

PURPOSE

The purpose of this policy is to ensure that, when deciding whether to dispose of Council Land, Council explores possible options for the use of the land, applies processes that are demonstrably equitable, consistent and transparent, complies with appropriate legislative requirements and obtains the best outcome for the Glenorchy community.

SCOPE

This policy applies to all land owned by Council. It does not apply to land managed or administered by Council that is not owned by Council (e.g. Crown land).

RELATED DOCUMENTS

- Proceeds of Property Disposal Policy

STATUTORY REQUIREMENTS

Council's obligations with respect to the sale of Council Land are set out in Part 12, Division 1 of the *Local Government Act 1993*.

Acts	<i>Local Government Act 1993</i>
Regulations	<i>Local Government (Meeting Procedures) Regulations 2015</i>
Australian/International Standards	<i>N/A</i>

DEFINITIONS

Council Land means land owned by Council.

Dispose means Includes sell, lease, donate, exchange or otherwise dispose of, and 'disposal' has the corresponding meaning.

Public Land means 'public land' as defined in section 177A of the *Local Government Act 1993*.

The Act refers to the *Local Government Act 1993*.

POLICY STATEMENT

1. Introduction

Council has fundamental duties to act in the best interests of its community and comply with its obligations under the Act. These duties include the prudent management of the community's assets and Council's finances.

This policy aims to ensure that those obligations are met when disposing of Council Land.

2. Treatment of Council Land as Public Land

For the purpose of this section 177A(1)(f) of the Act, Council considers all Council Land to be Public Land.

Council will follow the procedure set out in section 178 of the Act when disposing of Council Land.

3. Matters to be Considered

3.1. Fundamental principles

Council must have regard to the following fundamental principles when disposing of Council Land:

Transparency

Council will be open and transparent in how it undertakes the disposal of Council Land.

Consistency

Council will take a similar approach in similar matters to achieve similar outcomes.

Accountability

Council will explain decisions and make avenues of comment or appeal available.

Public Interest

Any decision to dispose of Council Land will be in the best interests of the community and provide the best result for both Council and the community.

Compliance

Council will ensure any sale of Council Land complies with its statutory obligations.

3.2. Other Matters

In addition to the fundamental principles, Council must ensure that:

- the Council Land can be disposed of in a way which:
 - transparently demonstrates achievement of the best value for the community, and

- does not expose Council or the community to unacceptable risks around the process or the outcome
- any transaction can be justified if questions are asked about market testing and competition
- the community is given the opportunity to provide feedback about any potential disposal of Council Land
- the disposal of the Council Land would be consistent with Council Strategies and Plans
- access and connectivity with adjacent Public Land is maintained to a level that is acceptable and in keeping with reasonable community expectations
- any cost associated with creating saleable parcels of land is considered
- compliance with all applicable planning requirements is achieved, and
- any other relevant matters are considered.

4. Procedure

A flowchart that summaries Council's land disposal process is provided in Appendix 1.

4.1. Identification of Disposable Council Land

The identification of Council Land potentially suitable for disposal may come from the public, a property developer or potential purchaser, or through an internal Council assessment process.

If Council Land potentially suitable for disposal is identified, an assessment of the identified Council Land will be undertaken by appropriate Council staff, with assistance from external consultants if required. If the assessment determines that the disposal is appropriate, a report is to be submitted to Council recommending that Council forms an intention to dispose of the Council Land and to commence the public consultation process set out in section 178 of the Act.

The report to Council must contain information about how the matters in clause 3.2 (above) been considered and addressed, and will include the following information where relevant:

- the current use and history of the Council Land
- details of the values of the Council Land (e.g. cultural, heritage, environmental, recreation, landscape)
- any statutory or legal considerations
- the rationale for the recommended disposal, including details of any internal referrals
- any encumbrances on the Council Land (easements, mortgages etc)
- the estimated timeframe for the disposal
- any other relevant matters in the circumstances, and
- the recommended course of action.

In accordance with section 15(3)(c) of the Local Government (Meeting Procedures) Regulations 2015, Council must not close part of a meeting when it is considering proposals to deal with Public Land under section 178 of the Act.

4.2. Community consultation

A community engagement strategy must be developed and implemented for each Council Land disposal project. This consultation will be undertaken in accordance with Council's Community Engagement Framework and must comply with section 178 of the Act.

4.3. Valuation

Council must obtain a valuation of any Council Land being recommended for disposal from the Valuer-General or a person who is qualified to practise as a land valuer under Section 4 of the *Land Valuers Act 2001*. For the avoidance of doubt, this requirement applies to Council Land, which is Public Land, even though this is not expressly provided for in the Act. The results of the valuation will be provided to Council out of session in order to keep the related Council Reports in an Open Council Meeting, as publicising the valuation at this stage could commercially disadvantage Council.

4.4. Public Notification

In addition to the notification requirements prescribed in section 178, the General Manager will:

- display a plan and relevant property information on the community notice board in Council's chambers (near the chambers' rear public entrance), and
- notify the owners of neighbouring and affected properties advising of the proposed disposal.

4.5. Objections to be considered by Council

Following the completion of the statutory twenty-one (21) day advertising period, a report is to be presented to Council, to consider any objections received during that time.

In accordance with section 15(3)(c) of the *Local Government (Meeting Procedures) Regulations 2015*, Council must not close part of a meeting when it is considering proposals to deal with Public Land under section 178 of the Act.

4.6. Method of disposal

Council will determine a method of disposal for any land identified as being appropriate for disposal that achieves the best value for the community in the circumstances.

This may include public tender, auction, listing with a real estate agent or a negotiated private sale.

BACKGROUND

Council currently owns or controls many properties ranging from small road widening strips through to large reserves. In accordance with this Policy, Council will identify surplus land which is no longer required for community use or future operational requirements and may consider disposing of those properties to limit costs, raise revenue, and/or support strategic outcomes. When considering whether to dispose of Council Land, Council must ensure that it meets its obligations to prudently manage its assets and finances for the benefit of the community.

DOCUMENT CONTROL

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Appendix 1 – Disposal of Council Land Workflow



