



Property Management Framework





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1.0 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.



2.0 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

Objective: To outline a framework for the long-term management of City assets that aligns to the City's broader strategic objectives and reflects a sustainable approach to service delivery.

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. Requests for New or Capital Upgrades to Existing Community Buildings Policy

Objective: To provide a coordinated approach to the assessment and approval of requests for new or capital upgrades to existing community buildings.

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.

3.0 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 two 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.

4.0 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

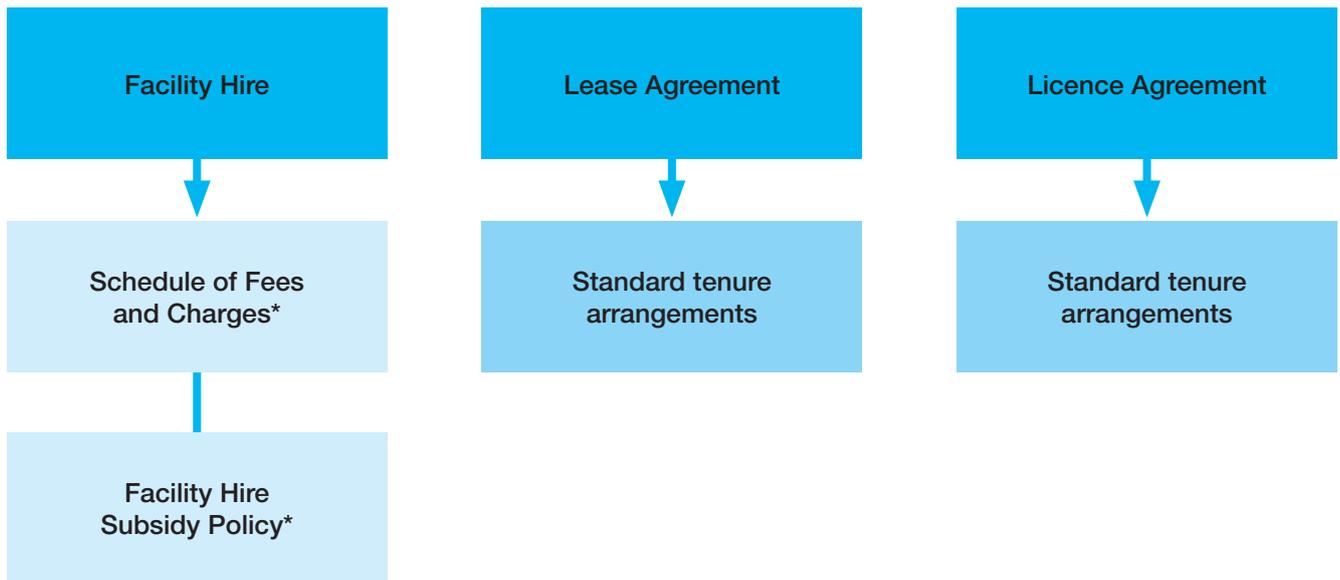
This classification includes property where the maximisation of the income stream is considered to be the primary objective. Property held for *Income Generation* will be developed to the highest and best use of the site. Rentals will be set by reference to market levels, with regular reviews, depending 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.). Current City owned properties have been classified in the *Inventory of City Freehold Property*.

5.0 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 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.

6.0 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 8.1.

- 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 area 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 maintenance within the leased/licensed area.
- 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 8.2.

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.
- b. 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 the above rental charge may be granted to groups who contribute at least 30% of the cost of the construction of the building; this will be determined by the Council on a case-by-case basis. Subsidy may be up to 50%.
 - 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.

7.0 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.

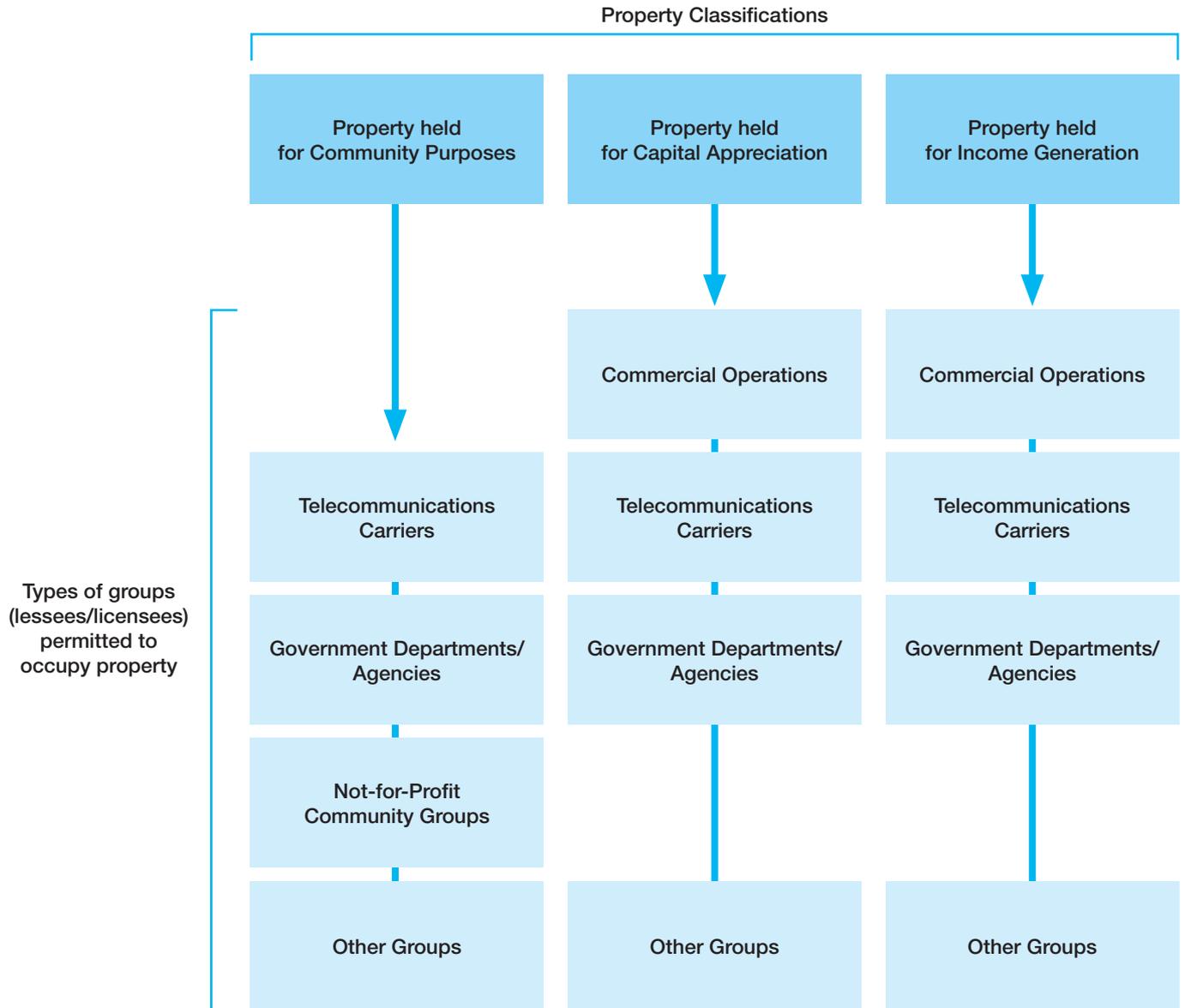
8.0 Appendices

Appendix 8.1 Comparison of tenure guidelines

		Groups			
	Commercial Organisations	Telecommunications Carriers	Government Departments/ Agencies	Not-for-Profit Community Groups	Other
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)	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 8.2

Property classifications and types of groups permitted to occupy





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This document is available in alternate formats upon request.

Property Management Framework



City of
Joondalup

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Introduction

As a large metropolitan local government, the City of Joondalup manages a portfolio of over 800 properties that provide for a variety of diverse purposes in supporting the needs and demands of our community.

Whether to facilitate movement, service delivery, recreational or business pursuits; residents and visitors of the City require access to land, facilities and assets that support safe and appropriate uses.

In achieving this, the City not only takes into consideration its statutory obligations in managing these properties but also references a *Property Management Framework* to strategically guide the assessment of suitable uses and occupation arrangements on City owned or managed land.

It is acknowledged that demands for access to City-held properties will mostly exceed availability and often evolve over time with changing community needs. To balance the competing wants of the community and inform the best use of a property, this document sets out a classification system and tenure framework that promotes equitable, responsible and sustainable management practices.

The Framework also provides a transparent decision-making guide for businesses, service providers, community groups and individuals wishing to enquire and engage with the City on property-related matters.

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Purpose of the Framework

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

Property Classifications

Property under the City's ownership, care or control is held either in freehold or as Crown-managed land that is reserved or dedicated under the *Land Administration Act 1997* for a variety of diverse, public benefit purposes.

Under this Framework all property, whether owned or vested in the City under a Management Order, falls into one of three classifications that describe the primary purpose for which the property is held. Property classifications are not necessarily static and may be re-classified following a review process.

The City maintains an Inventory of Property Classifications as adopted by Council. Current classifications are available on the City's website via its online mapping application.

Property classification types

Property held for
Community Purposes

Property held for
Capital Appreciation

Property held for
Income Generation

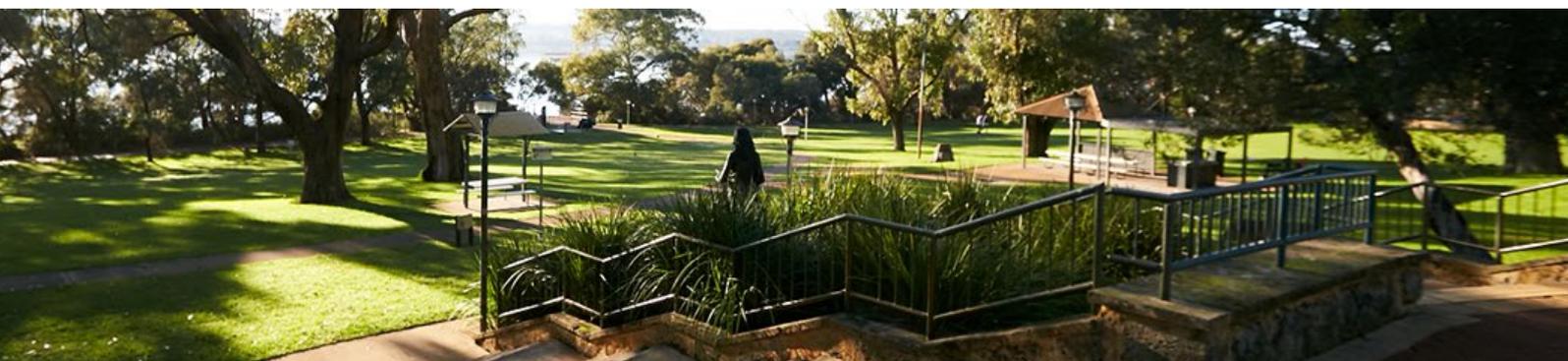
Community Purposes

This classification includes property held for administrative, operational, recreational, and/or infrastructure usage. Given that Crown land is set aside for the benefit of the public, Crown-managed properties under the control of the City are classified as being held for *Community Purposes*.

Most of the properties owned or managed by the City fall within this classification.

Features

- Not generally available for liquidation.
- Access is prioritised for community-based activities and objectives.
- Occupation is generally subsidised for community uses based on a capacity to pay.
- Commercial uses may be considered if consistent with the Reserve's permitted use and ancillary or beneficial to the property where primary use is retained.



Capital Appreciation

This classification includes property which is either undeveloped or underdeveloped and considered appropriate for, and capable of, improvement. These properties tend to present a low overall benefit to the community or are strategically located where future development is necessary to drive economic development outcomes.

Property held for *Capital Appreciation* may be developed by the City, identified for land swap opportunities, leased or sold to generate income when market conditions are favourable and the development or sale risk is considered acceptable. Very few properties are held for this purpose and are specifically identified by Council for future use based on their strategic location and/or development potential.

Features

- Undeveloped or underdeveloped property.
- Available for liquidation, lease or development.
- Not intended for general community use.
- May increase in value through land rezoning.
- Supports economic development outcomes and income generation opportunities for the City.



Income Generation

This classification includes property that is to be retained and used for activities capable of providing an ongoing income stream for the City. Property held for *Income Generation* will be developed to the highest and best use of the site.

Rentals will be market based, with regular reviews. In general, subsidises will not be considered for properties within this classification.

Features

- Not generally available for liquidation.
- Primarily held for ongoing income generation.
- Occupation is for commercial purposes and set at a market value.
- Development is for the highest and best use of the site.



Occupancy Types

City properties may be accessed or occupied by groups such as businesses, service and utility providers, government agencies, community groups and individuals, depending on their classification and the nature of the proposed activity.

These users may occupy properties through a number of arrangements including hire, lease, licence and management agreements. The options will differ according to the extent of exclusivity, rights, obligations, interests and liability that apply in each circumstance.

To guide the City's assessment process when evaluating occupancy requests for City properties, the following key principles will be applied:

Key Principles

- The City acknowledges its obligation to provide and maintain its properties to meet community needs for present and future generations.
- The City recognises the social contributions made by organisations and community groups in building sustainable communities.
- The City promotes occupancy arrangements that maximise access to the property by the wider community and will therefore preference hire arrangements above Leases or Licences.
- The City supports occupancy arrangements that contribute to the financial viability of the City and reflect an occupant's capacity to pay.
- The City preferences commercial occupancy arrangements directly with the City before considering sub-tenancy arrangements with an existing Tenant.
- The City promotes activities on and within its properties that provide an overall benefit to the public.
- The City acknowledges that historical exclusivity on City properties does not guarantee future exclusive rights.

Exclusive Arrangements

Leases

A lease is a right granted by the City for a tenant to have exclusive use of a property or a portion of a property, for a specified period of time, in exchange for rent and on the basis of an agreed set of terms. The expectation of the City is that the cost of maintaining and managing the property is fully met by the tenant to reflect the benefits of having exclusive occupancy rights.

Rent is set in accordance with the tenant categories identified in this Framework.

If approved, tenants enter into a lease agreement, which is a binding contract outlining the responsibilities, rights, interests and liabilities of each party. The *Local Government Act 1995* and *Local Government (Functions and General) Regulations*

1996 govern the process and circumstances in which local governments may dispose of property via a lease and outline any exemptions to these requirements.

The City's *Register of Delegation of Authority* indicates the extent of authority provided to the Chief Executive Officer to dispose of property (including leases) up to a specified value. Notwithstanding any delegations in place, the City still reserves the right to present lease requests to Council for consideration and approval.

Access Rights – Non-Exclusive Arrangements

Hire

Hire arrangements provide temporary access to a venue (or portion of a venue), by groups, organisations and individuals wishing to conduct an approved activity on/within a City property. Access may be casual or regular in its frequency to undertake activities, programs or events on an hourly basis.

The City's *Local Government and Public Property Local Law 2014* governs the activities that are permissible at hireable venues and provides the authority for terms and conditions to be enforced in the event of a breach.

Consideration for the temporary access rights to these venues is set in the form of a *Schedule of Fees and Charges* that is adopted annually by Council as part of the budget process. Fees and charges aim to be cost recoverable, with subsidises granted in accordance with the City's *Venue Hire Fees and Charges Policy*.

Licences

Licences provide a contractual right to non-exclusive use and occupation of a property or portion of a property.

Tenants enter into a licence agreement with the City and are provided access rights to conduct an activity over a specified period and on an agreed set of terms. Consideration for access is normally in the form of a licence fee in accordance with the tenant categories identified in this Framework, or as negotiated between parties.

Circumstances in which a licence may be considered are normally where the property in which the activity or service is conducted, requires continued access by the public or Licensor (the City), or for shared use arrangements.

Tenancy Requests

All new and existing proposals for non-hire occupancy arrangements (leases or licences), on or within City property, will require a formal submission in writing from the proponent for the City's assessment. Lease proposals may be subject to public advertising in accordance with legislation (unless it is an exempt disposition) and may be referred to Council for approval or considered under delegated authority. Proposals on Crown Land will require approval from the Minister for Lands, as required by legislation.

Factors for consideration will include, but not be limited to:

- The occupancy type and its appropriateness for the site (e.g. if Crown Land, the proposal will need to align with or support the purpose of the Reserve and Zoning, and the current Management Order will need to provide the power to Lease or Licence).
- Sufficient demonstration that an exclusive occupancy arrangement will provide an overall benefit to the public, and the proposed activity/service cannot be effectively delivered through a hire arrangement.
- The proposed rental / income model and tenure period and its alignment to the standard arrangements outlined in this Framework.
- The financial capacity for the proponent to meet all tenant obligations in accordance with this Framework.
- Potential capital contributions from the proponent, or expectations for City-funded assistance or external grant funding.
- Potential impacts on the surrounding area (e.g. parking, traffic flow, power upgrades, etc.).



Tenant Categories

To provide for transparent and equitable occupancy arrangements, potential property tenants have been defined into three categories from which various entitlements, obligations, payments and tenure periods may be negotiated or applied.

Category Definitions

- Category A** an organisation, group or individual occupying a property as part of a business, for business purposes, and/or for financial benefit, or;
- a charity, incorporated association, community group, government department/agency or educational provider with annual gross revenue of more than \$10 million, occupying the premises for non-commercial purposes.
- Category B** a charity, an incorporated association or a community group, government department/agency or educational provider with an annual gross revenue of less than \$10 million and more than \$3 million, occupying the premises for non-commercial purposes.
- Category C** a charity, an incorporated association or a community group with an annual gross revenue of less than \$3 million, occupying the premises for non-commercial purposes.

Rental Methodology and Tenure Periods

Rent – Leases

With regard to Lease arrangements: the calculation of rent and the period in which it is reviewed are prescribed in Table 1 and align with the Tenant Categories outlined above.

In all scenarios, the City will apply a base rent in recognition of the right to exclusivity afforded under a Lease. Historical peppercorn arrangements will be reviewed upon the expiration of an existing Lease, with the rental methodology outlined in this Framework to apply to any new Leases entered into.

Rent will be set on the basis of a Tenant's capacity to pay and the nature of the activity conducted from the premises. Subsidies may only apply in circumstances where significant capital contributions are proposed from the Tenant and will be proportionate to the extent of the contribution provided. Upon the expiry of an existing Lease, the City will not recognise any prior investment by the Tenant to the capital cost of constructing or improving the premises, should a new Lease be requested.

For commercial leases, incentives may be considered by the City to assist with the establishment of new facilities and to attract new businesses and tourism outcomes in designated activation locations.

In addition to base rent, the City may also opt to apply special rent/s where commercial or retail-based activities are conducted from the premises (based on annual gross revenue) and / or where an approved commercial sub-lease is entered into.

All Leases will be subject to rental reviews at minimum 5-year interval periods to provide an opportunity for market adjustments, asset revaluation processes and to reassess a Tenant's financial health, including potential revenue growth or reduction.

In addition to rent, Tenants will be responsible for the payment of all utilities, outgoings and relevant rates and taxes associated with their Lease agreement.

Tenure – Leases

The City recognises that community needs evolve over time, and as such, the occupation of City properties must take into consideration the uncertainties surrounding best use over the long-term, whilst balancing the financial and social investments made by Tenants in undertaking their activities and services on and within City facilities and land.

Based on this, Lease tenures will not generally be negotiated for a term (including all options) beyond 10 years, with the preference being for an initial term of 5 years and potential further term of 5 years. Circumstances in which longer periods

may be considered are where significant capital contributions towards the construction or improvement of a Leased premises are provided by the Tenant, and/or associated loan repayment periods require alignment with the initial term.

Further terms will be exercised by way of mutual agreement between parties.

Rent – Licences

The calculation of rent for Licences within facilities will be determined in accordance with Table 1, based on the percentage of floor space occupied. For land-based Licences, market evaluations will be used to inform any commercial terms, whilst non-commercial activities will be negotiated between parties.

Tenure – Licences

The tenure period for Licences will be determined based on the purpose of the access required under the agreement, in acknowledgement that Licences are, by their very nature, non-exclusive.

Within facilities, short-term tenure periods are preferenced up to a maximum of 5 years, whilst land-based Licences may exceed this period if required.

Table 1

Category	Rental Methodology		Tenure Period	
A	Base rent:	Market evaluation	Negotiated between parties (Not exceeding 21 years without WAPC approval on Crown Land)	
	Special rent:	Negotiated % turnover for commercial activities		
	Incentives:	Fit-out contributions, rent-free/discount periods, etc		
	Review period:	Minimum 5 years		
B	Base rent:	<ul style="list-style-type: none"> Sliding % CRC* based on annual gross revenue of less than \$10M and greater than \$3M (See Table 2 below), plus annual CPI increases Proportionate subsidy on base rent to apply for capital contributions that exceed 10% of the facility CRC 	Initial term:	5 years (May be extended to align with loan repayment periods where significant capital contributions are made)
	Special rent 1:	<ul style="list-style-type: none"> 25% rent derived from approved commercial sub-leases within the premises 	Further term:	5 years
	Special rent 2:	<ul style="list-style-type: none"> 1% of gross revenue for retail-based activities conducted from the premises (e.g. kitchen/bar sales, venue hire, corporate events, merchandise stores etc.) 		
	Review period:	<ul style="list-style-type: none"> Minimum 5 years 		
C	Base rent:	<ul style="list-style-type: none"> Sliding % CRC* based on annual gross revenue of less than \$3M (See Table 3 below), plus annual CPI increases Proportionate subsidy on base rent to apply for capital contributions that exceed 10% of the facility CRC 	Initial term:	5 years (May be extended to align with loan repayment periods where significant capital contributions are made)
	Special rent 1:	<ul style="list-style-type: none"> 25% rent derived from approved commercial sub-leases within the premises 	Further term:	5 years
	Review period:	<ul style="list-style-type: none"> Minimum 5 years 		

*CRC = Current Replacement Cost

Table 2 – Category B

Annual Gross Revenue	\$3M –\$4.5M	\$4.5M –\$6M	\$6M - \$7.5M	\$7.5M –\$9M	\$9M-\$10M
% CRC	1.0%	1.5%	2.0%	2.5%	3.0%

Table 3 – Category C

Annual Gross Revenue	<\$1M	\$1M – \$1.5M	\$1.5M – \$2M	\$2M – \$2.5M	\$2.5M – \$3M
% CRC	0.1%	0.2%	0.4%	0.6%	0.8%

Management Responsibilities

General Obligations – Leases

The following minimum responsibilities will apply to all Lessees, unless otherwise negotiated.

Table 4

Essential Term	Tenant Responsibilities	Comments
Non-Structural Maintenance	<ul style="list-style-type: none"> Electrical services Mechanical services Hydraulic / plumbing services Gutter cleaning Security systems Pest control treatments Fire equipment servicing Statutory compliance testing (e.g. RCD, smoke alarms, emergency exits, fire hydrant testing, height safety, etc.) 	<p>Maintenance to be conducted in accordance with a City-issued schedule that includes legislative requirements.</p> <p>If performed by a Tenant-engaged contractor, invoices are to be provided annually as evidence of completion.</p> <p>Option for City-engaged contractors to perform scheduled maintenance that is on-costed to the Tenant.</p>
General Presentation	<ul style="list-style-type: none"> Cleaning Refuse and recycling collection 	<p>If performed by Tenant-engaged contractor, invoices are to be provided annually as evidence of completion.</p> <p>Option for City-engaged contractors to perform scheduled maintenance that is on-costed to the Tenant.</p>
Utilities	<ul style="list-style-type: none"> Water Power Gas Telecommunications 	Utility accounts may be held directly by the Tenant or on-costed from the City.
Rates and Taxes	<ul style="list-style-type: none"> Emergency Services Levy Water rates Council rates (if not exempt) 	Accounts for rates and taxes will be provided to the Tenant by the City as and when the charges become due (if relevant to the Lease).
Insurances	<ul style="list-style-type: none"> Public Liability Insurance (\$20M) Building Insurance (reimbursement to the City as the insurance holder) Contents Insurance 	Should a building insurance claim be requested through the City, the Tenant will be liable for payment of any insurance excess.
Capital Improvements	<ul style="list-style-type: none"> Capital improvements may be requested via a <i>Club-Funded Facility Upgrade Application</i> 	Tenants must sign a Statement of Agreement outlining the conditions of approval for capital improvements. The City reserves the right to manage improvements based on the scale and risk associated with the project.

Table 5

Essential Term	City Responsibilities	Comments
Structural Maintenance	<ul style="list-style-type: none"> Capital renewal Maintenance of roofing and the main structure 	<p>The renewal of assets will be budgeted for and scheduled in accordance with the City's levels of service.</p> <p>Should Tenants wish to accelerate renewals, a <i>Club-Funded Facility Upgrade Application</i> may be submitted for the City's consideration.</p>
Insurances	<ul style="list-style-type: none"> Arranging Building/Asset Insurance 	The City will be responsible for arranging building/asset insurances that will be on costed to the Tenant.
Inspections	<ul style="list-style-type: none"> Annual inspections of the premises 	<p>The City acknowledges the right to quiet possession by Tenants.</p> <p>The City will issue defect notices to Tenants for rectification following annual inspections if required.</p>

Glossary

“**capital improvements**” means works undertaken by either the Landlord (the City) or the Tenant to enhance, extend or upgrade a facility or land asset to improve its original functionality, aesthetics or use.

“**capital renewal**” means works undertaken by the Landlord (the City) or the Tenant to replace an existing asset with a substantially identical new asset or current equivalent. Capital renewal by the City is determined in accordance with long-term asset management plans and based on agreed levels of service. Capital renewal by the Tenant may be accelerated prior to the City’s planned renewal schedule through the successful completion and assessment of a “*Club-Funded Facility Upgrade Application*” by the Tenant.

“**capital replacement cost**” means the cost of replacing an existing asset with a substantially identical new asset or current equivalent, as determined through periodic asset revaluation processes.

“**charity**” means an organisation which is licensed under the *Charitable Collections Act 1946* (WA) or registered under the *Charities Act 2013* (Cth) and collects money or goods from the public for charitable purposes.

“**educational provider**” means a primary or secondary school, a tertiary institution or a registered training organisation.

“**emergency services levy (ESL)**” means the compulsory annual levy for all buildings that is set by the Department of Fire and Emergency Services to fund the State of Western Australia’s emergency services.

“**incorporated association**” means a non-commercial organisation which is incorporated under the *Associations Incorporation Act 2015* (WA) or equivalent legislation from other states and territories.

“**outgoings**” means all expenses that a Landlord (the City) directly incurs as a result of property ownership. This includes items such as Council rates, water rates, building insurance, scheduled maintenance, land tax, etc.

“**utilities**” means the expenses directly incurred through the consumption of water, electricity, gas and telecommunications services within a Leased or Licenced premises, by the Tenant.

Related Legislation

Land Administration Act 1997 (WA)

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.

Local Government Act 1995 (WA)

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 for major land transactions. For the City of Joondalup, this would apply to land that is greater than \$10M in value and requires the preparation of a Business Plan, issuing of a Public Notice and public consultation period.

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.

Telecommunications Act 1997 (Commonwealth)

Under the federal *Telecommunications Act 1997*, telecommunications carriers have 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* unless considered high-impact.

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.

Commercial Tenancy (Retail Shops) Agreements Act 1985

The *Commercial Tenancy (Retail Shops) Agreements Act 1985* regulates retail shop tenancies, focusing on the need for transparency of information and fairness within contracts by specifying the basic rights and responsibilities between Landlords and Tenants. This may include areas such as minimum rent reviews, dispute resolution procedures, notification requirements and tenure periods.

The Act is administered by Consumer Protection, of which local governments must adhere to in the development and administration of retail-based, commercial Leases entered into.

Associations Incorporations Act 2015

The *Associations Incorporations Act 2015* regulates the incorporation of not-for-profit groups to establish them as a separate legal entity through which they may conduct their activities. The Act sets out the key legal obligations and rights that apply to associations once they are incorporated, including matters pertaining to corporate governance, financial accountability and matters relating to their rules and membership.

Informing City Documents

Strategic Community Plan – Joondalup 2032

Articulates the community's aspirations, vision and objectives over a 10-year period. It is the overarching document that informs all other plans and services delivered by the City.

Asset Management Framework

This Framework includes a suite of policies and plans that inform the City's approach to long-term planning and management of its infrastructure assets. This includes the setting of levels of service and processes for undertaking data collation and analysis to inform asset renewal, disposal and maintenance requirements.

Expanding Horizons – Economic Development Strategy

Key informing strategy that articulates the City's economic development goals, with the aim of driving improved performance of the local economy. It includes focussing on areas of digital, global and destination City themes.

Place Activation Strategy

Provides a Framework for the consistent delivery and support of placemaking across the City of Joondalup to facilitate community-led placemaking projects, support the activation of spaces and places that are important to the wellbeing of the City community and economy.

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