

5.4. COUNCIL POLICIES FOR ADOPTION

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DEPARTMENT People and Community Services

RECOMMENDATION

That Council:

1. Adopts the following revised Council policies:

- **Strategic Freehold Land Policy;**
- **Acquisition Resumption of Land General Policy;**
- **Equal Employment Opportunity (EEO) and Workplace Diversity General Policy;**
- **Fitness for Work General Policy; and**

2. Delegates authority under Section 257 (1)(b) of the *Local Government Act 2009* to the Chief Executive Officer to finalise any minor amendments to the above General Policies.

EXECUTIVE SUMMARY

Council implements policies within the organisation to comply with legislative requirements and commitment to its operations, which are revised regularly. The revised policies are presented in this report for adoption by Council for four (4) years.

Officers have revised these policies in accordance with current legislation, the Corporate Plan 2019-2024 and Council operational requirements. The policies reviewed have reaffirmed their relevance and purpose and identified reasons for changes to the policy.

BACKGROUND

Council develops and adopts policies to ensure governance and guidance of principles and standards across the organisation. Council officers conduct periodic reviews of policies to ensure relevance and compliance with legislation. The following policies have been reviewed for adoption:

- Strategic Freehold Land Policy;
- Acquisition Resumption of Land General Policy;
- Equal Employment Opportunity (EEO) and Workplace Diversity General Policy;
- Fitness for Work General Policy.

COMMENT

Strategic Freehold Land Policy

The intent of this policy is to provide strategic objectives to acquire and dispose of land surplus to Council's requirements.

The policy has included considerations Council needs to consider prior to acquiring and/or disposing of surplus land to ensure transparency has been applied. The policy had minimal changes to the last adopted policy.

Acquisition Resumption of Land General Policy

The Acquisition Resumption of Land General Policy's purpose is to provide guiding principles and process for Council to acquire land either by voluntary or compulsory acquisition. On occasions Council may require land for the purpose of vital infrastructure for the benefit of the community. Once a need is identified Council may engage in negotiations with land holders to acquire land for the purpose of the community. The Acquisition Resumption of Land General Policy had no revised changes and is still consistent with State legislation of the *Acquisition of Land Act 1967*.

Equal Employment Opportunity (EEO) and Workplace Diversity General Policy

The Equal Employment Opportunity (EEO) and Workplace Diversity General Policy's purpose is to comply with all obligations under relevant legislation regarding employment opportunities for all people who may be disadvantaged in the community. The policy adheres to the *Anti-Discrimination Act 1991* and amendments to this revised policy have included the inclusion of the *Human Rights Act 2019*.

Fitness for Work General Policy

The Fitness for Work General Policy in conjunction with Council's Workplace Health and Safety General Policy ensures the safety of all employees, visitors, contractors and the community. Council is committed to ensuring all employees are fit for work and have the physical and mental capacity to perform their roles.

Changes to this policy include that all new staff are fit for work and Council will implement pre-employment checks, which will include a pre-employment medical assessment and drug and alcohol testing for all new employees before commencement. To mitigate risks for all employees and as part of Council's workplace health and safety audit recommendations these changes will reduce risk and exposure to Council.

PROPOSAL

The proposal is for Council to:

1. Adopt the following revised Council policies:

- Strategic Freehold Land Policy;
- Acquisition Resumption of Land General Policy;
- Equal Employment Opportunity (EEO) and Workplace Diversity General Policy;
- Fitness for Work General Policy; and

2. Delegate authority under Section 257 (1)(b) of the *Local Government Act 2009* to the Chief Executive Officer to finalise any minor amendments to the above General Policies.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Risk if Council does not adopt recommendations:

- Council may not comply with State and Federal legislative requirements.
- Robust governance would be at risk if policies are not adopted and complied with.

SUSTAINABILITY IMPLICATIONS

Economic: These policies are compliant with Council's corporate priorities

Environmental: These policies are compliant with Council's corporate priorities

Social: These policies are compliant with Council's corporate priorities

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2019-2024 Initiatives:

Theme 1 - Celebrating Our Communities

Douglas Shire Council embraces the diversity of our communities and values the contribution that all people make to the Shire. We recognise that it is a core strength of the region. We acknowledge our past so that it may guide us in the future. We recognise the wrongs done to our Indigenous community and we actively seek to reconcile so that we may all benefit from and enjoy our Shire. We acknowledge early European settlers who forged an agricultural base for our economy and we welcome all new arrivals as part of our broader community.

Goal 1 - *We will celebrate the diversity of our community and ensure that all infrastructure, programs, and services are underpinned with inclusiveness and accessibility.*

Goal 2 - *We will deliver programs and services that protect and enhance the liveability of our beautiful Shire.*

Goal 3 - *We will develop programs that promote health, well-being and safety in the community.*

Theme 3 - Leading Environmental Stewardship

Our visitors and residents deeply value the unparalleled environment in which we live. We recognise our responsibility in protecting and preserving our natural world for generations to come. We understand the strong link between the environment and the economy: they are interdependent. Douglas Shire will be at the forefront of environmental protection by developing strategies, setting policies, and working with all stakeholders to become the envy of and to inspire locations across Australia and the World.

Goal 3 - *We will continue to build water infrastructure so that the Douglas Shire may enjoy water security and water quality.*

Goal 4 - *We will partner with the community to educate and monitor.*

Goal 5 - *We will recognise the contribution that Traditional Owners make to the protection of the environment.*

Theme 4 - Inclusive Engagement, Planning and Partnerships

In delivering for our communities, economy and environment, Douglas Shire will ensure open and transparent engagement and communication. We will develop robust strategic plans and we will partner with our community and key stakeholders.

***Goal 1** - We will implement transparent decision making through inclusive community engagement and communication.*

***Goal 2** - We will develop forward looking strategies for the future of our communities and we will ensure balanced and appropriate planning decisions.*

***Goal 3** - We will recognise the critical role that our partners play in planning and delivering vital programs and services.*

Theme 5 - Robust Governance and Efficient Service Delivery

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

***Goal 1** - We will conduct Council business in an open and transparent manner with strong oversight and open reporting.*

***Goal 2** - We will put the customer at the centre of our service delivery and process improvement as we deliver efficient and appropriate services based on community expectations.*

***Goal 3** - We will make sound financial decisions by ensuring robust strategic planning, financial management and reporting.*

***Goal 4** - We will work with our communities to ensure they are informed, empowered and supported so that they are resilient to the impacts of disaster events. Through our leadership and capabilities we will plan, prepare, respond and recover from events so as to minimise the impact on people, property, the environment, and our economic stability.*

Operational Plan 2019-2020 Actions:

Nil

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

Agent	On occasion, Council delivers services or builds infrastructure on behalf of other levels of government or organisations.
Builder/Owner	Council makes a significant investment every year in the infrastructure that underpins the Shire through its capital works program. Council will manage its assets with appropriate frameworks and deliver its projects through robust project management.
Custodian	Council owns and manages infrastructure, facilities, reserves, resources and natural areas. In fulfilling its role as custodian, Council will be mindful of the community, the economy, the environment, and good governance.
Information Provider	Council provides the community with important information on services, events, policies, rules, strategies, and any other relevant data that helps the community to stay informed. In performing this role, Council seeks to be open and transparent.
Regulator	Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes based approach that balances the needs of the community with social and natural justice.
Service Provider	Council provides many services to the community from roads and waste services to libraries and recreational facilities. Services evolve over time and it is the Council's mission to ensure that these services are appropriate, delivered efficiently, and designed with the customer at the centre.

CONSULTATION

Internal: Team Leaders relevant to each policy

External: Nil

COMMUNITY ENGAGEMENT

Nil

ATTACHMENTS

1. Acquisition Resumption of Land General Policy [5.4.1 - 2 pages]
2. Equal Employment Opportunity EEO And Workforce Diversity General Policy [5.4.2 - 2 pages]
3. Fitness For Work General Policy [5.4.3 - 3 pages]
4. Strategic Freehold Land General Policy [5.4.4 - 3 pages]

35. ACQUISITION/RESUMPTION OF LAND BY COUNCIL FOR ROAD OR OTHER PURPOSE GENERAL POLICY

Intent

To establish overarching principles for acquiring and/or resuming land by Council for local government purposes.

Scope

This policy will allow for the efficient management of the process of acquiring and or resuming land either by voluntary or compulsory acquisition.

Provisions

Council will only acquire land pursuant to the Acquisition of Land Act 1967 when there is a genuine community purpose to be fulfilled and for which a local government may lawfully undertake. Acquisition of land cannot proceed unless Council has formally resolved the need for the land complies with functions that Council legitimately perform.

As soon as feasible, Council will advise the owner of the intent to acquire the land and to compensate the owner for the acquisition. This acquisition can be achieved through either voluntary or compulsory acquisition.

Regardless of the acquisition method, Council will obtain market valuation advice from a suitable industry professional to ensure fair and reasonable compensation is provided to the land owner.

All actions undertaken in the land acquisition process will conform to the requirements of the Acquisition of Land Act 1967 and any other statutory requirements to which Council is bound.

For the purposes of this policy:

- Voluntary acquisition is when land is acquired by negotiation between parties and compensation amount is mutually agreed upon.
- Compulsory acquisition occurs when Council and the landowner are unable to come to a mutually agreeable compensation amount and Council has resolved to progress the land acquisition as per legislative requirements.

Legislation

Acquisition of Land Act 1967

Policy Review

This policy is to be reviewed annual/whenever legislation changes, or every 2 years if no changes have been required to be enacted, at the direction of the Chief Executive Officer.

Policy Details

Policy Name	Acquisition/Resumption of Land by Council for Road or Other Purpose General Policy
Policy Number	35
Policy Version	4
Document Number	403248
Endorsed by	Chief Executive Officer
Policy Type	Council
Approval Authority	Council
Date Adopted	16/06/2015
Time Period	4 Years
Review Date	01/02/2020
Policy Department	People & Community Services
Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	

This policy is to remain in force until otherwise determined by Council.

53. EQUAL EMPLOYMENT OPPORTUNITIES (EEO) AND WORKFORCE DIVERSITY GENERAL POLICY

Intent

To ensure the Douglas Shire Council complies with all of its obligations under relevant legislation regarding Equal Employment Opportunity (EEO) and Workforce Diversity.

Scope

This Policy applies to all staff, elected Council members, contractors and volunteer workers.

Provisions

Douglas Shire Council recognises that Equal Employment Opportunity is a matter of employment obligation, social justice and legal responsibility. It also recognises that prohibiting discriminatory policies and procedures is sound management practice.

This policy has been designed to facilitate the creation of a workplace culture that maximises organisational performance through employment decisions. These decisions will be based on real business needs without regard to non-relevant criteria or distinctions, and will ensure that all decisions relating to employment issues are based on merit.

Council is committed to ensuring a workplace free of discrimination and harassment. This commitment is based on equality of employment opportunity that enhances the capacity of Council to achieve its objectives by –

- (a) Improving organisational efficiency and productivity through the selection and employment of staff on merit based principles; and
- (b) Fulfilling the social justice obligations of equity and fairness; and
- (c) Increasing the effectiveness of service delivery and decision-making by adopting an employee profile that reflects the community profile.

Council is an equal opportunity employer and will provide equality in employment for all people employed or seeking employment. Every person will be given a fair and equitable chance to compete for appointment, promotion or transfer, and to pursue their career as effectively as others. Employment decisions relating to appointment, promotion and career development will be determined according to individual merit and competence.

Related Legislation

Anti-Discrimination Act 1991

Human Rights Act 2019

Policy Review

This policy is to be reviewed annually/whenever legislation changes, or every 4 years if no changes have been required to be enacted, at the direction of the Chief Executive Officer.

Definitions

Discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute. It can also occur if a person imposes, or proposes to impose, a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with an attribute; and that is not reasonable.

Equal Employment Opportunity consists of ensuring that all employees are given equal access to training, promotion, appointment or any other employment related issue without regard to any factor not related to their competency and ability to perform their duties.

Policy Details

Policy Name	Equal Employment Opportunities (EEO) and Workforce Diversity General Policy
Policy Number	53
Policy Version	2
Document Number	402383
Endorsed by	Chief Executive Officer
Policy Type	Council
Approval Authority	Council
Date Adopted	16/06/2015
Time Period	4 Years
Review Date	01/02/2020
Policy Department	Manager People and Community Services
Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	

This policy is to remain in force until otherwise determined by Council.

54. FITNESS FOR WORK GENERAL POLICY

Intent

The Fitness for Work Policy is an integral part of Council's Workplace Health & Safety General Policy and has a responsibility to provide a safe and healthy work environment. The Council will endeavour to ensure commitment to the early identification and treatment of Fatigue, Stress, Alcohol and Other Drugs problems in the work environment.

Scope

Applies to any person who performs work for Douglas Shire Council including managers, employees, trainees, volunteer staff, consultants, visitors and contractors, and addresses Fitness for Work issues that impact on their work performance and/or their work environment.

Provisions

Principles of Employee and Employer Obligations Pertaining to "Fitness for Work"

Employees must ensure that they do not attend work in a condition that renders them unfit to perform their duties, or place themselves or others at risk at the workplace.

Employees shall not:

- (a) attend work, fatigued, intoxicated or under the influence of alcohol and/or other drugs;
- (b) drive motor vehicles, operate plant or machinery while under the influence of drugs, or over the legal limit of blood alcohol by any law for operating a motor vehicle, plant or machinery;
- (c) be under the influence of alcohol or illicit drugs whilst at a Council's workplace or conducting a Council's undertaking.

When using medications the employee shall obtain information from a qualified medical practitioner or pharmacist on their fitness for work and any other restrictions. This information shall be provided to their Manager who will assess whether the employee is able to perform their normal duties, selected duties or be declared unfit for work.

Council's Managers within budgetary constraints will ensure employees have the resources and support so that there are clear instructions and enough resources available, to do the task safely and to minimise fatigue in their work environment.

Council has an Employee Assistance Programme (EAP) available to employees so they can obtain assistance to maintain a balanced lifestyle and be "Fit for Work".

If an employee is found to be "Unfit for Work", management will stand down the employee and have them transported safely home. The employee will not be able to return to work until they can show with suitable medical certification or have taken steps to be "Fit For Work" (ie; the employee has identified a substance issue and has self-referred themselves for professional counselling). Evidence of this can be in the form of producing a referral by a medical practitioner or an appointment notification for the counselling. Disciplinary

action may be a further action by management, depending on investigation findings of why an employee was “Unfit for Work”.

Identifying an Employee who is NOT “Fit For Work”

When it is evident or reported that an employee is identified as being adversely affected by fatigue, alcohol or other drugs, then the person in control of the employee’s workplace (Manager, Supervisor, Ganger or Team Leader) should take all reasonable actions, in consultation with senior management, to ensure safety in the workplace. This may include the identified employee being required to undertake an alcohol or drug test.

Pre-employment medical assessments (including drug and alcohol testing)

Council will request new employees to undertake a pre-employment physical assessment for positions that may be labour intensive or for positions that may require certain fitness levels to perform inherent duties. For all positions identified that require certain fitness levels a pre-employment medical will be required prior to the successful candidate commencing employment and will be specified on position descriptions.

Prior to a successful candidate commencing employment, Council may also request any new employees to undertake a pre-employment medical assessment where pre-existing medical concerns have been disclosed to the recruiting officer. Council will request the successful candidate to undertake an assessment prior to commencement. All new employees will be required to undertake a drug and alcohol test to be suitable for role, and existing employees will comply with Council’s Drug and Alcohol Policies and procedures.

Disciplinary Actions

If an employee’s behaviour or workplace incident investigation findings identifies that disciplinary action is warranted then managers will apply appropriate Disciplinary Action Procedures. .

Employee Assistance Program

Council will provide balanced lifestyle and wellbeing support through the provision of self-referral facilities to counselling and other relevant assistance.

Chronic alcohol and/or other drug problems can contribute to or cause below standard work performance and safety problems. A structured intervention process, in the form of an Employee Assistance Program (EAP) is available where an employee’s consumption of alcohol and/or drugs renders them unfit for their normal duties. Access to the EAP is either by self-referral or referral by Human Resources, or Manager.

Authorised Consumption of Alcohol at the Workplace

Consumption of alcohol while at work or conducting work for Council is not permitted; however, there may be special occasions or events when consumption of alcohol is authorised by the Chief Executive Officer or delegate. At any authorised work function where alcohol is to be made available, then Managers shall ensure adequate supplies of low alcohol and non-alcoholic beverages (including water) are also available.

Confidentiality

Any employee who identifies or is identified as having a drug problem will be treated in strict confidence subject to the provisions of the law.

Policy Review

This policy is to be reviewed annual/whenever legislation changes, or every 2 years if no changes have been required to be enacted, at the direction of the Chief Executive Officer.

Policy Details

Policy Name	Fitness for Work General Policy
Policy Number	54
Policy Version	2
Document Number	402502
Endorsed by	Chief Executive Officer
Policy Type	Council
Approval Authority	Council
Date Adopted	16/06/2015
Time Period	4 Years
Review Date	01/02/2020
Policy Department	People and Community Services
Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	

This policy is to remain in force until otherwise determined by Council.

22. STRATEGIC FREEHOLD LAND GENERAL POLICY

Intent

To establish general principles for the strategic acquisition of land and also the disposal of Council freehold land that is surplus to Council's requirements.

Scope

This policy will allow for the efficient management of the process for acquiring or disposing of land for Council. This policy does not cover easements, rights of way or formalising encroachments and does not relate to compulsory acquisition in accordance with the *Acquisition of Land Act 1967*.

Provisions

Any land transaction will be consistent with legislative provisions and with Council's strategic directions including the economic, social, cultural and/or environmental objectives as identified in Council's Strategic Planning documents.

When considering acquiring or disposal of land, Council will look for opportunities to:

- advance the strategic directions and objectives of Council's Corporate Plan;
- enhance local amenity, the environment, economic development and sustainable growth;
- must be of a community benefit enhancing the social outcomes of the Shire;
- no land is to be disposed of or acquired without a formal resolution of Council.

The process for any land transaction will be open and transparent to ensure Council obtains the best outcome and price. When land is being disposed, all potential purchasers are given equal opportunity to purchase the land.

Commercial confidentiality will apply to negotiations for either the acquisition or the disposal of land unless Council decides otherwise and subject to the requirements of any legislation or law.

This Policy is aimed at the disposal of whole parcels of land. Council should not consider the partial disposal of land which may result in a reduction of the size of the original parcel which will impact on the

- future sale of the land; and
- benefit a sole individual unless sound justification is demonstrated as to how this partial sale will not impact on the future viability of the land.

Timing and Funding of Acquisitions

When acquiring land, Council will take into consideration the current property market to ensure that any acquisitions are acquired at a reasonable price. The most appropriate funding stream will be determined with each acquisition.

Surplus Land

Land that may be considered surplus to Council's requirements will be noted accordingly in Council's Freehold Land Register. The register in conjunction with Council's freehold land holdings will be reviewed on a regular basis to determine:

- if circumstances have changed since the last review:
- the current property market to obtain optimal financial return; and
- the appropriate marketing strategy for the disposal of such land.

Land capable of being sold on the open market will be disposed of by a competitive process involving auction, tender or expression of interest. For public auction, the Council will set the reserve price based on the recommendation of an independent valuer within the current property market. The disposal of Council Freehold Land assets will only proceed to fund future capital expenditure projects.

The competitive process will be in accordance with relevant legislation applicable to local government.

Circumstances where Ministerial exemption is sought

Council may apply to the Minister for exemption to use an alternative method to dispose of land, other than the methods prescribed by the *Local Government Regulation 2012*, where it will achieve a greater benefit to the ratepayers.

The circumstances which may give rise to an application for Ministerial exemption include, but are not limited to:

- where the total cost of the public sale process will exceed the expected community benefit. For example, where the land is worth less than the cost associated with marketing the land.
- where there is only one identifiable purchaser. For example, where a site is not large enough for development in its own right and is surrounded by public roads on all sides other than the adjoining owner
- where Council is bound by a contractual obligation. For example, a tenant with a first right of refusal, where that tenancy has been entered into as a result of public competition.
- disposal of land to a government or utility authority for the purpose of infrastructure provision.
- where a public marketing process which has been undertaken within the last 12 months in accordance with this policy has failed to achieve the desired outcome.
- in response to a proposal which achieves specific policy goals of Council.

Should any of these circumstances arise, a report will be submitted to Council identifying the reasons for a proposed alternative disposal method, for determination by Council.

Legislation

Local Government Act 2009

Local Government Regulation 2012

Policy Review

This policy is to be reviewed annual/whenever legislation changes, or every 4 years if no changes have been required to be enacted, at the direction of the Chief Executive Officer.

Policy Details

Policy Name	Strategic Freehold Land General Policy
Policy Number	22
Policy Version	2
Document Number	450594
Endorsed by	Chief Executive Officer
Policy Type	Council
Approval Authority	Council
Date Adopted	05/05/2015
Time Period	4 Years
Review Date	01/0/2020
Policy Department	People & Community Services
Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	

This policy is to remain in force until otherwise determined by Council.