

# Disposal of Land and Assets Policy



## 1. RATIONALE

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

## 2. POLICY STATEMENT

The *Local Government Act 1999 (SA)* requires Council to develop and maintain policies, practices and procedures directed towards the sale or disposal of land or assets related to obtaining value in the expenditure of public money and ensuring 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 under our Economic and Legislative objectives. The disposal process will consider:

- Encouraging open and effective competition.
- Obtaining value for money by assessing:
  - Services provided to the community.
  - Contributions to Council's strategic management plans and long-term financial plans.
  - Any relevant direct and indirect risks and benefits to Council, both tangible and intangible.
  - Cost benefit of various disposal methods.
  - Internal administration costs.
  - Associated environmental impacts and benefits.
  - Demonstrating impartiality, fairness, independence, openness and integrity in all discussion and negotiations.
  - Complying with all relevant legislation.
  - The benefit to the community that can be gained through donation or at a low cost of disposal to the community.

## 4. POLICY SCOPE AND IMPLEMENTATION

### 4.1 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

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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.

The CEO may elect to donate items of minor plant, stock and equipment that have not been disposed of through any of the processes detailed in this policy to a group that will benefit from the item(s). This will be done so at the discretion of the CEO.

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

## 4.2 Disposal Methods

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 to be 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 benefits and impacts.
- The community benefit of the land or asset being donated, or provided at low cost, to an organisation.

## 4.3 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.

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Where disposal of land is by compulsory acquisition, no resolution of Council will be required except for where the common seal needs to be affixed to any documentation.

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, 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.
- **Unsolicited proposals.**

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.

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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) one independent valuation must be obtained to establish the reserve price for the land. The independent valuations must be made no more than 12-months prior to the proposed disposal and must consider current and future land zoning.

If land is to be disposed via a select tender or direct sale, then (unless the Council resolves otherwise) a minimum of one independent valuation 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).

## 4.4 *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. The asset owner must hold the necessary delegation of authority. 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.
- The optimum method to reuse or recycle the asset or its components.
- Supports disposal which provides significant community value in lieu of cash value.

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

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- Trade-in – trading in equipment to suppliers.
- Expressions of interest – seeking tenders from a selected group of persons, community groups or companies.
- Public tender – openly seeking bids through tenders.
- Public auctions – 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).
- Reuse or recycling of the asset or its components – or if this cannot be done, then safe disposal methods that minimise environmental harm.
- Destruction – minor plant, stock and equipment which are not cost effective to dispose of are to be destroyed and binned.
- Tree assets and associated organic material will be disposed in a method that minimises carbon loss.

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.

The Council will be transparent in regard to disposal of assets in accordance with related procedures.

Preferences 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 before purchasing any assets that no warranties will be 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.

## **4.5 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 Council Administration 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 Council Member and the other is from a community member preference is to be given to a community member.

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- If the above process does not yield a preferable result as indicated, a random draw will be conducted, and no further correspondence entered.

## 5. DEFINITIONS

<i>Term</i>	<i>Definition</i>
<i>Asset</i>	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 lands.
<i>Asset Management</i>	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.
<i>Community Land</i>	All land classified as community land under <i>Section 193 of the Local Government Act 1999</i> .
<i>Land</i>	Community land, vacant land, operational land, road reserves, and any other land related assets, including all fixed buildings (community and operational) on land.
<i>Major Plant and Equipment</i>	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.
<i>Minor Plant, Stock and Equipment.</i>	All minor machinery and equipment owned by the Council. It includes all loose tools, store items, inventory stock, furniture arts, gifts, minor IT equipment, secondary items removed from buildings, major plant and equipment, and surplus bulk items (such as sand and gravel).

## 6. ROLES AND RESPONSIBILITIES

<i>Role</i>	<i>Responsibility</i>
<i>Council</i>	<ul style="list-style-type: none"><li>• To ensure that land and asset disposal occurs following a transparent process, aligned with all legislative and policy requirements.</li><li>• Undertake public consultation in respect of its proposed disposals in accordance with the Act and its public consultation policies where applicable.</li></ul>



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<i>Role</i>	<i>Responsibility</i>
	<ul style="list-style-type: none"><li>• Acknowledge that the Chief Executive Officer may sub-delegate matters relating to this policy to staff, or other persons employed or engaged by the Council.</li><li>• Record reasons for utilising a specific disposal method and where it used a disposal method other than a tendering process.</li></ul>
<i>Council Administration</i>	<ul style="list-style-type: none"><li>• Ensure that responsible staff members are supported in the disposal of Council-owned land and assets.</li></ul>
<i>Council or its officers with delegated authority.</i>	<ul style="list-style-type: none"><li>• When implementing the decisions under this policy, act in accordance with the Council's budget, relevant policies, plans, agreements, resolutions.</li></ul>

## 7. REFERENCES

### City of Marion

- Asset Accounting Policy.
- Asset Management Policy.
- Community Consultation Policy.
- Procurement Policy.
- Prudential Management Policy.
- Leasing and Licensing Policy.
- Encumbrances for the City of Marion Policy.
- Disposal of Excess Plant and Equipment Stores and Salvaged or Recycled Materials Procedures.
- Unsolicited Proposals Policy.

### Other

- Local Government Act 1999 (SA).
- Real Property Act 1886 (SA).
- Land and Business (Scale and Conveyancing) Act 1994 (SA).
- Development Act 1993 (SA).
- Retail and Commercial Leases 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).
- Australian Infrastructure Financial Management Guidelines.

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## 8. REVIEW AND EVALUATION

This policy will be reviewed every four years in alignment with the Policy Framework. This policy is the responsibility of the Manager Engineering, Assets and Environment. Key Stakeholders within the organisation are the Manager of City Property, Manager City Activation, and the Chief Financial Officer.