

DISPOSAL OF COUNCIL REAL ESTATE POLICY

PURPOSE

Council has a number of properties that on occasions it may seek to dispose of by way of sale or by way of special agreement with the tenant or a community organisation.

This policy aims, to provide a coherent and transparent method of disposing of Council properties.

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1. POLICY STATEMENT

Real estate that is no longer needed by Council and for which Council has no long term plans of utilisation, should be disposed of promptly. Disposal of such property provides one or more of the following benefits to Council:

- (a) It earns immediate income for use in maintaining other assets;
- (b) It reduces operating costs, such as building or property maintenance and insurances;
- (c) It increases the number of rateable properties in the City;
- (d) It provides land for economic development.

The disposal method chosen must promote fair and effective competition to the greatest possible extent, and disposals must be conducted in an ethical manner. The process of disposal is as important as the outcome as it reflects Council's level of commitment to fairness and equity.

2. APPLICATION

This policy applies to the disposal of all Council-owned real estate. It does not cover the sale of land for recovery of unpaid rates as this is not Council-owned land.

3. DEFINITIONS

3.1 Real Estate

Real estate means any Council-owned freehold or leasehold property, whether vacant land, business premises or residential property that is classified as "operational";

3.2 Community Land

Community land is land classified by Council in a local environmental plan that should be kept for use by the general public (community). It cannot be sold (except in limited circumstances referred to in Section 45 (4) of the Local Government Act 1993). Public parks are an example of community land;

3.3 Operational Land

Operational land would ordinarily comprise land held as a temporary asset or as an investment, land which facilitates the carrying out by Council of its functions or land which may not be open to the general public, such as the Works Depot or Council Garage. Such land may be sold without the restrictions applied to community land.

4. THE DISPOSAL PROCESS

The typical disposal process is as follows:

- (a) Decision to dispose
- (b) Estimate the value

- (c) Factors to consider in disposal
- (d) Select appropriate disposal method
- (e) Obtain approval for disposal
- (f) Effect disposal
- (g) Evaluate disposal process

5. DECISION TO DISPOSE

Before any real estate is disposed of, it is necessary to obtain Council approval to proceed with the disposal. The proposed disposal must be either part of a general Council policy or resolution to dispose of real estate, or the subject of a special report that covers the reasons for recommending disposal.

6. VALUATION

Any Council real estate offered for disposal by whatever method shall first be assessed by a Registered Real Estate Valuer (such valuation rounded to the nearest dollar). The valuation provided shall become the reserve price for the property.

The only exception to this requirement is situations where the price for lots has been fixed based on development costs and profit margins.

7. FACTORS FOR CONSIDERATION

Some important considerations to be made at the commencement of the disposal process are:

7.1 Conflict of Interest

- (a) Staff involved in the disposal must disclose to their Manager actual or perceived conflicts of interest that may arise should they participate in the disposal process;
- (b) The Manager must record the disclosure and implement procedures for the management and control of the conflict. This is of prime importance where an alternate staff member is not available to perform the disposal activity.

7.2 Other Factors

Apart from monetary value, the following factors should be considered:

- (a) the current conditions in the property market;
- (b) time considerations;
- (c) Council resources required to manage the disposal;
- (d) costs associated with the different disposal methods, such as auctioneers costs, administration costs, etc.;
- (e) benefits of the different disposal methods;

- (f) whether Council has an existing tenant occupying the property.

8. DISPOSAL METHODS

The disposal method chosen must be appropriate to the situation, and promote fair and effective competition to the greatest extent possible. Where practical, a competitive disposal method should be selected.

Disposal methods authorised by Council are:

8.1 Public Tender

Tendering for the disposal of real estate is to be conducted in accordance with the same key principles as Council's *Tendering Policy*.

In general, the process will be as follows:

- (a) Preparation of tender, including a list of the properties for sale, the conditions of the sale, the assessment criteria for evaluation of offers, and a closing date, time and place.
- (b) Public advertisement of the sale in a manner most likely to capture the anticipated market. This may involve advertising locally or nationally and on the internet, in newspapers or trade magazines, etc.
- (c) Provide bidders with sufficient information to formulate a proper bid, including arrangements to inspect the property.
- (d) Ensure that bidders are dealt with equally, and that any changes or clarifications to the disposal arrangements are promptly communicated.
- (e) Close and evaluate tenders with the utmost probity.
- (f) Accept the highest tender, provided that it meets or exceeds the reserve price.
- (g) Should the reserve price not be attained by tendering, a sale can be effected by either:
 - (i) revising the reserve price, or
 - (ii) negotiating with the highest tenderer
- (h) Seek Council endorsement of the decision.
- (i) Notify the successful tenderer in writing.
- (j) Notify the unsuccessful tenderers in writing.
- (k) Notify any existing tenants, if applicable.

8.2 Public Auction

Public auction maximises the opportunity for public participation in the disposal process and is the appropriate method when:

- (a) there is high public interest in the properties being offered;
- (b) alternative disposal methods are unlikely to realise higher revenue; and

- (c) the costs associated with the auction can be justified in relation to the expected revenue from the sale.

The process for conducting the auction should normally be:

- (a) obtain competitive quotes on a commission basis from potential auctioneers;
- (b) select an auctioneer based upon:
 - (i) the commission rates;
 - (ii) whether the auctioneer is licensed;
 - (iii) the past performance and/or industry reputation of the auctioneer.
- (c) prior to the auction ensure that the auctioneer is aware of the reserve price.

8.3 Sale at a Pre-determined or Negotiated Price

This covers situations where Council is selling land that has been developed for the purpose of resale.

- (a) The land and prices will be publicly advertised;
- (b) Offers to purchase will be received at any time in writing and must be accompanied by a non-refundable deposit;
- (c) Offers lower than the advertised price will be considered by Council; in accordance with Council's Schedule of Fees and Charges current at the time of the sale;
- (d) Any decision to sell must be approved by resolution of Council.

8.4 Sale or Transfer to Other Agencies

There may be occasions when Council may consider selling or transferring real estate to a community or charity organisation that is currently the tenant of that property.

The following factors must be considered in such cases:

- (a) the revenue that could otherwise be realised through a sale or auction;
- (b) savings in maintenance, insurances, etc. that may be made;
- (c) the costs of donation or disposal compared to the benefits;
- (d) the credibility and reputation of the charity or organisation;

The following processes must be followed:

- (a) the cost of the property transfer must be borne by the recipient;
- (b) all records of the process must be retained for audit purposes;
- (c) Council's contribution must be acknowledged by the recipient.

9. EFFECTING THE DISPOSAL

In effecting the disposal of Council real estate, the following procedure will be followed:

9.1 Obtaining Approval

The decision to accept an offer to purchase a Council property must be approved by resolution of Council.

9.2 Property Transfer Costs

In general, property transfer and legal costs will be borne by the purchaser unless otherwise specified. On occasions the costs may be shared if the value of the property being transferred is high.

9.3 Informing Interested Parties

It is the responsibility of the relevant Manager to inform Council's Insurances Officer that a property has been disposed of, so that Council's insurers can be advised.

10. EVALUATION

Each disposal of real estate must be reviewed to see if it has achieved its desired outcome. In particular, the responsible Manager should determine whether the disposals have:

- (a) achieved value for money;
- (b) been carried out in a fair and effective manner; and
- (c) whether the valuation/s and the cost of administering the disposal were accurate.

11. NONCOMPLIANCE WITH THIS POLICY

Failure to comply with the terms of this policy may lead to disciplinary procedures being implemented against the responsible staff member.

Any instances of corrupt conduct can lead to dismissal and/or criminal prosecution.

12. REVIEW

This policy shall be reviewed biennially to ensure that it meets the requirements of legislation and the needs of Council.

13. ASSOCIATED COUNCIL POLICIES AND DOCUMENTS

Code of Conduct

Tendering Policy

Disposal of Assets Policy

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