

## Sale and Acquisition of Land Policy

<b>Date adopted</b>	24 February 2025
<b>Adopted by</b>	Council
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<b>Responsible officer</b>	Senior Lawyer & Property Advisor
<b>Records reference</b>	11035195

### 1. Purpose

The purpose of the Sale and Acquisition of Land Policy (**the Policy**) is to ensure that Council has a clear, consistent and transparent framework for the Sale of land owned by Melton City Council and land which Council may seek to acquire. The Policy will ensure compliance with best practise and legislative requirements which promote the best outcomes for the Melton community.

### 2. Application And Scope

The Policy considers the way Council acquires and disposes of land within the City of Melton. The Policy applies to all Council Land held in freehold title or, as it relates to acquisition, land which is to be vested in Council. The Policy must be read in conjunction with relevant legislation, including the *Local Government Act 2020*, the *Valuation of Land Act 1960*, the *Planning and Environment Act 1987*, the *Land Acquisition and Compensation Act 1986*, relevant guidelines and other relevant Council policy.

The Policy does not apply to:

- a. The creation, alteration, and extinguishment of easements.
- b. Land sold by Council for the non-payment of rates or other debts.
- c. Land managed but not owned by Council such as where Council is the appointed Committee of Management for Crown land.
- d. Land sold, transferred, or exchanged pursuant to section 116 of the *Local Government Act 2020*.
- e. Any acquisition of Land in accordance with the *Planning and Environment Act 1987*.
- f. Land being disposed of or acquired pursuant to a Developer Contribution Plan or Infrastructure Contribution Legislation.

### 3. General Provisions

Council can hold, acquire, deal with, or dispose of property and land, for the purposes of performing its function and exercising its powers.

## 3.1. Retention of Land Principles

All Council Land should be retained, except:

- a. Where holding the land does not or will not support, facilitate or contribute to current or future outcomes identified in the Council and Wellbeing Plan.
- b. Where the net realisable value for another purpose, is significantly greater than the cost of re-establishing the service on an alternate site.
- c. Where disposal will promote positive development outcomes.
- d. Where holding the land does not benefit the community including economically and environmentally to justify the retention.
- e. Where there is no long-term strategic benefit to Council.
- f. Where the land is surplus to Council's requirements as identified in a Council strategy, plan, budget, policy or planning scheme.

### 3.1.1. Property Land Assessment

Prior to any formal decision to sell Council Land, a property land assessment must be carried out. The assessment must, at a minimum, consider:

- a. the retention principles outlined above.
- b. service, economic and strategic needs and uses.
- c. Any net loss of public open space.
- d. potential legal issues including title details, verifying ownership and how the land was purchased by Council.
- e. survey issues including land boundaries.
- f. planning and zoning requirements
- g. environmental considerations including any possible contamination.
- h. conservation values including historical, cultural, heritage and Native Title considerations.
- i. site constraints and opportunities.
- j. building asset condition and maintenance considerations.
- k. risk considerations.
- l. financial considerations.
- m. preferred method of sale.
- n. long term lease options.
- o. Community impact.

## 3.2. Sale of Land Principles

Council will always ensure that the sale of Council Land is in the best interests of the community, providing the best result for Council and the community, considering both financial and non-financial benefits.

Council will not sell Council Land at a price which is less than current market value as determined by a Valuer, unless there is a derived community benefit that justifies unique circumstances to sell the land at less than market value. This may include but is not limited to, where the market value by a Council engaged Valuer, is more than a valuation obtained by the Valuer General in a transaction with the Victorian Government or where a land transaction is governed by other government policy or rules.

Council must, when selling Council Land:

- a. Ensure the Council Land is appropriately zoned prior to sale.
- b. Sell Council Land for the highest and best use, except where there is a derived community benefit to sell the Council Land for another use that justifies unique circumstances as determined by the Chief Executive Officer and/or Chief Financial Officer.

## 3.3. Process for Sale

### 3.3.1. Council Resolution

The sale of Council Land will require a decision of Council. A Council resolution is required for approval to commence the statutory process to affect the sale, and a further Council decision is required on the proposed sale after completion of the statutory process.

The sale of Council Land may occur by several methods. The method of each sale is to be determined by Council resolution.

### 3.3.2. Auction

A licensed real estate agent must conduct the sale of Council Land by public auction or tender. The reserve price for the sale of Council Land by public auction or tender must be set prior to the day of auction or close of tender and must not be less than the current market value of the Council Land as determined by a Valuer.

If the reserve price is not met at auction or close of tender, the real estate agent may negotiate with the highest bidder to meet the reserve price. If negotiation with the highest bidder fails to meet the reserve price, the Council Land may remain on the market and sold by private treaty.

In the case of sale by auction / tender, the public notice of the proposed sale must be given prior to the auction / tender.

### 3.3.3. Expression of Interest

An Expression of Interest (**EOI**) method of sale may be appropriate in the following circumstances:

- (a) For the sale of large or strategically located Council Land which has significant development potential or barriers.

- (b) Where Council wishes to control the future use or development of the land, notwithstanding the sale.
- (c) Where Council seeks to understand potential development opportunities.
- (d) Where Council is seeking to achieve a specific development outcome or policy objective in relation to the sale of the land.

Where Council elects to undertake an EOI process, a valuation must first be obtained. For large or complex transactions, or where a Council resolution requires it, Council should engage a real estate agent and a probity auditor to provide independent assurance of a satisfactory EOI process.

Council will publish a public notice once a preferred purchaser is identified through the EOI process.

### **3.3.4. Private Treaty**

Council may determine that private treaty is the most appropriate or preferred mechanism for the sale of land. The decision to sell by private treaty may consider:

- a. Previous unsuccessful attempts to sell via public methods.
- b. The nature of the land that is proposed for sale.

Where the decision is made to sell by private treaty, Council should inform the community by publishing a notice on its website outlining why private treaty is the preferred method, how the sale was initiated and any known future use or development of the land.

## **3.4. Statutory Requirements**

Council will sell land in accordance with the requirements set out in section 114 of *the Act* with consideration given to the overarching governance principles set out in section 7 of *the Act*.

### **3.4.1. Community Engagement**

Council will conduct community consultation and engagement in line with its Community Engagement Policy and Guidelines. Council will always, at a minimum, comply with legislative obligations as they relate to consultation. Results of community consultation, including all submissions received, will be reported to Council for a decision on whether the Council Land will be sold, retained or considered for another use.

The community will be publicly informed of the decision by Council website. Any objectors to the proposal will be individually informed.

### **3.4.2. Valuation of Land**

Council must obtain a market valuation not more than six months prior to the signing of a Contract of Sale. The valuation will be used to set the sale/reserve price and must consider the highest and best use and any other relevant conditions of sale.

Where land is being sold to an adjoining owner, for example, to tidy an anomaly or to alleviate maintenance or boundary issues, the valuation will be assessed on an added-value basis.

### 3.4.3. Proceeds of Sale

Proceeds from the sale of Council Land should be dispersed in line with Council's annual budget or other Council resolution, except where land is sold pursuant to section 24A of the *Subdivisions Act 1988*, where proceeds of sale will be applied to Council's Open Space Fund.

## 3.5. Acquisition of Land

The acquisition of land will require a decision of Council. Council must ensure that any proposed acquisition of land supports or facilitates the delivery of a current or future service to the community.

To support this, a property land assessment containing the details set out in clause 3.1.1. of this Policy must be obtained.

### 3.5.1. Method of Acquisition

Council may acquire land by:

- a. A public process such as EOI, auction, or submission on the Victorian Government first right of refusal;
- b. By private negotiation or treaty;
- c. By compulsorily acquiring land pursuant to the *Land Acquisition and Compensation Act 1986*.

When acquiring land, Council must obtain a Valuation to determine the market value. Council will not acquire land at a price greater than the current market value, unless there exists a significant community benefit to doing so, for example, where compulsory acquisition process is not available but the acquisition is of high strategic importance. In these circumstances, the purchase price must be supported by the Chief Financial Officer and/or Chief Executive Officer.

### 3.5.2. Aspects of consideration for Acquisition

- a. environmental considerations including any possible contamination.
- b. conservation values including historical, cultural, heritage and Native Title considerations.
- c. site constraints and opportunities.
- d. soil testing
- e. time factor
- f. compliance with Strategic Land Acquisition Program (future work)
- g. Valuations must be based on DCP/ICP land valuation process
- h. Policy or an exception for splays(very low value) under delegation.

## 4. Definitions

Term	Definition
Acquisition/Acquire	means the process of gaining ownership or control of land, or an interest in land through purchase, vesting, transfer or exchange
Best Practice Guidelines	means Local Government Best Practice Guideline for Sale / Exchange of Land June 2009, as amended, prepared jointly by Local Government Victoria and the Government Land Monitor and the Department of Planning and Community Development. The Guidelines provide guidance to Council on the sale, exchange or transfer of Council Land and should be followed.
Council	means Melton City Council
Council Land	means Council owned or vested land, excluding where Council is the Committee of Management of Crown land.
Delegate	means a member of the Council staff occupying a position to which the powers, duties and functions of the Council to negotiate and execute the necessary documents to implement resolutions of Council to acquire or sell land have been delegated or sub-delegated.
Expression of Interest (EOI)	means an expression of interest. It is the method of sale to identify parties who may be interested in, and capable of, delivering an outcome on a parcel of land. The purpose of an expression of interest method of sale is to determine whether the market has an interest in developing or purchasing a particular parcel of land. Expressions of interest are usually not binding on either party.
The Act	means the <i>Local Government Act 2020</i>
Valuer	means a person with suitable qualifications and experience as specified in the Valuation of Land Act 1960.

## 5. Related Documents

Name	Location
<i>Local Government Act 2020</i>	<a href="https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020">https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020</a>
<i>Valuation of Land Act 1960</i>	<a href="#">Valuation of Land Act 1960   legislation.vic.gov.au</a>
<i>Subdivision Act 1988</i>	<a href="https://www.legislation.vic.gov.au/in-force/acts/subdivision-act-1988">https://www.legislation.vic.gov.au/in-force/acts/subdivision-act-1988</a>
<i>Planning and Environment Act 1987</i>	<a href="#">Planning and Environment Act 1987   legislation.vic.gov.au</a>
<i>Transfer of Land Act 1958</i>	<a href="#">Transfer of Land Act 1958   legislation.vic.gov.au</a>
<i>Land Acquisition and Compensation Act 1986</i>	<a href="#">Land Acquisition and Compensation Act 1986   legislation.vic.gov.au</a>

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