



CP2.7 | Property Performance, Investment and Disposal

Policy Objective

The objective of this policy is to provide a framework to:

1. maximise the performance of the City's Property Portfolio and ensure that the acquisition, management, capital investment and disposal of property:
 - (a) is consistent, transparent and compliant;
 - (b) makes best use of the City's Property Portfolio; and
 - (c) leverages the City's Property Portfolio in the pursuit of the community aspirations as contained within the Strategic Community Plan and Corporate Business Plan.
2. support the City in maintaining a property portfolio that is resilient to changes in market conditions and generates a diversified revenue to ensure the long-term best interests of the community; and
3. ensure that the acquisition and disposal of property is undertaken in an open market format to ensure due probity of process and optimal financial return within an acceptable level of risk.

Policy Scope

This policy guides the assessment of the performance of Property in the City's Property Portfolio and the decision making in relation to the acquisition, management, development, capital investment and disposal of that Property.

Policy Statement

1. Definitions

'Acquisition' or **'Acquire'** means the process of the City acquiring ownership or control of property, or an interest in property, through purchase, vesting, transfer, exchange or lease.

'CEO' means the Chief Executive Officer of the City of Perth.

'City' means the City of Perth.

'City of Perth Commercial Business Unit' means a City business unit that generates income and/or competes against the private sector in relation to its particular area of industry or business.

'City's Property Portfolio' means the real property portfolio held by the City, which includes all real property owned and/or controlled by the City (except property which is an 'otherwise unvested facility' within section 3.53 of the *Local Government Act 1995*). Property owned by the City includes freehold land owned by the City, either vacant or developed with infrastructure. Property controlled by the City includes all Crown land vested in and/or under the care, control and management of the City for a particular public purpose (for example, road reserve, recreation reserves, utility reserves and carparks) and any property leased by the City.

'Council' means the City of Perth Council.



‘Corporate Business Plan’ means the plan that outlines the City’s programs and core services over the next four years.

‘Crown land’ means land owned by the Crown and regulated by the State of Western Australia which maybe unalienated or reserved.

‘Disposal’ or **‘Dispose’** means either:

- (a) a transaction in which Property is being sold, transferred or assigned to a third party, usually in exchange for something else; or
- (b) a transaction which involves a grant by the City to a third party of a legal or equitable interest in Property including a Lease.

‘EOI’ means an expression of interest. It is a process and method to identify parties who may be interested in, and capable of, delivering an outcome in relation to a Disposal and the terms on which such a transaction might occur. The purpose of an expression of interest process is to determine whether the market has an interest in a particular property. Expressions of interest are usually not binding on either party.

‘Future Development Potential’ means the future potential of the whole or any part of a Property (or any building or structure on the Property) to be developed, redeveloped, improved, altered, repurposed or demolished for the construction of new buildings, to increase income generation, stimulate economic or population growth and/or provide community infrastructure or facilities for the City in the pursuit of the community aspirations contained within the Strategic Community Plan and/or Corporate Business Plans.

‘Hurdle Rate’ means the minimum value to be achieved for each applicable performance criteria that have been identified by a Valuer having reference to current industry market conditions, for the purpose of a Property being evaluated as being one of adequate or good performance.

‘Lease’ means a transaction described on the face of the document as a “lease” or which involves a grant by the City to a third party of a leasehold interest in Property including the following rights (which may be subject to the City’s rights to enter the Property for limited specified purposes such as inspection, maintenance and repair):

- (a) the third party will have exclusive occupation of the Property during the term of the Lease, such term being a specified agreed period;
- (b) the third party will be able to use and enjoy the Property without interference from the City during the term of the Lease.

‘Licence’ means a transaction in which the City grants permission to a third party to enter and use the Property for a particular purpose, and not having the characteristics of a Lease. A Licence does not constitute a Disposal, the licensee has a mere personal right to use and occupy the property, and is not able to enter into an assignment or sublicense unless the express terms of the licence agreement allow it.

‘Market Value’ means the current estimated amount determined by Valuation for which a Property or an interest in a Property is likely to exchange on the date of Valuation between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing where the parties had each acted knowledgeably, prudently, and without compulsion. In relation to leases, the Market Value means the current estimated amount determined by Valuation for which a Property should be leased on the Valuation date between a willing lessor and willing lessee on appropriate lease terms (which may include incentives such as rent-free period) in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion. If it is the market norm for leases to include a payment or concession by one party to the



other as an incentive to enter into a lease, and this is reflected in the general level of rents agreed, the Market Rent should also be expressed on this basis (stating the nature of the incentive and lease terms).

'Property', means the whole or any part of a parcel of land and/or all buildings, structures and improvements located thereon that forms part of the City's Property Portfolio.

'Rent' means all rents, fees and other consideration to be paid by a lessee or licensee in relation to the Lease or Licence (as applicable) of a Property.

'Strategic Community Plan' means the plan that addresses the City's broader strategic aspirations and intentions with regard to financial interests, community benefit, civic purposes and otherwise, as adopted by Council from time-to-time in accordance with section 3.56 of the *Local Government Act 1995*.

'Telecommunications Use' is a commercial agreement between the City and a telecommunications carrier or provider that permits Property to be used to house and operate telecommunications infrastructure and equipment.

'Valuer' means an independent person appointed by City with not less than 5 years' experience in valuing real property in Western Australia and is certified as a Certified Practising Valuer and accredited by the Australian Property Institute.

'Valuation' means an established, ethical and evidence-based process for assessing the Market Value at a specified date undertaken by a qualified, professional Valuer. A Valuation must be certified by a Valuer and be based on appropriate methodology and current industry standards.

2. Classification

Each Property in the City's Property Portfolio will be assigned a classification by the Council. A Property which is used for different purposes may have more than 1 classification.

The classifications that will be applied are:

- *Income Generating*: A Property or portion of a Property that is held for the purpose of generating income.
- *Strategic Holding*: A Property or portion of a Property that is held on the basis of it having Future Development Potential
- *Community Purpose*: A Property or portion of a Property that is held for community benefit or civic purposes consistent with the Strategic Community Plan
- *Operational*: A Property or a portion of a Property that is held for the production or supply of goods and/or services or for administrative purposes to assist the City in fulfilling its operational requirements

The classification of each Property may be reviewed and amended by the Council based on:

1. performance;
2. strategic and emerging issues; and
3. changes in the economy, community expectation and/or consumer demand.



3. Performance

The performance of each individual Property will be assessed triennially against the Market Value as determined by a Valuation undertaken at the date of assessment and where application includes the following:

1. Passing Yield: Gross passing rent as a percentage of the market value
2. Net yield: Net passing rent (after expenses) as a percentage of the market value
3. Market yield: Market rent as a percentage of the market value
4. Operating Expense Ratio (OER): Operating expense as a percentage of gross income
5. Weighted average lease expiry (WALE): Average time period when all leases in the Property will expire, weighted according to the amount of income or the space within the asset
6. Occupancy and vacancy rate: Occupied space or vacant space as a percentage of all available units in the Property

Furthermore, the performance of each individual Property classified as '*Strategic Holding*' will be assessed triennially and also include a consideration of the Future Development Potential of the Property, and the suitability of the Property for any other classification.

The performance of Property classified as '*Community Purpose*' will be assessed triennially by considering the utilisation and on-going requirement of the Property for community purposes, the then-current Strategic Community Plan, and the suitability of the Property for any other classification.

The performance of Property classified as '*Operational*' will be assessed triennially by considering the utilisation and on-going requirement of the Property for operational purposes, the then-current Strategic Community Plan and Corporate Business Plan, and the suitability of the Property for any other classification.

4. Three-year Review of Classifications

Recommendations for reclassification of Properties (if any) based on the results of a performance review will be provided to Council for consideration and approval at least once every three years or earlier if required.

5. Property disposal (Lease or Licence)

A. Leases / Licences (Non-City of Perth Commercial Business Units)

Depending on its classification, a Property may be Leased or Licenced in accordance with the following parameters:

i) "*Income Generating*"

- The aggregate term, including any options to extend or renew, is not to exceed a maximum of twenty (20) years.
- A new Lease or any renewal of an existing Lease not pursuant to an existing option to extend or renew is subject to compliance with section 3.58 of the *Local Government Act 1995* (to the extent applicable and not otherwise exempt).



- If the City has the care, control and management of a Crown land Property under a management order, the Lease or Licence must be granted subject to any conditions of the management order and the consent of the Minister for Lands under section 18 of the *Land Administration Act 1997*.
 - The commencing Rent is to be not less than 95% of the Market Value as determined by a Valuation made within 6 months from when the terms of an offer are accepted (or as required by the *Local Government Act 1995*).
 - The Rent is to be reviewed to Market Value not less than every five years during the term. Annual percentage increases in Rent equal to not less than the movement in the Perth Consumer Price Index will apply on each year of the term where the Rent is not reviewed to Market Value.
 - The lessee or licensee is to be responsible for the payment of consumption of utilities and services, and with respect to Leases, also statutory and variable outgoings including (without limitation) council rates, water rates, water usage, strata levies, gas usage, electricity usage, taxes, insurances, and costs of non-capital maintenance and repairs including of common areas, mechanical services (such as lifts and air conditioners), roofing, fit-out and structure. Lessee responsibility for outgoings may be reflected and encompassed using a net, gross or semi-gross rent structure.
 - The City is to be responsible for structural and capital renewal, upgrade and capital expansion in accordance with part 6 of this policy.
 - Where the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies, the parameters will be adjusted to comply with the specific requirements of that Act.
 - Where the *National Rental Affordability Scheme (NRAS)* applies, the parameters will be adjusted to comply with the specific requirements of the scheme.
 - No assignment, sub-leases or sub-licences are permitted unless approved by the City.
- ii) *Telecommunications Use*
- The aggregate term, including any options to renew or extend, is not to exceed a maximum term of twenty (20) years.
 - A new Lease or any renewal of an existing Lease not pursuant to an existing option to extend or renew for Telecommunications Use is subject to compliance with section 3.58 of the *Local Government Act 1995* (to the extent applicable and not otherwise exempt).
 - If the City has the care, control and management of Crown land under a management order, the Lease or Licence must be granted subject to any conditions of the management order and the consent of the Minister for Lands under section 18 of the *Land Administration Act 1997*.
 - The commencing Rent is to be not less than 95% of the Market Value as determined by a Valuation made within 6 months from when the terms of an offer are accepted (or as required by the *Local Government Act 1995*).
 - The Rent is to be reviewed to Market Value not less than every five years during the term. Annual percentage increases in Rent equal to not less than the movement in the Perth Consumer Price Index will apply each year of the term where the Rent is not reviewed to Market Value.
 - No assignment or sub-leasing/licensing, other than to related bodies corporate of the original



lessee/licencee or other telecommunication carriers, are permitted unless approved by the City.

iii) *“Strategic Holding”*

- The aggregate term, including any options to extend or renew, is not to exceed a maximum of ten (10) years.
- A new Lease or any renewal of an existing Lease not pursuant to an existing option to extend or renew is subject to compliance with section 3.58 of the *Local Government Act 1995* (to the extent applicable and not otherwise exempt). If the City has the care, control and management of Crown land under a management order, the Lease or Licence must be granted subject to any conditions of the management order and the consent of the Minister for Lands under section 18 of the *Land Administration Act 1997*.
- The commencing Rent is to be not less than 95% of the Market Value as determined by a Valuation made within 6 months from when the terms of an offer are accepted (or as required by the *Local Government Act 1995*).
- The Rent is to be reviewed to Market Value not less than every five years during the term. Annual percentage increases in Rent equal to not less than the movement in the Perth Consumer Price Index will apply each year of the term where the Rent is not reviewed to Market Value.

The lessee or licencee is to be responsible for the payment of consumption of utilities and services, and with respect to Leases, also statutory and variable outgoings including (without limitation) council rates, water rates, water usage, strata levies, gas usage, electricity usage, rates, taxes, insurances, and costs of non-capital maintenance and repairs including of common areas, mechanical services (such as lifts and air conditioners), roofing, fit-out and structure. Lessee responsibility for outgoings may be reflected and encompassed using a net, gross or semi-gross rent structure.

- The City is to be responsible for structural and capital renewal, upgrade and capital expansion in accordance with part 6 of this policy.
- Where the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies, the parameters will be adjusted to comply with the specific requirements of that Act.
- Where the *National Rental Affordability Scheme (NRAS)* applies, the parameters will be adjusted to comply with the specific requirements of the scheme.
- No sub-leases or sub-licences are permitted unless approved by the City.
- The lessee will have exclusive use and occupation of the premises, although the City may require the lessee to encourage other use and subletting if mutually agreed.

iv) *“Community Purpose”*

- The term, including any options, is not to exceed a maximum of ten years.
- A new Lease or any renewal of an existing Lease not pursuant to an existing option to extend or renew is subject to compliance with section 3.58 of the *Local Government Act 1995* (to the extent applicable and not otherwise exempt). If the City has the care, control and management of Crown land under a management order, the Lease or Licence must be granted subject to any conditions of the management order and the consent of the Minister for Lands under section 18 of the *Land*



Administration Act 1997.

- Rent shall be at a peppercorn rate.
- The lessee or licensee is to be responsible for payment of consumption of utilities and services, and with respect to Leases, also variable outgoings and insurances.
- The City is to be responsible for rates (including the City's rubbish collection charge and emergency services levy) and taxes as well as capital renewal, upgrade and capital expansion of all assets on the leased land, in accordance with part 6 of this policy. The City will also maintain mechanical services (such as lifts and air conditioners), roofing, fit-out and structure.

B. City of Perth Commercial Business Units

Should a City of Perth Commercial Business Unit occupy an Income Generating Property, the following will apply:

- The commencing Rent is to be not less than 100% of the Market Value as determined by a Valuation made not more than 12 months (or as required by the *Local Government Act 1995*) prior to the commencement date.
- The Rent is to be reviewed to Market Value not less than every five years during the term. Annual percentage increases in Rent equal to not less than the movement in the Perth Consumer Price Index will apply each year of the term where the Rent is not reviewed to Market Value.
- The City of Perth Commercial Services Unit is to be responsible to pay all statutory and variable outgoings including (without limitation) the cost of council rates, water rates, strata levies, water usage, gas usage, electricity usage, rates, taxes, insurances, and costs of non-capital maintenance and repairs of common areas, mechanical services (such as lifts and air conditioners), roofing and fit-out and structure.
- The City is to be responsible for structural and capital renewal, upgrade and capital expansion in accordance with part 6 of this policy.

6. Capital renewal, upgrade and capital expansion

Capital renewal (meaning replacement with like for like or better) is to be undertaken in accordance with the City's Asset Management Plan(s) in place from time-to-time so that all Property in the City's Property Portfolio provides an acceptable level of service, amenity and aesthetics.

A proposal for capital renewal through early intervention, upgrade or capital expansion of any Property (or any assets located on Property) in the City's Property Portfolio, will be assessed by Council against the performance criteria that have been determined by the Council for such purpose.

7. Delegated Authority

In accordance with Section 2.13 of the Register of Delegations and Authorisations, the CEO is currently limited to determining the disposal of Property by Lease or Licence up to a designated value. A Lease or Licence with a value in excess of the designated limit or that deviates materially from the applicable requirements of this Policy must be referred to Council in accordance with the *Local Government Act 1995*.



8. Management of the City's Property Portfolio

The City is to establish processes and procedures and implement organisational systems that ensure all Properties are managed efficiently, prudently, consistently and fairly. These are to consider and include provision for (without limitation):

- Regular inspections of Properties
- Rent reviews
- Recovery of prepaid statutory authority and public utility fees and charges
- Protection of the City's financial interests
- Timely management of end of lease issues including termination, makegood, and renewal
- Uniformity of leasing documentation and application processes
- Strategic allocation of resources for major maintenance and repairs
- Asset maintenance, renovation and repairs
- The expedient application of legal recourse in response to Lease/Licence non-compliance

9. Disposal of Property (sale)

9.1 Principles for the sale of Property

A Property may be considered for sale in accordance with the following "Sale Criteria":

- The Property has no alignment to the aspirations of the Strategic Community Plan or other Council endorsed strategic plans
- The Property has limited income generating and Future Development Potential
- The Property does not have a strategic fit
- The Property is not required for operational purposes; or
- The Property has been identified by Council for sale during the annual budget process or otherwise.

If an offer is received in response to the City's advertising and section 3.59 of the *Local Government Act 1995* does not apply:

- (1) where the offer is equal to or exceeds the Market Value, the City may sell the property subject to compliance with the requirements of sections 3.58 and 3.59 of *the Local Government Act 1995* (WA) (as applicable and to the extent not exempt).
- (2) where the offer is less than the Market Value, the City will refer the offer to Council for approval of the proposed sale. If Council makes a determination to proceed with the sale, the City may sell the property subject to compliance with the requirements of sections 3.58 and 3.59 of *the Local Government Act 1995* (WA) (as applicable and to the extent not exempt).

Where the sale constitutes a "major land transaction" as defined under section 3.59 of the *Local Government Act 1995* (WA), Council must provide specific approval in each instance to commence the statutory process to satisfy section 3.59 before it enters into an agreement or contract to dispose of the



Property, or enters into an agreement or contract that is preparatory to enter into an agreement or contract to dispose of the Property.

If an unsolicited is received and the Property meets the Sale Criteria, the City will refer the offer to Council for consideration for approval to commence the statutory process to effect a sale of the Property in accordance with section 3.58 and where applicable, section 3.59 of the *Local Government Act 1995*.

If an unsolicited bid is received and the Property does not meet the Sale Criteria, the City will reject the offer unless the offer meets or exceeds the Market Value of the Property. In this instance the offer will be presented to Council for consideration, including whether to commence the statutory process to effect a disposal (sale) of the Property.

If a land exchange offer is received, the Property meets the Sale Criteria and the property offered for exchange meets 1 or more of the objectives for the acquisition of property under part 11.1 of this Policy, the City will refer the offer to Council for consideration for approval to commence the statutory process to effect a disposal (sale via land exchange) of the Property in accordance with section 3.58 and where applicable, section 3.59 of the *Local Government Act 1995* (WA).

A Valuation made not more than 6 months (or as required by the *Local Government Act 1995*) (WA) prior to the date of the applicable offer or bid must be used to ascertain the Market Value of a Property in connection with assessing an offer or bid for a proposed sale of Property.

9.2 Method of Sale

All sales must be in accordance with sections 3.58 and 3.59 of the *Local Government Act 1995* (WA) to the extent applicable and not exempt.

9.3 Net proceeds from the sale of property

Unless section 188 of the *Land Administration Act 1997* (WA) applies, Council will direct proceeds to the City's 'Asset Enhancement Reserve'.

10. Request for revocation of management order

10.1 Principles for the revocation of management order

A Property that is Crown land vested in and under the care, control and management of the City, may be considered for request for revocation of the management order (subject to Minister agreement) in accordance with the following:

- The Property has no alignment to the aspirations of the Strategic Community Plan or other Council endorsed strategic plans
- The Property has limited income generating and Future Development Potential
- The Property does not have a strategic fit
- The Property is not required for operational purposes; or
- The Property has been identified by Council for sale during the annual budget process or otherwise.

10.2 Process for the revocation of management order

Should a Property meet the criteria for revocation of management order in part 10.1 of this Policy, the



City may request the Minister for Lands to revoke the management order under section 50 of the *Land Administration Act 1997* (WA).

11. Acquisition of Property

11.1 Objectives for acquiring property

Decisions to acquire property or an interest in property may be based on strategic objectives (potential to satisfy community aspirations contained in the Strategic Community Plan), financial reasons (potential to generate return on investment) and/or economic development reasons (potential to facilitate development and stimulate economic growth in the City).

Where the acquisition constitutes a major land transaction or major trading undertaking under section 3.59 of the *Local Government Act 1995* (WA), Council must provide specific approval to commence the statutory process to satisfy section 3.59 before it enters into an agreement or contract to acquire the property, or enters into an agreement or contract that is preparatory to enter into an agreement or contract to acquire the property.

11.2 Principles for acquiring property

Only property located in Western Australia may be considered for acquisition. Any property considered for acquisition must meet the definition for any of the classifications of Property provided for by part 2 of this Policy being “*Income Generating*”, “*Strategic Holding*”, “*Community Purpose*” or “*Operational Purpose*”.

To the extent supported by the Register of Delegations and Authorisations, the CEO may make an offer to acquire property or entertain a land exchange offer. Any offer made by the CEO must be equal to or less than the Market Value of the subject property. Where the decision to enter into a contract to acquire property must be approved by the Council, any offer made by the CEO in relation to the matter must be made subject to Council approval.

11.3 Method of Acquisition

Property may be acquired by the City via a public process (i.e. auction), by private negotiation/treaty or by compulsory acquisition.

Legislative Context

- *Local Government Act 1995* (WA)
- *Transfer of Land Act 1893* (WA)
- *Planning and Development Act 2005* (WA)
- *Valuation of Land Act 1978* (WA)
- *Land Administration Act 1997* (WA)
- *Commercial Tenancy (Retail Shops) Agreements Act 1985* (WA)
- *National Rental Affordability Scheme (NRAS)* (WA)



Document Control

Other relevant/related documents

Legislation:	As above.
City Policies:	N/A
City Procedures and Processes:	N/A

Document responsibilities

Custodian:	General Manager Commercial Services	Custodian Unit:	Commercial Services Alliance	Decision Maker:	Council
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Review management

Next review due:	November 2024	Document Management Ref:	EDRMS-1336483316-552
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Document management

Version	Decision reference	Synopsis of changes
1.0	OCM 27 April 2021	Initial adoption.
2.0	OCM 22 November 2022	Comprehensive review and amendments.