

DISPOSAL OF LAND AND ASSETS POLICY	
Council Policy	
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1. POLICY STATEMENT

- 1.1 In accordance with Section 49 of the *Local Government Act 1999 (the Act)*, this policy ensures that the Disposal of Land and Assets is undertaken in a fair, transparent and accountable manner.

2. PURPOSE

2.1 Purpose

The Policy seeks to define the fair and transparent methods of which Land and Assets are disposed of, to ensure that the best possible outcome is achieved for the Council. This policy seeks to demonstrate accountability and responsibility of Council to ratepayers and enables all processes to be monitored and recorded.

2.2 Scope

- 2.2.1 This Policy applies to all disposals organised by Council employees or contractors and outlines the requirements for the sale and disposal of land and assets owned by Council.
- 2.2.2 This Policy does not cover land sold by Council for the non-payment of rates or the disposal of goods which are not owned by the Council, such as abandoned vehicles.

2.3 Definitions

In this Policy, unless the contrary intention appears, these words have the following meanings:

Asset means any physical item that the Council owns and that has at any time been treated pursuant to the Australian Accounting Standards as an 'asset', and includes Major Plant and Equipment and Minor Plant and Equipment. It **does not include** financial investments or finance related activities, trees or Land.

Land includes community land, vacant land, operational land, road reserves, any legal interest in land, and any other land-related assets, including all buildings (community and operational) on Land.

Major Plant and Equipment includes all major machinery and equipment owned by the Council, including trucks, graders, other operating machinery and major plant items.

Minor Plant and Equipment includes all minor plant and equipment owned by Council, including all loose tools, store items, furniture, second hand items removed from Major Plant and Equipment (air conditioner) and surplus bulk items (such as sand, gravel, bricks and pavers).

2.4 Strategic Reference

5 Governance and Financial Sustainability

- 5.5 We meet or exceed legislative and accreditation requirements for all relevant programs.

3. PRINCIPLES

3.1 Policy Principles

Council must have regard to the following principles in its disposal of Land and Assets:

- 3.1.1 Encouragement of open and effective competition
- 3.1.2 Obtaining Value for Money (this is not restricted to price alone). An assessment of value for money must include consideration of:
 - the contribution to Council's long term financial plan and strategic management plans
 - any relevant direct and indirect benefits to Council, both tangible and intangible
 - the costs of various disposal methods
 - internal administration costs
 - risk exposure
 - the value of any associated environmental benefits.
- 3.1.3 Ethical Behaviour and Fair Dealing. Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.
- 3.1.4 Probity, Accountability, Transparency and Reporting.
- 3.1.5 Ensuring compliance with all relevant legislation.

3.2 Considerations prior to Disposal of Land and Assets

Any decisions to dispose of Land and Assets will be made after considering:

- 3.2.1 usefulness of the Land or Asset
- 3.2.2 the current market value of the Land or Asset
- 3.2.3 the annual cost of maintenance
- 3.2.4 any alternative future use of the Land or Asset
- 3.2.5 any duplication of the Land or Asset or the service provided by the Land or Asset
- 3.2.6 any impact the disposal of the Land or Asset may have on the community
- 3.2.7 any cultural or historical significance of the Land or Asset
- 3.2.8 the positive and negative impacts the disposal of the Land or Asset may have on the operations of the Council
- 3.2.9 the long term plans and strategic direction of the Council
- 3.2.10 the remaining useful life, particularly of an Asset
- 3.2.11 a benefit and risk analysis of the proposed disposal
- 3.2.12 the results of any community consultation process
- 3.2.13 any restrictions on the proposed disposal;
- 3.2.14 the content of any community land management plan
- 3.2.15 any other relevant policies of the Council, including the Internal Financial Controls Policy and Prudential Management Policy.

3.3 Disposal of Land

- 3.3.1 The Council may resolve to dispose of Land.
- 3.3.2 Where the Land forms or formed a road or part of a road, the Council must ensure that the Land is closed under the *Roads Opening and Closing Act 1991* (SA) prior to its disposal.
- 3.3.3 Where Land is classified as community land, the Council must:

- a) resolve to exclude from classification as community land, pursuant to Section 193(4a) of the Act.
 - b) undertake public consultation in accordance with the Act and the Council's Public Consultation/Engagement Policy; and
 - c) ensure that the process for the revocation of the classification of Land as community land has been concluded prior to its disposal; and
 - d) comply with all other requirements under the Act in respect of the disposal of community land.
- 3.3.4 Where the disposal of Land is through the grant of a leasehold interest, the Council must comply with the obligations under Section 202 of the Act.
- 3.3.5 Where an Unsolicited Proposal involves Council land, Council will consider whether to process the application according to this Policy or the Guidelines for Receipt and Assessment of Unsolicited Proposals.
- 3.3.6 Land will be disposed through one of the following preferred methods:
- a) **open market sale** - advertisement for disposal of the Land through the local paper and a paper circulating in the State (where appropriate), or by procuring the services of a licensed real estate agent and/or auctioneer.
 - b) **expressions of interest** - seeking public expressions of interest for the Land;
 - c) **open tender** - openly seeking bids through tenders, including public auction.
 - d) **direct negotiation** - Council will consider the sale of land directly to an adjoining property owner, on a case by case basis. There must be evidence provided as to why the direct sale is more appropriate than going to the open market.
- 3.3.7 Selection of a suitable disposal method will include consideration of:
- a) the number of known potential purchasers of the Land
 - b) the original intention for the use of the Land
 - c) the current and possible preferred future use of the Land
 - d) the opportunity to promote local economic growth and development
 - e) delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal
 - f) the total estimated value of the disposal
 - g) compliance with statutory and other obligations.
- 3.3.8 The Council will not dispose of Land to any Council Member or employee of the Council who has been involved in any process related to a decision to dispose of the Land or the establishment of a reserve price.
- 3.3.9 Unless the Council resolves otherwise, one independent valuation must be obtained to establish the reserve price for the Land, no more than 6 months prior to the proposed disposal.
- 3.3.10 The Council will seek to dispose of Land at or above current market rate/value by whichever method is likely to provide the Council with a maximum return.

3.4 Asset Disposal

- 3.4.1 The sale of Assets will be the responsibility of the relevant Council Officer.
- 3.4.2 The Council will dispose of Assets through one of the following methods:

- a) **trade-in** - trading in equipment to suppliers
- b) **expressions of interest** - seeking expressions of interest from buyers
- c) **open tender** - openly seeking bids through tenders
- d) **public auction** - advertising for auction, where appropriate, or procuring the services of an auctioneer (following compliance with the Council's Purchasing, Contracts and Tendering Policy 1.1.09).
- e) **disposal** - an asset will be disposed into general waste or recycling, where it has reached the end of its useful life, or where the disposal cost would outweigh the value of the item.

3.4.3 Selection of a suitable method will include consideration of:

- a) the public demand and interest in the Asset
- b) the method most likely to return the highest revenue
- c) the value of the Asset and whether it is Major or Minor Plant and Equipment
- d) the costs of the disposal method compared to the expected returns
- e) compliance with statutory and other obligations .

3.4.4 Elected Members and employees of the Council will not be permitted to purchase Assets unless the purchase is via one of the above processes, and the tender submitted or bid made is the highest.

3.4.5 Purchasers of Assets must be required to agree in writing that before purchasing any Asset that no warranty is given by the Council in respect of the suitability and condition of the Asset for the purchaser and that the Council will not be responsible for the Asset in any respect following the sale.

3.5 Consultation

The Council must undertake public consultation in accordance with the Public Consultation Policy where required by the Act.

3.6 Delegations

Sale/Disposal	Delegation
Sale of Council Land	Not delegated - remains with Council
Setting of Reserve Price	Council or delegated to the Chief Executive Officer on a case by case basis
Disposal of Major Plant and Equipment	Chief Executive Officer and sub-delegated by the Chief Executive Officer on a case by case basis.
Disposal of Minor Plant and Equipment	Chief Executive Officer and sub-delegated by the Chief Executive Officer on a case by case basis.

3.7 Records

The Council must record reasons for utilising a specific disposal method and where it uses a disposal method other than a tendering process.

3.8 Proceeds from the sale of Council Land

Proceeds from the sale of Council Land will be determined on a case by case basis and may include being applied against any loan over the asset, being treated as general revenue, or to fund a new project as determined during the Annual Business Plan process.

3.9 Exemptions from this policy

3.9.1 There may be emergencies, or disposals in which an open process will not necessarily deliver best outcome for the Council, and other market approaches may be more appropriate.

3.9.2 The Council may waive application of this Policy in relation to the disposal of land or assets, where an alternative process will deliver a better outcome. The Council must record its reasons in writing for waiving the application of this Policy.

3.9.3 The Chief Executive Officer may waive application of this Policy in relation to the disposal of assets, where an alternative process will deliver a better outcome.

4. RESPONSIBILITY & REVIEW

4.1 Responsible Officer

4.1.1 Director City Services will be responsible to ensure correct procedures are adhered to in relation to the provisions of this Policy.

4.1.2 Director Corporate and Community Services will be responsible for disposal of land in relation to non-payment of rates.

4.2 Availability

This policy will be available on Council's website.

4.3 Review

4.3.1 This policy will be reviewed within 12 months of a General Election for Local Government, or as required to meet other obligations.

4.3.2 Council may revise or review this Policy at any time (but not so as to affect any process that has already commenced).

5. REFERENCES

5.1 Legislation

Local Government Act 1999

5.2 Other References

Fraud and Corruption Policy
Guidelines for the Receipt and Assessment of Unsolicited Proposals
Procurement Policy