



Dedication of Land Policy

1 Purpose

As part of the planning process in NSW, land may be dedicated to Council by developers as part of a development application or planning proposal under the *Environmental Planning & Assessment Act 1979 (Act)*.

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**.

The purpose of this policy is 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

2.1 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 rezoning or a change in development controls) pursuant to Part 3 of the *Environmental Planning and Assessment Act 1979 ('the Act')* or as part of a development application made pursuant to Part 4 of the Act. This policy also applies to land bequeathed to Council outside of the Act.

Council's relevant s.94 contribution plan prevails over this policy to the extent of any inconsistency. This policy does not apply to the strategic acquisition of land by Council.

2.2 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.

2.2.1 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 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.);
- if any aboriginal object exists on the land;

Note: *this may require the preparation of a cultural heritage management plan or archaeological assessment.*

- 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 improvements to the land which are proposed to be undertaken prior to dedication, including the standards or specifications to be applied for the improvements ; 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 and ongoing works such as: vegetation rehabilitation and weed removal, and cultural heritage management 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.

2.2.2 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.

2.2.3 Payment of Council’s costs

If land is proposed to be dedicated as part of a 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 determined in accordance with Council’s VPA Policy.

In all other circumstances, the person proposing to dedicate land to the Council must pay the Council’s costs associated with the dedication of the land.

2.2.4 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 minimal 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 Management Plan for the land (i.e. Vegetation Management Plan or Cultural Heritage Management Plan).
- Improvements are to be completed by the proponent prior to the dedication of land to Council or developer funded arrangements are to be arranged for the provision of improvements to the satisfaction of Council.

2.2.5 Maintenance costs

- Council will only accept the dedication of land if it is satisfied that adequate arrangements are in place to ensure the ongoing maintenance of the land and any improvements.
- Unless otherwise agreed by Council, the proponent is to cover the maintenance costs of dedicated land for a minimum of ten years or such period as is required to achieve the outcomes for which the land was originally dedicated to Council or to establish an alternative funding stream to support the ongoing maintenance costs.

2.2.6 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.

2.2.7 Application of Contributions

- Contributions 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 developer contributions plan e.g. open space, cycleway, road or drainage).

2.2.8 Land Dedication to be at no cost to Council

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

2.2.9 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 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:

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; and
 - 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 (i.e. Council's Public Realm Strategy);
- The land has a low 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 on the land have been assessed for hazard; and either:
 - found satisfactory; or
 - made safe; or
 - removed; or
 - suitably isolated from public access;

- Adequate access is provided for vehicles and pedestrians where relevant;

Improvements on the Land

- Any improvements and physical land dimensions accord with Council's [development specifications](#);
- 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 minimal;
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.
- The land and any improvements accord with the Building Code of Australia any relevant development consent; and
- the improvements of the land maximises its potential for a wide range of uses (excluding roads).

4 Environmental Land

Council **may** accept the dedication of land as Environmental Land if Council is satisfied that the following requirements are met:

Suitability of the Land

- the land has significant environmental or cultural values and/or that the land will:
 - enhance Council's reserve system;
 - connect with existing or proposed Community Land or Environmental Land; or
 - connect with / or protect Waterfront Land.

Adequate Funding for Ongoing Maintenance

- A long-term funding source is secured for the maintenance on the land.
For example: 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.

Local Biodiversity Offsets Policy

- If the dedication of Environmental Land is proposed as part of an offsetting arrangement, the dedication of the land must also satisfy the provisions of the Coffs Harbour Local Biodiversity Offset Policy and provide a material public benefit.

5 Definitions

Aboriginal Object: means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

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.

Contributions Plan: means a contributions plan referred to in section 7.18 of the Act.

Cultural Heritage Management Plan: means a plan prepared in accordance with any guidelines endorsed by the NSW Office of Environment and Heritage that outlines the Aboriginal cultural values of a place in detail, describes their significance and associated history, then sets out the actions

required for proper management of the place, for both restoring it to an acceptable standard and for cyclical management.

Dedication of Land: means the transfer in ownership of land to Council free of cost.

Environmental Land: means land to be dedicated to Council for the purpose of environmental conservation, biodiversity or cultural heritage purposes.

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.

Material Public Benefit means public benefit that is considerable, significant or substantial that would fairly and reasonably address the impacts of particular development on surrounding land or the wider community.

Vegetation Management Plan: means a plan prepared in accordance with the Guide to Preparing Vegetation Management Plans in Appendix 2 of *Coffs Harbour Development Control Plan 2015*.

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 *Environmental Planning and Assessment Act 1979*.

Waterfront Land: has the same meaning as per the [Water Management Act 2000](#).

6 Key Responsibilities

Position	Directorate	Responsibility
Mayor	Council	To lead Councillors in their understanding of, and compliance with this policy.
General Manger	Executive	To lead staff (either directly or through delegated authority) in their understanding of, and compliance with this policy.
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.

7 References (laws, standards and other Council documents)

- *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*
- *The Roads Act 1993*
- *The Roads Act 2008*
- *Native Vegetation Act 2003*
- *Native Vegetation Regulation 2013*
- *Threatened Species Conservation Act 1995*
- *Threatened Species Conservation (Biodiversity Banking) Regulation 2008*
- *Threatened Species Conservation Regulation 2010*

- *Coffs Harbour Local Environmental Plan 2013*
- *Coffs Harbour Development Control Plan 2015*
- Relevant Development Contribution Plans

8 Details of Approval and revision

- **Approval date: 28/06/2018**
- **Responsible Section: Asset Strategies**
- **Superseded policies/procedures:**
- **Next review date: 28/06/2022**

Table of amendments

Amendment	Authoriser	Approval ref	Date