

# Council Policy

**Council Policy Name:** Leasing of City Premises

**Responsible Directorate:** Finance and Corporate Services

**Version:** Adopted

## 1. PURPOSE

- 1.1. The purpose of this Policy is to ensure City Premises are preserved and managed responsibly in a manner that provides a range of quality services and benefits to the community.

## 2. SCOPE

- 2.1. This Policy is applicable to any grant of a right of exclusive use of City Premises within the City of Busselton. A Lease may include a Licence which is ancillary to the main purpose of the Lease.
- 2.2. Agreements for occasional, short-term hire or non-exclusive use of Council property are outside of the scope of this Policy.

## 3. DEFINITIONS

Term	Meaning
City Premises	land and/or buildings owned or managed by the City
Lease	an agreement in which the Landlord (or Lessor) agrees to give the Tenant (or Lessee) the exclusive right to occupy land for a specific term
Licence	a contractual right to use land or buildings for a specified purpose without the right of exclusive possession
Policy	this City of Busselton Council policy titled "Leasing of City Premises"

## 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 2. – LIFESTYLE – A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priorities:
- a. 2.5: Facilitate events and cultural experiences that provide social connection; and
  - b. 2.12: Provide well maintained community assets through robust asset management practices.

## 5. POLICY STATEMENT

- 5.1. A decision to lease City Premises should be based on the achievement or promotion of positive social, economic and environmental outcomes and the most advantageous use.
- 5.2. In considering whether to enter into a Lease for City Premises, the following factors will be considered where relevant:
- a. the ability of the prospective tenant to fund, resource and manage the Lease over the proposed term;
  - b. potential opportunities for future utilisation of the asset;
  - c. the extent and current use of the site and the impact on adjoining premises;
  - d. the need for wider stakeholder consultation;
  - e. impacts on social, economic and environmental outcomes;
  - f. the potential impact of any related capital works program;

- g. any statutory restrictions or obligations relating to heritage or conservation of the site.
- 5.3. Relevant additional factors when considering a Lease or Licence to a not for profit organisation or entity include:
- a. the benefit to the community;
  - b. the promotion of public health and wellbeing;
  - c. protection of public land values;
  - d. impacts on social, economic and environmental outcomes;
  - e. the history, purposes and governance of the organisation.
- 5.4. Relevant additional factors when considering a Lease or Licence to a commercial entity include:
- a. the potential to attract investment and enhance amenities in the district;
  - b. the creation of employment;
  - c. the promotion of tourism;
  - d. economic return;
  - e. impacts on social, environmental and economic outcomes.

#### **Term**

- 5.5. To achieve a balance between the need for security of tenure and utilisation of community resources in an appropriate and effective manner:
- a. the recommended term of a Lease or Licence to not for profit organisations is a period of 5 years with an option to extend the term by a further 5 years.
  - b. subject to meeting certain additional criteria, and where there are exceptional circumstances, Leases and Licences for a duration greater than 5 plus 5 years may be considered in conjunction with additional criteria or conditions such as a review of the leased area, rent or other terms.
  - c. where consistency with the City's business plan, future strategies or overall management requirements would be supported or enhanced, Leases or Licences of a shorter duration may be appropriate.
  - d. the term of commercial Leases will be negotiated on a case by case basis.

#### **Rent**

- 5.6. Not for profit Lessees will generally be charged a nominal rent as a contribution towards the administration costs to the City of managing the Lease.
- 5.7. The City reserves the right to negotiate a higher rent where the permitted use of the City Premises enables the lessee to generate periodic or regular income from their activities or the City are responsible for maintenance of all or part of the Premises.
- 5.8. Rent and other payments associated with commercial Leases will be negotiated on a case by case basis.

#### **Form of Lease**

- 5.9. The City's standard community group Lease will be used for all Leases to not for profit lessees unless circumstances require otherwise. The need for any specific terms and conditions relative to the unique nature or requirements of the City Premises will also be considered where appropriate.

#### **State Government Agencies and Providers of Essential Services**

- 5.10. Leases to State government agencies or organisations providing essential services will generally be granted a longer term reflective of the nature of the service or facility provided. The Lease in such circumstances will require the lessee to take full responsibility for construction and ongoing maintenance of the facility and associated outgoings.

## **6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. *Local Government Act 1995*
- 6.2. *Land Administration Act 1997*
- 6.3. Leasing of City Premises Operational Practice

## 7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	13 May 2020	Resolution #	C2005/127
Previous Adoption	DATE	27 July 2016	Resolution #	C1607/167