Sale of Land and Buildings Policy

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Approval by:	Council	**Responsible Officer:**	Manager Strategic Procurement and Property
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1. Purpose

This Sale of Land and Buildings Policy ("Policy") defines Knox City Council's approach to the sale of Council owned property, with or without improvements. It supports Council to:

1.1 optimise the value of property assets to the community, including the evaluation of unused or redundant land or buildings and the realising of the funds tied up in these in order to acquire, develop or improve other assets.

1.2 guide the strategic management of Council's property portfolio for the long-term best interests of the community.

1.3 define the process for identifying and proceeding with the sale of any Council owned land and to identify how the proceeds from land sales are to be allocated.

1.4 ensure sales are in accordance with statutory and legislative requirements.

2. Context

The process for the sale, exchange and transfer of Council land is subject to the *Local Government Act 2020.* This Policy reflects those statutory requirements.

3. Scope

This Policy applies to:

- any Council-owned land or buildings proposed for disposal, with or without improvements.
- all Council staff involved in proposed disposals.

This Policy does not apply to:

- leasing, licensing, or temporary occupation of Council land or buildings.

- property sold by the Council because of non-payment of rates.
- roads, private roads, and right of ways, or road discontinuances prior to a decision about the sale of the discontinued road.
- the sale or disposal of non-land or building assets.

4. Council Policy

4.1 Policy statement

4.1.1. All sales, exchanges and transfers of land are required to comply with the provisions of the *Local Government Act 2020*.

4.1.2 The decision to sell Council owned land is made carefully, considering the current and future needs of the municipality, and maximising public value (both financial and non-financial).

4.1.3 As such, Council owned land will be assessed against the principles in Table 1 to determine whether the land is surplus to Council's current and future requirements and whether disposal is appropriate, having regard to the overall community benefit and public value of retaining or disposing of the land.

4.2 Principles

Council land and buildings must be assessed against the following principles, which provide the rationale for sale or transfer of Council Land and Buildings.

Table 1: Assessment Principles for the Retention or Disposal of Council Land

No.	Principle	Key Considerations
1	**Economic Efficiency**	Whether the financial and opportunity costs of retaining the property are justified by its current or future public value, and whether disposal would enable resources to be redirected to higher priority community outcomes
2	**Current Service Need**	Whether the property is required to support Council's current service delivery, operational activities or statutory functions. Council will consider the current condition of the land and any improvements.
3	**Future Provision**	Whether the property is required to support identified future service delivery, infrastructure, community outcomes or strategic objectives. Council will consider the future maintenance, renewal and upgrade requirements. Council may also consider the context of the surrounding land.
4	**Environmental**	Whether the property provides significant environmental value

No.	Principle	Key Considerations
	Value	through existing trees, vegetation, and habitat, or other environmental outcomes. Council may also consider the context of the surrounding land.
5	**Public Realm, Heritage and Amenity**	Whether retaining or disposing of the land would impact public safety, visibility, pedestrian connectivity, streetscape quality, neighbourhood character, and heritage or cultural values. Council may also consider the context of the surrounding land.
6	**Legal, Statutory and Planning Considerations**	Whether any legal, planning or title or statutory restrictions affect the ability to retain, use, or dispose of the property.
7	**Risks, Constraints and Obligations**	Whether ownership or disposal creates material financial, environmental, safety, heritage, contractual or other risks or obligations, and whether these can be appropriately managed.

4.3 Council Reporting and Decision making

4.3.1 Council will consider a report addressing the principles outlined in Table 1 of this Policy before resolving that:

- the land is surplus to Council's needs, and
- to proceed with the statutory requirements under the *Local Government Act 2020* prior to a potential disposal.

4.3.2 A public notification and consultation process will be undertaken in accordance with the Act and Council's Community Engagement Policy.

4.3.3 Following completion of all statutory processes, a second report will be presented to a Council meeting outlining the outcomes of statutory processes. This report will seek a decision on whether to proceed with the disposal.

4.4 Considerations Prior to the Sale of Land

Prior to the sale of any land, Council will consider whether it is appropriate to address or remove restrictions or any encumbrances from the title so that the highest possible return is achieved.

Any decision regarding rezoning should balance planning outcomes, timing, costs, taxation implications and likely market response. In particular, Council will consider the implications of any applicable Windfall Gains Tax, including whether the potential uplift in value resulting from rezoning justifies the associated tax liability. Accordingly, whether to rezone land prior to disposal will be considered on a case-by-case basis. Council may elect to dispose of land without rezoning where this is considered to achieve the best overall outcome for the community and ratepayers.

4.5 Market Value and Reserve Price

Section 114 of the *Local Government Act 2020* requires that Council obtains a valuation of the land within 6 months of a disposal. The valuation must be prepared by a person who holds the qualifications or experience specified under section 13DA(2) of the *Valuation of Land Act 1960*, and must be made not more than six months prior to the proposed transaction. This will establish the Market Value of the land.

Dependent on the circumstances of the land, Council may request that the valuation includes:

- the highest and best use of the land permitted by applicable planning controls and
- the value of the land if rezoned, and if not rezoned.

Council will set a Reserve Price at or above the Market Value unless Council resolves there is a clearly demonstrated reason not to. In setting the Reserve Price, Council will have regard to:

- the Market Value;
- the impacts of the Windfall Gains Tax (and any other tax, charge or rate incurred by Council to sell); and
- any other factors it considers material.

Council will generally seek to achieve the best financial return reasonably available from the disposal of property. However, Council may determine that a disposal at less than market value, or through an alternative disposal method, provides a greater overall community benefit. This may include, but is not limited to, disposal to a not-for-profit or community organisation, or the sale of a small or irregular parcel of land to an adjoining landowner.

4.6 Disposal Method

Council will ordinarily dispose of land and buildings through a competitive public process, such as public auction, public tender or an expression of interest process. The method of disposal will have regard to the nature and circumstances of the property and seek to achieve the best overall outcome for Council and the community.

Council may resolve to dispose of property other than through a competitive public process where the circumstances justify an alternative approach and the proposed method is consistent with the *Local Government Act 2020* and other applicable legislative requirements.

Small or irregular parcels of land may be sold directly to an adjoining landowner where Council considers that a direct sale represents the most appropriate, efficient and beneficial outcome and a competitive public process is unlikely to deliver a superior outcome.

Proposals involving the exchange of land will be considered by Council on a case-by-case basis and assessed against the principles set out in Table 1.

4.7 Proceeds from Sale of Land

Net proceeds from the sale of Public Open Space land are subject to the requirements of the Subdivision Act 1988 and must be held in Council's Open Space Reserve. Replacement land may be identified prior to the sale of any Public Open Space.

Net proceeds from the sale of all other land that is not Public Open Space land are to be treated as consolidated revenue. These funds may be allocated to capital projects within the municipality as part of the annual budget process and in accordance with Council's strategic priorities of the day.

5. References

5.1 Knox Council and Health and Wellbeing Plan 2025-2029

5.2 Relevant Legislation includes, but is not limited to:

- Local Government Act 2020
- Planning and Environment Act 1987
- Property Law Act 1958
- Retail Leases Act 2003
- Sale of Land Act 1962
- Subdivision Act 1988
- Transfer of Land Act 1958
- Windfall Gains Tax Act 2021
- Valuation of Land Act 1960

5.3 Charter of Human Rights

- This policy has been assessed against and complies with the charter of Human Rights.

5.4 Related Council Policies and Procedures

- Community engagement Policy
- Knox Open Space Plan
- Knox Affordable Housing Action Plan
- Strategic Property Prioritisation Framework

5.5 Other resources

- The Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land ("Best Practice Guidelines") (2009)
- Strategic Property Prioritisation Framework

6. Definitions

Term	Definition
Act	The Local Government Act 2020
Building	Means a permanent structure owned by Council, whether located on Council-owned land or other land where Council has the legal right to own the structure.
Council	Knox City Council
Disposal	The sale, exchange, transfer or other divestment of Council owned land or buildings.
Improvements	Means any building, structure, fixture, landscaping, infrastructure, service connection or other physical works on land that enhance its use, functionality or value.
Land	Means land that is owned by Council, being land for which Council is the registered proprietor on the Certificate of Title. It excludes land where Council is the Committee of Management of Crown Land, or where land is vested in Council where Council does not hold the title.
Market Value	The market value of the land or building as obtained from a person who holds the qualifications or experience specified under section 13DA(2) of the Valuation of Land Act 1960.
Public Open Space	As defined in the Subdivision Act 1988, land set aside in a plan, or land in a plan zoned or reserved under a planning scheme: - For public recreation or public resort; or - As parklands, or - For similar purposes
Public Process	Refers to any process that is open to the public, including but not limited to auction, tender or expressions of interest.
Reserve Price	The minimum amount Council will accept for the sale of the land or building.
Tree Reserve	An area of land formally established under statutory instrument, land title, planning approval or other legal mechanisms for the retention, preservation and management of trees.
Windfall Gains Tax	A Victorian State tax that may apply when the value of land increases

as a result of rezoning. The tax is assessed on the uplift in value attributable to the rezoning and is payable by the owner of the land at the time the rezoning takes effect, subject to applicable exemptions and exclusions.

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7. Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this Policy or the Strategic Property Prioritisation Framework. Where an update does not materially alter this Policy, such a change may be made administratively on approval of the Chief Financial Officer. Examples of minor administrative changes include change to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this Policy, it must be considered by Council.