

Policy number	Policy 310
Policy title	Leasing
Strategic outcomes supported	CL6 – Finances are managed appropriately, sustainably and transparently for the benefit of the community. CL8 – Visionary civic leadership with sound and accountable governance that reflects objective decision-making.

Policy objective:

This policy provides guidelines for leasing and licensing agreements of facilities used by community groups for community purposes and facilities used by commercial organisations for commercial purposes.

This policy further aims to:

- Balance appropriate management and responsible use of the Town’s facilities for the benefit of the community.
- Ensure sound financial management and effective administration of the Town’s building portfolio.
- Balance the administration of the Town’s leases with consideration of the underlying Town’s land portfolio requirements.
- Ensure Town managed properties are appropriately maintained, developed and occupied.
- Ensure any in kind support from the Town, including subsidised rent, is recognised and transparently applied in light of the community benefit to be achieved.
- Establish the circumstances in which a lease agreement or licence agreement may be assigned.

Policy scope:

This Policy applies to all leases and licences of facilities under Town ownership or management, and to those that wish to make organised use for community or commercial purposes.

Policy definitions:

Community Purpose means the carriage of property that is primarily aimed at benefiting the local community. It includes use by an incorporated sporting club or community organisation or community group, and may also include use by a government department, where the Town considers that usage to be of particular value to the local community.

Community Facility includes halls, pavilions, change rooms, clubrooms, civic offices and other buildings used for community purposes.

Commercial Purpose means the carriage of property for any fee, rate, charge or other consideration, directly or indirectly connected with a privately owned, profit based business entity or any other business whose undertaking is intended for profit.

Commercial Facility includes buildings or land intended to generate a profit, either from capital gain or rental income.

Lease means a contract outlining the terms under which one party agrees to rent property owned by another party. It guarantees the Lessees exclusive use of an asset and guarantees the Lessor regular payments from the Lessee for a specified term.

Licence means a contract outlining the terms under which one party is granted permission to use property owned by another party for a fee. It guarantees the Licensee non-exclusive use of an asset and guarantees the Licensor a fee from the Licensee for a specified term.

Policy statement:

1. The Town of Victoria Park owns and manages a number of land assets and property on behalf of its community. These provide facilities which are available for use, and managed for the benefit and in the best interest of the residents and ratepayers.
2. In order to provide consistent leasing and licensing terms and conditions, leasing or licensing facilities will be based on the following principles:
 - a. Supporting local groups
 - b. Social Return
 - c. Sustainability
 - d. Commercial Value
 - e. Equity
 - f. Exclusivity
 - g. Financial Return
 - h. Strategic future of underlying land asset
3. The properties owned and managed by the Town will be classified in accordance with GEN7 Strategic Management of Land and Property Assets.

Tenure guidelines:

4. Agreements over the Town's facilities will be administered in an equitable and consistent manner and the Town will make its facilities available to users on the basis of a Lease or Licence.

Leases

5. Leases are formal tenancy arrangements and aim to provide Lessees with secure, long term tenure of a Council owned facility and the right to its exclusive use.
6. Council may consider offering use of a facility under a lease in the following circumstances:
 - a. Leases will be entered into where the intention is to grant exclusive possession of the property or part of the property;
 - b. Leases will be granted for a period of up to 5 years with an option to extend for a further period of up to 5 years;
 - c. The Lessee will be responsible for all non structural maintenance within the leased area and will provide documentation on the following (if applicable):
 - i. Fire servicing equipment;
 - ii. Mechanical services maintenance and service records (in accordance with Australian Standards);
 - iii. Annual gutter cleaning;
 - iv. Annual pest control treatments;
 - v. Electrical compliance testing;
 - vi. Sewer pump and grease trapping services; and
 - vii. Septic system servicing.
 - d. The Lessee will be responsible for cleaning and the general presentation of the leased area;

- e. The Lessee will be responsible for all operating/running costs, including but not limited to:
 - i. Refuse collection;
 - ii. Emergency services levy;
 - iii. Water rates;
 - iv. Council rates; and
 - v. All utilities related to their use (e.g. electricity, gas, water, telecommunications etc.).
 - f. The Lessee will be responsible for obtaining appropriate insurance (e.g. public liability insurance, contents insurance etc.);
 - g. The Lease will be based on a rental amount;
 - h. The Lease will include a redevelopment clause, whereby if the Town wishes to significantly redevelop the site the lease can be terminated by the Town giving six months written notice to the Lessee to vacate the premises and the same written notice to the Lessee will indicate that the lease will be terminated six months from the date of notice;
 - i. The Lessee will be permitted to undertake capital improvements (with prior written approval from the Chief Executive Officer), however such improvements will not provide for an automatic entitlement to subsidised rental; and
 - j. Approval from the Chief Executive Officer will be required prior to any subletting of the premises (if granted the power to sublet in the lease).
7. The Town as the Lessor will be responsible for:
- a. Arranging appropriate building insurance; and
 - b. All structural maintenance within the leased area.

Licences

8. Licences are arrangements for non-exclusive use and aim to provide sporting clubs and other community based user groups with secure, medium term tenure of a Council facility that is shared with other users. They also allow the finite resources of the Town to be fully utilised.
9. Council may consider offering use of a facility under a licence in the following circumstances:
 - a. Licences will be entered into where the intention is to grant non-exclusive possession of the property or part of the property;
 - b. Licences will be granted for a period of up to 3 years;
 - c. The Licensee will be responsible for obtaining appropriate insurance (e.g. public liability insurance, contents insurance etc.);
 - d. The Licence will be based on a licence fee;
 - e. The Licence will include a redevelopment clause, whereby if the Town wishes to significantly redevelop the site the lease can be terminated by the Town giving six months written notice to the Lessee to vacate the premises and the same written notice to the Lessee will indicate that the lease will be terminated six months from the date of notice;
 - f. Approval from the Town will be required prior to any sublicensing of the premises (if granted the power to sublicense); and
 - g. The Licensee is an incorporated, not for profit, sporting club or community organisation.
10. The Town as the Licensor will be responsible for:
 - a. Arranging appropriate building insurance;
 - b. Managing the specific facility as a shared use venue;
 - c. Ensuring the user groups needs can be met as a shared use facility in the Town's view;

- d. All maintenance of the facility, including responsibility for the facility's structure, as well as any capital development of the facility; and
- e. All utility costs associated with the facility (which may be on charged in part or in full to facility users).

Additional tenure guidelines – Commercial facilities

11. In general, Commercial organisations will only be permitted to lease or licence facilities which are located on property held for capital appreciation or income generation. As such, income received from the lease or licence should be maximised and subsidised rental should not generally be considered.
12. The following additional tenure guidelines apply specifically to commercial organisations:
 - a. Rental will be based on a market rental valuation assessment that takes into account the restrictions (if any) placed on the use of the premises by any Management Order and/or zoning conditions;
 - b. The market value will be set with guidance from a licensed Valuer, and reviewed every 12 months;
 - c. Leases will require that rents shall increase on a yearly basis at a rate of CPI (All Groups);
 - d. The Lessee or Licensee will be responsible for covering the cost of building insurance for the leased/licensed area; and
 - e. The Lessee or Licensee will be responsible for the cost of local government rates (unless exempt).

Additional tenure guidelines – Community facilities

13. In general, Not-for-profit community groups will only be permitted to lease or licence facilities which are located on property held for community purposes. As such, where appropriate, these organisations will be granted a lease or licence at a subsidised rate in recognition of their benefit to the community and their ability to pay.
14. The following additional tenure guidelines apply specifically to Not-for-profit community groups:
 - a. Setting of rents will be based on a market rental valuation assessment determined by a licensed Valuer, and take into account the operating subsidy program, subject to eligibility;
 - b. Should a Lessee or Licensee be eligible for an operating subsidy, the charging of an annual rent will be subsidised by an equivalent subsidy less \$1 which will provide full transparency in financial reporting and allows full disclosure of the amount of the subsidy provided to various Lessee's of Council properties;
 - c. Lessee's and Licensee eligible for an operating subsidy will be required to deliver meaningful interventions, programs, services and social benefits for the community;
 - d. Lessees are required to acknowledge these subsidised lease conditions in promotional materials and letters etc;
 - e. Leases will only be granted to groups which are incorporated under the *Associations Incorporated Act 2015 (WA)*; and
 - f. All tenants will be required to annually provide information to the Land and Properties Project Officer to assist with accurate records of office holder contact details, financial data and occupancy statistics. They will also be subject to annual facility inspections to ensure maintenance obligations are being met.
 - g. Licences associated with Not-for-profit community groups may exclude the Licensee from utility and maintenance costs.

Approval

15. All leases and licences of Council owned property must be approved by Council, unless authority to approve has been formally delegated by Council to the Chief Executive Officer.

16. Approval is required for the use of Town of Victoria Park owned and managed facilities. The Town may lease or licence facilities whereby:
- The Town is satisfied that the use is consistent with the nature of the reserve or facility and the surrounding area;
 - The Town is satisfied that the applicant is capable of ensuring the safe and appropriate use of the reserve or facility.
17. The applicant may be required to undertake one or more of the following:
- Pay an annual or periodical rental amount;
 - Pay a licence fee;
 - Lodge a bond;
 - Apply for a liquor licence;
 - Show proof of qualifications;
 - Show audited financial statements;
 - Show proof of relevant current insurance;
 - Apply for permits and/or trading licences; and
 - Show proof of event and risk management practices, such as a risk management plan, noise management, traffic management and compliance to environmental health requirements.

Crown Land

18. The use and lease or licence of facilities on crown land is subject to two separate approvals. The first approval required is from the State Government (Minister for Lands) as the land owner. The second approval required is from the Town of Victoria Park as manager of the land. Each application is to be made separately to the relevant authority. Additionally other government departments may have authority and require applications such as the Department of Biodiversity, Conservations and Attractions for land adjacent to the Swan River.-

Related documents

[Local Government Act 1995](#)

[Local Government \(Financial Management\) Regulations 1996](#)

[Rates and Charges \(Rebates and Deferments\) Act 1992](#)

[Policy 303 Debt collection](#)

Responsible officers	Nil.
Policy manager	Manager – Strategic Land and Property Manager Property Development and Leasing
Approval authority	Council
Next evaluation date	

Revision history

Version	Action	Date	Authority	Resolution number	Report number
1	Adopted	19/05/2020	Council	414/2020	Item 15.2