



Disposal of Land and Asset Policy

Policy Classification	Council Policy
First Issued:	9 June 2015
Next Date of Review:	June 2026
Version Number:	8
Applicable Legislation:	<i>Local Government Act 1999</i> <i>Local Government (Financial Management) Regulations 2011</i>
Related Policies or Documents:	Council Land Management Plan Procurement Policy
Associated Forms:	NA
Responsible Manager:	Chief Executive Officer Directors Asset & Infrastructure and Finance Departments
Approved by Council:	10 May 2022
Minutes Reference:	C194:2022

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Disposal of Land and Asset Policy

1. Preamble

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

2. Purpose

- 2.1. This policy seeks to define the methods by which Land and Assets are disposed of and which;

-) Demonstrate accountability and responsibility of Council to ratepayers;
-) Are 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 with in the Act.

3. Scope

- 3.1. This policy will apply to all assets owned by, or under the asset register of Kangaroo Island Council.

4. Definitions

- 4.1. **CEO** means the Chief Executive Officer of the Kangaroo Island Council.
- 4.2. **Council** means the Elected Body.
- 4.3. **Kangaroo Island Council (KIC)** means the administration.
- 4.4. **Asset** refers to a resource controlled by the Council as a result of past events from which future economic benefits are expected to flow. It includes resources such as land, land improvements, buildings, structures, infrastructure, library, plant and equipment, and furniture and fittings.
- 4.5. **Appraisal** are intended as a guide to pricing and can be requested from Real Estate Salespeople. Appraisals are estimated by knowledge of the local area and recent sale prices.
- 4.6. **Valuation** can only be provided by a qualified valuer who has undertaken prescribed education and training. Valuing is a complex task and includes taking into account all features and issues relating to a particular property. Where Council is the Lessor, unless there is any clearly expressed agreement to the contrary in place, the Lessor (i.e. the Council) has a responsibility to record these assets and the depreciation of the asset in their financial statements.

- 4.7. **Land** includes community land, vacant land, operational land, road reserves, any legal interest in land, and any other land-related assets, including all buildings (community and operational) on Land.
- 4.8. **Major Plant and Equipment** includes all major machinery, equipment, furniture & fittings owned by the Council. It includes all trucks, graders, other operating machinery and major plant items. It does not include Minor Plant and Equipment with value less than \$5,000.
- 4.9. **Minor Plant and Equipment** includes all minor plant and equipment owned by Council. 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).

5. Policy Statement

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

5.1. Encouragement of open and effective competition

- 5.1.1. Open and effective competition is the central operating principle in pursuit of the best outcome. Openness requires disposal actions that are visible to the Council, ratepayers and suppliers. The probability of obtaining the best outcome is increased in a competitive environment.
- 5.1.2. Council aims to promote efficient competition between public and private businesses through the application of competitive neutrality principles and practices to significant local government activities pursuant to the Competition Policy Reform (South Australia) Act, 1996.

5.2. Obtaining Value for Money

- 5.2.1. The Council strives to achieve value for money in its disposal activities by:
-) Not restricting its decision to price alone;
 -) Undertaking a comparative analysis of the costs and benefits of each proposal; and
 -) Specifying clear conditions and evaluation criteria in approach to market documents.
- 5.2.2. An assessment of value for money must include, where possible, consideration (where applicable) of:
-) 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; and
 -) The value of any associated environmental benefits.

5.3. Ethical Behaviour and Fair Dealing

5.3.1. Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

5.4. Probity, Accountability, Transparency and Reporting

5.4.1. The Council has the responsibility of ensuring that any disposal process is transparent and that its decisions are justified.

5.5. Ensuring compliance with all relevant legislation

5.5.1. Including but not limited to the following:

-)] Local Government Act 1999 (SA)
-)] Real Property Act 1886 (SA)
-)] Land and Business (Sale and Conveyancing) Act 1994 (SA)
-)] [Planning, Development and Infrastructure Act 2016](#) (SA)
-)] Retail and Commercial Leases Act 1995 (SA)
-)] Residential Tenancies Act 1995 (SA)
-)] Strata Titles Act 1988 (SA)
-)] Crown Land Management Act 2009 (SA)
-)] Community Titles Act 1996 (SA)
-)] Roads (Opening and Closing) Act 1991 (SA)
-)] Land Acquisition Act 1969 (SA).

5.6. Considerations prior to Disposal of Land and Assets

5.6.1. Any decision to dispose of Land and Assets will be made after considering (where applicable):

-)] 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;
-)] 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 relevant policies of the Council.
-)] Council Land Management Plan.

5.7. Disposal methods

5.7.1. **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 Local Government 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 Local Government Act in respect of the disposal of community land.

5.7.2. 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 Local Government Act, including its public consultation obligations under Section 202.

5.7.3. 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, 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.

5.7.4. Selection of a suitable disposal method

5.7.5. Selection by council 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.

5.7.6. 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.

5.7.7. 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 or one market appraisal must be obtained to establish the

reserve price for the Land. The independent valuation or appraisal must be made no more than 6 months prior to the proposed disposal.

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

5.7.9. 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.

5.7.10. 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).

5.7.11. **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 Council will 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;

consignment – goods are sent to a consignor for sale on a commission basis;

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.

Preference will be given to community groups for Minor Plant and Equipment.

Evaluation criteria for any disposal method will include a weighting for local content including business registration, KI community groups and residents with the exception of open tenders.

Elected Members and employees of the Council will not be 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.

Purchasers of assets must be required to agree in writing 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.

5.8. Delegations

5.8.1. Only Council staff with delegated authority pursuant to Section 44, 101 and 137 of the Act, 1999 can dispose of land and assets on behalf of the Council.

5.8.2. All disposals must be made in accordance with the Kangaroo Island Council Schedule of Financial Delegations Authority.

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

5.8.4. There may be emergencies, or disposals in which a tender process will not necessarily deliver best outcome for the Council, and other market approaches may be more appropriate. In certain circumstances, the Council may, after approval from its elected 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.

6. Review and responsibilities

The Council must undertake public consultation in respect of its proposed land and asset disposals in accordance with the Act and its public consultation policies at all times.

The Finance Department is responsible for updating and maintaining the Disposal of Land and Asset Policy and it is the responsibility of the Council and Audit & Risk Committee to review it every two years.

7. Availability and Grievances

This Policy will be available for inspection at the Council's Offices 43 Dauncey Street, Kingscote during ordinary business hours and via the Council's website: www.kangarooisland.sa.gov.au Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer, Kangaroo Island Council, PO Box 121, Kingscote SA 5223.

SIGNED:



Chief Executive Officer

Date: 10 May 2022

History:		
21 June 2015	Version 1:	Council Adoption of Policy 20-16-17
13 June 2017	Version 2	Annual Policy Review 2017-18 Ref# C189:2017
12 June 2018	Version 3	Annual Policy Review 2018-19 Ref# C176:2018
14 August 2018	Version 4	Include definition of sale by Consignment. Council Meeting Ref# C268:2018
11 September 2018	Version 5	Include reference to market appraisal Ref # C298:2018
11 June 2019	Version 6	Annual Policy Review 2019-20
12 May 2020	Version 7	Policy Review Ref: C219:2020
10 May 2022	Version 8	Policy Review – legislation update to refer to PDI Act in clause 5.5