

Leasing and Pricing Policy

Approval Body:	ELT
Endorsement Date:	30 August 2022
Current Version:	2.0 <i>Policy documents change from time to time and it is recommended that you consult the electronic reference copy on the Intranet to ensure that you have the current version.</i>
Compulsory Review Cycle:	4 years
Review Date:	<i>It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.</i> <i>Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of ELT.</i>
Responsible Department:	Finance and Property Services
Relevant Legislation:	Local Government Act 2020
Relevant Council Documents:	Council Plan 2021-25 Property Strategy Revenue and Rating Plan 2021-25 Child Safe Policy Child Safe Procedural Guide
ECM ID:	

1. Purpose and Intent

The purpose of this Policy is to ensure consistency in decision making and an equitable and transparent process for dealing with Council’s leased and licensed assets. The leasing function relates to leasing property to either:

- Non-commercial occupiers which provide or promote community, cultural, sporting, recreational or similar activities
- Commercial occupiers delivering services

It also ensures that properties owned by the City of Casey are offered for lease in a financially sustainable manner.

This Policy does not apply to the seasonal and hire use of sporting grounds or other facilities.

2. Scope

In relation to Council as landlord this Policy is applicable to:

- All community leases irrespective of value
- All commercial leases where Council’s primary aim is to maximise revenue
- Leases for land only where a property asset is owned by an external party

For the purposes of the Policy, occupants will be classified under the following categories:

1. Community Service Organisations

Organisations and agencies that respond to specific community issues through the delivery of services and receive ongoing funding from Government. Some examples include counselling services, disability services, support services, welfare agencies.

2. Community Membership Organisations

Tenants include recreational or community groups that service the community and are readily available to residents. These Tenants include member based fee-paying clubs, groups that charge for services and organisations that have the capacity to generate revenue from use of the Council Property or other activities consistent with the organisational purpose (but do not operate to make a commercial profit). Some examples include Sporting Clubs and Non-Government Organisations.

3. Commercial Organisations

Tenants who occupy the Council Property on a commercial basis and are charged a market rental. Examples of these Tenants are commercial organisations which have a commercial (business oriented) profit objective and Government organisations.

3. Definitions

Key term	Definition
Council	means Casey City Council, being a body corporate constituted as a municipal Council under the Local Government Act 1989
Councillors	means the individuals holding the office of a member of Casey City Council
Council officer	means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.

Council owned	A facility owned by Casey City Council, including those built on Crown land where Casey City Council is the Committee of Management
Hire Agreement	Means an agreement used for casual occupancy (e.g. casual booking for short term use, up to 12 months)
Lease Agreement	An agreement used for exclusive occupancy (the tenant has sole use of the premises).
License Agreement	An agreement used for a non-exclusive occupancy (Council may grant the use of the premises to another party for joint occupancy).
Property	Means any land, buildings and improvements owned, managed or controlled by Council including buildings constructed and owned by a Tenant on Council land.
Commercial Occupiers	An occupier who operates a business or commercial enterprise that is other than a sporting or recreational/ community group. This includes Not for Profit organisations that hire or retail goods or services.
Market Rental	The rental amount set by an independent valuer based on the current market.
Non-Commercial Occupiers	Not for profit bodies which provide or promote community, cultural, sporting, recreational or similar activities.
Replacement Value	The cost of replacement of a building. The assessment value excludes equipment, tools, furniture and the like (Insured Value).

4. Policy

Section 115 of the Local Government Act 2020 is Council's authority to lease property (as a Landlord).

Council's Property Strategy recognises the five key property functions being acquisition, leasing, use, maintenance, and disposal. The Leasing and Pricing Policy will support Council to achieve the following objective as outlined in the Property Strategy and as it applies to leasing:

Where Council is contracting a service or leasing for a community or not for profit organisation the Policy will ensure that:

- Any lease is for the purpose of an identified, approved, current service to be provided by or on behalf of Council.
- Any proposed lease is tested to confirm the leasing solution is the best option to deliver the identified service need.
- The lease can demonstrate the highest return (note: this may not necessarily be monetary but also community benefit) to Council rather than other options (i.e. disposal).
- Any lease is for a bone fide community purpose or function and to a bone fide community not for profit organisation.
- The lease is to the extent possible consistent with the terms and conditions of other comparable qualifying community leases.
- That certain minimum standards are contained in the lease such as insurances, safety including fire safety, make good and maintenance and upkeep of facilities.
- The lease can demonstrate value for money.
- The lease can demonstrate affordability.

4.1.7. Reporting Requirements

Current lease agreements require the Tenant to provide copies of their annual reports (including financial statements) and service reports where a defined community service is being provided.

4.1.8. Insurance

All occupants under a lease or licence are required to provide public liability insurance for a minimum of \$10,000,000. Council does not insure or take any responsibility for insuring contents, this is the responsibility of the tenant.

4.1.9. Emergency Management

If the City of Casey Municipal Emergency Management Plan is enacted, Council has the right to access all Council owned facilities and to enter and remain in these buildings without prior notice and for the duration of the emergency.

4.1.10. Signage

Tenants must obtain Council's permission prior to the Tenant displaying or affixing temporary or permanent signs to any part of the Premises where such signs are visible from outside the premises

4.1.11. Inspections

Council will conduct an entry inspection prior to commencement of a lease/licence agreement or as required to ensure a Tenant is complying with the terms and condition of their lease arrangement.

4.1.12. Assignment and Subletting

Tenants must not assign, sublet, or give up possession of the premises without obtaining the prior written consent of Council (which consent may be withheld or given conditionally in Council's absolute discretion). Such a breach will allow Council to terminate the tenancy. If Council consent is provided to a sub-lease of the Premises, Council may review and adjust the rental level of the head lease if the rent is more than cost recovery and any financial gain from sub-letting may in part be payable to the Council rather than the Tenant.

4.1.13. Application to Lease

Prospective Tenants must submit a Lease Application Form. Applicants may be required to pay a lease application fee of \$150 to initiate the process and which contributes to valuation costs. This fee will be subject to reimbursement at the discretion of Council.

4.1.14. Priority of Access

The Priority of Access principles as outlined in the Community Facilities Access Policy should be considered upon leasing any Council facility.

4.1.15. Council Access

Non-Commercial Tenants must allow Council to use the premises for Council sponsored functions at no cost to Council. Such use will be subject to Council giving the tenant at least 30 days' notice of its intention to use the premises and provided the Council use of the premises does not unreasonably interfere with the tenant's use. Council must rectify any damage to the premises caused by Councils use of the premises.

4.1.16. Child Safety

Council has a zero-tolerance approach to child abuse and is committed to creating and maintaining child safe and child-friendly organisation where all children are valued and protected from abuse and/or harm.

As a Child Safe organisation, Council reviews all tenants and occupants that may have direct or incidental contact with children and/or young people to ensure that all tenants and occupants are aware of child safe-guarding practices which result in children and young people being kept safe from harm and/or abuse.

Appropriate child safety compliance requirements will be included in the relevant lease or license agreements with Council.

4.2. Pricing Strategy

Council recognises that there is an overall social benefit for the community to enable the use of Council owned land and facilities by organisations which provide recreation and sporting opportunities or are key to overall community needs.

This Policy also recognises that the existence of a range of leisure and recreation facilities and services enhances the quality of life and wellbeing of our community in accordance with Council's objectives. This Policy also gives due recognition to organisations which have contributed to the capital cost of constructing the asset.

Rent for commercial tenants will be increased by a fixed percentage annually or in line with the terms and conditions of a specific lease arrangement. Rentals are also subject to a market review at the exercise of any option and/or every three to five years of the term. This will generally apply to Commercial Tenants only.

Council reserves the right to amend the rental if a tenant obtains an on-premises licence, packaged liquor licence, general licence, food premises licence or gains access to other commercial or fortuitous (but not fundraising) means of income generated during the term of the agreement. e.g. rent received from subletting, telecommunication rental, revenue received from advertising on the premises. Consent from Council is required for any such use.

4.3. Rental Fees

City of Casey will maintain two separate rental strategies for lease agreements that recognise the difference between commercial and non-commercial occupiers and extracts a commercial return from business and retail operations.

Rental Assessments from independent Valuers will determine the rental set for commercial premises. Non-commercial occupiers such as sporting clubs and recreational/community groups will attract a different rate of rental according to the specific pricing methodology.

Rental is based on the replacement value of facilities at a discounted rate in accordance with occupant categories and the service provided. This rental structure will apply to all new lease arrangements, existing leases will not be affected until expiry of the lease agreement. This Policy also gives dues recognition to organisations that have contributed to the capital costs of

constructing the asset.

For the purposes of this Policy, fees and charges for occupant categories will be:

4.3.1. Community Service Organisations

Partial cost recovery, utility outgoings and standard maintenance responsibilities.

- Community service organisations that receive funding from the City of Casey will be subject to the minimum rental fee of \$150 per annum.

4.3.2. Community Membership Organisations

Cost recovery, utility outgoings and standard maintenance responsibilities plus rates charges under the Cultural & Recreational Lands Act 1963 (where applicable).

- Liquor Licence or Food Premises Licence

Tenants that hold or obtain a Renewable Limited licence, Restricted or Full Club licence, On Premises Licence or Restaurant & Café Licence may be charged a liquor licence rental at a minimum of \$1000 per annum, fixed fee (due to the ability to generate income). This will be reviewed on an individual Organisation is.

4.3.3. Commercial Organisations

Conducting activities for the objective of deriving a profit. Market rent, utility outgoings and standardised maintenance responsibilities plus statutory outgoings.

4.4. Responsibilities

Who	What
Property Services	<ul style="list-style-type: none"> • Management and implementation of this Policy • Manage all Lease and License Agreements including the development and negotiation of new agreements • Act as the relationship manager for tenants where there is no relevant department within Council that delivers or facilitates the delivery of the service provided by the tenant • Receive and assess all new applications to lease Council owned land • Advise on appropriate rental amount for a lease
Head of Property Services or Chief Financial Officer	<ul style="list-style-type: none"> • Sign Lease or License Agreements on behalf of Council as Landlord • Sign Lease or License Agreements on behalf of Council as Tenant
Supervisors	<ul style="list-style-type: none"> • Act as the relationship manager for tenants that provide a service on behalf of Council, or where Council provides funding for that service

4.5. Breaches



Breaches will be dealt with under the provisions of the Code of Conduct.

5. Relevant Forms

N/A

6. Document History

Date approved	Change Type	Version	Next Review Date
30 August 2022	Administrative – to add in Child Safe Standards requirements	2.0	December 2023

Contact the City of Casey:

Web: casey.vic.gov.au

Email: caseycc@casey.vic.gov.au

Phone: 03 9705 5200

Post: PO Box 1000, Narre Warren VIC 3805

NRS: 133 677 (for the deaf, hearing or speech impaired)

Customer Service Centres:

Narre Warren: Bunjil Place, Patrick Northeast Drive

Cranbourne: Cranbourne Park Shopping Centre

ABN: 43 320 295 742

