

## COMMERCIAL LEASES COUNCIL POLICY

### POLICY STATEMENT

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Council may provide leases/licences to commercial entities to undertake commercial activities.

### POLICY SCOPE

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This policy applies to business owners in the City of Bunbury. The Policy provides the procedure of providing leases/licences to commercial entities to undertake commercial activities during negotiations for the granting of a new lease/licence or when Expressions of Interest (EOI) are sought for commercial tenants on vacant premises.

### POLICY DETAILS

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Any lease/licence agreement between the City of Bunbury and a commercial entity will be established using commercial rates and subject to valuations obtained.

- Whenever premises become available, a valuation will be obtained and Expressions of Interest will be sought for commercial tenants.
- Where there is an existing tenant at the premises and the lease/licence has expired with no further options, a valuation will be obtained and they will be given the first option of renewal for a new lease/licence.
- Commercial leases/licences will be subject to appropriate conditions as imposed by resolution of Council.
- As determined in the annual Schedule of Fees and Charges, Commercial Lease and Licence fees will be based on a market valuation in accordance with s3.58 of *the Local Government Act 1995* and the CEO has the discretion to vary or suspend any Commercial Licence fees payable subject to the consideration of market conditions.

### POLICY PROCEDURE

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Prior to leasing or licensing any land or property, an independent Market Rental Valuation (“the Valuation”) will be obtained by the City.

- 1. Should the current tenant wish to be granted a new lease, they will be given first option for renewal, as follows:**

*Section 13 of the Commercial Tenancy (Retail Shops) Act 1985 -Notices as to renewal of leases*

- 1.1 Where a retail shop lease does not provide, whether directly or by operation of section 13, an option or a further option of renewal of the lease and the tenant, within 12 months before the expiry of the lease, in writing requests from the landlord a statement of the intentions of the landlord as to renewal or further renewal of the lease, the landlord shall within 30 days after receiving the request —

- (a) give a statement in writing of his intentions to the tenant; and
  - (b) subject to subsection (2), where he intends to offer a renewal or further renewal of the lease, specify in that statement the terms and conditions proposed.
- 1.2 A landlord who gives a statement under subsection (1) is not required to specify the rent proposed to be charged until 3 months before the expiry of the lease.
- 1.3 Where there is a period after the expiry of the 30 days referred to in subsection (1) during which the landlord fails to comply with subsection (1)(a) and (b) or (2), the expiry of the term of the lease is deemed to be extended by a period equal to that period of noncompliance.
- 1.4 A landlord is bound by an offer made by him under subsection (1) to renew or further renew the lease if the tenant, within 30 days after receiving the offer, gives to the landlord notice in writing of acceptance of the offer on the terms and conditions proposed by the landlord.
- 1.5 A proposal as to rent to be charged which is submitted to the tenant after he has been given a statement under subsection (1) is to be taken to be an offer for the purposes of subsection (4).
- 2. Should the premises be vacant, an Expression of Interest will be sought for commercial tenants, comprising:**
- 2.1 An Expression of Interest prepared for distribution through local newspaper, City's internet and public notices over a period of four weeks;
  - 2.2 Agenda Item to Council for analysis of submissions;
  - 2.3 Upon a decision being made by Council of a successful applicant, advertising in accordance with section 3.58 of *the Local Government Act 1995 for a period of two weeks*.

A commercial tenant may have the right to at least five (5) years tenancy in accordance with the *Commercial Tenancy (Retail Shops) Agreements Act 1985*.

Annual increases to reflect the movement in the Consumer Price Index and Market Rental Reviews will be provided for in the Lease/Licence Agreement, as required.

If the Lessee is required to give a Bank Guarantee then the Lessee must provide to the City an unconditional and irrevocable written undertaking:

- (a) issued by an ADI or a financial organisation approved by the City; and
- (b) for the amount specified in the Security Notice,

in favour of and in a form and on terms approved by the City, by which the Guarantor Bank undertakes to pay to the City every amount which the Lessee becomes liable to pay to the City under the Lease.

Under the *Commercial Tenancy (Retail Shops) Agreements Act 1985* the City of Bunbury is to bear all costs associated with the document preparation and any other costs associated with the preparation of the lease/license.

## COMPLIANCE REQUIREMENTS

### LEGISLATION

- *Local Government Act 1995*
- *Land Administration Act 1997*
- *Commercial Tenancy (Retail Shops) Agreements Act 1985*

### INDUSTRY

### ORGANISATIONAL

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DOC/455614[v2]	Council Decision 049/20 17 March 2020	Consolidate policies and corporate guidelines in accordance with revised Policy Framework. Convert CG to Management Policies			
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