
Disposal of council land and other assets

1. Preamble

The contents of and the commitments that Council makes in this policy are not intended to be and should not be interpreted to be any more than a statement of the Council's general position in relation to those matters, and to facilitate its aspirations wherever it is reasonable to do so.

2. Purpose

The purpose of this Policy is to:

- Define the methods by which council land or assets are sold or disposed (in accordance with obligations under section 49 of the Local Government Act);
- Demonstrate accountability and responsibility of council to ratepayers
- Be fair and equitable to all parties involved
- Enable all processes to be monitored and recorded
- Ensure that the best possible outcome is achieved for the council and the community
- Ensure that we are consistent with our strategic, corporate and financial directions; and
- Accord with legislative and common law responsibilities.

3. Policy Principles

Section 49 of the Local Government Act 1999 (Contracts and Tenders Policies) requires Councils to prepare and adopt policies on contracts, tenders including policies relating to the sale or disposal of council land or other assets.

We will ensure that our disposal practices and decisions:

- are undertaken in a manner which is accountable, responsible and transparent.
- that any sale or disposal of land and other assets will be consistent with achieving council's Community Plan 2035 and other council policies, strategies and long term plans.
- are in accordance with all legislative requirements including:

Local Government Act 1999 (SA)
Real Property Act 1886 (SA)
Land and Business (Sale and Conveyancing) Act 1994 (SA)
Development Act 1993 (SA)
Retail and Commercial Leases Act 1995 (SA)
Residential Tenancies Act 1995 (SA)
Strata Titles Act 1988 (SA)
Crown Lands Management Act 2009 (SA)
Community Titles Act 1996 (SA)
Roads (Opening and Closing) Act 1991 (SA)
Land Acquisition Act 1969 (SA).

4. Definitions

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

assets mean the physical items that council owns. This includes land, buildings, plant, machinery, equipment and all other physical objects. It does not include financial investments or finance related activities.

land includes community land, vacant land, operational land, all buildings (community and operational), road reserves and all other land related assets.

major plant, equipment and other items includes all major machinery, equipment originally classified by the council's accounting system as an asset (for example an item above \$5000 in value). It includes all trucks, graders, other operating machinery, motor vehicles and small plant items.

minor plant, equipment and other items ('minor assets') includes all items owned by council but not classified by the council's accounting system as an asset (for example an item with a value of \$5000 or less). This category includes all loose tools, store items, furniture, second hand items removed from other assets (such as air conditioners, bricks, pavers and exercise equipment).

5. Disposal considerations

5.1 Land disposal considerations

The Recreation and Open Space Network Plan contains a framework that must be considered when processing an application for sale or disposal of land. In keeping with this Plan and other investigation assessment criteria, the decision to sell or dispose of land will be made after considering:

- the usefulness of the asset
- its remaining useful life
- the annual cost of maintenance
- any alternative future use of the asset
- duplications of the asset or service
- the impact the sale or disposal of the asset may have on the community
- any cultural or historical significance
- the impact the sale or disposal of an asset may have on the operations of the council
- the long term plans and strategic direction of the council (for example meeting the objectives of the Community Plan 2028 and asset management plans)
- a benefit and risk analysis of the proposed disposal or sale
- the topography of the land
- any restrictions on disposal.

5.1.1 Sale or disposal of land is to be implemented in conjunction with other relevant council policies and strategies including the following:

- Community Plan 2028
- Public Consultation Policy
- Long term asset management plans
- Recreation and Open Space Network Plan (ROSN)
- Recreation Strategy 2010

Where the land is classified as community land and contained within a community land management plan (in accordance with the provisions of the Local Government Act 1999) the contents of the Plan will form a fundamental consideration of any disposal report to Council.

5.2 Minor assets

Where minor assets have no remaining useful life they may be disposed of utilising an appropriate environmental disposal method (for example electronic waste via eWaste).

6. Disposal method

6.1 Land disposal method

- The Council may resolve to sell or otherwise dispose of land.
- We must ensure that land that formed a road or part of a road is closed under the Roads (Opening and Closing) Act 1991 (SA) prior to its disposal.
- We must ensure that the process for the revocation of the classification of land as community land has been concluded prior to its disposal.
- Public consultation will be undertaken in accordance with council's public consultation policy where the land is classified as community land.
- Where appropriate, we may sell or dispose of land through adoption of the following practices:

open market sale – advertisement for sale through local paper and where appropriate, a paper circulating in the state or by instigating the services of a licensed real estate agent

expressions of interest – seeking expressions of interest for the sale or otherwise disposal of land

select tender – seeking tenders from a selected group of persons or companies

auction/open tender – openly seeking, through advertisement, tenders, or buyers for land

by negotiation – with owners of adjoining land or others with a pre-existing interest in the land (such as easements or rights of way), which may include:

- land that because of its small size, dimensions or irregular shape would not readily support a self contained development outcome
- land that has no legal access
- land to be developed by another level of government

Land disposed of to adjoining owners should (where possible) be amalgamated with an existing adjoining title

In identifying the circumstances in which to apply these disposal options, council may consider a range of matters which may include:

- the number of known potential purchasers of the land
- the original intention for the use of the land when purchased or otherwise granted ownership
- the current and possible preferred future use of the land

- the opportunity to promote local economic growth and development
 - the total estimated value of the sale
 - compliance with statutory and other obligations.
- 6.1.1 We will seek to sell or dispose of the land at or above current market valuation
- 6.1.2 If the land is to be auctioned or placed on the open market then one independent valuation must be sought to set the reserve price for the land.
- 6.1.3 If the land is to be sold or disposed of via selected or direct sale, then a minimum of two independent valuations must be sought to ensure that an appropriate market value is obtained.
- 6.1.4 Unless Council resolves otherwise, sale of land should be at or above the current market valuation.
- 6.1.5 If an interest in land is to be granted via an easement then an independent valuation is to be sourced or 30% of the Valuer General's capital value to be taken over the relevant portion of land (whichever is the greater).
- 6.1.6 Unless Council resolves otherwise, all costs associated with any sale or disposal of land must be borne by the purchaser or realised within the purchase price.

6.2. Major plant and equipment - disposal method

- 6.2.1. The sale or disposal of major plant and equipment will be the responsibility of the relevant council officer responsible for the asset.
- 6.1.2 As appropriate, any of the following methods may be used for the sale or disposal of major plant and equipment:
- trade in – trading in goods to equipment suppliers
 - expressions of interest – seeking expressions of interest for buyers
 - select tender – seeking tenders from a selected group of persons or companies
 - open tender – openly seeking, through advertisement, tenders or buyers
 - public auction – public sale through our contracted service providers.

6.3 Minor assets - disposal method

5.2.1. The sale or disposal of minor assets will be the responsibility of the relevant council officer responsible for the asset.

5.2.2. As appropriate, the following methods will be used for the sale or disposal of minor assets (under \$5000):

- trade in - trading in goods to suppliers
- public auction – sale of goods through public open process (for example for items grouped into lots – IT equipment, phones)
- expressions of interest – seeking expressions of interest from prospective purchasers.

In identifying the circumstances in which to apply these options, we will consider a range of matters including:

- the public demand and interest in the asset
- the method most likely to return the highest revenue
- the value of the asset
- the costs of the disposal method compared to the expected return
- compliance with statutory and other obligations.

Elected Members and employees of the council will not be permitted to purchase surplus assets unless the purchase is through public auction.

Purchasers of surplus assets will be required to agree in writing that before purchasing any item or asset that no warranty is given in respect of the suitability and condition of the asset.

7. Consultation

7.1 Land used for operational requirements

For land which is classified as operational land and has been deemed to be surplus to requirements (and excluded from community land), Council will determine on a case by case basis at the time of its resolution whether consultation is required.

This provision excludes land which is held as community land which will automatically follow the provisions as set out in the Local Government Act.

7.2 Land which is excluded from community land but is not used for operational purposes

We will consider at the time of the report appropriate consultation methods on land which has been excluded from the community land provisions pursuant to the Local Government Act. Consultation may take place with land that is excluded but is currently used by the community or where there is an expectation that this land will be retained for the benefit of the community.

7.3 Community land

Public consultation will be undertaken on all community land in accordance with the Local Government Act 1999.

7.4 Major plant and equipment and minor assets

No specific consultation requirements will be undertaken in relation to these assets.

8. Delegations

The power to dispose of land will only occur by way of a resolution of council (other than an easement or right of way which has been delegated pursuant to Section 201(2) of the Local Government Act).

Council or its officers with delegated authority will, when implementing the decisions under this Policy, act in accordance with the council's budget, relevant policies, plans, agreements and resolutions.

Council acknowledges that the Chief Executive Officer may sub-delegate matters related to this Policy to staff or other persons employed or engaged by council.

9. Documentation

To assist in demonstrating that its disposal processes are cost effective, fair, transparent and accountable, and meet community needs, we will document the reasons for entering into contracts for the sale of land other than those resulting from a tender process.

Any process to dispose or sell land (other than the granting of an easement, right of way or disposal of road reserve to adjacent owner) which is not by open tender or open market sale will be undertaken under the supervision of a probity auditor/advisor.

Responsible officer(s)/department(s):	Manager – Property and Recreation Services
	Manager – Business and Information

Adopted/approved by: Council

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