

Policy Intent

The purpose of this Policy is to establish a consistent framework for the management of leases and licences relating to Shire-owned or managed land and buildings that;

- (a) ensures equitable and consistent treatment of tenants across all lease categories;
- (b) provides a category-based leasing structure that guides rent, outgoings and cost allocations;
- (c) defines the respective financial, operational and asset management responsibilities of the tenants and the Shire;
- (d) supports community organisations while ensuring financial sustainability and appropriate cost recovery;
- (e) protects and maintains Shire assets through the appropriate allocation of maintenance, servicing and lifecycle responsibilities;
- (f) recognises the social, cultural, sporting and community benefits delivered through the occupancy of Shire facilities; and
- (g) promotes fair, transparent and accountable decision-making in the administration of leasing arrangements.

Scope

This Policy applies to all leases and licences (including subleases) for land and buildings owned, managed or controlled by the Shire of Murray (**Shire**).

This Policy does not apply to:

- casual or short-term hire arrangements;
- the disposal of property where the other exemptions may apply as prescribed by the *Local Government (Functions and General) Regulations 1996*;
- management agreements, user agreements and memorandums of understanding; or
- strategic assets, precincts or facilities that Council determines require alternative leasing, licensing or occupancy arrangements, including the Food Innovation Precinct Western Australia (**FIPWA**).

Policy Statement

The Shire adopts a category-based leasing framework that establishes clear responsibilities for tenants (Lessees) and the Shire (Lessor) in relation to rent, outgoings, maintenance, insurance and asset management. The framework recognises the differing capacities and contributions of community and commercial organisations and ensures leasing decisions are transparent, equitable and aligned with the Shire's strategic objectives.

1. Pre-Leasing Requirements

Prior to the granting of a lease, a prospective tenant must:

- (a) submit an Expression of Interest (**EOI**), where required;

- (b) provide details of organisational structure, financial capacity and intended use;
- (c) demonstrate alignment with the Shire's strategic objectives and community priorities;
- (d) agree that the lease classification will be determined in accordance with the Shire's category framework;
- (e) acknowledge that rent and cost responsibilities will be applied based on the assigned category.

Where multiple applications are received, the Shire may assess proposals based on community benefit, organisational capacity, and overall value to the community.

2. Tenant Classification Framework

- (a) Tenants will be assigned to one of four categories based on:
 - the nature of the organisation;
 - the type and scale of facility occupied;
 - the intended use of the land or buildings; and
 - whether the organisation operates on a community, sporting, recreational, commercial or government basis

Shire Officers will assess category allocation using an assessment matrix. The Category will determine the responsibilities for both the tenant and the Shire.

- (b) Tenants that meet the Category 1 – 3 criteria must also meet the disposition exemptions of Regulation 30(2)(b) of the *Local Government (Functions and General) Regulations 1996* (**Regulations**) being that the group and/or organisation must be of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.
- (c) Any lease with a Category 4 group and/or organisation must be undertaken in accordance with section 3.58 of the *Local Government Act 1995* (**Act**) including a market rent valuation and public notice of disposition inviting and considering submissions prior to entering into a lease.
- (d) The Shire may review and reclassify a tenant's category at the lease renewal, rent review, or where organisational circumstances materially change, such as:
 - incorporation status;
 - membership profile or organisation structure;
 - acquisition of liquor licence;
 - commencement of commercial operations;
 - changes to service delivery model;
 - by agreement.

2.1. Rent Application

- (a) Categories 1, 2 and 3: Rent is determined through the Shire's annual Fees and Charges Schedule and may be adjusted annually in accordance with the March Perth Consumer Price Index (CPI) or other Council-approved methodology.
- (b) Category 4: Market rent will be determined by an independent licensed valuer in accordance with the Act.

2.2. Building Asset Servicing and Maintenance

Building asset servicing and maintenance responsibilities are allocated according to the lease category to ensure an appropriate balance between community support, asset protection and cost recovery.

The Shire will assume responsibility for building and asset servicing and maintenance for Category 1 and 2. Category 3 tenants will be responsible for building asset servicing and maintenance.

2.3. Utilities and Other Outgoings

Tenants in all categories are responsible for their utilities and other outgoing costs. Where utilities and services are shared amongst tenants the Shire has discretion to amend the outgoing percentage payable by each tenant.

2.4. Insurance

Tenants in all categories must maintain public liability insurance for not less than \$20 million at its costs.

Building Insurance for Categories 1 and 2 will be undertaken by the Shire at its costs. For Categories 3 and 4 building insurance will be held by the Shire and on charged to the tenant.

3. Licence Agreements

A Licence may be granted by the Shire where an arrangement for the use of Facilities:

- (a) does not fall within the characteristics of a Lease, such as where access is non-exclusive or is seasonal; and
- (b) is not covered under the Shire's facility hire and use process.

Lease and Licence arrangements may overlap from time to time:

- (a) Portions of a facility may be under a Lease (for exclusive areas) and other portions may be under a Licence (for non-exclusive areas); and
- (b) The Licence may share characteristics of a Lease, such as in relation to the payment of a Licence fee (similar to rent) and the allocation of maintenance responsibilities to the Licence (as Tenant).
- (c) Where the organisation meets the criteria for a Category, the rent, outgoings, insurance and maintenance requirements will align as far as practical to the Category requirements.

4. Authorisation

The Chief Executive Officer is authorised to negotiate, administer and renew lease and licence

agreements in accordance with delegated authority under the *Local Government Act 1995*, subject to any statutory, Ministerial or Council approval requirements.

Legislation

- *Local Government Act 1995*
- *Local Government (Functions and General) Regulations 1996*
- *Land Administration Act 1997*
- *Property Law Act 1969*

Related Documents

Appendix 1 – Category Assignment

Policy Detail		
Responsible Directorate	Corporate Services	
Responsible Department	Assets and Property	
Responsible Officer	Manager Assets and Property	
Next Policy Review	2029 (3-yearly)	
Council Adoption	Date / Resolution	27 August 2009 (OCM09/155)
Amendment Record	Date / Resolution	24 June 2010 (OCM10/128)
		30 June 2011 (OCM11/099)
		26 July 2012 (OCM12/149)
		22 February 2018 (OCM18/008)
		23 June 2022 (OCM22/070)
		19 December 2024 (OCM070)
		24 September 2026 (OCM26/113)