

Disposal of Land and Other Assets Policy	
Type	Governance
GDS Category	Governance – Public
Responsible Directorate	Infrastructure
Policy Adopted	March 2021
Review Period	4 yearly
Last Reviewed	June 2023
Next Review Date	March 2027
Policy Version Number	4
Applicable Legislation	<ul style="list-style-type: none"> • Local Government Act 1999 • Independent Commissioner Against Corruption (ICAC) Act 2012 (SA) • Crown Land Management Act 2009 • Roads (Opening & Closing) Act 1991 • Real Property Act 1886 • Land & Business (Sale & Conveyancing) Act 1994 • Development Act 1993 • Planning, Development & Infrastructure Act 2016 • Retail & Commercial Leases Act 1995 • Residential Tenancies Act 1995 • Strata Titles Act 1988 • Community Titles Act 1996
Related Documents	<ul style="list-style-type: none"> • Asset Management Policy • Community Engagement Policy • Code of Conduct for Elected Members Policy • Code of Conduct for Council Employees Policy • Procurement and Contract Management Policy • Unsolicited Proposals Policy
Public Consultation Required	No
Purpose	<p>This Policy sets out the framework for the implementation of Council decisions to dispose of surplus land and buildings. It defines principles and fair and transparent methods to be followed in transactions of this nature.</p> <p>It also sets out the process for disposing of other assets in the normal course of Council’s operations.</p>



POLICY OBJECTIVE

This policy seeks to:

- define the methods by which land, buildings and other assets are disposed of;
- demonstrate accountability and responsibility of Council to ratepayers;
- be fair and equitable to all parties involved; and
- enable all processes are monitored and recorded; and

SCOPE

Section 49 of the Act requires Council to prepare and adopt policies on contracts and tenders, including the sale or disposal of land or other assets.

This policy does not cover:

- land sold by Council for the non-payment of rates; or
- disposal of goods which are not owned by the Council, such as abandoned vehicles, as these are dealt with in the Act.

POLICY STATEMENT

Council is committed to ensuring a fair, transparent and accountable process in the disposal of land, buildings and other assets and aims to ensure that its methods are cost effective, meet the needs of the community and represent value for money.

DISPOSAL PRINCIPLES

Decisions relating to the sale or disposal of land, buildings and other assets will have regard to the following principles:

- opportunities to enhance local economic development and growth;
- encouragement of open and effective competition;
- probity, accountability, transparency and reporting;
- obtaining value for money. This is not restricted to price alone. An assessment of value for money includes consideration of (where applicable):
 - *the contribution to Council's long-term financial plan and strategic management plans*
 - *any relevant direct and indirect benefits to Council and/or the community, both tangible and intangible*
 - *efficiency and effectiveness*
 - *the costs of various disposal methods*
 - *internal administration costs*
 - *risk exposure*
 - *the value of any associated environmental benefits*
- opportunities to assist a neighbouring/regional council or local government as a whole;
- ethical behaviour and fair dealing – Council is to behave with impartiality, fairness, independence, openness, integrity, and in a way which appropriately manages conflicts of interest and commercial confidentiality in all discussions and negotiations;
- ensuring compliance with all relevant legislation and other obligations; and
- other relevant factors deemed appropriate.

CONSIDERATIONS PRIOR TO DISPOSAL OF LAND, BUILDINGS AND OTHER ASSETS

Any decision to dispose of land, buildings and other assets will be made after considering (where applicable):

- The usefulness of the land, building or other asset
- The current market value of the land, building or other asset
- The annual cost of maintenance
- Any alternative future use of the land, building or other asset
- Any duplication of the land, building or other asset including the service provided by the land, building or other asset
- Any impact the disposal of the land, building or other asset may have on the community
- Any cultural or historical significance of the land, building or other asset
- The positive and negative impacts the disposal of the land, building or other asset may have on the operations of the Council
- The long term plans and strategic direction of the Council
- The remaining useful life
- A benefit and risk analysis of the proposed disposal
- The results of any community consultation process
- Any restrictions on the proposed disposal
- The content of any community land management plan
- Any other relevant guidelines and policies of the Council

LAND AND BUILDINGS

The Council may resolve to dispose of land and/or buildings.

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.

Where the applicable land is classified as community land, the Council must:

- Undertake public consultation in accordance with the Act and the Council's Public Consultation Policy
- Ensure that the process for the revocation of the classification of land as community land has been concluded prior to its disposal
- Comply with all other requirements under the Act in respect of the disposal of community land

Where the Council proposes to dispose of land through the grant of a leasehold interest, the Council must have complied with its obligations under the Act, including its public consultation obligations under s.202 of the Act.

The Council will, where appropriate, dispose of land and/or buildings through one of the following methods:

- *open tender* – openly seeking bids through tenders, including public auction;
- *open market sale* – advertisement for disposal of the land through the local paper and where appropriate, a paper circulating in the State, or by procuring the services of a licensed real estate agent and/or auctioneer;
- *expressions of interest* – seeking expressions of interest for the land;
- *select tender* – seeking tenders from a selected group of persons or companies; and
- *by negotiation* – with owners of land adjoining the land or others with a pre-existing interest in the land, or where the land is to be used by a purchaser whose purpose for the land is consistent with the Council's strategic objectives for the land.

Selection of a suitable method will include consideration of (where appropriate):

- The number of known potential purchasers of the land and/or buildings;
- The original intention for the use of the land and/or buildings;
- The current and possible preferred future use of the land and/or buildings;
- The opportunity to promote local economic growth and development;
- Considerations in the Unsolicited Proposals Policy (if applicable); and
- Compliance with statutory and other obligations

The Council will not dispose of land and/or buildings 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 and/or buildings and/or the establishment of a reserve price.

Before disposing of any land and/or buildings, then (unless the Council resolves otherwise) one independent valuation must be obtained to establish the price to be used as the reserve, or for negotiations. The independent valuation must be made no more than six (6) months prior to the proposed disposal.

Council will seek to dispose of land and/or buildings at or above current market valuation by whichever method is likely to provide the Council with a maximum return, unless there are reasons for the Council to accept a lesser return which is consistent with Council's overall strategic direction. These reasons must be documented in writing.

The sale of buildings that can be separated from land (i.e. a shed) will be considered as a sale of another asset.

OTHER ASSETS

The disposal of other assets will be the responsibility of the relevant Director or delegated officer who is responsible for those assets.

Council will, where appropriate, dispose of assets through one of the following methods:

- *trade-in* – trading in equipment to suppliers;
- *expressions of interest* – seeking expressions of interest from buyers;
- *select tender* – seeking tenders from a selected group of persons or companies;
- *open tender* – openly seeking bids through tenders;
- *public auction* – advertisement for auction through the local paper and, where appropriate, a paper circulating in the State, or procuring the services of an auctioneer;
- *Sell or donate*:
 - *Low value items where there is no realistic market*
 - *A community benefit can be gained*
 - *The cost of disposal methods are excessive in relation to the value*
- *Recycle or disposal to landfill* – where there is no value or damage renders the item unserviceable.

Selection of a suitable method will include consideration of (where appropriate):

- the method most likely to return the highest revenue;
- the public demand and interest in the Asset;
- the value of the Asset;
- the costs of the disposal method compared to the expected returns;
- compliance with statutory and other obligations; and
- the attainment of community benefit.

The sale of assets where an obvious market exists, and where the expected value is greater than \$1,000 should be sold via trade-in, public auction or open tender. Exceptions to this approach

must be approved by the Chief Executive Officer.

Elected Members and employees of Council will not be permitted to purchase assets unless the purchase is via an open tender process or a public auction, and the tender submitted or bid made is the highest.

Purchasers / recipients of assets must be required to agree in writing before purchasing / receiving 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 Council will not be responsible for the asset in any respect following the disposal.

CONSULTATION

The Council must undertake public consultation in respect of its proposed disposals in accordance with the Act and its public consultation policies at all times.

RECORDS

The Council must record reasons for utilising a disposal method for land and/or buildings other than an open market process.

DELEGATIONS

The power to dispose of land and/or buildings will only occur by way of Council resolution (other than an easement or right of way which has been delegated pursuant to s. 201(2) of the Act). Council or its officers with delegated authority will, when implementing the decisions under this Policy act in accordance with Council's budget, relevant policies, plans, agreements and resolutions.

Council acknowledges the Chief Executive Officer may sub-delegate matters related to this Policy to staff.

Financial delegations as approved are applicable to this Policy.

EXEMPTIONS FROM THIS POLICY

This policy contains general guidelines to be followed by the Council in its disposal activities. There may be emergencies, or disposals in which a tender process or other methods listed in this Policy will not necessarily deliver best outcome for the Council, and other market approaches may be more appropriate. The Council may resolve to waive application of this Policy and pursue a method which achieves a better outcome for Council.