



## SALE OF COUNCIL LAND POLICY

Responsible Officer: <b>Governance and Risk Advisor</b>	Adoption Date:	August 2015
	Approved By:	Council
Authorising Officer: <b>Director Corporate Services</b>	Review Date:	June 2019
	Policy Type	Major Council Policy

### PURPOSE

The purpose of this policy is to provide guidance for Council officers for consideration and the application of principles to the methods in which Council land is sold.

### STATEMENT

Council owns, occupies and manages land for operational, community, recreational, public and development purposes. Council's ongoing requirements for this land often change and land identified as surplus to Council's needs is offered for sale.

Council land developed for industrial purposes has usually been sold by private treaty, with the prospective purchaser approaching Council expressing their interest in its purchase. Expressions of interest have been called for in several instances. Operational land and buildings identified as surplus to Council's needs have been sold by auction or by private treaty with the assistance of Council's agent

There have also been many instances where residents and/or adjoining landowners have identified parcels of remnant Council land which have been seen as being attractive in adding to the amenity of existing holdings. Often this land has been subject to restrictive use due to impediments such as zoning, access, planning prohibition etc. The majority of land identified in this way has usually been sold to the interested party by private treaty, following completion of the statutory process.

In all the above instances Council has maintained probity of the process having regard to advice from its solicitors and in accordance with the *Local Government Act 1989* (the Act) and the *Subdivision Act 1988*.

The Act details the process that councils must follow when selling land.

Section 189 of the Act provides that before a Council sells land, it must:

- give public notice at least four weeks prior to selling the land; and
- obtain from a registered Valuer, a valuation of the land which is not made more than six (6) months prior to the sale.

The public has the right to make a submission on the proposed sale in accordance with Section 223 of the Act.

This process requires Council to consult with its ratepayers and residents on any proposal to sell or exchange land, giving them the opportunity to have their views heard, having regard to a current valuation for the land proposed for sale/exchange.

There are no provisions in the Act detailing the method by which Council must sell or exchange land; however the recent release of the Local Government Best Practice Guideline for the Sale and Exchange of Land provides guidance on the legal obligations, general principles and best practice for selling or exchanging land.

The general principles of the guidelines detail that sales should be conducted through a public process either by tender, auction, registration of interests and in relevant circumstances by private treaty.

Procedures for sale by the above methods recommend best practice in:

- sale by public auction;
- sale by public tender;
- sale by public registration or expression of interest; and
- sale or exchange by private treaty.

There may be circumstances where it may be more appropriate to sell or exchange of land by private treaty. Generally it may be:

- the nature of the land proposed for sale/exchange; or
- how the proposed sale or exchange is initiated, e.g. often by an external person who has initiated discussions with Council in regard to the sale/exchange,

that will determine if the sale by private treaty is appropriate.

The nature of the above land may be rear laneways, right of ways, disused or closed roads, allotments in inappropriate subdivisions, vacant land for which council has no further use or reserves for which council has no plans to develop etc.

Prospective purchasers of this type of land may include:

- owners of adjacent properties;
- developers;
- community groups, organisations,
- State or Federal Governments; and instrumentalities etc.

In order to provide future guidance for Council officers it is considered opportune to consider and apply principles to the methods in which Council sells its land and to formalise these principles.

Accordingly Council at its 21 October 2008 meeting resolved:

**That all land and/or land & buildings identified as being surplus to Council's requirements, other than land purchased or developed for industrial purposes, or where the land has no value to any other party other than to the adjoining owner, is sold by undertaking a public process.**

## REFERENCES

Local Government Best Practice Guideline for the Sale and Exchange of Land

*Local Government Act 1989*

*Subdivision Act 1988*