



Australian Government

Department of Finance and Deregulation

COMMONWEALTH PROPERTY DISPOSALS POLICY

General Policy

Commonwealth property, having no alternative efficient use, is to be sold on the open market at full market value.

Exceptions to this general policy are outlined below.

A. Disposal of property for housing and community outcomes

Where a surplus Commonwealth property is considered by the Department of Families, Housing, Community Services and Indigenous Affairs as suitable for facilitating:

- an increase in the supply of housing without adversely affecting surrounding property prices;
- improved community amenity;
- the creation of new jobs

the property shall be disposed of under a strategy that has been jointly approved by the Minister for Housing; the Minister for Finance and Deregulation; and the Portfolio Minister (of the owner agency).

B. Priority Sales

Priority sales are those made direct to a purchaser without having the property first been offered for sale on the open market. A priority sale may be arranged in the following circumstances:

- (i) where it is considered that a sale to State or Local Governments would optimise housing and/or community outcomes as outlined above in A;
- (ii) where there is a former owner entitlement as defined under the *Lands Acquisition Act 1989* – the owner is to be given the right of first refusal at full market value;
- (iii) where sale to State or Local Governments would facilitate other Commonwealth or co-operative policy initiatives, that could not otherwise be achieved by way of an open market sale, or would protect other Commonwealth property interests:- sale to be negotiated on the basis of the highest price possible given the intended end-use; and
- (iv) where Commonwealth funded organisations seek special consideration in the disposal of surplus property to facilitate Commonwealth Policy objectives and have the support of the relevant portfolio Minister and the Minister for Finance and Deregulation, the sale is to be negotiated on the basis of intended use.

C. Concessional Sales

Concessional sales are those priority sales concluded at a purchase price below market value. Such sales require the approval of the Minister for Finance and Deregulation.

In the case of Commonwealth statutory authorities, the agreement of the relevant portfolio Minister is also required to any concessional sale.



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COMMONWEALTH PROPERTY DISPOSALS POLICY GUIDANCE FOR DEPARTMENTS AND AGENCIES

A. Determining whether a Commonwealth property has an alternative efficient use

Departments and Agencies report their landholdings, on an annual basis, to the Department of Finance and Deregulation. As a part of this process, Departments and Agencies are required to satisfactorily demonstrate the need to retain each of their properties.

If the retention of a Commonwealth property has not been satisfactorily justified, the property will be considered as surplus and should be disposed of in accordance with the Commonwealth Property Disposals Policy.

B. Security of Purpose Conditions

Since the inception of the Commonwealth Property Disposals Policy, practice has required the implementation of various security of purpose arrangements to “lock in” the purpose to which the land subject to the disposal is put, on the basis that this is the most effective way of ensuring that the policy objectives supporting the priority/concessional sale are delivered.

Consequently, the Minister for Finance and Deregulation approves priority/concessional sales subject to the inclusion of security of purpose arrangements.

At the time of being advised of the Minister for Finance and Deregulation’s consent to a particular disposal, Departments and Agencies will need to consult with the Department of Finance and Deregulation to obtain draft terms and legal advice about the application of the security of purpose conditions on the disposal.

To assist Departments and Agencies, the Department of Finance and Deregulation has prepared a standard set of contract addenda, which impose the security of purpose conditions and provide sanctions for the breaching of the conditions.

No alteration of the terms of the Security of Purpose Conditions should be contemplated without first consulting with Department of Finance and Deregulation on whether the proposed changes would satisfy the requirement for securing the policy objectives of the priority/concessional sale.

C. Consultation with the Department of Finance and Deregulation on the Policy

Departments or Agencies contemplating the disposal of property other than by open market disposal should discuss the proposal with the Department of Finance and Deregulation at the earliest opportunity, in order to ensure that the policy objectives as proposed are consistent with the requirements of the Commonwealth Property Disposals Policy.

D. Negotiations prior to approval by the Minister for Finance and Deregulation

Potential purchasers may lodge priority or concessional sale submissions with Departments or Agencies at any time. However, Departments or Agencies must not enter into any sale negotiations or commercial obligations with potential purchasers under priority or concessional sale arrangements before approval has been obtained from the Minister for Finance and Deregulation.

E. Delegations held in the Department of Finance and Deregulation

The following categories of priority sales may be approved by the delegates in Department of Finance and Deregulation:

- disposal to State or Local Government for road and/or railway easements, road widening, or other minor access purposes
- disposal under a legal obligation eg where there is a former owner entitlement as defined under the *Lands Acquisition Act 1989*.

All other priority sales including those in the above categories, which have a potential political or social sensitivity, heritage or environmental significance, or which are likely to arouse State or Local Government or community protest, require the personal approval of the Minister for Finance and Deregulation.