



Property Management Policy

25 June 2024 - Attachment 9.3.1

Policy Statement

The purpose of the policy is to outline the principles and guidelines governing the management of properties owned or controlled by the Shire of Denmark. Effectively managing the very significant building portfolio is vital for ensuring efficient long-term service delivery and maximising value for the community. The Shire of Denmark seeks:

- Consistent and equitable tenure arrangements within each property agreement classification,
- Terms that are responsive to changing conditions,
- Co-investment in maintaining the asset, and
- Sharing arrangements that maximise the use of community facilities.

Policy Scope

This policy specifically applies to property arrangements with the Shire, encompassing commercial (including business, telecommunications and community), licensing agreements, and memorandums of understanding (MOU). Residential properties managed by the Shire are outside the scope of this policy.

Definitions

Commercial lease (Business)

Commercial leases (Business) are agreements with an entity where the tenancy is held to generate income from ongoing activities or where a non-exempt body or organisation conducts activities under the Local Government Act 1995. The term 'generate income' is expressly not intended to include clubs undertaking normal fundraising activities for club members.

Commercial lease (Community)

A long-term (10-year plus) peppercorn lease is established between the Shire and a not-for-profit community group where the core service provided specifically to the Denmark community is not, in the CEO's opinion, commercial competition with any other local provider. While this lease arrangement grants the lessee exclusive use, community groups are encouraged to make maximum use of the facility, so share arrangements, including leases by management groups or sub-tenancies with other community groups, are encouraged.

Commercial lease (Telecommunication)

These agreements between the Shire and a telecommunications carrier or provider permit the property to house and operate telecommunications infrastructure and equipment.

Facility hire

Are arrangements where the Shire undertakes day-to-day facility management and provides access to individuals or groups based on casual, regular, or seasonal space hire within the facility. This property arrangement offers the most significant access for the public to a facility but is resource-intensive for the Shire to manage.

Licence	Are property arrangements where permission is granted to a party to enter and use a property space for a particular purpose without exclusive possession. Licenses generally last for a shorter duration than leases (months or years) and do not allow the licensee the right to transfer their permission to use the property to another party. Licenses are primarily used for parking, storage, or similar temporary arrangements.
MOU	Are non-binding agreements between two or more parties outlining the understanding of proposed transactions or collaborations. They are less formal than a lease or license and are typically not intended to govern the use of occupancy of the property.
Peppercorn Leases	A peppercorn lease is an agreement in which a minimal or nominal rent (usually \$1 per year) is charged in exchange for the use or occupation of Shire property. Peppercorn leases formalise the terms of occupancy or use of property where a substantial monetary rent is relinquished to demonstrate goodwill or support a charitable cause while establishing legal rights and obligations for both parties.
Shared use agreement	A shared use lease arrangement, also known as a shared tenancy agreement, is a type of lease in which multiple parties agree to share the use and occupancy of a property. This arrangement allows two or more tenants to utilise the same premises for their respective purposes, often resulting in cost savings, increased efficiency, and optimal space utilisation. These arrangements are formalised through a Management Agreement.
Strategic Holding	The Shire of Denmark can apply this subclassification to any lease when it considers the property needs to be held in a short-term arrangement pending short—to medium-term potential future development. This includes but is not limited to, redevelopment, improvement, repurposing, demolition, and rebuilding for purposes of increased income generation or providing community infrastructure. This subclassification does not alter any other conditions of the property arrangement other than the lease term.
Sublease	A sublease, also known as a sublet, is an arrangement in which the original lessee rents out all or part of a property to another party (the sublessee) while still retaining some rights under the original lease agreement with the landlord (the Shire). A sublease arrangement requires Ministerial approval.

Policy Principles

1.1 Sustainability

The Shire of Denmark is dedicated to implementing a clear and consistent property management structure to facilitate access to Shire facilities via various property arrangements. Given our substantial property holdings, we must investigate innovative methods to ensure the continued sustainability of these vital assets. This policy empowers the Shire to define or adjust property arrangements to ensure the overall long-term financial sustainability of its building assets. This may involve pursuing commercial leases while recognising the importance of subsidising community-focused property arrangements that contribute to nurturing community life across the Shire.

Several Shire of Denmark-owned community halls are located around the Shire, including some that the Shire does not own but still provide a valuable meeting place for the local community. These meeting places are often deeply rooted in the local culture, history and the specific needs of the residents. These facilities play a role in civil engagement, emergency response, community building and social interaction. The Shire of Denmark considers these to be valuable community assets and, as such, will assist community groups to manage these facilities through service partnerships to ensure these facilities are maintained. The Shire will establish a budget for service agreements within the annual budgeting process. In cases where community organisations can provide evidence of regular community venue usage, an increased fee may be assessed to account for the added costs associated with usage and management.

1.2 Consistency

Each property arrangement is assigned a classification that will determine the standard terms and conditions of the property agreement. At the end of a property agreement term, the Shire of Denmark may review and amend the property classification based on strategic or emerging issues or changing community expectations and economic needs. See Section 1.10 for specific end-of-lease arrangements.

The choice of property agreement employed by the Shire hinges on several factors, namely:

- The current and intended zoning regulations applicable to the property.
- The activities proposed to be undertaken by the applicant.
- The historical utilisation of the property
- An applicant's financial investments in the existing or planned development of the site.
- Alternative property uses
- The resources available to the Shire for overseeing the proposed property arrangement.

- The level of property governance necessary to oversee the arrangement between the Shire and the potential applicant.

1.3 Efficiency

When community groups apply for peppercorn leases, further considerations are considered when evaluating their request to lease a Shire facility. These considerations encompass:

- The anticipated occupancy rate of the property. If the projected occupancy rate isn't expected to be fully utilised, collaborative shared-use agreements must be extensively explored and presented as part of any application.
- The significance and extent of the group's contributions to the broader community beyond its primary membership.
- The group's capacity to generate revenue to meet its property agreement obligations.
- The group's capability to contribute to addressing unmet community needs.
- On a case-by-case basis, the Shire may consider entering into specific user arrangements that do not require a shared use arrangement in recognition that some groups have specific infrastructure that makes shared-use challenging, they have invested significant levels of their capital in facilities on Shire-managed land or for other justifiable reasons.

1.4 Shared Use – Community Groups

The Shire maintains the authority to refuse property arrangements, whether at renewal or when considering a new application if evidence suggests that the prospective applicant may not optimally use the facility and has expressed reluctance to share the space with other community groups.

The Shire prioritises shared use between community groups because it fosters community cohesion, optimises facilities, and promotes cost savings for as many groups as possible. Since the Shire cannot provide a building for every community group, fairness and equity can only be achieved through sharing arrangements.

This policy instructs community groups to actively pursue shared-use arrangements through a management structure or by applying for a sublease arrangement with another community group. Sharing a facility with others can substantially lessen the maintenance cost burden. Dividing these expenses among multiple parties allows each group to experience reduced financial pressure while enjoying access to the facility.

Applicants seeking a property arrangement will need to demonstrate that they have:

- Assessed their own needs and requirements for space within the facility and determined what space is available for sharing,
- Identified potential partners,
- Conducted outreach to gauge interest in sharing the facility,
- Negotiating terms of the sharing arrangement.

The Shire will assist with the development of a shared-use agreement. The terms will include:

- The name and types of community groups and the shared purpose.
- A means for establishing a schedule for shared usage.
- Documenting common areas of responsibility and agreement on keeping shared spaces clean and orderly.
- Establishing a communication protocol for addressing concerns related to shared usage, and a designated contact person for each group shall be appointed for effective communication.
- Establishing a means for modifying the schedule of shared use, including termination by one party to the share agreement.

1.5 User responsibilities and agreement type

Standard arrangements for each agreement type outline the **property user's responsibility** to meet the costs associated with the arrangement.

General Property User's Responsibilities (Subject to specific conditions in the lease)	Commercial Lease (Telecommunicatio	Commercial Lease (Business)	Commercial Lease (Peppercorn)	Commercial Lease (Peppercorn - land	License	MOU	Hire
Outgoings – utilities (water, gas, electricity)	✓	✓	✓	✓	NA	NA	NA
Cleaning and grounds maintenance	✓	✓	✓	✓	✓	NA	NA
Rubbish and recycling	✓	✓	✓	✓	NA	NA	NA
Emergency Services Levy	NA	✓	✓	✓	NA	NA	NA
Building insurance excess (if claim made)	✓	✓	✓	✓	NA	NA	NA
Public Liability	✓	✓	✓	✓	✓	✓	NA
Ongoing repairs and maintenance	✓	✓	✓	✓	NA	NA	NA
Significant structural repairs (not including inherent structural defects)	✓	✓	NA	✓	NA	NA	NA
Rates	✓	✓	Exempt	Exempt	NA	NA	NA
Rent	✓	✓	\$1	\$1	✓	NA	Refer to Fees & Charges Schedule

*Community groups who fund 100% of the cost of the facility based on a Shire land lease only are responsible for structural repairs to the buildings.

1.6 Rate Waivers and Peppercorn Leases

The Shire of Denmark continues its commitment to providing affordable spaces for community groups by offering leases at a peppercorn rate. The Shire of Denmark appreciates the essential role that community groups play in delivering services and enhancing the quality of life for our residents, so it also grants annual rate exemptions to support the efforts of these groups. (Refer to the Community Contributions Policy). As part of the minimal rent arrangement and the rates waiver, this policy seeks to foster a reciprocal relationship where community groups undertake to maintain the asset over the life of the lease in line with standard commercial property arrangements. Where the Shire has historically made contributions towards repairs and maintenance as part of a peppercorn lease agreement, it will phase these out as leases come to the end of their term. Any contribution to the ongoing operations of a community group will be handled independently of the property agreement. Refer to the *Community Contributions Policy*

1.7 Commercial leases: Repairs and maintenance of Shire facilities

Lessees are responsible for the building repairs and maintenance. The extended security of tenure associated with commercial leases, even when the lease rates are minimal (referred to as "peppercorn" rates), imposes an obligation on lessees to continuously conduct repairs and maintenance as part of a shared property agreement. The maintenance responsibility encompasses tasks related to internal furniture and fittings, pest control, security, electrical, fire services and emergency procedures, sewerage, water supply and drainage, gardening and landscaping, plant and machinery, and external features, including sporting and recreation facilities.

To facilitate this, lessees will receive a detailed property maintenance checklist, and a Shire representative will conduct an annual property inspection in collaboration with a representative from the lessee. This process aims to establish and document the ongoing condition of the premises and identify any issues that require attention from the responsible party.

1.8 Additional assets

Certain community organisations that lease land from the Shire offer a range of facilities, such as additional auxiliary buildings, recreational areas, and sports playing surfaces, for the benefit of their members. These facilities are considered assets and are, therefore, included in the Shire's asset register and integrated into the Shire's balance sheet. The Shire provides ongoing property insurance for these assets. Community groups offering these amenities to their members will manage them throughout their operational lifespan and engage in financial planning to fund the replacement of these facilities when they reach the end of their useful life. This obligation will form a condition of any lease agreement.

1.9 Standard Terms of Leases

The following standard terms are provided as a guide. The Shire reserves the right to exercise discretion in all circumstances and remains bound by all applicable laws and regulations.

- Commercial (Business) and Commercial (Telecommunications) leases: The standard term will be up to 21 years.
- Commercial (Community) leases: The standard term will be ten years.
- Strategic Holdings: The standard term will be one to three years.
- Licenses / MOUs: The standard term is up to three years.

New lease midterm: Under certain circumstances, a new lease may be initiated with the Shire before the current lease expires. The decision to commence and pay for a new lease prior to the expiry date lies within the discretion of the Shire and should be prompted by significant reasons presented by the lessee, including:

- Property Upgrades: where the lessee intends to make improvements or upgrades to the property.
- Funding considerations: where a funding body connected to the lessee is seeking assurance that the lessee has a commitment to a specific length of property tenure to continue funding them to deliver a service.
- Shared lease consideration: The lessee requests a lease change to be part of a shared lease agreement with a management body taking over the lease.

1.10 Lease Conclusion:

If the lease term ends and the Shire determines that the property might be required for alternative purposes in the short to medium term, the Shire will offer the lessee the right of first refusal to enter a Strategic Holding lease for a maximum period of up to three years and no less than one year. This provision is designed to give the Shire the necessary time to assess potential alternative uses of the property while allowing the lessee to consider other arrangements. At the conclusion of the Strategic Holding lease, the decision to either transition back to a long-term lease, renew the strategic holding lease, or otherwise alter the lease arrangements will rest with the Shire.

1.11 Acknowledging the Shire

Recognising the Shire's support is crucial as it helps build positive relationships between community groups and the local government. By acknowledging the Shire's contribution, community groups foster a sense of partnership and collaboration. Additionally, publicly recognising the Shire's support enhances transparency and accountability, ensuring the community is aware of the resources provided to benefit all.

Therefore, community groups with property agreements are required to acknowledge the Shire's contribution at all available public opportunities, including their organisation's website homepage, social media and any advertising materials. Prior approval from the Shire is necessary for any materials using the Shire logo before publication. The Shire will furnish template acknowledgment materials for lessees to use.

Responsibilities

In line with Delegations 1.2.18 Disposing of Property, the following assignments within the scope of this policy have been determined.

The Council will approve all:

- Business and Telecommunication leases over a total value of \$50,000 over the lease term.
- Community leases, where a community group enters a lease on a particular property for the first time and
- New peppercorn leases where the lease is over ten years. (ie – leases beyond the standard term)
- Determinations to add the 'Strategic Holding' classification to a lease.

The CEO will approve all:

- Business and Telecommunication leases up to a total value of \$50,000.
- New Community leases for ten years or less.
- Licence agreements
- Property MOUs

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