

POLICY PURPOSE

The purpose of this policy is to ensure that, prior to considering the sale of land assets, Edward River Council has explored all other options for the use of the land and that the sales process is equitable, consistent, and transparent.

POLICY SCOPE

This Policy applies to any 'operational' property or land assets owned by the Edward River Council. It does not apply to Crown Land controlled and/or managed by Edward River Council on behalf of the Crown or a Trust.

POLICY STATEMENT

This policy recognises that the sale of council land must follow a process that is consistent, fair, and transparent.

The sale of any council asset must follow a considered approach, meet community expectations and be in accordance with applicable council policy and government legislation and regulations.

Council acknowledges that when undertaking the sale of operational land, it is important that the process is seen to be fair and transparent and that this can best be achieved through a process of community engagement. The process for community engagement may vary depending on the degree of importance and effect that any sale will have on community members and should follow the principles outlined in the International Association of Public Participation (IAP2) guidelines.

OBJECTIVES

All sales of land assets will;

- be consistent with Council's economic, social, and environmental objectives,
- be undertaken in accordance with the requirements of the Local Government Act 1993.
- occur only after consultation with affected stakeholders and relevant sections of the community and following considering all comments and representations,
- be undertaken with the intention of securing maximum economic, social and environmental benefits for the community,
- occur through a fair and transparent process,
- consider any industry or ICAC guidelines ¹
- be open to public scrutiny while maintaining appropriate levels of commercial confidentiality, and
- be conducted in accordance with any relevant Council procedures.

POLICY APPLICATION

Sale of Council Land

Chapter 6, Part 2, Sec's 25, 26 of the Local Government Act 1993 state that public land must be classified as either 'Community' or 'Operational and that community land cannot be sold.

Council acknowledges that when undertaking the sale of operational land, a relevant community engagement process should be determined, if deemed appropriate, using the International Association of Public Participation guidelines.

1. Sale of surplus land

Council may consider the sale of operational land where it has been assessed by the Executive Management Team (EMT) and council is satisfied that it is not required for future operational or community purposes.

The report should canvas all alternative uses for the land under current or other zoning. The report should also recommend to Council the preferred method of sale.

2. Sale of surplus road reserve

Council can consider the sale of a portion of a road reserve, where the land is classified as operational and where it has been assessed by the Executive Management Team (EMT) as being surplus to council's needs. Consideration should be given to future requirements for road widening, footpath construction or other Council infrastructure.

Except where the dimensions of the land proposed to be sold are sufficient to permit independent development of the site, the Council will only consider sale to the owner/s of the adjoining property/properties and, in such cases, will require that the parcel of surplus land be consolidated with the adjoining property/properties.

3. Report to Council to Sell Land

Where council owned land has been identified as surplus to councils needs a report will be prepared for council and will contain the following information:

- Description of property and property history
- Current valuation and date of valuation (*valuation must be current within six months of the proposed date of sale*)
- Locality map
- Current use and zone
- Rationale for recommended sale
- Recommended method of sale
- Recommended sale price range (*in line with market valuation*)
- Proposed sale process
- Encumbrances on the land
- Timelines for the sale.

4. Consultation Process

Prior to the sale of any operational land an advertisement must be placed in Council's regular print media outlets advising of the proposed sale. The 28-day notice period is to allow members of the community to make submissions in relation to the proposed sale.

Following the period of public exhibition, a further report will be brought to Council detailing any submissions received enabling Council to reach an informed position on whether to proceed or not proceed with the sale of the land.

5. Methods of Disposal

The sale of operational land can be by;

- Public Competitive Sale (Auction or EOI)
- Private Sale
- Other Sales.

6. Public Competitive Sale

Following council approval to proceed with a sale, the following procedures should apply:

- The Council shall determine how the land is to be sold
- The Council may invite expressions of interest from prospective buyers for the sale of the property or;
- Select a licensed real estate agent to dispose of the property based on the following criteria but not limited to:

- (a) type of property to be marketed
- (b) relevant experience in that market
- (c) proposed commission
- The Council shall determine the reserve price if the sale is by auction or by negotiation
- If reserve is met, then the sale proceeds
- If reserve is not met, then any offer or proposal to amend reserve will be referred to the Council for consideration.

7. Private Sale

The General Manager may be delegated to negotiate the sale with prospective purchaser/s. The council must approve the final sale price and any terms or conditions associated with the sale.

8. Other Sales

If any sales fall outside the guidelines above, then Council approval will be required prior to acceptance of any offer to purchase.

9. Contracts of Sale

All Contracts of Sale are to be prepared by Council’s solicitors and executed by the Mayor and General Manager under delegation.

POLICY HISTORY AND VERSION CONTROL

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| ECM Doc Set ID | 51087 | | | |
| Date Adopted | 19 April 2018 | | | |
| Council Minute No. | 2018/72 | | | |
| Responsible Officer | General Manager | | | |
| Version Number | Modified By | Modifications Made | Date modified and Approved by Council | Council Minute Number |
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Relevant Legislation

NSW Local Government Act 1993
Environmental Planning & Assessment Act 1979

Related policies, procedures, & protocols

1. ‘Corruption risks in NSW development approval processes’ ICAC Sydney Position Paper 2007 – Chapter 7, Council Land Disposal.
2. ‘Guidelines for managing risks in direct negotiations’, ICAC Sydney May 2006