



COUNCIL POLICY

Disposal of Land

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DISPOSAL OF LAND

Policy Number:	INF-01
Responsible Department(s):	Governance & Risk
Relevant Delegations:	Nil
Other Relevant Policies:	Prudential Management Asset Management Service Range Service Level
Relevant Procedure(s):	Nil
Relevant Legislation:	Local Government Act 1999
Policies and Procedures Superseded by this policy on its Adoption:	15 June 2010, Item 10.3, 159
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DISPOSAL OF LAND

1. INTRODUCTION

- 1.1 This Disposal of Land Policy (Policy) outlines the principles and processes the Council will follow in relation to disposal of land vested in Council in fee simple or as lessee.
- 1.2 This Policy seeks to:
 - 1.2.1 define the methods by which Land are disposed of;
 - 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 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain 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.
- 1.4 However, this Policy does not cover:
 - 1.4.1 Land sold by Council for the non-payment of rates as this is dealt with in the Act.

2. LAND DEFINITION

- 2.1 **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.

3. POLICY PRINCIPLES

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

- 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 benefits.

3.3 *Ethical Behaviour and Fair Dealing*

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

3.4 *Probity, Accountability, Transparency and Reporting*

3.5 *Ensuring compliance with all relevant legislation*

Including the following:

- 3.5.1 *Local Government Act 1999 (SA)*
- 3.5.2 *Real Property Act 1886 (SA)*
- 3.5.3 *Land and Business (Sale and Conveyancing) Act 1994 (SA)*
- 3.5.4 *Development Act 1993 (SA)*
- 3.5.5 *Retail and Commercial Leases Act 1995 (SA)*
- 3.5.6 *Residential Tenancies Act 1995 (SA)*
- 3.5.7 *Strata Titles Act 1988 (SA)*
- 3.5.8 *Crown Land Management Act 2009 (SA)*
- 3.5.9 *Community Titles Act 1996 (SA)*
- 3.5.10 *Roads (Opening and Closing) Act 1991 (SA)*
- 3.5.11 *Land Acquisition Act 1969 (SA).*

4. CONSIDERATIONS PRIOR TO DISPOSAL OF LAND

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

- 4.1 the usefulness of the Land;
- 4.2 the current market value of the Land;
- 4.3 the annual cost of maintenance;
- 4.4 any alternative future use of the Land;
- 4.5 any duplication of the Land or the service provided by the Land;
- 4.6 any impact the disposal of the Land may have on the community;
- 4.7 any cultural or historical significance of the Land;
- 4.8 the positive and negative impacts the disposal of the Land may have on the operations of the Council;
- 4.9 the long term plans and strategic direction of the Council;
- 4.10 the remaining useful life, particularly of building or infrastructure on the Land;
- 4.11 a 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 the Council, including:
 - 4.15.1 its Service Range Policy and associated Service Level Policies; and
 - 4.15.2 its Internal Financial Controls Policy and Prudential Management Policy.

5. DISPOSAL METHODS

- 5.1 The Council may resolve to dispose of Land.
- 5.2 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.
- 5.3 Where Land is classified as community land, the Council must:
 - 5.3.1 undertake public consultation in accordance with the Act and the Council's public consultation policy; and
 - 5.3.2 ensure that the process for the revocation of the classification of Land as community land has been concluded prior to its disposal; and
 - 5.3.3 comply with all other requirements under the Act in respect of the disposal of community land.
- 5.4 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.
- 5.5 The Council will, where appropriate, dispose of Land through one of the following methods:
 - 5.5.1 open market methods of sale including:
 - 5.5.1.1 open tender;
 - 5.5.1.2 expression of interest; or
 - 5.5.1.3 auction
 - 5.5.2 alternative methods of sale including:
 - 5.5.2.1 select tender;
 - 5.5.2.2 by negotiation

6. OPEN MARKET METHODS OF SALE

- 6.1 As a general principle, most of the land owned by the Council available for disposal will be offered by way of public tender or auction to ensure that:
 - 6.1.1 the public has equal rights and opportunity to purchase the land;
 - 6.1.2 the fair market value for the property will be identified; and
 - 6.1.3 the disposal process will be transparent.
- 6.2 Sales best suited to public tender are those where special conditions are required including covenants on land and where there is a special interest or demand.

- 6.3 Sales where there is a general high demand or the sale is to be unconditional are suited to public auctions. If land is to be sold at a public auction the Council can resolve to accept the price provided by the highest bidder or to subsequently engage in direct negotiation.
- 6.4 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.

7. ALTERNATE METHODS OF SALE

- 7.1 The Council may consider a sale or disposal other than through the open market based (i.e. select tender or by negotiation) on individual case merits. These circumstances may include but are not necessarily limited to the following:
- 7.1.1 land that is restricted due to its small size, dimensions or irregular shape and which would not readily support a self-contained development outcome;
 - 7.1.2 land that has no legal access;
 - 7.1.3 land to be developed by another level of government;
 - 7.1.4 preferred future use for the land as identified by the Council;
 - 7.1.5 land of nominal value;
 - 7.1.6 land for inclusion with an adjacent holding; and
 - 7.1.7 land that will complement a proposed development on an adjoining site, the sale of which is consistent with the Council's objectives.
- 7.2 In such circumstances the Council may elect to negotiate directly with the relevant party or engage in a select tender.
- 7.3 If Land is to be disposed of via a select tender or direct sale, then (unless the Council resolves otherwise) one independent valuation 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.

8. SELECTION OF DISPOSAL METHOD

- 8.1 Selection of a suitable disposal method will include consideration of (where appropriate):
- 8.1.1 the number of known potential purchasers of the Land;
 - 8.1.2 the original intention for the use of the Land;
 - 8.1.3 the current and possible preferred future use of the Land;
 - 8.1.4 the opportunity to promote local economic growth and development;
 - 8.1.5 delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
 - 8.1.6 the total estimated value of the disposal; and
 - 8.1.7 compliance with statutory and other obligations.

8.2 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 in writing.

9. AVAILABILITY OF THE POLICY

9.1. This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.ahc.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.