

Council Policy

Council Policy Name: Leasing of City Premises

Responsible Directorate: Economic and Business Development

Version: Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to ensure City Premises are managed responsibly to provide a range of benefits to the community and/or a commercial return to the City.

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.
- 2.3. Agreements relating to residential properties subject to Joint Venture agreements with the State of Western Australia are outside 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

| Strategic Theme | Strategic Priority |
|----------------------------|--|
| KEY THEME 2 LIFESTYLE | 2.5: Facilitate and plan for event and cultural experiences that provide social connection. |
| | 2.12: Provide well maintained community assets through robust asset management practices. |
| KEY THEME 3 OPPORTUNITY | 3.1: Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice. |

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 and residential 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 and residential 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. *Residential Tenancies Act 1987*
- 6.4. *Commercial Tenancy (Retail Shops) Agreement Act 1985*
- 6.5. City Guidelines for Tenants (Community and Sporting Groups)
- 6.6. Council Policy 'Commercial Use of City Land and Facilities'
- 6.7. Council Policy 'Community Hire of City Premises'

7. REVIEW DETAILS

| Review Frequency | | 3 yearly | | |
|-------------------|------|----------------|--------------|-----------|
| Council Adoption | DATE | 21 August 2024 | Resolution # | C2408/218 |
| Previous Adoption | DATE | 13 May 2020 | Resolution # | C2005/127 |