Council Policy

Mansfield Shire

Property Leasing and Licencing Policy

Department/Unit	Investment and Planning	First Implemented	17 October 2017	Review Date	July 2028
Origin	Manager Planning & Environment	Reviewed	February 2024	Version	5
Authorising Officer	Chief Executive Officer	Effective From	16 July 2024	TRIM Reference	E513/2

Purpose / Objective

The purpose of this policy is to establish a framework for Council arrangements when developing leases or licences for use of Council property.

This framework will maximise the use of its community assets in a responsible, transparent and consistent manner and provide a foundation for good decision making. This will be done through the following key areas:

1. Maximising the use of Councils leased assets

This will be achieved by:

- Assisting and promoting the shared use of Council facilities;
- Ensuring the maximum economic life of assets through effective maintenance practices;
- Leasing commercial and residential properties out at a full market rate, where a subsidised lease has not been approved by Council; and
- Engaging in a process for disposal of surplus properties.

2. Providing an equitable and transparent process for dealing with subsidised leases or licences

This will be achieved by:

- Applying the rent model for subsidised leases or licences;
- Identifying appropriate maintenance schedules;
- Applying the general principles for subsidised leases or licences; and
- Developing a suite of standardised leases and licences.

3. Providing easily understood and accountable costing and administration of subsidised leases or licences

This will be achieved by:

- Accounting for the cost, including opportunity costs and subsidies associated with providing facilities and services;
- Communicating the process of establishing a lease;
- Providing a transparent process when allocating the use of Council's assets; and
- Covering reasonable costs when providing subsidised leases or licences.

Policy Statement

This Policy determines the way in which Council administers the granting of leases and licences for Council controlled land and buildings.

Council owns both community and operational land and manages Crown land where Council is the delegated Committee of Management.

Fees generated through leases and licences will be used to offset maintenance and upgrade costs of community use facilities.

Definitions

Term	Definition
Consumer Price Index	Comprehensive measure of goods and services price inflation faced by all consumer households
Crown Land	Land which is "remaining" that is not freehold title and is still held by the Crown. Crown Land is administered by the Department of Environment Land Water and Planning
Committee of Management	The role of the CoM's under the *Crown Land Reserves Act (1978)* is to "manage, improve, maintain and control" Crown land reserves that have been set aside for the benefit of the people of Victoria.
Community Group	Not-for-profit organisations registered with the Australian Charities and Not-for-profits Commission operating for public benefit, and predominantly administered by volunteers. This excludes incorporated associations that hold a licence for electronic gaming machines. A not-for-profit incorporated association, or equivalent, provides activities and services for the benefit of the Mansfield Shire community.
Sponsorship	Mutually beneficial business relationship between two parties, the business (sponsor) and the club (sponsored)

Term	Definition
Lease	A lease is a contract by which the landlord (owner) grants exclusive use and possession of land or asset to an occupant (lessee), in consideration for a payment (rent) for a specified term and purpose.
Licence	A licence is an agreement that generally allows the non-exclusive use of land or asset for a fixed term to an occupant.
Rent	Rent (payment) is a tenant's (occupant's) regular payment to a landlord (owner) for the use of property or land for a specified term and purpose. Rent charged is a commercial value based on market valuation.

Rent Model

The Rent Model is based on applying a subsidised percentage of the market value of rent for a property or land. The following matrix indicated the methodology used to calculate the appropriate fee for each Lessee by allowing for the specific circumstance of individual organisations.

Category	Description	% of market value to be charged
1	Sports and recreation groups who meet two or more of the following criteria: ▸ Hold a liquor licence, ▸ Hold a food registration certificate in order to collect revenue; ▸ Hire the facilities for functions/social events; ▸ Charge entry to the premises.	17%
2	Sports and recreation groups who conduct sporting activities for members and guests that do not meet the criteria in categories 1, 3 and 4.	14%
3	Community, sports and recreation groups that meet the following criteria: ▸ Provide a community service; AND ▸ Predominantly volunteer based; AND ▸ Receive external recurrent grant funding. OR ▸ Recurrent sponsorships.	5%
4	Community groups that meet the following criteria:	1%

Category	Description	% of market value to be charged
	▸ Provide a community service; AND ▸ Are 100% volunteer based; AND ▸ Do not receive external recurrent grant funding. OR ▸ Recurrent sponsorships.	
5	Other: Council reserves the right to enter into an agreement and negotiate the terms and conditions, annual rent and operating subsidy on a case-by-case basis.	Not specified

Rent Formula

Rent = Current Market Value x Current Market Return % x Category %

Annual Rent = Proportion of usage (seasonal)

Consumer Price Index (CPI)

An annual CPI increase will be applied on 1 July to all Council leases and licences.

Rent Review

The intervals for reviewing and adjusting rent is based on each lease or licence agreement.

Repairs, Maintenance and Works

Council will conduct an inspection of Council Property prior to the commencement date of the occupancy agreement to record the condition of the Premises.

All Tenants will be required to carry out a level of maintenance of their facility and will be required to maintain the Premises in accordance with the maintenance schedule attached to their lease or licence agreement. The maintenance schedule clearly sets out maintenance responsibility of both Council and the Tenant.

The level of maintenance responsibility outlined in the maintenance schedule will be determined by the Tenant's use of the Premises, the function of the facility, the degree of community benefit, the Tenant's ability to generate revenue and statutory restrictions.

Scope

This policy applies to all Council employees, Councillors, contractors, consultants, volunteers and other authorised personnel of Mansfield Shire Council.

Council owns and manages land across the municipality. Much of this land is used under formal arrangement by other people, groups or companies. Examples of these types of uses include:

- Commercial or residential use
- Community, sports or recreation groups that exclusively occupy a premises
- Community, sports or recreation groups that seasonally occupy a premises
- Groups that have regular non-exclusive access to Council facilities

Responsibilities

Overall responsibility for the application of this Policy is held by the Chief Executive Officer.

Managers are responsible for ensuring their staff comply with the principles, practices and any associated procedures of this policy. Management, employees, contractors and volunteers are to be familiar with, and competent in, the application of this Policy, and are accountable for the delivery of this policy within their areas of responsibility.

The Planning and Environment Department is the owner of this policy. Any reviews of this Policy must be made in consultation with the Manager Planning and Environment, and General Manager Investment and Planning.

References / Related Policies

This policy should be read in conjunction with other relevant Council policies. There are listed below:

- Township Reserve Policy
- Disposal or Sale of Council Assets Policy
- Child Safe Policy
- Community Engagement Policy
- Fair Access Policy

Gender Impact Assessment

The Property Leasing and Licensing Policy has had a Gender Impact Assessment (GIA) completed and is compliant with the obligations and objectives of the Victorian Gender Equality Act 2020.

Implementation

This Policy is effective from 16 July 2024.

Review Date

This Policy is to be reviewed by July 2028.

Authorisation to Implement Policy

Signed:_____ Witnessed: _____

Councillor Chief Executive Officer

Approval dated: 16 July 2024

Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.