



**GEORGES
RIVER
COUNCIL**

**COMMUNITY LEASE
POLICY**

September 2017

POLICY ADMINISTRATION

Dates	Policy approved 4/09/2017 This policy is effective upon its approval. Policy is due for review September 2019.
Approved by	Council Meeting 04/09/2017 Council Resolution CCL203-17
Exhibition Period	21 June 2017 to 19 July 2017
Policy Owner	Executive Manager Premium Facilities and Properties, Office of the General Manager
Related Documents	2017 Venue Hire Grant Programme Guidelines
References & Legislation	Local Government Act 1993 Crown Lands Act 1989 Real Property Act 1900 Roads Act 1993
Document Identifier	Policy #: Pol-028.01 Doc #: D17/68304
Breaches of Policy	Breaches of any policy will be dealt with and responded to in accordance with adopted codes and/or relevant legislation.
Record Keeping	All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures.

PURPOSE

The purpose of this policy is to provide a framework through which Council can determine the eligibility of community groups to occupy Council owned and managed land and buildings (such as community centres, scout and guide halls) in an equitable and transparent manner and in accordance with relevant legislative requirements.

The policy also includes Council owned sporting and recreational facilities which may or may not be capable of supporting a commercial return. These include (but are not limited to) Jubilee Stadium, aquatic facilities, golf courses, tennis courts, Hurstville Oval and Harold Fraser Oval. The leasing of these types of facilities will be subject to an open and competitive public process such as tender or expression of interest.

SCOPE

Georges River Council's community land and facilities must be managed in accordance with the provisions of the Crown Lands Act, 1989 and the community provisions of the Local Government Act, 1993 (Chapter 6, Part 2) and associated Regulations.

This policy aims to ensure that a wide range of community groups and individuals are given equal opportunity to occupy community land and buildings while alleviating some of the financial burden on Council.

The policy also aims to ensure that the best operator (and where possible, the best financial return on commercially operated facilities) is obtained for sports and recreational facilities and that the required level of service is provided to the community.

The primary issues addressed under this policy:

1. Ensuring that occupants have the capacity to meet lease obligations;
2. Set clear criteria for subsidised rents for community facilities by community groups;
3. Provides a standardised approach to agreement terms;
4. Encourages multiple uses of land and buildings, rationalising exclusive occupancies when current occupants are not appropriately using or utilising premises; and,
5. Ensuring a competitive and transparent process is undertaken at all stages of the process

DEFINITION OF TERMS

Term	Meaning
<i>Community Groups</i>	Community, sporting and other organisations which are incorporated as not for profit organisations which prohibit private gain.

<i>Community Land</i>	Means Community land under the Local Government Act 1993 and Crown Lands Act 1989.
<i>Community Facility</i>	Council asset or facility on community land administered under the Local Government Act 1993 and land under Crown Lands Act 1989
<i>Crown Land</i>	Land that is vested in the Crown as per Crown Lands Act 1989.
<i>Lease</i>	Includes leases for exclusive use as well as non-exclusive licences.
<i>Sporting and Recreational Facility</i>	Council asset or facility used primarily for sporting and recreational purposes (which may or may not be capable of supporting a commercial return).

POLICY STATEMENT

The Community Lease Policy enables Council to clearly communicate its intentions in relation to the following:

1. Approvals

Any approval to grant occupation agreements of Council owned or managed land, buildings and public roads are subject to a resolution of Council (and approval of the Crown if appropriate) or by an appropriate delegated officer.

2. Capacity

Ensures that all tenants, prior to entering any agreement, have the capacity to meet financial obligations under each occupation agreement or lease.

3. Leases

The term of community leases will be assessed on an individual basis having regard to the circumstances of each case including the nature of the proposed use of the facility, the need for security of tenure (eg: to secure grant funding), Council's longer term plans for the facility and the benefit to the community that would occur as a result of the occupation of a facility by a particular group.

- **Short Term Leases** of up to 5 years may be preferable in circumstances where Council is reviewing the longer term use of a facility or where surrounding land uses are likely to change in the short-medium term or where the life expectancy of a facility is ending. Shorter term leases can allow better asset management and community services planning.

- **Long Term Leases:** Long term leases, of periods greater than five years, should be considered where a community group is offering significant capital investment in a facility, and where the community service or benefit provided by the group cannot be provided by Council. Caution should be exercised in the granting of long term leases to ensure that Council and the wider community are not excluded from gaining access to a range of community buildings/facilities.

Subject to the Local Government Act, 1993 lease terms of greater than five years should only be offered where tenants can prove to Council's satisfaction, that they intend to spend at least \$100,000 in new capital works approved by Council as landlord, or where a five year term is insufficient to write off the capital cost or secure finance for the proposed works.

- **Multiple Uses of Buildings:** Where possible, Council encourages multiple uses of all community facilities. Therefore, compatible users should be accommodated together, in order for Council to effectively manage asset costs and expenses.

Council needs to determine, before granting a lease, whether other community groups can share the facility, or if the existing tenant can share another facility. Council should ensure that suitable community groups have equal opportunities to occupy community facilities under lease. Low-use facilities are to be reviewed as historically, poorly maintained buildings have been returned to Council when leases are terminated, eg: scout halls.

Council is committed to supporting community organisations in delivering services to our local community through the provision of community facilities.

Future community facilities should be of designs suitable for use by more than one user group and should be offered to community groups through an advertised public tender process, at the expiration of lease terms. This process is in accordance with the community provisions of the NSW Local Government Act, 1993 and Council's current practice.

4. **Leases on Crown Land**

Where Council is the Reserve Trust Manager for sporting facilities located on Crown Land, leases will be administered in accordance with the Crown Lands Act, 1989.

Leases of Crown reserves can be granted (in accordance with the Crown Lands Handbook) with the consent of the Minister and must be consistent with the dedicated purpose of the reserve. All proposed leases over 5 years must be advertised giving the public an opportunity to comment via lodgement of a submission.

When negotiating leases or licences for commercial activities on Crown land, the Reserve Trust Manager will invite competitive tenders or proposals in order to attract the best operator and financial return for the reserve trust. On reserves designated for public recreation purposes, commercial uses should not result in exclusivity for individuals or groups or clubs.

Prior to any lease being entered into, Council must be satisfied that the core use in relation to the lease is consistent with the Plan of Management associated with a park, sportsground or other designated area in accordance with the community provisions of the Local Government Act, 1993.

5. Subsidised Rentals

Subsidised rents are an indirect form of financial support to community groups and should be considered in circumstances where a community group can demonstrate a special benefit or service provision to the greater community. Notwithstanding existing lease agreements, all future subsidised rentals will be calculated and the revised annual rental (inclusive of the subsidy) will be written into lease agreements and will be subject to annual review by the Council. The criteria for determining subsidised rents are set out in Table 1.

6. Sporting and Recreational Facilities

All leases (and other types of commercial agreements) of sporting and recreational facilities (such as Jubilee Stadium, aquatic facilities, golf courses, tennis courts, Hurstville Oval and Harold Fraser Oval) will be subject to an open and competitive public process such as tender or expression of interest at the expiration of each lease period.

7. Community Facilities (Ground Leases)

Where a community group (e.g. Scouts or Guides) owns a building or facility located upon Council owned land or Crown land, the relevant community group that occupies the building shall be entitled to automatic renewal of the ground lease for a period not exceeding 5 years.

The minimum rental for a ground lease to a community group shall be \$479.00 per annum plus GST. This figure may be subject to review.

Should a community group not require renewal of a ground lease, the community facility will be subject to an open and competitive public process for future leases.

8. Community Facilities (Council/Crown owned buildings and/or land)

All leases (and other types of commercial agreements) of community facilities (Council or Crown owned buildings and/or land) will be subject to an open and competitive process such as tender or expression of interest in cases where, in Council's view, a facility has been underutilised or becomes vacant.

9. Policy Exclusions

This policy does not apply to the following:

- Council community facilities covered by the Georges River Council 2017-2018 Venue Hire Grants Program Guidelines (and subsequent editions)
- Sport and recreational facilities that are subject to Georges River Council's seasonal ground allocation process (not leased) and associated adopted fees and charges.
- Council owned commercial or retail property.

10. General Conditions

- i. The minimum rental for a lease to a community group (including after the application of any subsidies) shall not be less than \$479 per annum plus GST which is the minimum applicable to Crown Land leases. This figure may be subject to an annual review.
- ii. Unless exempt by legislation or Council resolution, applicants/tenants shall be responsible for the payment of any application fees and the payment of Council's legal costs associated with preparation of lease documentation.
- iii. Tenants must indemnify Council from any liability arising from their use of the premises. All tenants shall hold public liability insurance to the value of \$20 million and note Council as an interested party. Tenants may also be required to hold appropriate contents, building and plate glass insurance.
- iv. Statutory Costs: Section 47 and 47A of The Local Government Act, 1993 requires leases on community land to be advertised. Advertising costs are to be met by the prospective tenant. This will ensure that proposed tenants are committed to the lease. All costs in this regard will need to be paid before the advertisement is placed.
- v. Tenants will be expected to be liable for outgoings and day to day operational costs such as cleaning, electricity, telephone, data, washroom, commercial waste, etc and be responsible for minor maintenance resulting from ordinary use of the premises and generally in accordance with their lease. Tenants who can demonstrate limited financial capacity may apply for a community grant to offset these costs and/or approach Council for a separate resolution to waive outgoings. Requests for waiver will only be considered in circumstances where the community group can demonstrate that it provides a broad public benefit, provides a service to the community that cannot be provided by Council and payment of outgoings could jeopardise the ongoing viability of the group.

- vi. Where a “ground lease” has been entered into, the tenant is responsible for all upkeep and maintenance costs associated with the building in addition to normal operational costs. (Major structural repairs are generally excluded from this provision at the discretion of the General Manager). Council at its discretion may direct a tenant to perform any maintenance works it sees fit especially in the interests of safety. All buildings are expected to be kept in good order and must not be left in a state of disrepair. Failure to maintain upkeep of buildings could result in termination of the lease.
- vii. Any fees, charges or obligations incurred in complying with approved development conditions (including the creation of land title or other property restrictions) will be the responsibility of the applicant, irrespective of whether those conditions are levied against Council’s land.
- viii. Should community facilities become available for lease, Council in general terms, will seek new tenants through a competitive public process such as an expression of interest or tender process. Where Council is the reserve trust manager of Crown Land, a competitive process will be undertaken in accordance with the Crown Lands Act, 1989.
- ix. Calculation of rental will be based on independent valuation advice taking into consideration all operational costs of the facility.
- x. Upon application by any community group for rental subsidy, Council at its discretion will determine the level of subsidy applicable in accordance with the criteria set out below. Note that community groups will be expected to pay the minimum rental as described in the general conditions, section 1.

11. Criteria for Determining Subsidies To Community Groups

Criteria	Each Answer Worth 4 Points	Each Answer Worth 3 Points	Each Answer Worth 2 Points	Each Answer Worth 1 Points
Social and community benefit	Service is unique and meets high level of need or service meets identified social/community needs, with most service users from low socio-	Service meets identified social/community needs, with most service users from range of socio-economic background	Service meets broad social/community need	Service is valued by community but is not focused on meeting an identified social/community need

	economic background			
Extent of Service Provided by organisation	Broad community (between 15%-40%) is a beneficiary of service provided	Service is significantly used by a number of specific sections of local community	While the organisation provides a direct service to only a small number in the local community, it forms part of a larger service provision	Service only used by a small number of local community
Extent of Accessibility of Facility to Community	Facilities are accessible to many in Georges River Community	Facilities are generally accessible to Georges River community	Facilities have limited access to local community	Facilities have no access to local community
Number/Type of service provided	A unique kind of service	One of a number of service providers of a community service	One of a number of providers of less critical community needs	Provider meets social or recreational needs only
Ability to charge fees & raise income	Limited or no ability to raise revenue	Some ability to raise revenue and charge fees which may be varied to reflect ability of clients to pay	Has ability to charge fees and raise revenue	Operates on profit basis
Access to funding sources	No access to other funding sources	Limited access to other sources of funding (no more than 5%)	Access to other sources of funding - state, federal and local which provides between 5-30% of total funding	Access to other sources of funding - state, federal and local which provides more than 30% of total funding
Do they provide direct competition to commercial ventures	No, main activity is not commercial	While main business is not commercial, some aspects of the business are	In direct competition with commercial providers but provide additional	In direct competition with commercial providers

		in direct competition	or differentiated service to users	
Does their service impact on Council's need to provide a similar service	Without this service provision, Council would be required to provide additional service	Lack of service would have some impact on Council provision	Service is not core responsibility of Council but could be provided	Service is responsibility of Council
Organisational status and structure	The organisation is locally base, stand alone and not for profit. It has a voluntary management committee made up of local area representatives	The organisation is locally base, has a regional focus, is stand alone and not for profit. It has a voluntary management committee partly made up of local area representatives	The organisation is locally based service, outlet or project that is part of a larger not for profit organisation. It has a voluntary advisory committee comprised partly of local area representatives	The organisation is locally based service, outlet or project that is part of a larger not for profit organisation. There is limited or no local area representation on the advisory committee or similar
Capacity to undertake a range of administrative and management responsibilities	Dependent on assistance from volunteers for all administrative and management functions	Paid staff undertake some of the administrative and management functions and volunteers assist with other tasks	Staff undertake the majority of administrative and management functions with assistance provided by umbrella organisation	Umbrella organisation carries out the majority of administrative and management functions.
Structural Integrity	Assumes full responsibility for long term maintenance (structural integrity) of building	Makes some contribution to long term maintenance (structural integrity) of building	Makes minimal contribution to long term maintenance (structural integrity) of building	Council responsible for long term maintenance (structural integrity) of building
Reactive & Ongoing Maintenance	Takes responsibility for internal & external reactive maintenance as per agreement	Takes responsibility for almost all of internal & external reactive maintenance as per agreement	Takes responsibility for some of internal & external reactive maintenance as per agreement	Does not take responsibility for internal & external reactive maintenance as even though detailed in agreement

12. Calculating the level of Subsidy

Category	A	B	C	D
Score	48 - 37	36 – 25	24 – 13	12 - 0
Range of Subsidy	90% to 100%	50% to 90%	1% to 50%	No Subsidy

RESPONSIBILITIES

Position	Responsibility
<i>Strategic Property</i>	<p>The Manager, Strategic Property is the responsible officer and will;</p> <ul style="list-style-type: none"> • provide a point of contact about the meaning and application of the strategy • Update the policy when necessary <p>The Strategic Property Specialist and Strategic Property Officer will;</p> <ul style="list-style-type: none"> • adhere to this strategy • review and update the strategy when required develop and adhere to related procedures
<i>Staff</i>	<ul style="list-style-type: none"> • To adhere to this policy. • To file related documentation into Council's Electronic Document & Records Management System.
<i>Councillors</i>	<ul style="list-style-type: none"> • To endorse by resolution this strategy.

VERSION CONTROL AND CHANGE HISTORY

Version	Amendment Details	Policy Owner	Period Active
KCC	Former Kogarah Council Leasing of Community Land and Building Policy discontinued	Kogarah Property	24/03/2014 – 03/09/2017
1.0	Complete new Georges River Council Community Lease Policy	Manager, Strategic Property	04/09/2017