

THE BAROSSA COUNCIL LEASE, LICENCE & PERMIT POLICY



1. Purpose

- 1.1. The Barossa Council is committed to maximising the community benefits that can be obtained through the use of its facilities whilst ensuring equitable, transparent and responsible management of its occupancy agreements.
- 1.2. This Policy provides a framework for the use, occupancy and management of Council buildings and land and the terms, conditions and principles upon which occupancy agreements will be developed. The Policy is to be used in conjunction with Council's individual *Shared Use Lease, Exclusive Use Lease, Ground Lease, Licence & Hire Permit Agreements Conditions of Use Guidelines*.

2. Scope

- 2.1. This Policy applies to all tenants of Council's community facilities.
 - 2.1.1. Community facility tenants include permit holders, licensees, lessees and managers (under a management agreement or other legal arrangement).
 - 2.1.2. Community facilities include but may not be limited to indoor recreation centres, community centres, community halls, sporting clubrooms, change rooms, storage facilities, sporting playing areas such as ovals, courts, bowling greens and pitches, aquatic centres, meeting rooms within Council owned buildings, and land parcels designated as community land.
- 2.2. The provisions set out in this Policy provide a guiding framework for the implementation and ongoing administration of agreements in the form of Hire Permits, Licences, Ground Leases, Exclusive Use Leases, Shared Use Leases (exclusive right of possession over buildings and structures at certain times and associated licences over playing surfaces), Crown Land Leases and Management Agreements.
- 2.3. The following agreements regarding the use of Council land form part of Council's overall framework, but are not dealt with in this Policy as they are already managed through existing policies and processes or legislation other than the *Local Government Act 1999* (the Act):
 - a) Public and Community Event approvals.
 - b) Public Road Authorisations and Permits.
 - c) Both temporary and permanent alterations to a public road carried out by an applicant under Section 221 and where it involves a business activity under Section 222 of the Act are in the case of S.221 managed by the Construction or Modifications to Council Land Process and in the case of S.222 managed by the Use of an Unmade Public Road Process. Residential Park Tenancy and Site Agreements for those who seek temporary accommodation in Council owned Caravan Parks are managed in accordance with the Residential Parks Act 2007 and the supporting Regulations.

	Approval date: 18/07/2023	Review date: 31/07/2027	Approved by: Council Council Minute Book Ref: 2022-26/206	Ref: [23/12291*]	Page 1 of 14
Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023					

3. Policy Statement

3.1. Objectives

- 3.1.1. Council's framework for the use, occupancy and management of Council buildings and land seeks to:
- 3.1.1.1. Ensure that there is flexibility and an opportunity for all community members as individuals, groups or organisations to be able to access Council facilities for a mix of welfare, social, cultural, recreational and community functions, activities and services;
 - 3.1.1.2. Ensure that Council is promoting and supporting the optimal use and management of its facilities in accordance with Council's sustainability objectives.
 - 3.1.1.3. Ensure that fees and charges for hire of Council community facilities meet principles of social justice, equity and value for money and demonstrates Council's commitment to a fair, accountable and transparent process; and
 - 3.1.1.4. Ensure that there is a clear process and criteria in place for the consideration of applications for fee reduction, subsidy or waiver for the hire of Council facilities.

3.2. Core Principles

- 3.2.1. Council recognises the need to provide community facilities that are equipped for a range of different uses and cater to the needs of a range of different users, and therefore will consider the granting of a Lease, Licence or Hire Permit in accordance with the following principles:
- 3.2.1.1. Equitable needs-based distribution of facilities and land, with priority given to The Barossa Council ratepayers, residents, locally based groups and not-for-profit organisations;
 - 3.2.1.2. Ensuring high occupancy rates for facilities;
 - 3.2.1.3. Ensuring consistent tenure conditions;
 - 3.2.1.4. Defining responsibilities and costs associated with the construction, maintenance and operation of facilities;
 - 3.2.1.5. Acknowledging the value of community organisations through the development of partnerships and shared values in the development of healthy and sustainable communities;
 - 3.2.1.6. The intended use is in accordance with the Community Land Management Plan (CLMP), Council's relevant Strategic Plans and any relevant Council strategies as well as suiting the purpose of the community facility and adjacent community infrastructure; and
 - 3.2.1.7. Ensuring the system utilises the simplest form of agreement for the circumstances and risks of each user.
- 3.2.2. Within the above context, the primary use of community facilities will be to facilitate activities that provide community development outcomes and benefits for The Barossa Council ratepayers, residents, businesses and visitors.



Approval date:
18/07/2023

Review date:
31/07/2027

Approved by: Council
Council Minute Book Ref:
2022-26/206

Ref:
[23/12291*]

Page 2 of
14

Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023

- 3.2.3. Use of community facilities for conducting commercial or business activities will be considered on a case-by-case basis, with particular priority given to those proposals where there is a demonstratable community or economic benefit. Such use will require the approval of the Council or its delegate. Such a use may also attract the application of the *Retail and Commercial Leases Act 1995*, see sections 3.4.5 and 6.2 below.
- 3.2.4. Council's community facilities are not to be used for the purpose of holding any activities that may be deemed discriminatory as defined by relevant legislation including the *Equal Opportunity Act 1984* (SA), *Age Discrimination Act 2004* (Commonwealth), *Disability Discrimination Act 1992* (Commonwealth), *Racial Discrimination Act 1975* (Commonwealth) and *Sex Discrimination Act 1984* (Commonwealth) or in any way discrediting to Council.
- 3.2.5. All lessees, licensees and hire permit holders will be required to enter into an agreement with Council in the appropriate form, and to comply with the terms and conditions of that agreement on an ongoing basis including the punctual payment of associated fees and charges.
- 3.2.6. The Council recognises the significant contribution to community well being made by community organisations which use Council controlled land. Council also acknowledges its responsibilities to ratepayers who fund the maintenance of this land and facilities and so provides a balanced approach towards the use of land for community purposes, in accordance with the role, functions and principles to be observed by councils as set out under the Act.

3.3. Facility Use Agreements

- 3.3.1. Council will enter into a range of occupancy agreements with community facility users tailored to suit the nature of the facility, usage, user profile and Council's legislative and governance obligations.
- 3.3.2. Council's occupancy agreement options are summarised below:

OCCUPANCY AGREEMENTS



HIRE PERMIT

A hire agreement for once off, sporadic or regular short-term use of a community facility.



LICENCE

An agreement giving official permission to occupy a community facility for a set period, but the tenant may not necessarily have exclusive use.



EXCLUSIVE USE LEASE

An agreement where the tenant has exclusive use of a community facility for a set period. Leases are often provided for longer terms ie 5, 10 or 20 years.



SHARED USE LEASE

An agreement where the tenant has exclusive right of possession over buildings and structures and a licence over playing surfaces for designated timeframes within a set period.



GROUND LEASE

An agreement in which a tenant is permitted to develop land during the lease period, after which the land and all improvements are turned over to the landowner (ie Council).



MANAGEMENT AGREEMENT

A contract signed between Council and another party, where the other party is occupying a community facility and sets out each parties responsibilities. In most cases Council pays a fee to the management body to provide services to the Community (ie The Rex).

	Approval date: 18/07/2023	Review date: 31/07/2027	Approved by: Council Council Minute Book Ref: 2022-26/206	Ref: [23/12291*]	Page 3 of 14
Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023					

3.4. Conditions

- 3.4.1. All Leases, Licences and Hire Permits are subject to terms and conditions contained within the relevant associated documentation.
- 3.4.2. Detailed terms and conditions for each occupancy agreement type are contained within the Council's *individual Shared Use Lease, Exclusive Use Lease, Ground Lease, Licence & Hire Permit Agreements Conditions of Use Guidelines*, however general conditions for each agreement type are summarised below:



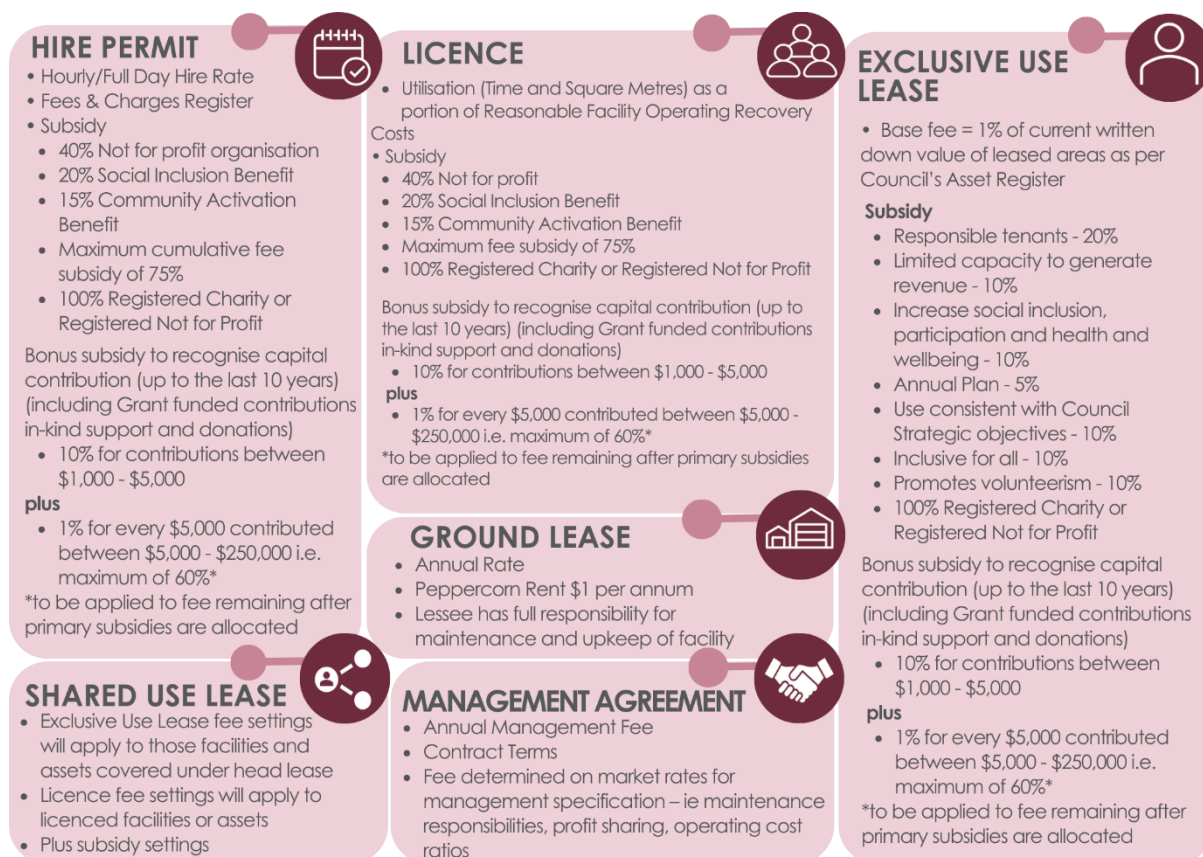
- 3.4.3. All lessees and licensees (excluding hire permit holders) are required to hold a current public liability insurance policy to cover against all actions, costs, claims, damages and expenses which may be brought or made or claimed against them in relation to the activity for the period of the Lease/Licence.
- 3.4.4. Evidence of the policy must be provided via a Certificate of Currency at the time of securing the Lease/Licence and whenever requested.
- 3.4.5. In the event that the Council approves the use of community facilities for conducting commercial or business activities, then the terms and conditions of the relevant lease/licence agreement will be subject to the application of the Retail and Commercial Leases Act 1995 (see section 6.2 below).

3.5. Fees and Charges

- 3.5.1. Fees and Charges will be applied to the hire, lease and license of community facilities in accordance with the below fees settings and are to be paid annually in advance for ongoing tenants and prior to the day of facility hire for ad-hoc and one-off Permit Hirers.

	Approval date: 18/07/2023	Review date: 31/07/2027	Approved by: Council Council Minute Book Ref: 2022-26/206	Ref: [23/12291*]	Page 4 of 14
Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023					

3.5.2. Detailed fees and charges for each occupancy agreement type are contained within Council's individual *Shared Use Lease, Exclusive Use Lease, Ground Lease, Licence & Hire Permit Agreements Conditions of Use Guidelines*, however general fee settings for each agreement type are summarised below:



3.5.3. A \$10m cap will be applied on the written down value of assets for the purpose of calculating base exclusive use and shared use lease fees for non-commercial lease agreements.

3.5.4. Applicable Subsidy Criteria set out in individual *Shared Use Lease, Exclusive Use Lease, Ground Lease, Licence & Hire Permit Agreements Conditions of Use Guidelines* will be used by Council to assess the level of subsidy applied to reduce the calculated hire permit fee or annual lease/licence fee.

3.5.5. Lease and licence fees determined will be in place for the length of tenure and will be indexed by the Consumer Price Index on an annual basis.

3.5.6. Clubs and organisations with existing occupancy arrangements at Council owned facilities that will be receiving an increased permit, lease or licence fee under the new model will have any increase phased in over a period of three (3) years as shown below:

3.5.6.1. Year 1 of the lease = 25% of the increase of the annual lease fee (after subsidies have been applied);

3.5.6.2. Year 2 of the lease = 50% of the increase of the annual lease fee (after subsidies have been applied); and

	Approval date: 18/07/2023	Review date: 31/07/2027	Approved by: Council Council Minute Book Ref: 2022-26/206	Ref: [23/12291*]	Page 5 of 14
Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023					

- 3.5.6.3. Year 3 of the lease = 100% of the increase of the annual lease fee (after subsidies have been applied).

3.6. Approval of Agreements - Delegated Power

- 3.6.1. The Council delegates its powers or functions pursuant to section 44 of the Act to the Chief Executive Officer or specific officers and they are sub-delegated as the Chief Executive Officer sees fit. Delegations are outlined in the Delegations Register of Council. Decisions to approve agreements for the use of Council controlled land and facilities are made as follows:
- 3.6.1.1. Agreements for a term (including renewals) of more than five (5) years will be referred to the Council for preliminary consideration and 'in principle' approval prior to undergoing public notification and consultation in accordance with Council's Public Consultation Policy;
 - 3.6.1.2. Agreements for a term of five (5) years or less can be approved under delegation from the Chief Executive Officer; and
 - 3.6.1.3. The power to approve the renewal of an existing Agreement is also made under delegation, provided that the proposed terms and conditions are materially the same as the initial Agreement. Where it is proposed that the terms and conditions have been materially affected, a new Agreement will be required in accordance with this paragraph.

3.7. Compliance Review Mechanisms / Inspections

- 3.7.1. Facility inspections and occupancy agreement reviews will occur annually, at a minimum, for Lease and Licence holders, taking into consideration facility maintenance, public health conditions, utilisation, capital development planning and financial review.

3.8. End of Life Asset Replacement or Renewal

- 3.8.1. Asset renewal or redevelopment projects will be based on the relevant asset management plan and end of life asset assessments. Redevelopment, if deemed necessary by Council, will be based on a like for like service/ competition level and incorporate compliance with current day standards and facility guidelines (i.e. Building Code, State/National Sporting Organisation facility requirements, asset management standards, contemporary sustainability standards).
- 3.8.2. Where Lease or Licence holders request upgrades that Council considers to be above and beyond standard levels of service for similar facilities, or outside of the scope of relevant asset standards, the Lessee or Licensee will be required to fund the difference in cost, unless otherwise approved by Council.
- 3.8.3. Significant or total redevelopment projects that are subject to exclusive use and access by the community is restricted, will require Council consideration and endorsement, as well as a Tenant financial contribution and the receipt of external funding equalling a minimum of 33% of the total redevelopment cost.

	Approval date: 18/07/2023	Review date: 31/07/2027	Approved by: Council Council Minute Book Ref: 2022-26/206	Ref: [23/12291*]	Page 6 of 14
Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023					

- 3.8.4. Grass playing fields and other sporting surfaces freely open to the public for passive recreational activities will be funded by Council in accordance with relevant asset management and competition standards.
- 3.8.5. Synthetic or specialised playing surfaces are to be funded jointly by Council and the Lessee/Licensee for renewal and upgrade.
- 3.8.6. Council's financial contribution towards asset replacement or renewal will be subject to the prioritisation of resources.

3.9. Replacement of Synthetic Playing Surfaces

- 3.9.1. To ensure that sufficient funds are available for the replacement of synthetic playing surfaces, Council will require the Lessee or Licensee to establish a 'sinking fund'.
- 3.9.2. It is estimated that an Artificial Grass Pitch (AGP) has a life span of approximately ten to fifteen years depending on factors such as pitch type and quality, usage and maintenance. It is therefore necessary that a mechanism be put in place to recognise this and provide finance to replace the pitch when appropriate.
- 3.9.3. Each year, the Lessee or Licensee will be required to quarantine the allocated annual amount into their sinking fund – these funds should not be used for any other purpose or initiative and must be held separately from the Lessee or Licensee's day to day finances.
- 3.9.4. It is expected the Lessee or Licensee will contribute 50% towards the future cost of the synthetic playing surface replacement, unless otherwise resolved by Council.
- 3.9.5. The annual contribution to the sinking fund will be calculated as follows:

$$\text{Annual Contribution} = \text{Cost of Playing Surface Replacement} / \text{Estimated Life of Playing Surface} \times 50\%$$
- 3.9.6. As the cost of the replacement is in the future, then the sinking fund must account today for a future amount. The annual contribution required by the Lessee or Licensee will be reviewed biennially to ensure the sinking fund reflects the forecast future contribution required.
- 3.9.7. The biennial review will be calculated as follows:
 - 3.9.7.1. Step 1 - Future Contribution = Cost of Playing Surface Replacement X 50% less funds held in sinking fund
 - 3.9.7.2. Step 2 – Revised Annual Contribution = Future Contribution / Estimated Remaining Life of Playing Surface
- 3.9.8. The Lessee or Licensee will be required to submit to Council annually a reconciliation of the sinking fund.

3.10. Signage and Sponsorship

- 3.10.1. Site signage and sponsorship advertising is subject to Council assessment and approval in accordance with relevant legislative frameworks, including the *Local Government Act 1999* and *Planning Development and Infrastructure Act 2016*.

	Approval date: 18/07/2023	Review date: 31/07/2027	Approved by: Council Council Minute Book Ref: 2022-26/206	Ref: [23/12291*]	Page 7 of 14
Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023					

3.10.2. Under Lease and Licence conditions of use, the Lessee or Licensee will be responsible for ensuring:

3.10.2.1. All signs in the leased or licenced area are maintained to the satisfaction of the Council;

3.10.2.2. All signs are securely fastened and kept free of graffiti;

3.10.2.3. The removal and reinstatement of sponsorship signage at Council's request, where alternate use of the asset conflicts with the advertising displayed; and

3.10.2.4. Prior to installation of any signage, Council approval is obtained (as the facility/land owner), along with development and/or building approval if required.

3.11. Community Facility User Capacity Assistance

3.11.1. Council is committed to supporting the sustainability of community groups and sporting clubs within the Council area and may provide a range of services to permit holders, lessees and licensees including, but not limited to:

- Working in partnership with clubs to complete an annual business plan;
- Providing club governance and development support;
- Grant writing assistance;
- Capital funding;
- Maintenance services;
- Training;
- Quarterly newsletters;
- Forums;
- Networking events;
- Regular industry updates; and/or
- When Council identifies a Tenant who is not complying with the conditions of the occupancy agreement, working with them to assist the Tenant to avoid non-compliance issues.

4 Supporting Processes and Documents

- Shared Use Lease Agreement Conditions of Use Guidelines
- Exclusive Use Lease Agreement Conditions of Use Guidelines
- Ground Lease Agreement Conditions of Use Guidelines
- Licence Agreement Conditions of Use Guidelines
- Hire Permit Agreement Conditions of Use Guidelines
- Asset Register
- Community Land Management Plan
- Fees and Charges Register

5 Related Policies

- Asset Management Policy
- Event Management Policy
- Public Consultation Policy
- Risk Management Policy
- Strategic Rating Policy
- Construction or Modifications to Council Land Process
- Event Management Process



Approval date:
18/07/2023

Review date:
31/07/2027

Approved by: Council
Council Minute Book Ref:
2022-26/206

Ref:
[23/12291*]

Page 8 of
14

Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023

- Use an Unmade Public Road Process
- Procurement Policy

6 Legislation and References

6.1 Local Government Act 1999 (the Act)

- 6.1.1 Section 49 of the Act requires Council to prepare and adopt a policy on contracts and tenders, including a policy on the sale and disposal of land or other assets.
- 6.1.2 Section 196 of the Act requires Council to prepare, publicly consult, and adopt one or more Community Land Management Plan(s) (CLMP) for its community land if among other things the land is, or is to be, occupied under a lease or licence agreement.
- 6.1.3 Section 201 of the Act prohibits Council from leasing or licensing community land unless Council does so in accordance with the Act, including those sections of the Act mentioned below.
- 6.1.4 Section 202 of the Act permits Council to grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve). Prior to Council granting a lease or licence relating to community land, it must follow the relevant steps as detailed in Councils Community Engagement (Public Consultation) Policy, except where:
 - a) The grant of the lease or licence is authorised in an approved management plan for the land and the term of the proposed lease or licence is five years or less; or
 - b) The regulations provide, in the circumstances of the case, for an exemption from compliance with a public consultation policy.
- 6.1.5 Section 202 also places restrictions on Council's power to grant a lease or licence over community land including that such a lease or licence may only be granted for a term not exceeding forty-two (42) years and the lease or licence may be extended but not so that the term extends beyond a total of forty-two (42) years. However, a new lease or licence may be granted at the expiration of the forty-two (42) year term (subject to the other requirements of the Act or any other law)

6.2 Retail and Commercial Leases Act 1995 (RCLA)

- 6.2.1 The RCLA applies to leases/licences granted by the Council to a lessee or a licensee if the lease/licence is in respect of a "retail shop" (see section 4 of the RCLA). However, following recent amendments, the RCLA will not apply to a lease or licence granted by Council where the amount of rent payable does not exceed Fifty Thousand Dollars (\$50,000.00) per annum and the lessee or licensee:
 - a) Is registered under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth; or
 - b) Is an entity that is not carried on for the purposes of profit or gain to its individual members and that is, by the terms of its constitution, prohibited

	Approval date: 18/07/2023	Review date: 31/07/2027	Approved by: Council Council Minute Book Ref: 2022-26/206	Ref: [23/12291*]	Page 9 of 14
Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023					

from making any distribution, whether in money, property or otherwise, to its members; or

- c) Uses the premises the subject of the lease for the provision of health, welfare, community, cultural, sporting or recreational activities on a non-commercial basis.

6.2.2 In light of the recent amendments outlined above, the majority of leases/licenses granted by the Council in accordance with this Policy will not be caught under the RCLA, which will generally only apply where the lessee/licensee is using community facilities for conducting commercial or business activities.

6.2.3 In the event that the RCLA does apply, it imposes a number of rules and restrictions on the terms of any lease/licence between the parties, which will be included in the documentation and must be complied with.

6.3 Crown Land Management Act 2009 (CLMA)

6.3.1 The CLMA applies to Crown land of which the Council has care, control or management. Section 22 of the CLMA requires Council to obtain Ministerial consent to a lease, before the lease is granted to the lessee. If consent is not obtained, the lease is of no effect. The Minister's consent is not required in relation to a lease of dedicated land by Council in accordance with section 202 of the *Local Government Act 1999* if:

- a) Native title in the land has been extinguished or Council is satisfied that the grant of the lease will not affect native title; and
- b) The lease will not cause any development (within the meaning of the *Planning, Development and Infrastructure Act 2016*); and
- c) Council is satisfied that the grant of the lease:
 - I. Would not detract from any existing public use and enjoyment of the land; and
 - II. Would not prevent the land being used for the purpose for which it was dedicated; and
 - III. Would not otherwise, in the opinion of Council, be improper or undesirable.

6.3.2 The Minister's consent is not required in relation to the grant of a licence in relation to dedicated land if the custodian of the dedicated land (i.e. Council) is satisfied that the grant of the licence:

- d) Would not detract from any existing public use and enjoyment of the land; and
- e) Would not prevent the land being used for the purpose for which it was dedicated; and
- f) Would not otherwise, in the opinion of Council, be improper or undesirable.

	Approval date: 18/07/2023	Review date: 31/07/2027	Approved by: Council Council Minute Book Ref: 2022-26/206	Ref: [23/12291*]	Page 10 of 14
Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023					

6.4 Other Legislative References

- *Law of Property Act 1936*
- *Liquor Licensing Act 1997*
- *Food Act 2001*
- *Work Health and Safety Act 2012 and Regulations 2012*
- *Community Titles Act 1996*
- *Planning, Development and Infrastructure Act 2016*
- *Planning, Development and Infrastructure (General) Regulations*
- *Disability Discrimination Act 1992*
- *Disability Inclusion Act 2018*
- *South Australian Public Health Act 2011 and Regulations 2013*
- *Building Code of Australia*
- *Real Property Act 1886*
- *Recreational Grounds Rates and Taxes Exemption Act 1981*
- *Gaming Machines Act 1992*
- *Gambling Administration Act 2019*
- *Child Safety (Prohibited Persons) Act 2016*
- *Fair Work (Commonwealth Powers) Act 2009*
- *Government Business Enterprise (Competition) Act 1996* (competitive neutrality principles)

7.	Review
-----------	---------------

This Policy will be reviewed by the Council in consultation with the relevant stakeholders, within four (4) years or more frequently if legislation or Council's need changes.

8.	Further Information
-----------	----------------------------

- 8.1. This Policy is available on Council's website at. It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.
- 8.2. Complaints regarding this Policy or its application can be made to the Customer Service team on 8563 8444 or barossa@barossa.sa.gov.au at first instance, who will refer you to the most appropriate officer according to Council's *Customer Service Policy* (see clause 8.1 above for availability).



Approval date:
18/07/2023

Review date:
31/07/2027

Approved by: Council
Council Minute Book Ref:
2022-26/206

Ref:
[23/12291*]

Page 11 of
14

Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023

9. Document Control

Community Plan Link:		Community and Culture Infrastructure	
Document Owner:	Director Corporate Services and Business Innovation		Document Control Officer: Manager Corporate Services
Audience:	External	Next Review Date:	31/07/2027
Version history			
Version No.	Date	Description of Change	
2.0	15/04/2025	Minor update to introduce cap on written down value of assets for the purpose of calculating base fee for Shared and Exclusive Use Leases.	
1.0	18/07/2023	Major Re-Write and Introduction of New Lease, Licence and Hire Permit Framework	
0.1	16/09/2015	New Policy	

10. Definitions

Act	<i>Local Government Act 1999</i>
Agreement	For the purpose of this Policy, a written agreement can take the form of a Land-only Lease, Lease, Licence, Permit or Management Agreement
Club	A Club is defined as a group combining for a common purpose and is normally an incorporated not-for-profit association. The Club may have a focus on sporting, recreation, social, educational, environmental, arts, cultural and/or health and wellbeing activities provided for the benefit of the community.
Commercial	An organisation, including incorporated body, co-operative society, partnership or sole trader conducting activities for the purposes of deriving a financial return to the proprietors or shareholders
Commercial Agreements	Are those Agreements entered into for a consideration giving a commercial return to Council, which may or may not be at a market rate
Community Facilities	Council owned or managed buildings (e.g. clubrooms, halls, community centres) and playing areas (such as an oval, pitch, court, bowling green) that are provided to benefit the community. It also includes community facilities located on Crown Land under the care, control and management of Council
Council Controlled Land	Land which is either owned by Council or under Council's care and control, and includes council maintained roads
Community Land	Refers to land, excluding roads, owned or managed by Council, and classified in accordance with Section 193 of the <i>Local Government Act 1999</i> . Community land is identified in Council's Community Land Management Register, and managed in accordance with Council's Community Land Management Plan



Approval date:
18/07/2023

Review date:
31/07/2027

Approved by: Council
Council Minute Book Ref:
2022-26/206

Ref:
[23/12291*]

Page 12 of
14

Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023

Community Land Excluded	Refers to land that has been resolved by Council to be excluded from the community land classification, for an alternate purpose ie Council operational land
CLMP	Community Land Management Plan
Crown Land Lease	A lease (or licence) of dedicated land owned by the Crown but under the care and control of Council. Leases on Crown land will require Ministerial approval, except if native title rights have been extinguished or Council can demonstrate the lease will not impact native title rights and the leases will not cause any new development and is consistent with the purpose of the dedication or management plan
Differentiating between a Lease and Licence	The right of exclusive use is the prime consideration in determining whether an agreement is deemed a lease or licence. An example of where a licence is appropriate is where two groups share a multi-use facility and neither has exclusive use, and in such a circumstance a licence is the appropriate agreement.
Ground Lease	An agreement in which a tenant is permitted to develop land during the lease period, after which the land and all improvements are turned over to the property/land owner
Head Lease	A lease with one main tenant, who then sub-leases the community facilities to other tenants
Lease	Refers to an agreement with Council (Lessor) that grants exclusive rights to a Lessee to occupy land and/or facilities for a specified time, under certain terms and conditions
Lessor	Refers to Council in the context of this policy, as landowner, or custodian of Crown land
Lessee	Means a Tenant, Licensee, Lessee or Authorisation/Permit Holder irrespective of the object of the Agreement (i.e. whether building or hoarding). In the case of a multi-user Agreement it refers to the Head Tenant/Lessee/Licensee or Management Committee as applicable
Licence	Refers to an agreement with Council (Licensor), that grants non-exclusive rights to occupy land and/or facilities to a Licensee, for a specified time, under certain terms and conditions.
Licensor	Refers to Council in the context of this policy, as landowner, or custodian of Crown land
Licensee	Refers to the individual, group or organisation entering into an agreement with Council to occupy shared use land and/or facilities
Management Agreement	An agreement signed between Council and another party, where the other party is occupying a community facility and sets out each parties' responsibilities
Not for Profit and Community Organisations	Are incorporated associations whose primary objective is service to the community rather than profit. Organisations wishing to have their Not for Profit status recognised must be a registered not for profit entity with the Australian Charities and Not-for-profits Commission (ACNC)
Occupancy Agreement	Occupancy agreement collectively describes all types of Council/Tenant agreements i.e. permit, licence, lease and management agreements
Occupant	A person or organisation who is the lessee or licensee of Council controlled land or facilities
Outgoings	Means all reimbursable tax charges, insurance premiums, utilities and maintenance and repair costs that are associated with the operation of the premises



Approval date:
18/07/2023

Review date:
31/07/2027

Approved by: Council
Council Minute Book Ref:
2022-26/206

Ref:
[23/12291*]

Page 13 of
14

Permit/Hire Agreement	A permit is a once-off or short-term use (e.g. < than 1 year) of a community facility
Playing area	An area set aside for sport, recreation and community use, such as sporting grounds, courts and parks i.e. ovals, tennis courts, bowling greens and pitches
Sub-Lease	An agreement by the Head Tenant to another organisation which stipulates the negotiated fees/charges/conditions and times of use for the period of the agreement
Sporting and Community Organisation/Group	A not for profit organisation that exists exclusively for charitable purposes or as an amateur sporting group, arts, craft or other special interest group established for the benefit of the community of The Barossa council. Primarily voluntary staff (including officials and coaches) and/or Committee
Tenant	The occupier of a community facility under an occupancy agreement
Tenure	The legal right to occupy land or building for a period of time



Approval date:
18/07/2023

Review date:
31/07/2027

Approved by: Council
Council Minute Book Ref:
2022-26/206

Ref:
[23/12291*]

Page 14 of
14

Uncontrolled once removed from webpage or Council's Record Management System. Before using printed copy please verify that it is the current version. © The Barossa Council 2023