

COUNCIL POLICY EX/CP-1

COMMERCIAL LEASE



OBJECTIVE

The purpose of this policy is to provide a consistent, equitable and simple approach to dealing with commercial lease negotiations.

SCOPE

This policy applies to all commercial leases for Shire owned premises.

POLICY STATEMENT

Lease agreements between the Shire of Donnybrook Balingup and a commercial entity will be established in accordance with this policy.

1. Commercial Lease Rent Methodology

Commercial rent will be based on the market valuation (MV) obtained from an independent certified valuer. Rent will be reviewed annually in accordance with the Perth Consumer Price Index adjustments as stated in the lease. At the commencement of this policy rent will be phased in.

1.1. Phasing in

1.1.1. Existing lessee, new lease, MV at least 10% above current rent amount

Where:

- There is an existing lessee at the premises; and
- a new lease is being prepared; and
- the current MV is at least 10% above the current rent amount.

Rent shall increase in equal increments over a three-year period to bring it up to the current MV. After the third year the rent will be reviewed annually in accordance with Consumer Price Index adjustments as stated in the Standard Commercial Lease.

1.1.2. Existing lessee, new lease, MV less than 10% below current rent amount

Where:

- There is an existing lessee at the premises; and
- a new lease is being prepared; and
- the current rent amount is less than 10% below the current MV.

Rent shall increase to the current MV for the first year and will be reviewed annually in accordance with the Perth Consumer Price Index adjustments as stated in the Standard Commercial Lease.

2. Lease Terms

Terms are to be negotiated by the Chief Executive Officer in accordance with current market conditions with a minimum five-year term for the first term.

Leases terms for retail shops will be in accordance with the *Commercial Tenancy (Retail Shops) Act 1985*.

COUNCIL POLICY EX/CP-1

COMMERCIAL LEASE



3. Lease Renewals

Whenever premises become available, an MV will be obtained, and Expressions of Interest will be sought for commercial lessees.

Where there is an existing lessee at the premises and the lease has expired with no further options, an MV will be obtained, and they will be given the first option of renewal for a new lease.

4. Standard Commercial Lease

Any new commercial lease, or renewal of an existing lease, shall be based on the Shire's 'Standard Commercial Lease' incorporating the requirements in this policy.

Any variations to the Standard Commercial Lease will be detailed in an Item in the Schedule (Additional Terms and Covenants) of the lease document.

Minor changes, as deemed necessary by the Chief Executive Officer, may be made to the Standard Commercial Lease.

5. Costs

Commercial leases will be drafted by the Shire's solicitors, 100% of all legal costs incurred will be paid for by the lessee unless the lease is being prepared for a retail shop in which case the Shire will bear all costs in accordance with section 14B *Commercial Tenancy (Retail Shops) Act 1985*.

The costs of obtaining a market valuation in accordance with section 3.58(3)(a) of the *Local Government Act 1995* for the initial lease rental assessment and during the term of the lease for rent reviews will be split 50:50 between the Shire and lessee.

DEFINITIONS

LEGISLATION

- *Local Government Act 1995*
- *Commercial Tenancy (Retail Shops) Act 1985*
- *Land Administration Act 1997*

Related Policies:	EXE/CP- 4- Document Execution and Application of Common Seal	Related Procedure:	N/A
Responsible Department:	Executive Services	Reviewer:	Corporate Planning & Governance Officer
Initial Adoption Date:		Review Frequency:	Tri
		Next Due:	2022
Review Version	Decision Reference:	Synopsis:	
[Link to saved doc in PDF]	25/21	Amendment to the phasing in 1.2.1 MV at least 10%..., 1.1.2 MV less than 10%..., clause 4 "Standard Community Lease" changed to "Standard Commercial Lease".	
Date Live:	25 February 2021	Synergy #	NPP6689