



# Community facility usage policy

<b>Classification</b>	Policy
<b>Strategic reference</b>	Goal 1 Community : Actively contributing communities
<b>Relevant legislation</b>	Local Government Act 1999
<b>Relevant documents</b>	Community facilities lease template; Community facilities licence template; and, Commercial lease template
<b>Responsible officer</b>	Manager Property and Development Services
<b>Date adopted</b>	June 2019
<b>Next review date</b>	June 2022

## Introduction

Southern Mallee District Council owns or controls land and buildings throughout the district which are used for community, private or commercial purposes. Council recognises the value of sports and community clubs and seeks to provide access to Council land and buildings in a balanced, efficient and effective way through leases and licences. In limited situations Council may also enter into a commercial or private lease or licence.

## Policy Objective

To implement administrative procedures and authority for issuing leases and licenses for Council controlled land and buildings.

## Policy statement

Council attempts to optimise the use of its land and buildings for the benefit of the community. The amount of revenue it derives from its land and buildings is not a key driver for community leases or licenses.

Decisions to grant leases or licences for Council land and buildings are to be made by resolution of Council.

The power to approve the renewal of existing leases and licences is delegated to the CEO, provided the terms and conditions are in accordance with Council policies and procedures. Where the terms and conditions have been substantially varied, the Council will consider the renewal.

Management of leases and licences of Council land and buildings will be undertaken in accordance with the provisions of this policy.

## Scope

This policy deals with land and buildings owned or controlled by Council, however, it does not deal with roads, road reserves and unmade roads owned or controlled by Council.

The policy should be read in conjunction with the Local Government Act 1999 (the Act). Under the Act, a lease or licence may be granted or renewed for a term not exceeding 21 years as stated in the lease or licence. Council will generally consider shorter term leases and licences of 5 years but will consider requests for long term leases and licences, up to 21 years, on a case by case basis. The terms and conditions of all leases and licences may be reviewed on a regular basis consistent with the content of the agreement.

The policy does not cover all the requirements that pertain to community and Local Government land as these requirements are set out in the Act and form part of Council's legal obligations. It does, however, take into

account requirements of the relevant state authority that should be considered when dealing with dedicated lands owned by the Crown (see section 7).

The principles of this policy will be applied initially to those leases and licences which have expired and where renewal is pending. The remaining leases and licences will follow as and when their current agreement requires renewal, or as new leases and licences are taken up on Council owned or managed land or buildings.

Section 202 of the Act outlines the principles in respect of use of community land by lease or licence.

### **Templates for leases and licences**

The Local Government Association Mutual Liability Scheme (LGAMLS) has established templates to cover each type of use envisaged by this policy and those templates form the basis of documentation of arrangements between the parties.

### **Types of agreements**

The following categorisation will be applied to leases, licences and permits.

- **Community facility lease**

This LGAMLS template provides specific and exclusive rights for a third party to occupy or use a community recreational and sporting facility.

- **Community facility licence**

This template is for long term use or occupation that does not provide sole/specific rights to the land and/or buildings.

- **Commercial lease**

Leases to a commercial party for a commercial activity will be subject to public consultation and separate individual leases drafted in a registrable form.

### **Crown Land**

When considering the lease or licence of dedicated land owned by the Crown but under the care and control of Council the Department of Environment, Water & Natural Resources requires the application to be referred to the Minister for Environment, Water & Natural Resources to seek approval from the owner of the land, whether it is a renewal or a new application for a lease or licence. This procedure is to ensure:

- Dedicated lands are not developed where the nature of the development contemplates use that is at variance to the purpose for which the land has been dedicated.
- Third party occupation is limited to licence tenure of up to 5 years unless otherwise agreed by the Minister.

### **Categories of user**

The fee payable on land and buildings leased or licensed to third parties will be separated into three categories:



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- **Community and sporting bodies**

Council recognises the benefit of providing support, financial and non-financial, to sports and community groups and organisations including not for profit bodies. These include sports clubs, service clubs, special interest groups, or community based health or social welfare agencies.

The annual lease or license fee applied will be made on a case by case basis and will take into account a number of factors. Generally the annual fee will be lower if the organisation agrees to maintain the buildings and land, pays for utility services and other costs, and has a willingness to share the facility with other groups.

An organisations' ability to enjoy profit from either an annual membership fee, or licensed facility or a combination of both will be taken into consideration. As will the groups' overall contribution it makes to the broader community.

- **Private or commercial activities**

Council owns or controls land and buildings that may be used for private residential use or a full commercial use.

Requests from private individuals to lease land or buildings will be assessed on merit in accordance with Council's strategic direction and operational requirements. A market rate will apply.

Proposals to establish a commercial enterprise in any Council building or on Council land will be subject to individual consideration by Council. A market rate will generally apply.

### Policy review

The effectiveness of this policy will be reviewed every three years or as necessary.

### Further information

This document is available on Council's website [www.southernmallee.sa.gov.au](http://www.southernmallee.sa.gov.au) and at the principal office of Southern Mallee District Council at Day Street, Pinnaroo SA 5304.

A copy of this document may be purchased from Council.