



## Disposal or Sale of Council Assets Policy

Department/Unit	Property and/or Asset Maintenance	First Implemented	17 October 2017	Review Date	June 2025
Origin	Infrastructure and Planning Directorate	Reviewed	June 2023	Version	6
Authorising Officer	Chief Executive Officer	Effective From	28 June 2023	TRIM Reference	E15

### Purpose/Objective

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

- ▶ Implementing Council's Asset Management Policy and Asset Management Plan
- ▶ 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.

### Policy Statement

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 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.

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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:

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

**Definitions**

<b>Asset</b>	Any physical item that Council owns and that, at any time, has been treated pursuant to the Australian Accounting Standards as an 'asset'. It does not include financial investments or finance related activities.
<b>Council staff</b>	People employed by Council and all volunteers registered with Council.
<b>Land</b>	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.

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<b>Major plant and equipment</b>	An asset with a current market value exceeding \$2000 (excluding GST) such as vehicles, construction equipment and artworks but excludes land.
<b>Minor plant and equipment</b>	An asset with a current market value less than \$2000 (excluding GST) such as office furniture, information technology equipment and small tools.
<b>the Act</b>	The <i>Local Government Act 2020</i>

## Scope

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

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.

The Local Government Act 2020 and Road Management Act 2004 underline the role of Council as custodians of all Mansfield Shire Council assets and its responsibility to:

- ▶ provide stewardship
- ▶ 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.

Whether a piece of land, piece of machinery or a smart phone, asset disposal needs to be undertaken in an open and consistent manner, while achieving best value for the community.

## 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 Infrastructure and Planning Department is the owner of this policy. Any reviews of this Policy must be made in consultation with the General Manager Infrastructure and Planning.

## 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:

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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
Open tender	Using a public tender process to openly seek bids
Sale or public auction of land	Engaging the services of a real estate agent or auctioneer 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 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 s114 of the Act.

## 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 mansfield shire council.

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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.

### Public Consultation

The sale of Council Land must undergo a public notification process and will at a minimum meet the public notice requirements of the *Local Government Act 2020* and comply with corporate standards. Section 114 of the Act requires that prior to selling or exchanging land, Council must:

1. At least 4 weeks prior to selling the land, publish a notice on the website
2. Undertake a community engagement process in accordance with its community engagement policy

When selling land, a resolution of Council is required to commence the consultation process and must include a discussion of the merits of sale against the provisions of Section 9 of the Act.

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.

### No Direct Sale to Councillors, Council Officers or Contractors

For major plant and equipment, 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).

For minor plant and equipment, 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.

For low value office equipment, furniture and miscellaneous surplus building materials (with a value of under \$500), the sale process to dispose of these assets will be by Council through the Resource Recovery Centre's Reuse Shop. These items will be available for purchase by the general public, Councillors, Council Officers, volunteers and contractors.

The only exception to this will be for the purchase of IT equipment by Councillors at the end of their term that has been used exclusively for by Councillors during the term of service.

### Buyer's Risk

Regardless of the disposal method used all prospective buyers must be advised in writing that the asset is disposed of, with all 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.

## 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. In the event of emergent requirement for sale that cannot be facilitated due to council agenda timeframes, the exemption can be applied with CEO Approval, but reported to Council at the next available meeting.

## 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 and Risk Committee meeting.

## 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.

## References / Related Policies

- ▶ Australian Standard AS8001–2008, Fraud and Corruption Control
- ▶ *Local Government Act 2020*
- ▶ Mansfield Shire Asset Accounting Policy
- ▶ Mansfield Shire Council Asset Accounting Policy 2020
- ▶ Draft Mansfield Shire Asset Management Policy 2022

## Gender Impact Assessment

The Disposal or Sale of Council Assets Policy has considered the Gender Equality Act 2020 in its preparation but is not relevant to its content. The Disposal or Sale of Council Assets Policy has been assessed as not requiring a Gender Impact Assessment (GIA).

## Implementation

This Policy is effective from 28 June 2023.

## Review Date

This Policy is to be reviewed by 28 June 2025.

## Authorisation to Implement Policy

Signed: \_\_\_\_\_

Witnessed: \_\_\_\_\_

Councillor

Chief Executive Officer

Approval dated: 28 June 2023

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