



# SALE OF COUNCIL-OWNED LAND POLICY

## DOCUMENT CONTROL

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### REVISION HISTORY *(Completed by Governance Officer)*

Revision Ref. No.	Approved/ Amended/ Rescinded	Date	Council / Management	ECM Document Reference
Original	Approved	08/10/2003	Council	
1	Council decision requirements and sale of restructure allotments added / Approved	July 2006	Council	
2	Council Review / Approved	06/10/2009	Council	3720429
3	Council Review / Approved	07/03/2017	Council	7133970

## 1. PURPOSE

The purpose of this policy is to establish the principles to be applied to the sale of Council-owned land to ensure it is subject to a fair and transparent process in accordance with relevant legislation.

## 2. POLICY STATEMENT

The sale of Council-owned land will be subject to a fair and transparent process. All sales of land assets will:

- be consistent with Council's economic, social and environmental objectives;
- be undertaken in compliance with legislative and other obligations;
- occur only after consultation with all affected stakeholders and relevant sections of the community, taking into account all relevant comments and representations;
- be undertaken with the intention of securing the best possible financial and/or other outcomes for the community;
- be undertaken through a fair and equitable process; and
- be open to public scrutiny while maintaining appropriate levels of commercial confidentiality.

## 3. SCOPE OF POLICY

This policy applies to all land no longer required by Council for strategic or operational purposes and identified for potential sale. This policy includes reference to the following fixed assets: land and buildings, and public open space.

## 4. DEFINITIONS AND ABBREVIATIONS

<b>Term:</b>	<b>Meaning:</b>
<b>Asset</b>	A resource controlled by Council, from which it expects to derive economic benefits or use for service delivery to the community over a period extending beyond one financial year. The asset carrying value is the asset value (cost or valuation) less any accumulated depreciation and accumulated impairment loss.
<b>Council</b>	East Gippsland Shire Council
<b>Council-owned land</b>	Land owned by Council, including vacant land, discontinued roads, and any building and development thereon.
<b>Discontinued road</b>	A public road that has been discontinued with the fee simple <sup>1</sup> vesting in Council, or as defined in the <i>Road Management Act 2004</i> .
<b>Market valuation</b>	A valuation not more than six months old obtained from a person who holds the qualifications or experience specified under section 13DA(2) of the <i>Valuation of Land Act 1960</i> .

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<sup>1</sup> Fee simple' is a legal term used to represent absolute ownership of land.

Term:	Meaning:
<b>Public Open space reserve</b>	A reserve set aside as part of a plan of subdivision: <ul style="list-style-type: none"> <li>a) for public recreation or public resort; or</li> <li>b) as parklands; or</li> <li>c) for similar purposes</li> </ul> or as defined in the <i>Subdivision Act 1988</i> .

## 5. IMPLEMENTATION

The principles established by this policy to be applied to the sale of Council-owned land are:

- 5.1 all sales, exchanges and transfers of Council-owned land must comply with the provisions of the *Local Government Act 1989* (the 'Act') and other relevant legislation;
- 5.2 unless determined specifically by Council in accordance with the provisions of section 5.5 of this policy statement, all land sales will be achieved by public auction or public tender process, with Council to decide which method is to be used for each particular sale.;
- 5.3 a reserve price of at least the market valuation obtained by Council officers in accordance with Section 189(2)(b) of the Act be set, unless varied by resolution of Council;
- 5.4 subject to clause 5.6 of this policy, in addition to issuing a public notice in accordance with section 189(2)(a) of the Act a sign measuring at least 0.75 x 0.75 metres will be prominently displayed on the land for at least 28 days prior to the sale;
- 5.5 notwithstanding clauses 5.1 to 5.3 above, by resolution Council may determine that:
  1. where a potential purchaser of a specific parcel of Council-owned land has provided evidence to the satisfaction of Council that such sale would have significant social and/or economic benefits for the local community, the land may be sold by private treaty at a price not less than the current market valuation obtained by Council officers in accordance with section 189(2)(b) of the Act;
  2. where a proposed sale of land comprises a parcel of land or discontinued road that would otherwise not be able to be lawfully utilised or developed in its own right, the land may be sold by private treaty to the adjoining registered freehold proprietor:
    - i at a price not less than current market valuation in accordance with section 189(2)(b) of the Act; and
    - ii to achieve a consolidation of title with the adjoining freehold property;
  3. in the case of a proposed land sale to achieve a consolidation of allotments to further the restructure of an inappropriate subdivision under the East Gippsland Planning Scheme, the land may be sold by private treaty to the adjoining registered freehold proprietor:
    - i at a price not less than current market valuation in accordance with section 189(2)(b) of the Act; and
    - ii to achieves consolidation of title with the adjoining freehold property;
  4. Where the adjoining registered freehold proprietor of an allotment is required to consolidate their land parcel with land owned by Council due to the requirement to restructure lots in an inappropriate subdivision under the East Gippsland Planning Scheme, Council has the ability to list the land jointly with the land of the adjoining registered freehold proprietor for sale on the open market without the need to undertake an Auction of the land;

- 5.6 where a sale of Council-owned land is by private treaty, the requirement to display advertising signage on the land be waived;
- 5.7 where a sale conducted under clauses 5.5.1 to 5.5.3 of this policy, or where this requirement is varied by Council resolution on community benefit grounds, all valuation, surveying, legal and similar costs associated with a sale of Council-owned land be borne by the purchaser; and
- 5.8 Council is under no obligation to accede to any citizen request to purchase Council-owned land, with each request to be considered on its merits having regard to any community benefits which would arise from the proposed sale.

## 6. RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE

The following positions are responsible for implementation and compliance monitoring of the policy in their work areas:

Party / Parties:	Roles and responsibilities:
Senior Property Officer	Oversees the sale of Council-owned land in accordance with this policy and related legislation.
Governance Coordinator	Provides strategic oversight of Council-owned land sales and provides recommendations to the Director and Council in accordance with this policy and related legislation.
Director Corporate	Overall responsibility for policy implementation and compliance.

## 7. REFERENCES / ASSOCIATED DOCUMENTS

East Gippsland Shire Council, *Council Plan 213-2017* (or its successor) last revised 2016

### Relevant Legislation

Council's ability to acquire, hold, deal or dispose of property (including land) is provided for under section 5(2)(d) of the *Local Government Act 1989* (the 'Act'). The specific legal requirements governing the sale of land are stipulated in sections 189 and 191 of the Act.

This authority does not supersede the requirements of other related legislation and regulations, including the *Sale of Land Act 1962*, the *Transfer of Land Act 1958* and the *Land Acquisition and Compensation Act 1986*.

Other related legislation includes *Road Management Act 2004* and the *Valuation of Land Act 1960*.

## 8. PRIVACY AND HUMAN RIGHTS CONSIDERATION

Personal information collected by Council in connection with this policy will be handled in accordance with all applicable privacy legislation and will be used only for related purposes.

This policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of Human Rights and Responsibilities Act 2006.

## 9. SUPPORTING PROCEDURES / GUIDELINES

Nil.

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