

Draft Lease and Licence Policy FAQs



**Mornington
Peninsula Shire**

The Mornington Peninsula Shire Council manages a diverse property portfolio to ensure we're maximising the use of public land for the benefit of the community.

Managing over 265 lease and licence agreements for both community and commercial tenants, Council's Property Team work with our tenants to ensure we're meeting the current and future needs of our community.

What is the draft Lease and Licence Policy?

The Mornington Peninsula Shire is currently developing a draft Lease and Licence Policy to ensure that we:

- have a consistent, equitable and transparent process in relation to the leasing of all Council property
- comply with best practice and legislative requirements when negotiating and managing Council's lease and licence agreements
- optimise financial return for the commercial portfolio and establish fair and consistent subsidies for community tenants, whilst encouraging higher usage rates

How is this different to the draft Lease and Licence Policy that Council contacted me about in early 2025?

In late 2024 we developed our draft Lease and Licence Policy, and in early 2025 we sought feedback from our current tenants and the community. We listened to the feedback received and have made further adjustments to the Policy to make it more streamlined and easier to understand.

To ensure we've got it right, we're seeking further feedback from the groups, organisations and businesses that the draft Policy will affect.

What has changed in this draft?

We heard that the first draft was long and not easy to understand. In this draft, we have removed a lot of the administrative and procedural information to ensure its succinct and relevant. We've also updated the wording to be more straight-forward and less technical.

Which groups, organisations and businesses are covered by the draft Lease and Licence Policy?

The Lease and Licence Policy applies to all commercial and community tenants occupying Council land and/or buildings, with the exception of Council run services, seasonal sports licence, residential tenancies, boatshed and bathing box licences, casual facility hire or management service agreements.

How will current licenses and leases be impacted by the draft Lease and Licence Policy?

Community tenants are currently charged varying rental rates and have a mix of responsibilities in relation to outgoings and maintenance. To establish consistency with our community tenants, a standard rental approach will be applied that may create some increases and some reductions in rent for various community tenants.

Community tenants

Leasing of public land and/or buildings for community use warrants a reduction from market rent due to the public benefit provided. Where a community tenant occupies a Council building, they will be charged an Administrative Rent which covers the costs of establishing and managing a Lease or Licence. For community tenants that occupy a Council building and land, eg sports clubs, they will also be charged a Sporting Ground Rent. These rents will be included in the Schedule of Fees and Charges adopted by Council each year as part of the annual budget process.

Commercial tenants

The rental income from a Commercial Tenant generates a commercial return to Council. Commercial rents are determined by reference to a Market Rental or market levels by a competitive selection process with regular rent reviews. Commercial rents will be increased annually by a fixed percentage or a market review as determined by the market.

How will current tenants be financially impacted?

The draft Lease and Licence Policy will be applicable at the time of preparation of a new lease or licence, so many tenants will not be affected for many years as they continue to operate under their existing agreements.

For most tenants, there will be no or minimal impact when the draft Lease and Licence Policy is adopted. Those community tenants who sign a new lease or licence with Council will pay the new administrative rent of \$520 plus GST per year. Annual increases will be determined by Council each year as part of the annual budget process.

There is an expectation that some community tenants will be responsible for more repairs and maintenance. All tenants will have a

maintenance schedule attached to their new lease or licence that will clearly set out the tenant's and Council's repair and maintenance obligations. These schedules are currently being finalised with the Buildings Management Team.

How are Council facilities leased?

At the end of the term of a lease or licence, or where Council premises become vacant, a property review of the premises is carried out. This review covers:

1. Tenant's compliance with the current lease/licence, financial capacity and sustainability
2. Proposed use and how the tenant's services:
 - align with the Council Plan and other strategies
 - compliments Council's services
 - meets community needs
 - is non-discriminatory and provides equitable access to the community
 - accessible to a broad resident base
 - supports under representative or vulnerable groups
 - accessible pricing
 - funding
3. Capacity to generate revenue
4. Capital investment
5. Utilisation and community access to the Council property
6. Council's long-term planning and strategic requirements

If the tenant meets the above, they will be offered a new lease of the premises.

What other terms and conditions are applicable?

The maximum term is generally five years, and preference is given for licences rather than leases to allow the premises to be used to its greatest potential.

Community tenants will generally be responsible to pay for rates, fire service levy and utilities and must hold \$20 million public liability insurance.

What are the legislative requirements?

Section 115 of the *Local Government Act 2020* establishes guidance for leasing of Council properties and limits leases to a term of 50 years or less. Council must include its lease proposal in its financial budget if the lease is for a year or more and the annual rent or current rent is \$100,000 p.a. or the lease is 10 years or more. If a lease proposal is below these thresholds, the lease does not need to be included in Council's financial budget, nor is any community engagement process required. There is no restriction on licences.

What is the difference between a lease and licence?

Lease

A lease is an agreement in which the landlord (Council) agrees to give a tenant the exclusive right to occupy Council land/building for a fixed term, subject to the lease terms and conditions. A lease conveys an interest in the land. Usually a lease is used where Council property is occupied fully for a specified sport or purpose (e.g. tennis courts, child care centre).

Licence

A licence is an agreement in which the Licensor (Council) gives permission to the licensee to carry out a permitted activity on Council property without the right to exclusive occupation. A licensee may have exclusive occupation during that time they occupy (e.g. every Tuesday between 2-5pm). A licence is used where a Council facility is shared by a number of groups and more than one licence may be granted over the same property.

Still have questions? Contact our Property Team at property@mornpen.vic.gov.au