

POLICY

Policy Name	Disposal of Land and other Assets
Policy Category	Statutory
Department / Officer	Office of the CEO – Group Manager Governance and Finance
Date Adopted	23 June 2008
Date/s Reviewed	24 June 2013, 19 December 2016, 24 August 2020, February 2024
Review Frequency	Every Three Years
Strategic Plan Reference	City of Victor Harbor Community Plan 2030 Aspiration 6 – We are a financially sustainable and well-governed organisation
Attachments	Nil

1. Purpose

The purpose of this Policy is to:

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

2. Scope

This Policy covers physical assets owned by Council including land, buildings, plant, equipment, furniture, fittings and artworks.

This Policy does not cover:

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

There may be emergencies, or disposals in which a tender process will not necessarily deliver the best outcome for the Council, and other market approaches may be more appropriate.

In certain circumstances, and subject to Council approval, it may be necessary to waive application of this Policy and pursue a method which will bring the best outcome for the Council. Staff must record Council's reasons in writing for waiving application of this Policy.

3. Policy Statement (Summary)

The City of Victor Harbor is committed to a transparent and consistent process for the disposal of Land or other Council Assets and the use of this Policy will ensure that the most appropriate method of disposal is undertaken.

4. Legislation and Compliance

Section 49(a1) of the *Local Government Act 1999* (the 'Act') requires Council to develop and maintain policies, practices and procedures directed towards:

- obtaining value in the expenditure of public money; and
- providing for ethical and fair treatment of participants; and
- ensuring probity, accountability and transparency in all disposal and procurement processes.

Section 49(1) (d) of the Act states that Council must prepare and adopt a policy on the sale or disposal of land or other assets.

Section 49 (2) provides that the Policy must:

- a) identify circumstances where the council will call for tenders for the supply of goods, the provision of services or the carrying out of works, or the sale or
- b) disposal of land or other assets; and provide a fair and transparent process for calling tenders and entering into contracts in those circumstances; and
- c) provide for the recording of reasons for entering into contracts other than those resulting from a tender process; and
- d) be consistent with any requirement prescribed by the regulations.

Section 201 (Sale or disposal of local government land) of the Act makes provision for Council to sell or dispose of an interest in Land and sets out the circumstances under which Council can dispose of community Land or Land forming a road or part of a road.

Other major legislative requirements that may be relevant to the application of this policy include but may not be limited to the following:

- Local Government Act 1999
- Local Government (General) Regulations 2013
- Real Property Act 1886
- Land and Business (Sale and Conveyancing) Act 1994
- Development Act 1993
- Residential Tenancies Act 1995
- Retail and Commercial Leases Act 1995 (SA)
- Roads (Opening and Closing) Act 1991
- Strata Titles Act 1988
- Crown Land Management Act 2009
- Community Titles Act 1996
- Land Acquisition Act 1969

5. Definitions

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

Asset means any physical item that Council owns. This includes building, plant, machinery, equipment, furniture, fittings, artworks and all other physical objects. It does not include financial related assets.

Land means community land, vacant land, operational land, road reserves, buildings (community and operational), and any other land-related assets.

Capitalised Assets means all machinery and equipment that have **met** the minimum capitalisation thresholds set in Council's Asset Accounting Policy and are included in Council's Asset Register. It includes operating machinery, trucks, graders, motor vehicles, major and small plant items, furniture, fittings, artworks and all other physical objects.

Non-Capitalised Assets means all minor plant and equipment that have **not met** the minimum capitalisation thresholds set in Council's Asset Accounting Policy and are thus not included in Council's Asset Register. It includes loose tools, store items, information technology and office accessories and hand-held equipment.

6. Policy Content

6.1 Principles

6.1.1 Council must have regard to the following principles in its disposal of land and assets:

- encouragement of open and effective competition
- obtaining value for money
- not restricted to price alone.

6.1.2 An assessment of value for money must include consideration of:

- the contribution to Council's Long Term Financial Plan and other Strategic Management Plans
- any relevant direct and indirect benefits to Council, both tangible and intangible
- efficiency and effectiveness
- the costs of various disposal methods
- internal administration costs
- risk exposure
- the value of any associated environmental benefits.

6.1.3 Ethical behaviour and fair dealing – Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

6.1.4 Probity, accountability, transparency and reporting.

6.1.5 Ensuring compliance with all relevant legislation.

- 6.1.6 Purchasers of Assets are required to agree in writing before purchasing any Asset that:
- no warranty is given in respect of the suitability and condition of the Asset, and
 - no liability is accepted in respect of the Asset following the sale.
- 6.1.7 Staff must record reasons for utilising a specific disposal method and where it uses a disposal method other than a tendering process.
- 6.1.8 Council Members and Council employees are not excluded from participating where the open tender or public / online auction process is utilised and the tender or bid submitted is the highest.

6.2 Considerations prior to Disposal of Land and Assets

- 6.2.1 Any decision to dispose of land and assets will be made after considering:
- the usefulness of the land or asset
 - the current market value of the land or asset
 - the annual cost of maintenance
 - any alternative future use of the land or asset
 - any duplication of the land or asset or the service provided by the land or asset e.g. location to a similar facility
 - any impact the disposal of the land or asset may have on the community
 - any cultural or historical significance of the land or asset
 - the positive and negative impacts the disposal of the land or assets may have on the operations of the Council
 - the long term plans and strategic direction of the Council
 - the remaining useful life of an asset
 - a benefit and risk analysis of the proposed disposal
 - the results of any community consultation process
 - any restrictions on the proposed disposal
 - the content of any community land management plan
 - any other relevant policies of the Council.

6.3 Methods of Disposal – Land

- 6.3.1 A Council resolution is required to dispose of land.
- 6.3.2 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.
- 6.3.3 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 if required.
- 6.3.4 Where land is classified as community land on the Community Land Register, the Council must:
- undertake Public Consultation in accordance with the Act and the Council's Public Consultation Policy.

- ensure that the process for the revocation of the classification of land as community land has been concluded prior to its disposal
- comply with all other requirements under the Act in respect to the disposal of community and.

6.3.5 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 Alienation of community land by lease or licence of the Act

6.3.6 Selection of a suitable disposal method will include consideration of:

- the number of known potential purchasers of the land
- the original intention for the use of the land
- the current and possible preferred future use of the land
- the opportunity to promote local economic growth and development
- delegation limits taking into consideration accountability, responsibility, operational efficiency and urgency of the disposal
- the total estimated value of the disposal
- compliance with statutory and other obligations.

6.3.7 Council will dispose of land through one of the following methods:

6.3.7.1 Open Market Sale

Advertisement for disposal of the land through printed and other accepted media or by procuring the services of a licensed real estate agent and/or auctioneer in accordance with Council's Procurement Policy.

At least one independent valuation, unless otherwise resolved by Council, must be obtained to establish the reserve price for the land. The independent valuation must be made no more than twelve months prior to the proposed disposal.

Where a public auction fails to realise a sale, the Chief Executive Officer or delegate may dispose of the land at the best available price, provided that the offer is at or above the reserve sale price of the land.

6.3.7.2 Open Tender

Openly seeking bids through tenders, including public auction.

At least one independent valuation, unless otherwise resolved by Council, must be obtained to establish the reserve price for the land.

The independent valuation must be made no more than twelve months prior to the proposed disposal.

Where a public auction fails to realise a sale, the Chief Executive Officer or delegate may dispose of the land at the best available price, provided that the offer is at or above the reserve sale price of the land.

6.3.7.3 Expressions of interest
Seeking expressions of interest for the land.

At least one independent valuation, unless otherwise resolved by Council, must be obtained to establish the reserve price for the land. The independent valuation must be made no more than twelve months prior to the commencement of the proposed disposal process.

6.3.7.4 Select Tender
Seeking tenders from a selected group of persons or companies. At least two independent valuations, unless otherwise resolved by Council, must be obtained to establish the reserve price for the land. The independent valuation must be made no more than twelve months prior to the commencement of the proposed disposal process.

6.3.7.5 By negotiation
With owners of land adjoining the land or others with a pre-existing interest in the LInd, 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 or for the purpose of exchanging land.

At least one independent valuation, unless otherwise resolved by Council, must be obtained to establish the reserve price for the land. The independent valuation must be made no more than twelve months prior to the commencement of the proposed disposal negotiations.

6.3.8 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.

6.3.9 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).

6.4 Methods of Disposal – Capitalised Assets

6.4.1 The disposal of capitalised assets will be the responsibility of the relevant Director who is responsible for those assets. This includes determining the appropriate method of disposal, managing potential risks and ensuring that the process is documented.

6.4.2 The value of capitalised assets will be determined by the relevant Director in consultation with the Group Manager Governance and Finance with reference to both Council's Asset Register and Market Value unless being disposed to the highest bid in an open competitive process.

- 6.4.3 The disposal method chosen must be appropriate to the nature, quantity and location of goods/item, and promote fair and effective competition to the greatest extent possible. The principles of waste hierarchy are to be applied with all options to reduce, reuse and recycle being considered.
- 6.4.4 Selection of a suitable method will include consideration of:
- the public demand and interest in the asset;
 - the method most likely to return the highest revenue;
 - the costs of the disposal method compared to the expected returns;
 - compliance with statutory and other obligations.
 - the written down value of the asset
 - potential community benefit.
- 6.4.5 The Council will dispose of Capitalised Assets through one of the following methods:
- 6.4.5.1 Trade-in
Trading in equipment to suppliers.
- 6.4.5.2 Expression of interest
Seeking expressions of interest from buyers.
- 6.4.5.3 Select tender
Seeking tenders from a selected group of persons or companies.
- 6.4.5.4 Open tender
Openly seeking bids through tenders.
- 6.4.5.5 Public / Online auction
Advertising for the auction through printed and other accepted media or by procuring the services of an auctioneer in accordance with Council's Procurement Policy.
- 6.4.5.6 Direct Sale
Sale to other agencies including approved charities, local community groups, local sporting groups, council program initiatives, subsidiaries and other not for profit organisations where the written down value or market value is less than \$1,000.
- 6.4.5.7 Donation
Donation to other agencies including approved charities, local community group, local sporting groups, council program initiatives, subsidiaries and other not for profit organisations where the written down value or market value is less than \$1,000 and a community benefit can be gained.
- 6.4.5.8 Recycle or disposal to landfill
Where the item is deemed to have no value or the equipment is unserviceable and beyond economic repair. A receipt for the disposal to landfill must be provided to the Group Manager Governance and Finance.
- 6.4.6 When a competitive process has failed to produce an advantageous or satisfactory offer and Council does not expect a repeat of the process to

produce a better result, Council may choose to negotiate directly with the 'least unsatisfactory' of the available proponents, or another proponent that has expressed a genuine interest.

6.5 Methods of Disposal – Non Capitalised Assets

- 6.5.1 The value of non-capitalised assets will be determined by the relevant Director in consultation with the Group Manager Governance and Finance with reference to Market Value unless being disposed to the highest bid in an open competitive process. Market value may be determined by online advertisements and other market indicators.
- 6.5.2 The Council will dispose of Non Capitalised Assets through one of the following methods:
- 6.5.2.1 Registrations of interest
Expression of Interest will be advertised by public notice. Where the number of items to be offered for sale is less than the number of registrations of interest, then a ballot will be conducted by the relevant Director and Group Manager Governance and Finance.
- 6.5.2.2 Direct Sale
Sale to other agencies including approved charities, local community groups, local sporting groups, council program initiatives, subsidiaries and other not for profit organisations.
- 6.5.2.3 Donation
Donation to other agencies including approved charities, local community group, local sporting groups, council program initiatives, subsidiaries and other not for profit organisations where a community benefit can be gained.
- 6.5.2.4 Recycle or disposal to landfill
Where the item is deemed to have no value or the equipment is unserviceable and beyond economic repair.

7 Risk Management

This policy has been developed to ensure compliance with statutory and other obligations.

Council Officers are responsible for ensuring appropriate practices and procedures of internal control and risk management are adhered to during sale and disposal activities.

The officer responsible for the disposal of any Council land or asset and the relevant Director or Manager must ensure that no conflict of interest occurs in or as a result of the asset disposal process.

All sale and disposal contracts should be assessed in accordance with Council's Risk Management Framework and Policy and give consideration to the use of a probity auditor for high risk and high value disposals.

The review of this Policy will include presentation to Council's Audit and Risk Committee.

8 Implementation/Delegations

The Chief Executive Officer has delegated authority to implement this Policy.

9 Related Documents

Light Fleet, Plant and Heavy Vehicle Change Over/Replacement Policy
Procurement Policy
Major Quotation and Tender Procedure and Tender Evaluation Procedure
Asset Management Policy
Asset Accounting Policy
Internal Control Policy and Procedures
Fraud Corruption, Misconduct and Maladministration Prevention Policy
City of Victor Harbor's Delegation Register
Community Land Management Plans
Public Consultation Policy

10 Availability of Policy

This policy is available on Council's website at www.victor.sa.gov.au. It may also be inspected or purchased at the Principal Office of the Council at 1 Bay Road, Victor Harbor.