

F14. Disposal of Property Policy

Policy Objective

This policy is intended to provide guidelines for the disposal of Shire of Dundas owned property deemed surplus to the Shires requirements.

The Shires Disposal of Property Policy sets the direction for disposition of all property, including the conditions relating to plant and vehicles trade-ins, machinery, furniture, equipment, miscellaneous items, abandoned vehicles, building/construction materials, animals and land or buildings.

Policy Statement

To ensure full compliance with applicable legislative obligations and principles of transparency:

- Assets disposal decisions, including reasons for such action are to be recorded in the Shires assets registers and associated account records;
- Under no circumstances are items to be donated to staff.

To clarify, the term “Property” and “Asset” are interchangeable to ensure alignment with the *Local Government Act 1995*. The following definitions, extracted from Section 3.58 of the *Local Government Act 1995* are also relevant:

- Disposal: includes to sell, lease or otherwise dispose of, whether absolutely or not; and
- Property: includes the whole or any part of the interest of a local government in property but does not include money.

Where assets have been identified as being surplus to the Shires requirements, due for replacement or is deemed appropriate for disposal through the relevant act, the following procedures will apply to the disposal of that asset:

- Section 3.58 of the *Local Government Act 1995* requires Council to dispose (sell, lease or otherwise dispose) of property assets by public auction, public tender or local public notice in accordance with the legislated requirements. Section 3.58(d) allows for certain dispositions to be exempted from these requirements through regulation.
- The disposition of which shall be an exempt disposition pursuant to Regulation 30(2) and (3) of the Local Government [Functions and General] Regulations 1996.

1. Disposal of Land and Buildings

1.1 The disposal of “land” includes the sale, lease or assignment of all or any part of the land.

Shire of Dundas owned land and buildings is to be disposed of in accordance with the provisions of Section 3.58 of the *Local Government Act 1995* by either of the following:

- a) The highest bidder at a Public auction; or
- b) Public tender
- c) Before agreeing to dispose of the property it gives **local public notice** of intention to dispose-
 - i. Describing the property concerned; and
 - ii. The names of all other parties concerned; and
 - iii. The consideration to be received by the local government for the disposition; and

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- iv. The market value of the disposition
- v. Inviting submission to be made to the shire before a date not less than 2 weeks after the notice is first given
- vi. And it considers any submission made to it before the date specified in the notice and if its decision is made by the council, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

1.2 Under Regulation 30 of the Local Government [Functions and General] Regulations, an exemption applies where land is disposed of:

- a) To an owner of adjoining land (subject to value less than \$5,000);
- b) To a charitable or not for profit body;
- c) To the Crown;
- d) Is leased to an employee of the local government for use as the employees residence; or
- e) Is residential property leased to a person.

1.3 Notwithstanding the provisions of the Act or the Regulations, any disposal of Shire Dundas land is to:

- Have regard to the commercial value of the land being disposed as determined by a qualified valuer and or the Valuer Generals Office; and
- Be brought before Council for consideration.

2. Disposal of confiscated or uncollected goods (including animals)

2.1 Confiscated or uncollected goods are to be disposed of in accordance with Section 3.47 of the *Local Government Act 1995*.

The property is to be disposed of as if it were the property of the Shire of Dundas and therefore subject to the provisions of Section 3.58 of the *Local Government Act 1995*.

3. Disposal of Plant, Machinery, Furniture, Equipment and Miscellaneous Items

3.1 The Shire of Dundas plant, machinery, furniture, equipment, and miscellaneous items are to be disposed of in accordance with the provisions of Section 3.58 of the *Local Government Act 1995* by either of the following:

- a) The highest bidder at a Public auction; or
- b) Public tender
- c) Before agreeing to dispose of the property it gives **local public notice** of intention to dispose-
 - i. Describing the property concerned; and
 - ii. The names of all other parties concerned; and
 - iii. The consideration to be received by the local government for the disposition; and
 - iv. The market value of the disposition
 - v. Inviting submission to be made to the shire before a date not less than 2 weeks after the notice is first given
 - vi. And it considers any submission made to it before the date specified in the notice and if its decision is made by the council, the decision, and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

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3.2 Under Regulation 30 of the Local Government [Functions and General] Regulations, an exemption applies where the property to be disposed of:

- a) Has a market value less than \$20,000; or
- b) Is disposed of as part of the consideration to acquire assets whose total value (or worth) is less than \$75,000 (i.e., traded in)

As per 3.2 (a) of this Policy, if the market value of the property to be disposed is less than \$20,000 the following methods of disposal may be used by the Shire:

- Local public notice calling for expressions of interest
- Trade-in for other property
- Donation or gifting of the property to local schools and community groups or not for profit organisations by Council Resolution.

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