



Council Policy

Disposal or Sale of Council Assets Policy

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| Department/Unit | Capital Works & Operations Investment & Planning | First Implemented | 17 October 2017 | Review Date | August 2027 |
| Origin | Coordinator Asset Management Asset Maintenance Officer Manager Development Services | Reviewed | March 2025 | Version | 7 |
| Authorising Officer | Endorsement by Council | Effective From | 19 August 2025 | Records Reference | E1533 |

Purpose/Objective

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

- ▶ Implementing Council's Asset Management Policy, Asset Plan and Asset Management Plans
- ▶ 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

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.

Over time Council will carry out a strategic review of its asset holdings and may make a determination that some assets are surplus to Council's needs.

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 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.

Councillors, Council employees, volunteers and contractors will comply with following principles in all disposal of asset activities:

(a) Consistency with Council's Asset Management Policy, Asset Plan and Asset Management Plans

A decision to dispose of an asset must be consistent with Council's Asset Management Policy, Asset Plan and any relevant asset management plan that applies to the category or type of asset.

(b) Open and effective competition

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

| Term | Definition |
|---------------------------|---|
| Asset | 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. For this Policy references to asset/s includes land. |
| Council | Mansfield Shire Council |
| Land | 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. |
| Major plant and equipment | An asset with a current market value exceeding \$2000 (excluding GST) such as vehicles, construction equipment and artworks but excludes land. |
| Minor plant and equipment | An asset with a current market value less than \$2000 (excluding GST) such as office furniture, information technology equipment and small tools. |
| Right of way (ROW) | Means a road as defined in section 3 of the <i>Local Government Act 1989</i> . |
| Road | Means a road as defined in section 3 of the <i>Local Government Act 1989</i> . The term 'road' includes, but is not limited to a ROW, a street, a laneway or a footpath. |
| the Act | <i>Local Government Act 2020</i> |

Scope

This policy applies to all assets no longer required by Council for strategic or operational purposes and which have been identified for potential sale, transfer, exchange or disposal. The policy includes reference to the following assets:

- ▶ Land and buildings;
- ▶ Public open space;
- ▶ Plant and equipment.

This policy and its procedures apply to any person or body responsible for the identification of Council assets that require disposal or rationalisation.

Considerations to Identify Assets Due for Disposal

The following factors must be considered when identifying an asset that is due for disposal and addressed in writing when completing the relevant Asset Disposal Evaluation Form (Appendix A - Disposal or Sale of Council Assets Procedure):

- ▶ how the disposal of the asset aligns with the Council Plan, Asset Plan and long-term financial objectives
- ▶ the relevant Asset Management Plan's provisions for asset renewal and disposal
- ▶ whether the asset is underutilised
- ▶ useability of the asset
- ▶ the remaining useful life of the asset
- ▶ current market value
- ▶ any duplication of the asset that supports its disposal
- ▶ annual maintenance costs
- ▶ cost of repair or replacement for a similar asset
- ▶ appropriate timing for the disposal to maximise community benefit
- ▶ any impacts, positive or negative, of the disposal of the asset on the community
- ▶ the service provided by the asset, whether it requires replacement to meet service needs and how its replacement will be funded
- ▶ potential risk of ownership (eg contains hazardous materials), including health and safety risks for operators or the community
- ▶ cultural or historical significance of the asset
- ▶ any positive or negative impact on human rights and Council meeting its obligations under the Victorian Charter of Human Rights and the Charter of Human Rights and Responsibilities Act 2006
- ▶ the outcome of any community consultation processes

- ▶ any restrictions on the proposed asset disposal
- ▶ any other relevant Council policies
- ▶ where or for what purpose the proceeds of the asset's sale will be allocated or spent.

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:

| 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. |

Identifying method of disposal or sale

The selection of the disposal method for the asset must include the consideration of the following:

- ▶ the nature, economic life and condition of the asset
- ▶ public demand and interest in the asset
- ▶ the method most likely to return the highest revenue
- ▶ the community benefit gained (particularly for the consideration of donating the asset)
- ▶ the monetary and community value of the asset
- ▶ whether it is light vehicle or heavy plant and equipment
- ▶ whether the asset is land (and therefore must meet certain provisions of the Act)
- ▶ the costs of the disposal method compared to the expected revenue
- ▶ compliance with Council policies and other statutory obligations.

Donation of assets to a charity or gifting to a community organisation

Donations of surplus or redundant assets may only be made with the authority of the Chief Executive Officer or Council resolution.

Council officers must only consider donations in response to a formal Expression of Interest (EOI) process limiting the submissions of interest to registered charities or community organisations. EOI's must be made in writing by the charity or community group and must outline the community benefit gained from a donation to their organisation.

Maintenance equipment to community groups maintaining open space

All community groups maintaining open space identified in Council's *Township Reserves Maintenance (Non Council Land) Policy* will be notified of surplus Council maintenance equipment prior to disposal or trade-in with either donation of the equipment through an Expressions of Interest (EOI) process or pricing negotiated based on market value or a recent appraisal.

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.

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.

Sale of Council Land

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 and in any other matter prescribed by the regulations;
2. Undertake a community engagement process in accordance with its community engagement policy; and
3. Obtain, from a person who holds the qualifications or experience specified under section 13DA(2) of the *Valuation of Land Act 1960*, a valuation of the land which is made not more than 6 months prior to dealing with the land (through presentation of a report to Council).

Section 116 of the Act states that Council can transfer, exchange or lease any land with or without consideration to the Crown, a Minister, any public body, trustees appointed under any Act to be held on trust for public or municipal purposes or a public hospital within the meaning of the *Health Services Act 1988* or other not-for-profit hospital.

Land will not be sold for less than the market value unless there are some alternate community benefits derived by the sale of the land. Any proposal to sell the land at a reduced sale price must be reported to Council for consideration, providing commentary of the alternate benefits derived by a sale at a reduced sale price. Such benefits may include the achievement of planning and development goals, educational or medical benefits to the community, or some other strategic goal of Council.

When selling land, a resolution of Council is required to commence the consultation process.

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.

Open Space Land

In addition to the requirements under the Act, Council is required to comply with section 20 of the *Subdivision Act 1988* when selling public open space.

Discontinued Roads

The sale of land that forms part of a road that has been discontinued is subject to the provisions in Schedule 10, Section 3 of the *Local Government Act 1989*. The public consultation process for road discontinuance is by way of a notice published in the Government Gazette.

Prior to considering the discontinuance and sale or transfer of roads or right-of-ways (ROWs) or the removal of reserve status and the subsequent sale, transfer or exchange of land, officers will consider if land is required for any of the following purposes:

- ▶ there is an ongoing need for the land to provide either vehicular or pedestrian access.

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- ▶ the land has strategic value to Council or the community.
- ▶ the land provides recreational linkages or linked paths.
- ▶ the land increases public open space.
- ▶ the land is required for public works or flood mitigation.
- ▶ the land is generally required for a municipal purpose.

The general principles that Council will apply in considering selling or transferring a road or ROW are:

- ▶ Council discourages the unauthorised occupation of roads, ROWs and reserves and will take steps to remove such illegal occupation.
- ▶ Council will encourage the sale or transfer of such land that is not being used for pedestrian or vehicular access or is no longer required for a strategic or public use.
- ▶ Council will only sell or transfer such land holdings to abutting property owners unless the land is able to be sold or transferred to a third party for the community's benefit.
- ▶ All abutting owners will be given an equal opportunity to purchase any land that abuts their property. Accordingly, officers will attempt to divide land equally. However, Council will acknowledge and give preferential allocation rights to abutting property owners who can demonstrate continuous exclusive occupation of the land for more than 15 years (i.e. occupation that would otherwise give rise to an adverse possession claim).
- ▶ Council will recover all costs incurred in the application of this policy.
- ▶ Council reserves the right to retain any portion of land if Council has title to such land if it is considered to be appropriate. This land may be retained to:
 - meet a strategic need, or
 - protect Council's rights of ownership, or
 - sell in the future in accordance with this policy.
- ▶ Council has the right to place an easement, covenant, or create an easement on, or over, the land parcel in order to protect existing rights or future requirements. If there is a requirement by service authorities to relocate any assets located within the land (e.g. drains, power lines, etc), then all costs will be borne by the purchaser.

In relation to the sale of roads, ROWs or minor reserves, if a property owner can demonstrate continuous exclusive occupation of the land for 15 years or longer and they have a right to claim the land by adverse possession, consideration may be given to discounting the purchase price.

Costs Associated with the Sale

The costs associated with the discontinuance and sale, transfer or exchange of roads, ROW's or minor reserves will be borne by the purchaser or shared by the purchasers unless otherwise agreed by Council.

GST

In accordance with the provisions of the *Goods and Services Tax Act 1999*, the sale, transfer or exchange of Council property, including the sale, transfer or exchange of discontinued ROWs, roads, minor or major Reserves or other land parcels will attract GST. Council will advise where GST is added to the sale price or the sale price will be advised as inclusive of GST.

Proceeds of any Sale

Public Open Space (Monetary/Cash reserve)

All proceeds from open space reserve sales are required to be used in accordance with the *Subdivision Act 1988* and *Planning and Environment Act 1987* and must be allocated to Council's Open Space Reserve.

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 exception to this will be for the purchase of IT equipment (e.g. laptop, phone) by:

- ▶ Councillors at the end of their term in which the IT equipment that has been used exclusively by Councillors during the term of service, and
- ▶ Council officers when the IT equipment has reached its end of life.

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.

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 Capital Works & Operations and Investment & Planning Directorates are the owners of this policy. Any reviews of this Policy must be made in consultation with the Coordinator Asset Management, Asset Maintenance Officer and Manager Development Services.

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*
- ▶ *Local Government Act 1989*
- ▶ *Subdivision Act 1988*
- ▶ *Planning and Environment Act 1987*
- ▶ Mansfield Shire Council Asset Accounting Policy
- ▶ Mansfield Shire Council Asset Management Policy
- ▶ Mansfield Shire Council Asset Plan 2023-33
- ▶ Mansfield Shire Council Community Engagement Policy

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- ▶ Mansfield Shire Council Disposal or Sale of Council Assets Procedure
- ▶ Mansfield Shire Council Fraud and Corruption Control Policy and Plan
- ▶ Mansfield Shire Council Township Reserves Maintenance (Non Council Land) Policy

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) as it is purely administrative in nature and does not benefit any one gender group over any other.

Implementation

This Policy is effective from 19 August 2025.

Review Date

This Policy is to be reviewed by August 2027.

Authorisation to Implement Policy

Signed:  _____
Councillor

Witnessed:  _____
Chief Executive Officer

Approval dated: 19 August 2025

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