

Disposal of Property

Introduction

This policy is intended to provide a framework to achieve the efficient and accountable disposal of Shire land and property, deemed surplus to the Shire’s requirements, for community benefit in accordance with Part 3 (Division 3 – Subdivision 6) of the *Local Government Act 1995*.

Objective

In line with the Shire’s strategic vision, the objectives of this policy are:

- To create business opportunities using local assets;
- To improve processes to support the built environment by way of asset rationalisation and consolidation;
- To ensure that the Shire makes sound, open and accountable decisions in relation to its land and facility holdings; engaging with the community and providing good governance on behalf of the community;
- To achieve the best possible financial, environmental and community outcomes when disposing of the Shire’s assets or local government property.

Scope

This policy applies to the disposition of all local government property including the conditions relating to plant and vehicles trade-ins; machinery; furniture; equipment; miscellaneous items; abandoned vehicles; building/construction materials; livestock; and land transactions.

Definitions

Term	Definition
Act	<i>Local Government Act 1995</i> .
Asset custodian	For an asset, a person is responsible for the following: <ul style="list-style-type: none"> • Maintaining an accurate record of inventory and asset information; • Identifying and managing the disposal of assets under their care and control; • Obtaining appropriate decisions for disposal of any asset; • Tracking financial information, such as depreciation; • Accounting for the costs of undertaking disposal options within the asset register and financial systems as appropriate.
CEO	Chief Executive Officer

Term	Definition
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008</i> .
Dispose	Includes to sell, lease, or otherwise dispose of, whether absolutely or not;
Executive Managers	<p>Managers defined as Senior Workers that Council resolved (Res. No. OCM026/03/22) to designate in accordance with section 5.37 of the <i>Local Government Act 1995</i>:</p> <ul style="list-style-type: none"> • Executive Manager Corporate and Community Services; • Executive Manager Infrastructure, Assets & Services; and • Executive Manager Development and Regulation.
Fleet Manager	A Shire Officer responsible for planning, directing, managing, coordinating and supervising the programs for acquisition, assignment, utilisation, maintenance, repair, replacement and disposal of fleet vehicles. Fleet manager also serves as the primary contact concerning the vehicle fleet and operations.
Land	All land and facility assets owned or controlled by the Shire of Toodyay.
Land transaction	<p>An agreement, or several agreements for a common purpose, under which a local government is to —</p> <p>(a) acquire or dispose of an interest in land; or</p> <p>(b) develop land;</p>
Local government property	Anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government;
Member	<p>In relation to the council of a local government, means —</p> <p>(a) an elector mayor or president of the local government; or</p> <p>(b) a councillor on the council (including a councillor who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor).</p> <p>For the purposes of this policy, Member also means Member of a Council Committee or a Mandatory Committee.</p>
Public Auction	An auction on behalf of local government in which the property to be auctioned is either property owned by the government or

Term	Definition
	property which is sold under the authority of a court of law or a government agency with similar authority.
Private Auction	An auction where no competing buyer is privy to another buyer's offer. Each buyer must offer their highest price, in writing, without being influenced by what somebody else may have offered. On most occasions buyers offer higher than they would normally do at a public auction.
Property	Includes the whole or any part of the interest of a local government in property but does not include money.
Regulations	Local Government (Functions and General) Regulations 1996.
Shire	The Shire of Toodyay.
Workers	Employees, Contractors and Volunteers classed as workers as per the WHS legislation and regulations.

Policy Statement

The following principles apply to disposal of property (assets) activities:

- (a) Asset disposal decisions, including reasons for such action are to be recorded in the Shire's asset registers and associated accounting records.
- (b) The financial treatment of the disposal of fixed assets such as land, property, plant, equipment, furniture and fittings is to be calculated using fair value determined by market demand.
- (c) Disposal of assets by private treaty must demonstrate that the most advantageous price was achieved.
- (d) Donations of local government property are, under no circumstances, to be donated to Workers or Members.
- (e) Planned maintenance disposal by the Department of Infrastructure & Assets such as drainage, roads, footpaths and lighting are to be stated in the respective asset management plan.
- (f) The financial treatment for the disposal of infrastructure assets is to be calculated using written down values.
- (g) Assets that are approved to be written off will be disposed of from the asset register at their written down value as of the date of write off.
- (h) Assessment of risks and identification of areas most susceptible to fraud when disposing of assets is to be considered and reported as part of the decision to dispose of property.
- (i) Donation of no longer required assets to "Not for Profit Organisations" may be determined in accordance with delegated authority within the limits and conditions detailed in the Register of Delegations.

- (j) Environmental considerations are paramount when considering disposal of assets to landfill sites, therefore the *Environmental Protection Act 1986* Part V and the Department of Environment Guidelines for “*Landfill Waste Classification and Waste Definitions 1996*” are to be complied with.

1. Guidelines

Section 3.58 of the Act establishes the methodologies by which local governments may dispose of property (assets) and are applicable to any asset disposal contemplated by the Shire.

The following disposal approaches are to be followed by Executive Managers in accordance this policy:

- (a) **Start of a new project** - this applies to assets being replaced, relocated or made redundant as part of capital works program. At the beginning of any concept designs and throughout the design process, the appointed Project Officer or Design Officer is to engage with asset custodians and identify all existing Shire assets impacted by the proposed works and to implement appropriated planning for the disposal of assets that will be affected by the new work.
- (b) **End of a Project** – assets identified for disposal and the disposal methodology shall be clearly documented in the capital works close-out report authorised by the Project Officer.
- (c) **Vehicles** shall be either traded in against the replacement vehicle as part of a public tender process or disposed of by public auction. The Fleet Manager is responsible for vehicle disposals.
- (d) **Heavy Plant** shall be either traded in against the replacement piece of plant through a public tender process or sold by public auction. The Manager Infrastructure and Assets is responsible for arrangement of heavy plant disposals.
- (e) **Minor Plant items** are the responsibility of the Manager Infrastructure and Assets.
- (f) **Land** is the responsibility of the Manager Development and Regulation.
- (h) **Buildings** are to be disposed of in accordance with this policy and are the responsibility of the Manager Development and Regulation.
- (i) **Furniture and Equipment** located in buildings are to be disposed of in accordance with this policy and are the responsibility of the Manager Infrastructure and Assets.

2. Authority to Dispose of Property

- (a) Decisions on the disposal of local government property (assets) may only be made in accordance with Instruments of Delegation contained in the Shire’s Register of Delegations, or by resolution of Council.
- (b) For major project work where disposal of property (assets) is likely to exceed the delegated authority limit, a Council resolution is required that details full financial and asset management implications associated with the disposal(s).
- (c) In instances where major projects requiring Council approval and include as part of the works disposal of existing assets, there is an obligation to disclose the written down value under financial implications of the Council report.

3. Plant, Machinery, Furniture, Equipment and Miscellaneous Items

The disposal of property (other than land or buildings) with a market value of less than \$20,000 is an exempt disposition under r.30 of the Regulations. The method(s) of disposal that may be used by the Shire are:

- (a) Sale by public or private auction, including an online bidding system or portal system;
- (b) Trade-in for other property; or
- (c) Donation or gifting of the property to local schools and community groups or not for profit organisations by Council Resolution.

Where the entire consideration received by the local government for the disposition of property (other than land) is not more, or worth more, than \$75,000 and the consideration is intended to be used to purchase other property the Shire will aim to maximise the value of any asset being disposed of.

Disposal of existing plant and equipment is based on the following considerations:

- (a) a condition rating applied to each asset;
- (b) an assumed economic life applied to each asset group;
- (c) a replacement date for each asset;
- (d) asset replacement cost.

It is the responsibility of the Infrastructure and Assets Department to monitor all Plant, Machinery, Equipment and Miscellaneous Items to ensure that they are being utilised to provide maximum benefit to the Council.

Any changes or usage that may have a detrimental effect to Council must be brought to their attention.

Management practices are to be imposed to even out usage between high and low usage vehicles.

4. Unsaleable Property (other than land or buildings) – Including Damaged and/or Contaminated Property

When all efforts fail to dispose of property in accordance with the above guidelines, the Shire may resort to sale by private treaty if any unsolicited offers are received or the Shire may choose (by Council Resolution) to offer the property to a local community group at no cost or authorise its disposal by recycling or scrapping.

5. Livestock and Other Animals

When the Shire is in a position to dispose of livestock or any other animals, the below methods of disposal may be used:

- (a) Donation/surrender to an appropriate rescue organisation.
- (b) Sale by public or private auction.

If neither of the above two options are successful, the Shire may choose to dispose of the property by private treaty if any unsolicited offers are received or the Shire may choose to offer the property to a local community group or member at no cost. If the

above methods of disposal fail, the Shire may resort to the humane destruction of said livestock or animal.

At all times, the disposal of all livestock and other animals will be in accordance with relevant acts, namely the: *Dog Act 1976*; *Cat Act 2011*; and the *Local Government Miscellaneous Provisions Act 1960*.

6. Reasons for disposal

The reasons by which a decision to dispose of property (assets) may be made is in circumstances where the property (assets):

- (a) has reached its pre-determined economic life to maximise the realisable market value;
- (b) is no longer required due to a change in functionality or usage patterns;
- (c) has reached the end of its expected useful life and has been confirmed by an appropriate condition assessment as to be disposed and/or replaced;
- (d) no longer complies with workplace health and safety standards or is determined as environmentally unviable, subject to risk assessment;
- (e) is beyond repair and no longer in operable condition;
- (f) is no longer able to provide an acceptable level of service to the community;
- (g) is subject of a Council decision to provide the property as a contribution or donation by the Shire to a construction project where the assets is vital to the project proceeding or to a charitable organisation to facilitate charitable purposes;
- (h) is made of hazardous materials and/or contains dangerous goods and as such must be disposed of in an authorised manner and in accordance with legislation;
- (i) is stolen, lost or damaged.

7. Sale of Land

The direction provided by this policy applies to any sale of land or buildings owned by Council and does not apply to sale of land for the recovery of unpaid rates.

The Council will approve the sale of Council land or buildings by:

- (a) Offering the property for sale by tender; or
- (b) Appointment of a real estate agent to market the sale of the property by private treaty; or
- (c) Appointment of a real estate agent to conduct a public auction; or
- (d) A combination of the above.

Prior to the disposal of the property, a reserve figure or disposal price for the property to be offered for sale shall be determined in consultation with the appointed agent (where appropriate).

The reserve price shall be no less than a sworn valuation obtained from a Licensed Valuer, obtained not more than 6 months prior to the proposed disposition.

The deposit required to be paid if the property is sold by public auction or private treaty is \$10,000, on the fall of the hammer at auction or on the date of the acceptance of an offer to purchase, with the balance payable at settlement.

The disposal methods below must comply with the requirements of s.3.58 of the Act and be appropriate to the value, nature, quantity and location of the goods, and where applicable promote fair and effective competition to the greatest extent possible.

The disposal methods are:-

7.1 Public Auction

Where a property is offered for sale by public auction and fails to sell at the set reserve figure, the agent may be appointed to continue to market the property for a period of 90 days following the date of auction, to achieve a sale, providing that:

- (a) Any offer to purchase is in a form which may be accepted;
- (b) The agent's commission is to be calculated on the sale price achieved or as otherwise agreed to; and
- (c) The offer is for the amount equal to or higher than the reserve price set for the auction, unless otherwise agreed to by the CEO.

7.2 Public Tender

If a property is to be sold by public tender the provisions of s.3.58 (2)(b) of the Act apply. If the tender fails to secure an acceptable offer, the land may be sold by private treaty.

7.3 Private Treaty

Where a property is to be sold by private treaty without being first offered at public auction or public tender, the following provisions relating to giving public notification of the proposed disposition (Public Notice) will apply:

- (a) The offer to purchase must be in a form which may be accepted;
- (b) An offer may not be accepted if less than the agreed disposal price as set in accordance with this policy, or is a price acceptable to Council and has been advertised in accordance with s.3.58; and
- (c) An amount of \$10,000 deposit is to be paid by the prospective purchaser upon acceptance of the offer to purchase made with the balance payable on the settlement date.

7.4 Unsolicited Offers

If Council receives an unsolicited offer for a council property, the CEO will determine based on Council's adopted strategies on land and buildings whether or not an offer should be considered. If yes, a sworn valuation will be obtained from an independent licensed Valuer.

The CEO may make any additional inquiries they consider appropriate regarding the ascertainment of the market value. If the valuation is higher than the proposed offer, the intending purchaser will be given the opportunity to increase the offer to meet the valuation.

The proposed disposition will then be put to Council for consideration where Council may:

- (a) Reject the offer;
- (b) Accept the offer subject to the provisions of s.3.58, and advertise for public submissions;
- (c) Make a counteroffer, which is also subject to s.3.58, if accepted; or
- (d) Seek to dispose of the property by Auction of Public Tender and invite the proponent to participate.

6.5 Dealing with Stakeholders

Council properties may have other affected stakeholders or other persons who have an interest in the land. This may include:

- (a) Current tenants;
- (b) Potential future tenants where some substantive discussions have occurred; or
- (c) Adjacent landowners.

Any discussions with stakeholder(s) should be documented, and where appropriate confirmed in writing. If stakeholder(s) indicate a genuine interest in purchasing the property, they should be encouraged to make a submission to that effect or participate in a public process as the case may be.

8. Roles and Responsibilities

8.1 Chief Executive Officer

- (a) The CEO is the chief asset custodian and has limited delegated authority to authorise dispose of property as detailed in the Shire's Register of Delegations.
- (b) The CEO is responsible for ensuring that Executive Managers comply with legislation and implement this policy when undertaking the disposal of assets.

8.2 Manager Corporate and Community Services

The Manager Corporate and Community Services has limited sub-delegated authority from the CEO to authorise the disposal of property detailed in the Shire's Register of Delegations.

The Manager Corporate and Community Services is responsible for:

- (a) Ensuring that Executive Managers and Officers of the Shire comply with legislation and this policy when undertaking disposal of property activities.
- (b) Maintenance of the corporate asset register.

8.3 Other Executive Managers

- (a) Managers have limited sub-delegated authority from the CEO to authorise the disposal of property as detailed in the Shire's Register of Delegations.

- (b) Managers are responsible for ensuring that they comply with the legislation and this policy when undertaking the disposal of assets.
- (c) Managers are also to ensure that the data retained in the Asset Management Register is maintained at a high degree of accuracy. In doing so, the following tasks relating to disposal are to be upheld:
 - (i) To ensure receipt of the Approval for Disposal of Assets with all relevant information supplied by Project Officers as part of the project close-out report.
 - (ii) Ensure disposal of assets have been approved before disposing them.
 - (iii) Dispose and expire assets from the asset register and update GIS (if applicable) and
 - (iv) Notify the Finance Coordinator of all asset disposals.

8.4 Finance Coordinator

- (a) Maintenance of the asset register; ensuring that the recording of asset disposal complies with the Act, and Australian Accounting Standards.
- (b) Ensures all revaluation amounts pertaining to assets disposed of are treated in accordance with the Australian Accounting Standards.

8.5 Design Officers / Project Developers

Design Officers are responsible for:

- (a) Preparation of designs, identifying existing assets that are required to be disposed of in the course of a new project development, inclusive of the current value record in the Asset Register and the likely material value at time of disposal. Assistance will be provided by the Manager Infrastructure and Assets in composition of this information.
- (b) Liaising with asset custodians and ensure appropriate planning for the implications of the assets identified for disposal.
- (c) Ensuring that asset disposal implications and considerations are documented and communicated to relevant asset custodians.
- (d) Identify and record the value of all asset classes to be disposed of and where necessary organise condition assessment of the assets identified for disposal.

8.6 Project Officers

Project Officers are responsible for:

- (a) Arranging for the physical disposal of surplus assets associated with a project under their control in accordance with the legislation and this policy.
- (b) Obtain appropriate decisions for the disposal of any asset.
- (c) To communicate in advance the disposal of any Shire asset to the relevant asset custodians.

- (d) Clearly record and provide written advice on quantity of disposed assets in the capital close-out report including “As Constructed Drawings” when applicable.

Reference Information

- [Asset Management \(FIN23\)](#); and
- [Register of Delegations](#) –
 - ES10 - Expression of Interest and Tenders
 - ES13 – Tenancy Agreements
- [Local Government Property Local Law](#).

Legislation

- [Local Government Act 1995](#);
- [Local Government \(Functions and General\) Regulations 1996](#)
- [Land Administration Act 1997](#)

Associated documents

Lifecycle Assessment Workbook

Environmental and Social Criteria Assessment

Relevant Contract Management Plans

Sustainability Principles

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