Land and Asset Disposal Policy

Statutory Policy

Renmark Paringa Council

Responsible Officer	Director Infrastructure and Environmental Services
Relevant Legislation	Section 49 of the Local Government Act 1999
Adopted	October 2015
Reviewed	February 2024
Next Review	February 2027

Policy

Introduction

In compliance with Section 49 of the Local Government Act 1999 (Act), Council should refer to this policy (Policy) when disposing of Land and Assets.

This Policy seeks 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; and
- ensure that the best possible outcome is achieved for the Council.

Furthermore, Section 49 (a1) of 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 processes.

However, this Policy does not cover:

- land sold by Council for the non-payment of rates; or
- disposal of goods which are not owned by the Council, such as abandoned vehicles;

- as these are dealt within the Act.

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. It does not include financial investments or finance related activities, trees or Land.

Land includes community land, vacant land, operational land, road reserves, any legal interest in land, and any other land-related assets.

Major Plant and Equipment includes all major machinery and equipment owned by the Council with an original value of $10,000 or more. It includes all trucks, graders, other operating machinery and major plant items. It does not include Minor Plant and Equipment.

Minor Plant and Equipment includes all minor plant and equipment owned by Council that has an original value up to $10,000. 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).

Policy Principles

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
  - This is not restricted to price alone.
  - An assessment of value for money must include consideration of (where applicable):
    i. the contribution to Council's strategic management plans;
    ii. any relevant direct and indirect benefits to Council, both tangible and intangible;
    iii. efficiency and effectiveness;
    iv. the costs of various disposal methods;
    v. internal administration costs;
    vi. risk exposure; and
    vii. the value of any associated environmental benefits.

Ethical Behaviour and Fair Dealing
Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.
Probity, Accountability, Transparency and Reporting
Ensuring compliance with all relevant legislation.

Considerations prior to Disposal of Land and Assets
Any decision to dispose of Land and Assets will be made after considering (where applicable):

- the usefulness of the Land or Asset and whether it is surplus to Council requirements;
- 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;
- 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 Asset may have on the operations of the Council;
- the long term plans and strategic direction of the Council;
- the remaining useful life, particularly 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; and
- any other matters the Council considers relevant having regard to the circumstances in question.

Disposal methods

Land disposal
The Council may resolve to dispose of Land.
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.
Where Land is classified as community land, the Council must:

- undertake public consultation in accordance with the Act and the Council's public consultation policy; and
- ensure that the process for the revocation of the classification of Land as community land has been concluded prior to its disposal; and

- comply with all other requirements under the Act in respect of the disposal of community land.

Where the Council proposes to dispose of Land through the grant of a leasehold interest, the Council must comply with its obligations under the Act. In the case of Land classified as community land this includes the Council's public consultation obligations under Section 202 of the Act.

The Council will, where appropriate, dispose of Land through one of the following methods: open market 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 licensed real estate agent and/or auctioneer (following compliance with the Council's Procurement Policy);

- expressions of interest - seeking expressions of interest for the Land;
- select tender - seeking tenders from a selected group of persons or companies;
- open tender - openly seeking bids through tenders, including public auction;
- by negotiation – with owners of land adjoining the Land or others with a pre-existing interest in the Land, resulting from an unsolicited request to purchase, 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.

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

- 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, operation efficiency and urgency of the disposal;
- the total estimated value of the disposal; and
- compliance with statutory and other obligations.

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.

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.

If Land is to be disposed of via a select tender or direct sale, then (unless the Council resolves otherwise) a minimum of two independent valuations must be obtained to ensure that an appropriate market value is obtained. The independent valuations must be made no more than 6 months prior to the proposed disposal.

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.

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).

Assets disposal

The sale of 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. The relevant Council officer who is responsible for the sale of a Council asset/s will seek authority from the CEO prior to commencing the sale process.

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

- trade-in – trading in equipment to suppliers;
- expressions of interest – seeking expressions of interest from buyers;
- select tender – seeking tenders from a selected group of persons or companies;
- open tender – openly seeking bids through tenders;
- public auction – advertisement for auction through the local paper and, where appropriate, a paper circulating in the State, or procuring the services of an auctioneer (following compliance with the Council's Procurement Policy).

Selection of a suitable method will include consideration of (where appropriate): the public demand and interest in the Asset;

- the method most likely to return the highest revenue;
- the value of the Asset and whether it is Major Plant and Equipment or Minor Plant and Equipment;
- the costs of the disposal method compared to the expected returns; and
- compliance with statutory and other obligations.

Elected Members and employees of the Council will not be permitted to purchase Assets unless the purchase is via an open tender process or via public auction, and the tender submitted or bid made is the highest.

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.

Delegations

That pursuant to section 44 of the Local Government Act 1999, Council delegates to the Chief Executive Officer authority to administer Council's Policies.

Records

The Council must record reasons for utilising a specific disposal method and where it uses a disposal method other than a tendering process. The records relating to the sale or transfer of property are permanent records of Council such as:

- Disposal orders
- Transaction records
- Gazette notices
- Public notices
- Contract forms
- Minister's approval
- Expressions of interest
- Due diligence documents

These records should be retained in accordance with Councils Records Management Policy.

Exemptions from this policy

This Policy contains general guidelines to be followed by the Council in its disposal activities. There may be circumstances where the disposal methods identified in this Policy will not necessarily deliver best outcome for the Council, and other methods may be more appropriate.

The Chief Executive Officer may waive application of this Policy with respect to the disposal of Assets and pursue a method which will bring the best outcome for the Council, in which case the reasons for waiving application of this Policy must be recorded in writing and a report prepared for Council.

Further Information
This Policy will be kept on the Council's website for the public to view.

The Council will review this Policy within 12 months after the conclusion of each periodic election.

The Council may otherwise revise or review this Policy at any time (but not so as to affect any process that has already commenced).

Document Control

Version #	Approval Date	Approved by	Amendment
3	March 2021	Policy Review Committee	New format/template