Alpine Resorts Victoria

Alpine Resorts Leasing Procedure - **Existing Tenants**

January 2026

VICTORIA State Government

Disclaimer

Acknowledgement of Country

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria’s land, waters and mountains, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose wisdom has ensured the continuation of culture and traditional practices.

We acknowledge the profound impacts of climate change on Country and recognise the power of Traditional Owner knowledge in responding to and adapting to change. We are committed to genuinely partner, and meaningfully engage, with Victoria’s Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.

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Introduction

Leases over Crown land within Victoria's alpine resorts are issued in accordance with the *Alpine Resorts (Management) Act 1997* and the Alpine Resorts Leasing Policy (ARLP).

Alpine Resorts Victoria (ARV) is responsible for the management of Victoria's alpine resorts, including the issuing of Crown land leases within each resort.

Purpose

This procedure supports the effective, consistent and transparent implementation of the ARLP by documenting the processes to be used by ARV for allocating leases to existing Crown land tenants within alpine resorts. It provides certainty to tenants as to how their application for a new lease will be managed.

This procedure covers standard alpine leases only and excludes special leases such as for telecommunications facilities or ski lifts. Unless otherwise stated, it applies to the allocation and management of head-leases only.

The procedure covers three key elements of leasing withing alpine resorts:

Part 1 -The lease allocation process for existing tenants

Part 2 - Lease administration

Part 3 - Community Use Leases

Review

This procedure will be reviewed and updated by ARV periodically in consultation with all Alpine Resort Stakeholder Consultative Committees, and at a minimum, every five years.

Part 1: Lease Allocation Process

The following process is to be followed in response to an existing tenant seeking to exercise their right to negotiate a new standard lease.

An existing tenant may make application to ARV for a new lease at any time where:

> the tenant proposes to redevelop the site;
> the tenant proposes to carry out significant refurbishment of the existing premises;
> the tenant wishes to surrender their lease in preference for a revised lease; or
> the existing lease is approaching the end of its term.

An existing tenant may seek to surrender their lease at any time and request a new lease in accordance with the first right to negotiate. The surrender of the lease is to be completed at the same time as the new lease is registered, thereby providing the tenant security of tenure for the duration of lease negotiations.

Note that the first right to negotiate does not provide any guarantee that a lease will be awarded, nor does it mean that the terms and conditions of a new lease will be the same as those in the existing lease. Equally, an existing tenant may seek a new lease with differing terms and conditions (such as a longer lease term) if circumstances that have changed during the term of the existing lease warrant the new terms and conditions.

ARV is to provide existing tenants notice in writing of forthcoming lease expiry at five and three years prior to the lease expiry date. Tenants will be required to confirm in writing receipt of this notice.

In the situation where, at the end of the lease term, a tenant neither assigns the lease nor exercises the first right to negotiate, and where the site is not required for resort purposes, the outgoing tenant may be required to remove the improvements on the land at the tenant's own cost. If the improvements are not removed by the outgoing tenant as directed by ARV, they shall become the property of the Crown, and the cost of their removal shall be a debt due by the outgoing tenant to ARV. In this situation, the outgoing tenant shall not be entitled to any compensation by ARV for the value of the tenant's interest in the premises.

Where ARV determines, with the Minister's approval, that any part of a leased site is reasonably required for resort purposes, ARV may give notice to the tenant to cancel the lease, either wholly or in part, and require the tenants to remove all or some of the tenants improvements. In this situation, the tenant will be entitled to compensation for the value of the tenant's interest in the premises. The process for determining the amount of compensation to be paid is set out in the relevant clause in the standard alpine lease template in force as of July 2025.

Additional land adjacent to existing leased area

Where an existing tenant applies to lease additional land adjacent to the existing leased area, ARV must consider whether the land has already been identified for public purposes and does not have the capacity to be released as a stand-alone site. Where ARV determines this is not the case, ARV must also consider whether the public benefit of direct allocation outweighs the benefits that may be produced by using a competitive process to select a tenant for the site.

Where ARV determines that increasing the leased area to include the additional, adjacent land via a direct allocation, is warranted, this must be effected through the tenant surrendering the existing lease and the granting of a new lease rather than a variation to the existing lease.

Step 1 - Assess initial leasing enquiry

In response to any initial enquiry from an existing tenant regarding a new lease, ARV must determine whether the proposal warrants further consideration. In doing so, ARV must consider whether:

> the tenant has met the terms of the existing lease for its duration, including satisfactory payment of rent,service charges and capital ingoings.

> the circumstances warrant the use of an Agreement to Lease (ATL) prior to a standard lease being exercised

Following the above assessment, ARV can:

> request further information from the tenant and/or enter into preliminary discussions with the tenant to determine or clarify the scope of the lease proposal;

> advise the tenant to submit a written application (if not already done); or

> advise the prospective tenant that the proposal will not be considered any further and provide reasons for this decision.

Where they occur, all preliminary discussions shall be on a "without prejudice" basis, and ARV shall not commit to, make any representation about, or make any offer of lease to a tenant or to any third party at this stage.

Agreements to Lease

Where the tenant is proposing to undertake substantial works on the existing site, an ATL should be used, and an appropriate standard lease held in escrow. This standard lease is to be executed by the tenant at the same time as the ATL and issued to the tenant if and when the conditions of the ATL are satisfied. The term of the ATL is generally to be between three and six years to allow sufficient time for the tenant to obtain finance and/or complete the proposed works. The term of the lease held in escrow is not to include the term of the ATL, and the terms are to run sequentially.

If the works specified in an ATL are not completed prior to the agreed date, then the lease held in escrow will not be granted. Where there are extenuating circumstances, ARV can consider a request for an extension to the ATL, with a maximum total term allowable of ten years

Step 2 - Assess application

Tenants must submit a lease application to initiate the formal lease negotiation process. Lease applications must be assessed to confirm:

> the proposed use of the site remains consistent with the Alpine Resorts Strategic Plan
> the proposed use of the site remains consistent with the permitted use of the site
> all buildings and associated works within the lease area satisfy the applicable requirements of the Alpine Resorts planning scheme, or will required to be in accordance with the conditions of an ATL and/or the lease
> a satisfactory Landscape Management Plan has been submitted using the template or guidance provided by ARV
> a satisfactory business case or statement of operational intent is submitted using the template or guidance provided by ARV (if required)
> an energy efficiency assessment of all existing buildings has been undertaken by an assessor accredited under a relevant energy efficiency scheme - such as the National Australian Built Environment Rating System, *Nationwide House Energy Rating Scheme* or the Residential Efficiency Scorecard - and the resultant report provided to ARV (unless the buildings already meet the National Construction Code (NCC) Requirements – see Note 2 to Table 1 below)

Permitted use is determined by:

> the purpose for which the site has been reserved under the *Crown Land (Reserves) Act 1978*
> any zoning or other controls that apply to the site under the Alpine Resorts planning scheme
> the resort masterplan or resort strategic plan (where there is one)

Unless there are extenuating circumstances accepted by ARV, applications are to be rejected if the tenant does not have a satisfactory rent, service charges and capital ingoings payment history and has persistently or significantly committed breaches of the lease of which it has been given notice.

Confirming appropriate lease category

The standard alpine resort lease available to existing tenants is for a minimum term of 15 years. Proposals for a lease with a longer term must demonstrate benefits that align with the object of the Alpine Resorts (Management) Act as per Tables 1 and 2 below.

Note that applicants for a 15-year lease must still satisfy all minimum lease application requirements as detailed above.

Appropriate documentary evidence supporting the achievement of the requirements for each category is to be provided with the lease application.

Where there is a requirement to demonstrate an improvement in energy efficiency and/or a requirement to demonstrate capital investment, the tenant must specify the timeframe within which one or both will be achieved. Subject to ARV agreeing that this timeframe is appropriate, or a different timeframe is negotiated between the parties, ARV should determine whether an ATL is to be used for the period within which the proposed works will be completed. The ATL - or lease if no ATL is used - is to specify the lease term category requirements and the period within which they are to be completed to the satisfaction of ARV.

On completion of any works required under the terms of the ATL or lease, such as achieving improved energy efficiency, the tenant is to provide suitable documentation, such as an energy efficiency assessment report from an accredited assessor, to ARV to demonstrate that this requirement has been satisfied.

In limited circumstances, ARV may agree to take into account capital invesment made in existing buildings during the term of the previous lease as contributing to or satisfying the capital investment requirement for the proposed new lease. Factors taken into account may include how recently the investment occurred, the nature of the works and the ability to provide satisfactory evidence of the investment.

All costs associated with obtaining necessary documentation, such as a building energy efficiency assessment, are the responsibility of the tenant.

Leasing sites with existing buildings

Where an existing tenant is seeking a new lease over a site with existing buildings, the following categories of lease terms are available subject to satisfying the corresponding category requirements:

Lease Term Category	Category requirements
21 Years	Satisfies minimum lease requirements At least 50% improvement in energy efficiency rating[1] (unless buildings meet National Construction Code requirements) [2]
31 Years	Satisfies minimum lease requirements At least 75% improvement in energy efficiency rating[1] (unless buildings meet National Construction Code requirements)[2] At least $0.2 million invested in refurbishment
49 Years	Satisfies minimum lease requirements At least 100% improvement in energy efficiency rating[1] (unless buildings meet National Construction Code requirements)[2] At least $0.5 million invested in refurbishment[3]
50+ Years	Satisfies minimum lease requirements The purpose for which the lease is to be granted and the proposed use, development, improvements or works are of an exceptional nature and will make a major contribution to the resort consistent with the Object of the Alpine Resorts (Management) Act

Table 1: Standard Lease Term Categories - Sites with existing buildings

Notes

1. Energy efficiency rating as per an accredited rating tool such as Nationwide House Energy Rating Scheme, Residential Efficiency Scorecard or National Australian Built Environment Rating System

2. NCC Requirements mean the National Construction Code (successor to the Building Code of Australia) requirements and the measures in part 13 of the Code about Energy Efficiency.

3. Capital investment figure is indexed annually to CPI from the policy commencement date.

Leasing sites and undertaking total redevelopment

Where an existing tenant is seeking to undertake a total redevelopment of a site, the following categories of lease terms are available subject to satisfying the corresponding category requirements:

Lease Term Category	Category Requirements
21 Years	Satisfies minimum lease requirements At least $2 million in capital investment[1]
31 Years	Satisfies minimum lease requirements At least $5 million in capital investment[1]
49 Years	Satisfies minimum lease requirements At least $20 million in capital investment[1]
50+ Years	Satisfies minimum lease requirements The purpose for which the lease is to be granted, and the proposed use, development, improvements or works, are of an exceptional nature and will make a major contribution to the resort consistent with the Object of the Alpine Resorts (Management) Act.

Table 2: Standard Lease Term Categories - Greenfield sites or total redevelopment

Note

1. The capital investment figure is indexed annually to CPI from the policy commencement date

Landscape Management Plan

All lease applications are to be accompanied by a Landscape Management Plan prepared using the template or guidance provided by ARV, detailing any potential environmental impacts over the life of the lease and measures to address or mitigate these impacts.

As a minimum, a Landscape Management Plan should be site specific and cover:

- climate change
- biodiversity and threatened species
- any degradation and loss of native vegetation
- pest plants and animals
- waste and use of renewable or recyclable materials
- best-practice stormwater management
- existing and potential contaminants

Financial assessment

ARV reserves the right to reject applications or request further information where the tenant is:

- bankrupt;
- subject to a winding up order; or
- a corporate entity with persons involved directly or indirectly in the management of the entity who are disqualified under corporations law.

The tenant is required to self-report on these issues when completing the application form. ARV may elect to confirm any information provided in an application form, including by undertaking checks with the Australian Securities and Investment Commission (ASIC) and/or credit reference agencies.

Tenant notified

After considering the application, ARV should reply in writing to:

- seek further information to address any issues or gaps identified during the assessment, or
- accept the application and request:
  - payment of the lease application fee in accordance with the invoice attached
  - submission of a business case or statement of operational intent (if required and not already provided)
  - submission of a community use application form where relevant; or
- refuse the application and provide the reason(s) for doing so.

Step 3 - Assess business case/Statement of operational intent

To justify granting a lease for the exclusive use of Crown land to a commercial tenant (one whose prime purpose in leasing the site is to generate profit), and/or to justify directly negotiating a lease with a commercial tenant, ARV or the Minister needs to:

- understand how the tenant plans to manage its business
- assess the reliability of the tenant
- understand the minimum term required to amortise any proposed capital works or management initiatives
- establish the market rent; and
- be confident that the tenant has the financial capacity to fund and implement any proposed capital works program and meet lease commitments.

This information needs to be supplied by the tenant in the form of a business case using the template or guidance provided by ARV.

Business case

The business case should include the following as a minimum:

> profit and loss statement and trading statistics for at least the past three years
> projected profit and loss statement with a breakdown of operational costs, maintenance costs, service provision costs and profit for at least the first three years
> the benefits that will accrue to the community from the tenant’s continuing use of the site or new use of the site
> analysis of market characteristics
> management principles, objectives and strategies
> opportunities for improving the financial performance of the leased area
> any proposed capital works and improvement program, including cost estimates
> the term of lease being sought and how this links to the period required to amortise any capital works or management initiatives
> any climate change mitigation and adaptation measures proposed, such as new building design features and/or operational processes

Business case assessment

The business case will be assessed against the following criteria:

> Is there sufficient evidence to determine that the grant of the lease to the tenant will deliver benefits to the community?
> Is there a risk to the leased area if a new lease is not granted to the tenant?
> Does the business case satisfactorily demonstrate that the tenant’s proposal is commercially viable?
> Are the strategies the tenant proposes to improve the financial performance of the leased area acceptable?
> Does the tenant have the financial capacity to fund and implement any proposed capital works and improvement program and meet lease commitments?
> Does the tenant have the experience, capacity and competence to develop, operate and manage the business?
> Is the term requested reasonable to amortise any proposed capital works or management initiatives?

Statement of Operational Intent

Where the tenant is non-commercial, such as a not-for-profit lodge, and not undertaking significant site redevelopment, they will be required to submit a Statement of Operational Intent with the lease application that outlines how they intend to operate over the life of the new lease. The Statement of Operational Intent is intended to allow ARV to assess the consistency of the proposed lease with the Alpine Resorts Strategic Plan and any strategic objectives for the resort as stated in the planning scheme.

The Statement of Operational Intent should include details of the following:

- Membership
- Facilities
- Scope of operationLegal structure
- Management
- Financial structure
- Any planned refurbishment/upgrades of the premises

All applications for a lease over a greenfield site, or over a site that is to be fully redeveloped, must be supported by a business case rather than a Statement of Operational Intent. This applies to both commercial and non-commercial tenants.

Community Use Lease tenants - other than government agencies - are not required to submit a business case or Statement of Operational Intent and must instead complete a Community Use Lease application form and provide:

- profit and loss statements and trading statistics for at least the past 3 years; and
- projected revenue, operational costs, maintenance costs, service provision costs and profit for at least the first 3 years of the proposed lease.

Community Use Lease assessment

Applicants that are a Community Use Lease tenant are to be assessed in accordance with Part 3 of this procedure.

Step 4 - Request reports

Survey Report

Where changes to boundaries are proposed, a Survey Report is to be obtained from the Surveyor-General to determine status, boundaries, encroachments, services / utilities and survey requirements. Depending on the information available in the

Survey Report, the Surveyor-General may require a further survey to be conducted before a plan for lease purposes can be produced.

Subject to the Survey Report identifying any special requirements, the applicant may appoint their own surveyor to prepare the plan for lease purposes in consultation with the Surveyor-General.

The applicant is responsible for all survey costs associated with the proposed lease.

Rent valuation

In line with the Victorian Government Land Transactions Policy, all leases will be subject to a market/site rent valuation by the Valuer General Victoria or a registered valuer and assessed as a percentage of site value. This determination will use a market-based approach considering all restrictions, regulations and conditions specified in the lease document.

Where a Community Use Lease is to be offered, the market-based rent is to be discounted in accordance with Part 3 of this procedure.

To assess market/site rent the valuer should be supplied with all or relevant parts of the information supplied in the application and business case (if required).

All leases shall include a provision that site rental is to be reviewed every three years and adjusted to market rates, and for CPI adjustments between reviews to be made annually.

The requirement for market/site rent valuation extends to all tenants including those that, under the terms of their lease, undertake community uses.

Tenure preparation costs

Unless ARV decides otherwise or the *Retail Leases Act 2003* applies, the tenant is responsible for the legal, survey and site rent determination costs and the ARV’s published fees for the preparation and negotiation of the lease and other related documents. In cases where the standard lease document is not suitable or additional special conditions are required, any cost of legal services associated with the drafting of the lease documents are the responsibility of the tenant.

Step 5 - Seek Approval in Principle

The Approval in Principle (AIP) process allows the Minister (or their delegate) to review a lease proposal before the parties commit to a lease and assess if the proposal aligns with the Alpine Resorts (Management) Act and the ARLP. It also provides certainty for ARV and the tenant to proceed to the detailed planning stages.

Prior to seeking AIP, all lease proposals must be endorsed by the ARV Board.

The submission, which is prepared by ARV, needs to contain sufficient detail for the Minister (or delegate) to make an informed decision about the proposal and either approve or reject the proposal. If approved, the Minister (or delegate) may direct ARV to modify aspects of the proposal so that they align with relevant legislative or government policy requirements.

Typically, an AIP submission should include:

> the capacity of the applicant to perform lease obligations including, but not limited to, the full payment of rent
> the capacity of the applicant to fund any proposed/required capital improvements plus ongoing operational maintenance obligations
> the capacity of the applicant to operate the business (reliability, management experience etc.)
> the suitability of the site for the proposed use including compatibility with any declared reserve purpose and statutory planning controls
> background behind how the lease negotiations were instigated. i.e. if via a direct negotiation, how it complies with the ARLP
> any matters to be addressed in developing the full proposal
> the draft lease terms and conditions, subject to final lease negotiation

If not approved, the Minister (or delegate) will provide a statement of the reasons for non-approval. The tenant may submit an amended investment proposal for consideration by the Minister at a later date.

Step 6 - Prepare draft lease

ARV has a set of lease document templates to ensure a consistent approach to tenures across all alpine resorts. These include:

> Standard alpine resort lease
> Alpine resort Community Use Lease
> Alpine resort telecommunications lease

The lease templates contain all the standard conditions of a lease and should be used in all lease dealings unless exceptional circumstances warrant otherwise. Using these documents ensures consistency and reduces the amount of time parties would otherwise have to spend in drafting lease documentation.

Bank guarantee / Security deposit

Existing tenants can be required to provide financial security to ARV in exceptional circumstances, such as where a tenant is proposing to undertake a major redevelopment of the site.

The value of the necessary security is to be determined by reference to the amount that would be reasonably required to rectify any issues including a component for CPI on an annual basis. Term deposits are not an acceptable form of security. The maximum value of the security that can be required is $50,000.

A security deposit is acceptable where the value of the security is $15,000 (excl GST) or less. If the value of the security is greater than $15,000 (excl GST), the security must be provided in the form of a bank guarantee.

Where a security deposit is lodged by a tenant, ARV must:

- hold the money on behalf of the tenant in an interest-bearing account;
- account to the tenant for interest earned on the deposit, noting that ARV is entitled to keep the interest and deal with it as money paid by the tenant to ARV to form part of the security deposit;
- not unreasonably refuse to accept a guarantee from an Authorised Deposit-taking Institution (ADI) (within the meaning of the *Banking Act 1959* (Cth)) in satisfaction of any requirement to provide security in the form of a deposit, bond or third-party guarantee for the performance of the tenant's obligations under the lease; and
- return the security deposit to the tenant within 30 days after the lease ends if the tenant performs all the tenant's obligations under the lease.

If the tenant is providing a bank guarantee, it should:

- refer to the tenant and not its trading name or a related company;
- comply with the requirements set out in the lease document; and
- be in respect of all the tenant's obligations under the lease and not be limited to any particular obligations, e.g. to pay the rent.

Step 7 - Offer of a new lease

Subject to AIP being granted, a letter is to be sent to the tenant that includes a final draft lease document. The letter should also direct the tenant to seek any statutory approvals associated with the lease.

Step 8 - Finalise and execute lease

When the terms and conditions of the lease have been finalised and all parties have advised the document is ready for execution, ARV should provide it to the tenant for execution. Lease documents may be signed electronically.

Step 9 - Seek grant of lease approval

Once ARV and the tenant have executed the documents, they are to be sent to the Department of Energy, Environment and Climate Action (DEECA) to seek the Minister's approval to grant the lease (or provided to the Minister's delegate for approval where there is one) in accordance with the requirements of the Alpine Resorts (Management) Act.

Step 10 - Register lease/Effect surrender of previous lease

Subject to the Minister's (or delegate's) approval to grant the lease, ARV is to arrange for the lease to be registered with Land Use Victoria. Where relevant, surrender of the previous lease is to be effected at the same time.

Step 11 - Signed copy of leases provided to tenant

Once the signed lease has been registered, the lease is provided to the tenant along with an invoice for the first year of rent.

Step 12 - Include lease details on ARV website

Following completion of the lease, ARV is to add the lease details to the list of all alpine leases issued that is maintained on the ARV website. This should include the land parcel, the name of the tenant and the date on which the lease was granted.

Part 2: Lease administration

Following the issuing of an alpine lease, there are several lease administration activities that should be managed as set out below.

Unless ARV decides otherwise or the Retail Leases Act applies, the tenant will be responsible for the costs associated with the issuing and ongoing administration of an alpine lease, including:

- Legal costs (including legal advice required during preparation of a new lease or renewal of an existing lease)
- Site valuations
- Site surveys
- Market rent reviews
- Processing of further lease applications
- Processing of requests for consent for assignment, sublease or mortgage

Standards of occupancy

The standard alpine lease includes provisions authorising ARV to perform pro-active building inspections every three years.Each inspection is to be documented by ARV in the form of a Building Standards Report, which may be used as a reference tool when assessing the performance of an existing tenant in the context of a future lease application. ARV will provide the tenant with a copy of the Building Standards Report, and the tenant must be afforded an opportunity to respond to any matters identified.

Building Standards Reports are mandated to ensure that tenants are formally notified of their obligations in relation to the ongoing maintenance, repair and upgrading of both building interiors and exteriors. These reports provide an evidence-based assessment of compliance with applicable regulatory and statutory requirements. thereby supporting the continued safety, structural integrity, operational functionality and suitabiity of buildings for public use.

Where a new lease application is submitted, it is a requirement that any proposed works, as well as any mandatory works identified during the tenure through proactive inspections or other compliance processes, are addressed. In this context, the Municipal Building Surveyor must carry out an inspection and issue a Certificate of Final Inspection to confirm that the required works have been completed in accordance with the relevant approvals and building legislation. The Certificate of Final Inspection will be coordinated by ARV, however all costs associated with the Certificate of Final Inspection will be borne by the tenant.

Compliance with these requirements is necessary to ensure that buildings meet the applicable standards of occupancy and that ARV's statutory and leasing obligations are satisfied.

Assignment, sub-lease and mortgage

To ensure the objects of the Alpine Resorts (Management) Act are retained and policy objectives achieved, all proposals to assign, sub-lease or mortgage leased land within an alpine resort require the consent of ARV. To inform consideration of such proposals, the following information is required by ARV:

- In the case of proposed assignments, evidence of the financial capacity of the assignee and directors to perform the obligations and responsibilities under the terms of the lease;
- Character references for each assignee and/or director (for head lease transfers only); and
- Copies of all proposed documents, including guarantees where relevant.

ARV should also review information held as a result of building inspections on any site and any other relevant information.

Variation of leases

ARV can consider a variation to an existing lease in limited circumstances. Where a variation is considered warranted by ARV, approval in principle must be sought from the Minister or their delegate, with the submission to include the reasons as to why the variation is required.

All lease variations require the approval of the Minister (or their delegate).

If a proposal for variation of a lease involves substantial or fundamental changes, a surrender of the lease and grant of a new lease is required. Such changes would include but are not restricted to a proposed modification or alteration of:

- the term of the lease;
- the area leased (except where ARV considers the change to be minor, such as a correction to a boundary); and/or
- the purpose of the lease.

Notice of lease expiry

ARV is to provide tenants notice in writing of forthcoming lease expiry at five and three years prior to the lease expiry date. Tenants will be required to confirm in writing receipt of this notice.

End of lease

In the situation where, at the end of the lease term, a tenant neither assigns the lease nor exercises the first right to negotiate, and where the site is not required for resort purposes, the outgoing tenant may be required to remove the improvements on the land at the tenant's own cost. If the improvements are not removed by the outgoing tenant as directed by ARV, they shall become the property of the Crown, and the cost of their removal shall be a debt due by the outgoing tenant to ARV. In this situation, the outgoing tenant shall not be entitled to any compensation by ARV for the value of the tenant's interest in the premises.

Where ARV determines, with the Minister's approval, that any part of a leased site is reasonably required for resort purposes, ARV may give notice to the tenant to cancel the lease, either wholly or in part, and require the tenant to remove all or some of the tenant's improvements. In this situation, the tenant will be entitled to compensation for the value of the tenant's interest in the premises. The process for determining the amount of compensation to be paid is set out in the relevant clause in the standard alpine lease template currently in use.

Overholding

Overholding of leases should be avoided where possible. A lease that is due for expiry should be replaced with a new lease reflecting contemporary lease conditions. Where overholding occurs, it should be for no longer than three months.

Licensing of structures on adjacent land

Where a tenant proposes to construct an asset on adjacent Crown land that is not leased by them, and it is assessed by ARV to be suitable for the site, ARV should consider issuing a licence for the structure under Section 17BAA(1) of the Crown Land (Reserves) Act. This is an appropriate tenure mechanism where the asset is for non-exclusive use, such as a walkway, and can be issued for a term of up to 21 years.

Subdivision of existing sites

Applications for subdivision of existing leasehold sites will require the approval in principle of the Minister or their delegate and will be subject to a public notification process on the ARV website.

Additional land adjacent to existing leased area

Where a tenant applies to lease additional land adjacent to the existing leased area, ARV must consider whether the land has already been identified for public purposes and does not have the capacity to be released as a stand-alone site. Where ARV determines this is not the case, ARV must also consider whether the public benefit of direct allocation outweighs the benefits that may be produced by using a competitive process to select a tenant for the site.

Where ARV determines that increasing the leased area to include the additional, adjacent land via a direct allocation, is warranted, this must be affected through the tenant surrendering the existing lease and the granting of a new lease rather than a variation to the existing lease.

Part 3: Community Use Leases

The following applies only to tenants seeking a new Community Use Lease in accordance with the ARLP.

Step 1 - Assess eligibility

To be eligible for a Community Use Lease, tenants must either be a government agency providing services to the community, or satisfy **all** of the following criteria:

- be a not-for-profit organisation, with the organisation's governing documents containing an appropriate not-for-profit clause; and
- manage the lease primarily for the community; and
- the payment of any dividend or amount to members is prohibited; and
- not provide accommodation at the site except in circumstances agreed with ARV, such as to support the provision of essential services within a resort; and
- meet the compulsory public benefit test such as:
  - social engagement
  - the service is non-discriminatory
  - there are no barriers to participation
  - a demand exists for the service

Organisations such as club lodges are not eligible for a Community Use Lease.

Not-for-profit status

For the purposes of a Community Use Lease, prospective tenants must be:

- considered a not-for-profit under the Australian Charities and Not-for-Profits Commission (ACNC) standard (see https://www.acnc.gov.au/for-charities/start-charity/not-for-profit);
- registered with the ACNC; or
- have deductible gift recipient status endorsed by the Australian Taxation Office.

Evidence

The applicant must provide one of the following as evidence of not-for-profit status:

- a copy of the organisation's governing documents, which must include the following clauses: not-for-profit, dissolution or deductible gift recipient revocation as per the ACNC requirements for demonstrating not-for-profit character (https://www.acnc.gov.au/for-charities/start-charity/not-for-profit); or
- proof of registration with the ACNC; or

- an ABN search indicating the applicant has deductible gift recipient status.

It is acceptable for applicants to rely on the not-for-profit status of an overarching organisation so long as the applicant is genuinely governed by the overarching organisation. For example, an individual scout group may not be registered with the ACNC while The Scout Association of Australia Victorian Branch is.

Community as primary purpose

The primary purpose of a Community Use Lease must be a community purpose, such as:

- community services
- cultural services
- recreational services
- social engagement
- public health and wellbeing services
- protection of public land values
- emergency services
- education services, or
- similar facilities, activities or services.

Tenant-run commercial activities such as a restaurant can only be permitted as an ancillary use, to support the main purpose of the lease. If a restaurant occupies more than 50% of the premises, or, is the most predominant activity conducted in the premises, then the main purpose of the lease is the operation of a restaurant, which is a commercial activity and not a community activity, and therefore ineligible for a community use lease.

Public benefit test

In accordance with the ARLP, all leases must provide public benefits to the community. Community Use Lease tenants must provide evidence demonstrating how a new lease will satisfy at least one of the following public benefit criteria:

A. Increased social engagement

The tenant's use of the leased premises will increase social engagement that will in turn promote health and well-being of the community.

B. Service is non-discriminatory

The service or activity provided through the lease is non-discriminatory: it will be open to all members of the community who meet clearly stated criteria for participation that are directly related to the nature of the service or activity.

If in doubt, the *Equal Opportunity Act 2010* contains a list of the attributes on which discrimination is prohibited. The Act contains a specific section on Discrimination by clubs and club members (Division 6) and exceptions to the discrimination rule where membership can be restricted for:

— minority culture clubs (if the club is to preserve said minority culture);

— political clubs (if the club was established principally for a political purpose);

— clubs for particular age groups (if the club exists principally to provide benefits to that age group, for example, a youth organisation that allows all youth to join regardless of race or sex is non-discriminatory even though the organisation is targeted at youth. However, a youth organisation that excluded youth based on race is discriminatory); or

— single sex clubs (for example Girl Guides excludes boys).

C. No barriers to participation

The service or activity can be accessed by disadvantaged groups, with strategies in place to review and remove any barriers to participation. Disadvantaged groups include but are not limited to people who are: Aboriginal and Torres Strait Islander, women, disabled, from diverse cultural or ethnic backgrounds, children, teenagers, pensioners, low income (people who qualify for a health care card) and the unemployed. For example, the cost of membership might be considered a barrier to participation if the group/organisation does not offer scholarships and reduced fees for low-income people. The affordability of membership could be considered a subjective figure. In essence affordable membership is that which is affordable by anyone wishing to participate.

D. Demand exists for the service

There are reasonable grounds to believe a need or demand exists for the service or activity to be provided through the leased premises.

Step 2 - Assess ancillary revenue raising

Using the information provided in the lease application form, and the definitions outlined below, the following should be assessed:

> Whether there are any ancillary activities that fall under the definition of fundraising or permanent commercial activities

> The capacity to generate profit from the leased site

Fundraising Activities

Fundraising activities are allowed on Community Use Lease sites so long as they:

- are not the predominant (i.e. taking up more than 50% of the premises for more than 50% of the time) use of the leased area
- do not adversely affect the carrying out of the tenant's primary purpose of the lease, and
- do not adversely impact adjoining Crown land.

Fundraising activities refers generally to the activities undertaken by the tenant to raise revenue to assist in delivering of its core functions, supporting maintenance of the facilities, and otherwise furthering its objectives. Fundraising activities that may be permitted through a lease, include but are not limited to:

- fundraising appeals as regulated by the *Fundraising Act 1998*,
- membership subscriptions
- commercial activities that don't permanently occupy the premises such as activities that are offered through a licence
- service provision fees
- donations
- grants; and
- community charitable gaming, such as raffles, bingo, or fundraising events. Gaming activities that don't meet the definition of community charitable gaming under the *Gambling Regulation Act 2003* are not fundraising activities.

Capacity to generate profit

Using the information provided in the lease application form, the applicant's capacity to generate profit from the leased site should be estimated and categorised as follows:

Low capacity to generate profit

For example, if market rent is assessed as $10K and the projected profit for the term of the lease (before paying rent) **is close to or less than the rental amount annually** then the profit-making capacity is low. Profit analysis should include taking away the costs of maintaining the premises and offering services to the community at the site. Make sure applicants fully understand the need to supply projected maintenance and service provision costs with their application.

Medium capacity to generate profit

For example, if market rent is assessed as $10K and the projected profit for the term of the lease (before paying rent) **is between the rental amount and double the rental amount annually** i.e. if the rent is between $10 - $20K annually then the revenue raising capacity is medium. Profit analysis should include taking away the costs of maintaining the premises and offering services to the community at the site.

High capacity to generate profit

For example, if market rent is assessed as $10K and the projected profit for the term of the lease (before paying rent) **is at least double the rental amount annually** ie. if the rent is $20K annually then the profit-making capacity is high. Profit analysis should include taking away the costs of maintaining the premises and offering services to the community at the site.

Step 3 - Determine community use category

The applicable category of Community Use Lease that is to apply should be determined based on the capacity to generate profit and whether any commercial activities will be involved. The Community Use Lease categories are as follows:

Full community use

A full Community Use Lease applies where it is determined that:

> there will be no permanent commercial activities conducted within the leased premises; and

> the applicant has a **low or medium capacity to generate profit** from the use of the leased premises

Mixed use

A mixed use Community Use Lease applies where it is determined that:

> some permanent commercial activities will be conducted within the leased premises; and

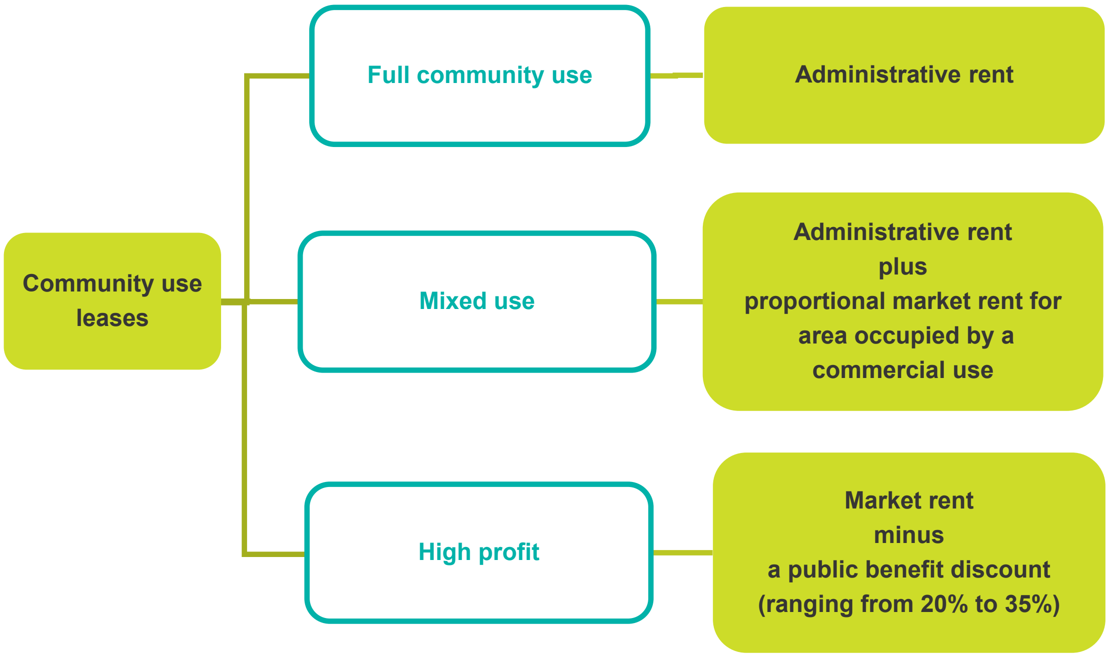
> the applicant has a **low or medium capacity to generate profit** from the use of the leased premises

High profit

A high profit Community Use Lease applies where it is determined that, regardless of the presence or not of permanent commercial activities within the leased premises, the applicant has a **high capacity to generate profit** from the use of the leased premises.

Step 4 - Establish rent

Rental for Community Use Leases is to be determined in accordance with the category of Community Use Lease they fall under, as shown in the following diagram:



Full community use rent

Full community use tenants will pay an administrative rent only. The amount will be reviewed periodically to ensure that it is appropriate and will increase annually at a specified escalation rate.

A market valuation is to be used at lease establishment to inform the Minister of the rent subsidy that the Minister will be providing in applying an administrative rent.

Mixed use rent

Mixed use tenants will pay rent based on the following methodology:

1: The area used by the tenant for its core community services will be valued as full community use i.e. administrative rent.

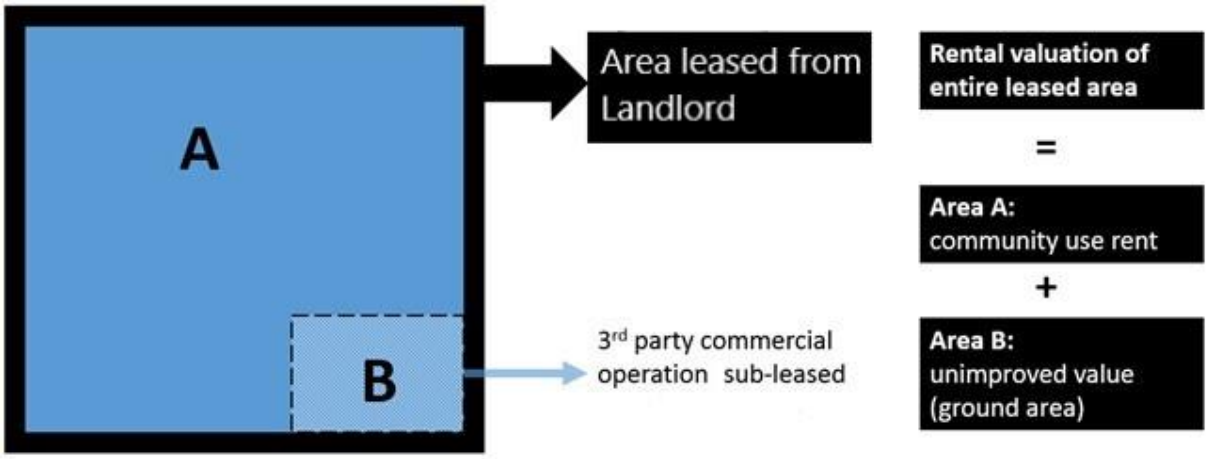
2: The area used for permanent commercial activities will be valued at the unimproved market rent that reflects only the value of the ground, or site, and does not consider the value of any improvements. The VGV can assess the market rent of the entire leased premises or just the market rent of the part of the lease used for commercial purposes. If the VGV assess the whole site then the market rent for the area used for commercial purposes can be calculated by:

- Dividing the market rent for the premises by the number of square metres for the whole premises (for multi storey buildings add the area of all floors together as the area of the whole premises). Then multiplying this figure by the number of square metres occupied by the commercial use.

  For example if the area of the premises is 100 m2 and the area occupied by the commercial use is 25 m2 and the market rent is assessed as $5000 annually then the market rent for the occupied area is:

  (5000 ÷100) × 25 = $1250

3: The values from 1 and 2 are added together to determine the rent for mixed use tenants, as per the following diagram:



High profit rent

High profit tenants will pay market rent minus 20 to 35 per cent discount depending on the public benefits provided through the lease, as outlined below in Table 3.

The commencing discount is 20 per cent (for the provision of public benefits A. B, C and D assessed at Step 1). A further 5 per cent discount may be granted for each of the three other public benefits provided, being, E, F and G as outlined below. Hence, high profit tenants will be granted a 20 to 35 per cent discount from market valuation.

Public Benefit	Part community use discount
A. The tenant's use of the leased premises will increase social engagement and promote health and wellbeing of the community.	*5%*
B. The service or activity provided through the lease is non-discriminatory: it will be open to all members of the community who meet clearly stated criteria for participation that are directly related to the nature of the service or activity.	*5%*
C. The service or activity can be accessed by disadvantaged groups, with strategies in place to review and remove any barriers to participation. Disadvantaged groups include but is not limited to people who are: Aboriginal and Torres Strait Islander, women, disabled, from diverse cultural or ethnic backgrounds, children, religious minorities, LGBT community, teenagers, pensioners and the unemployed.	*5%*
D. There are reasonable grounds to believe a need or demand exists for the service or activity to be provided through the leased premises.	*5%*
E. The use demonstrates multiple use, resource and infrastructure sharing. The tenant is prepared to maximise utilisation of and community access to the facility (including through shared use with other community organisations, consistent with the head lease). The leased premises provide public access to the leased area.	*5%*
F. The proposed uses or activities demonstrate standards over and above legislated and planning requirements, and, the requirements are supported by relevant policies or plans.	*5%*
G. There are expenditures obligated of the tenant on the site or on public land adjoining the site that will benefit the State.	*5%*
Potential total discount	*35%*

Table 3: Calculating rental discount based on public benefit

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Victoria

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