

| | | | |
|---|--|---------------------|------------|
|  | Policy for the Disposal of Land and other Assets FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

1. Purpose

To set out the principles and processes to apply when Council dispose of land or other assets including major and minor plant and equipment.

2. Scope

Consistent with the [Local Government Act 1999](#) (the Act) this policy sets out the principles and processes which apply when Council is disposing of land and other assets including major and minor plant and equipment. It applies to all Council procedures for the disposal of physical items owned by Council.

This policy does not cover:

- a) land sold by Council for the non-payment of rates¹; or
- b) disposal of goods which are not owned by Council, such as abandoned vehicles and their contents²

to which other procedures apply.

Section 49 (a1) of the Act requires Council to develop and maintain procurement policies, practices and procedures directed towards:

- a) obtaining value in the expenditure of public money; and
- b) providing for ethical and fair treatment of participants; and
- c) ensuring probity, accountability and transparency in the procurement process

These same objectives apply to the disposal of assets. Consistent with section 49 (a1) of the Act, this policy should be used as a guide, to enable Council officers to implement procedures, and day-to-day practices in disposing of Council assets.

3. Definitions

In this Policy, unless the contrary intention appears, these words have the following meanings:

Asset means any item that Council owns and that is recognised by the Council's accounting system as an asset³. This includes land, buildings plant, machinery, equipment and all other physical objects. It does not include financial investments or finance related activities.

Asset disposal value is the amount set by Council during the annual budget process above which particular disposal processes must apply. It is used to assess whether the policy relating to major plant and equipment or minor plant and equipment must be followed.

Land includes assets that are community land, vacant land, operational land, all buildings (community and operational), road reserves, any legal interest in land, and any other land-related assets. The determination of what is considered to be **rural land** or **residential land** will be at the sole discretion of Council.

¹ See section 184 of [the Act](#)

² See section 237 of [the Act](#), and the [Unclaimed Goods Act 1987](#)

³ An asset that has reached the end of its useful life might no longer be recognised in the Council's financial records as an asset. However, because it was originally recognised as an asset, it will continue to be regarded as an asset for the purposes of this policy.

| | | | |
|---|--|---------------------|------------|
|  | Policy for the Disposal of Land and other Assets FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

Major plant/equipment are assets other than land that are deemed to have a residual value (singularly or jointly) above the asset disposal value set by Council. This category includes trucks, graders, other operating machinery, motor vehicles and small plant items

Minor plant/equipment are assets that are deemed to have a residual value (singularly or jointly) below the asset disposal value set by Council. This category may include loose tools, store items, furniture, second hand items removed from other assets (such as air conditioners, bricks, pavers and exercise equipment).

Road is as defined in the Act - 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.

Reserve means community land reserved or dedicated as a reserve or designated by the Council as a reserve.

4. Objectives

Council aims to achieve advantageous disposal outcomes by:

- a) enhancing value for money by encouraging competition in disposal practices and using competitive disposal processes;
- b) promoting the use of resources in an efficient, effective and ethical manner;
- c) ensuring fair and equitable process and decisions;
- d) making decisions with probity, accountability and transparency;
- e) advancing and/or working within Council's economic, social and environmental policies and/or Agreements in accord with Council's Strategic Management Plan;
- f) appropriately managing risk; and
- g) promoting compliance with all relevant legislation including:

[Local Government Act 1999](#) (SA)

[Real Property Act 1886](#) (SA)

[Land and Business \(Sale and Conveyancing\) Act 1994](#) (SA)

[Development Act 1993](#) (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. Responsibility

Council employees responsible for disposing of goods and services must comply with this policy. It is the responsibility of Council employees involved in the disposal process to understand the meaning and intent of this policy.

6. Policy Principles

Council employees must have regard to the following principles in all disposal activities:

(a) Open and effective competition

Disposal of assets should be open and result in effective competition. Council must give fair and equitable consideration to all prospective purchasers.

| | | | |
|---|--|---------------------|------------|
|  | Policy for the Disposal of Land and other Assets FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

(b) Value for Money

Council must aim to achieve the best value for money in disposing of assets. The concept of value for money is not restricted to price alone. The value for money assessment must include consideration, as applicable, of:

- (i) the contribution to Council's strategic plan and other priorities;
- (ii) financial considerations including all relevant direct and indirect benefits both tangible and intangible;
- (iii) efficiency and effectiveness;
- (iv) the costs of various disposal methods;
- (v) internal administration costs;
- (vi) risk exposure; and
- (vii) the value of any associated environmental benefits.

(c) Ethical Behaviour and Fair Dealing

Council employees involved in disposal are to:

- (i) behave with impartiality, fairness, independence, openness, integrity, and professionalism in their discussions and negotiations with prospective purchasers and their representatives particularly through open and competitive processes of sale where practical and appropriate;
- (ii) provide all prospective purchasers with equal opportunity to make an offer;
- (iii) use straight forward and user-friendly tender documentation;
- (iv) adopt clear and easy to understand evaluation criteria and methodology;
- (v) maintain consistent processes and feedback on decisions;
- (vi) offer access to a timely and effective complaints procedure; and
- (vii) ensure effective communication and provision of information to all prospective purchasers.

(d) Probity, Accountability, Transparency and Reporting

Council requires that all its employees be answerable for their plans and actions and for the outcomes. Any disposal shall be undertaken in a manner that ensures:

- (i) clearly established roles and responsibilities;
- (ii) appropriate record keeping and documentation;
- (iii) transparency of decisions made;
- (iv) adherence to all legislation and Council's codes of conduct;
- (v) the identification and management of actual or potential conflicts of interest; and
- (vi) the confidentiality of all commercial information.

(e) Environmental Protection

Council promotes environmental protection through its disposal procedures. In undertaking any disposal activities Council will encourage environmentally responsible activities.

7. Considerations Prior to Disposal of Assets

Any decision to dispose of assets should follow consideration of relevant factors such as:

- a) the usefulness of the asset;
- b) its remaining useful life;
- c) the annual cost of maintenance;
- d) any alternative future use of the asset;
- e) any duplication of the asset or the service provided by the asset;

| | | | |
|---|--|---------------------|------------|
|  | Policy for the Disposal of Land and other Assets FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

- f) the positive and negative impacts the sale or disposal of the asset may have on the community;
- g) any cultural or historical significance of the asset;
- h) the positive and negative impacts the sale or disposal of an asset may have on the operations of the Council;
- i) the long term plans and strategic direction of the Council (for example meeting the objectives of the Council's Strategic Management Plan, Long-term Financial Plan and Asset Management Plans);
- j) Council policies relating to range and levels of Council services, internal financial controls and prudential management;
- k) a benefit and risk analysis of the proposed disposal;
- l) the topography of the land;
- m) the results of any community consultation process;
- n) any restrictions on disposal such as land held in trust; and
- o) the content of any community land management plan.

Before deciding whether to sell land and buildings Council will receive and consider a report from the Chief Executive. The report will include an assessment of relevant factors including those outlined above.

Council will seek to sell or dispose of land at or above current market valuation.

8. Disposal Methods and Conditions

8.1 Assets (Other than Land or Buildings)

Annually, during the budget process, Council will set the amount above and below which particular disposal methods and conditions will apply. This is known as the "asset disposal value". For items other than land and buildings the estimated residual value of the asset(s) under consideration for disposal will then determine the disposal methods and conditions that will apply.

Assets (other than land or buildings) with an estimated residual value equal to or greater than the Council's "asset disposal value" will be classified as major plant/equipment for the purposes of this policy. They will be subject to the disposal methods and conditions described under 8.1.1 below.

Assets (other than land or buildings) with an estimated residual value lower than the Council's "asset disposal value" will be classified as minor plant/equipment for the purposes of this policy. They will be subject to the disposal methods and conditions described under 8.1.2 below.

The Council's "asset disposal value" at the commencement of this policy was \$5,000.

8.1.1 Major Plant/Equipment

Disposal Methods

The sale or disposal of major plant/equipment will be the responsibility of a Council officer responsible for the asset, as determined by the Chief Executive Officer.

As appropriate, any of the following methods may be used for the sale or disposal of major plant/equipment:

- a) **trade in** - trading in goods to equipment suppliers;
- b) **expressions of interest** - seeking expressions of interest for buyers;

| | | | |
|---|--|---------------------|------------|
|  | Policy for the Disposal of Land and other Assets FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

- c) **select tender** - seeking tenders from a selected group of persons or companies;
- d) **open tender** - openly seeking, through advertisement, tenders or buyers; or
- e) **public auction** - by appointment of a suitably qualified auctioneer with an established reserve price.

Selection of a suitable option will include consideration of:

- a) the public demand and interest in the asset;
- b) the method most likely to return the highest revenue;
- c) the value of the asset;
- d) the costs of the disposal method compared to the expected return; and
- e) compliance with statutory and other obligations.

The reasons for selecting the method of sale, including the reasons for using anything other than a tender process, will be documented in Council's records management system.

Disposal Conditions

- a) Council Members and employees of the Council will not be permitted to purchase major plant/equipment unless the purchase is through open tender or public auction.
- b) Relevant purchasers will be required to acknowledge in writing that no warranty is given in respect of the suitability and condition of the item before purchasing any item of major plant/equipment.

8.1.2 Minor Plant/Equipment

Disposal Methods

The sale or disposal of minor plant/equipment will be the responsibility of the relevant Council officer responsible for the asset.

As appropriate, the following methods will be used for the sale or disposal of plant/equipment:

- a) **trade in** - trading in goods to suppliers;
- b) **select tender** – seeking tenders from a selected group of persons, companies or community groups, which may include internal tenders from staff and elected members only (if deemed appropriate by the Chief Executive Officer);
- c) **public auction** - sale of goods through public open process; or
- d) **register of interest** – sale process seeking bids for minor plant, equipment and other items pursuant to clause 11.

Selection of a suitable option will include consideration of:

- a) the public demand and interest in the minor plant/equipment;
- b) the method most likely to return the highest revenue;
- c) the value of the minor plant/equipment;
- d) the costs of the disposal method compared to the expected return; and
- e) compliance with statutory and other obligations.

The reasons for selecting the method of sale will be documented in Council's records management system.

| | | | |
|---|--|---------------------|------------|
|  | Policy for the Disposal of Land and other Assets FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

Disposal Conditions

- a) Relevant purchasers of surplus minor plant/equipment will be required to acknowledge in writing, as a condition of sale, that no warranty is given in respect of the suitability and condition of the item.
- b) Where an item of minor plant/equipment has no remaining useful life it may be disposed of utilising an appropriate environmental disposal method (for example electronic waste via eWaste).

8.2 Land and Buildings

Disposal Methods

The Council will sell land and buildings which it determines to be surplus to Council's requirements by one of the following methods:

- a) **open market sale** - advertisement for sale through local paper and where appropriate, a paper circulating in the state or by instigating the services of a licensed real estate agent;
- b) **expressions of interest** - seeking expressions of interest for the sale or otherwise disposal of land;
- c) **select tender** - seeking tenders from a selected group of persons or companies;
- d) **open tender** - openly seeking, through advertisement, tenders, or buyers for land;
- e) **public auction** – by appointment of a suitably qualified auctioneer with an established reserve price;
- f) **direct sale** – where the land is to be used by the purchaser where the land is to be used for a purpose which is consistent with Council's objectives for the land; or
- g) **by negotiation** – with owners of adjoining land or others with a pre-existing interest in the land (such as easements or rights of way), which may include:
 - (i) land that because of its small size, dimensions or irregular shape would not readily support a self contained development outcome;
 - (ii) land that has no legal access; or
 - (iii) land to be developed by another sphere of government.

The reasons for selecting the method of sale, including the reasons for entering into any contract for the sale of land other than by a tender process, will be documented in a resolution of Council.

Disposal Conditions

- a) 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 land and/or establishment of a reserve price.
- b) If land is to be auctioned or placed on the open market or disposed of by expression of interest then (unless Council resolves otherwise) one independent valuation must be sought to establish the reserve price for the land.
- c) If the land is to be sold or disposed of via select tender or direct sale, then (unless Council resolves otherwise) a minimum of two independent valuations must be sought to ensure that an appropriate market value is obtained.

| | | | |
|---|--|---------------------|------------|
|  | Policy for the Disposal of Land and other Assets FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

- d) Land disposed of to adjoining owners should (where possible) be amalgamated with an existing adjoining title.
- e) If the Council proposes to grant an easement (including a right-of-way) then to ascertain the value of the easement an independent valuation must be sourced (unless Council resolves otherwise).
- f) 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.
- g) If land is classified as community land then, pursuant to section 201(2)(a) of the Act, the Council can consider a recommendation for disposal only:
 - (i) if the land is to be amalgamated with 1 or more other parcels of land and the amalgamated land is to be (or to continue to be) community land; or
 - (ii) in any other case - after revocation of its classification as community land;
- h) Where land is classified as community land and in other circumstances where community consultation is required, such consultation must be completed in accordance with the Act and Council's Public Consultation Policy prior to Council determining its decision on disposal.
- i) No land will be disposed of without a Council resolution relating to the sale.

8.3 Road Reserves

Disposal Methods

The Council will sell road reserves which it determines to be surplus to Council's requirements by negotiation with owners of adjoining land.

When calculating the sale amount, a per hectare amount equal to the current site value of the land into which title the affected land is to be transferred, with a minimum price of \$1,000. Council reserve the right to negotiate with the purchaser a suitable price for the road reserve, taking into consideration the locality, size, shape and condition of the land.

Disposal Conditions

- a) 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 land and/or establishment of a reserve price.
- b) 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.
- c) Pursuant to section 201(2)(b) of the Act, the Council can consider a recommendation for disposal only after the closure of the road under the *Roads (Opening and Closing) Act 1991*.
- a) Road Reserves must be incorporated into an existing adjoining title. No new titles may be created in respect to the affected land.

9. Sale of Items Which Are Not Assets

Where Council determines to dispose of items which are not on Council's asset register and are not subject to any alternative statutory procedure,⁴ this policy can be used as a guide by estimating the residual value and following disposal methods with the appropriate level of accountability and transparency.

⁴ For example subject to the [Unclaimed Goods Act 1987](#)

| | | | |
|---|--|----------------------------|------------|
|  | <i>Policy for the Disposal of Land and other Assets</i> FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

10. Consultation

Council must undertake public consultation in respect of its proposed disposals in accordance with the Act and its public consultation policies where applicable.

11. Register of Interest

Council will maintain a register of interest from staff, volunteer organisations and the public for the purchase of minor plant, equipment and other items as they become available. The register will indicate the item(s) or types of items of interest and current contact details.

If assets in this category are defined as being excess to requirements, a form confirming the availability of an asset and seeking a bid for the asset will be sent to those on the register.

The sale price will generally be the highest bid price. Reasons for not offering the item for sale to the highest bid price will be documented in the register.

The names on the register will only be valid for one year at the expiration of which time they will be removed. It is the responsibility of the person interested in purchasing an item to maintain their registration of interest.

The keeping of a register ensures that sales to staff members are transparent and gives volunteer organisations and the public the same opportunity to purchase such items.

12. Related Policies

- Employee Code of Conduct
- Fraud & Corruption Prevention Policy
- Complaints Handling Policy
- Internal Review of Council Decisions Policy
- Whistleblowers Policy
- Internal Financial Controls Policy
- Tender Policy
- Prudential Management Policy

13. Review

It is the responsibility of the Deputy Chief Executive Officer to monitor the adequacy of this policy and recommend appropriate changes. This policy will be formally reviewed by Council at minimum every four (4) years, within 12 months of a general election (or on significant change to legislation of their matters which could affect this policy).

14. Delegations

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 Chief Executive Officer may sub-delegate matters related to this policy to staff or other persons employed or engaged by Council.

| | | | |
|---|---|----------------------------|------------|
|  | Policy for the Disposal of Land and other Assets <i>FINPOL 03</i> | Version No: | 2.0 |
| | | Responsible Officer | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

15. Exemptions from this Policy

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

16. Further Information

This policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: www.dcgrant.sa.gov.au.

Copies will be provided to interested parties upon request. Email info@dcgrant.sa.gov.au.

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

| Action | Date | Minute Reference |
|--------------------|------------------|-------------------------|
| Adopted by Council | 17 December 2012 | 12265.3 |
| Amended | 15 June 2015 | 15078.1.2 |
| Amended | 3 April 2017 | 17046.1.1 |
| Amended | 6 August 2018 | 18115.1.3 |
| Amended | 6 May 2019 | 19061.5 |

| | | | |
|---|--|----------------------|------------|
|  | Policy for the Disposal of Land and other Assets FINPOL 03 | Version No: | 2.0 |
| | | Responsible Officer: | Deputy CEO |
| | | Issued: | 15/06/2015 |
| | | Next Review: | Feb 2023 |

APPENDIX 1

SALE OF REVOKED COMMUNITY LAND PARCELS ON PELICAN POINT ROAD

Background

In 2003, a number of residents requested Council to investigate the closure of sections of road reserve along Pelican Point Road, Pelican Point, and transfer the affected land to the adjoining land owners. As a result, 31 landowners purchased the portion of road reserve adjacent to their properties. The portions of land adjacent to the nine properties where landowners chose not to participate were vested in Council. These properties are as follows:

- Lot 51 Pelican Point Road, Pelican Point (A7098)
- Lot 55 Pelican Point Road, Pelican Point (A7099)
- Lot 63 Pelican Point Road, Pelican Point (A7100)
- Lot 66 Pelican Point Road, Pelican Point (A7101)
- Lot 67 Pelican Point Road, Pelican Point (A7101)
- Lot 70 Pelican Point Road, Pelican Point (A7102)
- Lot 76 Pelican Point Road, Pelican Point (A7103)
- Lot 90 Pelican Point Road, Pelican Point (A7104)
- Lot 92 Pelican Point Road, Pelican Point (A7105)

Policy

At a meeting held on 6 August 2018, Council resolved to adopt the following approach should any landowners adjacent to the above properties wish to purchase the portion of land adjacent to their property in the future:

1. A rate per 50m² (or part thereof) applied to the portion of land to be purchased, with a minimum cost applied. These amounts are based upon a starting rate of \$250 and a minimum cost of \$1,000 in 2009 with a CPI increase per year as follows:

| Financial Year of Purchase | Amount per 50m ² | Minimum Cost | CPI* |
|----------------------------|-----------------------------|--------------|-------|
| 2009 | \$250.00 | \$1,000.00 | +2.3% |
| 2010 | \$255.75 | \$1,023.00 | +2.6% |
| 2011 | \$262.40 | \$1,049.60 | +3.7% |
| 2012 | \$272.11 | \$1,088.43 | +1.8% |
| 2013 | \$277.01 | \$1,108.02 | +2.2% |
| 2014 | \$283.10 | \$1,132.40 | +2.9% |
| 2015 | \$291.31 | \$1,165.24 | +1.1% |
| 2016 | \$294.51 | \$1,178.06 | +0.7% |
| 2017 | \$296.58 | \$1,186.31 | +2.0% |
| 2018 | \$302.51 | \$1,210.03 | +2.3% |
| 2019 | \$306.44 | \$1,225.76 | +1.3% |
| 2020 and onwards | Plus CPI | Plus CPI | |

* Based on March Quarter for Adelaide

2. The land must be amalgamated with the purchasers existing property.
3. All costs associated with the sale of the land and it's amalgamation to the adjoining land parcel to be borne by the purchaser.