

<b>Responsible Directorate</b>	<b>Infrastructure</b>
<b>Responsible Business Unit/s</b>	<b>Infrastructure Administration</b>
<b>Responsible Officer</b>	<b>Director Infrastructure</b>
<b>Affected Business Unit/s</b>	<b>All</b>

## Objective

This policy outlines the requirements for setting the conditions relating to the sale of Real Property.

## Scope

This policy applies to all areas of Council that have the responsibility to manage, maintain, operate or provide a service relating to the sale of Real Property owned by the City in fee simple .

## Policy

In accordance with legislative requirements under the *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996* and after obtaining Council resolution approving the 'Sale of Real Property', the following conditions are to be observed:-

### 1. General provisions for undertaking the Sale of Real Property

#### 1.1. Appointment of a Real Estate Agent

Where required, to effect the Sale of Real Property, the City will appoint a Real Estate Agent, to provide Disposal Services. The appointment of the Real Estate Agent will be undertaken in accordance with the City's Purchasing and Tender Management Practice.

#### 1.2. Appointment of a Licensed Valuer

Where required, to determine the market value of Real Property, the City will appoint a Licensed Valuer in accordance with the City's Purchasing and Tender Management Practice.

### 2. Specific provisions for undertaking the Sale of Real Property

#### 2.1. Sale via Public Auction

The following provision relate to the Sale of Real Property where disposal is to be undertaken via Public Auction.

2.1.1. Reserve Price – will be set at no less that the market valuation of the Real Property as determined by the Licensed Valuer or Real Estate Agent appointed by the City.

2.1.2. Deposit – the deposit to be paid by the buyer will be determined by the City, in consultation with the appointed Real Estate Agent, on the provision that the deposit will not be less than \$10,000 and will be payable 'on fall of the hammer' during the Public Auction.

2.1.3. Payment of Purchase Price – the balance of the Purchase Price will be payable at settlement, being within 45 days from the date of the Public Auction.

2.1.4. No Sale from Public Auction – in the event that the set Reserve Price is not achieved at the Public Auction, the City will instruct the appointed Real Estate Agent to continue to market the Sale of the Real Property on an exclusive agency basis, for period agreed in the conditions of appointment, to achieve a Sale in accordance with Section 2.3 ('Sale via Private Treaty') of the Policy.

2.2. Sale via Public Tender

The following provision relate to the Sale of Real Property where disposal is to be undertaken via Public Tender.

2.2.1. Tender process – will be undertaken in accordance with the City's Purchasing and Tender Management Practice.

2.2.2. Reserve Price – will be set at no less than the market valuation of the Real Property as determined by the Licensed Valuer or Real Estate Agent appointed by the City.

2.2.3. Deposit – the deposit to be paid by the buyer will be set at 10% of the tendered Purchase Price and is payable on acceptance of the tendered offer by the City.

2.2.4. Payment of Purchase Price – the balance of the Purchase Price will be payable at settlement, being within 45 days of the acceptance of the tendered offer by the City.

2.2.5. No Sale from Public Tender – in the event that the submissions received in respect to the Public Tender do not meet the tender requirements, negotiation will be undertaken by the City with the unsuccessful tenderers, and with other interested parties, for the purpose of securing a Sale in accordance with Section 2.3 ('Sale via Private Treaty') of the Policy.

2.3. Sale via Private Treaty

The following provision relate to the Sale of Real Property where disposal is to be undertaken via Private Treaty.

2.3.1. Public notice and advertising requirements – where Real Property is to be sold without first being offered for Sale via Public Auction or Public Tender, compliance with the public notice (advertising) requirements under Section 3.58 or the Act will apply unless an exemption applied under Regulation 30 of the *Local Government (Function and General) Regulations 1996*.

2.3.2. Purchase Price – will be equal to or the lesser of the market valuation or considered market range as determined by the Licensed Valuer or Real Estate Agent appointed by the City

2.3.3. Deposit – the deposit to be paid by the buyer will be determined by the City in consultation with the appointed Real Estate Agent or after consideration of the market valuation of the Real Property determined by a Licensed Valuer, on the provision that the deposit will be the greater of: \$10,000; or 10% of the Purchase Price.

2.3.4. Payment of Purchase Price – the balance of the Purchase Price will be payable at settlement, being within 45 days of the acceptance of the tendered offer by the City.

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## Definitions

**Act** means the *Local Government Act 1995*

**Disposal Services** includes but is not limited to the provision of the following services: marketing and advertising; conducting a Public Auction; facilitating the Sale of **Real Property**; contributing to Public Tender specifications; providing market advice; attending settlement; and conducting site inspections.

**Licensed Valuer** means a person who is licensed under the *Land Valuers Licencing Act 1978*.

**Private Treaty** means a Sale other than via Public Auction or Public Tender, as contemplated under Section 3.58(3) of the Act.

**Public Auction** means a public auction for the purposes of Section 3.58(2)(a) of the Act.

**Public Tender** means a public tender for the purposes of Section 3.58(2)(b) of the Act.

**Purchase Price** means the purchase price payable by the buyer to the City in relation to the Sale of Real Property.

**Real Estate Agent** means a person whose business, either along or as part of and in connection with any other business, is to act as a n agent for consideration in money or money's worth, as commission, reward or remuneration, in respect of a real estate transaction as defined by the *Real Estate and Business Agents Act 1978* but does not include a person whose business is to act by reason that:-

- a. he/she is appointed by a court as a receiver or receiver and manager of the business or another person; or
- b. he/she is an official receiver or trustee within the meaning of the *Bankruptcy Act 1966* of the Commonwealth or any Act in amendment or substitution of that Act.

**Real Property** means any property that is attached directly to land, as well as land itself. Real Property includes buildings and other structures affixed to the land.

**Reserve Price** means a minimum dollar amount that the owner of an item up for auction will accept as the winning bid in the auction.

**Sale** means offered for purchase.

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## Relevant management practices/documents

Purchasing and Tender Management Practice

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## Legislation/local law requirements

*Local Government Act 1995*

Clause 30 of the *Local Government (Functions and General) Regulations 1996*

### Office use only

<b>Relevant delegations</b>	Disposal of Council Property			
<b>Initial Council adoption</b>	<b>Date</b>	16 October 1984	<b>Resolution #</b>	
<b>Last reviewed</b>	<b>Date</b>	26 May 2020	<b>Resolution #</b>	0520/027
<b>Next review due</b>	<b>Date</b>	2021		