

2.10 Lease of/License to Occupy Community Assets

Policy No	2.10	
Policy Name	Lease of/License to Occupy Community Assets	
Responsible Directorate	Finance & Administration	
Responsible Officer	Executive Manager Finance & Administration	
Council Adoption	Date: 27/03/18	Resolution No. OC/18
Reviewed/Modified	Date:	Resolution No.
Review Date	March 2020	
Legislation	<i>Local Government Act 1995</i>	
Related Policies		
Related Organisational Directives		

Objective:

- 1) Create a framework to assess lease proposals.
- 2) Provide consistency and equity in the distribution of lease agreements.
- 3) Create a reasonable financial recovery from Councils assets
- 4) Provide a rationale for fee calculations.
- 5) Enable minimum lease fees to be known by all groups seeking to enter in to an agreement with Council.
- 6) Improve Councils asset management practices.

Policy Statement:

To provide a format whereby applications for the lease of, or license to occupy, a council asset can be systematically assessed and performance managed in conjunction with the requirements of the *Local Government Act 1995 sec 3.58*.

Guidelines:

- 1) All lease proposals will be forwarded to Council for consideration and endorsement.
- 2) Fee calculations will commence at the Shire's minimum rate value.
- 3) The lease will take in to account an organisation's historical use of land and buildings recognising capital contributions and community service provided.
- 4) Tenure periods will be recommended to a maximum of 10 years and be reflective of capital contributions made.
- 5) Asset performance management will be introduced to protect and promote Council's assets.

Nature and Types of Leases

1. Community

This classification will be utilised where groups and organisations have achieved incorporated status via the Ministry of Fair Trading and are wishing to negotiate a lease on or license to occupy, Council owned land and/or buildings.

Council recognise that not-for-profit groups are generally;

- Providing a benefit to the community; and
- Not in a position to pay commercial lease rates.

Council when determining an appropriate lease agreement or license of occupy, will take the following considerations into account:

- The original purpose of the lease/ license to occupy.
- Previous audited financial statements.
- Ability to generate income to meet the minimum lease/license fee benchmark.
- Previous capital contribution including any improvements made.
- Community service (i.e. emergency, charitable institutions or other government agencies).

2. Commercial

Groups that cannot achieve incorporated status via the Ministry of Fair Trading will be regarded as commercial entities. As such an approved valuer will determine the rental rate for usage of either land and/or buildings. Properties included within the commercial category to be leased only by calling of public tender in accordance with the provisions of the Local Government Act 1995.

3. Unimproved Land Lease

Should an exclusive land lease be forwarded to Council for consideration, the recommended annual fee will be based on the minimum land rates as determined by Council.

Fee Calculations and Charges

- The determination of the annual lease fee/ license fee will be dependent on the nature of the organisation applying and the proposed use of the land or building.
- The lease fee for Community and Land Leases is calculated as the Shires minimum rate value as determined by Council plus the Gross Rental Value of the building reduced proportionately by the applicants capital contribution as represented by the following formula

Lease Fee = Shire Minimum Rate + (Gross Rental Value - % of capital contribution, including grants)

- Lessees will be responsible for all operational costs of the facility.

- Maintenance standards and responsibilities will be attached as a schedule to the lease documentation.
- Maintenance costs will be the responsibility of the Lessee with the exception of liability for structural defects or agreed repairs to be performed by Council.

Tenure Periods

The maximum lease obtainable from the Shire of Katanning is 10 years. Options of extensions will not be reciprocal, the Shire will consider offering the option at re-negotiation time, taking into account asset management performance and other relevant issues.

The tenure period of a Community lease will be recommended proportional to the capital contribution made by the lease applicant as follows:

Up to 3 years	= 0-10% of capital contribution
Up to 5 years	= 11–50% of capital contribution
Up to 10 years	= 51% and above capital contribution

Commercial and land leases are subject to negotiation.

Asset/ Licenses Performance Management

Leases will be performance managed by regular site inspections to the facility to ascertain that the maintenance program is being upheld in accordance with the lease agreement/ license to occupy with the lessor and lessee.

Exclusions

This policy is not applicable to Shire facilities including staff housing.

