Council Policy – Community Leases and Licences

Responsible Directorate	Office of the Chief Executive Officer
Responsible Business Unit/s	Communities
Responsible Officer	Director Community Development
Affected Business Unit/s	Community Development

Objective

To provide a structured, equitable and consistent approach to the management of Council's community lease and licence agreements with local community groups for the use of Shire of Ashburton (Shire) owned and controlled facilities, buildings, and land.

Scope

Applies to all relevant community, sporting and not-for-profit clubs, associations and groups.

Policy Statement

Local communities across the Shire are actively engaged in running a range of sport, recreation, and youth programs. These sporting clubs and community groups contribute greatly to community life in the towns as well as improving social capital, quality of life and wellness outcomes. The Shire recognises the important role local groups have to play in community wellbeing and invests heavily in community infrastructure and programming to support these local groups.

This policy aims to encourage and support volunteerism and physical activity in clubs and associations by providing community lease and licence agreements to groups that contribute to the community.

Community lease and licence agreements optimise use of community facilities, catering for storage, meeting rooms, recreation areas and reserves. The agreements provide an avenue for groups to build capacity within and to sustain their organisation into the future.

This policy should be read in conjunction with the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.

Function

A standard lease or licence document created by Solicitors is to be used in respect of all agreements. The Shire reserves the right to attach a schedule to the agreement setting out special conditions, fees, or concessions as appropriate and to amend the template lease or licence document as it sees fit.

The Shire may enter a lease or licence with the following entities:

- Incorporated associations, and
- The Crown, statutory authority and other Government bodies.

Types of agreements

A lease will be entered into where the intention is to grant exclusive possession of the property or part of the property.

A licence will be entered into where the intention is to grant non-exclusive possession of the property or part of the property. All property rights will be granted in writing.

Lease and licence templates

Shire templates are to be provided for each type of use envisaged by this policy regarding creating a lease or licence agreement for community groups to utilise Shire facilities, buildings or land.

Community Lease Template

This template is used when the Shire is leasing out the whole or a portion of a facility, building or land which is Shire owned or managed property. Groups that lease community facilities have sole occupancy of the leased area meaning that other groups do not have access to this area at any stage for the entirety of the lease agreement. For example: the whole of the land contained in a Certificate of Title, a room within a larger facility or an entire building.

The lease template will continue to evolve and will be updated from time to time as the need arises.

Community Licence Template

This template is used where the licensee does not have exclusive possession of the premises. It provides the Shire with flexibility to licence the premises to other parties at different times and better utilise the land and buildings. For example: a group may wish to hire out a storage room for six months of the year during their sporting season or they may share the area with another group who would also enter into a non-exclusive licence agreement to use the storage room on a shared basis.

The licence template will continue to evolve and will be updated from time to time as the need arises.

Community user licences are not to be used for general hire of a facility for example, utilising a venue in the Shire's Fees and Charges on a weekly basis for six hours per week.

Term

The term will depend on many factors:

- Council needs and Strategic Community Plan objectives.
- Community needs.
- The Lessee.
- The ongoing need for the property or the provided use.
- The Management Order for the property (if Crown land) and the requirements of the Minister for Lands.

The maximum tenure of a lease or licence granted by the Shire on Crown land will be 21 years including any further term option/s.

The maximum tenure of a lease or licence granted by the Shire on freehold land will be at the discretion of Council.

Variation

If a Lessee requests a variation to a lease or licence, the Shire may grant a variation on condition that the variation is achieved by surrender of the existing lease or licence and the grant of a new lease or licence with additional conditions the Shire considers appropriate, at the Lessee's cost.

Assignment

A Lessee must not assign a lease or licence without the Shire's prior written consent, which may be withheld in the Shire's absolute discretion. Assignors continue to be liable for the remainder term of the lease and will be required to prove suitability of an assignee.

Further term/renewal

If a lease or licence provides for a further term, the Shire may grant the Lessee an extension of the lease or licence if the Lessee is not or has not been in default and complies with the procedures in the lease or licence for renewal. Where an option to renew is stated in the lease or licence agreement, a Deed of Renewal template is to be used to exercise this option. Both party's signatures are required.

Planning consent and approvals

Planning Scheme consent/approval (if required) must be obtained from the Shire as the local planning authority, prior to a request for a lease or licence.

Where the Shire manages Crown land, grant of the lease or licence and each renewal, if any, will be conditional on Minister for Lands approval. The Lessee or Licensee is solely responsible for obtaining all approvals, licences, and authorities necessary to conduct the proposed activities on any premises.

The Shire makes no representation that a premises is suitable for any activity, whether permitted or otherwise.

Works

A Lessee may only undertake works on the property in accordance with the Shire's prior written consent. A Lessee will also be responsible for any planning or building approvals that may be required. As landowner or manager of the land, the Shire will be required to arrange any signing of planning and building applications. All works are to be conducted in a safe and professional manner.

Environmental

A Lessee must not clear vegetation on the property without the Shire's prior written consent.

Vacant possession and expiry of term

Removal of a Lessee's effects, buildings or infrastructure, apparent cessation of activities, or the continued vacancy of premises, without notice, may be deemed a surrender of lease or licence.

If a Lessee remains in occupation of property after expiry of the term, with the consent of the Shire, it will do so from month to month unless the lease/licence or Shire otherwise provides different holding over arrangements. On expiry or termination of a lease or license, a Lessee may be directed to remove all Lessee's improvements at the Lessee's cost, unless otherwise directed by the Shire. A Lessee must make good damage caused by removal of its improvements and restore the property to the same condition as at the beginning of the term.

Risk management and insurance

The Shire requires that all leases and licences contain appropriate risk management measures including an obligation on the Lessee to:

- indemnify the Shire (and the Minister for Lands if on Crown land) for loss or damage to persons or property, wherever occurring,
- maintain adequate public liability insurance,
- ensure that appropriate documentation and insurance is in place for the hired use of the property,
- carry appropriate worker's compensation insurance commensurate with activities; and
- be responsible for emergency and evacuation procedures.

A Lessee must maintain a minimum of $20 million public liability insurance per occurrence during the term. If activities undertaken on the leased or licensed property are considered high risk, a higher level of public liability insurance may be required by the Shire. A Lessee is recommended to insure their personal property (including contents) for the full replacement value as the Shire will not be responsible for any such replacements under any circumstances.

A Lessee will be required to provide the Shire with a copy of certificates of currency before possession is granted under the lease or licence commences and annually thereafter.

Annual fees

An annual rent is to be charged for the use of the facility, building or land as per the Fees and Charges schedule adopted in the Annual Budget.

Guidelines on annual fees

- Annual Fees and Charges are not to be incorporated into a lease or licence agreement for general hire of a facility. eg. Utilising a venue on a weekly basis for six hours per week.

- Fees apply to club/associations regardless of financial stability.
- Facilities, buildings or reserves will be charged at the same rate per annum regardless of size and location.
- Fees apply regardless of new, old, or renovated facility, building or land.
- Fees apply regardless of any work carried out by the club or association.
- Only one room, storeroom, building, facility, or reserve to one lease/licence agreement. Groups are entitled to more than one lease/licence agreement should the Shire have facilities, buildings, rooms or reserves available.

Definitions

Community or sporting group means a not-for-profit (does not operate as a business, corporation, or organisation) social, sporting, recreational, occupational, or religious group of any size whose members reside in the Shire, who contribute to active people, clubs and associations. Groups must be incorporated to enter a lease or licence with the Shire and comprise of a committee consisting of a President, Vice President, Treasurer and Secretary.

Community lease means a legally binding agreement granted to community, sporting or recreation associations, government bodies or other organisations that provide services solely for the benefit of the community.

Crown Land means land owned by the Crown and vested in the Shire through the granting of a Management Order by the Minister for Lands.

Freehold land (or fee simple) provides the most complete form of ownership of that land, in perpetuity. It allows the land holder to deal with the land including selling, leasing, licensing or mortgaging the land, subject to compliance with applicable laws such as planning and environment laws.

Fees and Charges mean the rates set annually by Council as part of the Annual Budget for the purpose of community leases/licences.

Incorporated means a group of people who are recognised as a legal entity, separate from individual members as defined under the *Associations Incorporation Act 2015*

Lease means a legally binding agreement by which one party (Lessor) in consideration of rent, grants exclusive use and possession of real property to a third party (Lessee) for a specified purpose and term. A lease creates an interest in the property.

Lease or licence variation means the addition, removal or change of one or more of the lease or licence provisions. The Shire Deed of Variation template is utilised for lease and licence variations. This template allows an arrangement for the lease or licence to be amended, provided the amendment is signed by all parties.

Lessee means an authorised third party that has entered a lease or licence with the Shire for the use of Shire owned or managed real property and pays rent to occupy the property (and where the context permits include a licensee).

Lessor means the Shire being the owner or management body of property with power to lease or licence to a third party (Lessee).

Licence permits a person to occupy property, or part thereof on conditions. The main feature that distinguishes a licence from a lease is that a licence does not permit exclusive use of the property. A licence does not create an interest in the property.

Licensee means a person that holds an approved licence. For this document (where context permits) a Licensee will also be referred to as 'Lessee'.

Management Order means an authorisation provided by the Crown giving the Shire both the power and authority to manage a parcel of land on behalf of the Crown.

Planning Scheme consent is a Local Planning Authority requirement if proposing to change a land use, develop or use any land including the erection, construction or alteration of any building, excavation, or other works on any land.

Property means the property that is subject to or intended to be subject to a lease or licence.

Reserve means a defined area of land belonging to the Crown which has been vested in the Shire by way of a Management Order.

Relevant policies/documents

Community Lease template
Community Licence template
Deed of Renewal template

Relevant legislation/local laws

Section 3.58 of the *Local Government Act 1995*
Regulation 30 of the *Local Government (Functions and General) Regulations 1996*
Shire of Ashburton *Public Places and Local Government Property Local Law 2023*

Office use only				
Relevant delegations	01.01.12 Disposing of Property			
Council adoption	**Date**	13 December 2022	**Resolution #**	171/2022
Reviewed/modified	**Date**	21 July 2026	**Resolution #**	114/2026
	Date		**Resolution #**	
	Date		**Resolution #**	
Next review due	**Date**	2030		