

Property leasing and licensing

Policy No. 6340.100.E.R

1 Purpose

The purpose of this policy is to outline the guiding principles and statements that inform the negotiating position of City of Darwin as new leases or licenses are entered into with organisations using City of Darwin owned or managed property.

The aim of this policy is to ensure properties are allocated to organisations fairly and consistently to meet community needs and to support the use of properties in alignment with City of Darwin strategies.

2 Scope

This policy applies to the leasing and licensing of City of Darwin owned and managed property.

This Policy applies to any form of contract which legally binds, or potentially legally binds, City of Darwin such as:

- formal contracts
- heads of agreement
- in principle agreement
- options to purchase
- leases.

3 Policy statement

City of Darwin owns and manages a diverse portfolio of properties for community and commercial uses.

Leases or licenses are entered into with a variety of organisations ranging from small community groups and sporting clubs to commercial businesses.

Leases and licences are offered through an open market system to protect the integrity and probity of the process. In some cases, an alternative process may be used.

City of Darwin properties are divided into two categories - Community and Commercial.

The following table details the commercial, and community properties currently owned by City of Darwin.

Version:	Decision Number:	Adoption Date:	Next Review Date:
2	ORD373/24	27 August 2024	27 August 2028

Responsible Officer: General Manager Innovation

Electronic version current. Uncontrolled copy valid only at time of printing.

Property use	Property type	
	Community	Commercial
Childcare centres	X	
Community centres	X	
Community gardens	X	
Community markets	X	
Entertainment centre	X	
Commercial hospitality		X
Incorporated association centre of operation	X	
Land	X	X
Commercial retail	X	X
Sport & recreational facilities	X	

3.1 Eligibility

City of Darwin will only enter into a lease or licence agreement with an entity that is:

- an incorporated association
- an individual or organisation auspiced by an incorporated association or organisation with an Australian Business Number (ABN)
- an individual or organisation with an Australian Business Number (ABN).

City of Darwin will not enter into a lease or licence agreement with entities:

- involved in illicit or inappropriate activities
- involved in any regulatory or legal matter involving City of Darwin
- who are political parties or affiliates
- gambling products or services
- involved in advertising or behaviours, conduct, services and/or products that are inconsistent with City of Darwin's values and strategic directions, or may adversely affect City of Darwin's public image or reputation
- in administration or liquidation, or those that are insolvent or bankrupt.

3.2 Alternative process

An alternative process will be considered where:

- the total cost of the public process will exceed the expected community benefit
- leasing to a government authority or utility provider for essential infrastructure

Version:	Decision Number:	Adoption Date:	Next Review Date:
2	ORD373/24	27 August 2024	27 August 2028

Responsible Officer: General Manager Innovation

Electronic version current. Uncontrolled copy valid only at time of printing.

- where it is an approved unsolicited proposal
- where a unique service/offering is provided that supports City of Darwin strategies.

Where an alternative process is undertaken, City of Darwin will negotiate directly with relevant entities.

3.3 Assessment criteria

Prospective tenants must submit a written application for the property addressing the below assessment criteria:

Criteria	Community	Commercial
Alignment to City of Darwin's Strategic Plan	X	X
Social and community benefit	X	
Innovation & creativity	X	X
Fit with the local area	X	X
Operational management capability	X	X
Sustainability	X	X
Commercial return		X
Economic impact		X
The proposed term (length)	X	X
The proposed contribution including capital upgrades and maintenance responsibilities	X	X
Risk profile	X	X

Applications will be assessed against each criterion, and each criterion is scored between 0 – 5. If multiple applications are received, the applicant with the highest score will be offered a lease or licence first. Should they not wish to proceed, a lease or licence will be offered to the applicant with the next-highest score.

3.4 Rent

A certified valuer will be engaged to determine market rental values every five years or as required by City of Darwin. Market rent valuations will be used to determine fees for City of Darwin properties.

Commercial tenants are responsible for 100% of commercial terms and market value.

To seek a rental subsidy, community organisations must provide evidence of the following standards on application:

- good governance
- maintenance obligation

Version:	Decision Number:	Adoption Date:	Next Review Date:
2	ORD373/24	27 August 2024	27 August 2028

Responsible Officer: General Manager Innovation

Electronic version current. Uncontrolled copy valid only at time of printing.

- intended use of the facility
- social inclusion.

Community tenants will also be asked to provide annual general meeting reports and minutes including audited financial reports each year to maintain the subsidy.

All tenants are required to pay a contribution towards utilities.

4 Definitions

Childcare centre means a property that provides childcare services in a specially built or adapted property

Commercial means a property that is used for selling goods or providing services for money rather than community use.

Commercial property means a property that provides financial return and income where rents and returns are set in line with market valuations for the property.

Community property means a property that responds to a community need and where rents are below market on the basis that the property supports a purpose.

Entertainment centre means a property that responds to a community need in an entertainment capacity where rents are below market on the basis that the property supports a purpose.

Facility/facilities means a building, amenity or piece of equipment on City of Darwin land provided for a particular purpose.

Land means any land owned by or in City of Darwin's interest.

Lease means an agreement for exclusive use specifying the conditions under which a lessor (City of Darwin) accepts to let out a property to be used by a lessee.

Licence means an agreement specifying for non-exclusive use specifying the conditions under which a licensee (City of Darwin) accepts to licence out a property to be used by a licensee.

Property/properties means 'Real Property' which encompasses City of Darwin's interest in land and fixtures or structures upon the land.

Real property means a property consisting of land or buildings.

Sport & recreational facilities means building or amenity used by sporting or active recreation organisations to support their activities on City of Darwin land.

Tenant means an organisation or individual that leases or licenses City of Darwin owned Property, Land or Facility.

Unsolicited proposal means a proposal that is defined as an unsolicited proposal in the Unsolicited Proposal Policy and the Unsolicited Proposals Procedure.

Version:	Decision Number:	Adoption Date:	Next Review Date:
2	ORD373/24	27 August 2024	27 August 2028
Responsible Officer: General Manager Innovation			

5 Legislative references

Local Government Act 2019 (NT)

Business Tenancies (Fair Dealings) Act 2003 (NT)

6 Procedures / related documents

0088.100.E.R Unsolicited Proposals Policy

7 Responsibility / application

The General Manager Innovation is responsible for implementation and review of this policy.

All relevant City of Darwin employees are responsible for ensuring that they understand and adhere to this policy.

This policy will be reviewed every four years or as required.