

Title	Leasing and Licensing of Council Owned and Managed Property Policy
Council Resolution	Item 15 (29/06/2020) as per Council Minutes
Responsible Directorate	Infrastructure and Works
Due for Review	One year from Council Resolution Date
Strategic Plan Reference	<p><u>Support our communities to pursue and achieve their goals</u></p> <p>1.2.3 Promote creative expression and participation and life-long learning as priorities for our communities.</p> <p><u>Leading our Community</u></p> <p>4.1.1 Manage Council for maximum efficiency, accountability and transparency.</p>
ECM	Council Policy

PURPOSE

Council owns and manages a diverse suite of properties for the benefit of the community, including sporting clubs, community organisations, private and commercial entities, and other parties. This policy sets out the Council's position to allocating its community properties and facilities to provide a consistent, equitable and transparent approach.

SCOPE

This policy applies to all groups, entities and individuals (users) wishing to access a Council owned or managed community property or facility. All real property assets and facilities that are owned and/or managed by the Council are covered by this policy.

The following are outside the scope of the policy:

- tenders;
- major or minor events;
- any matter already covered by Council's Lights and Council Playing Fields Policy;
- outdoor dining; and
- busking and street vending.

STATUTORY REQUIREMENTS

Acts	<i>Local Government Act 1993, Residential Tenancy Act 1997</i>
Regulations	<i>Local Government (General) Regulations 2015, Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998</i>
Australian/International Standards	Not applicable.

DEFINITIONS

Council property	means property, including land and buildings, owned or managed by Council. This includes halls, sports fields and community centres.
Facilities	means buildings or structures built on Council land.

Lease	means a formal agreement for the exclusive occupation and/or long-term use of a Council property or a specified area within a Council property. A lease can be commercial, residential or retail.
License	means a formal agreement for non-exclusive, intermittent or shared use of a Council facility, including casual hire (e.g. the use of sports grounds).

POLICY STATEMENT

General approach

1. Council will manage its property resources efficiently, equitably and transparently, including how we allocate facilities and charge for their usage.
2. Council encourages use of its facilities and properties by a broad range of groups and organisations where they provide for a need within the community, provide required services or aid in building a strong and connected community.
3. Council will comply with all relevant legislation in relation to the use of its property.

Appropriate use of Council property

4. In allocating its property for community use, Council will endeavour to provide the most appropriate available Council facility to meet the needs of the user.
5. Council will promote and arrange shared use of public facilities where feasible and within the carrying capacity of the facility. This may involve sharing buildings or spaces at the same time or at different times.
6. Council will maximise the use of vacant or underutilised land to provide greater community benefit as opportunities are identified.
7. Council reserves the right to refuse to lease or license any property or facility for events or activities that do not meet its criteria or conflict with its plans and strategies.

Allocations

8. In allocating its properties and facilities, Council will take into consideration:
 - the type of use deemed most appropriate for the facility;
 - availability of alternative facilities;
 - whether applicants or their memberships are predominantly based in Glenorchy;
 - any prior tenancy history of the applicant;
 - existing seasonal use;
 - applicants' willingness to share facilities with other user groups where feasible; and
 - uses that align with Council's strategic plan in regard to achieving our community's goals.

Agreements to lease or license Council property

9. All occupancy arrangements will be subject to formal written agreements reflecting appropriate legal and commercial standards and reviewed by Council's legal unit or external solicitors prior to finalising.
10. All lease and license agreements will reflect the nature of the occupancy and contain terms and conditions that comply with this policy.

11. The term of a lease or license must not exceed 5 years unless this would cause unreasonable inconvenience or disadvantage to either party. Terms exceeding 5 years must be approved by the Manager Property Environment and Waste.
12. Lessees must provide public liability insurance and comply with legal work health and safety requirements.
13. Lessees will not be permitted to sublease without Council's express written consent.

Income from use of Council property

14. To help ensure continued provision of appropriate, well-maintained facilities for the foreseeable future, Council will generally aim to obtain a market commercial return on the use of its properties. However, Council recognises that some groups receive no or minimal profit and provide particular benefits to the community and takes this into account when reviewing its fees and charges.
15. Wherever possible, Council will recover its costs in supplying a property.
16. Lease and license charges are set out in the Table of Rents in Council's Schedule of Fees and Charges.
17. Council reserves the right to complete a credit check of lessees in accordance with legislative controls.

Capital works by lessee or licensee

18. Capital works must not be carried out on land leased or licensed from Council without first obtaining the written consent of the Manager Property, Environment and Waste.
19. If planning approval is required, the lessee/licensee is responsible for lodging a planning application and meeting all the requirements including payment of fees associated with the applications. Planning applications are not to be made until the Manager's consent has been obtained as above.
20. If all necessary approvals have been obtained, the lessee/licensee ensure the works are carried out efficiently, to required standards and within a reasonable time frame.
21. All new assets built legally on Council land will become the property of Council upon completion.

BACKGROUND

This policy supersedes the previous version adopted in 2010. It operates in conjunction with the Leasing and Licensing Directive which sets out the operational aspects of leasing and licensing which Council staff are required to follow.