

Property Lease and License Policy

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DATE APPROVED	15 March 2018
EFFECTIVE	15 March 2018
AUTHORITY	Corporate Services
CONTACT OFFICER	General Manager

1 PURPOSE

- 1.1 Council has property (real estate) and land in the Forbes Local Government Area (LGA) available for short term and long term use under an agreement. This includes land vested to Council as Manager of Trust Managed Crown Land and unformed public roads. The purpose of this Policy is to ensure that when Council considers an agreement to lease or license its property or land, that it applies an appropriate and thorough review process to ensure the most suitable use, tenant and value for money outcome is achieved.

2 SCOPE

- 2.1 This Policy applies to Council-owned or managed property (real estate) and land. This Policy excludes the short term hire and usage arrangements of community and sporting facilities where charges are set within Council's annual *Schedule of Fees and Charges*.

3 DEFINITIONS

- 3.1 For the purposes of this Policy, the following definitions apply:

Term	Definition
Act	<i>Local Government Act 1993 (NSW)</i>
Agreement	A Lease or Licence over a property or parcel of land.
Community Group	A group that is an incorporated not-for-profit organisation, or can provide evidence or an auspice arrangement with an incorporated not-for-profit organisation and is located within the boundaries of the LGA and/or principally services the LGA.
Lease	An agreement between Council and another party offering an exclusive use.
License	An agreement between Council and another party offering non-exclusive use.
Market Rent	Rent based upon valuation advice by a suitability qualified valuer and/or market estimates from real estate agents.
Tenant	A person or entity that occupies property or land under an Agreement.
Crown Land	Crown Land managed by Forbes Shire Council.

4 POLICY STATEMENT

- 4.1 The General Manager is delegated to enter into all lease or license agreements unless they are new or significantly amended from the version previously endorsed by Council.
- 4.2 Council will administer the lease or license of its property and land portfolio in accordance with the Local Government Act 1993, Roads Act 1993 and the Crown Land Management Act 2016 when dealing with community land, operational land, roads and Crown land under its care, control and management.
- 4.3 Council will apply the following assessment criteria to assess a property or land agreement outcome:
- i. Asset management objectives: alignment with any management plan, legislative and planning controls, lifecycle strategy, condition and ongoing maintenance requirements.

- ii. Commercial and financial:
 - a. The most appropriate value for money being either market rent for a commercial business;
 - b. Subsidised market rent for service providers and community groups; or
 - c. Minimum Statutory Rent for Crown Land.
- iii. User and Tenant demand:
 - a. Address identified community demand and Council's operational needs;
 - b. Ensure the property or land is being effectively utilised; and
 - c. Ensure the duration of the agreement allows Council to respond to any changing operational and community demand and needs.
- iv. Compliance:
 - a. Performance and compliance history of the Tenant.

4.4 As a general principle:

- i. The tenant will be responsible for the fit out and general day to day routine maintenance; for using the property or land for its intended purpose; and hold appropriate insurance cover for the purpose.
- ii. Council will be responsible for the capital works and asset maintenance of the base building components and hold appropriate insurance over for the subject property or land.
- iii. The agreement is between the tenant and Council and cannot be assigned for sublet to a third party.
- iv. A formal agreement will be entered into for all occupation for all Council owned or managed land and property.

5 VARIATION

- 5.1 Council reserves the right to vary the terms and conditions of this Policy subject to a report Council.

Revision History

Version	Adoption Date	Authorised by	Approved by	Revision Date
V1	15/03/2018	General Manager	Council	15/03/2020

Change History

Version	Change Details
V1	Initial Policy

Related Documents

Title
<i>Model Code of Conduct</i>
<i>Local Government Act 1993</i>
<i>Local Government Amendment (Governance and Planning) Act 2016</i>
<i>Local Government (General) Regulation 2005</i>
<i>Roads Act 1993</i>
<i>Crown Land Act 1989</i>
<i>Crown Land Management Act 2016</i>
<i>Retail Lease Act 1994</i>
<i>Real Property Act 1900</i>
<i>Residential Tenancies Act 2010</i>