

# Policy: Commercial operations on ANU campuses

## Purpose

To provide a policy framework for the strategic development and ongoing management of commercial activity space on ANU campuses.

## Overview

An overview of the policy, including any background information that provides context to the policy determination. This section should include definitions where that is necessary for the purposes of clarity.

## Scope

This policy covers commercial activities and services on ANU campuses and other arrangements with non-University organisations. Coverage includes, but is not limited to:

- activities related to or derived from the University's academic objectives, eg. tenants of the Innovations Building; leasing/licensing of space on the campus by cognate organisations such as the CSIRO and the Academies of the Social Sciences and Humanities;
- commercial services for the University community, eg. banks, pharmacy, bookshop;
- short term leasing/licensing of space (including space in the Information Commons) for conferences, presentations and similar activities; and
- other non-University organisations offering a service to the campus community at a fee, eg. child care centres.

This policy does not extend to the management of University Accommodation, including University House, Halls of Residence and other residential accommodation. These will be managed under separate legislation, and University policies and procedures. This policy also excludes leasing arrangements associated with University investment properties.

From time to time, the University may elect to establish commercial partnerships with external organisations for the provision of services or facilities (for example,

BOOT schemes). These arrangements will be established in accordance with the relevant financial and purchasing policies. They will not be subject to the provisions of this policy dealing with the terms of leases/licences.

The Director, Facilities and Services will review all commercial partnerships to ensure the proposed development does not breach the ANU Act or Lease Purposes or arrangements entered into with other parties.

The term commercial activities does not necessarily restrict itself to those arrangements that produce a rent. The defining characteristics are that commercial activities are those charging a fee for the service or that are engaged in commercial activities.

## Policy Statement

### Principles

1. The University is a large community with diverse needs. Commercial activities are established on campuses to service those needs.
2. The principles applied to the development and management of commercial activities are:
  - all activities on ANU campuses have to be consistent with the ANU Act, the purposes set out in the University's various leases (through which it acquires its land) (the Lease Purposes) and the applicable State/Territory leasing/licensing legislation;
  - the decision to rent any space owned by the University on its campuses must be made by the relevant delegate, who is also responsible for approving the rent charged;
  - all commercial activities are subject to Central direction and control given that all space on ANU campuses is University space and not space owned by individual components/areas of the University;
  - leasing/licensing of space will be subject to an assessment of the University's own needs, which will take priority.
3. Rents charged by the University take into account the nature of the service provided and the organisation concerned. Activities operating in a normal commercial market such as banks, pharmacy, etc. would pay a market rent.

## **Practices**

### **Strategic planning for commercial activity space**

4. The development of commercial operations needs to be synchronized with the growth of the campus community. The Director, Facilities and Services and the CFO/Director, Finance and Business Services, in consultation with other relevant University management, will develop a 5 year Strategic Development Plan that will be updated annually. The Plan will be reviewed by the Campus Planning and Development Committee and approved by the Vice-Chancellor.

### **Use of existing space**

5. The commercial use of space falls into two broad categories:

- longer term leasing/licensing of University facilities; and
- short-term hire of facilities (such as lecture theatres, teaching facilities etc).

### **Long-term leasing/licensing**

6. The leasing/licensing of University space is subject to approval by the relevant delegate/s (Director, Facilities and Services and the CFO/Director, Finance and Business Services). In approving any arrangements, the delegate/s will confirm that the request is consistent with the principles detailed in this policy; is in alignment with the current Strategic Development Plan; does not contravene the ANU Act and Lease Purposes; is consistent with State/Territory leasing/licensing legislation; and is compatible with the achievement of the University's academic goals and/or community needs.

7. Space can only be used for commercial purposes where the Director, Facilities and Services agrees that the proposed purpose for the space usage benefits the University and that there is no higher priority for the use of the space.

8. The University reserves the right to veto any activity or arrangement which it considers inappropriate, at variance with the applicable Lease Purposes or contrary to any arrangement it has with another party.

9. Establishing leases/licences: All space let to external parties must be evidenced by a formal lease/licence agreement between the University and the lessee/licensee. The CFO/Director, Finance and Business Services, in consultation with Director, Facilities and Services will develop the lease/licence. As part of this process, advice will be sought from the University Legal Office as required.

10. In developing the lease/licence the following issues will be considered:

- the duration of a lease/licence is not to exceed five years in total, (i.e. it should not have options for extension that mean the total term of the lease/licence exceeds five years) unless there is a business case for a longer term. Any longer term must not exceed 20 years, unless approved by Council;
- the lease/licence must provide appropriate termination clauses to allow the University to reclaim space where a higher priority for the use of the space is identified. (Note: termination will require reasonable notice to be given to the lessee/licensee. As a general rule, at least 90 days should be given);
- the determination of rental charges is, as far as is reasonable, to be consistent with market rates for similar commercial premises. Cognisance must be given to Commonwealth Competitive Neutrality Guidelines and Commonwealth Cost Recovery Guidelines when setting rental rates, unless there is a business case not to do so. Rental charges are to cover all costs associated with the administration and property management of the leased/licensed space e.g. lease/licence administration, site maintenance, security and grounds management;
- any decision to change the terms of a lease/licence, including, but not limited to increases in rental tariff, must be approved by the delegate/s;
- the cost of fitting out the premises to be leased/licensed will normally be borne by the lessee/licensee. The Director, Facilities and Services, must approve this work (with the exception of network connectivity issues, which will be approved by the Chief Information Officer or delegate). The lessee/licensee will supply copies of the plans and qualifications of any contractors to be engaged, to the Director, Facilities and Services, or delegate, for approval prior to works commencing;
- the cost of all outgoings (including cleaning, utilities, specific maintenance services, network and telephony charges and security) is to be met by the lessee/licensee either through the rental amount or separately identified charges, as appropriate. In normal circumstances, the lessee/licensee will be expected to use building services (cleaning and security) and utilities provided by the University under its building contractual arrangements with suppliers; and
- the authority to sign a lease/licence on behalf of the University is identified under Delegation 266.

11. Competition: Where space is made available for commercial purposes (such as space allocated for concessions), the University will normally call for expressions of interest from businesses through the print media.

12. The CFO/Director, Finance and Business Services will be responsible for

calling for expressions of interest and, in consultation with the Director, Facilities and Services, making a selection of the successful lessee. Where appropriate, a representative of the University area occupying the space, will be included in the selection process.

### **Short-term Hire of Facilities**

13. From time to time, University space will be available for short-term hire. Examples of this include the use of lecture theatres or similar facilities by external organisations for presentations, workshops and/or conferences.

14. In general, areas of the University:

- are not permitted to charge other University areas a fee for use of space. However, a nominal charge may be levied for incidental expenses, (eg. tea, coffee, electricity, use of equipment). For this purpose, University areas are defined as those funded through the R and F ledgers;
- may charge a market/commercial rate for users outside the University. Furthermore, they may also charge discounted rates for cognate groups within or outside the University.

15. Exceptions to the above include:

- University Business Units, who may charge for the use of space for both internal and external users. Again, it is open to these areas to charge a market rate for external users and a discount rate for University users and cognate groups; and
- ANU Enterprise, ANU Union and Sport and Recreation Association. The use of space and the setting of short term hire charges for space currently occupied by ANU Enterprise, the ANU Union and the Sport and Recreation Association, will be set by the relevant senior managers of those areas. In setting those hire charges, the areas must make provision for any charge that may be applied by the University for site services (such as the use of parking, site security, network connectivity or grounds facilities). The CFO/Director, Finance and Business Services, in consultation with the Director, Facilities and Services, will review the charter of hire charges on an annual basis.

16. Setting hire charges: University areas letting facilities to external organisations will establish a cost consistent with market charges. The CFO/Director Finance and Business Services, in consultation with the Director, Facilities and Services, approves these hire charges for short-term use of University space (other than space in the areas excluded under this policy). In setting the charges, these charges must reflect the actual costs of providing the

space, including utilities, cleaning, maintenance, administration and appropriate site services (such as parking, network connectivity and access to grounds), must be considered. Areas which regularly let space for short term use will establish a charter of hire charges which will be reviewed by the CFO/Director, Finance and Business Services, in consultation with the Director, Facilities and Services, on an annual basis.

17. Right to refuse: The University retains the right not to rent space to any requesting organisation.

### **Role of the ANU Union and Sport and Recreation Association**

- The University has made available to the ANU Union and the Sport and Recreation Association buildings in which to house their operations, including space they subsequently sub-lease or sub-licence to other service providers.
- The ongoing management and maintenance of these buildings are the responsibility of the ANU Union and the Sport and Recreation Association, as appropriate.
- The tenanting of space within these buildings, and the purpose for which the space is used, must comply with the relevant statutory and policy requirements of the University, including compliance with the Strategic Development Plan of the University.
- Leases/licences and any amendments to leases/licences for space within the buildings occupied by these entities are to be provided to the CFO/Director, Finance and Business Services for review and approval prior to being signed.

### **Management of commercial property**

18. The CFO/Director Finance and Business Services will be responsible for establishing leases/licences and setting rents for all commercial activities on campus, including space let within University departments. This will be done in consultation with Facilities and Services and the relevant University area.

19. The Director, Facilities and Services will be responsible for the property management of commercial space (i.e. managing the University's landlord responsibilities under the lease/licence) other than office or research space let within University areas. The areas will be responsible for managing the use of this space by lessees/licensees and ensuring that the conditions of the lease/licence are met.

### **Determination and distribution of rental income**

20. The CFO/Director, Finance and Business Services will be responsible for

determining rents for campus space let for commercial purposes. Rents must be established in line with relevant policy requirements, and must cover the operating and capital replacement costs of the rental property.

21. All rental income will be paid into a specified Q Account within the area that controls and/or owns the leased area. Delegates will acknowledge that direct charges against the lease area for legal fees, maintenance and property management and other like expenses will be levied directly against the Q Account. In agreed circumstances, funding may also be used to cover longer term costs, such as repayment of capital or refurbishment/ replacement of buildings and equipment. Delegates will not be permitted to transfer funds from the Q Account or utilise the funds of the Q Account for purposes other than those related to the premises without the approval of the CFO/Director Finance and Business Services.

## **Delegations relevant to this policy**

### **Chief Finance Officer/Director, Finance and Business Services**

22. The CFO/Director, Finance and Business Services will be responsible for:

- coordinating the issue of Expressions of Interest advertisement/s for space as it becomes available;
- coordinating the development of leases/licences for all commercial space on campus;
- setting and reviewing rents in line with relevant policies;
- managing responses to requests from businesses seeking to establish a commercial presence on campus; and
- signing leases/licences on behalf of the University.

### **Director, Facilities and Services**

23. The Director, Facilities and Services will be responsible for:

- approving the use of space for commercial purposes;
- ensuring that the arrangements are consistent with the ANU Act, Lease Purposes, and Strategic Development Plan;
- establishing a program for the management of the space let to commercial tenants; and
- signing leases/licences on behalf of the University.

## Document information

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