

PURPOSE	To determine if and under what conditions Council will issue a licence to allow the conduct of Community and Commercial Markets on Council owned or controlled land.
OBJECTIVES	<p>To clearly define the circumstances under which Council would allow the conduct of Community and Commercial Markets on Council owned or controlled land.</p> <p>The licensing of Council owned or controlled land for the purpose of a market must also preserve the environmental, historic, recreation, tourism, natural resource, social and culturally significant values of the land.</p>
SCOPE	<p>This Policy applies to all operators who seek to occupy Council owned or controlled land for the purposes of conducting a market.</p> <p>Council owned or controlled land could include, but are not limited to –</p> <ul style="list-style-type: none"> • Recreation facilities; • Crown land; • Foreshore Reserves. <p>For the purpose of this Policy, Council owned or controlled land does not include:</p> <ul style="list-style-type: none"> • Road Reserves and footpaths within road reserves.
DEFINITIONS	<p>“Applicant” – means the person or organisation requesting the use of Council owned or controlled land for the purpose of conducting a market.</p> <p>“Commercial Market” – means any market operated within Council owned or controlled land, where a commercial operator receives or shares in the financial benefits of the market operation.</p> <p>“Community Market” – means any market operated within Council owned or controlled land, where the revenue raised is distributed to the community for community benefit.</p> <p>“Council” – means the Mornington Peninsula Shire.</p> <p>“Manager – Property & Valuations” – means the person appointed by Council to that position or any person acting in that position.</p> <p>“Market” – means a temporary outlet for the sale of craft and goods which are offered for sale to the public, and</p> <ul style="list-style-type: none"> (a) which operates regularly on no more than one day of a week, and (b) which does not require the erection of permanent structures.

<p>DEFINITIONS (CONT'D)</p>	<p>Single event community based or charitable events and fundraisers such as fetes, which are conducted not more than once per year, are not regarded as markets for the purpose of this policy.</p> <p>“Notional Landlord” – Is the Council Manager responsible for the management or function of the Council owned or controlled land.</p> <p>“Policy” – means this policy including any amendments approved by Council.</p>
<p>POLICY</p>	<ol style="list-style-type: none"> 1. Where a request for a Market to be held on Council owned or controlled land is received, and <ol style="list-style-type: none"> (a) Council is satisfied that local community does derive benefit. (b) Council is satisfied that the use Council owned or controlled land does not materially affect the amenity of local residents or the community generally, and (c) the operator satisfies the various Planning Permit, traffic management and Environmental Health requirements, <p>Council will consider the provision of any available property for Market operations.</p> 2. Tenure will require the Market operator to: <ol style="list-style-type: none"> (a) enter into a standard licence agreement with Council; and (b) provide proof of public liability insurance cover to the value of \$10,000,000; and; (c) pay a security bond of \$500 which may be used for any grounds rehabilitation or repairs caused through the conduct of the Market operations. 3. The maximum term of the licence can be for a period of up to 10 years in total. 4. Any additional maintenance costs incurred by Council in relation to the Council owned or controlled land as a direct result of the Market must be reimbursed by the Market operator. Such maintenance items include but are not limited to – <ul style="list-style-type: none"> • Rubbish removal; • Cleaning of toilets; • Ground rehabilitation; • Damage to fencing, barricades, signs, etc; 5. Community Market operators must provide Council with a copy of their annual financial statements evidencing the financial distribution of funds raised through the Community Market operation.

<p>POLICY (CONT'D)</p>	<p>Licence Fees</p> <p>Commercial use of Council owned or controlled land attracts full market rates as determined by valuation from a qualified valuer.</p> <p>Community use of Council owned or controlled land under a licence will be discounted having regard for community benefit and any costs incurred by Council.</p> <p>Acceptance</p> <p>Any licence tenure of one year or less is delegated to the Manager - Property & Valuations. Any tenure longer than one year will be determined by resolution of Council.</p> <p>Licensing Principles</p> <p>To provide a consistent framework for the licensing of Council owned or controlled land, five principles are required. When followed they will lead Council to licence land through an open, fair and impartial process and ensure the community benefits through improved social and economic outcomes without detriment to the public land values.</p> <p>The five principles are:</p> <ol style="list-style-type: none">1. Demonstrated Community and Economic Benefit <p>Licensing of Council owned or controlled land must provide public and economic benefit to the community and not be detrimental to public land values and the public's use of Council owned or controlled land.</p> <ol style="list-style-type: none">2. Approval in Principle Requirement <p>All Community Market proposals require the approval in principle of the Notional Landlord before Council agrees or commits to licence Council owned or controlled land. The licensing proposal needs to be developed in the form of a detailed submission and submitted to the Notional Landlord for approval in principle at the beginning of the process.</p> <ol style="list-style-type: none">3. Transparent Licence Allocation <p>Council owned or controlled land is to be allocated for licence through an open and transparent process. In special circumstances and subject to Council approval, Council may deal by private treaty arrangements.</p> <ol style="list-style-type: none">4. Appropriate Licence Terms and Conditions <p>Licence terms will not exceed market expectations. A business case and financial evaluation will need to support long term licences. Public interest considerations may demand that matters other than those of a purely commercial nature may need to be addressed in licence conditions, eg. Protection of public land values.</p>
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<p>POLICY (CONT'D)</p>	<p>5. Consistent Licence Documentation</p> <p>To ensure a consistent approach to the licensing of Council owned or controlled land, to cater for special requirements of legislation and to address public land values, standard licensing documentation in a form acceptable to Council will be used.</p>
<p>RESPONSIBILITY</p>	<p>Manager – Property and Valuations - for ensuring the Policy and Procedures are implemented and maintained. Also for determining on the availability and suitability of existing property which would satisfy a request.</p> <p>Council - for considering and determining requests for property that cannot be satisfied from available, suitable resources.</p> <p>Team Leader – Property Operations – for ensuring that licences are put in place, and for the periodic monitoring and review of such licences.</p> <p>Relevant Director - for initial assessment of community benefit.</p> <p>Relevant Manager - for fulfilling the role of Notional Landlord and acting as the Council liaison for all operational matters. Also for annually assessing the relative worth of the community group's performance based on agreed assessment criteria.</p>
<p>RELATED POLICIES</p>	<p>Property Management – Commercial Tenancies</p>
<p>RELATED LEGISLATION</p>	<p>Local Government Act 1989</p> <p>Crown Land (Reserves) Act 1978</p> <p>Crown Land Acts Amendment (Lease and Licence Terms) Bill 2009</p>
<p>REFERENCES</p>	<p>Council Files</p> <p>Council Lease/Licence register</p> <p>Department of Sustainability & Environment - Committee of Management Responsibilities and Good Practice Guidelines</p> <p>Standard Council Community Market licence agreement</p> <p>Standard Council Commercial Market licence agreement</p>
<p>REVIEW</p>	<p>This Policy shall be subject to review within 12 months of the next general Council election to be held in November 2012.</p>