

# LGAQ ANNUAL CONFERENCE MOTION – 2021

<b>Submitting council / organisation</b> Sunshine Coast Regional Council	
<b>Date of council / organisation resolution</b> <b>To be inserted</b>	<b>LGAQ Policy Executive district</b> District 2 (South East)
<b>Title of motion</b>	Amendment of section 236 of the <i>Local Government Regulation 2012</i>
<b>Category</b> (select one only)	<input type="checkbox"/> Community Services and Social Policy <input type="checkbox"/> Environment & Health <input checked="" type="checkbox"/> Finance & Administration <input type="checkbox"/> Governance <input type="checkbox"/> Infrastructure, Economics & Regional Development <input type="checkbox"/> LGAQ Policy Statement Amendment <input type="checkbox"/> Planning & Development <input type="checkbox"/> Workforce
<b>Motion</b> (maximum 350 words)	That the Local Government Association of Queensland advocate to the Queensland Government to amend section 236 of the <i>Local Government Regulation 2012</i> to afford greater flexibility to councils to approve an exemption from the compulsory tender or auction requirements in relation to the disposal of non-current assets, in circumstances where there is a clear business case that demonstrates the disposal of the asset would provide clear beneficial outcomes for the community.
<b>Background</b> (maximum 350 words)	<p>Section 227 of the <i>Local Government Regulation 2012</i> (LGR) provides that a local government cannot enter into a valuable non-current asset contract unless it first undertakes a tender or auction process.</p> <p>Section 236 of the LGR provides an avenue for exceptions from the compulsory auction and tender requirements in section 227 of the Regulation for certain limited circumstances, including where:</p> <ul style="list-style-type: none"> <li>• The asset offered for sale or lease by tender or auction but was not sold;</li> <li>• The disposal is to a government agency or community organisation;</li> <li>• Where it involves the disposal of land, the land:             <ul style="list-style-type: none"> <li>➢ will not be rateable after disposal;</li> <li>➢ is disposed of to a person whose restored enjoyment of the land is consistent with Aboriginal tradition or Island custom;</li> <li>➢ the subject of the disposal is for the purpose of renewing the lease of land to the existing tenant;</li> <li>➢ is used as an airport or for related purposes;</li> <li>➢ is to be disposed of to an adjoining property owner (under certain prescribed conditions)</li> </ul> </li> <li>• The Minister exempts the local government from complying with the compulsory tender and auction requirements.</li> </ul> <p>While it is acknowledged the Minister is not limited in the scope of circumstances for which an exemption may be granted, the need to pursue a Ministerial exemption should be an avenue of last resort.</p> <p>That said, it is also acknowledged that councils – if afforded greater flexibility to authorise their own disposal of a valuable non-current asset (including land) without undertaking a tender or auction process – should be basing such decisions on a clear, evidence based business case. In such instances, the business case should</p>

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	<p>demonstrate that a beneficial outcome will be realised for the community by undertaking the disposal without a formalised tender or auction process.</p> <p>Should councils be afforded greater flexibility in this regard, there should also be a requirement that the return to the local government is at least equal to or greater than market value of the land.</p> <p>The existing provisions in Chapter 5B of the <i>Local Government Act 2009</i> relating to the management of Councillor Conflicts of Interest apply to participating in a decision of a local government – which includes participating in any decision a council may make in granting an exemption from the compulsory tender and auction requirements in relation to the disposal of a valuable non-current asset.</p> <p>Affording greater flexibility to councils to determine such exemptions based on an evidence based business case and demonstrable beneficial outcome for the community would enable councils to:</p> <ul style="list-style-type: none"><li>• Be more agile in dealing with innovative land development and infrastructure delivery models with private and community sector partners;</li><li>• Facilitate alternative models for the delivery of community and other public facilities and services; and</li><li>• Enable longer-term local economic, social and environmental outcomes to be salient considerations for a local government in determining any potential disposal arrangements.</li></ul>
<b>What is the desired outcome sought?</b>	<p>Should the Motion be resolved at the Annual Conference, that the LGAQ seek to work with the Department of State Development, Infrastructure, Local Government and Planning and member councils on options for expanding the scope of section 236 of the LGR to facilitate local level decision-making on such matters.</p>