

Resumptions and Acquisitions of Land

Head of Power

Local Government Act 2009
Acquisition of Land Act 1967
Acts Interpretation Act 1954
A 'local government act' as defined in the *Local Government Act 2009*

Objective

To confirm Council's commitment to legal compliance and best practice with respect to the resumption of land process and Council's preference that acquisition of the land be by agreement wherever possible.

Definitions

Land has the meaning assigned to it under the *Acquisition of Land Act 1967* (the Act).

Resumption includes acquisitions by agreement under the Act or otherwise.

Application

This policy applies to all land proposed to be resumed or acquired by the Council.

Policy Statement

1. In exercising its statutory powers of resumption, it is Council's policy that:
 - (i) The proper statutory process is followed;
 - (ii) Procedural fairness is observed; and
 - (iii) Reasonable compensation is provided for the resumption.
2. Despite the issuing of a Notice of Intention to Resume, it is Council's policy that Council remains willing to negotiate to acquire the land by agreement and Council's Chief Executive Officer is delegated power to negotiate and finalise transactions.
3. The Chief Executive Officer is also delegated power to undertake the resumption process necessary to secure land without further reference to Council in each of the following situations where the Chief Executive Officer, in consultation with the Mayor, is satisfied appropriate funding will be available for the acquisition costs:
 - (i) The land is required within 5 years for projects contained in Council's current capital works program adopted by resolution of Council;
 - (ii) The land is identified for a project in a Planning report previously approved by the Council;
 - (iii) The land is required for a project (Divisional Works Program) identified in accordance with the Allocation of Divisional Funds to Capital Works Policy;
 - (iv) The Chief Executive Officer is satisfied the resumption is minor.
4. To facilitate legal compliance with the land resumption process it is Council's policy that:
 - (i) The Legal Services Department has the responsibility for the legal oversight of the resumption process; and
 - (ii) For the purpose of the 'Objection hearings' the following Officers are authorised delegates:

- Manager Legal Services
- Senior Legal Officer
- Legal Officers

5. In determining reasonable compensation:

- (i) For minor resumptions, regard shall be had to the assessment of compensation by a registered valuer appointed by the Council; and
- (ii) For other resumptions, where the parties cannot otherwise agree on the compensation, regard shall be had to the assessment of compensation by at least two registered valuers appointed by the Council.

6. Where a court hearing arises out of, or in connection with the resumption process, the Legal Services Department will be responsible for the conduct of the court hearing and take all appropriate action in relation to the conduct of the action including outsourcing engagement of experienced counsel and expert witnesses as necessary.

Related Documents

This Policy complements and is to be implemented in conjunction with other Council policies, directives and relevant documents published by other agencies including, but not limited to:

Resumptions and Acquisitions of Land Policy Directive

Review and evaluation

This policy will be reviewed for applicability, effectiveness, and consistency with relevant legislation, Council resolutions, and other Council documents.

A review of this policy will occur by June 2022.

Responsibility

This Policy is to be:

- (1) implemented by the Legal Operations Manager; and
- (2) reviewed and amended in accordance with the "Review Triggers" by the Manager Legal Services.

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