

## **Assets Disposal Policy and Procedure**

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<b>MINUTE NUMBER</b>	540/2018
<b>DATE APPROVED</b>	13 December 2018
<b>EFFECTIVE</b>	13 December 2018
<b>AUTHORITY</b>	General Manager
<b>CONTACT OFFICER</b>	General Manager

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## 1 PURPOSE

- 1.1 Council is committed to ensuring an open, fair, transparent and accountable process in the disposal of Council's surplus assets, whilst obtaining best value for money and avoiding any conflicts of interest, whether real or perceived.

## 2 SCOPE

- 2.1 This Policy is to provide clear guiding principles for the disposal of Council-owned assets including, but not limited to: plant, equipment, materials and stock items; office equipment and furniture; information technology, software and hardware. A probity plan is inherent in this Policy for ensuring overall fairness and integrity in the disposal of Council's assets.
- 2.2 This Policy applies to all Councillors and employees of Forbes Shire Council.

## 3 DEFINITIONS

For the purposes of this Policy the following terms are defined as outlined below:

Term	Definition
<b>Act</b>	<i>Local Government Act 1993 (NSW)</i>
<b>Real estate</b>	includes land as a physical entity including buildings, structures or improvements to land or land covered by water or a strata lot or unit. Land also includes a legal estate or interest such as a leasehold estate.
<b>Other assets</b>	includes any goods and materials owned by Council.

## 4 POLICY STATEMENT

Council's disposal of asset-related activities shall be conducted in a manner which complies with these general Policy statements:

- 4.1. Disposal assets, excluding real estate (land and buildings) for the purposes of this Policy, will be consistent with Council's economic, social and/or environmental objectives.
- 4.2. At all times, the disposal of assets will be conducted in a manner that maximises returns whilst ensuring open and effective competition.
- 4.3. Generally, Council will dispose of assets through adoption of the following practices: public tender; public auction; expressions of interest; trade-in; direct sale or transfer; or recycled or destroyed (see clause 8 Method of Disposal). Disposal methods may be undertaken using online sale mediums with Council approval.
- 4.4. As a general principle, disposal of assets to Councillors and employees of Forbes Shire Council should not occur outside of a public process.
- 4.5. Council shall strictly implement its Model Code of Conduct, Statement of Business Ethics and other relevant policies on matters relating to its disposal of asset activities.
- 4.6. Commercial confidentiality will apply to negotiations for disposal of land asset transactions where appropriate unless Council determines otherwise.

- 4.7. All Councillors and employees of Forbes Shire Council are required to strictly adhere to Council's disposal policies and procedures. Appropriate remedial action may be taken for non-compliance.
- 4.8. Buyers of Council's disposed assets are to rely on their own enquiries regarding the condition and workability of an asset. No warranty or after sale service is to be offered on any asset disposed of.

## **5 DELEGATION**

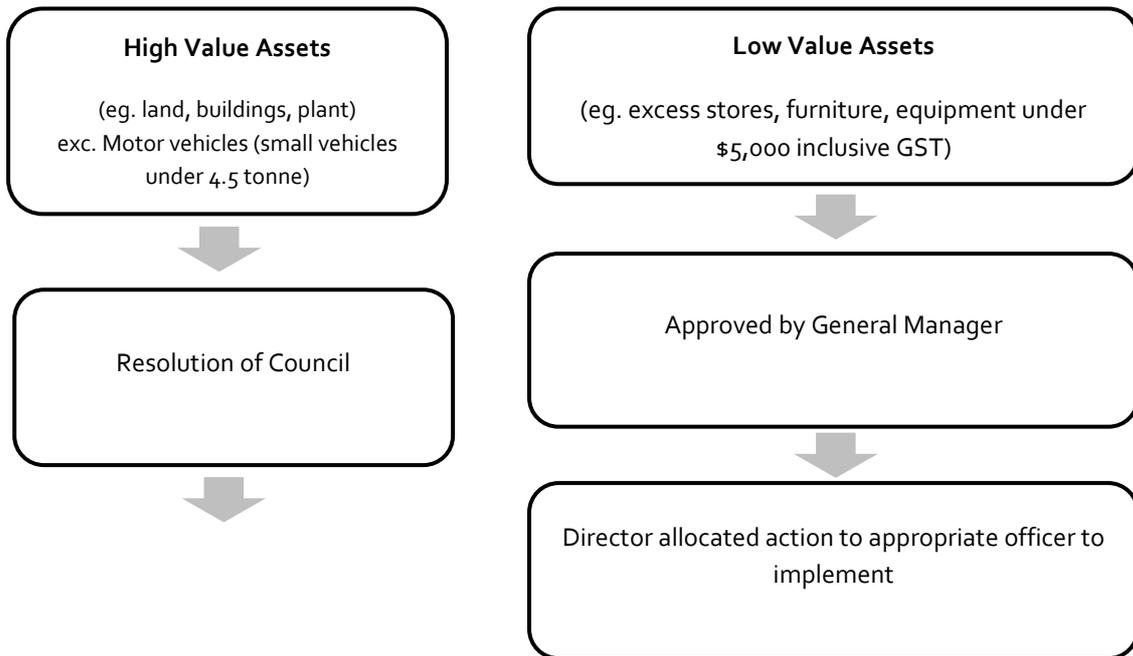
The General Manager has delegated authority to dispose of Council-owned assets, excluding real estate, which are surplus to Council's requirements.

## **6 REASONS FOR DISPOSAL**

- 6.1. A decision to dispose of a Council owned asset may be based on one or more of the following:
- i. No longer required;
  - ii. Unserviceable or beyond economic repair;
  - iii. Technologically obsolete and operationally inefficient;
  - iv. Non-compliant with work, health and safety standards;
  - v. Surplus to current or immediately foreseeable needs;
  - vi. Optimum time for maximum return; or
  - vii. Part of an asset replacement program.

## **7 DECISION MAKING PROCESS**

- 7.1. Approval to commence the disposal process must be obtained from the General Manager or Council where appropriate. Prior to disposal, all reasonable efforts are to be made to ensure no other department within Council has a need for the asset.



## 8 METHODS OF DISPOSAL

The principal methods for disposal of assets are:

- 8.1. Public tender – all assets with an estimated value between \$5,000 and \$150,000 may be disposed of by tender; all assets with an estimated value greater than \$150,000 must be disposed of by tender.

Tendering for the disposal of goods is to be conducted in accordance with *the Local Government Act 1993 (NSW)* and with the same principles as Council's *Conditions of Tendering Policy* ensuring an open, transparent and appropriate process.

- 8.2. Public Auction

Assets with an estimated value between \$5,000 and \$150,000. Public auction maximises the opportunity for public participation in the disposal process and is the appropriate method when:

- i. There is a public demand for the items;
- ii. Alternative disposal methods are unlikely to realise higher revenue; or
- iii. The costs associated with the auction can be justified in relation to the expected revenue from the sale.

- 8.3. Expressions of Interest

Council may dispose of items by advertising for expressions of interest where:

- i. The asset is of low value;
- ii. The costs of disposal are disproportionate to the expected returns; or
- iii. There is very limited interest.

## 8.4. Trade-in

Trading-in goods can be an efficient means of disposal, and a convenient way to upgrade equipment such as plant. However, trade-in prices do not always provide the best return. Any decision to trade-in goods must be based on a clear analysis of the benefits of the trade-in as opposed to separate sale/auction/tender of the goods.

## 8.5. Direct sale or transfer of land

Subject to a resolution of Council land may be disposed of via direct sale when no other method is considered appropriate for e.g. when only one potentially suitable purchaser is identified, in accordance with Council's *Real Estate Disposal Policy*.

## 8.6. Writing off the value of the goods (Recycling or Destruction)

The value of an asset may be written off and the item recycled or destroyed if it is deemed:

- i. To have no value;
- ii. To be unserviceable or beyond economical repair; or
- iii. That the disposal cost is higher than the likely return.

Where a recommendation to write off an asset is made, the relevant Director/Manager will provide the General Manager with the assessment criteria used to determine that the asset has no potential to realise a return for Council and will detail the method of destruction and name of the officer who will be charged with the responsibility of ensuring the asset is destroyed.

Dumping/recycling or destroying of assets shall be undertaken after consideration of the environmental issues so that any hazardous substances shall be assessed to ensure safe disposal.

## 9 OBJECTIVE CRITERIA AND EXCESS APPLICATIONS

9.1. In resolving to dispose of Council assets through public tender or expressions of interest then, prior to undertaking that process, Council should resolve to adopt objective criteria by which each tender or expression of interest will be assessed. This will enable Council to assess the suitability of each applicant against that objective criterion to determine whether the relevant tender or expression of interest should be accepted.

9.2. This will also assist in ensuring the process that is undertaken by Council is seen to be open and transparent and that Council is not making any subjective determination as to the tenders or expressions of interest that are lodged.

9.3. Depending on the circumstances of the asset disposal, Council may need to consider the process it undertakes if it receives more valid tenders or expressions of interest than there are assets available to sell. Options available to Council may include:

- i. Conduct a ballot involving all applicants who lodged valid tenders or expressions of interest and sell the assets to the first applicant(s) chosen in that ballot;
- ii. Undertake a selective auction (with or without a reserve) at which only applicants that lodged valid tenders or expressions of interest would be permitted to bid;

- iii. Undertake a selective tender process in which only applicants that lodged valid expressions of interest would be permitted to participate; or
  - iv. Select those applicants that will be offered an asset based on a subjective assessment of the merits of their applications.
- 9.4. In this regard, Council should ensure that it not only undertook an open and transparent process in disposing of the asset, but also that it undertook a process that sought to ensure the best return was obtained by Council for the disposal of the asset.

## **10 UTILISING THE SERVICES OF AN AGENT FOR THE DISPOSAL OF COUNCIL ASSETS**

- 10.1. Where Council considers engaging an agent to act on Council's behalf to dispose of an asset, Council should consider whether any such arrangement will be one that is subject to s. 55 of the *Local Government Act 1993*. It is noted the *Local Government Act 1993* requires Council to seek tenders before it enters into contracts for the provision of services that have an estimated expenditure of \$150,000 or more.
- 10.2. Once Council has selected an appropriate agent, the arrangements that should be in place with any agent engaged to assist Council with the disposal of an asset will depend on the manner in which Council resolves to proceed with that disposal. If Council resolves to proceed with the disposal of the asset by way of public auction (with or without a reserve), then Council should seek to engage an appropriately licensed agent on commercial terms for the conduct of that auction and any associated marketing of the asset.
- 10.3. If Council resolves to proceed with the disposal of the asset by way of a ballot or expressions of interest then Council could seek to engage an appropriately licensed agent on commercial terms for the conduct of any associated marketing of the asset. Council however should not engage any such agent to conduct any part of the expressions of interest or ballot process on behalf of Council. Instead, Council should undertake those processes itself in an open and transparent manner. That is, it is Council who should decide whether or not an expression of interest is valid and/or successful according to the criteria adopted by Council.

## **11 DISPOSAL OF MOTOR VEHICLES AND PLANT**

- 11.1. All motor vehicles and plant shall be disposed of via public auction, trade-in or tender processes. The disposal of motor vehicles is to be approved by the General Manager. Motor vehicles will not be made available to Council employees or Councillors in private sale arrangements.

## **12 DOCUMENTATION OF ASSET DISPOSAL PROCESSES**

- 12.1. Documentation detailing decisions made on asset disposal is to be archived in Council's records management system by the relevant Director or Manager.
- 12.2. The finance personnel within the Corporate Services Department are to be informed by the relevant Director or Manager of the disposal of an asset and relevant details in order that the assets register can be updated and accounting treatments for disposed assets effected.
- 12.3. Where a Councillor or Council employee, or members of their immediate family, purchase an asset from Council, the General Manager is to countersign the documentation that specifies the price paid for the asset and the method used in determining the price paid.

## **13 PREPARING ASSETS FOR DISPOSAL**

- 13.1. Thorough inspection of assets must be carried out by the Officer in charge of the matter prior to disposal, to ensure assets do not contain:
- i. Confidential information;
  - ii. Any other Council information/documents;
  - iii. Additional items not intended for disposal;
  - iv. Software (which may lead to a breach of licence or contain confidential data); or
  - v. Hazardous material.
- 13.2. As far as practical, any Council branding or identifying marks should be removed.
- 13.3. Spare parts held for a particular asset should be disposed of in conjunction with the asset.
- 13.4. Items of historical or cultural significance should be given special regard. Any dangerous or hazardous goods are to be disposed of only in the authorised manner.

## **14 SALES TO COUNCILLORS AND EMPLOYEES OF COUNCIL**

- 14.1. Members of the public must be provided with the opportunity to compete for the purchase. However, it is recognised that on occasion there will be individual circumstances where sale to a Councillor or employee of Council may be the most practical or fair and reasonable manner of disposal. In these instances, the General Manager is to document all decisions, and reasons for such decisions, in relation to the asset disposal.

## **15 CONFLICT OF INTEREST**

- 15.1. Councillors and Council officers involved in the disposal of assets are responsible for disclosing any actual or perceived conflicts of interest that may arise in the performance of their duties. All perceived and actual conflicts of interest are to be referred to the General Manager.
- 15.2. The following steps are to be undertaken as part of any asset disposal process to minimise any potential conflicts of interest:
- i. Ensure that applicants are required to disclose any conflicts of interest known to them at the time of submission of their tender/expression of interest/direct offer etc.;
  - ii. Ensure that any conflicts of interest of Councillors are disclosed during the process of evaluating any tenders/expressions of interest/direct offers etc. lodged by applicants; and
  - iii. Ensure that the requirements of the Local Government Act 1993 are met in relation to any decisions of Council concerning the process.
- 15.3. Further to this, Council should ensure that the assessment of tenders/expressions of interest/direct offers etc. are undertaken by a panel of Council officers who otherwise have no involvement in the tender/expression of interest/direct offers etc. process and do not have a conflict of interest.

## 16 VARIATION

Council reserves the right to vary the terms and conditions of this policy, subject to a report to Council.

## Revision History

Version	Adoption Date	Authorised by	Approved by	Revision Date
V1	-	General Manager	Council	19 May 2013
V2	May 2013	General Manager	Council	16 May 2015
V3	April 2018	General Manager	Council	19 April 2020
V4	13 December 2018	General Manager	Council	12 December 2019
V5	-	-	-	12 December 2019

## Change History

Version	Change Details
V1	Initial Policy (Adopted 19 May 2011 – Minute No: 448/2011)
V2	Included flowchart for delegation of disposals and write downs and amended the direct sale clause. (Adopted 16 May 2013 – Minute No: 440/2013)
V3	Clause 6(viii) - new addition; Clause 8.1 and Clause 8.2 - increase of minimum from \$2,000; Clause 10 – list with real estate agent and on Council's website; Clause 11 – removed as used as basics for new Real Estate Disposal Policy.
V4	Clause 7 and 11 amended – Council resolution not required for the disposal of motor vehicles.
V5	Rebranded style of document only with no change to content.

## Related Documents

### Title

*Model Code of Conduct Policy*

*Statement of Business Ethics*

*Conditions of Tendering Policy*

*Property Lease and Licence Policy*

*Real Estate Asset Disposal Policy and Procedure*