



Policy Title	Land Dedication Policy
Related Documentation	<ul style="list-style-type: none"> • Campbelltown Local Environmental Plan 2015 • Campbelltown (Sustainable City) Development Control Plan 2015 • Campbelltown Open Space Strategic Plan 2018
Relevant Legislation	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • Local Government Act 1993 • Local Government (General) Regulation 2005 • Land Acquisition (Just Terms Compensation) Act 1991 • <i>Contaminated Land</i> Management Act 1997 • The Roads Act 1993 • The Roads Act 2008 • Biodiversity Conservation Act 2016 • Biodiversity Conservation Regulation 2017 • Environmental Protection and Biodiversity Conservation Act 1999
Responsible Officer	Manager Strategic Property

1. Objective

The objectives of this policy are to:

- provide clear criteria which Council must consider prior to accepting the dedication of land to Council for community, infrastructure or environmental conservation and cultural heritage purposes.
- ensure that land is only dedicated to Council if the land is suitable for its intended purpose and meets the community's needs and expectations.
- ensure that Council is not burdened with high maintenance land or land with poor usability.
- ensure that Council is not burdened with the costs of stabilising, remediating or otherwise rectifying land that carries risks to human health or the environment.
- ensure that adequate funding is available for the long term maintenance of land dedicated to Council for community, infrastructure or environmental conservation and cultural heritage purposes.

2. Policy Statement

The purpose of this policy is to set the standard for the type, quality, nature, condition and process for the dedication of land to Council. Land may be dedicated for community purposes such as parks, playgrounds and pathways, for infrastructure purposes such as to function as drainage reserves, roads or detention basins or for environmental conservation and cultural heritage purposes.

DATA AND DOCUMENT CONTROL – GOVERNANCE USE ONLY

Directorate: City Growth Section: Property Development Record No.: CD0-21/1541	Adopted Date: 02/11/2021 Revised Date: 17/11/2021 Minute Number: 230 Review Date: 30/12/2024	Page: 1 of 9
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As part of the planning process in NSW, land may be dedicated to Council by developers as part of a development application, planning proposal, and/or planning agreement under the *Environmental Planning & Assessment Act, 1979* (**the Act**).

3. Scope

3.1 Application of Policy

This policy applies to all land proposed to be dedicated to Council as part of:

- Requests for an instrument change (such as planning proposals (rezoning) or a change in development controls) pursuant to Part 3 of the Act, including any proposed Biodiversity Certification Application (where applicable), and/or
- As part of a development application made pursuant to Part 4 of the Act, and/or
- Offers of planning agreements made pursuant to Part 7 of the Act.

This Policy should be read in conjunction with all relevant land use plans, strategies and policies.

This policy also applies to land bequeathed to Council outside of the Act.

This policy does not apply to the strategic acquisition of land by Council.

3.2 General Requirements

These general requirements apply to all land proposed to be dedicated to Council.

Additional requirements which apply to the dedication of Infrastructure and Community Land and Environmental Land are also set out at Section 3 and 4 of this Policy below.

3.2.1 Proposals for the dedication of land

Proposals for the dedication of land must clearly identify:

- the land intended to be dedicated to Council;
Note: *this is to comprise a survey plan which clearly identifies land to be dedicated to Council at no cost and land to be dedicated to Council in accordance with a relevant development contributions plan where relevant.*
- the nature of the land to be dedicated (i.e. condition, access, slope, topography, land use zoning, current use etc.);
- the intended purpose of the land to be dedicated, including whether it is proposed to be dedicated for use as Infrastructure Land, Community Land or Environmental Land;
Note: *in some circumstances it may be possible for land to fit into more than one category of land (i.e. Community Land and Environmental Land), in which case the land must be assessed under each category prior to the land being dedicated to Council.*
- any specific requirements for identification, protection and management of potential Aboriginal objects on the land;
Note: *this may include the requirement for the preparation of a cultural heritage management plan or archaeological assessment.*
- any specific requirements for identification, protection and management of European heritage items on the land;
Note: *this may include the requirement for the preparation of a heritage management plan or archaeological assessment.*
- any improvements to the land which are proposed to be undertaken prior to dedication, including the standards or specifications to be applied for the improvements;

- the likely management and reporting requirements for vegetation/environmental offsetting or Biodiversity Stewardship site, and;
- the likely maintenance requirements (including the maintenance costs) for the dedicated land and any improvements on the land into the future.

Note: *the proponent should prepare a maintenance plan which addresses the maintenance requirements and costs for any initial site works, vegetation rehabilitation and weed removal for the dedicated land, as well as a proposal as to who will be responsible for these ongoing maintenance costs and obligations.*

Proponents will be advised in writing of Council's decision in relation to requests for the dedication of land, including any terms and conditions upon which the dedication of land is subject.

3.2.2 Acceptance of land

Acceptance of land proposed to be dedicated to Council in accordance with this policy is at the discretion of Council. This is to include the extinguishing of any easements that benefit private owners within the land to be dedicated to the satisfaction of Council.

3.2.3 Payment of Council's costs

The Developer or proponent proposing to dedicate land to the Council must pay the Council's costs associated with the dedication of the land. This may include the extinguishing of easements required to be removed prior to the dedication of the land.

If land is proposed to be dedicated as part of a Voluntary Planning Agreement (VPA), the payment of Council's costs associated with the negotiation, preparation, advertising and entering into of any planning agreement to facilitate the dedication of land to Council shall be borne by the proponent, or as determined in accordance with an agreed VPA.

3.2.4 Improvements on the land

Land proposed to be dedicated is to be suitably improved (where applicable) by the proponent in consultation with Council and in a manner that will ensure acceptable ongoing maintenance costs.

Improvements are to be provided in accordance with Council's adopted standards or, in cases where no standards exist, at the standard determined by Council, or in accordance with the requirements of any approved Voluntary Planning Agreement, Vegetation or Bushland Management Plan for the land or where applicable the Biodiversity Stewardship Agreement and Management Plan that applies to the land.

Improvements are to be completed by the proponent prior to the dedication of land to Council or developer funded arrangements for the provision of improvements to the land to the satisfaction of Council and agreed upon.

3.2.5 Maintenance costs

Council will only accept the dedication of land, or land with capital works, if it is satisfied that it meets an appropriate design and construction standard as identified within a relevant Contributions Plan or Capital Works Schedule.

If the land, or land with capital works, is not identified within a Contributions Plan or Capital Works Schedule, then Council needs to be satisfied that adequate arrangements are offered and implemented to ensure the ongoing maintenance of the land and any improvements.

Unless otherwise agreed by Council, the proponent is to cover the establishment costs for all soft landscaping and plantings works for a minimum as identified within Development Application,

Voluntary Planning Agreement, Vegetation or Bushland Management Plan for the land or where applicable the Biodiversity Stewardship Agreement and Management Plan that applies to the land.

3.2.6 Staging of land dedication

Land may be dedicated to Council in a staged fashion where it accords with an approved staging plan or as agreed to by a formal written agreement with Council and the proponent.

3.2.7 Process for Signoff and Inspections

Prior to the dedication of any land to Council, all relevant internal departments will be required to inspect and signoff of works, assets and design/construction standards, to ensure all developer and land owner obligations have been completed to Council's requirements.

3.2.8 Timing of land dedication

The timing of the land dedication must occur immediately after the Practical Completion Certificate is issued, or unless an agreement is reached with Council for a delayed handover. The public will be able to access and use the public facility on the land.

Council may require a monetary security (Bond) during the defects liability period. Any security would only be released once the relevant department(s) representative is satisfied that works are completed to the agreed standard.

The Developer will still have access to the land to undertake any required repair works during the defects liability period, ongoing maintenance, and/or Vegetation/Bushland Management Plan works.

3.2.9 Application of Section 7.11 Contributions

Section 7.11 Contribution credits will not be granted for any land dedicated to Council or to any improvements proposed upon the land, except where the land or portion of the land dedicated has been dedicated in accordance with a relevant development contributions plan, including open space, cycleways, road or stormwater management, or Council is satisfied that the land fulfils the social and/or environmental needs of the development.

3.2.10 Land Dedication to be at no cost to Council

Unless otherwise specified in the relevant contributions plan, land dedicated to Council under this policy is to be at no cost to Council.

3.2.11 Variation to General Terms and Conditions

Council may modify or add to the above general terms and conditions having regard to the circumstances of each case.

3.2.12 Registration of Dealings/Instruments

In general, all land to be dedicated to Council should be free from any easements, rights of way, restrictions, covenants, and/or caveats.

If the Developer or proponent intends to place any easements, rights of way, restrictions, covenants, and/or caveats over any land that is to be dedicated to Council, then comprehensive details of these matters must be provided in the Development Application. If Council agrees to the registration of any dealing or instrument over land that is to be dedicated, then the Developer will need to pay for the registrations fees to NSW Land Registry Services, any Council administration fees as well as compensation to Council for the dealing/instrument that intends to be registered.

3.2.13 Certification

All compliance (Occupation) Certificates will be issued by Council and no land to be dedicated back to Council is to be certified by a private certifier.

3.2.14 Contaminated Land

Council will not accept land that is contaminated. However, unless otherwise agreed, Council may accept contaminated land, but only if it has been remediated to the standard that would allow the most sensitive permissible use to be undertaken on the land without further remediation. The most sensitive permissible use under this clause includes any use that is proposed to become permissible in a draft planning proposal that has been supported by Council.

In addition to achieving the health outcomes above, any contamination that is likely to harm the natural environment must be remediated to eliminate this risk before the land is dedicated to Council.

An independent assessment of the existing condition of the land, and if required, any proposed removal and/or mitigation works will need to be provided. It is important that early discussions are undertaken between the developer/land owner and Council, to determine the specific requirements of the assessment process. Council recommends the following process to appoint a reputable and suitable consultant to undertake the assessment:

- Council will seek 3 quotations from reputable consultants to undertake geotech and environmental testing;
- The applicant will choose the preferred consultant based on received quotations;
- The applicant will meet the full cost of the recommended consultant, including any reasonable variations agreed between the parties
- Council will pay the Tax Invoices received from the recommended consultant and raise a Sundry Debtor for the applicant to repay the incurred costs

If a joint assessment of the contaminated land is not undertaken, then Council may seek to undertake an independent assessment, or peer review, of the supporting documentation provided to Council. The cost of this independent assessment will be borne by the Developer or Applicant proposing the land dedication.

3.2.15 Transfers of Land via PEXA or physical Lodgement with NSWLRS

If any land that is being dedicated requires transfer via the PEXA (Property exchange Australia) process or a physical lodgement with NSWLRS, the developer incurs ALL costs associated with these processes, including but not limited to Councils solicitors fees/charges, PEXA fees/charges, fees arising out of any delay in Transfer process.

The developer must ensure all rates and levies are paid prior to transfer, with copies of clear certificates or payment receipts provided as evidence.

3.2.16 Plans of Management

The proponent must consult with Council to determine if a Plan of Management is required to be prepared in accordance with the requirements of the *Local Government Act 1993* and any Plan of Management Template developed by Council and must also be prepared at the proponent's expense.

4. Infrastructure and Community Land

Council may accept the dedication of land as Infrastructure Land and Community Land if Council is satisfied that the following requirements are met:

4.1 Suitability of the Land

The land is suitable for the intended purpose of the land. This includes:

- The configuration, dimension and location of the land is suitable for its intended purpose;
 - There being no constraints on the land (such as, but not limited to, any restrictions on title and any contamination and remediation obligations) that would preclude the intended purpose of the land.
 - The intended purpose and nature of the land accords with relevant Council strategies;
 - The land has an acceptable level of risk from natural and other hazards;
 - The land has adequate connectivity with other similar land uses and targeted residential catchments;
 - The land meets the needs of a specific development, the locality or the Local Government area as a whole;
 - Any trees located in high risk areas such as areas of high public use on the land, and excluding trees within environmental and bushland conservation areas, have been assessed for hazard; and either:
 - found satisfactory; or
 - made safe; or
 - removed; or
 - suitably isolated from public access;
- Note:** Assessments for trees in high risk areas should be undertaken at the earliest stage of development where possible to ensure avoidance and design measures and appropriate environmental assessment can be completed.
- Adequate access is provided for vehicles and pedestrians where relevant.

4.2 Improvements on the Land

The land has known and identified improvements. These include:

- Any existing or proposed improvements and physical land dimensions accord with Council's development specifications;
Note: Council may require supporting evidence that existing infrastructure, buildings and/or structures on the land meet Council's specific design and construction standards. Council may seek an independent review of the evidence provided at the cost of the Developer or Applicant.
- In the case of new work, satisfactory arrangements are made with Council for a defect liability period;
- Construction and any required improvements to land are designed and installed to ensure ongoing maintenance is reasonable;
Note: if any works or improvements are made to the land which do not comply with Council's development specifications or otherwise require a higher degree of ongoing maintenance, Council may require the proponent to provide additional funding to ensure satisfactory ongoing maintenance funding for the works or improvements.
- Maintenance Manuals are to be provided with all land transfers, if required, and include estimated costs per annum to maintain the site;
- Council will benefit from any remaining warranty periods that are in place and apply to the construction of buildings/improvements;
- The land and any improvements accord with the Building Code of Australia any relevant development consent; and
- The improvements of the land maximise its potential for a wide range of uses (excluding roads).

5. Environmental Land

Council may accept the dedication of land as Environmental Land if Council is satisfied that the requirements below are met.

5.1 Suitability of the Land

In determining whether to accept the dedication of biodiversity offsets and other environmental lands consideration will be given to:

- The biodiversity and cultural values of the land
- Whether the lands will enhance Council's existing reserve system and habitat connectivity
- Whether the land is of sufficient size, acceptable minimum width and a suitable shape and edge alignment (including whether it includes appropriate habitat buffers), taking into account the purpose for which it is being dedicated (i.e. as a biodiversity offset or retained area of bushland) as well as its position in the landscape
- Long-term maintenance and management requirements associated with the site
- Proposed future adjoining land uses and associated impacts on the environmental lands
- Other relevant requirements of this policy.

Council will consider each request for land dedication on a case by case basis. The onus will be on the proponent to demonstrate that any proposal to dedicate land to Council complies with this Policy, particularly in regard to demonstrating that sufficient funds have been provided for ongoing management and that the ongoing liability for Council will be minimal.

5.2 Adequate Funding for Ongoing Maintenance

If the proposed land, or land with capital works, to be dedicated to Council is not identified within an adopted Contributions Plan or Capital Works Schedule, then a long-term funding source is secured for the maintenance on the land, and the capital works if applicable. This may include a financial contribution paid to Council at the time the land is dedicated to Council that, through the generation of sufficient interest to the funds collected by Council, will fund the management of the land in perpetuity.

6. Definitions

Term	Definition
Aboriginal Object	means any deposit, object or other material evidence relating to the Aboriginal habitation of the land, being habitation before or concurrent with the occupation of that land by persons of non-Aboriginal extraction.
Capital Works Schedule:	means the list of capital works identified within an executed Planning Agreement with Council.
Community Land:	means land to be dedicated to Council for the purpose of community uses, including community halls, parks, active and passive recreational facilities and other like purposes.
Cultural Heritage Management Plan	means a plan prepared with any guidelines endorsed by the NSW Office of Environment and Heritage that outlines the Aboriginal cultural values of the land in detail, describes their significance and associated history and appropriate actions.
Dedication of land:	means the transfer in ownership of land to Council free of cost.

Development Contribution Plans:	means plans that apply levies to development to fund community infrastructure, such as roads, stormwater management facilities, open space and recreational facilities.
Environmental Land:	means land to be dedicated to Council for the purpose of environmental conservation, biodiversity or cultural heritage purposes.
European Heritage	means Heritage that relates to non-indigenous occupation.
Infrastructure Land:	means land to be dedicated to Council for the purpose of infrastructure including roads, pedestrian pathways, drainage and stormwater management and treatment, parking, emergency management, administration facilities, community services facilities, depots and other like purposes.
Plan of Management:	means a Plan prepared under the provisions of the Local Government Act 1993, for all public land that is classified 'community land', to guide how the land will be managed, including the directions for planning, resource management and maintenance of the land.
Practical Completion	means the date nominated in the contract/agreement for the works to be substantially completed and available for use.
Vegetation/Bushland Management Plan:	means a plan prepared in accordance with the Guide to Preparing Vegetation Management Plans.
Voluntary Planning Agreement	(or VPA): is a voluntary agreement or other arrangement between a planning authority (or two or more planning authorities) and a person (developer) who has sought a change to an environmental planning instrument or who has made, or proposes to make, a development application, entered into pursuant to section 93F of the Act.

7. Legislative Context

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- Local Government Act 1993
- Local Government (General) Regulation 2005
- Land Acquisition (Just Terms Compensation) Act 1991
- *Contaminated Land* Management Act 1997
- The Roads Act 1993
- The Roads Act 2008
- Biodiversity Conservation Act 2016
- Biodiversity Conservation Regulation 2017
- Environmental Protection and Biodiversity Conservation Act 1999
- Campbelltown Local Environmental Plan 2015
- Campbelltown (Sustainable City) Development Control Plan 2015
- Campbelltown Open Space Strategic Plan 2018
- Relevant Development Contribution Plans
- Any other legislation, policies and documents that are relevant to determine the appropriateness of a potential land dedication to Council.

8. Responsibility

Position	Area of	Responsibility
Mayor	Council	To lead Councillors in their understanding of, and compliance with this policy.
General Manager	Executive	To lead staff (either directly or through delegated authority) in their understanding of, and compliance with
Directors	All Directorates	To communicate, implement and comply with this policy.
All Council Officials	Council	To abide by and comply with this policy when considering a request for the dedication of private land to Council through the Part 3 and Part 4 planning processes.

9. Principles

The key principles to be taken into account during the assessment and determination of all land dedication applications are outlined below:

- Identify all the relevant departments to be notified of the Land Dedication Application.
- Ensure each relevant department is satisfied that the land dedication:
 - will meet their specific design and construction standards,
 - is fit for purpose,
 - has considered ongoing maintenance and management of the land and asset, and
 - will be integrated into their operational reporting and budgeting requirements.

A copy of the procedure, or flowchart, is included in Appendix A to this Policy.

10. Effectiveness of this Policy

1. The effectiveness of the Policy will be measured against the satisfaction of the relevant departments in Council upon transfer of land into Council ownership.
2. This Policy will be reviewed every three years, or earlier if required.

END OF POLICY STATEMENT