



**GLAMORGAN  
SPRING BAY  
COUNCIL**

Glamorgan Spring Bay Council

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**Leasing and Licensing of Council Owned  
and Managed Property Policy**

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Version [1.0]

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# 1. Introduction

## 1.1 Purpose

Council owns and manages a diverse suite of properties for the benefit of the community, including sporting clubs, community organisations, private and commercial entities, and other parties. This policy sets out the Council's position to allocating its community properties and facilities to provide a consistent, equitable and transparent approach.

## 1.2 Scope

This policy applies to all groups, entities, and individuals (users) wishing to access a Council owned or managed community property or facility. All real property assets and facilities that are owned and/or managed by the Council are covered by this policy.

The following are outside the scope of the policy:

- tenders.
- major or minor events.
- Halls managed by Section 24 committees.
- outdoor dining; and
- busking and street vending.

## 1.3 Definitions

<b>Council property</b>	means property, including land and buildings, owned, or managed by Council. This includes, sports fields, and community centers.
<b>Facilities</b>	means buildings or structures built on Council land.
<b>Lease</b>	means a formal agreement for the exclusive occupation and/or long-term use of a Council property or a specified area within a Council property. A lease can be commercial, residential, or retail.
<b>Licence</b>	means a formal agreement for non-exclusive, intermittent, or shared use of a Council facility, including casual hire (e.g., the use of sports grounds).

## 1.4 Related Policies and Legislation

- *Local Government Act 1993*
- *Residential Tenancy Act 1997*
- *Local Government (General) Regulations 2015*
- *Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998*

## 1.5 Policy Review and Update Cycle

This policy is to be reviewed initially in March 2024 and thereafter, every four years.

## 2. Policy Statement

### 2.1 General approach

- 2.1.1 Council will manage its property resources efficiently, equitably, and transparently, including how we allocate facilities and charge for their usage.
- 2.1.2 Council encourages use of its facilities and properties by a broad range of groups and organisations where they provide for a need within the community, provide required services or aid in building a strong and connected community.
- 2.1.3 Council will comply with all relevant legislation in relation to the use of its property.

### 2.2 Appropriate use of Council property

- 2.2.1 In allocating its property for community use, Council will endeavour to provide the most appropriate available Council facility to meet the needs of the user.
- 2.2.2 Council will promote and arrange shared use of public facilities where feasible and within the carrying capacity of the facility. This may involve sharing buildings or spaces at the same time or at separate times.
- 2.2.3 Council will maximise the use of vacant or underutilised land to provide greater community benefit as opportunities are identified.
- 2.2.4 Council reserves the right to refuse to lease or license any property or facility for events or activities that do not meet its criteria or conflict with its plans and strategies.

### 2.3 Allocations

In allocating its properties and facilities, Council will take into consideration:

- the type of use deemed most appropriate for the facility.
- availability of alternative facilities.
- whether applicants or their memberships are predominantly based in Glamorgan Bay area.
- any prior tenancy history of the applicant.
- existing seasonal use.
- applicants' willingness to share facilities with other user groups where feasible; and
- uses that align with Council's strategic plan regarding achieving our community's goals.

### 2.4 Agreements to lease or license Council property.

- 2.4.1 All occupancy arrangements will be subject to formal written agreements reflecting appropriate legal and commercial standards and reviewed by Council's Director Planning & Development or external solicitors prior to finalising.

#### Types of Agreements

Hire Agreement – appropriate for intermittent usage by the same group.

Licence – appropriate for non-exclusive, intermittent, or shared usage including casual hire.

Lease – appropriate for exclusive occupation and/or long-term use. A lease can be commercial, residential, or retail. If residential the *Residential Tenancy Act 1997* applies and if retail the fair trading (*Code of Practice for Retail Tenancies*)

- 2.4.2 All lease and license agreements will reflect the nature of the occupancy and contain terms and conditions that comply with this policy.
- 2.4.3 The term of a lease or license must not exceed 5 years unless this would cause unreasonable inconvenience or disadvantage to either party. Terms exceeding 5 years must be approved by the Council as per Section 179 of the *Local Government Act 1993*.
- 2.4.4 Lessees must provide public liability insurance and comply with legal work health and safety requirements.
- 2.4.5 Lessees will not be permitted to sublease without Council's express written consent.

## 2.5 Income from use of Council Property

- 2.5.1 To help ensure continued provision of appropriate, well-maintained facilities for the foreseeable future, Council will generally aim to obtain a market commercial return on the use of its properties. However, Council recognises that some groups receive no or minimal profit and provide particular benefits to the community and takes this into account when reviewing the agreements.
- 2.5.2 Wherever possible, Council will recover its costs in supplying a property.
- 2.5.4 Council reserves the right to complete a credit check of lessees in accordance with legislative controls.

## 2.6 Fees and Charges

- 2.6.1 Rent will be charged according to the following user group categories

1. Charitable not for profit groups

Groups that may or may not be a registered charity but hold as their main purpose provision of relief or benefit to underprivileged members of the public and which have at least one of the following goals or attributes:

- a. the relief of poverty
- b. advancement of education
- c. registered with the Australian taxation office as a charity.

2. Community and Sporting Groups

Means a sporting, social or similar organisation that are operating on a not-for-profit basis and may or may not be incorporated and who are not making a profit over and above that required to sustain the group as ascertained by their current financial statements.

3. Commercial Groups

Means a corporation or business that operates on a commercial basis for the purpose of making a profit.

4. Residential

Residential tenancy which is governed by the *Residential Tenancy Act 1997*.

2.6.2 The rent for each location will be assessed each individual application. Consideration will be given to the type of user group category. Charitable not for profit groups, Community and Sporting Groups will be provided concessions due to the benefit they provide to the community.

2.7 Capital works by lessee or licensee.

2.7.1 Capital works must not be carried out on land leased or licensed from Council without first obtaining the written consent of the Manager of Buildings & Marine Infrastructure.

2.7.2 If planning approval is required, the lessee/licensee is responsible for lodging a planning application and meeting all the requirements including payment of fees associated with the applications. Planning applications are not to be made until the General Manager's consent has been obtained as above.

2.7.3 If all necessary approvals have been obtained, the lessee/licensee ensure the works are carried out efficiently, to required standards and within a reasonable time frame.

2.7.4 All new assets built legally on Council land will become the property of Council upon completion.

### 3. Implementation

Implementation of this Policy rests with the General Manager.

### 4. Attachments (if applicable)