

# 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.

## 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"> <li>Sliding % CRC* based on annual gross revenue of less than \$10M and greater than \$3M (See Table 2 below), plus annual CPI increases</li> <li>Proportionate subsidy on base rent to apply for capital contributions that exceed 10% of the facility CRC</li> </ul>	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"> <li>25% rent derived from approved commercial sub-leases within the premises</li> </ul>	Further term:	5 years
	Special rent 2:	<ul style="list-style-type: none"> <li>1% of gross revenue for retail-based activities conducted from the premises (e.g. kitchen/bar sales, venue hire, corporate events, merchandise stores etc.)</li> </ul>		
	Review period:	<ul style="list-style-type: none"> <li>Minimum 5 years</li> </ul>		
C	Base rent:	<ul style="list-style-type: none"> <li>Sliding % CRC* based on annual gross revenue of less than \$3M (See Table 3 below), plus annual CPI increases</li> <li>Proportionate subsidy on base rent to apply for capital contributions that exceed 10% of the facility CRC</li> </ul>	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"> <li>25% rent derived from approved commercial sub-leases within the premises</li> </ul>	Further term:	5 years
	Review period:	<ul style="list-style-type: none"> <li>Minimum 5 years</li> </ul>		

\*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"> <li>Electrical services</li> <li>Mechanical services</li> <li>Hydraulic / plumbing services</li> <li>Gutter cleaning</li> <li>Security systems</li> <li>Pest control treatments</li> <li>Fire equipment servicing</li> <li>Statutory compliance testing (e.g. RCD, smoke alarms, emergency exits, fire hydrant testing, height safety, etc.)</li> </ul>	<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"> <li>Cleaning</li> <li>Refuse and recycling collection</li> </ul>	<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"> <li>Water</li> <li>Power</li> <li>Gas</li> <li>Telecommunications</li> </ul>	Utility accounts may be held directly by the Tenant or on-costed from the City.
Rates and Taxes	<ul style="list-style-type: none"> <li>Emergency Services Levy</li> <li>Water rates</li> <li>Council rates (if not exempt)</li> </ul>	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"> <li>Public Liability Insurance (\$20M)</li> <li>Building Insurance (reimbursement to the City as the insurance holder)</li> <li>Contents Insurance</li> </ul>	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"> <li>Capital improvements may be requested via a <i>Club-Funded Facility Upgrade Application</i></li> </ul>	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"> <li>Capital renewal</li> <li>Maintenance of roofing and the main structure</li> </ul>	<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"> <li>Arranging Building/Asset Insurance</li> </ul>	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"> <li>Annual inspections of the premises</li> </ul>	<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.

**“current 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.