

# **Fact Sheet**

## **Sale of minor parcels of Council owned land**

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## **Acknowledgement of Country**

We acknowledge the Wurundjeri Woi-wurrung people as the Traditional Owners of the Country on which Nillumbik is located, we pay our respects to Elders past, present and future, and extend that respect to all First Nations People. We respect the enduring strength of the Wurundjeri Woi-wurrung and acknowledge that sovereignty was never ceded.

If you require this document in another format, email [nillumbik@nillumbik.vic.gov.au](mailto:nillumbik@nillumbik.vic.gov.au) or phone 9433 3111.

# 1 Purpose

## 1.1 Introduction

- 1.1.1 Council retains land for a number of strategic purposes including, road reserves, community and recreational needs, public open space, parks and gardens, environmental protection, and service provisions.
- 1.1.2 This Fact Sheet only applies to land that is assessed as a minor land parcel, which is a parcel of land which cannot be sold on the open market as an individual lot.
- 1.1.3 Minor parcels of land will only be considered as surplus, if assessed as being no longer reasonably required by Council.
- 1.1.4 This Fact Sheet provides an explanation on the procedures and costs associated with the purchase of minor parcels of Council land.
- 1.1.5 The procedures relating to the sale of Council land are governed by the requirements of the *Local Government Act 2020 (Act)*.
- 1.1.6 The Act requires Council to publicly advertise its intentions to sell land; undertake a community engagement process in accordance with its community engagement policy; and obtain an independent market valuation prior to sale. Those requirements involve costs for Council which substantially erode the proceeds from the sale of land. It is Council policy that the sale of minor parcels of land is to occur on the basis that the purchaser pays all costs, plus market valuation for the land as outlined in this Fact Sheet.
- 1.1.7 Council is also obliged to adhere to the *Local Government Best Practice Guidelines for the sale, exchange & transfer of land (Dept Planning and Community Development - June 2009)*. These Guidelines refer to circumstances where it may be more appropriate to sell/exchange land by private treaty.
- 1.1.8 Public enquiries concerning the purchase of minor parcels of Council land must complete the online Land Sale Enquiry Form on Council's website. General enquiries maybe directed to the Coordinator Property at Nillumbik Shire Council, telephone 9433 3204.

## 2.1 Disposal procedure – single parcels

- 2.1.1 The following processes will occur upon receipt of an enquiry to purchase Council land:-
  - Prior to the sale of land, the matter will be referred to internal departments to establish if there is a strategic or operational need for the land to be retained in Council ownership. These needs may involve, for example, retention of the land for drainage easement or environmental purposes.
  - If following completion of the internal referral process, the land is considered to be surplus, its sale will be on the basis of the purchaser paying all costs, plus independent market valuation for the land, which is to be determined on a 'value added' basis. That is, the adjoining property owned by the purchaser will be valued on a 'before purchase' and 'after purchase' basis. The market value to be paid for the land will be the difference between the two values. The sale of minor parcels of land by Council involves public

notice, valuation, survey and legal costs, which are estimated to be generally in the order of \$8,000.

- If after the internal referral process, the land is assessed as potentially surplus and the Enquirer wishes to proceed to the stage of Council obtaining a valuation for the land, the Enquirer will be required to pay a non-refundable deposit amount of \$2,000 to cover Council's initial costs.
- In some circumstances a survey plan and boundary pegging of the land will need to occur prior to the valuation being undertaken.

2.1.2 Upon completion of the valuation, the Enquirer will be advised of the valuation amount. If they wish to proceed with the purchase of the land, a written Offer to Purchase for the valuation amount will be required together with a further non-refundable deposit of \$4,000. If the Enquirer does not proceed at that stage, the deposit of \$2,000, less valuation costs and Council officer time @ \$50 per hour will be refunded.

2.1.3 Upon receipt of a written Offer to Purchase and a further amount of \$4,000 from the Enquirer, the following processes will occur:

- A survey and boundary pegging of the land will occur, if necessary, together with other matters relating to the preparation of the land for sale.
- Legal advice sought as necessary by Council.
- A report will be submitted to Council seeking approval to publish notice of its intention to sell or exchange land at least four (4) weeks prior to doing so, and undertake a community engagement process in accordance with its community engagement policy. Please note that Council may decide not to proceed with considering the sale of Council land.
- Notice of Council's intention to sell or exchange land will be placed in accordance with section 114 of the *Local Government Act 2020*, and a community consultation process will be undertaken in accordance with Council's community engagement policy.
- A report to Council will then be prepared following Council's community engagement process.

2.1.4 If Council resolve to sell the land after considering public feedback received from the community engagement process, the following will occur:

- The Enquirer will be advised of Council approval and formal acceptance of the Offer to Purchase and requested to pay the balance of costs i.e. \$2,000.
- Council officers will commence any necessary planning applications for removal of reserve status etc, and instruct Council's lawyers to prepare the Contract of Sale and other relevant documents.

2.1.5 The total deposit of \$8,000 paid to this point of the processes will be adjusted against actual costs at settlement. Some costs will not be finally known until all planning procedures have been completed and billed to Council, e.g., surveying and legal costs. In the event that actual costs exceed the deposit of \$8,000, the amount of additional costs are to be paid by the purchaser at settlement.

2.1.6 Settlement usually occurs 14 days following completion of all procedures that are necessary to enable transfer of title to the purchaser, e.g. removal of reserve status, etc.

## **2.2 Disposal procedures - parcels adjoining multiple privately owned properties or rights of way**

2.2.1 The following processes will occur upon receipt of an enquiry to purchase:-

- The potential sale of the land will be referred internally to establish if there is a strategic or operational need for the land to be retained in Council ownership. These needs may involve, for example, retention for drainage easement or environmental purposes.
- Council will write to the owners of all other properties abutting the subject land advising of the Enquirers offer to purchase the land.
- In the event that the notification results in interest being expressed by other adjoining property owners to also purchase part of the land, a draft plan of subdivision may be considered and prepared for the agreement of the various enquirers. The cost of preparing a draft plan of subdivision will be shared equally by the enquirers and is to be paid prior to it being prepared, and is in addition to the deposit outlined in this section. Land will not be sold in a configuration that creates a land locked parcel, or that creates multiple lots unless all adjoining owners have agreed to the proposed configuration of the subdivision.
- If following completion of the internal referral process, the land is considered to be surplus, its sale will be on the basis of the purchasers paying all costs on an equal shared basis, plus independent market valuation for the land to be determined on a 'value added' basis. That is, the adjoining property owned by the purchasers will be valued on a 'before purchase' and 'after purchase' basis. The market value to be paid for the land will be the difference between the two values. In addition to the subdivision preparation costs described above, the sale of minor parcels of Council land also involves public notice, valuation, and legal costs, which are estimated to be in the order of \$8,000 to \$10,000 depending upon the number of parties to which costs can be apportioned.
- If after the internal referral process, the land is assessed as potentially surplus and the Enquirers wish to proceed to the stage of Council obtaining a valuation for the land, each Enquirer will be required to pay a non refundable amount of \$2,000 to cover initial Council costs.

2.2.2 Upon completion of the valuation, the Enquirers will be advised of the valuation amount. If they wish to proceed with the purchase of the land, a written Offer to Purchase for the valuation amount will be required together with a further non-refundable deposit of \$4,000. If the Enquirers do not proceed at that stage, the deposit of \$2,000, less valuation costs and Council officer time @ \$50 per hour will be refunded.

2.2.3 Upon receipt of a written Offer to Purchase and a further amount of \$4,000 from the Enquirer, the following processes will occur:

- A survey and boundary pegging of the land will occur, if necessary, together with other matters relating to the preparation of the land for sale.
- Legal advice sought as necessary by Council.
- A report will be submitted to Council seeking approval to publish notice of its intention to sell or exchange land at least four (4) weeks prior to doing so, and undertake a community engagement process in accordance with its

community engagement policy. Please note that Council may decide not to proceed with considering the sale of Council land.

- Notice of Council's intention to sell or exchange land will be placed in accordance with section 114 of the *Local Government Act 2020*, and a community consultation process will be undertaken in accordance with Council's community engagement policy.
- A report to Council will then be prepared following Council's community engagement process.

2.2.4 If Council resolve to sell the land after considering public feedback received from the community engagement process, the following will occur:

- The Enquirer will be advised of Council approval and formal acceptance of the Offer to Purchase and requested to pay the balance of costs i.e. \$2,000.
- Council officers will commence any necessary planning applications for removal of reserve status etc, and instruct Council's lawyers to prepare the Contract of Sale and other relevant documents.

2.2.5 The total deposit of \$8,000 paid to this point of the processes will be adjusted against actual costs at settlement. Some costs will not be finally known until all planning procedures have been completed and billed to Council, e.g., surveying and legal costs. In the event that actual costs exceed the deposit of \$8,000, the amount of additional costs are to be paid by the purchaser at settlement.

2.2.6 Settlement usually occurs 14 days following completion of all procedures that are necessary to enable transfer of title to the purchaser, e.g. removal of reserve status, etc.