



# INVESTMENT PROPERTY PORTFOLIO POLICY (LEASEHOLD)



**NAPIER**  
CITY COUNCIL  
*Te Kaunihera o Ahuriri*

## Investment Property Portfolio Policy (Leasehold)



<b>Adopted by</b>	Napier City Council on 18 September 2018
<b>Relevant Legislation</b>	Local Government Act 2002, Hawke's Bay Endowment Land Empowering Act 2002, Napier Borough Endowments Act 1876
<b>NCC Documents Referenced</b>	NCC Long Term Plan 2018-2028 consultation process and subsequent Council resolutions 1 June 2018 and 29 June 2018. Council's adopted Investment Policy and Liability Management Policy pursuant to Section 102 (1) and Section 104 of the Local Government Act 2002

### Purpose

The purpose of this policy is to outline the terms and conditions on which Council may sell non-strategic land included in the Napier City Council's Investment Property Portfolio. The policy also provides guidance relating to the investment of the proceeds of sale.

### Background

After public consultation as part of Council's Long Term Plan 2018-2028, Council resolved on 1 June 2018 and confirmed on 29 June 2018:

That the resolutions from the Strategy and Infrastructure Committee meeting on 30 January 2018 be updated to reflect the following:

- To allow freeholding of non-strategic land using as a guide the June 2016 Boffa Miskell report "Napier City Investment Portfolio: Urban Landscape Strategic review" on a case by case basis.
- That recommendations on the freeholding of all identified non-strategic land be considered by the Audit and Risk Committee in the first instance for recommendation to Council.
- That the sale of leasehold land be a Decision of Council.
- That a divestment and investment policy for the sale proceeds is established and approved by Council resolution prior to the release of any leasehold land.

For the reasons that:

1. The current policy provides no flexibility for freeholding specific, non-strategic assets that if sold, could assist in the redevelopment of industrial and/or commercial land in Napier and stimulate private investment.
2. Introducing some flexibility in the policy will allow Council to consider each leasehold property on its merits so that any decisions relating to such land is made with the best intentions for the future of Napier.
3. Freeholding specific properties will enable diversification of the Council's investment portfolio which will reduce market exposure risks.

Using the Boffa Miskell report as guidance to determine the strategic nature of each property and performing an investigation into sale and reinvestment opportunities on a case by case basis, gives Council the ability to adapt to current market conditions whilst also providing the ability for Council to secure better community outcomes and value from the area through project design, urban design, up-zoning the land to encourage better development potential or a combination of these, whilst also ensuring maximum benefit to ratepayers.

### Description of Portfolio

The portfolio consists of the ownership of a lessor's interest portfolio, which comprises 74 leases known as the Investment Property Portfolio. Council owns the lessor's interest in these properties and a number of individuals and businesses own the lessee's interest. The leases are perpetually

renewable meaning that, subject to continuing to pay rental (which is reviewed at periodical intervals) the lessees have a perpetual right to occupy the land. The improvements on the land are owned by the lessees, not Council.

Freeholding essentially involves the lessees purchasing Council's interest in the land. Council has no automatic right to purchase the Lessees interest and any purchase would require agreement between both parties.

### **Background to ownership**

The Investment Property Portfolio was originally established from:

- Properties transferred to Council from the Hawke's Bay Harbour Board as part of the Local Government reorganisation in 1989. The reason for the transfer was to provide an income generating asset to offset the liability associated with the upkeep of the Inner Harbour and Foreshore Reserves, which transferred at the same time. The income generated from these properties has historically been applied by Council to fund in part the cost associated with these activities.
- Properties already owned by Council as a result of land development in conjunction with the Harbour Board.
- Other sundry properties which have been owned by Council for many years.
- Endowment Properties - Nine of the properties in the portfolio are subject to the Napier Borough Endowments Act 1876 and before freeholding of these can occur any requirements under that Act and Sections 140 and 141 of the Local Government Act 2002 must be satisfied.

### **Policy Statement**

#### **1. Overriding Principle**

The Council's ability to sell non-strategic land under this Policy represents a discretion to be executed by Council on a case by case basis. Nothing in this Policy represents a right for any person to insist or require the Council to sell to them and the sale by Council of any land under this Policy does not create precedent or expectation that other land held by Council (whether of a similar nature or not) will be sold.

The above decision by Council sets no deadline for the expiry of the policy allowing consideration of freeholding on a case by case basis. The discretion regarding triggering a freeholding request therefore rests with the lessee.

#### **2. Party to whom Council may sell land to**

Sales are only to be made to the registered Lessee at the time of sale.

#### **3. Valuation**

Where land is sold it is to be sold at such price as determined by Council at its sole discretion. Full Market Value as determined by a registered valuer, commissioned by Council, is to be used as a guide. There is no right of appeal or right of arbitration.

#### **4. Discount**

No discount is to be applied irrespective of whether or not the land is used in full or in part for residential accommodation. The 30% discount on market value applied, as per Council policy, to the freeholding of residential land shall not apply to the land held in the Investment Property Portfolio

#### **5. Payment Method**

The purchase price will be paid as follows:

- a. A deposit of 15% upon signing a sale and purchase agreement; and

- b. The balance in full on settlement

The lessees will also be required to pay Council's costs of sale (including legal fees and disbursements). These costs will also be payable in full on settlement. Lessees will be required to meet all costs in seeking independent advice from their own professional advisors.

## **6. Factors which may be considered in determining the strategic nature of properties**

The 2016 Boffa Miskell report may be used as a guide in determining on a case by case basis the strategic nature of each property. The five site assessment criteria used in the report were:

- **Adjacency to public amenity**  
Is the site adjacent to current or potential future public amenity e.g. coast/walkway? If it is adjacent, additional value may be able to be returned from the site by an investment in that amenity, or by undertaking re-development of the site to leverage value from a new form of activity or building.
- **Potential for collective redevelopment**  
Is the site isolated, or is it within a collection of Council sites that are large enough to enable a potential redevelopment if developed as a package? Larger sites generate opportunities for a collection of buildings and public space together whereas splitting sites reduces potential
- **Located in a transformational area**  
Is it in an area where change is already occurring and where Council might want to consider using the land to help the area to change?
- **Potential to improve connectivity + amenity**  
Can the site be used to improve connections between streets or as part of an open space network, or can it be re-purposed to make a new amenity?
- **Connections to infrastructure**  
Is the site able to be utilised for new infrastructure such as sustainable urban storm water device or for new streets etc.?

In addition, other strategies and plans of Council will also be used to determine the strategic nature a property such as City Vision and the Ahuriri Masterplan.

A financial analysis may also to be carried out to determine whether the land is strategic as an investment. Such analysis to include generally recognised measures and benchmarks in the property sector. Council may engage external professional advice on a case by case basis to assist in any evaluation.

## **7. Purchase of Lessees improvements**

Consideration may be given to the purchase by Council of the Lessees interest in land held in the Investment Property Portfolio. This may be considered where this will result in a better outcome for the future of the property in the best interests of Council and City development. Any such purchase will require a resolution of Council.

## **8. Investment of sale proceeds**

It is recognised that by allowing lessees to freehold with no deadline, Council will have no control over when the proceeds will be realised. This potentially impacts timing issues surrounding the ability for Council to sell down non- strategic properties and make desired investments.

Internal borrowing from Council reserves may be considered in order to facilitate investment opportunities ahead of the receipt of freeholding funds. Sale proceeds are to be ring fenced and initially credited to an interest bearing special fund within Council's accounts.

Investment decisions relating to these funds are to be made on a case by case basis and are to comply with Council's Investment Policy and Liability Management Policy adopted as a requirement under Section 102(1) and Section 104 of the Local Government Act 2002. Council may also refer for guidance to the Investment Strategy Analysis Review Report dated October 2016 prepared by

PricewaterhouseCoopers for Council. Updates to this report may be periodically required along with external professional advice on a case by case basis when evaluating investments.

The underlying goal is to ensure that any investments considered continue to generate sufficient income to replace that lost by properties sold. New investments require a resolution of Council.

## **9. Process for freeholding**

Current registered lessees may make application in writing to have their property considered for freeholding.

An evaluation will then be undertaken by a panel of Council officers appointed by the Chief Executive to determine whether or not the property is strategic in terms of both location and as a financial investment. A market valuation will be conducted at this point in time.

Council officers will then make a recommendation to the Audit and Risk Committee. All recommendations will flow through to the Finance Committee who in turn will make a recommendation to Council.

Should Council resolve to allow the freeholding of a specific property, then a written offer will be made by Council giving a 3-month deadline for the lessee to accept and sign an appropriate agreement. After the three-month deadline the offer will lapse.

Legal work to complete transactions will be made by Council's Solicitors. The purchaser will however pay these costs.

## **Policy Review**

The review timeframe of this policy will be no longer than every three years.



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