



Adopted 17 August 2017¹

Replaces Leasing of Property Policy

Review date: 17 August 2023

Amended date: 2 December 2021 – Removal of all reference to Unformed Legal Roads

Purpose To provide a consistent and equitable framework for leasing and licencing Council-owned property and/or facilities, which achieves an appropriate balance between community needs and commercial requirements.

Scope The policy applies to:

- All Council officers involved in the negotiation and preparation of leases and licences regarding Council owned land and/or facilities.
- Any community groups, sporting clubs, social clubs, residential or commercial users who intend to lease or licence Council owned land and/or facilities on more than an informal occasional basis.

The policy does not apply to any unformed legal road.

Principles In considering any property lease or licence, the Council, or their delegate must have regard to the following principles:

1. Commercial users of Council land and facilities must provide a fair return to ratepayers for the investment in Council land and facilities.
2. All users of Council land and or facilities are entitled to be dealt with consistently and equitably.
3. Council has an important role to play in supporting and encouraging community participation in local clubs and associations open to the broader community. Council facilities are also used for the public benefit by appropriately supporting not-for-profit or charitable organisations and educational organisations.
4. To maximise the community benefit to be gained from Council’s limited resources, strategies such as multi-share arrangements, and appropriate recovery of costs of outgoings should be encouraged to optimise the use of Council land and facilities.

Objectives The objectives of this policy are:

¹ Amended 2 December 2021.

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1. To maximise the benefits to be obtained from Council's capital put into built infrastructure and facilities e.g. commercial users should pay a full market rate of rent.
 2. To encourage the provision of an appropriate range of sporting, community, recreational and support services addressing community needs in a manner that is consistent with Council's strategic plans.
 3. To provide fair and equitable access to community, sporting and recreational facilities for user groups.
 4. To ensure processes are transparent and Council officers (officers) have the flexibility to respond to community needs.

Guidelines

The Council has the responsibility to maintain its land asset portfolio in the best interests of its ratepayers. The Council's land asset portfolio includes, buildings, vacant land, reserves, commercial property and a network of road reserves.

For the purpose of this policy, it is important to clarify the difference between a lease and licence agreement:

- A lease will provide exclusive possession of a defined area of land, for a fixed period (or series of periods) of time, usually (but not necessarily) for rent. The lessee is responsible for maintenance and insurance of the defined area of land for the duration of the lease.
- A licence provides permission to use land for an agreed purpose. A licence does not usually confer a right of exclusive possession of the land. Responsibility for maintenance and insurance is to be negotiated.

Policies

The following policy statements apply:

1. All occupiers of reserve land and/or buildings will be subject to a lease or licence agreement.
 2. Land rental for council property shall be based on market valuations with the following exemptions:
 - The land is subject to tender.
 - The Council, or their delegate, reduce the land rental on application.
 - The occupiers are non-profit community groups who meet all outgoings associated with their activities on application to the Council or their delegate.
 3. With the exception of licence's to occupy and licence's to graze, a professional valuation is obtained prior to reaching an agreement with a prospective tenant. This also applies in respect of rent reviews and renewals.
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4. The standard term for land rental shall be three years with a right of renewal.
 5. A rent review shall be conducted either at the end of each term or at a lessor period as stipulated in the lease agreement.
 6. In general, existing leases and licences may be renegotiated on expiry. Exceptions to this may occur where:
 - a) Council is dissatisfied with a lessee's performance, or for any reasons does not consider a new lease to be appropriate.
 - b) The lessee does not wish to renew the lease.
 - c) The lease area is subject to redevelopment.
 - d) The lease is for grazing purposes, in which case it may be tendered upon expiry.
 7. Where a lessee wishes to surrender a lease or does not renew it, and intends to sell the improvements e.g. building, to a prospective new lessee, each party to the transfer must have Council approval to prevent the sale of buildings on Council-owned land to unsuitable tenants. If approval is not sought or given, Council is under no obligation to grant a lease.
 8. In application for a lease agreement, applicants must demonstrate a clear requirement for consistent use of facilities.
 9. At all times legislative requirements, the Local Government Acts 1974 and 2002 as well as the Reserves Act 1977 and any other relevant legislation, must be taken into account and followed, in particular the processes of consultation.
 10. Leases and licence's (but usually not licence's to graze) are generally prepared or reviewed by the Council's solicitor with the exception of minor leases/licenses. Despite being prepared by a solicitor they must always be checked, and not taken at face value as errors, inconsistencies and a lack of understanding of a given situation can occur.
 11. Rent payments are, without exception, payable on the first day of the commencement of a lease or license, and at the agreed intervals as set out in the document. No credit is given hence billings must be set up by Accounts Receivable to ensure that payments are made on the due date.
 12. Where applicable, all leases, licences and agreements must ensure that noxious weeds and pests on Council-owned land are controlled by the lessee/licensee during the lease/license period.
 13. Any lease of an historic reserve must comply with section 58A of the Reserves Act.
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14. For uses of reserve land (but not road reserves) the operative or draft Reserve Management Plan must be taken into account.
