

PURPOSE	To determine the process and requirements for commercial tenancy of Council property (land and buildings).
OBJECTIVES	<p>To clearly define the requirements for commercial tenancy of Council assets. For example, minimum criteria would be:</p> <ul style="list-style-type: none"> • The lease or rental return should be full commercial return; • Tenancy requirements should be consistent with standard commercial occupancy arrangements; and • Tenancy should have regard to Council's community responsibilities.
SCOPE	This Policy applies to all groups, organisations and businesses who seek to occupy Council facilities for commercial return.
DEFINITIONS	<p>Commercial Return – means an activity from which another entity is expecting to derive a profit from operations:</p> <p>Tenure – means a lease, rental or licence at a rental and under conditions which are determined at commercial or market rental, the terms of which will be determined to best advantage and suit Council.</p> <p>Term – means the initial term of the lease, rental or licence.</p> <p>Further Term – means the option of a further term or terms as offered by Council.</p> <p>Permitted Use – means the activities agreed by Council to be conducted by the tenant from the site during the tenure.</p> <p>Rental – means the lease, rental or licence fee to be derived as assessed either by a qualified valuer or as negotiated and agreed between the tenant and Council.</p>
POLICY	<ol style="list-style-type: none"> 1. Where Council has available assets: <ol style="list-style-type: none"> (a) which are not currently being used for Council purposes; (b) from which a commercial return can be derived; and (c) where it suits Council to offer such assets for lease or rental. <p>Council may enter into a rental, lease or licence with a third party for the use of such asset.</p> 2. Tenure will: <ol style="list-style-type: none"> (a) be consistent and compliant with the Commercial Tenancies Act; (b) be at assessed commercial return; and

<p>POLICY (CONT'D)</p>	<p>2. (Cont'd)</p> <p>(c) be on the basis that the tenant will pay all outgoings, be responsible for all grounds maintenance and all minor building maintenance, fair wear and tear excepted.</p> <p>3. Unless it can be assessed to be beneficial on a commercial basis, Council will not contribute towards the establishment or set up of a commercial tenancy.</p> <p>4. Formal lease or licence agreements must be established between the commercial tenant and Council prior to occupancy.</p> <p>5. Subject to satisfactory achievement of community outcomes, a further term will not be unreasonably withheld.</p> <p>6. Land to be granted for lease is to be allocated through an open and transparent process. In special circumstances, and subject to Council's formal approval, a lease may be granted by private treaty arrangements.</p> <p>7. An extension of tenure will only be considered where:</p> <p>(a) the tenure is in the last term available under the lease;</p> <p>(b) there has been no previous extension of tenure;</p> <p>(c) it is considered that there is no conflict with Council's future planning for the location; and</p> <p>(d) where tendering through a competitive process is not appropriate.</p>
<p>PROCEDURE</p>	<p><u>1. Assessment of Commercial Return</u></p> <p>(a) A rental, lease or licence for a period of three years or less, or for return expected to be less than \$10,000 per annum, a Council valuer will assess the rental, lease or licence payment.</p> <p>(b) A rental, lease or licence for a period in excess of three years, or for return expected to be greater than \$10,000 per annum, an independent valuer will assess the rental, lease or licence payment.</p> <p><u>2. Determination of Lease or Rental Tenure</u></p> <p>(a) Any tenure of less than three years or less, or for return assessed to be less than \$10,000 per annum, is delegated to the Manager – Property and Valuations.</p> <p>(b) Any tenure longer than three years or for return assessed to be greater than \$10,000 per annum, will be determined by resolution of Council.</p>

<p>RESPONSIBILITY</p>	<p>Manager – Property and Valuations For ensuring the Policy and procedures are implemented and maintained. Also for determining any tenure of less than three years or less, or for return assessed to be less than \$10,000 per annum.</p> <p>Council For considering and determining any tenure longer than three years or for return assessed to be greater than \$10,000 per annum.</p> <p>Team Leader – Property Operations For ensuring that leases or licences are put in place, for acting as ‘notional landlord’ and the periodic monitoring and review of such leases or licences.</p> <p>Shire Valuer As requested, for determining any rental, lease or licence for any tenure less than three years or expected to be less than \$10,000 per annum.</p>
<p>RELATED POLICIES</p>	<p>Community Facilities Tenancies Policy.</p>
<p>RELATED LEGISLATION</p>	<p>Local Government Act 1989. Residential Tenancies Act 1997. Retail Leases Act 2003.</p>
<p>REFERENCES</p>	<p>Council Files. Council Leases Register. Standard Council Commercial Lease.</p>
<p>REVIEW</p>	<p>This Policy shall be subject to review within 12 months of the next general Council elections to be held in November 2012.</p>