

Application to Lease - Commercial

3EC

Please refer to the 'Form 3ER – Application to Lease Residential' for residential tenancies. The 'Form 3EC – Application to Lease Commercial' is to be completed when a Responsible Body is seeking to lease a property to be used for non-residential purposes eg **Commercial, Retail, Church, Op Shop**. This form also covers **Assignment of Lease, License Agreements for terms longer than 12 months and Memorandums of Understanding (MOUs)**.

Where the proposed lease is for a property that has never previously been commercially let by the UCA or where ESMs or an asbestos register have not been completed for the property; this form is to be completed AFTER a 'Form 1 - Getting Started' and a Pre-Application Meeting has been held.

Please note, no individual is able to commit to lease terms when negotiating with a potential tenant/landlord. All negotiated terms are subject to approval by Presbytery and the Synod Property and Operations Committee or its delegate.

Print and complete form by hand or electronically using ONLY Adobe software, available free at <https://acrobat.adobe.com/au/en/acrobat/pdf-reader.html>

Additional information: www.victas.uca.org.au/resources/property/ , property@victas.uca.org.au , Ph: (03) 9116 1956.

RESPONSIBLE BODY & AGREEMENT TYPE

If you require more space for your answers, please attach additional pages to this form

1. RESPONSIBLE BODY

Responsible Body Name			
Discernment Partner/ Presbytery			
Contact Person			
Position			
Email			
Phone	Ph	Mobile	
Address (Postal)			

2. CHECKLIST – APPROVALS AND ATTACHMENTS

Prepare and Sign Form 3EC - Application to Lease (Commercial) by Church Council/ Responsible Body Board

Signed Form 3EC - Application to Lease (Commercial) by Presbytery/ Authorising Body

Attach the Appendix Checklist Renting out a Commercial Property

3. PURPOSE OF APPLICATION

Is this an application for renewal/exercise of option?	Yes	Go to Section B
Is this an application for Assignment of a current lease?	Yes	Go to Section C
Is the Responsible Body the tenant?	Yes	Go to Section A (not all Qs applicable)
Is this an application for a new lease?	Yes	Go to Section A

SECTION A: NEW LEASE

4. PROPERTY FOR LEASE & AGREEMENT TYPE

Property Address			
Name of property (if applicable)			
Land details - Volume Folio			
Lettable area of premises (in square metres)			
<i>If applicable</i>	Total no. car parks	No. for tenant	No. for tenant customers

ATTACH a plan showing the leased area (if not whole of title)

Type of property	Shop	Kindergarten	Car park	Hall	Offices
	Dwelling	(no. of bedrooms)	Other		
List Landlord's installations (eg air conditioner)					
List Tenant's installations					
Agreement type	Lease	License Agreement	MOU	Ground Lease	
	Sub Lease	Sub Licence Agreement	Other (advise)		
Will the agreement be for	Retail	Commercial	Unsure		

5. PERMITTED USE

Current permitted use for the property under the <u>building code classification</u> and <u>town planning act</u>				
Proposed permitted use				
If there is a proposed change to permitted use, has a building surveyor and/or town planner been engaged as to the compliance of the building and the intended use? eg using a residential house for retail or office purposes	Yes	No	N/A No Change	
ATTACH Building Surveyor report regarding compliance of the building and the intended use (if applicable)				
Is the building subject to any Heritage Overlays?	Yes	No	If Yes, Council & HO #:	
If yes, is the intended use in line with the Heritage Overlay? (Note: a Heritage Overlay (HO) may impact or restrict building use)	Yes	No	N/A No HO	
For more information https://www.business.vic.gov.au/setting-up-a-business/location-and-set-up-premises/business-permits-zoning-and-approvals				

6. RENT

Proposed Rental	\$	per week	per month	p.a.
Market Rental Value	\$	per week	per month	p.a.
Please ATTACH 2X market rent appraisals by licensed real estate agents (within the last 30 days) this should cover their rent appraisal, management fee and marketing costs.				
Advise reason if rent is less than market				

7. OTHER LEASE TERMS *These are typical terms that will inform the preparation of your agreement*

Building outgoings which the tenant must pay or reimburse to the landlord (if proportion please advise)

NOTE: In Victoria a landlord under a retail lease can pass on the costs of repairing and maintaining **essential safety measures (ESM)**, and the costs of installing ESM as part of a fit-out, to their tenant as outgoings, though only where the tenant's lease and disclosure statement or annual estimate of outgoings enables them to do so.

<https://www.vsbv.vic.gov.au/your-rights-and-responsibilities/essential-safety-measures-who-should-pay-for-them/>

Proposed lease term		
Retail tenants have a right to a 5 year lease. Retail premises are defined as premises which are wholly or predominantly used for the sale or hire of goods by retail or the retail provision of services. To waive the right to a five-year term, Victorian tenants must apply to the Victorian Small Business Commission (VSBC) for a five-year waiver certificate; Tasmanian tenants must obtain a certificate from a legal advisor certifying that the legal advisor has explained the effect of a reduced lease period.		
Will the tenant be for a five-year waiver certificate?	Yes	No
Commencement date		
Advise reason if lease already commenced		N/A
For retail leases in Victoria a disclosure statement and draft lease is to be provided 14 days prior to the commencement of the lease. In Tasmania the disclosure statement must be provided to the tenant at least 7 days before entering into the lease and the landlord must give the tenant a copy of the proposed lease as soon as practicable after entering into negotiations.		
Options		
Rent reviews	Market	Annual
<i>Eg Market review at options, annual CPI/ fixed %</i>		
Security Deposit		
Who is holding the Security Deposit		
Who is preparing the lease/ license / MOU <i>(Note: Synod Legal Services fees apply for preparation of lease or review of third party leases)</i>		
Who is responsible for maintenance		
Redevelopment or exit clause		
Special Conditions to be included in the Lease (if applicable)		
Proposed tenant(s), if known		
Proposed tenant trading name (if applicable)		
If the proposed tenant is known, ATTACH documentation to support that the tenant has sufficient financial resources or business experience to meet the obligations under the lease.		
Guarantor		
<i>If the building is to be leased commercially and exceeds 1000 sqm please contact Property Services to discuss obligations under legislation regarding climate efficiency property@victas.uca.org.au</i>		
If Responsible Body is the tenant, please proceed to Question 11		

8. LAND TAX/ COUNCIL RATES

In Victoria land which is NOT exclusively used "as a residence of a practising Minister of religion" or exclusively for charitable purposes (including the advancement of religion) is liable for council rates and land tax. In Tasmania, land which is owned by a religious denomination or religious society and NOT used for related purposes is liable for land tax, council rates are subject to each Council's charitable purposes rates exemption policies.

In the first instance, please contact Property Services, (03) 9116 1956, to understand annual council rates and land tax liabilities as a result of leasing this property. Please do not contact the State Revenue Office (SRO) or your local council direct to discuss.

In Victoria to estimate land tax liability <https://www.e-business.sro.vic.gov.au/calculators/land-tax>

In Tasmania to estimate land tax liability <https://www.sro.tas.gov.au/land-tax/land-tax-calculator>

Has Property Services been contacted to discuss Council Rates/Land Tax?	Yes	No
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9. PROPERTY MANAGEMENT – please complete either 9a OR 9b as applicable

9a. Please provide details of the proposed real estate agent who will manage the property

Agency Firm		Agent Name	
Phone/Mobile		Email	
Agency commission	%	Advertising Budget	

Please forward the 'Leasing and Managing Authority' to Property Services for signing by the Property Trust AFTER the lease is APPROVED. **Please proceed to Question 10**

9b. Property will NOT be managed by agent and will be managed by the following

Name		Position	
Phone/Mobile		Email	

Please outline reason agent has not been engaged, how will security deposit and rent increase be managed, how will rent arrears and property damage be handled in the event it occurs (Note: It is recommended an agent be engaged)

10. LEASE INCOME AND EXPENSES

Please provide details of estimated rental income and expenditure

Property Services recommends that an allowance of \$4000 or 20% (the greater of the two) be set aside each year to an accumulating maintenance/sinking fund.

Gross Rental Income per annum excluding GST	\$
Less costs:	
• Insurance	\$
• Rates	\$
• Land tax	\$
• Water	\$
• Annual maintenance provision (routine maintenance)	\$
• Maintenance sinking fund	\$
• Other costs	\$
• Agent's costs	\$
Net Rental Income	\$

What will the net rental income be used for?:

Please proceed to Question 16; or 12 if MOU/Licence

11. IF RESPONSIBLE BODY IS THE TENANT/LESSEE/ LICENSEE

Please detail ability to service rent and outgoings

Gross Rental	\$
Gross Outgoings	
• Insurance	\$
• Maintenance costs (eg painting)	\$
• Electricity/Gas/Telephone/Internet/ Water usage	\$
• Essential Safety Measures	\$

How will these costs be covered

If by a grant, does it cover term of lease

If there are any proposed fit out works that require a permit, please **ATTACH** a Form 3H – Application to Build **ATTACH** financial information (if not previously submitted): Most recent audited financial statement, Current year budget, Balance sheet/List of available financial resources, 5 year budget/ cash flow (if available)

12. IF PROPOSAL IS LICENSE AGREEMENT OR MOU

What access is provided to the property	
What are the defined areas	
Who will pay for cleaning	
Who will pay for insurance	

Has a draft MOU been discussed? Please attach minutes of discussions/documents

SECTION B: RENEWAL/EXERCISE OF OPTION

Complete 13a or 13b as applicable

In Victoria the process for the exercise of options has changed.

The landlord must notify the tenant in writing, no later than three months before the date that the option is no longer valid, of:

- the date by which the option to renew the lease can be exercised
- the rent payable for the first 12 months of the renewed lease
- the availability of an early rent review
- the availability of a cooling off period
- any changes to the most recent disclosure statement provided to the tenant other than any changes in relation to rent

the date by which the option can be exercised will be specified in the lease.

<https://www.vsbcc.vic.gov.au/your-rights-and-responsibilities/options-and-renewals-for-retail-leases/>

13a. RENEWAL/EXERCISE OF OPTION WHERE RESPONSIBLE BODY IS THE LANDLORD

ATTACH a copy of the current lease.

Please complete this section 9 months prior to the end of the current term to allow adequate time for the correct notice to be prepared for the tenant and to assess what the value of the new rent should be.

If available, Synod Ref No./ App No. for previously approved lease (refer to Approval Letter)

Tenant name to be on the renewed lease - should be same as current

(Please note that any change of name/entity of the tenant is an assignment, please complete Section C)

Current rent		Proposed rent for the further term	
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Who will be preparing the notice to the tenant, eg Agent or Synod Legal Services

Has a rent review been completed in line with the lease, please give details

If rent is currently below market, please complete **Question 6 RENT**.

Are there any proposed variations to the lease?

(Please note variations may require a new approval – please contact Property Services for advice 9116 1956).

13b. RENEWAL/EXERCISE OF OPTION WHERE RESPONSIBLE BODY IS THE TENANT

ATTACH a copy of the current lease. **ATTACH** Landlord's letter advising of the option

If available, Synod Ref No./ App No. for previously approved lease (refer to Approval Letter)

Current rent		Proposed rent for the further term	
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Has a rent review been completed in line with the lease, please give details

Please complete Question 11 to demonstrate ability to service rent and outgoings for the duration of the further term.

Are there any proposed variations to the lease?

(Please note variations may require a new approval – please contact Property Services for advice 9116 1956).

SECTION C: ASSIGNMENT OF LEASE

14. ASSIGNMENT

ATTACH a copy of the current lease. **ATTACH** correspondence from the tenant outlining the reason for the assignment request.

Synod Ref No./ App No. for previously approved lease (refer to Approval Letter) (if available)

Please advise the clause in the current lease that outlines the Assignment process

As per above mentioned lease clause, **ATTACH** copies of supporting documentation, including financial evidence regarding the proposed new tenant.

SECTION D: Property under oversight

15. PROPERTY UNDER OVERSIGHT OF RESPONSIBLE BODY

Please list all property under the oversight of the applicant (eg manses, churches, vacant land, shops etc)

SECTION E: Approvals & Authorising Body Comment

Responsible Body Approval

Responsible Body Name:		
Details of Approval:		
At a meeting held on _____ (date), this application was approved by the:		
Church Council	Congregation	Other
Signed*:		Signed*:
Date:		Date:
Name:		Name:
Position:		Position:

Presbytery/ Authorising Body Approval

Presbytery/Authorising body:			
Details of Approval:			
At a meeting held on _____ (date), this application was approved by the:			
Presbytery:	Standing Committee:	Delegated Committee:	Other:
Signed*:		Signed*:	
Date:		Date:	
Name:		Name:	
Position:		Position:	

Comment from Presbytery/ Authorising Body

Provide comment and/or list reasons application supported/not supported. **Please do not leave blank.**

* Insert image of signature or print, sign and scan. Insertion of Adobe electronic signature will lock form from future edits

REQUIREMENTS FOR RENTING A COMMERCIAL PROPERTY

Renting properties on the commercial market comes with a number of obligations as a landlord. Apart from the legal requirements, as a property of the Uniting Church we have an expectation to uphold a consistent standard of property across the Synod.

The following checklist has been developed in line with the relevant legislation as applicable to Victoria and Tasmania. This legislation includes:

- Victorian Retail Leases Act 2003
- Retail Leases Regulations 2013
- Victorian Building Act 1983
- Victorian Building Regulations 2018
- Victorian Occupational Health and Safety Act 2004
- Tasmanian Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998
- Tasmanian Building Act 2016
- Tasmanian Work Health and Safety Act 2012
- National Construction Code - NCC (formerly known as the Building Code of Australia)

APPENDIX: CHECKLIST - RENTING OUT A COMMERCIAL PROPERTY

ATTACH the following	ATTACHED	
	YES	NO
Agents Appraisal <i>2 x Independent Real Estate Agent market rent appraisals (within 30 days) also covering their proposed leasing commission, marketing costs and management fee (n/a if lease renewal)</i>		
Plan showing the leased area (if not whole of title)		
Copy of Current Lease <i>If renewal or assignment only</i>	N/A	
ESM - Essential Safety Measures annual report ¹ VIC - https://www.vba.vic.gov.au/consumers/guides/essential-safety-measures TAS - https://cbos.tas.gov.au/topics/technical-regulation/building-standards/building-practitioners/building-maintenance A recent ESM Annual Report is to be completed and issued within 12 months by a registered building surveyor or a registered Fire Services/ESM contractor. This will also involve regular servicing by contractors (1. Registered Electrical Contractor for emergency and exit lighting 2. Fire technician for extinguisher, hydrant and hose testing 3. HVAC technicians for heating/cooling/ventilation). The ESM remains the landlord's responsibility and the responsibility cannot be passed onto the tenant although the maintenance may be passed by agreement. The cost can be passed to the tenant in Victoria.		
Asbestos register and Asbestos Management Plan ¹ The Division 5 (hazards/asbestos) report must be completed and made available on the premises. Where asbestos has been identified or assumed present an Asbestos Management Plan is also required. The Asbestos Register and Management Plan are to be reviewed every 5 years. VIC - https://www.asbestos.vic.gov.au/in-the-workplace/commercial-property-owners/manage TAS - https://worksafe.tas.gov.au/topics/laws-and-compliance/codes-of-practice/cop-folder/how-to-manage-and-control-asbestos-in-the-workplace		
OHS Audit ² <i>OHS audit report (within the last 12 months) conducted for the premises by the Synod OHS team (if available)</i>		
Building Surveyor report regarding change of use <i>When a building surveyor or town planner has been engaged as to the compliance of the building and the intended use.</i>	N/A	
Tenant financial information & business experience <i>New tenant or if an assignment, documentation should be supplied to support that the tenant has sufficient financial resources or business experience to meet the obligations under the lease. Not required for renewals/exercise of option.</i>		
Outgoings statement <i>this is a statement of the property operating costs and levies (council rates, insurances, body corporate fees, shared service costs)</i>		
Financial information (if not previously submitted) <i>Most recent audited financial statement, Current year budget, Balance sheet/List of available financial resources, 5 year budget/ cash flow</i>		
Maintenance Plan ² <i>For 5 years and 10 years (if available)</i>		
Property Asset Plan ² <i>Medium to long term (if available)</i>		
NABERS Energy Star Rating (applicable ONLY to buildings over 1000m ²)	N/A	
CONFIRM the following	CONFIRM	
	YES	NO
Condition of property <i>Is the property maintained, structurally sound and water tight (the property must be safe for all occupants)</i>		
Drainage ² <i>Is the building drainage and sewage in good working order, which does not present any water leaks and undermine the building footings? A camera inspection is recommended every 5 years.</i>		
Insurance <i>Are the Synod Insurance premiums up to date.</i>		