

	<i>Leases and Licenses Policy</i> Policy No. GOVPOL 18	Version No:	6
		Responsible Officer/s:	Governance Officer
		Classification:	Council
		Issued:	3 June 2013
		Next Review:	February 2028

1. Purpose

The District Council of Grant ("Council") recognises the community social and economic value of the various Sporting Clubs, Community Groups and Commercial Entities operating within the district. The Council needs to provide a balanced approach towards the use of land with respect to Leases and Licences ("Lease/Licence") for community, private or commercial purposes.

2. Scope

This policy specifically deals with Local Government Land (to the exclusion of roads) which is owned by or under Council's care, control and management and thereafter leased or licensed to Sporting Clubs, Community Groups and Commercial Entities.

This policy should be read in conjunction with the *Local Government Act 1999* (SA) ("*The Act*"), where relevant sections of *The Act* have been included to ensure consistency and noting that *The Act* shall prevail, to the extent of any inconsistencies.

This policy does not aim to cover all requirements pertaining 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 information highlighted by the Department of Environment & Water that should be considered when dealing with dedicated lands owned by the Crown.

3. Definitions

Annual Value

Determined by calculating 5% of the capital value. The *Valuation of Land Act 1971* (SA) ("*Land Act*") defines Annual Value as:

"A value computed as three-quarters of the gross annual rental that the land might reasonably be expected to realise if leased upon condition that the landlord were liable for all rates, taxes and other imposts on the land and the insurance and other outgoings necessary to maintain the value of the land, or as five per cent of the capital value of the land ..."

Further, "where it is not reasonably practicable to determine a gross annual rental in relation to land, the annual value of the land must be computed on the basis of the capital value of the land."

Capital Value

The *Land Act* defines capital value as:

"The capital amount that an unencumbered estate of fee simple in the land might reasonably be expected to realise upon sale, but if the value of the land has been enhanced by trees planted on the land (other than commercial plantations), or trees preserved on the land for the purpose of shelter or ornament, the capital value must be determined as if the value of the land had not been so enhanced."

Community Land

Local Government Land classified as Community Land under Chapter 11 of *The Act*.

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<i>Crown Land</i>	Land owned by the Crown which is under the care, control and management of Council.
<i>Grounds Lease</i>	An agreement in which a Lessee is permitted to develop a portion of land during the lease period at their own cost (including construction, repairs, renovations, improvements, taxes, insurance, etc.), after which the land and all improvements are turned over to Council (unless there is an alternative agreement with Council).
<i>Lease</i>	Specific and exclusive rights to occupy or use the land.
<i>Licence</i>	A permit to carry out some work on the land or to occupy the land, but not to the exclusion of other persons.
<i>Local Government Land</i>	Land owned by Council or under Council's care, control and management.
<i>Net Lettable Area</i>	That portion, measured in m ² , of any Council owned facility being leased by the Lessee.

4. Objectives

Council's objective is to have a consistent approach to the leasing and licensing of Local Government Land, and raising fees and charges based on a user pays system, taking into account the type, use, function and purpose of the facility, especially with respect to capacity to pay.

5. Policy

This policy aims to achieve a set of guidelines that can be applied to all requests, where Council will retain the right to reject or accept applications if such applications are not in accordance with Council's strategic and operational objectives.

Section 202 of *The Act* outlines several principles with regard to use of Community Land by Lease/Licence. Those principles include:

- (1) A Council may grant a Lease/Licence over Community Land (including Community Land that is, or forms part of, a park or reserve),
- (2) Before Council grants a Lease/Licence relating to Community Land, it must follow the relevant steps set out in its Public Consultation Policy.
- (3) However, Council need not comply with the above requirements if:
 - (a) the grant of the Lease/Licence is authorised in an approved management plan and the land and the term of the proposed Lease/Licence is five years or less; or
 - (b) the regulations provide, in the circumstances of the case, for an exemption from the compliance with a public consultation policy.

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- (4) A lease or licence is to be granted for a term not exceeding 42 years and the term of the lease or licence may be extended but not so that the term extends beyond a total of 42 years.
- (5) A Lease/Licence may provide for:
- (a) the erection or removal of buildings and other structure for the purpose of activities conducted under the Lease/Licence;
 - (b) the exclusion, removal or regulation of persons, vehicles or animals from or on the land, and the imposition of admission or other charges;
 - (c) any other matter relevant to the use or maintenance of the land.
- (6) A Lease/Licence must be consistent with any relevant management plan.

In the interests of consistency and fairness to all Lessees/Licensees, Council will treat Leases/Licences over all land with the same approach as that to Community Land but in order to avoid the expense and time of undertaking public consultation for Leases/Licences over five (5) years (as required by *The Act*), Council's preferred term for any new Lease/Licence will be five (5) years including any right(s) of renewal.

Where there are changes made to this Policy, which impact all or several ongoing Leases/Licences, the changes will be applied initially to those Leases/Licences that are in the "Holding Over" period. The remaining Leases/Licences will follow as and when their current Agreement requires renewal or as agreed by way of Addendum with the Lessee/Licensee and as new Leases/Licences are taken up.

5.1. Principles

5.1.1. The following criteria will generally be applied to Leases/Licences:

- The life of the lease may be negotiable but will generally be for five (5) years or less and may have the right of renewal.
- Public Liability Insurance is to be the responsibility of the Lessee.
- The Lessee is responsible for full cost recovery, including rates and other charges, electricity, water and any other applicable outgoings, including the actual amount of the stamp duty payable on the lease, the government fees for registration of the lease; and one half of the other preparatory costs¹, but specifically excludes the cost to advertise under Council's Public Consultation Policy.
- Any building or other improvements to land and/or premises is done so at the cost of the Lessee/Licensee and must be maintained by them for the life of the Lease/Licence, unless there is an alternative agreement with Council.

¹ Section 14 - *Retail and Commercial Leases Act 1995*

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5.1.2. Factors for inclusion in the Lease/Licence will include:

- maintenance of property in accordance with the Lease/Licence conditions;
- return of the land or premises at the end of the term to a condition that is the same or better than at the commencement of the Lease/Licence;
- minimisation of all risks including public safety, hazardous materials, waste removal;
- vermin control in premises and weed and pest control over the land; and
- consideration of environmental issues over the land.

The terms and conditions of all Leases/Licences may require review to ensure they align with best practice and current trends.

5.1.3. Crown Land

When dealing with dedicated land that is owned by the Crown but under the care, control and management of Council, it is a requirement of the Department of Environment, Water & Natural Resources to refer the applications to the Minister for Sustainability, Environment & Conservation to seek approval from the owner of the land, for the following reasons:

- Native Title may subsist in dedicated lands, particularly where no extinguishing act (development or authorisation for exclusive possession) has been put into effect prior to the commencement of the *Native Title Act 1993* (Cth) ("*Native Act*"). Consequently, any Act that contravenes the *Native Act* provisions may involve the Crown in an action for compensation in the event a successful Native Title Claim is made in respect to the dedicated land.
- Dedicated lands should not be developed where the nature of the development contemplates some act that may be at variance to the purpose for which the land has been dedicated.
- Third party occupation should be limited where possible to five (5) years, since the power rests with the Minister for Sustainability, Environment & Conservation to resume dedicated lands and resumption has the effect of nullifying any lease issued for a term of years by the authority of the custodian.
- Lands held under "Trust Grant" are essentially freehold grants, notwithstanding valuable consideration may not have been paid at the time title was issued, as such, Native Title will have been extinguished by the issue of a Trust Grant, nevertheless, the land must be used only for the purpose described by the trust on the face of the grant.
- Leases/Licences issued to third parties should not be a variance to the purpose for which the land has been dedicated.
- No sale or disposal of dedicated lands should be contracted on the assumption that the Crown will honour such contracts for the reasons that disposal of dedicated land necessitates its resumption

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which cancels the authority of the custodian to deal with the land and direct disposal of Crown land, without competition, is in conflict with the principles of prudential management and the National Competition Policy.

- Any new development occurring on dedicated lands must be referred to the Regional Office of the Department of Environment, Water & Natural Resources prior to the commencement of any works.

Fees and charges associated with obtaining such approval from the Minister for Sustainability, Environment & Conservation will be on-charged to the Lessee/Licensee by Council.

5.2. Insurance

Subject to the individual terms of the Lease/Licence, the Lessee/Licensee will generally be responsible for all costs associated with taking out and maintaining both Public Liability Insurance and Contents Insurance over the affected land and/or premises for the life of the Lease/Licence.

Council may assume the responsibility of taking out and maintaining appropriate insurance for Council-owned land and/or premises, with the appropriate costs being on-charged to the Lessee in the following instances:

- a Community Group or Sporting Club with gross annual turnover greater than ten thousand dollars (\$10,000*);
- a leasing arrangement commercial in nature; or
- any other such arrangement that Council deems appropriate.

Council will not on-charge the cost of building insurance where the Lessee is a Community Group or Sporting Club with gross annual turnover less than ten thousand dollars (\$10,000*).

Community Groups or Sporting Clubs with gross annual turnover greater than ten thousand (\$10,000*) may apply to include a building under Council's insurance, if this proves to be a more competitive rate and the costs associated will be on-charged.

Where the Lease/Licence is over vacant land for such as but not limited to, agricultural purposes, the Lessee/Licensee will be responsible for taking out and maintaining the necessary insurance for any fixtures and improvements over the land, unless there is an alternative agreement with Council.

*This amount shall be reviewed periodically by Council inline with the Consumer Price Index (CPI) published by the Australian Government for Adelaide (All Groups) as at the March quarter.

5.3. Rates

Subject to the individual terms of the Lease/Licence, the Lessee/Licensee will generally be responsible for all rates payable on the leased land, unless they have

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been granted a rebate per *The Act* and/or per Council's Rate Rebate Policy. Any Lessee's who are eligible for a discretionary rebate pursuant to Section 166 of *The Act* may apply, in writing, to the CEO. Such requests will be considered on a case-by-case basis.

Council deals with ratable property by registering the relevant Lease/Licence as an 'occupier' of the relevant land. This effectively creates a system where the 'occupier' shall receive the rates and charges relating to the land directly.

At Council's high-use sites, such as the Airport and Saleyards, it is not reasonably practical to implement the 'occupier' system. Council shall manage the Lease/Licence Agreements at these sites by including a contribution of minimum rate as set out in Council's Annual Fees and Charges document and/or directly into Lease Agreements.

5.4. Service Charges

Subject to the individual terms of the Lease/Licence, Council will generally impose a service charge of \$50* per quarter (as at 2023) to all Lessee/Licensee's located at high-use sites, such as but not limited to, the Airport and Saleyards. This contribution reflects the administration and cost of facilitating and monitoring various service connections and infrastructure.

*This amount shall be reviewed periodically by Council inline with the Consumer Price Index (CPI) published by the Australian Government for Adelaide (All Groups) as at the March quarter.

5.5. Competing Interests

Council recognises that, from time to time, there may be competing interests in leasing a particular property. Examples of this may be:

- Where Council has been approached directly from a member of the public or group, club or business expressing interest in leasing a particular property (often where that particular property is already the subject of a Lease/Licence); or
- Where Council has undertaken an Expression of Interest or Tender process for the Leasing/Licensing of a particular property.

In these instances, the subject of who to award the Lease/Licence to and the essential terms of that Lease/Licence will be presented to a Council Meeting for consideration and thereafter decision.

5.6. Lease/License Types and Fee Structures

The Lease/Licence fee payable is categorised into four main categories, taking into account the individual organisations overall activities.

As a basic principle there will be no concessions or subsidies on fees for any organisation, which is of a commercial nature, where the facility is being utilised for commercial or personal gain, or where they have substantial revenue raising capacity.

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5.6.1. Not-for-profit Community Groups and Sporting Clubs with a gross annual turnover of less than ten thousand dollars (\$10,000*) per annum

Council recognises the benefit of providing financial and non-financial support to Community Groups and Organisations including but not limited to, not for profit organisations, sporting clubs, service clubs, craft groups, progress associations, hall committees or associations and community based health and social welfare agencies.

Community Groups and Organisations must apply to Council in writing to the CEO, outlining the reasoning for the exemption of the annual Lease/Licence fee outlined in clause 5.6.2. Evidence of the Community Group or Organisation financial position and annual income is required to be annexed to any application, under this clause. The issue of whether a Community Group or Organisation falls into this category, and therefore, whether or not annual Lease/Licence fees outlined in clause 5.6.2 apply, will be determined by the CEO.

Lessee/Licensees wishing to remain in this category must supply relevant supporting financial information upon request. In the event the Lessee/Licensee fails to supply the information, they may be deemed to no longer meet the criteria and be recategorised in accordance with section 5.6.2 accordingly.

Council recognises the difficulty these groups might face to raise the funds required to be able to meet the fee requirements associated with Leasing and Licensing. The following fee structure is based in consideration of those factors.

Fee Structure

Annual lease/licence fee	\$1.00 payable on demand
Other Charges	Lessee/Licensee to pay all outgoings, including but not limited to telephone, electricity, water, CWMS rates and general rates, and emergency services levy. Unless there is an alternative agreement with Council, all utilities and outgoings are required to be in the name of the Lessee/Licensee (rather than Council), with the Lessee/Licensee assuming direct responsibility for all connections and invoices related to their outgoings.
Shared Premises	Where a Lessee occupies a portion of any Council owned facility and there is no agreement to calculate shared outgoings otherwise, the Lessee is to pay a portion of such outgoings based on:

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The total usage cost multiplied by the Lessee's Nett Lettable Area, divided by the number of tenants, per provider, for each billable period.

Property Insurance	All costs payable by Council.
Contents Insurance	All costs payable by Lessee/Licensee.
Public Liability Insurance	All costs payable by Lessee/Licensee.
Preparation of documents	All registration fees and stamping costs if required plus one half of the cost of preparation of the Lease/Licence.
Rates	As per clause 5.3.

*This amount shall be reviewed periodically by Council inline with the Consumer Price Index (CPI) published by the Australian Government for Adelaide (All Groups) as at the March quarter.

5.6.2. Community Groups and Sporting Clubs with a gross annual turnover of ten thousand dollars (\$10,000*) or greater per annum

Council recognises the importance of sport and recreation facilities in the district area and acknowledges the community benefits created by the associated clubs. Council also recognises that in many instances there is an unpaid contribution by volunteers in regard to the maintenance and upgrade of the various sporting grounds and buildings. The following fee structure is based in consideration of those factors.

Fee Structure

Annual Lease/Licence fee	This fee is based on a base rate of \$220.00 inclusive of GST (as at 1 July 2019). This amount will be increased by CPI (Consumer Price Index published by the Australian Government for Adelaide – All Groups as at the March quarter) plus GST, with each such increase to be applied as at 1 July each year, for both new and existing Lessees.
Other Charges	Lessee/Licensee to pay all outgoings, including but not limited to telephone, electricity, water, CWMS rates and general rates, and emergency services levy. Unless there is an alternative agreement with Council, all utilities and outgoings are required to be in the name of the Lessee/Licensee (rather than Council), with the Lessee/Licensee assuming direct responsibility for all

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Shared Premises	connections and invoices related to their outgoings. Where a Lessee occupies a portion of any Council owned facility and there is no agreement to calculate shared outgoings otherwise, the Lessee is to pay a portion of such outgoings based on: The total usage cost multiplied by the Lessee's Nett Lettable Area, divided by the number of tenants, per provider, for each billable period.
Property Insurance	All costs payable by Lessee/Licensee.
Contents Insurance	All costs payable by Lessee/Licensee.
Public Liability Insurance	All costs payable Lessee/Licensee.
Preparation of documents	All registration fees and stamping costs if required plus one half of the cost of preparation of the Lease/Licence payable by Lessee/Licensee.
Rates	As per clause 5.3.

5.6.3. Commercial Activities

Commercial Activities will be separated into three areas, being:

- Office Space
- Full Commercial Use
- Landowner and/or Resident Private Use

(a) Office Space

Council receives infrequent requests from commercial enterprises to Lease/Licence Premises for the purpose of utilising it as office space and as such each case is assessed in accordance with Council's strategic direction and operational requirements. The following charges will generally apply.

Fee Structure

Annual Lease/Licence fee	Each application will be assessed on the merits of its application, and the fee will be set in accordance with the commercial activity proposed and the facility that is to be Leased/Licenced. Council may determine that a valuation of the land be required for the purpose of
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ascertaining what the annual Lease/Licence fee will be. All fees and charges associated with obtaining such a valuation will be the responsibility of the Lessee/Licensee.

Council may also determine that tenders will be called to Lease/Licence the land, in which case the tender price will determine the "Annual Lease/Licence Fee".

This amount will be increased by CPI (Consumer Price Index published by the Australian Government for Adelaide – All Groups as at the March quarter) plus GST, with each such increase to be applied as at 1 July each year, for both new and existing Lessees.

Other charges

All costs payable by Lessee/Licensee.

Wherever possible, all utilities and outgoings are required to be in the name of the Lessee/Licensee (rather than Council), with the Lessee/Licensee assuming direct responsibility for all connections and invoices related to their outgoings.

Shared Premises

Where a Lessee occupies a portion of any Council owned facility and there is no agreement to calculate shared outgoings otherwise, the Lessee is to pay a portion of such outgoings based on:

The total usage cost multiplied by the Lessee's Nett Lettable Area, divided by the number of tenants, per provider, for each billable period.

Property Insurance

All costs payable by Lessee/Licensee.

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Contents Insurance	All costs payable by Lessee/Licensee.
Public Liability Insurance	All costs payable by Lessee/Licensee.
Preparation of documents	All registration fees and stamping costs if required plus one half of the cost of preparation of the Lease/Licence payable by Lessee/Licensee.

(b) Full Commercial Use

Proposals to establish a commercial enterprise on Local Government Land will be subject to individual consideration by Council, after Council has considered all aspects of the proposal. Full commercial operation may include but is not limited to, retail outlets, warehousing or intensive activities with profitable turnovers.

Expansion of general farming activities from adjoining neighbours who apply to use vacant land will be considered under the category of landowners, residents or private use as per 5.6.3(c).

Each case will be assessed on merit in accordance with Council's strategic direction and operational requirements, however the following charges will generally apply.

Fee Structure

Annual Lease/Licence fee	Each application will be assessed on the merits of its application, and the fee will be set in accordance with the commercial activity proposed and the facility that is to be Leased/Licensed. Council may determine that a valuation of the land be required for the purpose of ascertaining what the annual Lease/Licence fee will be. All fees and charges associated with obtaining such a valuation will be the responsibility of the Lessee/Licensee. Council may also determine that tenders will be called to Lease/Licence the land, in which case the tender price will determine the "Annual Lease/Licence Fee".
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The Lease/Licence will be subject to annual review, which shall be increased by the “Annual Value” of the land as valued by the Valuer General’s Department or the CPI (Consumer Price Index published by the Australian Government for Adelaide – All Groups as at the March quarter) plus GST, whichever is the greater.

Other charges

All costs payable by Lessee/Licensee.

Wherever possible, all utilities and outgoings are required to be in the name of the Lessee/Licensee (rather than Council), with the Lessee/Licensee assuming direct responsibility for all connections and invoices related to their outgoings.

Shared Premises

Where a Lessee occupies a portion of any Council owned facility and there is no agreement to calculate shared outgoings otherwise, the Lessee is to pay a portion of such outgoings based on:

The total usage cost multiplied by the Lessee’s Nett Lettable Area, divided by the number of tenants, per provider, for each billable period.

Property Insurance

All costs payable by Lessee/Licensee.

Contents Insurance

All costs payable by Lessee/Licensee.

Public Liability Insurance

All costs payable by Lessee/Licensee.

Preparation of documents

All registration fees and stamping plus one half of the cost of preparation of the Lease/Licence payable by Lessee/Licensee.

Rates

As per clause 5.3.

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(c) Landowner and/or Resident Private Use

Requests from private individuals to Lease/Licence land and/or premises within townships is not common, however it is more common in rural areas where larger tracts of Local Government Land exist. Rural land is generally undeveloped and has no significant value to the Council's strategic direction in the short term, but should be retained by Council, for possible future use. It is recognised however, that there is some value to a person who wishes to Lease/Licence such land.

Each case will be assessed on merit in accordance with Council's strategic direction and operational requirements. Providing that the land is used for general farming, horticulture or other similar pursuits, then the following charges will generally apply.

Fee Structure

Annual Lease/Licence fee	Based on 40 percent (40%) of the "annual value" of the land. The Lease/Licence will be subject to annual review, which will be increased by the "Annual Value" of the land as valued by the Valuer General's Department or the CPI (Consumer Price Index published by the Australian Government for Adelaide – All Groups) plus GST, whichever is the greater. Council, at their discretion, may also determine that tenders will be called to Lease/Licence the land, in which case the tender price will determine the "Annual Lease/Licence Fee".
Other charges	All costs payable by Lessee/Licensee. Wherever possible, all utilities and outgoings are required to be in the name of the Lessee/Licensee (rather than Council), with the Lessee/Licensee assuming direct responsibility for all connections and invoices related to their outgoings.
Property Insurance	All costs payable by Lessee/Licensee.
Contents Insurance	All costs payable by Lessee/Licensee.

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Public Liability Insurance	All costs payable by Lessee/Licensee.
Preparation of documents	All registration fees and stamping costs (if required) plus one half of the cost of preparation of the Lease/Licence payable by Lessee/Licensee.
Rates	As per clause 5.3.

5.7. Airport Land

Council recognises that leasing the of land and/or premises at the Mount Gambier Airport appeals to a niche group of people. Such Lease/Licences carry a unique set of requirements for Council and the Lessee/Licensee.

Upon request by the Mount Gambier Airport Manager, a Lessee/Licensee must, within a reasonable timeframe and at their own cost, install a meter unique to their leased land, for the reading of both electricity and water (if not already installed on the site).

Leasing/Licencing of land and/or premises located at the Mount Gambier Airport is generally dealt with per the following principles:

5.7.1. Community Based Services, Community Groups and Sporting Clubs

The leasing or licensing of land and/or premises at the Mount Gambier Airport to Community Groups and Sporting Clubs will follow the same principles as outlined in clauses 5.6.1 and 5.6.2.

5.7.2. Commercial Activities

Commercial Activities will be separated into three areas, being:

- Office Space
- Commercial Use
- Hangar Site

(a) Office Space

Requests from enterprises to Lease/Licence premises for the purpose of utilising it as office space are received infrequently, however, Council recognises the importance of such operations which are predominantly centred around airport activities such as but not limited to, hire car companies and flying schools.

Each case will be assessed on merit in accordance with Council's strategic direction and operational requirements, however the following charges will generally apply.

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Fee Structure

Annual Lease/Licence fee	Based on \$25 per square metre per annum (as at 2013). The Lease/Licence fee will be subject to annual review, which will be increased by the CPI (Consumer Price Index published by the Australian Government for Adelaide – All Groups as at the March quarter) plus GST.
Other charges	All costs payable by Lessee/Licensee. Wherever possible, all utilities and outgoings are required to be in the name of the Lessee/Licensee (rather than Council), with the Lessee/Licensee assuming direct responsibility for all connections and invoices related to their outgoings.
Shared Premises	Where a Lessee occupies a portion of any Council owned facility and there is no agreement to calculate shared outgoings otherwise, the Lessee is to pay a portion of such outgoings based on: The total usage cost multiplied by the Lessee's Nett Lettable Area, divided by the number of tenants, per provider, for each billable period.
Property Insurance	All costs payable by Lessee/Licensee.
Contents Insurance	All costs payable by Lessee/Licensee.
Public Liability Insurance	All costs payable by Lessee/Licensee.
Preparation of documents	All registration fees and stamping costs if required plus one half of the cost of preparation of the Lease/Licence payable by Lessee/Licensee.

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(b) Commercial Use

Proposals to establish a commercial enterprise on land and/or at a premises at the Mount Gambier Airport will be subject to individual consideration by Council after Council has considered all aspects of the proposal. Council recognises the importance of such requests from commercial enterprises whose business supports the airport economy, such as but not limited to, food and drink services.

Each case will be assessed on merit in accordance with Council's strategic direction and operational requirements, however the following charges will generally apply.

Fee Structure

Annual Lease/Licence fee

Each application will be assessed on the merits of its application, and the fee will be set in accordance with the commercial activity proposed and the facility that is to be Leased/Licensed. Council may determine that a valuation of the land be required for the purpose of ascertaining what the annual Lease/Licence fee will be. All fees and charges associated with obtaining such a valuation will be the responsibility of the Lessee/Licensee.

Council may also determine that tenders will be called to Lease/Licence the land, in which case the tender price will determine the "Annual Lease/Licence Fee".

The Lease/Licence will be subject to annual review, which shall be increased by the "Annual Value" of the land as valued by the Valuer General's Department or the CPI (Consumer Price Index published by the Australian Government for Adelaide – All Groups as at the March quarter) plus GST.

Other charges

All costs payable by Lessee/Licensee.

Wherever possible, all utilities and outgoings are required to be in the name of the Lessee/Licensee (rather than Council), with the

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Lessee/Licensee assuming direct responsibility for all connections and invoices related to their outgoings.

Shared Premises

Where a Lessee occupies a portion of any Council owned facility and there is no agreement to calculate shared outgoings otherwise, the Lessee is to pay a portion of such outgoings based on:

The total usage cost multiplied by the Lessee's Nett Lettable Area, divided by the number of tenants, per provider, for each billable period.

Property Insurance

All costs payable by Lessee/Licensee.

Contents Insurance

All costs payable by Lessee/Licensee.

Public Liability Insurance

All costs payable by Lessee/Licensee.

Preparation of documents

All registration fees and stamping plus one half of the cost of preparation of the Lease/Licence payable by Lessee/Licensee.

Rates

As per clause 5.3.

(c) Hangar Site

Proposals to build an aircraft hangar for personal or commercial purposes will be subject to individual consideration by Council after Council has considered all aspects of the proposal. A Lease/Licence under this clause for land only. Any agreement to build infrastructure on the site will remain the sole responsibility of the Lessee/Licensee.

Each case will be assessed on merit in accordance with Council's strategic direction and operational requirements, however the following charges will generally apply.

Fee Structure

Annual Lease/Licence fee

Based on \$4.21 per square metre per annum (as at 2013). The

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Lease/Licence will be subject to annual review, which shall be increased by the “Annual Value” of the land as valued by the Valuer General’s Department or the CPI (Consumer Price Index published by the Australian Government for Adelaide – All Groups as at the March quarter) plus GST, whichever is the greater.

Other charges

To pay all outgoings including but not limited to earthworks, construction and fit out of hangar infrastructure, utility connections, etc.

Property Insurance

All costs payable by Lessee/Licensee.

Contents Insurance

All costs payable by Lessee/Licensee.

Public Liability Insurance

All costs payable by Lessee/Licensee.

Preparation of documents

All registration fees and stamping plus one half of the cost of preparation of the Lease/Licence.

5.7.3. Agistment of stock

Leasing or licensing of land at the Mount Gambier Airport for the purpose of agistment of stock will follow the same principles as outlined in clause 5.6.3.(c).

5.8. Property Inspections and Audits

Council staff will undertake an inspection of the land and/or premises being Leased/Licensed, at the beginning of each new Lease and upon each Right of Renewal (at minimum). Such inspections will be undertaken with a Council approved and suitably qualified specialist, with the intention of developing an informed report to ensure the area is fit for purpose of the Lease/Licence Agreement. In addition, Council retains the right undertake additional inspections for the purposes of assessing damage, ensuring requested maintenance has been undertaken, inspecting works undertaken and/or any other purposes that Council deems necessary. Such inspections will be undertaken within the terms of the Lease/Licence Agreement.

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5.9. Maintenance

Lessee/Licensees are generally responsible to:

- a) keep the land and/or premises clean, tidy and free from dirt, rubbish and vermin;
- b) keep the land and/or premises in good repair (excluding fair wear and tear, tempest, act of god, war, riot, civil commotion or earthquake);
- c) keep all toilet fittings, sinks, drains, pipes and other plumbing in good repair, free from blockages and ensure that no part of the land and/or premises becomes insanitary;
- d) keep any vegetation, lawns or garden maintained in an attractive state;
- e) keep all property in good condition so as to prevent any hazard to any person or any deterioration in the condition of the land and/or premises;
- f) repair any damage caused to the land and/or premises;
- g) notify Council immediately if any defects to the land and/or premises arise or anything else that may present a hazard or cause harm to any person.

6. Delegations

Council delegates the Chief Executive Officer the right to negotiate the renewal of existing Lease/Licences, authorisations and permits in accordance with the guidelines outlined within this policy, however, in noting that as land types and uses are extremely varied, additional conditions may apply.

7. References / Other Documents

7.1. Legislation

Crown Land Management Act 2009

Local Government Act 1999

Retail and Commercial Leases Act 1995

7.2. Council Policies / Procedures

Employee Code of Conduct

Fraud & Corruption Prevention Policy

Complaints Policy

Public Interest Disclosure Policy and Procedure

Rate Rebate Policy

8. Review

It is the responsibility of the Governance Officer to monitor the adequacy of this policy and recommend appropriate changes. This Policy shall be reviewed by Council at a minimum, once within every four (4) year Council term (or on significant change to legislation or other matters which could affect this policy).

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Action	Date	Minute Reference
Adopted by Council	17 December 2012	12265.3
Amended	3 June 2013	13066.1.3
Reviewed	1 February 2016	16009.3
Amended	20 March 2017	17037.4
Reviewed	6 May 2019	19061.5
Amended	21 October 2019	19144.4.4
Minor formatting amendments	4 May 2020	Governance Officer
Amended	18 May 2020	20055.8
Amended	21 August 2023	23175
Amended	19 August 2024	24149