Australian Capital Territory

Planning and Development (Land Acquisition Policy Framework) Direction 2014 (No 1)

Notifiable instrument NI2014–264

made under the

***Planning and Development Act 2007*, subsection 37(1)**

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1 Name of instrument

This instrument is the *Planning and Development (Land Acquisition Policy Framework) Direction 2014 (No 1).*

2 Commencement

This instrument commences on the day after notification.

3 Direction

I direct the Land Development Agency to act in accordance with the principles of the Land Development Agency - Land Acquisition Policy Framework, attached as a Schedule to this Instrument, when exercising the Agency's functions under the *Planning and Development Act 1997*.

Andrew Barr MLA
Minister for Economic Development
14 June 2014

SCHEDULE

LAND DEVELOPMENT AGENCY – LAND ACQUISITON POLICY FRAMEWORK

1. Introduction

1.1 The Land Acquisition Policy Framework provides the principles that are to govern the exercise of the Land Development Agency (LDA) functions under the *Planning and Development Act 1997.* The framework also supports the ACT Government's *Statement of Governance Arrangements* for the Land Development Agency.

1.2 The framework is to enable the LDA to pursue business opportunities for the acquisition of land available on the market.

1.3 The framework consists of two components, namely:

a. a process through which potential acquisitions are to be pursued; and
b. the principles to be applied in making decisions under clause 1.3(a).

2. The Acquisition Process and Framework

2.1 All proposed acquisitions are to be assessed against the principles and associated tests provided in this Land Acquisition Policy Framework. All tests must be followed for an acquisition.

2.2 Acquisition Thresholds and Approved Decision Makers

2.2.1 The following thresholds and decision makers apply to all LDA land acquisitions:

a. below $5 million – agreement by the LDA Board with advice to the Minister for Economic Development or the Minister responsible for administering Chapter 4 of the *Planning and Development Act 1997*;
b. between $5 million and $20 million – agreement by the Chief Minister and Treasurer. LDA is to provide a business case to ACT Treasury for all such proposals; and
c. above $20 million - agreement by the government.

2.2.2 The LDA Board may refer any acquisition below $5 million to the government should it consider it is appropriate.

2.3 Annual Acquisition Limit

2.3.1 Government agreement is required for any acquisition by the LDA that results in a cumulative annual total of $20 million in acquisition being exceeded. The cumulative annual total means all acquisitions within a financial year - 1 July to 30 June.

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2.4 Reporting Requirements

2.4.1 The LDA is to provide information to support the Economic Development Directorate (EDD), or the responsible government directorate, in the preparation of quarterly reports for the ACT Government.

2.4.2 The LDA must inform EDD, or the responsible government directorate, regarding the proposed acquisition of sensitive sites (including, but not limited to – sites containing heritage, contamination, cross-border issues) at an early stage in the process and prior to any purchase occurring.

2.4.3 Details of all acquisitions completed during a financial year, and this Direction, must be included in the LDA's annual report.

3. The Principles

3.1 The Intended Outcome Principle

3.1.1 An intended outcome must be identified for the 'to-be-acquired site'.

Guiding Questions

a. Why is the site being purchased?
b. What future use of the site is envisaged?

Test 1: An intended outcome has been identified for the proposed acquisition site.

3.2 The Policy Alignment Principle

3.2.2 The intended outcome for the acquisition aligns with other relevant government policies.

Guiding Questions

a. Will the proposed acquisition advance the land development policy directions set out in the ACT Planning Strategy and other relevant Government strategic spatial planning documents and requirements (for example, but not limited to, any master plan that may apply to the location)?
b. Is the proposed acquisition consistent with the *Statement of Government Policy for the Land Development Agency*?
c. Is the proposed acquisition consistent with any other relevant Government policies?

Test 2: The intended outcome for the proposed acquisition advances the Government's land development policies as set out in the ACT Planning Strategy and any other relevant Government strategic spatial planning documents and requirements.
Test 3: The intended outcome for the proposed acquisition is consistent with the Statement of Government Policy for the Land Development Agency.
Test 4: The intended outcome for the proposed acquisition is consistent with any other relevant Government policies.

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3.3 The Value for Money Principle

3.3.1 The acquisition represents value for money for the Territory.

Guiding Questions

a. Is the proposed purchase price consistent with the independent market valuation of the site which has taken into account its current and anticipated uses?
b. If a commercial outcome is sought from the site, does a business case suggest that a satisfactory commercial return will be realised, taking into consideration any holding costs, redevelopment costs, and opportunity costs?
c. If a non-commercial outcome is sought from the site, what are the holding costs, redevelopment costs, and opportunity costs of the purchase?

Test 5: The proposed purchase price for the site is consistent with the independent market valuation.

Test 6: If a commercial outcome is sought from the proposed acquisition site, a business case has been prepared that demonstrates that a satisfactory commercial return will be realised, taking into consideration any holding costs, redevelopment costs, and opportunity costs.

Test 7: If a non-commercial outcome is sought from the proposed acquisition site, any holding costs, redevelopment costs, and opportunity costs have been demonstrated to be reasonable and not onerous.

3.4 The Risk Management Principle

3.4.1 Risks associated with the acquisition can be appropriately managed.

Guiding Questions

a. Does triple bottom line assessment of the proposed purchase indicate that the Territory may be exposed to economic, social, or environmental risks, and if so, can these risks be appropriately managed?
b. Does the proposed purchase expose the Territory to any other type of risk (including, but not limited to, legal or reputational risks) and, if so, can these risks be appropriately managed?
c. Are there any barriers to achieving the intended outcome for the site (including, but not limited to, regulatory, engineering, or other technical barriers) and, if so, can these risks be reasonably overcome?

Test 8: The proposed acquisition will not expose the Territory to risks that are not able to be appropriately managed.

Test 9: The intended outcome for the proposed acquisition is reasonably achievable.

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