

Disposal of Council Assets Policy (Excludes land and road)

First Approved	20 April 2015 (Resolution Ref: ACM15130)
Review Frequency	4 yearly or as required
Status	LGA Recommended
Last Reviewed	16 March 2020 (Resolution Ref: ACM20521) 17 July 2023 (Resolution Ref: C23266)
Next Review Due	July 2027
File Number	18.63.001 / PL2023172
Responsible Division	Corporate – <i>Property and Procurement</i>
Related Documents	Procurement Policy Procurement Procedure Unsolicited Proposals Procedure Lease and Licence Policy Code of Conduct for Council Employees LGA Procurement Handbook LGA Conflict of Interests Guidelines Acquisition and Disposal of Land Policy Acquisition and Disposal of Road Policy
Applicable Legislation	<i>Local Government Act 1999 (SA) s 49</i> <i>Independent Commissioner Against Corruption (ICAC) Act 2012</i> <i>Freedom of Information Act 1991 (SA)</i> <i>Ombudsman Act 1972 (SA)</i> <i>Competition and Consumer Act 2010 (SA)</i>

Purpose

In compliance with section 49 of the *Local Government Act 1999* (the **Act**), Council should refer to this policy (**Policy**) when disposing of Assets (excluding Land and Road). This Policy has been prepared in accordance with section 125 of Act which requires the Council ensure that appropriate policies, practices and procedures of internal controls are implemented and maintained to safeguard the Council's Assets.

The disposal of land is dealt with in accordance with the *Acquisition and Disposal of Land Policy*. The disposal of roads is dealt with in accordance with the *Acquisition and Disposal of Road Policy*.

Scope

This Policy seeks to:

- define the methods by which 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 and ratepayers.

Objectives

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;
- providing for ethical and fair treatment of participants; and
- ensuring probity, accountability and transparency in all disposal processes.

This Policy does not cover:

- disposal of goods which are not owned by the Council, such as abandoned vehicles that are managed pursuant to the Act;
- land sold by the Council for the non-payment of rates;
- the purchasing of Assets, which is dealt with in accordance with the Council's Procurement Policy.

Principles

Council must have regard to the following principles in its disposal of Assets:

- Encouragement of open and effective competition;
- Obtaining value for money that is not restricted to price alone;
- An assessment of value for money must include consideration of (where applicable):
 - the impact of the disposal on the Council's long term financial plan and strategic management plans;
 - any relevant direct and indirect benefits to Council and/or the community, both tangible and intangible;
 - efficiency and effectiveness;
 - the costs of various disposal methods;
 - social and environmental benefits;
 - internal administration costs; and
 - risk exposure.
- Ethical behaviour and fair dealing:
 - Council is to behave with impartiality, fairness, independence, openness, integrity and in a way which appropriately manages conflicts of interest in all discussions and negotiations.
- Probity, accountability, transparency and reporting
- Ensuring compliance with all relevant legislation

Definitions

Act	refers to the Local Government Act 1999
Assets	means the physical items that Council owns. This includes buildings, major and minor plant, machinery, equipment and all other physical objects. It does not include financial investments or finance related activities.
CEO	means the Chief Executive Officer (including the CEO's delegate) or an acting Chief Executive Officer of the Alexandrina Council.
Council	means the Alexandrina Council.
Disposal	means the sale or other transfer of an asset by the Council to another party.

General Manager

Means the authorised Officer of the Executive of Council, responsible for the Asset.

Major plant, equipment and other items

includes all major machinery, equipment owned by Council and originally classified as an asset (being an item above \$3,000 in value). It includes all trucks, graders, other operating machinery, motor vehicles and small plant items.

Market Value is the estimated amount for which an Asset should be purchased for by a willing buyer in an arm's length transaction.

Mayor means the Mayor of the Alexandrina Council.

Minor plant, equipment and other items (minor assets)

includes all items owned by Council but not classified as an asset (being an item with a value of \$3,000 or less). This category includes all loose tools, store items, furniture, second hand items removed from other assets (such as air conditioners, bricks, pavers and exercise equipment).

Unsolicited proposal

means a proposal or offer received by the Council from a third party for the purchase of an Asset where the Council has not requested an offer by way of its usual disposal or procurement process.

Assets

The sale of Assets will be the responsibility of the relevant General Manager or delegated officer who is responsible for those Assets.

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)
- sell or donate where:
 - low value items where there is no realistic market
 - a community benefit can be gained
 - the cost of disposal methods are considered excessive in relation to the value.
- recycle or disposal to landfill – where there is no value or damage renders the item unserviceable
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Selection of a suitable method will include consideration of (where appropriate):

- the public demand and interest in the Asset;
- the method most likely to achieve the highest value;
- the value of the Asset;
- the costs of the Disposal compared to the expected returns;
- compliance with statutory and other obligations; and
- Potential community benefit.

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

Council Assets will not be disposed to a Council Member or staff of the Council who has had a personal involvement in the decision to Dispose of the Asset and/or involved in the creation of an Assets' reserve price.

Purchasers of Assets must be required to agree in writing that before purchasing any Asset, they understand that Council gives no warranty in respect of the suitability and condition of the Asset for the purchaser. The Council will not be responsible for the Asset in any respect following the sale.

General Terms

Consultation

The Council must undertake public consultation in respect of its proposed disposals in accordance with the Act and its Public Consultation Policy at all times.

Delegation

Council or its officers with delegated authority will, when implementing the decisions under this Policy, act in accordance with the council's budget, relevant policies, plans, agreements and resolutions.

Council acknowledges that the CEO may sub-delegate matters related to this Policy to staff or other persons employed or engaged by Council

Records

The Council must record reasons for utilising a specific disposal method and where it uses a disposal method other than a tendering process.

Confidentiality

Proponents should be aware that their interests may be subject to the Freedom of Information Act 1991, the Ombudsman Act 1972 and the Independent Commissioner Against Corruption Act 2012.

Exemptions & Reasons

This Policy contains general guidelines to be followed by the Council in its disposal activities.

There may be disposals in which a tender process, or other methods listed in this policy will not necessarily deliver the best outcome for the Council.

In certain circumstances, the CEO may, after approval from the Council Members, 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 and make this available to the public on request.

To avoid doubt, if the Council enters into any contract for the disposal of an asset other than as a result of a tender process, reasons will be recorded for the decision.

Grievances

Any grievances in relation to the Policy or its application should be forwarded in writing to the Chief Executive Officer, PO Box 21 Goolwa SA 5214 or to alex@alexandrina.sa.gov.au

No Warranty

Council gives no warranty that a purchaser will be able to use the goods as they intend at the time of purchase.

Availability of Policy

This Policy will be available for inspection on the Council's website www.alexandrina.sa.gov.au. Copies can also be provided upon payment of a fee in accordance with Council's Schedule of Fees and Charges (if applicable).

Roles and Responsibilities

Council

The role of the Council Members is:

- to provide all necessary approvals and resolutions that may be required in accordance with the provisions of the Act and other relevant legislation.
- to authorise the Mayor and CEO to sign and seal any documentation required to facilitate a dealing.

Chief Executive Officer

The role of the CEO is:

- to approve any proposed disposals per resolutions of Council (as applicable).
- where appropriate, identify and report to the Council regarding how a disposal proposal aligns with Council strategies and policies; and
- review the performance of Council's disposal of Assets practices and undertake appropriate actions to improve public value.

Administration

The role of the administration is to:

- undertake initial assessment of proposed disposals of Assets with other internal stakeholders and in accordance with the objectives of this policy;
- identify appropriate disposal methods in accordance with the principles of Council policies; and
- prepare all supporting information to enable Council to make an informed decision and undertake duties in accordance within the authority delegated by Council to CEO (as applicable).
- ensure reasons are documented in accordance with this Policy.

Advisers

Key advisers or interest groups may be appointed as required, to provide specialist expertise to assist in assessing the implications of a particular disposal including expertise in legal, community, financial, technical, environmental and probity.

Disposal of Asset

Disposal criteria

Any decision to dispose of an Asset will only be made after considering, where applicable:

Criteria – Social / Environmental	Criteria - Financial / legislative
The usefulness of the Asset	The current market value of the Asset
Any alternative future use of the Asset	The annual cost of maintenance
Any impact the disposal of the Asset may have on the community	The remaining useful life of an Asset
The results of any community consultation process	The positive and negative impacts the disposal of the Asset may have on the operations of the Council
A benefit and risk analysis of the proposed disposal	Any duplication of the Asset or the service provided by the Asset
Any cultural or historical significance of the Asset	The long-term plans and strategic direction of the Council
Any restrictions on the proposed disposal	Any other relevant guidelines and policies of the Council.

Environmental impacts of disposal (eg: landfill)	
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