
Lease and Licence Policy



June 2026







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CONTACT US

-  ngshire@ngshire.vic.gov.au
-  www.ngshire.vic.gov.au
-  (03) 5358 8700
-  PO Box 580 Stawell VIC 3380

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Lease and Licence Policy



Council Policy

Prepared by position
Approved by position
Functional area
Date reported to Council
Review date

Risk and Lease Management Officer
Manager Governance
Governance
2 June 2026
June 2030

Purpose

The purpose of this policy is to provide a framework for consistent, fair, and transparent allocation of Northern Grampians Shire Council (Council) owned and/or managed land and buildings (assets). This policy establishes guiding principles to ensure the best overall social, environmental, and economic benefits for the shire community are achieved from the occupancy of these assets. Implementation of this policy will provide sound administration and financial management while minimising council's risk through effective asset management.

Background

Council provides a range of assets for use by the public, community groups and businesses. It has obligations under the *Local Government Act 2020*, and where applicable the *Crown Land (Reserves) Act 1978*, and must meet legislative compliance and Crown land management responsibilities when making arrangements with commercial or non-commercial occupiers of assets.

Scope

This policy applies to all leases and licences with commercial, not for profit community groups and service organisations, and sports and recreation groups for council-owned and/or managed land including Crown land where council is appointed as Committee of Management (CoM).

Where the council is appointed a CoM over an asset, that land will be leased in accordance with the *Leasing Policy for Victorian Crown Land 2023* and *Best Practice Management Guidelines for Committees of Management: Managing Caravan and Camping Parks on Crown Land (if applicable)*. A Licence of Crown land may be granted to a Licensee by council as a CoM, subject to the approval by the responsible Minister or delegate of the responsible Department.

This policy will provide guidance for the maintenance, renewal and upgrade of assets. This policy does not apply to decisions relating to casual hire arrangements, managed road infrastructure or disposal and acquisition of assets.

The policy is supported by the *Lease and Licence Guidelines* and will be implemented in accordance with relevant internal processes.

Policy Objective

Council is committed to effective, equitable and efficient management of its assets which ensures appropriate returns and protects council interests while recognising the rights of both commercial and non-commercial occupiers.

The policy provides guidance to council staff, and to both current and prospective Lessees/Licensees and ensures legislative processes and procedural compliance, whilst ensuring a consistent, fair, and transparent approach to the allocation and occupation of assets. It supports the sustainability of assets through appropriate and equitable contributions towards maintenance and other costs, while also delivering a service that benefits the needs of the local community.

This policy aligns with the objectives of the Council Plan and enhances efforts to improve council's long-term sustainability.

Policy

The Coordinator Property Management is responsible for the management of leases and licences for assets in accordance with relevant legislation and council policy and processes. When considering leases and licences the following matters must be considered:

Types of agreements

There are two types of agreements that council can grant:

1. Lease – An agreement where council is the owner or where council is the appointed Committee of Management of Crown land (CoM) (Lessor) grants the Tenant (Lessee) the right to **exclusive** occupancy and proprietary interest of a defined area as set out in the lease, which may include part or all of a council building and/or land.
2. Licence – An agreement where council is the owner or where council is the Committee of Management (CoM) (Licensor) grants the Tenant (Licensee) the **non-exclusive** right to occupy a defined area as set out in the licence, which may include part of a council building and/or land. The permission granted does not constitute an interest in the land.

Council at its absolute discretion will determine the type of agreement that is suitable for the asset. Council will endeavour to bring groups occupying council-owned or managed premises without any agreement, under lease or licence and those with existing agreements into the standard form of agreement by negotiation prior to lease expiry.

Governance

All leases and licences will be prepared using council approved standard templates prepared by council's approved solicitors. Where required the Department Energy, Environment and Climate Action (DECCA) standard documents will be used and amended to include council related clauses for agreements on Crown land. Council will only grant a lease/licence to specific incorporated bodies (that is organisations that are incorporated under the *Associated Incorporations Act 1981*) or bodies corporate (as defined under the *Corporations Act 2001 (Cth)*) and successor legislation. This means that a Lease/Licence Agreement will not be made with people who are representing a group e.g. committee or partnership.

Where council acts as the CoM over Crown land, it must seek the prescribed consent in accordance with the provisions of the *Crown Land (Reserves) Act 1978*. Leases and licences will be in the prescribed form as provided by the Department of Energy, Environment and Climate Action (DEECA) and council's additional terms and conditions will form part of the special conditions of the agreement.

Eligibility

The assessment and selection of suitable tenants must be in accordance with the Council Plan and associated policies and strategies and provide a service or other benefit to the community. Council will prioritise agreements that enable multi-use of assets.

In order to support the health and wellbeing of its residents, Council will not grant a new long term occupancy lease or licence on Council owned or managed land and facilities that includes the introduction of or an increase in, the number of electronic gaming machines (EGM).

Any new lease or licence agreement for council owned or managed land and facilities reported to council must consider matters including, but not limited to:

- Permitted Use
- relevant legislation
- risk
- inclusion and equality
- diversity, equity and accessibility
- community wellbeing
- social responsibility
- environmental impact and sustainable practices; and
- Leasing Policy for Victorian Crown Land 2023 Principles.

Council recognises that some occupiers, i.e. parties to existing agreements, have historical affiliations with the assets. Prior to considering a new lease/licence, Council will also undertake a strategic assessment of the relevant community and their needs and consider the long-term benefits and/or disadvantages of the occupancy.

Pricing/Rent Strategy and Calculation

Tenant Classifications

The following table lists council's Lease/Licence tenant classifications, eligibility indicators, rent, term and maintenance and outgoings details.

Tenant Classification	Eligibility Indicators	Annual Rental and Reviews	Preferred Term	Maintenance and Outgoings
<p>Category 1 – Commercial</p> <p>Tenant/s occupy a council premises, or part of a premises, under a Lease or Licence and are commercial in nature or operate for the primary purpose of returning a commercial benefit, monetary gain or profit. Occupancy has primary objectives relating to generating a fee for service.</p> <p>Examples include</p> <ul style="list-style-type: none"> - Cafes - Telecommunications towers and equipment shelters - Commercial residential premises 	<ul style="list-style-type: none"> - Desirable to provide community benefit. - Receives funding from other organisations aside from council or is a profit-based organisation. - Legal entity and financially viable. - The site is fit for purpose or can be made so with capital investment. - Ability to generate significant revenue from use of site. - Run by paid workers 	<ul style="list-style-type: none"> - Determined by obtaining a commercial valuation of the site. - Market review at end of each term, with annual CPI increases. - 100% hire charge. Not eligible for any subsidy. 	<p>Council to negotiate a lease term for commercial leases</p>	<p>Commercial terms for maintenance and outgoings apply.</p>

Tenant Classification	Eligibility Indicators	Annual Rental and Reviews	Preferred Term	Maintenance and Outgoings
<p>Category 2 – Not for Profit Community Groups (Peppercorn Rental)</p> <p>Community groups in this category service the community and are available to all residents. They are not for profit and may rely on volunteers and/or State or Council funding or grants. They do not have the capacity to generate income.</p> <p>Examples include:</p> <ul style="list-style-type: none"> - Historical Societies - Men’s Shed - Neighbourhood House - Lions Club - Senior Citizens 	<ul style="list-style-type: none"> - Provides a community benefit. The type of benefit that could not be delivered unless supported by council. - Aligns with the Council Plan and will increase social inclusion and equality and promote health and wellbeing for the community. - Receives minimal to no funding. - Run by volunteers 	<ul style="list-style-type: none"> - 99% discount applied of market value. - No increase. 	1 – 5 years	<p>Council will take a large share of outgoings and maintenance; however specific conditions will apply to Tenants as per a Maintenance Schedule.</p>
<p>Category 3 – Not for Profit Community Service Organisations, Government Authorities and Agencies</p> <p>These Tenants include local, national or international service organisations and public benevolent institutions. Services are available to all residents in the shire and may have the ability to generate revenue from the use of the facility or other activities consistent with the purpose. They may rely on State or Federal funding and do not make a commercial profit.</p> <p>Examples include:</p> <ul style="list-style-type: none"> - Employment organisations for people with disabilities - Emergency services (SES, CFA etc) - Schools 	<ul style="list-style-type: none"> - Provides a community benefit. The type of benefit that could not be delivered unless supported by council. - Aligns with the Council Plan and will increase social inclusion and equality and promote health and wellbeing for the community. - Has capacity to generate revenue from use of site. - The site is fit for purpose and community access is maximised. - Legal entity and financially viable. 	<ul style="list-style-type: none"> - Annual CPI increases. - 100% hire charge. - Not eligible for any subsidy or charged the recommended minimum rate as set by Department Environment, Energy and Climate Action (DEECA). Approximately \$460.00 per annum. 	1 – 10 years	<p>Council will have a standard maintenance template which provides for a partnership approach in which maintenance responsibilities will be reasonably and equitably shared.</p> <p>Outgoings will be the responsibility of the Tenant.</p>

Tenant Classification	Eligibility Indicators	Annual Rental and Reviews	Preferred Term	Maintenance and Outgoings
<p>Category 4 – Sports and Recreation</p> <p>These groups primarily function for sport and recreational purposes. These entities are not commercial in nature and do not run in conjunction with a commercial entity.</p> <p>They are member-based fee-paying clubs and organisations that have the capacity to generate revenue from associated activities however are a not-for-profit organisation.</p> <p>Examples include:</p> <ul style="list-style-type: none"> - AFL Clubs - Athletics - Basketball - Netball - Horse Riding - Rugby - Tennis - Cricket - Croquet - Lawn Bowls - Racquetball - Gymnastics 	<ul style="list-style-type: none"> - Provides significant community benefit which is in high demand by the local community. The type of community benefit provided could not be delivered unless supported by council. - The use aligns with the Council Plan and will increase social inclusion, and equality and promote health and wellbeing for the community. - Has some capacity to generate revenue (i.e. memberships, merchandise sales, fundraising etc) - The site is fit for purpose and community access is maximised. - Legal entity and financially viable. 	<ul style="list-style-type: none"> - Annual CPI increase - Total fees charged will be determined by analysing the total infrastructure cost, utility costs and any Park and Recreation costing that may apply. - A percentage of these costs will then be on charged to the tenant as determined by council. - At the recommended minimum rate as set by Department Environment, Energy and Climate Action (DEECA) approximately \$460.00 per annum. 	1 – 10 years	Council will have a standard maintenance template which provides for a partnership approach in which maintenance responsibilities will be reasonably and equitably shared.

Category 5 – Miscellaneous

When none of the above categories apply council may determine the rental amount, subsidy and maintenance conditions of the agreement. This will require approval at a Council meeting.

Council reserves the right to amend the rental if a tenant obtains an on-premises licence, packaged liquor licence, general licence or gaming licence, or gain access to other commercial or fortuitous (but not fundraising) means of income generated during the term of the agreement. e.g. rent received from subletting, telecommunication rental, revenue received from advertising on the premises. Consent by council is required for any such use.

Professional advice from council's Valuers will determine the rental for commercial occupiers and will be reviewed as prescribed within the lease conditions.

Community consultation

As required under section 115 of the *Local Government Act 2020*, council will consult with the community in accordance with its *Community Engagement Policy* where a new lease proposal has not been included in a financial year in the budget and:

- The lease is for one year or greater and the rent or market value of the land is \$100,000+ per year; or
- The lease is for a 10+ year period.

Under Section 116 of the *Local Government Act 2020* council has the power to transfer, exchange or lease any land, either with or without consideration to:

- the Crown
- a Minister
- any public body
- the trustees appointed under any Act to be held on trust for public or municipal purposes or
- a public hospital within the meaning of *Health Services Act 1988* or other hospital carried on by an association or society otherwise than for profit or gain to the members of the association or society.

Where a lease does not meet these criteria, it may still warrant public consultation, and this will be done in accordance with the council's *Community Engagement Policy*.

Term

Section 115 of the *Local Government Act 2020* provides the option to grant a lease up to a term of 50 years. Shorter agreements ensure that agreements stay contemporary of any legislative changes and ensure council is in line with best practice.

Council will negotiate a preferred term for commercial leases. Consideration for this will be given under one or more of the following situations:

- Substantial contributions to capital or structural works undertaken by the Lessee/Licensee.
- Commercial return is enhanced.
- Specific conditions as required by other funding bodies on the Lessee/Licensee regarding the term length.

Responsibilities

The following table sets out the responsibilities for leasing and licensing matters:

Council	s.115 LGA 2020	Duty to advertise certain leases
	s.223 LGA 1989	Hear submissions resulting from public notice
	s.223 LGA 1989	Make a decision regarding an issue where s.223 submissions have been made
	s.115 LGA 2020	Power to enter into a Lease Agreement
		Resolve on Lease Agreements which: <ul style="list-style-type: none"> • Have a current market rental value of \$100,000 or more (and are for a term of one year or more); or • Have a term of 10 years or more up to a maximum of 50 years
		Give Landlord consent to grant/transfer Crown land leases/licences
		Authorise CEO to negotiate lease/licence terms and/or Mayor to sign lease/licence documents
		Authorise CEO or CEO/Mayor to sign lease/licence documents

Chief Executive Officer		<ul style="list-style-type: none"> Negotiate Lease/Licence terms Sign Leases and Licences when agreed by all parties
		Sign lease documents under council resolution/delegation.
Director Corporate Services	s.115 LGA 2020	Ensure the policy is reviewed and approved by council.
		Authority to direct council to administer procedures necessary to enable it to carry out its functions under section 115 of the <i>Local Government Act 2020</i> in relation to any proposal to lease/licence.
Manager Governance		Develop, in consultation with Coordinator Property Management, and manage relevant policy/guidelines
Coordinator Parks and Facility Maintenance	<i>Building Regulations 2006 – Annual Essential Safety Measures Report</i>	Duty to monitor ongoing compliance with Essential Service Management and Maintenance Schedules
Coordinator Property Management		Maintain a register/database of Lease and Licence Agreements
	s.28(1) RLA 2003	Leases containing an option exercisable - Notify Tenant to renew lease (retail leases only)
	s.26(1) RLA 2003	Landlord's Disclosure Statement - Schedule 3 <i>Retail Leases Regulations 2013</i> (retail leases only)
	s.47 RLA 2003	Statement of Outgoings (retail leases only)
	Pricing Methodology for Non-Commercial Lease Agreements	Pricing Strategy - rental (non-commercial)
	Terms of Lease	Rent Reviews
	Terms of Lease	Monitor insurance requirement compliance
	Terms of Lease	Monitor debtors and budgeting for income
		Primary contact on lease/licence/maintenance issues
		Monitor and manage all Lessee/Licensee legal and contractual obligations
		Provide advice and guidance on an appropriate strategy for Lease/Licence compliance
Council Valuer	Facility Leasing Guideline	Pricing Strategy – rental (commercial)

Review

Assessment of the policy will be undertaken every four years to align with the council term to ensure it remains current with Council's goals, processes, aims and requirements and as a means by which to reduce Council's exposure to risk. Triggers for an earlier assessment include legislative changes and introduction of new systems or procedures. Council will publish a register of Lease/Licence Agreements on its website.

Communication and implementation

This policy will be posted on council's website and communicated via council's media and communications channels. This policy and supporting guidelines will be available in the council's Electronic Document Records Management System for all staff to view. Processes associated with the policy will be available on Promapp.

References

NGSC Council Plan
 NGSC Open Space and Recreation Strategy
 NGSC Guidelines for Committee of Management Caravan Parks
 National Competition Policy (NCP)
 Leasing Policy for Victorian Crown Land 2023 Principles
 DEECA Committees of Management Responsibilities and Good Practice Guidelines
 NGSC Procurement Policy
 NGSC Community Engagement Policy

NGSC Asset Management Policy
 Application for Hire Template - Leased facilities
 Local Government Act 1989
 Local Government Act 2020
 Local Government (General) Regulations 2025
 Child Wellbeing and Safety Act 2005
 Retail Leases Act 2003
 Retail Leases Regulations 2003
 Crown Land (Reserves) Act 1978
 Residential Tenancies Act 1997
 Associations Incorporation Reform Act 2012
 Building Act 1993
 Building Regulations 2018
 Land Act 1958
 Environmental Protection Act 2017
 Liquor Control Reform Act 1998

Compliance

Privacy and Data Protection compliance

This policy considers the *Privacy and Data Protection Act 2014* and the *Victorian Protective Data Security (VPDSS) Standards* which adopt a risk-based approach to protective data security.

Gender Equality compliance

Council has considered if gender equality principles, workplace gender equality of rights, opportunities, responsibilities and outcomes and the promotion of gender equality in the development of this policy. Where identified, these have been incorporated into the policy.

Charter of Human Rights compliance

It is considered that this policy does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

Definitions

Commercial occupiers	Any occupier who operates a business or commercial enterprise that is other than a sporting or recreational/community group. This includes Not for Profit organisations that hire or retail goods or services.
Committee of Management	An entity, which may include a council, appointed under the provisions of the <i>Crown Land (Reserves) Act 1978</i> as responsible for managing land for the purposes of which it is reserved.
Council asset	For the purposes of this policy a <i>council asset</i> is any land including buildings and reserves leased, owned or managed by the Northern Grampians Shire Council. This also includes Crown land for which council has been appointed Committee of Management, including improvements.
Crown land	Land gazetted under the provisions of the <i>Crown Land (Reserves) Act 1978</i> as being required for public purposes.
Lease	A <i>lease</i> is a right granted by the owner of land (landlord) to another person (lessee) to have exclusive possession of that land, or part thereof, for a fixed duration in return for rental payment. Where council is the owner or Committee of Management of Crown land it will grant a lease where the asset will be occupied exclusively by the one user and council considers that granting a lease is in the best interests of the community.
Licence	A <i>licence</i> permits a person (licensee) the non-exclusive right to occupy a defined area as set out in the licence land (or part thereof) on particular conditions. Where council is the owner or Committee of Management of Crown land it will grant a licence for the non-exclusive right to occupy a defined area as set out in the licence. The main feature that distinguishes a licence from a lease is that a licence does not permit exclusive occupancy or constitute an interest in the land.

Market rental value	The estimated amount for which property should rent, as at the relevant date, between a willing Landlord and a willing Tenant in an arm's length transaction, wherein the parties had each acted knowledgeably, prudently and without compulsion, and having regard to the usual terms and conditions for leases of similar property.
Replacement value	The cost of replacement of a building which could conceivably be destroyed. The assessed value excludes any equipment, tools, furniture and the like.
Standard terms of agreement	Key terms of agreement; grant of lease/licence; Things the tenant must oblige by; Things the tenant must not conduct; Mutual covenants; General clauses; GST; Definitions; Interpretations and Schedules as appropriate.
Sub-lease	An arrangement in which the tenant assigns or transfers the lease to a third party for a defined period of time; the sub-lessor and new tenant (sub-tenant) have various responsibilities under this arrangement. <i>Sub-lease</i> arrangements require council approval.

Review history

Date	Review details	Action
February 2025	Policy and Guidelines developed and include existing NGSC Facility Leasing Guidelines	
March 2025	Reviewed by Director; approval given to report through to ELT	
28 July 2025 11 August 2025 10 February 2026 28 April 2026	Reported to Councillor Briefings	Changes made to reference to fossil fuels; proposed wording regarding Electronic Gaming Machines discussed
2 June 2026	Reported to Council for adoption	Adopted