

Disposal of Assets Policy

NOTE: Council regularly reviews and updates its policies. The latest controlled version can be obtained from the Policy Register on Council's intranet or by contacting Council's Corporate, Governance & Strategy Branch. **A hard copy of this electronic document is considered uncontrolled when printed.**

Table of Contents

1. POLICY STATEMENT	1
2. SCOPE	1
3. GENERAL INFORMATION	2
4. DEFINITIONS	7
5. LEGISLATIVE REFERENCE	7
6. RELATED DOCUMENTS	7
7. NEXT REVIEW	7
8. VERSION CONTROL	7

1. POLICY STATEMENT

Section 104 of the Local Government Act 2009 ('Act') requires that the financial management systems of South Burnett Regional Council ('Council') have regard to the sound contracting principles when entering into a contract for the disposal of assets. Council is committed to the open, transparent and systematic disposal of Council's assets. All Council disposals must be carried out in compliance with the *Local Government Regulation 2012* ('Regulation').

2. SCOPE

This policy aims to provide a framework for the effective and efficient disposal of Council owned current, non-current assets and portable and attractive assets, and to ensure the process is open and transparent and complies with Council's responsibilities under legislation and regulations and complies with Council's policies and procedures. This policy applies to all of Council and its business units.

This policy specifically excludes the sale of land for arrears of rates and charges or sale of services or the sale of any item detailed in Council's Register of Fees and Charges, and any of Council's commercial operations (e.g., Visitor Information Centres, Tourist Parks).

This policy applies to Council employees and contractors in the disposal of all current and non-current assets and items surplus to council requirements.

The objective of this policy is to establish appropriate guidelines for the disposal of assets owned or controlled by Council that are surplus to requirements or otherwise redundant. The guidelines are to provide unambiguous and transparent direction for the disposal of assets to:

- promote fair and effective competition to the greatest possible extent;
- consider any potential benefit to the community;
- consider any impact on the environment;
- achieve best value for money; and
- ensure the same accountability for disposal of assets as that of purchasing assets.

3. GENERAL INFORMATION

Council is committed to ensuring that its disposal of assets is carried out in accordance with the relevant probity and accountability obligations in accordance with the prescribed legislative framework, and to meet all of its statutory obligations.

All Council disposal of assets must comply with the five (5) Sound Contracting Principles detailed in the *Local Government Act 2009 Chapter 4, Section 104 (3)*. These principles are:

- a) value for money;*
- b) open and effective competition;*
- c) development of competitive local business and industry;*
- d) environmental protection; and*
- e) ethical behaviour and fair dealing.*

3.1. Recommendation to Dispose Non-Current Assets

Prior to the disposal of Council assets or materials surplus to requirements or scrap, approval must be sought from the Chief Executive Officer ('CEO') or the CEO's delegate as listed in the delegations register. Common criteria for determining what goods may be suitable for disposal include:

- no longer required;
- unserviceable or beyond economic repair;
- technologically obsolete;
- operationally inefficient;
- contains any environmentally sensitive or hazardous materials;
- surplus to current or immediately foreseeable needs; and
- part of an asset replacement program.

In deciding and recommending an asset for disposal, employees and contractors should consider the needs of other departments, sections or units. This could take the form of a notice communicating surplus assets.

3.2. Disposal Method and Asset Value Considerations of Valuable Non-Current Assets

3.2.1. Valuable Non-Current Asset Limit

In accordance with *Section 224* of the Regulation a valuable non-current asset is land or another non-current asset that has an apparent value that is equal to or more than the following limits:

- a) land – no limit;*
- b) plant & equipment - \$5,000; or*
- c) for another type of non-current asset - \$10,000.*

3.2.2. Non-Current Asset Disposal Guidelines

As required by *Section 227* of the Regulation, Council cannot enter into a contract for the disposal of valuable non-current assets unless it first invites written tenders for the contract in accordance with *Section 228* of the Regulation or offers the asset for sale by auction.

The accepted means of disposal as per *Section 227* and *Section 236* of the Regulation may include, but is not limited to:

- public auction;
- public tenders;
- can be sold in any way as long as the sale price is more than the highest bid received at a previous tender or auction. In this instance, the asset must have been the subject of an earlier tender/auction process;
- trade-in;
- disposal to another government agency; or

- disposal to a community organisation.

3.2.3. Exceptions for Valuable Non-Current Asset Contracts

Section 236 of the Regulation provides for the following exemptions to Section 227:

- a) *the valuable non-current asset:*
 - (i) *was previously offered for sale by tender or auction but was not sold; and*
 - (ii) *is sold for more than the highest tender or auction bid that was received.*
- b) *the valuable non-current asset is disposed of to:*
 - (i) *a government agency; or*
 - (ii) *a community organisation.*
- c) *for the disposal of land or an interest in land:*
 - (i) *the land will not be rateable land after the disposal; or*
 - (ii) *the land is disposed of to a person whose restored enjoyment of the land is consistent with Aboriginal tradition or Island custom; or*
 - (iii) *the disposal is for the purpose of renewing the lease of land to the existing tenant of the land; or*
 - (iv) *the land is disposed of to a person who owns adjoining land in accordance with the criteria set out in Section 236 (1)(c)(iv) of the Regulation; or*
 - (v) *all or some consideration for the disposal is consideration other than money and the criteria set out in Section 236(1)(c)(v) of the Regulation is met; or*
 - (vi) *the disposal is for the purpose of a lease for a telecommunication tower; or*
 - (vii) *the disposal is of an interest in land that is used as an airport or for related purposes and the criteria set out in Section 236(1)(c)(vii) of the Regulation is met.*
- d) *for the disposal of a valuable non-current asset, other than land, by way of a trade-in for the supply of goods or services:*
 - (i) *the supply is, or is to be, made under Part 3 of the Regulation; Default Contracting Procedures; and*
 - (ii) *the disposal is, or is to be, part of the contract for the supply; or*
- e) *for the disposal of a valuable non-current asset by the grant of a lease—the grant of the lease has been previously offered by tender or auction, but a lease has not been entered into; or*
- f) *the Minister exempts the local government from complying with Section 227.*

Exemptions (a) through (d) require a Council resolution prior to disposal of the asset.

All exemptions relating to the disposal of land or an interest in land except for b), c)(ii) and e) require value of the consideration to be equal to, or more than, the market value of the land or the interest in land, including the market value of any improvements on the land.

A written report about the market value of the land or an interest in land from a valuer registered under the *Valuers Registration Act 1992* who is not an employee of Council is evidence of the market value of the land or the interest in land.

Where the disposal is being undertaken in conjunction with the purchase of a replacement asset, the disposal may be treated as a trade-in rather than as a separate contract provided the purchase is undertaken as a properly tendered or quoted purchase contract.

3.2.4. Assets (excluding land) with a Carrying Value below the Carrying Asset Limit (Ex GST)

The relevant department employee or contractor is responsible for determining the appropriate method for the disposal of assets with a carrying value less than the valuable asset limit. The method used for the disposal will maximise the return to Council.

3.2.5. Assets (including land) with a Carrying Value above the Carrying Asset Limit (Ex GST)

For assets with a carrying value of \$5,000 or greater, the disposal method is determined by the relevant employee or contractor on a case-by-case basis considering:

- market forces and impact on return from the sale of the asset;
- the purchase price, lifecycle maintenance costs and remaining useful life to maximise where possible the return on investment of the asset;
- the strategic worth of the asset and its long-term benefit to the community;
- community need for the asset and alternative resources; and
- how the funds received from the disposal of the asset are to be allocated.

3.2.6. Disposal of Council Real Estate

Before any real estate is disposed of, it is necessary to obtain council approval to proceed with the disposal. The proposed disposal must be by resolution of Council after consideration of a report that covers the reasons for recommending the disposal of real estate.

Any real estate offered for disposal shall be first assessed by a Registered Real Estate Valuer. The valuation provided shall be the reserve price for the property. The only exception shall be where the price for land has been fixed based on development costs and profit margins.

3.3. Other Assets – Current Assets and Portable and Attractive Assets

3.3.1. Costs of Storage

For items other than valuable non-current assets, Council employees and contractors should take into consideration the direct and indirect costs of storing items until disposal occurs prior to making the decision to place items in storage. These costs include:

- storage costs – Council aims to minimise items held in storage that are no longer required for business purposes. This contributes to an overall shortage of storage space, which may result in additional paid storage space being sourced;
- obsolescence – some items can become out of date very quickly if left in storage resulting in any benefit from eventual disposal being lost;
- deterioration – some items will deteriorate if left in storage, particularly if the storage location is not completely secure from weather; and
- internal resources – items that are stored will require Council staff to manage, move and eventually dispose of them. The value of stored items should be considered in the context of the internal resources required to manage them.
- public Auctions

The preferred method of disposal is by public auction.

If a public auction is held, all disposals that are offered for sale must follow an open and transparent process and be advertised in local media and on Council's website.

3.3.2. Online Auctions and Tenders

Online auctions and tenders may be utilised as disposal methods.

If online auctions or tenders are held, all disposals that are offered for sale must follow an open and transparent process and be advertised on Council's website.

3.3.3. Scrap Items

Items which are deemed no longer useable and unlikely to provide a positive return or be of interest to a local non-for-profit community organisation may be disposed of as scrap by:

- selling the scrap items through a Council-controlled recycling outlet located at the Kingaroy waste facility;
- sold or offered to an entity that deals in scrap items; or

- sold to an individual or non-for-profit community organisation based on the most current scrap value.

3.3.4. Donations to a Not-for-Profit Community Organisation

Expressions of interest will be invited from local not-for-profit community organisations for the donation of assets. Details of items currently available for donation will be advertised on Council's website and local print newspaper.

Assets can only be donated to a community organisation if that organisation can:

- affirm in writing that they are an entity that carries on activities for a public purpose or their primary object is not directed at making a profit;
- provide written acknowledgement of receipt of the asset;
- acknowledge Council will not be responsible for any repair or maintenance of the asset;
- acknowledge all copyright or licensed content has been removed (e.g., Computer software); and
- take responsibility for the timely removal of the asset and any associated costs that arise from the asset's removal.

3.4. Disposal of Electrical Equipment

The CEO or delegate must ensure that the disposal of any electrical equipment must comply with all relevant conditions detailed in the *Electrical Safety Regulation 2013* prior to disposal of the assets.

3.5. Local Preference

Council will give local industry a fair and reasonable opportunity to tender for disposal of assets. Any disposal of assets will be in line with the five (5) Sound Contracting Principles, particularly taking into account the development of competitive local business and industry. This will be assessed on a case-by-case basis and the weighting will be expressed as a percentage and reflects the relative importance of each criterion.

Council will make a decision to dispose of assets to a business/organisation/person within the region offering a lower price margin, using the following guideline for acceptable price variances:

- 10% for assets under \$50,000; and
- 5% for assets over \$50,000 up to \$200,000.

Local preference is not solely a price benefit, it is an assessable measurement that can be utilised in recognition of the physical presence of the business/organisation/person within the Council area, as well as demonstrated and/or actual accompanying social and economic benefits that this provides to council, such as:

- creation of new and/or maintenance of existing local employment;
- opportunities;
- to assist businesses to remain competitive;
- support economic growth within the local area; and
- returning value-added benefits to Council and its community from local transactions.

A local business, organisation or person is one that:

- is owned and operated by persons who are residents of the council area and pay rates;
- is a registered business or individual that has a principal place of business within the council area;
- has a place of business within the council area which solely or primarily employs persons who are residents or ratepayers of the council area;
- is an organisation within the council area; and
- is a resident or ratepayer within the council area.

3.6. Lost or Stolen Council Property

Section 307(a) of the Regulation contains recording and notification requirements where Council has experienced the loss of an asset.

Where Council becomes aware that property is damaged or missing, it must record details of the loss by completing a Damaged Lost or Stolen Property Report.

If the loss of an asset has a total value of more than \$1,000 or is a reportable loss, Council must notify the Minister and Auditor-General within 6 months of becoming aware of the loss. For money, notification must occur if the loss is more than \$500.

For a loss resulting from the commission of an offence under the Criminal Code or another Act, Council must immediately notify the police.

For a loss resulting in fraud or corruption, Council must also immediately notify the Crime and Corruption Commission.

Where required, the employee or contractor responsible for the items that may have been stolen must notify the Queensland Police Service.

The Manager Finance & Sustainability must be notified immediately and will notify the Auditor-General and Council's Insurance provider where required.

Where the property has been damaged by a member of the public and the following conditions are satisfied:

- the cost of replacement is more than \$1,000;
- the damage is considered to be the result of a negligent or deliberate act; and
- a person or entity has been identified as responsible.

If determined by the CEO or the CEO's delegate there is considered to be a reasonable chance that recovery actions would result in a positive financial outcome to Council, Council will pursue recovery of costs.

3.7. Documentation and Declarations

All disposals must be documented, whether sold or scrapped, and authorised by the CEO or the CEO's delegate.

The relevant department employee or contractor is to ensure:

- the disposal methodology is fully documented, and all documentation is filed in Council's electronic documentation management system;
- any conflict of interest real, perceived or otherwise, in relation to the chosen means of disposal or with the parties involved in the disposal process should be declared and registered;
- if required, a conflict-of-interest management plan is completed, and plan actions are adhered to
- council asset registers and GIS are updated; and
- council insurance registers are updated.

3.8. Caretaker Period

Council must not make a major policy decision during the caretaker period prior to an election unless exceptional circumstances exist. This includes entering into any contract, the value of which is greater than \$200,000. (ex GST) or 1% of the Council's net rate and utility charges as stated in the financial statements of its annual report, whichever is the greater.

If Council does enter into a Contract that exceeds these amounts and the transaction does not constitute exceptional circumstances, they may be liable for legal proceedings and /or compensation to the other party of the contract who has acted in good faith. The contract would be considered to be an invalid policy decision.

4. DEFINITIONS

Act means *Local Government Act 2009*

Assets comprises of property, plant and equipment, stock and scrap

Asset disposal means a process where Council divests itself of an asset in a systematic and authorised manner as directed by this policy.

Best Value means obtaining the best possible return for the goods it sells in financial, social, economic and environmental terms.

Council representative means all Councillors and Council employees including permanent, casual and temporary employees, apprentices, trainees, contractors, volunteers, and work experience students.

Ex GST means excluding goods and services tax.

Not for Profit Organisation means is an organisation that uses its surplus of the revenue to further achieve the organisations objectives rather than income.

Obsolescence means the process of becoming obsolete or outdated and no longer used.

Redundant means no longer needed.

Regulation means *Local Government Regulation 2012*.

5. LEGISLATIVE REFERENCE

Local Government Act 2009 (Qld)

Local Government Regulation 2012 (Qld)

Valuers Registration Act 1992 (Qld)

6. RELATED DOCUMENTS

South Burnett Regional Council Asset Management Policy – Strategic014

South Burnett Regional Council Employee Code of Conduct – Statutory011

South Burnett Regional Council Employee Conflict of Interest Policy – Statutory048

South Burnett Regional Council Employee Conflict of Interest Procedure – Procedure080

South Burnett Regional Council Procurement Policy – Statutory007

7. NEXT REVIEW

As prescribed by legislation or September 2024

8. VERSION CONTROL

Version	Revision Description	Adopted Date	ECM Reference
1	Development of policy	23 February 2011	2686038
2	Review of policy	20 May 2020	2686038
3	Organisational structure review – resolution 2022/432	27 April 2022	2686038
4	Review of policy	28 September 2022	2686038


Mark Pitt PSM
CHIEF EXECUTIVE OFFICER

Date: 28 September 2022

