

	<b>P420 PROCUREMENT, &amp; DISPOSAL OF LAND AND ASSETS</b>	Version No.	5
		Issued:	19 May 2020
		Next Review:	November 2023

## 1. INTRODUCTION

Section 49 of the Local Government Act 1999 requires Council to prepare and adopt policies on the contracting out of services, competitive tendering and the use of other measures to ensure that services are delivered cost-effectively, the use of local goods and services, and the sale or disposal of land or other assets.

Further, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards obtaining value in the expenditure of public money, providing for ethical and fair treatment of participants, and ensuring probity, accountability and transparency in all disposal processes.

This Policy provides comprehensive guidance and authority to the Chief Executive Officer with respect to procurement and disposal processes.

All procurements and disposals are undertaken to give effect to Council's endorsed Budget and/or a specific resolution of Council.

This Policy:

- defines the methods by which Council can acquire goods and services;
- defines the methods by which Land and Assets are disposed of;
- demonstrates accountability and responsibility of Council to ratepayers;
- provides fairness and equity to all parties involved;
- enables all processes to be monitored and recorded; and
- ensures that the best possible outcome is achieved for the Council.

This Policy does not cover:

- non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
- the purchase of land by the Council.

This Policy also does not cover:

- Land sold by Council for the non-payment of rates; or
- disposal of goods which are not owned by the Council, such as abandoned vehicles; as these are dealt with in the Act.

## 2. DEFINITIONS

In this Policy, unless the contrary intention appears, these words have the following meanings:

**Act** means the Local Government Act 1999

**Asset** means any physical item that the Council owns and that has at any time been treated pursuant to the Australian Accounting Standards as an 'asset', and includes all Plant and Equipment. It **does not include** financial investments or finance related activities.

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**Authorised Officer** means a Council Officer with formal (sub)delegation and/or financial authorisation granted by written instrument from the Chief Executive Officer to enter into contracts and transactions to a specified value and unless contrary provisions apply includes the Chief Executive Officer and General Managers.

**Land** includes community land, vacant land, operational land, road reserves, any legal interest in land, and any other land-related assets, including all buildings (community and operational) on Land.

**Minor Plant, Materials and Equipment** includes all minor plant and equipment owned by Council with an original value of less than \$5,000. It includes all loose tools, store items, furniture, second hand items removed from other Plant and Equipment (such as air conditioners, bricks and pavers) and surplus bulk items.

### 3. POLICY OBJECTIVES

Council aims to achieve advantageous outcomes by:

- enhancing value for money through fair, competitive, non-discriminatory procurement and disposal;
- promoting the use of Council's financial, physical and staffing resources in an efficient, effective and ethical manner;
- making decisions with probity, accountability and transparency;
- advancing and/or working within Council's economic, social and environmental policies;
- providing reasonable opportunity for competitive and appropriately qualified and experienced local businesses to supply to Council;
- appropriately managing risk; and
- ensuring compliance with all relevant legislation.

### 4. POLICY PRINCIPLES

Council must have regard to the following principles in its Procurement and Disposal of Land and Assets:

- *Encouragement of open and effective competition*
- *Obtaining Value for Money*

Value for Money is not restricted to price alone, assessment must include consideration of (where applicable):

- the contribution to Council's long term financial plan and strategic management plans;
- any relevant direct and indirect benefits to Council, both tangible and intangible;
- efficiency and effectiveness of the proposed activity;
- the performance history, and quality, scope of services and support of each prospective supplier;
- fitness for purpose of the proposed goods or service;
- whole of life costs;
- the costs of various disposal methods;
- internal administration costs;
- technical compliance & knowledge issues;

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- risk exposure; and
- the value of any associated environmental benefits.

- *Probity, Ethical Behaviour and Fair Dealing*
- *Accountability, Transparency and Reporting*
- *Ensuring compliance with all relevant legislation*
- *Encouragement of the development of competitive local business and industry*

Where other evaluation criteria are comparable, Council will also give consideration/weighting to the following:

- the creation of local employment opportunities;
- increased availability of local servicing support;
- increased convenience with communications with the supplier for contract management;
- economic growth within the local area;
- benefit to Council of associated local commercial transaction; and/or
- the short and long term impact of the procurement on local business.

- *Environmental protection*

Council will seek to:

- adopt purchasing practices which conserve natural resources;
- align the Council's procurement activities with principles of ecological / environmental sustainability and the Natural Step Framework;
- purchase recycled and environmentally preferred products where fit for purposes and it is possible and reasonable to do so;
- integrate relevant principles of waste minimisation and energy;
- foster the development of fit for purpose products and services which have a low environmental impact;
- provide leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.

- *Compliance with adopted Work, Health & Safety policies, procedures and practices.*
- *Procurement and Disposals are undertaken within the parameters of and authority granted by Council's endorsed Budget and/or a specific resolution of Council.*

## 5. PROCUREMENT METHODS

Generally, open and fair competition is best achieved by undertaking a tender process so that all interested parties have an opportunity to bid. However, there may be procurements in which a tender process will not necessarily deliver the most advantageous outcome for the Council – in such instances, other market approaches may be more appropriate.

The Council may, having regard to its Procurement Principles and any other factors considered relevant by the Council, in its absolute discretion determine to utilise one or more of the following procurement methods:

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Direct Purchasing

This is where Council purchases from a single source, without first obtaining competing bids.

This method may be suitable for low value, low risk goods and services, and where the supplier already has a successful service history with the Council.

Where Direct Purchasing is utilised as a procurement method for items obtained with relative frequency and volume, a supplier is to be requested to submit to Council and keep current a list of unit prices / rates for such items purchased under this purchasing method.

Direct Purchasing may be utilised by an Authorised Officer using petty cash (up to \$150) or credit card (in addition to Council's formal online requisitioning system) up to the value of \$2,000.

Direct Purchasing may also be utilised for routine purchases of any value from any single or group of suppliers under a supply contract with a fixed pricing regime established under a Tender, Panel Contract or Strategic Alliance arrangement in accordance with this Clause 5.

Quotations

This is where Council obtains quotations from prospective suppliers.

Generally, a minimum of two written quotations should be sought. If a written quote cannot be obtained, the Council must keep detailed written records of the oral quote obtained, including details of the commercial terms of the quote.

This method may be suitable for an Authorised Officer to purchase low value, low risk goods and services with an estimated value not exceeding \$10,000.

Request for Quotations (RFQ)

This is where Council obtains written quotations from prospective suppliers.

Generally, a minimum of three written quotations are sought.

This method may be suitable for simple, largely price-based purchases with an estimated value not exceeding \$50,000.

Requests for Expressions of Interest (REOI)

This is where Council issues an open invitation for a proposed good(s) and/or service(s) of any value.

This method may be used by an Authorised Officer where there is potentially a large market for the proposed goods and/or service, and the Council would like to be able to prepare a short list of suppliers to invite to participate in a tender or request for quotation process.

Request for Tenders (RFT)

This is where the Council issues a formal tender for the supply of goods and/or service where the estimated value is in excess of \$50,000.

Council may issue a "Select" Request for Tender where it has already issued a REOI, or where it has documented reasonable grounds for only dealing with a select group of potential suppliers.

Otherwise, Council may issue an "Open" Request for Tender.

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Prior to any procurement decision arising from a Request for Tender process each Tender is to be assessed against a pre-determined and documented set of criteria. Assessment is to be undertaken individually by a panel comprising at least 3 Council Officers of which at least one is not to have been involved in the development of the Tender specification or to be involved in the management of the Tender Contract.

#### Panel Contracts

This is where the Council establishes panel arrangements with a select group of suppliers – generally, this occurs once the Council has completed its appointment of such suppliers in accordance with this Policy, and can include either:

- a standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or
- the prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

Once a panel has been established, the Council may purchase the particular goods and/or service through such panel arrangements.

A panel contract must be first endorsed by Council including the extent of goods and services and any value limit or conditions applicable to any particular contract, purchase or group/category of purchase.

An Authorised Officer may utilise a panel contract for direct purchasing of goods and services of any value within approved budget and authorisation limits.

#### Strategic Alliances

This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations, including:

- LGA Procurement;
- a purchasing group of which the Council is (or becomes) a member;
- Procurement Australia;
- State Government contracts.

A Strategic alliance must first be endorsed by Council including the extent of goods and services and any value limit or conditions applicable to any particular alliance, purchase or group/category of purchase.

An Authorised Officer may utilise a strategic alliance for direct purchasing goods and services of any value within approved budget and authorisation limits.

A panel contract or strategic alliance will not require endorsement by Council where the panel or alliance is administered by the Local Government Association or under an arrangement between the constituent councils of a s43 subsidiary with which Council is associated (i.e. Limestone Coast Local Government Association).

## **6. PROCUREMENT STRUCTURE**

The appropriate method of procurement will be determined by reference to a number of factors, including:

- *Value of the Purchase (all values exclusive of gst)*

Value of Purchase (\$)	Possible Method of Procurement	Assessment/Purchasing Decision Making Delegations
<b>Not exceeding \$2,000</b>	Direct Purchasing	Authorised Officer - up to \$ limit
<b>Not exceeding \$10,000</b>	Obtain at least 2 Quotations (3 written quotes over \$5,000)	Authorised Officer - up to \$ limit
<b>Not exceeding \$50,000</b>	Request for Quotation (RFQ)	Authorised Officer - up to \$ limit
<b>In excess of \$20,000</b>	Request for Expression of Interest (REOI)	N/A - refer RFQ/RFT limits
<b>In excess of \$50,000</b>	Request for Tender (RFT)	CEO up to \$100,000 Council - above \$100,000
<b>Budget</b>	Direct Purchasing (Formal Supply Contract)	Authorised Officer - up to \$ limit CEO – up to Budget
	Panel Contracts	Authorised Officer - up to \$ limit CEO – up to Budget
	Strategic Alliances	Authorised Officer - up to \$ limit CEO – up to Budget

**In accordance with Clause 2 Definitions:**

**Authorised Officer** means a Council Officer with formal (sub)delegation and/or financial authorisation granted by written instrument from the Chief Executive Officer to enter into contracts and transactions to a specified value and unless contrary provisions apply includes the Chief Executive Officer and General Managers.

The value of the purchase will be calculated as follows:

- *single one-off purchase* – the total amount, or estimated amount, of the purchase (excluding GST);
- *multiple purchases* – the gross value, or the estimated gross value, of the purchases (excluding GST); or
- *ongoing purchases over a period of time* – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).
- *purchase including a trade-in/changeover* – the net changeover value being the gross value of the item being purchased minus the value of the traded-in/changed-over asset.

*Noting always that all procurements and disposals are undertaken to give effect to and implement Council's plans and objectives within the parameters of Council's endorsed Budget and/or a specific resolution of Council.*

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- *cost of an open market approach versus the value of the acquisition and the potential benefits;*
- *the particular circumstances of the procurement activity;*
- *the objectives of the procurement;*
- *the size of the market and the number of competent suppliers;*
- *the Council's leverage in the marketplace;*
- *time constraints;*
- *a holistic assessment of the risks associated with the relevant activity and /or project, including the risk profile of the procurement and any risks associated with the preferred procurement method.*

For the purpose of this clause 6, any variation in determining the procurement method in accordance with the values prescribed in the above table must be endorsed by the Chief Executive Officer and be accompanied by detailed written reasons of the relevant factors.

## **7. CONSIDERATIONS PRIOR TO DISPOSAL OF LAND AND ASSETS**

Any decision to dispose of Land and Assets will be made after considering (where applicable):

- *the usefulness of the Land or Asset;*
- *the current market value of the Land or Asset;*
- *the annual cost of maintenance;*
- *any alternative future use of the Land or Asset;*
- *any duplication of the Land or Asset or the service provided by the Land or Asset;*
- *any impact the disposal of the Land or Asset may have on the community;*
- *any cultural or historical significance of the Land or Asset;*
- *the positive and negative impacts the disposal of the Land or Asset may have on the operations of the Council;*
- *the long term plans and strategic direction of the Council;*
- *the remaining useful life, particularly of an Asset;*
- *a benefit and risk analysis of the proposed disposal;*
- *the results of any community consultation process;*
- *any restrictions on the proposed disposal;*
- *the content of any community land management plan; and*
- *any other relevant policies of the Council.*

Consideration given to these matters will be recorded in Council's corporate records management system and in the case of a decision to dispose of Land, will be presented in a report at a meeting of Council prior to the disposal decision being made.

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## 8. DISPOSAL METHODS

### Land disposal

The Council may resolve to dispose of Land.

Where the Land forms or formed a road or part of a road, the Council must ensure that the Land is closed under the Roads Opening and Closing Act 1991 (SA) prior to its disposal.

Where Land is classified as community land, the Council must:

- undertake public consultation in accordance with the Act and the Council's public consultation policy; and
- ensure that the process for the revocation of the classification of Land as community land has been concluded prior to its disposal; and
- comply with all other requirements under the Act in respect of the disposal of community land.

Where the Council proposes to dispose of Land through the grant of a leasehold interest, the Council must have complied with its obligations under the Act, including its public consultation obligations under Section 202 of the Act.

The Council will, where appropriate, dispose of Land through one of the following methods:

- *open market sale* - advertisement for disposal of the Land through the local paper and where appropriate, a paper circulating in the State, or by procuring the services of a licensed real estate agent and/or auctioneer (following compliance with this Policy);
- *expressions of interest* - seeking expressions of interest for the Land;
- *select tender* - seeking tenders from a selected group of persons or companies;
- *open tender* - openly seeking bids through tenders, including public auction;
- *by negotiation* – with owners of land adjoining the Land or others with a pre-existing interest in the Land, or where the Land is to be used by a purchaser whose purpose for the Land is consistent with the Council's strategic objectives for the Land.

Selection of a suitable disposal method will include consideration of (where appropriate):

- the number of known potential purchasers of the Land;
- the original intention for the use of the Land;
- the current and possible preferred future use of the Land;
- the opportunity to promote local economic growth and development;
- delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
- the total estimated value of the disposal; and
- compliance with statutory and other obligations.

The Council will not dispose of Land to any Council Member or employee of the Council who has been involved in any process related to a decision to dispose of the Land and/or the establishment of a reserve price.

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If Land is to be auctioned or placed on the open market or disposed of by an expression of interest or select tender, then (unless the Council resolves otherwise) an independent valuation must be obtained to establish the reserve price for the Land. The independent valuation must be made no more than 6 months prior to the proposed disposal.

If Land is to be disposed of via direct sale, then (unless the Council resolves otherwise) an independent valuation must be obtained to ensure that an appropriate market value is obtained. The independent valuation must be made no more than 6 months prior to the proposed disposal.

An independent valuation will not be required for a disposal where a value estimation being for less than \$25,000 has been prepared and documented for the Land.

The Council will seek to dispose of Land by whichever method is likely to provide the Council with a maximum return at or near current market valuation, unless there are reasons for the Council to accept a lesser return which is consistent with the Council's overall strategic direction. These reasons must be documented in writing.

If the disposal is not to be on the open market, the disposal amount should have due regard to the value of the Land (independent or estimation) and the recovery of associated costs necessary to achieve the transaction.

### **Assets disposal**

The sale of Assets will be the responsibility of the relevant General Manager who is responsible for those Assets.

The Council will, where appropriate, dispose of Assets through one of the following methods:

- *trade-in* – trading in equipment to suppliers
- expressions of interest – seeking expressions of interest from buyers;
- *select tender* – seeking tenders from a selected group of persons or companies;
- *open tender* – openly seeking bids through tenders;
- *public auction* – advertisement for auction in a paper circulating in the area, or procuring the services of an auctioneer (following compliance with this Policy).
- *sale through the ReUse Market.*

Selection of a suitable method will include consideration of (where appropriate):

- the public demand and interest in the Asset;
- the method most likely to return the highest revenue;
- the value of the Asset;
- the costs of the disposal method compared to the expected returns; and
- compliance with statutory and other obligations.

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Consideration will be given to direct disposal of Minor Plant and Equipment to a community/sporting group(s) where it is considered that such disposal provides a cost/service benefit to Council. Other groups may be provided with opportunity to participate in the disposal where the administrative resources necessary for such participation are not considered to outweigh or exceed the benefit/savings to be achieved or the Asset value.

Elected Members and employees of the Council will not be permitted to purchase Assets unless the purchase is at the ReUse Market for the advertised price or via an open tender process or a public auction, and the tender submitted or bid made is the highest.

The Council will not dispose of any Asset to any Council Member or employee of the Council who has been involved in the establishment of the sale price at the ReUse Market.

Purchasers of Assets must be required to agree in writing that before purchasing any Asset that no warranty is given by the Council in respect of the suitability and condition of the Asset for the purchaser and that the Council will not be responsible for the Asset in any respect following the sale.

## 9. CONSULTATION

The Council must undertake public consultation in respect of its proposed disposals in accordance with the requirements of the Act and its public consultation policies at all times.

## 10. RECORDS

The Council must record reasons for utilising a specific procurement or disposal method in each activity and where it uses a procurement or disposal method other than a tendering process.

## 11. EXCEPTIONS TO THIS POLICY

This Policy contains general guidelines to be followed by the Council in its procurement and disposal activities. There may be emergencies, or procurements or disposals in which a tender process will not necessarily deliver the best outcome for the Council, and other market approaches may be more appropriate.

In certain extenuating circumstances, the Chief Executive Officer may waive application of this Policy and pursue a method which will bring the best outcome for the Council.

Such circumstances might include, but not be limited to:

- emergency situations threatening life and property; or
- where the supply market is known; or
- timing constraints

The Chief Executive Officer must record in writing reasons for waiving application of this Policy.

This clause is not intended to override or avoid any other restrictive/prohibitive policy, delegation or other statutory or documented provisions or requirements.

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## 12. DELEGATIONS

This policy is to be administered with regard to and consistent with duly made delegations, sub-delegations and financial authorisations of the Council and Chief Executive Officer.

## 13. PRUDENTIAL REQUIREMENTS

This policy is to be administered with regard to and consistent with Council's Prudential Management Policy, practices and procedures and s48 of the Local Government Act 1999.

## 14. RISK MANAGEMENT

This policy is to be administered with regard to and consistent with Council's Risk Management Framework Policy and risk management practices and procedures.

## 15. REVIEW OF POLICY

This Policy shall be reviewed at least once during each term of Council, and shall be reviewed and presented to Council following its first 12 months of operation. Council may revise or review this Policy at any time (but not so as to affect any process that has already commenced).

## 16. FURTHER INFORMATION

This Policy will be published on the Council's website and will be available for inspection at the principal office of the Council.

A copy of this Policy will be provided to any person upon request following payment of a fee as prescribed in Council's Schedule of Fees and Charges.

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File Reference:	AF18/56
Applicable Legislation:	Local Government Act 1999 (s49)
Reference: Community Plan	
Related Policies:	C375 Provision and Replacement of Council Vehicles F225 Fraud and Corruption Prevention R305 Risk Management Policy R180 Records Management Policy
Related Procedures:	
Related Documents:	<a href="#">LGA Procurement Handbook</a> Procurement Contracting Document Templates (AF11/1901) WHS Policies/Document Templates (AF13/175)

## 17. DOCUMENT DETAILS

Responsibility:	Management Accountant
Version:	5.0
Last revised date:	19 May 2020
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Next review date:	November 2023
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