

[Draft] Leasing and Licensing Policy

Purpose	<p>The Leasing and Licensing Policy (Policy) supports decision-making in relation to occupancy arrangements on Council owned or managed land or buildings in accordance with its obligations under the <i>Local Government Act 2020</i>, and where applicable, the <i>Crown Land (Reserves) Act 1978</i> which Council manages as stewards on behalf of the Darebin community.</p> <p>It ensures that a consistent, fair and transparent framework is applied when negotiating and finalising all occupancy agreements that will be linked to Council's property portfolio.</p> <p>This Policy provides direction to maximise occupancy and utilisation of Council owned and managed assets including co-location, clustering and multi-use tenancies to maximise public value and the delivery of services to support our community.</p> <p>The Policy also provides a transparent approach by ensuring consideration of community benefits is factored into decision making and that appropriate information and data is collected to demonstrate the community benefits which are achieved through the provision of community resources via various occupancy agreements.</p>
Scope	<p>This Policy applies to leases and licences for all property assets, including land and structures on Crown and freehold land, occupied by community groups, not-for-profit organisations, private individuals and commercial entities.</p> <p>This Policy does <u>not</u> apply to:</p> <ul style="list-style-type: none"> • seasonal ground allocations, • Agreements on sporting pavilions and sporting facilities • ad-hoc or casual hire of halls; and • where Council is the Tenant or Licensee. • EV charging stations • Neighbourhood battery installations
Definitions and Abbreviations	<p>ELT: Executive Leadership Team</p> <p>ESM: Essential Services Maintenance</p> <p>Government Agency: A body whose purpose is to administer a service on behalf of government, including:</p> <ol style="list-style-type: none"> a government department; a Minister; a local government; a statutory authority; a government-owned corporation; or a subsidiary of a government-owned corporation <p>Head Lease: Where Council:</p> <ol style="list-style-type: none"> leases a property owned by a third party with the intention of sub-letting part or all of the building or land to a different occupant; or leases to a Tenant and the Tenant then rents out part or all of the premises to a third party under a Sub-Lease

	<p>Sub-Lease: Where:</p> <ul style="list-style-type: none"> a) Council rents out part or all of a building or land which it does not own, but leases from a separate party under a Head Lease; or b) a Tenant leases land or a building to a third party which it rents from Council under a Head Lease. <p>Lease: Where exclusive occupation of a Council owned or managed land or building is granted to a Tenant for a fixed term in exchange for an agreed rental.</p> <p>Licence: Where non-exclusive occupation of a Council owned or managed land or building is granted to an occupant for a fixed term in exchange for an agreed licence fee</p> <p>Crown Land: Lands reserved and/or administered under the Crown Land (Reserves) Act 1978, Land Act 1958 and Forests Act 1958</p> <p>CoM: A Committee of Management appointed by the State Government to manage Crown Land.</p> <p>Tenant: An individual or organisation who is granted a Lease</p> <p>Licensee: An individual or organisation who is granted a Licence</p> <p>Service Custodian: The Council department appointed as the stakeholder and primary liaison with the Tenant/Licensee for matters not related to Lease/Licence management.</p> <p>Community Benefit Contribution: The rent/Licence fee discount offered by Council having regard to the Community Benefit offered by the Tenant/Licensee and being the difference between the market rental/Lease/Licence fee value and the actual rent charged.</p> <p>Commercial: Includes commercial and retail uses.</p>
<p>Policy Statements</p>	<p>When leasing or licensing Council owned or managed land or buildings, the approach will be clear, consistent and transparent and consistent with <i>Darebin Council Plan 2021-2025</i>, <i>Darebin 2041 Community Vision</i>, and other relevant Council policies.</p> <p>In instances where Council is appointed CoM over a parcel of land, that land will be leased in accordance with the Leasing Policy for Victorian Crown Land. A Licence of Crown Land may also be granted to a Licensee by Council as CoM, subject to approval by the responsible minister or delegate of the responsible Department.</p> <p>Objectives</p> <ul style="list-style-type: none"> • To provide a clear and transparent approach to Lease and Licence applications and provide clarity of Council's role as landlord and licensor. • To optimise the uses of Council's existing and future property portfolio, with particular focus on the encouragement of multi-use facilities. • To maximise the community benefits achieved via Council's investment in property. • To ensure rent and licence fee charges, and outgoing recoveries are managed in a fair and equitable manner. • To ensure the tenure of Council's owned or managed land or buildings are aligned with recommendations of Council's long-term strategic plans. • To ensure a fair and equitable assessment of Lease and Licence applications. • To enable the appropriate and effective management of all Council owned or managed land or buildings to maximise the useful life of these assets.

	<ul style="list-style-type: none"> • To provide for a fair and financially viable approach to the tenancy of Council owned or managed land or buildings. • To ensure compliance with relevant Legislation • To ensure Council land is leased and/or licensed for a purpose that benefits the community. • To ensure the key maintenance and capital work responsibilities are clearly defined and allocated to the appropriate authority or Lessee/Licensee. <p>Rental / Licence Fee Categories</p> <p>Each Lease or Licence application will be assessed against community benefits criteria to determine whether the Lease or Licence falls under the following categories. Once the category is determined, agreements will be developed and managed based on the information contained in Table 1</p> <ul style="list-style-type: none"> • Category A: Council Services / Community Purpose • Category B: Community Partnerships • Category C: Commercial • Category D: Government Agencies
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Lease and Licence Agreement Rental Categories: Table 1

Category	Category Name	Definition	Rent	Outgoings/utilities/legal costs	Maintenance	Rent reviews	Term of agreement (maximum term unless approved by Council)
A	Council Services / Community Purpose	<p>Fully funded Council services or 'not for profit' groups /organisations with limited or no income generating capacity/Aboriginal and Torres Strait Islander Groups</p> <p>For example, not for profit Kindergartens or childcare centres would fall into this category</p>	<p>\$104+GST annual fee paid annually in advance.</p> <p>While occupiers in this category generally don't generate revenue and would not be charged, if the occupier started to generate revenue as outlined in the Revenue Generation clause (in this Policy) during the agreement term, then the Revenue Generation clause would apply (which provides for 10% or 20% revenue sharing with Council).</p>	<p>Lease and Licence Renewals and New Agreements with an existing Tenant/Licensee: Outgoings/utilities responsibilities and liabilities for any new or renewal of Lease/Licence will be the same as the occupier's previous Agreement.</p> <p>New Agreements for new Tenants/Licensees: All outgoings/utility responsibilities and liabilities will be in line with existing agreements for a similar community use.</p> <p>Each party pays its own legal costs.</p>	<p>Lease and Licence Renewals and New Agreements with an existing Tenant/Licensee: Maintenance responsibilities and liabilities and Maintenance Schedule for any new or renewal of Lease/Licence will be the same as the occupier's previous Agreement.</p> <p>New Agreements: The Maintenance responsibilities and liabilities and the Maintenance Schedule will be in line with existing agreements for a similar community use.</p> <p>Tenant/Licensee Fixtures, Fittings & Equipment: Tenants/Licensees are responsible for maintenance, replacement and compliance of any fixtures, fittings and equipment that the occupier owns and/or have installed.</p>	Nil	<p>Crown Land</p> <ul style="list-style-type: none"> Lease 21 years Licence 3 Years <p>Council Land</p> <ul style="list-style-type: none"> Lease 5 years Licence 3 Years <p>Council may consider longer term agreements on a case-by-case basis. It will consider the objectives of this Policy and other considerations such as:</p> <ul style="list-style-type: none"> Nature of the service provided and the long-term community need for service in this location. Community benefits of continuity of service Fitness for purpose of the building and the stage of lifecycle the building is at – eg, is it to be refurbished, redeveloped or at end of life? Any Community benefits arising from proposed investment in infrastructure by the occupier.
B	Community Partnerships	<p>Community and 'not for profit' groups with income generating capacity/Council partnership organisations with income generating capacity</p>	<p>\$104 annual fee paid annually in advance.</p> <p>Where revenue is generated as outlined in the Revenue Generation clause (in this Policy), then the provisions of this clause for 10% or 20% revenue sharing with Council would apply.</p>	<p>Lease and Licence Renewals and New Agreements with an existing Tenant/Licensee: Outgoings/utilities responsibilities and liabilities for any new or renewal of Lease/Licence will be the same as the occupier's previous Agreement.</p> <p>New Agreements for new Tenants/Licensees: All outgoings/utility responsibilities and liabilities will be in line with existing</p>	<p>Lease and Licence Renewals and New Agreements with an existing Tenant/Licensee: Maintenance responsibilities and liabilities and Maintenance Schedule for any new or renewal of Lease/Licence will be the same as the occupiers previous Agreement.</p> <p>New Agreements: The Maintenance responsibilities and liabilities and the Maintenance Schedule will be in line with existing agreements for a similar type use.</p> <p>Tenant/Licensee Fixtures, Fittings & Equipment: Tenants/Licensees are responsible for maintenance, replacement and compliance of any fixtures, fittings and equipment that the occupier owns and/or have installed.</p>	Nil	<p>Note that community consultation will be undertaken when needed as part of making decisions about Council properties in line with Council's Community Engagement Policy and S115 of the LGA 2020 if proposal is greater than 10 years or a market rent exceeds \$100,000 per annum.</p> <p>.</p>

				agreements for a similar community use.		
				Each party pays its own legal costs.		
C	Commercial	Commercial entities using Council facilities for commercial gain	<p>Market Rate as determined by Council valuers + GST</p> <p>Council may consider applying a provision to receive turnover profit rental in addition to market rent.</p>	<p>All paid by the Tenant/Licensee, including Rates, taxes, building, glass and public liability insurance, levies and legal costs, subject to the Retail Leases Act</p> <p>Tenant/Licensee to pay 50% of Councils legal costs to draft and finalise the Lease</p>	<p>Council will take a commercial approach to negotiations of terms.</p> <p>Generally, all non-structural maintenance requirements are payable by the Tenant/Licensee and / or all maintenance where the building and associated infrastructure is constructed or delivered by the Tenant/Licensee</p>	Annual fixed increases determined at prevailing market rates with a Market Rent Review at end of Term or 5 years, whichever is shorter
D	Government Agencies	Government agencies occupying Council land or facilities	<p>Market Rate as determined by Council valuers + GST</p> <p><i>Where the agency has installed infrastructure or improvements on the land for the benefit of the community, then the CEO may reduce the rent having regard to the benefit provided</i></p>	<p>All paid by the Tenant/Licensee, including Rates, taxes, building, glass and public liability insurance, levies and legal costs, subject to the Retail Leases Act</p> <p>Where the Tenant leases air rights only, the Agency is to pay for all statutory and operating costs on the property (excluding the land at ground level)</p> <p>Tenant/Licensee to pay Councils legal costs to draft and finalise the Lease</p>	<p>Council will take a commercial approach to negotiations of terms.</p> <p>Generally, all non-structural maintenance requirements are payable by the Tenant/Licensee where the building and associated infrastructure is owned by Council.</p> <p>All maintenance requirements are payable by the Tenant/Licensee where the building and associated infrastructure is constructed or delivered by the Tenant/Licensee</p>	Annual fixed increases determined at prevailing market rates

Policy	<p>Standard Conditions: Leases and Licences will be prepared using Council approved standard templates prepared by Council's approved solicitors, incorporating relevant special conditions. These templates are to be reviewed and updated every 2 years or as required due to legislative changes.</p>
Rent & Community Benefit Contribution	<p>The Lease/Licence Schedule contained within a Category A and B Lease and Licence Agreement will specify:</p> <ol style="list-style-type: none"> 1. The total net Rental /Licence fee (in accordance with Table 1 of the Policy) 2. The applied Commencing Community Benefit contribution from Council 3. The Commencing Market Rent as assessed by Council's valuer or the Net Annual Value.
Revenue Generation	<p>This clause will apply where a Category A or B Tenant/Licensee is paying a peppercorn rent and derives income from any of the following activities:</p> <ol style="list-style-type: none"> a) Subletting/Sublicensing b) Hiring rooms for private use (personal or commercial uses) c) Hiring rooms to not-for-profit groups where the room hire fee is greater than the Room Hire Fee for Senior Citizen Centres as detailed in Council's Fees and Charges budget for that applicable year. (\$11/hr in 2022/23) d) Advertising revenue e) Regular income from ongoing bar or restaurant operations excepting where that operation is used primarily to deliver a funded training program rather than generating income to the occupant. f) Commercial licensing arrangements on the premises <p>For the purposes of assessing income for this clause, this does not include the occupier's fundraising events, nor community events or training that is run by not-for-profit entities.</p> <p>The rental of Lease/Licence fee will be adjusted for the following increases:</p> <ol style="list-style-type: none"> 1. Where the Council has provided the building from which the abovementioned income is derived, Council will receive additional annual income in the amount of 20% of the Tenant's or Licensee's gross revenue (excluding GST). 2. Where the Tenant or Licensee has provided the building from which the abovementioned income is derived, Council will receive additional annual income in the amount of 10% of the Tenant's or Licensee's gross revenue (excluding GST). <p>Notwithstanding anything in this provision, the additional income received by council in any one year cannot be greater than the assessed market rent for the Lease/Licence (GST exclusive) for that same period.</p> <p>The Tenant or Licensee is responsible for the Council's legal costs in approving and executing any sublease or sublicense for a commercial activity.</p>
Arrears	<p>Council may take action against a Tenant or Licensee to recover arrears where the Tenant or Licensee fails to pay any invoiced amounts for rent, licence fees and outgoings or other invoiced recoverable charges it is liable to pay under its agreement to Council within the period set by the terms and conditions of the Lease/Licence.</p> <p>Following continued period of non-payment, Council may, at its absolute discretion, issue an appropriate breach notice to the Tenant or Licensee. Where the breach is not remedied, Council may take action to terminate the Agreement.</p>

Subletting/Sublicensing	<p>All Council Leases/Licenses will contain the right to sublet/sublicense subject to Council's absolute discretion. The sublease/sublicence will need to be consistent with the permitted use, purpose and term of the head lease, and any planning controls that apply.</p> <p>In the case of Crown land, the consent of the Minister for Department of Energy, Environment and Climate Action (DEECA) will also be required.</p> <p>Tenants and Licensees must not negotiate directly with any telecommunications provider (or similar service provider) in relation to the installation of high and low impact telecommunication facilities on Council owned or controlled land and buildings.</p>
Merging or Novation	<p>The Tenant/Licensee must obtain Council's consent before merging with another community group, organisation or club. Failure to do so will result in a breach of the Lease/Licence agreement and Council will have the right to terminate the Agreement.</p>
Community Needs Assessment	<p>Prior to leasing/licensing or renewing a Lease/Licence on a Council owned/managed property or premises, Council officers will undertake a strategic assessment of community needs for the long-term community benefit that maximises the social, cultural, recreational, environmental and economic outcomes for which the property is held.</p>
Assessment Criteria	<p>All prospective Tenants/Licensees for Council property, including existing Tenants/Licensee renegotiating a Lease or Licence, are required to prepare an application that specifically outlines how the proposed use of the facilities addresses the Assessment Criteria as requested by Council.</p> <p>When considering new agreements, Council will conduct the necessary research and due diligence in line with the Assessment Criteria which will include as a minimum:</p> <ul style="list-style-type: none"> a) <i>Track Record</i> – Relevant experience, capability to deliver on contractual obligations, financial capacity, quality of services delivered to the community and Tenant/Licensee history. b) <i>Financial Offer</i> – Proposed financial investment in the asset, initiatives to honour contractual commitments and other financial offers. c) <i>Vision and Proposed Value</i> – Proposed vision and community benefit to be provided through use of the facility. That benefit can be tangible or intangible. d) <i>Community and Social Responsibility</i> – Cultural alignment with Darebin's values and elements of the proposal that achieve community, quality, environmental and sustainable objectives as outlined in the Council Plan e) <i>Condition of Offer</i> – Any specific elements of the proposal including requests for exclusive use. f) <i>Council Financial Commitment</i> – Required works or capital commitment to be invested by Council. g) <i>Length of Tenure</i> – Considerations will include service needs and community benefits and tenant willingness and capacity to support the ongoing upkeep of the land and/or premises and to contribute to capital improvement and facility enhancement over the requested lease term. h) <i>Risk Mitigation</i> – Identify, evaluate and mitigate likely actual and potential risks. i) <i>Fit for Purpose</i> – The proposed use of the property is appropriate taking into account building and planning requirements. j) <i>Property Utilisation</i> – See <i>Maximising Utilisation of Council Property</i>

Negotiations	At all times, Council retains the right to determine whether or not direct negotiations shall take place with a current tenant/licensee or applicant.
Expiration of Agreements	<p>For Category A and B Leases/Licenses that have a term longer than three-years, Council will use reasonable endeavours to give notice to an existing Tenant/Licensee eighteen months prior to the expiration date of its occupancy agreement. This notice will request the Tenant/Licensee to register its interest in seeking a new Lease/Licence for a further term.</p> <p>Notwithstanding that Council has no requirement to offer the current Tenant/Licensee an offer to renew its occupancy agreement, Council will use reasonable endeavours to provide the current Tenant/Licensee with confirmation on whether a new Lease/Licence will be offered at least prior to twelve months before the expiration date.</p>
Expression of Interest	<p>For buildings that are available for lease/licence or where Council has determined the community would be better served by an alternate use, Council will conduct an Expression of Interest process to identify occupiers. The purpose of this is to maximise community benefits and to ensure fair and transparent opportunities for organisations to access properties owned by Council on behalf of community.</p> <p>Council reserves the right to negotiate solely with an existing occupier where it is satisfied that the best community benefit can be achieved by doing so. In making this assessment, Council will consider:</p> <ul style="list-style-type: none"> • Nature of the service provided and the long-term community need for service in this location. • Community benefits of continuity of service • The utilisation of the facility is being maximised to the satisfaction of Council. • Fitness for purpose of the building and the stage of lifecycle the building is at – eg, is it at end of life, due to be refurbished or redeveloped? • Any benefits to Council or the community arising from existing of proposed works to the premises by the occupier. • If the criteria are met and Council is satisfied that community benefit can be achieved, then there is a presumption in favour of negotiating with the existing occupier.
Gambling	Council will not permit any form of gambling or betting activity in its Leased/Licensed facilities and will not enable any Lessee or Licensee to have a direct or indirect relationship with gaming or betting activities.
Maximising Utilisation of Council Property	<p>Council is committed to maximising access to and use of its facilities for the benefit of Darebin's community. Accordingly, Council will give preference to applications where the maximum utilisation of the premises can be achieved. Council welcomes applications that propose multipurpose uses, or which propose sharing of space between more than one organization.</p> <p>Community Organisations have the onus of justifying any request for exclusive use and demonstrating that this will result in good rates of use at different times of the day, week and year.</p> <p>When assessing an Expression of Interest application for exclusive use, Council will assess the following factors:</p> <ul style="list-style-type: none"> a) The applicant's service needs (sensitive work, security risks, space requirements, commercial premises)

	<p>b) The level of capital investment to be injected into the property by the applicant.</p> <p>c) The level of benefit delivered to the community.</p> <p>When assessing an Expression of Interest application for exclusive use, Council will also take into account the primary use and suitability of the property, and will not disadvantage an application if it is not appropriate for the organisation to operate every day of the week.</p> <p>Notwithstanding the Subletting/Sublicensing clause above, Council will support occupiers to sublet to aligned not-for profit organisations to optimize use of Council Property.</p> <p>Where an occupier is not proposing to utilise the whole premises at all times or where Council requires part of the premises to be set aside for Council or community use, the best ways to maximise utilisation will be explored during agreement negotiations and could include: some room availability reserved for use by Council or other not-for-profit community groups; or establishment of a license for use by another user.</p>
Insurance	<p>Council insures its assets for replacement value and public liability. Tenants and Licensees are advised to insure their fixtures, fittings and possessions as Council's insurance does not cover these.</p> <p>Tenants and Licensees are required to take out and maintain public liability insurance to a value as determined from time to time by Council. Tenants and Licensees must provide Council with evidence of this cover prior to the commencement of the Lease/License and annually thereafter.</p>
Works by the Tenant/Licensee	<p>The Tenant/Licensee must not apply for any Planning or Building Permit or carry out any alterations, improvements, additions or structural works to the Premises or the land without the Council's prior written consent.</p>
Security	<p>For commercial leases (Category C), to protect its interest against the Tenant/Licensee not fulfilling its obligations under the Lease/License, Council reserves the right to require the Tenant/Licensee to pay a security deposit or provide a bank guarantee prior to the commencement of the Lease/License Agreement. Council will assess the amount of the security deposit or bank guarantee having regard to the level of financial risk to Council; being, the term of the agreement, the extent of Tenant/Licensee works to be reinstated at Lease/License expiry and the level of capital injected into the property by Council.</p>
Reinstatement	<p>All improvements made to the land or premises by the Tenant/Licensee or approved to be made by the Tenant/Licensee will revert to Council at cessation of the Lease/License except where Council requires the Tenant/Licensee to remove such improvements and reinstate the land or premises to the same condition as prior to the Lease/License.</p>
Permitted Use	<p>Council will not, without the appropriate approvals, permit a change (which may be granted or withheld in Council's absolute discretion and subject to other conditions) in the use of the premises/land from the Permitted Use which would require a change in the planning and building permits and compliance with building regulations. Council is permitted to determine and end the Lease or Licence under these circumstances.</p>
Occupational Health & Safety	<p>The Tenant or Licensee will remain responsible for meeting the requirements of any applicable Occupational Health & Safety legislation or other lawful requirements.</p>

	<p>In the event that Council becomes aware of a substantial risk to the health and safety of a Tenant or Licensee, the general public, or any third party, then Council, after giving the Tenant/Licensee due and reasonable notice (having regard to the severity of the risk, may enter onto the Property to resolve such issues (at the cost of Council unless the issue is a default of the Licensee or Tenant) and will use reasonable endeavours to cause as little disruption as possible.</p> <p>Where the substantial risk to any party is considered by Council to be severe or life-endangering, then in addition to any right to enter the Property, Council may restrict access to part or all of the property, close the premises for a period as Council reasonably considers necessary, and/or terminate the Lease/Licence.</p>
Retail Leases Act	<p>Noting the exemptions below, the <i>Retail Leases Act 2003</i> (RLA) will apply to Leases (not Licences) where the premises are used wholly or predominantly for the sale or hire of goods by retail or the retail provision of services.</p> <p>The RLA imposes certain rights/obligations on parties to a Lease including:</p> <ul style="list-style-type: none"> - Council must provide a disclosure statement to a Tenant with estimates of the costs payable by the Tenant; - No Land Tax can be recouped from the Tenant; - The Lease must be at least 5 years in length (unless the Tenant applies to the Small Business Commissioner for a waiver certificate); - Council cannot recoup legal costs for negotiation, preparation or execution of the Lease; - Where a Lease contains an option to renew, Council must provide written notice to the Tenant of the option within certain timeframes before the term expires.
Retail Leases Act Exemption	<p>Often Council Leases which would otherwise be classed as a retail lease are granted an exemption from the RLA.</p> <p>The most common exemptions for Council Leases are on the following grounds:</p> <ul style="list-style-type: none"> - The rent is under \$10,000 per annum and the premises are used wholly or predominantly for: <ul style="list-style-type: none"> o (i) public or municipal purposes; or o (ii) charitable purposes or - The rent is under \$10,000 per annum and the premises are used wholly or predominantly by a Tenant who: <ul style="list-style-type: none"> o exists for the purposes of (and which uses the premises for) providing or promoting community, cultural, sporting, recreational or similar facilities or activities or objectives; and o applies its profits in promoting its objects; and o prohibits the payment of any dividend or other amount to its members. <p>Where an exemption applies, the Lease expressly states that the RLA does not apply based on the Tenant and/or their use of the premises.</p> <p>No exemption applies where the Lease would otherwise be a retail lease and the rent is greater than \$10,000, even where the other exemption requirements are met.</p>
Release and Indemnity	<p>The Tenant/Licensee occupies and uses the Premises and enters and uses the Land its own risk and releases Council from all claims resulting from any liability,</p>

	<p>loss, damage, expense, death or injury in connection with the Premises (except to the extent that Council is negligent).</p> <p>The Tenant/ Licensee must indemnify and hold harmless Council against all claims resulting from any liability, loss, damage, expense, death or injury in connection with the Premises and the use and occupation of the Premises by the Tenant/Licensee (except to the extent that Council is negligent).</p>
Child Safe Standards	<p>Any Tenant or Licensee classed as an Entity subject to Child Safe Standards under the Child Wellbeing and Safety Act 2005 that:</p> <ul style="list-style-type: none"> • provides any services specifically for children, or • provides any facilities specifically for use by children who are under the organisation's supervision, or • engages (whether paid or unpaid) a child as a contractor, employee or volunteer to assist the organisation in providing services or facilities or in producing or providing goods. <p>will be required to comply with the Victorian Child Safe Standards and all applicable legislation at all times. This may include an agreement to adhere to Council's Safeguarding Children Policies or the provision of documentation demonstrating compliance against the Child Safe Standards. The manner in which compliance will need to be demonstrated will be determined as a part of the assessment criteria process within this policy.</p>
Reporting	<p>Where required by Council, Tenants and Licensees in Classification A & B Tenants/Licensees must, on request or within 3 months of the end of each financial year provide Council with annual reports detailing the organisation's:</p> <ul style="list-style-type: none"> • Business plan • Audited annual financial statement. • Marketing plan • Membership details • Community usage details • Grants sought and received. • Utilisation metrics (building/facility usage information) • Community benefits and programs delivered to Darebin and its residents. • Social and environmentally sustainable outcomes and achievements • Alignment to Council Objectives • Venue occupancy data • Revenue generation details • Employee and/or volunteer numbers <p>In requesting the above information, Council will have due regard to:</p> <ul style="list-style-type: none"> • Where the creation of the requested reporting is not readily available and will cause an administrative or financial burden on the Tenant/Licensee. • Where the delivery of the requested information will cause the Tenant/Licensee to breach Privacy legislation <p>Council will liaise with Tenants/Licensees to confirm the information to be provided annually at the beginning of the agreement. This will be done to balance the need for information about community benefits with the need for straight forward reporting that is not an undue burden.</p>

Legal Documentation	<p>The Tenant/Licensee will be required to execute Council's standard Lease/Licence Agreement. This Agreement must be fully executed prior to the Tenant/Licensee being permitted access to the Premises.</p> <p>Council will determine the whether the Agreement used to formalise the agreed terms and conditions between the Parties will be a Lease or a Licence. This determination will be based upon:</p> <ol style="list-style-type: none"> 1. The exclusive nature of the proposed occupation 2. Whether the occupation and utilization of the premises is maximized 3. Whether the tenure is less than 12 months <p>Where an organisation would otherwise be granted a Licence but is seeking use of the land or building:</p> <ul style="list-style-type: none"> - only one day per week (or less); - fewer than 6 hours per week total; or - on an irregular or non-recurring basis <p>Then Council will enter into a hire arrangement with the organisation rather than a Licence.</p> <p>Council may enter into Lease or Licence agreement with Telecommunications Carriers/Operators that is not a standard Council Agreement where that Agreement is either adopted by other Councils and it is approved by Council's solicitor.</p>	
Key Responsibilities	Council	Provide approval on Leases/Licenses which: <ul style="list-style-type: none"> • have a rent or current market rental value of \$100,000 or more (and are for a term of one year or more); or • have a term of 10 years up to a maximum of 50 years; or • contain development works.
	Chief Executive Officer:	Execute Leases/Licenses on behalf of Council which require public advertising under Section 115 of the <i>Local Government Act 2020</i>
	Council Managers and General Managers	Where a Lease/Licence term is equal or less than two (2) years and is in line with the Policy, the relevant officer may execute Leases and Licences which do not require public advertising under Section 115 of the <i>Local Government Act 2020</i> and comply with the current Instrument of delegation and financial delegations.
	Leisure and Recreation	<ul style="list-style-type: none"> • Noting that this Policy does not cover recreation and leisure facilities Leases, Licences or agreements, management of Leisure Services Seasonal Agreements and major contract agreements for DISC, Bundoora & Northcote Golf Course, DISC, etc will continue to be the responsibility of Council's Recreation and Libraries Department (or any successor Department);
	Service Custodians	<ul style="list-style-type: none"> • Be the primary contact for day-to-day liaison with the Tenant/Licensee. • Obtain all required and relevant information from the prospective Tenant/Licensee to determine: <ul style="list-style-type: none"> - its financial position;

		<ul style="list-style-type: none"> - its assessment against the Community Benefit criteria; and - its Lease /Licence Category. • Where requested by Property Services, annually assess all necessary community benefit annual reports required under the Lease/Licence and report the Tenant's/Licensee's compliance in this regard to Property Services. • Redirect any requests for proposed capital works by the Tenant/licensee to Property Services and Facilities for their review and approval. • Promptly provide Property Services with any correspondence it receives from the Tenant/Licensee that is relevant to the Lease/Licence or the property. • Promptly provide Property Services with all information relevant to the Tenant/Licensee and any notices issued by an Authority which affects the property. • Annually undertake a condition inspection of the Premises with a representative of Property Services • Enable the provision of keys and collections of security bonds where necessary. • Ensure Service agreements are to be set in place to meet key performance indicators and funding grants (where applicable) • Manage current and future grant application processes. • Where requested by Property Services, assist in negotiating and remedying any breach in relation to the occupancy of the site or operating standards.
	ELT Reporting	<ul style="list-style-type: none"> • The Manager Property and Asset Strategy will provide quarterly updates to ELT on the property portfolio.
	Property Services Team:	<p>Where the property is managed by Property Services, it will:</p> <ul style="list-style-type: none"> • Raise, recover and account for rental and outgoings charges and ancillary recoveries. • Provide Stakeholders with a report notifying forthcoming critical dates. • Be the primary contact from the Tenant/Licensee on maintenance issues. • Develop the Policy, provide advice, guidance, template agreements and key Lease and Licence terms. • Attend negotiation meetings to support the relevant Service Manager (as requested). • Maintain a Lease and Licence register. • Provide advice to the relevant Service Manager regarding compliance with any existing agreements and legislation. • Leading and supporting the relevant Service Manager to negotiate terms with Tenant/Licensee in line with the Policy. • Obtain information relating to prospective Lessees or Licensees to assist with determining their eligibility to enter into a Lease or Licence agreement with Council. • Ensure legal requirements are met.

		<ul style="list-style-type: none"> • Annually request and obtain all necessary community benefit reports required under the Lease/Licence. • Manage any requests for proposed capital works, alterations or improvements to the premises by the Tenant/Licensee. • Monitor Tenant/Licensee compliance with the terms and conditions of the Lease or Licence. • Promptly notify the Stakeholder Manager where the Tenant/Licensee is non-compliant in its Lease/Licence obligations. • Provide relevant reporting from the Lease and Licence register. • Promptly provide relevant Service Manager with any compliance notice received on the property. • Write Council reports for proposed Leases and Licences. • In consultation with the Community Engagement Team, develop community consultation plans for proposed Leases and Licences as and when required. • Apply for approval in principle (grant and purpose) from DELWP if Council is considering entering into a Lease or a Licence for Crown land under the Crown Land (Reserves) Act 1978. • Commission a building condition report as at Lease/Licence commencement, at regular intervals throughout the term, and prior to the end of the Lease/Licence term. • Lead the end of Lease/Licence process. • Be responsible for recovery of outgoings and undertaking rent reviews in a timely manner. • Manage a security deposit/bank guarantee register in accordance with terms of Lease/Licence and relevant legislation. • Obtain copies of evidence of relevant insurances from the Tenant/Licensee. • Be responsible for ensuring that Lease and Licence templates are regularly reviewed and updated. • Manage any breaches by the Tenant or Licensee.
	<p>Victorian Government (DEECA)</p>	<ul style="list-style-type: none"> • Before Council can grant a Lease or Licence over Crown Land, Council must first obtain 'grant and purpose approval' from DEECA to ensure that the permitted use is not contrary to the 'reserved purpose' of the land. • All Leases and Licences on Crown Land must use the form and wording of the Crown Agreement template. All such agreements have Special Conditions tailored to the individual Tenant/Licensee. • Review and approve all Leases and Licences entered into on Crown Land. • Ensure the occupancy of Crown Land aligns with the intended purpose of the land. • Set the standard terms for all agreements on Crown Land; and

	<ul style="list-style-type: none"> Review and approve all alterations, additions and developments on Crown Land.
Organisational Values	<p>Council's organisational values enable and support the effective design and application of this Policy by guiding staff in the course of their work.</p> <div> <div> <p>We Make a Difference: We are driven by our desire to make a difference for the people we serve. Our work is purposeful and creates a positive impact for the community. We are proud to work here. Our work matters.</p> <p>We are Accountable: We are empowered to own and take responsibility for our actions. We follow through on our commitments and deliver on our promises. We make it happen.</p> <p>We are Collaborative: We are united by a common purpose to serve the community. We work together, connecting within our teams and across the organisation. We are inclusive and collaborative. We are one.</p> </div> <div> <p>We have Integrity: We act with integrity and transparency in conversations and decision-making. Through open and clear communication, we build trust. We're honest. We walk the talk.</p> <p>We show Respect: We are diverse, inclusive, respectful and caring. We encourage everyone to have a voice and we listen to each other. We recognise one another's contributions and treat people fairly. We look after each other.</p> <p>We are Creative: We are bold, courageous and innovative. We try new things, experiment and continuously improve. We are open-minded, creative and forward-thinking. We are leaders.</p> </div> </div>
Conflict of Interest	Officers managing any Lease or License transaction must sign the approved Council Confidentiality and Conflict of Interest form for Property Matters. The signed form must be provided to the Manager, Property and Asset Strategy and saved in the Objective folder for that relevant property. Officers declaring a Conflict of Interest cannot take active management in the processing of that Lease or License.
Breach of Policy	Breaches of policies are treated seriously. Any concerns about non-compliance should be reported immediately to the owner of this policy.
Implementation	This Policy will be implemented upon receiving Council endorsement.

GOVERNANCE

Parent Strategy/Plan	Property Management Framework
Related Documents	<p>This policy should be read in conjunction with Council's:</p> <ul style="list-style-type: none"> 2021-2025 Council Plan 2021-2031 10 Year Financial Plan 2022-23 Annual Budget Community Engagement Policy 2021 Breathing Space – The Darebin Open Space Strategy Toward Equality Framework – Darebin City Council's Equity, Inclusion and Human Rights Framework 2019-2029 Climate Emergency Policy 2017 Sporting Fees, Charges and Occupancy Agreement Policy (October 2016).

	These can be accessed from the intranet under Council policies and strategies.
Supporting Procedures and Guidelines	Leasing and Licensing Procedures and associated pro mapping documents are located in the Process Library on Council's intranet.
Legislations/ Regulations	<p>Local Government Act 2020</p> <p>Local Government Act 1989 Local Government (General) Regulations 2015</p> <p>Land Acquisition & Compensation Act 1986</p> <p>Retail Leases Act 2003</p> <p>Retail Leases Regulations 2003</p> <p>Crown Land (Reserves) Act 1978</p> <p>Land Act 1958</p> <p>Occupational Health and Safety Act 2004</p> <p>Residential Tenancies Act 1997</p> <p>Planning and Environment Act 1987</p> <p>Health Act 1958</p> <p>Children's Services Act 1998</p> <p>Cemeteries & Crematoria Act 2003</p> <p>Building Act 1993 & Building Regulations 2006 Building Code of Australia (BCA) - National Construction Code</p> <p>Heritage Act 1995</p> <p>Planning and Environment Act 1987</p>
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