

# Disposal of Land & Assets Policy



Policy Number	POL-DISPLNDV4
File Number	9/POL/DISPOSAL/2
Responsible Officer	Chief Executive Officer
Adopted	11 August 2015
Last reviewed at Council Meeting	23 January 2024
Minute Number	C01-24/010
Due date of next Review	Election 2026

## 1. Purpose

- 1.1. Council is responsible for the sustainable management of a wide range of assets to support the evolving needs of the community. A key aspect of sustainable asset management is determining when an asset is no longer required and thus should be disposed of in a responsible manner.
- 1.2. This Policy guides the sale and disposal of land and other assets and outlines Council's approach in preparing an asset for sale and disposal.

## 2. Scope

- 2.1. This Policy applies to, Council Members, Independent Members, and Council Employees, and is intended to fulfil the requirements of Section 201 of the *Local Government Act 1999* (the Act).
- 2.2. This Policy does not apply to:
  - a) Land sold by Council for the recovery of rates;
  - b) Disposal of goods which are not owned by Council, such as abandoned goods; or
  - c) Disposal of other assets that may be covered in Council's Motor Vehicle Policy.

## 3. Definitions

- 3.1. **Asset** means an individual or group of physical objects, which has value and enables services to be provided. It includes major plant and equipment, minor plant, stock and equipment, infrastructure and portable buildings but does not include financial investments, trees or land.
- 3.2. **Community Land** means all land classified as community land under Section 193 of the Act.
- 3.3. **Council Member** or Employee of Council means:
  - a) An individual Council Members, Independent Members, or Employees;
  - b) A member of Council Member, or employee of Council's family
  - c) A family company of Council Member or employee of Council
  - d) A trustee of a family trust of Council Member or employee of Council
- 3.4. **Family; family company; family trust** as defined in Schedule 3: Register of Interests of the Act.

- 3.5. **Land** means Community land, vacant land, operational land, road reserves and any other land related assets, including all fixed buildings (community and operational) on land.
- 3.6. **Lease** refers to a contract by which Council (as lessor), grants exclusive rights to occupy Land to a Lessee for a specified time and under certain terms and conditions.
- 3.7. **Lessee** means lessee within the meaning of Retail and Commercial Lease Act 1995.
- 3.8. **Lessor** means lessor within the meaning of Retail and Commercial Lease Act 1995, but in the context of this policy additionally means Council.
- 3.9. **Minor Plant, Stock and Equipment** means all minor machinery and equipment owned by Council. It includes all loose tools, store items, inventory stock, furniture, art, gifts, secondary items removed from buildings, and surplus bulk items (such as sand and gravel).
- 3.10. **Major Plant and Equipment** means all major machinery and equipment owned by Council. It includes all trucks, vehicles, operating machinery and major plant items. It does not include minor plant, stock and equipment.
- 3.11. **Road Process Order** means the opening or closing of a road pursuant to the Roads Act.
- 3.12. **Roads Act** means the *Roads (Opening and Closing) Act 1991*.
- 3.13. **Unmade Road** means a road to which public access is available but that is not sealed and no physical road construction has been undertaken for use by motor vehicles.

## 4. Policy

### 4.1. Policy Principles

Council will consider disposal where it has been determined that land or assets are not required. Through the disposal process Council will:

- 4.1.1. seek to obtain the best possible financial return;
- 4.1.2. consider non-financial outcomes that assist in achieving Council's strategic priorities;
- 4.1.3. ensure a fair, transparent and accountable process;
- 4.1.4. ensure a variety of potential purchasers are given an opportunity to purchase the land or asset;
- 4.1.5. consider opportunities to enhance local economic development and community outcomes; and
- 4.1.6. maintain commercial confidentiality within legislative constraints.

### 4.2. Implementation

Any decision to dispose of land and assets will be made after considering (where applicable):

- 4.2.1. the long term plans and strategic direction of Council;
- 4.2.2. the remaining useful life of the land or asset;
- 4.2.3. obsolescence and non-compliance with relevant standards;
- 4.2.4. the current market value of the land or asset and annual cost of maintenance;
- 4.2.5. any alternative future use of the land or asset;
- 4.2.6. any duplication of the land or asset or the service provided by the land or asset;
- 4.2.7. any impact the disposal of the land or asset may have on the community;
- 4.2.8. any impact the disposal of the land or asset may have on Council operations;
- 4.2.9. any cultural or historical significance of the land or asset;
- 4.2.10. any restrictions of the land or asset;
- 4.2.11. a risk/benefit analysis of the proposed disposal;
- 4.2.12. any environmental or sustainability impacts; and

4.2.13. any other strategic matter that Council deems appropriate to consider in making its decision.

## 4.3. Disposal Methods

### 4.3.1. Land Disposal

- 4.3.1.1. Any decision to dispose of land must be a decision of Council.
- 4.3.1.2. 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 & Closing Act 1991* prior to its disposal.
- 4.3.1.3. Where land is classified as community land, Council must:
  - undertake public consultation in accordance with Section 193 of the Act and 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 Act in respect of the disposal of Community Land.
- 4.3.1.4. Council will use a disposal method that considers:
  - the current and possible preferred future use of the land;
  - any potential purchasers of the land (if known);
  - the opportunity to promote local economic growth and development;
  - the achievement of any specific urban design or urban development objectives;
  - efficiency and urgency of the disposal;
  - the net estimated value of the disposal;
  - easement requirements, access to land, existing or future infrastructure needs and service authority requirements; and
  - compliance with statutory and other requirements.
- 4.3.1.5. Prior to disposal, a reasonable effort is to be made to determine the market value of the land. At least one (1) independent valuation must be obtained to determine the market value except in circumstances where a valuation is determined by a Director to be unnecessary or unfeasible.
- 4.3.1.6. Council will, where appropriate and through the use of appropriate delegations, dispose of land through one (1) of the following methods:
  - open market sale, advertising for disposal of the Land by procuring the services of a licensed real estate agent and/or auctioneer (following compliance with 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 (such as easements or rights of way), or where the Land is to be used by a purchaser whose purpose for the Land is consistent with Council's strategic objectives for the Land, considerations may include:
    - land that because of its small size, dimensions or irregular shape would not readily support a self-contained development outcome;
    - land that has no legal access; and
    - land to be developed by another level of Government.
- 4.3.1.7. If Land is to be placed on the open market or disposed of by an expression of interest, then (unless Council resolves otherwise) one (1) independent valuation must be obtained to establish the reserve price for the Land.
- 4.3.1.8. The independent valuation must be made no more than six (6) months prior to the proposed disposal.
- 4.3.1.9. If Land is to be disposed of via a select tender or direct sale, then (unless Council resolves otherwise) one (1) independent valuation must be obtained, however where considered necessary to ensure that an appropriate competitive sale price is obtained, then two independent valuations may be obtained (a land parcel capable of standing

alone may fall into this category). The independent valuation must be made no more than six (6) months prior to the proposed disposal.

- 4.3.1.10. 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 Council to accept a lesser return which is consistent with Council's overall strategic direction. These reasons must be documented in writing.
- 4.3.1.11. 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 Council resolves).
- 4.3.1.12. Land to be disposed of directly to an adjoining owner should (where possible) be amalgamated with an existing adjoining title.
- 4.3.1.13. Where Land can be disposed of as a stand-alone allotment, disposal to an adjoining owner should only be considered on the basis that the adjoining owner purchases the Land through an open market, competitive process and pays no less than the Market Value.
- 4.3.1.14. If an interest in land is to be granted via an easement then an independent valuation is to be sourced or 30% of the Valuer General's capital value to be taken over the relevant portion of land (whichever is the greater).
- 4.3.1.15. Unless Council resolves otherwise, all costs associated with any sale or disposal of land must be borne by the purchaser or realised within the purchase price.

#### 4.3.2. **Asset Disposal**

- 4.3.2.1. The disposal of assets (both major plant and equipment and minor plant, stock and equipment) will be the responsibility of the relevant Council Officer who is the designated asset owner with the necessary delegated authority.
- 4.3.2.2. Council will dispose of assets through one (1) of the following methods:
  - trade-in: trading in plant and equipment to suppliers
  - expressions of interest: seeking expressions of interest from buyers
  - **select tender**: seeking tenders from a selected group of persons, community groups or companies
  - **public tender**: openly seeking bids through tenders
  - **public auction**: advertisement for auction through online or print publications, or procuring the services of an auctioneer
  - **destruction**: assets which are not cost effective to dispose using the above methods may be destroyed, recycled and/or disposed to landfill as appropriate with due consideration to environmental impacts
  - **give away**: to community groups where it can be demonstrated that the above listed methods are unfeasible or will not yield any income to Council, subject to Director approval
- 4.3.2.3. Selection of a suitable method will include consideration of (where appropriate):
  - the public demand and interest in the asset;
  - the method likely to provide the highest net return, taking into account likely return and cost of disposal method;
  - the value of the asset and whether it is major plant and equipment or minor plant, stock and equipment;
  - environmental and sustainability impacts; and
  - compliance with statutory and other requirements.

#### 4.3.3. **Disposal of Minor Plant, Stock & Equipment**

- 4.3.3.1. Where minor plant, stock and equipment cannot be disposed of through any of the above listed disposal methods, Council may publish a list of surplus items and seek offers for their disposal.
- 4.3.3.2. Decision making will be supported by the following provisions
  - A If two (2) or more offers are the same and one (1) is from within the Mid Murray Council area but the other is not, preference is to be given to the offer within the Mid

Murray Council area.

- If two (2) or more offers are the same and one (1) is from a community group, preference is to be given to the community group.
- If two (2) or more offers are the same and one (1) is from a Council Member or Employee, and the other is from a community member, preference is to be given to a community member.
- If the above process does not yield a preferable result as indicated, a random draw be conducted.

#### 4.3.4. Management and Disposal of Unmade Roads

4.3.4.1. Information regarding this process is to be directed in the first instance to the CEO and otherwise in accordance with the [Delegation Register](#).

4.3.4.2. Unmade Roads are parcels of land owned by the Council that were set aside for a future road, which may no longer be required. While the Unmade Roads are considered to be public land, Unmade Roads are often being occupied by adjoining landowners, even though they are not legally entitled to do so.

4.3.4.3. The objective of this policy is to define the methods by which an Unmade Road may be closed by way of a Road Process Order and sold to adjoining landowners who may be utilising the land for their own purposes. See process flowchart - **Annexure 1**

#### 4.3.4.4. Sale of Unmade Road to Adjoining Owner

4.3.4.4.1. If an Unmade Road is located between parcels of land where the owner of those parcels is the same, then the Council has determined that the following process may be used, at the discretion of the Council and with the agreement of the adjoining owner, for the Council to sell the Unmade Road to the adjoining owner:

4.3.4.4.2. The Council may commence a Road Process Order to close the Unmade Road and transfer the closed road to the adjoining owner and, subject to 4.3.4.4.1, enter into an agreement for transfer and make and order under Section 17(1)(a) of the Roads Act for the Unmade Road to be transferred to the adjoining owner or added to the adjoining land in accordance with that agreement.

4.3.4.4.3. The purchase price for the Unmade Road will be determined in accordance with clause 4.3.4.4.5.

4.3.4.4.4. The Council will otherwise comply with its obligations under the Roads Act.

4.3.4.4.5. Council will determine the land cost based on the following:

- Any associated legal, surveying or administration costs; and
- Payment for the land based on one third of the Valuer-Generals valuation for the adjoining land. The land payment is to be a square meter rate. In cases where there are sections of unusable land, such as native vegetation, Council has discretion to vary the cost.

## 5. Delegations

- 5.1. Subject to any exemptions, the power to dispose of Land in its entirety will only occur by way of a resolution of Council.
- 5.2. The power to dispose of an interest in Land through the grant of an easement or right of way has been delegated pursuant to section 201 of the Act.
- 5.3. Council or its officers with delegated authority will, when implementing decisions under this Policy, act in accordance with financial delegated authority, Council's budget, relevant policies, strategies, plans, agreements and resolutions.

## 6. Policy Responsibility

The Chief Executive Officer is responsible for ensuring the proper operation of this Policy.

## 7. Availability/Accessibility

- 7.1. This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.mid-murray.sa.gov.au](http://www.mid-murray.sa.gov.au).
- 7.2. This Policy is available for inspection at Council's principal office during ordinary business hours. Hard copies, for a fee in accordance with Council's schedule of [Fees & Charges](#), can be provided upon request.

## 8. Legislative Framework / Other References

- 8.1. [Local Government Act 1999 \(SA\)](#)
- 8.2. [Crown Land Management Act 2009 \(SA\)](#)
- 8.3. [Community Titles Act 1996 \(SA\)](#)
- 8.4. [Land Acquisition Act 1969 \(SA\)](#)
- 8.5. [Land and Business \(Sale and Conveyancing\) Act 1994 \(SA\)](#)
- 8.6. [Planning, Development and Infrastructure Act 2016](#)
- 8.7. [Real Property Act 1886 \(SA\)](#)
- 8.8. [Residential Tenancies Act 1995 \(SA\)](#)
- 8.9. [Retail and Commercial Leases Act 1995 \(SA\)](#)
- 8.10. [Road Traffic Act 1961](#)
- 8.11. [Roads \(Opening and Closing\) Act 1991 \(SA\)](#)
- 8.12. [Strata Titles Act 1988 \(SA\)](#)
- 8.13. [Delegations Register](#)
- 8.14. [Motor Vehicle Policy](#)

## 9. Document History

This Policy shall be reviewed at least every four (4) years or more frequently if legislation or Council requires.

Version	Adopted	Minute	Description of Change
1	11 August 2015	17331/1	Policy adopted by Council
	January 2017		Updated with new Policy document format and layout.
2	9 July 2019	20802/7	Removal of ability for Council Members or Staff to purchase any major plant or equipment. More detail around preference to community groups and sporting and recreation clubs, including highest bid. Definitions provided for persons related to family member of Council member or employee of Council.
3	18 July 2023	C07-23/037	Minor updated wording throughout, amendment of clause 4.3.1 Land Disposal, 4.3.2 Asset Disposal, 4.4 Records, 4.5 Warranty, 5.6 Purchases by Council Members or Employees, 4.7 Exemptions from this Policy & 5 Delegations. Updated to new policy template
4	23 January 2024	C01-24/010	Reviewed by Council - addition of clause 4.3.4 – Management and Disposal of Unmade Roads.

# Annexure 1

## Roads (Opening & Closing) Act 1991 Process

