



## DISPOSAL OF SURPLUS NON-COMMUNITY LAND

Policy Type:	Council Policy
Responsible Department:	Assets and Environment
Responsible Officer:	General Manager Assets and Environment
Related Policies and Procedures	Encroachment Policy, Procurement Policy, Property Management Policy
Date Adopted:	C758/10; 25 October 2010
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### 1. POLICY STATEMENT

Section 49 of the Local Government Act, 1999 requires councils to prepare and adopt policies on contracts and tenders, including policies on the sale or disposal of land. This policy is to be read in conjunction with Council's Procurement Policy.

### 2. COMMUNITY GOAL

Goal 5.3; Good governance and legislative framework.

Goal 5.5; A financially sustainable approach to business and planning activity.

### 3. POLICY OBJECTIVES

The objective of this policy is to clearly set down the City of Unley's processes for the disposal of non-community land or easements that are;

- fair and transparent, and
- define those circumstances, with reasons, for sale and disposal methods other than by tender.

The disposal of non-community land surplus to Council's requirements shall be assessed by the Administration on the basis set out hereunder prior to a

recommendation being placed before Council. Such assessments shall be made in the following categories:

- Public Road (including Surplus Road Widening Land)
- Land (separate allotment)
- Land (too small for a separate allotment)
- Easements.

There may be situations that arise where Council chooses to dispose of land that is not community land and is not surplus to requirements. Such a disposal may be to achieve a particular strategic outcome, that is, the disposal is highly conditional and as such the requirements of this policy would not apply. The Council's Procurement Policy would be applicable in that instance.

#### **4. PRINCIPLES**

This policy refers only to non-community land as defined in Section 193 of the Local Government Act 1999. It may operate only in the context of Section 201 of the Local Government Act 1999, which governs the sale or disposal of local government land.

#### **5. POLICY**

##### **5.1 Public Roads**

- (a) Where a public road is considered to be surplus to Council's requirements a report shall be placed before the Infrastructure and Sustainability Committee for consideration.
- (b) Following Council's endorsement that the road is deemed to be surplus to requirements the Administration shall proceed with the closure of the road, pursuant to the provisions of the Roads (Opening and Closing) Act, 1991, as amended.
- (c) Following formal closure of the road, where the closed road is of such size that it can be conveniently used separate from the adjoining lands, the closed road may be sold in accordance with Council's Procurement Policy.

##### **5.2 Land Disposal as a Separate Allotment**

- (a) Where a parcel of non-community land, which is owned by Council and is large enough to be conveniently used as a separate allotment from the adjoining properties is considered by the Administration to be surplus to Council's requirements, a report shall be placed before the Infrastructure and Sustainability Committee for consideration.
- (b) The report for the disposal of the non-community land shall address;
  - possible use to which the Council may put the allotment, and
  - the reasons why the Administration deems the allotment of land to be surplus to Council's requirements, and
  - the estimated value of the land which shall be supported by a valuation report from a licensed valuer, and

- the proposed method of disposal, e.g. by auction, tender or other means in accordance with Council's Procurement Policy.
- (c) Following approval by Council to dispose of the allotment of non-community land it shall be disposed of in the manner approved by Council.

### **5.3 Land too small to be disposed of as a separate Allotment**

- (a) Where a parcel of non-community land, which is owned by Council and is too small to be conveniently used as a separate allotment from the adjoining allotments, is considered by the Administration to be surplus to Council's requirements, a report shall be placed before the Infrastructure and Sustainability Committee for consideration of the disposal of the land.
- (b) The report shall address;
- the reasons why the non-community land is no longer needed by Council, and
  - to which adjacent owner the land is to be offered for sale, and
  - the estimated value of the land supported by a valuation report from a licensed valuer, and
  - the attainable prices of the land from the adjoining owner/s, and
  - where applicable, the method of disposal.
- (c) In assessing the attainable price the report shall address the effect the attachment of the surplus land will have on the property to which it is to be attached.
- (d) Following approval by Council to dispose of the small allotment of land it shall be disposed of in the manner approved by Council.

### **5.4 Easements**

- (a) Where an easement, which is owned by Council, is registered on a third party's property and is considered by the Administration to be surplus to Council's requirements a report shall be placed before the Infrastructure and Sustainability Committee for consideration of the disposal of the right and the discharge of the easement.
- (b) The report shall address the reasons why the easement is no longer needed by Council, the value of the easement and the attainable price of the easement from the third party on whose title the easement is registered.
- (c) In assessing the attainable price the report shall address the effect that the discharge of the easement will have on the value of the property of the third party over which the easement is registered.
- (d) Following approval by Council the Administration may proceed with the disposal of the right and discharge the easement over the third party's property.

## **5.5 Payment**

- (a) Where the Council sells any of its non-community land which is too small to be sold as an independent allotment or it sells an easement, the Chief Executive Officer shall be empowered to defer the payment of the purchase price, provided a caveat is registered on the property to which the land is attached or the easement is extinguished, requiring payment as follows:
- (i) Full payment will be made by the owner of the property if the property is sold and such payment will be made to the Council at settlement.
  - (ii) The payment due to Council shall be the agreed purchase price, inflated or deflated for the time value of money at the time of the payment. The time value of money shall be calculated on the average monthly prime lending rate declared by the Reserve Bank of Australia as at the last trading day of each month.
  - (iii) The balance outstanding for each such arrangement shall be updated as at 30th June each year so that the current values of Council's deferred assets are recorded.
  - (iv) In all other cases full payment shall be made at settlement.

## **6. DEFINITIONS**

See Section 193 of the Local Government Act 1999.

## **7. LEGISLATION/REFERENCES**

Local Government Act 1999

Roads (Opening and closing) Act 1991

## **8. POLICY DELEGATIONS**

Chief Executive Officer has sub-delegation to negotiate deferred payment subject to clause 5.5 of this policy.

Full information about the sub-delegated powers and duties is contained in the Council Delegations Register.

## **9. ROLES / RESPONSIBILITIES**

Operational; The Property Services Coordinator in conjunction with the Manager of Property Assets under direction from the General Manager Assets and Environment are responsible for the implementation of this policy.

Council Committee; The Infrastructure and Sustainability Committee will receive and consider reports under this policy and make recommendation to Council for its decision.

## 10. AVAILABILITY

The policy is available for public inspection during normal office hours from;

Civic Centre  
181 Unley Road  
Unley SA 5061

A copy may be purchased for a fee as determined annually by Council.

It is also available for viewing, download and printing free of charge from the Council's website, [www.unley.sa.gov.au](http://www.unley.sa.gov.au)

## 11. DOCUMENT HISTORY

<b>Date:</b>	<b>Council/Committee/Internal</b>	<b>Comment:</b>
1/7/2002		Policy no. COU54
18/10/2010	CSP Committee; CSP367/10	
25/10/2010	Council; C758/10	
8/10/2012	CSP Committee; CSP139/12	
22/10/2012	Council; C564/12	
25/7/2016	Council; C526/16	Was policy no. COU116