

# ACQUISITION & DISPOSAL OF LAND & ASSETS POLICY

27 January 2022

Legislative

## PURPOSE

The purpose of this policy is to ensure that the City of Adelaide (Council) has accountable and transparent processes to consider the Disposal and Acquisition of Land and Assets.

To define the consideration methods for the Disposal and Acquisition of Land and Assets, including strategic acquisition for land banking purposes.

To ensure the optimum use of Council Land and Assets with all processes to be monitored and recorded.

## STATEMENT

### 1. Introduction

- 1.1 Council is the custodian of Land and Assets held on behalf of the community. As part of this role, Council is required to provide infrastructure for the community and plan for the development and future requirements of its area.
- 1.2 The *Local Government Act 1999* (SA) sets out Council's responsibilities in relation to the management of Land and Assets including:
  - Council must seek to ensure that Council resources are used fairly, effectively and efficiently (Section 8(h)).
  - Council is required to develop a policy for contracts and tenders when disposing of Land or Assets to ensure ethical and fair treatment of participants and probity, accountability and transparency in all Disposal processes (Section 49).
  - Council is required to ensure appropriate policies, practices and procedures of internal controls are implemented and maintained to safeguard the Council's Assets (Section 125).
- 1.3 Land and Assets support the delivery of core services to the community or support the future strategic direction and financial sustainability of the Council.
- 1.4 In circumstances where there is a Disposal other than by open tender process, as may be determined in accordance with this policy, the reasons for entering into such contracts will be recorded pursuant to section 49 of the *Local Government Act 1999* (SA).
- 1.5 This policy includes the Disposal or Acquisition of Land and Assets, excluding land or buildings located within the Adelaide Park Lands which is addressed in a separate policy.

The City of Adelaide acknowledges the Kaurna people as the Traditional Owners of the Country where the city of Adelaide is situated, and pays its respect to Elders past, present and emerging.

- 1.6 Commercial confidentiality will apply to negotiations for the Disposal or Acquisition of Land and Assets unless Council decides otherwise.

### **2. Strategic Context**

- 2.1 This policy supports the objectives of the City of Adelaide Strategic Plan 2020-2024 particularly by way of the implementation of the Strategic Property Review.
- 2.2 The policy will support the Infrastructure Asset Management Policy and Asset Management Plans for each asset class and the decision-making process for Disposal and Acquisition of Land and Assets that support public value and alignment with Council's objectives.

### **3. Disposal of Land and Assets**

- 3.1 Land and Assets should be regularly reviewed to ensure the optimum, efficient and effective use of Council's interests.
- 3.2 Land and Assets should be disposed when they no longer provide civic, strategic, commercial or community value.
- 3.3 The process for Disposal of Land and Assets will be fair and transparent and ensure that Council obtains not less than Market Value from the disposal, unless there are reasons for Council accepting a lesser value.
- 3.4 The Market Value of the Land or Assets is to be determined by an independent valuation obtained from a suitably qualified Certified Practising Valuer.
- 3.5 Open market methods of sale will be considered and determined on merit by Council and may include:
- Public tender or open expression of interest for sales best suited where special conditions are required including covenants and /or where there is a special interest demand.
  - Select tender where public registrations or expressions of interest may be sought prior to a select tender.
  - Public auction for unconditional sale and/or where there is a general high demand.
- 3.6 Should a tender or expression of interest not be awarded, or the reserve price not reached at auction, negotiations may be entered into with the highest bidder.
- 3.7 Council may consider a Disposal other than through the open market, including by direct negotiation, based on individual case merits. These circumstances may include but not necessarily be limited to the following:
- Limited likely purchasers for the Land or Asset.
  - Alignment with respect to the original intention of the Land or Asset.
  - An overall improved value proposition considering the Market Value and marketing/ selling costs.
  - Enabling inclusion of adjacent Land.

- Land or Assets to be developed by another level of government.
  - Land that is restricted because of its small size, dimensions, irregular shape or other constraints.
  - Assets which are the subject of a leasehold interest including disposal to a relevant party who may be, but is not limited to, a lessee or residential tenant.
  - Land of nominal value.
- 3.8 Where sale is not by open market the sale should be at current market valuation. Methods for sale in such circumstances may include:
- Select tender (either with or without prior expression of interest); or
  - By negotiation with the relevant party.
- 3.9 The following key criteria will be utilised to assess whether Council should retain or dispose of Land or an Asset:
- Council's required ownership or the Land or Asset for essential civic purposes.
  - Current and future alignment to Council's strategic directions.
  - City shaping or public value add potential.
  - Commercial and financial value of the Land or Asset.
  - Community value of the Land or Asset.
- 3.10 The reasons for entering into contracts for the Disposal of Council Land or Assets other than by open market (either tender or public auction) will be recorded pursuant to Section 49 of the *Local Government Act 1999* (SA).
- 3.11 Council must ensure that the process to revoke the classification of community land has been concluded in accordance with the *Local Government Act 1999* (SA) prior to the disposal of Land that is classified as community land.

#### **4. Acquisition of Land and Assets**

- 4.1 Council may acquire Land to achieve strategic, commercial or community outcomes that align with Council's Strategic Plan.
- 4.2 The following criteria will be used to assess the acquisition of Land and Assets:
- Alignment with Council's strategic drivers.
  - Potential to add value and support Council's city shaping objectives.
  - The ability to unlock supply.
  - Creation of new commercial and financial value.
  - Provision of community benefits and public value.
  - Potential to consolidate Land or Assets with Council's existing holdings.
- 4.3 Land may be acquired for land banking purposes. Land banking is a process whereby Council progressively purchases land in strategic locations, consolidating land holdings over a period of time until a viable development

site is achieved. The land can be released to the market for sale, subject to clearly defined Council requirements as to development outcomes.

- 4.4 Acquisition of Land should achieve equal or better than revenue neutrality whereby the original land purchase price and subsequent holding costs (eg. maintenance statutory charges) are repaid by rental income over the holding period together with proceeds upon ultimate sale of the Land.

### **5. Roles and Responsibilities**

#### **5.1 Council**

- 5.1.1 Approve any proposed Disposals or Acquisitions of Land or Assets that exceed any authority delegated to the Chief Executive Officer and consider any prudential report under Section 48 of the *Local Government Act 1999* (SA) that may be required.
- 5.1.2 Provide all necessary approvals associated with any revocation of community land status that may be required, in accordance with the provisions of the *Local Government Act 1999* (SA).
- 5.1.3 Authorise the Lord Mayor and Chief Executive Officer to sign and seal documentation to facilitate transfers and any other dealings associated with the Disposal or Acquisition of Land or Assets, including any community land revocation process that may be required.
- 5.1.4 Adopt policies and consider and approve budgets, including delegating authority to the Chief Executive Officer, for Disposal or Acquisition of Land or Assets, up to a nominated financial threshold.

#### **5.2 Chief Executive Officer and Administration**

- 5.2.1 Approve any proposed Disposal or Acquisition of Land or Assets within any authority delegated to the Chief Executive Officer.
- 5.2.2 Allocate resources to preliminary negotiations, investigations and analysis of any proposed Disposal or Acquisition.
- 5.2.3 Identify alignment with Council strategies and policies.
- 5.2.4 Review the performance of Council Land and Assets and undertake appropriate actions to improve public value.
- 5.2.5 Identify appropriate Disposal methods, in accordance with the principles of Council's Procurement Policy and Acquisition and Disposal of Land and Assets Operating Guidelines.
- 5.2.6 Prepare all supporting information to enable Council to make an informed decision and undertake duties in accordance with the authority delegated by Council to the Chief Executive Officer.

### **6. Policy Restrictions / Limitations**

- 6.1 This policy does not cover Land or Assets sold by Council for the non-payment of rates or disposal of goods which are not owned by the Council.

- 6.2 This policy does not cover the Disposal of Land or Assets through the grant of a leasehold interest within the Adelaide Park Lands which is included in a separate leasing and licencing policy.

## 7. Monitoring and Implementation

- 7.1 The Strategic Property & Commercial Associate Director and relevant project managers and officers within the Strategic Property & Commercial Program will be responsible for assessing proposed Disposal or Acquisition of Land or Assets with other relevant internal stakeholders, in accordance with the objectives of this Policy.
- 7.2 The CEO will authorise Operating Guidelines to support the application of this Policy when administration is investigating any proposed Disposal or Acquisition of Land or Assets.

## OTHER USEFUL DOCUMENTS

### Related documents

- **Acquisition & Disposal of Land & Assets Operating Guideline**
- Treasury Policy
- Future Fund & Investment Policy
- Prudential Management Policy
- Asset Management Policy
- Asset Management Plans
- Asset Accounting Policy

### Relevant legislation

- *Local Government Act 1999* (SA)
- *Real Property Act 1886* (SA)
- *Land and Business (Sale and Conveyancing) Act 1994* (SA)
- *Electronic Conveyancing National Law (South Australia) Act 2013* (SA)
- *Planning, Development and Infrastructure Act 2016* (SA)
- *Retail and Commercial Leases Act 1995* (SA)
- *Residential Tenancies Act 1995* (SA)
- *Strata Title Acts 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)

Where land is classified as Community Land in accordance with the provisions of the Local Government Act 1999, the requirements contained within the relevant Community Land Management Plan will take precedence over this policy.

## GLOSSARY

Throughout this document, the below terms have been used and are defined as:

**Acquisition:** includes purchase, lease or assuming care and control or ownership of an asset from a third party.

**Asset:** includes buildings, structures, improvements and leasehold interests on land that the Council owns and that has at any time been treated pursuant to the Australian Accounting Standards as an 'asset'. This also includes roads but excludes plant and equipment, fleet assets, bridges, other public realm infrastructure, trees or public art.

**Certified Practising Valuer:** means a person who, by education, training and experience is qualified to perform a valuation of real property, as certified by the Australian Property Institute.

**Disposal:** includes sale by public auction or public tender, negotiation or as otherwise set out within this policy.

**Land:** means, according to the context—

- (a) land as a physical entity, including—
  - (i) any building or structure on, or improvement to, land; or
  - (ii) land covered by water and, in such a case, the overlying water; or
  - (iii) a strata lot under the Community Titles Act 1996 or a unit under the Strata Titles Act 1988; or
- (b) this excludes easements, rights of way, encumbrances, land management agreements or other interests in land.

**Market value:** the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.

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### ADMINISTRATIVE

As part of Council's commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed every 3 years unless legislative or operational change occurs beforehand. The next review is required in 2025.

**Review history:**

Trim Reference	Authorising Body	Date/ Decision ID	Description of Edits
ACC2022/2801	Council	27 January 2022 / 21513	Amendments made to align with Strategic Property Review with reintroduction of land banking and removal of 'other infrastructure' assets.
ACC2014/78956	Council	9 September 2014	Infrastructure Asset Management Policy
ACC2013/103644	Council	23 July 2013/ 13203	Procurement Policy
ACC2009/202256	Corporate Strategy & Performance Committee	26 October 2009	Land Acquisition and Disposal Policy/Land Banking
ACC2003/1313	Council	6 August 2001	Sale and Disposal of Land and Other Assets

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