



# **TITLE: DISPOSAL OF COUNCIL LAND AND OTHER ASSETS POLICY**

## **1. PURPOSE**

Manage assets and liabilities through a planned, long term approach. In compliance with Section 49 of the Local Government Act 1999 (**Act**), Council should refer to this policy (**Policy**) when disposing of Land and Other Assets.

## **2. SCOPE**

**2.1** This Policy seeks to:

- 2.1.1** define the methods by which Land and Assets are disposed of;
- 2.1.2** demonstrate accountability and responsibility of Council to ratepayers;
- 2.1.3** be fair and equitable to all parties involved;
- 2.1.4** enable all processes to be monitored and recorded; and
- 2.1.5** ensure that the best possible outcome is achieved for the Council.

**2.2** Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:

- 2.2.1** obtaining value in the expenditure of public money; and
- 2.2.2** providing for ethical and fair treatment of participants; and
- 2.2.3** ensuring probity, accountability and transparency in all disposal processes.

**2.3** However, this Policy does not cover:

- 2.3.1** Land sold by Council for the non-payment of rates; or
- 2.3.2** disposal of goods which are not owned by the Council, such as abandoned vehicles;

as these are dealt with in the Act.

## **3. POLICY PRINCIPLES – OUR COMMITMENT**

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

- 3.1** Encouragement of open and effective competition
- 3.2** Obtaining Value for Money
  - 3.2.1** This is not restricted to price alone.
  - 3.2.2** An assessment of value for money must include consideration of (where applicable):
    - 3.2.2.1** the contribution to Council's long term financial plan and strategic management plans;
    - 3.2.2.2** any relevant direct and indirect benefits to Council, both tangible and intangible;
    - 3.2.2.3** efficiency and effectiveness;
    - 3.2.2.4** the costs of various disposal methods;
    - 3.2.2.5** internal administration costs;
    - 3.2.2.6** risk exposure; and
    - 3.2.2.7** the value of any associated environmental, community, social or economic benefits.
- 3.3** Ethical Behaviour and Fair Dealing
 

Council is to behave with impartiality, fairness, independence, openness (subject to commercial considerations) and integrity in all discussions and negotiations.
- 3.4** Probity, Accountability, Transparency and Reporting.
- 3.5** Ensuring compliance with all relevant legislation.

#### **4. DEFINITIONS**

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

- 4.1** **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', and includes Major Plant and Equipment and Minor Plant and Equipment. It **does not include** financial investments or finance related activities, trees or Land.
- 4.2** **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.
- 4.3** **Major Plant and Equipment** includes all major machinery and equipment owned by the Council with a current value over \$5,000. It includes all trucks, graders, other operating machinery and major plant items. It does not include Minor Plant and Equipment.

- 4.4 Minor Plant and Equipment** includes all minor plant and equipment owned by Council with a current value of \$5,000 or less. 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).

## **5. ROLES & RESPONSIBILITIES**

### **Council:**

- Approve a suitable Disposal of Council Land & Other Assets policy; and
- Ensure appropriate resources to fulfil the effective outcomes of this policy.

### **Chief Executive Officer:**

- Comply with this policy; and
- Review the processes and the value of the policy.

### **General Managers:**

- Ensure appropriate resources to fulfil the effective outcomes of the policy; and
- Comply with this policy.

### **Council Staff:**

- Comply with this policy.

## **6. CONSIDERATIONS PRIOR TO DISPOSAL OF LAND AND ASSETS**

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

- 6.1.1** the usefulness of the Land or Asset;
- 6.1.2** the current market value of the Land or Asset;
- 6.1.3** the annual cost of maintenance;
- 6.1.4** any alternative future use of the Land or Asset;
- 6.1.5** any duplication of the Land or Asset or the service provided by the Land or Asset;
- 6.1.6** any impact the disposal of the Land or Asset may have on the community;
- 6.1.7** any cultural or historical significance of the Land or Asset;
- 6.1.8** the positive and negative impacts the disposal of the Land or Asset may have on the operations of the Council;
- 6.1.9** the long term plans and strategic direction of the Council;
- 6.1.10** the remaining useful life, particularly of an Asset;
- 6.1.11** a benefit and risk analysis of the proposed disposal;
- 6.1.12** the results of any community consultation process;

- 6.1.13** any restrictions on the proposed disposal;
- 6.1.14** if the land is classified as Community Land, the content of any Community Land Management Plan;
- 6.1.15** the costs incurred to sell the Land or Asset;
- 6.1.16** any other relevant policies of the Council.

## **6.2 Disposal Methods**

### **6.2.1 Land Disposal**

**6.2.1.1** The Council may resolve to dispose of Land.

**6.2.1.2** Where the Land is road reserve the Council must ensure that the Land is closed under the *Roads Opening and Closing Act 1991* (SA) prior to its disposal.

If, in principle, the CEO or his delegate supports the closure of road reserve to be sold following a direct approach from an adjoining owner - an upfront non-refundable fee will be payable by the proponent before any costs are incurred by Council. The fee will be set annually in Council's Fees and Charges.

**6.2.1.3** Where Land is classified as community land, the Council must:

**6.2.1.3.1** undertake public consultation in accordance with the Act and the Council's public consultation policy;

**6.2.1.3.2** ensure that the process for the revocation of the classification of Land as community land has been concluded prior to commencing its disposal; and

**6.2.1.3.3** comply with all other requirements under the Act in respect of the disposal of community land.

**6.2.1.4** 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.

**6.2.1.5** Any lease of land which has been excluded from Community Classification with an initial term of more than ten years will be considered to be a disposal under this Policy.

**6.2.1.6** The Council will, whenever possible, use a competitive method to dispose of Land. All competitive sales will include advertising appropriate to the type of property including, as a minimum, a signboard and internet adverts.

**6.2.1.7** Advertising will nominate a closing date and time, any offer received after that time will be treated as late. Late offers will only be considered if none of the on time offers are considered to be acceptable at the discretion of the CEO or General Manager Corporate Services. The following methods are appropriate depending on the individual circumstances:

**6.2.1.7.1** *Auction* - by using the services of a licensed real estate agent and auctioneer;

**6.2.1.7.2** *Expressions of interest* - seeking expressions of interest for the Land followed by either a select tender or direct negotiation of contract terms with a preferred purchaser;

**6.2.1.7.3** *Open tender* - seeking tenders from the open market via completion of a binding tender document;

**6.2.1.7.4** *Negotiation by private treaty* – is allowed for:

(a) sale of a public road or part of a public road (once closed) to an adjoining owner or owners if there are no other potential purchasers

(b) sale to a State Government Agency or utility.

(c) direct sales may also be approved by Council under the Unsolicited Proposals Policy.

**6.2.1.8** The assessment of offers for a property sale will include any extra conditions sought by the purchaser and the risk that such conditions would impose an onerous obligation on Council or lead to a sale not eventuating or requiring renegotiation of the contract terms or price.

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

**6.2.1.9.1** the anticipated number and type of known potential purchasers of the Land;

**6.2.1.9.2** any constraints that will affect the market for the Land;

**6.2.1.9.3** any endorsed Council objective for the future use or ownership of the Land, any potential

restrictions to be imposed must be clearly detailed in the sale documentation;

**6.2.1.9.4** the opportunity to encourage additional economic growth and social development in the District;

**6.2.1.9.5** the total estimated value of the disposal including the costs of preparation for sale; and

**6.2.1.9.6** ensuring compliance with statutory and other obligations.

**6.2.1.10** If any Council Elected Member, employee or a member of their family wishes to bid for Council Land they must advise the CEO (or if it is the CEO, the Mayor) of their interest immediately in writing and avoid any involvement in the disposal or the decision making process related to the sale.

**6.2.1.11** Land disposals should be at or above the current market value as determined for Council by a Certified Practicing Valuer registered for that class of property in the State of South Australia. Council will prepare the instructions for the valuation and appoint the valuer independent of any influence from a prospective purchaser. The valuation must have been undertaken or formally updated within 12 months of the date of Council's acceptance of an offer or bid for the Land.

**6.2.1.12** The Council will seek to dispose of Land at or above current market valuation by whichever method is likely to provide the Council with the best return within a reasonable time frame. If Land has been on the open market for at least 3 months without a sale occurring Council may, at its discretion, accept a lower offer than the current valuation.

## **6.2.2 Assets Disposal (excluding minor ICT assets)**

**6.2.2.1** The sale of Assets (Plant and Equipment) will be the responsibility of the relevant Council Officer who is responsible for those Assets.

**6.2.2.2** The Council will, where appropriate, dispose of Assets through one of the following methods:

**6.2.2.2.1** *trade-in* - trading in equipment to suppliers;

- 6.2.2.2.2** *expressions of interest* - seeking expressions of interest from buyers;
  - 6.2.2.2.3** *select tender* - seeking tenders from a selected group of persons or companies;
  - 6.2.2.2.4** *open tender* - openly seeking bids through tenders;
  - 6.2.2.2.5** *public auction* - advertisement for auction through a local paper, as a minimum. This may be conducted via the services of an auctioneer.
  - 6.2.2.2.6** *Donation* - to community groups, charities, welfare or not for profit organisations.
  - 6.2.2.2.7** Recycling or land fill if none of the above are deemed suitable or appropriate.
- 6.2.2.3** Selection of a suitable method will include consideration of (where appropriate):
- 6.2.2.3.1** the public demand and interest in the Asset;
  - 6.2.2.3.2** the method most likely to return the highest revenue;
  - 6.2.2.3.3** the value of the Asset and whether it is Major Plant and Equipment or Minor Plant and Equipment;
  - 6.2.2.3.4** the costs of the disposal method compared to the expected returns;
  - 6.2.2.3.5** compliance with statutory and other obligations; and community benefit.
- 6.2.2.4** Preference will be given to community groups for Minor Plant and Equipment and such items will be donated or auctioned to the groups.
- 6.2.2.5** Elected Members and employees of the Council will not be permitted to purchase property Assets unless the purchase is via an open tender process or a public auction, and the tender submitted or bid made is the highest.

- 6.2.2.6** 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.

### **6.2.3 Assets Disposal (minor ICT assets)**

- 6.2.3.1** Council will dispose of used computers and other minor ICT assets when determined to be obsolete, surplus to requirements and/or hold no real value to the organisation as per Clause 6.2.2.2.

- 6.2.3.2** Donations as per Clause 6.2.2.2.6 will be decided from applications by eligible community entities through the Community Grants process.

- 6.2.3.3** In offering an asset(s) to a community entity the Community Grants Committee will have regard to:

- (a) the demonstrated need;
- (b) community benefit;
- (c) proposed use of the minor ICT asset; and
- (d) financial capacity of the requesting entity.

- 6.2.3.4** Prior to disposal:

- (a) Before minor ICT equipment is sold, donated or disposed of, the equipment or media must have any information and software irreversibly removed. It must be physically inspected by ICT staff or their agents to determine that this process has been successful (as per ISO 27002). This process may require additional effort and/or equipment by others in order to bring the asset back to a functional state for use.
- (b) The recipient is to agree in writing that no liability is accepted by Council for the minor asset, no warranty is given by the Council in respect of the suitability and condition of the asset and that the Council will not be responsible for the asset in any respect following its disposal.



## **8. 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.

## **9. DELEGATIONS**

The Council approval is required for any property sale, however Council may by resolution delegate authority to the Chief Executive Officer or his delegate to negotiate the terms of any sale including the price. subject to it being at or in excess of the Market Valuation or any other amount set by Council in accordance with 6.2.1.

## **10. RECORDS**

The Council must record reasons for using a disposal method other than a competitive process.

## **11. EXEMPTIONS FROM THIS POLICY**

In certain circumstances, the Council may, after approval from its elected members via resolution, 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.

## **12. REVIEW**

This Policy will be reviewed every three (3) years or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the General Manager Corporate Services.

## **13. ACCESS TO THE POLICY**

The Policy is available for public inspection at the Customer Service Centre, at the Local Government Centre, 6 Dutton Road, Mount Barker, South Australia and on the Council's website [www.mountbarker.sa.gov.au](http://www.mountbarker.sa.gov.au)

#### **14. FURTHER INFORMATION**

For further information on this Policy, please contact:

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<b>APPLICABLE LEGISLATION AND RELATED DOCUMENTS:</b>	<ul style="list-style-type: none"> <li>• Local Government Act 1999</li> <li>• Real Property Act 1886</li> <li>• Property and Business (Sale and Conveyancing) Act 1994</li> <li>• Planning, Development and Infrastructure Act 2016</li> <li>• A New Tax System Goods and Services Tax Act 1999</li> <li>• Roads (Opening and Closing) Act 1991</li> <li>• Community Consultation Policy</li> <li>• Procurement Policy</li> <li>• Unsolicited Proposals Policy</li> </ul>		
COMMUNITY PLAN 2020-2035 REFERENCE:	GL 4.1 Manage assets and liabilities through a planned, long term approach		
<b>REVIEW CYCLE</b>	<p>This Policy will be reviewed every three (3) years or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the General Manager Corporate Services.</p> <p>It is recognised that from time to time circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name or a State or Federal Department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council (if statutory) or the Chief Executive Officer (if administrative).</p>		
<b>NEXT REVIEW DATE</b>	February 2027		

DOCUMENT HISTORY:			
DOCUMENT VERSION	DATE	AUTHOR (PERSON TO WHOM CHANGES ARE TO BE RECOMMENDED)	NATURE OF CHANGE
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DOCUMENT LOCATION:	Council website 8 February 2024 Available for inspection, downloading or printing from our website <a href="http://www.mountbarker.sa.gov.au">www.mountbarker.sa.gov.au</a>		
	This Policy is available for inspection, during business hours at: Mount Barker District Council, Level 1, 6 Dutton Road, Mount Barker		