

Disposals Policy

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Title	Disposals Policy
Summary	The Policy outlines the principles that govern the appropriate disposal by Council of surplus Assets.
Document Type	Policy
Relevant Strategic Plan Objective	<ul style="list-style-type: none"> • Strategic Direction 1: An ecologically sustainable Inner West • Strategic Direction 2: Liveable, connected neighbourhoods and transport. • Strategic Direction 3: Creative communities and a strong economy • Strategic Direction 4: Healthy, resilient and caring communities • Strategic Direction 5: Progressive responsive and effective civic leadership
Legislative Reference	<ul style="list-style-type: none"> • <i>Local Government Act 1993</i> <i>Local Government (General) Regulation 2021</i> <i>Government Information (Public Access) Act 2009</i>
Related Council Documents	<ul style="list-style-type: none"> • Model Code of Conduct • Conflict of Interest Policy • Land and Property Policy • Gifts, Benefits and Hospitality Guideline • Procurement Policy • Procurement Procedure • Risk Management Policy • Risk Management Procedure • Fraud and Corruption Control Policy • Fraud and Corruption Control Procedure • ICT Secure Deletion and Disposal Standard • ICT Information Management Standard
Version Control	See last page

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1 Purpose

The purpose of this policy is to provide a framework that seeks to achieve transparent disposals of Council owned Assets in compliance with sustainable procurement practices.

2 Scope

This policy applies to all activities undertaken by Council, where Council disposes of a Council owned Asset, and is binding upon all Council Officials. This policy does not apply to the disposal of land. Council Officials must refer to the Procurement Procedure and the Land and Property Policy for information on how to dispose of land.

3 Definitions

In this Disposals Policy, the following terms have the following meanings:

Act	<i>Local Government Act 1993.</i>
Asset	Means an asset owned or controlled by Council but does not include land.
Infrastructure Asset	Refers to components within an Infrastructure Asset, such as roads, footpaths, buildings, land improvements, sea walls, stormwater drainage, car parks whose removal or disposal is necessary during renewal or upgrades. This removal eliminates any benefits derived from their use, contributing to the overall enhancement of the infrastructure's functionality and efficiency.
conflict of interest	<p>Includes either a:</p> <ul style="list-style-type: none">• Pecuniary conflict of interest.• Significant non-pecuniary conflict of interest.• Non-significant non-pecuniary conflict of interest, <p>as defined in the Model Code of Conduct and described in section 7 of the Conflict of Interest Policy.</p>

Councillor	Inner West Council elected representative.
Council committee member	A person other than a Councillor or Council Officer who is a member of a Council committee other than a wholly advisory committee, and a person other than a Councillor who is a member of Council's audit, risk and improvement committee.
Council Officer	Inner West Council members of staff (including full-time, part-time, casual and contracted staff).
Council Official	Councillors, Council Officers, Council committee members and delegates of Council.
Executive Leadership Team	General Manager, Director Corporate, Director Infrastructure, Director Community, Director Planning, General Counsel.
Motor Vehicle	Means a passenger sedan or station wagon, motorcycle or commercial motor vehicle including vans, utility vehicles, buses and trucks.
Net Book Value	The value of an Asset which is calculated as the original cost of an Asset minus any depreciation.

4 Statement

This policy provides a systematic and accountable method for the disposal of surplus Assets, excluding land. It strives to ensure that the process for the disposal of Assets is transparent and complies with the Model Code of Conduct, particularly with respect to conflicts of interest.

Council Officials must refer to the Procurement Procedure and the Land and Property Policy for information on the disposal of land.

5 Disposal rules and requirements

Application of Disposals Policy – summary

At all times, surplus Assets should be disposed of in a way that maximises returns and in compliance with sustainable disposal practices, whilst ensuring open and effective competition. This will be achieved through the following measures:

- Maximising returns on an Asset of good quality, via the publicly competitive process of public auction or tender.
- Complying with sustainable disposal practices for the following:
 - For Assets of fair quality, transferring the Asset to another department of Council, arranging a takeback by a supplier, donation to charities or non-profit community groups.
 - For Assets of poor quality, recycling or dumping the Asset in a sustainable way.
- Giving special regard to Assets of historical or cultural significance and ensuring that any dangerous goods are disposed of in an authorised manner.
- Ensuring that no warranty is offered to another party on Assets disposed of.
- Rigorous auditing of disposal practices through the current Assets register and Assets disposal register to ensure open and competitive Asset disposals.

Delegated authority

The Executive Leadership Team (ELT) has the delegated authority to approve the disposal of Assets that are surplus to requirements.

The ELT delegate who approves the disposal of an Asset is not permitted to participate in any public competitive process for the disposal of the Asset.

In addition to obtaining the approval of the applicable ELT delegate before each occasion of a disposal, Council Officers must, on a quarterly basis, report to the Director Infrastructure, all Assets disposed of during the previous quarter. The report must detail the Asset disposed of, a description of the Asset, the disposal method, the Net Book Value as at the disposal date, and the price at which the Asset was disposed of (if any). A copy of the report is to be lodged with finance on a quarterly basis. Refer to the auditing requirement explained below at section 7.

Current Assets Register

A Current Assets Register must be maintained at all times, in order to:

- Keep details concerning the date of purchase of resources, the responsible officer(s) involved in the procurement, length and condition of warranty, maintenance and repairs undertaken, and other related information for consideration in the valuation and contemplated disposal of goods.

- Adopt an Asset maintenance system that flags when goods become surplus or unwanted (for example, because of average length of use) and their expected monetary value at that point.
- Facilitate regular audits to ensure no items have been disposed of improperly.

The Current Assets Register should be consulted regularly in conjunction with the Asset Disposal Register (discussed below at section 7) as part of robust auditing practices.

Reasons for disposal

The decision to dispose of an Asset must be based on one or more of the following reasons:

- The Asset is required to be disposed of under a particular policy.
- The Asset has become obsolete, and is no longer required due to changed procedure, functions or usage patterns.
- It is the optimum time to dispose, to maximise Council return.
- The Asset no longer complies with occupational health and safety requirements.
- Discovery of hazardous chemicals or material present within the Asset.
- Repairs to the Asset are uneconomical.
- The Asset has not been used in the previous 6 months.
- There is no use for the Asset in the forthcoming 12 months.

Sustainable disposal

In accordance with the Council's Procurement Policy and Procedure and Council's Strategic Direction 1, Council must endeavour to ensure that the disposal of Assets minimises waste, and all options to reuse, repurpose, or recycle must be considered.

The following options can be considered to minimise waste and reuse or recycle Assets:

- Investigate whether any other department of Council has a need for the Asset or can repurpose the Asset.
- Consider whether the Asset can be sold for ongoing use.
- Takeback by a supplier, where the supplier can ensure that Assets will be recycled, refurbished or reused.
- Donations to charities or non-profit community groups where Assets do not have a high resale value (ensuring that community groups receive equitable treatment to avoid possible perceptions of bias).
- Recycling via existing commercial kerbside recycling services, or through a specialised commercial recycler.

Competitive disposal practices

Council Officers must utilise competitive disposal practices wherever possible, as opposed to direct negotiations.

The term “direct negotiations” refers to exclusive dealings between an agency and a counterparty without first undergoing a competitive process. Direct negotiations are sometimes referred to as directly sourced, single-sourced or non-competed contracts.

Direct negotiations for the disposal of an Asset that falls within the scope of this Disposals Policy is prohibited, unless specific authorisation for such direct negotiations has been granted by the Director Infrastructure.

The Director Infrastructure should not grant such authorisation unless satisfied that the direct negotiation:

- Does not have an impact that is unfair to other potential acquirers of the Asset.
- Maintains value-for-money for Council.
- Is not affected by a conflict of interest.

Disposal rules

Surplus Assets will, at all times, be disposed of in a way that maximises returns for Council, whilst ensuring that open, transparent, and effective competition is maintained. This must be through either a public competitive process such as a public auction or through a secure electronic tendering facility.

Prior to disposal, a reasonable effort must be made to ensure that the Asset cannot be used by any other Council department. Assets of historical or cultural significance shall be given special regard. Assets that are dangerous goods must only be disposed of in an authorised manner.

A warranty must not be given for any Asset disposed of.

A Council Officer must do the following when disposing of any Assets:

- Check whether there is an agreement with the supplier that unused Assets surplus to requirements can be returned.
- Seek approval from the ELT delegate prior to undertaking a process to dispose of the Assets.
- Seek approval from the ELT delegate as to the market price of the Asset prior to disposal.
- Obtain external valuation of Assets prior to disposal and keep these records on file so they can be audited.
- Refer to Asset register details concerning the date of purchase of resources, responsible officer(s) conducting the original procurement, any claims under warranty, maintenance and repairs undertaken, and other related information for consideration in the valuation and disposal of Assets.
- Store Assets securely prior to their disposal.

Conflicts of interest

It is the responsibility of the Council Officer and the relevant ELT delegate charged with the task of disposal of the Asset to minimise the risks of conflicts of interest arising within or as a result of the disposal process. Where conflicts of interest do arise, the Council Officer and ELT delegate responsible must manage the conflict of interest in accordance with the Conflict of Interest Policy and the Model Code of Conduct.

It should be ensured that any Council Official who conducted the original procurement of the Asset or is conducting the disposal of the Asset is neither a proposed recipient of the Asset in a subsequent disposal, nor related to a proposed recipient. This includes the ELT delegate who must give approval of the market price for which the Asset is to be disposed of.

Prior to disposing of an Asset via a competitive process to a company, at a minimum Council must undertake the following enquiries:

- Search of company register.
- ABN and bank account information.
- Verification of the personal details of directors.

Where the competitive process for disposal of an Asset is an auction, Council must undertake the above enquiries when auction participants register their participation prior to the auction taking place.

Preparing Assets for sale

Prior to the disposal of any Asset, the responsible Council Officer must undertake the following checks and consider the following queries in relation to the Asset:

- What quality is the Asset in? – Good, fair, or poor?
- Can the Asset be repurposed or redirected within Council?
- Is the Asset attached to, or does it contain, additional items that are not intended to be included in the disposal?
- Does the Asset contain confidential information or documents (e.g., records, files, papers)?
- Does the Asset contain any documents on Council letterhead that may be used for fraudulent purposes?
- Does the Asset consist of, or does it contain, any licenced software which could lead to a breach of licence or contain confidential data?
- Does the Asset consist of, or does it contain, hazardous material?

Any Council mark or logo shall be removed, as much as reasonably practicable, from the Asset prior to disposal.

Any spare parts that are held by Council for the Asset shall be disposed of with the Asset.

6 Methods of Disposal

Method of disposal of Assets

Disposal of Assets should only be carried out after prior arrangements with the applicable ELT delegate of the relevant department of Council.

The method of disposal should reflect the method of procurement in relation to the value of the Asset being disposed of. All aspects of probity still apply in relation to the process of disposal.

The methods of disposal that Council may employ include:

- Disposal by public tender or auction including electronic means- For Assets of significant value, a reserve price must be agreed between the responsible Council Officer and the auctioneer prior to the auction. The price must represent value for money for Council. Auctions must be conducted by an external third party and conflict of interest checks must be undertaken in relation to any auctioneer selected.
- Dumping - Where the Asset has nominal value, Council may elect to dump the Asset, however, consideration must be given to sustainable disposal, including whether the Asset can be repurposed.
- Destruction - Where an Asset is classified as beyond economical repair or where confidential information prevents an Asset from being on-sold, repurposed, or donated, Council may destroy the Asset.
- Donation to a registered charity or community organisation (refer to next section).

All the funds from the sale of Council Assets are to be allocated to Council's General Revenue Account or as otherwise determined by the Council's Chief Financial Officer.

Council Officials (aside from the Council Official whose responsibility it is to dispose of the Asset or approve the market value of the Asset prior to its disposal) may only purchase Assets through an external competitive public process approved by the ELT delegate. Assets being dumped are not to be taken by Council Officers. Donations of Assets to community/charity/educational organisations must be approved by an ELT delegate.

Donations to a registered charity or community organisation

This method of Asset disposal must only be used where the Asset's estimated value is \$2,000 or less.

In all instances, where scrap materials are salvaged from Council works which are unsuitable for Council use, they shall be, where possible, donated to charities or community organisations, with approval of the relevant ELT delegate.

Community groups and charities shall, at all material times, receive equitable treatment to avoid possible claims of bias.

In all instances, the responsible Council Officer must perform the following checks:

- The charity or community organisation is not a disguised business operation which provides funds or remuneration to principals.
- The intended community group or charity is not-for-profit.
- The intended use of the disposed Asset is non-commercial.

In instances where the disposal to the community group or charity is deemed appropriate, but there is a potential claim of bias, the disposal must be referred (or referred again, if the potential claim of bias arises after the ELT delegate's initial approval) to the ELT delegate. The ELT delegate shall decide whether the claim poses significant risk to Council and decide whether Council should proceed with the disposal of the Asset.

The charity or community group must collect and remove the Asset themselves with no cost to Council incurred.

Destruction of Assets beyond economical repair

In instances where an Asset is classified as beyond economical repair, the Asset must be destroyed. This shall be notified in writing to the ELT delegate, and the destruction must be witnessed by the applicable ELT delegate.

Sale of information technology and computer equipment

All disposals of information technology and computer equipment must be disposed of by public auction, which shall be undertaken through an external disposal agent, as approved by the ELT delegate. The external disposal agent must be checked for conflicts of interest prior to its appointment as disposal agent. At all times, agents must be bound to ensure that all Council data, software, applications, and licences are removed from all hard drives and provide a certificate or written confirmation of the successful destruction of the digital media. It is required that any Council identifying features and labels are removed from any equipment.

Disposal of office furniture

All office furniture must be disposed of by public auction. The Council Officer, or Council Procurement team, responsible for the procurement of office furniture is also responsible for its disposal.

Disposal of Motor Vehicles

All Motor Vehicles must be disposed of by public auction, trade-in or public tender. Motor Vehicles will not be made available to Council Officials in private sale arrangements.

Disposal of Infrastructure Assets

Upon project approval, potential Asset destruction during construction is anticipated. The value of disposals is determined post-project completion at the capitalisation

stage. The disposal processing of Infrastructure Assets listed in the Assets register requires approval from the respective Asset manager and will undergo auditing by the Director of Infrastructure, as outlined in the Auditing section.

There are instances when duplicates of Infrastructure Assets not controlled/owned by the Council are registered in the Council's Asset Register. When such Assets are identified, the Director of Infrastructure needs to approve the disposal of these Assets from the system. Prohibition of In-house tenders – (Exclusive Sale to Councillors and Council Officers)

Corruption risks exist in connection with in-house tenders. For example, Council Officers involved in the disposal process manipulating bids to favour themselves or other Council Officers.

Common corruption risks related to disposal of Assets by a Council Official includes:

- Deliberately under-valuing public Assets scheduled for disposal, with the aim of personally purchasing the items.
- Stealing, or otherwise misappropriating, surplus Assets.
- Misappropriating the proceeds of Asset sales.
- Providing confidential information about tender prices prior to the completion of the process.

In accordance with the Independent Commission Against Corruption's recommendations, invitations to bid for the purchase of disposable Council Assets must not be limited to Council Officers or Councillors. Members of the public must be invited to compete for purchase. In other words, all tender processes should be open to the public rather than confined to "in-house".

7 Asset Disposal Auditing

Asset Disposal Register

The disposal process should be registered in Council's record management system for each item/auction, in a dedicated Asset Disposal Register. The form in Annexure 1 should be completed, signed and attached to each registration of a disposal in the register.

Auditing

The Asset Disposal Register will be audited annually. At minimum, Council Officers must, on a quarterly basis, report to the Director Infrastructure, all Assets disposed of during the previous quarter. The report must detail the Asset disposed of, a description of the Asset, the disposal method, the Net Book Value as at the disposal date, and the price at which the Asset was disposed of (if any). A copy of the report is to be lodged with finance on a quarterly basis.

8 Breaches of this Policy

Breaches of this policy may result in an investigation of the alleged breach in line with relevant Council policies including the Model Code of Conduct.

Any alleged criminal offence or allegation of corrupt conduct will be referred to the relevant external agency.

9 Administrative Changes

From time-to-time circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made including branding, Council Officer titles or department changes and legislative name or title changes which are considered minor in nature and not required to be formally endorsed.

10 Version Control – Policy History

This policy will be formally reviewed every three years from the date of adoption or as required.

Governance use only:

Document	Disposals Policy	Uncontrolled Copy When Printed	
Custodian	Procurement and Contracts Manager	Version #	Version 1
Approved By	Council	ECM Document #	xxxxxxx
Next Review Date	[Insert relevant date no later than 3 years post adoption]		

Amended by	Changes made	Date
Governance & Risk	Policy created	TBD

Annexure 1 – Assets Disposal Form

This form is to be used for all Assets with the exception of real property.

Approval is sought to dispose of the following Asset.

Description	[Insert]
Quantity	[Insert]
Asset Number*	[Insert]
Net Book Value*	\$(Insert)
Estimate cost of disposal	\$(Insert)
Estimated market value	\$(Insert)
Reasons for Disposal	[Insert]
Method of disposal	[Insert]

***Obtain this information from the finance department prior to commencing disposal procedure.**