Disposal of Council Land and Other Assets Policy

Strategic Reference	Outcome 5 – Leadership Strategy 3.1 – Council is an organisational leader, reinforcing our position as a leading local government body. Strategy 3.8 – Council Members demonstrate 'good governance' in their roles.
File reference	AR20/9670
Responsibility	Roads & Infrastructure Department
Revision Number	7
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Next review date	October 2028
Applicable Legislation	Local Government Act 1999
Related Policies	Community Engagement Policy
Related Documents	Community Land Management Plans

1. Purpose

The purpose of this Policy is to set out the principles and processes which apply when Council is disposing of land and other assets including major and minor plant and equipment and the approach in preparing an asset for sale and disposal.

2. Scope

This policy applies to all Council procedures for the disposal of physical items owned by Council including land, buildings, plant, equipment, furniture, and fittings.

This policy does not cover:

- Land sold by Council for the recovery of rates; or
- Disposal of goods which are not owned by Council, such as abandoned vehicles and their contents (these are subject to separate legislative powers and duties pursuant to the Act).

3. Definitions

"Asset" means any physical item that Council owns and that has 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 or trees.

"Asset disposal value" is the amount set by Council during the annual budget process above which particular disposal processes must apply. It is used to assess whether the policy relating to major plant and equipment or minor plant and equipment must be followed.

"Family; family company; family trust" as defined in Schedule 3, Register of Interests Local Government Act 1999

"Land" includes community land, vacant land, operational land, all buildings (community and operational), road reserves, any legal interest in land, and any other land-related assets.

"Major plant/equipment" are assets other than land that are deemed to have a residual value (singularly or jointly) above the asset disposal value set by Council. This category includes trucks, graders, other operating machinery, motor vehicles and small plant items.

"Minor plant/equipment" are assets that are deemed to have a residual value (singularly or jointly) below the asset disposal value set by Council. This category may include loose tools, store items, furniture, second hand items removed from other assets (such as air conditioners, bricks, pavers and exercise equipment).

"Persons related to a Elected Member or Employee of Council:"

a) A member of the Elected Member or employee of Council's family

b) A family company of the Elected Member or employee of Council

c) A trustee or beneficiary of a family trust of the Elected Member or employee of Council

4. Policy Objectives

Council aims to achieve the best outcomes from disposal and seeks to:

a. define the methods by which Land and Assets are disposed of
b. be fair and equitable to all parties involved;
c. demonstrate probity, accountability, transparency and reporting;
d. advancing and/or working within Council's economic, social and environmental policies and/or Agreements in accord with Council's Community Vision Plan;
e. ensure all processes are monitored and recorded
f. appropriately manage risk; and
g. promote compliance with all relevant legislation

5. Policy Principles

The following principles are to be considered in all disposal activities:

a. Fair and transparent competition

Disposal of assets should be open and transparent. It must be carried out in a way that promotes effective competition and will result in equal consideration to all prospective purchasers.

b. Value for money

Council will seek to achieve the best overall value for money when disposing of assets. Value for money is not determined by price alone, and assessments should include consideration of:

- the contribution to Council's Long Term Financial Plan and Community Vision Plan
- 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.

c. Ethical behaviour and fair dealing

Council employees involved in disposal are to:

- behave with impartiality, fairness, independence, openness, integrity, and professionalism in all discussions and negotiations provide all prospective purchasers with equal opportunity to make an offer;
- use straight forward and user-friendly documentation;
- adopt clear and easy to understand evaluation criteria and methodology;
- maintain consistent processes and feedback on decisions;
- offer access to a timely and effective complaints procedure; and ensure effective communication and provision of information to all prospective purchasers.
- confidentiality of all commercial information
- adherence to all legislation, policies, procedures and codes.

d. Environmental protection

Council promotes environmental protection through sustainable disposal procedures and will ensure that all disposal activities promote environmentally responsible outcomes.

e. Probity, accountability, transparency and reporting

Any disposal shall be undertaken in a manner that ensures:

- Clearly established roles and responsibilities;
- Appropriate record keeping and documentation;
- Transparency of decisions made;
- Adherence to all legislation and Council's code of conduct;
- The identification and management of actual or potential conflicts of interest; and
- The confidentiality of all commercial information.

f. Consultation

Disposal of Council land and assets is subject to consultation principles outlined in the Community Engagement Policy.

For land which has been excluded from the community land provisions pursuant to the Act, Council will determine appropriate consultation methods by way of a report. For example, consultation may take place on the disposal of land which does not have community land status but is currently used by the community or where there may be an expectation that land will be retained for the benefit of the community.

Any proposal to revoke the status of community land (with a view to potential sale of the land) must be the subject of public consultation in accordance with section 194 of the Act and Council's Community Engagement Policy.

No specific consultation requirements are necessary for disposal of plant/equipment. However, some publicity will usually be necessary to ensure the success of disposal methods such as an auction, tender, or to invite expressions of interest, as outlined in this policy.

6. 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 asset;
- The current market value of the land or asset
- The remaining useful life, particularly of an 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 asset;
- Any impact the sale or 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 sale or disposal of an asset may have on the operations of the Council;
- The long term plans and strategic direction of the Council (for example meeting the objectives of the Council's Community Vision Plan, Long Term Financial Plan and Asset Management Plans);
- Council Policies on:
  - Internal Financial Controls;
  - Prudential Management;
- A benefit and risk analysis of the proposed disposal;
- The results of any community engagement process;
- Any restrictions on the proposed disposal (e.g. land held in trust); and
- The content of any community land management plan.

Consideration given to these matters will be recorded in Council's corporate records management system and in the case of a decision to dispose of land, will be presented in a report for decision at a meeting of Council prior to the disposal decision being made. Council will seek to sell or dispose of land at or above current market valuation.

7. Disposal methods

Assets (other than land or buildings) with an estimated residual value equal to or greater than the Council's "asset disposal value" will be classified as major plant/equipment for the purposes of this policy

Assets (other than land or buildings) with an estimated residual value lower than the Council's "asset disposal value" will be classified as minor plant/equipment for the purposes of this policy.

The Council's "asset disposal value" at the commencement of this policy was $2,500. At revision 7 this was increased to $10,000 to reflect a contemporary amount.

7.1 Land disposal method

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.

Council will sell land and buildings which it determines to be surplus to Council's requirements by one of the following methods:

open market sale: – advertisement for sale through local paper, Council's website and social media, 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 Council's Procurement Policy);

expressions of interest – seeking expressions of interest for the sale or otherwise disposal of land;

select tender – seeking tenders from a selected group of persons or companies;

open tender – openly seeking, through advertisement, tenders, or buyers for land;

public auction – by appointment of a suitably qualified auctioneer with an established reserve price;

direct sale – where the land is to be used by the purchaser where the land is to be used for a purpose which is consistent with Council's objectives for the land;

by negotiation – with owners of adjoining land or others with a pre-existing interest in the land, (such as easements or rights of way) 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 disposal method will include consideration of (where appropriate):

- the number of known potential purchasers of the land;
- the original intention for the use of the land when purchased or otherwise granted ownership;
- the current and possible preferred future use of the land;
- any liability of encumbrances on the property
- the opportunity to promote local economic growth and development
- the total estimated value of the sale; and
- compliance with statutory and other obligations.

The reasons for selecting the method of sale, including the reasons for entering any contract for the sale of land other than by a tender process, will be documented in a resolution of Council.

7.1.1 **Land disposal conditions**

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

Council will not dispose of land to any Elected Member, employee of the Council or persons related to a Elected Member or employee who has been involved in any process of establishing a reserve price, or if they are in a position to have knowledge of the reserve price prior to the auction.

Council will not dispose of land to any Elected Member, Council employee or person related to a Elected Member or employee unless the sale is by public auction and an interest has been declared by the Elected Member or employee prior to the setting of a reserve price.

If land is to be auctioned or placed on the open market or disposed of by expression of interest then (unless Council resolves otherwise) one independent valuation or sales appraisal must be sought to establish the reserve price for the land no more than six (6) months prior to the proposed disposal.

If the land is to be sold or disposed of via select tender or direct sale, then (unless Council resolves otherwise) a minimum of two independent valuations or sales appraisal must be sought to ensure that an appropriate market value is obtained. The independent valuation must be made no more than six (6) months prior to the proposed disposal.

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.

All costs associated with any sale or disposal of land must be borne by the purchaser or realised within the purchase price (unless Council resolves otherwise).

If the Council proposes to grant an easement (including a right-of-way) an independent valuation must be sourced (unless Council resolves otherwise).

If land is classified as community land, then pursuant to section 201(2)(a) of the Act, the Council can consider a recommendation for disposal only:

i if the land is to be amalgamated with one or more other parcels of land and the amalgamated land is to be (or to continue to be) community land; or

ii in any other case - after revocation of its classification as community land;

If land forms a road or part of a road then, pursuant to section 201(2)(b) of the Act, the Council can dispose of the land only after the road has been closed in accordance with the *Roads (Opening and Closing) Act 1991.*

Where land is classified as community land and in other circumstances where community consultation is required, such consultation must be completed in accordance with the Act and Council's Community Engagement Policy prior to Council determining its decision on disposal.

7.2 Major plant/equipment - disposal methods

The sale or disposal of major plant/equipment will be the responsibility of the relevant Departmental Director who is responsible for those assets or the Chief Executive Officer.

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

trade in – trading in goods to equipment 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; or

public auction – procurement of a suitably qualified auctioneer with an established reserve price.

Selection of a suitable method will include consideration of:

- The public demand and interest in the asset;
- The method most likely to return the highest revenue;
- The value of the asset;
- The costs of the disposal method compared to the expected return; and
- Compliance with statutory and other obligations.

7.2.1 Major plant/equipment disposal conditions

The reasons for selecting the method of sale, including the reasons for using anything other than a tender process, will be documented in Council's records management system.

Elected Members, employees of the Council or persons related to a Elected Member or employee of Council will not be permitted to purchase major plant/equipment unless the purchase is through public auction and they have not been involved in any process of establishing a reserve price, and are not in a position to have knowledge of the reserve price prior to the auction.

Purchasers of major assets must agree in writing that no warranty is given in respect of the suitability and condition of the item before purchasing any item of major plant/equipment and that Council will not be responsible, in any respect, for the Asset following the sale.

7.3 Minor plant/equipment - disposal method

The sale or disposal of minor plant/equipment will be the responsibility of the relevant Director responsible for the asset.

As appropriate, the following methods will be used for the sale or disposal of plant/equipment:

trade in – trading in goods to suppliers;

public auction – sale of goods through public open process (for example for items grouped into lots such as IT equipment, phones, etc); or

expressions of interest – seeking expressions of interest from prospective purchasers through advertising

Selection of a suitable option will include consideration of:

- The public demand and interest in the minor plant/equipment;
- The method most likely to return the highest revenue;
- The value of the minor plant/equipment;
- The costs of the disposal method compared to the expected return; and
- Compliance with statutory and other obligations.

7.3.1 **Minor plant/equipment disposal conditions**

The reasons for selecting the method of sale will be documented in Council's records management system.

Preference will be given to local community groups, followed by local sporting or recreation groups for the purchase of minor plant/equipment and will be advertised through Council's website and social media. Groups will submit a confidential bid for the minor plant and equipment. The successful purchaser will be the highest bid received.

Should no bids be received from community groups, or sporting or recreation groups, the general public will be invited to submit a confidential bid for the minor plant and equipment. The successful purchaser will be the highest bid received.

Elected Members, employees of the Council or persons related to a Elected Member or employee of Council will not be permitted to purchase minor plant/equipment unless no bids have been received from local community groups, sporting or recreation groups or the general public.

7.4 **Minor Information & Communication Technology Assets**

Council will dispose of used computers and other minor Information & Communication Technology (ICT) assets in accordance with clause 6 (Considerations prior to Disposal of Land and Assets).

Prior to disposal, the equipment or media must have any information/data and/or software removed, deleted or destroyed by Council or an appropriately accredited third party.

Where an asset is deemed to be of no value and/or is past its useful life, Council can dispose of ICT assets through one of the following methods:

- Trade-in/refurbishment program
- Recycling or e-waste program (If the above is not deemed suitable)

Where it is deemed that surplus ICT assets may have a 'second life', the Chief Executive Officer is authorised to facilitate an expression of interest process to community groups based within the Council district (provided that a transparent process is undertaken, has been documented and can withstand public scrutiny).

In offering an ICT asset(s) to a community group, the Chief Executive Officer will have regard to:

- The demonstrated need;
- Community benefit;
- Proposed use of the minor ICT asset; and
- Financial capacity of the requesting entity.

8. Sale of items which are not assets

Where Council determines to dispose of items which are not on Council's asset register and are not subject to any alternative statutory procedure,[1] this policy can be used as a guide by estimating the residual value and following disposal methods with the appropriate level of accountability and transparency.

9. Consultation

9.1 Land used for operational requirements

For land deemed to be surplus to requirements which is classified as operational land (and excluded from classification as community land) Council will determine on a case by case basis, and with reference to the Council's Community Engagement Policy, the extent and nature of any consultation that may be required.

9.2 Land excluded from community land but not used for operational purposes

For land which has been excluded from the community land provisions pursuant to the Act, Council will determine appropriate consultation methods by way of a report. For example, consultation may take place on the disposal of land which does not have community land status but is currently used by the community or where there may be an expectation that land will be retained for the benefit of the community.

9.3 Community land

Any proposal to revoke the status of community land (with a view to potential sale of the land) must be the subject of public consultation in accordance with section 194 of the Act and Council's Community Engagement Policy.

9.4 Major plant/equipment and minor plant/equipment

No specific consultation requirements are necessary for disposal of plant/equipment. However, some publicity will usually be necessary to ensure the success of disposal methods such as an auction, tender, or to invite expressions of interest, as outlined in this policy.

[1] E.g. subject to the *Unclaimed Goods Act 1987*

10. Delegations

Disposal of land will be subject to a decision of Council and will be delegated after consideration on a case-by-case basis to an appropriate officer,, to apply to a single parcel (or assessment comprising of multiple parcels) of land or interest in land.

The power to dispose of an interest in Land through the grant of an easement or right of way has been delegated pursuant to section 201 of the Act.
Documents which transfer the ownership of land must be signed jointly by the Principal Member of the Council and the Chief Executive Officer.

Council will, when implementing the decisions under this Policy, act in accordance with the Council's budget, relevant policies, plans, agreements and resolutions.

10. Availability/Accessibility

This Policy is available for inspection at Council's offices during normal business hours and Council's website and will be emailed to interested parties on request (please lodge request in writing via email to council@coorong.sa.gov.au).

11. Document History

This Policy will be reviewed at least every three (3) years more frequently if legislation or Council requires.

Version	Adopted	Minute No	Description of change(s)
1	15 March 2011	108/11	New policy
2	17 April 2012	145/12	Cyclical review
3	21 April 2015	081/15	Cyclical review
4	21 March 2017	046/17	Cyclical review
5	15 May 2018	088/18	Cyclical review
6	23 June 2020	128/20	Cyclical review
7	21 October 2025	281/25	Consolidation of Policy Objectives Minor edits to descriptive components of each Policy Principle Asset disposal value (clause 7) updated to reflect contemporary amount Insertion of new clause (7.4) relating specifically to asset

			disposal methods for minor Information & Communication Technology assets Clause 10 (Delegations) updated to reflect consideration by/of Council on a case-by-case basis