



Community Leasing and Licensing Policy

Department:	Property and Facilities, Planning and Environment
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Purpose:

To provide a consistent and equitable framework for community leases and licences of council-managed property and facilities to eligible community groups.

Objectives:

This policy has been established to achieve the following aims:

- To ensure that the granting of occupancy is fair, accessible, and responsive to community needs
- To establish consistent guidelines by which community groups may occupy council land and buildings for sporting, recreational, community services and educational purposes
- To strengthen communities through offering land and buildings at concessional rentals (e.g. less than market rate).

Scope:

This policy applies to all community leases and licences over council owned land and buildings. The provisions of this policy will be applied to existing agreements where they allow, at rent review or where aspects of the existing agreement are silent or ambiguous.

Where an agreement made before this policy came into effect provides for a right(s) of renewal, the lease renewal will reflect the terms of the original lease.

Where a lease provides for rent reviews, new rental fees will be assessed according to the formula in this policy, commencing from the next right of renewal.

This policy does not apply to the following:

- Residential tenancies
- Commercial leases and licences
- Easements

- Short term hiring of council facilities (Note: These are covered by the Council's Fees and Charges).

Definitions:

Affiliation fees

Any money paid by a group to belong to a regional or national association.

Commercial lease/licence

A lease/licence with a person or group carrying out activities for the primary purpose of generating funds for profit or who occupy the land for the purposes of private use or private gain.

Community lease/licence

A lease/licence to a group carrying out activities on a not-for-profit basis who use their funds to develop and maintain the group or invest them for the betterment of the local community. Community leases are made according to the terms set out in this policy.

Lease

An agreement where the Council grants the tenant the right to exclusive use of a defined area ('leased area') as set out in the lease, which may include the whole or part of a council-owned building and/or land.

Licence

An agreement where the Council grants the tenant the non-exclusive right to use a defined area ('licensed area') as set out in the licence, which may include the whole or part of a council-owned building and/or land.

Open membership

Membership is open to all persons able to use a group's services and willing to accept the responsibilities of membership.

Subscription income

Money paid by permanent or casual members of a group on a periodic basis to belong to the group. This includes types of income such as casual memberships and green fees.

Tenant

A person or group to which an agreement is made.

Policy:

Eligibility

Community lease and licence agreements may be granted to community groups undertaking community activities. In order to be eligible, groups must be able to demonstrate the following:

- Groups must be non-profit organisations or associations of people who have the primary aim of working to provide services, benefits and recreation to the community;
- Any funds a group generates must be used to maintain and develop the organisation to support community services and activities;
- Groups must have open membership criteria; and
- Membership or participation fees reflect the reasonable costs of providing the activity.

A group can apply for ground or premises agreement. Ground agreements are applicable where the Council owns the land and the group owns the building. Premises agreements are applicable where the Council owns the land and buildings.

Assessment Criteria

The following assessment criteria will be applied when assessing applications and renewals in order to determine suitability for granting community leases and licences

- The group's purpose and activities must be consistent with the Council's strategic direction
 - Key questions: What is the group's purpose? What additional benefits will the proposal bring to the community?
- It is desirable for groups to be an incorporated society or trust
 - Key questions: How does the group spend the money it raises and what happens to any surplus? What additional benefits will the proposal bring to the community?
- The group must be able to demonstrate that they are sustainable in terms of membership and/or users for the term of agreement
 - Key questions: Is there evidence that the group's membership numbers and trends justify the proposal? Is there an open membership policy?
- The group must be in a financial position to fulfil its obligations under the agreement
 - Key questions: How does the group fund its activities? Is there evidence that the group is able to afford to meet the obligations of occupying the land/building?
- The land and buildings should be utilised to the fullest extent possible
 - Key questions: How often will the building be used and what activities are planned? What alternatives have been considered by the group and why have they been rejected? Is there potential for the group to share facilities with other groups?
- The activity must not have the potential to adversely affect open space values or cause environmental harm
 - Key questions: Is the activity consistent with relevant legislation and any applicable reserve management plans? Is there a potential for adverse environmental effects to be caused by the activity? If yes, how will these be mitigated?
- There must be demonstrated support and need within the community for the activity
 - Key questions: Is there demonstrated support from the wider community and those expected to benefit from the activity? Are similar activities to the one being

proposed, delivered by other facilities that are accessible to the group and the wider community?

Each application will be considered on its merits by council staff who will make recommendations to the relevant Community Board or the Council for approval.

In the case of lease renewals, the assessment criteria will be used to check that the:

- Lease will continue to be consistent with the Council's objectives as defined in key strategic documents such as the Long Term Plan; and
- Terms and conditions of the previous lease were met.

Unless there is evidence that the above are not met to a significant extent, a renewed lease will be offered to the lessee. If the activity that the lease was originally granted for has changed significantly, the Council may require an application for a new lease.

Expressions of Interest

Generally for council owned or controlled land available for tenure, an Expression of Interest (EOI) process is conducted to determine the most suitable occupant or user of the land. In some instances, the Council may target EOIs to particular community organisations that meet specific community needs.

The Council will assess all applications against this policy and any additional eligibility and assessment criteria specified in the EOI documentation to select a suitable occupant or user. If a suitable occupant or user is not identified the Council may determine not to grant tenure to any applicant.

Where applications are made outside of an EOI process, the Council will publicly notify the availability of the land in question if it is considered to be in the public interest to do so.

Public Notification

The Reserves Act 1977 contains exceptions to the public notification requirements set out in sections 119 and 120 of the Act. The exception applies if the proposed agreement conforms with the approved management plan for the reserve, or if the proposed agreement is subject to a resource consent that was notified under section 93(2) of the Resource Management Act 1991.

The availability of a site not classified as a reserve may be publicly notified where it is considered that the occupation of the site is of broader public interest.

Fee Determination

Community leases will be offered at concessional rates which are, by their very nature, set significantly below the potential market rent. The difference between these rates is effectively a subsidy provided by the Council to groups which assists the Council in achieving its desired community outcomes.

Annual rentals will be calculated at 2.5% of the tenants subscription income less any affiliation fees. This will be calculated over the most recent 5 years the group has filed a financial statement. Where a group does not have 5 years of financial statements, the rental fee will be calculated as an average over the financial statements that are available. This rental fee shall apply for the first 5 years of an agreement or until a rent review is completed.

In exceptional circumstances, the tenants and the Council may agree to an alternative method of determining rent if it is considered that the standard method will produce an unjust outcome.

Rent reviews shall occur every 5 years and will apply the formula of 2.5% of subscription income less any affiliation fees. This will be calculated as an average based on the tenants most recent 5 years of financial statements. Rent reviews shall be authorised by the Chief Executive Officer.

The tenant is required to submit a copy of their financial statements to the Council to assist with this.

The Council will consider proposals for community leases and licences of endowment land and will determine rent in a manner consistent with the conditions of the endowment. To mitigate this, the tenant may apply for a grant from the relevant Community Board to subsidise the cost of their agreement to the level of 2.5% of the group's subscription income less affiliation fees.

Tenure Framework

The standard length of lease and licence agreements will generally be 15 years with a further 15 year right of renewal.

The exception to this is where the land or buildings in question have been identified in Council strategic documents or plans as having a potential alternative use. In these cases, the standard length of agreement will be 5 years with a further 5 year right of renewal.

The Council reserves the right to terminate an agreement with six months' notice if it requires part or whole of the occupied area for other activities.

In all cases, a shorter tenure may be granted in circumstances not limited to the following:

- The life expectancy of the building is less than the standard tenure applicable
- A shorter tenure is required by a management plan
- In exceptional circumstances where the Council and the tenant agree that a shorter tenure is necessary

A longer tenure may be granted in circumstances not limited to the following:

- Where groups amalgamate or share facilities
- Where a significant capital investment is planned (e.g. construction of a new club room)

- In exceptional circumstances where the Council and the tenant agree that a longer tenure is necessary.

Standard Terms and Conditions

Allocation of Responsibilities

The following table outlines standard tenant responsibilities in relation to:

- Utilities
- Rates
- Building insurance
- Structural maintenance
- Non-structural maintenance

	Energy and water	Rates	Building Insurance	Structural maintenance	Non-structural maintenance
Council-owned land/buildings	Tenant	Tenant	Council	Council	Tenant
Community-group owned buildings	Tenant	Tenant	Tenant	Tenant	Tenant
Rooms within council building*	Council	Council	Council	Council	Council

* Where a tenant occupies a room in a council building, a service charge will be incurred. The service charge will represent a fair portion of utility costs incurred by the tenant's activities.

The above schedule of responsibilities will apply unless the tenant and the Council otherwise agree.

Subleasing

Tenants may not transfer, sublet, or dispose of their interest in a lease without prior written approval from the Council.

Subleasing will only be considered where the sublessee and its activities comply with the policy, applicable legislative requirements, and management plans. If the land is classified as a reserve, the sublessee's activities must enhance the primary purpose of the land.

If a lessee is given approval to enter into a sublease, the lessee will be responsible for:

- Preparing the sublease and associated costs
- Obtaining approval of the sublease agreement
- Recovery of all fees and charges associated with the sublease
- Providing the Council with an executed copy of the sublease agreement.

Additions and Alterations

Where a tenant wishes to erect any new building or improvement or alter any existing building or improvement, landowner approval must be obtained from council staff whether the building or improvement is council-owned or not. Landowner approval must be obtained prior to seeking any approval from the Council in its regulatory capacity.

Where an agreement is nearing expiry, has expired, or is terminated by either party, and it has been decided that a new lease will not be granted to the existing lessee, any buildings or structures owned by the lessee:

- May be removed by the lessee; or
- May revert to Council ownership if the Council wishes to accept ownership; or
- May be transferred to another community or recreation group.

Maintenance

All buildings and structures must be maintained to a standard that meets the requirements of legislation relating to buildings (such as the Building Act 2004). In addition, all buildings, structures and vegetation should be kept in a tidy condition and must not detract from the environment. Vegetation must not become a hazard to personal safety.

Fees and Charges

Groups are liable for all legal costs and expenses relating to the preparation of a renewal or any variation of lease and any other associated costs including, but not limited to, advertising, surveying and obtaining resource consent. The Council will not charge for the reasonable use of council staff time.

Use of fields, grounds and facilities for sporting competitions, tournaments or other events are provided for separately and are subject to the Council's annual fees and charges and booking processes.

Relevant legislation:

Property Law Act 2007

Reserves Act 1977

Resource Management Act 1991

Related documents:

Grants Policy 2019

Reserve Management Plans