

City of Joondalup

Property

Management

Framework

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1. Introduction:

The City of Joondalup manages 148 buildings and structures over 19,000 square metres of property either as freehold or managed property which is reserved or dedicated under the *Land Administration Act 1997*. This property has been set aside for a diversity of purposes, such as recreation, public open space, drainage and administrative or infrastructure purposes.

The *Property Management Framework* will provide the City with a guide to managing all property under the City's ownership, care and control. The Framework will take into account the City's statutory obligations and the desire to promote the wellbeing of all people in the community through support of recreational and community groups and the provision of high quality and accessible facilities.

1.1. Objectives:

- a. To define the classifications for which City-owned and -managed property is held.
- b. To establish the categories and associated principles under which City-owned and -managed property may be used and occupied.
- c. To promote equitable, effective and sustainable management practices for the use and occupation of City-owned and -managed property.

2. Planning context:

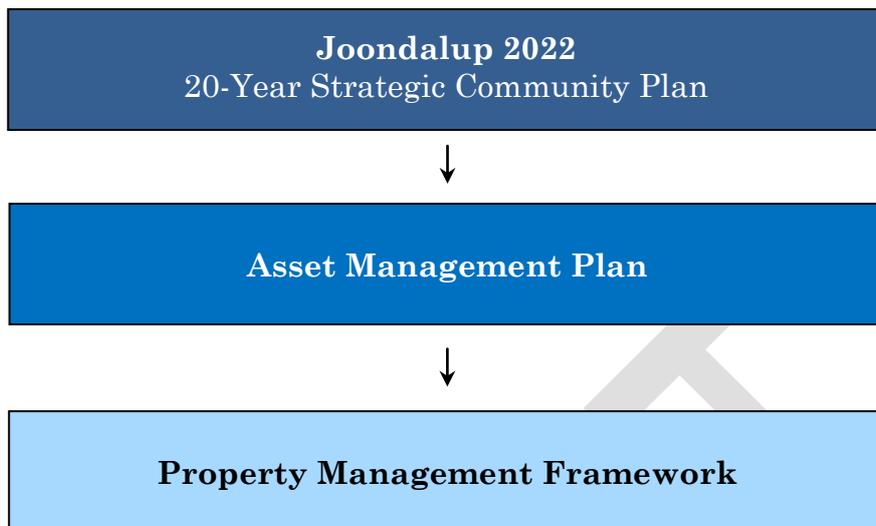


Figure 1. Diagram of planning context.

2.1 Related City plans and policies:

2.1.1. Asset Management Plan 2009–2012 (under review)

- *Vision:* 'For the City's community infrastructure to provide the desired level of service in the most cost effective manner for present and future customers.'

2.1.2. Access and Inclusion Plan 2012–2014

- *Policy statement:* 'The City is committed to ensuring that its activities and services are inclusive of all members, including people with disabilities and their families or carers, and people from culturally and linguistically diverse backgrounds. The City will make every effort to ensure that any person who lives, works in, or visits the City of Joondalup will not be denied access to any City facility, program, service or information prepared by the City on the basis of a personal disability or background.'

2.1.3. Policies:

- a. Asset Management Policy: (under review)
 - *Objective:* 'To ensure the organisation undertakes a structured and coordinated approach to asset management that will promote sustainable infrastructure for the City of Joondalup.'

- b. Child Care Centres Policy: (under review)
- *Objective:* 'To provide guidelines for the location, siting and design of child care centres to ensure that such developments are compatible with, and avoid adverse impacts on, the amenity of adjoining and surrounding areas.'
- c. Community Facilities, Built Policy: (under review)
- *Objective:* 'To provide a range of community facilities within the community which meet local and regional needs.'
- d. Facility Hire Subsidy Policy:
- *Objectives:* 'To provide guidance on determining the extent of subsidy to be offered to groups hiring City-managed facilities; To ensure facility hire subsidies are applied in a consistent, transparent and equitable manner.'
- e. Leisure Policy: (under review)
- *Objective:* 'To guide the provision of leisure services, facilities and programs to assist in the achievement of the City of Joondalup's Mission, Vision and strategic objectives.'
- f. Reserves, Parks and Recreation Grounds Policy: (under review)
- *Objective:* 'To support best management practice for Council-controlled reserves, parks and recreation grounds while recognising community needs and community and Council responsibilities.'
- g. Installation of Telecommunications Facilities Policy:
- *Objective:* 'To outline the City's position on the installation of telecommunications facilities in the district.'

3. The City's role and statutory obligations:

Local Government has an obligation to provide and maintain adequate assets to meet community needs both for present and future generations. The major objective in property management is to ensure adequate services and facilities are provided to the community.

The City of Joondalup plays a significant role in property management. Depending on the type of property, the City is responsible for maintenance and disposal, including leasing/licensing and facility hire.

In addition to this broad role, the City has certain obligations under State and Federal legislation with regard to property management. Relevant legislation is outlined below.

3.1. Land Administration Act 1997 (State):

The City is responsible for the care, control and management of certain property within the City's boundaries which have been reserved by the Minister for Lands under the *Land Administration Act 1997*. The City manages this land in accordance with a Management Order made under section 46 of the Act which may include a power to lease or licence the whole or a part of the land. Any proposal to lease or licence land may not proceed without prior written approval from the Minister. The City is also responsible for the care and control of roads dedicated under this Act.

3.2. Local Government Act 1995 (State):

The City is bound by specific conditions under the *Local Government Act 1995* with regard to the disposal of property. Section 3.58 of the Act provides that a local government can only dispose of property by public auction, public tender or by undertaking the local public notice procedure set out in section 3.58(3). In this context, disposing of property means to 'sell, lease or otherwise dispose of, whether absolutely or not' (does not include licensing). However, there are a number of exemptions to these requirements set out in regulation 30 of the *Local Government (Functions & General) Regulations 1996*. These include: where property is to be disposed to not-for-profit charitable, benevolent, religious, cultural, educational, recreational, or sporting organisations; and if the property is to be leased for a period of less than 2 years and the lease does not give exclusive possession of the property.

Section 3.59 of the *Local Government Act 1995* outlines the procedure for acquiring and disposing of property greater than one million dollars in value, including the preparation of a Business Plan, issuing of a Public Notice and a period of consultation. In addition to acquisition and disposal, under Part 6 of the *Local Government Act 1995*, the City is able to charge a fee for the hiring of property. Fees and charges set by Council under the Act are adopted yearly as part of the *Annual Budget* process.

3.3. Telecommunications Act 1997 (Federal):

Under the federal *Telecommunications Act 1997*, telecommunications carriers have very broad powers to enter land to install and maintain low-impact facilities. Carriers are not required to observe statutory obligations relating to the powers and functions of a local government. Accordingly, there is no requirement to obtain planning approval or meet the requirements of section 3.58 of the *Local Government Act 1995*. However, the *Telecommunications Act 1997* requires that carriers give prior written notice to the owner and occupier of the land before proceeding with the installation of a low-impact facility. There are limited rights of objection under the Act and an entitlement to compensation if a person suffers financial loss or damage. For this purpose, telecommunications carriers generally agree to pay a form of 'rental' and occupy their sites under a lease or licence agreement.

In addition to the City's obligations under State and Federal legislation, the following local law is also relevant to property management.

3.4. Local Government and Public Property Local Law 1999 (City of Joondalup):

The City's *Local Government and Public Property Local Law 1999* was enacted under the *Local Government Act 1995*. This Local Law provides for the regulation, control and management of activities and facilities on City-owned and -managed property. The Local Law also describes the conditions which relate to public usage of City property, including prohibitions on smoking, alcohol consumption, anti-social behaviour, flammable substances and firearms etc.

4. Classification of property:

Under this Framework, all property owned in freehold by the City will fall into one of the following three classifications which describe the primary purpose for which the property is held. Properties within each classification will not necessarily be static and may be re-classified following a review by the Council. Properties managed by the City under management orders have not been formally classified as these properties are all be considered to be held for *Community Purposes*.



Figure 2. Property classification types

4.1. Property held for Community Purposes:

This classification includes property held for administration, operations, recreation, and / or infrastructure usage. Property held for *Community Purposes* will generally not be considered available for liquidation. Where appropriate, consideration will be given to leasing improvements to not-for-profit community groups at a subsidised rental. (E.g.: community halls; clubrooms; community centres; libraries; toilets / changerooms; drainage sites; and parks / public open spaces; etc.)

4.2. Property held for Capital Appreciation:

This classification includes property which is either undeveloped or underdeveloped, but which is not held for *Community Purposes*. Property held for *Capital Appreciation* will be developed for income where market conditions are favourable and the development risk is considered to be acceptable. Alternatively, these properties will be liquidated to advantage when market conditions are favourable. In general, income from any improvements should be maximised and property in this category will not be made available for community usage. (E.g.: vacant lots; underdeveloped sites; etc.)

4.3. Property held for Income Generation:

This classification includes property where the maximisation of the income stream is considered to be the primary objective. Property held for *Income Generation* will be developed to the highest and best use of the site. Rentals will be set by reference to market levels, with regular reviews, depending on the circumstances. In general, subsidised rentals will not be considered for properties within this classification. (E.g.: car parks, commercial buildings; etc.)

It should be noted that whilst these classifications are intended to capture all property owned and managed by the City, it is recognised that not all property will fit *exactly* within these classifications. Appropriate discretion therefore, will be used by the City when dealing with any such property (including hiring, leasing / licensing, liquidating etc.). A full inventory of classified freehold property is attached to this Framework.

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5. Property utilisation by groups:

Under this Framework, depending on the appropriateness of a site, City-owned and -managed property may be utilised by groups such as government agencies, business entities and community groups. The appropriateness of a site to be utilised for a particular purpose will be determined by the Council based on the classification of the property (see 'Classification of property' above). In general, property held for *Community Purposes* will be considered for utilisation by not-for-profit community groups at a subsidised rate, and property held for *Capital Appreciation* or *Income Generation* will be considered for utilisation by groups at full market rate. There are three different types of property utilisation that may be granted to groups which are described below.

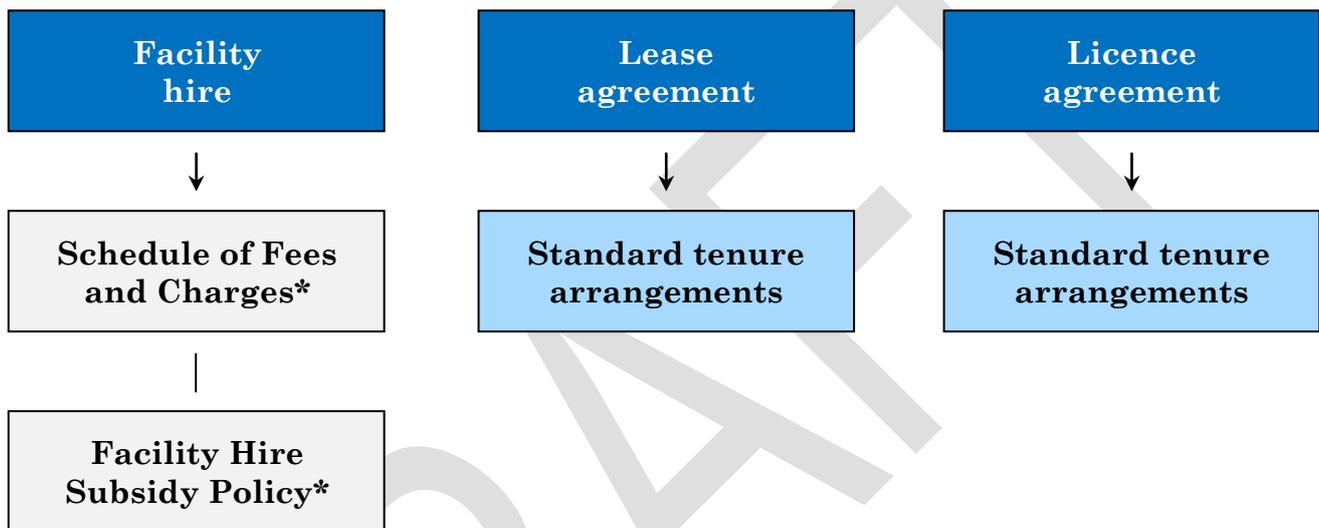


Figure 3. Property utilisation types. (*external documents)

5.1. Facility hire:

The power to hire out a property or a portion of a property is granted under the City's *Local Government and Public Property Local Law 1999* (see 'The City's role and statutory obligations' above). Fees and charges for facility hire are adopted on a yearly basis by Council as part of the *Annual Budget* process and are based on a proportion of cost recovery.

Commercial organisations, community groups and individuals are able to hire numerous facilities in the City, ranging from parks and public open spaces to community centres and halls. Facilities can be hired on a casual (one-off) basis or on a regular (usually seasonal) basis.

Standard fees and charges apply for facility hire which are specified in the City's *Schedule of Fees and Charges*. Subsidised facility hire may be granted to not-for-profit groups and groups from educational institutions in accordance with the *Facility Hire Subsidy Policy*.

In addition to facility hire arrangements, the City provides allocated storage free-of-charge to many regular users of community facilities. Such storage ranges from small cages suitable for equipment to large storage rooms. These storage areas are allocated to user groups on application to the City, and are determined on a case-by-case basis, based on a demonstrated need.

5.2. Lease agreement:

A lease agreement is established when a group wishes to have exclusive use of a property or a portion of a property. Such an agreement is established formally and allows a group to have a temporary interest in a property which they can use in accordance with the agreement.

As detailed in the 'The City's role and statutory obligations' above, the City can only lease property by public auction, public tender or by undertaking a local Public Notice procedure (unless leasing to a not-for-profit charitable, benevolent, religious, cultural, educational, recreational, or sporting organisation). Under the City's current *Delegated Authority Manual*, the Chief Executive Officer has the authority to dispose of property (including leases) for property valued at less than \$600,000.

The 'Standard tenure arrangements — leases and licences' section below provides guidance on the development of lease agreements for City-owned or -managed property.

5.3. Licence agreement:

In the context of property management, a licence is a permit issued to enable the licensee to undertake an activity on a property under particular conditions. Conditions usually include regular payment as consideration.

Licences are entered into by the City where the intention is to grant non-exclusive possession of a property. This may include circumstances such as a sporting group which shares clubrooms with another sporting group, or a shared-use agreement for an oval between the City and a local primary school.

The 'Standard tenure arrangements — leases and licences' section below provides guidance on the development of licence agreements for City-owned or -managed property.

Notwithstanding the above, the City recognises that some licence agreements are entered into under particular circumstances which may require special concessions. Therefore, whilst the tenure arrangements below should be taken into consideration wherever possible, arrangements outside of these guidelines will be dealt with on a case-by-case basis.

In general, the City will endeavour to make City-owned or -managed property available for use by the wider community. In particular, property held for *Community Purposes* will be accessible to the general public wherever possible. With this in mind, it is the City's preference that facility hire arrangements be established over leases and licences. The City does recognise however, that in some instances, a lease / licence may be the most appropriate arrangement. Some groups, for example, may require tenure before committing to a capital improvement project or in order to appropriate external funding; the activities of some groups may necessitate an arrangement that excludes the general public from accessing the property (e.g.: specialised medical equipment at a Child Health Centre);

and / or some groups may have historical arrangements with the City which the City believes are appropriate to maintain. The type of property utilisation that may be granted to a group therefore, will be determined on a case-by-case basis with a *preference for facility hire arrangements*.

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6. Standard tenure arrangements — leases and licences:

Under this Framework, standard tenure arrangements will apply to leases and licences granted by the City for City-owned and -managed properties.

With respect to leases / licences over Crown property managed by the City under a Management Order, prior approval will be obtained from State Land Services, in accordance with the *Land Administration Act 1997*.

Lease / licence agreements will be advertised by a local public notice unless the organisation is a not-for-profit charitable, benevolent, religious, cultural, educational, recreational, or sporting one, in accordance with the *Local Government Act 1995*.

6.1. Key principles:

The following key principles will guide the City's approach to tenure arrangements.

- a. The City acknowledges its obligation to provide and maintain its properties to meet community needs for present and future generations.
- b. The City recognises and supports the contribution made by community groups in achieving an active and sustainable community.
- c. The City encourages the use of its properties by organisations which provide a benefit to the community.
- d. The City promotes tenure arrangements which are consistent, transparent and equitable.
- e. The City promotes tenure arrangements which provide for access to the property by the wider community.
- f. The City promotes tenure arrangements which contribute to the financial viability of the City.

6.2. Tenure guidelines — general:

Under this Framework, the following tenure guidelines will apply to *all* leases and licences granted by the City for City-owned and -managed properties (excluding *Telecommunications Carriers*). Additional guidelines will apply to specific groups categorised as: *Commercial Organisations, Government Departments / Agencies, Not-for-Profit Community Groups* and *Other Groups*; these are detailed in 'Tenure guidelines — groups' below. A comparison of tenure guidelines is provided at Appendix 1.

- a. Type of agreement:
- i. Leases will be entered into where the intention is to grant exclusive possession of the property or part of the property.
 - ii. Licences will be entered into where the intention is to grant non-exclusive possession of the property or part of the property.
- b. Period of tenure:
- i. Leases will be granted for a period of up to ten years with two options to extend for further periods of up to five years.
 - ii. Licences will be granted for a period of up to three years.
- c. Main responsibilities of lessee / licensee:
- i. Lessee / licensee will be responsible for all non-structural maintenance within the leased / licensed area¹ and will provide documentation on the following (if applicable):
 - fire equipment servicing;
 - mechanical services maintenance and service records (in accordance with Australian Standards);
 - annual gutter cleaning;
 - annual pest control treatments;
 - electrical compliance testing;
 - sewer pump and grease-trapping servicing; and
 - septic system servicing.
 - ii. Lessee / licensee will be responsible for cleaning and the general presentation of the leased / licensed area.
 - iii. Lessee / licensee will be responsible for all operational / running costs, including, but not limited to:
 - refuse collection;
 - emergency service levy (E.S.L.);
 - water rates; and
 - all utilities related to their use (e.g.: electricity, gas, water, telecommunications etc.).
 - iv. Lessee / licensee will be responsible for obtaining appropriate insurance (e.g.: public liability insurance, contents insurance etc.).
- d. Main responsibilities of lessor / licensor (City of Joondalup):
- i. The City will be responsible for arranging appropriate building insurance.
 - ii. The City will be responsible for all structural maintenance² within the leased / licensed area.

¹ fair wear and tear accepted

² structural maintenance is defined by the physical building structure only and does not include: fitting and fixtures; ceiling and ceiling grids; doors, door frames and skirtings; floor coverings (including tiles, carpets and vinyls); septic systems and sewer systems; ventilation ducting and exhaust canopies; or brick paving.

- e. Lessees / licensees will be permitted to undertake capital improvements (with prior approval from the City); however, such improvements will not provide for an automatic entitlement to subsidised rental.
- f. Approval from the City will be required prior to any subletting of the premises (if granted the power to sublet).

6.3. Additional tenure guidelines — groups:

The following tenure guidelines are intended to apply to leases and licences for *all* groups within each category. It is recognised however, that some groups (especially *Not-for-Profit Community Groups*) may be constrained by specific circumstances and appropriate discretion will be applied by the City in determining tenure arrangements for these groups on a case-by-case basis. A diagram illustrating the types of groups permitted to occupy property held for *Community Purposes*, *Capital Appreciation* and *Income Generation* is provided at Appendix 2.

6.3.1. Commercial Organisations:

In general, *Commercial Organisations* will only be permitted to lease or licence facilities which are located on property held for *Capital Appreciation* or property held for *Income Generation*. As such, income received from the lease or licence should be maximised and subsidised rental should not be considered.

The following additional tenure guidelines apply specifically to *Commercial Organisations*.

- a. Rental will be based on the market rate, set with guidance from a licensed valuer, and reviewed every 12 months.
- b. Main responsibilities of lessee / licensee:
 - i. Lessee / licensee will be responsible for covering the cost of building insurance for the leased / licensed area.
 - ii. Lessee / licensee will be responsible for the cost of local government rates (unless exempt).

6.3.2. Telecommunications Carriers:

Although considered to be carrying out commercial activities, *Telecommunications Carriers* are differentiated from Commercial Organisations due to their unique powers under the Federal *Telecommunications Act 1997* (as detailed in 'The City's role and statutory obligations' above). In particular, *Telecommunications Carriers* do not need to meet the requirements of section 3.58 of the *Local Government Act 1995*. However, the *Telecommunications Act 1997* does provide for an entitlement to compensation; for this purpose, carriers generally negotiate to pay a form of 'rental' and occupy their sites under a lease or licence agreement. Due to the nature of the *Telecommunications Act 1997*, carriers are permitted to

lease / licence land located on property held for *Community Purposes*, property held for *Capital Appreciation* or property held for *Income Generation*. Tenure arrangements for *Telecommunications Carriers* therefore will be determined on a case-by-case basis and the City will seek an access fee from Carriers requesting co-location of another carrier.

6.3.3. Government Departments / Agencies:

Leases and licences held by *Government Departments / Agencies* can range from neighbourhood child health centres to large departmental offices. Consequently, depending on the purpose for which the lease / licence is to be used, *Government Departments / Agencies* may be permitted to lease or licence facilities which are located on property held for *Community Purposes*, property held for *Capital Appreciation* or property held for *Income Generation*.

In general, *Government Departments / Agencies* will be treated in the same manner as *Commercial Organisations*; however, subsidised rental may be granted on a case-by-case basis depending on the purpose for which the property is to be used. In addition, other formal agreements, memorandums-of-understanding or past obligations etc. may necessitate special tenure arrangements.

The following additional tenure guidelines apply specifically to *Government Departments / Agencies*.

- a. Rental will be based on the market rate, set with guidance from a licensed valuer, and reviewed every 12 months.
 - i. Subsidised rental may be granted in special circumstances; this will be determined by the Council on a case-by-case basis. Subsidy may be up to 100%. Lessees / licensees that are granted a rental subsidy are required to acknowledge this in promotional materials and letters etc.
- c. Main responsibilities of lessee / licensee:
 - i. Lessee / licensee will be responsible for covering the cost of building insurance for the leased / licensed area.

6.3.4. Not-for-Profit Community Groups:

Not-for-Profit Community Groups are defined as those which are incorporated under the *Associations Incorporation Act 1987* and have their primary base of operation located within the City of Joondalup. In general, *Not-for-Profit Community Groups* will only be permitted to lease or licence facilities which are located on property held for *Community Purposes*. As such, where appropriate, these organisations will be granted a lease or licence at a subsidised rate in recognition of their perceived benefit to the community and their ability to pay.

The following additional tenure guidelines apply specifically to *Not-for-Profit Community Groups*:

- a. Rental will be set at 0.1% of the capital cost of the leased / licensed property (i.e.: replacement value) determined by a licensed valuer and reviewed at the end of the lease / licence agreement.
 - i. Subsidised rental of 50% of the above rental charge will be granted to groups who contributed 100% of the cost of the construction of the building (i.e. full contribution).
 - ii. Subsidised rental may be granted to other groups in special circumstances; this will be determined by the Council on a case-by-case basis. Subsidy may be up to 100%.
- b. Leases / licences will only be granted to groups which are incorporated under the *Associations Incorporation Act 1987*.
- c. Main responsibilities of lessor / licensor (City of Joondalup):
 - i. Lessor / licensor (City of Joondalup) will be responsible for covering the cost of building insurance for the leased / licensed area.
- d. Lessees / licensees are required to acknowledge these subsidised lease / licence conditions in promotional materials and letters etc.

6.3.5. Other Groups:

Groups which cannot be wholly defined as *Government Departments / Agencies, Commercial Organisations, Telecommunications Carriers, or Not-for-Profit Community Groups* are considered to be *Other Groups*. This category may include groups such as those which fall across two different categories, (e.g.: a group partially funded by government and partially funded by private industry, or a not-for-profit group which is not locally-based and / or funded by a large umbrella organisation, etc.).

As the type of group falling within this category varies widely, tenure arrangements will be determined on a case-by-case basis using the guidelines from the categories above that most closely align with the group's mode of operation.

6.4. Review of tenure arrangements:

Tenure arrangements will be reviewed at the end of the lease or licence period. The review will commence at least six months prior to the expiration date to enable the City and the lessee / licensee appropriate time to prepare for the new lease or licence, or prepare to vacate the property.

7. Conclusion:

The City of Joondalup manages an extensive property portfolio on behalf of the community. The *Property Management Framework* provides the City with a guide to managing this portfolio, taking into account the City's statutory obligations and the desire to promote the wellbeing of all people in the community through support of recreational and community groups and the provision of high quality and accessible facilities.

The Framework is to be used to guide: the classification of City-owned and –managed property, the purpose for which such properties may be used and occupied; and the tenure arrangements for leased and licensed properties.

7.1. Review of the Property Management Framework:

The *Property Management Framework* is to be reviewed every four years in alignment with the 10-year Strategic Community Plan.

Appendix 1: Comparison of tenure guidelines

		Groups:					
		Commercial Organisations	Telecommunications Carriers	Government Departments / Agencies	Not-for-Profit Community Groups	Other Groups	
Responsibilities of lessee / licensee	rent (market rate — no subsidy available)			rent (market rate — subsidy potentially available)	rent (0.1% of capital cost — subsidy potentially available)	rent (market rate — subsidy potentially available)	
	local government rates (unless exempt)					local government rates (unless exempt)	
	refuse collection charges			refuse collection charges	refuse collection charges	refuse collection charges	
	emergency services levy (E.S.L.)			emergency services levy (E.S.L.)	emergency services levy (E.S.L.)	emergency services levy (E.S.L.)	
	water rates	Determined on a case-by-case basis		water rates	water rates	water rates	
	utilities charges			utilities charges	utilities charges	utilities charges	
	non-structural maintenance			non-structural maintenance	non-structural maintenance	non-structural maintenance	
	cleaning			cleaning	cleaning	cleaning	
	building insurance (cost of)			building insurance (cost of)		building insurance (cost of)	
	other appropriate insurance (public liability / contents etc.)			other appropriate insurance (public liability / contents etc.)	other appropriate insurance (public liability / contents etc.)	other appropriate insurance (public liability / contents etc.)	
Responsibilities of lessor / licensor (City of Joondalup)	building insurance (arrangement of)				building insurance (arrangement of)	building insurance (arrangement of)	building insurance (arrangement of)
					building insurance (cost of)		
	structural maintenance				structural maintenance	structural maintenance	structural maintenance

Appendix 2: Property classifications and types of groups permitted to occupy

