

# Sale and Disposal of Land and Other Assets Policy

## 1. Policy Statement

The purpose of this policy is to establish the key principles relating to the sale or disposal of Council’s Land and other assets.

The existence of this policy will assist to ensure a consistent, fair, transparent and accountable approach is maintained and assist in ensuring all third party applications are treated fairly and equitably.

The disposal of property should align with the Strategic Plan and relate to the provision of an attractive community, presentation of the natural environment and local economic development.

It should support City of Playford to be a desirable place to live, work and play. This policy acknowledges that land and buildings can facilitate the attainment of those visions. It also acknowledges 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 in the Strategic Plan.

This policy does not cover:

- Land sold by Council for the recovery of rates or
- Disposal of goods which are not owned by Council, such as abandoned goods as these are dealt with within the Act.
- Acquisition or disposal of other assets that may be covered in Council’s Procurement Policy.


## 2. Scope

This policy applies to Staff, Mayor and Councillors and Independent Members.

## 3. Definitions

For the purpose of this policy the following definitions apply:

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

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**Acquisition** relates to purchase, leasing, acceptance of property under care control or other transfer of any interest in land to Council.

**Chief Executive Officer** means the Chief Executive Officer (including their delegate) of the City of Playford, or an Acting Chief Executive Officer of the City of Playford (including their delegate).

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

**Council** means the City of Playford.

**Council Member** as stated in the *Local Government Act 1999*, **member** of a council means the principal member or a councillor of the council.

**Disposal** relates to the sale, leasing, licensing or other transfer of Land (or an interest in Land) or other asset by Council to another party.

**Independent Members** are members on a committee or panel who are not elected but have been appointed by the Council to undertake a similar role as Councillors on Council's Section 41 Committees or the Council Development Assessment Panel. They are external appointees.

**Land** means, according to the context –

(a) Land as a physical entity, including –

- any building or structure on or improvements to, land; or
- land covered by water and in such a case, overlaying water; or
- a strata lot under the *Community Titles Act 1996* or a unit under the Strata Titles CT 1988; or

(b) a legal estate or interest such as a leasehold estate with the exception of easements and encroachments.

**Other Assets** refers to all assets as detailed within Council's Asset Register other than Land and includes –

- Plant and vehicles
- Furniture and equipment (including Information Technology (IT))
- Fit-outs of facilities including offices, Council Chambers, libraries, workshops, sports facilities and community centres.

**Road** as defined in the Local Government Act 1999 is a road as 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 bridge, viaduct or subway
- An alley, laneway or walkway

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

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

#### **4. Legislation and References**

Legislation relevant to this policy includes but is not limited to the following:

##### **Local Government Act 1999**

Section 49 of the Local Government Act 1999 states:

Council must prepare and adopt a policy on contracts and tenders, including the following:

- The sale or disposal of land or other assets

This policy seeks to:

- Define the methods by which Land and other 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.

Section 193 classifies all local government land that is owned by Council as community land unless Council has excluded the land from the classification 'community land'.

Section 194, Council may revoke the classification of land as community land.

Section 201(2) of this Act provides that Council may not sell or dispose of community land unless it has first revoked the land's classification as community land.

##### **Roads (Opening and Closing) Act 1991**

The Roads (Opening and Closing) Act 1991 provides for the opening and closing of Roads.

Section 12 allows Council to make 'in principle' agreements for the exchange and transfer of land subject to a proposed road closure with the owners of land adjoining that land.

Section 201(2) (b) provides that land constituting a road can only be sold after the closure of the road under the Roads (Opening and Closing) Act 1991.

Council will not make an 'in principle' agreement for the disposal of a road or walkway unless Council first invites offers from the owners of adjoining land subject to the proposed road or walkway closure.

Other legislation relevant to this policy also includes the following:

- Aboriginal Land Trusts Act 2013
- Competition Policy Reform (South Australia) Act 1996
- Crown Land Management Act 2009
- Land Acquisition Act 1969
- Landlord and Tenant Act 1936
- Residential Tenancies Act 1995
- Strata Titles Act 1988
- Community Titles Act 1996
- Development Act 1993
- Land and Business (Sale and Conveyancing) Act 1994
- Native Title (South Australia) Act 1994
- Real Property Act 1886

- Retail and Commercial Leases Act 1995
- Work Health and Safety Act 2012
- Independent Commissioner Against Corruption Act 2012 (SA)

## 5. Policy

This policy is in place to provide guidance once the decision has been made to sell or dispose of Council's land or other assets.

Council must have regard for the following principles in its disposal of Land and other 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);
    - a) The contribution to Council's Long Term Financial and Strategic Management Plans
    - b) Any relevant direct and indirect benefits to Council, both tangible and intangible;
    - c) Efficiency and effectiveness;
    - d) The costs of various disposal methods;
    - e) Administrative costs
    - f) Risk exposure and
    - g) 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 relevant legislation*

### **Section 5A: Sale of Disposal of Land**

#### **Disposal Methods**

##### **Land Disposal**

- Council may resolve to dispose of Land as per the Delegations Register.
- Where the Land forms or formed a road or part of a road, Council must ensure that the Land is closed under the *Roads Opening and Closing Act 1991 (SA)* prior to its disposal.
- Where the Land is classified as "Community Land", Council must:
  - Undertake public consultation in accordance with the Local Government Act 1999 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 relevant Act in respect of the disposal of Community Land.
- Where Council proposes to dispose of land through the grant of a leasehold interest, Council must have complied with its obligations under the relevant Act, including its public consultation obligations under Section 202 of the Act.
- Council will, where appropriate, dispose of land through one of the following methods:
  - *Expressions of Interest* – seeking expressions of interest for the land in accordance with Council’s Procurement Policy.
  - *Select Tender* – seeking tenders from a selected group of persons, companies, organisations or other interested parties in accordance with Council’s Procurement Policy.
  - *Open Tender* – openly seeking bids from tenderers in accordance with Council’s Procurement Policy.
  - *Other means* - as deemed appropriate by Council Members or the CEO (within his or her delegated authority).
- In considering the circumstances in which to apply these options, Council may consider a range of issues, including:
  - The current market value of the land
  - The original intention for the use of the land when acquired by Council
  - The current usefulness of the land and the potential and preferred use of the land
  - The existence of potential local purchasers of the land
  - The current and projected costs to Council of maintaining the land
  - Any cultural or historical significance of the land
  - Any impact the disposal of the land may have on the community including the results of any community consultation process
  - The opportunity to promote local growth and development
  - A benefit and risk analysis of the proposed disposal
  - The content of any relevant Community Land Management Plan
  - Any legislation or other policies of Council
- Council will not dispose of land to any council member or employee of 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 the land is to be
  - Auctioned or
  - Placed on the open market or
  - Disposed of by an expression of interest or via a select tender or direct sale then:
    - one (1) independent valuation must be obtained to establish the reserve price for the land (unless Council Members resolve otherwise).

- Council will seek to dispose of land at or above current market valuation by whichever method is likely to provide Council with a maximum return, unless there are reasons for Council to accept a lesser return which is consistent with Council's overall strategic direction.

### **Net Proceeds from the Disposal of Land**

Council may choose to direct proceeds to:

- Reduce borrowings
- Build cash reserves to fund future asset replacement or strategic land purchases
- Construct new community assets
- Fund equity in joint ventures and/or
- Other purpose as Council sees fit

### **Section 5(B) Sale or Disposal of Other Assets (Assets)**

- An asset can only be sold or disposed of when:
  - The requirement for the service no longer exists
  - There is an alternative better solution to providing the same service
  - The asset is obsolete and can no longer deliver the service to appropriate standards (obsolete = functionally, economically, technically)
  - The asset does not comply with occupational health and safety standards.
  - There is no use expected in the foreseeable future.
  - There is no usage in the previous 6 months (Stores Stock items).
  - It is deemed the optimum time for disposal to maximise return.
  - There are hazardous chemicals or materials present in the asset.
  - It is uneconomical to repair.
- Prior to disposal or sale a check must be carried out to ensure assets do not contain:
  - Additional items not intended for sale;
  - Any cultural or historical significance in which case the asset may be given special regard;
  - Confidential documents (records, files, papers);
  - Documents on Council letterhead or which may be used for fraudulent purposes;
  - Hard drives which have contained council operated software (which could lead to a breach of licenses or contain confidential data) are to be physically destroyed; and
  - Hazardous materials (which should be disposed of in an authorised and safe manner).
- As much as is practical, any Playford identifying mark or logo should be removed or obliterated prior to disposal. Spare parts held for a particular item should be disposed of in one parcel with the asset.

- Assets can be sold or disposed of if this principle of this Policy is met in conjunction with delegations as follows:

<b>The greater of Asset Depreciated (Book) value or market value (per tem)</b>	<b>Authority to approve Sale/ Disposal</b>
> \$500k	Chief Executive Officer (CEO), Deputy CEO or General Manager
\$251k - \$499k	Senior Manager
\$0 - \$250k	Manager

- All assets should be disposed of through a tender process and /or independent accredited agent (e.g. auctioneer) duly engaged in accordance with Council's procurement policy with the asking price set at independent market value.
  - Auction may be public, trade or electronic (for items of significant value a reserve price will be agreed to between the relevant officer and the auctioneer prior to the auction or a fixed price as determined by the Senior Manager Asset Operations)
- In the event that the cost of undertaking a tender process or appointing an independent agent is not financially practicable the assets may be:
  - Taken to a waste disposal facility if the asset has little or no value
  - Sold or donated to Incorporated Community/Sporting Groups (registered/ operating in the City of Playford)
  - In considering any request, staff should keep in mind the following:
    - a) Community groups should receive equitable treatment to avoid possible claims of bias.
    - b) A check should be made to ensure the group is non-profit and that the intended use of the asset is non-commercial (i.e. non-profit).
    - c) Where the donation is seen as appropriate but there is a potential claim of bias, the matter should be referred to the General Manager Strategic Projects and Assets.
    - d) The charity/community group must remove the asset themselves and at no cost to the Council unless otherwise arranged with Council.
- The officer responsible for the disposal of any Council asset and the relevant General Manager must ensure that no conflict of interest occurs in or as a result of the asset disposal process.
- Sale of assets to staff is not to occur outside of a public process and invitations to bid for the purchase of any surplus Council assets should not be limited to staff or to council members. Members of the public must also be allowed to compete for the purchase.
- In individual instances however the sale to a staff member may be the most practical or fair and reasonable manner of disposal. In these instances, authority for disposal will rest with the Chief Executive Office or Mayor (in the instance where the Chief Executive Officer has a conflict). Sale may occur when:

- Staff make a request to purchase a City of Playford owned asset upon leaving the organisation.
  - Staff at the General Manager or Senior Manager level may make the request.
  - There may be special circumstances where staff at different levels to the abovementioned within the organisation submit such a request, and these can be reviewed/approved at the CEO's discretion.
  - All reasonable efforts should be made to ascertain the current market value of the asset that is required to be purchased to ensure best value for money is achieved and there is no financial loss to the organisation. This can include consultation with auction houses, Red Book, Vendors and the like.
  - All decisions and the reasons for the decisions must be documented.
- The proceeds of the sale of assets shall be directed to General Revenue for reallocation in the normal budgetary processes or Council may choose to direct proceeds to:
    - Reduce borrowings
    - Build cash reserves to fund future asset replacement or strategic land purchases
    - Construct new community assets
    - Fund equity in joint ventures and/or
    - Other purpose as Council sees fit unless:
      - They are a trade in to a replacement asset (such as vehicles)

Following the disposal of an asset, the asset must be decommissioned and Council's asset register adjusted.

## **6. Responsibilities**

Responsibility is with the Assets and Projects team and is implemented by various teams in accordance with Council's Delegation Register.

## **7. Relevance to Strategic Plan**

### **Strategy 5 - Building our capabilities**

Outcomes:

- 5.1 Highly performing organisation
- 5.2 Delivering value for money services
- 5.3 Effective government and private sector partnerships

## **8. Supporting Documentation**

Documents which support this policy:

- Accounting for Property, Plant, Equipment & Infrastructure Policy
- Walkway Closure Policy
- Delegations Register
- Fees and Charges Schedule
- Major Land Release and Housing Development Signage Policy
- Motor Vehicle and Fleet Policy
- Procurement Policy
- Public Consultation Policy



- City of Playford Code of Conduct
- Relevant Australian Accounting Board Standards (AASB)

## 9. Approval and Change History

Version	Approval Date	Approval by	Change
1	30 January 2007	Council (Resolution No. 74)	New Policy
2	27 October 2015	Council (Resolution No. 2360)	Policy reviewed in line with current practices. Policy name changed, previously called Sale or Disposal of Assets Policy.