



Leasing / Licencing of Council Owned / Managed Property for Community Organisations Policy

POLICY OBJECTIVE

The objective of this policy is to provide a structured and transparent framework for leasing or licencing of Council owned or managed properties to registered not-for-profit organisations eg; former Works Depot at 2 Bourke Street, Goulburn.

This policy is separate to the Council adopted Fees & Charges applied to regular or casual hirers of other facilities at the Community Centre in Auburn Street, Goulburn and Workspace Goulburn at 56 Clinton Street, Goulburn.

This policy seeks to establish a formalised system to quantify Council's contributions to registered not-for-profit community groups by way of subsidised rentals. The policy establishes the basis for joint responsibility for sustainability at these community facilities whilst acknowledging the valuable contribution community groups make to the social fabric of the Goulburn Mulwaree community.

LEGISLATIVE PROVISIONS

Local Government Act 1993
Local Government (General) Regulations
Environmental Planning and Assessment Act 1979
Crown Land Management Act 2016
Real Property Act 1990
Real Property (Legal Proceedings) Act 1970
Conveyancing Act, 1919
Biosecurity Act 2015
Biodiversity Conservation Act 2016

POLICY STATEMENT

Council will enter formal leases or licences with registered not-for-profit community organisations in relation to their tenancy arrangements. The form of these leases and licences will consider:

- Exclusivity of use
- Length of tenure
- Community groups financial input to improving the facility and;
- Social and community input

Community groups in return must understand their responsibility for issues such as, but not limited to;

- Public safety
- Adequate Public Liability insurance cover
- Access
- Work Health and Safety responsibilities
- Entering into a lease or licence agreement that determines the area required, proposed use and length of tenure

Council is committed to providing facilities for community groups as space and facilities become available. Council will require community groups to abide by fair and reasonable requests from the Property Services staff in terms of tidiness, traffic, public safety, work health and safety procedures, access during emergencies and access for inspections (with appropriate notice).

Council will charge for the use of these facilities with the intent of recovering costs for the ongoing operation and maintenance of the facility. Council's Property Services staff will determine the approximate market lease or licence value of similar commercial properties in the vicinity of the Council

property being offered to a community organisation and consult with the Chief Executive Officer prior to finalising any negotiations.

The term of the lease or licence will be assessed on a case-by-case basis depending on the request from the applicant and the potential long term strategic need.

In NSW there are specific protections in the legislation for 'short leases', being leases with a term (including options) of 3 years or less. Where there is a short lease, you effectively automatically receive the same protections as you would receive from registration even if the lease isn't registered.

A lease of 3 years or less can be registered if the parties agree. The lease will need to be in registrable form. If the lease is more than three years, the lessor should lodge the lease at NSW Land Registry Services within 3 months after the tenant returns the signed lease to Council.

A lease for a term exceeding 3 years must be registered in order to pass an estate to the lessee. A lease for a term of 3 years or less, including an option to renew, may be registered.

A lease of part of the land for 5 years or less, including any options to renew, must fully describe the affected part by reference to a registered plan, a plan attached to the lease, or to another registered dealing.

A lease of part of the land for more than 5 years, including any options to renew, other than a lease lodged by the Commonwealth of Australia, must describe the affected part by reference to a registered Plan of Subdivision that has been approved by Council (refer s23F and s23G *Conveyancing Act 1919*).

All legal fees and disbursements associated with preparing a lease or licence are to be met by the lessee or licensee. If the dealing relates to a lease of part of the land for more than 5 years, the lessee must also meet all costs associated with preparing and registering a Plan of Subdivision with NSW Land Registry Services.

Consent may be required from the Minister administering the *Crown Land Management Act 2016* for certain Crown land tenures.

Council appreciates the input community groups have to the social fabric of this community and will therefore require any new registered not-for-profit community organisations to make lease or licence payments of at least 30% of the comparable market value for the building/s (where applicable) for use of office and/or workshop facilities and 15% of the comparable market value (where applicable) for storage facilities only, or the minimum statutory fees determined by DPE – Crown Land if any proposals relate to use of all or part of a Crown Reserve that Council is the appointed Land Manager of under the *Crown Land Management Act 2016*. All charges will be adjusted by CPI on an annual basis.

All lease or licence fees in place prior to 1 November 2022 will be honoured until they have expired at which time new leases or licences will be negotiated consistent with the pricing structure outlined in this policy.

AFFECTED COUNCIL PROPERTIES

All or part of the following Council owned, or managed properties are leased or licenced to various not-for-profit organisations on either a regular or casual basis:

- 56 Clinton St, Goulburn
- 2 Bourke St, Goulburn
- 331 Wheeo Rd, Goulburn
- 15 Mount Street, Goulburn

- 22-30 Farm Road, Goulburn
- 122 Finlay Road, Goulburn
- 47 Braidwood Road, Goulburn
- Part 41 Ross Street, Goulburn
- Part 136 Faithfull Street, Goulburn
- Part Leggett Park - Howard Boulevard, Goulburn (Lot 223 DP 250803)
- Part 632 Taralga Road, Tarlo
- 38 George St, Marulan
- 47 George St, Marulan

DEFINITION OF COMMUNITY GROUP

A community group to be eligible for tenancy at one of these facilities can include community service providers, community/sporting groups and other community groups.

However, to be eligible for subsidies a community group must be operating with common values to the benefit of the community. Such a community group should be a registered ‘not for profit’ organisation and must provide sufficient information to Council when making an application for rent subsidy to prove that their goals are in the best interest of the Goulburn Mulwaree community.

This policy does not apply to commercial organisations or any individuals wishing to lease or licence part or all a Council premise. This policy also excludes sporting groups or community organisations that have separate licence agreements for sport and recreation fields.

Version	Council Meeting Date	Resolution	Adoption Date	Effective From
1	20 August 2019	2019/314	20 August 2019	9 October 2019
2	15 November 2022	2022/409	15 November 2022	13 December 2022
All policies can be reviewed or revoked by resolution of Council at any time.				

DIRECTORATE: Corporate & Community Services

BUSINESS UNIT: Property & Community Services