

CONTENTS

| | |
|---|----------|
| PART A - INTRODUCTION..... | 2 |
| 1 POLICY OBJECTIVES..... | 2 |
| 2 POLICY SCOPE | 2 |
| PART B – POLICY STATEMENT | 2 |
| 3 LAND DEDICATION REQUIREMENTS..... | 2 |
| PART C – ADMINISTRATION | 3 |
| 4 POLICY DEFINITIONS AND ABBREVIATIONS..... | 3 |
| 5 POLICY AUTHORISATIONS..... | 4 |
| 6 POLICY ADMINISTRATION..... | 4 |
| 7 POLICY HISTORY..... | 5 |

ACKNOWLEDGEMENT

Council acknowledges that within its local government area boundaries are the traditional lands of the Wonnarua people, the Awabakal people and the Darkinjung people. We acknowledge these Aboriginal peoples as the traditional custodians of the land on which our offices and operations are located, and pay our respects to Elders past and present. We also acknowledge all other Aboriginal and Torres Strait Islander people who now live within the Cessnock Local Government Area.

COUNCIL VALUES

Integrity, Respect, Teamwork, Accountability, and Excellence.

DISCLAIMER

The information contained in this publication is based on knowledge and understanding at the time of the adoption date and may not be accurate, current or complete at the time of viewing. While every effort has been made to ensure the accuracy of the information in this publication, Cessnock City Council expressly disclaims any liability to any person in respect of anything done or not done as a result of the contents of this publication or the data provided therein. Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

NOTICE

© Cessnock City Council. This work is copyright. It may be reproduced in whole or in part for study or training purposes subject to the inclusion of an acknowledgement of the source. It may not be reproduced for commercial usage or sale. Reproduction for purposes other than those indicated above requires written permission from Cessnock City Council.

PART A - INTRODUCTION

1 POLICY OBJECTIVES

- 1.1 To ensure the community is not burdened with the cost of maintaining Dedicated Land that:
 - a. Is not identified in Council's strategic plans, infrastructure contributions plans or a voluntary planning agreement.
 - b. Is otherwise excess to Council's strategic requirements for recreation, open space, community facilities or other infrastructure needs.
- 1.2 To set out the conditions or terms that need to be met in order for Council to accept Dedicated Land, subject to this Policy.
- 1.3 To ensure Dedicated Land is in the public interest and Fit for Purpose.

2 POLICY SCOPE

- 2.1 This Policy applies to land that is proposed to be dedicated to Council, but is not specifically identified in an adopted Council contribution plan or voluntary planning agreement prepared in accordance with the *Environmental Planning and Assessment Act 1979*, and is determined by Council to be excess to its strategic requirements, as set out in Council's adopted:
 - Recreation and Open Space Strategic Plan; or
 - Community Infrastructure Strategic Plan.
- 2.2 This Policy does not apply to the strategic acquisition of land by Council.
- 2.3 This Policy does not apply to land that is proposed to be dedicated pursuant to s.9 of the *Roads Act 1993* for the purpose of a public road and Council has consented to the land dedication.
- 2.4 This Policy prevails in the event of an inconsistency with another Council Policy.

PART B – POLICY STATEMENT

3 LAND DEDICATION REQUIREMENTS

- 3.1 Council will only accept Dedicated Land if it is satisfied that:
 - a. It is in the public's interest to accept the land and there are no acceptable alternatives (**see cl.3.2**).
 - b. The Dedicated Land is acceptable in its current state (**see cl.3.3**).
 - c. Council is satisfied with the terms of the transfer of the Dedicated Land (**see cl.3.4**).
- 3.2 Dedicated Land is in the public's interest if:
 - a. The land is deemed by Council to be Fit for Purpose.
 - b. Council will not be burdened with land that, in Council's opinion, will result in unreasonable financial, legal, or operational costs as a result of the land dedication.
 - c. Council will not be burdened with any remediation or rectification costs in relation to the land.
 - d. All alternatives to dedicating the land to Council have been considered.
- 3.3 Dedicated Land is acceptable in its current state if, in Council's opinion:

- a. It is not contaminated, or likely to be contaminated, or has been remediated to ensure it is suitable for its intended use.
 - b. It is not affected by priority weeds or invasive species.
 - c. It is not subject to existing property rights in favour of a third party or parties (other than public authorities).
 - d. In the case of stormwater infrastructure land, in Council's opinion, the stormwater infrastructure has been maximised for operational efficiency and services an Associated Development; and
 - e. It is well connected, is not excessive in area, and maximises opportunities for a range of uses; and
 - f. It is not excessively constrained or part of an approved Asset Protection Zone.
- 3.4 The terms of the transfer of Dedicated Land must be approved by Council, and the following matters are addressed.
- a. A Land Dedication Proposal is lodged with Council, in accordance with the Land Dedication Guidelines.
 - b. A Planning Agreement is executed in relation to the transfer of the Dedicated Land, addressing the ongoing maintenance of the land and any improvements on it. As a minimum, the person dedicating the land must agree to:
 - Maintain the land at their own expense for an Initial Maintenance Period of at least five (5) years.
 - Provide to Council, a maintenance bond or bank guarantee in respect of the Initial Maintenance Period.

Note: The maintenance bond or bank guarantee is to be at least 5% of the total Dedicated Land value. The maintenance bond will be refunded or returned at the end of the Initial Maintenance Period, upon application.

 - Pay a Maintenance Fee to Council upon dedication of the land, in accordance with the Land Dedication Guidelines.
 - c. The transfer of the Dedicated Land and any Planning Agreement necessitated by this Policy, will be at no cost to Council.
 - d. Council will not accept any land improvement, maintenance period or payment as a credit against local infrastructure contributions, which are required to be paid in relation to an associated development.
 - e. Council will determine the classification of all land that is proposed to be dedicated.
 - f. Where requested by Council, a draft Plan of Management (POM) must be 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*.

PART C – ADMINISTRATION

4 POLICY DEFINITIONS AND ABBREVIATIONS

| | |
|--|---|
| Associated Development | Means the approved development associated with the Land Dedication Proposal. |
| Land Classification | Means the designation of land as either “community” or “operational” land in accordance with s.26 of the <i>Local Government Act 1993</i> . |
| Contaminated Land | Means the presence in, on or under the land of a substance at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment. |
| Council | Means Cessnock City Council. |
| Dedicated land | Means any land subject to this Policy that is proposed to be dedicated to Council. |
| Fit for Purpose | Means the Dedicated Land is unencumbered and is suitable to fulfil its intended use in line with criteria outlined in Council’s adopted plans, policies and strategies. |
| Initial Maintenance Period | Means the first five years, starting from the day after the land is dedicated to Council, during which the person who dedicated the land is responsible for maintaining it at their own expense. |
| Land Dedication Proposal | Means a written request to Council, made in accordance with the Land Dedication Guidelines, proposing to dedicate land to Council. |
| Local Infrastructure Contributions Plan | Means Council’s plans that levy contributions on development to fund community infrastructure, such as roads, stormwater management facilities, open space and recreational facilities. |
| Maintenance Fee | Means a contribution to Council, paid upon dedication of the land, which is used by Council to help maintain the land for a finite period commencing at the end of the initial Five-Year Maintenance Period. |
| Plan of Management (POM) | Means a Plan prepared under the provisions of the <i>Local Government Act 1993</i> 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. |
| Planning Agreement | 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 7.4 of the Act. |

5 POLICY AUTHORISATIONS

| No. | Authorised Function | Authorised Business Unit / Role(s) |
|-----|------------------------------------|--------------------------------------|
| | Negotiation of Planning Agreements | Infrastructure Contributions Planner |

6 POLICY ADMINISTRATION

| | |
|-----------------------------|---|
| Directorate | Planning and Environment |
| Responsible Officer | Strategic Planning Manager |
| Associated Procedure | Senior Infrastructure Contributions Planner |

| | | | |
|--|---|--|-----------|
| Policy Review Date | TBA [Actual date - three years from date of adoption unless legislated otherwise] | Is this a local policy pursuant to Part 3, Chapter 7 of the <i>Local Government Act 1993</i> (NSW)? | No |
| Document Reference Number | DOC2025/105382 | | |
| <p>This policy supports Council's compliance with the following legislation:</p> <ul style="list-style-type: none"> ▪ Section 49 of Division 3 of Part 2 of the <i>Local Government Act 1993</i>; ▪ Subdivision 2 of Division 7.1 of Part 7 of the <i>Environmental Planning and Assessment Act 1979</i> ▪ Division 1A of Part 4 of the Regulation; ▪ Planning Agreement Practice Note – February 2021; and ▪ Schedule 1 of the GIPA Regulation | | | |
| <p>This policy contributes to the achievement of the following desired outcome or objectives as per Council's Delivery Program:</p> <p>A Sustainable & Healthy Environment Objective 3.1 Protecting & enhancing the natural environment and the rural character of the area.</p> <p>Civil Leadership & Effective Governance Objective 5.3: Making Council more responsive to the community.</p> | | | |
| Related Documents (include reference document numbers) [Please include Policies, Protocols, Procedures, SOPs, and templates where relevant]. | <ul style="list-style-type: none"> ▪ Records Management Policy (DOC2019/038769) ▪ Complaints Handling policy (DOC2018/048382) ▪ Privacy Management Plan (DOC2014/005148) ▪ Strategic Planning Statement (DOC2018/087261) ▪ Fraud Control and Corruption Prevention Policy (DOC2020/027334) | | |

7 POLICY HISTORY

| Revision | Date Approved / Authority | Description Of Changes |
|----------|--|--|
| 1 | <<Enter text...>> [Must include the ELT or Council minute number] | <<Enter text...>> [New policy adopted] |
| 2 | <<Enter text...>> | <<Enter text...>> [Periodic review] |