



Frankston City Council Leasing and Licensing Policy

(A5699242)



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1. Purpose

Frankston City Council (Council) owns or controls property for the benefit of the community. Council is committed to the responsible management of its land assets and resources.

The purpose of this Policy is to detail Council's approach to the leasing and licensing of Council owned or managed land, consistent with the Property Vision under the Property Strategy and Property Plan 2021-2025 (Property Strategy) which states:

"Council property is managed for the broader community benefit, in a pro-active, clear, adaptable and financially responsible way".

The Policy supports the guiding values of the Property Strategy, which requires:

- That the use of Council property, delivers public value.
- Financial stability.
- Legal and statutory compliance.
- Consistent and transparent management.

2. Scope

This policy applies to all Public Land, except as listed below where it may be used as a guide.

- Hiring of Council facilities or Council community halls
- Community Centres and Ebdale Hub
- Itinerant traders such as mobile food and beverage operators, and footpath/roadside trading/dining
- Joint Use and Management Services Agreements/Contracts
- Occupiers of Council Reserves (including roads) for private use purposes e.g. Kananook Creek occupancies
- Seasonal tenancies/sporting allocations
- Short form agreements
- Where a property has been approved to undergo an expression of interest process
- Where an approved bespoke policy takes precedence e.g. Boatshed/Bathing Box Policy
- Where Council is the Tenant

3. Governance Principles and Council Plan Alignment

3.1. Governance Principles

Principle (a) Council decisions are to be made and actions taken in accordance with the relevant law;

Principle (e) innovation and continuous improvement is to be pursued;

Principle (g) the ongoing financial viability of the Council is to be ensured;

Principle (i) the transparency of Council decisions, actions and information is to be ensured.

3.2. Council Plan Alignment

Strategic Outcome 4: Council Performance and Leadership – A forward-thinking and responsive council that values community input, committed to optimising services, ensuring robust governance and making sustainable decisions.

4. Policy

4.1 Background

Council and community needs change over time, and Council's limited property resources are coming under increasing pressure to meet the demands and expectations of the community.

Just as property acquisitions can take time and be costly, similarly leasing and licensing can effectively remove land, buildings and/or facilities from direct Council control. This can have an impact on Council's ability to deliver core functions and services, with flow on financial implications.

Some existing uses of Public Land are not maximised; some have a current use that is different to that approved at the commencement of the related Occupancy Agreement, and most do not provide an economic return.

In some cases, Public Land has been utilised because it has been viewed as a convenient and cheaper alternative to using private land. This is inconsistent with best management practices.

Historically, many lease agreements gave Occupiers exclusive occupancy in the absence of any service standards or requirements, primarily for minimal (peppercorn) rents in exchange for the Occupiers undertaking all the maintenance and/or capital improvements. Over time, lease rents and licence fees have not been benchmarked or reviewed/amended, to reflect the

actual costs of managing each property, and some Occupiers have struggled to keep up with maintenance standards.

Lengthy tenures for the same Occupiers, created where Occupancy Agreements may have automatically been rolled over, creating a sense of ownership and entitlement for some groups, often with little or no service standards to ensure an appropriate level of community benefit is maintained. This is particularly but not always the case, where Council has agreed to lease land for the purpose of the construction of a building by a Tenant.

Council premises are now designed to cater for and encourage multiple users, however, many older facilities and longer tenure groups enjoy exclusive occupancy.

In some cases, groups may be resistant to sharing facilities, irrespective of how well the asset is utilised.

Some premises are also hired out to third parties, to the extent that hire use exceeds the level of the official Occupier use. This is inconsistent with the initial basis and decision on which the asset was originally leased or licensed.

These issues have the potential to make the implementation of Council driven changes to facilities, the obtaining of financial and usage information, and the introduction of service standard requirements, more challenging.

In addition, the day-to-day management of Occupiers which is related to the nature of the service being delivered, can be unnecessarily complicated in the absence of a dedicated Service Manager, to develop and assist the ongoing relationship with Council.

Leasing and Licensing should address historical deficiencies, and demonstrate a consistent and strategically justified approach, in line with the guiding values of the Property Strategy.

Council is committed to ensuring that the use and occupancy of Public Land provides the optimal use of Council resources, considering the Leasing objectives under the Property Strategy.

The objectives are:

- To ensure that all proposed Leasing and Licensing is for a demonstrated, approved, current or future service delivery, in cases where the service is provided by or on behalf of Council,
- To ensure proposed Leasing and Licensing is for a need that Council wishes to support and is identified in an overarching strategic document,
- To ensure that the Leasing or Licensing is the most appropriate option to deliver an indirect service or use,
- To ensure Financial Value is returned to Council, in cases where the use is primarily for the commercial benefit of a Commercial Organisation,

- To ensure that any Leasing or Licensing demonstrates a satisfactory service and Financial Value, where the primary use is not commercial.

4.2 Leases and Licences

Leases

A lease involves certain rights to a parcel of land for use and occupation being transferred from landlord to Tenant for a fixed period of time, after which the land reverts back to the landlord.

A lease allows the Tenant exclusive possession. A lease creates a 'legal interest' in the land on behalf of the Tenant, and as such provides a high degree of security of tenure.

Leases of Crown Land must comply with the *Land Act 1958* in the case of unreserved Crown Land, or the *Crown Land (Reserves) Act 1978* in the case of reserved Crown Land. In the former case the landlord function is exercised by (DEECA); in the latter case the landlord function is performed by Council as the appointed Committee of Management.

It is not possible however, for a lease to be issued over a road reserve – except for arterial roads, in which case DTP has powers to issue leases under the *Road Management Act 2004*.

Licences

Licences are contractual arrangements allowing the non-exclusive use and occupation of land. More than one licence may be issued over the same physical area. Unlike leases they do not create any legal interest, and therefore do not provide the same level of security of tenure.

If the land concerned is Crown Land, then any licence will also have to satisfy the relevant provisions of the *Land Act 1958* or the *Crown Land (Reserves) Act 1978*.

In some freehold road reserves, service utilities may enjoy basic rights of usage/occupation in respect of their infrastructure under the *Subdivision Act 1988*. In some cases, easements may be sought. In the case of a Crown Land Road, there is no automatic right to install such infrastructure, and permission and/or a licence must be sought from DEECA.

DEECA has granted rights of tenure for certain common usages. These exemptions are made under s.138A of the *Land Act 1958*, and take the form of notices placed in the Government Gazette.

4.3 Lease and Licence Application

All prospective or current Occupiers seeking renewal of an existing Occupancy Agreement, will be required to apply for further tenure. This ensures that Council can collect a range of information about the Occupier, to confirm that a further or new occupancy is:

- in the best interests of all parties,
- has an appropriate governance structure to ensure adherence to legislative requirements and that lease or licence requirements are achievable,
- an Occupier can demonstrate appropriate financial capacity relevant to the proposed use,
- does not have a history of breaches or non-compliance,
- for commercial leases, to ensure that an Occupier has the appropriate experience and business acumen.

To make an application, prospective Occupiers must provide all the information requested on the Lease and Licence Application Form.

Application forms will be assessed by the delegated business unit on behalf of Council, with decisions as to whether to offer a lease or a licence primarily being made by the property panel.

4.4 Commercial Lease Management

Public Land suited to commercial uses are to be solely used by Commercial Organisations and are to be leased at market rent. It is only in special circumstances that Council will lease or licence commercial properties to Community Organisations for less than market rent. An example is where the commercial property has been identified for divestment, but is suitable for a limited, short-term use by a Community Organisation.

Where processes for leasing to Commercial Organisations differs from those governing Community Organisations, they will be specified separately within this policy.

4.5 Property Panel

A property panel comprising internal stakeholders, will consider applications for the use of Public Land, and make recommendations as to the entering into of Occupancy Agreements.

The property panel will consider the specific characteristics of the site and proposed use and identify the need for any special conditions in an Occupancy Agreement, assisted by a Gender Impact Assessment.

Commercial leases, which are generally subject to an expression of interest process and require procedures under the *Local Government Act 2020* to be completed, as well as short form agreements, will not be required to be referred to the property panel.

4.6 Condition Inspections

Council may undertake condition inspections on properties for Community Organisations that are the subject of an application for lease or licence, to:

- record the existing condition of the property,
- ensure it is fit for occupation,
- ensure an existing Occupier is complying with the terms and conditions of their Occupancy Agreement,
- identify any potential capital works that may need to be undertaken and referred to the Long-Term Infrastructure Plan, allowing the building lifecycle to be extended as far as practicable

Condition reports which identify the state of a property at the commencement of a new tenure, may be annexed to a new Occupancy Agreement.

4.7 Use of Standard Form and Service Level Agreements

Leases and Licenses

Standard form Occupancy Agreements, which have been prepared by Council's solicitors, will be used for all Occupiers of Public Land unless otherwise required by legislation, or agreed. For example, where an occupancy is proposed to be on Crown Land, DEECA's standard documents will be used, with special conditions to address any Council requirements. Similarly, service and telecommunication authorities for utility/communication installations, such as electrical sub-stations and monopole/equipment shelters, will often have dedicated standard Occupancy Agreements required to be used as a condition of the utility/communication installation.

All Occupancy Agreements will have a range of non-negotiable Council conditions, such as a requirement to adhere to child safe standards.

Special conditions may be included, when necessary, to meet specific requirements of Council or the proposed Occupier providing that changes do not compromise the integrity of the document.

Where a prospective Occupier seeks to make changes to the standard Occupancy Agreement, or Crown Land agreement, Council will seek reimbursement of its reasonable costs to prepare a lease or licence, unless legislation precludes reimbursement.

The nature of commercial uses means that standard agreements may not be suitable for all Commercial Organisations. As far as possible, the conditions in standard agreements will be utilised for Commercial Organisations but additional provisions and protections may be required. Depending on the use these may include things like restrictions on single use plastics (hospitality uses) or a requirement for personal/directors guarantees for liabilities arising under the lease if leasing to a trust entity.

Service Level Agreements

A Service Level Agreement (SLA) is a contractual agreement, requiring a range of minimum service standards and programs to be provided by Community Organisations, to the broader community. SLAs are a way to ensure transparency, accountability, and appropriate oversight for Occupiers of Public Land. SLAs, where considered appropriate by the property panel, will run concurrent with an Occupancy Agreement.

An example for an SLA is to require operators to offer programs to culturally and linguistically diverse persons, persons in the disability community, as well as for a range of age groups and genders. In addition, alignment with a range of Council policies may also be included, such as reporting on Environmental Performance measures.

SLA's will differ depending on the nature of the service provided, the geographical location and the strategic direction of the use. Service Managers are fundamental to ensuring that appropriate terms and conditions are established in any SLA.

4.8 Uses

Public Land is limited and is acquired for a range of uses which directly or indirectly benefit the broader community. Therefore, only uses by Community Organisations or individuals that:

- provide direct or indirect service delivery for, or on behalf of Council; or
- support grass roots participation in recreational activities, or other uses/objectives that Council has identified through an approved strategic document, will be supported.

To ensure community uses are maximised, leases for recreational uses on Public Land will allow a primary and secondary sport to be nominated, with other uses permissible with Council consent. For example, Primary Use – Bowls, secondary use, Tennis.

Ongoing use of Public Land is required to have an overarching agreement to regulate occupancy and use, as well as to ensure that risk and liability matters are appropriately addressed. Overarching Agreements may be a lease or licence, or other type of approval.

Examples of types of uses that are not supported:

Access from Private Property

Unless there are special circumstances access must be at a designated municipal entry point to ensure:

- risk and liability can be appropriately managed,
- the condition of Public Land itself is not environmentally damaged, and
- hazards for maintenance staff are not created.

If special circumstances can be evidenced and supported, a licence agreement must be entered into to ensure appropriate management.

Standalone Storage

Unless in special circumstances storage must be in association with an identified service delivery, including shipping containers (unless for emergency purposes), as well as buildings. This ensures:

- the availability of Public Land for identified uses is maximised,
- the use of Public Land by Occupiers is managed more effectively and efficiently,
- visual aesthetics are not compromised, and graffiti is discouraged
- hazards for maintenance staff and unnecessary security concerns are not created

This does not apply to Commercial Organisations.

4.9 Tenure Length

Maximum tenure length for all Occupancy Agreements will be determined by the property panel after considering the Occupiers application. If a group cannot demonstrate a stable financial position, but still meets a range of other criteria, a shorter tenure term may be offered of no more than two (2) years. This allows the Service Managers to monitor progress of the group and minimises the risk that the broader Council ratepayer base will be asked to provide financial assistance. Longer terms in accordance with this policy can be considered once a group's financial position has stabilised, in line with the range of uses and maximum terms below.

High Level Use Category	Maximum Term	Rationale
Accommodation* *Includes crisis and social/affordable housing	Sixteen (16) years	<ul style="list-style-type: none"> Recognises the residential use Provides appropriate security of tenure for end Occupiers (residents) Addresses a fundamental need for the wider community
Commercial* *Run by Commercial Organisations	Twenty-one (21) years (Hospitality) Sixteen (16) years other uses (e.g. Telecommunications)	<ul style="list-style-type: none"> Recognises the differing operational needs of commercial uses Provides appropriate security of tenure for amortisation of capital investment Acknowledges such agreements more likely to be assigned to alternative business owners during the term Maximises ongoing income stream for Council which is vital to assist in maintaining Council core services
Community/Recreational* *Run by Community Organisations	Five (5) years Eighteen (18) months (Shipping Containers/or other forms of standalone storage)	<ul style="list-style-type: none"> Recognises the non-residential use Allows conditions of standard Occupancy Agreements to be more easily reviewed and address changing community needs Provides increased flexibility to address changing requirements for service level agreements Addresses a range of social and leisure/sporting needs for the wider community
Regional Leisure Facilities* *Includes stadiums	Sixteen (16) years	<ul style="list-style-type: none"> Recognises the significant size; nature and financial cost of establishing the facility, including the increased ongoing operational costs. Acknowledges a commercial lens needs to be applied to management where the facility is run by Community Organisation. This ensures appropriate services are offered for the benefit of the wider community.
Other* *Anything that does not fit into above categories	Five (5) years	<ul style="list-style-type: none"> Recognises a wide variety of potential uses.

4.10 Rent/Fees

Payments under leases and licences will be charged in accordance with Council's approved Rent and Fees Charges model (model).

The model has three (3) components – rent/licence fee, a contribution to Essential Safety Maintenance (ESM) and a contribution to maintenance, as outlined below:

1. **Rent/licence fee.**

A rental payment is applicable for all exclusively occupied premises which are leased. A licence fee is applicable for all premises occupied under a licence (non-exclusive basis).

Rents and fees are based on a tiering system. The tiering and subsequent rent/licence fee is based on the nature and ability of the premises to facilitate multiple uses, generate income, as well as the nature of the service delivery. The recommended tiering classification for each Occupier is subject to review and confirmation by the property panel.

2. **A contribution to Essential Safety Maintenance (ESM).**

Council now undertakes ESM on all buildings under its control irrespective of ownership. ESM are mandatory systems and equipment designed to protect occupants during emergencies and are the responsibility of the building owner. This includes but is not limited to items such as fire prevention/checking fire extinguishers/paths of travel etc. Any ESM contribution is subject to applicable legislation. Contributions are only charged where a service is provided by Council.

3. **A contribution to maintenance.**

Some maintenance responsibilities for Community Organisations are progressively being transferred from Occupiers to Council, to ensure planned preventative as well as reactive maintenance can occur on time and to the correct legislative requirements. A contribution amount based on the tier of the premises supports increased delivery of maintenance services by Council. Any Maintenance contributions for Commercial Organisations is subject to applicable legislation. Contributions are only charged where a service is provided by Council.

4.11 Maintenance

Council is committed to ensuring Council property remains safe for its intended use.

Tenant, Licensee and Council responsibilities for maintenance and renewal, are clearly set out in the Occupancy Agreement through the use of standard maintenance schedules as agreed with Council's Facilities Management business unit.

In general, Tenants/Licensees are responsible for:

- a) Keeping Council property clean and tidy;
- b) Keeping Council property in good operating condition;
- c) Maintaining and renewing all Tenant/Licensee property and improvements;
- d) Maintaining the occupied property in accordance with responsibilities set out in the Maintenance Schedule.

4.12 Tenant and Licensee Works

Tenants and Licensees will not be able to make any alteration or additions (including signage) to Public Land and assets without Council and where relevant DEECA, consent. Certain works may require the Tenant to obtain further consents and/or permits e.g. planning approval.

Generally, only minor works by Community Organisations will be supported, subject to a range of conditions. Significant Tenant or Licensee works are preferred to be undertaken by Council to ensure appropriate oversight and compliance with legislative requirements, unless the Tenant or Licensee is a registered housing/accommodation provider. Significant works are recommended to be referred to the Long-Term Infrastructure Plan (LTIP) by the Service Manager, for consideration.

Proposed works that are funded by Grants require specific and advanced consideration, as funding conditions can often be inconsistent with Council's position under Occupancy Agreements and/or other strategic documents such as Master Plans.

All works irrespective of the funding stream must be approved in writing with relevant conditions, under the lease or licence.

Commercial agreements may allow for capital works, which must be appropriately addressed via specific provisions in any Occupancy Agreement, with appropriate oversight by Council's delegate.

4.13 Assignments and Sub-Leasing

Assignments and sub-leasing of lease agreements (but not licences) are common in commercial property management.

Assignment

An assignment occurs where a Tenant seeks to wholly transfer their interest and obligations under a lease to a third party.

Assignment is not supported unless:

- The premises is leased to a Commercial Organisation
- The premises is leased to a Community Organisation, and the new assignee entity has the same goals and purposes in respect of service delivery consistent with the original intention of the lease.

Sub-Leasing

A sub-lease occurs where a Tenant retains their interest under the lease but seeks to hand over operational control of all or part of the leased premises, to a third party. This primarily occurs in order for a Tenant to make a financial gain from the sub-lease whilst reducing their day to day operational responsibility, e.g.) a sub-lease of a café in a sporting stadium.

Sub-Leasing is not supported unless:

- The premises is leased to a Commercial Organisation
- The leased premises is a Regional Leisure Facility

Council provides a subsidy to all Community Organisations operating on Public Land, in the form of below market rents and fees, maintenance services, and general operational support such as with business planning and grant applications. Therefore, it is not appropriate that Occupiers of Public Land obtain 100% of the financial or other benefit, of a commercial dealing such as a sub-lease.

4.14 Management of Agreement and Occupancy

Council reserves the right to suspend or terminate a lease or licence at any time if it has good cause, as specified in the standard Occupancy Agreements, with reasons including but not limited to:

- A failure to provide evidence of public liability insurance coverage
- A breach of the terms and conditions of the lease or licence, which includes but not limited to:
 - Failure to pay rent, fees and charges and/or outgoings; and/or,
 - Failure to provide information requested by Council by the designated time; and/or,
 - Adherence to maintenance responsibilities outlined in each Occupancy Agreement.
- Council determining that the condition of any building under a lease or licence presents an unacceptable risk to users and/or the community.
- Further actions in respect of the occupancy may be required to physically return control of the Public Land to Council.

4.15 Reporting

Reporting requirements for all Occupiers including timelines for reporting, is an inclusion of Council's standard Occupancy Agreements, such as annual financial reporting.

Community Organisations are also required to provide further reporting information as stated in any Service Level Agreement, which may include:

- a) Annual reports; business and marketing plans; financial statements
- b) Details of membership/users, user group fee schedules
- c) Details of their current services, benefits provided
- d) Alignment with Council policies

4.16 Insurance

Public Liability and Contents

All Occupiers are required to take out public liability insurance, noting the interest of Council and DEECA (if required). A copy of the Certificate of Currency must be provided annually.

A minimum cover of \$20 million must be provided, or other such sum as required in the Occupancy Agreement, which will vary depending on the permitted use.

Other Types of Insurance

Other types of insurance cover may also be required depending on the permitted use under the lease or licence, such as:

business interruption; theft of cash; construction/fit out; industrial special risks; sports injury etc.

Building and Contents Insurance

Council will take out and maintain building insurance for Council owned buildings on Public Land for the full replacement value.

In the event of total destruction of a building Council is not obligated to replace or rebuild the insured structure.

Building insurance for Tenant owned buildings must be obtained by the Tenant. Tenants/Licensees may be required to reimburse the cost of any attributable premium increase for building insurance. This is in addition to any excess payable, in the event of any claim made under Council's insurance policy.

All Occupiers have responsibility for insuring any fixtures and contents within the leased or licenced area.

Occupiers must provide a copy of their certificate of currency for all insurance required before the commencement date of the lease or licence, and thereafter in accordance with the conditions in the standard Occupancy Agreement.

4.17 Agreement Renewals

Vacant Land

Land can sometimes appear vacant or unused, but may have a passive use or provide a contribution to a broader strategic purpose, such as public open space or a retarding basin. In the event Council desires such land to be actively utilised, it may seek expressions of interest to do so.

Any decision to call for expressions of interest, and any resulting permissible use, will be in Council's absolute discretion.

Vacant Buildings

Buildings can become vacant from time to time due to a number of factors. In cases where a vacant building is not programmed for demolition or being considered for divestment, a public expression of interest process may be undertaken to seek suitable users, subject to the requirement of this policy. This allows identification of organisations that can provide best value and community benefit, having regard to the nature of the individual premises.

Any decision to call for Expressions of Interest, and any resulting permissible use, will be in Council's absolute discretion.

Applications received from Community Organisations through a public process will be assessed by the property panel, having regard to evaluation criteria to address the specific requirements of the site.

Lease and Licence Renewals

All prospective Occupiers or current Occupiers seeking renewal of an existing Occupancy Agreement, will be required to apply for further tenure, either directly by invitation or, as a result of an expression of interest process.

Commercial agreements can be renegotiated once 75% of the tenure term has passed.

Regardless of the lease term, the final decision to allocate a lease through a direct negotiation process instead of a competitive allocation process for Crown Land, rests with the Minister at the time of consideration.

To ensure equity for Community Organisations, all existing Occupiers will be invited to apply for the first renewal under this Policy. This will include any Occupancy Agreement entered in association with the primary Community Organisation use.

Under certain circumstances, Occupancy Agreements will be directly negotiated with Occupiers, provided there are justifiable reasons that a direct negotiation is appropriate. Such circumstances include, but are not limited to, where the building is owned by the incumbent Tenant; where significant capital contributions have been made, and where there is an absence of competition for the service/use permitted from the premises, or where the Occupier providing the service has demonstrated a consistent and high level of adherence to its Occupancy Agreement and working with Council.

4.18 The role of officers in Leasing and Licensing

Property/Public Land Management

Property Management is delegated on behalf of Council to manage all aspects of Public Land.

Responsibilities in respect of leasing and licensing include but are not limited to:

- The development of relevant policies; procedures and guidelines,
- Management of the property panel,
- Manage the development, review, interpretation, and enforcement of standard Occupancy Agreement terms and conditions, and applicable legislation,
- Negotiation of new Occupancy Agreements,
- Determine whether requested amendments to standard Occupancy Agreement requirements, including timelines for the submission of information, is appropriate and can be approved.

Service Managers

Service Managers play a vital role in the success of Occupiers, by providing day to day operational support. Service Managers can identify the need for the particular service delivery in the community, and assist to develop appropriate service level agreements.

Service Managers further support Occupiers with industry specific advice; development of business grants and business plans, and reporting.

Service Managers are subject matter experts, and therefore allocated based on the purpose of the Occupancy Agreement, and type of permitted use.

One Service Manager must be allocated for each Occupancy Agreement.

Responsibilities in respect of leasing and licensing include but are not limited to:

- Identify current and future service delivery needs, to inform the development of service level and Occupancy Agreements.
- Act as a liaison between Community Organisations and Property Management.
- Monitor Occupiers to ensure they have appropriate Occupancy Agreement in place and are adhering to their obligations.
- Assist to obtain information relating to organisations applying for an Occupancy Agreement.
- For proposed uses, ensure appropriate strategic assessments are completed to evidence the service delivery need e.g. Feasibility studies and master plans.

Category of Uses and Service Managers

Community Organisations (Not-For-Profit)	
Type of Use Permitted	Service Manager
Arts uses including performance arts and visual arts	Arts and Culture
Community centres and neighbourhood houses	Neighbourhood Inclusion (Community Strengthening)
Community gardens	Community Development (Community Strengthening)
Cultural uses	Community Development (Community Strengthening)
Ebdale Hub	Neighbourhood Inclusion (Community Strengthening)
Heritage/Sites of Historical interest	Community Development (Community Strengthening)
Kindergartens; Playgroups and schools	Children's Services (Family Health Support Services)
Community Markets	Property Management
Men's sheds	Community Development (Community Strengthening)
Recreational and sporting uses	Recreation (Community Strengthening)
Scouts and Guides	Property Management
Commercial (For Profit) and Other Uses	
Type of Use Permitted	Service Manager
Bathing Boxes	Property Management
Centenary Park Golf Course	Recreation (Community Strengthening)

Commercial uses including access; accommodation; car parks; hospitality; telecommunications and utilities	Property Management
Emergency Management including SES	Safer Communities
Environmental Monitoring, including former tip sites	Risk Management
Commercial Markets	Property Management
Private use of Reserves	Property Management

4.19 Multi-use of facilities

Council is committed to maximising access to, and utilisation of its facilities. Accordingly, for all Occupancy Agreements with Community Organisations, the need for exclusive use of facilities will be reviewed by the property panel. A recommendation on the nature of Occupancy Agreement to be offered will be made and where practicable, preference may be given to a shared use licence agreement.

Community Organisations have the onus of justifying any request for exclusive use.

4.20 Community Engagement

If Council proposes to lease Public Land that is subject to section 115 of the *Local Government Act 2020* and the lease was not included in the Council budget, Council will undertake a community engagement process in respect of the proposal prior to entering into the lease, in accordance with Council's Community Engagement Policy.

5. Roles and Responsibilities

Manager Procurement, Property and Risk or other nominated officer has the responsibility for the review, management and implementation of this policy.

6. Policy non-compliance

Non-compliance with this Policy has the potential to result in Lease/Licence management that is not managed for the broader community benefit, in a pro-active, clear, adaptable and financially responsible way.

7. Definitions

In this policy the following words have the following meanings:

“Community Organisations” means a Not-For-Profit entity that addresses community needs. (Also see Not-For-Profit definition)

“Commercial Organisations” means a for-profit entity for example, telecommunications facility or a cafe.

“Council” means Frankston City Council and its delegates as approved under an Instrument of delegation.

“Crown Land” means land in the ownership of His Majesty King Charles III, managed by the Governor General on the Kings behalf, and delegated to the Department of Energy, Environment and Climate Action in the State of Victoria.

“DEECA” means the Department of Energy, Environment and Climate Action.

“DTP” means the Department of Transport and Planning.

“Financial Value” means the monetary amount on Council’s asset register, the assessed market value of the asset in a potential use or disposal scenario, as well as any established or potential income received by Council from the use of Public Land.

“Licensee” means a person/s or entity which/who has been given non-exclusive contractual rights to use or occupy all or part of a property.

“Not-For-Profit” means an organisation that does not operate for the profit, personal gain or other benefit of particular people, such as its members or directors etc. In order to be considered a Not-For-Profit the assets and income of that organisation must be applied solely to further its objectives. This is not the same as profitability.

“Occupancy Agreement/s” means the document that regulates the conditions on which Council allows the use of Public Land, and includes a lease or a licence.

“Occupier/s” means a group/entity/persons who use Public Land.

“Public Land” means land owned or managed by Council, this includes Crown Land and land under Council’s management belonging to a State authority, e.g. Vic Track.

“Service Manager” means the Council business unit responsible for managing the day-to-day relationship with existing or prospective Occupiers of Public Land.

“Tenant” means a person/s or entity who/which has been given exclusive legal rights to use or occupy all or part of a property.

8. Related Documents

Legislation

Crown Land (Reserves) Act 1978

Land Act 1958

Local Government Acts 1989 and 2020

Planning and Environment Act 1986

Road Management Act 2004

Policy

Frankston City Council Property Strategy 2021-2025

Community Engagement Policy

Long Term Infrastructure Plan

9. Implementation of the Policy

This Policy will be communicated by one or more of the following methods:

- Frankston City Council Website
- Provision of access to a copy of the policy to all stakeholders
- Emails
- References in procedures