal of Land Policy with tracked changes (DOC24/279948).
4. Draft Acquisition and Disposal of Land Policy on new template (DOC24/258323).