

1 PURPOSE

The Policy establishes clear processes for the acquisition of land (real property) (Part A) including conditions for taking control over Crown Land or other open space (Part B), the disposal of land including the disposal of land held for 'community purposes' (Part C).

Section 182(1) of the Local Government Act 2008 provides that, "Subject to the Minister's guidelines, a Council may deal with or dispose of property of which the council is the owner".

The Minister's guidelines currently in force state that:

- Sale and disposal of land and other assets should be consistent with the Council's economic, social and/or environmental objectives.
- When considering options for the sale of and disposal of land and other assets, council should look for opportunities to advance the objectives of the Council's Strategic Plan.
- Commercial confidentiality should apply to negotiations for sale and disposal of land and other asset transactions unless Council decides otherwise.
- In circumstances where there is a sale or disposal other than by tender process, as may be considered and determined by Council on individual case merits, the reasons for entering into such contracts should be documented.

2 SCOPE

To establish a process for the sale and disposal of land and other assets which is considered, fair and transparent to ensure Council obtains the best outcomes and price.

3 POLICY STATEMENT

3.1 PART A LAND ACQUISITION

The framework of the Policy aims to provide Council with a policy which adopts the following principles:

- Probity,
- Statutory Compliance,
- Commercial Maximisation and Flexibility and confidentiality,
- Transparency of Process,
- Achievement of specific Policy outcomes of Council.

3.2 PART B ACCEPTANCE OF LAND (OPEN SPACE) BY COUNCIL

Council will only accept responsibility for land which meets the following guidelines:

LAND ACQUISITION AND DISPOSAL – 010		Page 1 of 4
Version: 3	Decision Number: 21\3649	Adoption Date: 25/08/2015
Responsible Officer: Chief Executive Officer		Next Review Date: 25/08/2019



3.2.1 Crown Land

Undeveloped Crown Land

- Council to be granted freehold title to the land.
- The area is to be cleared of rubbish and debris and levelled where appropriate.
- The area is to be fenced where appropriate.
- A water service of a size adequate to properly water the area will be provided at the boundary, where appropriate.
- Council will accept no responsibility until the land is properly vested to Council control.

Developed Crown Land

The development is at a standard agreed by Council and Government. Council will not accept any legal or ownership responsibility for the development until the land is properly vested in Council with freehold title.

3.2.2 Private Subdivisions

- Private developers will be required to develop the land to a standard approved by Council in accordance with its relevant standards and as set out in writing.
- Council will accept no responsibility until the land is vested to Council control.
- Council to be issued freehold title.

3.2.3 Ovals, Sporting, Recreational and Community Facilities

Where ovals, sporting, recreational and community facilities are to be managed and maintained by Council, the funding, development and maintenance responsibility costs will be subject to a formal agreement between Council and Government.

3.3 PART C LAND DISPOSAL

As a general rule, Council (as custodian of public assets) would dispose of all property interests in an open market format to ensure due probity of process and optimal financial return (and minimal risk).

However, one of Council's roles of participating in the marketplace via land ownership is to facilitate desired goals and objectives to ensure the growth and prosperity of the City, which if left to the private marketplace alone, may not be achievable.

This may encompass a range of opportunities for Council's involvement (i.e. site amalgamations with adjoining owners, facilitation of key projects etc) where property disposal activities based on an open market approach and due probity process alone will/may not achieve such objectives.

The purpose of a Land Disposal Policy therefore, is to provide Council with:

- A documented reference to guide its decision making process,
- Provide a reference that will survive successive Councils,
- Provide a Council endorsed framework to enable the Officer to discuss potential land disposal activities with third parties,
- Establish delegations necessary to allow day-to-day property management functions to be addressed by Council Officers.

LAND ACQUISITION AND DISPOSAL – 010		Page 2 of 4
Version: 1	Decision Number: 21\3649	Adoption Date: 25/08/2015
Responsible Officer: Chief Executive Officer		Next Review Date: 25/08/2019



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- Probity,
- Statutory Compliance,
- Commercial Maximisation and Flexibility and confidentiality,
- Transparency of Process,
- Achievement of specific Policy outcomes of Council.

Application: This Policy applies to any form of contract which legally binds the Council (or potentially binds Council) and includes formal contracts and other forms of contractual arrangements including heads of agreement, in principle agreement, options to purchase, leases etc.

Statutory Context: The Local Government Act vests authority in the Council to “deal with or dispose of” property of which the Council is the owner subject to the Minister’s Guidelines.

Exclusions: This Policy does not extend to the disposal of “public roads” or any interests in public roads (i.e. permits etc) as such matters are dealt with in accordance with the specific provisions of the Local Government Act and any other relevant legislation.

3.3.1 Circumstances for an Alternative Process

Council may undertake an alternative process for the disposal of land where in Council’s opinion, an alternative disposal approach will achieve greater benefits to the ratepayers than could be achieved through a public process and will entertain a direct sale, lease or similar to the exclusion of a public process.

The circumstances which give rise to an alternative process include:

- Where the total cost of the public sale process will exceed the expected community benefit. For example, where the land is worth \$1,000 and the cost to market the land is \$5,000.
- Where there is only one identifiable purchaser. For example where a site is not large enough for development in its own right and is surrounded by public roads on all sides other than the adjoining owner.
- Where Council is bound by a contractual obligation. For example, a tenants with a first right of refusal.
- Disposal to adjoining owners or persons with an option over adjoining land where Council’s Land is required as part of a larger scheme of development.
- Disposal of land to the NT Government to facilitate a strategic project.
- Disposal of land to a government or utility authority for the purpose of infrastructure provision.
- Where a public marketing process which has been undertaken in accordance with this Policy has failed to achieve the desired outcome.
- In response to a proposal which achieves specific policy goals of Council. This exclusion aims to allow Council to respond to an approach for the development of a unique project. Any such proposal must comprise a concept plan and description of the project and clear demonstration of the achievement of specific policy and strategic goals and objectives of Council.
- Disposal of land for consolidation with adjoining private land to form a larger site ‘where the sale of the land to the adjoining land owner facilitates Council’s strategic objectives’.

LAND ACQUISITION AND DISPOSAL – 010		Page 3 of 4
Version: 1	Decision Number: 21\3649	Adoption Date: 25/08/2015
Responsible Officer: Chief Executive Officer		Next Review Date: 25/08/2019



4 DEFINITIONS

Authorised Officer is a person appointed by Council for the purposes of enforcement of the Local Government Act and associated legislation.

Land is all “real property” that being “land and all things attached to the land so as to become part of it”.

As a more specific reference for the purpose of this Policy, land is defined as:

Land as a physical entity including:

- any building or structure on or improved to land; or
- land covered by water and, in such a case, the overlying water; or,
- air rights; or,
- a strata lot pursuant to relevant strata legislation.

A legal estate or interest in, or right in respect of land.

5 LEGISLATIVE REFERENCES

Section 182 (1) of the Local Government Act provides that ‘subject to the Minister’s Guidelines, a Council may deal with or dispose of property of which the Council is the owner’.

Ministerial Guidelines made pursuant to S 258 of that Act were made on June 29 2008 with effect from July 1 2008. Part 7 Deals with the disposal of property.

The Council may also have access to the powers contained within the Lands Acquisition Act by arrangement with the Minister.

6 PROCEDURES / RELATED DOCUMENTS

Local Government Act
Long Term Lease Policy

7 RESPONSIBILITY / APPLICATION

Responsible Officer means an officer nominated by the Chief Executive Officer with responsibility for ensuring that Council’s:

- Land Acquisition Policy and principles are followed; and
- Land Disposal Policy and principles are followed
- Long term lease Policy and principles are followed.

The Chief Executive Officer is responsible for ensuring that this policy is understood and adhered to by all Council staff.

All Council staff are responsible for complying with this policy.

LAND ACQUISITION AND DISPOSAL – 010		Page 4 of 4
Version: 1	Decision Number: 21\3649	Adoption Date: 25/08/2015
Responsible Officer: Chief Executive Officer		Next Review Date: 25/08/2019

