



Disposal of Land and Other Assets Policy

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| Strategic Reference | Provide leadership, good governance, and efficient, effective and responsive Council services |
| File Reference / Record No | 18/067/229/3 / NGO244042 |
| Responsibility | Chief Executive Officer |
| Version Number | Version 3.0 |
| Last Revised Date | January 2024 |
| Minute Book Reference | C24007 |
| Next Review Date | January 2028 |
| Relevant Legislation | Local Government Act 1999 – ss 49 and 201 |
| Related Policies | Acquisition Policy Public Consultation Policy |
| Related Procedures | Community Land Management Plans |

1. Purpose and Scope

- 1.1. Consistent with the Section 49 of the Local Government Act 1999 (the Act) this policy sets out the principles and processes which apply when disposing of Land and other assets.
- 1.2. This Policy seeks to:
 - 1.2.1. define the methods by which Land and Other Assets are disposed;
 - 1.2.2. demonstrate accountability and responsibility of Council to ratepayers;
 - 1.2.3. be fair and equitable to all parties involved;
 - 1.2.4. enable all processes to be monitored and recorded; and
 - 1.2.5. ensure that the best possible outcome is achieved for the Council.
- 1.3. Section 49 (a1) of the Act requires Council to develop and maintain procurement policies, practices and procedures directed towards:
 - 1.3.1. Obtaining value in the expenditure of public money; and
 - 1.3.2. Providing for ethical and fair treatment of participants; and
 - 1.3.3. Ensuring probity, accountability and transparency in all disposal processes.

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1.4. This policy does not cover:

- 1.4.1. Land sold by Council for the non-payment of rates or disposal of goods which are not owned, such as abandoned vehicles; as these are dealt within the Local Government Act 1999.

2. Responsibility

Council employees responsible for disposing of goods and services must comply with this policy. It is the responsibility of Council employees involved in the disposal process to understand the meaning and intent of this policy.

3. 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' and includes Major Plant and Equipment and Minor Plant and Equipment. Except that it **does not include** financial investments or finance related activities or trees.

Land includes assets that are 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 include all minor plant and equipment owned by Council. It includes all loose tools, store items, furniture, secondhand items removed from Major Plant and Equipment (such as air conditioners, bricks, pavers, and exercise equipment) and surplus bulk items (such as sand and gravel), Computers; printers etc.

4. Policy Objective

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

4.1. Encouragement of open and effective competition

4.2. Obtaining Value for Money

4.2.1. This is not restricted to price alone.

4.2.2. An assessment of value for money must include consideration of (where applicable):

4.2.2.1. the contribution to Council's long term financial plan and strategic management plans;

4.2.2.2. any relevant direct and indirect benefits to Council, both tangible and intangible;

4.2.2.3. Efficiency and effectiveness

4.2.2.4. The costs of various disposal methods

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- 4.2.2.5. Internal administration costs;
- 4.2.2.6. Risk exposure; and
- 4.2.2.7. The value of any associated environmental benefits
- 4.3. Ethical Behaviour and Fair Dealing
 - 4.3.1. Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.
- 4.4. Probity, Accountability, Transparency and Reporting
- 4.5. Ensuring compliance with all relevant legislation including the following:
 - 4.5.1. Local Government Act 1999 SA
 - 4.5.2. Real Property Act 1886 SA
 - 4.5.3. Land and Business (Sale and Conveyancing) Act 1994
 - 4.5.4. Planning, Development and Infrastructure Act 2016 SA
 - 4.5.5. Retail and Commercial Leases Act 1995 SA
 - 4.5.6. Residential Tenancies Act 1995 SA
 - 4.5.7. Strata Titles Act 1988 SA
 - 4.5.8. Crown Land Management Act 2009
 - 4.5.9. Community Titles Act 1996 SA
 - 4.5.10. Roads (Opening and Closing) Act 1991 SA
 - 4.5.11. Land Acquisition Act 1969 SA

5. Considerations Prior to Disposal of Land and Other Assets

Any decision to dispose of Land and Other Assets should follow consideration of relevant factors such as:

- 5.1. the usefulness of the Land and Other Asset;
- 5.2. the current market value of the Land or Other Asset;
- 5.3. the remaining useful life;
- 5.4. the annual cost of maintenance;
- 5.5. any alternative future use of the Land or Other Asset;
- 5.6. any duplication of the Land or Other Asset or the service provided by the Land or Other Asset;
- 5.7. the positive and negative impacts the sale or disposal of the Land or Other Asset may have on the community;
- 5.8. any cultural or historical significance of the Land or Other Asset;
- 5.9. the positive and negative impacts the sale or disposal of an asset may have on the operations of the Council;
- 5.10. the long-term plans and strategic direction of the Council

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- 5.11. a benefit and risk analysis of the proposed disposal;
- 5.12. the results of any community consultation process;
- 5.13. any restrictions on disposal such as Land held in trust; and
- 5.14. the content of any community Land management plan.
- 5.15. any other relevant policies of the Council, including its Internal Financial Controls Policy and Prudential Management Policy.
- 5.16. before deciding whether to sell Land and buildings Council will receive and consider a report from the Chief Executive Officer. The report will include an assessment of relevant factors including those outlined above.

6. Disposal Methods

6.1. Land Disposal

The Council may resolve to dispose of Land;

- 6.1.2. 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 SA prior to its disposal.
 - 6.1.2.1. Where Land is classified as community Land, the Council must:
 - 6.1.2.2. Undertake public consultation in accordance with the Act and Council's public consultation policy; and
 - 6.1.2.3. Ensure that the process for the revocation of the classification of Land as community Land has been concluded prior to its disposal; and
 - 6.1.2.4. Comply with all other requirements under the Act in respect of the disposal of community Land.
- 6.1.3. 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 s202 of the Act.
- 6.1.4. The Council will, where appropriate, dispose of Land by one of the following methods:
 - 6.1.4.1. open market sale: – advertisement for sale through local paper and where appropriate, a paper circulating in the state or by instigating the services of a licensed real estate agent;
 - 6.1.4.2. expressions of interest – seeking expressions of interest for the sale or otherwise disposal of Land;
 - 6.1.4.3. select tender – seeking tenders from a selected group of persons or companies
 - 6.1.4.4. open tender – openly seeking, through advertisement, tenders, or buyers for Land;
 - 6.1.4.5. public auction – by appointment of a suitably qualified auctioneer with an established reserve price;

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- 6.1.4.6. 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;
- 6.1.4.7. 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.
- 6.1.5. Selection of a suitable disposal method will include consideration of (where appropriate):
 - 6.1.5.1. the number of known potential purchasers of the Land;
 - 6.1.5.2. the original intention for the use of the Land;
 - 6.1.5.3. the current and possible preferred future use of the Land;
 - 6.1.5.4. any liability of encumbrances on the property;
 - 6.1.5.5. the total estimated value of the disposal;
 - 6.1.5.6. compliance with statutory and other obligations;
 - 6.1.5.7. the opportunity to promote local economic growth and development; and
 - 6.1.5.8. delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal.
- 6.1.6. The reasons for selecting the method of sale, including the reasons for entering into any contract for the sale of Land other than by a tender process, will be documented in a resolution of Council.
- 6.1.7. Council will not dispose of Land to any Council Member, employee of the Council who has been involved in any process relating to a decision to dispose of Land and/or the establishment of a reserve price.
- 6.1.8. 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 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.
- 6.1.9. 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 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.
- 6.1.10. 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.
- 6.1.11. 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).

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

- 6.1.12.1. if the Land is to be amalgamated with 1 or more other parcels of Land and the amalgamated Land is to be (or to continue to be) community Land; or
- 6.1.12.2. in any other case—after revocation of its classification as community Land;

6.2. Other Asset Disposal

6.2.1. The sale of Other 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.

6.2.2. The Council will, where appropriate, dispose of Assets through one of the following methods:

- 6.2.2.1. trade in – trading in equipment to suppliers;
- 6.2.2.2. expressions of interest – seeking expressions of interest from buyers;
- 6.2.2.3. select tender – seeking tenders from a selected group of persons or companies;
- 6.2.2.4. open tender – openly seeking, through advertisement, tenders or buyers; or
- 6.2.2.5. public auction – by appointment of a suitably qualified auctioneer with an established reserve price (following compliance with the Council's Procurement Policy).

6.2.3. Selection of a suitable option will include consideration of (where appropriate):

- 6.2.3.1. the public demand and interest in the Asset;
- 6.2.3.2. the method most likely to return the highest revenue;
- 6.2.3.3. the value of the Asset and whether it is Major Plant and Equipment or Minor Plant and Equipment;
- 6.2.3.4. the costs of the disposal method compared to the expected returns; and
- 6.2.3.5. compliance with statutory and other obligations

6.2.4. 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.

6.2.5. 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.

6.2.6. 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.

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- 6.2.7. Where relevant, purchases of surplus minor plant/equipment will be required to acknowledge in writing (as a condition of sale) that no warranty is given in respect of the suitability and condition of the item.
- 6.2.8. Where an item of minor plant/equipment has no remaining useful life it may be disposed of utilising an appropriate environmental disposal method (for example electronic waste via ewaste).

6.3. Minor Plant and Equipment: Register of Interest

The council will maintain a register of interest from the public for the purchase of Minor Plant and Equipment which have not been disposed of through any of the processes in clause 6.2 of this Policy. The register will indicate a registrant's items of interest and current contact details. If any item becomes available for disposal, a form confirming the availability of that Asset and seeking a bid for the Asset will be sent to those on the register.

- 6.3.1. The sale price will generally be the highest bid price. Reasons for not offering the item for sale to the highest bid will be documented in the register.
- 6.3.2. The names on the register will only be valid for one year at the expiration of which time they will be removed. It is the responsibility of the person interested in purchasing an item to maintain their registration of interest.
- 6.3.3. The keeping of a register ensures that sales are transparent.

7. 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.

8. Delegations

- 8.1. In the case of the sale or disposal of Land, the Chief Executive Officer must seek Council approval by way of formal resolution unless already delegated by Council.
- 8.2. An Employee requires the written approval of the Chief Executive Officer (or their nominee) to sell or dispose of Other Assets.
- 8.3. Documents which transfer the ownership of land must be signed jointly by the Mayor and the Chief Executive Officer.
- 8.4. Council will, when implementing the decisions under this Policy, act in accordance with the Council's budget, relevant policies, plans, agreements, and resolutions.

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9. Exemptions From This Policy

- 9.1. As an exception to that rule, the Council may choose to delegate to its Chief Executive Officer a general power under section 201(2)(e) of the Act, to grant an easement (other than a right-of-way) over a road or part of a road.
- 9.2. 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 the best outcome for Council, and other market approaches may be more appropriate. In certain circumstances, the Council may resolve to 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 the Policy.

10. Further Information

This policy will be available for inspection at the Council office listed below during ordinary business hours and provided to interested parties as per Council's Fees and Charges Register. Copies are available to be downloaded, free of charge, from Council's website:

www.yankalilla.sa.gov.au/policies

District Council of Yankalilla
1 Charles Street
Yankalilla 5203

Phone: (08) 8558 0200

Fax: (08) 8558 2022

Email: council@yankalilla.sa.gov.au

Office hours: Monday to Friday, 9.00am to 5.00pm (except public holidays)

11. Grievances

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

12. Review Cycle

This Policy will be reviewed every four (4) years or more frequently if legislation or Council requires.

13. Document History

| Date | Version | Council Resolution No. | Description of changes |
|--------------|---------|------------------------|--|
| May 2013 | 1.0 | NA | Adoption of Policy |
| May 2015 | 2.0 | NA | Review of Policy |
| January 2024 | 3.0 | C24006 | Review of Policy. Minor formatting amendments made. Some rewording to provide clarity. Addition of Register of Interest for Minor Plant & Equipment. |

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