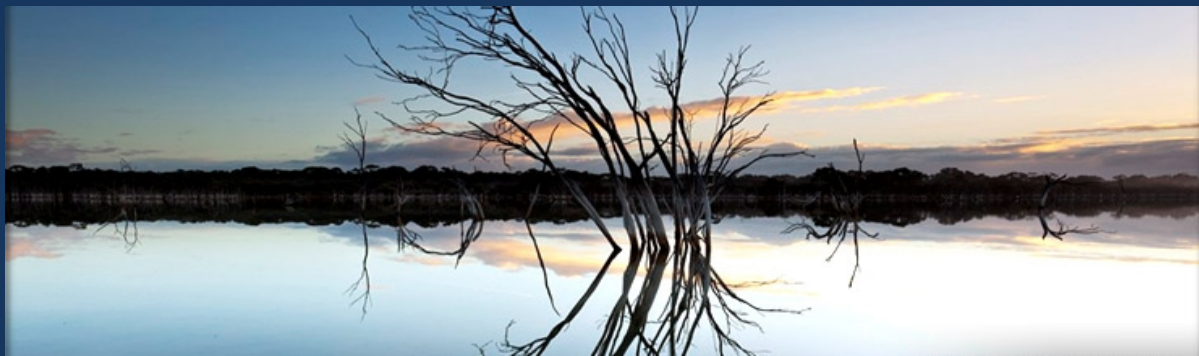




LOWER EYRE
COUNCIL

Disposal of Land and Assets Policy



“Working with our Rural & Coastal Communities”

	FIN-POL-07 – DISPOSAL OF LAND & ASSETS	Version No:	1.1
		Issued:	May 2023
		Next Review:	April 2026

Responsible Department:	Corporate Services
Policy Adopted:	17 May 2023
Minute Reference:	18.1 – OCM/23/045
Applicable Legislation:	Local Government Act 1999
Related Policies/Procedures /Documents:	FIN-POL-08 - Internal Controls FIN-POL-01 - Prudential management FIN-POL-09 – Procurement FIN-APP-07 – Minor Asset Purchase Agreement R23/9911 – Sale of Minor Assets Register
Review Frequency:	Following Local Government Elections

1. INTRODUCTION

In compliance with Section 49 of the Local Government Act 1999 (Act), this policy (Policy) will guide the processes to be followed by Council when disposing of Land and Assets.

This Policy seeks to:

- define the methods by which Land and Assets are disposed of;
- demonstrate accountability and responsibility of Council to ratepayers;
- be fair and equitable to all parties involved;
- ensure that the best possible outcome is achieved for the Council.

2. PURPOSE

This policy addresses the requirements of Section 49 (a1) of the Act in which Council is required 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.

3. SCOPE

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 under alternative sections in the Act.

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4. POLICY PRINCIPLES

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

4.1 Encouragement of open and effective competition

4.2 Obtaining Value for Money

An assessment of value for money is not restricted to price alone and may include consideration of the following (where applicable):

- 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;
- impact on the efficiency and effectiveness of Council operations;
- the costs of various disposal methods;
- internal administration costs;
- risk exposure; and
- the value of any associated environmental benefits.

4.3 Ethical Behaviour and Fair Dealing

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

4.4 Probity, Accountability, Transparency and Reporting

4.5 Ensuring compliance with all relevant legislation including (but not limited to):

[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).

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5. CONSIDERATIONS PRIOR TO DISPOSAL OF LAND AND ASSETS

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

- 5.1. the usefulness of the Land or Asset;
- 5.2. the current market value of the Land or Asset;
- 5.3. the annual cost of maintenance;
- 5.4. any alternative future use of the Land or Asset;
- 5.5. any duplication of the Land or Asset or the service provided by the Land or Asset;
- 5.6. the impact the disposal of the Land or Asset may have on the community;
- 5.7. the cultural or historical significance of the Land or Asset;
- 5.8. the positive and negative impacts the disposal of the Land or Asset may have on the operations of the Council;
- 5.9. the long term plans and strategic direction of the Council;
- 5.10. the remaining useful life of an Asset;
- 5.11. the results of any community consultation process;
- 5.12. any restrictions on the proposed disposal;
- 5.13. the content of any community land management plan; and
- 5.14. any other relevant policies of the Council.

6. DISPOSAL METHODS

6.1. Land disposal

- 6.1.1. The Council may resolve to dispose of Land.
- 6.1.2. 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.
- 6.1.3. Where Land is classified as community land, the Council must comply with the provisions as set out in Section 194 of the Local Government Act prior to doing so.
- 6.1.4. 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 Act, including its public consultation obligations under Section 202 of the Act.

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6. DISPOSAL METHODS cont'd:

6.1 Land Disposal cont'd:

6.1.5. The Council will, where appropriate, dispose of Land through one of the following methods:

- 6.1.5.1. 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 FIN-POL-09 - Procurement Policy);
- 6.1.5.2. expressions of interest - seeking expressions of interest for the Land;
- 6.1.5.3. select tender - seeking tenders from a selected group of persons or companies;
- 6.1.5.4. open tender - openly seeking bids through tenders, including public auction;
- 6.1.5.5. 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.

6.1.6. Selection of a suitable disposal method will include consideration of (where appropriate):

- 6.1.6.1. the number of known potential purchasers of the Land;
- 6.1.6.2. the original intention for the use of the Land;
- 6.1.6.3. the current and possible preferred future use of the Land;
- 6.1.6.4. the opportunity to promote local economic growth and development;
- 6.1.6.5. delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
- 6.1.6.6. the total estimated value of the disposal;
- 6.1.6.7. the method most likely to return the best outcome for Council: and
- 6.1.6.8. compliance with statutory and other obligations.

6.1.7. 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.

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

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6. DISPOSAL METHODS cont'd:

6.1 Land Disposal cont'd:

- 6.1.9. The Council will seek to dispose of Land at or above current market valuation, and 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.
- 6.1.10. 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).

7. NON LAND ASSETS DISPOSAL

The sale of Assets (both Major Plant and Equipment and Minor Plant and Equipment) will be the responsibility of the Corporate Services Department.

The Council will, where appropriate, dispose of Assets through one of the following methods:

- 7.1. trade-in – trading in equipment to suppliers;
- 7.2. expressions of interest – seeking expressions of interest from buyers;
- 7.3. select expressions of interest or tender – seeking tenders or interest from a selected group of persons or companies;
- 7.4. open tender – openly seeking bids through tenders;
- 7.5. 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).
- 7.6. Selection of a suitable method will include consideration of (where appropriate):
 - 7.6.1. the public demand and interest in the Asset;
 - 7.6.2. the method most likely to return the highest revenue;
 - 7.6.3. the value of the Asset and whether it is Major Plant and Equipment or Minor Plant and Equipment;
 - 7.6.4. the costs of the disposal method compared to the expected returns; and
 - 7.6.5. compliance with statutory and other obligations.

Elected Members and employees of the Council may on occasion be provided with the opportunity to purchase miscellaneous minor goods at cost price where the goods are in excess of Council requirements (i.e. perishable food remaining after functions).

Purchasers of Assets must agree in writing before purchasing any Asset that no warranty is given by the Council and goods are sold in an 'as is' condition.

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8. MINOR PLANT AND EQUIPMENT DISPOSAL

The Council will invite expressions of interest from staff or the public for the purchase of Minor Plant and Equipment which have not been disposed of through any of the processes in Clause 7 of this Policy and maintain a register of items disposed of, contact details and sale prices.

9. CONSULTATION

The Council must undertake public consultation in respect of its proposed disposals where required by the Act or its public consultation policies.

10. 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 the listed method of disposal will not necessarily deliver the best outcome for the Council, and other market approaches may be more appropriate. In these instances, Council may waiver from this policy, but must document the reasons for doing so.

11. DEFINITIONS

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

Non Land Asset means any physical item that the Council owns and that has at any time been treated pursuant to the Australian Accounting Standards as an ‘asset’, and includes Major Plant and Equipment and Minor Plant and Equipment. It does not include financial investments or finance related activities, trees or Land.

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.

Major Plant and Equipment includes all major machinery and equipment owned by the Council. It includes all trucks, graders, other operating machinery and major plant items. **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).

12. AVAILABILITY

Copies of this policy may be purchased for the fees outlined within Council’s current Schedule of Fees & Charges. This policy is available for inspection at the Council offices during ordinary business hours or on Council’s website (www.lowereyrepeninsula.sa.gov.au) at no cost.

DOCUMENT HISTORY		
Version:	Issue Date:	Description of Change:
1.0	21/02/2020	Adopted
1.1	17/05/2023	Reviewed without amendment