

# Victorian Government Land Transactions Policy



April 2022

## Acknowledgment

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

We are committed to genuinely partner, and meaningfully engage, with Victoria's Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.



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Printed by Finsbury Green, Melbourne

ISBN 978-1-76105-706-9 (print)

ISBN 978-1-76105-707-6 (pdf/online/MSword)

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## Revision History

**Edition**

**Commence**

**Summary of Revisions**

**Sections**

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PART 1:  
**Basic  
Principles**

# 1. Introduction

This section explains the purpose of the Victorian Government Land Transactions Policy, its scope, how it works, who administers it, and how it relates to other government land management policies

The Victorian Government Land Transactions Policy is not intended to act as a comprehensive guide to legal requirements or the requirements in a range of other policies or directions for land transactions conducted by Victorian government agencies. The law relating to land transactions is complex and best practice in the area is constantly evolving. The policy should not be used as a substitute for seeking expert advice on specific issues.

## Background

The Victorian Government Land Transactions Policy (policy) was established in response to the 1977 Gowan's Board of Enquiry and the 1979 Frost Royal Commission to ensure agencies adhere to the highest standards of behaviour when undertaking land transactions. It does this by creating a clear set of requirements that agencies are required to meet, overseen by the Victorian Government Land Monitor (VGLM).

With critical oversight from VGLM, the land transaction requirements have operated for over 40 years to ensure Victorian government agencies (agencies) are conducting land transactions in an appropriate, accountable and transparent way. The policy is a fundamental part of all Victorian government land transactions and at the heart of community trust and confidence in the way agencies transact land in Victoria.

## What is the purpose of the policy?

The policy exists to ensure agencies act in accordance with the highest standards of behaviour when undertaking land transactions. It does this by creating a consistent framework for the way agencies across the Victorian government are required to undertake land transactions, including:

- a clear set of requirements that agencies must comply with when undertaking land transactions, and
- establishing the role of VGLM to deliver assurance to the Victorian government and community that agencies are complying with the requirements in the policy.

## What is the scope of the policy?

The policy applies to all agencies that undertake land transactions. You can find out more about the meaning of 'Victorian government agency' and 'land transaction' under the policy in [Part 1 Section 1](#).

## How does the policy work?

The policy is made up of six parts:

**Part 1 - Basic Principles:** introduces the policy and clarifies the meaning of some of its key terms

**Part 2 - Policy Requirements:** sets out the requirements agencies are required to comply with when undertaking land transactions and explains how each requirement works

**Part 3 - Exemptions:** sets out the exemptions to the policy requirements and when they apply

**Part 4 - Transactions:** provides additional information and guidance about how the policy requirements and exemptions apply to different types of land transactions

**Part 5 – Glossary and Abbreviations:** sets out the meaning of key terms and provides a list of acronyms and abbreviations used in the policy

**Part 6 – Appendices:** provides further guidance to assist agencies conduct due diligence activities and sets out the meaning of 'regional Victoria' in the policy.

To make it easy to find the information that you need, each part of the policy is divided into the following sections:



**Table 1: Sections in the policy**

<b>Part 1: Basic Principles</b>		<b>Part 4: Transactions</b>	
<b>Section 1</b>	Introduction	<b>Section 1</b>	Sale
<b>Section 2</b>	Key Terms	<b>Section 2</b>	Purchase
<b>Part 2: Policy requirements</b>		<b>Section 3</b>	Compensation
<b>Section 1</b>	Land transaction policy requirements	<b>Section 4</b>	Government to government
<b>Section 2</b>	Accountability, transparency and legislation	<b>Section 5</b>	Leasing
<b>Section 3</b>	Due diligence	<b>Part 5: Glossary and Abbreviations</b>	
<b>Section 4</b>	Victorian Government Land Monitor	<b>Section 1</b>	Glossary
<b>Section 5</b>	Valuation requirements	<b>Section 2</b>	Exemptions granted by a decision maker
<b>Section 6</b>	Land exchange	<b>Part 6: Appendices</b>	
<b>Section 7</b>	Public sales requirement	<b>Section 1</b>	Online resources for general due diligence
<b>Section 8</b>	Sale of land with public land zone	<b>Section 2</b>	Online resources for contamination due diligence
<b>Section 9</b>	Lease with option to purchase	<b>Section 3</b>	List of potentially contaminated land uses
<b>Part 3: Exemptions</b>		<b>Section 4</b>	Definition of regional Victoria
<b>Section 1</b>	Exemptions	The policy is best read as a single document as many of the sections are related. However, where possible, the policy will signal where you can find more information on a particular topic. The policy also provides you with tips and examples to help you apply the policy in practice.	
<b>Section 2</b>	Exemptions granted by a decision maker		
<b>Section 3</b>	Transaction specific exemptions		

## Who is responsible for the policy?

### General administration

VGLM administers the policy. In this role, VGLM is responsible for reviewing requests for approval to undertake land transactions, providing advice to agencies on applying the policy and delivering assurance to the government and the community that agencies are following the requirements in the policy.

### Review of the policy

The policy is reviewed by VGLM every five years. The Minister for Planning is responsible for approving any changes to the policy with the agreement of the Assistant Treasurer.

## Related government policies

The policy is part of a broader framework that establishes the requirements for the management of Victorian government land, including certain requirements that must be met before land is sold or purchased. As part of this framework, the policy ensures that when agencies have met the requirements for selling or purchasing land under the other land management policies, the transaction that follows is conducted in an accountable and transparent way. It does not affect the requirements or obligations of other policies.

The three other policies that form part of the government land management framework are listed in the table below:

**Table 2: Related Victorian government land management policies**

Policy	What is does
Strategic Crown Land Assessment Policy and Guidelines (SCLA policy)	Sets out the government's responsibilities and obligations when Crown land is declared surplus and requires that the government conduct an assessment to determine whether surplus Crown land can be sold.
Victorian Government Landholding Policy and Guidelines (landholding policy)	Sets out when an agency can purchase and retain land and requires agencies to offer to sell any surplus land to other Victorian government agencies, local councils, or the Commonwealth before it can be sold to the public.
Victorian Government Land Use Policy and Guidelines (land use policy)	Establishes a framework that enables a strategic, whole-of-government approach to land use decision making, with the objective of maximising public land value.

You can find more information on how VGLM helps to ensure agencies meet any preconditions to the sale or purchase of land in the other land management policies in [Part 2 Section 4](#).

## What if I can't find the information I need?

Land transactions vary in nature and complexity and may change over time to meet government policy priorities, and developments in the property market.

If you can't find the information that you need in the policy, VGLM can provide advice on how the policy is intended to apply to any proposed land transaction. An agency can seek advice by emailing [vglm.admin@delwp.vic.gov.au](mailto:vglm.admin@delwp.vic.gov.au) to request an early engagement meeting, or by submitting a request for policy advice through VGLM Online.

You can find out more about VGLM Online in [Part 2 Section 4](#).

## 2. Key terms

The policy uses some key words and phrases. This section explains the meaning of some of the key terms used in the policy

The policy applies to land transactions undertaken by agencies. The terms 'land', 'land transaction', and 'Victorian government agency' have their own meaning when used in the policy. Therefore, to apply the policy you need to understand the meaning of these key terms.

### What is land?

The policy applies to land transactions. 'Land' is specifically defined in the policy and includes land as well as things attached to the land like buildings and improvements and things that are a natural part of the land such as trees and minerals. It also includes the surface of the land, land below the surface and the air above the surface.

You can find a full definition of 'land' in the glossary in [Part 5](#).

### What is a land transaction?

The policy applies to the following types of transactions involving land described as 'land transactions':

- the sale of land or an interest in land
- the purchase of land or an interest in land
- acquiring or granting a lease over land
- an offer of compensation under the *Land Acquisition and Compensation Act 1986* (LAC Act), or Part 5 of the *Planning and Environment Act 1987* (PE Act).

As set out above, the definition of land transaction includes the sale or purchase of land or an interest in land. Under the policy the terms 'sale' and 'purchase' have a special meaning that is broader than the general meaning of those terms. Next, we explain the meaning of 'sale' and 'purchase' in the policy.

### The meaning of sale and purchase

Under the policy, the term 'sale' is used to describe an arrangement under which an agency agrees to transfer land to another party or create an interest in land that it owns that will benefit another party. The term 'purchase' describes any agreement to receive a land transfer from another party or to benefit from an interest in land created by another party.

Therefore, when used in the policy, the terms 'sale' and 'purchase' apply to a range of transactions that may not typically be described in this way. Some common examples of sale and purchase transactions under the policy are listed on the following page.

**Table 3: Common types of sale and purchase transactions**

<b>Sale of land</b>	<ul style="list-style-type: none"> <li>• Public sale, including an auction, publicly listed sale, expression of interest (EOI) or tender</li> <li>• Negotiated sale</li> <li>• Land exchange</li> <li>• Gift</li> </ul>
<b>Sale of interest in land</b>	<ul style="list-style-type: none"> <li>• Granting an easement</li> <li>• Entering into an option agreement</li> </ul>
<b>Purchase of land</b>	<ul style="list-style-type: none"> <li>• Public purchase, including purchasing land for sale through auction, EOI, tender or when land is publicly listed sale</li> <li>• Negotiated purchase</li> <li>• Land exchange</li> <li>• Gift</li> <li>• Growth Areas Infrastructure (GAIC) Work in Kind (WIK) agreement</li> </ul>
<b>Purchase of interest in land</b>	<ul style="list-style-type: none"> <li>• Receiving the benefit of an easement</li> <li>• Entering into an option agreement</li> </ul>

**Agency tip:**

Some of the categories of sale and purchase transaction listed above cannot be undertaken unless an exemption from the policy applies.

You can find more information on exemptions in **Part 3** and how the land transaction requirements apply to the sale and purchase of land in **Part 4**.

**Are there any activities or undertakings involving land that are not a land transaction under the policy?**

The specific meaning of land transaction in the policy, means that it does not include any of the following:

- issuing or obtaining a licence over land, as a licence does not create an interest in land
- being appointed as the administrator of Crown land, or becoming Crown land administrator as a result of a transfer in management, and
- where legislation provides for the transfer of land or creation of an interest in land, without requiring consent of the relevant parties. This includes:
  - vesting land as a road or reserve on registration of a plan of subdivision
  - declaring a road, or
  - the publication of a notice of acquisition, which vests land in an agency under the LAC Act.

While the policy requirements do not apply when a notice of acquisition is published and the land is vested in an agency, they do apply when an agency is making an offer of compensation for the compulsory acquisition of the land under the LAC Act.

Additionally, the meaning of land transaction under the policy does not affect any other requirements or obligations that may apply to the transaction under legislation or other government policies and directions. This includes the finance and accounting requirements that apply when the management of Crown land is transferred from one Crown land administrator to another.

### What is a Victorian government agency?

For the purposes of the policy 'Victorian government agency' or 'agency' is specifically defined to mean any of the following:

- Victorian government departments
- Victorian government administrative offices
- Victorian public statutory authorities
- Victorian government public entities
- Victorian government special bodies
- Any legal entity established by state legislation for the purpose of the state (including those independent of government control, but does not include local councils)
- Companies in which the state has an interest, and
- Any organisation which requires statutory authorisation and/or ministerial approval, where public funds are involved in the land transaction.

Local councils are expressly excluded from the definition of 'Victorian government agency'. This means that while an agency conducting a land transaction with a local council is required to comply with the policy's requirements, the local council it transacts with is not. Commonwealth government agencies do not fall within the definition of 'Victorian government agency' and are not required to comply with the policy when undertaking land transactions.

### References to 'Victorian government agency' in the policy

The policy refers to a 'Victorian government agency' as an 'agency' or 'agencies'. When referring to other parts of the government like local councils or the Commonwealth, it always uses the complete reference.

### What are the land transaction requirements?

The land transaction requirements are a set of obligations the Victorian government requires agencies to comply with when undertaking land transactions. Unless an exemption applies, the land transaction requirements are mandatory.

You can find out more about the land transaction requirements in [Part 2](#).

### What is an exemption?

The policy contains a limited number of exemptions, that may relieve an agency from complying with a land transaction requirement subject to meeting the relevant eligibility criteria.

You can find out more information about the exemptions in [Part 3](#).

### Where can I find the meaning of other key terms used in the policy?

You can find a glossary of key terms and list of acronyms and abbreviations used throughout the policy in [Part 5](#).



**PART 2:**  
**Land**  
**Transaction**  
**Requirements**

# 1. Land transaction requirements

This section sets out each of the requirements that apply when an agency undertakes a land transaction

## Background

The policy establishes 11 requirements that agencies must comply with when undertaking land transactions. These are referred to in the policy as the land transaction requirements.

Under the policy, the land transaction requirements are mandatory. Therefore, when undertaking a land transaction, an agency must comply with all the requirements that apply to a transaction, unless it qualifies for an exemption. You can find more information about exemptions in [Part 3](#).

## What are the land transaction requirements?

The 11 land transaction requirements are listed below. A more detailed explanation of each of the requirements is provided later in [Part 2](#).

### Requirement 1: Accountability, transparency and legislation

Agencies must ensure all land transactions are conducted to achieve accountability and transparency and are undertaken in accordance with relevant legislation.

### Requirement 2: Due diligence

Agencies must conduct an appropriate level of due diligence to ensure they are fully informed of the status and attributes of the land before undertaking a land transaction.

### Requirement 3: VGLM approval

Unless the transaction is between two agencies, agencies must obtain VGLM approval to undertake a land transaction, before:

- agreeing to sell or purchase land (or an interest of land) where:
  - the value of the land or transaction is \$1 million (excluding GST) or more, or
  - the land is part of a group of related transactions by the same seller or purchaser, including land which is part of a group of adjoining parcels proposed for sale or purchase, where the total value of the related land or related transactions is \$1 million (excluding GST) or more,
- agreeing to grant a lease over land where the book value of the land is \$5 million (GST exclusive) or more in greater Melbourne or \$3 million (GST exclusive) or more in regional Victoria and for a term exceeding five years,
- making an offer of compensation under the LAC Act, or Part 5 of the PE Act where the total amount of compensation is \$1 million (GST exclusive) or more, and
- making an offer of additional compensation under the LAC Act, or Part 5 of the PE Act to settle a disputed claim.

### Requirement 4: Valuer-General Victoria (VGV) valuation

Before undertaking a land transaction agencies must obtain a certified current market (or rental) valuation of the land from VGV, unless the transaction is between general government (GG) sector agencies based on the book value of the land.

### Requirement 5: Sale price and rent received

Agencies must not sell (grant a lease or an interest in) any land at a price, which is less than the current market (or rental) value of the land as determined by VGV unless the transaction is between GG sector agencies based on the book value of the land.

**Requirement 6: Purchase price and rent paid**

Agencies must not purchase (acquire a lease or an interest in) any land at a price, which is greater than the current market (or rental) value of the land as determined by VGV unless the transaction is between GG sector agencies based on the book value of the land.

**Requirement 7: Offer of market value or financial loss compensation based on VGV valuation**

Agencies must not offer an amount of market value compensation under the LAC Act or financial loss compensation under Part 5 of the PE Act that is more than the assessment of compensation determined by VGV, unless the matter has been referred to the Supreme Court of Victoria (Supreme Court) or Victorian Civil and Administrative Tribunal (VCAT) for determination.

**Requirement 8: Land exchange**

Agencies must not undertake a land transaction that involves the exchange of land.

**Requirement 9: Sale by public process**

Agencies must sell land using a public process, unless the land is being sold to another agency, local council or the Commonwealth in accordance with the requirements of the first right of refusal (FROR) process in the landholding policy.

**Requirement 10: Sale of land with a public land zone**

Agencies must not offer land with a public land zone for sale, unless the land is being sold to another agency that can own public zoned land, a local council or the Commonwealth.

**Requirement 11: Lease with option to purchase**

Agencies must not grant a lease of land that contains an option to purchase unless it is granting the option to another agency.

**Where can I find out more about the land transaction requirements?**

The rest of **Part 2** provides a detailed explanation of each requirement in the policy and the obligations they impose on agencies. Some sections deal with more than one land transaction requirement. Each section starts with a list of the requirements relevant to that section.



## 2. Accountability, transparency and legislation

This section explains how the accountability, transparency and legislation requirement in the policy operates

**Requirement 1:** Agencies must ensure all land transactions are conducted to achieve accountability and transparency and are undertaken in accordance with relevant legislation.

### Background

The Victorian government delivers a wide range of services and support for the community. To do this most effectively, the community must trust that the government is acting in its best interests.

The requirement in the policy that agencies achieve accountability, transparency and comply with relevant legislation helps ensure the Victorian government is upholding the highest standards of conduct when undertaking land transactions.

### What is accountability?

Accountability means that agencies are responsible for the actions taken and decisions made about land transactions.

Legislation generally confers each agency's powers, duties, and functions and sets out who can undertake a land transaction on behalf of the agency. This may include a Minister, Department Secretary, Chief Executive Officer, Board, statutory authority, or statutory officer.

The primary way that agencies can show accountability in land transactions is by ensuring:

- that the decision-maker has all the information required to make a well-informed decision, based on available facts and supporting information, and
- that the right decision-maker, or an authorised delegate, has approved the transaction.

Sometimes legislation allows a decision-maker to delegate their power to undertake land transactions to another person or position. Where a delegation is in place, agencies must ensure there is a record of the delegation, and any decisions are made under the delegation, including any limitations or

conditions on the exercise or scope of the power, such as financial thresholds.

At times an agency may conduct a land transaction on behalf of another agency. These arrangements may be required to deliver a government project or policy outcome or help agencies that do not undertake land transactions as part of their core business. To demonstrate accountability, the nature and scope of the arrangement that authorises one agency to act on behalf of the other must be documented in writing.

### What is transparency?

Transparency involves agencies showing they have acted in an open and honest way when conducting land transactions and all obligations under the Victorian public sector integrity system have been satisfied.

The main way agencies can do this is by establishing and following policies, procedures and processes that support fair and transparent decision-making through:

- decision-makers that are impartial and use objective criteria to make decisions based on the facts and evidence,
- maintaining clear records of all land transactions, and
- clearly communicating decisions about land transactions.

A range of policies, procedures and processes must be established and followed. This includes policies, procedures and processes that govern how agencies undertake land transactions, as well as procurement, accounting and finance policies. These policies and procedures must be supported by governance arrangements and controls, to ensure they are being followed and transparency is being maintained.

Depending on the nature, value and complexity of a transaction, an agency may need to take extra steps to show that a transaction is transparent.

This may include obtaining legal advice, or advice from other experts.

Agencies will also need to appoint a probity practitioner before commencing any large or complex transaction, such as selling land through a multi-stage EOI or tender. A probity practitioner will help an agency identify and address any probity issues and risks, provide independent advice on how to respond to probity issues, and verify that the process is accountable and transparent. If you are unsure whether your transaction is large or complex, you should contact VGLM.

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**Agency tip:**

You can find a probity practitioner on the professional advisory services panel at [www.buyingfor.vic.gov.au](http://www.buyingfor.vic.gov.au).

### **When is a transaction in accordance with legislation?**

A land transaction is undertaken in accordance with legislation when the right decision-maker, or delegate, has undertaken the transaction complying with any requirements set out in legislation.

Before undertaking a land transaction, agencies must identify the legislation that applies to the land transaction and ensure they conduct the transaction in compliance with any limitations or conditions in the legislation. Some common limitations and conditions include prescribing who can approve a land transaction or who needs to be consulted, the types of transactions an agency can undertake and how they can undertake them.

In cases where legislation affords agencies the general power to undertake land transactions, they are required to comply with the policy requirements when doing so. However, the policy does not override any specific powers or obligations in legislation. Where a legislative provision expressly allows an agency to undertake a land transaction based on terms or at a price determined by the decision-maker, that transaction may be exempt from one or more policy requirements.

You can find out more about exemptions in [Part 3](#).

### **When does the requirement to achieve accountability, transparency and follow legislation apply?**

This requirement applies when an agency undertakes any of the land transactions covered by the policy. This includes:

- the sale of land, or an interest in land
- the purchase of land, or an interest in land
- granting or acquiring a lease over land, and
- making an offer of compensation under the LAC Act or Part 5 of the PE Act.

The requirement applies to all land transactions regardless of whether the transaction requires VGLM approval. VGLM may conduct compliance audits of transactions that fall below the VGLM approval threshold to check they meet the requirements in the policy.

You can find more information on VGLM compliance audits in [Part 2 Section 4](#).

### **Who is responsible for ensuring land transactions achieve accountability, transparency and follow legislation?**

An agency is responsible for ensuring that its land transactions meet this requirement. If the transaction requires VGLM approval, VGLM will check that the transaction achieves accountability, transparency and follows legislation as part of its review. When an agency submits a transaction for VGLM approval, it is required to describe the legislation that supports the transaction, state who approved the transaction, and provide copies of approval documents. Depending on the nature, value and complexity of a transaction, VGLM may also ask agencies to provide other documents to show they have met this requirement, including copies of delegations, decision-making records, and internal policies, processes and procedures.

### **How does an agency apply this requirement in practice?**

The checklist below provides a list of things agencies need to do to achieve accountability, transparency and follow legislation when undertaking land transactions. The list is not exhaustive and there may be further requirements that apply to different types of land transactions. You can find out more about the transaction specific requirements in [Part 4](#).

**Table 4: Accountability, transparency and legislation checklist**

Accountability, transparency and legislation checklist	
<input type="checkbox"/>	The decision-maker has power under your agency's legislation to undertake the transaction
<input type="checkbox"/>	The agency has records to show that the decision-maker had all the information needed to make a well-informed decision
<input type="checkbox"/>	The agency has a written record of the decision to undertake the transaction and this record has enough information for an independent review
<input type="checkbox"/>	The decision is consistent with legislation, Victorian government policies, and an agency's own policies, procedures and processes
<input type="checkbox"/>	If a decision-maker is a delegate, you have checked that: <ul style="list-style-type: none"> <li>• the legislation allows the delegation</li> <li>• the delegation is current</li> <li>• the delegation applies to the decision-maker, and</li> <li>• the decision has been made under the delegation.</li> </ul>
<input type="checkbox"/>	If an agency is conducting a transaction on behalf of another agency, there is a document in writing supporting the arrangement
<input type="checkbox"/>	The roles, responsibilities and expectations of agency staff involved in land transactions are clearly defined and documented
<input type="checkbox"/>	Consistent and transparent processes for land transactions have been established and followed that ensure all potential participants in a transaction are treated fairly and equally and have access to the same information
<input type="checkbox"/>	Decisions related to the land transaction are based on an objective assessment of relevant facts, criteria and evidence
<input type="checkbox"/>	Procedures and processes to identify and address actual or perceived conflicts of interest have been established and followed, and all actions taken to address any conflict are recorded
<input type="checkbox"/>	All stages of the transaction are documented and transaction records and documents are stored following the record keeping requirements of your agency, the Public Record Office of Victoria, and relevant legislation
<input type="checkbox"/>	Information related to the transaction is kept secure and confidential
<input type="checkbox"/>	If the transaction is large and complex, a probity practitioner, legal adviser and other relevant experts are engaged
<input type="checkbox"/>	All government and agency specific procurement, finance and accounting policies are followed

### Accountability, transparency and legislation checklist

- If an agency uses the services of an agent (including a licensed real estate agent or vendors advocate) or consultant, it must ensure:
  - before being appointed, the agent or consultant provides a written declaration confirming they have no conflict of interest (real or perceived) or financial interest in the transaction
  - the agent or consultant has provided evidence of insurance, including professional indemnity insurance that reflects the nature of their engagement
  - the agent or consultant is not also appointed by VGV as the Valuation Services Panel (VSP) valuer to value the land
  - the agency has followed Victorian government and agency specific procurement policies in appointing the agent or consultant, and
  - the agent or consultant has a clear scope of work and there are methods and procedures to provide reasonable assurance that the agent or consultant acts with accountability and transparency and follows legislation and government policy during their engagement.

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- The agency has complied with all relevant legislation in undertaking the transaction. This includes the Act that confers power on the agency to undertake the transaction and requirements under any other Acts that may apply, such as the *Sale of Land Act 1962*, *Transfer of Land Act 1958*, and *Retail Leases Act 2003*

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- All obligations under the Victorian public sector integrity system are satisfied, and standards of behaviour accord with any applicable code of conduct issued by the Victorian Public Sector Commissioner under the *Public Administration Act 2004* and all legislative obligations.

Complying with the VGLM approval and valuation requirements in the policy, is also critical to showing that an agency has met the accountability, transparency and legislation requirement. You can find more information on each of these requirements in [Part 2](#).

### What should an agency do if a land transaction does not meet the requirement to achieve accountability, transparency and follow legislation?

If an agency believes that a land transaction did not meet this requirement, it should advise VGLM.

In some circumstances, it will be too late to correct the transaction, but VGLM can advise on options for managing the issue and work with agencies to put strategies in place to avoid non-compliance in the future.

### Where can I find out more?

VGLM can provide agencies with advice about whether a proposed transaction meets the requirement to achieve accountability, transparency and follow legislation. An agency can seek advice by emailing [vglm.admin@delwp.vic.gov.au](mailto:vglm.admin@delwp.vic.gov.au) to request an early engagement meeting or by submitting a request for policy advice through VGLM Online.

You can find more information on how this requirement applies to specific transactions in [Part 4](#).

## 3. Due diligence

This section explains how the due diligence requirement in the policy operates

**Requirement 2:** Agencies must conduct an appropriate level of due diligence to ensure they are fully informed of the status and attributes of land before undertaking a land transaction.

### Background

Issues associated with land can be complex and may affect its value and how an agency can use or develop it. Therefore, it is important to fully understand the status and attributes of the land before making any decisions that may have financial or other risks for the State.

Due diligence refers to the reasonable steps taken to establish the status and attributes of the land before undertaking a land transaction. There are some important reasons why performing due diligence is essential before undertaking a land transaction, including:

- if an agency is purchasing, leasing or acquiring land, it can ensure that it is suitable for its intended use
- if an agency is selling land, it meets the requirement to disclose certain information to potential purchasers under section 32 of the *Sale of Land Act 1962*, and ensure the information provided is complete and accurate
- to ensure an agency has the information necessary to comply with the contaminated land duties under the *Environment Protection Act 2017* (EP Act)
- so that VGV has the information required to consider all matters affecting the land in determining its current market value
- if possible, issues or risks associated with the land can be mitigated by including special conditions in the contract, lease terms or conditions of an offer of compensation under the LAC Act or Part 5 of the PE Act.

Section 3 will help agencies identify the reasonable steps for conducting due diligence before undertaking a land transaction.

As every parcel of land is different, the due diligence steps that are reasonable will vary from transaction to transaction. Agencies are encouraged to obtain expert advice when conducting due diligence, particularly when conducting large or complex transactions or when the agency is not used to conducting due diligence.

There are two types of due diligence activities under the policy:

1. General due diligence: These are steps an agency needs to consider, and complete as necessary, before every transaction, and
2. Contamination due diligence: These are steps which are mandatory before every land transaction.

The rest of the section will explain both types of due diligence activities and the related steps.

### General due diligence

There are several general due diligence steps an agency may need to conduct before undertaking a land transaction. The steps required will depend on the individual characteristics of the land, such as its location, past and present use, the type of transaction, and any existing information an agency has about the land. In some cases, an agency may need professional advice to assist them to complete the general due diligence steps.

When VGLM reviews a request for approval to undertake a land transaction, it will check whether an agency has conducted an appropriate level of due diligence. An agency must be able to demonstrate it has considered each of the general due diligence steps, and when a step has not been undertaken, be able to explain why it wasn't necessary.

As a starting point, the following tables describe some of the most common forms of general due diligence and where an agency can find the information it needs to satisfy the due diligence requirement.

**Table 5: Preliminary due diligence**

<b>Preliminary due diligence</b>	
The preliminary steps taken by an agency when proposing to undertake a land transaction.	
<b>Task</b>	<b>Where you can find the information</b>
Confirm the type of transaction.	Conduct a review of any information or documents the agency has related to the land and proposed transaction.
<p>Confirm there is nothing preventing an agency from undertaking the land transaction, including:</p> <ul style="list-style-type: none"> <li>the type of land, including whether it is Crown land, reserved Crown land or freehold</li> <li>if an agency is selling land it has complied with the FROR process in the landholding policy</li> <li>if an agency is selling Crown land it has complied with the requirements in the SCLA policy</li> <li>if an agency is selling Crown land and native title rights or interests exist, there is an agreement with the relevant Traditional Owner group, and if no Traditional Owner group exists, you have obtained advice from the Land Justice Unit at the Department of Justice and Community Safety (DoJCS) about how to proceed</li> <li>if an agency is selling land, any strategic land use assessment being conducted in relation to the land under the land use policy has been completed, and</li> <li>the agency has legal authority to transact the land.</li> </ul>	<p>Take the following steps:</p> <ul style="list-style-type: none"> <li>conduct a title search to confirm whether the land is Crown land or freehold land</li> <li>check the requirements in other government land management policies to ensure any preconditions for selling land have been met, including the landholding policy, SCLA policy and land use policy</li> <li>contact the Land Justice Unit at DoJCS if native title rights or interests exist</li> <li>review relevant legislation.</li> </ul>

**Table 6: Legal due diligence**

<b>Legal due diligence</b>	
The steps taken to understand legal implications and restrictions associated with the land.	
<b>Task</b>	<b>Where you can find the information</b>
<p>Confirm land details and encumbrances by obtaining title and plan details. A plan can include a plan of subdivision, lodged plan, registered plan, strata plan, cluster plan, or plan of consolidation.</p>	<p>Conduct a title and plan search, which will provide the following land details:</p> <ul style="list-style-type: none"> <li>• title particulars, including the volume and folio for the land</li> <li>• address of land</li> <li>• name(s) of the registered proprietor(s)</li> <li>• registered encumbrances or access issues affecting the subject property</li> <li>• land description (area, dimensions)</li> <li>• any common property that may be subject to an owners corporation.</li> </ul> <p><b>When to get professional advice?</b></p> <p>You may want to get professional advice to understand any encumbrances, use restrictions, owners corporation or other matters disclosed in the title and plan particulars.</p>
<p>If you are purchasing, acquiring or leasing land, confirm you are dealing with the person with the legal authority to undertake the transaction, or someone authorised to act on their behalf.</p>	<p>Conduct a title search to identify the registered proprietor(s) of the land. If the relevant party is a company, you can conduct a company search via the Australian Securities and Investments Commission to check that the company is registered and the people you are dealing with are the directors of the company.</p> <p>If you are dealing with a representative or delegate you should request a copy of the authorisation or delegation.</p> <p><b>When to get professional advice?</b></p> <p>You may want to get professional advice to confirm you are dealing with the legal owner of the land.</p>

**Table 7: Survey due diligence**

<b>Survey due diligence</b>	
The steps taken to ensure the accuracy of land boundaries and confirm dimensions and area.	
<b>Task</b>	<b>Where you can find the information</b>
<p>Confirm the land boundaries, or leased area.</p> <p>This will help you ensure the boundaries are accurate and any issues such as encroachments can be investigated and addressed before an agency undertakes the transaction.</p>	<p>You can refer to the diagram in the plan to help confirm the land boundaries. This may include, a plan of subdivision, lodged plan, registered plan, strata plan, cluster plan, or plan of consolidation.</p> <p>However, sometimes land boundaries and features in the plan diagram may not reflect the land which you believe you are transacting. For example, a boundary fence may not be placed in accordance with the land boundary in the plan, or an easement may have been unlawfully built over.</p> <p>If you are unsure, the Surveyor-General Victoria (SGV) may be able to assist and advise in relation to the status of the land and plan and survey requirements (including a re-establishment survey). If you are leasing land and unsure of the leased area, you must obtain a lease plan.</p>

**Table 8: Building due diligence**

<b>Building due diligence</b>	
The steps taken to ensure the buildings and improvements on the land are safe and if not the cost of addressing any safety issues.	
<b>Task</b>	<b>Where you can find the information</b>
<p>Confirm there are no safety issues related to any building or improvements on the land. This may include electrical safety, building services, heater safety, illegal building work, or the presence of asbestos or combustible cladding.</p>	<p>You can find a range of guides on building safety on the Victorian Building Authority website, and information about combustible cladding on the Cladding Safety Victoria website.</p> <p><b>When to get professional advice?</b></p> <p>You may want to get a professional building inspection if you suspect the building or improvements may have safety issues. Further advice may be required to understand the cost of addressing any safety issues identified.</p>

**Table 9: Planning due diligence**

<b>Planning due diligence</b>	
The steps taken to understand how the planning provisions, such as a zone and any overlays, set out in the local planning scheme may affect how the land can be used and developed.	
<b>Task</b>	<b>Where you can find the information</b>
Confirm the land zone and any overlays.	<p>Conduct a search in VicPlan using the land's address to obtain a planning report that will include a description of the land zone and overlays. You can find out more about specific zones and overlays by browsing the approved planning schemes in Victoria.</p> <p><b>When to get professional advice?</b></p> <p>You may want to get professional advice to find out more about how the land zone and overlays impact on how you can use or develop the land.</p> <p>An agency that requires planning scheme changes to land it owns can apply for assistance through the Government Land Planning Service.</p>
Confirm if there are any proposed or granted planning permits for any land nearby that may affect the use and development of the land.	Contact the relevant local council for advice about proposed and current permits.
Confirm if the site is subject to bushfire risk.	<p>Conduct a search in VicPlan using the land's address to obtain a planning report that will identify if the site is within a Bushfire Management Overlay (BMO) or Bushfire Prone Area (BPA) and requires risk-based planning to manage the bushfire hazard.</p> <p>Contact the relevant fire authority for advice about any potential bushfire hazards.</p> <p><b>When to get professional advice?</b></p> <p>You may want to get professional advice to find out more about how the BMO or BPA impact on how you can use or develop the land.</p>
Confirm whether the land is subject to any unexploded ordnance (UXO).	You can find out whether land is affected by a UXO by searching the Commonwealth's UXO mapping application online.

**Table 10: Ecological due diligence**

<b>Ecological due diligence</b>	
The steps taken to confirm any significant environmental values that may affect the value and future use of the land.	
<b>Task</b>	<b>Where you can find the information</b>
<p>Confirm whether an environmental significance or vegetation protection overlay affects the land.</p> <p>Identify any environmental encumbrances on title. Examples of environmental encumbrances include:</p> <ul style="list-style-type: none"> <li>• Registration as a biodiversity offset site</li> <li>• Trust for Nature covenant under the <i>Victorian Conservation Trust Act 1972</i>, and</li> <li>• Any conservation agreement recorded on title through an agreement under section 173 of the PE Act.</li> </ul>	<p>Conduct a search in VicPlan using the land's address to obtain a planning report that will include a description of any overlay.</p> <p>Conduct a title search showing any registered encumbrances on land.</p> <p><b>When to get professional advice?</b></p> <p>You may want to get environmental expert advice to understand any environmental encumbrances affecting the land.</p>
<p>Confirm whether the land contains native vegetation, threatened species, threatened ecological communities and/or is located in a biodiversity conservation strategy area.</p>	<p>Conduct an online address search in the Native Vegetation Information Management System to explore native vegetation and biodiversity assets on the land.</p> <p><b>When to get professional advice?</b></p> <p>You may want to get expert advice to understand the responsibilities and obligations you may have in relation to the following:</p> <ul style="list-style-type: none"> <li>• native vegetation</li> <li>• threatened species and/or ecological communities</li> <li>• significant trees, or</li> <li>• land located in a biodiversity conservation strategy area.</li> </ul>

**Table 11: Historical places, objects and archaeological sites due diligence**

<b>Historical places, objects and archaeological sites due diligence</b>	
The steps taken to confirm whether any historical heritage assets may limit how the land can be used and developed.	
<b>Task</b>	<b>Where you can find the information</b>
Confirm whether a heritage overlay affects the land.	Conduct a search in VicPlan using the land's address to obtain a planning report that will include a description of any overlays.
Confirm whether a place or object on the land is included in the Victorian Heritage Register (VHR) and whether a heritage permit is required for activities on the land.	<p>Conduct a search of the VHR online to determine whether there is a heritage place or object on the land.</p> <p>If the land, or part of the land, is listed on the VHR you may need a heritage permit from Heritage Victoria before undertaking any works.</p> <p><b>When to get professional advice?</b></p> <p>You may want to get expert advice to understand the responsibilities and obligations you may have in relation to the heritage values.</p>
Confirm whether the land is a historical archaeological site and whether consent is required for the activities proposed at the site.	<p>Conduct a search of the Victorian Heritage Inventory online to determine whether the land is a historical archaeological site.</p> <p>If the land is a historical archaeological site you need consent from Heritage Victoria before undertaking any activities.</p> <p><b>When to get professional advice?</b></p> <p>You may want to get expert advice to understand the responsibilities and obligations you may have in relation to the archaeological values.</p>

**Table 12: Cultural heritage due diligence**

<b>Cultural heritage due diligence</b>	
The steps taken to understand how any use or development of the land could affect Aboriginal cultural heritage.	
<b>Task</b>	<b>Where you can find the information</b>
Confirm whether the land is in area of cultural sensitivity. This includes registered Aboriginal cultural heritage places, as well as landforms and land categories that are generally regarded as more likely to contain Aboriginal cultural heritage.	Conduct a search of the online Aboriginal Cultural Heritage Register and Information System (ACHRIS) to determine if the land is in an area of cultural heritage significance.
Confirm if the proposed works require a Cultural Heritage Management Plan (CHMP).	<p>If the area is associated with cultural heritage sensitivity you can check the Aboriginal heritage planning tool online to see if your proposed use or development of the land classifies as a 'high impact activity' that will require a CHMP.</p> <p>You can find more information on the Aboriginal Victoria website:  <a href="http://www.aboriginalvictoria.vic.gov.au">www.aboriginalvictoria.vic.gov.au</a></p> <p><b>When to get professional advice?</b></p> <p>If you determine the land is in an area of cultural heritage sensitivity and a 'high impact activity' is planned, you will need to engage a heritage adviser. You should also seek advice from a cultural heritage adviser if you're completing an activity that is not a 'high impact activity' but may harm Aboriginal cultural heritage.</p>

**Agency tip:**

To help you conduct the general due diligence required before undertaking a land transaction, you can find a list of online resources in **Part 6 Appendix 1**.

**Contamination due diligence**

Contamination on land can cause harm to human health and the environment. If an agency owns or manages contaminated land (including groundwater), they need to comply with the contaminated land duties under the EP Act. These are the:

- duty to manage risks of harm from contamination, and
- duty to notify Environment Protection Authority (EPA) of contamination in particular circumstances.

These duties are in addition to the general environmental duty to manage activities on land to reduce the risk of harm from your activities to human health and the environment, and from pollution and waste.

Contamination can also have a material impact on land value, and how the land can be used and developed by agencies.

Given the risks and responsibilities associated with contaminated land an agency must conduct contamination due diligence before undertaking any land transaction, and provide the results, including any expert reports, to VGV for consideration in determining the current market value of the land.

If an agency cannot complete the required level of due diligence before making an offer of compensation under the LAC Act, or PE Act special arrangements may apply. You can find out more in [Part 4 Section 3](#).

### Agency tip:

To ensure VGV can consider the impact of contamination on the value of the land, you should conduct your contamination due diligence before requesting a valuation. When VGLM reviews a request for approval to undertake a land transaction, it checks that agencies have undertaken the required level of contamination due diligence and provided the results to VGV.

If an agency has not undertaken the required due diligence or provided VGV with all the required information, VGLM will ask the agency to obtain updated valuation advice from VGV. Ensuring that you have provided VGV with all the required contamination due diligence helps prevent any delay in the VGLM approval process.

### What is contamination?

The EP Act defines land (including groundwater and structures permanently attached to land) as being contaminated if waste, a chemical substance or prescribed substance is present on or under the surface of the land, and it:

- is present in a concentration above the background level, and
- creates a risk of harm to human health or the environment.

You can find out more about contamination on the EPA website: [www.epa.vic.gov.au](http://www.epa.vic.gov.au).

### What contamination due diligence is required?

The policy prescribes a three-step process for conducting contamination due diligence. These requirements are mandatory for agencies transacting land but are not a substitute for any other contamination due diligence that may be required by law or under other government policies and directions.

The extent of due diligence required will depend on an agency's findings at each step. In other words, as knowledge of contamination changes, the level of expected due diligence changes. For example, step 1 is mandatory so an agency must undertake an initial review before conducting all land transactions. However, an agency is only required to complete steps 2 and 3 if there is a finding of known or suspected contamination in the previous step.

An agency must maintain records of land transactions, including evidence that the required level of due diligence is completed, and must, upon request, make these available to VGLM.

The rest of this section provides more information on each step in the contamination due diligence process, where you can find help to complete each step, and how the outcome of each step may impact on the land transaction.

### Contamination due diligence: Step 1

Step 1 is the initial review phase. In this phase an agency must qualitatively assess the potential for contamination to be present. This phase is required for all proposed land transactions. The table below sets out how to undertake the initial review phase.

**Table 13: Contamination due diligence step 1**

Considerations	Steps/tasks	Where you can find the information
The land’s past and present uses, and surrounding land uses	Review agency information	Review any information or documents that an agency has related to the land. This may include previous advice or reports from a contaminated land expert, records of contaminating incidents, or activities and events associated with the land, including insurance claims.
	Review online resources	This includes online planning, mapping, spatial and EPA resources. There is a list of resources in <a href="#">Part 6 Appendix 2</a> .
	Review public records	This includes conducting a historical title search to identify who owned or may have used the land in the past, and a general internet search to identify any records of contaminating incidents, activities or events associated with the land.
	Identify activities that are often considered to be a potential cause of land contamination	There is a list of activities that are often considered to be a potential cause of land contamination in <a href="#">Part 6 Appendix 3</a> .

Considerations	Steps/tasks	Where you can find the information
<p>Obvious physical evidence of likely contamination</p>	<p>Check the land for the presence of:</p> <ul style="list-style-type: none"> <li>• areas of obvious filling, such as mounds, filled pits, or stockpiles</li> <li>• in-ground pipes and other infrastructure</li> <li>• stained and/or odorous soils</li> <li>• waste materials stored at or near the surface of the land, and</li> <li>• chemical or fuel storage areas.</li> </ul>	<p>If possible, conduct a site inspection.</p>

**Initial review phase outcomes**

There are two possible outcomes of the initial review phase.

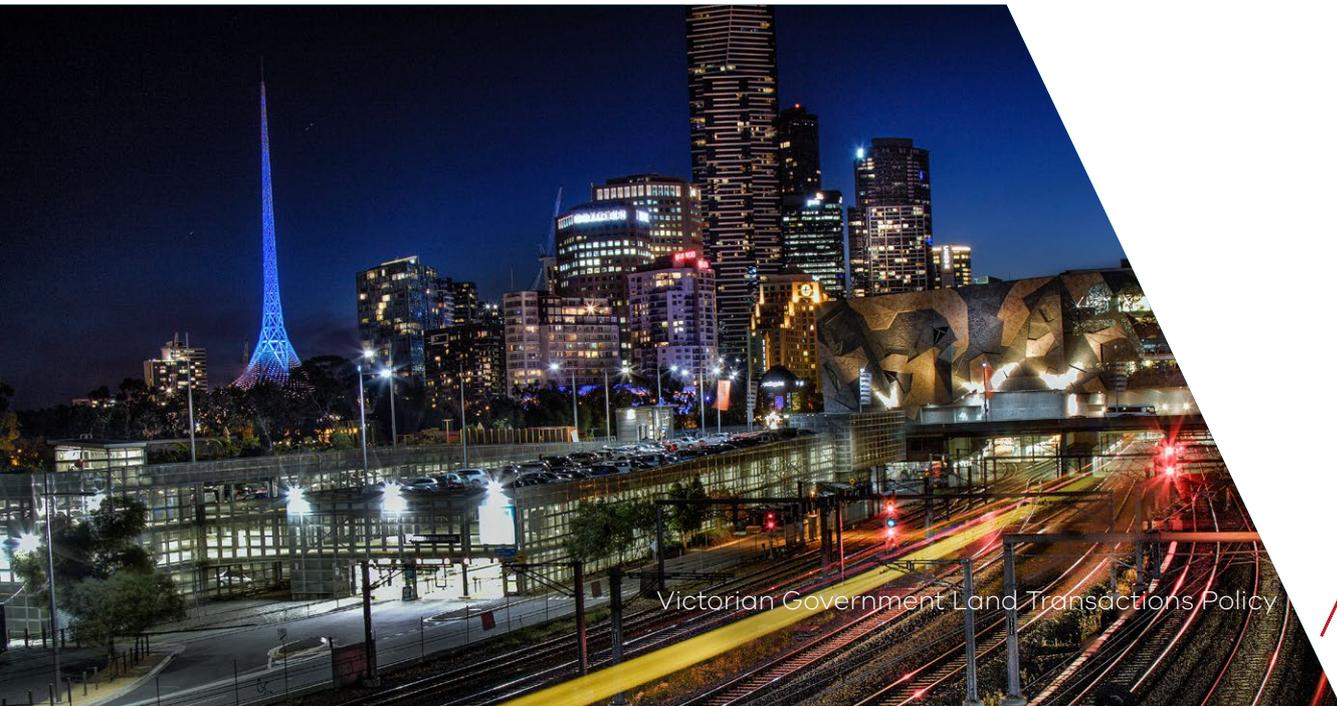
**1. No known or suspected contamination**

Where the initial review phase finds there is no known or suspected contamination on the land, an agency is not required to conduct any further contamination due diligence before it undertakes the transaction. An agency should include findings of the initial review phase in any request to VGLM seeking approval to undertake the transaction.

**2. Potential contamination**

Where the initial review phase suggests the presence of contamination, further detailed investigations are required and the agency must move to step 2 of the due diligence process before undertaking the transaction. The findings of an initial review will suggest the presence of contamination if they show the land is contaminated or contamination is reasonably foreseeable.

If an agency identifies potential contamination on land that it owns or manages, it may trigger a duty to manage or notify under the EP Act. You can find more information on these duties on the EPA website: [www.epa.vic.gov.au](http://www.epa.vic.gov.au)



## Contamination due diligence: Step 2

Step 2 involves engaging a qualified environmental expert to undertake a preliminary site investigation (PSI). A PSI is also sometimes called Preliminary Environmental Site Assessment (PESA) or Phase I. The table below sets out how to undertake the PSI phase of contamination due diligence.

**Table 14: Contamination due diligence step 2**

Considerations	Steps/Tasks	Where you can find the information
PSI	<p>Engage a suitably qualified expert (generally a contaminated land consultant) to undertake a PSI consisting of the following activities:</p> <ul style="list-style-type: none"> <li>• desktop site history review</li> <li>• analysis of previous advice prepared in relation to contamination, or potential contamination, on the land including reports by contaminated land experts</li> <li>• site inspection by a qualified expert, and</li> <li>• if deemed necessary by the expert having regard to the risk of contamination, limited soil testing.</li> </ul>	<p>If you are unsure where to find a contamination expert, contact the Department of Treasury and Finance (DTF) Land and Property Group.</p>

### PSI outcomes:

There are two potential outcomes of the PSI phase. If the PSI identifies contamination or potential contamination, and further investigations are recommended, an agency must move to step 3 in the contamination due diligence process.

#### 1. No or low risk of contamination identified

Where the PSI finds no or a low risk of contamination and the expert does not recommend any further investigations, an agency is not required to conduct any further contamination due diligence before it undertakes the land transaction.

#### 2. Contamination identified

Where the PSI finds evidence that the land is, or may be, contaminated and further investigations are recommended, an agency must move to step 3 of the due diligence process before undertaking the transaction.

If a PSI identifies potential contamination on land that an agency owns, it will trigger a duty to manage the contamination under the EP Act. If the contamination is present in levels above certain thresholds and is exposing a person to contaminants, or is moving, has moved or is likely to move off the land, an agency also has a duty to notify under the EP Act. You can find more information on these duties on the EPA website: [www.epa.vic.gov.au](http://www.epa.vic.gov.au)

### Contamination due diligence: Step 3

Step 3 involves engaging a qualified environmental expert to undertake a detailed site investigation (DSI). A DSI is sometimes also called a Phase II Environmental Site Assessment. The table below sets out how to undertake the DSI phase of contamination due diligence.

**Table 15: Contamination due diligence step 3**

Considerations	Steps/Tasks	Where you can find the information
DSI	<p>Engage a suitably qualified expert (generally a contaminated land consultant) to undertake a DSI. This will include testing for contaminants in the land. For example, in soil, soil vapour, ground water, surface water, or any mounds, materials or stockpiles on the land.</p> <p>The DSI may lead to further investigations or advice being required from a qualified expert, including the following:</p> <ul style="list-style-type: none"> <li>• advice to quantify the contamination risks</li> <li>• advice on the scope and cost of remediation, or risk mitigation measures to remove or reduce the contamination risk, and</li> <li>• health or ecological risk assessments.</li> </ul>	If you are unsure where to find a contamination expert, contact the DTF Land and Property Group.

#### DSI outcomes:

##### 1. Contamination confirmed, but it doesn't present an unacceptable risk and the risks and responsibilities of the contamination can be managed

An agency may undertake the land transaction, provided:

- based on legal advice, the risks associated with land contamination can be mitigated using special conditions in the contract, lease agreement or offer of compensation, and/or
- the land can be remediated, or risk mitigation measures implemented, before an agency undertakes the transaction.

If remediation is pursued, the parties to the transaction will need to decide who is responsible for remediation, and any ongoing risks. An agency will need to advise VGV about the responsibilities and costs associated with remediation, as they will inform the value of the land. Agencies should seek advice from an expert on the expected costs of remediation or other measures that may be implemented to remove, reduce or manage contamination.

If a land transaction involves contaminated land, agencies need to be aware of their responsibilities under the EP Act. An agency purchasing, compulsorily acquiring or leasing contaminated land will need to comply with the duty to manage or

notify under the EP Act and may be required to bear the costs of any contamination it causes to the land. An agency selling contaminated land may be pursued by the new owner for costs associated with managing contamination on the land that it previously caused or contributed to. You can find more information on these duties on the EPA website: [www.epa.vic.gov.au](http://www.epa.vic.gov.au)

## 2. Unacceptable risk

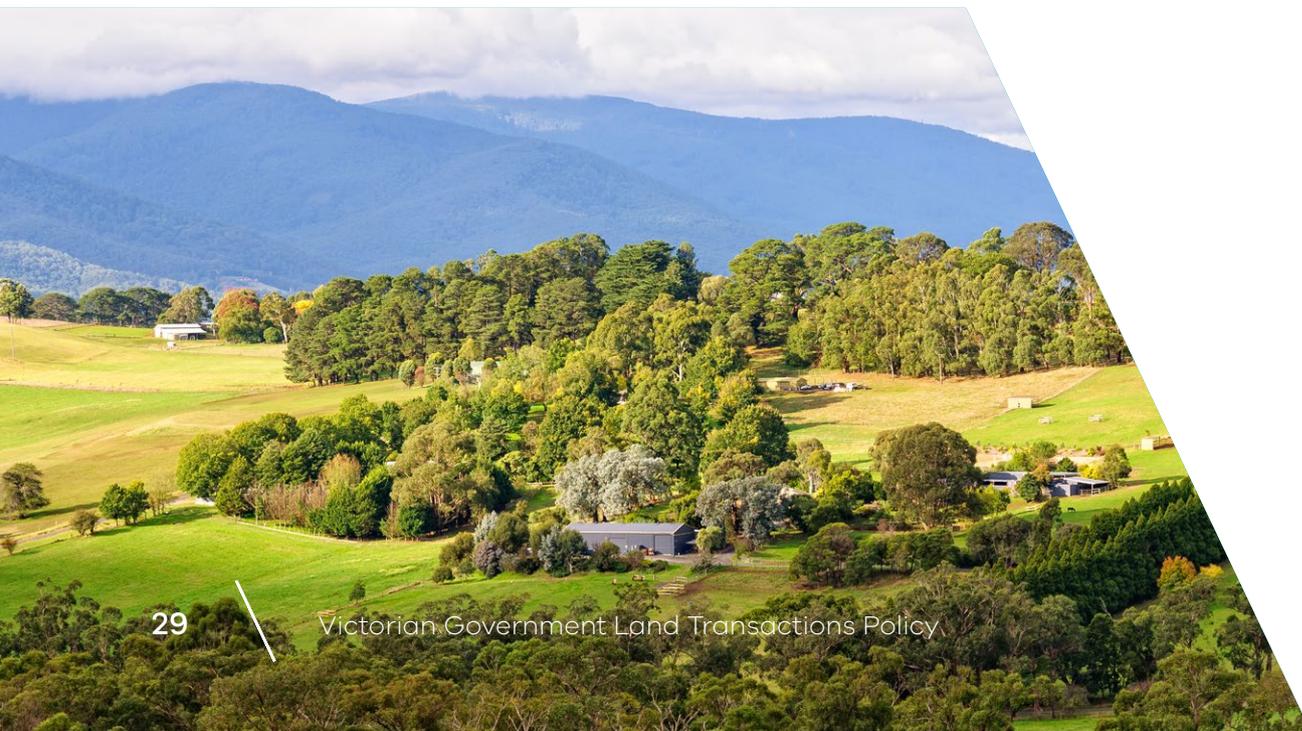
An agency must not undertake a land transaction if the land presents an unacceptable risk to human health or the environment. In these circumstances, the risks and responsibilities associated with the land may be too great to progress a transaction even if another party agrees to adopt the ongoing liability and legal risk. The determination as to whether an unacceptable risk is present should be made in consultation with the Land and Property Group at DTF, having regard to the findings of the DSI, and any additional expert advice obtained. If the land is remediated, a contamination expert must confirm the unacceptable risk has been removed, appropriately reduced or managed, before the land can be transacted.

## Are there any exemptions to the due diligence requirement in the policy?

There are no exemptions from the due diligence requirement in the policy. However, if an agency cannot complete the required level of contamination due diligence before making an offer of compensation under the LAC Act or Part 5 of the PE Act, special arrangements may apply. You can find out more in [Part 4 Section 3](#).

## Where can I find out more?

The Land and Property Group at the DTF can provide you with advice on issues related to identifying and managing contaminated land.



## 4. Victorian Government Land Monitor

This section sets out the role and functions of VGLM and explains how the approval requirement in the policy operates

**Requirement 3:** Unless the transaction is between two agencies, agencies must obtain VGLM approval to undertake a land transaction before:

- Agreeing to sell or purchase land (or an interest in land) where:
  - the value of the land or transaction is \$1 million (excluding GST) or more, or
  - the land forms part of a group of related transactions by the same seller or purchaser, including land which is part of a group of adjoining parcels proposed for sale or purchase, where the total value of the related land or related transactions is \$1 million (excluding GST) or more
- agreeing to grant a lease over land where the book value of the land is \$5 million (GST exclusive) or more in greater Melbourne or \$3 million (GST exclusive) or more in regional Victoria for a term exceeding five years
- making an offer of compensation under the LAC Act, or Part 5 of the PE Act, where the amount of compensation is \$1 million (GST exclusive) or more, and
- making an offer of additional compensation under the LAC Act, or Part 5 of the PE Act to settle a disputed claim.

- attending valuation conferences, dispute resolution conferences, mediations, and compulsory conferences to maintain probity, and provide policy advice
- conducting audits to monitor compliance with the policy, and
- delivering an annual assurance report to the Minister for Planning.

### VGLM approval

To support VGLM's role in providing assurance to government, agencies must obtain approval from VGLM before conducting certain types of land transactions. This is known as the VGLM approval requirement.

The VGLM approval requirement helps to ensure that land transactions undertaken by agencies comply with the requirements in the policy, or a relevant exemption applies. When VGLM approves a transaction, it confirms that the transaction complies with the policy based on an objective assessment of all the relevant facts, circumstances, and evidence. VGLM does not examine the merits of an agency's decision to undertake the land transaction, or the merits of any exemption, unless the exemption is being granted by the VGLM, or the Minister for Planning, on advice of the VGLM.

### What transactions require VGLM approval?

The table on the following page sets out the circumstances in which an agency needs to obtain VGLM approval. Transactions between agencies are excluded from this requirement.

### Background

VGLM is an independent function that provides assurance to government that land transactions undertaken by agencies meet the requirements in the policy.

As part of its assurance role, VGLM supports compliance with the policy by:

- reviewing proposed land transactions to confirm they comply with the requirements in the policy, or an applicable exemption applies
- providing advice and guidance to agencies to assist them to meet the requirements of the policy when undertaking land transactions

**Table 16: When an agency needs to obtain VGLM approval**

Land transaction	When is VGLM approval required?
Sale of land	<ul style="list-style-type: none"> <li>The value of the land or transaction is \$1 million (excluding GST) or more, or</li> <li>The land forms part of a group of related transactions by the same seller or purchaser, including land which is part of a group of adjoining parcels proposed for sale or purchase, where the total value of the related land or related transactions is \$1 million (excluding GST) or more.</li> </ul>
Sale of an interest in land	
Purchase of land	
Purchase of interest in land	
Granting a lease	<ul style="list-style-type: none"> <li>The book value of the land that will be leased is \$5 million (GST exclusive) or more in greater Melbourne for a term exceeding five years, or</li> <li>The book value of the land that will be leased is \$3 million (GST exclusive) or more in regional Victoria for a term exceeding five years.</li> </ul>
Making an offer of compensation under the LAC Act, or Part 5 of the PE Act.	The total amount of compensation offered is \$1 million or more.
Making an offer of additional compensation under the LAC Act, or Part 5 of the PE Act to settle a disputed claim.	All offers of additional compensation require VGLM approval.

**Agency tip:**

In some circumstances, you may need to obtain VGLM approval to undertake a land transaction, even if the land value is under \$1 million. For example, where an agency is selling or purchasing adjoining parcels of land or undertaking related transactions, where the combined value of the land or transaction is \$1 million (GST exclusive) or more, including purchasing land and an interest in the associated air rights or selling adjoining properties, or lots. It would also include circumstances where an agency is seeking to make an additional offer of compensation to settle a disputed claim.

**VGLM approval to make an offer of additional compensation**

In exceptional circumstances, VGLM may approve offering an amount of additional compensation to settle a disputed claim under the LAC Act or Part 5 of the PE Act.

VGLM can only grant approval where the matter is a disputed claim and the subject of litigation, or VGLM is satisfied there is a reasonable prospect of litigation. When an agency requests approval to make an additional offer of compensation it will need to provide information and documents to VGLM that demonstrate exceptional circumstances. VGLM will consider all the information and documents an agency provides as part of its review. You can find out more about VGLM approval in these circumstances, in [Part 4 Section 3](#)

### Are there any exemptions to the VGLM approval requirement?

The VGLM approval requirement does not apply to transactions between two agencies.

Apart from this, unless the land transaction is an exempt transaction undertaken by a public university or a leasing transaction that qualifies for one of the agency-specific exemptions, there are no exemptions from the requirement to obtain VGLM approval.

### VGLM approval when an exemption from the land transaction requirement(s) applies

Exemptions apply to individual requirements within the policy. They do not exempt an agency from complying with the entire policy. Therefore, when an agency is relying on an exemption, it must still seek VGLM approval if the transaction meets the VGLM approval threshold. When an exemption is claimed VGLM's role is to ensure that the:

- agency has met all the conditions of the exemption. Here, VGLM merely reviews the evidence provided by the agency to support the exemption(s) and ensures the exemption conditions are satisfied. VGLM does not examine the merits of any exemption, unless the exemption is being granted by VGLM, or the Minister for Planning, on advice of VGLM (see below), and
- remaining requirements in the policy to which an exemption doesn't apply, are met.

The only exception is when an agency qualifies for the public university or agency-specific leasing exemptions. When either of these exemptions apply the agency is also exempt from the requirement for VGLM approval.

### Applying for a policy exemption from VGLM

In limited circumstances, VGLM, or the Minister for Planning on the advice of VGLM, can grant an exemption from complying with specific requirements in the policy.

If an agency wants an exemption from VGLM or the Minister for Planning it will need to request one, regardless of the value of the land or transaction. You can find out more about exemptions in [Part 3](#).

### When should an agency lodge its submission requesting VGLM approval to undertake a transaction?

When VGLM approval is required, agencies must obtain approval before undertaking the land transaction. The point at which an agency must

obtain VGLM approval before undertaking a transaction will depend on the type of transaction it is conducting. You can find more information about when an agency should lodge their request for VGLM approval in [Part 4](#).

### How does an agency request VGLM approval to undertake a land transaction?

Agencies are required to lodge a request seeking VGLM approval to undertake a land transaction using VGLM Online.

### What is VGLM Online?

VGLM Online is a web-based application established for agencies to submit land transactions to VGLM for approval.

### Who can use VGLM Online?

Agency employees responsible for managing land transactions can register to use VGLM Online. Only registered agency users can access the system. Agency employees can make a request to register for VGLM Online at: [www.vglm.vic.gov.au](http://www.vglm.vic.gov.au)

### How does an agency use VGLM Online to request approval to undertake a land transaction?

An agency will be required to complete a submission on VGLM Online. There are different forms for each transaction type. The forms ask for the information and documents VGLM generally requires in reviewing a land transaction.

You can find out more about the right form to complete in the VGLM Online User Manual (user manual). The user manual is available in VGLM Online.

### How does VGLM conduct its review?

VGLM reviews the information and documents provided by an agency to confirm whether the transaction complies with the requirements in the policy, and/or an exemption applies.

The scope of VGLM's review will depend on the facts and circumstances, including the type, value and complexity of a transaction. The table on the following page lists some of the matters VGLM may consider as part of its review.

**Table 17: Common features of a VGLM review**

Common features of a VGLM review
Legislation permits the transaction, and it complies with any specific requirements set out in the legislation
The right decision-maker, or delegate, has approved the transaction based on all the available facts, evidence and supporting information
The planning controls on the land, including the zoning and any overlays
The appropriate level of due diligence has been conducted based on the status and attributes of the land
The method of transaction proposed, and if it is a sale, that it is being conducted in accordance with the requirements of a public sales process
A current certified VGV market valuation has been obtained and: <ul style="list-style-type: none"> <li>• The valuation is current</li> <li>• VGV's valuation reflects the terms and conditions of the proposed transaction, and</li> <li>• VGV has been provided with copies of any expert reports obtained in conducting its due diligence.</li> </ul>
A check valuation has been obtained (if required), and the VGV and check valuation were conducted on the same basis
If a VGV valuation and check valuation vary by more than 10 per cent, or use significantly different methodologies, a conference of valuers was held
Relevant government policies have been complied with, including: <ul style="list-style-type: none"> <li>• the agency has complied with the FROR process in the landholding policy before seeking approval to sell the land</li> <li>• any strategic land use assessment being conducted in relation to the land under the land use policy has been completed prior to requesting VGLM approval to sell the land</li> <li>• if the land is Crown land, a strategic Crown land assessment has been undertaken in accordance with the SCLA Policy, and the relevant Ministers have agreed to refer the land to the Assistant Treasurer for sale.</li> </ul>
The requirements for any exemptions have been met

### What happens when VGLM has completed its review of a land transaction?

VGLM will write to an agency to confirm whether it has provided approval to undertake the land transaction and whether an exemption from any of the policy requirements applies.

If VGLM provides approval to undertake the transaction, it may be subject to terms and conditions. This helps to ensure land transactions proceed on the same basis that VGV valued the land, and that the terms and conditions of the land transaction appropriately protect the interests of the Victorian government and community.

If VGLM decides not to provide approval, it will provide detailed written reasons to the agency explaining its decision.

### What happens if VGLM does not approve a land transaction?

If an agency disagrees with VGLM's decision, it can object to the decision by writing to VGLM. An objection must include:

- a statement setting out why the agency disagrees with the decision of VGLM. The statement must address each of the reasons given by VGLM for not approving the land transaction, and
- further supporting documents and information to support the grounds of objection. VGLM may also request more information to help it make a decision.

If VGLM disallows the objection, an agency can refer the VGLM objection decision for review by the Minister for Planning through its responsible Minister.

### How long does it take for VGLM to review a land transaction and make a decision?

VGLM aims to provide a decision on:

- a sale, purchase, or leasing land transaction within 10 business days of receiving all the necessary information.
- making an offer of compensation under the LAC Act or Part 5 of the PE Act within seven business days of receiving all the necessary information.

If VGLM finds a submission does not include all the required information, it will contact the agency as soon as possible, to ask for any additional information or documents it needs. VGLM will place an agency's request on hold until all the necessary information is provided.

#### Agency tip:

An early engagement meeting with VGLM can help reduce the time it takes for VGLM to review an agency request for approval to undertake a land transaction. You can find more information about early engagement meetings below.

### **Does an agency need to comply with the policy if the land transaction does not require VGLM approval?**

Unless an exemption applies, land transactions that do not require VGLM approval must still meet the requirements in the policy. An agency must maintain records of all land transactions that show the transaction meets the requirements of the policy and satisfies the conditions of any exemption claimed and provide these to VGLM on request.

VGLM may also conduct compliance audits on land transactions that do not require VGLM approval to check whether an agency is complying with the requirements in the policy.

You can find more information on compliance audits below.

### **Compliance assurance and supporting agencies**

VGLM conducts a range of other education and compliance activities to help ensure that agencies understand their obligations and provide the government with assurance they are meeting the requirements in the policy.

More information on each of these activities is provided below.

#### **Advice and guidance**

VGLM provides advice and guidance to agencies to assist them in meeting the policy requirements when undertaking land transactions.

VGLM may deliver this assistance through education campaigns, engagement and advice, and guidance material or in response to a request for advice from an agency.

#### **When should an agency ask VGLM for advice?**

If an agency is uncertain about how the policy applies or is proposing to engage in a large, complex and/or unique land transaction it needs to request advice from VGLM.

Agencies must seek advice from VGLM at the earliest point possible. This provides the best opportunity for VGLM to work with agencies to ensure the land transaction meets the requirements in the policy. Where the sale of land is through a multi-stage EOI or tender, VGLM engagement should occur before each critical milestone in the process, including:

- instructing VGV and obtaining valuations
- releasing the EOI, or registration of interest
- shortlisting potential purchasers, and
- awarding contracts and signing any variations to contracts.

### **How does an agency ask for policy advice from VGLM?**

An agency can make a request for policy advice by completing the policy advice form using VGLM Online.

However, before requesting policy advice, agencies are encouraged to discuss the proposed land transaction with VGLM. Early engagement can help VGLM ensure it provides the right type of advice.

### **Maintaining probity at valuation conferences, dispute resolution conferences, mediations and compulsory conferences.**

VGLM attends certain types of meetings to ensure participants are following appropriate probity protocols and procedures. This includes valuation conferences, which are meetings between a VGV valuer and check valuer, and dispute resolution conferences which are meetings between a VGV valuer and a valuer appointed by a private party. VGLM also attends mediations and compulsory conferences where the Supreme Court or VCAT order parties to meet to try and reach an agreement on the amount of compensation payable under the LAC Act or Part 5 of the PE Act.

In these meetings, VGLM supports compliance with the policy by:

- helping to maintain probity by ensuring participants act with integrity, accountability, and impartiality
- providing advice on the requirements in the policy, and
- in dispute resolution conferences, mediations or compulsory conferences, approving an offer including any offer of additional compensation to settle a claim for compensation under the LAC Act or Part 5 of the PE Act.

As VGLM plays a probity role, it must attend all valuation conferences, dispute resolution conferences, mediations and compulsory conferences, even if the value of the land transaction is below the VGLM approval threshold.

**Agency tip:**

Brief VGLM ahead of time if you think you will need approval to make an offer of compensation at a dispute resolution conference, compulsory conference or mediation. When you brief VGLM we will explain what information and documents are needed to help VGLM prepare.

You can find more information on VGLM's role at valuation conferences, dispute resolution conferences, mediations and compulsory conferences in [Part 2 Section 5](#) and [Part 4 Section 3](#).

**Compliance audits**

VGLM may audit the land transaction records of an agency to monitor its compliance with the policy requirements. Audits may be conducted for different purposes, including:

- as a periodic assurance tool
- to assess any potential breaches of the policy, or
- better understand an issue that may have been voluntarily disclosed by an agency to VGLM.

This means that in conducting an audit, VGLM may examine a specific land transaction or multiple land transactions that meet specific criteria.

VGLM will notify agencies if they are subject to a compliance audit and how to prepare for an audit. An agency is required to maintain records of land transactions and must make these documents available to VGLM for the purposes of an audit.

VGLM will advise an agency of the outcome of an audit in writing, generally within 30 days of finalising the audit. More information on what happens if non-compliance is identified, is provided later in this section.

**Assurance reporting**

VGLM is required to deliver an annual assurance report to the Minister for Planning. The assurance report will provide a list of transactions reviewed by VGLM in the previous 12-month period. The following details will be provided for each transaction:

- the name of the agency that conducted the land transaction
- the type of land transaction
- VGLM reference number
- the date of VGLM's decision, and
- the final land transaction value approved by VGLM.

The report will also provide the Minister for Planning with details of any non-compliance identified by VGLM through the year and identify any mitigation strategies developed to address issues or risks identified.

**What happens if VGLM identifies non-compliance with the requirements in the policy?**

VGLM may become aware of non-compliance in conducting its compliance and support activities or where an agency makes a voluntary disclosure.

In some circumstances it will be too late to correct the transaction, but VGLM can advise on options for managing the issue, and work with agencies to put strategies in place to avoid non-compliance in the future.

VGLM is required to include details of non-compliance in its annual assurance report to the Minister for Planning. If an agency discloses non-compliance to VGLM, it will be reported as a voluntary disclosure rather than a detection.

## 5. Valuation requirements

This section explains how the valuation requirements in the policy operate

**Requirement 4:** Before undertaking a land transaction agencies must obtain a certified current market (or rental) valuation of the land from VGV, unless the transaction is between GG sector agencies based on the book value of the land.

**Requirement 5:** Agencies must not sell (grant a lease or an interest in) any land at a price, which is less than the current market (or rental) value of the land as determined by VGV unless the transaction is between GG sector agencies based on the book value of the land.

**Requirement 6:** Agencies must not purchase (acquire a lease or an interest in) any land at a price which is greater than the current market (or rental) value of the land as determined by VGV, unless the transaction is between GG sector agencies based on the book value of the land.

**Requirement 7:** Agencies must not offer an amount of market value compensation under the LAC Act or financial loss compensation under Part 5 of the PE Act that is more than the assessment of compensation determined by VGV, unless the matter has been referred to the Supreme Court or VCAT for determination.

### Background

Agencies must obtain and use a certified current market valuation from VGV when undertaking land transactions.

VGV is required to determine the value of land for all agency land transactions. It is the government's valuation authority and has strict processes and controls to ensure that valuations made are independent, transparent and correct.

Under the policy VGV's certified current market valuation must be obtained and used to establish the following:

- minimum price for the sale of land or an interest in land, or the minimum rent when granting a lease
- maximum price for the purchase of land or an interest in land, or the maximum rent when acquiring a lease
- maximum amount of compensation an agency can offer for market value under the LAC Act or financial loss under Part 5 of the PE Act.

As part of the process of obtaining a VGV valuation, agencies may also need to obtain a check valuation. You can find more information on when check valuations are required below.

In certain circumstances, streamlined valuation arrangements apply for transactions between agencies. This includes using a book valuation instead of a VGV valuation for transactions between GG sector agencies. You can find out more about these arrangements in [Part 4 Section 4](#).

### What is a certified current VGV market valuation?

To meet the policy's valuation requirements, a VGV valuation obtained and used by an agency must be a current market (or rental) value certified by VGV.

What these terms mean in the context of the policy is explained below.

### VGV valuation

A VGV valuation can be carried out by either:

- VGV, or
- a member of the VSP that provides independent valuation advice on behalf of VGV.

Where a member of the VSP conducts a VGV valuation, VGV will confirm the valuation by certifying it. You can find out more about how VGV certifies valuations below.

Agencies need to instruct VGV to undertake the valuation. VGV will decide whether this is done by VGV or a member of the VSP. To maintain the independence of the valuation process, agencies must not deal with VSP valuers directly.

## Certified

To meet the valuation requirements in the policy, VGV's valuation must be certified.

All valuations conducted directly by VGV are certified valuations. Where a VSP member conducts the valuation, VGV will certify that the valuation meets its standards in a form approved by VGV.

## Current

Unless a valuation is carried out at a fixed date, for example, to determine an amount of compensation under the LAC Act or Part 5 of the PE Act, a VGV valuation is only current for a specific period.

To meet the policy's valuation requirements VGV's valuation must be current when an agency undertakes a land transaction. To assist agencies in identifying whether a VGV market valuation is current, VGV will confirm the date of valuation and its period of currency when it issues the valuation report.

If the currency of a valuation expires before the land transaction is undertaken, an agency must seek updated valuation advice from VGV. VGV will decide whether it can extend the valuation or whether a valuation review is needed.

### Agency tip:

If the land transaction requires VGLM approval, you will need to make a submission to VGLM based on the updated valuation even if VGLM has previously approved the land transaction and there has been no change to the valuation. This is because VGLM approval is only valid for the period VGV's valuation is current.

You can find more information on different types of land transactions, including when an agency undertakes a land transaction under the policy in [Part 4](#).

## Is an agency required to obtain an updated check valuation when seeking updated valuation advice from VGV?

It is up to VGV to decide whether an updated check valuation is required when seeking an extension or valuation review. In making this decision, it will consider matters such as current market conditions and whether there have been changes to the nature and scope of the transaction, or land.

Therefore, unless VGV advises it is needed, there is no requirement to obtain an updated check valuation when an agency requests updated VGV valuation advice.

## Market valuation

VGV provides different forms of valuation advice to agencies. The table on the following page sets out the forms of certified advice that will meet the requirement for a market valuation in the policy, and any conditions an agency needs to meet to rely on that advice.

**Table 18: Certified VGV advice**

Transaction type	Advice type	Conditions
Sale or purchase of land or an interest in land	Certified market valuation made in accordance with the <i>Valuation of Land Act 1960</i> (VL Act).	
Sale or purchase of land or an interest in land	Certified assessment of the value of land based on a specific development outcome that the Victorian government requires.	An agency can demonstrate that Cabinet or a committee of Cabinet have endorsed the development outcome, or the responsible Minister or statutory officer that owns land has confirmed in writing that the development outcome supports an endorsed government policy.
Granting or acquiring a lease	Certified market rental valuation.	
Granting a lease	Certified pre-determined formula for calculating market rent such as a rate card.	An agency must have previously agreed with the VGV that it is appropriate to determine the market rent using a pre-determined formula.
Offer of market value compensation under the LAC Act or financial loss compensation under Part 5 of the PE Act.	Certified assessment of compensation made in accordance with the LAC Act.	

VGV also provides other forms of advice that do not qualify as a market valuation under the policy. The table on the following page sets out some of that advice, and why an agency may request it.

**Table 19: Other forms of VGV advice**

Advice	When an agency may need it
Estimate of value	<p>To inform agency decision-making about a proposed land transaction or project.</p> <p>Agencies are required to obtain and use the current market value of land as determined by the VGV when conducting a land transaction. Estimates do not satisfy the requirement. Therefore, an agency must not undertake a land transaction based on a valuation estimate.</p>
Restricted use value	To inform decision-makers when an agency is seeking an exemption to sell land at a price that is less than the current market value as determined by VGV because a restriction will be placed on title limiting the use of the land for public and community purposes.
Assessment of offer	To inform VGLM when an agency is seeking an exemption to sell land at a price that is less than the current market value of the land as determined by VGV after an unsuccessful public sales process.
Assessment of bid	<p>To inform decision-makers in assessing offers received as part of a multi-stage EOI or tender process for the sale of land.</p> <p>To inform VGLM when an agency is seeking an exemption to sell land at a price that is less than the current market value of the land as determined by VGV after a multi-stage EOI or tender.</p>
Independent advice from a member of the VSP in an allied discipline.	<p>To assist:</p> <ul style="list-style-type: none"> <li>• VGV in determining the current market value of land. Some common examples include town planning, engineering and quantity surveying advice, and</li> <li>• an agency in determining the appropriate amount of compensation payable for a loss attributable to disturbance under the LAC Act. Some common examples include a business valuation, loss of profits assessment, destruction value of a business, or relocation assessment.</li> </ul>

VGV has full discretion in deciding whether to provide an assessment of an offer or bid and may consider it is not appropriate to provide an assessment in certain circumstances.

### How do I obtain a VGV valuation?

There are instructions for obtaining a VGV valuation on the Land.Vic website: <https://www.land.vic.gov.au/valuations/valuations-for-government-land/request-a-government-land-valuation>

When an agency requests a valuation, it must provide details regarding the land and the proposed transaction. This includes:

- the proposed terms of the land transaction
- any proposed special conditions, including any incentives or rebates, or any obligation to reimburse costs
- details of any lease or licence
- copies of any expert reports, including advice relating to site suitability, contamination, cultural heritage, ecology, planning, engineering, traffic management, and building condition reports

- development plans and costs, and any related development agreement or contract
- if land is being compulsorily acquired under the LAC Act, the notice of acquisition, and
- if the valuation relates to a claim for financial loss compensation under Part 5 of the PE Act, documents relating to the event that triggered the claim, for example the contract of sale or the permit application and a copy of the decision refusing to grant the permit.

This information is requested because the terms and conditions of a transaction, and the status and attributes of the land can impact on the value of land.

If the valuation is to support a transaction between two agencies, the agencies must instruct VGV jointly.

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#### **Agency tip:**

When VGLM reviews a transaction, it checks that agencies have provided VGV with all the required information and that VGV has based its valuation on the proposed terms and conditions of the land transaction. If an agency has not provided VGV with all the required information, VGLM will ask the agency to obtain updated valuation advice from VGV. Ensuring that you have provided VGV with all the required information helps prevent any delay in the VGLM review process.

#### **Who can request a VGV valuation?**

Section 3 of the VL Act sets out who in an agency is authorised to request a valuation from VGV.

If an agency is unsure who can request a valuation, it should contact VGV.

#### **What is a check valuation?**

A check valuation is a second valuation designed to provide independent assurance that VGV's valuation is sound and properly made.

#### **When is a check valuation required?**

Only certain VGV valuations require a check valuation. The table on the following page outlines when an agency needs to instruct VGV to obtain a check valuation, and when it does not.

**Table 20: Check valuation requirement**

A check valuation is required when:	A check valuation is not required when:
<ul style="list-style-type: none"> <li>The value of the land is estimated to be \$1 million (GST exclusive) or more</li> </ul>	<ul style="list-style-type: none"> <li>The land transaction is between two agencies</li> <li>The land transaction is with a local council or the Commonwealth</li> <li>The value of the land or transaction is estimated to be less than \$1 million (GST exclusive).</li> </ul>

The VGV may choose to obtain a check valuation even where it may not otherwise be required. For example, a check valuation may be obtained if there is something about the land or transaction that is complex or unique.

#### **What if the valuation is for multiple parcels of land estimated to be valued at less than \$1 million individually, but the aggregate value is likely to be more than a \$1 million?**

If the valuation relates to lots in a staged public land release or development, an agency will need to obtain a check valuation before each stage.

In all other cases, an agency should consult VGV about whether a check valuation is necessary before requesting the valuation.

#### **How do I obtain a check valuation?**

A request for a check valuation is made through VGV, but a member of the VSP will conduct the check valuation. If an agency believes a check valuation is required, it must request a check valuation when requesting the VGV valuation.

VGV will commission both VGV's valuation and check valuation based on the same instructions, but the check valuer will provide its valuation directly to the agency.

The check valuation is not a certified current market valuation and cannot be relied upon by an agency to meet the valuation requirements in the policy.

#### **What happens when an agency receives VGV's valuation?**

An agency should carefully review VGV's valuation report and any check valuation report to ensure the valuations reflect the terms and conditions of the land transaction and the VGV and check valuer undertook the valuation on the same basis. If there are differences, an agency should contact VGV.

Where a VGV and check valuation have been obtained, an agency must also inform VGV if:

- the VGV valuation and check valuation vary by more than 10 per cent (using the VGV valuation as the measure), or
- the methodology used to value the land differs.

Sometimes a valuation report will provide individual valuations for multiple parcels of land that will be sold or purchased separately. In these circumstances, agencies must compare the VGV valuation and check valuation for each parcel of land and inform the VGV if any of the individual valuations vary by more than 10 per cent.

#### **What happens when an agency informs VGV there is a variance between the VGV valuation and the check valuation?**

VGV will consider the two valuations and the variances identified by an agency, to determine whether a valuation conference is required.

If there is a variance, but VGV considers a conference is unnecessary, it will inform an agency in writing. If the transaction requires VGLM approval, agencies will need to provide a copy of VGV's advice to VGLM.

#### **What is a valuation conference?**

A valuation conference is a meeting between valuers convened by VGV that provides the VGV valuer and check valuer an opportunity to discuss any material differences in opinion or approach to valuation advice provided to an agency.

VGV can also convene a valuation conference acting independently or at the request of VGLM. If VGLM requests a valuation conference it must be convened by VGV.

### Who attends a valuation conference?

VGV, any appointed VSP valuers, an agency representative and VGLM, must attend all valuation conferences.

The role of VGLM in a conference is to maintain probity by ensuring all participants act with integrity, accountability and impartiality and provide advice on the requirements in the policy if needed. VGLM must attend all conferences, even if the value of the land is below the VGLM approval threshold of \$1 million.

### What happens after a conference?

Both the VGV valuer and check valuer will consider all the matters discussed at the valuation conference and decide whether to review or confirm their valuation.

Agencies will receive written advice from both the VGV and check valuer after a valuation conference setting out their decision.

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### Agency tip:

If VGV convenes a valuation conference, you will need to provide VGLM with copies of the VGV and check valuation reports, together with advice from both valuers confirming the outcome of a conference. You should wait until you know the outcome of the conference before requesting VGLM approval to undertake the transaction.



### What happens when an agency is undertaking a land transaction with a private party, and their valuer disagrees with a VGV valuation?

When an agency is undertaking a land transaction with a private party, the private party may seek its own valuation advice. This is common where an agency is negotiating the purchase of land, or there is a disagreement about the amount of compensation offered under the LAC Act or Part 5 of the PE Act.

In these circumstances, VGV may agree to a dispute resolution conference, which will generally operate in the same way as a valuation conference.

VGV, any appointed VSP valuer, the private party's valuer, an agency representative and VGLM are required to attend a dispute resolution conference. In some circumstances, the private party and their legal advisers or other experts may also attend.

Like in valuation conferences the role of VGLM is to provide probity. Therefore, VGLM should be invited to all dispute resolution conferences, even if the value of the land is below VGLM's approval threshold of \$1 million (GST exclusive).

Following a dispute resolution conference, VGV will consider the matters discussed and decide whether to review or confirm their valuation. Agencies will receive written advice from VGV on the outcome.

### Conferences with other experts

Sometimes agencies appoint other experts to assist them determine matters related to a land transaction that do not relate to the value of land. For example, this may include business valuation or business relocation experts appointed to help agencies determine a fair and reasonable amount of compensation for loss attributable to disturbance under the LAC Act. These experts may be appointed through the VGV's VSP or directly through agency procurement processes. For probity, VGLM must attend any conferences held between an agency's and private party's expert(s) aimed at resolving the matters in dispute between the parties.

### Informal discussions and meetings

An independent valuation process is integral to ensuring land transactions undertaken by agencies are accountable and transparent.

Therefore, there must not be any informal discussions or meetings between valuers or an agency and valuers relating to a valuation.

### Can an agency disclose a VGV valuation report?

An agency may disclose a VGV valuation report where required to do so by law or for legal proceedings.

As valuation reports may contain information that is commercial in confidence, an agency must consult with VGV if it wishes to disclose a valuation report in any other circumstances.

### Are there any exemptions from the requirement to obtain a VGV valuation?

Unless the land transaction is an exempt transaction undertaken by a public university, or a leasing transaction that qualifies for an alternative valuation or agency-specific exemption, there are no exemptions from the requirement to obtain a VGV valuation before undertaking a land transaction.

In limited circumstances, there are some exemptions that may apply to allow an agency to undertake a land transaction at a price different from the VGV valuation. You can find out more about exemptions in [Part 3](#).

## 6. Land exchange

This section explains how the land exchange requirement in the policy operates

**Requirement 8: Agencies must not undertake a land transaction that involves the exchange of land.**

### Background

The price paid for the sale or purchase of land is generally a sum of money. However, under a land exchange, the price paid for land is (or is reduced by) the value of the land received in the exchange.

It is a requirement in the policy that an agency must not undertake a land transaction that involves the exchange of land. This is because the government does not receive any money that it can reinvest to deliver infrastructure and services to support the Victorian community when it undertakes this type of transaction.

### What is a land exchange?

A land exchange (sometimes called a land swap) is the exchange of land between parties. It includes arrangements where only land is exchanged, or there is an exchange of land and a payment to equalise the value.

### Are there any exemptions to the land exchange requirement?

Agencies can generally achieve an outcome similar to a land exchange, by selling and purchasing land in separate back-to-back transactions.

However, there may be circumstances where the benefits of a land exchange outweigh its impact on the revenue. Therefore, a process has been developed for agencies to seek approval to undertake a land exchange.

The type of approval required depends on the value of the agency's land included in the exchange, as follows:

- the land exchange must be approved by the Expenditure Review Committee (ERC) if VGV's market value of the land (or the book value, if the land exchange is between GG sector agencies) is \$5 million (GST exclusive) or more

- the land exchange must be approved by the Assistant Treasurer if VGV's market value of the land (or the book value, if the land exchange is between GG sector agencies) is less than \$5 million (GST exclusive), and
- if the land exchange was agreed to before 1 July 2018 the Assistant Treasurer may approve the exchange if it is not practicable to terminate the arrangement, regardless of the value of the land.

A land exchange may also be exempt if:

- legislation expressly allows an agency to undertake a land exchange, or
- Cabinet or committee of Cabinet has approved terms of a transaction that include a land exchange arrangement.

You can find more information about the exemptions that might apply to the land exchange requirement in [Part 3](#).

### If a land exchange is approved, do the other requirements in the policy apply?

A land exchange involves the transfer of land between parties. As explained in [Part 1](#), a transfer from one party to another is treated as a sale and purchase and considered a land transaction under the policy.

Therefore, if a land exchange is approved, it must comply with the other requirements in the policy, unless another exemption applies. That means agencies must obtain a VGV valuation and as part of the land exchange arrangement the agency must meet the dual requirements of:

- not selling land at a price that is less than the current market value of the land as determined by VGV, and
- not purchasing land at a price that is more than the current market value of the land determined by VGV.

In practice, if the current VGV market value of the land involved in the exchange is not equal, an additional payment may be required to ensure the valuation requirements in the policy are satisfied.

## 7. Public sales process

This section explains how the public sales process requirement in the policy operates

**Requirement 9:** Agencies must sell land using a public process, unless the land is being sold to another agency, a local council or the Commonwealth in accordance with the requirements of the FROR process in the landholding policy.

### Background

Unless an agency is selling land to another agency, local council or the Commonwealth in accordance with the requirements of the FROR process in the landholding policy, land is required to be sold using a public process.

A public process provides any interested party with a fair and reasonable opportunity to purchase the land. It can also result in multiple buyers competing to purchase land, which helps to ensure agencies achieve the highest possible price.

For these reasons, the public process requirement is integral to ensuring that the land transactions undertaken by agencies are accountable and transparent.

### What is a public process?

The critical requirements of a public process for the sale of land are:

- a public marketing campaign is held to sell the land using channels that potential purchasers can easily access
- there has been a reasonable marketing period
- unless VGLM has approved a limited tender or EOI, the selected method of sale gives anyone the opportunity to purchase the land.

To meet the public sale process requirement, land cannot be sold before auction or before an EOI or tender closes.

### What methods of sale will meet the public process requirement?

There are many methods of sale that may meet the requirements of a public sales process. In all cases, the method of sale selected must meet the critical requirements of a public process set out previously, and result in selling the land at a price that is not less than the current market value of the land as determined by VGV.

Agencies should rely on the advice of a licensed real estate agent, or where selling land is the core business of the agency, an expert in that agency, to determine the most appropriate method for each land sale.

Some of the most common sales methods and when they are likely to be used are listed in the table below.

**Table 21: Common methods of sale**

Sale Method	What is it?	When should it be used?
Public auction	A public sale conducted by a licensed real estate agent acting as an auctioneer, at a specific place, time and date after a public marketing campaign.	Where there is likely to be demand for the land and competition amongst potential purchasers.
Publicly listed sale	The land is publicly advertised for sale, and purchasers make their offers directly to a licensed real estate agent. This includes different sales methods used by licensed real estate agents including sale by set date, EOI, and private sale.	<ul style="list-style-type: none"> <li>for the sale of land that failed to meet its reserve price and passed in after an auction</li> <li>for significant public land releases</li> <li>for off the plan sales</li> <li>in circumstances where an auction may not be possible</li> </ul>
Direct tender or EOI	Tender or EOI is run by an agency in accordance with government and agency specific procurement policies. Offers are accepted from prospective buyers and considered at a pre-specified date by an evaluation panel.	<ul style="list-style-type: none"> <li>for land with a limited market, because of its value or unique features</li> <li>for the sale of medium to large, or strategically located, land</li> </ul>
Multi-stage EOI or tender	An agency runs a multi-stage EOI or tender. It involves an initial approach to the market to identify parties who may be interested in, and capable of delivering an outcome on a parcel of land through an EOI or registration of interest. This is followed by one or more subsequent approaches requesting proposals from the parties who have demonstrated they may be capable of delivering the required outcome.	<ul style="list-style-type: none"> <li>for the sale of large or strategically located land with significant development potential or significant development barriers</li> <li>where an agency is seeking to expose land to the market to achieve specific development options</li> <li>where an agency is seeking to achieve a specific development outcome</li> </ul>

### Can a limited EOI or tender process meet the requirement for selling land using a public process?

A limited tender or EOI will only be allowed in special circumstances, where an agency can demonstrate to VGLM that the process still provides a sufficient level of competition and will not unfairly exclude potential buyers.

Examples of circumstances where a limited EOI or tender may meet the public process requirement include:

- where the government is seeking to achieve a policy outcome by selling the land and that outcome can only be provided by specific types of entities, or
- where the number of potential buyers is limited because the land is landlocked.

An agency must not proceed with a limited EOI or tender until VGLM has confirmed it satisfies the requirements of a public process.

To seek endorsement for a limited EOI or tender process, an agency will need to submit a policy advice form using VGLM Online documenting the proposed process and indicating the circumstances and conditions which justify using a limited EOI or tender.

Agencies considering selling land using a limited EOI or tender are encouraged to request an early engagement meeting with VGLM.

### What methods of sale do not meet the public process requirement?

Negotiating directly with a buyer to sell or transfer land without publicly advertising it for sale does not satisfy the public process requirement in the policy. Therefore, unless the sale results from a public process, or an exemption applies, an agency must not:

- sell land to an adjoining owner
- accept a market-led proposal that involves transferring land to a private party in exchange for building infrastructure or providing services that benefit the community on the land
- enter an option agreement, agreeing to sell land within a certain period and/or on specific terms and conditions
- agree to exchange land with another party, or
- agree to transfer land to another party as a gift.

### Agency tip:

Agencies are required to assess market led proposals in accordance with the Market-led Proposals Guidelines that DTF administers. If a market-led proposal involves a land transaction, agencies are encouraged to engage early with VGLM to discuss how the requirements in the policy apply to any proposal.

### Buy-back clauses

The requirement to sell land using a public process means an agency cannot enter a contract of sale to purchase land that gives the seller the right to buy back the land if the agency wishes to sell it in the future. This is because if the right is exercised it would require the agency to sell land without a public process.

### Does the public process requirement apply to the sale of easements or other interests in land?

In contrast to the sale of land, the public process requirement does not apply to the sale of an interest in land, such as an easement.

However, all the other policy requirements apply, including obtaining a VGV valuation, seeking VGLM approval if the value of the interest is above the VGLM approval threshold, and not selling the interest in land at a price that is less than the current market value of the land as determined by VGV.

### Does the public process requirement apply to the sale of land to other agencies, local councils and the Commonwealth?

Under the landholding policy, before land is listed for public sale, an agency must first offer to sell it to all other agencies, local councils and the Commonwealth. This process is known as FROR.

The public sales process requirement in the policy does not apply where land is being sold to another agency, local council or the Commonwealth in accordance with the requirements of the FROR process in the landholding policy. This includes

circumstances where an agency has been granted an exemption from the FROR process under the landholding policy.

You can find more information about the FROR process in the landholding policy. There is also more information on government to government transactions in [Part 4 Section 4](#).

In all other circumstances, agencies must comply with the public sales process in the policy unless an exemption applies.

### Are there any exemptions from the public sales process requirement?

In limited circumstances an agency may qualify for an exemption from the public sales process requirement.

For quick reference, the table below lists the exemptions that may apply to the public sales process requirement, subject to an agency satisfying the conditions for the exemption. You can find more detailed information on each of these exemptions later in [Part 3](#).

**Table 22: Exemptions from the public sales process requirement**

Exemption	When does it apply?
Cabinet	Cabinet or a committee of Cabinet has approved the sale of land without a public process
Minister for Planning	The Minister for Planning has approved the sale of land without a public process
Land exchange approval	The ERC or Assistant Treasurer has approved entering into a land exchange arrangement
Legislation	A legislative provision expressly permits an agency to sell land without a public process
Recognition and Settlement Agreement	A Recognition and Settlement Agreement under the <i>Traditional Owner Settlement Act 2010</i> provides for the transfer of Crown land to a Traditional Owner group entity.
Rented residence	An agency is selling a rented residence to a renter under a policy of the agency
Surplus railway land	An agency is selling surplus railway land to an existing lessee
Public universities	The land transaction is being undertaken by a public university and it is not one of the transaction types expressly excluded from the exemption in <a href="#">Part 3 Section 3</a>

## 8. Sale of land with a public land zone

This section explains how the public land zone requirement in the policy operates

**Requirement 10:** Agencies must not offer land with a public land zone for sale, unless the land is being sold to another agency that can own public zoned land, a local council, or the Commonwealth.

### Background

Land zones guide the use and development of land in Victoria. A zone sets expectations about what land use and development activity is or may be acceptable on a parcel of land. Each zone broadly deals with a predominant land use theme, such as residential, commercial, industrial or public land uses.

A planning scheme may only include land in a public land zone if it is Crown land or land owned, vested in or controlled by a Minister, an agency that can own public land zone land, or a local council.

The requirement that agencies must not offer land with a public land zone for sale ensures agencies do not transfer public use zone land into private ownership or an agency that is not entitled to own public use zone land. The requirement does not apply if an agency is selling land to another agency or local council that can own public zone land or the Commonwealth.

### What is a public land zone?

A public land zone is any one of the public land zones listed in the table below:

**Table 23: List of public land zones**

Public Land Zone	Description
Public use zone	Recognises the use of land for a public purpose and prescribes different categories of public use. This is the main zone for public land used for utility or community service provision.
Public park and recreation zone	The main zone used for public open space and public recreation areas.
Public conservation and recreation zone	The primary intention of this zone is to conserve and protect the natural environment or resources. It also allows associated educational activities and resource-based uses.
Road zone	Enables the designation of declared roads and other important roads or proposed roads on the planning scheme map.

## What is the process for changing a public land zone to meet the requirement?

If an agency wants to sell land that has a public land zone, it must put in place the most appropriate planning controls prior to offering it for sale.

Agencies that require planning scheme changes for their land need to apply for assistance through the Government Land Planning Service.

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### Agency tip:

Agencies can find out more about the Government Land Planning Service at: <https://www.planning.vic.gov.au/policy-and-strategy/government-land-planning-service>

## Are there any circumstances when an agency can offer land for sale with a public land zone?

In limited circumstances, the Minister for Planning, Cabinet, or a committee of Cabinet may grant an exemption from the public land zone requirement. The exemption only allows land to be offered for sale with a public land zone. Agencies will still need to ensure that appropriate planning controls are in place before settlement, and that the contract or development agreement contains conditions that establish the party responsible for rezoning the land. An exemption will only be granted in limited circumstances, for example where an agency needs to expose land to the market to determine potential development outcomes.

## Does the public land zone requirement apply to the sale of land to other agencies, local councils and the Commonwealth?

The public land zone requirement in the policy does not apply to the sale of land to another agency that can own public zoned land, a local council, or the Commonwealth. This is because both agencies and local councils are generally permitted to own public zone land, and land owned by the Commonwealth does not fall within the Victorian planning scheme.

To ensure planning provisions relating to Victorian government land remain up to date, if you are selling public zone land to another agency or local council for a different public use, it must be a condition of sale that the purchaser commences arrangements for the planning scheme to be changed to reflect the new use within 12 months.

Unless another exemption applies, the sale of public zoned land to another agency, local council or the Commonwealth will be required to comply with all the other requirements in the policy including that the land must be sold at a price not less than its current market valuation as determined by VGV, or if the transaction is between two GG sector agencies, based on its book value.

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### Agency tip:

If you are selling land with a public land zone to another agency or local council for a different public use, remember to include a clause in the contract or agreement that deals with updating the planning scheme to reflect the new public use.

## Are there any exemptions from the public land zone requirement in the policy?

Cabinet, a committee of Cabinet and the Minister for Planning can approve offering land with a public land zone for sale in limited circumstances. You can find more information on these exemptions in [Part 3](#).

## 9. Lease with option to purchase

This section explains how the lease with option to purchase requirement in the policy operates

**Requirement 11:** Agencies must not grant a lease of land that contains an option to purchase unless it is granting the option to another agency.

### Background

This requirement operates to prevent agencies from contravening the public sales process requirement by entering into a lease that creates a legal obligation to sell land directly to another person through an option.

### What is a lease with an option to purchase?

A lease with an option to purchase (sometimes called a lease option) is a lease agreement that gives the lessee the option to purchase the leased land, during the lease or at the end of the lease. If a lessee exercises the option to purchase the land, the lessor must sell the land to the lessee.

### Does this requirement apply where the option is being granted to another agency?

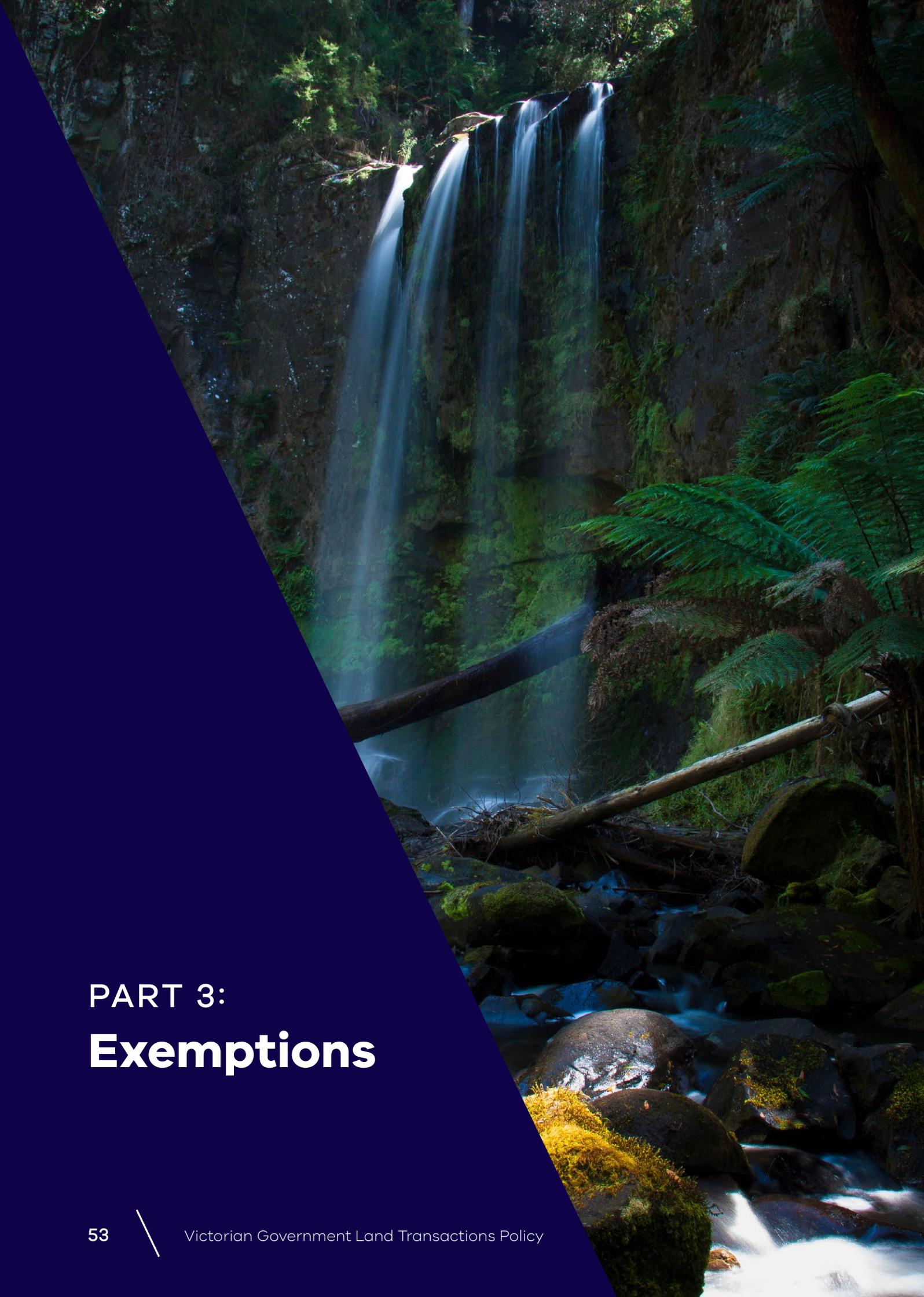
The requirement does not apply where the option is being granted to another agency (that is a Victorian government agency, not a local council or the Commonwealth). However, the other requirements in the policy continue to apply. This means that if the option is exercised, the land must be sold at a price that is no less than the current market value of the land as determined by VGV, or the book value of the land if the transaction is between GG sector agencies.

Agencies also need to comply with other government policies before entering into a lease that grants an option to purchase to another agency, including the FROR process in the landholding policy.

### Are there any exemptions to the lease with option to purchase requirement?

A lease with an option to purchase may be exempt if Cabinet, a committee of Cabinet or the Minister for Planning has approved terms in a lease that include an option to purchase, or if legislation expressly allows an agency to grant a lease with an option to purchase.

You can find more information on exemptions in [Part 3](#).



PART 3:  
**Exemptions**

# 1. Exemptions

This section sets out the exemptions to the land transaction requirements in the policy

## Background

Agencies must comply with the requirements in the policy unless an exemption applies. The policy establishes 15 exemptions that may exempt an agency from complying with one or more of the land transaction requirements in the policy in specific circumstances.

The exemptions are intended to ensure the land transaction requirements are consistent with relevant legislation and government policy and only apply where there are strong grounds to support a departure from the policy requirements.

## How do the exemptions in the policy operate?

Undertaking a land transaction that does not comply with the policy requirements is only allowed if an exemption applies. The exemptions in the policy relate to specific land transaction requirements and do not generally exempt an agency from complying with the policy completely.

The exemptions in the policy fall into two categories; exemptions that can be granted by a decision-maker and exemptions that apply to certain types of land transactions.

## What are the exemptions to the land transaction requirements?

The 15 exemptions to the land transaction requirements are listed in the table on the following page. Each exemption has different eligibility conditions and applies to different land transaction requirements. There is a full explanation of each exemption later in [Part 3](#).

**Table 24: List of exemptions to the land transaction requirements**

Exemption Category	Exemption
Decision-maker exemptions	1. Cabinet or committee of Cabinet approval
	2. Minister for Planning approval
	3. Assistant Treasurer approval
	4. VGLM approval – Purchase in excess of VGV valuation
	5. VGLM approval - Sale or lease after an unsuccessful public process
	6. ERC or Assistant Treasurer approval - Land exchange
	7. Responsible Minister approval - Lease terms
	8. Responsible Minister or statutory officer approval - Lease for public and community purposes
Transaction specific exemptions	9. Legislation
	10. Recognition and Settlement Agreement
	11. Sale of residence to renter under a residential rental agreement
	12. Surplus railway land
	13. Public universities
	14. Alternative valuation
	15. Agency-specific leasing exemptions

## VGLM approval requirement

Exemptions apply to individual requirements within the policy. They do not exempt an agency from complying with the entire policy. Therefore, when an agency is relying on an exemption, it must still seek VGLM approval if the transaction meets the VGLM approval threshold. When an exemption is claimed VGLM's role is to ensure the:

- agency has met all the conditions of the exemption. Here, VGLM merely reviews the evidence provided by the agency to support the exemption(s) and ensures the exemption conditions are satisfied. VGLM does not examine the merits of any exemption, unless the exemption is being granted by VGLM, or the Minister of Planning, on the advice of VGLM, and
- remaining requirements in the policy to which an exemption doesn't apply, are met.

The only exception is when an agency qualifies for the public university or agency-specific leasing

exemptions. When either of these exemptions apply the agency is also exempt from the requirement for VGLM approval.

## Record keeping

An agency is required to maintain records of land transactions and must make these available to VGLM for a compliance audit. This includes maintaining records to show it has satisfied the requirements for any exemption relied on. The record keeping obligation applies, regardless of whether the land transaction requires VGLM approval.

## Where can I find out more about the exemptions to the land transaction requirements?

The rest of [Part 3](#) provides a detailed explanation of each exemption. It deals first with exemptions that can be granted by a decision-maker and then the transaction specific exemptions.

## 2. Exemptions granted by a decision-maker

This section explains the exemptions in the policy that can be granted by a decision-maker and how they operate

### Background

In some circumstances, Cabinet, a Minister, VGLM or other decision-makers may grant an exemption from one or more of the land transaction requirements in the policy. Each exemption is limited to specific land transaction requirements, and some decision-makers can only grant an exemption if the land transaction meets certain conditions.

A decision-maker cannot grant an exemption from the accountability, transparency and legislation, due diligence, VGV valuation or VGLM approval requirements.

The next section explains each of the exemptions that can be granted by a decision-maker under the policy, including:

- when each exemption applies
- what requirements in the policy each exemption applies to, and
- what an agency needs to do to obtain the exemption.

### Exemption 1: Cabinet or committee of Cabinet approval

#### Background

Cabinet is the means through which the government makes decisions on policy, the legislative program and administrative issues. It consists of the Premier and all the Ministers.

Cabinet has a committee structure, which allows for more detailed consideration of areas such as economic development, social development and the environment by Cabinet committees. In some circumstances, Cabinet will delegate certain decision-making powers to its committees.

A decision supporting the Cabinet approval exemption can be made by Cabinet or a committee of Cabinet. Under the policy, a committee of Cabinet also includes the Land Utilisation Working Group (LUWG). The LUWG is a group of Ministers formed to make decisions about the utilisation of government land and reports to ERC.

#### When does the Cabinet or committee of Cabinet exemption apply?

This exemption applies where Cabinet or a committee of Cabinet has specifically approved one or more of the following:

- the sale of land without a public process,
- terms of a transaction that do not comply with requirements of the policy, including any of the following:
  - selling land (or an interest in land) or granting a lease at a price, which is less than the current market (or rental) value as determined by VGV
  - purchasing land (or an interest in land) or acquiring a lease at a price, that is more than the current market (or rental) value as determined by the VGV
  - permitting a land exchange
  - permitting a lease with an option to purchase to a private party
- offering land for sale with a public land zone.

#### Which land transaction requirements are subject to the exemption?

The exemption applies to the requirements related directly to the matters that Cabinet or a committee of Cabinet can approve under the exemption. The exemption does not apply more broadly to allow Cabinet or a committee of Cabinet to exempt an agency from other requirements, including VGV valuation and VGLM approval requirements.

For quick reference, the policy requirements that Cabinet or a committee of Cabinet can exempt an agency from complying with are identified in the table below.

**Table 25: Land transaction requirements that may qualify for the Cabinet or committee of Cabinet exemption**

Accountability, transparency and legislation	
Due diligence	
VGLM approval	
VGX valuation	
Sale or lease price	●
Purchase or lease price	●
Offer of compensation	
Land exchange	●
Sale by public process	●
Public land zone	●
Lease with option to purchase	●

### How can an agency obtain a Cabinet exemption?

Cabinet exemptions are generally reserved for matters of state significance. An agency should get advice from the Cabinet Services area in its agency or portfolio department if it wishes to apply for a Cabinet exemption.

If the transaction requires VGLM approval, VGLM will check that the exemption applies to any part of the transaction that does not comply with the requirements in the policy. To demonstrate that an agency has a Cabinet exemption, it will need to provide VGLM with an extract of the Cabinet submission that recommends an exemption from the land transaction requirement(s) under the policy and minutes of the decision of Cabinet or the committee of Cabinet.

It is not enough for Cabinet, or a committee of Cabinet to approve the land transaction. To qualify for the exemption, Cabinet or a committee of Cabinet, must expressly grant an exemption from the policy requirement(s) and approve each part of the transaction that does not comply with the policy.

### Exemption 2: Minister for Planning approval

#### Background

The Minister for Planning is responsible for the policy and can approve an exemption from the land transaction requirements in limited circumstances on the advice of VGLM.

#### When does the Minister for Planning approval exemption apply?

This exemption applies when, on the advice of VGLM, the Minister for Planning has approved one or more of the following:

- the sale of land without a public process
- terms of a transaction that do not comply with the requirements of the policy (excluding terms allowing the sale of land at a price less than the current market value of the land as determined by VGX or a land exchange), and
- offering land for sale with a public land zone.

### Which land requirements are subject to the exemption?

The exemption applies to the requirements related directly to the matters that the Minister for Planning can approve under the exemption on the advice of VGLM. The exemption does not apply more broadly to allow the Minister for Planning to exempt an agency from other requirements, including the VGV valuation and VGLM approval requirements.

For quick reference, the policy requirements that the Minister for Planning can exempt an agency from complying with are identified in the table below.

**Table 26: Land transaction requirements that may qualify for the Minister for Planning exemption**

Accountability, transparency and legislation	
Due diligence	
VGLM approval	
VGV valuation	
Lease price	●
Purchase or lease price	●
Offer of compensation	
Land exchange	
Sale by public process	●
Public land zone	●
Lease with option to purchase	●

### How can an agency obtain a Minister for Planning exemption?

An agency will need to request an exemption using the Minister for Planning exemption form on VGLM Online. To apply for an exemption, agencies must address the grounds that the Minister for Planning has regard to in approving an exemption. You can find more information on the grounds an agency must address on the following page.

An agency seeking an exemption from the Minister for Planning will need to request one, regardless of the value of the land or transaction. If the transaction also requires VGLM approval because it exceeds the VGLM approval threshold, there is no need to lodge a separate approval request. The VGLM will treat the request for an exemption as a request for approval and advise the agency of the outcome of the approval and exemption request in the same letter.

#### Agency tip:

Agencies are responsible for establishing that there are grounds for an exemption. Therefore, when requesting an exemption you must describe the proposed transaction, address the grounds that the Minister for Planning has regard to in approving an exemption and provide any other facts or information that may support an exemption. VGLM also recommends you request an early engagement meeting with us to ensure you have all the necessary documents and information before requesting a Minister for Planning exemption.

**What factors will the Minister for Planning consider when determining whether to approve an exemption?**

The Minister for Planning will consider a range of factors when deciding whether to approve an exemption on the advice of VGLM. The factors considered will depend on the relevant facts and circumstances of the land transaction and the exemption requested. Some of the key factors the Minister for Planning may have regard to are set out in the table below.

**Table 27: Minister for Planning exemption considerations**

Consideration	The Minister for Planning will consider whether an exemption:
Logical	<p>Will help the government achieve a logical and practical outcome.</p> <p>Examples may include:</p> <ul style="list-style-type: none"> <li>• where the sale of the land to an adjoining owner without a public process is the only practical outcome because the land is landlocked and/or undevelopable as a single parcel.</li> <li>• offering land with a public land zone for sale to expose land to the market to determine potential development outcomes.</li> </ul>
No advantage	Does not generate a financial advantage or another benefit that may be unfair.
Equitable	<p>Will produce an outcome that is fair and impartial.</p> <p>Agencies must demonstrate decisions have been made based on objective criteria, free from any conflict of interest or bias.</p> <p>In cases where the exemption relates to the sale of land and there is more than one potential purchaser, an agency must demonstrate that all purchasers were provided an equal opportunity to purchase the land on the same terms.</p>
Transparent	<p>Is supported by a transparent process.</p> <p>Agencies must demonstrate an open decision-making process supported by records about the issues considered in applying for the exemption, the weight given to the evidence and the reasons for making the decision.</p>
Accountability	<p>Is supported by:</p> <ul style="list-style-type: none"> <li>• a decision-maker in the agency who has been provided with the information required to make a well-informed decision based on available facts, and supporting information, and</li> <li>• expert advice that may include legal, planning or surveying advice. If an agency is seeking approval to offer land with a public land zone for sale it must show it has consulted with the Government Land Planning Service, and provide information about the rezoning process, including planning proposals and timeframes.</li> </ul>
Declared policy	Supports a publicly-stated government initiative, strategy, policy or development outcome and will result in material financial, economic, social or other community benefits.

### Can the Minister for Planning approve the sale of land at a price that is less than the current market value of the land as determined by VGV, or a land exchange arrangement?

No, different exemptions apply in these circumstances. You can find out more about the other exemptions that may be available later in Part 3.

#### Delegation of decision-making powers

Under the policy, the Minister for Planning may grant an agency an exemption from complying with specific requirements in the policy acting on the advice of VGLM.

The Minister for Planning may delegate the power to approve an exemption in the following circumstances:

- to the Minister for Energy, Environment and Climate Change, where there may be a potential conflict of interest (real or perceived). This may include circumstances where the Minister for Planning is a party to the land transaction or holds another portfolio related to the transaction.
- To VGLM, in relation to the sale of low-value land without a public process to an adjoining owner where selling the land to the adjoining owner is the only practical outcome. This may include circumstances where the land is landlocked or the only way to use and/or develop the land is to consolidate it with an adjoining land parcel.

#### Delegation to VGLM

The delegation will have a value limit, and may be granted, varied or revoked by the Minister for Planning at any time.

When a delegation is issued, it does not affect the decision-making power of the Minister for Planning. Therefore, VGLM may still refer unique or complex exemption requests to the Minister for Planning for decision, even if they fall within the scope of VGLM's delegation.

### Exemption 3: Assistant Treasurer approval

#### Background

The Assistant Treasurer is responsible for financial reporting and accountability and can approve selling land, or an interest in land, at a price which is less than the current market value of the land as determined by VGV in exceptional circumstances.

#### When does the Assistant Treasurer exemption apply?

The exemption applies, when, on the advice of DTF, the Assistant Treasurer approves the sale of land, or an interest in land, at a price which is less than the current market value of the land as determined by VGV.

The Assistant Treasurer may approve the sale of land to another agency, local council, or the Commonwealth where they intend to use the land for a public or community purpose that outweighs the loss to the revenue, and the sale is:

- at a price that is no less than the restricted use value of the land as determined by VGV, and
- on the condition that a restriction is imposed on title that limits the land use to public and community purposes.

The restriction on title ensures that any future change in the use of the land requires the Assistant Treasurer's consent. This provides an opportunity for the government to recover the difference between the restricted use value of the land and its market value as a condition of removing the restriction.

DTF will advise agencies on how the restriction(s) will be placed on title. However, for freehold land, it may require the surrender of the land to the Crown, so the freehold title for the land can be regranted with a restriction limiting the use of the land for public and community purposes.

The Assistant Treasurer may also consider approving an exemption in other exceptional circumstances. If an agency thinks it has reasonable grounds to support an exemption, it should contact DTF for further advice.

### Which land transaction requirements are subject to the exemption?

The exemption is limited to the requirement that agencies must not sell land, or an interest in land, at a price that is less than the current market value of the land as determined by VGV.

If an exemption is approved, the transaction must comply with the other requirements in the policy unless another exemption applies.

### How does an agency request approval of an exemption from the Assistant Treasurer?

The Assistant Treasurer can only approve an exemption on the advice of DTF. Therefore, agencies will need to contact DTF to discuss the process for applying for this exemption.

DTF will only consider an exemption request, if an agency can show that the responsible Minister or statutory officer that owns the land, has approved seeking an exemption. The agency must show the decision-maker has taken into account all relevant considerations, including the risks and benefits of the transaction, and any estimated loss of revenue based on a VGV valuation.

### Exemption 4: VGLM approval – Purchase in excess of VGV valuation

VGLM administers the policy and, in limited circumstances, can approve the purchase of land for an amount above VGV's valuation.

#### When does the VGLM exemption apply?

The exemption will apply when VGLM approves the purchase of land for an amount above VGV's valuation in special circumstances where the compulsory acquisition process can't be used or is not available, and:

- after obtaining VGLM approval (if required), an agency has been unable to negotiate the purchase of a strategically important parcel of land at the current market value of the land as determined by VGV, or
- an agency has invited VGLM and VGV to attend an auction where it intends to purchase a strategically important parcel of land and during the auction VGLM approves the purchase of the land for an amount that is above the current market value as determined by VGV.

The exemption only applies in special circumstances. Agencies are responsible for demonstrating to VGLM that special circumstances exist based on the relevant facts and circumstances supported by clear evidence.



**Agency tip:**

You can find out more about the evidence required to support a VGLM exemption in the [Resources section on VGLM Online](#).

**Which land transaction requirements are subject to the VGLM exemption?**

The exemption is limited to the requirement that agencies must not purchase land or an interest in land for an amount that is more than the current market value of the land as determined by VGV.

If an exemption is approved, the transaction must comply with the other requirements in the policy unless another exemption applies.

**How can an agency obtain a VGLM exemption?**

The process for applying for an exemption will be different depending on whether an agency is seeking approval to purchase land for an amount above VGV's valuation through a negotiated purchase or at auction. There is more information on the application process for each method of purchase in the following sections.

Agencies are required to comply with the requirements in the policy unless an exemption applies. Therefore, if an agency wants to rely on the VGLM exemption to purchase land at a price above VGV's current market valuation, it must obtain VGLM approval for the exemption even if the transaction is below the VGLM approval threshold.

**Negotiated purchase**

If an agency is seeking VGLM approval to purchase the land at a price which exceeds the VGV valuation, it will need to request an exemption using the Exemption Land Requirements exemption form on VGLM Online. The exemption request must include information and documents to demonstrate that special circumstances exist. An agency must not make an offer (formal or informal) to purchase land at above VGV's valuation before obtaining VGLM approval.

**Auction**

When an agency is purchasing land at auction, it must request approval for the purchase using the Purchase form on VGLM Online. If an agency also wants VGLM to attend the auction, it should advise VGLM in the form and set out the special circumstances that may support VGLM approving the purchase of land at above VGV's current market value at auction and also invite VGV to attend. If VGLM approves the purchase of the land for a price above VGV's valuation at auction, an agency will need to lodge another submission with VGLM using the Exemption Land Requirements form. This allows VGLM to provide an agency with formal advice it has approved the transaction and an exemption, for its records.

In circumstances where an agency seeks VGLM attendance at an auction and the transaction does not require VGLM approval because it is below the approval threshold, the agency should request an early engagement meeting with VGLM to discuss the special circumstances supporting VGLM attendance at the auction.



### **Exemption 5: VGLM approval – Sale or lease after unsuccessful public process**

In limited circumstances, VGLM may approve selling or granting a lease in land at a price that is less than the current market (or rental) value of land as determined by VGV where an attempt to sell or lease the land using a public process has been unsuccessful.

#### **When does the unsuccessful public process exemption apply?**

This exemption applies when VGLM approves selling or granting a lease over land at a price, which is less than the current market (or rental) value of the land as determined by VGV if an agency undertakes a public process that does not result in the land being sold or leased.

The VGLM can only grant an exemption if an agency can demonstrate:

- the agency conducted a public process to sell or grant a lease in land
- that the public process did not result in the land being sold or leased at a price that is not less than the current market (or rental) value of the land as determined by VGV. For example, this may include circumstances where land failed to meet its reserve price after an auction, tender or EOI, or land is not sold or leased, after a reasonable period on the market

- the agency has received an offer to purchase or acquire a lease in the land, for less than the current market (or rental) value of the land as determined by VGV, and
- VGV has provided the agency with written advice confirming that it would be reasonable to accept the amount offered, or another amount, to sell or grant a lease in the land.

#### **Which land transaction requirements are subject to the exemption?**

The exemption is limited to the requirement that agencies must not sell land (grant a lease or an interest in land) at a price that is less than the current market value as determined by VGV.

#### **How can an agency obtain a VGLM exemption?**

An agency will need to request an exemption using the Exemption Land Requirements form, or Leasing form in the case of a lease, on VGLM Online. In the form, agencies should provide evidence of an unsuccessful public process and attach the advice from VGV.

An agency seeking an exemption based on an unsuccessful public process will need to request one, regardless of the value of the land or transaction.



## Exemption 6: ERC or Assistant Treasurer approval - Land exchange

### Background

Under the policy, an agency must not undertake a land transaction that involves the exchange of land. This ensures that when an agency divests land, it receives a payment that is remitted to the Consolidated Fund and reinvested by the government to deliver infrastructure, support and services to the Victorian community.

However, there may be circumstances where the benefits of a land exchange outweigh its impact on the revenue. Therefore, the land exchange exemption provides a process for agencies to seek approval to undertake a land exchange transaction in limited circumstances.

### When does the land exchange exemption apply?

This exemption applies when an agency obtains approval from ERC or the Assistant Treasurer, confirming that it can undertake a transaction that involves the exchange of land.

The type of approval required depends on the value of the land in the exchange, as follows:

- If VGV's market value of the land (or the book value, if the land exchange is between GG sector agencies) is \$5 million or more, the land exchange must be approved by ERC
- if VGV's market value of the land (or the book value, if the land exchange is between GG sector agencies) is less than \$5 million, the transaction must be approved by the Assistant Treasurer, or
- If the land exchange was agreed before 1 July 2018 the Assistant Treasurer may approve the exchange if it is not practicable to terminate the arrangement, regardless of the value of the land.

To obtain approval an agency must demonstrate to the Assistant Treasurer or ERC (as required) that the benefits of the land exchange to the State, outweigh any loss, including the loss of sales revenue that would otherwise be returned to the Consolidated Fund.

### Which land transaction requirements are subject to the exemption?

The exemption is limited to the requirement that agencies must not undertake a land transaction that involves the exchange of land.

If a land exchange is approved, the arrangement must comply with the other requirements in the policy unless another exemption applies.

### How can an agency obtain a land exchange exemption?

The process for applying for an exemption will be different depending on the value of the land. If ERC approval is required, an agency should seek advice from the Cabinet Services area in their agency or portfolio department on the process for obtaining an exemption. If Assistant Treasurer approval is required, the agency's responsible Minister will need to write to the Assistant Treasurer requesting an exemption.

The VGLM will still need to approve any land transaction involving an approved land exchange arrangement where the value of the land or transaction exceeds the VGLM approval threshold.

## Exemption 7: Responsible Minister or statutory officer approval - Lease terms

The responsible Minister or statutory officer that owns the land, can approve lease terms that do not comply with the requirements in the policy.

### When does the responsible Minister exemption apply?

The exemption applies when the responsible Minister or statutory officer that owns the land, approves lease terms that result in an agency:

- granting a lease at a price that is less than the current market rental valuation as determined by VGV, or
- acquiring a lease at a price that is more than the current market rental valuation as determined by VGV.

To qualify for the exemption, an agency must demonstrate that the responsible Minister or statutory officer has approved an exemption, based on all relevant considerations, including the risks and benefits of the transaction and any estimated loss of revenue based on a VGV valuation.

### Which land transaction requirements are subject to the exemption?

The exemption is limited to the following policy requirements:

- agencies must not grant a lease in land for an amount that is less than the current rental value of the land as determined by VGV, and

- agencies must not acquire a lease in land for an amount that is more than the current rental value of the land as determined by VGV.

The exemption does not apply to any of the other land transaction requirements. This includes the requirement that agencies must not enter a lease giving an option to purchase to any party that is not another agency, as well as the VGV valuation and VGLM approval requirements.

### How can an agency obtain a responsible Minister exemption?

An agency will need to seek advice from Ministerial Services, or the office of the relevant statutory officer, in their agency or portfolio department, on how to brief the Minister or statutory officer seeking approval to lease land based on terms that do not comply with the requirements in the policy.

The VGLM will still need to approve any lease transaction that meets the requirements for VGLM approval. You can find out more about the circumstances where an agency requires approval before granting a lease in [Part 2 Section 4](#).

An agency can request approval to undertake the transaction using the Leasing form on VGLM Online. In the form, agencies must attach a copy of the responsible Minister or statutory officer's approval. As part of VGLM's review process, it will verify whether the exemption applies to the parts of the transaction that do not comply with the policy.



## Exemption 8: Responsible Minister or statutory officer - Lease for public and community purposes

In certain circumstances, the responsible Minister or statutory officer can grant an exemption from the requirement not to lease land at a price that is less than the current rental value of the land, where the land is being leased for a public or community purpose.

### When does the public and community purposes exemption apply?

This exemption applies if the following conditions are met:

- The lease is to a local council, not for profit, community organisation, or a service delivery body that delivers government policy priorities at less than commercial terms, and
- The lessee will wholly or predominately use the land for public and community purposes. This includes any one or more of the following:
  - community services
  - cultural services
  - recreational services
  - social engagement
  - public health and wellbeing services
  - protection of public land values, or
  - similar facilities, activities or services.
- The lease has an annual rent of \$10,000 (GST exclusive) or less, and
- The responsible Minister or statutory officer has approved granting the lease at a price, which is less than the VGV valuation on the basis that it represents best value for the community after weighing the potential revenue loss against the public and community benefits provided by the lessee.

The responsible Minister may delegate the responsibility for approving the exemption under the policy, to a department Secretary, administrative office head, governing board or individual appointment governing a public entity. Where a delegation is in place this should be documented in writing and available for VGLM review.

### Which land transaction requirements are subject to the exemption?

The public and community purposes exemption is limited to the requirement that agencies must not grant a lease in land at a price less than the current rental value of the land as determined by VGV.

An agency must still obtain a VGV valuation so that it can brief the decision-maker about the revenue loss to the state as a result of granting a lease at a price which is less than the VGV current rental value of the land.

### How can an agency obtain the lease for public and community purposes exemption?

The public and community purposes exemption will apply provided the lease meets the requirements of the exemption and the responsible Minister or statutory officer has approved the exemption.

The VGLM will still need to approve any lease transaction that meets the requirements for VGLM approval. An agency can request approval to undertake the transaction using the Leasing form on VGLM Online. In the form, agencies must attach supporting documents showing it is granting a lease to an eligible party for an eligible purpose, a copy of the approval granted by the responsible Minister or statutory officer, and a copy of the delegation of authority (if relevant). As part of VGLM's review process, it will confirm whether the exemption applies to the parts of the transaction that do not comply with the policy.

## 3. Transaction specific exemptions

This section explains how the transaction specific exemptions in the policy operate

### Background

In some circumstances specific kinds of transactions may be exempt from one or more of the land transaction requirements in the policy. Like the exemptions that can be granted by decision-makers, each exemption is generally limited to specific land transaction requirements. In addition, the land transaction may need to meet certain conditions to qualify for the exemption.

The next section explains each of the transaction specific exemptions under the policy, including:

- when each exemption applies
- what requirements in the policy each exemption applies to, and
- what an agency needs to do to obtain the exemption.

### Exemption 9: Legislation

Agencies are required to undertake land transactions following the land transaction requirements in the policy. However, the requirements in the policy do not replace any powers, functions or responsibilities an agency may have under legislation. Therefore, where a legislative provision expressly allows an agency to undertake a land transaction based on terms or at a price determined by the decision-maker, the transaction may be exempt from one or more policy requirements.

### When does the legislation exemption apply?

The exemption applies when a legislative provision confers powers and functions on a decision-maker that expressly allow one or more of the following:

- the sale of land without a public process
- terms of a transaction that do not comply with the requirements of the policy.

A legislative provision that simply authorises a decision-maker to sell, purchase or lease land does not satisfy the requirements of the exemption.

To qualify for the exemption, an agency must be able to demonstrate:

- there is a legislative provision that expressly provides the decision-maker with authority to decide to undertake a land transaction that does not comply with the requirements in the policy.
- the decision-maker has approved the sales process/and or terms of the transaction under the relevant legislative provision based on all relevant considerations, including the risks and benefits of the transaction, the VGV valuation and any estimated loss of revenue.

### Which land transaction requirements are subject to the exemption?

The exemption applies where a legislative provision allows an agency to undertake a transaction that involves a sales process or is based on terms that do not comply with the requirements in the policy. The exemption does not apply more broadly to exempt an agency from other requirements, including the VGV valuation and VGLM approval requirements.

For quick reference, the table on the following page identifies the policy requirements that may be eligible for the legislation exemption.

**Table 28: Land transaction requirements that may qualify for the legislation exemption**

Accountability, transparency and legislation	
Due diligence	
VGLM approval	
VGVM valuation	
Sale or lease price	●
Purchase or lease price	●
Offer of compensation	
Land exchange	●
Sale by public process	●
Public land zone	
Lease with option to purchase	●

### How can an agency obtain a legislation exemption?

The legislation exemption will apply provided an agency meets all the requirements for the exemption.

However, the VGLM still needs to approve the transaction if the value of the land or transaction exceeds the VGLM approval threshold. An agency can request approval to undertake the transaction using the Exemption Land Requirements form on VGLM Online. In the form, agencies should reference the relevant legislation, explain how the legislation applies to the transaction and attach a copy of the authorised decision-maker's approval under the relevant legislative provision. As part of VGLM's review process, it will confirm whether the exemption applies to the parts of the transaction that do not comply with the policy.

### Exemption 10: Recognition and Settlement Agreement

#### Background

Under the *Traditional Owner Settlement Act 2010* (TOS Act), the government may enter into a Recognition and Settlement Agreement to recognise a Traditional Owner group and certain Traditional Owner rights over Crown land. A Recognition and Settlement Agreement may include a land agreement, which provides for grants of Crown land in freehold title for cultural or economic purposes, or as Aboriginal title to be jointly managed in partnership with the state.

This exemption ensures that agencies can transfer land under the terms of a Recognition and Settlement Agreement without breaching the policy's requirements.

#### When does the Recognition and Settlement Agreement exemption apply?

This exemption applies when the Victorian government enters into a Recognition and Settlement Agreement under the TOS Act that includes a land agreement providing for the grant of Crown land in freehold title for cultural or economic purposes, or as Aboriginal title to be jointly managed in partnership with the state.

### **Which land transaction requirements are subject to the exemption?**

The exemption applies to the policy requirements that apply when land is transferred under a Recognition and Settlement Agreement, as follows:

- agencies must not sell (grant a lease or an interest in) any land at a price that is less than the current market (or rental) value as determined by VGV, and
- agencies must sell land using a public process.

This exemption permits land transfers under a Recognition and Settlement Agreement to be at any price including nominal consideration, with no need for a public sales process. In all cases a VGV valuation is still required.

### **How can an agency obtain a Recognition and Settlement Agreement exemption?**

The Recognition and Settlement Agreement exemption will apply to any land transfer under a Recognition and Settlement Agreement.

However, the VGLM still needs to approve the transaction and confirm the exemption if the value of the land or transaction exceeds the VGLM approval threshold. An agency can request approval to undertake the transaction using the Exemption Land Requirements form on VGLM Online. In the form, agencies must provide a copy of the Recognition and Settlement Agreement, and any Minister or Governor in Council consent and/or approvals required to grant an estate in fee simple or Aboriginal title in public land under the TOS Act. As part of VGLM's review process, it will confirm whether the exemption applies to the parts of the transaction that do not comply with the policy.

### **Exemption 11: Sale of residence to renter under a residential rental agreement**

#### **Background**

Some agencies rent residences and have policies that provide an opportunity for renters to purchase the home they have been renting. This exemption ensures that agencies with these policies can sell residences to renters without breaching the public sales process requirement in the policy, provided the land is being sold at a price no less than the current market value of the land as determined by VGV.

#### **When does the exemption apply?**

To qualify for the exemption, an agency must demonstrate that:

- the land is owned by the agency and contains a residence
- the agency is proposing to sell the land to the renter named in a current residential rental agreement, and
- the agency has a policy in place that permits the sale of residences to renters, and the land is being sold to the renter in accordance with the policy.

### **Which land transaction requirements are subject to the exemption?**

The exemption is limited to exempting agencies from the requirement that they must sell land using a public process.

#### **How can an agency obtain the exemption?**

The exemption will apply provided an agency meets all the requirements for the exemption.

However, VGLM still needs to approve the transaction if the value of the land or transaction exceeds the VGLM approval threshold. An agency can request approval to undertake the transaction using the Exemption Land Requirements form on VGLM Online. In the form, agencies must provide a copy of the agency policy and a copy of the current residential rental agreement showing the purchaser is the current renter. As part of VGLM's review process, it will confirm whether the exemption applies to allow the land to be sold without a public process.

## Exemption 12: Surplus railway land

### Background

When land purchased for rail transport is no longer required for the delivery of transport infrastructure, it may be declared surplus and sold. This exemption allows land to be sold to an existing lessee without a public sales process, provided the land is being sold at a price no less than the current market value of the land as determined by VGV.

### When does the surplus railway land exemption apply?

To qualify for the exemption, an agency must be able to demonstrate that:

- the land was held for rail transport and is now surplus
- the agency is proposing to sell the land to the current lessee, and
- the agency is proposing to sell the land at a price, which is no less than the current market value of the land as determined by VGV.

### Which land transaction requirements are subject to the exemption?

The surplus railway land exemption is limited to the requirement that agencies must sell land using a public process.

### How can an agency obtain a surplus railway land exemption?

The surplus railway land exemption will apply provided an agency meets all the requirements for the exemption.

However, the VGLM still needs to approve the transaction if the value of the land or transaction exceeds the VGLM approval threshold. An agency can request approval to undertake the transaction using the Exemption Land Requirements form on VGLM Online. In the form, agencies must provide a copy of the clearance certificate confirming the land is surplus and the lease agreement showing the purchaser is the current lessee. As part of VGLM's review process, it will verify whether the exemption applies to the parts of the transaction that do not comply with the policy.



## Exemption 13: Public university exemption

### Background

Public universities fall within the definition of a Victorian government agency under the policy because they are legal entities established under state legislation. However, the financial arrangements for universities require them to operate independently. This means public universities undertake a range of land transactions that do not involve direct or indirect Victorian government funding.

### How does the public university exemption operate?

Public universities are exempt from the requirements in the policy, except when undertaking any of the following land transactions:

- the purchase of land or entering into a lease with any money provided by the Victorian government
- the sale of any land, that was granted, transferred or sold at nominal or less than its market value to a public university by the Crown in right of the state of Victoria, Minister of the State or Victorian government agency
- offering land with a public land zone for sale
- an offer of compensation under the LAC Act or Part 5 of the PE Act.

For the purposes of the policy these are known as listed transactions.

### Which land transaction requirements are subject to the exemption?

The exemption applies to all the land transaction requirements in the policy. Therefore, unless a university is undertaking a listed transaction, they are not required to comply with the requirements in the policy when undertaking a land transaction.

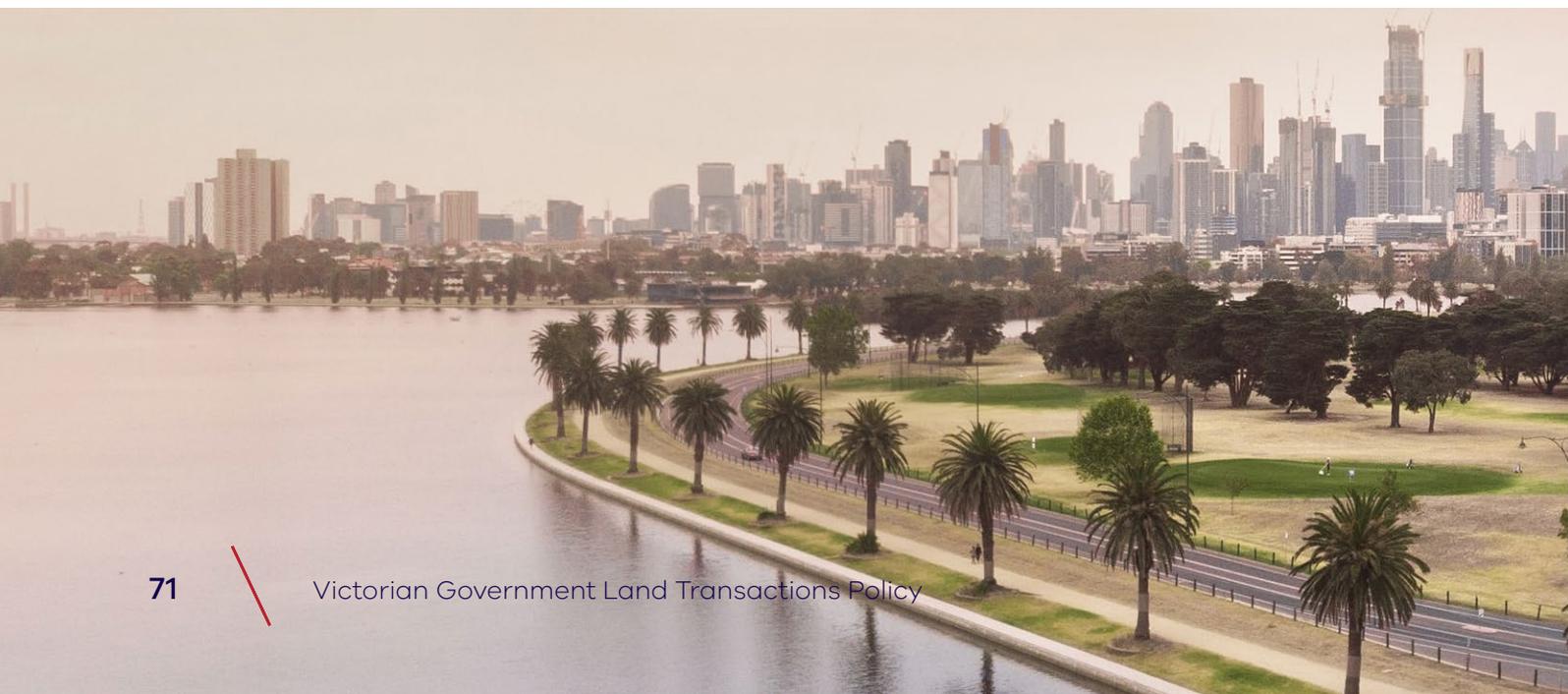
If a public university undertakes a listed land transaction, it is not exempt and must comply with all the requirements in the policy unless another exemption applies.

### What is a public university?

Victoria has eight public universities, which meet the definition of a public university under the policy:

- Deakin University
- Federation University Australia
- La Trobe University
- Monash University
- RMIT University
- Swinburne University of Technology,
- The University of Melbourne, and
- Victoria University.

You can find a more detailed definition of public university in the glossary in [Part 5](#).



### How does the exemption work with other Victorian government land management policies and legislation?

The exemption does not affect any of the requirements or obligations imposed on public universities under legislation or other government land management policies.

This includes the legislative requirement to seek approval from the Minister for Higher Education before undertaking certain types of land transactions and complying with the FROR process under the landholding policy before selling any land.

### How does a public university obtain an exemption?

The public university exemption applies automatically to any transaction undertaken by a public university that is not a listed transaction. There is no requirement to obtain a VGV valuation or VGLM approval before undertaking an exempt transaction because the exemption applies across all the requirements in the policy.

## Exemption 14: Alternative valuation

### Background

The alternative valuation exemption allows agencies to grant a lease to a private party at a price not less than the current rental value of the land determined by a licensed real estate agent in two limited circumstances.

### When does the alternative valuation exemption apply?

This exemption may apply in either of the following circumstances:

- when the cost of obtaining a current market rental valuation from VGV exceeds the annual market rental value of the land, as determined by a licensed real estate agent, or
- where land that is purchased or compulsorily acquired to achieve an impending infrastructure or service delivery outcome is leased to a private party under a lease that can be terminated at any time with not more than 6 months-notice.

To qualify for the exemption, agencies must grant the lease at a price no less than the current rental value of the land as determined by a licenced real estate agent and retain supporting documents and evidence to show they satisfied the requirements of the exemption.

### Which land transaction requirements are subject to the exemption?

The alternative valuation exemption is limited to the requirement that agencies must obtain a VGV valuation before leasing land and not grant a lease over land at a price less than the current rental value of the land as determined by VGV.

### How can an agency obtain the alternative valuation exemption?

The alternative valuation exemption will apply provided an agency meets all the requirements for the exemption.

The VGLM will still need to approve any lease transaction that meets the requirements for VGLM approval. An agency can request approval to undertake the transaction using the Leasing form on VGLM Online. In the form, agencies must attach supporting documents to show they meet the requirements of the exemption. As part of VGLM's review process, it will confirm whether the exemption applies based on the evidence provided.



## Exemption 15: Agency-specific leasing exemptions

### Background

Specific agencies are excluded from certain requirements of the policy when they grant certain types of leases.

### When do the agency-specific exemptions apply?

The table below sets out the agency-specific exemptions and when they apply.

**Table 29: Agency-specific leasing exemptions**

Agency	Leasing transaction
Department of Education and Training (DET)	The lease is granted over land that forms part of the teacher housing portfolio, and it is leased to a teacher employed by DET.
Department of Health	The lease is granted:
Department of Health services listed in Schedules 1 to 6 in the <i>Health Services Act 1988</i>	<ul style="list-style-type: none"> <li>to a service provider that provides services related to the core functions of an agency; or</li> <li>as part of a public private partnership project.</li> </ul>
Department of Families, Fairness and Housing	
Department of Transport	
Department of Families, Fairness and Housing	The lease is granted over land which contains a residential property and the lessee: <ul style="list-style-type: none"> <li>meets the eligibility requirements for a tenancy in social housing as determined under the <i>Housing Act 1983</i>, or</li> <li>is a registered housing agency or community service organisation for the purpose of providing accommodation to persons that meet the eligibility requirements for a tenancy in social housing as determined under the <i>Housing Act 1983</i>.</li> </ul>
Department of Justice and Community Safety (DoJCS)	The lease is granted over land that is used by the DoJCS for police housing, and it is leased to an employee for police purposes.
Department of Transport	The lease is granted to another entity created under the <i>Transport Integration Act 2010</i> .
Department of Environment, Land, Water and Planning (DELWP)	The lease is granted over Crown land temporarily, permanently or deemed to be permanently reserved, that is the responsibility of DELWP, its committees of management and Parks Victoria under legislation including, <i>Crown Land (Reserves) Act 1978</i> , <i>Forests Act 1958</i> , <i>National Parks Act 1975</i> , and <i>Wildlife Act 1975</i> .

### Which land transaction requirements are subject to the exemption?

If an agency-specific leasing exemption applies, the agency is only required to comply with the following requirements in the policy when granting the lease:

- Requirement 1 - Accountability, transparency and legislation
- Requirement 2 - Due diligence, and
- Requirement 11 - Lease with option to purchase.

### How does an agency obtain an agency-specific exemption?

If an agency grants a lease that meets the requirements for an agency-specific leasing

exemption, the exemption will apply automatically. There is no requirement to obtain a VGV valuation or VGLM approval because the exemption applies across all the requirements in the policy, except for the accountability, transparency and legislation, due diligence, and lease with option to purchase requirements.

However, even if an agency qualifies for an agency-specific exemption, it still has the option of granting the lease following the policy requirements. Agencies must also comply with any other government policy that applies to leasing government land, including the Leasing Policy for Victorian Crown Land and Victorian Office Accommodation Guidelines and Building Standards.





# PART 4: Transactions

# 1. Sale

This section explains how the land transaction policy requirements apply to the sale of land

## Background

The policy includes several specific requirements that apply when agencies are selling land.

This section will explain:

- the types of transactions that fall within the meaning of sale under the policy
- the types of land that an agency can sell
- the land transaction requirements and how these apply when an agency sells land, and
- exemptions to the policy requirements that may apply when an agency sells land.

## What is the sale of land?

Under the policy, a sale includes any arrangement under which an agency agrees to transfer land to another party or to create an interest in land that it owns that will benefit another party.

The broad meaning of sale for the purposes the policy means that a range of different land transactions must comply with the requirements that apply to the sale of land.

The table on the following page sets out some of those transactions. Not every type of transaction listed complies with the requirements in the policy. Therefore, these type of sale transactions are only permitted in accordance with the policy if an exemption applies.

Agencies should keep in mind that the definition of land under the policy is also broad. Therefore, the sale may relate to any part of the land, including the land's surface, land below the surface and the air above the surface. Selling an interest in the air above the land's surface is often referred to as selling the air rights.

**Table 30: List of sales transactions**

Sale transaction	What it involves	Exemption required
Sale by public process	Selling land using a public process, including auction, EOI, multi-stage EOI or tender, or publicly listing land for sale.	
Sale by direct negotiation	Directly negotiating with another party to sell land, including an adjoining owner or another person who has expressed interest in purchasing the land.	✓
Land exchange	The exchange of land between parties.	✓
Gift	Giving land as a gift.	✓
Option to sell land	Agreeing to sell land at some time in the future. The option may form part of an option deed, contract or lease.	✓
Granting an easement	Giving another person the right to use the agency's land for a specified reason. Easements are recorded on title and effect a defined area of the land.	

### What types of land can be sold by agencies?

There are two types of government land, Crown land and freehold land. The process for selling each kind of government land is explained below.

#### Crown land

Crown land is owned by the Crown in right of the State of Victoria and can be reserved for a particular public use, or unreserved.

Reserved Crown land is managed by agencies, local councils or committees of management and cannot be sold. However, unreserved Crown land that has not been set aside for a particular public use may be alienated from the Crown estate and sold, provided this process complies with the SCLA policy and requirements in the *Land Act 1958*. These requirements include:

- The land has been declared surplus by the agency managing the land,
- DELWP has conducted a strategic Crown land assessment and determined the land should no longer be Crown land,
- the strategic Crown land assessment is submitted to the responsible Minister and the Minister for Energy, Environment and Climate Change, or an

authorised delegate, and they decide the Crown land can be sold and either dispose of the land or refer the land to the Assistant Treasurer for disposal based on the monetary threshold set out below, and

- if native title rights and interests exist and there is a Traditional Owner group, an agreement with the Traditional Owner group will be required in order to sell the land. The Land Justice Unit in the DoJCS manages agreement-making in collaboration with DELWP, Department of Premier and Cabinet, DTF and the Department Economic Development, Jobs, Precincts and Regions. If no Traditional Owner group exists, the agency should ask the Land Justice Unit in DoJCS and the Victorian Government Solicitor for advice on how to proceed.

The *Land Act 1958* governs the process for selling unreserved Crown land. It involves the Crown granting the land to the purchaser through a Crown grant, after which the land becomes freehold land. Since agencies do not own Crown land (it is held by the Crown), DTF typically conducts all Crown land sales, except for Crown land with a value of less than \$250,000, which can be sold by DELWP. In some circumstances, legislation may also permit an agency to sell Crown land.

Unless an exemption applies, the sale of Crown land must comply with the requirements in the policy. A sale does not include the surrender of land to the Crown, the appointment of a Crown land administrator or any change to the Crown land administrator.

### Freehold land

Freehold land is owned by an entity within the Victorian government (rather than the Crown), such as a Minister, department Secretary, statutory officer or public entity. Freehold land can be sold provided that the agency has the legislative authority to sell land and the sale complies with government policy, including the:

- landholding policy that requires agencies to offer land to all other agencies, as well as local government and the Commonwealth government through the FROR process before selling it
- land use policy that requires a whole-of-government approach to government land use decision-making to maximise public value for Victorian communities, and
- land transaction requirements in the policy.

An agency can sell an entire parcel of land or use a plan of subdivision to divide the land into two or more parcels of land and sell them separately. Nothing in this policy prevents an agency from subdividing and selling land, or entering into a contract for the sale of land before the subdivision is registered, provided it has determined the areas and dimensions of the land, VGV has provided a valuation for the lot(s) proposed to be sold, and the sale is undertaken in accordance with the policy.

### Are agencies required to sell land based on certain terms and conditions?

When an agency sells land, the contract of sale must outline the terms and conditions of the transaction, including the purchase price, deposit amount and date of settlement. The policy does not prescribe specific terms or conditions for inclusion in the sale of land contract, because different terms may be required depending on market conditions or the type of transaction.

However, unless an exemption applies, an agency is required to sell land at a price that is no less than its current market value as determined by VGV. As explained in **Part 2 Section 5**, the terms and conditions of a land transaction can impact on the value of land. Therefore, when an agency requests a valuation it must advise VGV of the terms and conditions of the sale.

### Land transaction requirements

**Part 2** of the policy provided information on each of the land transaction requirements. This section gives more guidance on how the land transaction requirements apply when agencies sell land.

#### **Requirement 1: Accountability, transparency and legislation**

An agency must ensure land sales are conducted to achieve accountability and transparency and are undertaken in accordance with relevant legislation.

The general requirements for meeting the accountability, transparency and legislation requirement are explained in **Part 2 Section 2**. The table on the following page sets out some additional requirements that apply when an agency sells land using a public process under the policy.

**Table 31: Accountability, transparency and legislation requirements for the sale of land**

	Auction	Publicly listed sale	Direct tender or EOI	Multi-stage tender or EOI
The land has been declared surplus and the agency has satisfied the requirements of the FROR process in the landholding policy.	●	●	●	●
Any strategic land use assessment under the land use policy has been completed.	●	●	●	●
A licensed real estate agent is appointed to conduct the transaction unless: <ul style="list-style-type: none"> <li>• an exemption from the <i>Estate Agents Act 1980</i> applies, or</li> <li>• the sale of land is the core business of the agency.</li> </ul>	●	●		
A probity advisor is engaged.				●
Legal and other expert advice is obtained				●
The reserve, listed price, or price used to assess responses arising from a tender, EOI or multi-stage process must not be less than the current market value as determined by VGV.	●	●	●	●
The reserve price is set before the auction, close of tender or EOI, or listing the land for sale.	●	●	●	
Responses to a direct tender or EOI (where the sales process is not being conducted by a licensed real estate agent) or a multi-stage tender or EOI, are lodged with an agency or their legal representative.			●	●
Responses to a direct tender or EOI (where the sales process is not being conducted by a licensed real estate agent) or a multi-stage tender or EOI, are opened by a formally appointed assessment panel comprising representatives of the agency that may include an agency's legal representative.			●	●

	Auction	Publicly listed sale	Direct tender or EOI	Multi-stage tender or EOI
The reserve price is revealed to an appointed licensed real estate agent at the latest possible time: <ul style="list-style-type: none"> <li>not prior to the day of auction, and</li> <li>not prior to the close of tender or EOI</li> </ul>	●	●		
The method of sale meets the requirements for a public process.	●	●	●	●
The land is not sold prior to the conclusion of the public sales process.	●	●	●	●
VGLM is engaged at each critical milestone in the sales process.				●
The selling price and terms and conditions are recorded in a fully executed contract or agreement.	●	●	●	●

**Agency tip:**

You can find more information on when to engage VGLM during a multi-stage EOI or tender process in [Part 2 Section 4](#).

**Requirement 2: Due diligence**

Before selling land, agencies must conduct an appropriate level of due diligence. Due diligence is required before an agency sells land so that:

- the information can be made available to VGV so that it can consider all matters affecting the land in determining its current market value,
- agencies can meet their requirement to disclose certain information to potential purchasers under section 32 of the *Sale of Land Act 1962*, and ensure the information provided is complete and accurate, and
- if possible, any issues or risks associated with the land can be mitigated by including special conditions in the contract.

You can find more information on the due diligence requirement in the policy in [Part 2 Section 3](#).

**Requirement 3: VGLM approval**

Agencies must obtain VGLM approval before agreeing to sell land or an interest in land where the:

- value of the land or the transaction is \$1 million (GST exclusive) or more, or
- land forms part of a group of related transactions by the same seller including land which is part of a group of adjoining parcels proposed for sale, where the total value of the land or related transactions is \$1 million (GST exclusive) or more.

This section provides specific guidance on the VGLM approval requirement as it relates to the sale of land or an interest in land. You can find general information on the VGLM approval requirement in [Part 2 Section 4](#).

### **When should an agency lodge its submission requesting VGLM approval to sell land?**

Agencies are required to seek approval to sell land using VGLM Online. Agencies must have all the information and documents needed to complete the relevant form in VGLM Online before lodging the submission. This includes a certified current market valuation reflecting the terms and conditions of the proposed transaction and any issues identified as part of the due diligence process.

The point at which an agency must obtain VGLM approval depends on the method of sale and may require a multi-stage VGLM approval process. For example, where an agency is entering into an arrangement to sell land in the future (whether binding or not) or is conducting a multi-stage sale process that involves making an initial approach to the market, followed by one or more further

approaches. A multi-stage approval process helps to ensure all parts of the sales process comply with the requirements in the policy.

The table below lists when an agency needs to lodge its request for VGLM approval for the most common methods of sale. Not every type of sale listed complies with the requirements in the policy because it either involves selling land without a public process or is an excluded transaction such as a land exchange. If an agency is requesting VGLM approval for a transaction that requires an exemption, it will need to:

- demonstrate it meets the requirements for an exemption as part of the approval process, or
- if the exemption is one that VGLM, or the Minister for Planning on the advice of VGLM, can approve, request the exemption as part of the approval process.



**Table 32: When an agency needs to lodge a request for VGLM approval to sell land**

Method	Stage in sales process when VGLM submission must be lodged		Exemption Required
Auction			Before the date of the auction.
Public listing			Before the land is listed for sale.
Tender/EOI			Before the EOI or tender close date.
Multi-stage sale	Before the initial approach to the market via an EOI or registration of interest.	Before shortlisting potential purchasers.	Before signing the contract of sale or development agreement.
Variation of existing development agreement involving the sale of land			Before any variation of a development agreement is signed.
Sale by direct negotiation			Before the land is offered for sale. ✓
Option		Before an option agreement is signed.	Before the contract of sale is signed. ✓
Memorandum of understanding or heads of agreement		Before the memorandum of understanding or heads of agreement is signed.	Before the contract of sale is signed.
Land exchange			Before agreeing to the exchange. ✓
Gift			Before making a commitment to gift land. ✓
Granting an easement			Before executing the agreement creating the easement.

### How long does VGLM approval to sell land remain valid?

When VGLM approves a land sale, it bases its approval on advice from VGV regarding the current market value of the land. Provided there is no change to the terms and conditions of the sale, an agency can continue to rely on its VGLM approval during the period VGV's valuation remains current.

The circumstances are different if VGV's valuation expires or the terms and conditions of the sale change before the contract of sale is signed by both parties. In this case, agencies are required to obtain updated valuation advice and further approval from VGLM before selling the land.

#### Requirement 4: VGV valuation

Unless a GG sector agency is selling land to another GG sector agency or the public university exemption applies, agencies must obtain a certified current market valuation of land from VGV before selling land.

VGV provides different types of advice, which will be treated as a certified current market value for the purposes of the policy. For the sale of land, or an interest in land, an agency can rely on a:

- certified market valuation made in accordance with the VL Act, or
- if Cabinet or a committee of Cabinet has endorsed the development outcome, or the responsible Minister or statutory officer that owns the land has confirmed in writing that a proposed development outcome supports an endorsed government policy, a certified assessment of the value of land based on the specific development outcome.

You can find more information on VGV valuations in [Part 2 Section 5](#), and more information on the special valuation requirements that apply to GG sector agencies in [Part 4 Section 4](#).

If an agency is selling land to another agency, and a VGV valuation is required, the agencies must jointly instruct VGV requesting the valuation.

#### Requirement 5: Sale price

Unless the land is being sold to a GG sector agency, agencies must not sell or grant an interest in any land at a price that is less than the current market value of the land as determined by VGV. A GG sector agency may sell land to another GG sector agency based on a current book value.

You can find more information on the valuation requirements that apply when selling land to another agency in [Part 4 Section 4](#).

### Can an agency sell land for more than VGV's current market value?

The VGV's valuation acts as a minimum price. An agency can sell land for a price that exceeds VGV's valuation.

### What happens if VGV's valuation expires before an agency sells the land?

Under the policy an agency must sell land based on its current market valuation. Therefore, if VGV's valuation expires before both parties sign the contract of sale, (or other form of agreement if the transaction is between agencies), an agency must obtain an extension or review of the valuation from VGV to ensure it meets this requirement.

### What happens if the terms of the transaction change or further due diligence is conducted after an agency obtains its VGV valuation?

VGV will consider its valuation based on the terms and conditions of sale and information about the status and attributes of land an agency provides in its valuation instructions. If the terms and conditions of sale change, or an agency identifies more information about the land, it may impact the valuation. Therefore, an agency must obtain updated valuation advice from VGV to ensure it sells the land based on its current market value.

Some common examples of changes to a transaction that will require further VGV advice are set out in the table on the following page.

**Table 33: Changes to a transaction that require further VGV advice**

Category	Examples
Terms and conditions	Purchaser offers to buy land on terms that are different to the terms considered by VGV in determining the current market value of the land.
	<p>Purchaser requests special conditions that were not identified as conditions of the sale in the initial valuation instructions to VGV. This may include the sale being subject to the:</p> <ul style="list-style-type: none"> <li>• purchaser obtaining finance</li> <li>• purchaser conducting a further period of due diligence</li> <li>• seller or purchaser conducting works on the land</li> <li>• discharge of obligations such as GAIC</li> <li>• reimbursement of certain costs and expenses.</li> </ul>
	<p>A response to a request for proposal as part of a multi-stage tender or EOI process, is based on different terms and conditions to VGV's valuation.</p> <p>A variation to an existing development agreement.</p>
Due diligence	<p>The size and dimensions of the land were incorrect or have changed.</p> <p>An additional encumbrance has been identified. This may include:</p> <ul style="list-style-type: none"> <li>• a lease</li> <li>• caveat</li> <li>• easement, or</li> <li>• adverse possession rights.</li> </ul>
	<p>An agency conducts further due diligence and identifies issues that impact the future use and development potential of the land, including contamination, cultural heritage, or planning issues.</p>

**Agency tip:**

If a land transaction requires VGLM approval, you will need to make a submission to VGLM based on the updated valuation, even if VGLM has previously approved the transaction. This allows VGLM to review the changes to the transaction and ensure it still complies with the policy.

### Sales by direct tender or EOI and multi-stage tender or EOI

As part of selling land by direct tender or EOI or multi-stage tender and EOI, agencies will develop a set of standards called evaluation criteria that guide the assessment of responses received. Agencies are required to obtain a VGV valuation before assessing responses against any evaluation criteria that relate to the sale price of land, so that:

- agencies are using a consistent and independent benchmark to evaluate responses, and
- agencies comply with the requirement not to sell land for an amount that is less than the current market value of the land as determined by VGV.

If the preferred proposal is based on terms and conditions not considered by VGV in determining the current market value of the land, an agency will need to obtain updated valuation advice from VGV. VGV advice may be in the form of:

- a certified market valuation based on the terms and conditions of the preferred proposal, or
- advice to confirm the existing market value, together with VGV's assessment of the preferred proposal.

#### Agency tip:

If VGV confirms the existing current market valuation, but provides advice confirming the proposal is reasonable, an agency will need to seek approval from VGLM to sell land at a price that is less than the current market value of the land using the unsuccessful public sales process exemption. You can find more about this exemption in [Part 3](#).

### Requirement 8: Land exchange

Agencies are not permitted to sell land under a land exchange arrangement unless they have obtained approval from the Assistant Treasurer or ERC, or another exemption applies.

You can find more information on the land exchange requirement in [Part 2 Section 6](#) and more information on exemptions is available in [Part 3](#).

### Requirement 9: Sale by public process

Unless an agency is selling land to another agency, local council or the Commonwealth in accordance with the FROR process in the landholding policy, agencies are required to sell land using a public process. The requirements for selling land using a public process, including information about the key features of a public process and the methods of sale that meet this requirement, are set out in [Part 2 Section 7](#).

### Easements

In contrast to the sale of land, an agency can sell an interest in land such as an easement without a public process. However, all other policy requirements continue to apply to the transaction. This includes obtaining a VGV valuation, not selling the easement for a price that is less than the current market value as determined by VGV and obtaining VGLM approval if the easement has a value of \$1 million (GST exclusive) or more.

### Requirement 10: Sale with a public land zone in place

Unless an agency is selling land to another agency, local council or the Commonwealth, it cannot be offered for sale with a public land zone. This means an agency must ensure the most appropriate planning controls are in place, before offering land for sale.

You can find more information on the public land zone requirement in [Part 2 Section 8](#).

### Exemptions

When selling land, an agency must comply with all the policy requirements that apply unless it qualifies for an exemption. Agencies can use the table on the following page as a quick reference guide to the exemptions which may be available subject to meeting the relevant eligibility criteria.

You can find more detailed information on each exemption in [Part 3](#).

**Table 34: Quick reference guide for sales exemptions**

Exemption	Land transaction requirements				
	VGLM approval	Sale price	Land exchange	Public sales process	Public land zone
Cabinet or committee of Cabinet		●	●	●	●
Minister for Planning				●	●
Assistant Treasurer		●			
VGLM – Sale after unsuccessful public process		●			
ERC or Assistant Treasurer - Land exchange		●			
Legislation		●	●	●	●
Recognition and Settlement Agreement		●		●	
Sale of residence to renter under a residential rental agreement				●	
Surplus railway land				●	
Public universities	●	●	●	●	



## 2. Purchase

This section explains how the land transaction policy requirements apply to the purchase of land

### Background

The policy includes a number of specific requirements for the purchase of land.

This section will explain:

- the types of transaction that fall within the meaning of purchase in the policy
- the land transaction requirements and how these apply when an agency purchases land, and
- exemptions to the policy requirements that may apply when an agency purchases land.

### What is a land purchase?

Under the policy, a purchase involves any arrangement under which an agency agrees to receive a land transfer from another party or an interest in land.

The broad meaning of purchase means that a range of different land transactions must comply with the requirements that apply to land purchases.

The table below sets out some of those transactions. Provided an agency follows the policy requirements, the only purchase transaction that requires an exemption is the transfer of land under a land exchange arrangement.

**Table 35: List of purchase transactions**

Purchase transaction	What it involves
Purchase by public process	Purchasing land that is publicly advertised for sale. This may include land publicly listed for sale or land purchased at auction or after an EOI.
Purchase by negotiation	Directly negotiating with a land owner to purchase land.
Purchase under a GAIC WIK agreement	The transfer of land to an agency in exchange for discharging the obligation to pay GAIC.
Land exchange approval	The exchange of land between parties. Agencies require an exemption under the policy before they can enter into a land exchange arrangement.
Gift	Receiving land, or an interest in land, as a gift.
Option to purchase land	Entering into an agreement (sometimes called an option deed) to purchase land at some time in the future.
Lease with option to purchase	Entering into a lease that gives an agency the right to purchase the land in the future.
Receiving the benefit of an easement	Receiving a right to use another person's land for a specified reason. An easement is recorded on title and affects a defined area of the land.

### When can an agency purchase land?

An agency can purchase any land, or interest in land, provided it has the legislative authority to purchase the land and the land is purchased according to the requirements in any legislation and government policy.

### Can an agency enter into an option agreement to purchase land?

When an agency enters into an option agreement, it agrees to purchase land in the future, subject to certain conditions being met. An agency may enter into an option to purchase, provided the terms of the option are consistent with the policy. This includes that the purchase price must be no more than the current market value of land as determined by VGV, and that the purchase of the land under the option agreement is subject to VGLM approval if the value of the land exceeds the VGLM approval threshold.

To ensure all parts of the purchase process comply with the policy an agency must obtain VGLM approval before an agency enters into the option agreement, and then again before it exercises its option to purchase land.

An option may also involve the payment of an option fee, which can be deducted from the deposit or forfeited if the purchase does not proceed. Payment of an option fee is allowed under the policy, provided the payment accords with relevant departmental procurement processes and has been approved by an authorised financial delegate.

### Can an agency offer to pay costs incurred when a person sells land to an agency?

An agency can offer to reimburse reasonably incurred costs, such as valuation or accounting expenses, provided that:

- there is an agency policy or procedure that supports the agency reimbursing costs
- the payment of costs has been approved by an authorised decision-maker, including Cabinet, a Minister or appropriately authorised financial delegate
- if the purchase requires VGLM approval, the agency has provided VGLM with advice about the nature of the costs it intends to reimburse, and
- the payment is made following agency procurement processes and is approved by an authorised financial delegate.

## Land transaction requirements

**Part 2** of the policy provided information on each of the land transaction requirements. This section provides further guidance on the land transaction requirements that apply to the purchase of land.

### Requirement 1: Accountability, transparency and legislation

An agency must ensure land purchases are conducted to achieve accountability and transparency and are undertaken in accordance with relevant legislation.

The general requirements for meeting the accountability, transparency and legislation requirement are explained in **Part 2 Section 2**. Some additional requirements that apply to the purchase of land, or an interest in land are set out below:

- A probity advisor is engaged for large and/or complex purchase programs
- VGLM is engaged before any large and/or complex purchase program commences
- The purchase price and terms and conditions are recorded in a fully executed contract or agreement such as a development agreement, and
- An offer to purchase land, or an interest in land, (binding or non-binding) is not made subject to VGLM approval or meeting the other requirements in the policy. There is more information on the limited circumstances where conditional offers may be approved later in this section.

### Requirement 2: Due diligence

Before purchasing land, agencies must conduct an appropriate level of due diligence. Due diligence is required before an agency purchases land so that:

- it can confirm the land is appropriate for the proposed use
- the information can be made available to VGV so that they can consider all matters affecting the land in determining its current market value, and
- if possible, any issues or risks associated with the land can be mitigated by including special conditions in the contract.

You can find more information on the due diligence requirement in the policy in **Part 2 Section 3**.

### Requirement 3: VGLM approval

Agencies must obtain VGLM approval before agreeing to purchase land or an interest in land where the:

- value of the land or the transaction is \$1 million (GST exclusive) or more, or
- the land forms part of a group of related transactions by the same purchaser including land which is part of a group of adjoining parcels proposed for purchase, where the total value of the related land or related transactions is \$1 million (GST exclusive) or more.

This section provides specific guidance on the VGLM approval requirement as it relates to the purchase of land, or an interest in land. You can find more information on the VGLM approval requirement in [Part 2 Section 4](#).

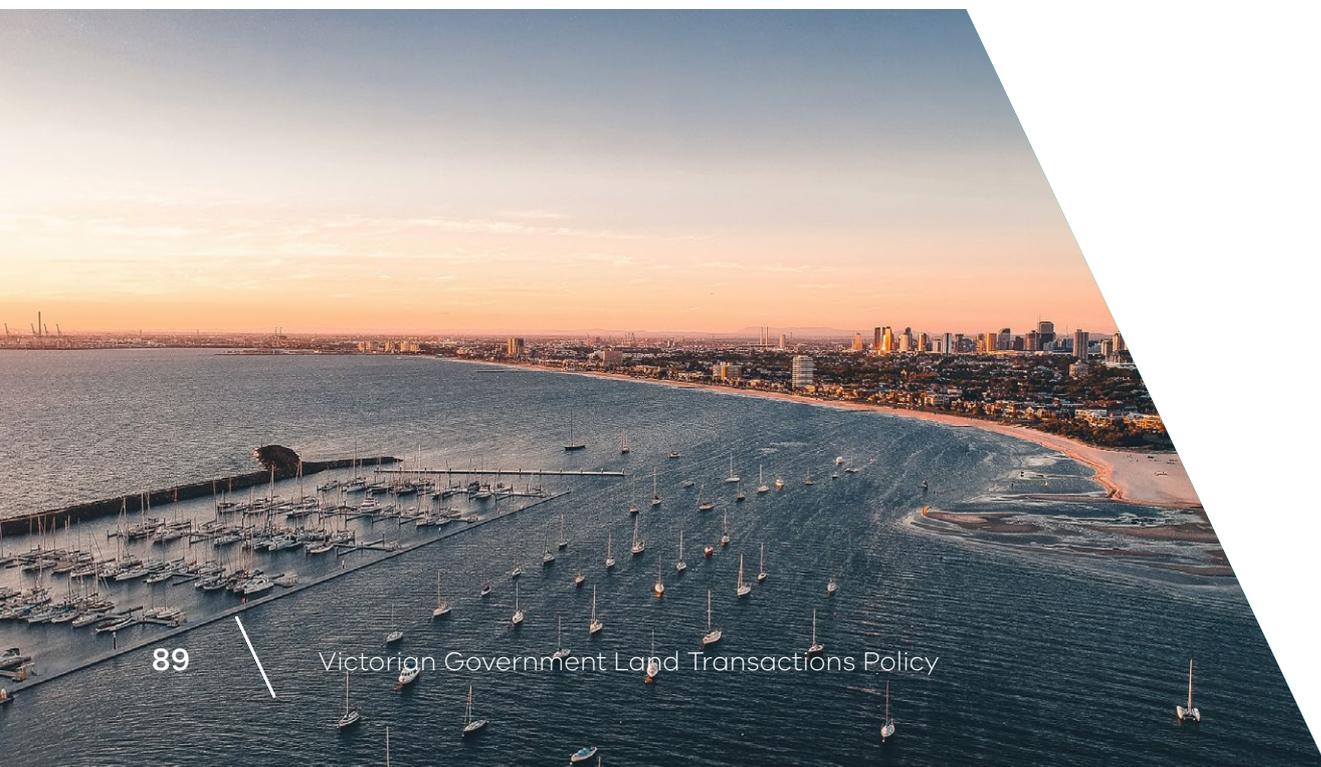
#### When should an agency lodge its submission requesting VGLM approval to purchase land?

Agencies are required to seek approval to purchase land using VGLM Online. Agencies must have all the information and documents required to complete the relevant form in VGLM Online before lodging the submission. This includes a certified current market valuation reflecting the terms and conditions of the proposed transaction and any issues identified as part of the due diligence process.

The point at which an agency must obtain VGLM approval depends on the method for purchasing the land. In some circumstances, a multi-stage VGLM process is required. This helps ensure all parts of the purchase process comply with the requirements in the policy.

The table below lists when an agency needs to lodge its request for VGLM approval for the most common methods of purchase. Not every type of purchase listed complies with the requirements in the policy. If an agency is requesting VGLM approval for a transaction that requires an exemption, it will need to:

- demonstrate it meets the requirements for an exemption as part of the approval process, or
- if the exemption is one that VGLM, or the Minister for Planning on the advice of VGLM, can approve, request the exemption as part of the approval process.



**Table 36: When an agency needs to lodge a request for VGLM approval to purchase land**

Method	Stage in purchase process when VGLM approval request must be lodged	Exemption Required
Purchase at auction		Before the date of the auction.
Purchase of land listed for sale		Before making an offer to purchase land.
Tender/EOI		Before submitting a response to an EOI or tender.
Direct negotiation		Before making an offer to purchase land (informal or formal).
Option	Before an option agreement is signed.	Before the contract is signed.
GAIC WIK agreement	Before negotiations commence.	Before the GAIC WIK agreement is signed
Memorandum of understanding and heads of agreement	Before a memorandum of understanding or heads of agreement is signed.	Before the contract is signed.
Land exchange		Before agreeing to the land exchange 
Gift		Before accepting or making a commitment to accept gifted land.
Benefiting from an easement		Before executing the agreement creating the easement.

### Can an offer to purchase land be made subject to VGLM approval?

An offer to purchase land must not be made subject to VGLM approval or meeting any of the other requirements in the policy unless VGLM has given the agency approval to make a conditional offer.

VGLM will only approve the making of a conditional offer to purchase land in exceptional circumstances. If VGLM provides approval to make a conditional offer, agencies will be required to comply with strict processes and controls.

Any agency wishing to make a conditional offer to purchase land must request an engagement meeting with VGLM before requesting to purchase land on a conditional basis.

### How long does VGLM approval to purchase land remain valid?

When VGLM approves a land purchase, it bases its approval on advice from VGV regarding the current market value of the land. Provided there is no change to the terms and conditions of the purchase, an agency can continue to rely on its VGLM approval during the period VGV's valuation remains current.

The circumstances are different if VGV's valuation expires, or the terms and conditions of the purchase change before the contract is signed by both parties. In this case agencies are required to obtain updated valuation advice and further approval from VGLM before purchasing the land.

#### **Requirement 4: VGV Valuation**

Unless a GG sector agency is purchasing land from another GG sector agency based on a current book value, before purchasing land, agencies must obtain a certified current market valuation of land from VGV.

You can find more information on VGV valuations in [Part 2 Section 5](#), and more information on the special valuation requirements that apply to GG sector agencies in [Part 4 Section 4](#).

If an agency is purchasing land from another agency, and a VGV valuation is required, the agencies must jointly instruct the VGV requesting the valuation.

#### **Requirement 6: Purchase price**

Unless a GG sector agency is purchasing land from another GG sector agency based on its book valuation, or an exemption applies, agencies must not purchase or grant an interest in any land at a price which is more the current market value of the land as determined by VGV.

In limited circumstances, VGLM can approve the purchase of land with strategic significance for an amount in excess of VGV's valuation. Where approval is granted, this operates as an exemption to the purchase price requirement in the policy.

You can find more information on the VGLM exemption in [Part 3](#).

#### **Can an agency purchase land for less than VGV's current market value?**

VGV's valuation acts as a maximum price. An agency can purchase land for a price that is less than the current market value of the land as determined by VGV.

#### **What happens if VGV's valuation expires before an agency purchases the land?**

Under the policy an agency must purchase land based on its current market valuation. Therefore, if VGV's valuation has expired before both parties sign the contract, (or other form of agreement if the transaction is between agencies), an agency must obtain an extension or review of the valuation from VGV to ensure it meets this requirement.

#### **What happens if the terms of the transaction change or further due diligence is conducted, after an agency obtains its VGV valuation?**

VGV will base its valuation on the terms and conditions of purchase and information about the status and attributes of land an agency provides in its valuation instructions. If the terms and conditions of purchase change, or an agency identifies more information about the land, it may impact the valuation. Therefore, an agency must obtain updated valuation advice from VGV to ensure it purchases the land based on its current market value.

Some common examples of changes to a transaction that will require further VGV advice, can be found in [Part 4 Section 1](#).

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#### **Agency tip:**

If a land transaction requires VGLM approval, you will need to make a submission to VGLM based on the updated valuation, even if VGLM has previously approved the transaction. This allows VGLM to review the changes to the transaction and ensure it still complies with the policy.

**Requirement 8: Land exchange**

Agencies are not permitted to transfer land under a land exchange unless they have obtained approval from the Assistant Treasurer or ERC, or another exemption applies.

More information on the land exchange requirement can be found in [Part 2 Section 6](#) and more information on exemptions is available in [Part 3](#).

**Exemptions**

When purchasing land, an agency must comply with all the policy requirements that apply unless it qualifies for an exemption. Agencies can use the table below as a quick reference guide to the exemptions which may be available subject to meeting the relevant eligibility criteria.

You can find more detailed information on each exemption in [Part 3](#).

**Table 37: Quick reference guide for purchase exemptions**

Exemption	Land transaction requirements		
	VGLM approval	Purchase price	Land exchange
Cabinet or committee of Cabinet		●	●
Minister for Planning		●	
Assistant Treasurer		●	
VGLM – Purchase in excess of VGV valuation		●	
ERC or Assistant Treasurer - Land exchange		●	●
Legislation		●	●
Public universities	●	●	●

## 3. Compensation

This section explains how the land transaction policy requirements apply when agencies make an offer of compensation

### Background

The policy includes several requirements that apply when an agency makes an offer of compensation under the LAC Act and Part 5 of the PE Act.

This section will explain:

- What constitutes an offer of compensation under the LAC Act or Part 5 of the PE Act, and
- The land transaction requirements that apply to making an offer of compensation under the LAC Act or Part 5 of the PE Act.

### What is an offer of compensation?

The policy applies to offers of compensation made under the LAC Act and Part 5 of the PE Act. What constitutes an offer of compensation under each of these Acts is explained further below.

#### What is an offer of compensation made under the LAC Act?

The LAC Act provides the legal framework for the compulsory acquisition of land in Victoria and provides for compensation to be paid in several different circumstances.

For the purposes of the policy, an offer of compensation under the LAC Act is any offer of compensation made by an agency:

- for the acquisition of an interest in land by agreement after a notice of intention to acquire has been served, but before the notice of acquisition acquiring that interest has been published in the Victoria Government Gazette
- after a notice of acquisition acquiring an interest in land is published in the Victoria Government Gazette
- in response to a claim for compensation for an abandoned acquisition
- in response to a claim for compensation for entry or temporary occupation of land, and
- for the advance of compensation to a person to assist in purchasing a similar interest in land under section 51(8) of the LAC Act.

An offer of compensation includes all the components of compensation that can be offered under the LAC Act, including market value, disturbance, solatium, severance, special value and professional expenses.

#### What is an offer of compensation made under the Part 5 of the PE Act?

Part 5 of the PE Act creates a right to compensation in certain circumstances where the owner or occupier of the land has suffered a financial loss due to the land being reserved for a public purpose under a planning scheme, or that is proposed to be reserved for a public purpose.

For the purposes of the policy, an offer of compensation made under Part 5 of the PE Act is any offer made by an agency in response to a claim for financial loss under Part 5. This includes financial loss associated with any of the following:

- the sale of land, impacted by a current or proposed public acquisition overlay
- refusal to grant a permit on the basis the land is required for a public purpose, or may be required for a public purpose in the future
- access to land being restricted by the closure of a road by a planning scheme, and
- removal or amendment of a public acquisition overlay.

Under Part 5 of the PE Act this will include compensation for financial loss, effect on residence and professional expenses.

### Land transaction requirements

**Part 2** of the policy provides information on each of the land transaction requirements. This section will provide further guidance on the land transaction requirements that apply to an offer to pay compensation under the LAC Act or Part 5 of the PE Act.

### Requirement 1: Accountability, transparency and legislation

Agencies are required to ensure all land transactions are conducted to achieve accountability and transparency and are undertaken in accordance with relevant legislation.

The general requirements for meeting the accountability, transparency and legislation requirement were set out in [Part 2 Section 2](#).

These also apply to an agency when making an offer to pay compensation under the LAC Act and Part 5 of the PE Act.

### Requirement 2: Due diligence

Agencies are required to conduct an appropriate level of due diligence before making an offer of compensation. Due diligence is required so that:

- the information can be made available to VGV so it can consider all matters affecting the land in assessing an amount of compensation, and
- the conditions of offer can address any issues or risks associated with the land.

Given offers of compensation must be made within strict legislative timeframes and agencies may not have had prior access to the land, there will be limited circumstances when agencies can't conduct all the due diligence required under the policy before an offer of compensation is made.

If for valid reasons an agency requires more time to complete due diligence, an offer of compensation can be made provided the offer is subject to conditions that allow compensation to be adjusted subject to the outcome of any further due diligence, and the required conditions have been endorsed by the agency's legal adviser(s). Agencies must still complete the required due diligence after making an offer. If further due diligence discloses issues that relate to the status or attributes of the land after an agency has made an offer, the agency must obtain updated valuation advice from VGV. In all cases, agencies must conduct an initial assessment of the contamination status of land before making an offer.

If an offer of compensation requires VGLM approval, agencies must advise VGLM if the required due diligence has not been completed, providing valid reasons why, setting out their progress, and the special conditions it intends to rely on in making an offer.

### Requirement 3: VGLM approval

Victorian government agencies must obtain VGLM approval before:

- making an offer of compensation under the LAC Act or Part 5 of the PE Act where the total amount of compensation is \$1 million or more, and
- making any offer of additional compensation under the LAC Act, or Part 5 of the PE Act to settle a disputed claim.

VGLM approval is required in two different scenarios, each is explained further below.

#### Approval before making an offer of compensation of \$1 million or more

Agencies are required to make an offer of compensation using the Compensation Land Acquisition or Compensation Planning and Environment form on VGLM Online. Unless special arrangements have been made with VGLM, agencies must have all the information and documents required to complete the relevant form in VGLM Online before lodging the submission. This includes a certificate of valuation issued by VGV which provides an assessment of market value compensation as at the date of acquisition, or financial loss compensation as at the date the right to compensation was triggered.

In determining whether the total amount of compensation is \$1 million or more, agencies must have regard to all components of an offer of compensation. For an offer of compensation under the LAC Act this will include compensation for market value, disturbance, solatium, severance, special value and the claimant's professional expenses, and for an offer under Part 5 of the PE Act it will include compensation for financial loss, effect on residence and the claimant's professional expenses.

#### Agency tip:

To ensure VGLM has all the information it needs to make a decision, you will need to include an offer summary when you request VGLM approval to make an offer. Your offer summary can be attached to the Offer Details tab in the Compensation Land Acquisition and Compensation Planning and Environment forms on VGLM Online.

### Approval of an additional amount of compensation

VGLM can only approve an offer including additional compensation in exceptional circumstances, where the matter has been referred to VCAT or the Court, or the claim is disputed and there is a reasonable prospect that legal proceedings will be initiated. An agency is required to obtain VGLM approval for any offer that includes additional compensation, even if the total offer of compensation remains below the VGLM approval threshold of \$1 million.

Agencies can request approval using the Compensation Land Acquisition or Compensation Planning and Environment forms on VGLM Online.

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#### Agency tip:

You can find more information about the supporting evidence you will need to provide VGLM when seeking approval for an additional amount of compensation in the Resources section on VGLM Online.

### Does an agency need to seek approval of an offer of compensation that is less than \$1 million where the land acquired forms part of a group of related acquisitions?

VGLM approval is only required where an individual offer of compensation is for an amount which is \$1 million (or more).

#### Example:

An agency acquires land under the LAC Act. Before the land was acquired, company A was the registered proprietor of the land and company B was the lessee. The agency is proposing to make an offer of compensation to company A for their freehold interest in the amount of \$1.5 million, and an offer to company B for their leasehold interest in the amount of \$500,000.

In this example, the offer to company A requires VGLM approval, because it exceeds the VGLM approval threshold of \$1 million. However, the offer to company B is below the VGLM approval threshold and does not require VGLM approval, even though their entitlement to compensation arises from the acquisition of the same land.

### When should an agency lodge its submission requesting VGLM approval to make an offer of compensation?

An agency must obtain VGLM approval before making an offer of compensation. An offer of compensation cannot be made subject to VGLM approval.

### How long does VGLM approval to make an offer compensation remain valid?

If VGLM provides approval for an agency to make an offer of compensation, the offer remains valid until the agency makes any revised offer of compensation.

An agency must obtain VGLM approval before making any revised offer of compensation that exceeds the VGLM approval threshold, or an offer that includes additional compensation to settle a disputed claim.

### How long does it take for VGLM to review a request for approval to make an offer of compensation?

To assist agencies to meet legislative timeframes for making an offer, VGLM will make a decision on a request for approval within seven business days of receiving all the necessary information.

#### Requirement 4: VGV Valuation

Agencies must obtain and rely on certified VGV advice when making an offer of market value compensation under the LAC Act or financial loss compensation under Part 5 of the PE Act.

In some circumstances, VGV will require other expert advice to make its assessment of market value compensation, or agencies will need advice to determine other compensation amounts such as disturbance. Some common examples include town planning, engineering and quantity surveying, business valuation, loss of profits assessment, destruction value of a business, or relocation assessment. VGV's VSP can provide allied advice in most of these disciplines.

#### Requirement 7: Offer of market value compensation, or financial loss compensation

Agencies must not offer an amount of compensation for market value under the LAC Act, or financial loss compensation under Part 5 of the PE Act that is more than the assessment of compensation determined by VGV, unless the matter has been referred to VCAT or Supreme Court for determination and the VGLM has approved the offer.

### What advice can be relied upon once a matter has been referred?

Once a matter has been referred, agencies will need to rely on an expert valuation witness(es). In some circumstances it may be appropriate to rely on more than one expert valuation witness. An agency must

only engage another expert witness(es) based on legal advice. In accordance with the Supreme Court Expert Witness Code of Conduct and the VCAT Expert Evidence Practice Note, an expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the Supreme Court or VCAT impartially on matters relevant to their area of expertise. Accordingly, after a matter has been referred to VCAT or Supreme Court for determination, VGV will not issue any further certified assessments of compensation. This means that an agency's legal adviser can instruct the valuation expert(s) directly.

An agency must still obtain VGLM approval for all revised offers that meet the requirements for VGLM approval before they are made. However, once a dispute has been referred, VGLM may approve an offer of market value or financial loss compensation supported by evidence from any expert valuation witness in the proceeding.

### Mediations and compulsory conferences

Mediations and compulsory conferences are meetings where the parties come together to try and reach an agreement about the amount of compensation payable. Mediations are facilitated by a mediator and compulsory conferences are conducted by a VCAT member. The Supreme Court or VCAT can order a mediation or compulsory conference, or sometimes this can be initiated by the parties to the legal proceeding.

There are several reasons VGLM is required to attend, including:

- helping to maintain probity
- providing advice on the requirements of the policy
- approving a revised offer of compensation, and
- approving making an offer of additional compensation under the LAC Act, or Part 5 of the PE Act to settle a disputed claim.

VGLM must attend all mediations and compulsory conferences even if the total offer of compensation is under the VGLM approval threshold of \$1 million.

If VGLM approves an offer at a mediation or compulsory conference, an agency still needs to lodge a request for approval so that VGLM can formally confirm the approved offer. An agency can do this using VGLM Online after the mediation or compulsory conference. This process does not prevent a matter from settling at a mediation or compulsory conference.

## 4. Government to government

This section explains how the land transaction policy requirements apply to land transactions between government agencies

### Background

A government to government transaction is a land transaction between an agency and another agency, local council or the Commonwealth.

There are two types of government to government transactions, as follows:

- inter-agency transactions which are land transactions between two agencies, and
- inter-government transactions which are land transactions between an agency and a local council or the Commonwealth.

This section will explain how the requirements in the policy apply to each type of government to government transaction.

### Inter-agency transactions

The Victorian government is committed to ensuring that surplus government land is identified and used to provide best value for Victorians. In some circumstances, this will involve an agency transferring land to another government agency to build infrastructure and/or deliver services to the Victorian community.

To make transferring land between agencies as easy as possible, some of the land transaction requirements in the policy apply differently to transactions between agencies. This section will explain how each of the policy requirements applies to inter-agency transactions.

### Requirement 1: Accountability, transparency and follow legislation

An agency must ensure all land transactions are conducted to achieve accountability and transparency and are undertaken in accordance with relevant legislation.

The general requirements for meeting the accountability, transparency and legislation requirement are explained in **Part 2 Section 2**. Except for the requirement relating to documenting a sale or purchase in a contract or agreement these requirements apply equally to inter-agency transactions.

Agencies can choose any method for documenting an inter-agency transaction, provided the method is transparent and sets out the terms and conditions of the transaction. This may include a contract of sale, memorandum of understanding, or exchange of letters. Whichever method an agency chooses, it must still meet any additional legal requirements for transferring land, including those under the *Transfer of Land Act 1958* or *Land Act 1958*.

### Requirement 2: Due diligence

Before undertaking a land transaction, agencies are required to conduct an appropriate level of due diligence. This requirement applies equally to inter-agency transactions to ensure that:

- the agency purchasing the land can confirm the land is suitable for its proposed use
- if possible, any issues or risks associated with the land can be mitigated by making the transaction subject to special conditions, and
- if a VGV valuation is required, the information can be made available to VGV so it can consider all matters affecting the land in determining the current market value of the land.

It is up to agencies to agree how risks or issues identified during the due diligence process are managed and reflected in the terms and conditions of the transaction.

More information on the due diligence requirements is in **Part 2 Section 3**.

### Requirement 3: VGLM approval

The requirement to obtain VGLM approval does not apply where the land transaction is between agencies. However, agencies must still comply with the other requirements in the policy that apply to inter-agency transactions.

VGLM may conduct compliance audits to check agencies are complying with the policy when undertaking land transactions that do not require VGLM approval. You can find more information on compliance audits in [Part 2 Section 4](#).

### Requirement 4: VGV valuation

Before undertaking a land transaction, agencies must generally obtain a certified current market valuation of the land from VGV.

However, to make land transactions between two GG sector agencies as streamlined as possible, they can use the book value of land as the sale/purchase price. Therefore, the VGV valuation requirement does not apply if the land transaction is between two GG sector agencies based on the book valuation of the land.

If there is no book valuation, the book valuation is out of date, or the transaction involves a type of government agency known as a public non-financial corporation (PNFC), agencies must obtain a certified current market valuation from VGV. However, agencies can request this valuation is provided in the form of a simplified valuation. A simplified valuation is a certified current market valuation of the land as determined by VGV in a short form valuation report.

You can find out whether an agency is a GG sector agency or a PNFC in the 'controlled entities list' within the Annual Financial Report of the State of Victoria, which is published on DTF's website.

When a land transaction involves an agency that is not a GG sector agency or a PNFC, there is no entitlement to a simplified valuation report. In this case, a standard current market valuation must be requested from VGV.

### Agency tip:

If you need a VGV valuation for an inter-agency transaction, the agencies must jointly instruct VGV requesting the valuation.

### Is a check valuation required for transactions between two agencies?

A check valuation is not required as part of the VGV valuation process if the land transaction is between two agencies.

You can find more information on check valuations in [Part 2 Section 5](#).

### Requirements 5 and 6: Sale price and purchase price

Under the policy agencies must not:

- sell land or an interest in any land at a price, which is less than the current market value of the land as determined by VGV, or
- purchase land or an interest in land at a price, which is more than the current market value of the land as determined by VGV.

This requirement applies to land transactions between two agencies, unless the transaction is between two GG sector agencies based on the book value of the land, or another exemption applies.

If a transaction is between two GG sector agencies, the agencies can rely on the book valuation for the sale or purchase price, unless the book valuation is out of date, or no book valuation exists.

You can find out more information on the book value of land below.

### What is the book value of land?

The book value of land is the value used by agencies for financial reporting purposes.

Book valuations are determined by VGV based on the fair value of an asset. VGV conducts a revaluation of each agency's public assets, as at a specific date, every five years.

For financial reporting purposes, the value of land and building assets are recorded separately. In some circumstances, the value of fixtures or improvements on the land may also have a separate record. Therefore, the book value agencies rely on to support a transaction must be the combined value of all the relevant components.

An agency should seek advice from its finance area to confirm the book valuation before undertaking a land transaction.

### When is a book valuation out of date?

In Victoria, public assets, including land and buildings, are valued by VGV on a five-year rotating cycle. Within this cycle, Victorian government financial reporting directions require agencies to conduct an annual fair value assessment of assets, to determine whether additional revaluations need to be undertaken within the revaluation cycle.

A book valuation is up to date, provided it satisfies the revaluation requirements that apply under the Victorian government financial reporting directions. An agency should seek advice from its finance area to confirm the book valuation is up to date before undertaking a land transaction.

### What happens if my book valuation is out of date or there is no book valuation?

Agencies will need to obtain a current market valuation from VGV but can request VGV provides a simplified valuation.

### If the transaction involves part of an existing parcel of land, can an agency use a book value on a pro-rata basis?

As a separate book valuation does not exist for the part of the land being transacted, an agency will need to obtain a current market valuation from VGV. This valuation can be requested in the form of a simplified valuation.

### Requirement 7: Offer of market value compensation, or financial loss compensation

Agencies must not offer an amount of market value compensation under the LAC Act or financial loss compensation under Part 5 of the PE Act, which is more than the assessment of compensation determined by VGV.

You can find more information on the requirements for making an offer of compensation in [Part 4 Section 3](#). These requirements apply to an offer of compensation made to another agency in the same way as they apply to an offer of compensation made to any other person.

### Requirement 8: Land exchange

Agencies are not permitted to transfer land to another agency under a land exchange unless they have obtained approval from the Assistant Treasurer or the ERC, or another exemption applies.

You can find more information on the land exchange requirement in [Part 2 Section 6](#) and more information on exemptions in [Part 3](#).

### Requirement 9: Public sales process

The requirement to sell land using a public process does not apply where an agency is selling land to another agency, in accordance with the FROR process in the landholding policy. This includes circumstances where the agency has been granted an exemption from the FROR process under the landholding policy.

You can find more information on the public sales process requirement in [Part 2 Section 7](#).

### Requirement 10: Public land zone

The requirement that agencies must not sell land with a public land zone in place does not apply to land transactions between two agencies, where the agency purchasing the land is permitted to own land with a public land zone. However, if an agency is selling land to another agency for a different public use, it must be a condition of sale that the purchaser commences arrangements for the planning scheme to be changed to reflect the new use within 12 months.

You can find more information on the public land zone requirement in [Part 2 Section 8](#).

### Requirement 11: Lease with option to purchase

The requirement that an agency must not lease land with an option to purchase does not apply in circumstances where the option is granted to another agency (that is a Victorian government agency, not a local council or the Commonwealth). However, the other requirements in the policy continue to apply. This means that if the option is exercised, the land must be sold at a price that is no less than the current market value of the land as determined by VGV, or the book value of the land if the transaction is between two GG sector agencies.

## Exemptions

An agency must comply with all the policy requirements that apply to inter-agency transactions unless it qualifies for an exemption. Agencies can use the table below as a quick

reference guide to the exemptions which may be available subject to meeting the relevant eligibility criteria.

You can find more detailed information on each exemption in [Part 3](#).

**Table 38: Quick reference guide to inter-agency exemptions**

Exemption	Land transaction requirements		
	Sale price	Purchase price	Land exchange
Cabinet or committee of Cabinet	●	●	●
Minister for Planning		●	
Assistant Treasurer	●		
VGLM – Purchase in excess of VGV valuation		●	
ERC or Assistant Treasurer - Land exchange			●
Legislation	●	●	●
Public universities	●	●	●

### Agency tip:

Agencies must still comply with the requirements in the policy when undertaking a transaction with a public university that qualifies for the public university exemption.

## Inter-government transactions

An inter-government transaction is a land transaction with a local council or the Commonwealth. Except for the public sales process and public land zone requirements, the requirements in the policy apply to inter-government transactions in the same way as other transactions.

Although the policy requirements do not apply to local councils or the Commonwealth, agencies must comply with the policy requirements when undertaking land transactions with these government entities.

This section will explain how each of the policy requirements applies to inter-government transactions.

### Requirement 1: Accountability, transparency and follow legislation

Agencies must ensure all land transactions are conducted to achieve accountability and transparency and undertaken in accordance with relevant legislation.

The general requirements for meeting the accountability, transparency and legislation requirement were explained in [Part 2 Section 2](#). These requirements apply equally to inter-government transactions.

Unlike transactions between agencies, an agency must document transactions with a local council or the Commonwealth in a signed contract that sets out the terms and conditions of the transaction.

### Requirement 2: Due diligence

Before undertaking a land transaction, agencies must conduct an appropriate level of due diligence. This requirement applies to all inter-government transactions.

You can find out more about the due diligence requirements in [Part 2 Section 3](#).

### Requirement 3: VGLM approval

Agencies must obtain VGLM approval to undertake a land transaction with a local council or the Commonwealth before:

- agreeing to sell or purchase land where the value of the land or transaction is \$1 million (GST exclusive) or more
- agreeing to sell or purchase land where the land forms part of a group of related transactions by the same seller or purchaser, including land which

is part of a group of adjoining parcels proposed for sale or purchase, where the total value of the related land or related transactions is \$1 million (GST exclusive) or more

- Granting a lease where the:
  - book value of the land that will be leased is \$5 million (GST exclusive) or more in greater Melbourne for a term exceeding five years, or
  - book value of the land that will be leased is \$3 million (GST exclusive) or more in regional Victoria for a term exceeding five years.
- making an offer of compensation under the LAC Act, or Part 5 of the PE Act where the total amount of compensation is \$1 million (GST exclusive) or more, or
- making an offer of additional compensation under the LAC Act, or Part 5 of the PE Act to settle a disputed claim.

You can find more information on the VGLM approval requirement in [Part 2 Section 4](#).

### Requirement 4: VGV valuation

Before undertaking a land transaction with a local council or the Commonwealth, agencies are required to obtain a certified current market valuation of the land from VGV.

In limited circumstances, the Assistant Treasurer may approve the sale of land to a local council or the Commonwealth, at its restricted use value as determined by VGV. Agencies need to instruct VGV to provide both a current market value and a restricted use value of the land if they intend to apply for this exemption.

### Is a check valuation required for transactions between an agency and a local council or the Commonwealth?

A check valuation is not required as part of the VGV valuation process if the land transaction is with a local council or the Commonwealth.

You can find more information on check valuations in [Part 2 Section 5](#).

### Requirement 5: Sale price

Unless an exemption applies, agencies must not sell land or an interest in any land to a local council or the Commonwealth at a price, which is less than the current market value of the land as determined by VGV.

In limited circumstances, the Assistant Treasurer may approve the sale of land to a local council or the

Commonwealth at a price that is no less than the restricted use value of the land as determined by VGV with a restriction on title limiting the use of the land for public and community purposes.

You can find more information on the Assistant Treasurer exemption in [Part 3 Section 2](#).

#### **Requirement 6: Purchase Price**

Unless an exemption applies, agencies must not purchase land, or an interest in land, from a local council or the Commonwealth at a price that is more than the current market valuation of the land, as determined by VGV.

#### **Requirement 7: Offer of compensation**

Agencies must not offer an amount of market value compensation under the LAC Act or financial loss compensation under Part 5 of the PE Act, which is more than the assessment of compensation determined by VGV.

You can find more information on the requirements for making an offer of compensation in [Part 4 Section 3](#). These requirements apply to an offer of compensation made to another government agency in the same way as they apply to an offer of compensation made to any other party.

As the Commonwealth Constitution gives the Commonwealth exclusive power to make laws for all land acquired by the Commonwealth for public purposes, agencies cannot use the LAC Act to acquire Commonwealth land. If an agency wishes to acquire Commonwealth land to build infrastructure or deliver services it will need to reach an agreement with the Commonwealth to purchase the land, according to the policy requirements.

#### **Requirement 8: Land exchange**

Agencies must not transfer land to a local council or the Commonwealth under a land exchange arrangement unless they have obtained approval from the Assistant Treasurer or the ERC, or another exemption applies.

You can find out more about the land exchange requirement in [Part 2 Section 6](#) and about exemptions in [Part 3](#).

#### **Requirement 9: Public sales process**

The requirement to sell land using a public process does not apply where an agency is selling land to a local council or the Commonwealth in accordance with the requirements of the FROR process in the landholding policy. This includes circumstances where the agency has been granted an exemption from the FROR process under the landholding policy.

You can find more information on the public sales process requirement in [Part 2 Section 7](#).

#### **Requirement 10: Public land zone**

The requirement that agencies must not sell land with a public land zone in place does not apply to land transactions with a local council or the Commonwealth. However, if an agency is selling land to a local council for a different public use, it must be a condition of sale that the purchaser commences arrangements for the planning scheme to be changed to reflect the new use within 12 months.

You can find more information on the public land zone requirement in [Part 2 Section 8](#).

## **Exemptions**

An agency must comply with all the policy requirements that apply to inter-government transactions unless it qualifies for an exemption. Agencies can use the table on the following page as a quick reference guide to the exemptions which may be available subject to meeting the relevant eligibility criteria.

You can find more detailed information on each exemption in [Part 3](#).

**Table 39: Quick reference guide to inter-government exemptions**

Exemption	Land transaction Requirements			
	VGLM approval	Sale price	Purchase price	Land exchange
Cabinet		●	●	●
Minister for Planning			●	
Assistant Treasurer		●		
VGLM - Purchase in excess of VGV valuation			●	
ERC or Assistant Treasurer - Land exchange				●
Legislation		●	●	●
Public universities	●	●	●	●



## 5. Leasing

This section explains how the land transaction policy requirements apply when agencies lease land

### Background

The policy includes several specific requirements for leasing land.

This section will explain:

- What constitutes a lease under the policy
- The land transaction requirements and how these apply when an agency leases land, and
- Exemptions to the policy requirements that may apply when an agency leases land.

### What is a lease?

A lease is an agreement in which the agency granting the lease (the lessor) gives another person (the lessee) an exclusive right to occupy land for a specific term subject to the terms and conditions in the lease agreement.

Agencies may grant a lease over land that they own, or acquire a lease over land owned by another person.

A lease differs from a licence in that a licence permits the holder to carry out a permitted activity on the land but does not give the licensee (licence holder) a right of exclusive occupation. The policy does not apply to licences.

### When can an agency lease land?

An agency can lease land (as lessor or lessee), provided it has legislative authority and complies with applicable legislative requirements and government policies.

Under the landholding policy, surplus land (as defined in that policy) must be sold. Therefore, before leasing any land, the relevant decision-maker (that is the person permitted to lease land under the relevant legislation) must be satisfied that the requirements of the landholding policy have been met. If an agency is unsure whether land is surplus, it should seek further advice from DTF. This requirement applies even if the leasing transaction qualifies for an exemption under this policy.

Leases should also comply with other government policies that may apply such as the Leasing Policy for Victorian Crown Land and Victorian Office Accommodation Guidelines and Building Standards, and relevant legislation including the *Retail Leases Act 2003*.

### Land transaction requirements

**Part 2** of the policy provided information on each of the land transaction requirements. This section will provide further guidance on how the land transaction requirements apply when leasing land.

#### Requirement 1: Accountability, transparency and follow legislation

An agency must ensure leasing transactions are conducted to achieve accountability and transparency and are undertaken in accordance with relevant legislation.

The general requirements for meeting the accountability, transparency and legislation requirement are set out in **Part 2 Section 2**. These requirements apply equally to leasing land.

In addition to those requirements agencies must also ensure that new leases are granted using a competitive selection process, unless the public benefit of directly granting a lease outweighs the benefits that may be produced using a competitive process.

Leases must also be documented in a signed lease agreement, which clearly sets out the terms and conditions of the lease, including:

- Identifying the lessee and lessor
- Identifying the land subject to the lease
- The term of the lease
- The rent amount and when it is payable, and
- The lessee and lessor's obligations under the lease, including responsibilities for outgoings, insurance and repairs and maintenance.

### Requirement 2: Due diligence

Before leasing land, agencies are required to conduct an appropriate level of due diligence to ensure that:

- if an agency is acquiring a lease in land it can confirm the land is suitable for its proposed use
- any issues or risks associated with the land can be addressed in the terms of the lease agreement, and
- the information can be made available to VGV so it can consider it when determining the current market rental value.

You can find more information on the due diligence requirement in [Part 2 Section 3](#).

### Requirement 3: VGLM approval

Unless an exemption applies, agencies must obtain VGLM approval before agreeing to grant a lease over land, if the lease is for a term exceeding five years, and:

- if the land is in greater Melbourne, the land has a book value of \$5 million (GST exclusive) or more, and
- if the land is in regional Victoria, the land has a book value of \$3 million (GST exclusive) or more.

Therefore, to determine whether an agency requires VGLM approval before granting a lease, it must establish the following:

- whether the lease term exceeds five years
- whether the land is located in greater Melbourne or regional Victoria
- the book value of the land, and
- whether granting the lease is excluded from the requirement for VGLM approval.

You can find more information on each of these matters below.

#### What is a lease term exceeding five years?

A lease term will exceed five years in the following circumstances:

- the lease term is more than five years, or
- the lease term is less than five years, but the lessee has an option to renew the lease for a further period, which would result in the lease term exceeding five years.

#### Example:

An agency grants a lease for an initial period of three years, with an option to renew the lease for two further terms of three years.

For the purposes of the VGLM approval requirement, this lease is a lease with a term exceeding five years, even if the lessee never exercises the option to renew.

#### How do I know whether the land is in regional Victoria or greater Melbourne?

Regional Victoria means the regional councils listed in [Part 6 Appendix 4](#). If the land is not in one of these areas, it is in greater Melbourne for the purposes of the VGLM approval requirement.

#### What is the book value of land?

The book value of land is the value used by agencies for financial reporting purposes.

You can find out more about book valuations in [Part 4 Section 4](#).

#### When is a lease excluded from the requirement to obtain VGLM approval?

Leases between two agencies are excluded from the requirement for VGLM approval.

There are also some exemptions in the policy that provide an exemption from the requirement to obtain VGLM approval, such as the public university and agency-specific exemptions.

You can find more information on the exemptions from the leasing requirements below.

#### If the threshold for VGLM approval is satisfied, when should an agency request approval to grant the lease?

Agencies are required to seek VGLM approval before agreeing to grant the lease.

Agencies must seek approval by completing the Leasing form on VGLM Online. Agencies must have all the information and documents needed to complete the relevant form in VGLM Online before lodging the submission. Unless an exemption applies, this includes a certified current VGV rental valuation reflecting the terms and conditions of the proposed lease.

### Can an agreement to grant a lease be made subject to VGLM approval?

An agreement to grant a lease must not be made subject to VGLM approval, or meeting any of the other requirements in the policy unless VGLM has given the agency approval.

Agreeing to grant a lease subject to meeting any of the requirements in the policy will only be approved by VGLM in special circumstances. If VGLM provides approval, agencies will be required to comply with strict processes and controls.

Any agency wishing to enter into a conditional agreement to grant a lease in land, must request an engagement meeting with VGLM before requesting to grant a lease on a conditional basis.

### How long does VGLM approval to grant a lease over land remain valid?

When VGLM approves granting a lease, it bases its approval on VGV advice regarding the current rental value of the land. Provided there is no change to the terms and conditions of the lease, an agency can continue to rely on its VGLM approval during the period VGV's valuation remains current.

If VGV's valuation expires or the terms and conditions of the lease change before the lease agreement is signed, agencies are required to obtain updated valuation advice and further approval from VGLM before granting the lease.

#### Requirement 4: VGV valuation

Unless an exemption applies, agencies must obtain a certified current rental valuation of the land from VGV before granting a lease.

VGV provides different types of advice, which will be treated as a certified current rental value under the policy. For leases this is a:

- certified market rental valuation, or
- certified pre-determined formula for calculating market rent such as a rate card.

Valuations based on a pre-determined formula such as rate cards are generally only appropriate where

an agency proposes to grant a large number of low-value leases for similar types of land. An agency will need to engage VGV if it thinks that it may be appropriate to calculate market rent for land in this way.

There are no exemptions that apply to the requirement to obtain a VGV valuation when an agency is acquiring a lease over land. However, the following exemptions may apply when an agency is granting a lease over land:

- public university exemption
- alternative valuation exemption, and
- agency-specific exemptions.

You can find more information on VGV valuations in [Part 2 Section 5](#) and exemptions in [Part 3](#).

### Is a check valuation required for leasing transactions?

A check valuation is not required as part of the VGV valuation process for leases.

If an agency thinks a check valuation might be beneficial, it can discuss this with VGV. The VGV may also recommend a check valuation in certain circumstances.

#### Requirement 5 and Requirement 6: Lease price

Unless an exemption applies, an agency must not:

- grant a lease over any land at a price that is less than the current market rental value of the land as determined by VGV, and
- acquire a lease over any land at a price that is more than the current market rental value of the land as determined by VGV.

More information on the exemptions that may apply to these requirements are provided in the exemptions section below.

#### Requirement 11: Lease with an option to purchase

An agency must not grant a lease of land that contains an option to purchase unless the lease and option to purchase is being granted to another agency.

You can find out more about this requirement in [Part 2 Section 9](#).

## Exemptions

An agency must comply with all the policy requirements that apply to leasing transactions unless it qualifies for an exemption. Agencies can use the table below as a quick reference guide to the exemptions which may be available subject to meeting the relevant eligibility criteria.

You can find more detailed information on each exemption in [Part 3](#).

**Table 40: Quick reference guide to leasing exemptions**

Exemption	Land transaction requirements			
	VGLM approval	VGV valuation	Price – granting a lease	Price – acquiring a lease
Cabinet or committee of Cabinet			●	●
Minister for Planning			●	●
VGLM – Lease after unsuccessful public process			●	
Responsible Minister or statutory officer – lease terms			●	●
Responsible officer or statutory officer - Public and community purposes			●	
Legislation			●	●
Public universities	●	●	●	●
Alternative valuation		●	●	
Agency specific exemptions	●	●	●	

An agency should request an early engagement meeting with VGLM if it has any concerns about meeting the leasing requirements in the delivery of a government policy commitment.





**PART 5:**  
**Glossary and  
Abbreviations**

# 1. Glossary

---

## Administrative office

An administrative office established through an order in council under section 11 of the *Public Administration Act 2004*.

---

## Agency

See Victorian government agency, below.

---

## Book value

The book value of land is the value used by Victorian government agencies for financial reporting purposes. The meaning of book value under the policy is set out in [Part 4 Section 4](#).

---

## Claimant

A person or entity who makes or is entitled to make a claim for compensation under the *Land Acquisition and Compensation Act 1986* or Part 5 of the *Planning and Environment Act 1987*.

---

## Commonwealth

The government of the Commonwealth of Australia.

---

## Contract

A contract may include a contract of sale, lease agreement, option agreement, development agreement or grant of an easement.

---

## Decision-maker

A person who has the legal authority to approve a land transaction or can grant an exemption from the land transaction requirements in the policy.

---

## Department

An entity formed to assist Ministers perform their portfolio function and are the means by which government policy are implemented. Departments are part of the Crown and do not have a separate legal identity. They are established and abolished through an Order in Council made under section 10 of the *Public Administration Act 2004*.

---

## Disputed claim

Has the same meaning as in the *Land Acquisition and Compensation Act 1986*.

---

## Exemption

An exemption may relieve an agency from complying with a specific land transaction requirement(s) subject to meeting certain eligibility criteria. The exemptions and their eligibility criteria are set out in [Part 3](#).

---

## Expression of interest

A method of selling land where offers are made by prospective purchasers and considered at a pre-specified date by a licensed real estate agent or an evaluation panel.

---

---

### First Right of Refusal

The landholding policy process that requires Victorian government agencies to offer surplus land for sale through a 'first right of refusal' (FROR) process to other agencies, local councils and the Commonwealth before it can be sold to the public.

---

### General Government sector agency

A Victorian government agency listed as "general government" in the Financial Report for the State of Victoria.

---

### Greater Melbourne

Greater Melbourne comprises all local council areas that are not listed in [Part 6 Appendix 4](#).

---

### Land

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. The term land includes the surface of the land (including land covered by water), and land below the surface and the air above the surface.

---

### Land transaction

Means the following:

- the sale of land,
- the sale of an interest in land,
- the purchase of land,
- the purchase of an interest in land,
- acquiring or granting a lease over land, and
- an offer of compensation under the *Land Acquisition and Compensation Act 1986*, or Part 5 of the *Planning and Environment Act 1987*.

The terms 'sale' and 'purchase' have a special meaning under the policy and are defined below.

---

### Land transaction requirements

The obligations agencies must comply with when undertaking land transactions. The land transaction requirements are listed in [Part 2](#).

---

### Lease

A lease is an agreement under which the lessor gives the lessee an exclusive right to occupy land for a specific term subject to the terms and conditions in the lease agreement.

---

### Local council

Is a council as defined under the *Local Government Act 2020*.

---

### Multi-stage EOI or tender

A multi-stage process involving an initial approach to market to identify parties who may be interested in, and capable of, delivering an outcome on a parcel of land followed by one or more subsequent approaches to interested parties who have shown they may be capable of delivering the outcome.

---

### Person

Includes an entity and unincorporated body.

---

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**Public auction**

The public sale of a property, conducted by a licensed real estate agent acting as an auctioneer, at a specific place, time and date after a public marketing campaign.

---

**Public entity**

A public entity as defined in section 5 of the *Public Administration Act 2004*.

---

**Publicly listed sale**

A method of sale used by a licensed real estate agent that involves publicly advertising land for sale, and purchasers making their offers directly to a licenced real estate agent. This includes several methods of sale commonly used by licensed real estate agents including sale set date, expression of interest and private sale.

---

**Public non-financial corporation**

A Victorian government agency listed as a 'public non-financial corporation' in the Financial Report for the State of Victoria.

---

**Public university**

Is any one or more of the following:

- Deakin University as established under the *Deakin University Act 2009*
  - Federation University Australia as established under the *Federation University of Australia Act 2010*
  - La Trobe University as established under the *La Trobe University Act 2009*
  - Monash University as established under the *Monash University Act 2009*
  - RMIT University as established under the *Royal Melbourne Institute of Technology Act 2010*
  - Swinburne University of Technology as established under the *Swinburne University of Technology Act 2010*
  - The University of Melbourne as established under the *University of Melbourne Act 2009*
  - Victoria University as established under the *Victoria University Act 2010*
- 

**Purchase**

An arrangement under which a Victorian government agency agrees to receive a land transfer from another party or an interest in land.

---

**Regional Victoria**

Any local council area listed in [Part 6 Appendix 4](#)

---

**Responsible Minister**

The Minister who owns the land or is responsible for the legislation providing authority for the land transaction.

---

**Sale**

An arrangement under which a Victorian government agency agrees to transfer land to another party or create an interest in land.

---

---

### Secretary

The department head appointed by the Minister and responsible to their Minister(s) for the management of the department and advice on all matters related to the department and related administrative offices.

---

### Special bodies

A special body as defined in section 6 of the *Public Administration Act 2004*.

---

### Statutory officer

The holder of a statutory office that owns land.

---

### Tender

A method of selling land where offers are made by prospective purchasers and considered at a pre-specified date by a licensed real estate agent or an evaluation panel.

---

### Traditional Owner group

Has the same meaning as in section 3 of the *Traditional Owner Settlement Act 2010*.

---

### Victorian government agency

A Victorian government agency is any of the following:

- Victorian government departments
- Victorian government administrative offices
- Victorian public statutory authorities
- Victorian government public entities
- Victorian government special bodies
- Any legal entity established by state legislation for the purpose of the state (including those independent of government control, but does not include local councils)
- Companies in which the state has an interest, and
- Any organisation which requires statutory authorisation and/or ministerial approval, where public funds are involved in the land transaction.

To avoid doubt, 'Victorian government agencies' does not include local councils or Commonwealth government agencies.

---

## 2. List of acronyms and abbreviations

### ACHRIS

Aboriginal Cultural Heritage Register and Information System

### Agency

Victorian government agency

### ASIC

Australian Securities & Investments Commission

### CHMP

Cultural Heritage Management Plan

### DET

Department of Education and Training

### DELWP

Department of Environment, Land, Water and Planning

### DoJCS

Department of Justice and Community Safety

### DSI

Detailed Site Investigation

### DTF

Department of Treasury and Finance

### EPA

Environment Protection Authority

### EP Act

*Environment Protection Act 2017*

### EOI

Expression of Interest

### ERC

Expenditure Review Committee

### FROR

First Right of Refusal

### GAIC

Growth Areas Infrastructure Contribution

### GG

General Government sector agency

### GST

Goods and Services Tax

### LAC Act

*Land Acquisition and Compensation Act 1986*

### Landholding Policy

*Victorian Government Landholding Policy and Guidelines*

### Land Use Policy

*Victorian Government Land Use Policy and Guidelines*

### LUWG

Land Utilisation Working Group

### PE Act

*Planning and Environment Act 1987*

### PESA

Preliminary Environmental Site Assessment

### PNFC

Public Non-financial Corporation

### PSI

Preliminary Site Investigation

### SCLA Policy

*Victorian Government Strategic Crown Land Assessment Policy and Guidelines*

### Supreme Court

Supreme Court of Victoria

### TOS Act

*Traditional Owner Settlement Act 2010*

### UXO

Unexploded Ordnance

### VCAT

Victorian Civil and Administrative Tribunal

### VGLM

Victorian Government Land Monitor

### VGW

Valuer-General Victoria

### VHR

Victorian Heritage Register

### VL Act

*Valuation of Land Act 1960*

### VSP

Valuation Services Panel

### ROI

Registration of Interest

### WIK

Work in Kind



# PART 6: **Appendices**

# 1. Online resources for general due diligence

Before undertaking a land transaction an agency is required to conduct a range of general due diligence activities. The table below lists some online resources to assist agencies meet this requirement.

What	Where
Title and plan searches	<a href="http://www.landata.vic.gov.au">www.landata.vic.gov.au</a>
Company search	<a href="https://www.asic.gov.au">https://www.asic.gov.au</a>
Zones and overlays	<a href="https://mapshare.vic.gov.au/vicplan">https://mapshare.vic.gov.au/vicplan</a>
Approved planning schemes	<a href="http://www.planning.vic.gov.au/schemes-and-amendments/browse-planning-schemes">www.planning.vic.gov.au/schemes-and-amendments/browse-planning-schemes</a>
Planning scheme changes for government land	<a href="http://www.planning.vic.gov.au/policy-and-strategy/government-land-planning-service">www.planning.vic.gov.au/policy-and-strategy/government-land-planning-service</a>
Unexploded ordinance (UXO) mapping application	<a href="http://www.whereisuxo.org.au">www.whereisuxo.org.au</a>
Native Vegetation Information Management System	<a href="https://nvm.delwp.vic.gov.au/map">https://nvm.delwp.vic.gov.au/map</a>
Heritage places and objects and historical archaeological sites	<a href="http://www.heritage.vic.gov.au">www.heritage.vic.gov.au</a>
Aboriginal Cultural Heritage Register and Information System	<a href="http://achris.vic.gov.au/#/onlinemap">achris.vic.gov.au/#/onlinemap</a>
Aboriginal heritage planning tool	<a href="http://www.aav.nrms.net.au">www.aav.nrms.net.au</a>
Building safety	<a href="http://www.vba.vic.gov.au">www.vba.vic.gov.au</a>
Combustible cladding	<a href="https://www.vic.gov.au/cladding-safety">https://www.vic.gov.au/cladding-safety</a>



## 2. Online resources for contamination due diligence

Before undertaking a land transaction, agencies are required to conduct an initial review to assess the potential for contamination to be present on the land. This includes a review of relevant online resources. The table below lists a range of online and mapping and spatial resources to assist agencies identify the past and present use of the site and surrounding land uses.

What	Where
Aerial and satellite images	Google Maps™, Google Earth™, Nearmap™,
Current local planning schemes and provisions	Browse planning schemes at: <a href="https://www.planning.vic.gov.au/schemes-and-amendments/browse-planning-schemes">https://www.planning.vic.gov.au/schemes-and-amendments/browse-planning-schemes</a>
Historic planning schemes and Environmental Audit Overlays	Search VicPlan maps: <a href="https://mapshare.vic.gov.au/vicplan/">https://mapshare.vic.gov.au/vicplan/</a>
Potentially contaminating past and present use of the site and surrounding land uses.	Search Victoria Unearthed: <a href="https://mapshare.vic.gov.au/victoriaunearthed">https://mapshare.vic.gov.au/victoriaunearthed</a>
EPA environmental audits and EPA Priority Sites Register	Search Victoria Unearthed: <a href="https://mapshare.vic.gov.au/VictoriaUnearthed/">https://mapshare.vic.gov.au/VictoriaUnearthed/</a>
Historical aerial images	Browse: <a href="https://services.land.vic.gov.au/DELWPmaps/historical-photomaps/">https://services.land.vic.gov.au/DELWPmaps/historical-photomaps/</a> or <a href="https://www.landata.vic.gov.au/tpc_menu.aspx">https://www.landata.vic.gov.au/tpc_menu.aspx</a>
EPA licenced sites	Search for a licence: <a href="https://www.epa.vic.gov.au/for-business/find-a-topic/licences-works-approvals/search-for-licence">https://www.epa.vic.gov.au/for-business/find-a-topic/licences-works-approvals/search-for-licence</a>
EPA notice sites	Search for a notice: <a href="https://www.epa.vic.gov.au/about-epa/what-we-do/compliance-and-enforcement/1970-act/remedial-notices-and-directions">https://www.epa.vic.gov.au/about-epa/what-we-do/compliance-and-enforcement/1970-act/remedial-notices-and-directions</a>

### 3. List of potentially contaminating land uses

Before undertaking a land transaction, agencies are required to conduct an initial review to assess the potential for contamination to be present on the land. To assist agencies conduct an initial review, the table below provides a list of activities that are often considered to be a potential cause of land contamination. This list is not exhaustive, and agencies should consider all the relevant information in assessing the potential for contamination to be present.



High potential for contamination	Medium potential for contamination
<ul style="list-style-type: none"> <li>• Abattoir</li> <li>• Abrasive blasting</li> <li>• Airport</li> <li>• Asbestos production/ disposal</li> <li>• Asphalt manufacturing</li> <li>• Automotive repair/ engine works</li> <li>• Battery manufacturing/ recycling</li> <li>• Bitumen manufacturing</li> <li>• Boat building/ maintenance</li> <li>• Breweries/distilling</li> <li>• Brickworks</li> <li>• Cement manufacture</li> <li>• Ceramic works</li> <li>• Chemical manufacturing/ storage/blending</li> <li>• Chemical treatment/ destruction facilities</li> <li>• Coke works</li> <li>• Compost manufacturing</li> <li>• Concrete batching</li> <li>• Council works depot</li> <li>• Defence works</li> <li>• Drum re-conditioning facility</li> <li>• Dry cleaning</li> <li>• Electrical/electrical components manufacture</li> <li>• Electricity generation/ power station</li> <li>• Electroplating</li> <li>• Explosives industry</li> <li>• Fertiliser manufacture or storage</li> <li>• Fill sites</li> <li>• Firefighting or training (use of foams)</li> <li>• Foundry</li> <li>• Fuel storage depot</li> </ul>	<ul style="list-style-type: none"> <li>• Gasworks</li> <li>• Glass manufacture</li> <li>• Iron and steel works</li> <li>• Landfill sites/waste depots</li> <li>• Lime works</li> <li>• Materials recycling and transfer stations</li> <li>• Mass animal burial on agricultural sites</li> <li>• Metal coating/ electroplating</li> <li>• Metal finishing and treatments</li> <li>• Metal smelting/refining/ finishing</li> <li>• Mining and extractive industries</li> <li>• Oil or gas production/ refining</li> <li>• Pest control depots</li> <li>• Printing shops</li> <li>• Pulp or paper works</li> <li>• Railway yards</li> <li>• Scrap metal recovery</li> <li>• Service stations/fuel storage</li> <li>• Sewage treatment plant</li> <li>• Ship building/breaking yards</li> <li>• Shipping facilities- bulk (rate &lt;100 t/day)</li> <li>• Shooting or gun clubs</li> <li>• Stock dipping sites</li> <li>• Tannery (and associated trades)</li> <li>• Textile operations</li> <li>• Timber preserving/ treatment</li> <li>• Tyre manufacturing</li> <li>• Underground storage tanks</li> <li>• Utility depots</li> <li>• Waste treatment/ incineration/disposal</li> <li>• Wool scouring</li> </ul> <p><b>Ancillary Use activities</b></p> <p>In some cases, while the land use onsite may be benign, an ancillary land use or even a one-off activity or event has the potential to cause contamination. Examples include:</p> <ul style="list-style-type: none"> <li>• Above ground storage of chemicals or fuels (where such storage is ancillary to the primary site activities but is not minor)</li> <li>• Waste disposal such as illegal dumping</li> <li>• Stockpiles of imported fill</li> </ul> <p><b>Adjacent contaminating activity</b></p> <p>For the activities listed below, potential for contamination from adjoining land, and, if there is reason to suspect further offsite contamination, other nearby land, should be considered.</p> <ul style="list-style-type: none"> <li>• Automotive repair/engine works</li> <li>• Bitumen manufacturing</li> <li>• Chemical Manufacturing/storage/blending</li> <li>• Council works depot</li> <li>• Gasworks</li> <li>• Defence works</li> <li>• Dry cleaning</li> <li>• Electrical/ electrical components manufacturer</li> <li>• Electroplating</li> <li>• Landfill</li> <li>• Service station</li> <li>• Fuel storage depot</li> <li>• Tannery</li> <li>• Underground storage tanks</li> </ul> <p><b>Agriculture and animal production</b></p> <p>While most agricultural land is not likely to be contaminated, the potential for specific contaminating activities to have occurred over time should be considered, including:</p> <ul style="list-style-type: none"> <li>• Commercial use of pesticides (including herbicides, fungicides etc)</li> <li>• Biosolids application to land</li> <li>• Farm waste disposal</li> </ul> <p>See also activities in the 'high' category</p>

## 4. Definition of regional Victoria

The threshold for VGLM approval for leasing transactions is different depending on whether the land is located in greater Melbourne or regional Victoria. The table below lists the local council areas that are in 'regional Victoria' for the purposes of the policy. If the land is not in one of these local council areas, it is in greater Melbourne for the purposes of the VGLM approval requirement.

### Local council areas in regional Victoria

- Alpine Shire Council
- Ararat Rural City Council
- Ballarat City Council
- Bass Coast Shire Council
- Baw Baw Shire Council
- Benalla Rural City Council
- Buloke Shire Council
- Campaspe Shire Council
- Central Goldfields Shire Council
- Colac Otway Shire Council
- Corangamite Shire Council
- East Gippsland Shire Council
- Gannawarra Shire Council
- Glenelg Shire Council
- Golden Plains Shire Council
- Greater Bendigo City Council
- Greater Geelong City Council
- Greater Shepparton City Council
- Hepburn Shire Council
- Hindmarsh Shire Council
- Horsham Rural City Council
- Indigo Shire Council
- Latrobe City Council
- Loddon Shire Council
- Macedon Ranges Shire Council
- Mansfield Shire Council
- Mildura Rural City Council
- Mitchell Shire Council
- Moira Shire Council
- Moorabool Shire Council
- Mount Alexander Shire Council
- Moyne Shire Council
- Murrindindi Shire Council
- Northern Grampians Shire Council
- Pyrenees Shire Council
- Borough of Queenscliffe
- South Gippsland Shire Council
- Southern Grampians Shire Council
- Strathbogie Shire Council
- Surf Coast Shire Council
- Swan Hill Rural City Council
- Towong Shire Council
- Wangaratta Rural City Council
- Warrnambool City Council
- Wellington Shire Council
- West Wimmera Shire Council
- Wodonga City Council
- Yarriambiack Shire Council



