

Sale or Disposal of Assets Policy

Classification:	Council Policy
First Issued / Approved:	27/04/2017, C11158
Last Reviewed:	27/4/2017, C11158 14/05/2019, C12080 C280223/13366
Next Review:	February 2027
ECM Tracking No.:	3323325
Responsible Officer:	Director Corporate
Relevant Legislation:	<i>Local Government Act, 1999</i> <i>Independent Commissioner Against Corruption Act, 2012</i> <i>Roads (Opening and Closing) Act 1991</i>
Related Policies:	Procurement Policy Fixed Asset Reporting Policy Unsolicited Proposal Treatment Policy and Protocol Property Strategy Plant Procedure and Hazardous Substances Procedure Open Space Policy

1. Introduction

- 1.1 The City of Burnside is committed to ensure a consistent, fair, transparent and accountable approach is maintained with regards to the sale of any Council asset.
- 1.2 This Policy provides a framework relating to the sale or disposal of land and other assets and outlines Council’s approach in preparing an asset for sale or disposal, in accordance with Section 49(1)(d) of the *Local Government Act 1999* (the Act).
- 1.3 Any potential sale of land will be considered in line with the requirements outlined in Council’s Open Space Policy.
- 1.4 This Policy does not cover land sold by Council for the recovery of rates under Section 184 of the Act.

2. Strategic Plan Desired Outcomes

- Principles:* *Governing with Integrity*
- Themes:* *Spans across all Strategic Plan Themes*
- Goals:* *Spans across all Strategic Plan Goals*
- Priorities:* *Spans across all Strategic Plan Priorities*

3. Our Approach

- 3.1 Regularly review, update and adopt leading governance, risk management and administrative processes.
- 3.2 Ensure the long term sustainability of Council operations by monitoring and comparing to peak body indicators.
- 3.3 Provide sufficient resources to meet current and future needs of the community.

4. Legislative Requirements and Corporate Policy Context

- 4.1 This Policy has been developed and adopted in accordance with Section 49 of the *Local Government Act 1999* which requires Council to develop and maintain a Policy regarding the sale or disposal of land or other assets.
- 4.2 This Policy considers requirements of other Sections of the Act and the *Roads (Opening and Closing) Act 1991* which have been outlined in the Policy section below.
- 4.3 This Policy also underpins and supports the Procurement Policy. As such, the procurement governance principles outlined in that policy should be observed at all times throughout any stage of procuring services with the aim of selling or disposing of a Council asset.

5. Interpretation

- 5.1 For the purpose of this policy:
 - 5.1.1. “Direct Sourcing” is a procurement process undertaken by directly approaching and negotiating with one or more suppliers, without testing the market. Reference should be made to the Procurement Policy with reference to dispensation requirements should this method be followed.
 - 5.1.2 “Employee” means a person employed by the City of Burnside.
 - 5.1.3 “Open Tender” means advertising of a tender to the entire market via an open invitation process e.g. SA Tenders website accompanied by an advertisement.
 - 5.1.4 “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
 - 5.1.4 “Public Auction” means a formal transaction where an asset is held for sale to the market and sold to the highest bidder.

- 5.1.5 “Select Tender” involves the selection of suppliers that will be invited to tender. Selection may be from a multi-use list, a list of potential suppliers that have previously responded to an expression of interest or a list of potential suppliers that have been granted a specific licence or comply with a legal requirement.
- 5.1.6 “Trade-in” involves including an asset owned by Council in the purchase of another asset, usually of similar characteristics, in order to achieve an efficient asset change-over transaction.

6. Policy Objectives

6.1 Reasons for Disposal of an Asset

- 6.1 A decision to dispose of an asset may be based on one or more of the following:
 - 6.1.1 Obsolescence;
 - 6.1.2 Non-compliance with work health and safety standards;
 - 6.1.3 Considered surplus to Council requirements;
 - 6.1.4 No usage in the previous six months (Stores Stock items);
 - 6.1.5 Optimum time to maximise return;
 - 6.1.6 Discovery of hazardous substances or materials present in the asset to be disposed of in accordance with hazardous waste disposal protocols;
 - 6.1.7 Uneconomical to repair;
 - 6.1.8 Not considered to provide significant community value;
 - 6.1.9 No material impact to Council operations; and
 - 6.1.10 Has reached the end of its useful life.

6.2 Sale or Disposal Principles

- 6.2.1 Prior to commencing any process to dispose of land assets, Council will ensure that, where necessary, the process for revocation of the classification as community land in accordance with Section 194 and 201 of the Act has been concluded.
- 6.2.2 Section 12 of the Act 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) of the Act 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.
- 6.2.3 For the sale and disposal of land and other assets valued in excess of Council’s capitalisation thresholds, the following key principles apply:
 - 6.2.3.1 consistency with and relevance to Council’s corporate and strategic plans;

- 6.2.3.2 transparency and accountability in sale and disposal procedures and practices, ensuring that Council obtains value for money in the circumstances surrounding the sale, and that all potential purchasers are given equal opportunity to purchase the land or assets;
 - 6.2.3.3 opportunities to enhance local economic development and growth;
 - 6.2.3.4 compliance with statutory and other obligations;
 - 6.2.3.5 commercial confidentiality within legislative constraints; and
 - 6.2.3.6 other relevant factors deemed appropriate by Council.
- 6.2.4 Council may utilise one or more of the following methods to sell or dispose of land and other assets:
- 6.2.4.1 trade-in;
 - 6.2.4.2 public auction;
 - 6.2.4.3 select tender;
 - 6.2.4.4 open tender;
 - 6.2.4.5 online public selling site for low value, low risk assets with a maximum value of \$2,000; or
 - 6.2.4.6 Direct sourcing to potential purchasers.
- 6.2.5 Council will evaluate the most appropriate method for the sale or disposal of land and other assets that includes:
- 6.2.5.1 approaching the market for the sale of any parcel of land unless there is a Council resolution to the contrary (i.e. land encroachment); and
 - 6.2.5.2 Council approaching the market using a formal tender process for the sale of land or other assets where the value exceeds \$100,000.
- 6.2.6 As far as possible, surplus assets or materials should be disposed of in a way that maximises returns whilst maximising open, transparent and effective competition.
- 6.2.7 Prior to disposal, a reasonable effort is to be made to ensure no other Council department has a need for the asset. Items of historical or cultural significance should be given special regard and any dangerous goods disposed of only in an authorised and safe manner.

- 6.2.8 Council may, at its discretion, determine not to call for tenders in respect of a particular sale or disposal where it is deemed it is in the best commercial interests of the Council and its ratepayers.
- 6.2.9 Council will record the reasons for utilising an alternative disposal method should it resolve to do so.
- 6.2.10 The sale or disposal of assets valued below Councils capitalisation thresholds will be disposed at the discretion of the Chief Executive Officer or relevant Director, by whichever method is likely to bring about the most favourable return to Council.
- 6.2.11 The officer responsible for the disposal of any Council asset and the relevant Director must ensure that no conflict of interest occurs in or as a result of the asset disposal process.

6.3 Unsolicited Proposals to Council for the sale or disposal of land or other assets.

- 6.3.1 In the event that an unsolicited proposal for the purchase of an asset is received, please refer to the Unsolicited Proposal Treatment policy. The proposal should then follow the sale and disposal principles in section 6.2 of this policy as applicable.

6.4 Sale to Employees/Elected Members

- 6.4.1 Sale of assets to employees / Elected Members is not to occur outside of a public process.
- 6.4.2 The Independent Commission Against Corruption (ICAC) also recommends that invitations to bid for the purchase of any surplus Council assets should not be limited to employee or to Elected Members. Members of the public must also be allowed to compete for the purchase.

6.5 Sale or Disposal of Land

- 6.5.1 Council may resolve to dispose of Land as per the Delegations Register.
- 6.5.2 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.
- 6.5.3 Where the Land is classified as “Community Land”, Council must undertake public consultation in accordance with the Act and the Council’s Public Consultation Policy, 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.
- 6.5.4 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.

- 6.5.5 If the land is to be auctioned, placed on the open market, disposed of by an expression of interest, or sold via a select tender or a direct sale, then one (1) an independent valuation must be obtained to establish the reserve price for the land along with one (1) valuation based on the average market value of land per square metre for the relevant suburb (unless Council resolves otherwise).
- 6.5.6 Net proceeds from the disposal of land will be transferred to Council's Open Space Reserve account and held for purchasing open space in the future.

7. Review and Authority

- 7.1 This Policy will be reviewed every four years at maximum in line with Council's Policies and Protocols Framework.

8. Availability

- 8.1 The Policy is available to be downloaded, free of charge, from Council's website www.burnside.sa.gov.au
- 8.2 The Policy will be available for inspection, free of charge, at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

9. Further Information

- 9.1 For further information about this policy please contact:

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Telephone; 8366 4200; Email; burnside@burnside.sa.gov.au