



Charges For Use Of Council Land for Business Purposes

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| Policy Type: | Policy | | |
| Approved By: | Council | Decision No: | 2567/2018, 0548/2020 |
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| Department: | City Infrastructure | Division: | Property & Buildings |
| Function: | 16 – Property Management | Responsible Officer: | Manager Property & Buildings |

A - PREAMBLE

1. The City of Salisbury is responsible for the management and maintenance of community land, Council owned freehold land, road and road reserves within the Council area.
2. The Local Government Act 1999 provides for legislative controls directly or through by laws that enable Councils to permit or restrict conducting of business.
3. Pursuant to Section 222 of the Local Government Act 1999, the City of Salisbury is vested with the power to grant a permit for the use of roads and road related areas (footpaths, road reserves etc.) held in its care for use for business purposes.
4. Pursuant to Section 202 of the Local Government Act 1999, the City of Salisbury may grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve) and Section 200 states that Council must approve business use on Council’s community land.
5. A lease or licence must be consistent with any relevant management plan if classified as community land.

B - SCOPE

1. This policy applies to all businesses and not for profit businesses that request to lease/licence Council’s community land, freehold land, road and road reserves from Council.

C – POLICY PURPOSE/OBJECTIVES

1. This policy provides direction to staff on the fees to be charged and any reduction to the fee for businesses and not for profit businesses located within the City of Salisbury who lease/licence Council land.

D - DEFINITIONS

1. **Council land** – includes all community land or freehold land, road and road reserves within the City of Salisbury Council area (except Transport SA roads which are in the care & control of the Department Planning Transport and Infrastructure).
2. **Market rental value** – is the estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate

lease terms in an arm's length transaction and where the parties had each acted knowledgeably, prudently and without compulsion.

3. **Business** – is the activity of making a living or making money by producing or buying and selling products.
4. **Not For Profit Business** – is registered charities and cooperatives whose profits are not dispersed to individual members.
5. **Lease/Licence** – is an agreement whereby a lessor (Council) grants the right to occupy Council land for an agreed period of time to a lessee (Business) in return for payment or a series of payments.
6. **Lease/Licence fee** – is a payment made to a lessor (Council) for occupying Council land.
7. **Licensed Valuer** – is a Property Professional who is certified or accredited by the Australian Property Institute as having the appropriate academic qualification and practical experience and is bound by the API Code of Professional Conduct.

E - POLICY STATEMENT

1. A lease/licence fee for businesses and not for profit businesses occupying Council land under a lease agreement will be evaluated as follows:
 - 1.1.1 A market rental value is to be determined as the starting point of a negotiation.
 - 1.1.2 The following adapted risk matrix will be applied which is the framework to be used for assessing on whether to apply or determine the percentage amount for a fee reduction.

| | | Economic Impact | | | | |
|--|-------------------|-------------------|-----------|--------------|-----------|-----------------|
| | | 1 - Insignificant | 2 - Minor | 3 - Moderate | 4 - Major | 5 - Significant |
| Governance (Risk, financial, opportunity cost) | 1 – Insignificant | | | | | |
| | 2 – Minor | | | | | |
| | 3 – Moderate | | | | | |
| | 4 – Major | | | | | |
| | 5 – Significant | | | | | |

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| | Lease or licence of land will not support business expansion/investment or job creation and there is a significant risk/impact on Council (both in the short term or its future plans). No reduction of fee to be considered. |
| | Lease or licence of land has the potential to directly or indirectly support business expansion/investment and creation of jobs. There is potentially a degree of risk/impact on Council. Reduction of fee to be considered – 10% |
| | Lease or licence of land will directly support business expansion/investment in the city, and the creation of jobs. There is potentially a degree of risk/impact on Council. Reduction of fee to be considered – 25% |
| | Lease or licence of land will support significant expansion/investment in the city, and the creation of jobs. Project is of strategic significance and aligns to key sectors. There is minimal risk or impact on Council. Reduction of fee to be considered – 50% |

- 1.1.3 The matrix includes an economic and governance impact rating.
- 1.1.4 This matrix will have a sliding scale from will not support (0%) to fully support (50%) and based on this there will be a reduction of fees over an agreed period of time.
- 1.1.5 The reduction will be applicable for a maximum period of five years and the percentage amount reduction evenly spread out over that time. If the lease period is longer than five years then the reduction will finish after the 5th year and the Lessee will need to pay the full market rental value that was determined at the starting point for negotiations. For example if a market rental value was determined to be \$20,000 per annum and a 50% reduction is offered then the rent payable over a five year period will be as follows:
- Commencement of 1st year - \$10,000 pa
 - Commencement of 2nd year - \$12,000 pa
 - Commencement of 3rd year - \$14,000 pa
 - Commencement of 4th year - \$16,000 pa
 - Commencement of 5th year - \$18,000 pa
 - Commencement of 6th year - \$20,000 pa (see 1.1.6)
- 1.1.6 If the term of lease is longer than five years or if the lease expires and a new lease period is negotiated then at the commencement of the 6th year the lease/licence fee will revert to the market rental value determined at the commencement of the negotiations and as outlined in 1.1.1. The mechanism for a rent review thereafter (i.e. market, CPI or fixed review) will be negotiated at the commencement of the lease term and included in the lease agreement.
- 1.1.7 If a market rental value amount of \$2,500 per annum or less is determined a reduction will not be applicable.
- 1.1.8 The application of the matrix and whether a reduction will be given is to be initially assessed by staff. Further definition and guidance in the assessment and application of ratings is in the *“Charges for use of Council Land for Business Purposes Procedure”*
- 1.1.9 This policy is applicable for any new lease/licence agreements negotiated after the policy has been endorsed.
- 1.1.10 Exceptional cases may be considered on their merits, this will be at the discretion of the Chief Executive Officer.

1.2 Exclusions from the Policy Statement

The following are excluded from the policy statement:

- 1.2.1 Sale of Council land.
- 1.2.2 Encroachments by adjoining owners.
- 1.2.3 Telecommunication leases.
- 1.2.4 Bus shelter advertising.

- 1.2.5 Lease/licence agreements that have already been negotiated and are in place.
- 1.2.6 Community/Sporting clubs.-
- 1.2.7 Casual hire or special events.
- 1.2.8 Registration of any easements.

F - LEGISLATION

- 1. Local Government Act 1999 (SA)
- 2. Retail and Commercial Leases Act 1995 (SA)

H - ASSOCIATED PROCEDURES

- 1. Charges for use of Council Land for Business Purposes Procedure (to be developed)

Document Control

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