

# COUNCIL POLICY



<b>Policy name</b>	Leasing and licensing of Council Land and Property
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## Abstract

To ensure the leasing and licensing of Council owned and controlled land and property in an equitable manner to both community organisations and/or private individuals, taking into account Council's long term strategic objectives and the beneficial return of such asset utilisation to the community.

<b>Dates</b>	Policy or amendment approved 15 Aug 2012 Policy or amendment takes effect 1 Sept 2012 Policy is due for review (up to 4 years) 31 Aug 2016
<b>Endorsed by</b>	Policy Working Group
<b>Approved by</b>	Gunnedah Shire Council, at its Ordinary Meeting of Council held 15 August 2012 Resolution number: 30
<b>Policy Custodian</b>	Director Community and Corporate Services
<b>Relevant to</b>	Public and staff
<b>Superseded Policies</b>	Leasing of Council Land and Property (1999)
<b>Related documents</b>	Policy Framework
<b>Related legislation</b>	Local Government Act 1993, Real Property Act 1900, Conveyancing Act 1919
<b>File number</b>	File number - 634395

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### **1. Purpose**

- 1.1 To ensure that the leasing and licensing of Council owned or controlled land and property is conducted in an equitable manner to both community organisations and/or private individuals, taking into account Council's long term strategic objectives and the beneficial return of such asset utilisation to the community.

### **2. Scope**

- 2.1 This policy applies to all leasing and licensing of any Council owned or controlled lands.

### **3. Definitions**

Lease/license – any agreement over land or property conferring some right(s) to a person or entity over the land or property. For the purpose of this policy any reference to leasing will apply to any proposed leases or licences pertaining to Council land and property.

Land and/or Property – this policy applies to all Council owned and controlled land and property

Buildings – includes any man made structure.

Ownership – freehold.

Control – includes but not limited to leases, trusteeship, crown land vested

Commercial return – the return that would be expected under free market conditions.

Business – legal entity with commercial nature.

Private – for the individual, to the exclusion of the public.

Community – open to any member of the public, including through membership.

#### **4. Policy principles**

That Council's Policy for the leasing or licensing of Council Land ensures:

- 4.1 That the land made available for leasing is in accordance with Council's Strategic Objectives and Mission Statement.
- 4.2 That there is consistency and equity in the charges levied across all leases.
- 4.3 That land leased for private and business purposes are levied on appropriate commercial rent.
- 4.4 That land leased to community organisations incur an agreed and justifiable rental with rent based on cost of maintenance and community benefit.

#### **5. Policy statement**

The following items are to be included in the preparation of leases:

- 5.1 Where the land is leased to an individual or business an annual fee should be negotiated in line with commercial rental and reviewed annually.
- 5.2 Where the land is leased to a community organisation, the lease payment should be a minimum of \$100.00 per annum, to be negotiated at commencement of lease. Lease payments should be factored on commercial return and community service, and reviewed annually. Fees based on cost of maintenance and net community benefit.
- 5.3 In all cases the tenant will be responsible for all user pays charges and including power supply, water, sewerage, waste removal, etc.
- 5.4 The lease should include provisions that the tenant is responsible for general maintenance and upkeep of the land and incorporate regular inspections. Maintenance requirements to be scheduled to the lease.
- 5.5 The lease should include a clause to provide for relevant legislation eg. GST, Land Tax, EPA requirements etc.
- 5.6 The maximum term for any lease shall be five years with a five year option.
- 5.7 The lease should include a clause to enable either party to terminate with appropriate notice. Land and improvements to be restored to at least their condition at time of entry onto site.
- 5.8 The allowable usage for leased land should be clearly defined in each lease with any changes in usage requiring the approval of Council, including but not limited to sub-leasing. Usage shall at all times be legal and in accordance with the Acts of NSW and Commonwealth.
- 5.9 Council will retain right of access and regularly inspect properties.
- 5.10 Council will be responsible for all rates levied on the leased property unless the lease provides otherwise.
- 5.11 Commercial leases or leases to community organisations will preferably be to incorporated bodies with a minimum of \$10 million public liability insurance cover unless otherwise varied by Council.

- 5.12 All lease arrangements will be signed by both parties and recorded in a register held by Council. Under certain circumstances, the lease will require registration with the Land Titles Office.
- 5.13 Land to be leased will be duly advertised with expressions of interest sought, where appropriate.

## **6. Accountability, roles and responsibilities**

### **6.1 Policy Custodian**

Director Community and Corporate Services

### **6.2 Responsible Officer**

Manager Finance and Governance

## **7. Acknowledgements**

7.1 Nil

## **8. Version control and change history**

<b>Date</b>	<b>Version</b>	<b>Approved by &amp; resolution no.</b>	<b>Amendment</b>
17 Nov 1999	For revision	143.6	19 Sep 2001
19 Sep 2001	For revision	59.3	18 Jul 2012
23 July 2012	Draft	Policy Working Group	For consideration by Council at August Ordinary meeting