

# Strathbogie Shire Council Disposal or Sale Of Council Assets Policy and Procedure

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October 2022



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# Disposal or Sale of Council Assets Policy

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Responsible Officer:	Director Sustainable Infrastructure

## PART 1 POLICY

### 1. PURPOSE

The *Local Government Act 1989* and *Road Management Act 2004* underline the role of Council as custodians of all Strathbogie Shire Council assets and its responsibility to:

- provide stewardship
- adopt a corporate asset management policy and asset management strategy
- consider the impact of financial and service level decisions on Council's assets.

A key part of the effective management of Council's assets is the identification of, and process for, disposing of redundant assets.

Council owns a range of assets to support service provision to the community ranging from roads, bridges, land and machinery and to information technology equipment and office furniture. Whether large or small, the responsible management of Council's assets must be a whole of organisation commitment.

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A key part of the effective management of Council's assets is the identification of, and process for, disposing of redundant assets.

Whether a piece of land, piece of machinery or a smart phone, asset disposal needs to be undertaken in an open and transparent way that ensures a best value for money outcome is achieved.

## **2. POLICY STATEMENT**

This policy and its procedures apply to all Strathbogie Shire Council operations and are designed to achieve advantageous disposal outcomes through:

- implementing Council's Asset Management Policy and asset management plans
- ensuring the disposal or rationalisation of Council's assets is carried out in a transparent, fair, and independent manner
- enhancing value for the community by using competitive disposal processes
- promoting the use of resources in an efficient, effective and ethical manner
- ensuring decision making is consistent, fair and equitable
- making decisions with probity, accountability and transparency
- satisfying Council's economic, social and environmental policies
- appropriately managing risk
- compliance with all relevant legislation.

## **3. APPLICATION OF THIS POLICY**

This policy and its procedures apply to any person or body responsible for the identification of assets that require disposal or rationalisation.

Councillors, Council employees, volunteers and contractors must comply with the following principles in all disposal of asset activities:

### **(a) Consistency with Council's Asset Management Policy and asset management plans**

A decision to dispose of an asset must be consistent with Council's Asset Management Policy and any relevant asset management plan that applies to the category or type of asset.

### **(b) Open and effective competition**

Disposal of assets should be undertaken in an open manner, resulting in effective competition and in a way that stands up to public scrutiny. Fair and equitable consideration must be given to all prospective purchasers.

### **(c) Independence in the method of disposal**

Assets must be disposed of in a way that avoids the disposal of any asset to a Councillor, staff member or contractor without an independent, public and competitive process being undertaken.

### **(d) Maximising community value**

Council must aim to achieve best value for the community when disposing of assets, which is not limited to monetary value alone. The assessment of community value must include consideration, as applicable, of:

- Whether the asset being disposed of requires replacement and if so, what new assets will be acquired
- consistency with the Council Plan and other strategic priorities
- financial considerations including all relevant direct and indirect benefits
- efficiency and effectiveness
- the costs of various disposal methods
- internal administration costs
- risk exposure
- any associated environmental benefits.

**(e) Ethical behaviour and fair dealing**

Council is to behave with impartiality, fairness, independence, openness and integrity in all decisions, discussions and negotiations.

**(f) Sound record keeping**

Officers are responsible for completing the necessary forms and documentation outlined in this policy and its procedures to ensure the disposal of assets can be tracked and independently audited.

**(g) Sustainability objectives**

In undertaking any disposal activities Council will act in a sustainable manner.

**4. ACCOUNTABILITY AND RESPONSIBILITIES**

<b>Role</b>	<b>Responsibilities</b>
Director Sustainable Infrastructure	Is the owner of this policy and responsible for its review, overall implementation and monitoring, along with approvals as set out in the procedures.
Manager Assets and Manager Operations	Are responsible for co-signing the form for the disposal of fleet or plant.
Managers	Are responsible for ensuring their staff comply with this policy and for approvals as set out in the procedures. Responsibility to notify the CFO that the asset has been disposed of to enable the Asset Register is updated Notification to relevant officers to ensure that commitments attached to the assets are cancelled e.g. insurance, maintenance/service agreements.
All staff	Are responsible for understanding this policy and complying with the policy and its procedures at all times.
Executive Leadership Team	Is responsible for ensuring all staff within their teams comply with this policy,

along with approvals as set out in the procedures.

## 5. CONSIDERATIONS TO IDENTIFY ASSETS DUE FOR DISPOSAL

### 5.1 Factors to be considered when assessing if an asset is due for disposal

The following factors must be considered when identifying an asset that is due for disposal and addressed in writing when completing the relevant Asset Disposal Evaluation Form outlined in Attachment 1:

- how the disposal of the asset implements the Council Plan, Strategic Resource Plan and long-term financial objectives
- the relevant Asset Management Plan's provisions for asset renewal and disposal
- whether the asset is underutilised
- useability of the asset
- the remaining useful life of the asset
- current market value
- any duplication of the asset that supports its disposal
- annual maintenance costs
- cost of repair or replacement for a similar asset
- appropriate timing for the disposal to maximise community benefit
- any impacts, positive or negative, of the disposal of the asset on the community
- the service provided by the asset, whether it requires replacement to meet service needs and how its replacement will be funded
- potential risk of ownership (e.g. contains hazardous materials), including health and safety risks for operators or the community
- cultural or historical significance of the asset
- any positive or negative impact on human rights and Council meeting its obligations under the Victorian Charter of Human Rights and the *Charter of Human Rights and Responsibilities Act 2006*
- the outcome of any community consultation processes
- any restrictions on the proposed asset disposal
- any other relevant Council policies
- where or for what purpose the proceeds of the asset's sale will be allocated or spent.

## 6. METHODS OF ASSET DISPOSAL

The following options are available for the disposal or rationalisation of an asset in the most cost effective and beneficial manner to the community. When assessing the means of disposal, it is important to aim to achieve the objective of 100% diversion from assets going to landfill:

Disposal method	Rationale
Trade in	Trading in equipment as part of another purchase or plant rationalisation process
Expression of Interest	Seeking expressions of interest from prospective buyers through the placement of public notices in relevant newspapers and

	on Council's website in accordance with Council's Procurement Policy and Procedures
Open tender	Using a public tender process to openly seek bids in accordance with Council's Procurement Policy and Procedures
Sale or public auction of land	Engaging the services of a real estate agent or auctioneer (in accordance with the Procurement Policy and Procedures) to offer the land for auction or sale after satisfying the requirements of the Act (including requesting a current valuation of the asset)
Sale or public auction for other assets (excluding land)	Engaging the services of an agent or auctioneer (in accordance with the Procurement Policy and Procedures) to dispose of the asset via a public auction (whether online or in person)
Demolish, Dump or Recycle	Depending on the condition, safety and useability of the asset, the value of the asset may be written off and the asset disposed of through demolition, dumping or waste collection if beyond economical repair
Secure destruction	Items to be sent for secure destruction in order to comply with Australian Government Protective Security Policy Framework and/or other relevant Agencies' policies
Donation to a charity or gifting to a community organisation	Donation of the asset to a registered charity or gifting to a local community group/organisation
Land exchange	A land exchange by private treaty between Council and another party may be considered where there is identified mutual benefit and quantifiable community benefit to equalise the value of the land in accordance with section 191 of the Act.

## 7. PREPARATION OF ASSETS FOR DISPOSAL OR SALE

Prior to disposal or sale, the asset must be checked to ensure that the asset does not contain:

- additional items not intended for sale
- confidential documents (including memory sticks, records, files or papers)
- documents on Council letterhead which may be used in a fraudulent way
- hard drives which have not been erased or physically destroyed to delete Council operated software in order to avoid breach of licenses or information and data privacy
- hazardous materials
- any other identifier that the property was once owned by Strathbogie Shire Council.

The officer responsible for disposal of the asset must verify that asset being disposed does not contain information classified as 'sensitive' or higher. If media or equipment is unable to be sanitised, then secure destruction must be the method of disposal.

## **8. PUBLIC CONSULTATION**

Sections 189 and 207(a) of the Act require Council to undertake mandatory public consultation when considering a proposal to sell land.

To facilitate this process, a resolution of Council is required to commence the consultation process and must include a discussion of the merits of the asset's disposal against the provisions of Section 8 Considerations to Identify Assets Due for Disposal.

Council must then consider any written (and supporting verbal) submissions made during the statutory consultation period prior to deciding as to whether the land will be sold.

## **9. NO DIRECT SALE TO COUNCILLORS, COUNCIL OFFICERS OR CONTRACTORS**

Councillors, Council Officers, volunteers and contractors are not permitted, under any circumstance, to purchase assets being disposed of by Council unless the method of disposal is through a public auction or sale process that is being undertaken by an independent third party (i.e. real estate agent or auctioneer).

## **10. BUYER'S RISK**

Regardless of the disposal method used all prospective buyers must be advised in writing that the asset is disposed of, without any faults, at the buyer's risk ('as is where is'). Buyers are to rely on their own investigations regarding the condition and function of the asset and Council will not be responsible for any repairs or maintenance of the asset.

## **11. EXEMPTIONS IN EXCEPTIONAL CIRCUMSTANCES**

From time to time there may be exceptional circumstances that arise where the processes and guidance outlined in this Policy will not deliver the best outcome for Council or the community.

Should this be the case, the waiver of the requirements of this policy must be subject to a resolution of Council to ensure maximum transparency and accountability to the community.

## **12. AUDITING AND REPORTING**

Council's independent internal auditors will undertake periodic reviews of the process undertaken to dispose of assets as part of the ongoing audit program.

Findings of such audits must be reported to the next available Council Audit Committee meeting.

## **13. DEFINITIONS**

Use this table to set out the definitions that will help people understand the policy.

Term	Meaning
Asset	means any physical item that Council owns and that, at any time, has been treated pursuant to the

Disposal or Sale of Council Assets Policy and Procedures. Document I608518



	Australian Accounting Standards as an 'asset'. It does not include financial investments or finance related activities.
Council	means the Strathbogie Shire Council
Council staff	means people employed by Council and all volunteers registered with Council.
Land	means community land, vacant land, road reserves, caravan park, any legal interest Council has in land and any other land related assets, such as buildings, on that land.
Major plant and equipment	means an asset with a current market value exceeding \$2000 (excluding GST) such as vehicles, construction equipment and artworks but excludes land.
Minor plant and equipment	means an asset with a current market value less than \$2000 (excluding GST) such as office furniture, information technology equipment and small tools.
the Act	means the <i>Local Government Act 1989 or 2020, whichever may be relevant</i>

#### **14. RELATED POLICIES AND LEGISLATION**

The following Council, State, regional and national plans and policies are relevant to this policy under each subtitle.

#### **EXTERNAL REFERENCES**

*Local Government Act 1989*

*Local Government Act 2020*

Fraud and Corruption Controls – Local Government, Victorian Auditor General's Office of Victoria, June 2019

Asset Management and Maintenance by Councils - Victorian Auditor General's Office of Victoria, February 2014

Local Government Assets: Management and Compliance – Victorian Auditor General's Office of Victoria, May 2019

#### **RELATED COUNCIL DOCUMENTS**

Councillor Code of Conduct

Asset Plan

Fraud and Corruption Policy

Motor Vehicle CEO Directive (an internal, operational directive approved by the Chief Executive Officer)

Procurement Policy

Staff Code of Conduct

Various Asset Management Plans

Council's delegations instruments, particularly the financial delegations instrument

## 15. POLICY REVIEW

This policy will be reviewed every three (3) years unless the Chief Executive Officer or Council determines that an earlier review is required.

Council may review this policy at any time and at least two years from the date of adoption.

Minor amendments to the policy may be authorised by the CEO at any time where such changes do not alter the substance of the policy (e.g. a change to the name of a related document, or a change in legislation).

## 16. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 AND THE EQUAL OPPORTUNITY ACT 2010

The Council acknowledges the legal responsibility to comply with the *Charter of Human Rights and Responsibilities Act 2006* and the *Equal Opportunity Act 2010*. The *Charter of Human Rights and Responsibilities Act 2006* is designed to protect the fundamental rights and freedoms of citizens. The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality and dignity.

## 17. PROCEDURES

The following procedures are designed to ensure that all decisions relating to this policy are made in a consistent and open manner.

### 17.1 Process for consideration of the disposal of an asset

Once the factors outlined under Section 8.1 have been considered and assessed the completed Asset Disposal Evaluation Form must be signed by the relevant departmental manager responsible for the asset prior to being forwarded to the appropriate officer or body in accordance with the table below.

#### Exclusion for plant or fleet

Plant and fleet are excluded from the authorisations outlined in the table below only if pre-approval of its disposal has been given through the adoption of the annual Council budget.

Should approval have been given for the disposal of fleet or plant through this means, the Manager Operations and Manager Asset Planning must co-sign the asset disposal form.

Disposal method	Value of \$1 – \$1000	Value of \$1001 – \$20,000	Value of \$20,001 – \$100,000	Value of >\$100,001
Trade in Expression of Interest Open Tender Public Auction Demolish or Recycle (excludes sale or disposal of land)	<p><b>Authority to approve:</b> Relevant departmental manager for the asset</p> <p><b>Responsibility for implementation:</b> Relevant departmental manager for the asset</p>	<p><b>Authority to approve:</b> Director Sustainable Infrastructure</p> <p><b>Responsibility for implementation:</b> Relevant departmental manager for the asset</p>	<p><b>Authority to approve:</b> CEO following discussion with Executive Leadership Team and implemented by the relevant Asset Manager</p> <p><b>Responsibility for implementation:</b> Relevant departmental</p>	<p><b>Authority to approve:</b> Council resolution</p> <p><b>Responsibility for implementation:</b> Relevant Director</p>

			manager for the asset	
<b>Donation to charity or gifting to community organisation</b>	<b>Authority to approve:</b> Chief Executive Officer  <b>Responsibility for implementation:</b> Relevant department manager for the asset	<b>Authority to approve:</b> Chief Executive Officer  <b>Responsibility for implementation:</b> Relevant departmental manager for the asset	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant Director	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant Director
<b>Sale or public auction of land</b>	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant department manager for the asset	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant department manager for the asset	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant Director	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant Director
<b>Exchange of land or sale of land by private treaty</b>	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant Director	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant Director	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant Director	<b>Authority to approve:</b> Council resolution  <b>Responsibility for implementation:</b> Relevant Director

## 17.2 Identifying method of disposal or sale

The selection of the disposal method for the asset must include the consideration of the following:

- the nature, economic life and condition of the asset
- public demand and interest in the asset
- the method most likely to return the highest revenue
- the community benefit gained (particularly for the consideration of donating the asset)
- the monetary and community value of the asset
- whether it is light vehicle or heavy plant and equipment
- whether the asset is land (and therefore must meet certain provisions of the Act)
- the costs of the disposal method compared to the expected revenue
- compliance with Council policies and other statutory obligations.

## 17.3 Sale of land

Any sale, exchange or transfer of land must comply with the provisions of the Act, namely:

- the requirement to seek a valuation from a suitably qualified professional (valuations cannot be more than six months old from the date of sale)
- the mandatory community consultation requirements of section 189 unless section 191 of the Act is being applied for the transfer or exchange of land
- the mandatory community consultation requirements of section 207(a) if the land to be sold forms part of a road that has been discontinued as a result of Council exercising its powers under clause 3 of schedule 10 of the Act unless section 191 of the Act is being applied for the transfer or exchange of land.

Following compliance with the Act, sales are to be conducted through a public process of public auction, public tender or through registrations of expressions of interest, unless circumstances exist that justify an alternate method of sale such as the sale or exchange of land by private treaty in accordance with a Council resolution.

Sales and exchanges of land or land and buildings should not occur if less than the market value, as assessed by Council's valuer.

However, if there is demonstrable and quantifiable community benefit gained by selling the land for less than the market value, or to exchange the land for land of a lesser value, a report to Council must explain the reasons leading to the recommendation to Council to accept a sale price less than market value or to exchange land for other land with a lower value. Council will then decide as to whether the proposed sale or exchange is appropriate.

#### **17.4 Donation of assets to a charity or gifting to a community organisation**

Donations of surplus or redundant assets may only be made with the authority of the Chief Executive Officer or Council resolution (in accordance with the table in section 16.1 of this Policy) after exploring all other avenues for recouping a fair financial return for Council or any alternate use within Council.

Council Officers must only consider donations in response to a formal Expression of Interest process in accordance with Council's Procurement Policy and Procedures, limiting the submissions of interest to registered charities or community organisations.

Expressions of Interest must be made in writing by the charity or community group and must quantify the community benefit gained from a donation to their organisation.

The Expressions of Interest will be considered by the relevant Departmental Manager, with a recommendation made to the Executive Management Team or, if deemed appropriate by the Chief Executive Officer, to Council for consideration.

The registered charity or community group successful in being donated or gifted the asset must facilitate its removal/pick up themselves.

## 18 FORMS



### ASSET DISPOSAL EVALUATION FORM

Completed form to be forwarded to the relevant officer or body as identified in section 16.1 of the Disposal of Assets Policy 2019. This form is not to be used for land sale or exchange.

Details of Asset			
Asset identification			
Asset location (Council property ID)			
Street address (if applicable)			
Asset description			
Ownership details			
Relevant asset management plan disposal provisions			
Description of how asset is used and services it provides to the organisation and/or community			
Current valuation of asset	\$		
Estimated market value	\$		
Estimated cost of disposal	\$	Total expected revenue (i.e. estimated market value minus cost of disposal)	\$
Have you verified that the asset being disposed does not contain information classified as sensitive or higher. (If the answer is no and the media or equipment is unable to be sanitised, secure destruction must be the method of disposal).			

Assessment of the need for disposal against factors outline in section 8.1 of the Disposal of Council Assets Policy 2019	
Assessment of proposed method of disposal against the considerations of section 9 of the Disposal of Council Assets Policy	
How the asset is going to be replaced (if replacement required)	
How will the proceeds from the sale be allocated or spent?	
Is the asset a piece of plant or fleet that has pre-approval in the adopted Council budget for disposal and therefore can be approved by the Manager Asset Planning and Group Manager Community Assets? Please identify the date of the Council resolution and in what account(s) the future disposal of the asset is represented.	
Are there any legislative requirements that need to be satisfied?	
<b>Recommendation</b>	
Signature, name and position of officer making the assessment	Date:
<b>Authorisation required under section 16.1 of the Disposal of Council Assets Policy</b>	
<input type="checkbox"/> Departmental Manager <input type="checkbox"/> Director <input type="checkbox"/> CEO <input type="checkbox"/> Council resolution	
Authorising officer's comment	
Authorising officer's name, position and signature	Date:

Date considered by Executive Leadership Team <i>(if applicable)</i>	
Date of Council resolution <i>(if applicable)</i>	
Decision implemented by <i>(officer name, position and date)</i>	

**LAND DISPOSAL EVALUATION FORM**

*Completed form to be forwarded to the relevant officer or body as identified in section 16.1 of the Disposal of Assets Policy 2019. This form is to be used for land sale or exchange.*

Details of Asset			
Asset identification (Council property ID)			
Street address			
Asset description			
Ownership details (e.g. any encumbrances on title)			
Relevant asset management plan disposal provisions			
Description of how asset is used and services it provides to the organisation and/or community			
Current valuation of asset prepared by a suitably qualified Valuer (must be less than six (6) months old)	\$		
Estimated cost of disposal	\$	Total expected revenue (i.e. estimated market value minus cost of disposal)	\$
Assessment of the need for disposal against factors outline in section 8.1 of the Disposal of Council Assets Policy 2019			
Assessment of proposed method of disposal against the considerations of section 9 of the Disposal of			



Council Assets Policy	
How the asset is going to be replaced (if replacement required)	
How will the proceeds from the sale be allocated or spent?	
Are there any legislative requirements that need to be satisfied?	
<b>Recommendation</b>	
Signature, name and position of officer making the assessment	Date:
<b>Authorisation required under section 16.1 of the Disposal of Council Assets Policy</b>	
<input type="checkbox"/> Council resolution	
Date proposal considered by Executive Leadership Team prior to being placed on a Council agenda <i>(if applicable)</i>	
Date of Council resolution <i>(if applicable)</i>	
Decision implemented by <i>(officer name, position and date)</i>	