



City of
Norwood
Payneham
& St Peters

NAME OF POLICY: Permits and Authorisations for Private Use of Local Government Land

POLICY MANUAL: Governance

BACKGROUND

On occasions, owners of property which abut land owned or managed by the Council (i.e. Local Government Land) wish to use that land for their own convenience or private purposes.

Some examples of this are:

- Exclusive occupation of Local Government Land, through having the Local Government Land included within their fenced boundaries,
- Semi exclusive use through establishing private gardens attached to their property,
- Establishment of driveways, car parking areas, footbridges and footpaths, primarily for their use,
- Occasional access through Local Government Land for deliveries to the rear or side of their property, e.g., delivery of firewood or landscaping supplies,
- Installing stormwater pipes across or into Local Government Land.

DISCUSSION

Unless there is a written agreement between the owner of the infrastructure, setting out the relationship between the parties, limitations on the rights granted and responsibilities, such as safety and indemnity undertakings, the Council risks:

- a) permanently losing unfettered use of its Local Government Land,
- b) the land being damaged or impaired,
- c) incurring extra costs in accommodating private infrastructure when installing Council infrastructure, e.g. having to remove private structures to install a drain, and
- d) being held responsible for injury and loss suffered by third parties, which are attributable to the use of Local Government Land by adjoining owners.

KEY PRINCIPLES

- The Council has a duty to properly manage and control its Local Government Land, including protecting it from claims arising through prescription.
- Owners and occupiers of land adjoining Local Government Land are not entitled to use or treat the Local Government Land any differently than the rights that apply to the general public, unless permission is obtained from the Council.
- The public at large should not be inconvenienced or denied reasonable use of Local Government Land, because of permanent private use of Local Government Land by neighbours.
- The Council should not incur costs or liabilities, because of private use of Local Government Land by neighbours.
- When Local Government Land is alienated or used for private benefit, the Council should charge an amount commensurate with the market value of the benefit to the private person

POLICY

1. Over and above the rights enjoyed by the community at large , access and use of Local Government Land by the owners and occupiers of adjoining private property, including:
 - a) direct access to and from the Local Government Land (public roads excepted);
 - b) draining of water into or onto the Local Government Land;
 - c) delivery of services to the adjoining land from the Local Government Land (public roads excepted);
 - d) development of the Local Government Land, which may comprise the installation of paths, garden beds, plantings, installation of equipment or furniture, etc.; and
 - e) occupation, whether exclusive or non-exclusive, permanent or non-permanent,such owners and occupiers require written authorisation from the Council, for such access and use.
2. Before granting any such authorisation or permission, the Council must be satisfied that members of the public will not be unduly inconvenienced, or unreasonably denied, use of the Local Government Land, if such permission is granted.
3. The Council will be entitled to charge the costs likely to be incurred in complying with the provisions of Chapter 11 of the *Local Government Act 1999*, including the costs associated with undertaking public consultation prior to amending a Community Land Management Plan or granting a lease or licence of Community Land.
4. The Council will be entitled to charge an amount commensurate with the market value of the benefit obtained and/or a fair market return on the capital value of the land to be used for a private person for any permit or authorisation given pursuant to this policy.
5. The Council will take steps to ensure the integrity of the Local Government Land under its care, management and control and may take action to prevent or stop Local Government Land being used in contravention of this policy.

REVIEW PROCESS

The Council will review this Policy within 12 months of the adoption date of the Policy.

INFORMATION

The contact officer for further information at the City of Norwood Payneham & St Peters is Council's Property Officer (telephone 8366 4507).

ADOPTION OF THE POLICY

This Policy was adopted by Council on 4 July 2011.

TO BE REVIEWED

4 July 2012