



ESTABLISHMENT OF COMMERCIAL LEASES POLICY

POLICY OBJECTIVE

To ensure that all commercial businesses occupying shire facilities are operating under a formal agreement with the Shire of Derby/West Kimberley (the Shire). To outline the process to be used when establishing leases for commercial business and to ensure a standard, equitable and consistent approach is adopted that is appropriate to this region.

POLICY STATEMENT

1. Commercial Business

A commercial business is a business that engages in trade or the provision of services with the primary goal of generating profit and meets at least some of the following criteria:

- a) Registered as a Corporate Body.
- b) Is a registered business.
- c) Is registered under other legislation for the purpose of carrying on the operation of a business.
- d) Generates income to pay for operational expenses.
- e) Has stock in trade.
- f) Business turnover is in excess of \$50,000 annually.
- g) Business is open for operating in excess of twenty hours per week on a yearly basis.
- h) Employs staff to assist in the operation of the business.

2. Commercial Leases

Commercial business lease agreements are to be prepared in the manner outlined below:

- Applies to any commercial business which has exclusive occupancy rights over Shire property.
- The lessee is required to pay all legal, valuation and surveying costs in relation to signing of a lease agreement, subject to the limitation of any existing laws in place (e.g. retail premises leases can only be charged a maximum of 50% of legal expenses).
- The lessee will be charged and invoiced an annual lease fee based on a market or land rental valuation unless otherwise directed by Council. This will be charged as per the frequency determined in the lease, for example, monthly, quarterly.
- Rent to be reviewed annually at the anniversary date of the commencement of the term of the lease and increased by the consumer price index (all groups) for Western Australia's Capital City of Perth. Periodic market reviews will apply for leases over five years.
- Lessee will be responsible for all outgoings, including Shire rates and rubbish charges, water, drainage, sewerage, electricity, etc. The lessee is responsible for maintenance and cleaning of the premises. The lessee is required to insure all building structures, fixtures, fittings and contents belonging to the lessee on the land. Goods and Services Tax will apply to all leases.
- The lease contains a redevelopment clause which allows the lessor to terminate the lease by giving not less than six months' notice to the lessee if the lessor wishes to redevelop the premises.
- The lessee may not assign or sublet the premises without the lessor's consent.
- All commercial businesses operating under a lease will need to provide evidence of current public liability insurance to the value of \$20,000,000.
- The term of the lease shall be five (5) years with a five (5) year option unless otherwise determined by Council.
- The lessee must abide by conditions set out in the lease agreement together with all other legislation, local laws and other regulations relative to the type of the activity of the lessee.
- Provision of special conditions to apply to individual leases is to be inserted in the applicable item of the schedule.



Shire of Derby / West Kimberley

- At expiration term of lease there is to be the application of a month by month holding over clause, with this clause exercisable at the discretion of Council.

Policy Details			
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Policy Implementing Officer or Team:	Manager ICT and Customer Service	Policy Reviewer:	Director Corporate Services
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Related Documents (other Policies, Operational Procedures, Delegations, etc.):	Not applicable		
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Review #:	Council Meeting Date:	Item/Resolution#:	
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2.	24 February 2022	Item 11.5, Res. 07/22	
3.	29 August 2024	Item 12.1, Res. 100/24	
4.	27 November 2025	Item 14.1 Res. 46/25	