

Victorian Government Landholding Policy and Guidelines

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Victorian Government Landholding Policy

1. Purpose

The purpose of the Victorian Government Landholding Policy is to:

- (a) ensure that land is only purchased or retained by Victorian Government agencies where State ownership of land:
 - (i) contributes directly to current or future service delivery outcomes expected by Government;
 - (ii) is central to the core business of agencies as explained in agency corporate plans;
 - (iii) is financially beneficial to the State when compared to alternative investment of State funds; or
 - (iv) in the case of Crown land, is appropriate on the basis that the protection of public land values make the land unsuitable for divestment;
- (b) promote the highest and best use of land by providing the opportunity for the private and community sectors and other government agencies to further unlock the value inherent in the State's land estate; and
- (c) require active management of land portfolios across Victorian Government agencies which is essential to the good management of the State's balance sheet.

2. Policy

- (a) Victorian Government agencies must only hold land or an interest in land where State ownership of that land:
 - (i) contributes directly to current or future service delivery outcomes expected of agencies as explained in agency corporate plans and does this by the most cost effective means possible;
 - (ii) with the approval of the acquiring or landholding Minister:
 - A. provides for new infrastructure, enables the optimal use of existing infrastructure or contributes other economic benefits to the State that justify its retention or purchase;
 - B. after considering a Strategic Crown Land Assessment in accordance with the Victorian Government Strategic Crown Land Assessment Policy, is appropriate on the basis that the protection of public land values make the land unsuitable for divestment;

- C. has been considered for community uses and is necessary to provide for occupation by other government or community organisations where:
 - land is sold or transferred for a public or community purpose and the terms of sale include a restriction on title that reflects the public or community purpose so that any future change in the use of the land requires the State's consent;
 - the State receives market value rent; or
 - where the State receives less than market value rent, the social, environmental or community benefits of occupation are considered to justify the costs to the State;
 - D. is financially beneficial to the State when compared to alternative investment of State funds;
- (iii) is considered by the acquiring or landholding Minister to contribute to other Government objectives as may be set from time to time.
- (b) For the avoidance of doubt, Victorian Government agencies must not purchase or retain land where State ownership of that land:
- (i) is not justified with reference to paragraph 2(a)(i) of this Policy; or
 - (ii) has not been approved pursuant to either of paragraphs 2(a)(ii) or 2(a)(iii) of this Policy.
- (c) Upon declaring land surplus to agency requirements, Victorian Government agencies must:
- (i) provide notice of 60 days of the agency's intention to dispose of land during which period other State, Commonwealth or local government agencies may express interest in acquiring the land;
 - (ii) if another government agency expresses interest in acquiring the land, negotiate in good faith to attempt to agree on the terms of sale within 30 days after the close of the notice period; and
 - (iii) if the terms of sale are agreed, transact the sale of the land at a price equal to the current market value of the land as determined by the Valuer-General Victoria.
- (d) Victorian Government agencies must:
- (i) at all times maintain an accurate dataset of all land that is controlled by the agency; and
 - (ii) annually review agency landholdings to:
 - A. justify, with reference to paragraph 2(a) of this Policy, the basis upon which each parcel of land owned or otherwise controlled by the agency is held; and
 - B. identify land that is fully utilised, partly utilised, underutilised or surplus to agency requirements,
- and submit a report on that review to the Department of Treasury and Finance to inform Budget planning and forward estimates.

3. Application

This Policy applies to all Victorian Government agencies (exclusions to this Policy may apply as detailed in the Victorian Government Landholding Guidelines).

4. Supporting and related documents

- (a) This Policy is supported by the Victorian Government Landholding Guidelines.
- (b) Other policies which are relevant to this Policy include the Victorian Government Land Transactions Policy and Victorian Government Strategic Crown Land Assessment Policy.
- (c) This Policy deals with the purchase and retention of land. The Victorian Government Strategic Crown Land Assessment Policy and the Victorian Government Land Transactions Policy relate to the disposal of Government land, including Crown land. These policies ensure that the State's obligations in relation to the disposal of Crown land are met in accordance with the *Native Title Act 1993 (Cth)* and the *Traditional Owner Settlement Act 2010*.

5. Responsibilities

- (a) This Policy is administered by the Department of Treasury and Finance.
- (b) The Minister for Finance is responsible for approving the Victorian Government Landholding Guidelines.

Victorian Government Landholding Guidelines

1. Introduction

The Victorian Government Landholding Policy (the Policy) establishes strict requirements for Victorian Government agencies to adhere to if retaining or when purchasing land.

Through the annual reporting requirements detailed in section 2(d) of the Policy, Victorian Government agencies are required to justify the basis upon which each parcel of land that is owned or otherwise controlled by the agency is held.

The purpose of the Victorian Government Landholding Guidelines is to provide information and guidance to assist Victorian Government agencies to comply with the requirements of the Policy.

The Policy establishes requirements on Victorian Government agencies in three key areas:

- the purchase and retention of land;
- the first right of refusal process; and
- annual reporting requirements.

The requirements of the Policy in each of the three areas listed above are dealt with in Sections 2 through 4. Section 5 details exemptions to the Policy.

2. Purchase and retention of land

The Policy sets out six conditions that may be used by an agency to justify its landholdings. Information and guidance on each of these conditions is set out below.

Service delivery outcomes

State ownership of land contributes directly to current or future service delivery outcomes expected of agencies as explained in agency corporate plans and does this by the most cost effective means possible.

The primary basis on which an agency may justify its landholdings is to identify how the land contributes directly to service delivery outcomes.

Under this condition, current or future service delivery outcomes must refer to outcomes that are endorsed by the Victorian Government as demonstrated by inclusion in agency corporate plans.

In making the case to purchase or retain land, consideration must be given to cost effectiveness which requires agencies to make reasonable investigations into potential alternative sites, arrangements and/or tenure options for service delivery.

If the case to purchase or retain land is established, consideration must also be given to utilisation which requires agencies to make reasonable endeavours to lease any land and buildings (or parts thereof) that are not currently utilised.

Infrastructure and economic benefits

With the approval of the acquiring or landholding Minister, State ownership of land provides for new infrastructure, enables the optimal use of existing infrastructure, or contributes other economic benefits to the State that justify its retention or purchase.

Agencies may seek to purchase or retain land where a formal linkage between strategic land use and infrastructure planning can be demonstrated.

The land must be demonstrated to facilitate the efficient and effective planning and delivery of infrastructure with corresponding economic and social benefits.

Landholding requirements must consider both current and future needs including the likelihood of future projects proceeding and the cost of holding land.

The explicit approval of the acquiring or landholding Minister is required if the land is to be purchased or retained for this reason.

Public land value

With the approval of the acquiring or landholding Minister and after considering a Strategic Crown Land Assessment in accordance with the Victorian Government Strategic Crown Land Assessment Policy, State ownership of land is appropriate on the basis that the protection of public land values make the land unsuitable for divestment.

Under the Strategic Crown Land Assessment Policy, if a parcel of Crown land is determined to be unsuitable for divestment from the Crown estate due to its public land values, the land is to be referred to the Minister for Environment, Climate Change and Water for retention.

Accordingly, retaining land for the protection of public land values is only relevant to the Minister for Environment, Climate Change and Water and will be supported by a Ministerial decision in respect of a Strategic Crown Land Assessment.

Community use

With the approval of the acquiring or landholding Minister, State ownership of land or an interest in land, is necessary to provide for use by other government or community organisations where:

- land is sold or transferred for a public or community purpose and the terms of sale include a restriction on title that reflects the public or community purpose so that any future change in the use of the land requires the State's consent;
- the State receives market value rent; or
- where the State receives less than market value rent, the social, environmental or community benefits of use are considered to justify the costs to the State.

Where it is considered desirable for other government or community organisations to occupy land that is held by the State but it is unfeasible for that other organisation to acquire the land, the landholding Minister may approve the retention of the land for the purpose of enabling occupation.

The agency must justify that the other government or community occupation of the land is the most efficient and sustainable manner that enhances economic and social outcomes.

Occupation should only be granted where the State receives market value rent or the landholding Minister is satisfied that the social, environmental or community benefits of occupation justify the costs incurred by the State of providing such accommodation.

When considering the retention of land on the basis of environmental benefits, reference should be made to the Strategic Crown Land Assessment, which will provide evidence of the presence of public land values associated with the environmental benefit.

The explicit approval of the landholding Minister is required if land is to be retained for this reason.

Financially beneficial

With the approval of the acquiring or landholding Minister, State ownership of land is financially beneficial to the State when compared to alternative investment of State funds.

Agencies should not generally purchase or hold land for investment purposes. However, there may be some unique circumstances where it is considered acceptable for the land to be purchased or held for an investment purpose.

Agencies must demonstrate that the financial performance of purchasing or retaining land meets or exceeds industry measures such as long-term yield on property investment compared with the benchmark rate.

The benchmark rate used should be developed (and subject to annual review) in consultation with the Department of Treasury and Finance and be based on:

- cost of funds (Treasury Corporation of Victoria's long term borrowing rate); and
- a premium to allow for risk.

Other government objectives

State ownership of land is considered by the acquiring or landholding Minister to contribute to other Government objectives as may be set from time to time.

Ministers may approve the purchase or retention of land for reasons other than those set out in the Policy on the basis that State ownership of land contributes to an objective of the Victorian Government.

The approval of the acquiring or landholding Minister is required if land is to be purchased or retained for this reason, including reference to the objective that is sought to be achieved.

3. First right of refusal process

Upon declaring land surplus to agency requirements, Victorian Government agencies are to give notice of the surplus land to the Department of Environment, Land Water and Planning in a form and in such detail as may be reasonably required by it.

Notification requests are to be submitted by email to fror.luv@delwp.vic.gov.au. Upon receiving notification, the Department of Environment, Land, Water and Planning will give notice to Victorian Government agencies, local government and the Commonwealth Government of the surplus land.

All other Victorian Government agencies, local government and the Commonwealth Government will have a period of 60 days from the date of notification by the Department of Treasury and Finance in which to submit an expression of interest to acquire the surplus land for a public or community purpose. Local government should use this notification to consider whether there is a suitable community use for the surplus government land.

If an expression of interest is not received within 60 days, the disposing agency may proceed to dispose of the surplus land by public process in accordance with the Victorian Government Land Transactions Policy.

If an expression of interest is received within 60 days, the parties are required to negotiate in good faith to attempt to agree on the terms of sale within 30 days after the close of the expression of interest period (or such other period as may be agreed between the parties).

If the terms of sale are not agreed between the parties, the disposing agency may proceed to dispose of the surplus land by public process in accordance with the Victorian Government Land Transactions Policy.

If the terms of sale are agreed between the parties, transfer of the surplus land may proceed according to the agreed terms, at a price equal to the current market value of the land as determined by the Valuer-General Victoria.

The landholding Minister may approve the sale of land for a community purpose at a price less than the current market value of the land as determined by the Valuer-General Victoria.

If more than one expression of interest is received in respect of surplus land, expressions of interest by Victorian Government agencies will take precedence over other expressions of interest.

If multiple expressions are received by Victorian Government agencies and the competing interests cannot be resolved between the parties, the matter is to be submitted for decision by the relevant Ministers.

4. Land information, review and reporting

Annual reporting requirements

Agencies must review their landholdings annually and report to the Department of Treasury and Finance each December the utilisation status of their land assets.

The report must include:

- evidence that justifies the retention of each parcel of land that is held by the agency pursuant to the Policy;
- where the agency justifies the retention of a parcel of land under paragraph 2(a)(ii) or 2(a)(iii) of the Policy, a copy of the relevant Ministerial approval;
- the property utilisation status of each parcel of land; and
- a schedule of land that is or will become surplus in the next 12 months.

Minimum property datasets

The land data held by agencies must be complete, reliable and current to enable good decision making.

Agencies are required to establish and maintain a minimum property dataset for their land assets, including informing Land Victoria as ownership status changes.

Minimum property datasets must include the details set out in Table 1 below.

Table 1: Minimum property dataset requirements

Context – Detail required

Location information (required to enable geospatial mapping)

- Land title/s Volume/Folio and SPI (freehold land)
- SPI (Crown land)
- Land Description (lot/plan or allotment/section/township/parish)
- Melway Reference or Latitude/Longitude
- Parcel_PFI
- Aerial photography or map
- Address
- Local Government Area

Site attributes

- Site area (square metres hectares) and dimensions
- Contamination status (if known, including under-ground storage tanks etc)
- Current Zoning (and underlying zoning)
- Other relevant details including HAZMAT reports etc
- Description (site and infrastructure)
- Overall condition of infrastructure
- Age of building
- Gross floor area if applicable

Context – Detail required

Ownership and current use

- Current Owner/Registered Proprietor (freehold or Land Administrator (Crown land))
- Occupier
- Current use(s) of site
- Property Utilisation Status – see Table 2

Value

- Estimated value of site (current market value) and date of valuation
- Improvements (current market value and modern equivalent replacement cost) and date of valuation
- Note the most recent asset valuation is acceptable.

Purchase details

- Purchase Date
- Purchase Price
- Purchase Reason

Management/Administration

- Identification number (business ID)
- File or records management reference
- Compliance with relevant legislative / regulatory requirements and safety standards
- Insurance

Assessment/Performance

- Suitability of location for current function
 - Overall suitability of infrastructure for current function
 - Useful life and forecast renewal date for existing infrastructure.
 - Other relevant details
-

The minimum property dataset includes a property utilisation status that should be determined using the criteria in Table 2 below.

Table 2: Property utilisation status

Rating	Definition
5	Fully occupied (no portion available for other agency or compatible uses)
4	Partly occupied (full utilisation included in agency future planning)
3	Available for shared occupation (significant portion available for compatible use)
2	Vacant with agency utilisation planned (included in agency future planning)
1	Vacant (and/or used for a community group or for another non-core business purpose) with no agency utilisation planned (no longer required for agency business)
S	Declared Surplus

Agencies are required to ensure the minimum property dataset can be exported to excel or CSV formats.

Land Victoria reconciliation

Agencies must ensure their records are reconciled with data maintained by Land Victoria, in particular:

- Land title/s Volume/Folio and SPI (freehold land)
- SPI (Crown land)
- Land Description (lot/plan or allotment/section/township/parish)
- Melway Reference or Latitude/Longitude
- Parcel_PFI
- Address

5. Exemptions

This policy is a requirement for the entire Victorian public sector. It is to be applied consistently with the requirements of all relevant legislation and Victorian Government policies.

Victorian Public Entities are to substitute reference to the acquiring or landholding Minister with the Board of Directors or Chief Executive Officer as appropriate where Ministerial approval for the retention or purchase of land is required under the Policy.

An exemption to paragraph 2(d)(ii) of the Policy is granted to Victorian Public Entities, other than Victoria Police, in relation to submitting an annual report to the Department of Treasury and Finance, unless provision of a report is specifically requested by the Minister for Finance. In all other respects, Victorian Public Entities must comply with the Policy.

An exemption to paragraph 2(d)(i) and 2(d)(ii) of the Policy is granted to the Department of Environment, Land, Water and Planning (DELWP) in relation to:

- Crown land managed under the *National Parks Act 1975* (national, wilderness, state and other parks and reserves), *Forests Act 1958* (State forest), *Wildlife Act 1975* (wildlife and nature reserves), *Heritage Rivers Act 1992* (heritage rivers and natural catchment areas), and *Reference Areas Act 1978* (reference areas).
- other Crown land managed as State forest, coastal reserves, nature conservation reserves and natural features reserves, including that with a LCC, ECC, or VEAC recommendation approved by government to be managed for environmental, conservation, cultural heritage, and other high public land values.
- Crown land managed under the *Crown Land (Reserves) Act 1978* and within DELWP's portfolio including that managed by a committee of management appointed under S. 14 of the act.
- Parks Victoria-managed regional and metropolitan parks.
- Unreserved Crown land that is:
 - bed and banks of waterways, river frontage, reservoirs, and sea bed; and
 - managed by another agency and not in DELWP's portfolio (this should be included in the relevant agency's portfolio).

An exemption to paragraph 2(c) of the Policy is granted to the Director of Housing in relation to residential properties owned or otherwise controlled by the Director of Housing that:

- are valued at less than \$2 million as assessed by the Valuer-General Victoria; and
- comprise an area of less than 2 000 m².

Glossary

Crown Land

'Crown land' means land that has not been alienated from the Crown (i.e. made 'freehold land') and comprises:

- unreserved Crown land;
- reserved land or land set aside permanently in accordance with legislation including the *Crown Land (Reserves) Act 1978*, *Forests Act 1958*, and *National Parks Act 1975*; and
- Crown leasehold land (land subject to a lease granted under the Land Act 1958).

Agencies seeking to reserve or dispose of Crown land will need to obtain prior approval through the Department of Environment, Land, Water and Planning (DELWP). All sales of Crown land are the responsibility of the Minister for Finance.

Land

Is the physical land and fixtures attached to the land, including all things that are a natural part of the land such as trees and minerals and all things that are attached to land such as buildings and improvements on the land.

Public or community purpose

In the context of the first right of refusal process and where doubt exists as to whether a proposed purpose is a public purpose, the proposed purpose will be determined to be a public purpose or not at the discretion of the landholding Minister.

Victorian Government agencies

All Victorian Government departments, public statutory authorities and any legal entity which is established under State legislation for a purpose of the State (including those independent of government control) along with companies in which the State has an interest and any organisation, other than a council, which requires statutory authorisation and/or ministerial approval, especially where public funds are involved in a land transaction.



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