


	<h1>SALE OF COUNCIL ASSETS</h1>	Policy #	4.9 / 4
		Issued:	May 2021
POLICY		Next review	June 2022

<b>Category</b>	Finance	<b>Classification:</b>	Public
<b>First Issued:</b>	19 June 2013	<b>Review Frequency:</b>	Annually
<b>Legislation:</b>	Local Government Act 1999		
<b>Relevant Policies:</b>			
<b>Related Procedures:</b>			
<b>Responsible Officer:</b>	Chief Executive Officer	Signed:	
<b>Adopted by Council :</b>	16/06/2021		

## GENERAL STATEMENT

**This policy is in place to provide guidance once the decision has been made to sell or dispose of Council's assets. All service provisions for the sale or disposal of assets and land undertaken by Council must occur within the principles stated in this policy.**

### Rationale

The purpose of this policy is to establish a framework of broad principles relating to the sale or disposal of assets and land and Council's approach to recouping administrative costs that it incurs when it considers a request by a third party to purchase Council land, in particular roads, walkways and community land.

The existence of this policy will assist to ensure a consistent, fair, transparent and accountable approach is maintained and assist in ensuring all third party applications are treated fairly and equitably.

### Definitions

For the purposes of this policy the following definition applies.


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

**CEO** - refers to the Chief Executive Officer (including their delegate) of the District Council of Ceduna, or an Acting Chief Executive Officer of the District Council of Ceduna (including their delegate).

**Disposal** – there are various methods of disposal available for Council to dispose of its land and assets. They may include: open market sale, expressions of interest, tender, auction, direct sale, by negotiation, trade in, exchange or give away (scrap).

**Road** – the Local Government Act 1999 defines road as 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 and includes:

- a bridge, viaduct or subway
- an alley, laneway or walkway.

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## Policy Detail

This policy is in place to provide guidance once the decision has been made to sell or dispose of Council's assets.

All service provisions for the sale or disposal of assets and land undertaken by Council must occur within the principles stated in this policy.

### 1 Sale or disposal of land and other assets including roads, walkways and community land

For the sale or disposal of land and other assets including roads, walkways and community land the following principles will apply regarding decisions of Council:

- Council will ensure compliance as defined in the Local Government Act for the sale of any land.
- Council will expressly identify the objective(s) for the sale at the outset of the process
- (e.g. to obtain best price, or best price in the context of other desired community objective(s))
- Consistency with and relevance to Council's strategic plans
- Transparency and accountability in sale or disposal procedures and practices, if appropriate, to ensure that Council obtains the best price in the circumstances and that all potential purchasers are given equal opportunity to purchase the land or assets
- Opportunities to enhance local economic development and growth
- Compliance with statutory and other obligations
- Commercial confidentiality
- Other relevant factors deemed appropriate by Council or the CEO (within their delegated authority).
- Generally, Council will sell or dispose of land and other assets including roads, walkways and community land through adoption of the following practices:
  - Direct sale – advertisement for sale and the nature of the advertisement i.e. public notice, local paper etc.
  - Quotation – seeking quotations for the sale of land and other assets
  - Expression of interest – seeking expressions of interest for the sale of land and other assets
  - Selected tender – seeking tenders from a selected group of persons, companies, organisations, or other interested parties
  - Open tender – openly seeking, through advertisement, tenders, or buyers for Council, land and other assets
  - Other means as deemed appropriate by Council or the CEO (within his or her delegated authority).

Note: In considering the sale of a road or walkway Council's process options are limited due to the legal and practical requirement to offer them to adjoining property owners.

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In identifying the circumstances in which to apply these options, Council may consider a number of issues, including:

- The number of known potential purchasers of the land or assets
- The original intention for the use of the land or asset when acquired by Council, where relevant
- The current and possible preferred future use of the land or assets
- The existence of local purchasers of the land or asset
- The opportunity to promote local economic growth and development
- The total estimated value of the sale
- Delegation limits taking into consideration accountability, responsibility, operational efficiency and urgency of the sale
- Compliance with statutory and other obligations.

### 1.1 Roads including walkways

Walkways, bridges, pedestrian crossings and over/underpasses, form integral links in the pedestrian network. It is acknowledged that some of the existing walkways will also be part of the Drainage or Pedestrian Networks. These walkways are required assets and should be maintained to facilitate safe and convenient pedestrian access.

Those roads including walkways considered not being an integral part of these networks could be considered surplus to community requirements and a report may be submitted to Council to seek Council’s consideration whether the land is surplus to Council requirements and therefore available for purchase. Should any interested party wish to acquire a potentially surplus road (or walkway) prior to Council putting it up for sale the following process and conditions shall apply.

It is not the intention of this policy to address the amount to be paid for the value of the land as this will be based on an independent property valuation and supply and demand factors at the time of disposal.

Note: If Council initiates the closure and disposal of a road or walkway or community land, no administration costs are charged to the purchasers.


Pursuant to section 201(2)(b) of the Local Government Act 1999, land that constitutes a road can only be sold after the closure of the road under the Roads (Opening and Closing) Act 1991.

### 1.2 Community Land

Third parties may apply to Council to purchase parcels of community land. An assessment of the land will be initiated and should the land be considered potentially “surplus to Council’s requirements”, the application may be presented to Council to consider commencing the process to revoke the land’s classification as community land.

The following assessment criteria will be used to determine the impact on the local community before any decision is made on whether community land should be retained or sold:

- Governance issues

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- Environmental value
- Social value
- Economic value.

The legislative procedure to revoke a land’s classification as community land is set out in Section 194 of the Local Government Act 1999 (“the revocation process”). The revocation process is involved, somewhat complex, costly to administer, lengthy in duration and requires a number of reports to be prepared in addition to following a public consultation process in accordance with Council’s Community Engagement (Public Consultation) Policy. The revocation of a land’s classification as community land ultimately requires Ministerial approval, which is outside of Council’s control.

If Council resolves to proceed with a revocation of community land, or similar, all other associated costs including advertising costs, statutory charges, survey, service relocation, fencing, valuation and conveyancing costs are to be the responsibility of the applicant.

### 1.3 Recovery of Administrative Costs Associated with Sale or Disposal

The Administration Cost associated with the sale or disposal of community land or roads will be recovered from the third party applicant.

All adjoining landowners will be approached to assess their interest in a part purchase. A written response shall be sought from all adjoining landowners as part of Council’s consideration.

Any relocation of utilities such as stobie poles, water, sewer, gas mains and Telstra cables will be at the cost of the applicant.

Council may determine, after considering all the relevant facts, not to close and sell the road or walkway.

The closure of the road or walkway will be regulated and documented in accordance with the Roads (Opening and Closure) Act 1991, which includes required consultation.

Council will not consider any walkway closure unless the total area involved can be sold to adjoining property owners. In this regard:

- The total walkway area will not be disposed if this results in an irregular shaped new allotment or with access to two street frontages
- If more than the minimum number of purchasers for a walkway are interested in purchasing the walkway (and agreement cannot be reached between the property owners) disposal shall be by way of a formal tender process in accordance with relevant Council policies.

Negotiations for the value of the land shall occur on the basis of a valuation by a qualified valuer. As a general rule, Council will seek to achieve best price.

If Council resolves to proceed with a road closure, or similar, all other associated costs including advertising costs, statutory charges, survey, service

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relocation, fencing, valuation and conveyancing costs are to be the responsibility of the applicant.

Prior to work commencing on any revocation process instigated by a third party under this policy a formal agreement will be entered into based on a standard agreement applying to all such applications. The revocation process will not commence until an applicant executes the formal agreement accepting to pay all of the associated costs incurred by Council (e.g. advertising) and prior to Council proceeding to the next stage.

## 2 The decision making process

Council recognises that the community, local businesses and contractors will from time to time have an interest in the manner and approach adopted by Council when determining service delivery, purchasing and disposing of land and other assets.

Council will delegate the appropriate authority to the CEO to make decisions regarding the matters covered in this policy where the sale or disposal of assets other than land is estimated at less than \$150,000 (excl. GST).

Council or its officers with delegated authority will, when making decisions under this policy, act in accordance with the Council's budget, relevant policies, plans, industrial awards and agreements, resolutions, and all relevant statutory or common law requirements.

Council acknowledges that the CEO may sub delegate matters related to this policy to employees or other persons employed or engaged by Council.

Council may also delegate matters covered by this policy to its committees or subsidiaries.

Any variation to a lump sum contract where the following conditions apply will be reported to Council where the total sum of the sale and all variations is in excess of \$150,000 (excl. GST).

## 3 Key principles for sale or disposal of assets

### 3.1 Value for Money

#### 3.1.1 Purpose

To deliver the best overall result for money spent through applying a strategic and cost effective approach to asset sale or disposal.

#### 3.1.2 Principles

- Researching the market
- Disposing of our assets through open and competitive market
- Establishing appropriate evaluation criteria having regard to the objective of the sale, compliance to the specification and Council's needs, commercial matters, community service obligations, whole-of-

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life cost (which takes into account all aspects of cost over time including capital, maintenance, management, disposal and operating costs) and supplier support

- Working in partnership with suppliers
- Investigating the quality and reliability of supply offered.

### 3.2 Open and Fair Competition

#### 3.2.1 Purpose

To foster and maintain open and fair competition by providing open access to Council's asset sale or disposal opportunities (and thereby also facilitating the achievement of value for money).

#### 3.2.2 Principles

- Conducting all dealings with suppliers in an honest and impartial manner
- Ensuring knowledgeable employees are available to answer potential purchaser questions
- Maintaining a records system for sale or disposal of assets which will satisfy scrutiny
- Providing all potential purchasers with consistency of information.

### 3.3 Professional Integrity and Probity

#### 3.3.1 Purpose

To observe the highest standards of integrity, probity and professional conduct in asset sale or disposal practices.

#### 3.3.2 Principles

- Exercising appropriate levels of delegation and separation in the decision making process
- Ensuring equal treatment of potential purchasers
- Maintaining confidentiality
- Not divulging Commercial-in-Confidence information to actual or potential purchasers or their competitors
- Not accepting gifts or favours from actual or potential suppliers which might compromise the integrity of the asset sale disposal process
- Avoiding conflicts of interest
- Employing accredited employees to manage and coordinate department procurement
- Ensuring that the experience and expertise of officers conducting asset sale or disposal is commensurate with the nature of the task being undertaken
- Providing ongoing asset sale or disposal skills training
- Providing Council with full information relevant to a sale process when making a decision (e.g. a tender evaluation report)
- Establishing procedures to ensure ethical practices and avoid conflicts of interest.

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### 3.4 Risk Management

#### 3.4.1 Purpose

To identify risks, minimise uncertainty, and improve risk profiles thereby contributing to the achievement of better value for money.

#### 3.4.2 Principles

- All asset sale or disposal practices will consider the risks associated with the asset disposal and the controls and practices will be implemented to minimise Council's risks to acceptable levels
- Council fulfils its obligations for the sale or disposal of plant as per the WHS Act and Regulations 2012
- To use a probity auditor for high risk transactions.

### 3.5 Simplicity

#### 3.5.1 Purpose

To ensure asset disposal processes are clear, straightforward, readily implemented and easily monitored.

#### 3.5.2 Principles

- Purchasing from approved contracts or standing offers
- Using standard terms and conditions
- Using open and generic specifications
- Streamlining business practices.

## 4 Documentation

To assist in demonstrating that its service provision, asset sale and disposal processes are cost effective, fair, transparent and accountable, and meet community needs, the reasons for entering into contracts other than those resulting from a tender process will be documented.

Procedures are to be developed to support this policy and they are to include special conditions where required for specific contracts.

## 5 Fraud and Corruption

Council recognises that Fraud and Corruption have the potential to cause significant financial and non-financial harm and that the prevention and control of Fraud and Corruption should feature predominantly within the systems and procedures of a responsible Council.

### Accessibility

This Policy is available on Council's website: [www.ceduna.sa.gov.au](http://www.ceduna.sa.gov.au)