

# DRAFT

## Wyndham City Property Portfolio Policy

### Document Control

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## 1. POLICY OBJECTIVE

The Wyndham City Property Portfolio Policy has been developed to provide a framework for Council to achieve integrity, accountability and transparency for land transactions while ensuring the highest standards of probity in accordance with relevant legislation.

This policy is underpinned by an associated framework and processes.

## 2. STRATEGIC INTENT

### Why Council owns land

- Provision of core services to the community that is consistent with the Wyndham 2040 Community Vision and City Plan themes of: People and Community, Places and Spaces, Earning and Learning, and Leadership and Participation.

### Why Council acquires land

- Open space, including active and passive recreation.
- Roads and transport infrastructure.
- Community services and support.
- Arts and cultural development.
- Catalysing, economic development, and place activation that creates jobs.
- Protection of important local assets.
- Delivery of Council business and operations.

### Why Council repurposes land

- Optimise underutilised land and being flexible to changing community needs.
- When the present use is no longer required, consideration of other uses and opportunities are tested.


### Why Council sells or divests from land

- When land is no longer reasonably required and considered surplus to Council's needs.
- Catalysing, place activation and major projects that deliver public value.

This policy strives for public value through delivering the community all the benefits associated with land acquisition, repurposing and divestment; and additionally, by the improvement of related operations from the supporting framework of internal processes.

## 3. BACKGROUND

Wyndham is forecast to experience significant growth in its population from 257,028 in 2018 to 489,379 in 2041 (population forecast.id.com.au, 2018). This major growth and its impact on services and infrastructure requires careful consideration and planning.



Recognising that Council is a significant land holder and its placement within a growth corridor means that it is required to participate more often in land transactions to meet the demands of a dynamic community and environment.

Under section 5(2)(d) of the Local Government Act 1989 (the Act), Council is able to acquire, hold, deal with or dispose of property (including land) for the purpose of performing its functions and exercising its powers.

To participate more efficiently and effectively in land transactions consistent with the requirements of the Act and community expectations, Council has taken a holistic view that considers a lifecycle approach; from acquisition, to repurposing and finally, divestment.

This approach will ensure that Council and its community can enjoy a high level of confidence with regards to land transactions.

#### **4. POLICY STATEMENT**

Council is a responsible owner of land and recognises it performs this function on behalf of its community. When making decisions regarding land transactions, Council will:

- a) Comply with relevant legislation;
- b) Undertake appropriate community engagement;
- c) Consider Social, Environmental and Financial aspects in land transactions;
- d) Respect contractual arrangements that require matters to be treated as commercial-in-confidence;
- e) Always act in good faith; and
- f) Set an example and seek to be a leader in land transactions.

The Wyndham Open Space Strategy 2045 identifies the projected shortfall of active and passive open space for each Open Space Planning District in the Wyndham urban area and build-out by 2045. Council recognises it has an open space shortfall and will actively seek to identify and acquire land as a priority.

This policy widely supports delivering the Wyndham 2040 vision. This is as many elements within the Wyndham 2040 themes are strongly connected to land, specifically the themes of:

- People and Community;
- Places and Spaces;
- Earning and Learning; and
- Leadership and Participation.

#### **5. POLICY INITIATIVES/ACTIONS**

##### **5.1 POLICY SCOPE**

This policy relates to land. The definition of land includes the following:

- a) Buildings and other structures permanently fixed to land;
- b) Land covered with water;
- c) Any estate, interest or easement, servitude, privilege or right in or over land; and
- d) Airspace.

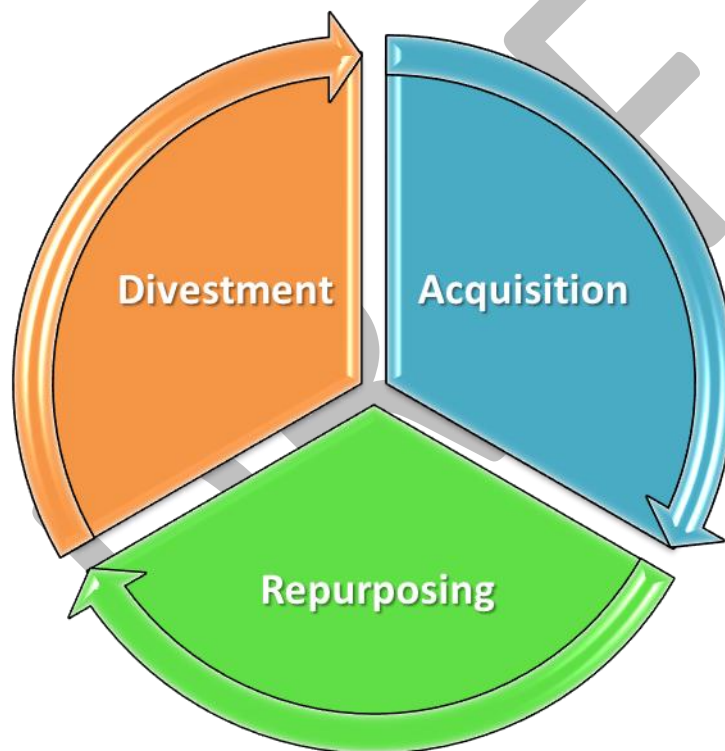
This definition is formed from the Planning and Environment Act 1987, Subdivision Act 1988 and the Interpretation of Legislation Act 1984.

This policy is to support the land requirements of Council plans, strategies and other related documents.

The policy will be implemented in accordance with a framework of supporting internal processes.

## 5.2 LIFECYCLE


Council considers a holistic view of land that can be presented as a lifecycle with specific considerations.



**Figure 1: Land ownership lifecycle at Wyndham City Council**

## 5.3 ACQUISITION

Land acquisition takes place to meet a need. These needs are dynamic and are identified through a number of related plans, strategies, policy documents and to support the development of transport corridors.



Council may acquire land through agreement, as a result of a development outcome, development contribution, compulsory acquisition, through engaging in the market place or by private treaty. Most land acquisition decisions where Council is engaging in an on-market or off-market transaction require a resolution of Council.

### **Strategic Acquisition Register**

Once land has been identified for acquisition, it can be placed on the Strategic Acquisition Register.

### **Strategic acquisitions**

At times, Council may find that it is prudent to undertake a strategic acquisition of land. Reasons and justification for this activity may include:

- a) Lead local planning outcomes; this may include acquisition of land for future emergency services planning, gateways to Wyndham, cultural and community space, or other identified projected community service organisation needs.
- b) Stimulate economic development; this may include intervention within an existing activity centre that may act attract new growth and activity by providing a required service outcome, or commercial or retail catalyst site investment for development.

Acquisitions need to go through business case testing.

Any acquisitions in this meaning must conform to principles of sound financial management and management of risk in accordance with section 136 (3)(b) of the Local Government Act 1989, and if required, consider its obligations under section 193 of the Local Government Act 1989.

### **Engaging in the market place**

When engaging in the marketplace, Council will need to make a decision on what, if any, Special Value it attributes to land. A Special Value is defined as particular attributes that are only available because of advantages arising from its ownership that would not be available to other buyers in a market. A Special Value is not relevant in deriving a market value and as such, Council will need to consider what, if any, Special Value land under consideration for acquisition has, that is above the market valuation.

At times, the market place may provide opportunities that may meet a stated need. Market opportunity acquisitions are land purchase opportunities in locations which have not been specifically identified, but still meet an identified need. Market opportunity acquisitions need to be business case tested.

### **Compulsory acquisition**

It is acknowledged that from time to time, land may need to be acquired using Compulsory Acquisition.

Compulsory acquisition is likely to occur when other options to acquire land have been exhausted, or if a Council priority project requires identified land within a specific time. Using this form of acquisition requires a Public Acquisition Overlay.

## 5.4 REPURPOSING

Repurposing can be considered once land is no longer required for its intended use. Once land has been identified for repurposing, it can be further considered through a process. The process seeks to explore all options for the land, including:

- a) Matching the land against other identified needs;
- b) Offering the land, for other Council purposes through an internal Expression of Interest (EOI) process;
- c) The EOI process can include consideration of Community Service Organisation (CSO) needs;
- d) EOI submissions will need to demonstrate the perceived value add;
- e) Strategic long-term benefits, planning requirements, and consideration of any potential conflict in policies
- f) The assessment process will consider the opportunity cost of continuing to hold the land;

Council will examine options to hold onto land before the decision is made to sell. This includes consideration of land as a strategic investment and looking at opportunities to drive a revenue stream through leasing, as an example.

## 5.5 DIVESTMENT

If all repurposing options have been exhausted, land may then be considered by Council as surplus to its needs and it can resolve to divest from the land. Any sale of land will be undertaken in accordance with the Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land. Key principles regarding the sale of Council land include:

- a) Opportunities to innovate and value-add, or direct planning outcomes on land are to be considered. This includes strategic and innovative actions:
  - i. That lead local planning outcomes; this may include development of land for future gateways to Wyndham, cultural and community space, or other identified projected community service organisation needs.
  - ii. Seek to stimulate economic development; this may include intervention within an existing activity centre that may act attract new growth and activity by providing a required service outcome, or commercial or retail catalyst site for development.
  - iii. The above may involve Public Private Partnerships or selling land with plans and permits with defined outcomes.
- b) Community engagement through public notice advertising and utilising Council's webpage;
- c) Ensuring that the best Financial outcome is achieved while considering Social and Environmental factors that are identified and reported;
- d) Transparency and integrity by carrying out any divestment process in accordance with "Local Government Best Practice Guideline for the Sale and Exchange of Land" document.
- e) Council will not sell airspace to accommodate private development.

- f) Proceeds from the sale of land which contained a reservation status on title are to be used to acquire land for similar purpose, or to provide improvements in open space in accordance with the Subdivision Act 1988.

## 6. DELEGATION OF AUTHORITY

Refer to the latest Instrument of Delegation.

## 7. RELATED DOCUMENTS

### 7.1 List of relevant legislation

Legislation	Relevance
Local Government Act 1989	<p>Under section 5(2)(d) - Council is able to acquire, hold, deal with or dispose of property (including land) for the purpose of performing its functions and exercising its powers.</p> <p>Under section 189 Council is required to do certain things before selling or exchanging land:</p> <ul style="list-style-type: none"> <li>to give at least four weeks public notice of an intention to sell or exchange land before selling or exchanging this land (section 189(2)(a));</li> <li>obtain a valuation of the land which is made not more than 6 months prior to the sale or exchange from an appropriately qualified person (section 189(2)(b)); and</li> <li>allow interested persons to make a submission under section 223 on the proposed sale or exchange (section 189(3)).</li> </ul>
Planning and Environment Act 1987	<p>Land zoned for public purposes must be appropriately rezoned prior to public sale.</p> <p>Preparation of an agreement under either section 173 (or other means) should Council wish to control the future use of the land (other means may include covenants, easements, leases, licenses, planning protections or controls and so on).</p>
Subdivision Act 1988	<p>Section 20(2) requires Council to use the proceeds from the sale of any public open space to:</p> <ul style="list-style-type: none"> <li>buy land for use for public recreation or public resort, as parklands or for similar purposes; or</li> <li>improve land already set aside, zoned or reserved (by the council, the Crown, a planning scheme or otherwise) for use for public recreation or public resort, as parklands or for similar purposes; or</li> <li>with the approval of the Minister administering the Local Government Act 1989, improve land (whether</li> </ul>

	<p>set aside on a plan or not) used for public recreation or public</p> <ul style="list-style-type: none"> <li>• resort, as parklands or for similar purposes.</li> </ul> <p>It should be noted that under section 20(4) public open space can only be sold if Council has provided for replacement public open space.</p>
Land Acquisition and Compensation Act 1986	<p>Compliance when making off market transactions. Council as an Acquiring Authority.</p>

## 7.2 List of key strategies

It is noted that this Policy seeks to enable all Council strategies and plans to meet their land aspirations. The following list represents key links.

Wyndham 2040

City Plan 2017-2021

Wyndham Open Space Strategy 2045

Asset Management Strategy

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