



Leasing and Licensing Policy

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1. Purpose

To establish the principles to be applied for the leasing and licensing of Council-owned land or Council-managed land to maximise community benefit for residents of East Gippsland Shire.

2. Scope

This Policy applies to all Leases, Licences, Management Agreements and Private Use agreements issued by Council.

3. Context

The leasing and licensing of Council-owned land is bound by legislation, primarily found in section 115 the *Local Government Act 2020* (LGA) which specifies Council's power to lease and license land.

Management Agreements for occupation of Council-owned land have been developed to apply a consistent approach to Council's property management.

For the leasing and licensing of Council-managed land where Council is the appointed Committee of Management, Council is bound by legislation, primarily the *Crown Land (Reserves) Act 1978*.

4. Statement

This Policy contains the principles that provide consistency for the leasing and licensing of Council-owned land and Council-managed land. All Leases, Licences and Management Agreements must:

1. Maximise community benefit.
2. Endeavour to share community facilities where possible with like users.
3. Be developed and approved through an accountable and transparent allocation process.
4. Be subject to appropriate terms and conditions for the service provided.
5. Be subject to consistent documentation for similar uses and occupation types across the Shire.
6. Be simple to administer.
7. Recover reasonable costs for providing the service to community.

5. Agreements

There are currently four agreement types that Council manages:

5.1 Community (non-Commercial) Agreements

Council recognises that community facilities make a fundamental contribution to our community, enabling a diverse range of social, sporting and recreational connection opportunities. They provide suitable spaces to deliver services, programs and activities to meet the needs of the community and build community capacity.

For this reason, Council will provide support to community facilities where:

- Council owns or controls the land
- Council owns or controls other assets on the land
- Council has specific legal agreements
- Facilities are under control of a Committee of Management appointed under the *Crown Land Reserves Act 1978*.

Where Council issues Leases or Licences over land and buildings for social, sporting or recreation purposes, rental shall be based on a community use rent and terms shall be of a length to justify investment in facilities required for that purpose.

It is acknowledged that community agreements may permit some commercial activities where the use will:

- be limited and not identified as the primary activity on the property;
- not conflict or diminish any community activities undertaken on the property;
- contribute to the economic and environmental sustainability of the property and the community through reinvestment of all income; and
- be aligned with the Council Plan and approved Master Plan (if applicable).

Council encourages the shared use of all community facilities to maximise whole community benefit, this will be strongly encouraged with like user groups, and this will form a condition of the agreement.

Where tenants do not allow shared use with like users groups a rental increase may be applied.

Where a Tenant has a community use agreement and undertakes commercial activity as well, the commercially used area will be governed by a commercial agreement.

5.2 Commercial Agreements

A commercial agreement is an occupation that by its nature could reasonably be expected to generate a profit and be retained by the tenant.

Commercial Leases and Licences should be in the best interest of the community and provide the best result (both financial and non-financial) for Council and the community.

A commercial property agreement:

- will be determined by an expression of interest process or direct negotiations;
- will deliver market rental returns;
- will be administered in line with industry standards and commercial practices;
- will contain strategies or plans for obtaining commercial outcomes; and
- may require capital investment.

Where Council leases or licences land and buildings for commercial purposes, it shall be at a fair market price and may be determined by Council or based on the opinion of an independent valuer with regular rental reviews.

Lease periods can be:

- up to 50 years in accordance with the *Local Government Act 2020*; or
- up to 21 years in accordance with the *Crown Land (Reserves) Act 1978*.

The commercial rent may be reduced to the community use rental where it can be clearly demonstrated when a community organisation operates as a commercial business and:

- revenue raised is used for the delivery of its core functions and does it not operate for profit or personal gain; and
- the majority of its revenue put back into the community; and
- aligns with its constitution or terms of reference.

5.3 Management Agreements

A Management Agreement is an agreement between Council and an incorporated committee that is undertaking the care and management of the land and buildings on site and coordinates the users at that site on behalf of Council. A Management Agreement documents the rights and responsibilities of all parties to the agreement.

5.4 Private Use Agreement

A Lease or Licence for private use is when Council-owned Land or Council-managed land is used to meet household or private use, predominantly private jetties on council owned land.

6. Traditional Owners

This policy encourages Council to work with Traditional Custodians to support the development of healthy communities. We aim to build relationships based on self-determination and improved social and economic outcomes. We consider present and future investment rights of all communities under the *Traditional Owner Settlement Act 2010 (Vic)*.

7. Roles and Responsibilities

The following teams or positions have direct and/or supporting responsibilities associated with this Policy:

Position	Roles and Responsibilities
Chief Executive Officer	Overall organisational compliance with this Leasing and Licensing Policy.
General Manager Business Excellence	Overall responsibility for the Leasing and Licensing Policy including implementation and compliance.
Manager Governance and Regulatory Services	Providing strategic oversight of Council's property leasing and licencing portfolio, formulation of solutions to complex occupancy issues, providing recommendations to the Chief Executive Officer, General Manager Business Excellence, relevant General Manager and Council in accordance with this Policy.
Property Coordinator	Provide advice to Manager Governance and General Managers on Council's property management. Manage and coordinate Council's property portfolio in accordance with this Policy.
Property Officers	Support and administer Council's property portfolio in accordance with this Policy.

8. Definitions

Term	Meaning
Commercial	An occupation that by its nature, could reasonably be expected to generate a profit.
Community benefit	Social, environmental and economic benefits that accrue to the wider Community.
Council-managed land	Land managed, but not owned by Council, for example, Crown land over which Council is the appointed Committee of Management. This may include buildings located on the land, fixtures attached to the land and Private Jetties constructed by an adjoining landowner.
Council-owned land	Land owned by Council. May include buildings located on the land, fixtures attached to the land and Private Jetties constructed by an adjoining landowner.
Lease	An agreement for the use of land and/or buildings that grants exclusive rights of occupation to a Tenant.
Licence	An agreement for the use of the land and/or building that does not grant exclusive rights of occupation to a Tenant.
Management Agreement	A Management Agreement is an agreement between Council and an incorporated committee that is undertaking the care and management of the land and buildings on site and coordinates the users at that site on behalf of Council. A Management Agreement documents the rights and responsibilities of all parties to the agreement.

Term	Meaning
Private use agreement	A Lease or Licence for private use is when Council-owned Land or Council-managed land is used to meet household or private use, predominantly private jetties on council owned land.
Private Jetties	Jetties owned by a Tenant who owns a residence or holds a current residential building permit within a reasonable distance (generally two kilometres) of the jetty site. Private Jetties may be on Council-owned land or Council-managed land.
Valuation	A valuation undertaken by a person registered to do so under the <i>Valuation of Land Act 1960</i> or the Valuer General Victoria.

9. Human Rights

Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006* (the Charter). This Policy has been assessed as compliant with the obligations and objectives of the Charter.

10. Gender Equality

This Policy has considered the *Gender Equality Act 2020* in its preparation and a Gender Impact Assessment (GIA) has been prepared.

11. Risk Reference

This Policy is implemented as a control to mitigate risks in the following categories:

Risk Category	✓	Risk Category	✓
Environmental	✓	Technology and Information Management	
Health and Safety	✓	Assets, Facilities and Security	✓
Project, Product and Service Delivery		Human Resources	
Financial and Economic	✓	Procurement	
Leadership and Political Awareness		Corporate Governance and Compliance	✓
Reputation and Corporate Image	✓	Legal	✓

12. References and Supporting Documents

12.1 Applicable Legislation:

- *Aboriginal Heritage Act 2006*
- *Crown Land Reserves Act 1978*
- *Environment Protection Act 2020*
- *Land Act 1958*
- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulations 2020*
- *Native Title Act 1993*
- *Marine and Coastal Act 2018*
- *Occupational Health and Safety Act 2004*
- *Personal Property Securities Act 2009 (Cth)*
- *Planning and Environment Act 1987*
- *Retail Leases Act 2003*
- *Retail Leases Regulations 2023*
- *Telecommunications Act 1997 (Cth)*
- *Traditional Owner Settlement Act 2010*
- *Valuation of Land Act 1960*
- *Worker Screening Act 2020*

12.2 Applicable Policy and Procedure:

- Annual Allocations Policy
- Community Engagement Policy
- Land Leasing and Licensing Procedure
- Procurement Policy

12.3 Supporting Documents:

- Approved master plans published on Council's website
- Council's Annual Budget
- Council Plan
- S7 Instrument of Sub-Delegation, Chief Executive Officer to Staff
- *Leasing policy for Victorian Crown Land 2023* (including any amendment or replacement document) [Leasing policy for Victorian Crown Land 2023 \(forestsandreserves.vic.gov.au\)](https://forestsandreserves.vic.gov.au)

13. Review and Revision History

Version Number	Date Approved	Approved By	Review Summary
1	10/06/2025	Council	New Policy

13.1 Administrative Updates

Minor amendments to this document may be required from time to time. Where amendments do not materially alter the intent of a document, they will be made administratively and approved by the Document Owner.