



COUNCIL POLICY

Disposal of Land and Other Assets

Policy Number:	PO072		
Strategic Plan Objective	Goal 5 - Responsible Governance		
Policy Owner:	Director Corporate & Community Services	File Number:	16/14050[v4]
Responsible Officer:	Manager Financial Services	Minute Reference:	213/2020
Date Adopted:	9 September 2020	Next Review Date:	July 2024

1. POLICY OBJECTIVES

This Policy aims to define how Yorke Peninsula Council (Council) can dispose of Land and Other Assets in compliance with Section 49 of the Local Government Act 1999 (the Act):

1.1 This Policy seeks to:

- 1.1.1 Define the methods by which Land and Assets are disposed of;
- 1.1.2 Demonstrate accountability and responsibility of Council to ratepayers;
- 1.1.3 Be fair and equitable to all parties involved;
- 1.1.4 Enable all processes to be monitored and recorded; and
- 1.1.5 Ensure that the best possible outcome is achieved for the Council.

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

- 1.2.1 Obtaining value in the expenditure of public money; and
- 1.2.2 Providing for ethical and fair treatment of participants; and
- 1.2.3 Ensuring probity, accountability and transparency in all disposal processes.

1.3 However, this Policy does not cover:

- 1.3.1 Land sold by Council for the non-payment of rates; or
- 1.3.2 Disposal of goods which are not owned by the Council, such as abandoned vehicles;

as these are dealt with separately and specifically in the Act.

PO072 Disposal of Land and Other Assets Policy

- 1.3.3 Granting of leases, licenses, authorisations, permits or interests over Land; or
- 1.3.4 Acquisition of Assets covered in Council's PO058 Purchasing and Procurement policy.

2. SCOPE

This Policy applies to all employees authorised, through prescribed delegations, to dispose of land or other assets on behalf of Council, irrespective of value or complexity.

3. DEFINITIONS

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

Acquisition	The purchase, leasing and acceptance of property under care, control and management or other transfer of any interest in Assets to Council.
Asset	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.
Disposal	Sale or other transfer (including donation) of an Asset by Council to another party, resulting in change of ownership of that Asset.
Expression of Interest	The first stage of a two stage process, in which parties are invited to register interest for the procurement of goods or services.
Land	Includes community land (as classified under Chapter 11 of the Local Government Act 1999), vacant land, operational land, roads, road reserves, any legal interest in land, and any other land-related assets, including all buildings (community and operational) situated on that Land.
Major Plant and Equipment	Includes all major plant, machinery and equipment owned by Council. It includes all trucks, graders, other operating machinery and major plant items with a written down value of \$5,000 or more. It does not include Minor Plant and Equipment.
Minor Plant and Equipment	Includes all minor plant, machinery and equipment owned by Council. It includes but is not limited to all loose tools, store items, furniture and fittings, second hand items removed from Major Plant and Equipment (such as air conditioners, bricks and pavers), information technology and communication items, white goods, appliances, books, linen and any surplus bulk items (such as but not limited to sand and gravel) with a written down value less than \$5,000.
Not for Profit (NFP) Organisation	An organisation that is operating for its purpose and not for the profit or gain (either direct or indirect) of its

PO072 Disposal of Land and Other Assets Policy

	individual members. NFP organisations include charities, community service organisations, sporting and recreational clubs.
Probity	A risk management approach to ensure that selection and decision-making processes will be found to be honest, fair, transparent and defensible if scrutinised. A process conducted with regard to proper standards of probity will achieve both accountability and transparency and provide parties to the process with fair and equitable treatment.
Road	As defined in the Local Government Act 1999, being a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes: a) A bridge, viaduct or subway; or b) An alley, laneway or walkway.
Trade-in	Involves including an Asset owned by Council in the purchase of another Asset, usually of similar characteristics, in order to achieve an efficient Asset change-over transaction.
Valuation	A determination or assessment of value completed by a qualified and licensed valuer.
Value for Money	The relative benefits of different options to be measured by taking into account all the costs incurred in respect of the disposal, including any future expected savings in operations or maintenance costs, efficiency gains and the reduction of any losses being incurred or likely to be incurred.
Written Down Value	The value of an Asset after accounting for depreciation or amortization. It reflects the present worth of a resource owned by a company from an accounting perspective. Also called book value or net book value.

4. POLICY STATEMENT

4.1 Policy Principles

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

- 4.1.1 Encouragement of open and effective competition;
- 4.1.2 Obtaining Value for Money;
 - 4.1.2.1 This is not restricted to price alone.
 - 4.1.2.2 An assessment of value for money must include consideration of (where applicable):
 - (a) The contribution to Council's Long Term Financial Plan and Strategic Management Plans;

- (b) Any relevant direct and indirect benefits to Council, both tangible and intangible;
- (c) Efficiency and effectiveness;
- (d) The costs of various disposal methods;
- (e) Internal administration costs;
- (f) Risk exposure; and
- (g) The value of any associated environmental benefits.

4.1.3 Ethical Behaviour and Fair Dealing;

Council is to behave with impartiality, fairness, independence, openness and integrity and in a way which appropriately manages conflicts of interest in all discussions and negotiations.

4.1.4 Probity, accountability, transparency and reporting; and

4.1.5 Ensuring compliance with all relevant legislation.

4.2 Considerations prior to Disposal of Land and Other Assets

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

- 4.2.1 The usefulness of the Land or Asset;
- 4.2.2 The current market value and/or written down value of the Land or Asset;
- 4.2.3 The ongoing cost of maintenance, repair or serviceability;
- 4.2.4 Any future use of the Land or Asset in Council's operations;
- 4.2.5 Any duplication of the Land or Asset or the service provided by the Land or Asset;
- 4.2.6 Any impact the disposal of the Land or Asset may have on the community;
- 4.2.7 Any cultural or historical significance of the Land or Asset;
- 4.2.8 The positive and negative impacts the disposal of the Land or Asset may have on the operations of Council;
- 4.2.9 The long term plans and strategic direction of Council;
- 4.2.10 The remaining useful or technological life;
- 4.2.11 A benefit and risk analysis of the proposed disposal;
- 4.2.12 The results of any community consultation process;
- 4.2.13 Any restrictions on the proposed disposal;

- 4.2.14 The content of any Community Land Management Plan;
- 4.2.15 Any other relevant policies of Council;
- 4.2.16 Discovery of hazardous substances or material present in the asset and any potential contamination remediation costs;
- 4.2.17 Obsolescence;
- 4.2.18 Non-compliance with Work Health and Safety standards; and
- 4.2.19 Level of usage in the previous six (6) months.

4.3 Disposal Methods

4.3.1 Land disposal

- 4.3.1.1 The Council may resolve to dispose of Land.
- 4.3.1.2 Where the Land forms or formed a road or part of a road, Council must ensure that the Land is closed under the Roads Opening and Closing Act 1991 (SA) prior to its disposal.
- 4.3.1.3 Where Land is classified as Community Land, Council must:
 - (a) Undertake public consultation in accordance with the Act and Council's Public Consultation Policy;
 - (b) Ensure that the process for the revocation of the classification of Land as Community Land has been concluded prior to its disposal; and
 - (c) Comply with all other requirements under the Act in respect of the disposal of Community Land.
- 4.3.1.4 Where Council proposes to dispose of Land through the grant of a leasehold interest, Council must have complied with its obligations under the Act, including its public consultation obligations under Section 202.
- 4.3.1.5 Council will, where appropriate, dispose of Land through one of the following methods (following compliance with Council's PO058 Purchasing and Procurement Policy):
 - (a) *Open market sale* - advertisement for disposal of the Land through social media, 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;
 - (b) *Expressions of interest* - seeking expressions of interest for the Land;
 - (c) *Open tender* - seeking bids through tenders, including public auction;

- (d) *By negotiation* – with owners or person(s) who have an interest in 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 Council's strategic objectives for the Land.
- 4.3.1.6 Selection of a suitable disposal method will include consideration of (where appropriate):
- (a) The number of known potential purchasers of the Land;
 - (b) The original intention for the use of the Land;
 - (c) The current and possible preferred future use of the Land;
 - (d) The opportunity to promote local economic growth and development;
 - (e) Delegation limits, taking into consideration accountability, responsibility, operational efficiency and urgency of the disposal;
 - (f) The total estimated value of the disposal; and
 - (g) Compliance with statutory and other obligations.
- 4.3.1.7 In some circumstances Council may consider a sale or disposal of Land other than through the open market based on individual merit. These circumstances may include but are not limited to the following:
- (a) Land that is small in size, dimensions or of irregular shape;
 - (b) Land that has no legal access;
 - (c) Land to be developed by another level of government;
 - (d) Preferred future use of the Land as identified by the Council;
 - (e) Land of nominal value;
 - (f) Land for inclusion with an adjacent land holding;
 - (g) Land that will complement a proposed development on an adjoining site, which is consistent with Council's objectives.
- 4.3.1.8 Council will not dispose of Land to any Elected Member or employee of 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.

- 4.3.1.9 If Land is to be auctioned or placed on the open market or disposed of by an expression of interest, then (unless 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.
- 4.3.1.10 If Land is to be disposed of via tender or direct sale, then (unless Council resolves otherwise) a minimum of two independent valuations must be obtained to ensure that an appropriate market value is achieved. The independent valuation must be made no more than 6 months prior to the proposed disposal.
- 4.3.1.11 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 Council's overall strategic direction. These reasons must be documented in writing.
- 4.3.1.12 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 Council resolves).

4.3.2 Disposal of Other Assets

- 4.3.2.1 The disposal of Assets (both Major and Minor plant and equipment) and determination of the methodology for disposal will be the responsibility of the Council Officer responsible for the Asset(s) being disposed of. Final approval for the disposal must be provided in writing by the CEO before finalisation of any such transaction.
- 4.3.2.2 The CEO will, where appropriate, dispose of Assets (excluding Land) through one of the following methods (following compliance with Council's PO058 Purchasing and Procurement Policy):
 - (a) *Trade-in* – trading in plant and equipment to suppliers;
 - (b) *Expressions of interest* – seeking expressions of interest from buyers;
 - (c) *Open tender* – seeking bids through tenders;
 - (d) *Public auction or open market sale* – advertisement for auction or sale through Council's social media channels, online public auction or sale platforms, the local paper and, where appropriate, a paper circulating in the State, or procuring the services of an auctioneer;

- (e) *Donation* – minor plant and equipment to community groups, charities, welfare or NFP organisations and educational institutions;
- (f) *Recycling and/or dumping* – where assets have no remaining useful life or value, damage renders them unserviceable or any item which cannot be sold or donated shall be recycled and/or dumped with preference given to recycling as much as possible;
- (g) *Other* – as deemed appropriate by the CEO once all other methods of disposal have been considered and deemed unsuitable/unviable for disposal of Minor plant and equipment only. Examples include but are not limited to device buy back and secure disposal/recycling schemes for technology and communication devices/hardware and e-waste.

4.3.2.3 Selection of a suitable method will include consideration of (where appropriate):

- (a) Public demand and interest in the Asset;
- (b) Method most likely to return the highest revenue;
- (c) Value of the Asset and whether it is Major Plant and Equipment i.e. high value or Minor Plant and Equipment i.e. low value;
- (d) Costs of the disposal method compared to the expected returns;
- (e) Compliance with statutory and other obligations; and
- (f) Community benefit.

4.3.2.4 Council's preference is that minor plant and equipment should not be disposed of individually. Where items are of low value, they may be kept until they can be bundled with other compatible items to dispose as a single lot.

4.3.2.5 Where Minor plant and equipment, whilst fit for purpose and functionally safe, is not considered suitable or viable for sale, it may be considered for donation under section 4.3.2.2. Items available for donation will be advertised through the Council's social media channels and the local paper with interested groups invited to submit offers of interest. The group(s) that can demonstrate the most community benefit in Council's local government area will be successful. Individual low value items may be donated via charity bins in the Council area, without the need for advertising.

4.3.2.6 Elected Members and employees of the Council will not be permitted to purchase Assets unless the purchase is via a publicly conducted process, and the price submitted or bid made is the highest.

4.3.2.7 Purchasers or recipients of Assets must be required to agree in writing before purchasing or receiving any Asset that no warranty is given by the Council in respect of the suitability, nature and condition of the Asset for the purchaser or recipient and that the Council will not be responsible for the Asset in any respect following the disposal.

4.3.2.8 Prior to disposal a check must be carried out to ensure the asset(s) does not contain:

- Additional items not intended for sale;
- Any cultural or historical significance in which case the asset may be given special regard;
- Confidential documents (records, files, papers);
- Documents on Council letterhead or which may be used for fraudulent purposes;
- Hardware storage i.e. hard drives etc. which have not been erased/scrubbed or returned to factory settings. Generally hardware storage will be appropriately erased/scrubbed or returned to factory settings prior to disposal, however, there may be instances where this is undertaken during the disposal process;
- Hazardous materials as far as practicable (which should be disposed of in an authorised and safe manner);
- Any identifying mark or logo relating to Council (any such mark or logo should be removed or obliterated as far as practicable).

4.4 Recording of reasons

Section 49 (2) (c) of the Local Government Act 1999 requires the recording of reasons for entering into contracts other than those resulting from a tender process. The reasons shall be recorded in Council's Electronic Document and Records Management System (EDRMS).

4.5 Consultation

The Council will undertake public consultation in respect of its proposed disposals in accordance with the Act and its public consultation policies at all times.

4.6 Records

Council must record reasons (in its EDRMS) for utilising a specific disposal method and where it uses a disposal method other than a tendering process. Council's Asset Manager and Manager Financial Services must be informed in writing of any asset disposal.

4.7 Exemptions from this policy

There may be emergencies, or disposals in which a tender process will not necessarily deliver best outcome for Council, and other market approaches may be more appropriate. In certain circumstances, Council may, after approval from its Elected Members, waive application of this Policy and pursue a method

PO072 Disposal of Land and Other Assets Policy

which will bring the best outcome for the Council. Council must record its reasons in writing for waiving application of this Policy.

In the case of Minor plant and equipment where it can be demonstrated that the disposal methods listed in 4.3.2 are not suitable, practical, fair or reasonable, the CEO may pursue other disposal methods as long as the principles of this Policy are met. All reasons for pursuing alternative disposal methods must be documented in Council's EDRMS.

5. POLICY AVAILABILITY

This policy is available for public inspection on Council's website and at any Council office. Copies will be provided to members of the community upon request and may be subject to a fee, pursuant to Council's Fees and Charges register.

6. COMPLAINTS

Complaints about this Policy can be made in writing to the Director Corporate and Community Services. Complaints will be managed in accordance with Council's Complaints Policy PO147.

7. REVIEW

This Policy will be reviewed every four (4) years or as deemed necessary in consideration of any changes to legislation and relevant standards, codes, guidelines and audit findings.

8. TRAINING

Council is committed to supporting relevant Council officers (through appropriate delegations) in complying with this Policy. Training needs will be identified and reviewed as necessary in consideration of any changes to legislation and relevant standards, codes and guidelines

9. RELATED COUNCIL POLICIES AND DOCUMENTS

PO014 Code of Conduct for Council Employees

PO057 Community Engagement Policy

PO058 Purchasing and Procurement Policy

PO091 Risk Management Policy

PO123 Code of Conduct for Council Members

PO124 Asset Accounting Policy

PO128 Asset Management Policy

PO147 Complaints Policy

PO148 Fraud and Corruption Prevention Policy

PO156 Internal Financial Control Policy

PO161 Prudential Management Policy

PO171 Public Interest Disclosure Policy

Caravan Park Annual Site Licence Agreements

Asset Management Plans

Strategic Management Plan

Community Management Plans

Long Term Financial Plan

10. REFERENCES AND LEGISLATION

- Community Titles Act 1996 (SA)
- Crown Land Management Act 2009 (SA)
- Development Act 1993 (SA)
- Independent Commissioner Against Corruption Act 2012 (SA)
- Land Acquisition Act 1969 (SA)
- Land and Business (Sale and Conveyancing) Act 1994 (SA)
- Local Government Act 1999 (SA)
- Planning Development and Infrastructure Act 2016 (SA)
- Public Interest Disclosure Act 2018 (SA)
- Real Property Act 1886 (SA)
- Residential Tenancies Act 1995 (SA)
- Retail and Commercial Leases Act 1995 (SA)
- Roads (Opening and Closing) Act 1991 (SA)
- Strata Titles Act 1988 (SA)
- Unclaimed Goods Act 1987 (SA)

11. COUNCIL DELEGATION

Details of Delegation:	Chief Executive Officer
Delegate:	Director Corporate and Community Services

12. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Disposal of Land and other Assets	PO072	07/4/2003	14/9/2010
Disposal of Land and Other Assets	PO072	13/5/2015	9/9/2020
Disposal of Land and Other Assets	PO072	9/9/2020	N/A