POLICY	ROXBY COUNCIL	Responsible Department	Lifestyle, Sport and Community
		Original Adoption Date	28.06.2017
		Current Adoption Date	29.09.2025
		Date of Next Review	29.09.2028

LEASES & LICENCES TO SPORTING & COMMUNITY ORGANISATIONS

Latest Review Changes	Updated Template
Previous Council Reviews	28.06.17, 27.07.22,

Applicable Legislation

Water Industry Act 2012

Local Government Act 1999

Retail and Commercial Leases Act 1995

Planning, Development and Infrastructure Act 2016

Liquor Licensing Act 1997

Related Policies

Public Consultation Policy

Related Procedures

Reference Documents

Strategic Plan 2021-2025

1. PURPOSE

The Municipal Council of Roxby Downs provides an extensive range of organised sport and recreational facilities and services to the community including sportsgrounds, clubrooms, indoor facilities etc. Leases or Licenses are provided to a diverse range of organisations including community groups and sporting clubs.

This policy will determine the criteria Council Administration use to assess an application and grant a Lease, a renewal of Lease, or a Licence and/or permit.

The power to approve the renewal of existing Leases, Licenses and or permits is to be made by the council or approved delegates and in accordance with the council policies and procedures.

2. DEFINITIONS

ESCOSA	Refers to the Essential Service Commission of South Australia.
Lease	Refers to an agreement where the occupier has full and exclusive use of the premises for a specified term, subject to various conditions. The lessor still retains ownership of the property while the Lessee has a legal “Leasehold” interest in the land.
Licence	Refers to an agreement where the occupier does not have full and exclusive use of the premises. Can only occupy the land during specified hours on specified days. The Licensor still retains ownership of the property (also known as User Agreements)
Permit	Refers to a permit to occupy community land is not a Lease but is a special kind of Licence (or sub-licence) with limited tenure on conditions imposed by Council and if applicable subject to the consent of the head Lessee or head Licensee of the community land.
Tenant	Refers to an entity that pays a fee to Lease, use or occupy land, a building, or other property owned by another. This Policy sometimes refers to a Lease or Licence holder as the Tenant

3. PRINCIPLES

The Municipal Council of Roxby Downs may Lease, or License Council owned or managed land to meet Council’s strategic plans base on community priorities. The aim of this policy is to ensure a fair and consistent approach to Leases and Licenses, diversity of use and supports organisations occupying council facilities to be sustainable.

Council will ensure facilities are fit for purpose and the term and conditions of Leases/Licenses are reasonable, consistent, support good governance, accountability and optimises the use of council facilities.

Management of a Lease, Licence and/or permit to occupy community land and buildings will be undertaken in accordance with the provisions of this policy.

Council will consider the granting of a Lease or Licence for any suitable land, venue or facility, to groups, organisations or residents, having regard to the following:

- Acknowledging the value of community organisations through the development of partnership and shared values in the development of health and sustainable communities.
- Justifiable needs-based distribution of facilities and land
- Ensuring consistent tenure conditions
- Defining responsibilities and costs associated with construction, maintenance and operation of facilities.

3.1. ELIGIBILITY FOR LEASE OR LICENCE

3.1.1. Council will enter into a Lease or Licence Agreement with an organisation once the organisation can meet the relevant eligibility criteria to the reasonable satisfaction of the Council that they:

- are a 'not for profit' organisation under the Australia tax office definitions .
- are an incorporated/legitimate body.
- has a registered Australian Business number (ABN)
- is financially viable and able to provide 3 years of annual financial statements to the council.
- have a structured Governance Committee that represents users of the local community and hold regular meetings.
- have a prepared business plan and operations policy.
- can demonstrate capacity to maintain the facilities in accordance with the agreement.
- comply with relevant legislation and regulations governing its activities.

3.1.2. Council will consider a Lease or Licence agreement with a School or Kindergarten where:

- the use does not impact on the broader community needs or result in a facility being used beyond its capacity.
- fees are consistent with the agreed upon price.
- the school or kindergarten has adequate insurance.

3.2. EXCLUSIONS

All other Leases and/or Licences that are not covered under 'not for profit' or educational will be based upon market conditions at the point in time that a Lease/Licence is negotiated and will be assessed outside of this policy.

Council does not support the introduction or increase of gaming machines in premises on council owned land for any new Lessee or Licenses.

Commercial Leases or Licences with council are not bound by this policy and will be subject to separate negotiations outside of this policy.

4. TENURE ARRAGEMENTS

- Peppercorn ($1) Lease arrangement may be applicable in appropriate circumstances.
- Maximum term available under council subsidy criteria will be a term of 10years. Any requests for terms greater than 10 years will be considered on a case-by-case basis
- The standard Lease or Licence agreement will incorporate the tenants right to terminate their Lease/Licence by way of mutual agreement with a three month notice period.
- All community land may be sub-leased provide that all legislative and policy requirements are met by the Lessee and the prospective sub-lessee.
- Council will determine at the time of granting a lease whether a sub-lease can be considered.
- Should a new organisation or group seek to Lease and/or Licence land owned by council which they have not previously occupied for a period greater than 8 months, it will be presented to council for consideration.

5. TERMS OF AGGREMENT

Terms of agreement will not be greater than 5 years unless council agrees to grant a longer-term lease.

Where a Lease or Licence is to be granter then 5 years and is located on community land community consultation will be undertaken in line with the local government act 1999.

Where the term of the Lease or Licence is to be less than 5 years, and section 20B of the *Retail and Commercial Leases Act 1995* applies, the Lessees or Licensee shall be required to provide council with a certificated exclusionary certificate duly signed by the Lessee's or Licensee's solicitor waiving the minimum statutory term of five years in the form required by the Act.

This certificate must be provided to the council prior to the Lessee or Licensee taking possession of the premises.

5.1. LIQUOR LICENSE

Where Lessee and Licensee wish to implement a Liquor License, they must first have written consent by the council and comply with the liquor Licensing Act 1997.

5.2. GROUND MAINTENANCE

Where there is free public access to the playing surfaces, whether it be grassed or hard based, the maintenance will be carried out by the council. However, grass cutting and maintenance of playing surfaces of a specialist nature or with restricted access will be undertaken by the Lessee at their expense unless otherwise agreed in the terms of the Lease.

5.3. COUNCIL INSPECTION

Inspections will be carried out prior to and end of occupancy and at least once annually during the term.

5.4. WATER USEAGE

3.1.3. Buildings

Where the Lease or Licence refers to a building (ie clubrooms, change rooms) the Lessee/Licensee shall be responsible for the payment of all water and sewer charges levied against the Leased area.

3.1.4. Grounds

The tenant will be responsible for the water costs where there are dedicated playing surfaces which do not allow general public access or use of the playing surface. Where bore water is utilised, the tenant will also be responsible for; all electricity costs associated with the pumping of water and any additional watering above the council's responsibility, as well as any additional requirements as outlined in the Lease policy.

The council will be responsible for water costs for playing surfaces where the general public has access and use the playing surface.

Council may consider a remission of watering charges when there are significant trees on the premises and/or in the vicinity of the watered location. Any requests for a concession will be considered on a case-by-case basis.

Council provision for sites receiving recycled water will be in accordance with council policy, where required under the Water Industry Act 2012 and/or ESCOSA. Water supply and costing arrangements may be varied to suit.

In the event of water resections (e.g drought), Council reserves the right to limit water supply as council deems appropriate.

5.5. FLOOD LIGHTING

The tenant is responsible for all electricity costs and outgoings for sports field flood lights. Council will be responsible for the regular inspecting of light poles and ensuring they are maintained. This is not applicable to Leased properties where the tenant will be responsible as required in an agreement.

Should a Lessee/Licensee seek to upgrade, renew or newly install sports field flood lights this will be managed in accordance with councils policy(s).

5.6. EMERGENCY PROCEDURES

All buildings must have in place adequate emergency management, warning and evacuation procedures as required by law. This includes appropriate location of fire safety equipment (e.g fire extinguishers, fire blankets and fire detection/alarm systems) All facilities must have clearly visible and easy to follow warning and evacuation procedures. The Lessee/Licensee is responsible for compliance and maintenance of such items unless otherwise agreed with council.

The Lessee/Licensee will be responsible for developing and maintaining emergency evacuation plans and compliant emergency evacuation plans for the premises in conjunction with required safety inspections. Emergency evacuation plans must be always on display and available to visitors to the building.

5.7. LAND-BORNE INFLATABLE DEVICES

Land-borne inflatable devices (as defined by the *Council Community Land and Playground Policy*) **must not** be operated on any Council owned or managed property, community land of playgrounds.

6. HARDSHIP

Where a Lessee/Licensee is able to produce evidence that the fee will cause undue hardship then the Lessee or Licensee can make an application to council seeking deferment of payment. The council is under no obligation to accept such request and will make its decision based on the financial position of the Lessee or Licensee at the time or making the application. Any request will be considered on a case-by-case basis.

7. POLICY IMPLEMENTATION

This policy will be implemented by the council and managed in accordance with council's delegations.

8. CONDUCT

Council officers involved in the Leases and Licences to sporting and community organisations policy will at all times undertake their duties in an ethical and impartial manner with the highest level of integrity. Electronic version on the Intranet is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version. Officers will not engage in any activity that would create a conflict between personal interests and the interests of the Council. Council employees are bound by a Code of Conduct which addresses issues such as conflict of interest, gifts and hospitality and improper influence.

9. PUBLIC ACCESS TO POLICY

Sections 49(4) and 132(1)(a) of the *Local Government Act 1999* entitle a person to inspect (without charge) this Policy at the principal business office of the Council during ordinary business hours. Under s. 49(5) and s. 132(1)(b), a person is entitled, on payment of a fee fixed by the Council, to a copy of this Policy. Section 132(3)(d) requires that the Council should, so far as is reasonably practicable, make this Policy available for inspection on the Internet within a reasonable time after the Policy is available at the principal office of the Council.

10. REVIEW

This policy will undergo review every 3 (three) years. Amendments to the Policy will not affect Procurement initiatives that have already involved formal approaches to the Market - ie issuing of RFQ, Tender or equivalent documentation to potential Suppliers.