

Distribution of asset sales proceeds policy

TO	Thames-Coromandel District Council
FROM	Angela Jane - Governance Strategy Manager
DATE	12 January 2015
SUBJECT	Distribution of asset sales proceeds policy

1 Purpose of report

The report presents a draft distribution of asset sales proceeds policy for adoption by the Council for application within the 2015-25 Long Term Plan. The policy provides guidance for consistent and fair decision-making in the distribution of asset sales proceeds when there is no direction set on the use of those proceeds from the procurement or any other legal requirement associated with the asset.

2 Background

The Council is currently working through some rationalisation of the Council's property portfolio and as this is progressed numerous decisions on the distribution of asset sales proceeds is anticipated. Proceeds from future property sales has also been referenced as proposed revenue to fund some locally funded-projects and therefore needs to be included in the next Long Term Plan. In the absence of a policy of this nature the Council will be required to make decisions on the distribution of the proceeds from each of the individual proposed property sales in developing the next draft long term plan.

The Council's legal department is coordinating the review and investigation process whereby Community Boards and Area Managers firstly determine if a property is surplus to their requirements. Once deemed surplus by the Community Board the property is then checked for suitability for any district-funded activities by the district-wide activity managers and finally by Council.

Only the Council can resolve to sell assets, and this includes property, unless the disposal is included in the long term plan. This is one of the decisions specified in the Local Government Act 2002 that cannot be delegated; therefore no property will be declared surplus or sold without Council's approval. Strategic assets, as defined in the Council's Significance and Engagement Policy can only be sold if included in a draft Long Term Plan and form part of a formal consultation.

There is no current Council policy that provides guidance on the distribution of proceeds from asset sales.

A discussion document on the development of this policy was presented to the Council workshop on 17 November 2014. A refined policy was then presented to the Audit Committee on 5 December 2014 and was endorsed by the Committee. The workshop discussion paper and the Audit Committee report included a flow chart that reflects the current process for identifying surplus property and investigating the rightful disposal process and the implementation process and criteria from the Council's Property Strategy.

Scope

The proposed policy covers the use of proceeds from an asset sale that does not require specific disposal treatment due to the method of its procurement.

Property assets in Council's ownership has been obtained through various methods

including at times using the Public Works Act 1981, through a negotiated purchase, having assets vested through subdivision/resource consent conditions, or from gifting. In some instances when the asset is sold conditions at the time of procurement must be followed which includes returning the asset (sometimes the case when taken under the Public Works Act); selling or giving back the asset to the original owner; or offering on a first refusal option to the original owner.

While there is a current focus on property sales this policy is proposed to be wider than property assets and cover all Council assets to enable the policy guidance to be utilised for any future asset sale.

As with any policy the council can make a decision which is inconsistent with this policy in special circumstances so long as the decision notes it is inconsistent with the policy and the reasons for the inconsistency along with any intention of amending the policy to accommodate the decision.

Impacts of other policies

The Council's Revenue and Financing Policy accounts for how each activity is funded with the selection of funding tools that best matches the noted beneficiaries/exacerbators e.g. general rates for services available to all residents, targeted rates for geographically delivered services, user fees for easily identified individuals.

Where an asset has been known to be funded or part funded by loan (debt) the repayments of that loan come from the Revenue and Financing Policy's noted funding sources for that activity. Any known debt associated with an asset at the time of its disposal needs to be repaid before any residual value is distributed so users/ratepayers are not continuing to pay a debt that is giving them no further value.

The Council's Significance and Engagement Policy includes the Council's strategic assets. Disposing of strategic assets must meet additional legislative requirements for consultation before this policy can be applied.

3 Issue

A policy position on how the proceeds from asset sales will be distributed would provide the Council with a consistent and fair basis for future decisions; therefore a council policy is considered the most appropriate means of addressing the policy issue and objectives.

It should be noted that any option selected will be subject to any relevant statutory requirements that may govern the use of funds derived from sale.

4 Discussion

Various options for the basis of distribution have been identified:

1. Sale proceeds bought by a Community Board are distributed by the relevant Community Board; sale proceeds bought by the Council are distributed by the Council. Where it cannot be proven whether the Council or Community Board bought the asset then sale proceeds from an asset associated with a local funded activity are distributed by the relevant Community Board and sale proceeds associated with a district funded activity are distributed by the Council.
2. All sale proceeds distributed by Community Board based on geographic position of asset - the ward location.
3. All sale proceeds distributed by Council for district-funded activities/projects.
4. All sale proceeds shared equally to district funded activities/projects and Community Boards for locally-funded activities/projects.
5. All sale proceeds distributed by Council for the highest ranking priority projects (district or local).

Option 1 - distribution based on whether Council or Community Board bought asset

This option recognises that if the Council bought the asset then district ratepayers funded the asset and therefore should receive the benefit when the asset is sold. Similarly if a Community Board bought the asset then the ratepayers of the Community Board area should benefit.

Sometimes it will not be possible to prove through historic records whether the Council or Community Board bought the asset. Under these circumstances the asset sale proceeds will be distributed by the Community Board if the asset at the time of the sale was associated with a locally funded activity and distributed by the Council if the asset at the time of the sale was associated with a district funded activity.

The activity for the use of the funds must match the funding source of the activity from which the asset was sold as stated in the Council's Revenue and Financing Policy.

This approach:

- provides specific guidance for Council and Community Boards on which surplus assets will be made available for local or district re-investment (barring any outstanding debt or future need for an activity);
- provides an incentive and motivates Community Boards to rationalise the property portfolio;
- meets the Council's community empowerment philosophy;
- shows empathy for our local communities.

Option 2 - distribution by Community Boards for all surplus assets

The Council is proposing to change the funding of some activities in the upcoming Long Term Plan in order to further the community empowerment model. This option does not follow Council's direction on an activity funded basis. It incentivises the Community Boards to be pro-active in identifying property for redistribution for re-investment in locally-funded projects.

The activity for the use of the funds must match the funding source of the activity from which the asset was sold as stated in the Council's Revenue and Financing Policy.

This approach:

- provides clear guidance for Council and Community Boards that all surplus assets will be made available for local re-investment (barring any outstanding debt or future need for an activity);
- provides an incentive and motivates Community Boards to rationalise the property portfolio;
- in some cases would breach the Revenue and Financing Policy
- exceeds the Council's community empowerment philosophy by providing all assets for local distribution;
- shows empathy for our local communities.

Option 3 - distribution by Council for all surplus assets to district-funded projects

This option does not support the community empowerment philosophy being implemented and dis-incentivises the Community Boards to be pro-active in identifying property for redistribution for re-investment in locally-funded projects.

The activity for the use of the funds must match the funding source of the activity from which the asset was sold as stated in the Council's Revenue and Financing Policy.

This approach:

- provides clear guidance for Council and Community Boards that all surplus assets will

- made available for district re-investment (barring any outstanding debt);
- provides a dis-incentive and demotivates Community Boards to rationalise the property portfolio;
- does not support the Council's community empowerment philosophy;
- shows little empathy for our local communities.

Option 4 - equal distribution to Community Boards and Council activities/projects

This option treats the five Community Boards and district funded activities in an equal sense sharing the proceeds on an equal basis. While it rewards local areas for all surplus asset disposals it does not recognise the local circumstances and therefore does not reflect the community empowerment philosophy well. This option could dis-incentivise the Community Boards to be pro-active in identifying property for redistribution for re-investment in locally-funded projects as only a small portion would be made available.

The activity for the use of the funds must match the funding source of the activity from which the asset was sold as stated in the Council's Revenue and Financing Policy.

This approach:

- provides clear guidance for Council and Community Boards that all areas will benefit from surplus assets (barring any outstanding debt or future need for an activity);
- provides a dis-incentive for Community Boards to rationalise the property portfolio;
- does not meet the Council's community empowerment philosophy well;
- shows some empathy for our local communities.

Option 5 - formalise status quo, proceeds held in reserve for Council decision to decide distribution of funds for highest ranking priority projects

This option reflects the status quo whereby the Council will debate the merits each time an asset is sold and proceeds are available for distribution. This option does not support the community empowerment philosophy being implemented and could act as a dis-incentive for Community Boards to be pro-active in identifying property for redistribution for re-investment in locally-funded projects.

The activity for the use of the funds must match the funding source of the activity from which the asset was sold as stated in the Council's Revenue and Financing Policy.

This approach:

- provides no clear guidance for Council and Community Boards;
- provides a dis-incentive for Community Boards to rationalise the property portfolio;
- supports making proceeds available for worthy local projects which supports the community empowerment model.

5 Implementation

Once adopted staff would be made aware of the policy and prior processes to identify surplus assets so that future reporting could reflect the policy and future budgets could reflect estimated sale proceeds for the appropriate activity. Future reports to Council requesting a resolution to sell an asset would reference this policy where it is applicable.

Risks

Prior to being able to apply this policy the Council could frustrate efforts by Community Boards to free up revenue for locally-funded projects by determining that the local asset was of district-wide importance even though no immediate need might be identified.

Measurement and review

The policy will be included in the agenda preparation checklists to ensure the Governance

Support Team and the Strategy Team confirm the policy is reflected in Council decision-making reports wherever appropriate.

A review period of six-yearly or as determined by the Council is suggested for this policy with the six-yearly review timed for during the development of the long term plan.

6 Suggested resolution(s)

That the Thames-Coromandel District Council:

1. Receives the 'Distribution of asset sales proceeds policy" report, dated 12 January 2015.
2. Adopts the attached Proposed Distribution of asset sales proceeds policy which contains Option 1 from the discussion report for implementation from 28 January 2015.

References-Attachments

Attachment A Proposed Distribution of asset sales proceeds policy



Distribution of asset sales proceeds proposed policy

Adopted:

1 Policy Statement

The Council owns a variety of assets that include land, buildings, facilities and infrastructure. This policy only covers the use of proceeds from an asset sale that does not require specific disposal treatment due to the method of its procurement.

2 Context

The Council and Community Boards have embarked on rationalising the Council's asset portfolio. All property is being categorised as:

- Necessary for the operation of council's services and functions;
- Advantageous to retain for activities in the future;
- Surplus to current and known future requirements.

Land in Council's ownership has been obtained through various methods including at times using the Public Works Act, a negotiated purchase, having assets vested through subdivision/resource consent conditions, from gifting. In some instances when the asset is sold conditions at the time of procurement must be followed which includes returning the asset (when taken under the Public Works Act 1981); selling back to the original owner; offering on a first refusal option to the original owner.

The Council's Legal Services team has responsibility for investigating and determining the rightful disposal treatment of an asset that is deemed surplus to requirements.

Reasons for this policy stance:

- Embraces the community empowerment model
- Reflects the original funders of the asset purchase and where this cannot be proven reflects the funding model proposed for the 2015 Long Term Plan.
- Incentivises Community Boards to be pro-active by offering all surplus assets for re-investment in locally -funded projects.

3 Policy

Subject to any legislative or accounting requirements, where assets are declared surplus by the Community Board and Council therefore not considered necessary for the operation of any council service/function or considered advantageous to retain for activities currently under planning, then the following will apply:

1. In the first instance the sale proceeds will go to repay any known debt associated with the asset. If the asset was to be replaced with a similar asset or an asset built to provide a similar purpose in the foreseeable future (1-2 years) then the sale proceeds will be held in a reserve to pay for the new asset's creation.
2. Where the asset sales are greater than the known debt, greater than the replacement cost of a similar asset or where there is no debt and no replacement asset then the sale proceeds will be made available to:
 - a) the Council if the asset can be proven to have been bought by the Council;
 - b) the Community Board if the asset can be proven to have been bought by the

- Community Board
- c) if it is not possible to prove through historic records whether the Council or Community Board bought the asset then the proceeds will be made available to:
 - i. the Council where the asset is associated with a district-funded activity
 - ii. the Community Board where the asset is associated with a local-funded activity.
3. The activity will be deemed local or district funded for (c) above as it is stated in the Annual Plan that was applicable at the time of the Council resolution to sell the asset.
 4. Where the Council or Community Board does not have an immediate project then the funds will be held in a district or Community Board reserve, whichever is applicable.
 5. The activity for the use of the funds must match the funding source of the activity from which the asset was sold as stated in the Council's Revenue and Financing Policy.

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