

TENANCY AND LEASING POLICY

Approved September 2018

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1. INTRODUCTION

The Abbotsford Convent Foundation (ACF) Board established the strategic direction for the Convent as:

An entrepreneurial, financially independent, nationally recognised, creative catalyst and a welcoming, open and inclusive place that maximises cultural impact through complementary cultural and commercial activities.

The associated Vision and Purpose is shown below.

<p>The ACF Vision is:</p> <p><i>To be renowned for stimulating engagement and cultural exchange through the wonderful and unexpected curiosities of our people and our place.</i></p>	<p>Our Purpose is:</p> <p><i>To transform people's lives through diverse cultural experiences and the striking landscape of our place</i></p>
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The ACF offers studios within various buildings located throughout the Convent precinct. Leases are offered to individuals and organisations (not for profit or commercial) of various sizes who contribute to the realisation of our vision, purpose and our values.

As the ACF operates with no recurrent Government funding, and is a social/cultural enterprise, rental income from the site's buildings is an essential element of the Abbotsford Convent's ongoing viability and capacity to service our community.

The ACF Tenancy and Leasing Policy ensures that all aspects of leasing operations are undertaken in accordance with the Guidelines contained within this document all legal requirements and are consistent with the site's overall governing documents. This policy applies to all executed leases within the Abbotsford Convent Precinct.

A lease for tenancy within the Convent precinct is an agreement between two parties with no on-going obligation for either party to renew at cessation of the agreed lease period.

This document replaces the original policy that was ratified in February 2011. It is better suited to support the tenant community that has now expanded into a diverse range of tenants including large arts, learning and cultural organisations, hospitality outlets, commercial entities, creative practitioners and a Wellbeing Wing and reflects the most recent ACF business plan.

[Abbotsford Convent Foundation Business Plan 2017-2022](#)

2. POLICY STATEMENT

The ACF Tenancy and Leasing Policy aims to provide clear documented processes in relation to the selection of tenants, lease renewals and lease conditions in support of the Tenancy Vision.

The Policy is supported by the following principles:

- i) The selection of tenants is determined by the ACF at its absolute discretion.
- ii) All tenancies will be consistent with and contribute to the long-term vision of the precinct.
- iii) No person or organisation has an automatic right to be a tenant at the Convent.
- iv) The level of rent is determined by the ACF in its absolute discretion.
- v) All tenants must have current and appropriate lease documents in place.
- vi) Diversity within the tenant community is encouraged.

This policy does not cover Management Agreements, Hire Agreements, Occupation Licences or similar such arrangements which may from time to time be entered into with individuals or organisations that provide services to or are granted access (licence) to facilities within the Abbotsford Convent precinct.

3. TYPES OF TENANCIES

To pursue its aim of being a diverse arts, cultural and learning site there is a need to include various tenancy types at the Convent. The applicable tenancy types aligned to our vision are:

3.1 Creative Practitioners

Solo or group practitioners of arts, crafts and other creative pursuits. Each practitioner may have a commercial/retail component to their activities without being deemed to be primarily commercial such as artists selling their works, writers publishing or creative practitioners conducting classes.

3.2 Arts & Cultural Organisations

Organisations that engage directly or support artistic and creative and cultural activities including representative bodies.

3.3. Wellbeing Wing

Practitioners of alternative and mainstream wellbeing and healing disciplines. These tenants form part of WellBeing at the Convent and operate a collective for establishing standards for their wing.

3.4. Aligned Commercial

Commercial entities, individuals or businesses that carry out activities that whilst consistent with the Master Plan and Tenancy Vision, are primarily engaged in operating a commercial business. This includes creative professions such as commercial designers and architects.

3.5. Hospitality Businesses

Individuals or organisations that occupy one of the Convent's hospitality locations. Specific guidelines exist in this area within the [ACF Hospitality Policy](#).

3.6. Learning and Educational Organisations

Organisations that have a focus on education and training.

3.7 Other Tenancy Types

The Convent will consider the inclusion of other organisation types coinciding with the needs and vision of the precinct as it evolves.

4. TENANCY ASSESSMENT GUIDELINES

In assessing any new or continued tenancy, the ACF will refer to the Tenant Assessment Guidelines below which directly relate to our overall Vision for the site, our the aligned Values and the strategic areas of priority necessary to achieve this Vision.

4.1. Coherency and compatibility with the Precinct Vision

The ACF will ensure that the activities of all tenants contributes to the achievement of the Tenancy Vision and long term aims of the precinct. Tenant activities must contribute to the developing the cultural capital of the Convent community including a clear connection to the core focus areas of arts, culture, learning, hospitality and wellbeing or other approved focus areas as they develop.

Where all other weightings are equal the ACF will give priority to applicants who add diversity to the core tenancy focus areas. Priority will also be given to those bringing new audiences to the Convent and those who provide opportunities for site activation.

4.2. Community Contribution and Interaction

Tenants are expected to positively contribute to the Convent community. Depending on the nature of the tenancy this could be demonstrated by:

- Community spirit, inclusiveness and respect for others (including Convent visitors and the ACF team)
- Contribution to the precinct and general community via innovation and collaboration with others on site
- Positive interactions and collaborations with ACF staff, volunteers, interns and other representatives
- Level of public interface, community engagement and audience development
- Capacity and willingness to participate in precinct wide events
- Capacity to attract and engage with visitors, including studio opening hours
- Relevant feedback from fellow tenants, local or statutory authorities, ACF stakeholders or audiences.
- Adherence to the Building and Precinct Rules.
- Abiding by the principle of no harm including to others within the community and to the Convent's property.

4.3. Frequency of Usage

As there are a limited number of studios at the Convent with high demand, it is expected that tenants make continued and frequent use of their studios.

4.4. High Standard of Practice

Tenants should demonstrate a high standard in their field of practice, as well as innovation and excellence that reflects positively on the Convent community's reputation or contributes to the Abbotsford Convent community connectedness and the vision for the site.

4.5. Permitted Usage & Fit for purpose

Permitted usage for studios will vary from building to building and room to room. Tenants will be assessed on the suitability of their proposed activity within the nominated tenancy. This assessment includes

- That the usage fits with the prescribed facilities of the studio.
- Usage fits with the designated usage of the studio, building and area of the precinct.
- Activity is appropriate to the heritage building's form and configuration.
- Activity is appropriate to surrounding tenancies and areas.

To ensure suitability all applicants who have viewed the studio and met with a member of the ACF team to discuss their requirement prior to the closing date for applications will be prioritised. Under no circumstances can an offer be made for a studio that has not been viewed by an applicant.

4.6. Precinct and Neighbourhood Impacts

Tenants are to be respectful of the impacts of their operations on members of the Convent precinct and the local neighbourhood and will be assessed on:

- Hours of operation – compatibility with the opening times of the precinct and the neighbourhood.
- Traffic and infrastructure impact (including number of users, employees, transport, car parking).
- Requirements for power, water, utilities, other facilities, health and safety and fire considerations.
- Environmental impact (including noise, vibration, power use, dust and other impacts)
- Impact to overall site – size, scale and significance of operation.

4.7. Financial Capacity

Tenants are required to satisfy the ACF that they are able to meet their initial and ongoing financial commitments as required through their lease at the Convent. Applicants who rely on the public to support their enterprise are required to clearly demonstrate how they will attract sufficient visitors to their business to ensure its future viability. Applicants relying on funding support are required to demonstrate such support. Requests for annual reports and accountant or other referees may be made by the ACF to ascertain financial capacity.

4.8 Other

Tenancy applications will be considered, where relevant, according to effective governance that is in alignment with the Convent's core values, general strategic direction and professionalism as well as adherence to energy, waste management, universal access and Environmentally Sustainable Development (ESD) principles where relevant.

Different weightings may be applied to criteria when assessing applications for various studio; however each competing application for a studio will be assessed using consistent weightings across selection criteria for the studio.

5. LEASE RENEWAL PROCESS

5.1 Principles for Lease Renewals

The following principles apply to all Lease renewals

- a) An existing tenant does not have an automatic right to have their lease renewed other than in those leases that contain an option to renew.
- b) Any new lease offered to an existing tenant will be done so under the terms and conditions prevailing at the time of the new lease.
- c) Any new lease offered will be at the rental amount per square meter applicable at the time of the new lease, with the previous lease terms having no relevance to the determination of the new rental amount.

5.2 Non Renewal by either party

In all circumstances, both the tenant and the ACF have the absolute discretion to not renew any lease upon its expiry. Notification of the intention not to renew is to be given to the other party no later than one month in advance of the lease expiry date unless different obligations exist within the current lease.

The notification period for non-renewal of Retail Leases is determined as per the Retail Tenancies Act and is currently at least 6 months prior to the lease expiry date.

5.3 Lease Renewal Process

A tenant requesting a lease renewal must advise the ACF in writing no later than 8 weeks prior to the end of their current lease date by completing a [Tenancy Renewal Request Form](#).

A meeting will be scheduled with the tenant by the ACF Tenancy team to review and consider the request and discuss applicable lease terms. The ACF will notify the outcome within two weeks of the meeting. The ACF reserves the right under all circumstances to call for Expressions of Interest for a particular studio prior to the end of the lease term.

In the case of all Retail Leases the ACF Tenancy team will contact the tenant 8 months prior to the lease expiry date to initiate the renewal process.

5.4 Criteria for Renewal

The Tenancy Assessment Guidelines (section 4) applies to all existing tenants seeking a further term to ensure the ongoing alignment to the ACF Vision. This may include updating or resubmitting information if requested. The ACF reserves the right to consider additional criteria from time to time in making its determination.

5.5 Exercising of Options

The exercising of options within existing leases will be as per the conditions and timeframes specified within the respective leases and the Retail Tenancies Act where applicable.

6. NEW TENANT PROCESS

6.1 Advertising of Available Spaces

Where practical, all vacancies will be advertised however some vacancies could be filled by utilising an application process already underway. A new application or submission of a previous application is necessary to be considered for a newly advertised space. All new tenancies will be assessed independently to previous applications. Under no circumstances will the ACF keep a waiting list to fill future tenancies.

6.2 Application Process

All applications for new tenancies will be via submission of the [ACF Tenancy Application Form](#) and must contain the mandatory information required for assessment against the [ACF Tenant Selection Criteria](#). Additional information and processes may be involved for specialist opportunities or strategic locations.

The ACF reserves the right to apply the most appropriate criteria for each tenancy as vacancies arise or develop.

6.3 Selection Committee

A Selection Committee comprising of at least three ACF employees (including senior management) will assess all tenancy applications. In cases of lease lengths over 5 years in duration the ACF Board will be the approving authority and for cases of over 10 years the State government are the approving authority (refer Section 7.2).

6.4 Assessment Criteria

The Tenancy Assessment Criteria will be used to identify the most appropriate tenant according to the type of tenancy available. Where the Selection Committee cannot select a suitable tenant for a vacancy, it can at its absolute discretion, readvertise the vacancy as many times as required. .

6.5 Unsuccessful Applicants

Unsuccessful applicants will be notified by email. Whilst all applicants may inquire as to the outcome of their specific application the ACF is under no obligation to provide feedback as to why an application was unsuccessful.

6.6 Offers for tenancy

The ACF will notify successful applicants by phone followed by a written confirmation including the terms of the tenancy offer. Written acceptance of this offer needs to be received by the ACF no later than 3 days after the written offer is made, unless otherwise stated or agreed. Where offers are not accepted within the requested or agreed timeframe, the ACF reserves the right to readvertise or offer the tenancy to other applicants.

Once offer terms are agreed a formal lease document will be sent to the tenant for review and must be returned and signed within 4 days, unless otherwise stated or agreed. If the lease is not accepted within the requested 4 days from notification or within the agreed timeframe, the ACF reserves the right to readvertise or offer the tenancy to other applicants.

7. LEASE TERMS & CONDITIONS

7.1 Lease Requirements

a) Acceptance of Precinct Rules

Tenants must agree to abide by and actively support the Precinct Rules at all times as the Precinct Rules are a binding part of all leases and therefore a contractual obligation.

b) No Harm

Provisions within the lease and the Precinct Rules include the obligation that Tenants must agree not to engage in any activity that is;

- i. Damaging to the physical infrastructure of the buildings or grounds.
- ii. Harmful to or disruptive to other tenants and the general public
- iii. Places other tenants, the ACF team or the public at risk.
- iv. Is harmful to the reputation of other tenants or the ACF.
- v. Unlawful (i.e. to governing laws of Victoria).

7.2 Lease Length and associated approval processes

All leases will be for a minimum of 12 months. In some instances short term agreements will be entered into for tenancies of a short term nature with designated short term outcomes that are aligned to programming and tenancy initiatives.

Factors to be considered in determining the lease length will include:

- The type and size of the tenancy.
- The ongoing use of the building/area
- The operational requirements of the ACF, including future planning for building restorations and on-going maintenance
- Potential impact on surrounding tenants
- Capital contributions offered to develop the tenancy area

As per the ACF's Deed the following approval matrix applies to length of leases.

Lease Length	Approval Level
Up to 5 years	Senior ACF Management
6 – 10 years	ACF Board
10 Years +	ACF Board and the Victorian Treasurer

a) Retail Leases

The activities of some tenants will be covered by the Retail Tenancies Act and require that a five year lease term be offered along with the appropriate disclosure and notification provisions. Tenants have the ability to reduce the lease length if required through signing the appropriate waiver obtainable from the Small Business Commission.

b) Leases between 6-10 years

Longer term leases may be offered where a significant initial investment in fit out is required by the tenant and/or they are deemed to be strategically important in achieving the long term success of the ACF's vision. After the usual selection process, approval by the ACF Board of the tenant selection recommendation is required for any lease of or greater than five years (including all option terms).

c) Leases of 10 years or over.

This type of lease is considered in exceptional circumstances, where the tenant is deemed to be fundamental to the aims and aspirations of the precinct at a given time, in accordance with the [Convent Master Plan](#) and ACF Vision.

Any lease of or exceeding a ten year period (including all option terms) requires a formal application process. Once it is established that the application fulfils the obligations within the ACF deed and all selection criteria, the ACF will recommend the tenancy be considered by the Board for approval. The Board, at its absolute discretion, will then determine whether to offer a lease of up to ten years or recommend the application to the relevant State Government Minister (Dept of Treasury and Finance) who acts as the ultimate approval authority in the case of leases of more than ten years duration.

Any decisions by the ACF Board and/or State Government Minister are final and binding.

7.3 Lease Rates

All lease rates are determined by the ACF in its absolute discretion. In determining rental rates the ACF takes into account:

- comparable market rentals
- studio type and size
- amenity and permitted usage of studio
- value generated by the tenancies through other activities including on site programming and audience engagement.
- the on-going operational costs of the precinct
- tenant's contribution to fit-out
- tenants funding sources

All leases will be subject to an annual increase based on one of three methods being CPI, fixed amount by percentage or dollar value and in some circumstances a market review. The method of increase will be stated in the lease schedule.

7.4 Sub-Lease Agreements

Where permitted in their lease, tenants are able to sub-lease their premises but must obtain approval from the ACF. The ACF assess the sub-tenancy request based on the proposed permitted usage to ensure consistency with that contained within the lease. All subtenants must also fulfil the assessment criteria for the tenancy.

In circumstances where the proposed sub-tenant will be an equal or the major user of the space then a shared lease agreement is recommended.*

**Note for internal review only: The ACF subtenancy policy and process is currently in development stage following consultation with our lawyers. Further information will be inserted here along with a reference to the document once completed.*

7.5 Security Bonds

In general, a security Bond of two months rental (excluding GST) will apply to all leases. These funds will be held by the ACF and returned to the tenant at the end of the tenure pending the outcome of the exit inspection and a review of any outstanding debts owing to the ACF. Bond amounts may be required to be topped up from time to time to maintain the necessary two months rental level.

7.6 Lease lines

A map outlining the boundaries and locations of each tenancy is provided with the lease documentation. All leases with the ACF relate to a specific space. The tenancy cannot exceed prescribed lease lines under any circumstance without formal agreement being made with the ACF.

7.7 WellBeing Wing

All practitioners of alternative wellbeing and healing disciplines reside in the Convent WellBeing Wing. Specific terms and conditions have been developed with the WellBeing Wing that apply to WellBeing Wing leases and to the selection process for WellBeing studios. This information is contained within the ACF's WellBeing Policy.

These specific WellBeing policies are voluntary and are in addition to ACF Tenancy policies.