Leasing and Licencing Policy

Document Information

Type	Council Policy
Mayor	 Cr Rochelle Halstead
Date Adopted	Council Meeting 10 December 2025
Responsible Officer	Manager Major Projects & Property
Review Period	At least once every 4 years
Version Number	2.1

Gender Impact Assessment (GIA) Statement

In accordance with the *Gender Equality Act 2020*, a Gender Impact Assessment (GIA) has been undertaken when developing this policy.

Definitions

Term	Definition
Committee of Management	means the role of Council in the management of Crown Land. Council acts at land manager for the areas for which it has been appointed as the Committee of Management for. The role of Committee of Management is governed by the *Crown Land (Reserves) Act 1978.*
Community Benefit	means providing the residents, ratepayers and visitors to the Bass Coast Shire services provided by Council, increased participation and growth of community groups, strengthen and maintain the environmental and natural characteristics of the Shire, and broadly provide benefits to quality of life. Community Benefit will reinforce the Council Vision.
Council	means Bass Coast Shire Council, being a body corporate constituted as a municipal Council under the *Local Government Act 1989*, including the Councillors, Council Officers and agents of Council
Crown Land	means lands reserved and/or administered under the *Crown Land (Reserves) Act 1978*, *Land Act 1958*, and *Forests Act 1958* forming the Crown Estate in Victoria

Land	means all Property for which Council is the owner or land manager under Committee of Management, or is to become the owner, and has the rights to use the land
Lease	means an agreement for exclusive occupancy between Council as Landlord and a Tenant
Licence	means an agreement for a non-exclusive occupancy between Council and a Tenant
Market Value	means the amount for which Land or Property would be sold or leased in a commercial arm's length transaction to an unrelated third party. The value can be estimated as required by Council using evidence available to it or by having an independent market valuation occur by an accredited valuer
Property	means the land together with any improvements including buildings owned or managed by Bass Coast Shire Council
Tenant	means the occupier or occupant of a Property under a Lease or Licence. The occupier or occupant may also be referred to as Lessee or Licensee. This also includes any occupant in Council property under a sub-lease agreement.

Purpose

This Leasing and Licensing Policy is designed to ensure consistency and transparency in the terms and conditions applied to tenure documents, and to enhance community value using Council facilities, whilst protecting Council's assets.

Scope

This policy applies to:

- Leases and licenses of Council owned property,
- Crown land where Council is the Committee of Management, and
- Land or buildings leased or licensed by Council from another party for purpose of Council performing its functions and meeting its objectives.

This Policy does not apply to seasonal club agreement, residential tenancies, and casual hire agreements.

Additionally, this Policy does not apply where Council enters into separate agreements, such as contracts, partnership agreements or deeds, with Tenants as required for matters not included in lease or licence terms and conditions.

Objectives

In line with Bass Coast Shire Council Property Strategy 2025-2029 guiding principles, the objective of this policy is to establish leases and licences that:

Consistency and Transparency

- Are transparent, consistent, fair and give certainty.
- Are appropriate and suitable to the circumstances.
- Contain conditions that are fair and equitable while at the same time protect Council's position.

Community Benefit

- Make the best use of property through the permitted use, integration, co-location and general public access.
- Maximise community benefits.
- Promote environmental sustainability.

Statutory Compliance

- Comply with relevant legislation, policies, plans and strategies.
- Respond to state government requirements for use of Crown land.

Financial Viability

- Deliver market rental returns on commercial properties.
- Share the burden and cost of maintenance.
- Anticipate future needs for development or re-purposing.
- Contain conditions that are fair and equitable while at the same time protect Council's position and assets.

Statement

Council Property Use and Standards

Bass Coast Shire Council tenants are expected to provide a welcoming, respectful and inclusive environment for all. No tenant may participate in activities or behaviours that promote disrespectful attitudes. Tenants who breach Council policies may have access revoked.

Tenants will not sub-let or hire Council property to a third party without the prior written consent of Council, for which consent will not be unreasonably withheld. Tenants will be required to apply Council's current hire fees to any approved sub-tenant. Charging excessive or unreasonable fees when hiring spaces to third party groups may result in a review of the tenancy arrangement and potential termination.

Mistreatment of Council property or abusive or disrespectful behaviour towards Councillors or Council staff will not be tolerated. Occupation may be reduced or terminated should the occupation or use by a group not align with Council or community expectations.

Lease And Licence Assessment Framework

The lease or license agreement for tenants will be determined by applying the following framework.

No new or renewed lease or license will have a rental or fee lower than the community rate specified in Category 1.

Bass Coast Shire Council Executive Leadership Team (ELT) reserves the right to provide an exemption to this requirement. Examples of where this exemption may apply include:

- The tenant is a critical community service provider (e.g., emergency services, primary healthcare) operating on a not-for-profit basis.
- The service directly delivers on a Council Plan priority action.
- Alternative provision of the service would cost Council more than the rental foregone.

Category 1: Community
Eligibility • Use: Supports and enhances Council's plans and policies • Fit for Purpose: The proposed use of the site is in line with Council's objectives for the site • Community Benefit: Provides significant and identifiable benefits to the Community that includes, but is not limited to, alignment with Council Plan priorities and services community members and the Bass Coast region, including disadvantaged and priority populations, demonstrating collaboration and partnership with other organisations. • Incorporated Association: as a not-for-profit entity, it is preferred that the proposed Tenant is an Incorporated Association • Compliance: registered legal entity, has an ABN, financially viable, complies with all relevant legislation governing its activities and holds all relevant certificates.
Annual Rental • Currently $440.00 pa inclusive of GST and reviewed annually in accordance with the amount fixed in the Bass Coast Shire Council Fees and Charges. The annual rental amount charged at the commencement of a lease or license will be in line with the fees and charges prescribed at the time of tenancy application.
Term • The standard term offered by Council for a community lease is 5 years and a community license is 3 years. • Shorter or longer terms may be required by Council. Should the Tenant request a shorter or longer term, the request will be considered on a case-by-case basis

Maintenance and Outgoings

- Council has a standard maintenance template which provides for a partnership approach in which maintenance responsibilities will be reasonably and equitably shared
- Building insurance will be maintained by Council. Tenants are required to reimburse council for the building insurance.
- All other outgoings will be the responsibility of the tenants including contents and public liability insurances.

Category 2: Subsidised Rental

Eligibility

- Use: Supports and enhances Council's plans and policies
- Fit for Purpose: The proposed use of the site is in line with Council's objectives for the site
- Community Benefit: Provides significant and identifiable benefits to the Community that includes, but is not limited to, alignment with Council Plan priorities and services community members and the Bass Coast region, including disadvantaged and priority populations, demonstrating collaboration and partnership with other organisations.
- Revenue: Will use Council property to generate commercial revenue
- Compliance: registered legal entity, has an ABN, financially viable, complies with all relevant legislation governing its activities and holds all relevant certificates.

Rental

- Assessed on a case-by-case basis, considering turnover potential and in conjunction with community benefit.
- The market commercial rate will be assessed, with a reduction calculated in accordance with the community benefit.

Term

- The standard term offered by Council for a subsidised lease is 5 years and a community license is 3 years.
- Under certain circumstances shorter or longer terms will be required (if for example the arrangement involves significant capital investment)

Maintenance and Outgoings

- Council has a standard maintenance template which provides for a partnership approach in which maintenance responsibilities will be reasonably and equitably shared.
- Building insurance will be maintained by Council. Tenants are required to reimburse council for the building insurance.

- All other outgoings will be the responsibility of the tenants including contents and public liability insurances.

Category 3: Commercial

Eligibility

- Community Benefit: desirably to provide community benefit
- Use: Not detrimental to Councils vision
- Revenue: will use Council property to generate commercial revenue
- Fit for Purpose: the proposed use of the site is appropriate taking into account building and planning requirements
- Compliance: registered legal entity, has an ABN, financially viable, complies with all relevant legislation governing its activities and holds all relevant certificates.

Rental

- Starting rental will be subject to negotiation between Council and Tenant, preferably during a competitive Expression of Interest (EOI)
- Review of lease to market rental, determined by a qualified valuer, will be required during the term. Annual reviews of rental, other than to market, will be a fixed percentage as determined by Council

Term

- Council will consider the length of term on a case-by-case basis having regard to commercial and community factors including capital investment works by tenant.
- Under certain circumstances shorter or longer terms will be required (if for example the arrangement involves significant capital investment)
- Approval for terms may require Council resolution and community consultation

Maintenance and Outgoings

- All maintenance and outgoings will be the responsibility of the tenant including all required insurances.
- Should Building Insurance be maintained by Council, the tenant will be required to reimburse council for the Building Insurance.
- All repairs and works on Council assets must be notified to Council.

Additional Requirements of Leases and Licences:

- *Child Safety*

  All tenants are accountable for upholding Council's commitment to the safety and wellbeing of children.

We support and respect all children, as well as our staff, contractors, and volunteers. Our organisation is committed to preventing child abuse by identifying risks early and intervening to address these risks. We are committed to the safety of all children, particularly those from diverse backgrounds, including Aboriginal and Torres Strait Islander children, children who are culturally and linguistically diverse, and those with varying needs and/or disabilities.

In accordance with the *Child Wellbeing and Safety Act 2005* (Vic) ("CW&S Act) and associated regulations, Council requires that all Leases and Licences include clauses outlining the responsibilities of tenants to ensure that they meet the Child Safety Standards in accordance with the CW&S Act.

If a tenant is an applicable entity within the meaning of the CW&S Act and not otherwise exempt from the requirements of the CW&S Act, the Tenant must comply with the Child Safe Standards at all times.

Failure to comply with the Child Safe Standards will be considered a breach of the Lease or Licence and Council may take steps to terminate the Lease or Licence.

- *Shared Use*

  Council will unlock underutilised buildings to provide greater community benefit by providing shared use of its facilities. To achieve this, Council will undertake periodic utilisation reviews of facilities by tenants to determine if the space can be co-occupied by another group or groups.
  Tenants acknowledge that Council has limited capacity to provide tenancies to groups for exclusive use of facilities. Where appropriate, Council will seek that tenancy agreements be substituted with a different type of agreement to better reflect shared use of a facility or building.

- *Sustainability*

  Council requires that tenants take steps to assist in achieving Council's goals for sustainable occupation of Council owned buildings in accordance with Council's Climate Change Action Plan 2020-2030. Annual review of energy and water use will be required under the Lease or Licence.

- *Development/Demolition*

  Council may require tenants vacate the premises for works associated with:

  - Grants for renovations, refurbishment or replacement of Council buildings.
  - Works in alignment with Council's asset management plans.

  Council will work with those tenants affected by the works to attempt to provide temporary access or use of alternative Council facilities.

  Council's timeframes for these works are often dependent on grant requirements which require strict compliance. Council is unable to delay or postpone works in these situations. Council requires cooperation from tenants in these circumstances.

- *Council Access*

  Council may require access to the premises, which must not be withheld. Reasons for access may include, but are not limited to:

  - Essential Safety Measures (ESM) audits
  - Works to the property
  - Emergency access, including use of the premises to assist in emergency management
  - Condition reviews

  Council may install a key lock box for the premises to provide out of hours or unoccupied access to the premises as required by Council. The code for a key lock box will be provided to the tenant and must not be changed without Council's approval.

- *Maintenance*

  Maintenance responsibilities are divided between Council and the tenant. The division of responsibility between the tenant and Council will consider the financial standing of the tenant and the age and condition of the building.

  A Maintenance Schedule will be included with all leases and licences specifying the responsibilities of the tenant and Council.

  Commercial tenants on market or subsidised rental, are responsible for all maintenance and repairs of the buildings outside of works that are of a capital nature.

- *Costs*

  Council provides leases and licences in a template form for the various kinds of property use. Council does not charge a fee for negotiations associated with the lease or licence presented to the tenant which are of a minor and non-contentious nature. However, if Council requires legal advice on major or contentious issues presented, Council may require the tenant to pay Council's costs associated with this advice. Should the tenant refuse to pay these costs and refuse to sign the lease or licence, Council may withdraw the document and end the tenant's occupation of the premises.

Related Legislation, Associated Information and Resources

Legislation

There is no legislative obligation.

Associated Information

- Bass Coast Shire Council Property Strategy 2025-2029
- Bass Coast Shire Council Fees and Charges

Resources

- Bass Coast Community Vision 2045
- *Property Law Act 1958*
- *Transfer of Land Act 1958*
- *Local Government Act 1989*
- *Local Government Act 2020*
- *Crown Land (Reserves) Act 1978*
- *Retail Leases Act 2003*
- *Road Management Act 2004*
- Leasing Policy for Crown Land in Victoria 2010
- The Best Practice Management Guidelines for Committees of Management: Managing Caravan and Camping Parks on Crown Land
- Council Plan 2025-2029
- Healthy, Safe and Resilient Bass Coast Plan 2025-2029
- Bass Coast Shire Council Annual Budget 2025 -2026
- Bass Coast Towards 2030
- Asset Management Policy Infrastructure Assets 2022-2026
- Crown Land Policy

Revision History

Date	Version	Revision Description	Administered
15 May 2019	1	Adopted	Council
11 December 2024	1.1	No substantive changes. Administrative update of council positions to reflect the new organisation structure.	Council Officers
10 December 2025	2	Adopted	Council
10 December 2025	2.1	No substantive changes. Administrative update: • Grammar corrections • Child Safety clause – 'or Occupant' removed	Major Projects & Property