

PROPERTY LEASING AND LICENCING POLICY



Directorate:	Corporate Performance
Responsible Manager:	Manager Governance, Property and Risk
Review Due:	October 2026
Adoption:	Council Resolution
Date Adopted:	24 October 2023

Acknowledgement

Central Goldfields Shire Council acknowledges and extends appreciation for the Dja Dja Wurrung People, the Traditional Owners of the land that we are on.

We pay our respects to leaders and Elders past, present and emerging for they hold the memories, the traditions, the culture and the hopes of all Dja Dja Wurrung People.

We express our gratitude in the sharing of this land, our sorrow for the personal, spiritual and cultural costs of that sharing and our hope that we may walk forward together in harmony and in the spirit of healing.

1. Purpose

The purpose of this policy is to provide the framework of the management of Council's leases and licences, over both its owned and managed assets, in a consistent, fair and transparent manner.

2. Application and Scope

This Policy applies to all Council owned and managed assets, including Crown Land where the Council is the designated Committee of Management and any other assets the Council has control over where an occupancy or usage arrangement is to be offered.

The Policy recognises that Council cannot exceed the powers conferred on it through Victorian government legislation and that Council is also guided by the advice and policies of various government agencies. Council must have Department of Energy, Environment and Climate Action (DEECA) approval for any lease or Licence of Crown Land, and this may be subject to an expression of interest (EOI), tender or advertising process to satisfy all statutory and legislative requirements.

Agreements covered by this policy include:

- Leases

- Licences – including Seasonal Agreements
- Community Asset Committee Instruments – (see the Community Asset Committee Policy and individual Instruments for further information)

3. Definitions

Agreement means the Agreement providing rights granted for occupancy of a property.

The Act means the *Local Government Act 2020*

DEECA Agreement means the Department of Energy, Environment and Climate Change or its successor.

Council Managed Land means Crown Land managed by Council as the designated Committee of Management but not owned by Council. It may also include buildings or other assets located on this land.

Council owned land means Land owned by Council in freehold. This may also include buildings or assets located on this land.

Council means the Central Goldfields Shire Council and any successor in law and also includes the Chief Executive Officer employed by the Council and all other staff employed by the Chief Executive Officer.

Lease means a contract by which one party (Landlord/Lessor) grants a right to another (Tenant/Lessee) to exclusive possession of lands, building, property or part thereof for a specified time, in return for rental payments.

Licence means a contract by which one party (Licensor) grants a contractual right to another (Licensee) to non-exclusive possession of lands, building, property or part thereof for a specified time, in return for payment of a licence fee.

Tenant means a person, occupant or entity with a lease, licence or other agreement to use Council owned or managed land and for the purposes of this policy, includes seasonal agreements.

Community Asset Committee means a Community Asset Committee established under s65 of the *Local Government Act 2020* for the purpose of managing a community asset in the municipal district.

4. POLICY

4.1. Governance

All Leases, Licences, Seasonal Agreements and Community Asset Committees will be managed by the Property and Risk unit and any issue of leases and licences will be in accordance with this Policy, any applicable legislation and the Council's Licences and Leasing procedures and regulations.

4.2. Management Principles

Council is the owner and manager of a significant number of property assets contained within its property portfolio. Well maintained and managed property assets present a significant benefit to the Community and to Council.

Council will manage this benefit by promoting:

- A consistent, equitable and transparent process
- Shared, flexible and multi-use assets as the preferred option to maximise community benefit and financial responsibility
- Social inclusion and active community participation
- Sound governance and effective administration
- Risk management.

To ensure maximum return to the Community on property owned or managed by Council:

- Council must strive to ensure its property portfolio is performing and providing the maximum return measured by varying outcomes.
- Outcomes derived from offering tenancy of the Council property portfolio must be considered in accordance with expectation of revenue and community benefit.
- Private use when a lease or license is due for renewal is not guaranteed beyond any conditions of overholding. Tenure arrangements will be structured to reflect the management principles of this policy particularly as they pertain to community benefit.

4.3. Tenant selection, Negotiations, Overholding

The assessment and selection of suitable Tenants must be in line with the Council Plan, associated Policies and Strategies, Stakeholder expectations and DEECA guidelines, for the provision of services and other benefits to the community.

The Council promotes inclusion and diverse representation within Council facilities and extends these expectations to Lease and Licence holders, and Community Asset Committees.

Selection of a tenant may be required if a Council building, or part of a building becomes vacant. There may also be a requirement to assess an existing tenant whose agreement has expired, before offering a new agreement.

Where the property is Crown land and only managed by Council, Council will be required to follow the guidelines as set down by DEECA. This may require Council to advertise the lease or undertake an Expression of Interest (EOI) process and tenant selection will then be in line with those guidelines.

The Council recognises some tenants have historical affiliations with assets they currently have agreements with however do not guarantee that current or historical tenants will be offered new agreements.

Council has several residential properties, managed by Community Asset Committees and under their Instruments of Delegations, they are required to

adhere to the requirements of the Residential Tenancies Act 1997, Residential Tenancies Amendment act 2018 & the Residential Tenancies Amendment Regulation 2021. Selection of a tenant Must be in line with the requirement of the Instrument of Delegation. If Council is required to make the final determination, it will at Councils' sole discretion and the decision will be made in-line with Council plans, policies and procedures.

Negotiation of a new agreement shall be finalised within six months of the agreement expiring.

Under certain circumstances agreements may be allowed to go into overholding. The overholding period will be at the Council's sole discretion.

4.4. Available instruments for leasing/licencing

When considering the appropriate occupancy agreement for Council owned and managed assets, including Crown Land where the Council is the designated Committee of Management and any other assets the Council has control over where an occupancy or usage arrangement is to be offered, the best instrument to use for the circumstances will be at Council's sole discretion. Council has several instruments to choose from, including:

1. Lease
2. Licence (including
3. Seasonal Use agreement
4. Council appointed Community Asset Committee

4.5. Policy and Legislation

All agreements will have regard to, and consideration of, other Council adopted Policies and Statutory requirements, applicable acts and the Local Government Act 2020 Section 115. Any Agreement will be negotiated with the Tenant and all rights and responsibilities will be included in that agreement.

A comprehensive list of Council Policies and relevant Legislation has been included at the end of this Policy for reference.

4.6. Community Asset Committees

While Community Asset Committees (CACs) cannot in their own right enter into leasing or licensing agreements with third parties, Council will work closely with CACs to ensure lease and license arrangements for facilities managed by CACs align with the CAC's purpose and aims. Leases and licenses for facilities managed by CACs will be managed by Council in line with this Policy.

4.7. Rental Categories, Rental rates and license fee

Rent or licence fees charged for premises will be set at the discretion of the Council in line with one of the following rental categories, used in establishing the rental value applied to a property:

- **Community**

A not-for-profit organisation which provides services to the Central Goldfields Shire Community or a group that has been established for the benefit of the community of the Central Goldfields Shire Council.

- **Commercial/Private**

An organisation, including incorporated body, co-operative society, partnership, sole trader or individual conducting activities for the purpose of deriving a financial return to the proprietors or shareholders, or for the sole purpose of personal use and/or gains.

The level of subsidy and market rental will be a key consideration in the assessment of rental by the Council and must be approved by the relevant Manager and/or General Manager or CEO.

Rent or licence fees will always be reviewed in accordance with the specific terms of Agreements.

4.8. Insurance, Maintenance, and Reporting

Insurance

All tenants are required to hold current Public Liability Insurance to a value determined by Council as detailed in their agreement, except where the Tenancy is a Residential Tenancy. A copy of the Public Liability Insurance is to be provided to Council on an annual basis as evidence of cover.

All tenants must hold current insurance for contents or equipment owned or controlled by them at the Council property, except where the tenancy is a Residential tenancy. Council will determine its requirements regarding insurance, maintenance and reporting requirements in leases and licences according to Council's Risk Framework.

Maintenance

Tenants of Council land and/or buildings are required to maintain the subject Property in accordance with the Maintenance Schedule attached to their agreement.

The agreement schedule will specify the responsibilities of Council and the tenant/s regarding maintenance of land and/or buildings. Council reserves the right to negotiate maintenance responsibilities and costs.

The Tenants will be responsible for keeping the land and/or buildings clean, in good condition and perform incidental maintenance not requiring a skilled tradesperson, except where the tenancy is a residential tenancy.

Reporting and Inspections

Tenants may be required to provide various reports as a condition of their Agreement, which may include but is not limited to;

- annual report (including office bearers, financial statements);
- a list of hirers that used the premises in the previous financial year;
- business plan or strategy.

All tenants will be required to complete an annual building assessment/ condition report of the premises on the relevant form provided by Council.

Council will undertake Essential Safety Measures (ESM) checks on all premises in accordance with the Building Regulations 2018 and reserves the right to inspect a premises annually or more frequently as required, in consultation with the Tenants.

5. Policy is not a standalone Document

This policy should be read in conjunction with the Leasing and Licencing Guidelines documents.

6. Review

This Policy must be reviewed a minimum of once every 4 years.

7. Human Rights Statement

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act (2006). Central Goldfields Shire Council is committed to consultation and cooperation between management and employees.

8. Relevant Legislation and Council Policies

Legislation

- *Crown Land (Reserves) Act 1978*
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Land Act 1958*
- *Residential Tenancies Act 1997, Residential Tenancies Amendment Act 2018 and Residential Tenancies Amendment Regulations 2021*
- *Retail Leases Act 2003*
- *Leasing Policy for Victorian Crown Land 2023*

Associated Documents

- Risk Management Policy
- Asset Management Policy and Plan
- Approved Master Plans
- Capital Works Program
- Council Plan 2023 - 2025
- Community Engagement Policy
- Standard Council Lease and Licence Templates

- Standard DEECA Lease and Licence Templates
- Child Safe Standards