

# Industrial Land Sale

<b>Council Policy Number</b>	<b>030</b>
Date adopted	19 November 2019
Scheduled for review	November 2022



## Purpose

To ensure that the sale of industrial zoned land owned by Council is completed in a planned, consistent and equitable manner which encourages business expansion, employment growth and activation of the site.

To specify the requirements of the Campaspe Shire Council ('Council') in relation to the sale of industrial zoned land.

## Policy Statement

### 1. Introduction

This information has been prepared to provide an understanding of Council's requirements regarding industrial zoned land sales. Advice on specific sites can be obtained by contacting Council's Investment Attraction Manager.

### 2. General Conditions

Fencing	If an adjoining parcel of land is owned by Council, then Council will pay half the cost of fencing the common boundary to a standard consistent with the area and planning requirements. The purchaser is required to provide two written quotations to Council which specify the length of the common boundary/ies with Council, the type of material proposed for the fence and the cost.
Filling of Blocks	Filling of industrial or residential allotments is not the responsibility of Council.
Options to Purchase	Council will not grant an option to purchase. All transactions must be through a Contract of Sale process even if this may be conditional on certain matters.
Survey	Council is not responsible for establishing the property boundaries.
Advertising	Any sale is subject to Council advertising a proposed sale in accordance with Section 114 of the <i>Local Government Act 2020</i> and all sales are subject to a satisfactory outcome of such advertising and any subsequent procedures.
Planning Permit	Council is not responsible for obtaining a planning permit for the proposed development. The applicant must conduct their own due diligence with regard to the intended use of the land and planning and building requirements.
Purchase Process	The applicant must complete the Application to Purchase form and return it to Council Officers for assessment. Application forms that align with this Policy will be considered formally by Councillors at the next available Council meeting. If Councillors agree to the sale, then the proposed sale will be advertised and any subsequent procedures as a result of the advertising and then the exchange of Contracts of Sale.

### 3. Industrial Allotments

- a. Applications for the purchase of an industrial allotment, requires written evidence (including but not limited to an "Application to Purchase") indicating the specific nature of the development including economic benefits to the community (employment opportunities, capital investment, import replacement, export potential) and timeframe for implementation ("the concept"). The purchaser will be required to enter into a formal agreement with Council which will include conditions to the following effect:

- b. Council is granted an enforceable option to purchase the allotment from the purchaser for the original sale price which Council may exercise if the purchaser has not commenced development of the allotment in accordance with the concept within two (2) years of the date of settlement of the purchase and Council may protect this option to purchase by caveat registered on the allotment title. The method of exercise of the option to purchase will be set out in the formal agreement.
- c. Council is granted an enforceable option to purchase back the allotment from the purchaser which Council may exercise if the purchaser within a period of four (4) years of the date of settlement of the purchase significantly alters the use of the development from that envisaged by the concept without prior written consent from Council, and Council may impose such conditions as it sees fit if it so consents. The price for which Council can purchase pursuant to the option to purchase will be the market value of the property at the time of exercise of the option, as determined by a Valuer's valuation, save that the land value content of such valuation will be limited to the original sale price Council may protect this option to purchase by caveat registered on the allotment title. The method of exercise of the option to purchase will be set out in the formal agreement.
- d. The purchaser must not transfer, lease, or otherwise part with possession of the property within four (4) years of the date of settlement of the purchase without prior written consent from Council, and Council may impose such conditions as it sees fit if it so consents. Council may protect this right by caveat registered on the allotment title. If the Purchaser declares on the "Application to Purchase" that he/she will purchase the allotment under an individual/s name for taxation and/or lending purposes with a view to then leasing it back to their business then this would be satisfied through demonstration of the relationship between the two entities i.e.; an Australian Securities and Investment Corporation (ASIC) Company search extract naming both entities. The change in purchasing entity from the name on the "Application to Purchase" to another name would need to satisfy the requirements of the *Local Government Act 2020*.
- e. The purchaser must not further subdivide an allotment within four (4) years of the date of settlement of the purchase without prior written consent from Council. Council will be entitled to claim compensation from the purchaser in respect of any further subdivision within that four (4) year period, and the amount of such compensation will be based on the increase in value of the subject land as a result of the subdivision. Council may protect this right by caveat registered on the allotment title.
- f. Payment terms are cash settlement in 30 to 90 days.
- g. The sale price will be as per the Valuer's valuation. The price may be increased or decreased at Council's discretion, taking into account market forces and the economic significance of the development. The Valuation must be no more than 6 months old.
- h. Goods and Services Tax will be additional to the sale price of the land, which will be payable by the purchaser in addition to the price.

## Exclusions

Nil

## Human Rights

This policy has considered and complies with the Human Rights and Responsibilities contained in the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

## Definitions

### Commenced development

means that as a minimum the following have occurred, namely:

1. if required, a planning permit under the Campaspe Planning Scheme consistent with the concept has been obtained; and
2. a building permit consistent with the concept has been obtained; and
3. works have commenced on site consistent with the concept, the planning permit (if required), and the building permit, and that as a minimum such works comprise a building slab laid and/or footings completed, framework commenced and fencing erected.

<b>Purchaser</b>	means the purchaser and the purchaser's successors in title.
<b>Valuer's valuation</b>	A valuation completed by a licensed Valuer appointed by Council, issued no more than six months old.
<b>Application to Purchase</b>	Is a schedule/document that must be submitted to Council for consideration and adoption.

### Related Legislation

*Local Government Act 2020*

### Related Policies, Procedures and Strategies

Nil

### Attachments

Nil

### Review Period

Three years

### Responsible Officer

General Manager Community

### 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 the policy, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

### Approval History

Adopted	24 April 1996	Minute Book Reference No 1041 (item 13.1)
Revised	10 September 1998	Minute Book Reference No 3038 (item 13.1)
Revised	8 July 1999	Minute Book Reference No 3737 (item 12.1)
Revised	12 September 2000	Minute Book Reference No 4658 (item 12.1)
Revised	11 September 2001	Minute Book Reference No 5565 (item 12.2)
Revised	13 August 2002	Minute Book Reference No 6305 (item 12.1)
Revised	14 October 2003	Minute Book Reference No 7100 (item 12.1)
Revised	12 October 2006	Minute Book Reference No 10307 (item 11.2)
Revised	18 October 2011	Minute Book Reference No 18261 (item 13.3)
Revised	19 July 2016	Minute Book Reference No 654 (item 6.2)
Revised	21 November 2017	Minute Book Reference No 3382 (item 6.3)
Revised	19 November 2019	Minute Book Reference No 5112 (item 7.6)
Revised	22 February 2021	Administrative update to apply consistent reference to Campaspe Shire Council ('Council')
	21 July 2021	Administrative update to update legislative reference to <i>Local Government Act 2020</i>

Chief Executive Officer: .....



Date: ..... 23 July 2021