

1. RATIONALE

This policy is to guide an effective, consistent, integrated, and strategic approach to disposal of land and assets within the City of Marion.

2. POLICY STATEMENT

The Local Government Act requires Council develop and maintain policies, practices and procedures directed towards the sale or disposal of land or assets to:

- obtain value in the expenditure of public money
- ensure probity, accountability and transparency in all disposal processes

This policy identifies circumstances where Council will consider the disposal of land or assets, and associated processes.

3. OBJECTIVES

Council will consider disposal where it has been determined that land or assets are not required

- encouraging open and effective competition
- obtaining value for money by assessing:
 - services provided to the community
 - contribution to Council's strategic management plans and long term financial plan
 - any relevant direct and indirect benefits to Council, both tangible and intangible
 - efficiency and effectiveness
 - cost benefits of various disposal methods
 - internal administration costs
 - risk exposure
 - associated environmental benefits
- demonstrating impartiality, fairness, independence, openness and integrity in all discussions and negotiations
- complying with all relevant legislation

4. POLICY SCOPE AND IMPLEMENTATION

- Any decision to dispose of land and assets will be made after considering (where applicable):
 - the long term plans and strategic direction of the Council
 - the remaining useful life and usefulness of the land or asset
 - the current market value of the land or asset and annual cost of maintenance
 - any alternative future use of the land or asset
 - any duplication of the land or asset or the service provided by the land or asset
 - any impact the disposal of the land or asset may have on the community
 - any impact on Council infrastructure
 - any cultural or historical significance of the land or asset
 - the positive and negative impacts the disposal of the land or asset may have on the operations of the Council
 - any restrictions on the land or asset
- the content of any Community Land Management Plan and other relevant policies of the Council

- the results of any community consultation process
- a benefit and risk analysis of the proposed disposal
- any environmental impacts

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 will not deliver the best outcome for the Council, and other market approaches may be more appropriate. In certain circumstances the Council may waive application of this policy and pursue a method which will bring the best outcome for the Council. The Council must record its reasons in writing for waiving application of this policy in accordance with the tender exemption process.

Recycled depot materials that are excess to Council's needs are not classified as assets so are excluded from this policy.

DISPOSAL METHODS

LAND DISPOSAL

Any decision to dispose of land must be a decision of Council.

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 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

Council will use a disposal method that considers:

- the number of known potential purchasers of the land
- the original intention for the use of the land
- the current and possible preferred future use of the land
- the opportunity to promote local economic growth and development
- responsibility, operation efficiency and urgency of the disposal
- the total estimated value of the disposal
- easement requirements, access to land, existing or future infrastructure needs and service authority requirements.
- compliance with statutory and other obligations

Council will, where appropriate and through the use of appropriate delegations, dispose of land through one of the following methods:

- *expressions of interest* - seeking expressions of interest for the land

- *select tender* - seeking tenders from a selected group of persons or companies
- *open tender or market sale* - *openly seeking bids through tenders or market sale methods, including public auction*
- *by negotiation* – *with owners adjoining 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*

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 and/or the establishment of a reserve price.

If land is to be auctioned or placed on the open market or disposed of by an expression of interest, then (unless the Council resolves otherwise) at least one independent valuation must be obtained to establish the reserve price for the land which takes into account current and future land zoning. The independent valuation must be made no more than 12 months prior to the proposed disposal.

If land is to be disposed of via a select tender or direct sale, then (unless the Council resolves otherwise) a minimum of two independent valuations must be obtained to ensure that an appropriate market value is obtained. The independent valuation must be made no more than 12 months prior to the proposed disposal.

The Council will seek to dispose of land 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 the Council's overall strategic direction. These reasons must be documented in writing.

If the disposal is not to be on the open market, the disposal should be at or above the current market valuation (with due regard to all associated costs to achieve the transaction or such other amount as the Council resolves).

ASSETS DISPOSAL

The disposal of assets (both major plant and equipment and minor plant, stock and equipment) will be the responsibility of the relevant Council Officer who is the designated asset owner with the necessary delegation. The Asset Solutions Team and Treasury Accountant must be informed in writing of any asset disposal.

The Council will use a method that considers:

- the public demand and interest in the asset
- the method most likely to return the highest revenue
- the value of the asset and whether it is major plant and equipment or minor plant, stock and equipment
- the costs of the disposal method compared to the expected returns; and
- compliance with statutory and other obligations

Council will, where appropriate and through the use of appropriate delegations, 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, community groups or companies
- public 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 (following compliance with the Council's Procurement Policy).
- destruction – minor plant, stock and equipment which are not cost effective to dispose of are to be destroyed and binned

The Council will not dispose of assets to any Council Member or employee of the Council unless the purchase is via a public tender process or a public auction, and the tender submitted or bid made is the highest.

Preference will be given to community groups for disposal of minor plant, stock and equipment. Where this preference is applied, equipment offered must be serviceable and safe for use.

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.

MINOR PLANT, STOCK AND EQUIPMENT: REGISTER OF INTEREST

Where minor plant, stock and equipment has not been disposed of through any of the previous processes, the City of Marion may publish a list of surplus items and seek offers for their disposal. Decision making will be supported by the following provisions:

- If two or more offers are the same and one is from within the City of Marion area but the other is not, preference is to be given to the offer within the City of Marion.
- If two or more offers are the same and one is from a community group, preference is to be given to the community group.
- If two or more offers are the same and one is from a staff member or elected member and the other is from a community member, preference is to be given to a community member.
- If the above process does not yield a preferable result as indicated, a random draw be conducted and no further correspondence entered into.

5. DEFINITIONS

Asset: An individual or group of physical objects, which has value and enables services to be provided. It includes major plant and equipment, minor plant, stock and equipment, infrastructure and portable buildings but does not include financial investments, trees or land.

Asset Management: The combination of management, financial, economic, engineering and other practices applied to assets with the objective of providing the required service level in the most cost effective manner.

Community Land: All land classified as community land under Section 193 of the Local Government Act 1999.

Land: Community land, vacant land, operational land, road reserves and any other land-related assets, including all fixed buildings (community and operational) on land.

Major Plant and Equipment: All major machinery and equipment owned by the Council. It includes all trucks, vehicles, operating machinery and major plant items. It does not include minor plant, stock and equipment.

Minor Plant, Stock and Equipment: All minor machinery and equipment owned by Council. It includes all loose tools, store items, inventory stock, furniture, secondary items removed from buildings, major plant and equipment, and surplus bulk items (such as sand and gravel).

Further definitions are included in the International Infrastructure Management Manual 2015 referenced below (section 7).

6. ROLES AND RESPONSIBILITIES

The role of Council is to:

- ensure that land and asset disposal occurs following a transparent process, aligned with all legislative and policy requirements
- undertake public consultation in respect of its proposed disposals in accordance with the Act and its public consultation policies where applicable
- acknowledge that the Chief Executive Officer may sub-delegate matters related to this policy to staff or other persons employed or engaged by Council
- record reasons for utilising a specific disposal method and where it uses a disposal method other than a tendering process

The role of Council Administration is to ensure that responsible staff members are supported in the disposal of Council-owned land and assets.

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.

7. REFERENCES

Policy development has been guided by the:

- 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 Land Management Act 2009 (SA)
- Community Titles Act 1996 (SA)
- Roads (Opening and Closing) Act 1991 (SA) □ Land Acquisition Act 1969 (SA).
- International Infrastructure Management Manual (IIMM) 2015 and Australian Infrastructure Financial Management Guidelines

and relevant policies and procedures of the Council, including:

- Asset Accounting Policy
- Asset Management Policy
- Community Consultation Policy
- Procurement Policy
- Prudential Management Policy
- Leasing and Licencing Policy
- Encumbrances for the City of Marion Policy
- Disposal of Excess Plant and Equipment Stores and Salvaged or Recycled Materials
- Procedure