



Australian Government

Department of Finance

COMMONWEALTH PROPERTY DISPOSAL 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. Off-Market Sales

Off-market sales are those made direct to a purchaser, usually at market valuation, without the property having first been offered for sale on the open market. An off-market sale, to be negotiated on the basis of market valuation, may be arranged in any of the following circumstances:

- (i) 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);
- (ii) where sale to a State or Local Government would
 - (a) protect other Commonwealth property interests; or
 - (b) facilitate Commonwealth or co-operative policy initiatives that could not otherwise be achieved through an open market sale; or
 - (c) optimise broader Government outcomes including economic or social outcomes, such as increasing housing supply; or
- (iii) where a Commonwealth entity (including Defence Housing Australia) seeks special consideration to acquire property that has been declared surplus and available for disposal, and the relevant portfolio Minister supports the disposal to facilitate Commonwealth Policy objectives (such sales are to be negotiated on the basis of intended use).

Except for the limited instances where an off-market sale can be approved under delegation by the Department of Finance (for example disposals under a legal obligation or for minor transport infrastructure), all off-market sales must be referred to the Finance Minister for approval. In addition any off-market disposal which is politically sensitive, or of special community interest or probable heritage or environmental significance, must also be referred to the Finance Minister for approval.

B. Concessional Sales

Concessional sales are off-market sales concluded at a purchase price below market value. Such sales require the agreement of the relevant portfolio Minister and approval by the Finance Minister.



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COMMONWEALTH PROPERTY DISPOSAL POLICY GUIDANCE FOR COMMONWEALTH ENTITIES

This Guide is to be read with reference to Part X of the *Lands Acquisition Act 1989* and the Commonwealth Property Management Framework and related policy, delegations and administrative obligations.

A property disposal is the end-stage of the asset life and will be reached through a whole-of-life property planning process, informed by cost-benefit analysis at key decision points, as required under the Commonwealth Property Management Framework.

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

Commonwealth entities report their landholdings annually to the Department of Finance and identify properties no longer needed for Commonwealth purposes. Such properties are listed on a register of surplus properties for consideration of alternative use within the General Government Sector. Real property for which no alternative use is found is surplus to Commonwealth needs and will be disposed of in accordance with the Commonwealth Property Disposal Policy.

B. Security of Purpose Conditions

Where Commonwealth property is sold off-market at below market valuation, the contract of sale includes security of purpose arrangements that “lock in” the future land use, to help ensure that the policy objectives which justify the off-market/ concessional sale are delivered. The inclusion of security of purpose arrangements is a standard condition of the Finance Minister’s approval for an off-market concessional sale (that is, below market value).

Standard contract clauses which impose the security of purpose conditions and provide sanctions for the breaching of the conditions are available from the Department of Finance upon request. Departments and Agencies must consult the Department of Finance before making, or agreeing in-principle with the purchaser, any change to the terms of the Security of Purpose Conditions.

C. Negotiations prior to approval by the Minister for Finance

Commonwealth entities must not enter into any sale negotiations with potential purchasers, or discussions that might give rise to commercial obligations, before the Finance Minister’s approval for an off-market sale, whether on concessional terms or not, has been obtained. In the first instance, any proposal for an off-market disposal of Commonwealth property should be referred to the Department of Finance for discussion, and to the relevant portfolio Minister for consideration.

D. Delegations held in the Department of Finance

Delegates in Department of Finance may approve off-market sales only for:

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