

Teacher Housing Authority - Property Acquisition Policy

1. Purpose of this Policy

This Policy sets out guiding principles for the acquisition of real property (land and dwellings¹) by the Teacher Housing Authority (THA).

The policy principles guide the development of acquisition strategies, programs and proposals alongside other policies, frameworks and tools that support the delivery of key worker housing in areas of demand.

The Policy aims to:

- Identify acquisition as one of the approaches that THA can use to meet the increasing demand for teacher housing, where “The principal object of the Authority is to provide and maintain suitable and adequate housing accommodation for teachers” as outlined in the *Teacher Housing Authority Act 1975*.
- Grow and change the portfolio, in addition to divestment and the delivery of new supply through renewal and development.
- Ensure any acquisition proposal, strategy or program contributes to achieving NSW Government housing related policies.
- Provide guidance for THA to design acquisition programs or make best use of acquisition funding opportunities when they are available.
- Increase consistency and comparability in the development of acquisition proposals, strategies or programs.
- Provide a framework to ensure THA undertakes appropriate and detailed due diligence, so that acquired properties are appropriate for the intended need and present value for money, and risks relating to acquisitions are effectively managed.

The policy is used to guide identification, assessment and decision making for acquisitions in conjunction with:

- New supply strategies and frameworks
- Decision making policies, guidelines and frameworks
- THA Board governance processes.

¹ As opposed to personal property.

2. Policy and Operating Context

The Teacher Housing Authority

THA was established under the *Teacher Housing Authority Act 1975*, and is part of the Department of Planning and Environment (DPE) under the portfolio and direction of the Minister for Homes. It is responsible for the delivery and management of housing for teachers across NSW.

THA identifies housing demand and supply needs through its partnerships with Department of Education (DoE) Workforce Planning and Schools infrastructure. The overarching governance structure includes the THA Board and the LAHC Executive. The THA Board authorise all capital programs and employees adhere to THA-specific delegations.

The THA Board requires analysis of housing demand, delivery options, financial impact, and delivery approaches. THA outsources construction and project delivery to NSW Public Works and/or other project and construction management organisations (including government bodies) who undertake procurement in line with NSW procurement guidelines.

For THA, delivery of its objects is governed also by the *Teacher Housing Authority Act 1975*.

Housing 2041: NSW Housing Strategy

Housing 2041: NSW Housing Strategy sets out the NSW Government's long-term vision and objectives for better housing outcomes across NSW. The Strategy considers all housing types and tenures across the housing spectrum. A priority for the Housing 2041 action plan is to maximise the impact of government-owned land, investment or assets, and government-led development projects or funding to achieve the housing vision.

The Strategy aims to:

- 1 Deliver housing supply in the right locations at the right time.
- 2 Provide housing that is affordable and secure.
- 3 Provide housing that is diverse and meets varied and changing needs.
- 4 Deliver enduring and resilient housing.

Strategic Land and Property Framework

The NSW Strategic Land and Property Framework (SLPF) guides the identification of opportunities for alternate use, intra-government transfer, consolidation and/or divestment of all assets, including assets not considered surplus or underutilised.

It provides that transfers to other NSW Government agencies for the delivery of election commitments or Expenditure Review Committee approved projects to be undertaken via a non-cash equity transfer at book value with compensation to be realised at market value through a capital grant.

3. Rationale for Acquisitions

Alongside development and renewal activities, the acquisition of land and dwellings supports achievement of THA housing obligations, delivery programs and milestones.

Property can be acquired by THA, when funding is available, as part of an acquisitions strategy or program or proposed as part of a site specific redevelopment proposal or project, as elaborated below and subject to the other terms in this policy.

Growing the portfolio to meet demand

Acquisitions can be used to:

- Increase the supply of teacher housing and land in specific areas where current THA stock does not meet demand.
- Facilitate the relocation of tenants; for example, where redevelopment is planned, where property is otherwise needed or where there has been a fire incident, extreme weather event or other disaster.

Purchasing new dwellings in regional areas will also support local economies and the construction industry.

Supporting the achievement of other policy or operational initiatives

Acquisitions can be used to:

- Enable and accelerate expenditure of time-sensitive funding.
- Provide interim use of short-term accommodation.
- Offset divestment of properties that are no longer fit for purpose, including heritage, bushfire or flood-prone properties.

4. Scope and Application of the Policy

Audience and application

This policy applies to, but is not limited to, all staff involved in acquisition planning, approval and execution, including Housing Services (part of DPE) employees and the THA Board. For clarity, this also includes shared services staff of DPE.

In Scope

This Policy applies to all acquisition strategies, programs or proposals, regardless of:

- Source of funding
- Type of acquisition
- Existing property owner
- Acquisition process
- Characteristics of the property

- Whether it is an ad hoc, strategic, programmed or pipeline proposal
- Whether it is for a full or part interest in land or property.

The policy is a guide for decision making and can be applied with a degree of flexibility, recognising there may be acquisitions or unforeseen circumstances that fall outside the intended scope.

5. About THA Acquisitions

Forms of acquisitions

Property can be acquired for different purposes – and in some case, for multiple purposes – including:

- **Procedural, transactional acquisitions** necessary to satisfy statutory or project requirements (e.g. in the case of easements) or resolve management or ownership issues (e.g. where THA purchases a part-share to obtain full ownership of a property).
- **Strategic acquisitions** to support redevelopment opportunities, grow the portfolio or delivery of other policy or operational initiatives.
- **As part of an acquisition strategy, program or pipeline**, where it is made possible with specific funding.
- **On an ad hoc basis**, where an opportunity presents that adds value to the portfolio.

All acquisition strategies, programs or proposals, regardless of their scope or significance, should be aligned to this Policy to ensure these investments add value to the portfolio, are strategic, are coordinated, and contribute to delivering THA and NSW Government goals and policies.

Source of property

THA can acquire land or property from the private market, local councils or other State Government agencies, through various processes including:

- Public auction or Private Treaty (usually via a selling agent).
- By direct negotiation.
- Compulsory acquisition (under the *Land Acquisition (Just Terms Compensation) Act 1991*).
- Through property swaps between Government agencies.

THA can also acquire land or property from the community housing sector, Local Aboriginal Land Councils or other organisations.

Property characteristics

THA aims to invest in well-located, right-sized, fit for purpose and well-designed properties. These properties are chosen in line with demand needs of teachers, based on data received from the Department of Education.

THA can acquire various types of properties, including:

- Vacant land, easement and redevelopment sites of varying size and levels of servicing.
- Part or full shares in properties.

- Existing buildings for residential use.
- New residential dwellings – through pre-sales, dwellings under construction or recent completions.
- Properties off the plan.

Location

Acquisition opportunities can occur across NSW, including in regional, rural and remote locations where the Department of Education advises there is demand for teacher housing.

THA aims to invest in well located land and dwellings that are in the interests of current and future tenants. This is done in close consultation with local school principals and Directors, Educational Leadership, to ensure that the property is an appropriate choice for the teacher.

See the *Teacher Housing Authority Property Disposal Policy* for the approach when demand in a region or suburb decreases.

6. Principles Guiding Acquisitions

Acquisition strategies, programs and proposals need to have regard to the three Principles outlined below.

The Principles are intended to be applied flexibly, as best practice guidance rather than being mandatory. There may be instances where acquisitions are justifiable despite not being able to satisfy all Principles (for example where an acquisition meets a short-term, greater need).

In applying this Policy to potential acquisition strategies, programs or proposals, it is important to note:

- Demonstration of the merits of any proposed acquisition, compared to other options to achieve the same outcome (such as disposal, development, renewal or the status quo) is needed.
- The Principles are interrelated and influence one another.
- No Principle is weighted more heavily than another. The Principles are intended to be applied as a whole, with sensible comparison.

Principle 1. Acquisitions must represent value for money

Under the *NSW Procurement Policy Framework* the overarching consideration for Government procurement is to ensure best value for money.

Value for money includes not only the dollar value of the property, but other factors such as capital and maintenance costs, risks to the organisation and strategic benefits across the life cycle, as elaborated below.

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- 1.1** Ensure value for money is established and understood in the context of the acquisition, and is achieved and supported by evidence, including (where applicable):
- Demonstrating that the property is fit for purpose and aligned to need (see Principle 3).
 - Ensuring that the purchase price is supported by the valuation and within the limits of the THA Financial Delegations, noting that the purchase price may exceed the upper valuation by up to 10 percent at the discretion of the Director if this is necessary to secure the property, taking into account:
 - The opportunity cost of failing to secure the property
 - Local market conditions, including the scarcity of properties likely to become available in the location
 - Other opportunities that the purchase might present eg the potential to redevelop the land (and neighbouring land) to provide more properties to meet demand
 - Any other relevant considerations.
 - Consideration of the timing of the purchase with the local housing market cycle.
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- 1.2** Consideration should be given to the current and potential future value of the property, within the context of the acquisition and relevant delivery program, having regard to the independent valuation and all other relevant factors (see the *Addendum to the THA Acquisition Policy: Process Overview and Checklist*).
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- 1.3** For all properties considered for acquisition, a valuation must be conducted with reference to:
- A market valuation from an independent qualified valuer, for acquisitions from the open market.
 - In the case of acquisition from another government agency:
 - *Treasurer's Direction TD92/2 (469.03) - Basis of Transfer of Realty between Government Authorities* - this applies where an Authority acquires lands already in Government ownership and sets out the basis for determining compensation, including how to assess current market value.;
 - The Strategic Land and Property Framework Policy, which may include procuring an independent market valuation; and
 - The *Land Acquisition (Just Terms Compensation) Act 1991*, in the case of compulsory acquisition. THA has the power to compulsorily acquire land under this Act however despite the provisions of the Act, THA rarely uses its powers to compulsorily acquire property. Legal advice must be sought where compulsory acquisition is being considered.
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Principle 2. Properties must be fit-for-purpose

THA will aim to increase the proportion of fit-for-purpose, well designed homes in its portfolio. This includes more cost effective and efficient homes which are easier to manage and cost less to maintain.

- 2.1** Acquisition strategies, programs and proposals need to consider liveability and cost effectiveness for both:
- Tenants – efficient, well-designed, climate resilient homes can support reduced cost of living for tenants; and
 - THA in managing their portfolio – efficient, well-designed climate resilient homes can reduce maintenance costs
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For further detail on the acquisition process, including relevant checks prior to purchase, see the *Addendum to the THA Acquisition Policy: Process Overview and Checklist*.

Principle 3. Acquisitions must be effectively governed

Acquisition is a form of procurement and involves varying degrees of risk.

Risk can be elevated in situations that involve high value and/or multiple assets, and dealings with the private sector.

Risks include the potential for perceived or actual corruption, conflicts of interest or breach of the DPE Code of Conduct, legal and commercial risk, the risk of overcapitalisation and reputational damage.

3.1 Transactions must be undertaken ‘at arm’s length’; that is, where both parties are acting independently to achieve value for money, without coercion or collusion.

THA will achieve this through:

- Exercising probity, transparency and integrity in its dealings, including through disclosure and management of conflicts of interest;
- Oversight and approval via appropriate exercise of delegations, including overarching approval of the budget and acquisition program through the THA Board; and
- Disclosure of contracts with the private sector, in accordance with the *Government Information (Public Access) Act 2009* (GIPA Act).

3.2 Risks associated with any acquisition strategy, program or proposal need to be clearly identified and effectively mitigated, in accordance with DPE’s *Risk Management Policy* and LAHC’s *Risk Management Framework*.

3.3 Decision making is to be:

- Undertaken by Director Housing Services, THA Board, or LAHC Executive, independent from the Housing Services transaction team.
- Evidence-based and informed by detailed due diligence to demonstrate suitability and value for money, and by the relevant governance committee's terms of reference. Due diligence must include:
 - An independent valuation report;
 - Building and pest reports (not required for vacant lots, or where determined by a building services manager);
 - Survey and hazardous materials reports, where appropriate;
 - Ensuring funding is available; and
 - Ensuring flood, fire, sea level change and other risks are considered.
- THA will seek to purchase, where possible, new properties (less than 10 years).
- Where properties less than 10 years are not available, THA will consider purchasing an older property (more than 10 years) subject to its condition, the property will be considered for refurbishment as required and subject to available funding.
- THA will consider the life cycle cost including on-going maintenance requirement when assessing a property for purchase.

3.4 Cyber security and phishing risk needs to be clearly identified and effectively mitigated. The payment process must be separated from other acquisitions personnel acting in the transaction and will consider the following:

- Appropriate vetting of any direct payment data by phone, emails and other systems (preferred); or
- Creation of vendors in the SAP system which ensures validation of secure payment and other information, and raising of Purchase Orders within the system.

7. Monitoring and Review

THA is responsible for maintaining this Policy. This includes:

- Monitoring the correct functioning of the Policy
- Reviewing this policy no later than three years from the date the document is approved. The document may be reviewed earlier in response to post-implementation feedback, changes to legislation, or as necessary.
- Progressing changes and updates as required, with approval from the THA Board.

8. Implementation

The *Addendum to the THA Acquisition Policy: Process Overview and Checklist* outlines how the Policy is to be implemented.