

* POLICY NUMBER:	7.2
* TITLE:	Rights of Way and Reserves - Discontinuance and Sale
* ADOPTED BY:	Glen Eira City Council
* DATE ADOPTED:	10 April 2006

1. Objective

- 1.1 To provide an equitable and efficient means of determining the discontinuance and sale of unnecessary roads and reserves.

2. Definitions

- 2.1 In this policy:
'road' has the same meaning as set out in Section 3(1) of the *Local Government Act 1989*.
'reserve' means drainage reserves or other reserves not set aside for recreational purposes.

3. Policy

- 3.1 Council will actively pursue its right to discontinue and sell roads and reserves that are no longer reasonably required for the purpose they were set aside, under section 206 of the *Local Government Act 1989* and section 24A of the *Subdivision Act 1988* for the following reasons:
- 3.1.1 Council on behalf of its ratepayers receives a fair and equitable return for the land which was originally set aside for public use and benefit;
 - 3.1.2 The land will be able to be put to better use by adjoining property owners;
 - 3.1.3 Council is able to decrease any maintenance costs it incurs over the land, which will be able to be redirected to other Council services;
 - 3.1.4 Significant safety and security risks, if any, posed to local residents by the land's continued status, are removed;
 - 3.1.5 Owners are discouraged from occupying land which they hold no title to, and without consideration of the rights of other parties over the land;
 - 3.1.6 Owners are given a quick and efficient means of acquiring such land.
- 3.2 Land may be sold as follows:
- 3.2.1 the land may be sold at current market value as assessed by a qualified valuer; or
 - 3.2.2 if an owner occupying part of the road/reserve can demonstrate continuous and exclusive occupation of the same area over at least the previous twelve years, the purchase price may be set at 50 per cent of current market value; or
 - 3.2.3 the purchase price set for, or an offer accepted for sale of a parcel of land may be at a lower amount pursuant to delegated authorities if it is considered that the benefits which accrue to the community by the achievement of one or more of the objectives of this policy would not be reasonably obtained unless such a lower price is charged.

- 3.3 Where an owner occupying part of the road/reserve can demonstrate continuous and exclusive occupation of the same area over the previous five years, that owner will be given first option to purchase the land.
- 3.4 Land may be otherwise offered in the following manner:
- 3.4.1 Land may be offered as near as is practical to all abutting owners unless Clause 3.3 applies;
- 3.4.2 Should an abutting owner either not agree to purchase or does not respond to Council's invitation to treat within 60 days, the land may then be offered to another abutting owner;
- 3.4.3 If negotiations under Clauses 3.4.1 or 3.4.2 are not successful, abutting owners may be given the option of entering into a monthly lease or licence arrangement until the land is able to be sold.
- 3.5 Should abutting owners each offer to purchase the same section of land at the price set by Council and will not agree to a division of the land, each party may be invited to submit their own purchase price for the whole section of land abutting their property, within the time specified by Council. The new amount offered must be not less than the price set by Council, and Council will accept the highest price submitted.
- 3.6 If no offer for either purchase or lease or licence is agreed to by Council, the land will remain vested in Council until such agreement can be reached. The adjoining owner in occupation of the land may be directed to remove any buildings and obstructions from the land immediately. Council may also transfer the title to such land to itself to protect its interests in the land.
- 3.7 The full purchase price shall be paid to Council at the time of settlement, except in appropriate circumstances allowed by the responsible officer where terms may be extended to allow equal payments for up to three years. For terms payments, an additional amount on top of the purchase price may also be charged as a contribution towards Council's administrative costs involved. Transfer of the land shall not be passed on to the purchaser(s) until the full purchase price plus any costs or additional amounts charged are paid.
- 3.8 Where the road/reserve is still required for the purpose for which it was reserved, Council may take steps to ensure that the land is kept clear and direct all obstructions or encroachments to be removed.
- 3.9 Council may at its discretion, not recognise or assist with adverse possession claims over roads/reserves, and reserves the right to contest such claims.

* **Relevant Legislation:** *Local Government Act 1989, Subdivision Act 1988*

* **Cross References to other Policies / Documents:**

* **Responsible Officer(s):** Chief Financial Officer, Compliance Co-ordinator