



## COMMUNITY ~~AND~~, CHILD CARE & COMMERCIAL LEASE POLICY

POLICY TYPE	POLICY ADOPTED	MINUTE NUMBER	POLICY DOCUMENT NUMBER (TRIM)
Council	<del>22 July 2019</del> July 2020	153/19	<del>D594696</del> N/A
DOCUMENT CONTROLLER	RESPONSIBLE MANAGER	STRATEGIC PLAN 2009-2030 (STRATEGY REFERENCE)	DATE OF NEXT REVIEW
<del>Executive Manager Organisational Performance Governance Executive Coordinator</del>	General Manager	5.3.1 – Review and amend structures, policies and procedures to adapt to changing circumstances	July 2021
PURPOSE	To establish a consistent and equitable approach to the development of leases and licences of Council property to community groups <del>and</del> childcare facilities <del>and commercial tenants</del> .		
SCOPE	This Policy applies to all community groups and <del>commercial childcare</del> tenants who lease or licence Council owned buildings, or who conduct their operations on or from Council owned or leased land. The terms and conditions of this Policy apply to all new lease and licence agreements and upon the renewal of any existing lease or licence.  The conditions of this Policy will not be varied unless it is essential to meet the special needs of the property or lessee.		
POLICY	<p><b>1. Community Groups and Organisations</b> Organisations whose primary objective is to serve the community (including service clubs and community-based agencies) are supported by Council. Council recognises the benefit of supporting community groups and organisations.</p> <p><b>2. Childcare</b> Childcare facilities refer to Council owned buildings that are utilised to care for children. Council acknowledges the not-for-profit status of these childcare facilities.</p> <p><del><b>3. Full Commercial Use</b> Full Commercial use property refers to Council owned buildings or land intended to generate income. Council has a number of properties that are leased on fully commercial terms.</del></p> <p><del><b>4.3. Private Non-Commercial Licence Agreements</b> Businesses, landowners and/or residents Community and Childcare Groups, or residents who licence Council land for exclusive private purpose of a non-commercial nature, may also be charged a separate fee.</del></p> <p><b>5.4. Fee Schedule/Determination of Rent</b> 5.4.1.1. Community groups The amount payable for community groups will be reviewed annually <del>and form part of Council's Fees and Charges</del>. This rate will commence at a peppercorn rental (if demanded).</p>		

#### 5.2.4.2. Childcare facilities

Childcare facilities will be charged an amount equalling 50% of the rates charged against the property per annum.

#### ~~5.3. Commercial properties~~

~~Commercial tenants will be charged rental at a market rate determined by Council.~~

#### 6.5. **Validation of Lease Agreement**

Council land and/or buildings shall only be occupied pursuant to a formal signed lease.

Failure to validate the lease agreement by signature may result in the discontinuation of lease negotiations with the tenant.

Once lease terms have been finalised, Council reserves the right to commence rental charges even if the agreement remains unsigned.

If the lease remains unsigned for a period of more than 30 days, 90 days notice to vacate the premises (building and/or land) may be given to the tenant who currently occupies the premises.

#### 7.6. **Risk Management Obligations**

Lessees of Council owned or managed buildings will be required to have Public liability insurance for a minimum of \$20 million. A copy of the organisation's Certificate of Currency is to be provided to Council at the commencement of the agreement, upon a lease renewal, and annually for the duration of the lease.

It is the responsibility of the lessee, in conjunction with Council, to ensure the minimisation of all risks including public safety, hazardous materials and waste removal. The lessee is also required to comply with emergency evacuation procedures and risk management practices at the direction of Council.

#### 8.7. **Maintenance Schedules/Issues**

Prior to an agreement being made, a condition statement shall be produced to determine the condition of the facility, and maintenance responsibilities determined.

Building Maintenance Schedules (BMS) are developed to ensure consistency and clarity regarding maintenance of Council premises and stipulate responsibilities of both Council and the lessee.

Where an organisation has exclusive use of a Council owned facility, there is an expectation that they assist in funding maintenance costs and contribute towards capital improvement of the facility.

Where improvements on the leased land are owned by the lessee, they have sole responsibility for internal and external maintenance.

#### 9.8. **Term**

Lease agreements will be granted for a period of no more than five years, with a further five-year term option offered.

~~Commercial lease terms will apply to commercial rental agreements.~~

#### **10.9. Rent Reviews/Increases**

Rental fees for community groups and childcare facilities will be reviewed annually in conjunction with budget preparation and the setting of annual rates, fees and charges.

~~Commercial properties may be subject to periodic market reviews/evaluations.~~

Council reserves the right to amend the rental if a lessee gains access to other commercial means of income, other than fundraising, that is generated during the term of the agreement.

#### **11.10. Outgoings**

~~11.1.10.1. Lessees will be responsible for the costs of all utilities, including electricity, phone and all other outgoings related to the property including water usage charges. Lessees of commercial properties will be responsible for all outgoings, unless otherwise agreed to in the lease.~~

11.2.10.2. Council will be responsible for water and sewerage service charges; rates (100% of annual rate charges for community groups; 50% of annual rate charges for childcare facilities); and land tax for community groups and childcare facilities.

#### **12.11. Determination of Leases**

When a facility or building premises becomes vacant, Council will consider the ongoing future use of the premises in determining a suitable tenant. Factors to consider include: most appropriate use; local community needs; activities within the community that are unrepresented or under-represented; historical connection to the facility/location; and Council's strategic direction.

#### **13.12. Sub Leases**

Terms and conditions of any sub-lease must be in accordance with the terms and conditions of the head lease, including the length of the lease. Council may require the sub-lessee to contribute to charges incurred by Council from Crown or third party, for the head lease.

Lessees who wish to sub-let the leased premises are required to seek written permission from Council prior to making such arrangements.

Any group to whom a property is sub-let, must provide Council with a copy of their Certificate of Currency and must have public liability insurance of at least \$20million.

Any subleasing arrangements made must not extend beyond the term of the head lease.

#### **14.13. Other Provisions**

Other lease provisions may be negotiated as required.

#### **15.14. Delegation and Signing**

~~15.1.14.1.~~ The General Manager is delegated by Council to finalise and sign lease agreements.

	<p><del>15.2.14.2.</del> An authorised signatory of the lessee will be required to execute the lease and a copy of the agreement, once duly executed by both parties, will be returned to the lessee for their safekeeping. The other copy will be recorded as a Legal Document by Council and placed in the Legal Document Register.</p> <p><b>16.15. Legislation and Statutory Compliance:</b>  It is necessary for lessees and Council in the development of lease agreements to ensure compliance with Council's corporate and statutory responsibilities.</p> <p>Legislative requirements need to be determined and stipulated in the lease. Compliance may also extend to the obtaining of permits from Council; liquor licensing requirements; place of assembly licences; adherence to food handling guidelines; and relevant Council by-laws.</p>			
<b>LEGISLATION AND RELATED DOCUMENTS</b>	<p><i>Local Government Act 1993</i>  <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>  <i>Building Act 2016</i>  <i>Building Regulations 2016</i>  <i>Public Health Act 1997</i>  <i>Food Act 2003 (where applicable)</i>  Place of Assembly Licence (where applicable)  Food Licencing (where applicable)</p>			
<b>ATTACHMENTS (IF APPLICABLE)</b>	N/A			
<b>TRAINING REQUIREMENTS (IF APPLICABLE)</b>	Is training required as result of this Policy		<b>YES</b>	NO
	Training required by:	Councillors	<b>Staff</b>	Department