*Local Government Act 2020* – Powers in relation to land

Land is important for the provision of council services. Making decisions on land use is an essential activity for councils to meet the changing needs of their community.

Sections 112 to 116 of the [*Local Government Act 2020* (the 2020 Act)](https://go.vic.gov.au/ItwMvR) specify the powers available to a Council in relation to managing land acquisitions and compensation, the creation of easements, and the powers to transfer/sell/exchange or lease land.

Council’s ability to purchase or acquire land (section 112)

Can a Council purchase or compulsorily acquire any land?

Yes. Pursuant to the ***Land Acquisition and Compensation Act 1986*** a Council may purchase or compulsorily acquire any land required by the Council for, or in connection with, or as incidental to, the performance of its functions or the exercise of its powers. Council must undertake this activity in accordance with its community engagement policy.

Councils and easements (section 113)

What happens to easements acquired by a council?

If a Council has acquired the right of an easement, the right is deemed for all purposes to be an easement, even if there is no land vested in the Council which is benefited by the right.

Restrictions for Council selling or exchanging land (section 114)

What are the restrictions on a Council selling or exchanging land?

Before selling or exchanging the land, Council must undertake a community engagement process in accordance with its engagement policy. Further, Council must obtain a valuation of land from a qualified professional no more than **six months prior** to selling/exchanging the land and publish a notice of intention on Council’s website **four weeks prior** to selling/exchanging the land.

Council’s ability to lease land (section 115)

Can a Council lease land to a third party?

Yes - but the lease is limited to no more than 50 years. The lease proposal must be included in Council’s budget if it is for one year (or more) and the rent (or rental value) is more than $100,000 per year, or if the lease is more than 10 years.

If the lease proposal was not included in the financial year budget, Council must undertake a community engagement process in accordance with the Council's community engagement policy in respect of the proposal before entering into the lease.

Council’s ability to transfer, exchange or lease land without any consideration (section 116)

What does ‘without consideration’ mean?

Councils' powers to transfer, exchange or lease land includes the power to do so with or without an exchange of payment if the arrangement is being made to the Crown; a Minister; any public body; or trustees appointed under any Act, or a public hospital.

Relationship to the *Local Government Act 1989*

*Was this in the previous Local Government Act 1989* (the 1989 Act)?

Similar provisions sat under sections 187, 187A, 189, 190 and 191 of the 1989 Act – these have now been replaced by sections 112 to 116 of the 2020 Act.