Mornington Peninsula Shire

Sale and Acquisition of Land Policy

Council Policy

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1. Authority

– Local Government Act 2020
– Council Plan 2025-2029

2. Intent

The purpose of this policy is to ensure that the Mornington Peninsula Shire Council (Council):

2.1.1 Has a consistent, equitable and transparent framework for the Sale of Council Land and Acquisition of land within the municipality.

2.1.2 Complies with all legislative requirements when undertaking the Sale of Council Land or Acquisition of land.

2.1.3 Manages Council's property portfolio strategically for the long-term interests of both Council and the community.

2.1.4 Delivers the best financial and non-financial value in all of its land dealings.

3. Definitions

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 dated June 2009, prepared by Local Government Victoria and the Government Land Monitor and the Department of Planning and Community Development
Council	means the Mornington Peninsula Shire Council
Council Land	means any freehold land that is owned or vested in Council but excludes land where Council is the Committee of Management of Crown land
Council Plan	means the Council Plan 2025-2029
Sale/Sell	means the transfer or disposition of land or any interest in land for consideration
Market Value	means the value of the land as determined by a Valuer
Valuer	means a qualified person with suitable experience as specified in the *Valuation of Land Act 1960* appointed by Council

4. Scope

This policy applies to all Council Land and provides the framework for how Council will Acquire and Sell land.

The Policy does not apply to:

- Roads and Minor Reserves (as defined in Council's Road Discontinuance and Minor Reserves Policy); and
- the creation, alteration and extinguishment of easements.

5. Governance Principles

Under the *Local Government Act 2020*, Council must give effect to the following overarching governance principles:

- Council decisions are to be made and actions taken in accordance with the relevant law;
- priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- the municipal community is to be engaged in strategic planning and strategic decision making;
- innovation and continuous improvement is to be pursued;
- collaboration with other Councils and Governments and statutory bodies is to be sought;
- the ongoing financial viability of the Council is to be ensured;
- regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- the transparency of Council decisions, actions and information is to be ensured.

6. Policy Statement

6.1 Introduction

6.1.1 Land is a finite and highly valuable asset. Decisions regarding the Sale and Acquisition of land carry significant strategic implications. Council's property portfolio must align with Council's strategic priorities, support sustainable growth and respond to the evolving requirements of the community now and into the future.

6.1.2 Council is empowered under the Local Government Act 2020 to acquire, hold, manage and dispose land for the purposes of performing its functions and exercising its powers.

6.1.3 This Policy establishes a clear framework incorporating principles and criteria to

determine when land is suitable for Sale or purchase. This ensures Council decisions regarding land transactions are robust, transparent, and legally compliant.

6.2 Sale of Land Assessment

To ascertain whether or not Council Land may be considered for Sale, a two-stage Sale of land Assessment must be carried out:

- Stage One: Retention of Land Principles
- Stage Two: Sale of Land Criteria

6.3 Stage One: Retention of Land Principles

6.3.1 Council Land must be retained, where the Council Land meets any one of the following retention of land principles:

(a) supports, facilitates or contributes to current or future service or infrastructure needs as identified in the Council Plan or relevant Strategy or Plan

(b) contributes economic, environmental or community benefit to justify its retention

(c) is public open space in a gap area

(d) has long-term strategic significance to Council

(e) where the service is still required, the cost of re-establishing the service on another site significantly exceeds the net realisable value.

6.4 Stage Two: Sale of Land Criteria

6.4.1 If the Council Land is evaluated against the Retention of Land Principles and does not meet any of those principles, a detailed land due diligence assessment will be undertaken. This assessment must consider the following criteria:

(a) legal considerations relating to title, including restrictions, leases, covenants, easements, or encumbrances

(b) ownership and how the Council Land was acquired by Council

(c) survey matters including land boundaries and ensuring that no land is rendered landlocked

(d) planning and zoning requirements

(e) environmental and ecological considerations including contamination

(f) conservation values including historical, cultural, heritage and Native Title considerations

(g) if assets are located on the Council Land, their condition and maintenance

considerations

(h) financial considerations and value of the Council Land.

6.5 Sale of Land Principles

6.5.1 If, following the completion of the two-stage land assessment, the Council Land is determined to be suitable for potential Sale, the following Sale of Land Principles will apply.

6.5.2 Council must:

(a) not sell Council Land for less than its current Market Value, assessed by a Valuer, unless there is demonstrable community benefit that justifies a Sale at a lesser value

(b) seek to achieve the highest and best use of the Council Land, unless there is some derived community benefit not to

(c) assess opportunities to enhance the Council Land value prior to the Sale, such as rezoning, subdivision, obtaining planning approval for development, or removing existing improvements

(d) consider imposing restrictions or development requirements to guide the future use of the Council Land once sold

(e) ensure that the Sale of the Council Land is in the best interests of the community and delivers the best result (both financial and non-financial) for Council and its community

(f) conduct the Sale of Council Land through a public process, such as auction, tender (open or selected) or expression of interest unless circumstances justify a direct Sale by private treaty

(g) give consideration to the Best Practice Guidelines.

6.6 Council resolution

6.6.1 Where the two-stage land Assessment identifies Council Land as suitable for potential Sale, Council must formally resolve to authorise the commencement of the statutory process to consider a proposal for Sale of the Council Land.

6.6.2 The findings from community engagement must be reported to Council for a decision on whether the Council Land will be sold, retained, or considered for an alternative use. Following Council's decision on the proposal, the community must be notified of the outcome.

6.7 Statutory requirements for Sale of Council Land

6.7.1 If Council resolves to Sell Council Land, it must comply with all legislative requirements.

6.7.2 Section 114 of the Local Government Act 2020 sets out the statutory requirements

for Council when Selling, exchanging, or transferring land. These include:

(a) Public notice of intention to sell land

(b) Carry out community engagement in accordance with Council's Community Engagement Policy

(c) Independent valuation within six months of the Sale.

6.8 Sale of Land Process

6.8.1 The Sale of Council Land will ordinarily be undertaken through a public process. In exceptional circumstances, Sale of Council Land by private treaty may be considered more appropriate. Factors to consider include the nature of the Council Land, the manner in which the Sale was initiated and whether previous public Sale methods have been unsuccessful.

6.8.2 The reserve price for the Sale of Council Land by public process must be determined prior to the day of auction or closing date for tenders or expression of interest. The reserve price must not be less than the current Market Value of the Council Land unless there is demonstrable community benefit that justifies a Sale at a lesser value.

6.8.3 Council may also engage a probity auditor to provide independent assurance that the Sale of land process is appropriate and is conducted in accordance with industry standards.

6.9 Sale of Land Proceeds

Proceeds from the sale of all Council Land should be dispersed in accordance with Council's adopted annual budget, Council's adopted long term financial plan or any other resolution of Council, except in the case of public open space land where funds will be allocated to Council's Open Space Fund in accordance with section 24A (8) Subdivision Act 1988.

6.10 Acquisition of Land Principles

6.10.1 Council must ensure that any proposed Acquisition of Land can be clearly demonstrated as required to support or facilitate current or future identified service needs and align with Council's long-term strategic objectives.

6.10.2 To determine whether land is considered suitable for Acquisition, a detailed land due diligence assessment will be undertaken.

6.10.3 This assessment must consider the following criteria:

(a) The land proposed for Acquisition must meet at least one of the following principles:

(i) supports, facilitates or contributes to current or future service or infrastructure needs as identified in the Council Plan or relevant Council

Strategy or Plan.

(ii) provides sufficient economic, environmental or community benefit to justify acquisition

(iii) addresses a public open space gap

(iv) has long term strategic significance for Council

(v) enables or promotes investment and positive economic development outcomes.

(b) legal considerations relating to title, including restrictions, leases, covenants, easements, or encumbrances

(c) survey matters including land boundaries

(d) planning and zoning requirements

(e) environmental considerations including contamination

(f) conservation values including historical, cultural, heritage and Native Title considerations

(g) if assets are located on the land, their condition and maintenance considerations

(h) financial considerations and value of the land.

6.11 Acquisition of Land Process

6.11.1 When Acquiring land, Council must obtain an independent market valuation from a Valuer to determine the current Market Value of the land proposed for Acquisition.

6.11.2 Generally, Council will not acquire land at a price exceeding the assessed Market Value unless the proposed Acquisition is strategically important and will deliver a demonstrable and significant community benefit that justifies purchasing the land above market value.

7. Human Rights Charter Compatibility

This policy has been assessed as being compatible with *the Charter of Human Rights and Responsibilities Act 2006 (Vic).*

8. Associated Documents

- Land Acquisition and Compensation Act 1986
- Local Government Act 2020
- Planning and Environment Act 1987
- Subdivision Act 1988
- Transfer of Land Act 1958

- Valuation of Land Act 1960
- Community Engagement Policy
- Discontinuance and Sale of Road and Minor Reserves Policy
- Council Plan 2025-2029
- Property Strategy 2026-2031
- Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land

9. Policy Sponsor

The Manager – Assets, Buildings and Property is responsible for overseeing the application and review of the Sale and Acquisition of Land policy.

10. Document Control

10.1 Council will review the Sale and Acquisition of Land Policy within four years or earlier as required.

10.2 Document Version Table
Summarise the key changes made to the document to provide a quick understanding of the updates.

Version	Section	Revision Description	Date Revised	Approved by

Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Shire department, the change to an existing policy or document referred to in this policy, and minor updates to legislation and the like which does not have a material impact. However, any change or update which materially alters the document must be by resolution of Council.