

1. Heads of Power

Local Government Act 2009 (Qld)
Local Government Regulation 2012 (Qld)
Land Act 1994 (Qld) (where applicable)
Public Records Act 2002 (Qld)

2. Intent

The intent of this policy is to establish a clear and consistent framework for the commercial leasing of Council-owned or controlled land and facilities, ensuring compliance with legislation, value for money, and alignment with the economic development priorities of Aurukun Shire Council (**Council**).

3. Scope

This policy applies to all commercial leasing arrangements entered into by Council, including leases for land, buildings, or facilities under Council's ownership or control. It applies to all Councillors, employees, contractors, and agents involved in negotiating, administering, or approving lease arrangements.

4. Definitions

Commercial Lease – A lease of Council land or facilities for a revenue-generating purpose.

Market Rent – The rental value of a property based on a qualified valuation or comparable market evidence.

Valuable Non-Current Asset – A non-current asset (e.g., land or building) with a written down value of \$10,000 or more, as per the *Local Government Regulation 2012*.

Public Tender or Auction – A method of lease allocation required under law for the disposal of valuable non-current assets.

Exempt Lessee – A tenant or category of lease exempt from public tender or auction, as per section 236 of the *Local Government Regulation 2012*.

5. Policy Statement

Council supports the responsible and strategic use of its land and assets for commercial purposes, where such use generates a fair financial return and aligns with Council's vision for sustainable development, employment generation, and local economic empowerment.

6. Legislative Requirements

Council is legally required to comply with the following legislative requirements when entering into commercial leasing arrangements:

- **Section 227 of the Local Government Regulation 2012** – Council must invite written tenders or conduct a public auction when disposing of a valuable non-current asset (including via lease), unless an exemption under Section 236 applies.
- **Section 236 of the Regulation** – Council may dispose of land or buildings without tender or auction in certain cases, such as:
 - Lease to a community organisation;
 - Lease to a government agency;
 - Lease at market value and Council resolves that it is in the public interest;

- Renewal of an existing lease where terms are not materially changed.
- **Land Act 1994 (Qld)** – Where Council holds land as trustee under State control, leases may require Ministerial approval and must comply with reserve land purposes.

7. Leasing Principles

All leasing decisions must be guided by the following principles:

7.1. Value for Money

- Maximise financial return to the community, considering whole-of-lease cost and benefit.
- Rent must reflect market value unless a Council resolution supports otherwise.

7.2. Open and Effective Competition

- Where required, leases will be allocated by public tender or auction to ensure transparency.
- Expression of Interest (EOI) may be used where market demand or feasibility is unknown.

7.3. Equity and Transparency

- Clear documentation and equal access to leasing opportunities.
- Lease decisions recorded in Council's Lease Register.

7.4. Local Economic Development

- Prioritise leasing arrangements that support Indigenous enterprise, local employment, and regional supply chains.

7.5. Sustainability

- Lessees must maintain premises and operate in an environmentally responsible manner.

7.6. Good Governance

- Clear lease terms outlining use, maintenance, termination, and review mechanisms.
- Active monitoring of lease compliance.

8. Leasing Methods

Council may use the following methods based on legislative requirements and strategic need:

8.1. Direct Negotiation

Permitted only where:

- The proposed lease qualifies for an exemption under *Section 236*; or
- There is a sole supplier or specialist provider; or
- Council resolves it is in the public interest to proceed without a tender.

8.2. Expression of Interest (EOI)

Used to assess market interest and attract proposals for properties of strategic significance.

8.3. Public Tender or Auction

- Mandatory for all leases involving valuable non-current assets unless an exemption applies.
- Tenders must remain open for at least 21 days.
- Tender evaluation panel must be appointed.
- Valuation or market comparison must be documented.

9. Exemptions from Tender or Auction

Council may lease land or buildings without public tender or auction only where permitted by *Section 236 of the Local Government Regulation 2012*. These include:

- Lease to a community organisation.
- Lease to a government agency.
- Disposal (including lease) at market value with Council resolution in the public interest.
- Renewal of an existing lease on substantially similar terms.
- Temporary or emergency use of Council land.

All exemptions must be documented with clear justification and approved by the CEO or their delegate.

10. Financial Considerations

- Rent must be determined based on independent valuation or comparable market rates.
- Where Council leases at less than market rent, it must document the community benefit and formally resolve to do so.
- Rent reviews must occur as stipulated in lease agreements.
- Lease income will contribute to asset maintenance or local service delivery.

11. Contract Management

Council will manage lease agreements to:

- Monitor rent collection and insurance compliance.
- Ensure permitted use and maintenance responsibilities are upheld.
- Enforce lease conditions and manage renewals, variations, or breaches.

12. Record-Keeping and Reporting

All leasing decisions and agreements will be stored in accordance with the *Public Records Act 2002 (Qld)*.

- A Lease Register must be maintained and updated regularly.
- Council will report annually on leases generating revenue.

13. Related Documents

- Council Delegations Register
- Financial Management Policy
- Procurement Policy
- Property and Lease Management SOPs

14. Document Controls

Council will review this policy every two years or as required by changes in law or best practice.

15. Policy Owner

Corporate Services Manager