	Function: CORPORATE AND COMMUNITY SERVICE (FINANCIAL MANAGEMENT)	Adopted: 4 th April 2012 Resolution No.: C67:12
	Policy Number: FIN008	Last Review: 6 th July 2022 Resolution No.: C189:0722
	Version Number: 7	Next Review: Annually
DISPOSAL OF LAND AND OTHER ASSETS POLICY		

Policy Statement

1. Introduction

1.1. The Disposal of Land and Other Assets Policy (Policy) sets out the framework for disposal of land and other assets, including major and minor plant and equipment and waste materials owned by the Copper Coast Council (Council) in accordance with legislative requirements.

2. Scope

2.1. The objective of the Policy is consistent with Section 49 (a1) of the Local Government Act, which states Council must development and maintain procurement policies, practices and procedures towards:

- 2.1.1. Obtaining value in the expenditure of public money; and
- 2.1.2. Providing for ethical and fair treatment of participants; and
- 2.1.3. Ensuring probity, accountability and transparency in the procurement operations.

2.2. Clause 2.1 applies to the disposal of land and other assets, but excludes:

- 2.2.1. Sale of land for the non-payment of rates, under Section 184 of the *Local Government Act 1999*; or
- 2.2.2. Disposal of goods which are not owned, such as abandoned vehicles and their contents, under Section 237 of the *Local Government Act 1999* and the *Unclaimed Goods Act 1987*.

3. Applicable Legislation

3.1. The following legalisation applies to this Policy:

- Local Government Act 1999
- Real Property Act 1886
- Land and Business (Sale and Conveyancing) Act 1994
- Planning, Development and Infrastructure Act 2016
- Retail and Commercial Leases Act 1995
- Residential Tenancies Act 1995
- Strata Titles Act 1988
- Crown Land Management Act 2009
- Community Titles Act 1996
- Roads (Opening and Closing) Act 1991
- Land Acquisition Act 1969
- Unclaimed Goods Act 1987

3.2. This Policy is not a mandatory requirement but essential for good governance.

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Lifestyle location of choice

4. Integration with Corporate Objectives

4.1. This Policy supports Council's Strategic Plan 2019 - 2029

4.1.1. Governance Objective – Leadership

Goal 5 - To provide leadership and ensure community resources are managed efficiently and effectively.

- 5.2 Finance – To have open, accurate and effective financial Management.
- 5.3 Legislation – To adhere to the requirements of the Local Government Act 1999, regulations and other legislation that influences the operations of Council.

5. Related Council Policies and Documents

5.1. This Policy is also designed to operate in conjunction with other policies, including:

- Internal Financial Control Policy;
- Prudential Management;
- Procurement Policy;
- Public Consultation Policy.

6. Definitions

For the purposes of this Policy, the following definitions apply:

- 6.1. **Asset** means any item that Council owns and that is recognised by the Council's accounting system as an asset. This includes land, buildings, plant, machinery, major and minor plant, equipment, waste materials; and all other physical objects. It does not include financial investments or finance related activities.
- 6.2. **Authorised Officer** is defined as an Authorised person delegated authority under Section 44 of the *Local Government Act 1999*.
- 6.3. **Chief Executive Officer (CEO)** means the appointed Chief Executive Officer under Section 96 of the *Local Government Act 1999* and includes any person acting or delegated by the Chief Executive Officer's under Sections 100 and 101 of the *Local Government Act 1999*.
- 6.4. **Council** means the Copper Coast Council and any delegate of the Council.
- 6.5. **Land** includes assets that are community land, vacant land, operational land, all buildings (community and operational), road reserves, any legal interest in land, and any other land-related assets.
- 6.6. **Major plant and equipment** means assets other than land that are deemed to have a residual value (singularly or jointly) above \$10,000. This category includes trucks, graders, other operating machinery, motor vehicles and small plant items.
- 6.7. **Minor plant, equipment and waste materials** means assets that are deemed to have a residual value (singularly or jointly) below \$10,000. This may include:
- 6.7.1. Surplus items of value including loose tools, store items, furniture, second hand items removed from other assets (e.g. air conditioners, bricks, pavers and exercise equipment) surplus to Council needs; and
- 6.7.2. Materials received at the Resource Recovery Centre through its normal operations (eg scrap steel, batteries, bottles/cans, any items suitable for repurposing, recycling and/or resale), that support circular and sustainable practices, reducing landfill and waste handling and disposal costs.

7. Application

Council must have regard to the following principles in the disposal of Council land and assets:

7.1. Open and Effective Competition

Disposal of land and assets shall be open and result in effective competition. Council must give fair and equitable consideration to all prospective purchasers.

7.2. Obtaining Value for Money

Council must aim to achieve the best value for money in disposing of assets. The concept of value for money is not restricted to price alone. The value for money assessment must include consideration (where applicable) of:

- a) contribution to Council's long term financial plan and strategic plan;
- b) any relevant direct and indirect benefits both tangible and intangible;
- c) efficiency and effectiveness;
- d) costs of various disposal methods;
- e) internal administration costs;
- f) risk exposure; and
- g) value of any associated environmental benefits.

7.3. Ethical Behaviour and Fair Treatment

Council will:

- a) undertake the disposal process with impartiality, fairness, professionalism, independence, openness, integrity at all times;
- b) provide all prospective purchasers with equal opportunity to make an offer;
- c) manage conflicts of interest with prospective purchasers at all times,
- d) use straight forward and user-friendly tender documentation;
- e) adopt clear and easy to understand evaluation criteria and methodology;
- f) maintain consistent processes and feedback on decisions;
- g) offer access to a timely and effective complaints procedure; and
- h) ensure effective communication and provision of information of outcomes to all prospective purchasers.

7.4. Probity, Accountability, Transparency and Reporting

Council will be answerable for their plans and actions and for the outcomes at all times. The disposal process will be undertaken in a manner that ensures:

- a) clearly established roles and responsibilities;
- b) appropriate record keeping and documentation;
- c) transparency of decisions made;
- d) adherence to all legislation and Council's codes of conduct;
- e) identification and management of actual or potential conflicts of interest; and
- f) the confidentiality of all commercial information.

7.5. Environmental Protection and Sustainable Practises

Council will ensure protection of the environment when undertaking the disposal processes. Council supports and encourage environmentally responsible activities, including circular and sustainable practises.

7.6. Considerations Prior to Disposal of Land and Assets

Council will give thorough consideration prior to undertaking to dispose of land and assets of the following:

- a) the usefulness of the land or asset;
- b) the current market value;
- c) the remaining useful life;
- d) the annual cost of maintenance;
- e) any alternative future use of the land or asset;
- f) any duplication of the land or asset or the service provided by the land or asset;
- g) the positive and negative impacts the sale or disposal of the land or asset may have on the operations of the Council;
- h) the positive and negative impacts the sale or disposal of the land or asset may have on the community;
- i) any cultural or historical significance of the land or asset;
- j) the long term plans and strategic direction of the Council (e.g. meeting objectives of Council's Strategic Management Plan, Long-term Financial Plan and Asset Management Plans);
- k) compliance with Council policies and services - Range and Levels; Internal Financial Controls and Prudential Management;
- l) a benefit and risk analysis of the proposed disposal or land and assets;
- m) the result of any community consultation process.

In addition, when considering disposing of land, give consideration of the following:

- a) current leasing arrangements;
- b) the topography of the land;
- c) any restrictions on disposal of land held in trust; and
- d) content of the Community Land Management Plan.

The Chief Executive Officer will report to Council seeking Council resolution to sell Council land and buildings. The report will provide a clear assessment of all relevant factors including those outlined above.

When considering to sell or dispose of land, Council will seek to achieve, at or above current market valuation.

7.7. Disposal Methods of Land and Assets

7.7.1. Land - Disposal Method

Council will sell land and buildings, which it determines to be surplus to Council's requirements, by one of the following methods:

- a) Open market sale - advertisement for sale through local paper and where appropriate, a paper circulating in the state or by instigating the services of a licensed real estate agent;
- b) Expressions of interest - seeking expressions of interest for the sale or otherwise disposal of land;
- c) Select tender - seeking tenders from a selected group of persons or companies;
- d) Open tender - openly seeking, through advertisement, tenders, or buyers for land;

- e) Public auction – by appointment of a suitably qualified auctioneer with an established reserve price;
- f) Direct sale – where the land is to be used by the purchaser where the land is to be used for a purpose which is consistent with Council’s objectives for the land;
- g) By negotiation – with owners of adjoining land or others with a pre-existing interest in the land (such as easements or rights of way), which may include:
 - (i) land that because of its small size, dimensions or irregular shape would not readily support a self-contained development outcome;
 - (ii) land that has no legal access; or
 - (iii) land to be developed by another sphere of government.
- h) Selection of a suitable method will include consideration of the:
 - (i) number of known potential purchasers of the land;
 - (ii) original intention for the use of the land when purchased or otherwise granted ownership;
 - (iii) current and possible preferred future use of the land;
 - (iv) total estimated value of the sale; and
 - (v) compliance with statutory and other obligations.
- i) The reasons for selecting the method of sale, including the reasons for entering into any contract for the sale of land other than by a tender process, will be documented in a resolution of Council.

7.7.2. Land - Disposal Conditions

- a) Council will not dispose of land to any Council Member or employee of the Council who has been involved in any process related to a decision to dispose of land and/or establishment of a reserve price.
- b) If the land is to be auctioned or disposed of by expression of interest (unless Council resolves otherwise) then one (1) independent valuation must be sought to establish the reserve price for the land.
- c) If the land is to be placed on the open market, the price for the land may be determined through an independent valuation or consultation with the selected land agent, give consideration to recent sales and the State Valuations Office valuation.
- d) If the land is to be sold or disposed of via select tender or direct sale, (unless Council resolves otherwise) then a minimum of two (2) independent valuations must be sought to ensure that an appropriate market value is obtained.
- e) Disposed of land of two (2) adjoining owners should (where possible) be amalgamated with an existing adjoining title.
- f) If Council proposes to grant an easement (including a right-of-way) then to ascertain the value of the easement an independent valuation must be sourced (unless Council resolves otherwise).
- g) Unless Council resolves otherwise, all costs associated with the sale or disposal of land must be borne by the purchaser or realised within the purchase price.

- h) If the land is classified as Community Land then, pursuant to Section 201(2)(a) of the *Local Government Act 1999*, Council can consider a recommendation for disposal only:
 - (i) if the land is to be amalgamated with one (1) or more other parcels of land and the amalgamated land is to be (or to continue to be) Community Land; or
 - (ii) in any other case—after revocation of its classification as Community Land.
- i) If land forms a road or part of a road then, pursuant to Section 201(2)(b) of the *Local Government Act 1999*, the Council can consider a recommendation for disposal only after the closure of the road under the *Roads (Opening and Closing) Act 1991*.
- j) Where land is classified as Community Land and in other circumstances where community consultation is required, such consultation must be completed in accordance with the *Local Government Act 1999* and Council's Public Consultation Policy prior to Council determining its decision on disposal.

7.7.3. Major Plant and Equipment - Disposal Methods

- a) The sale or disposal of major plant and equipment will be the responsibility of a Council employee responsible for the asset, as determined by the Chief Executive Officer.
- b) As appropriate, any of the following methods may be used for the sale or disposal of major plant/equipment:
 - (i) Trade in - trading in goods to equipment suppliers;
 - (ii) Expressions of interest - seeking expressions of interest for buyers;
 - (iii) Select tender - seeking tenders from a selected group of persons or companies;
 - (iv) Open tender - openly seeking, through advertisement, tenders or buyers; or
 - (v) Public auction - by appointment of a suitably qualified auctioneer with an established reserve price
- c) Selection of a suitable option will include consideration of the:
 - (i) public demand and interest in the asset;
 - (ii) method most likely to return the highest revenue;
 - (iii) value of the asset;
 - (iv) costs of disposal method compared to the expected return; and
 - (v) compliance with statutory and other obligations.

7.7.4. Major Plant and Equipment - Disposal Conditions

- a) The reasons for selecting the method of sale, including the reasons for using anything other than a tender process, will be documented in Council's records management system.
- b) Council Members and employees of the Council will not be permitted to purchase major plant and equipment unless the purchase is through public auction.
- c) Where relevant, purchasers will be required to acknowledge in writing that no warranty is given in respect of the suitability and condition of the item before purchasing any item of major plant and equipment.

7.7.5. Minor Plant, Equipment and Waste Materials - Disposal Method

- a) The sale or disposal of minor plant, equipment and waste materials will be the responsibility of the Council employee responsible for the asset.
- b) As appropriate, the following methods will be used for the sale or disposal of plant, equipment and waste materials:
 - (i) Trade in - trading in goods to suppliers;
 - (ii) Public auction - sale of goods through public open process (e.g. for items grouped into lots such as IT equipment, phones, etc); or
 - (iii) Expressions of interest - seeking expressions of interest from prospective purchasers after advertising.
 - (iv) Direct sale – where possible Council will obtain at least two (2) written quotes from businesses to purchase the items.
 - (v) Transfer to a Not-for-Profit Copper Coast Community Group – sale direct to a community group at a fair value or for very low value items (alternative is Resource Recovery Centre) gift the item to a Community Group.
- c) Selection of a suitable option will include consideration of the:
 - (i) public demand and interest in the minor plant, equipment and waste material;
 - (ii) method most likely to return the highest dollar value/revenue;
 - (iii) value of the minor plant and equipment;
 - (iv) costs of disposal method compared to the expected return; and
 - (v) compliance with statutory and other obligations.

7.7.6. Minor Plant, Equipment and Waste Materials - Disposal Conditions

- a) The reasons for selecting the method of sale will be documented in Council's records management system.
- b) Council Members and employees of the Council will not be permitted to purchase minor plant, equipment and waste materials unless the purchase is through public auction.
- c) Where relevant, purchasers of surplus minor plant, equipment and waste materials will be required to acknowledge in writing, as a condition of sale, that no warranty is given in respect of the suitability and condition of the item.
- d) Where an item of minor plant, equipment and waste materials has no remaining useful life it may be disposed of utilising an appropriate environmental disposal method (e.g. electronic waste via eWaste).

7.7.7. Sale of Items which are not Assets

- a) Where Council determines to dispose of items which are not on Council's asset register and not subject to any other statutory procedure (e.g. *Unclaimed Goods Act 1987*), this Policy can be used as a guide by estimating the residual value and following disposal methods with the appropriate level of accountability and transparency.

7.7.8. Consultation

- a) Land used for operational requirements - For land deemed to be surplus to requirements classified as operational land (and excluded from classification as Community Land) Council will determine case by case basis and with reference to the Council's Public Consultation Policy, the extent and nature of any consultation that may be required.

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- b) Land Excluded from Community Land but not used for Operational Purposes - Land which has been excluded from the Community Land provisions pursuant to the *Local Government Act 1999*, Council will determine appropriate consultation methods by way of a report. For example, consultation may take place on the disposal of land which does not have Community Land status but is currently used by the community or where there may be an expectation that land will be retained for the benefit of the community.
- c) Community Land - Any proposal to revoke the status of Community Land (with a view to potential sale of the land) must be the subject of public consultation in accordance with Section 194 of the *Local Government Act 1999* and Council's Public Consultation Policy.
- d) Major plant and equipment and minor plant, equipment and waste materials - No specific consultation requirements are necessary for disposal of plant and equipment. However, publicity will be necessary to ensure the success of disposal methods such as an auction, tender, or to invite expressions of interest, as outlined in this Policy.

8. Complaints

- 8.1. Complaints under this Policy must be in writing to the Chief Executive Officer and lodged in accordance with Council's Complaints Policy.
- 8.2. Any breaches under the Council Employee Code of Conduct will require evidence to support the allegation(s).
- 8.3. In the case of a complaint against the Chief Executive Officer, complaints must be in writing to the Mayor and will require evidence to support the allegation(s).

9. Council Delegation

- 9.1. Pursuant to Section 44 of the *Local Government Act 1999*, Council delegates to the Chief Executive Officer authority to administer Council's policies.
- 9.2. Council has delegated to the Chief Executive Officer or his nominee, the powers to dispose of land. The reasons for selecting the method of sale, including the reasons for entering into any contract for the sale of land other than by a tender process, will be documented in a resolution of Council.
- 9.3. As an exception to that rule, the Council may choose to delegate to its Chief Executive Officer a general power under Section 201(2)(e) of the *Local Government Act 1999*, to grant an easement (other than a right-of-way) over a road or part of a road.
- 9.4. Any delegation of authority to dispose of land will be subject to conditions that the exercise of delegated power must be consistent with this Policy. Therefore, any proposal to dispose of land in a manner that would be inconsistent with this Policy must be considered by a resolution of Council.
- 9.5. Documents which transfer the ownership of land must be signed jointly by the Principal Member of the Council and the Chief Executive Officer.
- 9.6. Council will, when implementing the decisions under this Policy, act in accordance with the Council's budget, relevant policies, plans, agreements and resolutions.

10. Adoption and Review

10.1. This Policy shall be reviewed bi-annually, by the Director of Corporate and Community Services, with the review being undertaken by the Audit Committee and report provided to Council for consideration and adoption.

10.2. This Policy can be reviewed more frequently, if legislation or Council requires by the Audit Committee and a report shall be provided to Council for consideration and adoption.

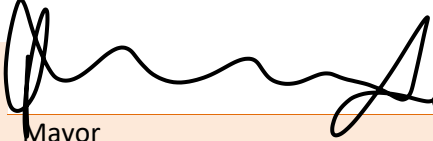

11. Records Management

11.1. Official records will be managed in accordance with Councils Records Management Policy pursuant to Section 125 of the *Local Government Act 1999*.

12. Availability of Policy

12.1. Policies will be available for inspection without charge at Council’s Principal Office and on Council’s website www.coppercoast.sa.gov.au.

12.2. A copy of this Policy may be obtained on payment of a fee in accordance with Councils’ Schedule of Fees and Charges.

Signed		
	Mayor	Chief Executive Officer
Date	6th July 2022	