



**DEDICATION OF
CONSTRAINED LANDS
POLICY
P4.0253.2**

DEDICATION OF CONSTRAINED LANDS POLICY

DIVISION: Sport Community & Activation

BRANCH: Contributions Planning

CATEGORY: 2

PART 1 – INTRODUCTION

1. BACKGROUND

- 1.1 There are currently lands identified for the purposes of environmental and/or infrastructure held in private ownership. Through the redevelopment of development sites, Developers may wish to dedicate these lands to Council.
- 1.2 This Policy provides a framework for managing the dedication of these types of land, so that Council is not burdened unreasonably by the maintenance costs for environmental and hazard management purposes of these lands.

This Policy consolidates Councils previous policies relating to the Dedication of Land Burdened by Utility Easements (Policy 1.19) and the Dedication of Riparian Corridors (Policy 1.18) Policies.

2. OBJECTIVE

- 2.1 To establish the requirements upon which Council will accept land to be dedicated for infrastructure or environmental purposes.
- 2.2 To ensure that only suitable land is dedicated that provides material public benefit to the community such as quality infrastructure, connectivity and other services.
- 2.3 To ensure Council is not burdened with high maintenance land or land with poor usability.
- 2.4 To encourage land owners and Developers to find the most appropriate and innovative use for land that is constrained.
- 2.5 To ensure that if the land has environmental constraints that the land owners/Developers are encouraged to protect and rehabilitate the land.
- 2.6 To ensure that lands to be dedicated to Council under this Policy are provided with a source of funds for the on-going maintenance of these lands.

3. SCOPE

- 3.1 This Policy applies to all land to be dedicated to Council for infrastructure or environmental purposes.

4. DEFINITIONS

4.1 Land to be dedicated to Council can be grouped into the following two (2) categories under this Policy, which are:

4.1.1 Environmental Land

For the purposes of this Policy, *Environmental land* refers to riparian corridor land which is defined as waterfront land pursuant to the *Waterfront Management Act 2000*; or a riparian corridor defined under an adopted Waterfront Land Strategy.

4.1.2 Infrastructure Land

- For the purposes of this Policy, *Infrastructure land* refers to land required for the provision of a utility that is restricting the use of the land and any land that may be required for the purposes of a Major Infrastructure Corridor.
- Infrastructure land generally refers to utility easements including but is not limited to electricity, gas, sewer and water easements.

PART 2 - POLICY STATEMENT

5. POLICY STATEMENT

5.1 Through the development of sites, Developers may wish to dedicate land to Council for environmental or infrastructure purposes. The Developer is required to demonstrate how the land will be used and its material public benefit to the community.

5.2 If Council accepts such land it is burdened with its maintenance. This Policy establishes the process and terms associated with this land dedication.

6. REQUIREMENTS

The following terms and conditions will apply to all land covered under this Policy that Council may accept into public ownership.

6.1 The Developer must demonstrate Material Public Benefit and the design of the works must consider Councils guiding principles, policies and strategies such as the Open Space Design Manual. Developers must provide a supporting concept plan of the area and its proposed embellishments as part of the proposal to Council.

6.2 Council will also assess a proposal of material public benefit based on the following factors:

- The quality of the land and its interface with the urban environment.
- The range of encumbrances restricting community use and enjoyment of the land.
- Recognition of cultural landscapes.

- Retention of significant view lines.
 - Protection of a significant environmental feature of the land.
 - Providing linkages between areas of open space that are unencumbered by the power easement at regular intervals along the easement corridor.
 - Use for an appropriate community purpose, such as pedestrian connections, shared pathways, off-leash dog areas, lookouts/viewing platforms, active recreation spaces, natural play spaces, signage, public art, interpretative uses, technological uses and native places.
 - If the land is contaminated, as defined by the National Environment Protection (Assessment of Site Contamination) Measure 1999, Council is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the land is to be used or developed. If the land requires remediation to make it suitable for the proposed use the remediation is to be completed prior to the use and be at the expense of the developer or owner.
- 6.3 The subject land and any proposed embellishments must be provided to Council at no cost and be to Council's satisfaction and implemented by way of a Planning Agreement in accordance with the *Environmental Planning and Assessment Act 1979*, or otherwise agreed to by Council.
- 6.4 In the case of Transmission Line and cable easements, the proponent must consult with Transgrid prior to lodging the development application and comply with any of their requirements in the development application.
- 6.5 The land will be landscaped or embellished in consultation with Council and in accordance with the requirements of the relevant authorities.
- 6.6 The land should be dedicated in a staged fashion corresponding with the staging of development adjacent to the easement corridor. Dedication will not be accepted despite the above provisions, until Council has access to the land.

Please note that acceptance of land in accordance with this Policy will be at the sole discretion of Council and assessed on a case-by-case basis.

7. MAINTENANCE

- 7.1 The Developer will be required to undertake establishment works relating to the lands dedicated under this Policy for a maintenance period agreed to with Council.
- 7.2 It is suggested that the Developer will be required to pay for maintenance costs of the land for a minimum period of five years from the date of practical completion of establishment works.
- 7.3 The design of all embellishments must ensure minimal on-going maintenance and management costs.
- 7.4 The Developer is to provide (in the approved Vegetation Management Plan and/or Draft Plan of Management (POM) for the land) a schedule of works with a cost estimate for all components of the works for the ongoing management and maintenance of the land. This should also include a Works-as-Executed plan and any associated warranties relating to the maintenance.

8. ENVIRONMENTAL LAND

- 8.1 The land will be landscaped in a manner that considers salinity impacts and minimises bushfire risk.
- 8.2 The ongoing use, management and maintenance of infrastructure and environmental land that is to be dedicated to Council shall be detailed in a draft POM, prepared by a suitably qualified person or organisation and lodged with Council for consideration, exhibition, and determination, prior to the dedication of the land to Council. All costs associated with the preparation of the draft POM shall be borne by the Developer. The draft POM is to conform to the requirements of the *Local Government Act 1993*.
- 8.3 Any environmental land proposed to be dedicated to Council must be designed, constructed and maintained in accordance with the relevant Vegetation Management Plan approved for the subject land and in accordance with all relevant conditions of development consent for works on the subject land.

9. INFRASTRUCTURE LAND

- 9.1 Council encourages land owners and Developers to find the best and most innovative use of land burdened by a transmission easement having regard to the particular circumstances of each case.
- 9.2 Council may accept land burdened by transmission easements as public open space only in accordance with the general terms and conditions outlined in this Policy, the requirements contained in Transgrid's Easement Guidelines for Third Party Development and any additional terms and conditions negotiated with respect to each particular case.
- 9.3 Council will make decisions on requests for transfer of land burdened by a transmission easement in a timely manner and in concert with the authority benefiting from the easement.
- 9.4 Council encourages Developers to consider use and ownership options for land burdened by transmission easements early in planning stages for development of the land and to put any proposals for dedication of such land to Council in a timely manner to enable decisions to be made at the appropriate times.

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RELEVANT LEGISLATIVE INSTRUMENTS: *Environmental Planning & Assessment Act 1979*
Local Government Act 1993
National Environmental Protection (Assessment of Site Contamination) Measure 1999

RELATED POLICIES, PLANS AND PROCEDURES: Open Space Design Manual
Relevant Waterfront Land Strategies
Transgrid Easement Guidelines for Third Party Development

RESPONSIBLE DIRECTOR: Sport, Community & Activation

APPROVAL: Council

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	Council	New	10/03/2020	20/75232
2	ELG	Minor amendment	16/02/2023	20/75232