

Sale of Council Land and Buildings 2017

Department: Community Services	Effective From: 17 October 2017 Review Date: 31 October 2019 Version: 1 Trim Reference: E513	Origin: Community Services Manager Authorising Officer: Endorsed by Council 17 October 2017
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Governance Use Only

Action / Status:

- EMT for comment/review: *Yes*
- Staff consultation required: *No*
- Review by Audit and Risk Advisory Committee: *No*
- Review by Councillors: *Yes*
- Endorsed by Council: *17 October 2017*

PURPOSE/OBJECTIVE

The purpose of this policy is to establish a framework for Council decisions when considering the disposal of Council land or buildings.

This framework should exist to ensure that Council land and buildings are disposed in a responsible manner, in accordance with the outlined policy, legislative requirements and consistent with the Council Plan 2017-2021:

Council is dedicated to achieving the highest standards of good governance, with a focus on informed, equitable and transparent decision making. Accountability for our actions is important to us and we will report on our decisions and performance through a variety of means. We will be true to our values and create a Council and organisational culture based on inclusiveness, impartiality and integrity.

Develop and implement a co-ordinated review of Council assets in consultation with the community focusing on whether or not the disposal of key assets would realise greater net community benefit.

SCOPE

This policy applies to all Council employees, Councillors, contractors, consultants, volunteers and other authorised personnel of Mansfield Shire Council.



POLICY STATEMENT

This Policy outlines the way in which Council administers its real estate assets.

Council asset requirements may change over time, thus all Council land and buildings should be reviewed regularly to ensure that the land or building is being held for a specific purpose for current or future use or identified as potential land or building for disposal.

RESPONSIBILITIES

Overall responsibility for the application of this Policy is held by the Chief Executive Officer.

Managers are responsible for ensuring their staff comply with the principles, practices and any associated procedures of this policy. Management, employees, contractors and volunteers are to be familiar with, and competent in, the application of this Policy, and are accountable for the delivery of this policy within their areas of responsibility.

The Community Services Department is the owner of this policy. Any reviews of this Policy must be made in consultation with the Community Services Manager.

REFERENCES / RELATED POLICIES

Local Government Act 1989

Valuation of Land Act 1960

Mansfield Shire Council Plan 2017-2021

Laws And Regulations

There are many laws and regulations that apply to the way in which Council disposes of its land holdings. The sale of Council land and buildings should be in accordance with the *Local Government Act 1989*.

It is considered that this Policy does not impact negatively on any rights identified in the *Charter of Human Rights Act 2006*.

IMPLEMENTATION

This Policy is effective from 17 October 2017.

REVIEW DATE

This Policy is to be reviewed by 31 October 2019.



AUTHORISATION TO IMPLEMENT POLICY

Signed: 

Councillor

Witnessed: 

Chief Executive Officer

Approval dated: 17 October 2017

Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.



SALE OF COUNCIL LAND AND BUILDINGS PROCEDURES

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

SURPLUS COUNCIL LAND AND BUILDINGS

Council will review, identify and evaluate, on an as needs basis, all Council land holdings. Properties that are designated as surplus to requirement may be made available for sale.

Surplus Council land and buildings will be identified and considered using the following criteria:

- history of the land
- size and location of the property
- demonstrated past and current usage
- surrounding usage
- community or Council plans
- strategic relevance
- access to the property
- demonstrated community need
- future foreseeable use. This may include Council, community, amenities, environmental and infrastructure usage.

All property marked as being surplus will be subject to a report to Council outlining:

- the reasons for the recommended sale
- a valuation (as per the rating system, which is provided by the Valuer-General's Office)
- the proposed method of sale.

The valuation will be listed separately and remain confidential to ensure the integrity of the sale process. Once Council approval has been received, a public submission process will take place advertising Council's notice of intention to sell in accordance with the provisions in the *Local Government Act 1989*.

REQUIREMENT FOR A CURRENT VALUATION OF LAND

In accordance with Section 189(2) (b) of the *Local Government Act 1989*, before a council sells or exchanges land, it must obtain a valuation of the land which is made not more than 6 months prior to the sale or exchange of that land.

The valuation must be conducted by a valuer that holds the qualifications or experience specified under Section 13DA(1A) of the *Valuation of Land Act 1960*. Under Section 13DA(1A) of this Act, councils are obligated to appoint a valuer who holds the experience or qualifications specified from time to time by the Minister by notice published in the Government Gazette.



GENERAL PRINCIPLES

The method of sale chosen to sell the property will be determined by the nature of the land or building.

Council will aim to maximise the price of asset sales. Different sale methods that can be considered are:

- sale through a real estate agent
- sale by public auction
- sale by public tender
- sale by public registration or expression of interest
- sale /exchange by private treaty.

Each sale method has its benefits of exposing the land to the market. The following principles will apply to the sale:

- The sale of land is not permitted before an auction or close of tenders.
- The reserve price will be set prior to an auction, close of tenders or receipt of offers and remain confidential.
- The valuation will be used as the reserve price.
- If land fails to sell at auction, it is to be passed in for negotiation with the highest bidder and offered for sale to that person at not less than the reserve price.
- If the land remains unsold following negotiations after an auction or unsuccessful tender, it should be left on the market for private sale at not less than the reserve price for an appropriate or reasonable period of time as determined by the CEO or delegated officer.
- A decision to accept a written offer which is lower than the valuation can only be made by Council decision. Having considered relevant factors and Council having formed an opinion that the offer is reasonable, the land may be sold. Council will disclose the reasons for its decision, in a report at the next Council meeting, to sell the land for a price lower than the valuation.

USE OF PROCEEDS

Income from the sale of land will be treated as revenue in the year which it is received and considered as part of any budget considerations.

DATING OF DOCUMENTS

Council will attach a copy of the legal advice received regarding the dating of documents, to all transfer of land documents or sale contracts. A file note will be included in Council's Records Management System referring to the legal advice received in relevant cases.

REFERENCE TO LINKED PROCEDURE OR GUIDELINES

Attachments accompanying this policy that should be reviewed when considering the sale of Council land include the Mansfield Shire Council Procurement Policy.