



Sale of Council-owned Land Policy

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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.

1 Scope

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.

2 Policy Context

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

- 3.1 all sales, exchanges and transfers of Council-owned land must comply with the provisions of the *Local Government Act 2020* (the 'Act') and other relevant legislation;
- 3.2 unless determined specifically by Council in accordance with the provisions of section 3.5 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;
- 3.3 a reserve price of at least the Market valuation obtained by Council officers in accordance with section 114(2)(c) of the Act be set, unless varied by resolution of Council;
- 3.4 subject to clause 3.6 of this policy, in addition to issuing a public notice in accordance with section 114(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;
- 3.5 notwithstanding clauses 3.1 to 3.3 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 114(2)(c) 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 114(2)(c) 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 114(2)(c) of the Act; and

- ii to achieve 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;
- 3.6 where a sale of Council-owned land is by private treaty, the requirement to display advertising signage on the land is waived;
- 3.7 where a sale conducted under clauses 3.5.1 to 3.5.3 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
- 3.8 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.

3 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.

4 Key Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Property Administration Coordinator	Oversees the sale of Council-owned land in accordance with this policy and related legislation
Manager Governance	Provides strategic oversight of Council-owned land sales and provides recommendations to the Director and Council in accordance with this policy and related legislation.
General Manager Business Excellence	Overall responsibility for policy implementation and compliance.

5 References and Supporting Documents

East Gippsland Shire Council, *Council Plan 2017-2021* (or its successor) last revised 2020

Applicable Legislation:

Land Acquisition and Compensation Act 1986

Local Government Act 2020

Road Management Act 2004

Sale of Land Act 1962

Transfer of Land Act 1958

Valuation of Land Act 1960

6 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 *Charter of Human Rights and Responsibilities Act 2006*.

7 Definitions

Term	Meaning
Asset	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.
Council	East Gippsland Shire Council
Councillor	Person who has been elected to the office of “Councillor” of East Gippsland Shire Council.
Council-owned Land	Land owned by Council, including vacant land, Discontinued roads, and any building and development thereon.
Discontinued Road	A public road that has been discontinued with the fee simple ¹ vesting in Council, or as defined in the <i>Road Management Act 2004</i> .
Market Valuation	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>

8 Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
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	7112435	
4	Council/review approved	13/07/2021	Council	9081135	Update to reflect <i>Local Government Act 2020</i>

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