

COMMERCIAL PROPERTY & LANDHOLDINGS

Policy | Business Development

This Policy provides the framework for Council's approach to Property Investment and Development

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Service Unit:	Business Development		
Responsible Officer:	Business Development Specialist		
Responsible Director:	Director Corporate and Commercial Services		
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1 Background

1.1 Title of the Policy and Commencement Date

The Commercial Property and Landholdings Policy takes effect from adoption by Council.

1.2 Purpose of the Policy

This Policy provides the framework to provide clarity and structure for:

- the acquisition, disposal, development and ongoing operation of Council's Commercial and Operational Property Portfolio
- the generation of additional, non-rates income from the Council's Commercial and Operational Property Portfolio.

The Commercial and Operational Property Portfolio consists of:

- Operational Property
- Strategic Property
- Economic Driver Property
- Income Generating Property.

2 Objective

2.1 Objectives and Coverage of the Policy.

The objectives of this policy are to provide a sustainable framework for the management of Council's Commercial and Operational Property Portfolio into the future, including guidance in relation to;

- The establishment and responsibilities of the Property Advisory Panel (PAP)
- Independent Specialist Advisor to PAP
- Roles of stakeholders
- Who and how decisions are made and reported
- The strategic direction of the Property Portfolio aligning with Council's Commercial and Operational Property Strategy
- The alignment with Council's risk management framework
- The investment options that will be considered
- The acquisition, disposal and development of Council's Commercial and Operational Property
- The investment of a strong Commercial Property Portfolio for providing capital growth and a recurrent income source
- Ensure Council's Commercial and Operational Property Portfolio related activities, occur within legislative frameworks.



3 Application

3.1 Application of this Policy

This Policy will apply to all acquisitions, developments and disposals of commercial and operational properties pertaining only to land classified by *section 31 of the Local Government Act 1993* as 'operational'. This Policy will also apply to the acquisition and disposal of Property Trusts.

4 Definitions

For the purposes of this policy:

Term	Meaning
Operational Property	Property purchased and developed for Council's operational purposes such as: Civic Building, Depot, Sewerage plant, Singleton Gym and Swim
Strategic Property	Property purchased and held for strategic land use, community and organisation financial outcomes such as: the 189 John St
Economic Driver Property	Property purchased and developed or held to drive local economic and organisation financial outcomes such as the Bridgman Ridge development, the Pinnacle land
Income Property	Property purchased and developed and held for organisation financial outcomes such as Commercial Property – tenanted or Property Trusts
Operational Land	Land owned by Council, the use of which is unrestricted by legislation
Community Land	Land owned by Council, which is classified as community land under section 31 of the <i>Local Government Act (1993)</i> . Community land is managed in line with a plan of management in accordance with sections 35 and 36 excluded from this policy of the <i>Local Government Act (1993)</i> . Therefore, community land is excluded from this policy.
Leasing	The granting of the exclusive use of land or building to a third party
Licensing	The granting of the use of land or building that does not provide for exclusive use.
Property Trust	Purchased shares/units in a property portfolio that will return dividends
Councillor	Elected member of local government



5 Principles

The guiding principles of this Policy are to ensure maximum economic and community benefit is achieved by:

- Developing and managing the Commercial and Operational Property Portfolio, and the proceeds generated from investment, development and construction activities;
- Ensure strategies and actions align with the Commercial Property and Landholdings Strategy
- Achieving best value for money
- Ensuring transparency in all processes so that all information is available for scrutiny where appropriate
- Demonstrating accountability through best use of Council resources
- Monitoring portfolio performance and regularly reporting to Council
- Providing effective and efficient management of property related activities to fulfil legislative and community obligations
- Committing to generating a “non rates” income for Council.

The principles also support the basis for recommendation upon which Council may determine to pursue acquisition, development or disposal of its commercial and operational properties.

5.1 Commercial Property and Land Holding Strategy

A Commercial Property and Land Holding Strategy will run in conjunction with this Policy.

5.2 Property Advisory Panel

A Property Advisory Panel shall be formed to support the implementation of this Policy, with members to include appropriate stakeholders as guided by the Terms of Reference (Appendix A). The purpose of this Panel is to guide property direction and review the performance of the Commercial and Operational Property Portfolio and to recommend actions in relation to the management of Council’s Commercial and Operational Property Portfolio. Required actions will be reported to either Executive Leadership Team (ELT) or Council.

The Panel will incorporate expertise from the property industry, together with market analysis and be convened to consider matters as outlined in the adopted Terms of Reference.

The Property Advisory Panel may call on the services of an Independent Adviser from time to time.

The following Table provides an indicative process for the acquisition and disposal of a commercial or operational property under this policy.



Acquisition		Disposal
Assess property opportunity		Identify disposal property
Prepare case/risk assessment		Prepare case/ risk assessment
Property Advisory Group assess acquisition		Property Advisory Group assess disposal
Consult Council - briefing		Consult Council - briefing
Offer		Formulate sale terms
Agreement drafted		Procure contract of sale/ sales agent
Property Advisory Group Input/ endorsement to go to ELT		Property Advisory Group Input/ endorsement to go to ELT
ELT endorse		ELT endorse
Obtain Council resolution to purchase		Obtain Council resolution to sell
Secure valuation, conduct survey and property report		Finalise contracts
Deposit		Deposit taken
Settlement		Settlement
Add to investment property register		Remove from investment property register

5.3 Independent Advisor

The General Manager will appoint an independent property advisor to the PAP. The advisor shall be appointed for the term of the Council following a competitive process. The advisor must have a high-level of knowledge of property investments, property investment strategy and up to date knowledge of property markets.

The advisor must be independent and must confirm in writing that they have no actual or potential conflict of interest in relation to commercial property investment being considered.

5.4 Fund Distribution

The distribution of funds received from Council's Commercial and Operational Property Portfolio is to be carried out in accordance with the following:

Investment and Development Funding and Outcomes

Council will establish a Property Investment Fund for the activities of the Income Property Portfolio. Any income received from property held within the Property Investment Fund will be distributed within the following parameters:

- 5.4.1 The Property Investment Fund reimburses any expenditure incurred from Council's General Fund such as legal, survey, valuation, marketing and research required for the conduct of property investment activities and the generation of income from such activities



- 5.4.2 The balance of the Property Investment Fund should be invested:
- 5.4.2.1 As part of the pool of funds invested by Council and available at call to be utilised for investment or for the purchase of investment properties;
 - 5.4.2.2 In property development projects and/or property investment purchases that will generate either viable short-term cash flows or long-term capital gains or both;
 - 5.4.2.3 In income producing activities and/or business investments (including investment funds and/or listed property trusts that comply with the Minister's order under *Section 625 (2) of the Local Government Act 1993*) that will generate either viable short-term cash flows or long-term capital gains or both.
- 5.4.3 The net return on investment generated from the Property Investment Fund will be re-invested back into the Fund.
- 5.4.4 The overall mix and nature of investment properties will provide a balanced source of income and complement existing financial holdings;
- 5.4.5 Priority will be given to projects with a positive effect on investment returns without imposing on short term cash availability; and
- 5.4.6 All property investment activities, purchases / sales are to be advised by the Property Advisory Panel and by resolution of Council.

INVESTMENT PROPERTY	DEVELOPMENT PROPERTY
PROPERTY INVESTMENT ACTIVITIES (Rental and interest earned within Property Investment Fund)	Gross Income from Development Activities
↓	↓
Less Depreciation and Refurbishment	Less Costs of Development
↓	↓
Net Profit from Investment Properties after Depreciation and Refurbishment	Net Profit from Land Development Activities
↓	↓
100% Distribution to Property Investment Fund	100% Distribution to Property Investment Fund



6 Risk Determination Matrix

Council has an adopted Risk Management Framework and the Policy will be managed using that framework. The table below shows Council's appetite for risk.

	Willingness to Accept Risk			
	Minimal	Cautious	Open	Seeking
	Preference for options that avoid risk or have low inherent risk	Preference for safe options with low degree of residual risk and limited potential for reward	Willing to consider all options with a preference for prudent options and an acceptable level of reward	Enthusiasm for innovation leading to preference for higher rewards despite greater inherent risk
PEOPLE	✓			
ENVIRONMENTAL	✓			
LEGAL	✓			
FINANCIAL		✓		
REPUTATION		✓		
SERVICE DELIVERY			✓	
TECHNOLOGY & SYSTEMS				✓

Against the risk appetite, Council will manage risk as follows:

- Council will systematically assess and review the performance of its investment portfolio and use the information derived to determine when and how to preserve or increase each property's value and usefulness, or otherwise dispose of individual properties.
- Property values are likely to fluctuate but that the changes in value will only be realised if the property is disposed of. Risk should therefore be considered in this context rather than a strict application to unrealised movements in value.
- Decisions in this regard will be based on analysis of cost information for individual properties and will reflect the viability of Council's commitment of financial resources to specific projects. Priority will be given to projects with a positive effect on investment returns without imposing on short term cash availability. Examples of possible investments include: Commercial buildings with long term tenants, subdivision of land for residential or industrial sale, selling property that no longer services council.
- All property investment activities will be undertaken in accordance with Council's operational plan and will reflect Council's ongoing commitment to financial sustainability.



7 Relevant Legislation

- *Local Government Act, 1993*
- *Local Government (General) Regulation, 2021*
- *Land Acquisition (Just Terms) Compensation Act, 1991*
- *Roads Act, 1993*
- *Real Property Act, 1900*
- *Conveyancing Act, 1919*
- *Minister for Local Government's Investment Order*
- *Residential Tenancies Act 2010*
- *Retail Leases Act 1994*
- *Valuation of Land Act 1916*
- *Environmental Planning & Assessment Act 1979*
- *Crown Land Management Act 2016*

8 Document Information

Related documents and reference information in this section provides a single reference point to develop and maintain site compliance information.

8.1 Related Documents

Related documents, listed in the table below, are internal documents directly related to or referenced from this document.

Number	Title
22/68437	Commercial Property and Landholding Strategy
POL/6004	Investment Policy
POL/6011	Loan Borrowing and Overdraft Policy
POL/6001	Procurement Policy
POL/9008	Integrated Risk Management Policy

9 Responsible Officer / Policy Owner

Ownership of this policy rests with the Business Development Specialist.

10 Responsibilities

Parties or Persons	Responsibilities
Councillors	<ul style="list-style-type: none"> • Approve the Commercial Property and Landholdings Policy • Approve the Commercial Property and Landholdings Strategy • Ensure that Property Investment activities meet the Principles outlined in the Policy and community priorities for present and future generations



Parties or Persons	Responsibilities
	<ul style="list-style-type: none"> • Ensure strategic decisions made regarding property assets are in accordance with Council's Commercial Property and Landholdings Policy • Councillors who are on the Property Advisory Panel will adhere to the adopted Terms of Reference
General Manager	<ul style="list-style-type: none"> • Review the Commercial Property and Landholdings Policy in accordance with Council's strategic direction • Implement the Commercial Property and Landholdings Policy with agreed resources • Ensure the practices of the organisation are consistent with the adopted Commercial Property and Landholdings Policy • Ensure appropriate resources for Property Investment activities are made available • As a Member of the Property Advisory Panel will adhere to the adopted Terms of Reference
Director Corporate and Commercial Services	<ul style="list-style-type: none"> • Implement the Commercial Property and Landholdings Policy with agreed resources • Ensure the practices of the organisation are consistent with the adopted Commercial Property and Landholdings Policy • Ensure appropriate resources for Property Investment activities are made available • As a Member of the Property Advisory Panel will adhere to the adopted Terms of Reference • Report to Council on the status of the Property Investment Portfolio
Property Advisory Panel	<ul style="list-style-type: none"> • Provide guidance and professional advice regarding property investments in adherence to the adopted Terms of Reference.

11 Approval

As per cover sheet.

12 Monitoring and reporting

This policy will be monitored by the Director Corporate and Commercial Services to ensure compliance. An annual report will be provided to the Property Advisory Panel and Council on the performance of the Property Investment Fund and the Income Property Portfolio.

13 Review Date

This policy, once adopted, is to remain in force until it is reviewed by Council. This policy is to be reviewed once every term of Council to ensure that it meets legislative requirements.



14 Record Keeping, Confidentiality and Privacy

This policy is to be made available for public viewing as required under the *Government Information (Public Access) 2009, NSW*.

15 Breaches and Sanctions

Any breaches of this Policy will be referred to the General Manager for appropriate action.

16 Document History

The below table provides a summary of changes and amendments to this document.

Version.	Date Amended	Author	Comments (e.g. reasons for review)
1	October 2022	D Graham	<ul style="list-style-type: none">New Policy

REVOKED

