



**MTUBATUBA
LOCAL MUNICIPALITY**

ASSET DISPOSAL POLICY

2017/2018

TABLE OF CONTENTS

No	Description	Page
	Definitions	3
1.	Introduction	4
2.	Objective	4
3.	Planning for disposals	5
4.	Assessing disposals	5 – 6
5.	Approval of disposals	7
6.	Method of disposal	7 – 8
7.	Procedures to be followed when disposing an asset	8 – 11
8.	Letting of immovable property	11 – 13
9.	Special circumstances disposal	14
10.	Vacant Land	14 – 15
11.	Officials and Political Office Bearers	15 – 16
12.	Disposal of rights of Immovable property	16
13.	Final authorisation of disposal	16 – 17
14.	Transfer of ownership	17
15.	Calculation of the profit and loss on disposal	17
16.	Account for the disposal of assets	18

DEFINITIONS

Asset means any resource controlled by the municipality, from which the municipality expects to derive economic benefits or use for service delivery to the general public over a period extending beyond one financial year.

Basic municipal service means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment.

Carrying amount means the amount at which an asset is recognised after deducting any accumulated depreciation and accumulated impairment losses.

Council means the Municipal Council of the Mtubatuba Municipality, its legal successors in title and its delegates.

Disposal Committee means a committee established by the council to oversee disposal of its assets. The Chairman of the Disposal Committee must be a senior independent official in Supply Chain Management that is not in control of any assets.

Disposal means a process of preparing, negotiating and concluding a written contract where necessary which involve the alienation of an asset no longer needed by the municipality by means of a sale, a lease or a donation.

Fair value means the amount obtainable from the sale of the asset in an arm's length transaction between willing parties less the selling costs.

Servitude means a right which one person has over the immovable asset of another and includes instances in which the Municipality grants a party a right over a municipal owned immovable asset. Servitudes result in a burden on the immovable asset for extensive periods of time, sometimes permanently. It is for this reason that servitudes should only be granted after careful assessment of the impact of the proposed servitude on the immovable asset.

Social care means services provided by registered welfare, charitable, non-profit cultural and religious organisations.

1. INTRODUCTION

The purpose of the Asset Disposal Policy is to provide a framework for the disposal of the municipality's owned assets that are not needed to provide the minimum level of basic municipal services and that are surplus to the municipality's requirements.

Section 14 of the Municipal Finance Management Act (Act No. 56, 2003) states: "*A municipality may not transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of any capital asset needed to provide a minimum level of basic municipal services*".

A municipality may transfer ownership or otherwise dispose of a capital asset, other than an asset mentioned above, only after the disposal committee meeting:

- a) Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
- b) Has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

This policy will be effective from the beginning of each municipal financial year and will be reviewed at least annually to keep up with the changes within the municipality.

2. OBJECTIVE

The objectives of the Asset Disposal Policy are to:

- a) Ensure that only assets that do not provide the minimum level of basic municipal services are disposed off.
- b) Ensure that assets are not disposed when the disposal of the asset or the terms of the disposal of the asset could disadvantage the municipality or community financially or otherwise.
- c) Ensure that all disposals are, in terms of section 14 (5) of the Municipal Finance Management Act (Act No. 56, 2003), fair, equitable transparent, competitive and consistent with the Supply Chain Management Policy of the municipality.

3. PLANNING FOR DISPOSALS

Departments are responsible for the strategic planning for the disposal of assets that cause the municipality not to perform service delivery efficiently and effectively.

Planning for disposals must be conducted by departments on an annual basis and revised biannually basis and must be submitted to the Disposal Committee for approval. The planning should involve a detailed assessment of assets identified as surplus, redundant or obsolete by the departments.

Surplus, obsolete or redundant assets include the following:

- a) Assets not required for the delivery of services, either currently, or over the longer planning period.
- b) Assets that have become uneconomical to maintain or to operate.
- c) Assets that are not suitable for service delivery.
- d) Assets that have a negative impact on the service delivery of the municipality, the environment or the community.
- e) Assets that no longer support departments' service objective due to a change in type of service being delivered or the delivery method.
- f) Assets where the use has become uneconomical to continue due to the limited availability of spares or the cost of replacement parts exceed the reasonable value of the item.
- g) Assets where the technology has been outdated.
- h) Assets which can no longer be used for the purpose originally intended.

Planning for disposals offers departments the means of disposal of surplus assets timed to minimise disruption to their service delivery and maximise returns by selecting appropriate time in the assets life cycle.

4. ASSESSING DISPOSALS

The Disposal Committee is responsible for assessing the disposals proposed by the departments of the municipality. The Disposal Committee shall also consider the following factors:

- a) Whether there are net disposal benefits, either in financial or other forms;

- b) Whether there is secondary service obligations associated with the asset which dictates its retention; and
- c) Whether a disposal can be carried out without adverse impacts on the physical environment.

In assessing the benefits of disposal, the advantages and disadvantages for the whole municipality, not just the controlling department, must be considered.

Assets that have been identified as surplus may need to be retained due to heritage, social, environmental considerations or requirements of other departments.

The symbolic importance and the cultural significance of assets should also be considered when assessing the disposal of the asset.

The Disposal Committee should consider the advantages of engaging experts if their experience in disposal activities is infrequent or not core business to assist with the activities in the disposal cycle.

Not all assets identified as surplus will be able to be sold at a value greater than its carrying amount. In such circumstances, the advantages of disposing the asset must be weighed against the costs of continued ownership which entails the following elements as examples:

- a) Insurance
- b) Maintenance
- c) Storage costs
- d) Operating costs
- e) Staffing costs

Retaining such assets in service when they no longer effectively support service delivery will expend resources that could otherwise be used elsewhere and could effectively constrain investment in more suitable and economic assets.

Disposals need not always be for a financial gain. Other opportunities and gains should also be taken into consideration, for example:

- a) Swapping one asset for another.
- b) Construction of a facility for the municipality in return for the asset.

5. APPROVAL OF DISPOSALS

The Chief Financial Officer shall prepare an item based on applications received from departments requesting assets to be disposed off or request for free donations from the non-profit organisations and educational institutions to Disposal Committee for approval.

Disposal Committee shall be responsible for the approval of the disposal of any assets after:

- a) deciding on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
- b) Consideration of the fair market value of the asset and the economic and community value to be received in exchange for the asset.

Disposal Committee shall be responsible to meet on a quarterly basis to assess and approve disposals submitted by Chief Financial Officer on behalf of the departments.

6. METHOD OF DISPOSAL

Disposal of an asset should be performed in a manner which satisfies the following objectives:

- a) The disposal should take place on an equitable basis. There should be an equal opportunity for all to purchase the asset.
- b) The best possible return for the municipality must be achieved.
- c) Any adverse environmental impacts should be avoided.

The municipality should document a clear stipulation of the basis on the decision taken to dispose of an asset.

The following methods of disposal could be used to achieve the objectives mentioned above:

6.1 Auction

Benefits of an auction are as follows:

- a) Process is more straightforward.
- b) Process is open to public scrutiny.
- c) In some circumstances an auction may generate a higher price.

6.2 Open Bidding/Tender

This method of disposal is preferred where more control over the actual disposal of the asset is required or where the credentials of the purchaser need to be assessed in detail.

This method is preferable if an objective of the disposal is to achieve black economic empowerment by the transfer of the asset.

7. PROCEDURES TO BE FOLLOWED WHEN DISPOSING AN ASSET

When an asset of the municipality is no longer in use, the following procedures must be followed:

- a) Asset(s) that are uneconomical to maintain or operate must be identified;
- b) Asset Disposal Form must be completed and signed by the Department Manager;
- c) The Disposal form must clearly motivate the reasons for the disposal of such asset(s);
- d) The application to dispose of an asset form must be completed and sent to Asset Management for assessment;
- e) If the item is of a technical nature e.g. computer equipment, a request must be forwarded to IT division to check the status of the equipment and submit a report to Chief Financial Officer;
- f) Based on the reports and motivation submitted by the department managers a motivation will then be submitted to the Disposal Committee for approval to dispose of an asset;
- g) The disposal committee members will authorise the disposal of an asset by signing the (Authority to dispose of an asset form); and
- h) The approved forms (Authority to dispose an asset forms) shall be forwarded to Budget and Treasury section:
 - i. Disposal of Computer equipment;
 - ii. In the case of PC's, only on the recommendation of the IT division will the item be disposed of;
 - iii. Preference shall be given to educational institutions, welfare and charitable organisations; and
 - iv. Disposal of notebooks.

That Councillors and officials on termination of service with Council, may purchase the notebook computers allocated to them at the written- down value thereof (this value to be determined on a straight line depreciation basis over five years) plus any handling fee of **R250** (or as may be determined from time to time) plus **Value Added Tax** at the applicable rate.

Due to the advancement in computers and inherent depreciation of the value of computers, obsolete laptops, notebooks and desktops PC's officials shall be granted the opportunity to purchase such equipment at the depreciated value determined by the council from time to time.

7.1 Free Disposal of municipal assets

7.1.1 Criteria to be used in a case of a free disposal of an asset

The following types of organisations shall be considered for a free disposal of municipal assets provided they are listed in schedule 9 of the Income Tax Act:

- a) Registered welfare or charitable organisations;
- b) Child care facility insofar as it contributes to the functioning of a multi-use childcare facility and is operated on a non-profit basis;
- c) Retirement villages for that portion of the building or facility available to general public use at subsidised / nominal prices;
- d) Schools or centres utilised as homes for the handicapped and disabled persons;
- e) Non-profit rehabilitation centres;
- f) Homes/ Centres for indigent, battered or destitute persons;
- g) Organisations for the homeless and elderly; and
- h) Youth activity centres.
- i) Facilities for the accommodation, care and burial of animals.
- j) Cemeteries and non-profit crematoria.
- k) Schools catering for handicapped and disabled;
- l) Schools for special learners;
- m) Educational institutions initiating programmes for the benefit of the community of the Mtubatuba municipality;

7.1.2 Council reserves the right to consider unsolicited bids for the purchase or lease of viable immovable property for social care uses with the proviso that it abides by Council's IDP objectives.

7.1.3 The following factors shall be considered relevant in the selection and allocation of immovable property to places of worship:-

- a) The size of the congregation / membership.
- b) Availability of finance to acquire the site and develop same within two years plus possible extension.
- c) Whether or not such a denomination is already represented in the area.
- d) Whether or not welfare type facilities / activities will be provided in addition to religious facilities.
- e) Whether or not the congregation/ membership is from the area in which a site is being applied for.

7.2 Free disposal of municipal assets shall be applicable to the following assets:

- a) Obsolete furniture and redundant equipment;
- b) Computer equipment;
- c) Computer notebooks (in a case where the user of the notebook did not exercise the purchase option);
- d) Used uniforms that are old but could be donated to needy organisations;
- e) The following procedures shall apply on consideration of an application for a free disposal of assets except for uniforms and Computer equipment;
- f) Applications shall be directed to Mtubatuba Municipality for the attention of the Chief Financial Officer;
- g) The application shall be accompanied by the following:
 - i. Motivation with reasons for requesting a free disposal of such a particular asset of the municipality, or existence in the community
 - ii. Proof of registration of the organisation/ institution
 - iii. A copy of the applicants' constitution.

7.3 Free Donation in respect of computer equipment

Where computer equipment is to be disposed of, the relevant Department Education should be approached to make arrangements for free transfer of such items to educational institutions. Note that no computer equipment may be disposed of unless the matter was referred to the Internal Information Technology Committee, for its written recommendations.

7.4 The following criteria must apply when donating assets to outside organisations in respect of Computer equipment:

Applications shall be directed to Mtubatuba Municipality for the attention of the Chief Financial Officer.

7.5 The application shall be accompanied by the following:

- a) Motivation with reasons for requesting a free disposal of such a particular asset of the municipality, or existence in the community.
- b) Proof of registration of the organisation/ institution.
- c) A copy of the applicants' constitution.

8. LETTING OF IMMOVABLE PROPERTY

- a) Council is permitted to let immovable property in its ownership, on a long term or short term basis, by way of Private Treaty or Public Tender.
- b) Where possible, Council's immovable property should be managed as a sustainable resource by leveraging environmental, social and economic returns on such immovable property while Council retains ownership thereof.
- c) Council is permitted to let immovable property for development purposes aligned with its strategic objectives.
- d) Unless otherwise provided for in this Policy, vacant or improved immovable property shall be let at a fair market related rental.
- e) All applications to lease immovable property must be considered in accordance with this Policy Framework and other applicable legislation.
- f) An Agreement of Lease, should be concluded, clearly describing all key details i.e. the parties, immovable asset(s), rental payable, conditions, duration and breach of the Lease Agreement.
- g) A cession of a Lease does not fall within the requirements of Section 14 of the MFMA.
- h) Unless otherwise provided herein, the letting of viable immovable property by Council, shall be affected by means of a process of public competition.
- i) For the purpose of this Policy, viable immovable property is deemed to be property that can be developed and function as a separate entity on its own

and can be registered as separate entity by the Registrar of Deeds. Non-viable immovable property is property that owing to urban planning or physical constraints or extent, cannot be developed on its own or function as a separate entity and as such can only become functional if alienated or leased to an adjoining owner for usage in conjunction with the said owners property.

- j) Black people, who are South African citizens, will be afforded preference in terms of the Municipality's Supply Chain Management Policy in respect of the letting of viable immovable properties as embodied in Section 9 (2) of the Constitution of the Republic of South Africa (Act No. 108 of 1996).
- k) In order to achieve the objective of broad based economic empowerment, Council reserves the right to limit the number of leases per tenderer in the course of a tender process.
- l) Council reserves the right to entertain unsolicited bids for the lease of viable immovable property for development purposes, with the proviso that it abides by Council's Strategic Objectives and more specifically that it favours the promotion of Black Economic Empowerment, Entrepreneurship and Community development.
- m) Non-viable immovable property may be let by Private Treaty to adjoining owners. Unless otherwise provided herein, such immovable property shall be let at a fair market related value, determined by a Professional Valuer. Leases for gardening purposes shall be at the tariff rental as approved by Council from time to time. No permanent structures shall be permitted on immovable property let for gardening purposes except a perimeter enclosure acceptable to Council.
- n) Immovable property may be let by Private Treaty to social care users. Rentals shall be determined in terms of the tariff rentals as approved by Council from time to time and in such cases, the Lessee shall accept responsibility for the maintenance of the immovable property.
- o) Viable immovable property may be let by Private Treaty in exceptional cases where the Council is of the opinion that Public competition would not serve a useful purpose or that it is in the interest of the Community and the Council. Council's reasons in each instance must be recorded as part of its Resolution.
- p) Sport facilities and other public amenities may be let by private treaty to Sports Boards, Sports Federations and other similar bodies in accordance with

Council's Policies on sports facilities and public amenities. Community based bodies and non-professional sporting bodies shall be charged the tariff rentals as approved by Council from time to time. Professional sports bodies and bodies operating for profit shall be charged a fair market related rental based on the market value of the property to be leased.

- q) Private Treaty letting of immovable property for outdoor seating to adjoining restaurant owners is permitted subject to statutory requirements being complied with and a Professional Valuer determining the rental charged.
- r) Lease Contracts with existing tenants of immovable properties may be renegotiated where Council is of the opinion that public competition would not serve a useful purpose or that renewal is aligned with Council's strategic objectives and in the interest of the community, subject to such renewal being advertised calling for public comment. The existing tenant must give notice of the intention to renegotiate the lease at least six months before the date of termination.
- s) Improvements to Council's immovable property established by the Lessee and which Council wishes to retain shall revert to Council, free of compensation, at expiration or termination of the Lease. Where such improvements are not required by the Council, these shall be removed by the Lessee to the satisfaction of Council and all costs shall be borne by the Lessee.
- t) An owner of fixed immovable property, who leases Council immovable property, may be substituted by a successor-in-title as deemed necessary on the same terms and conditions and / or additional terms and conditions.
- u) No application shall be processed unless the prescribed application fee as per tariff has been paid nor shall any proposed lease be advertised unless the applicant has confirmed, in writing, that it will bear all costs involved in such transaction including, but not limited to, Legal, Survey, Re-zoning, Sub-division, Consolidations, Advertisement, Relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.

9. SPECIAL CIRCUMSTANCES DISPOSAL

The Municipality acknowledges that in certain special circumstances property can be sold or let by Private Treaty. These special circumstances apply to the following categories of properties:-

- a) Non-viable parcels of land may be let or sold to adjoining owners. The determination of non-viability rests with the Council and its decision will be final.
- b) Viable properties in the case of business and industrial expansion and retention, may be let or sold to the adjoining owners at market related prices.
- c) Properties identified for sale and hire to CBO's, NGO's, NPO's and Public Benefit Organisations defined by the Income Tax Act and listed in schedule 9 of the Act.
- d) Disposal of assets by direct negotiations with one possible interested party should be the exception rather than the rule. When sale by auction or tender has failed due to lack of demand or unacceptable offers were received and established further efforts indicate that efforts to dispose of the asset by auction or tender is unlikely to succeed, direct possible negotiations with one possible interested party shall be allowed.

10. VACANT LAND.

The municipality reserves the rights to preserve its vacant land for its basic needs of providing minimums service delivery requirements and contribute toward the government objectives. The municipality may consider disposing its vacant land as follows, but not limited to this circumstances:

- a) Vacant land for the development of lower income housing in the categories of low cost, social and bank charter housing.
- b) The sale of Municipal land, involving Black Economic Empowerment in partnership with foreign investors.
- c) Municipal land for Community projects.
- d) Land for worship purposes.
- e) Municipal property for educational purposes other than private schools.

- f) Municipal property for sale and hire to registered business co-operatives established in terms of the Department of Economic Affairs, Environment and Tourism Initiative in Kwa-Zulu Natal.
- g) The sale of Municipal owned property, subject to a long term registered lease, of ten years and longer, where the sale of the freehold rights is of greater benefit to Council than the present value of the income flow from rental. This provision does not apply to Council owned property that is multi-tenanted. Such a sale must only take place after a proper cost benefit analysis has been undertaken. The analysis must include the following:-
 - i. Current market value.
 - ii. Replacement cost.
 - iii. Income streams / cash flow analysis.
 - iv. Economic life expectancy.
 - v. BBBEE considerations.
 - vi. Strategic importance.
 - vii. Possible future use.
 - viii. Current lease clauses.
 - ix. Airport land for aviation purposes.
- (l) Previously disadvantaged areas identified by the Municipality, where the local economy is stagnant and remedial steps will require special treatment.

11. OFFICIALS AND POLITICAL OFFICE BEARERS

Officials in the employ of the Municipality shall have the right to make an offer for acquisition of immovable assets being disposed of by the Municipality.

A political office-bearer or an official in the employ of the Municipality who, in his/her personal capacity, has a direct or indirect interest in an immovable asset proposed for disposal, shall declare such interest. Failure to disclose such interest will result in such sale or lease being cancelled forthwith and the employee or office bearer held responsible for wasted costs.

An official in the employ of the Municipality shall not act as a member of a panel responsible for assessing and adjudicating tenders relating to the proposed disposals if his or her presence in such panel may potentially be deemed to be

unfairly influential, discriminatory or in any manner contrary to the principles of this policy.

12. DISPOSAL OF RIGHTS OF IMMOVABLE ASSETS

Grant of servitudes to interested parties on application, however If the proposed servitude will result in the immovable asset being negatively affected, including the impairment of the ability to productively enjoy, utilize, permanently dispose or otherwise deal with the immovable asset, then such servitude must not be granted.

Servitudes may be granted to any person (private or state organ) upon payment of appropriate market related compensation by such person provided that where another organ of state requires a servitude for the benefit of the general public and subject to the necessary authority having been obtained, the payment to the granting of the servitude, may be waived. The party requiring the servitude, is responsible for all costs relating to the granting and registration of the servitude.

13. FINAL AUTHORISATION OF DISPOSAL

- 13.1 Before any asset is disposed of, the department under whose control the relevant asset is will be responsible to prepare a disposal authorisation document that will detail the following information:
- a) Fixed asset register information of the asset to be disposed of.
 - b) Results of the asset disposal method.
 - c) Proposed terms and conditions of the purchase agreement.
 - d) The recommended purchase price.
 - e) The fair value of the asset.
- 13.2 The fair value of the asset must be determined by the relevant department.
- 13.3 Experts can be used to determine the assets fair value.
- 13.4 Assets may not be disposed of at a value that is less than its fair value unless the Disposal Committee determines that there is a mitigating reason to dispose the asset at the lesser value. If a Disposal Committee approves a disposal at a value less than its fair value, Disposal Committee must instruct Budget and Treasury department to publish the details of the disposal as a public notice in a widely distributed media.

13.5 The final approval of the disposal shall be conducted at a meeting in terms of the Municipal Finance Management Act (Act No. 56, 2003) and decisions taken shall be documented for future reference by the departments of the municipality.

14. TRANSFER OF OWNERSHIP

The department shall be allowed to transfer ownership of the asset only after the following events have occurred:

- a) The department has received a notification from the Chief Financial Officer that the Disposal Committee has approved the disposal of the asset in terms of Section 14 of the Municipal Finance Management Act (Act No. 56, 2003).
- b) The department has received payment in full or partial payment in terms of the terms and conditions of the purchase agreement where necessary.
- c) At transfer of ownership of the asset, the purchaser must sign an acknowledgement of receipt form as evidence that the purchaser has received the asset according to the terms and conditions of the purchase agreement and in the expected physical condition.

15. CALCULATION OF THE PROFIT AND LOSS ON DISPOSAL

Profits and losses on the sale of property, plant and equipment are calculated as follows, and are disclosed in total in the financial statements:

- a) Proceeds from sale of asset, trade-in value or proceeds received from insurance if the asset was damaged or stolen.
- b) Less: Carrying value Cost, or if valued, revaluation amount, less accumulated depreciation up to the date of sale or when the asset can no longer be used for its intended purpose.
- c) Equals **PROFIT** If proceeds are greater than carrying value, or
- d) Equals **LOSS** if proceeds are less than carrying value.

16. ACCOUNTING FOR THE DISPOSAL OF ASSETS

- 16.1 When an asset is disposed of the cost of the asset and the accumulated depreciation recorded in the statement of financial position need to be reversed to the statement of financial performance a profit and loss on disposal of asset account. This will result in a debit in the statement of financial performance equal to the asset's carrying value.
- 16.2 The total proceeds to be received from the disposal of the asset need to be credited to the profit and loss on disposal of asset account. The account will now reflect a debit or credit amount in the statement of financial performance equal to the profit and loss on disposal.
- 16.3 Note that depreciation will need to be calculated up to the date of disposal. If the disposal date is during a financial year, the depreciation needs to be calculated on a pro rata basis based on completed months of ownership or use. No depreciation is calculated for the asset after the disposal date.
- 16.4 At the disposal date the asset being disposed of needs to be derecognised from the fixed asset register of the municipality.
- 16.5 Other accounting and disclosure matters discussed in the Asset Management Policy document of the Mtubatuba also need to be adhered to.