



Disposal of Land Policy

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Function:	16 - Property Management	Responsible Officer:	Manager, Property & Building

A - PREAMBLE

1. Section 49 of the Local Government Act, 1999 requires that a Council must prepare and adopt policies on contracts and tenders, including policies on the sale of land or other assets.
2. Council has an approved policy for the Disposal of Assets other than Land Policy and this policy therefore refers specifically to disposal of land

B - SCOPE

1. Section 49 (a1) of the Local Government Act 1999 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 processes.
2. Where Council Administration (in consultation with other Departments within Council) believes that:
 - Public land in Council's ownership may be surplus to public requirements;
 - The land provides limited strategic and / or public benefit;
 - Holding the land is an inefficient use of public assets

A report will be presented to Council for consideration of disposal. This will include recommendations to implement public consultation in accordance with Council's Public Consultation Policy

3. This policy seeks to:
 - Define the methods by which land 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; and
 - Ensure that the best possible outcome is achieved for the community

4. However this policy does not cover:

- Land sold by Council for the non-payment of rates as this is dealt with in the Local Government Act 1999.

C – POLICY PURPOSE/OBJECTIVES

1. This policy provides direction to staff outlining the principles and processes to be followed in relation to disposal of land vested in Council in fee simple or as a lessee.
2. This policy considers all land held within Council's ownership whether it be held as community land, Council owned land, road and road reserves, any legal interest in land, and any other land-related assets including all buildings (community and operational) on land.
3. This policy also states how net proceeds will be treated

D - DEFINITIONS

1. Land includes community land, Council owned land, roads and road reserves, any legal interest in land, and any other land-related assets including all buildings (community and operational) on land.

E - POLICY STATEMENT

1. **Council must have regard to the following principles in regard to disposal of land;**
 - 1.1 Encouragement of open and effective competition
 - 1.2 Obtaining value for money
 - 1.3 Assessment of offers are not restricted to price alone
 - 1.4 The offer aligns with Council's strategic directions - City Plan 2035, strategies and master plans.
 - 1.5 An assessment of value for money must include consideration of (where applicable)
 - The contribution to Council's long term financial plan and 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
 - The direct and indirect economic benefits for the City of Salisbury ie creation of jobs alignment / support of industry direction and transformation
 - 1.6 Ethical Behaviour and fair dealing, behave with impartiality, fairness, independence and integrity in all discussions and negotiations.
 - 1.7 Ensure accountability, transparency and compliance with all relevant legislation.

2. **Considerations Prior to Disposal of the Land**

Any decision to dispose of land will be made after considering where applicable

- 2.1 The value of the land to the community for community uses
- 2.2 The current market value of the land
- 2.3 The annual costs of maintenance
- 2.4 Any alternative future use of the land
- 2.5 Any duplication of the land or the service provided by the land

- 2.6 Any impact the disposal of the land may have on the community
- 2.7 Any cultural or historical significance of the land
- 2.8 The positive and negative impacts the disposal of the land may have on the operations of the Council
- 2.9 Aligns with Council's strategic directions – City Plan 2035, strategies and master plans.
- 2.10 The remaining useful life, particularly of any building infrastructure on the land
- 2.11 A benefit and risk analysis of the proposed disposal
- 2.12 The results of any community consultation process
- 2.13 Any restrictions on the proposed disposal
- 2.14 The content of any community land management plan;
- 2.15 Reserve classification hierarchy; and
- 2.16 Any other relevant plans / policies of the Council including but not limited to:
 - Affordable Housing Policy (Council owned Land)
 - Public Consultation Policy
 - Community Land Management Plan
 - Walkway Closures Policy
 - Unsolicited Proposals Procedure
 - Growth Action Plan

3. Disposal Methods

- 3.1 The Council may resolve to dispose of the land.
- 3.2 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.
- 3.3 Where land is classified as community land, the Council must;
 - Undertake public consultation in accordance with the Local Government Act 1999 and the Council's Public Consultation Policy
 - Ensure the processes for revocation of the community land classification have been concluded prior to disposal
 - Comply with all other requirements under the Local Government Act 1999 in regard to the disposal of community land.
- 3.4 Where Council proposes to dispose of land through the grant of a leasehold interest greater than five years, the Council must have complied with its obligations under the Local Government Act 1999, including the public consultation obligations under Section 292 of the Local Government Act 1999.
- 3.5 The Council will, where appropriate, dispose of land through one of the following methods;
 - Open Market method of sale, - advertisement for disposal of the land through the local paper and where appropriate a paper circulating in the state, or by procuring the services of a licenced real estate agent and / or auctioneer (following compliance with the Council's Procurement Policy);
 - Expressions of interest – seeking expressions of interests
 - Select tender – seeking tenders from a selected group of persons or companies
 - Open tender – openly seeking bids through tenders, including public auctions
 - By negotiation – with owners of adjoining land adjoining the land for sale 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.

- Through a structured marketing process, particularly in relation to Councils Strategic Property Development projects where Council is acting as the developer.
- Direct negotiations where the purchase has been assessed under the Unsolicited Proposals Procedure and deemed to meet the approval criteria.

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

- The number of 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, operation efficiency and urgency of the disposal
- The total estimated value of the disposal
- Compliance with statutory and other obligations

3.7 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.

3.8 If the 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) at least one independent valuation must be obtained to establish the reserve price for the land.

3.9 Whilst Council will seek current or in excess of market value for the land, the assessment criteria for the disposal individual parcels will be established before initiating disposal, and factors such as level of alignment with strategic directions may influence the value that Council accepts in the disposal of land.

3.10 If the disposal is not 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). Unless there are reasons for the Council to accept a lesser return, which is consistent with the Council's overall strategic direction. The reasons must be documented in writing.

4. Proceeds of Sale

4.1 The sale of any Council properties under the provisions of this policy shall deliver project outcomes detailed in the business case endorsed by Council, with net proceeds transferred to the property disposal reserve, and used to repay debt or reduce future borrowings.

4.2 Net proceeds are the resulting cash surplus from the Land Disposal. This is calculated as the Accounting Profit as determined in accordance with the Australian Accounting Standards, and adding back the land value which is a non-cash impact, and if relevant deducting the cost of any retained infrastructure constructed as part the disposal. Typically sales proceeds net of GST will be reduced by disposal costs, development costs, and if relevant costs of infrastructure assets created as part of the land disposal.

F - LEGISLATION

1. Local Government Act 1999 (SA)
2. Real Property Act 1886 (SA)
3. Land and Business (Sale and Conveyancing) Act 1994 (SA)
4. Development Act 1993 (SA)
5. Retail and Commercial Leases Act 1995 (SA)
6. Residential Tenancies Act 1995 (SA)
7. Crown Land Management Act 2009 (SA)
8. Strata Titles Act 1988 (SA)
9. Community Titles Act 1996 (SA)
10. Roads (Opening and Closing) Act 1991 (SA)
11. Land Acquisition Act 1969 (SA)

Document Control

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