



# Property Policy

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CONTENTS

PURPOSE .....4

OUTCOMES.....4

DEFINITIONS.....6

SCOPE .....7

POLICY .....8

    1. *STRATEGIC PROPERTY MANAGEMENT*..... 8

    2. *LEASING AND LICENCING*..... 9

    3. *ACQUISITIONS, DISPOSALS AND DEVELOPMENT OF COUNCIL PROPERTY* ..... 16

EXEMPTIONS .....17

KEY ROLES AND RESPONSIBILITIES..... 18

RELEVANT POLICY, REGULATIONS OR LEGISLATION .....20

ATTACHMENTS.....21

### PURPOSE

Council has an extensive and varied property portfolio, consisting of Council owned and managed land worth over \$2.1 billion.

Many of Council's services to the Port Phillip community are delivered either directly or indirectly through the property portfolio, and a significant portion of Council's budget is spent on operating, improving, or renewing the assets within the portfolio for the benefit of the community.

The purpose of this Policy is to provide a sustainable framework for the management of the property portfolio into the future, taking into account changes occurring within the portfolio and the Port Phillip landscape. This includes providing guidance in relation to:

- a) The strategic direction of the property portfolio, including alignment with Council plans and budgets.
- b) The leasing or licencing of Council owned and managed property to users, primarily being commercial businesses and community organisations.
- c) The acquisition, disposal, and development of Council Property.

### OUTCOMES

The vision underlying this policy is that Council should be able to sustainably maintain, improve and grow its property portfolio in a manner that maximises delivery of community services, minimises risks and impact on the environment, and that demonstrates best value.

In support of this vision, the underlying objectives of asset management at Council include:

- a) **Strategic alignment:** Council will ensure the use, acquisition, disposal and redevelopment of Council property is strategically aligned with Council's Annual Plan, Long Term Plan and Policy Objectives.
- b) **Community benefit:** Use of Council assets and leverage off Council facilities will maximise defined community benefits where possible, with any associated discounted rent and other financial or in-kind support to be clearly linked to the benefits to be delivered to the local community and alignment with the Council Plan.
- c) **Transparency:** Council will ensure a transparent, equitable, consultative and consistent process for granting new leases or licences and setting lease and licence terms and conditions, as well as for any acquisition or sales of land.
- d) **Environmental sustainability:** Council will identify opportunities to build resilience to climate change for Council buildings and embed best practice sustainability principles into all leases and licences.
- e) **Equity:** Council will ensure equitable distribution of Council resources within sectors through consideration of allocation between users.
- f) **Fit for purpose:** Building assets will deliver agreed levels of service to the organisation and the community, relative to the benefits received in terms of function (including safety and accessibility), condition and capacity, and will be recognised in the agreement between Council and user.
- g) **Financial sustainability:** Decisions and practices will ensure that Council has the funds to care for, improve and grow its building assets, combined with a market driven and equitable approach to financial sustainability, to allow for continued service delivery for current and future generations.
- h) **Innovation:** Council will seek opportunities to increase service delivery through innovative and cost-effective ways that achieve multiple benefits by encouraging future

proofing and adaptability for service delivery and built form in response to external pressures.

- i) **Balanced portfolio:** A City of Port Phillip Property Portfolio will balance community, commercial and Council demands with financial imperatives and the need to deliver services to the community.
- j) **Commercial portfolio:** Where Council manages properties for the purpose of returning a commercial profit to support service delivery across the portfolio, Council will act as a commercial agent, and will ensure the operation and enforcement of the agreement on commercial terms.

## DEFINITIONS

<b>Agreement</b>	For the purposes of this policy, the term ‘agreement’ refers to any lease or licence arrangement between Council and a Tenant for the use of Council property.
<b>Community Organisation</b>	An organisation that leases or licences Council property and that has, as its primary objective, the promotion of social, recreational, environmental, cultural or economic opportunities and benefits for the Port Phillip community. The organisation must not exist for the purpose of generating profit or personal gain for particular people.
<b>Commercial Organisation</b>	A business or commercial enterprise that leases or licences Council property with the intent of generating a commercial profit.
<b>Council</b>	City of Port Phillip Council and its predecessors.
<b>Council Property</b>	All real property owned or managed by Council such as buildings and reserves. This includes Crown Land for which Council is the grantee or Committee of Management, Council owned land, as well as property for which Council is the lessee.
<b>CPI</b>	Consumer Price Index as measured by the Australian Bureau of Statistics.
<b>Crown Land</b>	Land controlled by the State Government for the benefit of the Victorian community. Council operates as the Committee of Management under the Crown Land (Reserves) Act 1978 (Vic) for the leasing and licencing of Crown Land.
<b>DELWP</b>	Refers to the Department of Environment, Land, Water and Planning who are responsible for Crown Land reserved and/or administered under the Crown Land (Reserves) Act 1978, Land Act 1958 and Forests Act 1958.
<b>Expression of Interest (EOI)</b>	Refers to an open and competitive process to enable Council to determine the best use and benefit of a property for the community.
<b>Lease</b>	A Lease grants a tenant exclusive possession and use of Council property for a specified period of time, subject to certain terms and conditions. It creates an interest in land that is binding on third parties and is capable of being assigned.
<b>Licence</b>	A Licence grants the licensee non-exclusive use of Council land/property for a specific period of time and subject to certain terms and conditions. A licence does not create any estate or interest in or over the licensed premises.
<b>Licensee</b>	A Licensee is person who is granted a licence. In this policy, the term ‘tenant’ includes licensees.
<b>Maintenance and renewal</b>	Standard maintenance, often referred to as ‘reactive maintenance’, relates to the day-to-day upkeep of a property to ensure it is maintained in good operating condition.

	Asset renewal maintenance relates to the long-term upkeep of the building, such as improving its structural integrity. This more significant maintenance may involve issues that extend beyond the term of the existing tenant, and is generally required to be undertaken by a qualified tradesperson. For Council property, it is generally the responsibility of Council, however this may not be the case if the tenant has significantly contributed to, or built, the facilities or it is otherwise agreed between the parties.
<b>Market rental</b>	The rental rate for a property as determined by the market, either based on the highest conforming bid of a competitive process, or as determined by a qualified valuer (person with Certified Practising Valuer status designated by the Australian Property Institute).
<b>Outgoings</b>	The costs associated with the operation of the service, which may include: <ul style="list-style-type: none"> <li>a) Utilities (water, telephone, gas, electricity, internet)</li> <li>b) Rates, if charged, including any charges or sums payable in lieu of rates</li> <li>c) Commercial waste, sanitary, sewage and cleaning charges</li> <li>d) Land tax</li> <li>e) Applicable insurance premiums</li> <li>f) Any other statutory charges</li> </ul>
<b>Peppercorn rental</b>	The minimum rental rate set for Council properties that are used by community groups delivering: <ul style="list-style-type: none"> <li>a) community services aligned with Council's goals and priorities;</li> <li>b) significant community benefit to the City of Port Phillip; and</li> <li>c) have no capacity to generate income.</li> </ul>
<b>Sub-lease</b>	An arrangement in which the tenant assigns or transfers the lease to a third party for a defined period of time. The old tenant (sub-lessor) and new tenant (sub-tenant) have various responsibilities under this arrangement.
<b>Tenant</b>	An individual or organisation that has entered into a tenancy agreement (either lease or licence) with Council for the use and occupancy of Council property. For the purposes of this policy, where reference is made to a 'tenant', it includes a licensee using Council property under a licence agreement.

## SCOPE

This Policy applies to the five key property management functions being acquisition, disposal, leasing and licencing, management and maintenance and renewal and is applicable to:

- a) All Councillors, Council Officers and other persons involved in the acquisition, management, maintenance, renewal, upgrade, development and disposal of Council Property.
- b) All contracts relevant to the acquisition, management, maintenance, renewal, upgrade, development and disposal of Council Property.
- c) All property under Council's management, including Council owned property, Crown Land managed by Council, and land Council leases to support the delivery of the Council Plan.

Unless otherwise stated, this policy assumes compliance with all relevant legislation, policies, and best practice guidelines.

This Policy does not apply to the sale of Right of Ways and Road Discontinuances, ad-hoc facility hire and events permits.

### POLICY

#### 1. STRATEGIC PROPERTY MANAGEMENT

##### 1.1 General

Management of Council's property portfolio will:

- a) be integrated into corporate governance including enterprise planning, reporting and risk management frameworks and practices; and
- b) be service driven aligning with the strategic priorities and direction of Council.

##### 1.2 Strategic Property Plan

- a) Council will maintain a Strategic Property Plan that covers a period of no less than 10 years and include, as a minimum:
  - the current condition and use of property within the portfolio;
  - levels of service and demand forecasts;
  - forecasts for renewal, expansion, upgrade and development of property; maintenance; and operating expenditure;
  - a property rationalisation and disposal plan; and
  - apply best practice environmental sustainability principles to support Council's sustainability goals.
- b) The Strategic Property Plan must demonstrate alignment with:
  - the Council Plan;
  - the Long Term Financial Plan;
  - the Strategic Resource Plan;
  - Annual Budget; and
  - this Policy.
- c) The Strategic Property Plan is to be reviewed and maintained annually as part of the budget process.

##### 1.3 Processes, data and systems

Council will ensure ongoing effective planning and decision making for the property portfolio by:

- a) investing in regular property condition and performance audits to understand performance and to mitigate risk;
- b) maintaining a property register which contains information relevant to each property to ensure effective and efficient monitoring and management;
- c) operating an asset management system which stores all key property data and implements tools to support modelling, reporting and decision making; and
- d) ensuring information sharing and synergy between systems to support decision making across Council departments.

#### **1.4 Property portfolio capabilities**

To ensure that Council's property portfolio capabilities reflect best practice, Council will:

- a) review the skills and development needs in the property team and related areas as part of employee performance planning and provide appropriate development opportunities;
- b) provide Councillors and staff with property responsibilities with appropriate briefings in relevant property portfolio principles, practices and processes to enable informed decision making and best practice management; and
- c) provide and allocate resources for training to support the property portfolio across the organisation.

#### **1.5 Property portfolio review**

Council will ensure effective and transparent decision making related to the property portfolio and service delivery through alignment of all decisions relating to management, acquisition, sale, development or disposal of Council property with service plans, lifecycle costs, Council priorities and guiding principles of this Policy.

#### **1.6 Policy review and audit**

Review of this policy will take place on a four-yearly cycle in alignment with the development of the Council Plan.

## **2. LEASING AND LICENCING**

### **2.1 General**

Council has two primary objectives when entering into agreements for the use of Council property:

- a) to support service delivery, and promote health and wellbeing, social, environmental, cultural, recreational or economic opportunities and benefits in the City of Port Phillip by leasing or licencing Council Property to Community Organisations; and
- b) to generate net income to support service delivery across the portfolio by leasing or licencing Council property to Commercial Organisations.

Council is committed to ensuring that the use and occupancy of its property provides the optimal use of Council resources, taking into account the guiding principles set out in this policy.

### **2.2 Commercial lease management**

The following guidance will apply to Council's commercial property portfolio:

- a) Council properties suited to commercial use are to be solely used by Commercial Organisations for the purpose of generating commercial revenue. It is only in exceptional circumstances that Council will lease or licence commercial properties to Community Organisations for less than market rent.
- b) Council will act as a commercial agent and will operate agreements on commercial terms under the applicable legislation.
- c) Commercial tenant responsibilities, including reporting requirements demonstrating compliance with the agreement, will be clearly set out in the agreement with Council.
- d) Where processes for leasing to Commercial Organisations differs from those governing Community Organisations, they will be specified separately within this policy.



### 2.3 New agreements and renewals

All prospective tenants for Council property, including existing tenants renegotiating a lease or licence, are required to prepare an application that specifically addresses the Assessment Criteria as requested by Council.

When considering new agreements, Council will conduct the necessary research and due diligence in line with the Assessment Criteria which will include as a minimum:

- a) *Track Record* – Relevant experience, capability to deliver on contractual obligations, financial capacity, quality of service, tenant history.
- b) *Financial Offer* - Financial investment in the asset, initiatives to honour contractual commitments and other financial offers.
- c) *Vision and Proposed Value* – the proposed benefits and the ability to provide the benefit
- d) *Community Social Responsibility* - Cultural alignment with Port Phillip's community, quality and environmental objectives as per the Council Plan.
- e) *Conditions of Offer* – exclusive use and approval requirements.

The Assessment Criteria will be readily accessible to prospective tenants and will be reviewed in line with the Council Plan, any relevant Council Strategies and this Policy.

Agreements that are required to go through a competitive process will be held to the requirements within Councils Procurement Policy.

### 2.4 Negotiations

At all times, Council retains the right to determine whether or not direct negotiations shall take place.

Council will communicate to existing Tenants the preferred option for renewal including the process and timeframes, upon renewal application by the Tenant in line with the current agreement terms.

Generally, proposals to issue a new lease to an incumbent tenant will not be considered until at least 50% of the term of the lease has expired.

Council will consider undertaking a competitive process if there is evidence of one or more of the following:

- a) the proposed agreement is expected to be longer than the standard term;
- b) the tenant has resided in the premises for a period that exceeds the maximum allowable term;
- c) the agreement includes obligations on the Tenant/Licensee to carry out a redevelopment or major capital works;
- d) the existing tenant no longer delivers a key Council service to the community or has a poor history as a Council Tenant such as a history of late payment of rates or rent, non-compliance with laws or the failure to deliver on key requirements or benefits;
- e) direct negotiation has not produced a satisfactory outcome; or
- f) there is evidence that conducting a competitive process would maximise benefits to the community or Council.

Regardless of the lease term, the final decision to allocate a lease through a direct negotiation process instead of a competitive allocation process for Crown Land rests with the Minister at the time of consideration. The Minister may require as a condition of that the Crown land manager or the proponent undertake a public notification process of the intention to negotiate directly.

## 2.5 Term of tenancy agreement

The term of the agreement needs to be appropriate to the premises and the proposed use. The following terms will generally apply to all new leases and licences, as well as the renegotiation of existing leases and licences:

- All Leases will typically have terms up to five (5) years.
- All Licences will typically have terms up to three (3) years.

Council may negotiate a non-standard term for a lease or licence in exceptional circumstances where:

- a) The use of the premises is unable to be changed, the use is linked to a specific tenant and the tenant has a history of delivering good outcomes for the community (such as emergency services);
- b) The level of capital investment (made or planned) requires amortisation over an extended period of time;
- c) There is a licence agreement that needs to be aligned with the tenant's current lease agreement.

A lease term (including options) cannot exceed the maximum allowed for Crown Land in accordance with the Crown Land (Reserves) Act 1978 and Local Government Act 1989.

When the lease expires, and the tenant remains in occupation of the premises with the consent of the landlord, the holdover provisions in the agreement will apply for, and not exceed the period permitted by the relevant Act.

## 2.6 Multi-use of facilities

Council is committed to maximising access to, and use of, Council facilities for the benefit of the community. Accordingly, for all agreements with Community Organisations, the need for exclusive use of facilities will be reviewed at the commencement of the agreement, with the preference being shared use licence agreements.

Community organisations have the onus of justifying any request for exclusive use. When assessing this application, Council will consider factors such as:

- a) the tenant's service needs (sensitive work, space requirements, commercial premises)
- b) the level of capital investment (made or planned)
- c) the defined benefit to be achieved from tenancy
- d) the type of facilities (e.g custom built etc)
- e) the maintenance requirements of the property.

## 2.7 Assignment and sub-leasing

Tenants operating under a Lease may be permitted to assign their rights to another operator subject to Council's written consent having regards to the sub-tenant's suitability, experience and financial position.

All sub-leases and sub-licences made under a lease must be consistent with the purpose of the head lease and require the consent of the Landlord and in some cases, the Minister before the tenure is entered.

In general, a non-assignment period equivalent to two-thirds of the lease term will be applied to all tenancies especially where a direct negotiation has been completed.

## 2.8 Rental amount

Council's approach to rental amounts reflects the different purpose of Commercial and Community Organisation tenants and is guided by portfolio targets set by Council. This amount will be assessed and documented at the commencement of each agreement, as well as upon the exercise of any option by the tenant or every five years (whichever is sooner).

### **Commercial Tenants**

Commercial tenants will pay a rental that is market driven and may be determined:

- a) through a rental assessment carried out by an Independent Valuer; or
- b) as a result of an expression of interest process or similar program as required by the terms of the agreement;

### **Community Organisations**

Community Organisations may be eligible for a discounted rate which will be considered in line with the process for Council Support as per item 2.13 within this Policy.

Any rental discount or subsidy received by the Tenant will then be expressed in the agreement as a percentage of the market rental. Market Rental can be determined by:

- a) at a discounted rate based on the Net Annual Value of the Leased/Licensed area where a valuation report is not available (only applicable to Community Organisations eligible for discounted rent), or
- b) through a rental assessment carried out by an Independent Valuer.

At a minimum, rental will be set at a rate that covers Council's costs of administering the Lease or Licence. The minimum rental which can be set will be in accordance with Council's Schedule of Fees and Charges.

## 2.9 Rent reviews

The rental amount will be assessed and documented upon the exercise of any option by the tenant or every five years (whichever is sooner).

Annual rent increases for Tenants will be determined by Council and will be in line with either:

- a) CPI;
- b) inflation at the time of entering into the lease or licence; or
- c) a higher fixed rate specified in the agreement.

Council reserves the right to amend the rental if a tenant gains access to commercial or fortuitous (not fundraising) income generated during the term of the agreement eg, rent received from sub-letting. Consent by Council is required for any such use.

The rental amount does not cover the cost of any additional events permits that may be required by the Tenant from time to time.

## 2.10 Outgoings & Costs of Operations

Tenants are responsible for all utilities and outgoings associated with the operation of their service, except where the Retail Leases Act 2003 (Vic) applies.

These costs are to be paid either directly to the relevant service provider by the tenant, or to Council as a reimbursement for incurring these costs.

Where facilities are shared under a licence agreement, Tenants will be responsible for costs based on a proportional rate (if not covered by the licence fee).

Community Organisations may be eligible for an exemption from the payment of all, or some, outgoings which will be considered in line with the process for Council Support as per item 2.13 within this Policy.

### **2.11 Insurance**

All tenants are required to take out public liability insurance, noting the interest of Council. A minimum cover of \$20 million must be provided, or such other sum as stipulated by Council. Tenants must give a copy of their certificate of currency to Council on or before the commencement date of the lease and annually thereafter.

All tenants have responsibility for insuring any chattels, fixtures or contents within Council property (i.e Contents Insurance).

Council will take out and maintain building insurance for buildings on Council owned or controlled land for the full replacement value.

The tenant shall reimburse Council the cost of the building insurance and any excess in respect of any claim made (if not covered by the licence fee).

Community Organisations may be eligible for an exemption from the payment of building insurance which will be considered in line with the process for Council Support as per item 2.13 within this Policy.

### **2.12 Maintenance and renewal/building lifecycle costs**

Council is committed to ensuring Council property remains suitable and safe for its intended use, and that the building lifecycle is extended as far as practicable for the benefit of future communities.

Prior to entry into any agreement for the use of Council property, Council will ensure that maintenance and renewal and building lifecycle costs are mapped and factored into decision making regarding allocation of leases and licences.

Tenant and Council responsibilities for maintenance and renewal are to be determined at the commencement of the lease or licence, and clearly set out in the agreement. In general, Tenants are responsible for:

- a) Keeping Council property clean and tidy;
- b) Keeping Council property in good operating condition;
- c) Maintaining and renewing all tenant property and improvements;
- d) Maintaining the property in accordance with responsibilities set out in the Maintenance Schedule.

Tenant responsibilities for maintenance and renewal will be considered using the assessment criteria used to determine the extent of council support as per section 2.13 of this Policy.

### **2.13 Method of council support**

Council is committed to providing transparent and relevant support through a range of funding mechanisms to community organisations aligned with Council Plan priorities, as detailed in the Community Funding Policy.

Council will assess the level of discount/support required by Community Organisations against the eligibility criteria set by the Community Funding Policy. This criterion will include, at a minimum:

- a) alignment with Council's vision, objectives and Council Plan;
- b) delivery of core services on behalf of Council;
- c) extent of external funding;

- d) service and program fees;
- e) level of capital and financial contribution to the asset infrastructure; and
- f) extent of sustainability initiatives.

As part of its financial reporting, Council will report all in-kind support, including subsidised rent, for each service area in line with best practice accounting standards.

#### **2.14 Security**

Council reserves the right to require the Tenant to pay a security deposit, or provide a bank guarantee, prior to commencement of the lease and or licence as protection against a breach in the agreement. Council may call on the security if the tenant does not comply with obligations under the relevant agreement.

#### **2.15 Standard form agreements**

Council's standard form lease and licence agreements will be used as the basis of all tenancies, unless otherwise agreed or required by legislation.

Where required the DELWP standard documents will be used and amended to include Council related clauses for agreements on Crown Land.

Where a Tenant seeks to make changes to the standard form agreement, council will seek reimbursement of its reasonable costs to prepare a Lease or Licence except where the Retail Leases Act 2003 (Vic) applies. This will include any reasonable costs incurred by the Victorian Government in relation to a Lease or Licence of Crown Land.

#### **2.16 Tenant Reporting**

Reporting requirements for all tenants, including timelines for reporting, will be agreed at the commencement of the lease or licence and documented in the agreement with Council.

At a minimum all Tenants are required to provide, prior to the lease or licence commencing and thereafter annually:

- a) A copy of the Certificate of Currency for insurance required under the lease or licence
- b) Satisfaction of any other reporting criteria included in the lease agreement including sustainability requirements.

In addition, Community Organisations are also required to provide, prior to the lease commencing and thereafter annually:

- a) Annual reports, financial statements and/or turnover figures
- b) Details of membership/users, fee schedules (if charged)
- c) Details of their current services, community benefits provided and what they are wanting to achieve over the period
- d) Details of all financial contributions and sponsorships
- e) Business plan (if applicable)

#### **2.17 Safety requirements**

Tenants must have in place appropriate emergency and evacuation plans and procedures, and are required to adhere to all relevant legislation governing their activities, including occupational health and safety legislation and essential safety measures legislation.

Council shall reserve the right to review appropriate plans, and to inspect the premises to ensure compliance with laws.

### **2.18 Environmental commitment**

All agreements will include a minimum environmental sustainability requirements aligned with Council and State Government policies.

### **2.19 Child safe standards**

Council is committed to creating a child safe environment where children and young people are respected, valued and encouraged to reach their full potential and Council's policies and procedures support the implementation of requirements under the Child Wellbeing and Safety Act 2005.

If the use of Council's property involves the tenant or any sublease tenant working with children, the tenant must comply with the Child Safe Standards made under section 17(1) of the Child Wellbeing and Safety Act 2005.

### **2.20 Change of use**

Tenants must obtain written consent from Council prior to any change of, or additional, use of Council property from that stipulated in the agreement between tenant and Council.

Any significant change of use may require council resolution, approval by the Victorian Government and/or a new lease be entered into.

### **2.21 Tenant improvements**

Tenants and Licensees will not be able to make any alteration or additions (including signage) to the Council Property without Council and / or DELWP consent. Certain works may require the tenant to obtain additional consent and/or permits.

Any alterations or additions consented to shall be undertaken by Council's contractors, unless otherwise agreed between the parties in writing.

All improvements, additions, structures or buildings on the premises-installed or erected by the Tenant during the Term will be the property of Council, unless otherwise specified.

Tenants who constructed the building may be required to remove the building, all fixtures, fittings, plant and equipment at the expiry of the Term, unless otherwise specified.

If Council requires the tenant to remove any assets that have been constructed or installed by them during the term of the lease, then the Tenant must make good any damage caused by their removal.

### **2.22 Residential tenancy agreements**

Residential Tenancy Agreements will be prepared and managed by Council's preferred Real Estate Agent in accordance with the Residential Tenancies Act 1997 and the Residential Tenancies Regulations 2008.

### **2.23 Management of agreements**

Council will conduct an entry inspection prior to commencement of a lease/licence agreement or as required to ensure a Tenant is complying with the terms and condition of their lease arrangement.

Council reserves the right to suspend or terminate a Lease or Licence at any time if it has good cause including:

- a) breach of the terms and conditions of the Lease or Licence;
- b) failure to pay fees and charges and/or outgoings;
- c) failure to provide information requested by Council by the designated time; or

- d) adherence to maintenance responsibilities outlined in each agreement.

#### **2.24 Transitional arrangement for current leases**

Currently most Community Organisations are charged an annual rental which has been previously specified. In order to provide a period of time for these organisations to budget for an increase in rental, outgoings and maintenance obligations, all existing agreements will be revised in line with this Policy following expiry of the current agreement following the adoption of this Policy.

Consultation with the Tenant will occur between 6 and 12 months before the end of the current agreement dependent on the type of agreement in place, the current tenant arrangements or the required renewal process.

### **3. ACQUISITIONS, DISPOSALS AND DEVELOPMENT OF COUNCIL PROPERTY**

#### **3.1 Guidance for the ownership, acquisition, disposal, sale and development of Council property**

Council is committed to ensuring that the ownership, acquisition, disposal, sale and development of Council property reflects the highest and best use of Council resources, taking into account the guiding principles. In particular, Council will only own property where:

- a) the property will contribute directly to the current service delivery requirements of Council; or
- b) the property is required to be owned by Council in the future as part of a plan or strategy or requirement of future communities.

Council ownership of land should be beneficial to Council as compared to other types of tenure.

Council will only acquire, develop, dispose or sell property where:

- a) a land assessment has been taken out, having regard to the matters set out in Council's land assessment process; and
- b) a business case clearly articulates the cost benefits to Council and alignment to Council Plan;
- c) such transaction is in accordance with the provisions of the Local Government Act 1989 (Vic) and all other relevant legislation; and
- d) such transaction meets all relevant probity, accountability and transparency standards.

In general, the council would prefer to own or be committee of management for the properties it needs. However, there may be circumstances where leasing a property, as a tenant, is the best option, for instance because the is a temporary needs or future needs are not yet known.

#### **3.2 Considerations informing opportunistic acquisitions**

Council recognises that from time to time, property may be listed for sale in the private property market, which if purchased by Council, would result in Council being able to increase its revenue generation or service delivery to the Port Phillip community.

Council may choose to acquire properties to further a strategic purpose for example:

- a) Property that adjoins, or provides access to, existing Council owned property.
- b) Property that has previously been leased or licensed by Council for service delivery.
- c) Property within a future renewal or development area.



- d) Supports the Strategic Property Plan.

Council will maintain, and monitor, a register of properties that would result in increased revenue generation or service delivery if acquired.

Guidance for these opportunistic acquisitions will be included in the Strategic Property Plan to ensure the chance of acquisition, if appropriate, is maximised.

### 3.3 Considerations informing joint acquisitions

From time to time, Council may be invited or seek to jointly acquire property with another organisation or governmental body.

Where joint acquisition of property is proposed or sought, Council will ensure all necessary research and due diligence is undertaken to ensure confidence in its decision making.

### 3.4 Sale of Council Property

From time to time, Council will need to sell property in response to:

- a) changing Council priorities or strategic direction;
- b) the opportunity or holding costs associated with property; and/or
- c) changes to Council's operating context, including economic, social and environmental factors.

The following guidance applies to any sale of Council Property:

- a) Council must undertake a land assessment and determine that the property is not required for retention.
- b) Council must undertake appropriate due diligence and research in accordance with policy and legislative requirements.
- c) The general principles for the sale of land as provided in the Local Government Best Practice Guidelines should be followed.
- d) Any sale or exchange of land that is not for full market value or is not via a public process should be explained clearly to the public.
- e) Proceeds from all disposals or sales of Council Property are to be placed in a strategic property fund, and are to be used for the future purchase of property for community benefit.

## EXEMPTIONS

Council recognises that from time to time, circumstances may arise in which prudent management of the property portfolio requires a departure from the guidance provided in this policy.

In such circumstances, Council reserves the right to act accordingly, if it can be demonstrated that decision making is:

- a) aligned with Council priorities and plans; and
- b) in accordance with the guiding principles set out in this policy.

All exemptions and departures from this Policy must be appropriately documented and approved by Council.



## KEY ROLES AND RESPONSIBILITIES

<b>Victorian Government (DELWP)</b>	<ul style="list-style-type: none"> <li>• Review and approve all leases and licences entered into on Crown Land</li> <li>• Ensure the occupancy of Crown Land aligns with the intended purpose of the land.</li> <li>• Set the standard terms for all agreements on Crown Land.</li> <li>• Review and approve all alterations, additions and developments on Crown Land.</li> </ul>
<b>Councillors</b>	<ul style="list-style-type: none"> <li>• Approve the Property Policy and the Strategic Property Plan (as part of the annual budget process).</li> <li>• Ensure that the property portfolio requirements, as outlined in the Strategic Property Plan, are appropriately considered in decision making and catered for in council planning and financial management.</li> <li>• Ensure transparent reporting on Council's Property Portfolio performance in the Council Plan and Annual Report.</li> <li>• Review and approve agreements requiring Councillor feedback or those requiring statutory procedures as per the Act.</li> </ul>
<b>Executive Leadership Team (facilitated by the GM Customer &amp; Corporate Services)</b>	<ul style="list-style-type: none"> <li>• Support the Property Policy ensuring the policy is reviewed and approved by Councillors.</li> <li>• Review and approve the Strategic Property Plan and property management procedures to ensure that they reflect the strategic direction and service delivery priorities of Council.</li> <li>• Ensure that the financial requirements and projections for Renewal, Upgrade, Expansion, Disposals and Acquisitions, as detailed in the Strategic Property Plan, are incorporated into the financial plan.</li> <li>• Provide oversight in the implementation and review of the Property Policy and Strategic Property Plan.</li> <li>• Ensure that the property management and its governance are integrated into corporate governance including, financial management, reporting, and risk management.</li> <li>• Ensure overall organisational portfolio management and service planning performance.</li> </ul>
<b>Chief Financial Officer</b>	<ul style="list-style-type: none"> <li>• Lead the preparation of financial reports on property based on accounting standards and financial reporting regulations ensuring the financial projections are reflected in the financial plan.</li> <li>• Maintain a robust financial plan incorporating sustainable maintenance, operations and renewal.</li> </ul>
<b>Manager, Asset Management &amp; Property</b>	<ul style="list-style-type: none"> <li>• Lead the development, monitoring and review of the Property Policy and Strategic Property Plan including their supporting policies and procedures.</li> <li>• Report to the Executive Leadership Team every quarter and Council at least annually on the property portfolio's performance and improvement actions.</li> <li>• Review and support the development of the Strategic Property Plan providing direction on Council priorities regarding Renewal, Upgrade, Expansion, Disposals and Acquisitions.</li> </ul>

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- Review all Council Property Leases/Licences to ensure they meet the requirements of this Policy and approve in line with the delegation limits set by Council and the Act.
  - Ensure the organisation has appropriate property management capability to deliver on this Policy and the Strategic Property Plan.

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**Head of Property Operations (and Staff)**

- Ensure the implementation and ongoing management of this Policy and the property portfolio including maintenance of a lease register, due diligence reporting, ensuring occupiers of Council land have an appropriate lease or licence in place and are delivering on their obligations in accordance with the lease.

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**Head of Property Projects (and Staff)**

- Ensure the implementation and ongoing management of the Strategic Property Plan including the assessment of change of use, acquisition, disposal and development of Council Property.

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**Service Delivery Managers (and Staff)**

- Assess the service need and provide direction on Council priorities
  - Assess occupancy and/or subsidy requests from Community Organisations looking to occupy Council Property in line with Council priorities.
  - Act as a liaison between Community Organisations and the Property Team to ensure groups have the appropriate agreements in place and are adhering to their obligations under these agreements.
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## RELEVANT POLICY, REGULATIONS OR LEGISLATION

### **Legislation**

Local Government Act 1989 (Local Government Bill 2018)

Crown Land (Reserves) Act 1978

Crown Land Legislation Amendment Act 2016

Cultural and Recreational Lands Act 1963

Retail Leases Act 2003

Land Acquisition and Compensation Act 1986

Land Tax Act 2005

Road Management Act 2004

Residential Tenancies Act 1997

Competition and Consumer Act 2010 (Cwth)

Land Act 1958

Coastal Management Act 1995

Subdivision Act 1988

Planning and Environment Act 1987

Environment Protection Act 1970

Children's Services Act 1996

Occupational Health and Safety Act 2004

National Competition Policy.

### **Guidelines**

Leasing Policy for Crown Land in Victoria (2018)

Crown Land Leasing Guidelines (2012)

Local Government Best Practice Guideline for the Sale, Exchange & Transfer of Land (June 2009)

Victorian Government Landholding Policy and Guidelines

Retail Leases Regulations 2013

Children's Services Regulations 2009

### **Council Policy**

Procurement Policy

Asset Management Policy

Community Funding Policy

Childcare Policy

Discontinuance and Sale of Roads Policy

CCTV Policy

Act and Adapt

ATTACHMENTS

**NIL**