

Council Owned and Managed Land Occupancy Policy

Preamble

This Policy provides the guiding principles for the leasing, licensing and delegated committees for the occupation of Council owned and managed buildings and land (including crown land). The Policy will ensure tenure arrangements adhere to legislative requirements and clarity of roles and responsibilities in relation to preparation and management of leases and licences.

Policy objectives

The objectives of the Policy are as follows:

- Providing transparent, consistent, and impartial tenure arrangements when leasing, licencing and delegating committees of management over Council owned and managed buildings and land.
- To be open to public community scrutiny and at the same time maintaining appropriate levels of confidentiality
- To ensure compliance with legislative provisions
- Optimising occupancy of Council owned and managed buildings and land, by encouraging co-location of services with similar synergies.
- Ensuring that Council owned and managed buildings and land are appropriately maintained and developed
- Optimising Councils return by clarifying rental structure
- Developing standard lease and licence documents in line with industry standards and legislation, including maintenance schedules.
- Clarification of roles and responsibilities

Legislative provisions

Local Government Act 1989 and Regulations

Crown Land Leasing Policy Victoria 2010

Retail Leases Act 2003 and Regulations

Residential Tenancies Act 1997

Planning and Environment Act 1997

Crown Land (Reserves) Act 1978

Coastal Management Act 1995

Land Act 1958

Policy statement

This Policy will contribute to Council's Plan by providing appropriate guidelines for leasing, licencing and delegation of committees of management for Council owned and managed buildings and land.

Bass Coast Shire Council has a diverse property portfolio. The majority of leases, licences and delegated committees are with community users, with a small percentage to commercial users.

By applying the objectives of this Policy, Council has the opportunity to encourage efficiencies with its community spaces as well as negotiating improved rental returns for commercial users.

Currently Council's existing tenure arrangements can be difficult to interpret and enforce and many have long terms. This Policy provides Council with an opportunity to improve the structure of its tenure agreements, to capture up-to-date legislation and industry trends, to standardise terms and conditions for ease of negotiations and address requests in a timely manner. This can be addressed with the development of standard leases, licences and the introduction of Maintenance Schedules to clearly identify the obligations of each party. The Maintenance Schedules are to be applied to the delegated committees of management of Council owned and managed land. Service Level Agreements will separately be prepared by the Service Manager and address activities associated with the permitted use, but not so as to conflict with the Lease or Licence documentation and will be an attachment to the Lease / Licence.

Actions to be addressed by this Policy are:

- Working closely with Service Managers to encourage co-location of similar services to utilisation of Council's facilities and ultimately the disposal of surplus assets and /or opportunity to invest in new facilities
- Introduction of standard leases and licenses. Council managed crown land is subject to DEPI's standard lease and licences that can be obtained via DEPI's website.
- Introduction of Categories of Users
- Introduction of a fee structure
- Introduction of a Maintenance Schedule
- Clarification of Roles and Responsibilities

If a Category or rental amount for a particular tenant falls outside this policy, a report to Council will be prepared for its determination.

Additional Reference documents

1. Copy of Standard Lease and Licence for Council owned land (minor amendments will occur with legislative updates and permitted use)
2. Categories of Users
3. Fee Structure
4. Maintenance Schedule (amendments may be required with permitted use or commercial lease)
5. Clarification of Roles and Responsibilities

Definitions

In this Policy and Standard Lease and Licence documents, the following definitions apply:

Council	Bass Coast Shire Council or its predecessors
CPI	The Consumer Price Index
Crown Land	Land that is controlled by the State of Victoria for the benefit of the Victorian Community
DEPI	The Department of Environment and Primary Industries
Freehold land	When Council is the registered proprietor, or freehold land vested with Council for a purpose
GST	Federal Government Tax on rental
Land Manager	Person within Council nominated to respond as Land Manager over Crown Land where Council is the appointed committee of management.
Lease	Exclusive possession of the building or land for a fixed term, in return for rental payment.
LGA	Local Government Act 1989 (Vic)
Licence	A Person or group permitted to occupy part of the building or land on particular conditions.
Market Rent	Refers to either: <ol style="list-style-type: none">a) The highest conforming bid of a competitive tender; orb) The highest and best value which might be obtained given the limitations and constraints of the building or land and as determined by a certified valuer.
Minister	The Minister for Environment and Climate Change or equivalent.
RLA	<i>Retail Leases Act 2003</i> (Vic) including amendments
Tenant	An authorised person or incorporated body that has entered into or proposes to enter into a lease or licence with Council for the use of a Council owned building or land.

Review process

This Policy is to be reviewed within four years of it coming into operation.

Accountability process

The Chief Executive Officer and Directors in conjunction with the Managers of all relevant Departments will be responsible for ensuring the implementation and review of this policy.

Approval

Approved by Council at its meeting held on

Date 17/09/2014

Signed by the Mayor Cr Neil Rankine

A handwritten signature in blue ink, appearing to be 'N Rankine', with a long horizontal line extending to the right.

Date 30/09/2014