

POLICY DOCUMENT

16.63.7

Policy Name	Disposal of Land and Assets
Policy No.	16.63.7
Version:	1
Strategic Reference:	3.4 Council achieves a sustainable long term financial performance and position
Responsible Department:	Infrastructure & Environment
Policy Adopted:	20 July 2020
Last revised date:	New Policy
Minute reference:	CO 20/102
Next review date:	Council will endeavour to review this policy 4 years after adopted date or following significant change to legislation or aspects included within this policy.
Applicable Legislation:	Local Government Act 1999 Roads Opening and Closing Act 1991
Related Policies:	Procurement Policy 7.63.15 Public Consultation and Community Engagement Policy 2.63.1 Internal Control Policy 7.63.5
Related Documents:	Disposal of Equipment 6-30-T1

1. PURPOSE

In compliance with Section 49 of the Local Government Act 1999, Council should refer to this Policy when disposing of Land and Assets.

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 Council.

1.2. This Policy does not cover;

1.2.1. Land sold by Council for the non-payment of rates; or

1.2.2. Disposal of goods which are not owned by the Council, such as abandoned vehicles.

2. **DEFINITIONS**

2.1. In this Policy, unless the contrary intention appears, these words have the following meanings;

Asset means any physical item that the Council owns and includes Plant and Equipment. It does not include financial investments or finance related activities, 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.

Plant and Equipment includes all machinery and equipment owned by Council. It includes all trucks, graders, other operating machinery, loose tools, store items and furniture.

3. **POLICY PRINCIPLES**

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 Directions Plan;

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 cost 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 benefits.

3.3. Probity, Ethical behaviour and fair dealing.

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

3.4. Accountability, transparency and reporting.

3.5. Ensuring compliance with all relevant legislation.

4. **CONSIDERATIONS PRIOR TO DISPOSAL OF LAND AND ASSETS**

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

- 4.1. the usefulness of the Land or Asset;
- 4.2. the current market value of the Land or Asset;
- 4.3. the annual cost of the Asset;
- 4.4. any alternative future use of the Land or Asset;
- 4.5. any duplication of the Land or Asset or the service provided by the Land or Asset;
- 4.6. any impact the disposal of the Land or Asset may have on the Community;
- 4.7. any cultural or historical significance of the Land or Asset;
- 4.8. the positive and negative impacts the disposal of the Land or Asset may have on the operations of Council;
- 4.9. the long term plans and strategic direction of the Council;
- 4.10. the remaining useful life, particularly of an Asset;
- 4.11. the benefit and risk analysis of the proposed disposal;
- 4.12. the results of any community consultation process
- 4.13. any restrictions on the proposed disposal;.
- 4.14. The content of any community land management plan; and
- 4.15. Any other relevant policies of Council, including:
 - 4.15.1. Council's Service and Program Review Policy 18.63.7;
 - 4.15.2. Council's Internal Financial Control Policy 7.63.5; and
 - 4.15.3. Council's Prudential Management Policy 9.63.24

5. DISPOSAL METHODS

- 5.1. Land Disposal;
 - 5.1.1. The Council may resolve to dispose of Land.
 - 5.1.2. 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 prior to its disposal.
 - 5.1.3. Where Land is classified as community land, the Council must;
 - 5.1.3.1. Undertake public consultation in accordance with the Act and the Council's public consultation policy
 - 5.1.3.2. Ensure that the process for the revocation of the classification of Land as community land has been concluded prior to its disposal; and

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- 5.1.3.3. Comply with all other requirements under the Act in respect of the disposal of community land.
 - 5.1.4. 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.
 - 5.1.5. Council will where appropriate, dispose of Land through one of the following methods;
 - 5.1.5.1. Open market sale – advertisement for disposal of the Land through the local paper and, where appropriate a paper circulating the State, by procuring the services of a licenced real estate agent and/or auctioneer
 - 5.1.5.2. Expressions of interest – seeking expressions of interest for the Land
 - 5.1.5.3. Select tender – seeking tenders from a select group of persons or companies
 - 5.1.5.4. Open tender – openly seeking bids through tenders, including public auction
 - 5.1.5.5. 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 objectives for the Land.
 - 5.1.6. Selection of a suitable disposal method will include consideration of (where appropriate)
 - 5.1.6.1. the number of known potential purchasers of the Land;
 - 5.1.6.2. the original intention for the use of the Land;
 - 5.1.6.3. the current and possible preferred future use of the Land;
 - 5.1.6.4. the opportunity to promote local economic growth and development;
 - 5.1.6.5. delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of disposal;
 - 5.1.6.6. the total estimated value of the disposal; and
 - 5.1.6.7. compliance with statutory and other obligations
 - 5.1.7. 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.
 - 5.1.8. 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.
 - 5.1.9. 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 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.

- 5.1.10. Where possible, the Council will seek dispose of Land at or above current market valuation by whichever method is likely to provide the Council with a maximum return.
- 5.1.11. 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).

5.2. **Asset Disposal**

- 5.2.1. The sale of Assets will be the responsibility of the relevant Council Officer who is responsible for those Assets.
- 5.2.2. Council will, where appropriate, dispose of Assets through one of the following methods;
 - 5.2.2.1. Trade-in – trading in equipment to suppliers;
 - 5.2.2.2. Expression of interest – seeking expressions of interest from buyers;
 - 5.2.2.3. Select tender – seeking tenders from a selected group of persons or companies;
 - 5.2.2.4. Open tender – openly seeking bids through tenders;
 - 5.2.2.5. Public auction – advertisement for auction through the local paper and, where appropriate a paper circulating the State, or procuring the services of an auctioneer
- 5.2.3. Selection of a suitable method will include consideration of (where appropriate):
 - 5.2.3.1. the public demand and interest in the Asset
 - 5.2.3.2. the method most likely to return the highest revenue
 - 5.2.3.3. the value of the Asset
 - 5.2.3.4. the costs of the disposal method compared to the expected returns; and
 - 5.2.3.5. compliance with statutory and other obligations
- 5.2.4. Community groups will be given preference for disposal of low value Plant and Equipment
- 5.2.5. Elected Members and employees of the Council will not be permitted to purchase Assets, other than low value plant and equipment (refer 5.3), unless the purchase is via a tender process and the tender submitted contains the highest bid.
- 5.2.6. 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.

5.3. Low Value Plant and Equipment: Registrations of Interest

- 5.3.1. Council will accept registrations of interest from staff and the public for the purchase of low value Plant and Equipment as it becomes available (Disposal of Equipment Form 6-30-T1).
- 5.3.2. The registrations of interest will only be valid for one year. It is the responsibility of the person interested in purchasing an item to maintain his/her registration of interest.

5.4. Sale of Plant and Equipment

- 5.4.1. The sale price will generally be the highest bid price. Reasons for not offering the item for sale to the highest bid price must be documented.
- 5.4.2. The keeping of records ensures that sales to staff members are transparent.

6. CONSULTATION

Where required by the Local Government Act 1999, Council must undertake public consultation in respect of its proposed disposals. Such consultation shall be in accordance with Council's Public Consultation & Community Engagement Policy 2.63.1.

7. RELEVANT DELEGATED POWERS AND DUTIES

Any actions or decisions made regarding this policy, will be enacted upon as per Council's current Delegations Register