



# **Leasing / Licencing of Council Property Policy**

## **POLICY OBJECTIVE**

This policy aims to establish criteria for the leasing or licencing of Council property.

## **LEGISLATIVE PROVISIONS**

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

## **POLICY STATEMENT**

This policy is separate to the Lease of Council Roads Policy.

Council may lease or licence property or part of a property on a commercial basis that:

- Is held for investment purposes, or
- Is not required in the short or medium term for operational purposes

Council will consider on its merits the leasing or licencing of a property or part of a property on a non-commercial basis only if the lease use can demonstrate that it provides a wider social, environmental, or economic benefit and is consistent with Council's strategic objectives. Priority will be given to "not-for-profit" organisations in these instances. Also refer to Council's Leasing / Licencing of Council Property for Community Organisations Policy.

Council will use standard lease and licence documents, to include a special condition that any fixed or permanent improvements to the property, partly or in total, will become the property of Council's at termination of the lease or licence.

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 is not 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.



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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.

A key bond will be required for all properties or office space leased by Council.

Version	Council Meeting Date	Resolution	Adoption Date	Effective From
1	19 June 2007	07/297	19 June 2007	19 June 2007
2	15 March 2011	11/73		
3	16 April 2013	13/136	7 June 2013	7 June 2013
4	18 July 2017	2017/325	18 July 2017	18 August 2017
5	6 September 2022	2022/315	6 September 2022	4 October 2022

**All policies can be reviewed or revoked by resolution of Council at any time.**

**DIRECTORATE:** Corporate & Community Services

**BUSINESS UNIT:** Property & Community Services