

Community Use Policy

What is the Community Use Policy?

The NSW Government has a real property portfolio worth approximately \$165 billion as at 30 June 2019. Real property is used by the Government to deliver critical government services and infrastructure including transport, schools and medical facilities that drives economic growth throughout the State.

Certain real property not required by the NSW Government for current or future service delivery may be offered to Local Councils for purchase to help deliver better community outcomes. The NSW Government has approved the **Community Use Policy** (CUP) to ensure Local Councils are provided the opportunity to acquire real property that is declared surplus by the Government subject to satisfying specific criteria under the policy. This policy also allows community groups (as listed in the Australian Charities and Not-for Profits Commission Charity Register) and Aboriginal Land Councils to acquire surplus real property assets at a discount to market value with a 15-year community use restriction upon recommendation from Local Councils.

Which assets does the CUP apply to?

The CUP applies to all General Government Sector agencies and Public Trading Enterprises, except for State Owned Corporations. Real property held under the *National Parks and Wildlife Act 1974* is also excluded.

Crown Land that is not deemed to be of State significance will continue to be made available for transfer to Local Councils under the *Crown Land Management Act 2016*.

QUICK FACTS

- The NSW Government's real property portfolio was worth approximately \$165 billion at 30 June 2019.
- The NSW Government has approved the Community Use Policy (CUP).
- The CUP applies to all General Government Sector agencies and Public Trading Enterprises.
- The CUP does not apply to land acquired by statutory authorities, such as the Office of Strategic Lands.

The CUP does not apply to land acquired by statutory authorities for the purpose of transfer to Local Councils, including the Office of Strategic Lands.



What real property assets can be transferred to Local Councils under the CUP?

Real property assets declared surplus by both the land-owning agency and other agencies will be offered to the relevant Local Council to purchase where the unconstrained independent market value is less than \$1 million.

In addition to the value, the property must be vacant, not intended to be occupied by a State Government agency, not form part of a Government-approved specific recycling program, and meet at least one of the following criteria:

- the current zoning is Public and Private Recreation (RE1, RE2), Infrastructure (SP2), Special Activities (SP1), Environmental Conservation / Management (E2, E3), Village (RU5), or similar; or
- there is potential to create quality green and public space; or
- the use of the site is constrained to the existing use (e.g. public hall, place of worship, community facility).

What are the conditions on transfer of real property assets to Local Councils under the CUP?

At the discretion of the Seller Agency, eligible real property assets will be offered for sale to Local Councils at either a discounted market value that reflects a 15-year restriction on title for community uses only, or at full market value with no restriction on title.

A 'community use' relates to the dominant use of the real property asset. Ancillary commercial uses with revenue generated primarily used for maintenance and capital investment in the property (for example, a small kiosk or café) are permissible as long as the community use remains the dominant use.

If the Seller Agency decides to sell the real property asset at full market value then only the Local Council is eligible to purchase that asset under the CUP.

- If:
- the Seller Agency decides to sell the real property asset at a discounted market value that reflects a 15-year community use restriction on title; and
 - the Local Council chooses not to acquire the real property asset,

...the Local Council may recommend to Property NSW that a local community group or Aboriginal Land Council be given the opportunity to purchase the real property asset on the same terms as offered to the Local Council. This recommendation is at the sole discretion of the Local Council.

Eligible local community groups are those listed on the Australian Charities and Not-for-Profits Commission Charity Register. The Register can be found at www.acnc.gov.au/charity.

The Local Council will be responsible for negotiating any agreement with the relevant community group or Aboriginal Land Council and all other related tasks up to the point of transfer. The Local Council will also be responsible for securing written agreement from the proposed purchaser that they accept the terms of sale offered by the NSW Government.

Transfers of real property to Local Councils, local community groups or Aboriginal Land Councils at a discounted market value will be subject to restriction of community use being registered on title.

QUICK FACTS

- At the discretion of the Seller Agency, eligible property assets will be offered at a discounted market value with a 15-year restriction on title for community and non-profit making purposes; or at market value with no restriction on title for community and non-profit making purposes.
- Other attributes of the asset will determine applicability of the CUP.

CUP applies to surplus real property assets with an unconstrained independently assessed value of less than

\$1,000,000



Further, if during the restriction period, land is not utilised primarily for a community use or the relevant entity ceases operations, the NSW Government will have the right to acquire the land back from the relevant entity at the price originally paid for the asset by the entity, less any additional liabilities incurred such as damage and contamination to the site.

MORE INFORMATION

Local Councils may contact Property NSW at HAP.ministerial.support@dpie.nsw.gov.au for further information.