

PURCHASE OF LAND BY PORTFOLIO STAFF, CONTRACTORS & PUBLIC SECTOR MEMBERS POLICY

Policy Statement

Staff, public sector members and contractors in the Environment, Planning and Sustainable Development Portfolio and other agencies assisting in the sale of land must disclose if they or a member of their immediate family are intending to buy or lease land from the City Renewal Authority and the Suburban Land Agency, including from a Territory Joint Venture, or under a Territory sponsored program. Failure to declare this interest could result in an actual or perceived conflict of interest.

Purpose

This policy outlines the obligations of specified staff members, public sector members and contractors to avoid, declare or manage a real or perceived conflict of interest when they or a member of their immediate family intend to buy or lease land from City Renewal Authority or Suburban Land Agency, including from a Territory joint ventures or under a Territory sponsored program.

Scope

This policy applies across the Portfolio, which comprises the Environment, Planning and Sustainable Development Directorate, Suburban Land Agency and City Renewal Authority. This recognises that land development and sale functions sit across the Portfolio and that people engaged in support or contract roles may be exposed to information which could be perceived to advantage them in the event that they or their families purchase land.

The policy applies to:

- all Portfolio staff, including permanent and temporary ACT Government employees and non-government contractors or consultants acting on behalf of any entity within the Portfolio;
- staff members and contractors in ACT Government agencies assisting in the sale of land. For example, ACT Property Group and Government Solicitor Office;
- statutory office holders within the Portfolio such as Board members, who are defined as 'public sector members', and
- The people listed above, and their immediate families, with an interest in a business which may purchase land.

Under this Policy the staff member, contractor and public sector member is also responsible for notifying of the intentions of their immediate family members.

In this policy 'immediate family' is defined as:

- a person who is:
 - a domestic partner (including a former domestic partner); or
 - a child or an adult child, parent, grandparent, grandchild or sibling of the employee or the domestic partner of the employee; or

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- a person related to the employee through Aboriginal and/or Torres Strait Islander kinship structures; or
- a child who is the subject of permanent caring arrangements; or
- an adopted child.

‘Immediate family’ includes adopted, step, fostered or ex-nuptial immediate family where these circumstances exist.

The scope of this policy applies to the purchase of land not only from City Renewal Authority or Suburban Land Agency, but also to purchases from a Territory Joint Venture, or under a Territory sponsored program, referred to in this Policy as ‘land suppliers covered by this Policy’.

A sponsored program is partnership or other formal arrangement between a builder and the portfolio (Suburban Land Agency, City Renewal Authority or the Directorate) that involves a level of influence by the portfolio over to whom properties can be sold or leased. This may include house land packages or sale of apartments.

A ‘level of influence’ means where the portfolio has an ongoing interest and a reasonable person would consider that staff in the portfolio have an opportunity to influence the sale.

Policy Requirements

All staff must perform their duties in strict accordance with the value and principles of the *Public Sector Management ACT 1994 (PSMA)* and must have a thorough understanding of Section 9 of the ‘General Obligations of public employees’. Section 9(1) is particularly relevant:

“A public servant must—

- (a) take all reasonable steps to avoid a conflict of interest; and
- (b) declare or manage a conflict of interest that cannot reasonably be avoided.”

Section 150 of the *PSMA* defines statutory office holders such as board members as “public sector members” to whom the public sector standards in section 9 apply as long as it is consistent with the exercise of the member’s functions. Board members also have an obligation under the *Financial Management Act 1996* to ensure that they comply with its conflict of interest provisions and applicable governmental policies generally.

Staff members, contractors and public sector members who are intending to buy land or whose immediate family members are intending to buy land from suppliers covered by this Policy, are required in accordance with Section 9 of the *PSMA*, namely (s9 (j), (k) & (l)) to take the following actions **before** an application to purchase the land is submitted:

- familiarise themselves with this policy and the associated *Purchase of Land by Portfolio Staff, Contractors and Public Sector Members Standard Operating Procedure*;
- notify their manager via the *Conflict of Interest Declaration – Purchase of Land* form which advises:
 - the land they are intending to buy, or the program they wish to participate in;
 - the nature and extent of their involvement in the development or sale of the land, or in the establishment or operation of the program;
 - whether they or a member of their immediate family intend to occupy a dwelling to be constructed on the land;
 - details of any real, perceived or potential conflict of interest they have, or may have, in purchasing the land, and

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- confirmation that neither they nor any immediate family member will receive any special treatment or other improper advantage over anyone else who wishes to buy land or participate in the program.
- Comply with the record of action decided by the relevant Senior Executive or the Suburban Land Agency or City Renewal Authority Chief Executive Officer (CEO) who is responsible for determining the appropriate actions to manage the conflict of interest.

The manager and relevant Senior Executive or CEO must consider the Conflict of Interest Declaration as soon as they receive it, and a management strategy is to be determined and agreed as soon as practicable following the identification of a conflict of interest.

Statutory office holders must notify the conflict of interest in accordance with their applicable Charter, terms of reference or engagement arrangements.

Failure to Comply with This Policy

A failure to declare a conflict of interest may lead to disciplinary action under the *PSMA* or the Administrative and Related Classifications Enterprise Agreement. In some more serious cases (e.g. involving fraud or dishonesty), persons may also be liable to criminal prosecution under the Criminal Code.

Records Management

The Declaration and the record of action taken must be registered in the Conflict of Interests Register. They are to be forwarded to the People and Capability via an email to EPSDD.HR@act.gov.au

Staff from other agencies are required to provide the Declaration and record of action to their agency for registration on that agency's Conflict of Interest Register, with a copy provided to the Directorate.

Any other paperwork relating to the application, investigation or decision making is to be handled and stored in accordance with the *Territory Records Act 2002* and Environment, Planning and Sustainable Development Records Management Policy.

Evaluation

Outcome Measures	Method	Responsibility
Staff aware of policy and the need to avoid conflicts of interest	Policy to be presented at team, Branch or Section meetings, to be included in Induction training and packages	All managers. Induction and Training: Director People and Capability
Staff Awareness	Reminders of the policy to be provided in DG's weekly email to coincide with each major sales event.	Director, Urban Projects, Sales and Marketing, Suburban Land Agency
Compliance	Annual audit of Suburban Land and City Renewal purchasers to check for breaches	Risk and Audit team

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Related Documents

Public Sector Management ACT 1994 (PSMA)

Territory Records Act 2002

City Renewal Authority and Suburban Land Agency Act 2017

Purchase of Land by Portfolio Staff, Contractors and Public Sector Members - Standard Operating Procedure

Administrative and Related Classifications Enterprise Agreement 2013-2017

Environment, Planning and Sustainable Development Conflict of Interest Factsheet

Environment, Planning and Sustainable Development Conflict of Interest Declaration – Purchase of Land

Version History

The following table details the published date and amendment details for this document

Version	Date	Amendment details
2008/1	12 November 2008	First publication of Purchase of Land by Land Development Agency Staff Policy. Author: GM Legal and Compliance. Approval LDA CEO
2.0	12 May 2010	Second publication of Purchase of Land by Land Development Agency Staff Policy. Author: Business Support Manager. Approval LDA Executive
1.0	April 2018	Document reviewed and rebadged as Environment, Planning and Sustainable Development Portfolio policy. Author: Governance, Compliance and Legal

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