

Council Policy

Disposal of Assets



COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	<h2>DISPOSAL OF ASSETS</h2>
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Policy Number:	FIN-07
Responsible Department(s):	Financial Services
Relevant Delegations:	As per the Delegations Register and as detailed in this Policy
Other Relevant Policies:	<i>Procurement Policy</i> <i>Prudential Management Policy</i> <i>Asset Management Policy</i> <i>Arts and Heritage Collection Policy</i> <i>Public Consultation Policy</i>
Relevant Procedure(s):	Nil
Relevant Legislation:	<i>Local Government Act 1999 (SA)</i> <i>Real Property Act 1886 (SA)</i> <i>Land and Business (Sale and Conveyancing) Act 1994 (SA)</i> <i>Development Act 1993 (SA)</i> <i>Retail and Commercial Leases Act 1995 (SA)</i> <i>Residential Tenancies Act 1995 (SA)</i> <i>Strata Titles Act 1988 (SA)</i> <i>Crown Land Management Act 2009 (SA)</i> <i>Community Titles Act 1996 (SA)</i> <i>Roads (Opening and Closing) Act 1991 (SA)</i> <i>Land Acquisition Act 1969 (SA).</i>
Policies and Procedures Superseded by this policy on its Adoption:	Disposal of Assets Policy 2019 Item 12.4, Res 216/19
Adoption Authority:	Council
Date of Adoption:	23 August 2022
Effective From:	06 September 2022
Minute Reference for Adoption:	Item 12.9, Res 216/22
Next Review:	No later than September 2025 or as required by legislation or changed circumstances.

Version Control

Version No.	Date of Effect	Description of Change(s)	Approval
1.0	10/09/2019	Review and Combine INF – 01, Disposal of Land Policy & INF – 04 Disposal of Material into one Policy	Council - Res 216/19
2.0	06/09/2022	Removal of requirement of advertising via newsprint, clarification of Public consultation and Minor Plant and equipment definitions. Assigning responsibility to ensure asset registers are updated.	Council - Res 216/22

DISPOSAL OF ASSETS POLICY

1. INTRODUCTION AND PURPOSE

- 1.1. The purpose of this policy is to establish the key principles relating to the sale or disposal of Council assets.
- 1.2. The existence of this policy will ensure a consistent, fair, transparent and accountable approach is maintained and assist in ensuring all third party applications are treated fairly and equitably.
- 1.3. The *Disposal of Assets Policy* should align with the Council's Strategic Plan and relate to the provision of an attractive community, preservation of the natural environment and local economic development. It is acknowledged that land can facilitate the attainment of the Adelaide Hills Council area being a desirable place to live, work and play. It is also acknowledged that assets which are not performing or have no potential in this regard need to be reviewed and aligned to the achievement of the visions of the Strategic Plan.
- 1.4. This policy incorporates the Council's approach to recouping administrative costs that it incurs when it considers a request by a third party to purchase Council land, in particular roads and community land.

2. OBJECTIVES

- 2.1. The objectives of this policy are to:
 - 2.1.1. define the methods by which assets are disposed of;
 - 2.1.2. demonstrate the accountability and responsibility of Council to ratepayers;
 - 2.1.3. be fair and equitable to all parties involved;
 - 2.1.4. enable all processes to be monitored and recorded; and
 - 2.1.5. ensure that the best possible outcome is achieved for the Council.
- 2.2. Furthermore, *Section 49 (a1) of the Local Government Act (1999) (the Act)* requires Council to develop and maintain policies, practices and procedures directed towards:
 - 2.2.1. obtaining value in the expenditure of public money; and
 - 2.2.2. providing for ethical and fair treatment of participants; and
 - 2.2.3. ensuring probity, accountability and transparency in all disposal processes.

3. SCOPE

- 3.1.** In compliance with *Section 49 of the Act* Council should refer to this policy when disposing of assets and *Section 201 of the Act* Council when disposing of local government land.
- 3.2.** However, this Policy does not cover:
- 3.2.1.** land sold by Council for the non-payment of rates; or
 - 3.2.2.** disposal of goods which are not owned by the Council, such as abandoned vehicles;

as these are dealt within the Act.
 - 3.2.3.** granting of leases, licences or interests over land; or
 - 3.2.4.** the acquisition of assets that are covered in Council's Procurement Policy.

4. DEFINITIONS

- 4.1.** In this policy, unless the contrary intention appears, these words have the following meanings:

Acquisition means the purchase, leasing, and acceptance of property under care, control and management or other transfer of any interest in assets to Council.

Act means the *Local Government Act 1999* and its regulations as amended (unless otherwise defined).

Assets 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 land, major plant and equipment and minor plant and equipment. It **does not include** financial investments or finance related activities.

Chief Executive Officer means the Chief Executive Officer (including their delegate) of the Adelaide Hills Council, or an acting Chief Executive Officer of the Adelaide Hills Council (including their delegate).

Community Land means local government land classified as community land under Chapter 11 of the Act.

Council means the Adelaide Hills Council.

Council Member as stated in the Act means the principal member or a councillor of the Council.

Disposal means the sale or other transfer of an asset by Council to another party.

Land includes community land, vacant land, operational land and roads, and any other land-related assets, including all buildings (community and operational) on land.

Major Plant and Equipment includes all major machinery and equipment owned by the Council. It includes all trucks, graders, other operating machinery and major plant items with an original value of \$5,000 or more. It does not include minor plant and equipment.

Minor Plant and Equipment includes all minor plant, equipment and portable and attractive items owned by Council. It includes all loose tools, store items, furniture, second hand items removed from major plant and equipment (such as air conditioners, bricks and pavers) and surplus bulk items (such as sand and gravel) with an original value likely to be less than \$5,000.

Portable and Attractive Items are items of equipment that are less than \$5,000 and are susceptible to theft or loss due to their portable nature and attractiveness for personal use or resale.

Examples of Portable and Attractive Items include (but are not limited to)

- a) laptop/mobile computers (purchased outright/non leased);
- b) mobile communication devices (e.g. iPhone/Androids/iPads);
- c) audio Visual Equipment (including Projectors);
- d) cameras (digital/film/video);
- e) printers (including label printers);
- f) televisions, flat screens and monitors;
- g) DVD/Video players, and Music players (iPod etc.);
- h) GPS devices;
- i) power tools;
- j) ladders, or other outdoor equipment.

Road has the same meaning as defined in the Act, 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

Staff means Council staff, contractors, volunteers and all others who perform work on behalf of Council.

Unsolicited proposal is an approach to Council from a third party for the purchase of an asset where the Council has not requested a proposal through its regular disposal or procurement processes.

Valuation means a determination or assessment of value completed by a qualified and licensed valuer.

5. POLICY PRINCIPLES

Council must have regard to the following principles when disposing of assets:

5.1. Encouragement of open and effective competition.

5.2. Obtaining value for money

5.2.1. This is not restricted to price alone.

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

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

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

5.2.2.3. efficiency and effectiveness;

5.2.2.4. the costs of various disposal methods;

5.2.2.5. internal administration costs;

5.2.2.6. risk exposure; and

5.2.2.7. the value of any associated environmental benefits.

5.3. Ethical Behaviour and Fair Dealing.

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

5.4. Probity, Accountability, Transparency and Reporting.

5.5. Ensuring compliance with all relevant legislation, including the following:

5.5.1. *Local Government Act 1999 (SA)*

5.5.2. *Real Property Act 1886 (SA)*

5.5.3. *Land and Business (Sale and Conveyancing) Act 1994 (SA)*

- 5.5.4.** *Development Act 1993 (SA)*
- 5.5.5.** *Retail and Commercial Leases Act 1995 (SA)*
- 5.5.6.** *Residential Tenancies Act 1995 (SA)*
- 5.5.7.** *Strata Titles Act 1988 (SA)*
- 5.5.8.** *Crown Land Management Act 2009 (SA)*
- 5.5.9.** *Community Titles Act 1996 (SA)*
- 5.5.10.** *Roads (Opening and Closing) Act 1991 (SA)*
- 5.5.11.** *Land Acquisition Act 1969 (SA)*

6. CONSIDERATIONS PRIOR TO THE DISPOSAL OF ASSETS

- 6.1.** Any decision to dispose of an asset will be made after considering (where applicable):
 - 6.1.1.** the usefulness of the asset;
 - 6.1.2.** the current market value of the asset;
 - 6.1.3.** the annual cost of maintenance;
 - 6.1.4.** any alternative future use of the asset;
 - 6.1.5.** any potential contamination remediation costs;
 - 6.1.6.** any duplication of the asset or the service provided by the asset;
 - 6.1.7.** any impact the disposal of the asset may have on the community;
 - 6.1.8.** any cultural or historical significance of the asset;
 - 6.1.9.** the positive and negative impacts the disposal of the asset may have on the operations of the Council;
 - 6.1.10.** the long term plans and strategic direction of the Council;
 - 6.1.11.** the remaining useful life of the asset;
 - 6.1.12.** a benefit and risk analysis of the proposed disposal;
 - 6.1.13.** the results of any community consultation process;
 - 6.1.14.** any restrictions on the proposed disposal;
 - 6.1.15.** the content of any community land management plan; and

- 6.1.16.** other relevant policies of the Council, including the Prudential Management Policy.

6.2. Deaccession and Disposal of items from The Arts and Heritage Collection

- 6.2.1.** When disposing of items from the arts and heritage collection, the *Arts and Heritage Collection Policy* must be followed.

7. DISPOSAL METHODS

7.1. Disposal of Land

- 7.1.1.** The Council may resolve to dispose of land.
- 7.1.2.** 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.
- 7.1.3.** Where land is classified as community land, the Council must:
 - 7.1.3.1.** undertake public consultation in accordance with the Act and the Council's Public Consultation Policy; and
 - 7.1.3.2.** ensure that the process for the revocation of the classification of the land as community land has been concluded prior to its disposal; and
 - 7.1.3.3.** comply with all other requirements under the Act in respect of the disposal of community land.
- 7.1.4.** Where land is classified as community land, consideration should be given to impact the disposal would have on the local community including assessment of the following:
 - 7.1.4.1.** Ecological Value – determined by the size of the land, distance to core habitat, proportion of surrounding open space in close proximity to the site and extent of roads and sealed surfaces surrounding the site;
 - 7.1.4.2.** Trees and vegetation – impact on existing trees and vegetation;
 - 7.1.4.3.** Character and appeal – how is the land currently used, landscaped and maintained and are the facilities on the land of benefit to the community;
 - 7.1.4.4.** Accessibility – proximity to nearby residents or businesses;

- 7.1.4.5.** Recreational value – size of the land, current or possible use for formal or informal recreation and facilities on the land suitable to facilitate formal or informal recreation;
- 7.1.4.6.** Cost of maintenance – annual costs to maintain the land.
- 7.1.5.** The Council will, where appropriate, dispose of land through one of the following methods:
- 7.1.5.1. *Open market sale*** - by procuring the services of a licensed real estate agent and/or auctioneer (following compliance with the Council’s Procurement Policy);
- 7.1.5.2. *Expressions of interest*** - seeking expressions of interest for the land;
- 7.1.5.3. *Select tender*** - seeking tenders from a selected group of persons or companies;
- 7.1.5.4. *Open tender*** - openly seeking bids through tenders, including public auction;
- 7.1.5.5. *By negotiation*** – with owners of land adjoining the land to be disposed 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.
- 7.1.6.** Selection of a suitable disposal method will include consideration of (where appropriate):
- 7.1.6.1.** the number of known potential purchasers of the Land;
- 7.1.6.2.** the original intention for the use of the Land;
- 7.1.6.3.** the current and possible preferred future use of the Land and;
- 7.1.6.4.** the opportunity to promote local economic growth and development;
- 7.1.6.5.** delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
- 7.1.6.6.** the total estimated value of the disposal; and
- 7.1.6.7.** compliance with statutory and other obligations.
- 7.1.7.** 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.

7.1.8. If Land is to be disposed of via a select tender or direct sale, unless the Council resolves otherwise:

7.1.8.1. the sale or exchange of Roads under the *Roads (Opening and Closing) Act 1996* or Land that has a site value as valued by the Valuer-General at under \$100,000 one independent valuation by a Valuer must be obtained to ensure that an appropriate market value is obtained;

7.1.8.2. where the Land has a site value as valued by the Valuer-General at greater than \$100,000, a minimum of two independent valuations by a Valuer must be obtained to ensure that an appropriate market value is obtained;

7.1.8.3. The independent valuations must be made no more than 6 months prior to the Council resolving to dispose of the land.

7.1.9. The Council will seek to dispose of Land at or above current market valuation, as determined by a Valuer, 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.

7.1.10. If the disposal is not to be on the open market, the disposal should be at or above the current market valuation, as determined by a Valuer (with due regard to all associated costs to achieve the transaction or such other amount as the Council resolves).

7.1.11. The Council will not dispose of land to any Council member or staff who has been involved in any process related to a decision to dispose of the land and/or the establishment of a reserve price.

7.1.12. Unless resolved by Council, elected members and staff will not be permitted to purchase land unless the purchase is via an open tender process or a public auction, and the tender submitted or bid made is the highest.

7.1.13. Purchasers of land must be required to agree in writing that before purchasing any land that no warranty is given by the Council in respect of the suitability and condition of the land for the recipient and that the Council will not be responsible for the land in any respect following the disposal, unless otherwise agreed as part of a commercial negotiation.

7.1.14. Unless otherwise resolved by Council, net proceeds will be applied to general revenue to reduce borrowings and build cash reserves to fund future asset replacement or strategic land purchases. However the Council may consider the specific application of net proceeds where the disposal is to fund a particular strategic purpose

7.2. Disposal of Roads

Roads, including unmade road reserves and walkways, form integral links in the vehicle and pedestrian network. Where these may have future requirements for vehicle or access connections, form part of strategic connections identified by the State Government as having state linkages or are identified in the Council's *Trails Strategy*, they should be retained by Council.

7.2.1. Roads that are not considered to be integral parts of these linkages could be considered for disposal as surplus to community requirements and Council may consider expressions of interest from interested adjoining property owners to purchase.

7.2.2. Expressions of Interest for the purchase of the whole or portion of a road are processed in the following manner:

7.2.2.1. Receipt of an application and payment of an application fee (as set out in the annual fees and charges);

7.2.2.2. Internal assessment undertaken using the Local Government Association publication *Unformed Public Road Strategic Direction and Use Instruction Manual*;

7.2.2.3. Where, following the internal assessment, disposal is not considered to be appropriate, the applicant will be advised of the decision;

7.2.2.4. Where, following the internal assessment, the road is considered surplus to needs, the proposal will be progressed in accordance with the requirements of the Roads (Opening and Closing) Act 1991 and the request for a valuation undertaken by a Valuer.

7.2.2.5. Where multiple adjoining land owners express an interest in the purchase of the same or similar area of road and the interested parties are not able to reach agreement, the Council may choose to undertake the sale as a select tender process or not to progress with the road closure and sale.

7.2.2.6. Following completion of the public notification period, a report will be presented to Council for consideration

7.3. Disposal of Major Plant and Equipment and Minor Plant and Equipment

7.3.1. The disposal of major plant and equipment and minor plant and equipment will be the responsibility of the relevant Council Officer who is responsible for those assets.

7.3.2. The Council will, where appropriate, dispose of major plant and equipment and minor plant and equipment through one of the following methods:

7.3.2.1. *Trade-in* – trading in equipment to suppliers;

7.3.2.2. *Expressions of interest* – seeking expressions of interest from buyers including specialist resellers (minimum of 2 to be requested);

7.3.2.3. *Select tender* – seeking tenders from a selected group of persons or companies;

7.3.2.4. *Open tender* – openly seeking bids through tenders, noting that the LGA Procurement’s disposal panel or Tenders SA can be used to obtain Tenders;

7.3.2.5. *Public auction* – procuring the services of an auctioneer (following compliance with the Council’s Procurement Policy); including public auction websites but only auctioned and not as “fixed price”

7.3.2.6. *Donation* – to community groups, charities, welfare or not for profit organisations.

7.3.2.7. *Destruction and/or recycling* – Where assets have no remaining useful life or any item which cannot be disposed of by sale or donation shall be destroyed and/or recycled.

- Where possible, all raw materials, parts and accessories shall be recycled for reuse.
- All non-recyclable materials shall be disposed of through the accepted waste management system.
- No material deposited within the waste stream shall be withdrawn for use.

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

7.3.3.1. the public demand and interest in the major plant and equipment and minor plant and equipment;

7.3.3.2. the method most likely to return the highest revenue;

7.3.3.3. the value of the major plant and equipment or minor plant and equipment;

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- 7.3.3.4.** the costs of the disposal method compared to the expected returns;
 - 7.3.3.5.** compliance with statutory and other obligations; and
 - 7.3.3.6.** community benefit.
 - 7.3.4.** As a general rule, minor plant and equipment, and in particular items with a value below \$1,000, 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 sell as a single lot. Minor plant and equipment is generally disposed of via an expression of interest or public auction.
 - 7.3.5.** Where minor plant & equipment (with a market value greater than \$200), whilst fit for purpose and functionally safe, is not considered suitable or viable for sale, it may be considered for donation to community groups, charities, welfare or not for profit organisations. Minor plant & equipment made available for donation will be advertised through the Council's social media channels with interested groups invited to submit offers of interest. Allocation of donated items will be made using available random selection tools so that no preferential treatment is provided.
 - 7.3.6.** Where minor plant & equipment (with a market value less than \$200), whilst fit for purpose and functionally safe, is not considered suitable or viable for sale, it may be considered for donation to community groups, charities, welfare or not for profit organisations. The relevant Director must approve the donation and recipient. This option is preferable to disposing of items to waste.
 - 7.3.7.** Purchasers of major plant and equipment and minor plant and equipment or recipients of donated minor plant and equipment may be required to agree in writing that before purchasing any major plant and equipment and minor plant and equipment or receiving the donation of any minor plant and equipment that no warranty is given by the Council in respect of the suitability and condition of the asset for the recipient and that the Council will not be responsible for the asset in any respect following the disposal.
 - 7.3.8.** Council members and staff are not permitted to take, or be given, surplus assets, materials or equipment, even if not considered suitable for sale.
 - 7.4.** Unsolicited proposals to purchase land or assets or partner with Council using its land or Assets, need to consider the following:
 - 7.4.1.** Whether they could assist the Council to achieve its strategic objectives or satisfy a community need.

- 7.4.2.** The act of receiving and assessing proposals cannot in any way compromise the performance of Council's statutory and regulatory requirements.
- 7.4.3.** An unsolicited proposal should be assessed in accordance with the Council's Unsolicited Proposals Policy (if any), and in the absence of an Unsolicited Proposals Policy, using the following criteria:
 - 7.4.3.1.** Can the asset be disposed of in a competitive disposal process, if so then a competitive process should be undertaken;
 - 7.4.3.2.** Does the proposal align with the Council's Strategic Plan objectives;
 - 7.4.3.3.** What are the community benefits to the proposal; and
 - 7.4.3.4.** Is the disposal of asset required to meet the outcome?
- 7.4.4.** Any unsolicited proposal that is assessed as being suitable for further consideration will be presented to Council for such consideration

8. PUBLIC CONSULTATION

- 8.1.** Where asset disposal requires public consultations in accordance with the *Local Government Act 1999 (SA,)* Council must undertake the process as per Councils Public Consultation Policy

9. DELEGATIONS

- 9.1.** The Chief Executive Officer has the delegation to:
 - 9.1.1.** Approve, amend and review any procedures that shall be consistent with this Policy; and
 - 9.1.2.** Make any legislative, formatting, nomenclature or other minor changes to the Policy during the period of its currency.

10. RECORDS

- 10.1.** The Council must record reasons for utilising a specific disposal method and where it uses a disposal method other than a tendering process.
- 10.2.** When disposing of plant and equipment Council must utilise the approved disposal form.
- 10.3.** The council officer disposing of the asset is responsible to ensure that the appropriate asset register is updated upon disposal.

11. EXEMPTIONS FROM THIS POLICY

11.1. 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 best outcome for the Council, and other market approaches may be more appropriate. In certain circumstances, the Council may, subject to the resolution of council, 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 this policy.

12. AVAILABILITY OF THE POLICY

This policy will be available via the Council's website www.ahc.sa.gov.au.