8.8 Leasing and Licensing Policy

Manager Strategic Property and Revenue: Mark Spaziani
Chief Financial Officer: Julia Gallace

Linkage to Council Plan

Direction 1: A thriving and unique place
1.2 Thriving and desirable businesses

Direction 3: A people-centred and future ready city
3.1 Community focus, connection and engagement

Purpose of Report

To seek approval to exhibit the draft Community Leasing and Licensing Policy for public consultation.

A further report to Council will be prepared to consider community feedback prior to seeking adoption of the new Policy.

Officer Recommendation

That Council:

1. ***EXHIBIT the draft Community Leasing and Licensing Policy (Attachment 1) for community consultation in accordance with the Council's Engagement Policy.***
2. ***INVITE submissions on the draft Community Leasing and Licensing Policy over 6 weeks via the Council's online engagement platform (Connect Stonnington) by 5.00pm Monday 14 July 2025.***
3. ***NOTE a report on public submissions and recommendations to the Council will be considered prior to Adoption at a future Council Meeting.***

Executive Summary

1. The purpose of the draft Community Leasing and Licensing Policy is to provide responsible, consistent and transparent management of Council's facilities that are occupied by a community tenant on a lease or licence.
2. The current Leasing and Licensing Policy 2019 was adopted by Council in February 2020 and is due for review to ensure that Council has a consistent and contemporary approach when entering into occupancy agreements with external community organisations at Council facilities.
3. The proposed Policy seeks to update the existing Policy by:
    - Ensuring that Council's leasing and licensing procedures are consistent and transparent to all occupants.
    - To provide further clarity on any rental subsidies to community occupants.

- Ability for Council to directly negotiate a new lease with existing long-term community occupants where appropriate due to past performance (in accordance with eligibility criteria for a community use occupancy agreement).
- Update of Council's legislative requirements to lease land under *section 115 of the Local Government Act 2020* in accordance with Council's Engagement Policy.

Background

4. The current 2019 Policy was adopted by Council at the February 2020 meeting and is now due for renewal to ensure the continuous improvement of leasing/licensing processes and alignment with new legislation and updated Council Plans, strategies and policies.
5. The Leasing and Licencing Policy originated as the Community Facilities Leasing/Licencing Policy in 2011. Following internal audit recommendations, the current 2019 Policy was adopted which is now due for review.

Key Issues and Discussion

6. The new Policy will apply only to third party community tenants or licensees that occupy a Council owned community facility - the Policy has been renamed 'Community Leasing and Licensing Policy' as the policy does not apply to commercial leases.
7. The new Policy improves the eligibility criteria and provides clarity on the rental subsidy categories offered to community occupants to ensure a consist approach to these assessments.
8. The 'peppercorn' rent category has been revised as Category A1, with the introduction of an additional Category A2 which proposes an Annual Administration Fee as determined in Council's Fees and Charges Schedule adopted in the Annual Council Budget (proposed $1,000 per annum excluding GST) as a contribution towards the following fixed costs:
    - Essential Safety Measures (ESM) annual audits
    - Planned and reactive building maintenance
    - Building Insurance costs
    - Valuation costs
    - Legal costs to prepare, draft and review lease/licence; and
    - Other administration costs to prepare, negotiate and execute lease/licence.

    Analysis undertaken of Council properties during 2023-24 has identified the following average costs per annum (approximate):
    - ESM and planned maintenance: $10,000
    - Reactive maintenance: $12,000.

9. As many community tenants have revenue generating opportunities, the proposed Annual Administration Fee has been included to recover part of the overhead costs incurred by Council.
10. Peppercorn rents are typically used for leases where the occupant is providing a service to the community that Council would otherwise have to provided and/or included in the Council Plan to meet a community need. Historically land was leased to community groups and sporting clubs who were able to fundraise and construct a building for community use in exchange for a nominal peppercorn rent. These peppercorn land leases would mean that the occupant is responsible for all building maintenance and outgoings associated costs and cost neutral to Council.
11. Council has legislative obligations under the *Building Act 1993 and Building Regulations 2018* as the landlord to undertake annual Essential Safety Measures audits for all buildings on Council land. At the end of the historic leases, the buildings/property would revert to Council's ownership at the end of the term and would become Council's asset and responsibility to maintain.
12. To improve financial sustainability for Council, more equitably share the expense of providing facilities and to better reflect the ability of some organisations to contribute funds to cover these associated outgoings and building costs that are now the landowner's responsibility, the Annual Administration Fee has been proposed in the new Policy.
13. *Section 115 of the Local Government Act 2020* has now been updated to $100,000 from $50,000 and the *section 223* public notice requirement has now been updated to align with Council's Engagement Policy.
14. A review of the community rental subsidies was undertaken and benchmarked with other adjoining municipalities and government organisations. To assist the process of determining the scope and level of rental subsidy/discount applied to specific occupancies, new procedural guidelines have been developed to support the updated policy. Council will need to consider both financial and social implications when determining the level of rental subsidy for occupants.
15. Key changes in the new Policy are detailed below:
    - Community Leasing and Licensing Policy 2025:
        - **Schedule 1**: Assessment Criteria for Community Lease and Licence
        - **Schedule 2**: Rental Subsidy Categories and Eligibility
        - **Schedule 3**: New Guidelines for Application (Leasing and Licensing) – procedural document with specific criteria to quantify the rental discount for a community occupant.
16. The Property Team has undertaken internal consultation with the key service managers within the Community and Wellbeing directorate including Manager Connected Communities, Manager Active Communities and Manager Creative Communities.
17. Feedback was received from the key service managers that is reflected in the proposed eligibility assessment criteria in the schedules of the new Policy.

18. After a preliminary assessment of community occupants on peppercorn leases, there is evidence to demonstrate there are opportunities to generate revenue and the ability to contribute towards overhead costs as outlined above to assist with maintaining the Council leased facilities. Feedback received during the internal consultation process challenged this proposal and suggest that some groups with limited revenue generating opportunities and external funding should remain on peppercorn (nominal) rent. The schedules have included these occupants within Category A1 ($1,000 Annual Administration Fee) of A2 ($1 peppercorn) depending on a full assessment based on services and revenue raising capacity.
19. Occupants within Category B are eligible for a discounted market rent between 20%-80% based upon the following criteria (The 2019 Policy discount was between 30% - 70%):
    a. Capacity to generate revenue
    b. Maintenance responsibilities and capital contributions to facility
    c. Community benefit criteria.
20. In addition, the new Policy now offers Category B occupants a further discount where there is a commitment to set aside revenue into a self-managed sinking fund for future capital works included in Council's Capital Works Program in the Budget. Where an occupant maintains a self-managed sinking fund for future capital works at the facility, the annual sinking fund contribution can be considered as a direct discount from the annual market rent during the term of the lease. This will be a key lease term enforceable by Council.

Policy Alignment

21. The new Policy aligns with the Council Plan and other Council Strategies and Policies which are included in the policy document.

Financial and Resource Implications

22. Adoption of the new Policy may impact on procedures and practices with some changes to maintenance responsibilities.
23. Additional rent and licence fee revenues are expected to be achieved from the proposed changes, with some community organisations leasing/licencing council facilities being required to make a partial contribution towards congoing maintenance costs and outgoings.

Conflicts of Interest Disclosure

24. No Council officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Decision Making Connection Disclosure

25. Consultation of the new Policy was undertaken thoroughly with the Community and Wellbeing Directorate and subsequently presented to the Executive Team for feedback and comments.

Legal / Risk Implications

26. The new Policy will reflect all changes associated with the revised legislative requirements including the updated *Local Government Act 2020* and will align with current internal Council policies, strategies and framework (for specific changes please refer to bullet point 13).
27. The high volume of leases and licences in overholding is currently being addressed. There are risks associated with historic lease agreements in overholding that are not consistent with contemporary legislative requirements and policies. This will also be addressed with the adoption of the proposed changes in the new Policy.

Community Consultation

28. As the new Policy require formal Council resolution, internal consultation was undertaken to consider feedback from the Executive Team prior to seeking Council approval of the new Policy and commencement of community consultation.
29. A Community Engagement Plan has been prepared with the Communications and Community Engagement teams in line with the Engagement Policy and community consultation on Council's website will be open for submissions.
30. The Property team, and all relevant service managers will ensure a direct email or letter to all tenants and licensees are notified of the community consultation.
31. The community consultation will include details of the draft new Policy, Frequently Asked Questions and further information and a text box to seek feedback on Council's Connect Stonnington website for a 6-week consultation period.

Purpose:	Engage the community on the draft Community Leasing and Licensing Policy 2025
IAP2 Goal:	Consult
Proposed engagement period:	6 weeks – 2 June 2025 to 14 July 2025 (TBC)
Method:	Online survey via Connect Stonnington page on website, direct letter/email and social media to seek feedback from the community. All submissions and feedback to be submitted via online survey via Connect Stonnington on Council's Website
Reach:	Stonnington and greater community and all community occupants of Council facilities.

Human Rights Consideration

32. Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Draft Community Leasing and Licensing Policy May 2025 [**8.8.1** - 20 pages]

City of STONNINGTON

DRAFT Community Leasing and Licensing Policy 2025

VERSION 2.0

CITY OF STONNINGTON Community Leasing and Licensing Policy 2025

Policy Owner

Property Coordination

TRIM folder

TBC

Approval date

TBC

Approved by

Council

Review date

<<Default 4 years from adoption date>>

Version history

Leasing and Licensing Policy Adopted by Council on date 17 February 2020

Introduction

Context

The City of Stonnington owns, controls, manages and maintains a property portfolio consisting of land and buildings on behalf of the Stonnington community.

Council's Community Leasing and Licensing Policy 2025 has been developed to ensure there are clear and transparent guidelines regarding the occupancy of Council owned or managed property and that current and prospective occupiers are aware of Council's requirements and expectations for occupancy.

This policy will offer guidance to ensure Council's occupancy agreements are approached in a consistent, inclusive, fair and impartial manner. It will also provide Council with an adaptable decision-making process that is informed by best practice, is evidence based and compliant with legislation.

Legislative framework

The following Victorian Legislation and associated regulations are particularly relevant to this Policy:

- *Local Government Act 2020 - Section 115*:
  - Council must include any proposal to lease land in a financial year in the budget, where the lease is—
    - (a) for one year or more and—
      - (i) the rent for any period of the lease is $100 000 or more a year; or
      - (ii) the current market rental value of the land is $100 000 or more a year; or
    - (b) for 10 years or more.
  - If a Council proposes to lease land that is subject to subsection (3) and that was not included as a proposal in the budget, Council must undertake a community engagement process in accordance with Council's Community Engagement Policy in respect of the proposal to lease if the term should exceed 10 years or the current market rental is more than $100,000 a year.
  - Restricts the maximum length of a lease to 50 years.
- *Retail Leases Act 2003:* controls leases of premises used wholly or predominantly for the retail provision of goods or services (excluding certain Not-for-profit organisations), and overrides anything in this policy that is inconsistent with that Act.
- *Crown Land Reserves Act 1978* (Section 17B and 17D) – Minister will grant licences of Crown land for a period not exceeding 10 years and leases for a period not exceeding 21 years.

Purpose

Community Facilities owned by the City of Stonnington make an important contribution to Council's ability to achieve its objectives and deliver services to Stonnington residents and the broader community. This Policy provides a framework for the use of Council's facilities by community occupants while aiming to maximise the community benefit.

The purpose of this Policy is to provide responsible, consistent and transparent management of Council's facilities that are occupied by a community tenant on a lease or licence.

This Policy:

- promotes and supports the community use of Council's properties and facilities which are not required for Council's operational purposes or service delivery, or not suitable for a commercial lease or licence;
- provides guidance on the use of Council's facilities occupied by third party community organisations;
- establishes the key terms that Council will generally use as the basis for negotiating an occupancy agreement;
- establishes a fair and equitable methodology to assess and categorise the types of occupants using Council's facilities; and
- sets out reporting requirements for occupants to ensure accountability to Council and the community.

Objectives

- To provide a guidance framework when considering occupancy arrangements with external parties to occupy council property;
- To ensure that associated statutory and legislative compliance matters are addressed when Council considers leasing and licensing to a community occupant;
- To ensure that associated risks are transparently considered when Council considers leasing and licensing to a community occupant;
- To ensure where commercially possible, that an appropriate financial return or equivalent community benefit to Council is achieved in the short and long term;
- To demonstrate a contemporary and balanced methodology when managing the Council property;
- To ensure Council facilities are well utilised, encouraging shared use with other community groups where possible; and
- To ensure that occupied Council facilities provide a community service and that meets the objectives in Council's Plan and other relevant policies.

Scope

This Policy will apply to Councils existing asset portfolio, newly acquired assets that Council may lease will be subject to separate consideration and determination of the leasing arrangement.

This policy will generally apply to all new occupancy agreements of Council owned or managed facilities, including agreements developed with current occupants at the expiration of existing arrangements.

Occupancy agreements include:

- Leases
- Licences.

The facilities covered by this Policy include land and buildings but excludes property occupied by Council to provide direct services or casual/regular facility hire agreements. This Policy does not apply to Seasonal Sportsground and Pavilion Allocation occupancies or other occupancy permits where the permit fee is set by the Fees and Charges Schedule contained in the Annual Council Budget.

In some circumstances, a proposed occupancy agreement may form part of a procurement process relating to the future use of a facility. In these circumstances, the terms of the tender may take precedence over this policy but not prescribe terms and conditions which do not align with the intent of this Policy.

This Policy may be overruled by Council resolution.

This Policy may be reviewed by Council from time to time.

Principles

- That the financial and non-financial benefits of any occupancy on Council property should be maximized for the benefit of the Stonnington community.
- All terms and conditions negotiated pursuant to this Policy are required to be consistent with guidance provided in this Policy and to the satisfaction of Council or its authorized delegate (Chief Executive Officer and/or the Chief Financial Officer).
- Terms and conditions of leases offered pursuant to the provisions of the *Local Government Act 2020, Retail Leases Act 2003, the Valuation of Land Act 1960* or the *Crown Land (Reserves) Act 1978* must adhere to all legislative requirements while also considering the requirements of this Policy where appropriate.
- Prospective occupants are required to complete and lodge a written application to the relevant Council department or service manager. The application should outline the proposed intended community use and request for a lease or licence. All applications will be subject to a financial review.
- Prospective occupants that consider they may be eligible for a rental subsidy will need to address the criteria contained in **Schedule 1 and 2**. Council may seek additional information to better understand a prospective occupant's activities, the intended use of the facility and any opportunities for improvement of the facility and services.
- All leases, licenses, and other occupancy agreements that Council enter into will be recorded on a central register and this register will be published on the Council website as required by Council's Public Transparency Policy 2020.

Standard terms of occupancy agreements

Standard terms of agreement

Council's standard template lease will be used as the basis for all occupancies that require exclusive occupation of a facility to provide community and/or recreational services. Occupants may be required to contribute towards costs associated with the maintenance and upgrades of the facility.

Council's standard template licence is the preferred occupancy agreement where an occupant does not require exclusive use of a facility and/or can be shared with multiple community occupants.

If an occupant requires the use of a Council facility on a seasonal basis, the preferred occupancy agreement will be a Sportsground Allocation and Pavilion Allocation in accordance with the *Terms and Conditions Of Use for Seasonal Use Of Sportsgrounds & Pavilions.*

If an occupant on a Seasonal Allocation makes a significant financial contribution towards the capital works of a Council facility, pavilion or sportsground, a licence agreement may be considered appropriate to document the agreement and to provide security of tenure.

Applicable rent, rent reviews and rent subsidies

Council will determine the applicable rent which will be based on a market rental valuation from an appropriately qualified external valuer where required from a person who holds the qualifications or experience specified *under section 13DA(2) of the Valuation of Land Act 1960* a valuation of the land which is made not more than 6 months prior to leasing or licensing the facility. Council will also determine the final rent or licence fee payable for occupying land or buildings, based on the application of this Policy.

Prospective occupants that may be eligible for a rental subsidy are required to provide information to be assessed against the eligibility criteria.

The complete eligibility criteria for occupancy of a facility for community use and the associated rental subsidies are contained in the **Schedules 1 and 2** of this Policy.

Council will regularly review the occupant's performance against the rent subsidy criteria and ongoing eligibility for the subsidy.

When determining the value of the subsidy, Council may consider relevant factors including:

- whether the proposed use is consistent with Council's objectives and other policies;
- whether the proposed occupant uses volunteers or charges service and program fees;
- how the proposed use enhances social benefit for the Stonnington and greater community;
- whether the proposed occupant has or could obtain external funding;
- whether the proposed occupant derives income from subletting or offering a venue for hire;
- the total value of subsidies received by the proposed occupant from Council;
- the proposed occupant's ownership and organisational structure (whether the organisation an Incorporated Association);
- any commercial activities undertaken by the proposed occupant; and
- the nature of the broader service industry in which they operate.

Rents and licence fees (other than peppercorn rents) will generally be reviewed annually and the amount payable will be adjusted by CPI, a fixed percentage or subject to a (discounted) market review.

Occupants within Category B - Subsidised Rent may require a transition period to budget for the increase in rent. Occupants must demonstrate financial hardship and approval is at the discretion of Council or its authorised delegate. Council may offer the following lease or licence incentive to assist with the financial transition:

- Rent Year 1 only: a maximum rental discount of 50%

Maintenance obligations

Maintenance obligations will be set out in the occupancy agreement. Council reserves the right to negotiate maintenance responsibilities and costs with the occupant. For an occupant to be eligible for a rental subsidy they are required to undertake general maintenance and ensure the property is kept in good condition.

Facility maintenance includes minor day-to-day maintenance (tasks that generally do not require a tradesperson) and more significant asset maintenance (which may require the services of a qualified tradesperson).

Cleaning will generally be the responsibility of the occupant. Where facilities are shared or if Council arranges for cleaning, a contribution towards cleaning costs will be negotiated with the occupant.

Utility costs and outgoings

Utility costs are generally the responsibility of the occupant. Council may require a contribution towards utilities in a multi-use facility where separate metering is impractical. The apportionment or value of the contribution will be determined by Council.

Occupants will generally be required to pay for rates (if charged), outgoings and any taxes applicable to the premises.

Where separate metering is impractical, a gross rent may be considered and negotiated.

Term of the occupancy agreement

The term of each occupancy agreement will be negotiated and determined based on the site specific circumstances of the facility and the occupant. Relevant considerations include:

- capital investment and long-term planning;
- sustainability of the service conducted from the facility;
- the connection between the use of the facility and Council's plans and relevant strategies;
- the extent to which the facility is used for multi-purpose activities; and
- consideration of any masterplans or redevelopment plans.

The standard term of an occupancy agreement will generally be 5 years with a maximum of ten years. Council may consider offering a longer term in appropriate circumstances such as where an occupant makes a significant financial investment in a facility. Council may require regular reporting about the nature of use of a community facility to determine the extent to which a community benefit is realised.

Use of facility, multiple use and occasional hire, and subleasing

- Facilities must only be used for approved purposes that are lawful.
- Council encourages the shared use of Council facilities where appropriate and subject to at Council's approval.
- To assist in maximising community use, occupants may also make facilities available for casual hire for the permitted agreed purpose, subject to Council's approval.
- Occupants may only sublease or sub-licence the facility with Council's approval to appropriate organisations. Generally, Council will use the same criteria to assess the eligibility of the proposed additional occupant. The rent subsidy level for any occupant may be reviewed and any financial gain is generally payable to Council unless applied for community benefit or the benefit of Council.

Insurance

- Generally, Council will fully insure all Council-owned improvements at the facility.
- Occupants are responsible for obtaining their own contents insurance and will be required to maintain public liability insurance and other insurances on terms acceptable to Council.
- All occupants must provide copies of their insurance Certificate of Currency and Public Liability insurances to Council annually.

Liquor and gaming licences

- Liquor licence applications require Council approval in addition to any relevant statutory approval. Approval is determined on a case-by-case basis and is separate to any additional statutory approval.
- Council prohibits gaming licences in Council facilities.

Planning and other permit requirements

- Occupants must adhere to the conditions of any applicable planning permit.
- Occupants must obtain any permits or licences relevant to the specific use of the facility.
- Occupants must not unreasonably adversely impact the amenity of the neighbourhood.

Improvements

- Unless otherwise agreed, occupants may remove fixtures or fittings constructed or installed by them during the term of their occupancy agreement with consent from Council in capacity as landlord.
- Any alterations or works to the premises will require written consent from Council in capacity as landlord.
- Any make-good provisions will be set out in the occupancy agreement.

Acknowledgment of Council

Occupants may be required to acknowledge Council's contribution to the occupancy agreement. This may include an acknowledgement in the occupant's annual report, brochures and on signage at the facility.

Reporting:

All community occupants leasing or licensing Council owned property, are required to provide annual reports to council officers detailing a review of annual events, the performance of occupier against their permitted use and their efforts to maximise the use of the facility. A financial statement, minutes from any Annual General Meetings and insurance Certificates of Currency should be included in the annual report.

The Occupant's annual report should be lodged with council officers annually.

Council access

Occupants will be required to grant Council access to the facility for inspections and to allow Council's contractors to undertake planned and reactive maintenance, (if required) and Essential Safety Measures audits from time to time with appropriate access and notice requirements.

Additional Revenue

If an occupant obtains a liquor licence or has the ability to generate increased revenue throughout the term of the agreement through subletting, advertising or any other means, this may reduce any future rental subsidies under Schedule 1 and 2 of this policy. Consent from Council and a variation to lease or licence for such use may be required.

Eligibility requirements for community and recreational use

Eligibility criteria

Prospective occupants are required to satisfy eligibility criteria to be considered by Council for an occupancy agreement for community or recreational use. The mandatory eligibility criteria is set out in Schedule 1.

General application requirements

- Prospective occupants are to submit an application to lease or licence to the relevant Council department or Service Manager outlining the proposed occupant's intended use of the facility and respond to Council's eligibility criteria, including those set out in Schedule 1.
- Council will consider each expression of interest or request for an occupancy agreement renewal on its individual merits under this Policy.
- Council may provide assistance to prospective occupants to allow them to complete the application process.
- Council may also seek additional information to better understand a prospective occupant's activities, the specific facility use and opportunities for improvement of the facility and activities.

Property Site Assessment

Council will undertake a Property Site Assessment when assessing an application for a community lease or licence. This will include a review and assessment of the community benefit considerations, purpose and use of the property and will consider the following:

- Whether the property is fit for purpose?
- Are the buildings and improvements in a reasonable condition?
- Has the property been identified for a community or recreational use in the Council Plan, Community Benefit assessment or any other Council policy, strategy or plan?
- Is the location of the property suitable for the occupants proposed use and services?
- If the building is not fit for purpose, does the occupant have the financial capacity to support any capital works required to the property?
- Are any repairs required to meet legislative or OH&S requirements?
- Is the property required for any future masterplan, redevelopment or use by Council?
- Have all relevant Service Managers been consulted in relation to the proposed future use of the site.

Direct Negotiation

At Council's discretion, it may elect to directly negotiate with an existing occupant prior to the end of an occupancy agreement in relation to a new agreement at the current premises. A decision to negotiate with a tenant/licensee for a new occupancy agreement will be dependent on an assessment of the occupant after a review of the current services and community benefit. Consideration will include the performance of the tenant/licensee in relation to the current agreement, any ongoing or proposed capital investment and any other factors or specific requirements related to the occupancy agreement. The criteria listed in Schedule 1 and 2 attached to this Policy will be assessed by Council prior to the decision to directly negotiate a new occupancy agreement.

Lease/Licence Categories and Fee Structure

Prospective occupants that meet Council's eligibility criteria set out in Schedule 1 will be able to receive a rental subsidy as a community group or club that provides a community service supported in the Council Plan.

Occupants have been grouped into categories and subcategories to determine the fee structure and rental subsidy. These fees include the cost of planned maintenance undertaken by Council, Essential Safety Measures, building insurance and other costs associated with maintaining the facility. The occupant will pay for all general maintenance, utilities and cleaning associated with operating the services at the facility.

Category A – Annual Administrative Fee/Peppercorn Rent

Occupants in this category provide and support key community service outlined in Council's Plan. These are generally not-for-profit incorporated associations, do not have ability to generate significant income, rely on volunteers and rely on funding and grants from other sources. The Annual Administration fee is set out in Council's Schedule of Fees and Charges. Examples of Occupants within Category A may include the following (Category may vary subject to a full assessment):

- Toy Libraries
- Play Groups
- Neighborhood Houses
- Men's Shed
- Arts and Cultural Groups
- Early Learning and Kindergarten Services
- U3A
- Scout Groups and Girl Guides
- Emergency Services
- RSL

- **Category A1 – Annual Administration Fee:**

Community Groups that generally exclusively occupy a facility (i.e. lease) and operate a full-time service and may also receive funding from external sources in the form of a subsidy and/or grant. These groups provide a Council supported service to the community and may charge a non-competitive market fee their services and/or a membership fee. These community groups may also have staff which are employed on a paid basis.

- **Category A2 – Peppercorn Rent:**

Community Groups that generally operate a part-time community service and have permissive occupancy of a facility (i.e. licence). These groups receive minimal funding from external grants or subsidies, rely on volunteers and a committee, provide a Council supported service and do not charge a competitive service fee or membership fee.

Category B – Subsidised Rent

Occupants in this category provide community services supported by Council. The occupants are Incorporated Associations and/or are registered with the Australian Charities and Not-for-Profit Commission (ACNC) as a not-for-profit charity.

Occupants provide a service to the community that supports the Council Plan and has capacity to generate revenue from the use of the facility. As an Incorporated Association, the organisation is not able to make a commercial profit and all revenue must be reinvested back into the service and/or facility and allocated towards its purpose. The occupants may have constructed and/or contributed to the construction of the facility and have undertaken maintenance responsibility of the facility and improvements. Examples of Occupants within Category B may include the following (Category may vary subject to a full assessment):

- Humanitarian Services
- Health Community Services
- Aged and Disability Services
- Sport and Recreational Clubs (excluding Seasonal Sportsground and Pavilion Allocation occupancies as detailed above)

Occupants in this category will be eligible for a rental subsidy of between 20% to 80% off the current market rent based on the eligibility criteria in Schedule 2. A rental subsidy will apply to occupants which provide a service to the community.

The eligibility criteria will assess occupants based on the level of community service, capital contribution to the facility, maintenance of the facility and ability to generate revenue through membership and services.

Definitions

Term	Definition
Property	Property means Council owned or managed land and buildings on the land.
Community Benefit	Council Property is efficiently managed and prioritised for occupants that provide a use or service to the community that promotes improved social outcomes and enhances the health and wellbeing of the Stonnington residents and the greater community to support the objectives outlined in the Council Plan.
Council Plan	Council Plan is an adopted 4-year plan of Council as per LGA section 90.
Certified Practising Valuer	An accredited property professional with membership and qualifications as per provisions of the Valuation of Land Act 1960.
Endorsed Council Strategy	A Strategy that has been adopted by the Council of the City of Stonnington.
Financial Plan	Financial Plan is an adopted 10-year plan of Council as per LGA section 91.
Fittings	Also known as chattels, are items that are freestanding and retain their independence from the building or land and are capable of being removed. Examples include refrigerators, microwaves, etc.
Fixtures	Are items that are attached to the building or land and cannot easily be removed from the premises. Examples include air-conditioning units, stoves, etc.
Freehold Land	Freehold is considered the most absolute form of ownership. Is a property title by which the owner of the land owns for perpetuity.
Lease	Is a legally binding contract between two parties to exclusively occupy a space and stipulates respective responsibilities including payment of consideration for the privilege. A tenant has an interest in the land for the duration of the lease.
Licence	A license only provides permissive (non-exclusive) occupancy of a space. The licensor can allow parties other than the licensee to use the space. A licensee, at law, has no interest in the land.
Make-good	Whereby the occupant is required, as per the occupancy agreement, to restore the premises to its original condition at the conclusion of the lease.
Outgoings	Means council rates, charges, taxes and other levies assessed against the property.
Occupancy Agreement	Means an Agreement between a landowner and another organisation which confers a right to use a specified property for a specified use for a set period of time subject to mutually agreeable terms and conditions.
Tenant	Tenant means the occupier or Occupant of a facility under a Lease or Licence.

Responsibilities

Party/parties	Roles and responsibilities
Property Coordinator and Manager Strategy Property & Revenue	Responsible to review and analyse the policies and procedures, ensuring that they comply with legislative and regulatory requirements. Provide recommendations to improve existing policies and procedures to maximize the effectiveness of Stonnington's property portfolio.
Chief Executive Officer (CEO) & Chief Financial Officer (CFO)	Responsible for legislative compliance, regular review and execution of leases and licences as per instrument of delegation.
Council	Adoption and adherence to the Policy
Council officers	Adhere to the Policy

Monitoring, Evaluation and Review

Council commits to monitoring processes, information sharing and decision making to understand the overall level of success in the Policy's implementation.

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made.

Officers are authorised to make minor editorial amendments as needed for administrative or updated information purposes (for example, but not limited to: changes to position and roles, references to legislation, definitions etc). Officers may also make amendments to the list of related documents at such times where reference material or guidelines require updating.

Reviewer	Position	Version	Date Reviewed
Kenton Shue	Property Coordinator	1.0	May 2025
Mark Spaziani	Manager Strategic Property & Revenue	1.0	May 2025

Related Legislation and Policies

There are a range of legislation, codes and Council documents that inform and support this Policy. These include, but are not limited to:

Legislation	Council documents
• *Charter of Human Rights and Responsibilities Act 2006* • *Child Wellbeing and Safety Act 2005* • *Crown Land (Reserves) Act 1978* • *Health Act 1958* • *Local Government Act 2020* • *Occupational Health and Safety Act 2004* • *Residential Tenancies Act 1997* • *Retail Leases Act 2003* • *Gender Equality Act 2020* • *Children's Services Act 1996* • *Valuation of Land Act 1960*	• Future Stonnington: Community Vision 2040 and Council Plan 2021–25 • Stonnington Public Health and Wellbeing Plan 2017-2021 • Active Stonnington Framework 2021-2025 • Sports Infrastructure Plan (Draft) • Terms and Conditions Of Use Seasonal Use Of Sportsgrounds & Pavilions (Allocation Policy) • Creative Stonnington: Arts and Culture Strategy 2023-2026 • Climate Emergency Action Plan 2021-2024 • Fair Access Policy 2024) • Venue Hire Policy (Draft) • Disability Inclusion and Access Plan • Community Engagement Policy • Asset Plan 2022 • Birth to 25: Children, Youth and Family Strategy (2017)

Schedule 1: Eligibility criteria for occupancy of a Council facility for community use

Prospective tenants may be eligible to be considered by Council for an occupancy agreement for community use of a Council facility if they satisfy relevant assessment criteria as determined by Council and must be supported by the relevant Service Manager. The tenant is required to submit a proposal to lease and respond to the following key assessment criteria below:

Mandatory:

- The occupant applies any surpluses towards its purposes, prohibits any dividends or profits from being paid to its members and is exempt from paying income tax. Any revenue generated must support the primary use or purpose of the leased or licensed premises.
- The occupant is a legal entity incorporated under the *Associations Incorporation Reform Act 2012* (Vic); or registered as a charity with: Australian Charities and Not-for-profits Commission (ACNC)
- The occupant is financially viable and able to demonstrate good financial management and record-keeping practices, including audited financial statements and minutes of annual general meetings. These documents are to be provided to Council upon request.
- The occupant complies with relevant legislation governing its activities and holds any licences or registration certificates required for it to operate.
- The occupant has a committee of management and appropriate governance arrangements, with established accountability and reporting methods to members of the minimised and / or to the community, including the capacity to maintain appropriate financial records for audit purposes. The committee of management of an organisation must be managed by volunteers and not paid employees. (i.e. *A not-for-profit business managed by paid employees will not be considered as a community tenant).*
- The occupant adheres to all relevant Council policies and has complied with the terms of any previous occupancy agreement with Council.
- Demand exists for the service or activity to be provided through the facility and the **primary** use of the facility must be a community use consistent with Council's objectives and current strategic plan as identified through the Council Plan and Community Vision or any other Council policy, strategy or plan.
- The occupant provides services with a competitively neutral pricing structure (in accordance with *National Competition Policy* and DTF's *Competitive Neutrality Policy 2012*).
- The occupant must provide a service that provides community benefit. The following criteria must be met to qualify for a community lease or licence:

  Community Benefit Criteria:

  - **Increased Social Engagement**
    - Occupant provides inclusive activities and programs that improve the health and well-being community.
  - **Service is non-discriminatory**
    - The proposed service or activity to be conducted from the premises is non-discriminatory.
    - The occupant can provide and demonstrate inclusion and accessibility for priority populations in line with Council's Fair Access Policy.

- **There are no barriers to participation**
    - People with a disability and vulnerable or marginalized groups can access the service or activity and strategies are in place to review and remove barriers to participation.
    - **A demand exists for the service**
      The proposed use is in a suitable location and the services respond to objectives supported and included in the Council Plan and Policies.
- **Maximise use of facility**
  Occupant can demonstrate facility is fully utilised to provide services to the community and/or encourages shared usage to other third-party community groups and/or Council to provide further community benefit. Examples include hiring to community groups or Council for a nominal or reduced fee.

Schedule 2 - Rental Subsidy Categories and eligibility

An occupant that meets the assessment criteria in Schedule 1 may be eligible for a community use occupancy. The following two Categories A and B provide details on the eligibility for a rental subsidy based on the following criteria.

Subsidy category	Annual rent	Tenant's eligibility
Category A	**A1 – Annual Administration Fee:** (*updated annually in Council's Schedule of Fees and Charges adopted in Budget)* OR **A2 – Peppercorn rent:** ($1 per annum) if demanded by Council	• Provides a community service supported by Council. • Meets all assessment criteria in Schedule 1. • Provides significant Community Benefit*. • Primary use of the facility is not for the retail sale of goods. • Has **limited** ability to generate additional revenue through ancillary services or commercial activities (net of cost of service). • Receives direct government funding to support service delivery to minimise direct charge to the community.
Category B	**Discounted Market Rent:** Market rent with a discount between 20% to 80% based on a sliding scale based on evaluation of the following criteria: • Community Benefit Criteria • Maintenance responsibility and capital improvements • Capacity to generate revenue.	• Provides a community service supported by Council. • Meets some of the assessment criteria in Schedule 1. • Provides some Community Benefit* through community services. • Has the ability to generate additional revenue through primary and/or ancillary services or commercial activities.

*Community Benefit criteria is included in **Leasing and Licensing Policy – Schedule 1.**

Schedule 3: Guidelines for determining rental subsidy (Community Leasing and Licensing Policy):

The table below provides the criteria for determining the appropriate category and rental subsidies which will consider the Occupants ability to generate revenue, provide community benefit and level of maintenance and capital contributions to the facility. The rental subsidy is based on a fixed amount for Category A1 and A2 occupants and a sliding scale between a minimum discount of 20% and a maximum of 80% for Category B Occupants.

Category	Rental Subsidy	Eligibility Criteria
Category A1	Annual Administration Fee *(Annual Administration Fee is calculated in accordance with Council's Fees and Charges Schedule adopted in Budget)*	Community Services provided are approved by Council and supported in the Council Plan and/or other policies and strategies. The service is provided at a non-competitive price point, to support an accessible service to the community (price is not set based on competitors pricing and minimizes the direct charge to community). • Community Services are managed by a committee of volunteers. • Services provided are subsidised by external government funding.
Category A2	Peppercorn - $1 if demanded	Meets all of the assessment criteria of **Category A1** and; • The occupant's hours of use are limited and does not operate services on a full-time basis, i.e. a licence agreement with non-exclusive use of facility. • Has very limited revenue-raising ability (service is cost neutral).
Category	Rental Subsidy	Eligibility Criteria
Category B	**Discounted Market Rent** **20% - 80% Discount** (Sliding scale based on eligibility criteria)	**Category B: Meets some of the assessment criteria in Schedule 1 and 2** Minimum discount for Category B tenant: 20% Maximum discount for Category B tenant: 80%
		Capacity to Generate Revenue: Occupant's ability to generate revenue: • Provides services to the community by charging a non-competitive or competitive pricing structure. • Ability to hire/subletting of facility for functions and events. • Ability to sell food and beverage (liquor licence). • Services are provided by volunteers. • Accessibility to external grants, funding and/or subsidies.

		• Ability to service and maintain a large membership or client base to support funding of the service.
		Maintenance responsibilities and capital contributions to facility: • Occupant undertakes reactive and planned maintenance responsibilities of the facility to the level specified in Council's standard maintenance schedule. • Occupant has recently **completed** or made a significant capital contribution to improve the infrastructure of the facility over the term of the lease. Consideration will also be given if the tenant constructed the facility. Examples: • Resurfacing of Tennis Courts/Bowling Greens • Installation of flood lights or fit out to property. • Capital contribution to the redevelopment of a council facility. • Occupant constructed improvements and/or building. • Occupant undertakes significant maintenance of the facility and maintains in good condition. • If an occupant maintains a sinking fund and commits to invest in future capital works at the facility, see further conditions below*

		Community Benefit Criteria:
		
		• **Increased Social Engagement**
		  ○ Occupant provides inclusive activities and programs that improve the health and well-being community.
		
		• **Service is non-discriminatory**
		  ○ The occupant to provide and demonstrate inclusion and accessibility for priority populations in line with Council's Fair Access Policy.
		  ○ The proposed service or activity to be conducted from the premises is non-discriminatory.
		
		• **There are limited barriers to participation**
		  ○ People with a disability and vulnerable or marginalised groups can access the service or activity and strategies are in place to review and remove barriers to participation.

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		• **A demand exists for the service**
		  ○ The proposed use is in a suitable location and the services respond to objectives included and supported in the Council Plan and Policies.
		
		• **Maximise use of facility**
		  ○ Occupant can demonstrate facility is fully utilised to provide services to the community and/or encourages shared usage to other third-party community groups and/or Council to provide further community benefit. Examples include hiring to community groups or Council for a nominal or reduced fee

Additional discounts - Sinking fund for future Capital Works Program*:

Where an occupant maintains a self-managed sinking fund for future capital works at the facility that are included in Council's Capital Works Program included in the Budget, the annual sinking fund contribution amount can be considered as a direct discount from the annual market rent (subject to Council assessment and approval).

Example: A tennis club contributes toward annual sinking fund to replace court surface over ten-year lease term. Direct reduction from the annual rent during term of lease.

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