

Chapter 2: Coastal Land Policy: Purchase and Leasing

1. Introduction

In defining a Coastal Urban Edge as part of the City's Spatial Development Framework, the City has communicated a clear intent reflected in its Integrated Coastal Management Policy that the coastline is a core social and economic asset to the City and its communities and must be administered and held as a "common good", accessible to all and retained for future generations. In defining the Coastal Urban Edge the City, amongst many principles and methodologies, considered existing land use rights as one of many central determinants to ensure fairness and equity while acknowledging existing rights. This process of respecting existing land use rights minimised the extent of private land falling in the area between the high water mark and the Coastal Urban Edge. However, not all land within this defined coastal space falls under the direct administration of the City. Small pockets of private land without development rights remain, while significant portions of coastal land fall under the administration of a range of government departments.

To ensure the effective realisation of the City's clear intent to ensure that the coastline is managed, maintained and kept as a common asset accessible to all, a policy is needed to guide decisions in an open and transparent manner regarding:

- The possible acquisition of private land seaward of the Coastal Edge as defined in the Cape Town Spatial Development Framework, to ensure that the land is City owned as a common good and to ensure that future risk both private and public is minimised
- The preferred cessation of alienation of City owned land seaward of the Coastal Edge as defined in the Cape Town Spatial Development Framework
- To ensure that the City enters into formal discussions and agreements with other government departments who administer land seaward of the Coastal Edge as defined in the Cape Town Spatial Development Framework, to either formalise and ensure:
 - o Transfer of the land to the City
 - o Formal binding agreements in the management and land use of the coastal land under administration of other government departments
- Guide and structure any lease agreements that the City may enter into with private individuals, organisations or commercial entities for land parcels falling within the coastal zone as defined in the Cape Town Spatial Development Framework
- Consolidate state ownership of coastal land where this land is unsuitable for development owing to zoning and environmental regulations and/ or environmental change.

2. Guiding Principles

- Enhance the coordinated management of sensitive coastal environment. This aligns with the City's sustainability goals and the 'Towards 2040' Ecological Transition promoted by the Economic Development Partnership (EDP).
- IDP Objective 1.1: Create an enabling environment to attract investment that generates growth and job creation while minimising the risk of private owners purchasing undevelopable land
- IDP Objective 1.3: Promote a sustainable environment through the efficient utilisation of resources
- IDP Objective 4.2: Provide facilities that make citizens feel at home
- 2040 Ecological Transition: Incentivising and fast-tracking the green agenda
- Consistency and transparency in decision making on the coastline
- Retain the coastline as a "common good"
- Ensure that future risk both private and public is minimised

3. Policy Directives

3.1. Acquisition of Private Land in the Coastal Environment

The City *may* consider purchasing private land in the Coastal Environment under one or more of the following conditions:

- The land is of current strategic value for coastal protection as a buffer between the highwater mark and infrastructure
- The land is of strategic value for possible future coastal protection measures
- The land is of value as part of the “coastal common good” and should be held in public ownership in the best interests of current and future generations
- The land is of coastal conservation value
- The land is not suitable for any form of development due to environmental and coastal constraints
- The land is of strategic value for public coastal access, public amenity development or the enhancement of economic and commercial activities associated with the coast

In considering acquiring private land the following shall apply:

- All negotiations shall be led by the City's Property Management Department
- At no time and under no circumstances is the City obligated to acquire private land
- The City's Policy and By-law on the Management of Council's Immovable Property
- Existing rights and zoning will be taken into account when land values are determined
- Process of acquisition is preceded by proof of funding by the Department seeking acquisition

3.2. Alienation of City owned land

No City owned or administered land seaward of the Coastal Urban Edge as defined by the Spatial Development Framework shall be alienated or sold. Where City owned land is required for strategic purposes of national or regional importance such as harbour construction, the City may consider alienating land when:

- The social and economic value to the broader community of the explicit strategic purpose demonstrably and significantly outweighs the environmental implications or loss
- The strategic purpose in no way substantially reduces or compromises general public coastal access
- The alienation of the land is supported by a positive finding through a Strategic Environmental and Social Assessment

3.3. Leasing of City owned land

The City may lease out land or infrastructure seaward of the Coastal Urban Edge under the following conditions:

- The activity is non-commercial and supports the general community, including but not limited to, recreational clubs, lifesaving facility/club, sea rescue facility or club, safety, educational or awareness centre, not for profit community upliftment programmes or where the activity provides a formal service to the City
- Where a commercial activity contributes to the social and economic development of the City through the use of EXISTING infrastructure by creating employment, services and facilities that contribute to the economy.
- Public advertising of all proposed leases will take place in accordance with Council Policy prior to finalisation

In entering into a new lease agreement the City may:

- Limit all lease agreements to lease periods not exceeding 10 years, save for exceptional circumstances
- Retain the right within the lease agreements to terminate the lease on a specified and reasonable notice period and under specific and appropriate circumstances

Regarding existing agreements:

- Cession and assignment of leases will only be permitted where it is already authorised by the lease agreement or by applicable law;
- Where the option to acquire exists, this will be respected if a suitable alternative is not available;
- Where the option to extend the lease exists, this will be respected.

3.4. Coastal land administered by other state departments

Significant portions of coastal land located seaward of the Coastal Urban Edge is held under the administration of other organs of state including but not limited to the Provincial Government, National Department of Public Works, Passenger Rail Agency of South Africa (PRASA) and others.

For all coastal land that falls seaward of the Coastal Urban Edge and which is administered by one of these organs of state, the City shall enter into discussions with the relevant organ of state to either:

- Have the ownership of the land transferred to the City by mutual agreement with no required obligation through relevant means which may include land transfer, purchase or land swap
- Enter into a formal written agreement with the relevant organ of state to ensure that the land is managed and administered in line with the City's coastal objectives and complies with the City's Zoning Scheme and in particular the City's proposed Coastal Overlay Zone and which ensures City input and collaboration on any decision making with respect to the coastal land