

Policy number	Policy 310
Policy title	Leasing and Licensing
Strategic outcomes supported	CL1 – Effectively managing resources and performance CL3 - Accountability and good governance

Policy objective:

This policy provides guidelines for leasing and licensing of facilities under Town ownership or management.

This policy 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.
- Balance administration of the Town’s leases and licences with the objectives of the Town’s Land Asset Optimisation Strategy.
- Ensure Town managed properties are appropriately maintained, developed and occupied.
- Ensure any in kind support from the Town, including peppercorn, discounted or other rent subsidy, is recognised transparently in light of community benefit and having regard to social impact investment processes.
- Provide a framework for key lease and licence terms.

Policy scope:

This Policy applies to all leases and licences of facilities owned or managed by the Town.

Policy definitions:

Community Purpose means use 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 for a Government Purpose where the Town considers that use to be of particular value to the local community.

Community Facility means a Facility intended for use for a Community Purpose.

Commercial Purpose means use aimed at advancing commercial or economic interests. This typically entails business activity that targets income generation or profit.

Commercial Facility means a Facility intended for use for a Commercial Purpose.

Facility means land, halls, pavilions, change rooms, clubrooms, civic offices and other buildings owned or managed by the Town.

Government Purpose means use for the provision of public services by a State or Federal government department or a body corporate that is incorporated within Australia and is a public authority or an instrumentality or agency of the Crown.

Land Asset Optimisation Strategy means the strategy adopted by Council resolution 253/2022 dated 13 December 2022.

Lease means a written contract of terms under which the Town grants exclusive possession of all or part of a Facility for a specified period of time in return for the payment of rent.

Licence means a written contract of terms under which the Town grants non-exclusive possession in respect of a Facility for a specified period of time.

Long Lease means a Lease, the fixed term of which is longer than any of: (1) an initial term of 5 years; (2) an option to extend for a further period of up to 5 years.

Social Impact Investment Process: Peppercorn Leases means Attachment 2 to Council resolution 235/2022 dated 15 November 2022.

Policy statement:

1. The Town of Victoria Park owns and manages Facilities on behalf of its community. Leases and Licences provide means for Facilities to be made available for the use, benefit and in the best interests of residents and ratepayers.
2. Decisions regarding Leasing and/or Licensing of Facilities will have regard to the following principles:
 - a. Supporting local groups
 - b. Social Return, including Social Impact Investment Process: Peppercorn Leases
 - c. Sustainability
 - d. Commercial Value
 - e. Equity
 - f. Exclusive or shared use
 - g. Financial Return
 - h. Land Asset Optimisation Strategy
 - i. Transparency as to leasing and licensing terms
3. Facilities will be classified in accordance with Policy 221 Strategic Management of Land and Property Assets.

Administration:

4. Leases and Licences of the Town's Community Facilities will be administered in an equitable and consistent manner so far as is reasonable and practicable.
5. Leases and Licences of the Town's Commercial Facilities will be administered so as to maximise income generation for the Town, to align with market conditions so far as is reasonable and practicable.

Leases

6. Leases are to comply with the following:
 - a. Exclusive possession is to be granted in respect of the Facility;
 - b. Leases will be for a fixed term of up to 5 years with any option to extend being for a further term 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;
 - v. Council rates;
 - vi. All utilities related to their use (e.g. electricity, gas, water, telecommunications etc.); and
 - vii. Reimbursement of the Town for the cost of building insurance, where the Lease is for a Commercial Purpose or a Government Purpose.
- 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. If the Town wishes to do anything that may result in significant redevelopment of the land and/or Facility, the Town may give six months written notice of termination of the Lease, requiring the Lessee to vacate on such termination;
- i. The Lessee will be permitted to undertake capital improvements (with prior written approval from the Chief Executive Officer), provided that the Town will not be obliged to pay compensation for such improvements on termination; and
- j. Approval from the Chief Executive Officer will be required prior to any assignment or subletting.
7. The Town as the Lessor will be responsible for:
- a. Arranging appropriate building insurance at the cost of the Town, limited to the protections under the Local Government Insurance Scheme; and
 - b. All structural maintenance within the leased area.

Licences

8. Licences provide non-exclusive possession of a Facility use and typically provide sporting clubs and other community based user groups with use of a Facility shared with other users, for example on a seasonal basis. Shared use promotes greater utilisation of Facilities, which are a finite resource.
9. Licences are to comply with the following:
- a. A grant of non-exclusive possession of the Facility;
 - b. Licences will be for a term of up to 3 years;
 - c. The Licensee will be responsible for obtaining appropriate insurance (e.g. public liability insurance, contents insurance
 - d. A licence fee will apply;
 - e. The Licence will include a redevelopment clause, whereby if the Town wishes to do anything that may result in significant redevelopment of the land and/or Facility, the Town may give six months written notice of termination of the Licence requiring the Licensee to vacate on such termination;
 - f. Approval from the Chief Executive Officer will be required prior to any sublicensing of the premises (if granted the power to sublicense); and
 - g. The Licensee will be responsible for cleaning and the general presentation of the leased area;

10. The Town as the Licensor will be responsible for:
 - a. Arranging appropriate building insurance at the cost of the Town, limited to the protections under the Local Government Insurance Scheme;
 - b. Managing the 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 structural, as well as any capital development of the facility; and
 - e. All utility costs associated with the Facility (which may in the interests of promoting responsible consumption be on charged in part or in full to the Licensee).

Additional guidelines – Lease and Licences of Commercial Facilities

11. In general, Leases and Licences for Commercial Purposes will only be granted where a Facility is located on property held for capital appreciation or income generation.
12. Leases and Licences of a Commercial Facility shall:
 - a. Be at a rental not less than 10% below a market rental valuation assessment by a licensed valuer that takes into account relevant and applicable matters affecting the Facility (for example, restrictions (if any) placed on the use of the Facility by any Management Order, Town Planning zoning and land title restrictions);
 - b. The rent is to be reviewed every 12 months in accordance with the rate of CPI and at 5 year intervals in accordance with valuation by a licensed valuer;
 - c. The Lessee or Licensee will be responsible to reimburse the Town for the cost of building insurance; and
 - d. The Lessee or Licensee will be responsible for the cost of local government rates (unless exempt).

Additional guidelines – Leases and Licences of Community Facilities

13. Leases and Licences of Community Facilities will typically be granted only to bodies that are incorporated with charitable, benevolent, cultural, educational, recreational, sporting or other like nature, the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.
14. The following apply to Leases and Licences of Community Facilities:
 - a. Rents/Licence Fees will usually be at a peppercorn, discounted or other subsidised rate set by Council having regard to the community benefit to be achieved and social impact investment processes. Where the Community Purpose is a Government Purpose, the rent/licence fee shall be market related.
 - b. Lessees and Licensees shall use reasonable endeavours to (so far as is reasonably practicable) comply with the Social Impact Investment Process: Peppercorn Leases;
 - c. The Town's Annual Report will contain an estimate of the value of each Facility that is made available at a peppercorn, discounted or other subsidised rate, in the interests of full disclosure of the amount of the subsidy provided by the Town by way of reduced rent or licence fee;
 - d. Lessees and Licensees that receive any form of subsidy from the Town will be required to deliver programs, services and social benefits for the community and to acknowledge any peppercorn, discounted or other subsidised rent or licence fee is to be acknowledged by the Lessee/Licensee to the Town's satisfaction in Lessee/Licensee's the annual report, promotional materials and correspondence;
 - e. Lessees and Licensees will be required to annually provide information to the Town 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.

Additional guidelines – Legislative Requirements

The application of this policy shall be subject to relevant and applicable legislative requirements and shall be modified in order to comply with such requirements, for example:

- The form, content and management of residential tenancies is regulated by the *Residential Tenancies Act 1987*;
- *Commercial Tenancy (Retail Shops) Agreements Act 1985*.

Additional guidelines - Long Lease

A Long Lease will not be considered unless Council is satisfied that exceptional circumstances justify such tenure to be granted. Exceptional circumstances may include significant income to the Town, significant capital investment into the Facility by a Lessee or significant community benefit.

Approval

15. All Long Leases, Leases and Licences of a Facility must be approved by Council, unless authority to approve has been delegated by Council to the Chief Executive Officer.
16. Approval must comply with any applicable requirements of Section 3.58 and/or Section 3.59 of the *Local Government Act 1995*.
17. Criteria for the Town to lease or licence a Facility shall include the Town being satisfied that:
 - a. The use is consistent with the Town Planning zoning, any land title restrictions and the nature of the reserve or Facility and the surrounding area;
 - b. The applicant is capable of ensuring the safe and appropriate use of the reserve or facility.
18. The applicant may be required to provide:
 - a. A bond or other security;
 - b. Proof of qualifications;
 - c. Audited financial statements;
 - d. Proof of relevant current insurance;
 - e. Permits, trading licence and/or a liquor licence; and
 - f. Evidence of risk and event management practices, such as a risk management plan, noise management, traffic management and compliance to environmental health requirements.

Crown Land

19. Leases and Licences of crown land managed by the Town require additional approval under Section 18 of the *Land Administration Act 1997* from the State Government (Minister for Lands). Other government departments may have approval requirements, for example, the Department of Biodiversity, Conservations and Attractions for land adjacent to the Swan River.

Related documents

[Commercial Tenancy \(Retail Shops\) Agreements Act 1985](#)

[Disability Services Act 1993](#)

[Land Administration Act 1997](#)

[Local Government Act 1995](#)

[Property Law Act 1969](#)

[Residential Tenancies Act 1987](#)

[Land Asset Optimisation Strategy](#)

[Policy 221 Strategic Management of Land and Property Assets](#)

[Social Impact Investment Process: Peppercorn Leases](#)

Responsible officers	Nil.
Policy manager	Manager Property Development and Leasing
Approval authority	Council
Next evaluation date	February 2025

Revision history

Version	Action	Date	Authority	Resolution number	Report number
1	Adopted	19/05/2020	Council	414/2020	Item 15.2
2	Reviewed and amended	12/04/2022	Council	73/2022	Item 15.5
3	Administratively amended	24/08/2023	Delegation		
4	Reviewed and amended	20/02/2024	Council	7/2024	Item 11.3