

# Lease and Licence Policy Community Engagement Summary



January 2023

Bayside City Council  
Corporate Centre  
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## 2 Background

This document provides a summary of stakeholder and community feedback on updates to the Lease and Licence Policy.

The scope of the Policy is Council Freehold land and Crown Land under Committee of Management where Council has the ability to lease or licence to commercial operators or community groups. It does not include generally include, discontinued roads and rights of way or Council facilitates that may be used by the community pursuant to other arrangements (like hire agreements, seasonal allocations for sporting clubs and Bathing Boxes (which have their own separate policy)).

Community engagement on the updated policy was undertaken from 29 November 2022 – 29 January 2023 (inclusive) and received 43 contributions from 39 contributors.

## 3 Consultation process

### 3.1 Consultation purpose

Council invited community feedback between 29 November 2022 – 29 January 2023 to present updates to the Lease and Licence Policy and to understand the level of support for those changes and to obtain feedback on the policy more broadly.

Community engagement was conducted in accordance with Council's Community and Stakeholder Engagement Policy 2021 and Section 115 of the Local Government Act 2020. The engagement plan overview was published and is available to view on Council's Have Your Say engagement website.

### 3.2 Consultation methodology

The tools and techniques selected for this project are informed by the project content, stakeholders and type of feedback sought. The impact of COVID-19 restricts our ability for face-to-face communication, as well as slower distribution of printed mail.

#### Key tools for communicating the project

- website news story
- Council's e-newsletter, This Week in Bayside
- emails to key stakeholders, including tenants with copy of proposed policy
- social media

#### Key methods for gathering feedback

- a Have Your Say webpage with project information and the opportunity to ask questions
- one on one appointments with Property Coordinator to discuss the Lease and Licence Policy
- printed copy of the draft Policy available at Corporate Centre.

Details	Activity
29 November 2022 – 29 January 2023	<b>Have your say website</b> Project information, online survey and written statement form hosted on the engagement platform Have Your Say
461 visitors	Online survey: 40 responses

43 contributions

**29 November 2022 – 29  
January 2023**

**Question and Answer forum**

Three questions asked and responded to via the Q&A forum.

3 questions

**4 written statements**

**Correspondence**

Direct feedback provided through contacting the Project Officer for further information or to provide feedback over the phone or via email.

## 4 Participant profile

Demographic information was not requested from participants as it was not considered relevant to this engagement.

40 Survey respondents responded to the question asking them to qualify their connection to Bayside. All respondents had a connection to Bayside, with some identifying with multiple options:

- 25 said they were a Bayside resident or ratepayer
- 8 said they were a community group lessee of a Council property
- 12 said they were a member of a community group that uses a Council property
- 1 indicated that they were a commercial lessee of a Council property
- 1 said they prefer not to say

No one indicated they were a visitor to Bayside, or other.

## 5 Consultation findings

The following section summarises the key themes which arose in community feedback on the Lease and Licence Policy review. In the interest of stakeholder and community privacy, individual quotes have not been included within this public document. Where there was more than one mention of a topic or item, the number of mentions has been specified in brackets and italics.

Participants were asked via an online survey to provide feedback on the draft Lease and Licence Policy including their reasons for supporting or not supporting the proposed changes.

### 5.1 Support for actions

All survey participants were asked the level to which they support a series of changes to the draft Policy, with 40 responses received.

There was a high level of support (74%) for Council not supporting a tenant or licensee's gaming licence application at any of Council's facilities, and support (77%) was shown for the draft Policy to provide an opportunity for group 3 tenants (e.g. tennis, bowls and lifesaving clubs) to apply for rental subsidies if community activities reduces their ability to generate revenue.

Respondents were somewhat positive, (55% supported, 33% opposed and 13% unsure/neutral) as to whether the draft Policy sets out a clear and transparent approach to assessing community lease and licence applications.

There was a slight opposition (55% negative and 42% positive) as to whether the draft Policy includes appropriate categories to ensure valuable social, environmental and economic outcomes.

### 5.2 Item-specific feedback

Respondents were also asked to provide written feedback about the reasons for their response. Comments provided by the 31 submitters and from the 13 written statements are summarised by theme in the table below:

Topic	Community feedback
Policy	<p>Should include conditions from of the state policy (4 mentions)</p> <p>Simple to read and covers key aspects around leasing and licencing.</p> <p>Ensures Council facilities provides beneficial programs to the community.</p> <p>Considers environmental objectives</p> <p>Policy doesn't mention lease extensions</p> <p>If Council intent to proceed with direct negotiations it should alert the community of this action to mitigate corruption risk and to allow for the best financial outcome.</p>

	<p>Lease extension negotiations should commence up to 3 years before expiry as negotiations are very time consuming.</p> <p>Include noise control as a condition of leases</p> <p>Rental subsidies for Group 3 tenant performing community activities makes good sense.</p> <p>It needs a more detailed review that includes State Government feedback.</p> <p>Life saving facilities should follow state government land management policy.</p> <p>Council consent shouldn't be required for liquor licence applications.</p>
Tenant categories	<p>Cheltenham Golf Club should be classified as a group 3 tenant (11 mentions)</p> <p>Policy doesn't recognize the fundamental difference between life saving clubs and sport- and recreation clubs (9 mentions)</p> <p>Life Saving Clubs should be category 2 (3 mentions)</p> <p>Life saving clubs should have their own category</p> <p>Not for profit clubs should not be classified as commercial enterprises.</p> <p>Some kindergartens are profitable organisations</p> <p>Policy should be more flexible and include a mixed category for organisations that are commercial and provides some level of community service.</p> <p>Create categories to separate organisations/groups based on funding capability.</p> <p>Create a questionnaire to simplify the process on assigning tenant to a group category.</p>
Community considerations	<p>Policy needs a commitment to benefit the community.</p> <p>Not for profit community activities must be supported by Council.</p> <p>Groups with a high number of Bayside residents involved should be given preference.</p> <p>By not leasing to gaming companies will allow for community sport organisations to thrive.</p>
Financial	<p>Life saving clubs rent should be subsidised for the service they provide to the community (3 mentions)</p> <p>Life saving clubs have limited ability to raise funds (2 mentions)</p> <p>Life saving clubs should not be paying rent (2 mentions)</p> <p>Lease reduction should apply for tenant capital improvements that supports adjoining Council lessees.</p>



Council seems to rely on not-for-profit organisations financial capabilities to generate income.

Sinking funds needs to be monitored by Council and be enforced is tenant is unable to fulfil this requirement.

All not-for-profit groups should be exempt from paying rent and be able to raise funds without penalties.

Financial situation of not-for-profit groups needs to be taken into account to mitigate the need to chase funds or increase membership fees.

Expecting life saving club volunteers to seek rent subsidies is untenable.

Sporting clubs should be given opportunities to maximise revenue.

General comment	Gaming activities have no place in Council facilities (3 mentions)
	Transparency and equity are important

### 5.3 Q&A forum

Two questions to the Q&A forum were received, which are summarised as follows:

- Why is Kamesburgh missing from your map?
- As a local resident I would like to know why Cheltenham Golf Club, a not for profit local community club is not included as a category 3 club like bowls?

### 5.4 Project Evaluation

This report presents the findings from the analysis of the community feedback gathered during community engagement from 28 November 2022 to 29 January 2023.

The engagement program received a total of 31 direct responses, completed via survey through Have Your Say.

Communications to encourage participation attracted 461 unique visitors to the project page and were sent to key stakeholders including previous subscribers for related engagements. The communications reached over 11,000 community members via email newsletters or notifications.

The community engagement project was not a random sample survey of the community, and the results reflect the views of those in the community sufficiently engaged with both Council and policy issues who chose to participate in the consultation.

#### Figure 3: Have Your Say project page – reach and participation

Engagement targets for the Have Your Say webpages were that:

- 20% of visits would last at least one active minute (exceeded, 40%)
- 10% of visits would have at least two actions performed, such as moving around the project page or clicking on links (exceeded, 33%)



- 5% of visits had at least one contribution made (met, 6%)

**Satisfaction with engagement process**

Survey participants were generally satisfied with the consultation process and materials, with a majority of participants selecting they had the required information to participate, and it was very (42%) or mostly (48%) easy to find/understand. It is noted that some of participants found the information mostly hard (6%) and very hard (3%) to find/understand.

**Engagement plan**

The Engagement Plan Overview for this project was published and is available to view at:

<https://yoursay.bayside.vic.gov.au/leaseandlicencepolicy/LeaseandLicence-EPO>

## 6 Appendix

### 6.1 Written statements

Hi [REDACTED]

We have reviewed the new Lease and License Policy and request that the following changes/items be considered.

1. Paragraph 1, which deals with Policy intent, should include at the end of the second sentence "taking due account of organisations that have an historical attachment to grounds/buildings and have used member funds to build and maintain their grounds/buildings".
2. 5.2. In the second paragraph a longer term will be considered for a lease/licence if substantial contributions to capital/structural works are to be made by the tenant. This should be amended to "substantial contributions to capital/structural works are to be made or have been made in the previous lease/licence term by the tenant/licensee". The words underlined are the additional words.

Thank you for providing us the opportunity to feedback on the changes to the Lease and License Policy.

Kind regards,

[REDACTED] Beaumaris Yacht Club Inc.

The Foreshore, Ricketts Point, Beaumaris | PO Box 16, Black Rock VIC 3193

Hi [REDACTED]

I tried clicking on the "Online" and it did not send me to the survey . I get Page not Found

But While I am here, I formally will offer the following comments in regard to Lease of Bayside "Managed Buildings"

1. Life Saving Clubs should not be requested to pay lease payments. They are an essential, not for profit, life saving service run by Volunteers.
2. Life Saving Clubs should have full autonomy over their building and receive full benefit of the building as a whole.

Regards

Dear [REDACTED]

Many thanks for advising Brighton Theatre Company of this information. We suggest the following to be incorporated in the lease:

"as "landlord" Council notifies at least 48 hours in advance any tenant of their intention for any council worker or maintenance subcontractor to enter secure property held by the tenant"..

Please let us know the outcome of these changes.

Thank you.

Kind Regards



[REDACTED]  
Brighton Theatre Company

[www.brightontheatre.com.au](http://www.brightontheatre.com.au)

**Sandringham Life Saving Club**  
PO Box 15  
Sandringham, Victoria 3191  
ABN: 18 808 704 559



Dear Damien

### **Feedback on Lease and Licence Policy 2023**

[REDACTED] of the Sandringham Life Saving Club (SLSC) and would like to take the opportunity to provide feedback on the proposed Bayside City Council Lease and Licence Policy 2023.

Life Saving provides a recognised Emergency Service, like the CFA and SES. However, different to other Emergency Services, it has a preventative purpose with a primary function of preventing aquatic related death and injury on beaches and waterways. Bayside beaches are frequented and enjoyed by Bayside residents and people from across Melbourne, national and international visitors. To keep our beaches safe, Life Saving Clubs are committed to patrolling them between November and April on weekends and public holidays. The patrols are undertaken by teams of at least four volunteers who all require significant training to be qualified for their unpaid roles. Life Saving Club venues are utilised to provide Life Saving service commitments and community activities during the summer and season periods, and necessary training and maintenance requirements and ongoing community activities during winter and off season periods.

Nippers programs provided by many life saving clubs enable the pipeline of volunteers who may later train to become patrollers. Nippers programs also provide beach education on water awareness and safe behaviour from an early age. As additional service to the community, some clubs offer starfish nippers, a program of water safety for all abilities and Silver Salties which encourages fun, fitness and friendship for older Australians.

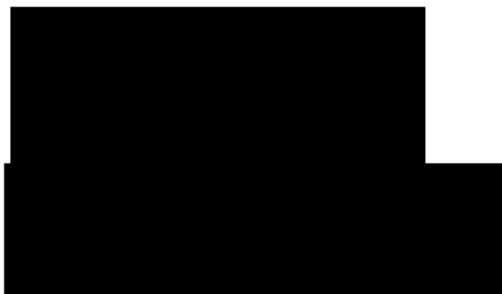
While life saving clubs depend on a membership model, the money collected through annual memberships covers expenses including costs for running of the nippers program, ongoing training commitment of patrol members, maintaining emergency equipment including rescue boats and motors, flotation devices and small all-terrain vehicles just to name a few things. The clubs otherwise depend on grants from governments, councils and private organisations to ensure they can operate.

Competing in life saving carnivals has the dual function of keeping members fit, rescue ready and keeping volunteers engaged and interested in giving up their time to patrol the beaches during summer.

While I appreciate that significant investment by Council and the government led to the improvement and some newly built Life Saving Club facilities, it is of the utmost importance to recognise that the purpose and primary functions of the Life Saving clubs is preventing aquatic death and injury on our beaches and waterways rather than having to utilise precious time of volunteers to find opportunities to focus on generating income so it can meet rental obligations to the Council.

As such I ask Bayside Council to recognise the emergency services and significant service to the community Life Saving Clubs are providing and exempt Life Saving Clubs from lease and licence fees.

Kind regards



**Statement with respect to the review of your Lease and Licensing Policy.**

Under your current licensing policy you include Golf Clubs as Group One tenants. This might be correct for private Golf Clubs, which are commercial businesses operating for profit. But that does not apply to Cheltenham Golf Club, which is a community based club and a not-for-profit organisation.

I request that your licensing policy be changed to reflect that Cheltenham Golf Club be viewed as a Group 3 Tenant, a recreational and community business that provides a service that is readily available to Bayside residents.



To: Bayside City Council

RE: Feedback on Lease and Licence Policy 2023

Sandringham Life Saving Club (SLSC) members have been serving the Bayside community for over 100 years and we continue to evolve to meet community needs as we are able.

We welcome the opportunity to provide feedback on the Lease and Licence policy.

SLSC is primarily committed to preventing aquatic death and injury on and around our beach. This gives us a dual role of emergency and community service (particularly education). We have been called upon in a number of emergency situations recently but also provide valuable education to locals from 5 to 85 years of age. The club is serviced wholly by volunteers and we raise money through memberships and isolated paid beach activities only.

This Summer season, we have provided services to the local families (including some from far away who count Sandringham as their closest beach) through Nippers education and training, local Secondary Schools, and local seniors. We are planning to extend our service to older residents through open water safety and wellbeing training through the Open Water Grey Medallion. This has been developed in direct response to the misrepresentation of older Victorians in drowning statistics.

Our Club does not compete in state or national competitions, therefore should not be considered as other sporting clubs. Nor do we hire the premises out to external parties due to the condition and accessibility of the facility.

We ask that you take these points into consideration when deciding on rent and maintenance cost calculations and policies. We recommend the adoption of DELWP state policy (on crown land use by lifesaving clubs in Victoria) within your Lease and Licence Policy 2023. Also, we support LSVs legal council review of the draft Bayside City Council lease and licence policy against other local and interstate crown management agreements.

Yours sincerely,

[Redacted Signature]

## Half Moon Bay Surf Lifesaving Club

PO BOX 272 Black Rock, 3193, VIC • Ph:9598 0399

• halfmoonbaylsc.com.au

ABN: 21 412 481 916



Damien Darcy  
Bayside City Council

26 January 2023

Dear Damien

### **Half Moon Bay Feedback on Lease and Licence Policy 2023**

Life Saving Victoria (LSV) is the peak water safety body in the state of Victoria. LSV leads the delivery of the public water safety strategy in Victoria as a community organization under the structure of Emergency Management Victoria (EMV). LSV and its member Life Saving Clubs (LSCs) including Half Moon Bay are charitable, not-for-profit entities.

LSV's and Half Moon Bay's mission is to prevent aquatic related death and injury in all Victorian communities, with its vision that all Victorians will learn water safety, swimming, and resuscitation, and be provided with safe aquatic environments and venues.

The aim for volunteer lifesaving clubs in Victoria is to be treated consistently in regard leases and licencing across the state. LSV worked collaboratively with Department of Environment, Land, Water and Planning (DELWP) to develop the state policy on crown land use by lifesaving clubs in Victoria. LSV recommend that the bayside council adopt the conditions of the state policy within their Lease and Licence Policy 2023. This reflects what council has done with other state policies such as the Marine and Coastal Policy 2020. This approach is consistent with the Local Government Act 2020 (Vic), that gives effect to overarching governance principles that include regional, state and national plans and policies must be taken into account in strategic planning and decision making.

Half Moon Bay strongly supports the LSV's positions and would encourage Bayside Council to align their rental policy with the State Government policy for Life Saving Clubs. There are crucial differences between Life Saving Clubs and other local sporting groups in the services they provide to the community.

Specific to lifesaving clubs on Crown land in Victoria:

- The purpose of the lease should be able reflect the core functions of providing lifesaving and emergency services to the community. Unlike other clubs and organization this involves acknowledging the dual emergency and community service functions lifesaving clubs provide.
- That the LSC's are recognized for their Emergency Service role.
- We believe the key considerations in Life Saving Club leases should be:



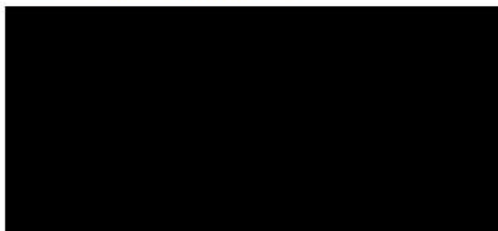


- i. Consistent tenure of 21 years
- ii. Community subsidized rent in return for self-funding the community lifesaving service.
- iii. Fair and reasonable maintenance obligations or heavily reduced rent should no maintenance support be provided.

Volunteer life savers provide minor and major first aid to all beach attendees as well water safety while on patrol. Half Moon Bay Life Saving Club would like Bayside City Council to recognise the value that life saving clubs provide to the Bayside community and apply this to the rent and maintenance cost calculation.

Emergency equipment includes rescue boats and motors, rescue boards, flotation devices as well as small all-terrain vehicles. Due to the speciality of the equipment and the marine conditions, the cost of maintaining and replacing life saving emergency equipment is considerable. Previous options for fundraising such as roadside collections are becoming non-viable due to safety management and changing behaviours. This results in the clubs being required to hire out the venue or run events as part of its fundraising to cover its operational costs. The Bayside life saving clubs prefer to focus on their primary function which is the provision of life saving services. The imposition of a more commercial maintenance and rent rate would cause life saving clubs to spend more time of fundraising activities to cover these additional costs.

On behalf of the Half Moon Bay members we thanks the Bayside council for the opportunity to provide feedback on this policy.



The proposed Lease policy has a couple of potential gaps that increase risks to Council, Council Officers and ratepayers

#### 6.1 - Direct Negotiation

Whilst the tenor of what is proposed seems reasonable, the Council entering into direct negotiations without alerting the public is problematic.

- a) It risks both a potential for corrupt behaviour or an impression of corrupt behaviour to emerge, and
- b) It risks Council being denied a better financial outcome on behalf of the community.

There is nothing wrong with a direct negotiation and by-passing an intention to go to market. However, Council SHOULD alert the community that it intends to take that action. That enables both an above board understanding for the Community whilst ALSO allowing for a commercial party who might be interested in making an offer to Council, to be able to do so. Council gains the certainty of a likely continuation with an existing tenant, whilst accessing the upside for a better offer from an alternative tenant arising. Council should treat this as an 'Under Offer' period similar to real estate offerings of housing.

#### 7.2 - Capital Investment (Sinking Funds)

The paragraph at 7.2 is a 'dead' paragraph. There is NOTHING to indicate what would happen in terms of how such funds are monitored by Council or what action might be enforceable should a tenant fail to fulfil this requirement. Another Council (details available if requested) recently changed tenancy of a basketball stadium where the incumbent was supposed to have maintained all courts to be suitable for play. Not only had they not done so, NO FUNDS were held to pay for the subsequent costs.

For this policy to work for ratepayers of Bayside there must be some direct mention of enforceability, monitoring and mitigation that will be undertaken







# BLACK ROCK

LIFE SAVING CLUB

29 January 2023

ABN: 519 0376 3953

Damien Darcy  
Bayside City Council  
PO Box 27  
Sandringham VIC 3191

**Re: Feedback on Lease and Licence Policy 2023.**

Dear Damien,

Black Rock Life Saving Club (BRLSC) is a charitable, not-for-profit entity, we work closely with Life Saving Victoria – our peak body. Our primary purpose is to prevent aquatic related death and injury at the Black Rock beach and surrounding areas. We aim to guide beach goers on water safety and provide a safe aquatic environment. We need Bayside City Council (BCC) to recognise the dual emergency and community service functions of lifesaving clubs that makes us unique.

BRLSC welcomes the opportunity to provide feedback on the proposed Bayside City Council Lease and Licence Policy 2023. We would like to see that all volunteer lifesaving clubs are treated consistently in regard to leases and licencing across BCC and the State. Life Saving Victoria (LSV) has worked collaboratively with the then Department of Environment, Land, Water and Planning (DELWP) to develop the state policy on Crown Land Use by Lifesaving Clubs in Victoria. LSV recommends that council adopts the conditions of the state policy within its Lease and Licence Policy 2023. This reflects what council has done with other state policies such as the Marine and Coastal Policy 2020. This approach is consistent with the Local Government Act 2020 (Vic), that gives effect to overarching governance principles that allow *(h) regional, state and national plans and policies must be taken into account in strategic planning and decision making*. Currently, the draft policy does not reference this document in section 10 – related documents.

Specific to lifesaving clubs on Crown land in Victoria:

- The purpose of the lease must reflect the core functions of providing lifesaving and emergency services to the community. This involves acknowledging the dual emergency and community service functions that lifesaving clubs provide.
- That the LSC's are recognised for their emergency service role. The Victorian State Emergency Management Plan (SEMP) required under the Emergency Management Act (2013) outlines the emergency management arrangements for Victoria to inform all levels of aquatic planning – state, regional and municipal. The SEMP specifically identifies LSV's roles and responsibilities to support the Victorian community. The State government's water safety strategy and soon to be released action plan will further embed drowning prevention at a community level that will require ongoing collaboration with councils.
- BRLSC and LSV has long supported state and local government policy that lifesaving facilities support shared community use when facilities are not being used for their primary purpose. Delivery of lifesaving services benefit local community and visitors, while mitigating risk for council in its role as land manager.

P.O.Box 40, Black Rock, Victoria, 3193 Phone: 03 9598 9571

(Incorporated Association Registered No:A0001728V)

Black Rock Lifesaving Club is not registered for GST so no GST has been Charged



# BLACK ROCK

## LIFE SAVING CLUB

- BRLSC and LSV (on behalf of clubs), advocates to maximise value and provide a consistent, reliable, and quality service to community through leasing of facilities. This requires:
  - i. Consistent objectives.
  - ii. Consistent tenure of 21 years.
  - iii. Community subsidised rent in return for self-funding the community lifesaving service.
  - iv. Fair and reasonable infrastructure maintenance obligations.

BRLSC requests that you refer our prior correspondence in relation to our Heads of Agreement (and MOU) negotiation for our new facility i.e., that lifesaving clubs are not sporting clubs, we are a volunteer, emergency service and should be afforded a Community Rent.

- If a new life saving facility has been funded by BCC and if the club has the ability to raise some income from the facility, we appreciate a small contribution towards maintenance is reasonable (using a *consistent* formula), this needs to be invoiced as a maintenance fee in addition to the community rent.
- Existing facilities should only be charged community rent.
- If council were to apply the "0.1% of the current asset value" this should take into consideration the capital contribution of the lessee and any other funding provided by 3<sup>rd</sup> parties i.e., State or Federal funding. For example, if the new facility costs \$3m and the lessee and state contribute \$1.5m – the 0.1% should be calculated on \$1.5m
- Bayside life saving clubs are not-for-profit entities, all funds raised go back into the club to ensure we are self sufficient and can provide our life saving services and programs.

All Bayside life saving clubs should:

- have 100% management (i.e. 24/7, 365 days per year) of their facilities
- have the ability to apply for liquor licenses (for fundraising purposes)
- not be referred to as a sporting pavilion or sporting group

Clause 7.9 – Use of the Premises - of the proposed Lease and Licence Policy 2023 should include the following points:

- Council will pay for cleaning costs related to use of the premises.
- If the lessee operates a liquor license from the premises and the Council requests to use the bar – the lessee will be responsible for the running and maintain profits from the bar.

BRLSC appreciates Council's time to review and acknowledge the feedback provided, we look forward to continuing our working relationship and discussing the development of this policy with you.

If you have any queries, please do not hesitate to contact me.

Yours sincerely



P.O.Box 40, Black Rock, Victoria, 3193 Phone: 03 9598 9571  
(Incorporated Association Registered No:A0001728V)  
Black Rock Lifesaving Club is not registered for GST so no GST has been Charged

**To Whom It may Concern**

**Re:**

**Bayside Council's Lease and Licence Policy**

AS a local resident and member of the Cheltenham Golf Club I would like to express my concern regarding the classification of Cheltenham Golf Club when assessing our course lease as 'Commercial'

We are a not for profit club and should be assessed accordingly

[REDACTED]

[REDACTED]  
Please see attached.

Life Saving Victoria, (LSV) have submitted feedback on Bayside leasing policy.

Beaumaris Life Saving Club are in support of this LSV submission.

Life Saving Clubs supply a unique service to the entire community. Many Beach goers come from areas well beyond the Bayside Council boundaries.

This unique service falls under Emergency Services Victoria, therefore requires considerations differing from bowls and tennis clubs.

To not recognise the value lifesavers provide to the community is to not realise, how quickly a wonderful day at the beach can become a life changing experience

Regards

[REDACTED]

Beaumaris Life Saving Club



Attention: Damien Darcy

Bayside City Council

27/01/2023

#### Feedback on Lease & Licence Policy 2023

Life Saving Victoria (LSV) is the peak water safety body in the state of Victoria. LSV leads the delivery of the public water safety strategy in Victoria as a community organization under the structure of Emergency Management Victoria (EMV). LSV and its member Life Saving Clubs (LSCs) are charitable, not-for-profit entities.

LSV's mission is to prevent aquatic related death and injury in all Victorian communities, with its vision that all Victorians will learn water safety, swimming, and resuscitation, and be provided with safe aquatic environments and venues.

LSV welcome the opportunity to provide feedback on the proposed Bayside City Council Lease and Licence Policy 2023. LSV's objective is that all volunteer lifesaving clubs are treated consistently in regard leases and licencing across the state. To that end LSV worked collaboratively with Department of Environment, Land, Water and Planning (DELWP) to develop the state policy on crown land use by lifesaving clubs in Victoria. LSV recommend that council adopt the conditions of the state policy within their Lease and Licence Policy 2023. This reflects what council has done with other state policies such as the Marine and Coastal Policy 2020. This approach is consistent with the Local Government Act 2020 (Vic), that gives effect to overarching governance principles that include (h) regional, state and national plans and policies must be taken into account in strategic planning and decision making.

Specific to lifesaving clubs on Crown land in Victoria:

- The purpose of the lease must be able reflect the core functions of providing lifesaving and emergency services to the community. This involves acknowledging the dual emergency and community service functions lifesaving clubs provide. .
- That the LSC's are recognized for their Emergency Service role.  
The Victorian State Emergency Management Plan (SEMP) (required under the Emergency Management Act 2013) outlines the emergency management arrangements for Victoria to inform all levels of aquatic planning – state, regional and municipal. The SEMP specifically identifies LSV's roles and responsibilities to support the Victorian Community. The State



governments water safety strategy and soon to be released action plan will further embed drowning prevention at a community level that will require collaboration with council on how lifesaving clubs can be further utilised for communities, educational institutions, government agencies, businesses, and the broader aquatic industry.

- LSV has long supported state and local government policy that lifesaving facilities support shared community uses and that priority use for service delivery needs, such as providing community safety through use of lifesaving facilities, will benefit local community.

LSV on behalf of clubs, advocates to maximize value and provide a consistent service to community through:

- i. Consistent objectives
- ii. Consistent tenure of 21 years
- iii. Community subsidized rent in return for self-funding the community lifesaving service.
- iv. Fair and reasonable maintenance obligations

Life savers (volunteers) provide minor and major first aid to all beach attendees as well water safety while on patrol. LSV and the Bayside life saving clubs would like Bayside City Council to recognise the value that life saving clubs provide to the Bayside community and apply this to the rent and maintenance cost calculation.

Emergency equipment includes rescue boats and motors, rescue boards, flotation devices as well as small all-terrain vehicles. Due to the speciality of the equipment and the marine conditions, the cost of maintaining and replacing life saving emergency equipment is considerable. Previous options for fundraising such as roadside collections are becoming non-viable due to safety management and changing behaviours. This results in the clubs being required to hire out the venue or run events as part of its fundraising to cover its operational costs. The Bayside life saving clubs prefer to focus on their primary function which is the provision of life saving services. The imposition of a more commercial maintenance and rent rate would cause life saving clubs to spend more time of fundraising activities to cover these additional costs.

LSV appreciates the Council's time to review and acknowledge the feedback provided. LSV looks forward to continuing its collaborative working relationship.

LSV legal council has reviewed the Bayside City Council lease and licence policy 2023 against other crown land management agreements both locally and interstate. Rather than suggest creating another tenant category that recognises the dual emergency and community service functions of lifesaving clubs that makes them unique, he has incorporated the terms and conditions of the

Victorian state policy for lifesaving clubs on crown land to enable the required consistency across lifesaving club. Please review attachment.

Kind regards



Damien Darcy  
Bayside City Council  
PO Box 27  
Sandringham VIC 3191

27 January 2023

Dear Damien,

**Feedback on Lease and Licence Policy 2023**

Life Saving Victoria (LSV) is the peak water safety body in the state of Victoria. LSV leads the delivery of the public water safety strategy in Victoria as a community organisation under the structure of Emergency Management Victoria (EMV). LSV and its member Life Saving Clubs (LSCs) are charitable, not-for-profit entities.

LSV's mission is to prevent aquatic related death and injury in all Victorian communities, with its vision that all Victorians will learn water safety, swimming, and resuscitation, and be provided with safe aquatic environments and venues.

LSV welcomes the opportunity to provide feedback on the proposed Bayside City Council Lease and Licence Policy 2023. LSV's objective is that all volunteer lifesaving clubs are treated consistently in regard to leases and licencing across the state. To that end LSV worked collaboratively with the then Department of Environment, Land, Water and Planning (DELWP) to develop the state policy on Crown Land Use by Lifesaving Clubs in Victoria. LSV recommends that council adopts the conditions of the state policy within its Lease and Licence Policy 2023. This reflects what council has done with other state policies such as the *Marine and Coastal Policy 2020*. This approach is consistent with the *Local Government Act 2020 (Vic)*, that gives effect to overarching governance principles that allow *(h) regional, state and national plans and policies must be taken into account in strategic planning and decision making*.

Specific to lifesaving clubs on Crown land in Victoria:

- The purpose of the lease must reflect the core functions of providing lifesaving and emergency services to the community. This involves acknowledging the dual emergency and community service functions that lifesaving clubs provide.
- That the LSC's are recognised for their emergency service role. The Victorian State Emergency Management Plan (SEMP) required under the *Emergency Management Act (2013)* outlines the emergency management arrangements for Victoria to inform all levels of aquatic planning – state, regional and municipal. The SEMP specifically identifies LSV's roles and responsibilities to support the Victorian community. The State government's water safety strategy and soon to



be released action plan will further embed drowning prevention at a community level that will require ongoing collaboration with councils.

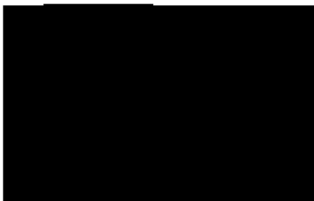
- LSV has long supported state and local government policy that lifesaving facilities support shared community use when facilities are not being used for their primary purpose. Delivery of lifesaving services benefit local community and visitors, while mitigating risk for council in its role as land manager.
- LSV on behalf of clubs, advocates to maximise value and provide a consistent, reliable, and quality service to community through leasing of facilities. This requires:
  - i. Consistent objectives.
  - ii. Consistent tenure of 21 years.
  - iii. Community subsidised rent in return for self-funding the community lifesaving service.
  - iv. Fair and reasonable infrastructure maintenance obligations.

LSV appreciates Council's time to review and acknowledge the feedback provided, and we look forward to continuing our collaborative working relationship and discussing the development of this policy with you.

LSV's legal counsel has reviewed the Bayside City Council lease and licence policy 2023 against other Crown land management agreements both locally and interstate. Rather than suggest creating another tenant category that recognises the dual emergency and community service functions of lifesaving clubs that makes them unique, the approach has been taken to incorporate the terms and conditions of the Victorian state Policy for Lifesaving Clubs on Crown Land to enable the required consistency across lifesaving clubs (please refer to Attachment A).

We remain committed to working with you and council to progress this matter, and I welcome you to contact [REDACTED] Executive Advisor, should you have any queries or clarifications.

Yours sincerely,



<b>Council policy title:</b>	<b>Lease and Licence Policy 2023</b>
<b>Council policy sponsor:</b>	Director Corporate Services
<b>Adopted by:</b>	Bayside City Council
<b>Date adopted:</b>	[insert meeting date/reference number]
<b>Scheduled review:</b>	[insert month and/or year]
<b>Document Reference:</b>	[insert TRIM Document reference]

## 1. Policy intent

Council is the custodian of land and building assets that support a wide range of community uses. Council will effectively and transparently manage the occupancy of its leased and licensed assets to optimise the public value it provides to the Bayside community.

## 2. Policy purpose

The policy supports decision making in relation to occupancy arrangements on Council land in accordance with obligations under the Local Government Act 2020. It provides clarity on approach to leasing and licencing for the community and commercial use of Council land.

It supports consistency and transparency in occupancy arrangements and provides direction on maximising occupancy and utilisation of Council managed assets including colocation, clustering and multi-use that reflects the community expectations and prioritises use for the service delivery needs that benefit the local community. The policy supports the sustainability of Council's property and building assets through appropriate and equitable contribution towards maintenance and other costs.

The Policy has considered 1 ~~to~~ and is compatible with 1 Council's obligations under the Charter of Human Rights.

### 3. Glossary - Definitions and Abbreviations

Term	Meaning
Applicant	Means a person or legal entity applying for a lease or licence of Council land.
Community Lease	Means a lease or (for the purposes of this document) licence of Council land by an applicant that falls within either Category 2 or Category 3 of 5.3 of this Policy.
Commercial Lease	Means a lease or (for the purposes of this document) licence of Council land by an applicant that falls within either Category 1 of 5.3 of this Policy.
Expression of Interest process	Means a competitive process <u>under which</u> <del>whereby</del> Council will invite offers to lease or licence a site from the market.
Rent(al)	Means any amount that is charged under an agreement in exchange for the right to occupy or use Council land or buildings. It includes (for the purposes of this Policy) a licence fee or other fee charged <u>under pursuant</u> <del>to</del> the terms of a licence or other occupancy agreement.

### 4. Scope

This policy applies to Council owned and managed assets for:

- Commercial Lleases ~~and licences~~; and
- Community Lleases ~~and Community licences~~.

It does not apply to season sport ground and pavilion allocation and ad-hoc or casual hire of halls or other buildings.

### 5. Policy statement

#### 5.1 Principles

The policy provides the guiding principles that will assist in the effective management and use of Council's buildings and land ~~so as~~ to maximise the return to Council and benefit to the community. Council seeks to maximise the community benefits from the use of land or buildings and ensure responsible management and accountability for the direct and indirect subsidies on leases and licences. This policy will:

- Ensure Council owned land and buildings are used to meet community needs and objectives consistent with Council's vision policies and Council Plan.
- Ensure clear, consistent and transparent approach to establishing leases and licences on Council owned and managed land and buildings.
- Ensure the appropriate assessments of community groups are undertaken and provide guidance on the most appropriate agreement to maximise utilisation and benefit to be provided from an agreement.
- Provide guidance on the appropriate contribution by community groups by that ~~considering~~ the community benefit provided by the tenant, the capacity of the tenant to raise funds and; maintain a community asset whilst ~~and~~ allowings for equitable access to Council land and buildings. Rental for commercial organisations will generally ~~be~~ set according to a market rental determined by market testing or sworn valuation.

- Ensure that Council owned land and buildings are maintained, developed and occupied responsibly taking into consideration the community benefit provided and the ongoing costs maintain and renew the assets.
- Provide an equitable and transparent process for dealing with Council's leased and licensed assets.
- Provide accountability for Council expenditure related to occupancy agreements and lease subsidies as they constitute an indirect grant.

## 5.2 Standard terms and conditions

Standard lease and licence agreements developed by Council will be used as the basis of all tenancies. Where required ~~(for example for life saving club leases) the~~ DELWP standard documents and policies will be applied and used and amended to include Council related clauses for agreements on Crown Land.

Generally the lease or licence term will be set at a maximum of nine years. ~~However, a~~ longer term may be considered under one or more of the following circumstances:

- substantial contributions to capital-/structural works are to be made by the tenant;
- commercial return is enhanced;
- conditions required by other funding bodies on the tenant regarding the length of term; ~~or~~
- demonstrated long-term community benefit is evident.

The term of ~~C~~ommercial ~~L~~leases will be assessed on an individual basis as a result of market testing. Council will only grant a lease or licence to specific persons, incorporated ~~associationsbodies (that is, organisations that are~~ incorporated under the *Associations Incorporation Reform Act 2012*~~1984)~~ or bodies corporate under (as defined under the Corporations Act 2001 (Cth)).

## 5.3 Tenant categories

Generally speaking, applicants for leases or licences will fall into one of three categories. The categories are relevant for the calculation of ~~commencing~~ rent and the criteria for assessment that will apply to the application for a lease or licence.

Category  
1Group One  
–  
Commercial

~~CategoryGroup 1One~~ Tenants occupy ~~the~~ premises on a commercial basis.  
Some examples of premises that are leased to Category 1Group One Tenants include the following:

- ~~Commercial~~ sport and recreation e.g. Royal Avenue Tennis Centre, Golf Clubs.
- Infrastructure e.g. telecommunications towers.
- General commercial e.g. Ricketts Point Tea House, North Road Pavilion Café.





<del>Category 2</del> Group Two – Not-for-Profit Community Groups	<del>Category 2</del> Group Two Tenants includes community groups that serve the community or an underprivileged or disadvantaged group and these Tenants do not have the capacity to generate a significant amount of income and operate on a not-for-profit basis. <del>Some examples of Category 2</del> Group Two Tenants <u>may</u> include the following: <ul style="list-style-type: none"> <li>• Kindergartens.</li> <li>• Playhouses.</li> <li>• Community youth groups.</li> <li>• Senior citizens.</li> <li>• Scouts and Guides.</li> <li>• Neighbourhood Houses and Learning Centres.</li> </ul>
Category 3 Group Three – Other Clubs and Organisations	<del>Category</del> Category 3Group Three Tenants includes recreational or community groups that service the community and are readily available to Bayside residents. These tenants include member based fee-paying clubs and organisations that have the capacity to generate revenue from use of the facility or other activities consistent with the organisational purpose (but do not operate to make a commercial profit). <del>Some example of Group</del> Category 3-Three Tenants <u>may</u> include the following: <ul style="list-style-type: none"> <li>• Tennis clubs.</li> <li>• Bowling clubs.</li> <li>• Lifesaving clubs.</li> </ul>

## 6. Application for a new lease or licence

Applicants for new leases or licences will be required to complete Council's Application for a new Agreement form. This form sets out the relevant information required by Council to enable an assessment of suitability against the criteria set out below. Given that commercial and community agreements have different objectives, these two forms of agreement have different criteria for assessment.

Before considering an application for a new lease, Council may undertake a local needs assessment based on demographics and existing uses within the relevant local area to establish a need for the proposed activity.

### 6.1 Direct negotiation

Where it is determined to undertake market testing when an existing commercial or community premises has become vacant, or at the expiry of the lease or licence term, a tender or an expression of interest process may will be carried out by way of a public marketing campaign.

At its absolute discretion, Council may seek to negotiate with an existing tenant or licensee prior to the end of a lease/licence term in relation to a new agreement for the same premises without conducting market testing. A decision to negotiate with a tenant/licensee for a future agreement will be dependent on an assessment of the need and community benefit of the property. Consideration will include the performance of the tenant/licensee in relation to the current agreement, any ongoing

| or proposed investment, application of the *Retail Leases Act 2003 (Vic)*, Crown Land (Reserves)

Act 1978 (Vic) and any other factors or specific requirements related to the property including DEWLP policies and other government recognition. The criteria listed below will apply should Council decide to directly negotiate a new lease.

## 6.2 Commercial Agreement Criteria

The criteria for assessment of Commercial Lease applications are included in the application form for commercial agreements (for direct negotiations) and otherwise will be set on a site-specific basis as part of an Expression of Interest process.

## 6.3 Community Agreement Criteria

Criteria for assessment of Community Lease applications will include (as applicable):

### 1. Sustainability

- The purpose or mission of the group or organisation ~~addresses the climate emergency and~~ meets Council's sustainability outcomes.
- Changes to practices to reduce environmental impact of the proposed activity.
- Financial capacity to meet sustainability objectives (no use of single plastics, green energy etc.).
- Proposed investment in environment or sustainability at the proposed premises.

### 2. Community benefit

- Type of activity.
- Charitable status.
- Whether the proposed activity complements existing Council services.
- Specific benefit to Bayside residents.
- Alignment to Council objectives.
- ~~Alignment to State policies.~~
- Meets a local community need identified through analysis with reference to demographics and benchmarking against similar services in Bayside or other municipalities.
- Provides equitable access.
- Demonstrates that a significant percentage of users are Bayside Residents.
- Diversity of governance structure (board/committee) members.

### 3. Utilisation

- Number of members.
- Plan for increasing utilisation/membership (if not 100% utilised).
- Amount of utilisation proposed (e.g. times, days of the week the building will be used).
- How the leased premises will be managed to maximise use of facilities for the community.
- Demonstrates a need and defined use for all of the area included in the application.
- Available to a broad number of community members.
- Whether the application includes a plan to amalgamate or partner with other existing clubs.



#### 4. Capital and financial contribution

- Potential revenue generation.
- Whether part of a larger organisation.
- Level of maintenance capability.
- Funding sources (e.g. government, umbrella organisation, fundraising).
- Capital investment proposed.
- Capacity to raise funds to contribute to maintenance and outgoings.

#### 6.4 Calculation of rent

##### 6.4.1 Category Group 1 – Commercial Tenants

Commercial tenants and licensees will pay a rental that is market driven and may be determined by a market rental assessment carried out by a valuer, or as the result of an Expression of Interest process or similar program.

##### 6.4.2 Category Group 2 – Not for Profit Community Groups

Not-for-profit tenants and licensees will pay a minimum rent calculated in accordance with Council's Schedule of Fees and Charges, if the proposed use meets the criteria set out in 6.3 and on the basis that the premises are not:

- (a) used for commercial or revenue generating activities outside the tenant's objects and permitted use; and
- (b) sub-leased or sub-licensed to a third-party commercial operator for profit.

If the premises are used to generate revenue (either as part of the applicant's proposal or during the term of the agreement), Council may reconsider the application of the minimum rent and charge an additional amount of rent commensurate with the revenue generated by the tenant/licensee.

##### 6.4.3 Category Group 3 – Other clubs and organisations

Not-for-profit tenants and licensees will pay a rent calculated in accordance with the applicable formula set out below.

###### 6.4.3.1 Ground Rental Only

A ground rental will be charged in the following two situations:

- (a) where a tenant has the sole occupation of Council owned or managed land, that is, land that is fenced in and cannot be used for open space by the public when the tenant is not using it e.g. bowling greens and tennis courts. The minimum ground rental that can be charged will be in accordance with Council's Schedule of Fees and Charges, as amended annually.
- (b) where a tenant has constructed, at its own cost, a building on Council owned or managed land and has fully maintained that building (including structural and capital maintenance) throughout the term of the lease. The minimum ground rental for these tenants will be calculated at \$1.00 per square metre of the area occupied by the building, as amended by Council's Schedule of Fees and Charges.

###### 6.4.3.2 Building Only

A building rental will be charged to those tenants occupying a Council owned or managed building. The minimum rental calculation for these tenants is 0.1% of the current asset value.

#### 6.4.3.3 Ground and Building

Tenants who exclusively occupy a Council building and also have sole occupation of the adjoining Council owned or controlled land, e.g. bowling and tennis clubs will be charged both a ground rental and a building rental.

#### 6.4.3.4 Revenue generation

If the premises are proposed to be used to generate an income (either as part of the applicant's proposal or later during the term of the agreement), Council will charge an additional amount of rent commensurate with the income generated by the tenant/licensee (net of cost of service).

#### 6.4.3.5 Rental Subsidy for ~~Category 3~~Group-3

~~Category 3~~Group-Three applicants may request from Council a reduction to the rent that would otherwise be payable. This will form a subsidy to the commencing rent to be negotiated between the Applicant and Council (at its discretion) on a sliding scale basis. In order to qualify for a rent subsidy, a ~~Category 3~~Group-3 applicant must be able to demonstrate that it will:

- (a) use the premises in a manner that meets the criteria set out in 6.3;
- (b) take primary responsibility for maintenance of the premises;
- (c) expend capital on the premises during the term of the lease; and
- (d) has a revenue-generating ability that is limited due to the community-based activities undertaken.

#### 6.4.3.6 Community Group Discount for Capital Investment

~~Category 3~~Group-Three applicants who at their own expense contribute to the cost of the construction/ refurbishment of the building may receive a discount on their building rental. The discount will apply on the basis of the level of the contribution as a proportion of the current asset value. A set discount period will apply depending on the contributions made by the tenant as follows:

- (a) A set discount rental period of five years will apply to contributions less than 25% of the total asset value.
- (b) A set discount rental period of 10 years will apply to contributions made between 26-99% of the total asset value.
- (c) Applicants who contribute 100% of the total asset value and fully maintain the building will not be charged a building rental. They will be charged a ground rental only.

### 7. **Other Matters**

#### 7.1 Capital Investment by Council

Council may at its discretion contribute funds to the redevelopment or construction of a building which is intended to be leased. In the event of such a contribution, the terms of the resulting lease must be documented in a signed Heads of Agreement before Council will commit to funding.

A contribution to maintenance separate from rent may be payable for Category 2 and 3-Group 2 and Group 3 Tenants where Council has made a significant capital contribution to the construction or refurbishment of the premises before a lease is granted.

## 7.2 Sinking Funds

Tenants with exclusive occupancy of court surfaces on Council owned or controlled land will be required to create a sinking fund in anticipation of the capital cost to renew or undertake significant maintenance of the playing surfaces.

## 7.3 Commencement of Policy Rental

A rental discount will be given to all new lease or licence agreements that are negotiated with Group Two and Three Tenants within two years of the adoption of this Policy where the rental increases more than 50%. The purpose of this discount is to provide a period of time for clubs and organisations to budget for significant increases in rental.

The new rental will be phased in over three years with a rental increase of not more than 20% of the previous rent in the first year and not more than 40% of the previous rent in the second year. In the third year the full new rental will apply.

All tenants must pay Goods and Services Tax (GST) at a level determined by the federal government on rent. GST is payable in addition to the rent calculated using the above formulas, unless otherwise stated.

## 7.4 Rental increases

Rent will be increased annually with reference to the consumer price index.

Annual rentals may also be subject to a market review on the exercise of an option and/or every five years of the term. This will generally apply to Category 1 Group One Tenants only.

## 7.5 Telecommunication Rental

Council will retain the entire rental payable under a lease by a telecommunication provider (or similar service provider) for use of Council owned or controlled land or building and will use that rent for the benefit of the whole community. This rental will not be shared with individual clubs or organisations that use part of the land upon which the telecommunication lease is situated.

Individual clubs, organisations and tenants must not negotiate directly with any telecommunication provider (or similar service provider) in relation to the use of Council owned or controlled land or building.

## 7.6 Additional Income

Council reserves the right to amend the rental if a tenant obtains an on-premises licence, packaged liquor licence, general licence or gaming license, or gains access to other commercial or fortuitous (but not fundraising) means of income generated during the term of the agreement e.g. rent received from sub-letting, revenue received from advertising on the premises. Consent by Council is required for any such use.

#### 7.7 Rates, Taxes and Outgoings

Generally, tenants must reimburse Council or pay the relevant authority directly for all outgoings including rates, charges and taxes levied against the premises. User charges including water, sewerage, telephone, gas, electricity are generally to be paid directly to the relevant service provider by the tenant.

#### 7.8 Insurance

Council will take out and maintain building insurance for buildings on Council owned or controlled land for the full replacement value. The tenant shall reimburse Council the cost of the building insurance and any excess in respect of any claim made. For Category 2 and 3 community groups occupying historic buildings with limited financial means, an application to waive the insurance reimbursement can be made and will be considered by the Manager Commercial Services.

All tenants are required to take out public liability insurance, noting the interest of Council and the Policy must contain a cross liability clause. A minimum cover of \$20 million must be provided, or such other sum as stipulated by Council. Tenants must give a copy of their certificate of currency to Council on or before the commencement date of the lease and annually thereafter.

#### 7.9 Use of the Premises

Category 2 and 3 tenants/licensees must also allow Council to use the premises for Council's sponsored functions at no cost to Council. Such use will be subject to Council giving the tenant at least 30 days written notice of its need to use the premises, provided that Council's use of the premises does not unreasonably interfere with the tenant's use of the premises. Council must also rectify any damage to the premises due to Council's use of the premises.

For tenants who occupy premises under a licence agreement, Council may also use the premises or allow others to use the premises outside the normal hours of the tenant business operating from the premises, provided that such use of the premises does not unreasonably interfere with the tenant's use of the premises.

For leased sites, Council may (based on the utilisation level indicated by an applicant's completed application form) require the tenant to establish a booking system for multi-purpose or function spaces (as applicable) to facilitate use of these spaces by other community groups when not in use by the tenant.

#### 7.10 Removal of Assets

All capital or structural improvements, additions, structures or buildings on the premises installed or erected by the tenant during the term of the lease or licence are the property of Council, unless otherwise specified. Tenants who constructed the building may be required to remove the building, all fixtures, fittings, plant and equipment at the expiry of the term of the lease, unless otherwise specified.

If Council requires the tenant to remove any assets that have been constructed or installed by them during the term of the lease, then the tenant must make good any damage caused by their removal.



#### 7.11 Liquor and Gaming Licence

~~Category 2~~~~Group Two~~ Tenants must not apply for a liquor licence. Depending on the permitted use of the premises, ~~Category 1 and 3~~~~Group One and Three~~ Tenants may request Council's consent to allow them to apply for a liquor licence. Council in its capacity as landlord (as opposed to Responsible Authority) will consider applications for liquor licences and may refuse to give its consent (as landlord) in its absolute discretion.

No tenant may apply for a Gaming Licence.

### 8. **Monitoring, evaluation & review**

The policy will be reviewed on a 4 year basis or when significant changes in property related legislation occur.

Council will publish a register of occupancy agreements. Council will report on an annual basis the subsidy for each occupancy on the basis of the asset consumption set in the Building Asset Management Plan.

The following performance measures will be monitored:

- (a) The level of rental return against the value of the assets being occupied will be reported, an annual increase in this indicator is desired
- (b) The number of occupancy agreements in overholding
- (c) Annual reporting of subsidy.

### 9. **Roles & Responsibilities**

Director Corporate Services is responsible for ensuring this policy is reviewed and approved by Council.

Director Corporate Services has the following delegated powers associated with this policy

That Council:

1.1 delegates to the member of Council staff holding, acting in or performing the duties of, the office or position of Director Corporate Services, the power to lease any land under section 115 of the *Local Government Act 2020* (Act) including undertake community engagement process in accordance with Council's community engagement policy; and

~~1.2~~—delegates to the member of Council staff holding, acting in or performing the duties of, the office or position of Director Corporate Services, the power to sign all leases and licences and any other documents required to be signed in connection with a lease or licence of any land,

~~4-31.2~~ unless:

- (a) submissions are received in response to a proposal to lease;
- (b) the annual rental payable is more than \$100,000 (including GST); or
- (c) where a Councillor requests that the matter be dealt with by Council

Commercial Services Manager is responsible for the implementation and ongoing management of this Policy including maintenance of a lease register, reporting on lease

subsidies and ensuring occupiers of Council land have an appropriate lease or licence in place and deliver their obligations in accordance with the lease.

The Manager Commercial Services is also responsible for assessing requests for community groups occupying historic buildings to waive insurance reimbursement payment.

Tenants occupying Council owned or managed land—are responsible for complying with occupancy agreements.

#### 10. Related documents

<b>Legislation</b>	<i>Local Government Act 2020.</i> <i>Local Government (General) Regulations 2004.</i> <i>Retail Leases Act 2003.</i> <i>Retail Leases Regulations 2003.</i> <i>Crown Land (Reserves) Act 1978 (Vic).</i> <i>Occupational Health and Safety Act 2004.</i> <i>Residential Tenancies Act 1997.</i> <i>Planning and Environment Act 1987.</i> <i>Health Act 1958.</i> <i>Children's Services Act 1998.</i> <i>National Competition Policy.</i> <i>Charter of Human Rights</i> <i>Environment Protection Authority,</i> <i>planning permit provisions (including liquor licence provisions)</i>
<b>Policies</b>	Bayside Planning Scheme Council Plan <u>DEWLP Occupation and use of Crown Land by Life Saving Clubs Policy</u>
<b>Strategies/Plans</b>	Property Strategy 2022 Approved Master Plans Open Space Strategy Community Engagement Strategy
<b>Procedures/Processes</b>	Leasing Policy – procedures
<b>Other</b>	

**Please note:** This policy is current as at the date of approval. Refer to Council's website ([www.bayside.vic.gov.au](http://www.bayside.vic.gov.au)) to ensure this is the latest version.