

COMMERCIAL LEASES AND LICENCES COUNCIL POLICY

POLICY STATEMENT

The City of Bunbury owns various freehold Properties and manages Crown land by way of Management Order and may elect to enter into Leases or Licences to third parties. The City of Bunbury seeks to ensure that all Lessees and Licensees have an understanding of the City's Policy in relation to such Leases and Licences.

This Policy is developed in accordance with the *Local Government Act 1995* and all applicable laws and regulations.

POLICY SCOPE

To provide principles to ensure that all requests to Lease or Licence City of Bunbury owned, managed or controlled Property, including Crown Land are dealt with in a fair, equitable, and where possible, consistent manner.

To ensure compliance with s3.58 of the *Local Government Act 1995* and any other relevant laws, and consistency with the City of Bunbury policies.

POLICY DETAILS

DEFINITIONS

Term	Meaning
City	The City of Bunbury.
Crown Land	Land owned by the Crown and vested in the City of Bunbury through the granting of a Management Order by the relevant State department.
CT (Retail Shops) Act	Commercial Tenancy (Retail Shops) Agreements Act 1985.
Lease	A legally binding agreement by which one party (Lessor) in consideration of rent, grants exclusive use and possession of real Property to a third party for a specified purpose and term.
Licence	Permits a person to occupy Property on particular conditions but does not permit exclusive possession.
Management Order	An authorisation provided by the Crown giving the City of Bunbury both the power and authority to manage a parcel of land on behalf of the Crown.
Policy	This City of Bunbury Council Policy titled "Commercial Leases and Licences Policy".
Property	The Property that is subject to or intended to be subject to a Lease or Licence.
Retail Shop Lease	A legally binding agreement granted in accordance with the CT (Retail Shops) Act.

TERM

The maximum tenure of a Lease or Licence granted by the City on Crown Land will be in accordance with the terms of the relevant Management Order.

The maximum tenure of a Lease or Licence granted by the City on freehold land will be at the discretion of the City.

COMMERICAL LEASES

Rent for Commercial Leases or Licences will be determined by Market Valuation.

The cost of obtaining a market valuation (provided by a licensed Property Valuer) for the initial Lease or Licence rental assessment and during the term of the Lease or Licence will be paid by the Lessee at the discretion of the City.

Rent reviews will be conducted on the anniversary date of the Lease or License by a Market Valuation at intervals as specified in the Lease or Licence and by the Consumer Price Indexation, All Groups (Perth) for the previous quarter for intervening years.

The Lessee or Directors may be required to provide a personal guarantee if the Lease is through a company or trust.

The Lessee may be required to provide a bank guarantee or security bond at the discretion of the City (unless otherwise prohibited by the CT (Retail Shops) Act).

The Lessee is required to maintain and provide the City with a Certificate of Currency demonstrating General Liability coverage of at least \$20 million.

CT (RETAIL SHOPS) ACT LEASES

If the CT (Retail Shops) Act applies, Leases will be prepared in accordance with the CT Act.

Subject to the CT (Retail Shops) Act, a minimum term of 5 years will be granted. The term can be a combination of initial term and options totalling 5 years.

EXPIRY OF TERM AND EXPRESSIONS OF INTEREST

Unless prohibited by the CT (Retail Shops) Act, at least 6 months prior to the expiry of a Lease term (in circumstances where there are no further options available under the Lease or Licence), the City will at the City's discretion, determine whether the City will enter into a further new Lease or Licence.

In circumstances where the Lease or Licence term has expired and the City has indicated that no further Lease or Licence will be entered into, the City will conduct an Expression of Interest (EOI) process to determine a suitable Lessee or Licensee for the City Property.

The decision to conduct an EOI process in respect of City Property will be at the discretion of the City. At the completion of the EOI process the City will enter into a new agreement with the preferred proposed Lessee.

PLANNING, CONSENT AND APPROVALS

Where the City manages Crown Land, the grant of the Lease or Licence and each renewal, if any, will be conditional on Minister for Lands approval.

COSTS

Lessee or Licensee must pay the City for all reasonable costs associated with the development and implementation of the Lease or Licence (unless prohibited by the C T (Retail Shops) Act). These costs may include legal fees, document preparation fees and advertising (in accordance with the City's Fees and Charges), valuation/surveyor fees and Landgate registration fees.

REGISTRATION

Crown Land

The City requires registration of Leases over Crown Land –

- a) where a Lease is required to be registered pursuant to the terms of a Management Order in respect of the Crown Land; or
- b) in circumstances where the term of the Lease over Crown Land is greater than 12 months.

Freehold

The City requires that all Leases with a term of greater than 5 years must be registered with Landgate.

COMPLIANCE REQUIREMENTS

LEGISLATION

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

Document Control					
Document Responsibilities:					
Owner:	Director Sustainable Development	Owner Business Unit:	Economic Growth		
Reviewer:	Manager Economic Growth	Decision Maker:	Council		
Document Management:					
Adoption Details	Res 12/15 20 January 2015	Review Frequency:	biennial	Next Due:	2027
Review Version	Decision Reference:	Synopsis:			
DOC/455614[v4]	Council Decision 018/25 25 February 2025	Reviewed with minor changes.			
DOC/455614[v3]	Council Decision 290/22 20 December 2022	Policy reviewed with significant changes including name change to <i>Commercial Leases and Licences Council Policy</i> from <i>Commercial Leases Council Policy</i> .			
DOC/455614[v2]	Council Decision 114/21 29 June 2021	Policy Reviewed with no changes			
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			
DOC/455614[v1]		Converted from Mydocs to CM9			
CP-027048 v 2.0	Res 052/19 19 March 2019	Minor changes			
CP-027048 v 1.0	Res 104/17 21 March 2017				
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