

COR 004: BUILDING AND PROPERTY LEASES

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Objective

To determine a set of property classifications that can be applied to all Council's property providing for consistency in lease documentation and equity in terms and conditions within and between various property classifications

Policy

This policy recognises the variety and diversity of leases and that no one particular style of lease is appropriate for all purposes; consequently a set of template lease documents have been developed in consultation with McLeods Barristers and Solicitors to be used for each particular leasing requirement.

1. Property Classifications
 - Property characteristics for each classification

All leased properties, and those that should have leases, have been classified using specific principles as detailed within this policy.

- (i) Commercial Premises – Open Market
 - Commercial sites offered by tender or disposed by section 3.58 *Local Government Act 1995*.
 - Market rental by valuation with individual rental as determined by Council.
 - All outgoings for these sites recouped or supplied direct to Lessee.
 - All maintenance, minor or major, and upgrading of premises to be at the lessee's expense.
 - Council approval required prior to any sub-letting of premises.
 - Council may charge rates on these properties.

Examples of properties within this classification are:

Esperance Seafront Caravan Park	Esperance Lots 316 & 430, Res 26967
Mobile Food Van Sites (4)	Esperance – Portion Lot 991, Res 27318
Esperance Mini Golf	Portion of Res 28207
BP Australia	Part Lot 15, Esperance Airport

Car Hire Desks (4)	Gibson – Portion Lot 15, Esperance Airport
Airport Hangars (8)	Gibson – Portion Lot 15, Esperance Airport

(ii) Commercial Premises – Community

- All outgoings for these premises recouped or direct supply to lessee.
- Rent determined by Council in conjunction with independent market rental valuation (See below on Lease fees)
- Disposal to be in accordance with section 3.58 Local Government Act 1995, noting exemptions that apply via Regulation 30 of Local Government (Functions and General) Regulations 1996.
- Minor maintenance, operational expenses, cleaning etc are cost to Lessee.
- Structural repairs, reconstruction/refurbishment to be detailed within lease or licence document.
- Generally Council would have a building maintenance budget allocation for the premises.
- Council approval required prior to any sub-letting of the premises.
- Council may charge rates on these properties.
- Leases within Museum Village will be charged rates.

Examples of properties within this classification are:

Museum Park Village Building (11)	Esperance Lots 56,57,58,61,62, Res 2815
Caravan Park – Salmon Gums	Res 27786

(iii) Specific Sports Facilities

- Development of facilities by Shire or Club on Council land often with capital cost shared between Shire, Department of Sport and Recreation and Club or any combination of this mix of funding.
- Exclusive use of the premises for a specific sport.
- All maintenance, operational and cleaning expenses at the lessee cost.
- All outgoings/consumable charges (not rates) are recouped or charged direct to the Club.
- Major repairs, reconstruction/refurbishment to be detailed within lease or licence document.
- The provision of bar facilities should not be used to differentiate lease fees in this classification.
- Council approval required prior to any sub-letting of the premises.

- Groups, Clubs and Organisations would be encouraged to submit applications via the Community Grants Program when requesting Council's financial assistance.

Examples of properties within this classification are:

Gun Club Caretakers Cottage	Fisheries Rd, Res 28099
Equestrian Club	Res 31708
Esperance Speedway	Myrup Rd, Res 35037
Golf Club - Pink Lake	Res 34829
Golf Club - Salmon Gums	Salmon Gums, R30223, R30224
Gun Club, Salmon Gums	Res 30224
Netball Pavilion, Esperance	Lot 310 Jane St
Pistol Club – Skrolys Park	Skrolys Park
Surf Lifesaving Club House	Res 41860
Tennis Club, Esperance	L310 Jane St
Esperance Bay Turf Club	Lot 202 Fisheries Rd, Bandy Creek
Esperance Golf Club	Res 38227

(iv) Halls and Community Centres

- Developed facilities with mostly Council funding assistance, grants or self supporting loans for the capital costs.
- Available for general community use and income retained for this casual hire to offset minor expenses, i.e. the lease allows for casual hire.
- Would be leased with clearly defined responsibilities between the Shire and “Lessee” for minor maintenance, operational expenses and cleaning requirements.
- Consumable outgoings/utility charges (not rates) recouped from “Lessee” or supplied direct.
- Major repair/reconstruction or refurbishment to be detailed within lease or licence document.
- Groups, Clubs or Organisations would be encouraged to submit applications via the Community Grants Program when requesting Council's financial assistance.
- Funding may also be available under the Shire's Reserve Funding for Community Halls Policy.

Examples of properties within this classification are:

Community Hall – Beaumont	Parmango Rd
Community Hall – Cascade	L49 Mitten Watson Rd
Community Hall – Dalyup	Res 26309 South Coast H'way
Community Hall – Grass Patch	Shepherd St
Community Hall – Salmon Gums	Res 30224 John & Moore Sts
Community Hall – Condingup	L1 Sutcliffe St, Condingup

(v) Community Services – Category 1

- Exclusive use or special purpose community funded facilities with minimal Council capital contribution, however located on Council controlled land.
- Limited community use.
- Maintenance and operational expenses to be at the lessee's expense.
- All outgoings/consumable charges (not rates) are recouped or charged direct to the Club.
- Groups, Clubs or Organisations would be encouraged to submit applications via the Community Grants Program when requesting Council's financial assistance.

Examples of properties within this classification are:

Agricultural Society Facilities	L 968 Black St
Cannery Arts Centre (Gallery Only)	Norseman Road
Community Hall – Scouts	L686 The Esplanade
Sports House – EDRA	L11 James St
Hospital Hostel	L241 Hicks St
Multi Sports Pavilion	L865 Black St
Indoor Sports Stadium	L865 Black St
Playgroup	Esperance Lot 388, R31633 & Lot 389, R34556

(vi) Community Services – Category 2

- Development of facilities mainly by Government funds on land controlled/vested to Shire of Esperance.
- Facilities are leased to and operated by government agency or community based incorporated business.

- Maintenance, operational, cleaning expenses etc. are provided by the facility operator/agency.
- Outgoings, utility charges, rates etc. are charged directly to operators.
- Major repairs or refurbishment costs funded by operators.

Examples of properties within this classification are:

Old Playgroup	Esperance Lot 369 & 370 Black Street
Recherche Aged Welfare Committee	Esperance Lot 893, Eyre St
Esperance Child Care Centre (Lingalonga)	Esperance Town Lots 171 & 172
Esperance Lotteries House	Part Esperance Lot 3 Forrest St
Telstra Corporation – Helms Drive	Esperance Loc 2112, Res 45368
Telstra Corporation – Howick Hill	Lot 524, Res 47555
Telstra Corporation – Telecommunications	Part of Salmon Gums Lot 123

2. Lease Register

This policy requires the Chief Executive Officer to maintain a register of all Council property that is leased. Details included within the Register would be name of lessee, description of the leased property, term of the lease, lease fee.

3. Lease Preparation Fees

A Lease Preparation Fee shall be charged to all leases as set within the Annual Schedule of Fees & Charges.

Leases bound by the *Commercial Tenancy (Retail Shops) Agreements Act 1985* will not be charged lease preparation fees in accordance with section 14(b) of the Act.

4. Lease fees

In relation to establishing a guide for the calculation of lease fees the following shall be applied to the particular property classifications as detailed within this policy, for example:

- (i) Commercial Premises – Open Market – As determined by Council after obtaining an independent market rental valuation.
- (ii) Commercial Premises – Community – As determined by Council after obtaining an independent market rental valuation.
- (iii) All other classifications would generally be \$100 ex GST per annum for community groups, clubs, not for profit organisations.

Museum Village Lease Fees

Lease fees for the Museum Village will be calculated on the average of the base commercial rental (obtained from local real estate) for the town centre. This figure will be discounted by 20% to recognise the condition and setback location of the village from Dempster Street.

5. Lessee's Maintenance Obligations (Internal and External) and Cleaning of Property

Each of the property classifications within this policy indicates the level of responsibility Council requires of the Lessee in relation to maintenance and cleaning.

Maintenance obligations of each lessee will be specified in each lease document.

6. Lessor (Shire) Maintenance Obligations

When maintenance is required to a property leased from the Shire, the Shire's most current Building Asset Register will determine the Shire's maintenance and renewal responsibilities unless specified otherwise in the lease document (except those rendered necessary by the negligence, act, default or omission of the Lessee or any officer, member, employee, agent, contractor or invitee of the Lessee or by the use or occupancy by any such person of the Premises).

Implementation

Any amendments to the standard lease documentation including maintenance and cleaning schedules is to be negotiated with individual groups, clubs or organisations and introduced on the following timetable:

- (i) when an existing lease expires and the lessee requests a lease renewal; and
- (ii) when new leases are considered and approved by the Council.

..... Policy Ends