

1 PURPOSE

This policy exists to guide the consistent treatment of community groups who wish to lease Council properties.

2 OBJECTIVE

The policy aims to provide a consistent and fair approach to community groups by setting out the principles that will apply to community leases.

While the policy aims to inform the preparation of lease documents, it is noted that an executed lease contract will take precedent over anything contained in this policy.

3 SCOPE

The policy applies to community groups entering into a lease arrangement with Council for the use of Council-owned property.

4 DEFINITIONS

In this policy:

- *Community groups* means those groups established to serve and benefit the community with not-for-profit objectives.
- *Community tenant* means a community group that has entered into a lease agreement as tenant, with Council as landlord.
- *Community lease* means a lease between Burnie City Council and a community group.
- *Public Land* means land as defined under S. 177A of the *Local Government Act 1993* and includes land that is listed on Council's *Public Land Register* (available at www.burnie.net).

5 POLICY

5.1 Incorporated Bodies

Council will only enter into a community lease agreement with a community tenant that is an incorporated body, so that the tenant has a legal identity to operate under.

5.2 Public Land Leases

Public Land

Where property is listed as public land on the Burnie City Council Public Land Register (available at www.burnie.net), the *Act* requires that Council must undertake a disposal of public land process prior to entering into a lease if the lease is to be for more than five years.

(s.178, 179 Local Government Act 1993). Public land leases not exceeding five years are not subject to the S.178 disposal process. Public Land that is leased for any period by Council remains public land during that period. (s.178(2) Local Government Act 1993).

5.3 Lease Period

The maximum period available for a community lease (including options) will be ten years. Leases greater than this period of time will require a resolution of Council.

5.4 Lease Fees

Community tenants will be charged a nominal annual lease fee that is indexed each year by CPI or 5%, whichever is greater, according to the following schedule*:

Year	Annual Lease Fee with 5% Increase (inc GST)
2018-19	\$ 351.75
2019-20	\$ 369.35
2020-21	\$ 387.80
2021-22	\$ 407.20
2022-23	\$ 427.55

**Increments of 5% are shown rounded to nearest 5 cents.
Fees above will vary if CPI is greater than 5% in any year.*

The lease fee is nominal, and applies to all groups, regardless of the nature of the premises. The user charges (5.6 below) and property insurance payable (5.8 below) will reflect the size, standard and quality of the property being leased.

5.5 Rates and Taxes

Council will cover the cost of all council rates and land tax in respect of the leased premises.

5.6 Services and Utilities

Community tenants will be required to pay all charges in respect of

- gas, electricity and oil,
- garbage and waste removal
- telephone connection and usage
- internet services connection and usage
- security monitoring and callouts
- any other user-based utilities incurred by the community tenant

5.7 Water and Sewerage

Council reserves the right to introduce water and sewerage charges for the leased premises to community leases executed on or after 1 July 2018, on the providing of at least one year's notice and without retrospective invoicing.

5.8 Insurance

Community tenants will be required to pay to Council the reimbursement of building insurance carried by Council on leased facilities. The building insurance premium is directly related to the insured value of the property, and therefore reflects through a cost to the user group, the size, standard and quality of the property being leased. The building insurance premium will be limited to cost recovery only of the premium paid by Council (plus GST).

Where an insurance claim is required, an insurance excess may be charged to the tenant.

Community tenants will be required to carry Public/Products Liability to a minimum of \$10 million, and are required to provide Council with a copy of the Certificate of Currency on an annual basis when requested.

Community tenants will be responsible to ensure the adequate insurance of their own contents stored within the property.

5.9 Sub-Leasing

Community tenants wishing to sub-let premises are required to seek written Council permission. A sub-lease may not extend beyond the current term of the existing community lease between the community tenant and Council.

Sub-leasing arrangements for a commercial purpose, of more than one week, will require Council approval and may result in an increase of the lease fees payable to Council.

Approved sub-leasing tenants will also be required to provide Council with a copy of their public/products liability certificate of currency, when requested, as per section 5.8 above.

5.10 Access to Premises

Community tenants are required to provide access codes and master keys to Council for emergency access.

5.11 Alterations or Additions

Alterations or additions to the premises will require:

- a) the written consent of Council as landlord, and
- b) where required, the appropriate statutory approvals or licences from Council (for example but not limited to, planning approvals, building permits, plumbing permits, food licences).

In addition, any approved alterations or additions to the premises must be carried out by appropriately qualified personnel.

5.12 Restoration

If the landlord requires (for example upon termination of a lease and vacation of the premises), that the premises be restored to their former condition, fair wear and tear excepted, including the making good any damage caused by the erection or removal of signage; restoration will be undertaken by the community tenant.

6 LEGISLATION

Local Government Act 1993
Local Government (Building and Miscellaneous Provisions) Act 1993
Building Act 2016 and associated Regulations

7 RELATED DOCUMENTS

PRO-CBS-SG-025 Preparation of Leases by Council

Policy Endorsement	
Responsibility:	It is the responsibility of the Executive Manager Corporate Governance to ensure that community leases are developed in line with this policy. It is the responsibility of the Governance Unit to maintain this policy in the Corporate Document Framework.
Minute Reference:	Item AO162-18
Council Meeting Date:	19 June 2018
Strategic Plan Reference:	Strategy 7.1.1 Formulate policy that is equitable, inclusive and responsive to current needs, and ensure decision-making is informed and accountable.
Previous Policies Replaced:	This policy replaces the previous policy Property Leases to Community Groups version 2.0 dated 18 Nov 2014 (Item AO288-14).
Date of Commencement:	20 June 2018
Publication of policy:	Members of the public may inspect this policy at the City Offices where copies can be obtained free of charge. Alternatively it can be accessed on Council's website (www.burnie.net)