



Disposal and Acquisition of Land and Property Policy



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Purpose

The Island's property estate is managed by Jersey Property Holdings (JPH) and directed by the Island Property Estate Strategy under the Corporate Property Management Board (CPMB). It provides an essential platform for public services and government operations, from our education and schools, health, emergency services, justice system through to our administration offices, recreation and cultural spaces. There are significant plans to develop the infrastructure to include a new corporate office, a new hospital, and new education facilities and these will have impacts upon the size and shape of our future property estate.

These projects will be run under an updated Capital (Building) Projects Framework for the more efficient and successful delivery of capital projects, following recommendations made by the Public Accounts Committee (PAC) and the Comptroller and Auditor General (C&AG). The Framework provides a stage gate process, aligned to the funding processes, to control decision making at key points in the project lifecycle and the initial site selection stages of this process will be reviewed by CPMB for approval through the established Governance process.

A formal approach to disposals as part of its overall approach to asset management will assist the JPH and Government in managing this change and making best use of its resources by rationalising or disposing of surplus or under-performing assets. This approach aligns to the established process set out in [Standing order 168](#) which sets out the political structure under which land transactions are approved. This will have a key part to play in accelerating housing supply and transforming the government estate to a sustainable, net zero platform for future public services.

Definitions

For the purposes of this policy, the following definitions are used:

Disposals

- A disposal is the transfer of a freehold or a leasehold interest to a third party, surrender of a lease or assignment of a lease to a third party for the payment of a premium or a reverse premium. A disposal may include the grant of an option to lease or purchase the freehold. Lease disposals may also arise where no premium is involved.

Acquisition

- A freehold interest in land and/or buildings
- The grant of an interest to the Government of Jersey in land and/or buildings

Surplus property

Property could be regarded as being surplus if it meets one or more of the following criteria:

- Its disposal is important for the delivery of an objective outlined in the Government Plan.

- An alternative site has been identified which would achieve a more cost-effective delivery of service and the existing site has no potential for future alternative service delivery or regeneration purposes.
- Better public value can be obtained by transfer of an asset to another public or Arm's Length Organisation (ALO), subject to the approval of a business case and demonstration of need.
- The net income generated from the site is below that which could be achieved from disposing of the site and investing the capital receipt/proceeds.
- It is an under-performing property and has not contributed to delivery of the Government services, or Government Plan objectives in the previous three years, either directly or indirectly, nor generates income and has no potential for future service delivery, community, cultural or regeneration purposes.

Strategic Property Asset Management Plan (SPAMP)

A strategic approach to the management and operation of Government land is fundamental to the successful and efficient delivery of services and an expectation of all Departments. JPH are responsible for the production of the Strategic Property Asset Management Plan (SPAMP). Working alongside departments – who will identify their activities requiring property – the SPAMP will identify:

- **Additional** land and property needs
- **Surplus** property
- where property can be **refurbished** and re-purposed to support other services within Government.

The SPAMP will form part of the wider strategic view of land and building ownership and rental which forms part of the long-term capital plan.

Options for acquisitions and disposals

The disposal of the Governments' land and property could therefore be progressed in several ways and does not necessarily have to result in a freehold sale. The following options are available:

- **Freehold** – The sale or purchase of the property with or without future covenants to restrict or protect future use.
- **Flying Freehold** – This usually applies to flats but is also occasionally used for commercial property, principally in mixed developments.
- **Leasehold** – Leasehold interest can be agreed for any time. A leasehold interest of nine or more years ("contract leases" under Jersey law) must be registered as an interest in land with the Royal Court. Long-term leases are also options and lenders will tend to require at least 50 years of unexpired lease term before the property is acceptable to them as good security.

Other disposal considerations:

In certain asset disposals Government may wish to include additional provisions based on appropriate professional advice such as:

- **Restrictive covenants:** dispose of land or property subject to a legal restriction such as permitted use.
- Provision of a community benefit through a **contract of sale** or **Planning Obligation Agreement** (if subject to planning application)
- **Option to purchase:** option agreement to purchase in complex cases to enable purchasers time to enhance value with for example planning approval.

1. Disposals

This section sets out the procedure for declaring property as surplus and ensuring the proper discharge of Jersey Property Holdings duties and policies in a transparent and fair manner whilst obtaining best value for Government of Jersey. This aligns to the actions in Island Property Estate Strategy which states that the Government should '*Administer acquisitions and disposals, balancing commercial and community needs.*'

1.1 Process for declaring an asset surplus

Identification of surplus land will arise from either a service or property review undertaken between JPH and individual Government departments who should keep all land holdings under review by adopting principles of sound strategic asset management planning through the development of sound Strategic Property Asset Management Plans.

Identifying Surplus Land

The SPAMP will identify those properties which are no longer in use and/or required for their last use by that department. Consideration will be given as part of the SPAMP as to whether sites no longer in use by one department are required for re-use by other areas of the Government. Jersey Property Holdings, in consultation with departments, will identify those properties which are not required for current or future use by departments.

It is important to note that other factors may also be used to highlight potential surplus property, its condition, suitability, size, location, alternative use value, neighbouring site issues and its effectiveness, for example. In making an assessment to determine whether land is surplus departments should refer to the definition of surplus land outlined in section 1, which will consider if:

- The land is currently used/required to deliver their operational functions.
- There is a clearly evidenced plan to use the land to deliver their future operational functions.
- The land is held for commercial purposes and/or is integral to continuity of service delivery.
- The land is vital for business contingency, in line with the departments strategic and operational plans.

Where land satisfies any of the above criteria it is unlikely to be surplus. However, the land may be surplus if:

- It is not used for current delivery or required for future delivery of the department's operational functions and policies.
- The department has no formally approved strategy and timetable for bringing the land back into permanent full operational use.

Each case should be assessed on the circumstances associated with the land and the Department's overarching strategic plan.

For the avoidance of doubt a property should only be classified as being surplus if both building and site are no longer required and are available for disposal.

The SPAMP will be used to inform a long-term asset management plan driven by Government plan objectives and strategies.

1.2 Disposal of surplus or under-performing assets for community use

It is acknowledged that there are occasions where the Government may wish to dispose of property that is classified as surplus or considered to be under performing for community benefit that is at less than market value.

Examples of where community rather than commercial uses might arise are:

- providing affordable housing in excess of that which would be required by planning policy [H6 - Making more homes affordable](#) in the Bridging Island Plan,
- disposal of an interest to an existing tenant or established group that is 'providing a function that has a substantial community benefit',
- disposal of an interest in property to a not-for-profit organisation, designed to achieve social and economic benefits,
- disposal of an interest in property designed to achieve specific physical, economic, or cultural regeneration more than that which would normally be required by Government or Island Plan planning policy,
- seeking environmental sustainability benefits more than those that would normally be required by planning policy or other Government policy.

Internal and external consultation may be required as considered appropriate for community uses.

When deciding between with either commercial or community future use of assets, there should be an assessment of the current and likely ongoing holding and opportunity costs, and any benefits, arising from the retention of the assets to provide a balanced view about the costs and benefits to the Government and community of disposing of the asset.

Appropriate professional valuation and legal advice must be sought when considering appropriate measures. [RICS guidance](#) identifies two approaches to the valuation of development land for affordable housing and these should be considered in valuing sites:

- comparison with the sale price of land for comparable development or
- assessment of the value of the completed scheme and deduction of the costs of development (including developer's profit) to arrive at the underlying land value. This is known as the residual method.¹

¹ RICS professional guidance, England and Wales Valuation of land for affordable housing 2nd edition, April 2016

This value will then be measured against the community benefit and costs for developing the site for this alternative use.

Benchmark values² may also be useful in providing further evidence on the cost of land for affordable housing, with recent transactions having taken place in acquiring private open market sites.

1.3 Methods of disposal

Each asset disposal will be assessed on its own merits as to the most appropriate method of disposal to apply and the in-house Governments valuers' advice will be sought where appropriate to provide specialist advice.

There are various methods of disposal that can be applied to assets depending on the individual circumstances to obtain the best rent, price, or best terms for Government, or where it will support other initiatives such as community benefit or support regeneration initiatives. These decisions will be discussed, and recommendations made at CPMB for political approval, as set out in appendix B.

Below is a summary of options available for consideration in order of preference:

1. Transfers to Arm's length Organisation (ALO) or Community group/Charity

It is expected that sites that are predominantly commercial in nature or require the delivery of significant public realm and community uses will be led by States of Jersey Development Company, whilst sites that will predominantly deliver affordable housing will be led by Andium or other registered affordable landlords. Some sites may also be developed for charitable organisations to deliver Government related services provided by the third sector.

2. Joint Ventures

On some sites it will be appropriate to seek joint development agreements either between the ALO's or with commercial partners, for reasons that are either site related or for commercial considerations with private specialist development companies.

3. Public Sale³ for best value

Some sites will not be required to deliver Government developments and it will be in the best interests of the taxpayer to sell these sites for best value to the private sector.

1.4 Governance and process for disposal of surplus land and property

In all cases any proposed disposal of an interest in land and property will be managed by the JPH team to ensure a consistent approach that aligns with the SPAMP and corporate landlord model and the need to secure best price, rent or terms for Government. An outline of the governance process is set out in appendix B.

² Based upon open book values of recent developments undertaken by ALO's (Andium)

³ Can be through open sale, tender or, auction.

1.5 Transfer process

Once land has been identified as surplus as set out in sections 1.1 and 1.2, JPH will seek, where applicable, initial valuation evidence to consider issues as to best price, rent or terms and will seek legal advice, to consider the most appropriate means and mechanism of disposal (as set out in sections 1.3 and 1.4).

JPH will undertake, along with Law Officers, the necessary due diligence, including all site constraints be they covenants or other legal agreements.

In most cases, a development brief and/or Supplementary Planning Guidance (SPG) will be drafted and consulted upon to help inform the future use and future value of a site or building.

All proposed disposals will be reported to the Corporate Property Management Board and a recommendation presented to the Future Places Group, Council of Ministers, and then final Ministerial Decision by the appropriate Minister, as set out in Appendix B.

Where land has been agreed to be transferred at less than market value directly to an Arm's Length-Organisation or charity for community benefit or use (as set out in section 1.3 and 1.4, the Government's in-house valuer will be instructed to provide required advice on preferred disposal method to secure best price or terms based upon the agreed end use(s).

If the land or property is being sold to the open market for maximum value, it will be marketed appropriately, and the Government agent will advise JPH with a formal recommendation in relation to the purchaser and price.

In both cases JPH will liaise with law officers to conclude the disposal as per the agreed heads of terms.

The Ministerial decision may then be lodged with the States Assembly for 15 working days in accordance with Standing Order 168 – Land Transactions (Appendix A).

2. Acquisitions

2.1 Process for acquiring new land and property

The acquisition of property will be driven by either the identification for land and property through the SPAMP, the Government Plan or from an approved States Report and Proposition that instructs the Minister for Infrastructure to acquire land or property for a specific purpose.

This aligns to the actions in Island Property Estate Strategy which states that the Government should 'Administer acquisitions and disposals, balancing commercial and community needs.'

For the purposes of this policy:

- All acquisitions of land and property are in respect of freehold, leasehold or licence.
- Land or Property will only be acquired where it has been shown to be a necessary requirement following detailed option appraisals through a SPAMP or there is a clear strategic requirement identified through the Government Plan or a States Member making a specific proposition to the Assembly to acquire or dispose of a particular property.

2.2 Powers to Acquire Land and Buildings

The acquisition of land and buildings is enshrined within the requirements of the Government of Jersey [Public Financial Manual](#)⁴ and under Standing Order 168 (appendix A).

Where land cannot be acquired through negotiation with the owners, then the compulsory purchase of land can be undertaken, which is set out in the [Compulsory Purchase of Land \(Procedure\) \(Jersey\) Law 1961](#)⁵. This law provides rules applicable to the acquisition of land by the States through compulsory purchase on behalf of the public, with the compensation for land compulsorily acquired determined through a Board of Arbitrators. The use of compulsory purchase is a last resort and will likely only be used where the acquisition is in the interest of the Public and the owner(s) of land is not a willing seller.

2.3 Governance

In all cases any proposed acquisition of an interest in land and property will be managed by the JPH team to ensure a consistent approach that aligns with the SPAMP and corporate landlord model and the need to secure best price, rent or terms for Government. Governance of land or property acquisitions are described in Appendix C.

⁴ [Public Finances Manual \(gov.je\)](#)

⁵ [Compulsory Purchase of Land \(Procedure\) \(Jersey\) Law 1961 \(jerseylaw.je\)](#)

3. Funding

The acquisition and disposal of operational property shall be prioritised in accordance with the Government's approved Government Plan.

The proceeds from the disposal of land and property can be directed towards the improvement of the existing property estate or to fund acquisitions where a business case is made and approved by a Ministerial decision.

The Government can fund the acquisition of operational property through a range of options, and it is accepted that the appropriate option will vary in each case.

All acquisitions shall have the necessary budgetary approval as set out in the business case before the acquisition is completed.

3.1 Public Finance Manual

JPH will ensure that all decisions and processes are in line with the Public Finance Manual which is an integral part of the Jersey Financial Compliance Framework and sets out policy that requires:

- consultation with the appropriate States Body where land or property assets are deemed surplus to operational requirements,
- when a disposal is agreed, ensure that it is completed as swiftly as the market will allow, with reasonable consideration for best value,
- seek appropriate professional advice when disposing of assets of significant value, in particular land and property assets,
- where not contemplated in the approved budget of the States Body, seek approval from the Treasurer of the States for the retention and use of the proceeds of asset disposals where these exceed £5,000,
- ensure that if assets are transferred between States Bodies or to an Arm's Length Organisations without being offered on the open market, they are transferred at market price and in appropriate circumstances except as otherwise agreed with Treasury and Exchequer (and follow appropriate approval processes).

Appendix A - Standing order 168

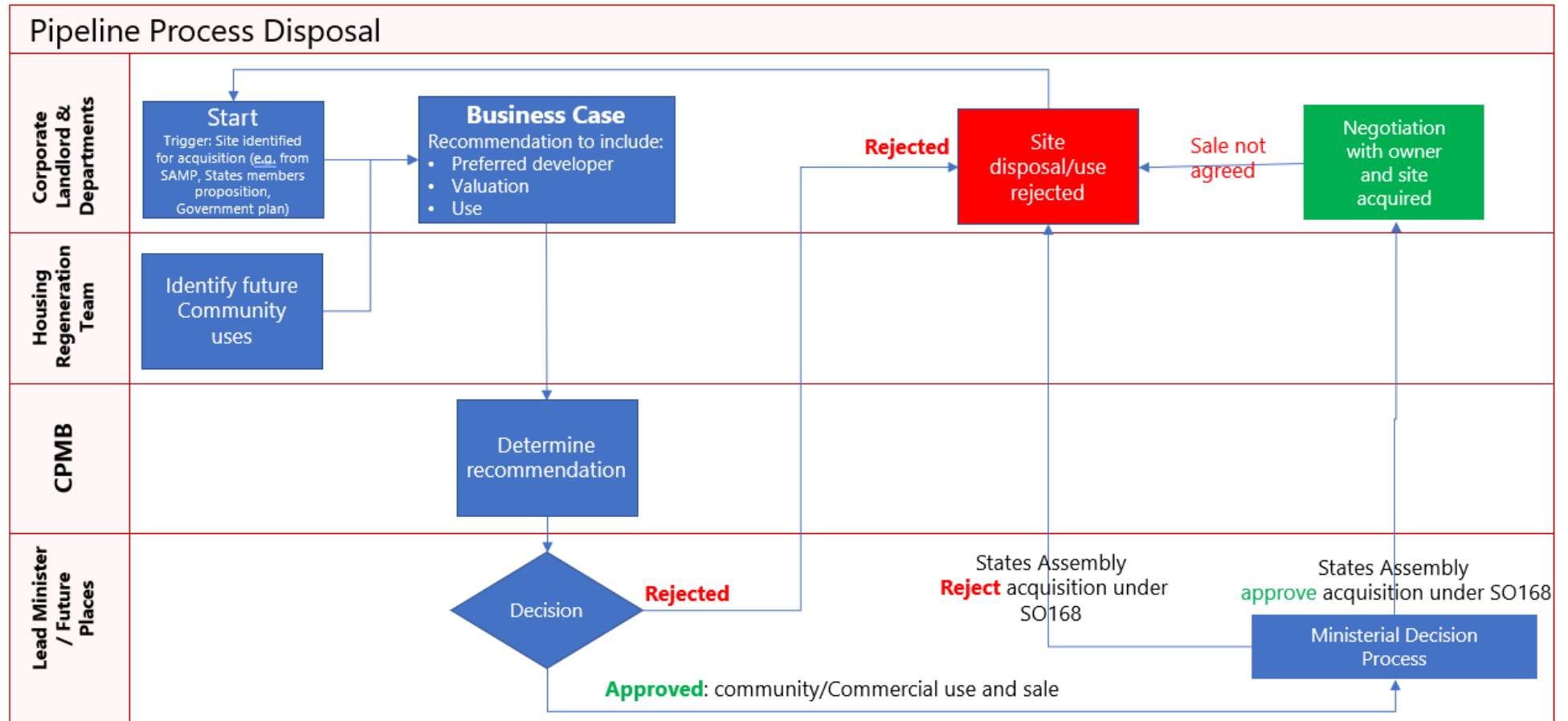
168 Land transactions⁶

- (1) This standing order applies to the following actions –
 - (a) the acquisition, disposal, letting or rental of land on behalf of the public of Jersey (other than the agreement of altered boundaries);
 - (b) the agreement of boundaries, or of altered boundaries, on behalf of the public of Jersey;
 - (c) the acquisition, grant, variation or cancellation of rights or servitudes over land on behalf of the public of Jersey;
 - (ca) the renewal, extension, variation or cancellation of any lease of land on behalf of the public of Jersey;
 - (cb) the provision of consent, on behalf of the public of Jersey, to a land transaction that is not included in sub-paragraph (a) to (ca);
 - (d) the approval of plans for the construction or alterations of buildings where the work is to be funded wholly or partly by money voted by the States.
- (2) The prior agreement of the States shall not be needed for any of the actions if –
 - (a) the action is recommended by a body established by the States to manage land and buildings owned by the public of Jersey; and
 - (b) the recommendation is accepted by the Minister for Infrastructure.
- (3) The Minister for Infrastructure must, at least 15 working days before any binding arrangement is made for an action described in paragraph (1)(a) which does not, by virtue of paragraph (2), require the prior agreement of the States, present to the States a document setting out the recommendation which he or she has accepted.
- (4) Nothing in this standing order requires the States to agree, or the Minister for Infrastructure to accept or present to the States any information regarding, the grant, renewal, extension, variation or cancellation of a tenancy that is terminable upon giving 3 months' notice or less.
- (5) The Attorney General and the Greffier may, under the authority of the Minister for Infrastructure, pass any contract which is required to be passed on behalf of the public of Jersey.

⁶ Standing Orders of the States of Jersey (jerseylaw.je)

- (6) In paragraphs (1)(ca) and (4), the references to the renewal of a lease or tenancy includes a reference to the grant of a lease or tenancy of land to a person, where the term of the lease or tenancy commences on the expiry of the term of an earlier lease or tenancy and the earlier lease or tenancy was of the same land and to the same person.

Appendix B - Disposal Process



Appendix C - Acquisition Process

