

OPEN SPACE LAND ACQUISITION POLICY

FEBRUARY 2023

PREPARED BY:
PROPERTY UNIT



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SUTHERLAND SHIRE

1. PURPOSE

The purpose of this Policy is to provide principles to guide Council operations and decision making when acquiring land identified for Open Space purposes. This includes land identified in Councils Development Contribution Plan or identified as Public Recreation under the Sutherland Shire Local Environmental Plan.

2. APPLICATION

The Policy applies to all land acquisitions for Open Space purposes acquired under the *Land Acquisition (Just Terms Compensation) Act 1991*.

3. PRINCIPLES

3.1 Application of Principles

No one principle should be applied to the detriment of another. Principles must be collectively considered and applied to the extent that is reasonable and practicable in the circumstances.

3.2 Council will actively pursue identified Open Space Land Acquisitions

Council will actively pursue Land Acquisitions for Open Space purposes and engage with willing sellers regarding land:

- identified in Councils Development Contribution Plan 2016,
- identified as Public Recreation under the Sutherland Shire Local Environmental Plan 2015.

3.3 No Compulsory Acquisitions unless directed by the landowner

There will be no compulsory acquisition or resumption of land unless at the request of the landowner.

3.4 All land acquired for open space will be classified as operational land

Land acquired for Open Space purposes will be classified as operational land to allow greater flexibility when developing the land for open space purposes.

4. RESPONSIBILITIES

4.1 Responsible Officer

The Manager Property is the Responsible Officer for this Policy and is responsible for developing and reviewing guidelines to support the implementation of this Policy.

4.2 Council

In accordance with the *Local Government Act 1993*, Council must approve any land acquisition.

4.3 Chief Executive Officer

Council may delegate via Council resolution to the Chief Executive Officer the authority to approve terms and conditions for the land acquisition and execute any necessary documentation.

4.4 Directors

Directors are responsible for ensuring their Division adheres to the requirements of this Policy and provide guidance in respect of acquiring open space to achieve responsible urban planning balanced with fiscal responsibility for the organisation.

4.5 Employees

Employees must adhere to the requirements of this policy and operate within the authorities of the *Local Government Act 1993*.

5. POLICY COMPLIANCE

The Manager Property will monitor, review and report on the effectiveness of the Policy.

6. RECORD KEEPING, CONFIDENTIALITY AND PRIVACY

Council adheres to and complies with the *NSW State Records Act 1998* and *Privacy and Personal Information Protection Act 1998* through its Enterprise Content Management Policy and Privacy Policy.

7. BREACHES OF POLICY

Breaches of this Policy will be dealt with in accordance with normal disciplinary procedures and will be advised to the Chief Executive Officer and / or Director Shire Services, via the Manager Property.

8. RELATED DOCUMENTS

- Community Strategic Plan
- Open Space and Recreation Strategy
- Section 7.11 Development Contribution Plan 2016 (formerly Section 94 Plans)
- Section 7.12 Development Contribution Plan 2016 (formerly Section 94 Plans)

9. RELEVANT LEGISLATION, REGULATIONS AND GUIDELINES

- *The Land Acquisition (Just Terms Compensation) Act 1991*
- *Local Government Act 1993 (NSW)*
- *State Records Act 1998 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Government Information (Public Access) Act 2009 (NSW)*
- Sutherland Shire Local Environmental Plan 2015

10. DEFINITION OF TERMS

Term	Meaning
Acquisition	The buying or obtaining of assets or objects

End of Document

UNCONTROLLED COPY WHEN PRINTED - For up to date copy please refer to Sutherland Shire Council Intranet / Website			
Document Name: Open Space Land Acquisition Policy		Policy Accountability Manager Property	
Version: 2.0	Approved by: Council	Minute No: 13	Date approved: 20 February 2023
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SCHEDULE A – OPEN SPACE ACQUISITION POLICY

Information for Interested Parties



Where are properties identified for open space purposes?

It will be identified in:

- Councils Development Contribution Plan 2016, and/or
- Zoned Public Recreation under the Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)

What information should I expect in my initial letter from Council?

- A contact Property Officer for their matter
- A map showing the effected land
- Confirmation that Council will acquire using the *Land Acquisition (Just Terms Compensation) Act 1991*

How will my property be valued?

We will engage a valuer to determine compensation in accordance with Section 55 of the *Land Acquisition (Just Terms Compensation) Act 1991* which considers:

- (a) the market value of the land on the date of its acquisition,
- (b) any special value of the land to the person on the date of its acquisition,
- (c) any loss attributable to severance,
- (d) any loss attributable to disturbance,
- (e) solatium (where the property is the principal place of residence and the entire property is to be acquired)
- (f) any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

What information will be in my letter of offer?

Based on the valuation advice, an 'in principle offer' is provided. The letter of offer will include:

- The amount Council is willing to pay for the land, based on the valuation
- A disclaimer that the offer is subject to Council resolution
- The costs to be covered by Council
- A validity period for the offer

What if I don't agree with the valuation?

You can obtain your own valuation, and we will contribute reasonable costs towards it, generally up to \$2,000.

Differing values may arise when valuers use different development assumptions, or comparison properties. If the values are significantly different, we can arrange an exchange of valuations (with the approval of each valuer), a planning report and/or a meeting between the valuers to discuss and come to a joint valuation for acceptance by both parties.

SCHEDULE B – OPEN SPACE ACQUISITION POLICY



Open Space Acquisition by agreement process

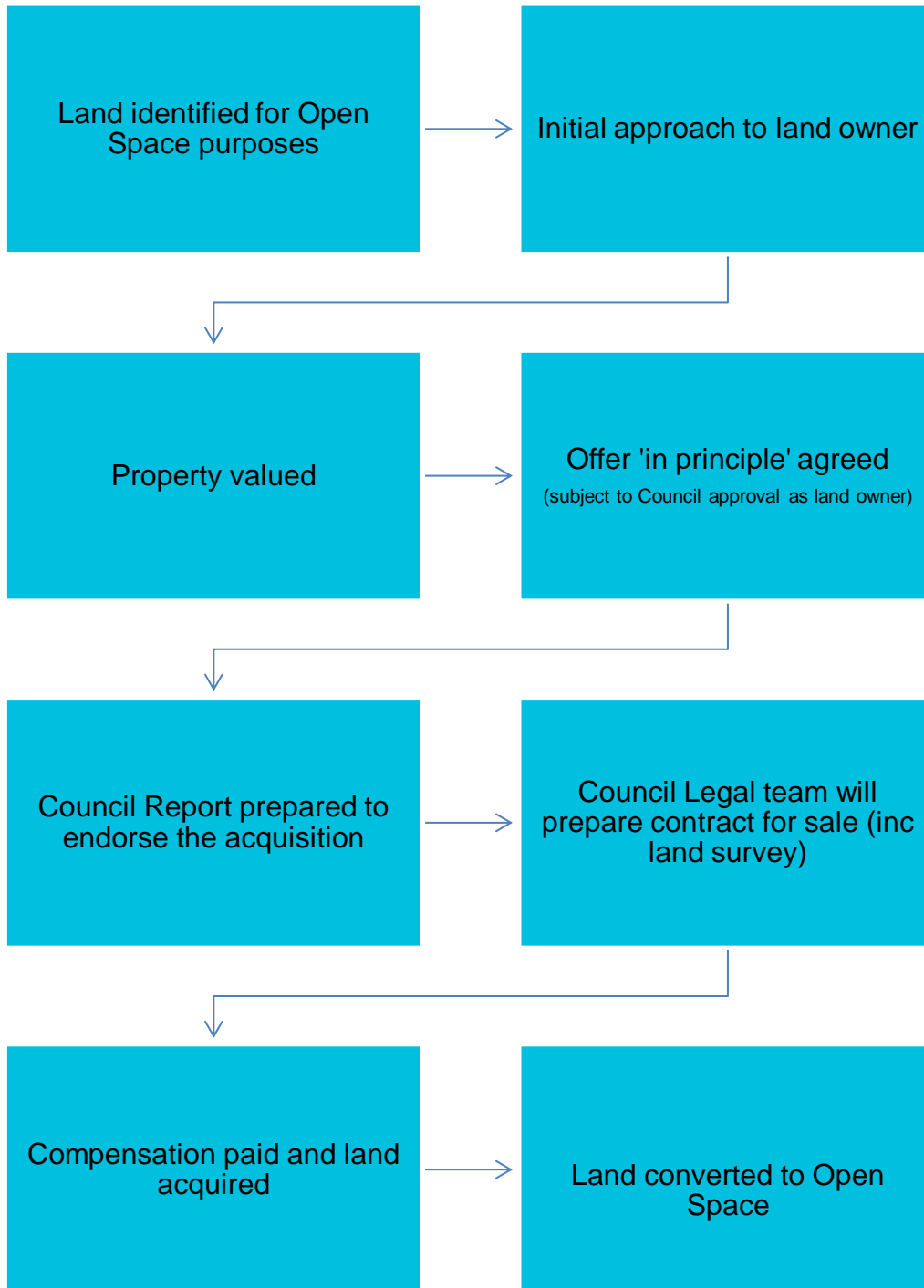
What costs will Council pay?

In accordance with the Section 59 of *Land Acquisition (Just Terms Compensation) Act 1991* we will pay your reasonable costs towards:

1. Legal Fees – towards the owner's legal fees plus disbursements
2. Owner commissioned valuation
3. All survey, development application and lodgement and registration costs associated with the proposed acquisition

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Open Space Acquisition by agreement process



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