

POLICY STATEMENT

The Local Government Act (the Act)¹ requires Council to develop and maintain policies, practices and procedures directed towards the sale or disposal of land or other assets to:

- obtain value in the expenditure of public money; and
- provide for ethical and fair treatment of participants; and
- ensure probity, accountability and transparency in all disposal processes.

The Act requires that Council prepare and adopt a range of policies, including a policy relating to the sale of land and other assets. The policy seeks to identify circumstances where Council will call for the disposal of land or other assets, and set out associated processes.

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'. It includes Major Plant and Equipment such as infrastructure and buildings it **does not include** financial investments, 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. It includes all trucks, graders, other operating machinery and major plant items. It does not include Minor Plant and Equipment.²

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

POLICY PRINCIPLES

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

- Council seriously consider the disposal of land where it has been determined that it is no longer required for the community.
- Encouragement of open and effective competition.
- Obtaining value for money (not restricted to price alone). An assessment of value for money may include the consideration of;
 - the contribution to Council's long term financial plan and strategic management plans;

¹ Local Government Act 1999 (SA) s 49(1)(d)

² Materiality; Infrastructure, land and buildings \$5000. Furniture, equipment and other \$3 000. GC240614R03 - Asset Accounting Policy

- any relevant direct and indirect benefits to Council, both tangible and intangible;
- efficiency and effectiveness;
- the costs of various disposal methods;
- internal administration costs;
- risk exposure; and
- the value of any associated environmental benefits.
- Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.
- Ensuring compliance with all relevant legislation 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 Land Management Act 2009 (SA)
 - Community Titles Act 1996 (SA)
 - Roads (Opening and Closing) Act 1991 (SA)
 - Land Acquisition Act 1969 (SA).

CONSIDERATIONS PRIOR TO DISPOSAL OF LAND AND ASSETS

Any decision to dispose of Land and Assets will be made after considering (where applicable):

- the usefulness of the Land or Asset;
- the current market value of the Land or Asset;
- the 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 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;
- the long term plans and strategic direction of the Council;
- the remaining useful life, particularly of an Asset;
- 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; and
- Other relevant policies of the Council, including:
 - Asset Accounting
 - Asset Management
 - Community Consultation
 - Procurement
 - Prudential Management

DISPOSAL METHODS

1. LAND DISPOSAL

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

- 1.1.1 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.
- 1.1.2 Where Land is classified as community land, the Council must:
 - 1.1.2.1 undertake public consultation in accordance with the Act and the Council's public consultation policy; and
 - 1.1.2.2 ensure that the process for the revocation of the classification of Land as community land has been concluded prior to its disposal; and
 - 1.1.2.3 comply with all other requirements under the Act in respect of the disposal of community land.³
- 1.1.3 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 Section 202 of the Act.
- 1.1.4 The Council will, where appropriate and through the use of appropriate delegations, dispose of Land through one of the following methods:
 - 1.1.4.1 *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 (following compliance with the Council's Procurement Policy);
 - 1.1.4.2 *expressions of interest* - seeking expressions of interest for the Land;
 - 1.1.4.3 *select tender* - seeking tenders from a selected group of persons or companies;
 - 1.1.4.4 *open tender* - openly seeking bids through tenders, including public auction;
 - 1.1.4.5 *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.
- 1.1.5 Selection of a suitable disposal method will include consideration of (where appropriate):
 - 1.1.5.1 the number of known potential purchasers of the Land;
 - 1.1.5.2 the original intention for the use of the Land;
 - 1.1.5.3 the current and possible preferred future use of the Land;
 - 1.1.5.4 the opportunity to promote local economic growth and development;
 - 1.1.5.5 delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
 - 1.1.5.6 the total estimated value of the disposal; and
 - 1.1.5.7 compliance with statutory and other obligations.
- 1.1.6 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 and/or the establishment of a reserve price.
- 1.1.7 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 valuation must be made no more than 6 months prior to the proposed disposal.
- 1.1.8 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

³ The Act may be amended from time to time.

obtained to ensure that an appropriate market value is obtained. The independent valuation must be made no more than 6 months prior to the proposed disposal.

- 1.1.9 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.
- 1.1.10 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).

1.2 ASSETS DISPOSAL

The sale of Assets (both Major Plant and Equipment and Minor Plant and Equipment) will be the responsibility of the relevant Council Officer who is responsible for those Assets and who has the necessary delegations.

- 1.2.1 The Council will, where appropriate, dispose of Assets through one of the following methods:
 - 1.2.1.1 *trade-in* – trading in equipment to suppliers;
 - 1.2.1.2 *expressions of interest* – seeking expressions of interest from buyers;
 - 1.2.1.3 *select tender* – seeking tenders from a selected group of persons or companies;
 - 1.2.1.4 *open tender* – openly seeking bids through tenders;
 - 1.2.1.5 *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).
- 1.2.2 Selection of a suitable method will include consideration of (where appropriate):
 - 1.2.2.1 the public demand and interest in the Asset;
 - 1.2.2.2 the method most likely to return the highest revenue;
 - 1.2.2.3 the value of the Asset and whether it is Major Plant and Equipment or Minor Plant and Equipment;
 - 1.2.2.4 the costs of the disposal method compared to the expected returns; and
 - 1.2.2.5 compliance with statutory and other obligations.
- 1.2.3 Preference will be given to community groups for Minor Plant and Equipment
- 1.2.4 Elected Members and employees of the 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.
- 1.2.5 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.

1.3 MINOR PLANT AND EQUIPMENT: REGISTER OF INTEREST

Where Minor Plant and Equipment has not been disposed of through any of the processes in clause 1.2 of this Policy, the City of Marion will publish a list of surplus items and seek offers for their disposal. Decision making will be supported by the following provisions:

- 1.3.1. 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.
- 1.3.2 If two or more offers are the same and one is from a community group, preference is to be given to the community group.
- 1.3.3 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.
- 1.3.4 If the above process does not yield a preferable result as indicated, a random draw be conducted and no further correspondence entered into.

2. CONSULTATION

Council must undertake public consultation in respect of its proposed disposals in accordance with the Act and its public consultation policies where applicable.

3. DELEGATIONS

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.

4. RECORDS

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

5. 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 necessarily deliver best outcome for the Council, and other market approaches may be more appropriate. In certain circumstances, the Council may, after approval from its elected members, 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.

6. FURTHER INFORMATION

- 6.1 This policy will be kept on the Council's website for the public to view.
- 6.2 This policy will be reviewed in conjunction with the suite of finance policies every two years.
- 6.3 However, Council may revise or review this Policy at any time (but not so as to affect any process that has already commenced).

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DATE

23 June 2015