

Guideline for Assessment of Rental for Community Tenants

1 Purpose

This Guideline supports the Guideline for Conditions of Tenure for Community Organisations to ensure that all such tenures are transparent and mutually equitable and provide for recognition of Council's contribution to community groups to provide community outcomes in accordance with Council's Community Strategic Plan.

2 Scope

- a) Council will enter into formal Leases, Licences and/or Management Agreements with Community/Sporting Providers in relation to their tenancy arrangements. The form of agreement will be determined by taking into account:
 - Exclusivity of use
 - Length of tenure
 - Land classification and zoning
 - Land management provisions of the Local Government Act
 - Other Legislative requirements
 - Social and community benefit.
- b) Fees or charges made by Council will be determined by taking into account:
 - Council's annual schedule of fees and charges.
 - The total annual cost of maintaining the facility at agreed levels.
 - Capital cost to Council of providing the facility.
 - Exclusivity of use.
 - Length of tenure.
 - Contribution made by the community, sporting or recreational group to the capital costs or level of intended investment in the capital infrastructure.
 - Assessment of social and community benefit.
 - The tenant shall cover all costs of entering into tenancy agreements.
- c) Rents will be determined as per 3 d)
- d) Community/Sporting Providers as prospective tenants may be required to develop a Business Plan according to Council's guidelines for the use of facilities, which will include:
 - Clear objectives for the management and use of the facility including the links to Council's Community Strategic Plan and any relevant Plans of Management.
 - A demonstrated commitment to community input into the operations of the facility.
 - Financial planning and accounting processes including Financial Statements.
 - Asset Maintenance plans and schedules, including proposed improvements and review strategies.
- e) Vacant facilities will be advertised, specifying the purpose for which they are available and inviting submissions for use or occupation. Submissions may be sought by Council directly from specific community groups where appropriate.
- f) Submissions will be required are to be assessed on established criteria. Criteria will include, but not necessarily be restricted to the following;
 - Proposed use of facility.
 - Structure of organisation making the submission.
- g) Appropriate officers will assess submissions.

- h) Prior to occupation all relevant documentation (including Business Plans where required) relating to the use of the facility will be provided to Council.

3 Procedure

a) Lease Document Format

All leases determined under this Guideline for community groups will be drafted by the Property Officer or Council's retained law firm under instruction via the standard Lease template process.

b) Licence Format

All licences implemented in accordance with this guideline are to be in the standard Licence format adopted by Council's Logistics section.

c) Management Agreements

Management Agreements required to formalise other obligations in regard to Asset maintenance and the like will be negotiated and structured on a needs basis having regard to the documented Principles herein.

d) Community/Sporting Providers Rent Assessment Criteria

For the purposes of determining an equitable schedule of rents, Community Service Providers are to be assessed in accordance with the following Property/Lease and Organisational specific Assessment Criteria.

3.1 Determination of Suitability for use of Council Controlled Property

Community Pricing Suitability Assessment				
	1 – least suitable	2	3	4 – most suitable
Entity Structure	<p>Social Enterprise Balance income with who they are supporting Use income mostly derived from trade and are expected to reinvest >50% of profit into their mission</p>	<p>Not For Profit - Semi Commercial An organisation that offers fee paying services for community benefit and reinvests all of its profits back into itself. Clients pay e.g. myagedcare, NDIS – operate in a commercial environment. Must provide evidence of NFP status</p>	<p>Not for Profit – Non Commercial An organisation that provides services for community benefit. Receives block funding from Government and reinvests all profits.</p>	<p>Community Groups Incl. Sporting Clubs Groups vary in make-up, aims and objectives, but all provide essential link between Council and the Community. All not for profit.</p>
Community Group Service Provision	<p>Large number of service providers in the Community</p>	<p>One of a moderate number of providers meeting needs outside of those identified in Council's Community Strategic Plan</p>	<p>One of a small number of providers providing Community Services</p>	<p>- Unique service provided of great benefit and linked to Council identified Community Strategic Plan targets - Sport facilitators</p>
Ability to raise additional, external income	<p>Commercial (profit) operation, capacity to generate profit.</p>	<p>Has ability to charge fees and raise its own revenue – self-sustaining.</p>	<p>No ability to raise revenue and charge fees, and rely on Government funding/grants.</p>	<p>Little access to funding sources</p>

3.2 Pricing Methodology for Non-Commercial Lease Agreements

The following matrix indicates the methodology to be used to calculate the appropriate fee for each Lessee by allowing for the specific circumstance of individual organisations.

A	Categories of Occupancy		Full Lease Fee
	Fair Market Value Rent		\$
B	Categories of Tenant	Type of Agreement	% Lease Fee
B1	Community Groups Category 1: <ul style="list-style-type: none"> Non-Commercial Tenants who: hold a liquor licence; AND hold a Food Registration Certificate; AND hire their facilities for functions/social events; OR charge entry to the premises 	Lease Agreement	50%
B2	Community Groups Category 2: <ul style="list-style-type: none"> Non-Commercial Tenants who: hold a liquor licence; OR hold a Food Registration Certificate; OR hire their facilities for functions/social events; OR provide facility for sporting activities for members and guests 	Lease Agreement	25%
B3	Community Groups Category 3: Sports Clubs that don't fit into B1 or B2 for other activity	Lease Agreement	15%
B4	Community Groups Category 4: Non-sporting groups who provide a community service and are predominately volunteer based	Lease Agreement	7.5%
C	Financial Circumstances (Evidence to be Provided)		% of Lease Fee
C1	Community Group contributed \$0 to the construction of the facility		100%
C2	Community Group contributed up to 50% towards the construction of the facility.		75%
C3	Community Group contributed in excess of 50% towards the construction of the facility.		50%
C4	Community Group contributed in excess of 75% towards the construction of the facility.		25%
D	Co-location		
D1	Tenant has exclusive use		100%
D2	Tenant is co-located with another non-commercial group.		50%
Rental Calculation AxBxCxD Minimum Rent equal to application fee for use of Council Land Per Annum as per fees and charges		\$	

3.3 Arriving at Market Rents for the Purpose of this Guideline

Market rents can be determined by utilising a registered Valuer from within Council. In the case of contentious rents or where other external factors may dictate, an external registered Valuer may be engaged to appropriately determine market rent with the associated fees for such valuations to be borne by the prospective tenant(s). In such situations, Council reserves the right to contest external valuations and seek/rely upon their own opinion.

This guideline assumes that any valuations obtained for the purpose of arriving at lease terms, are to be undertaken by appropriately qualified members of the Australian Property Institute with Certified Practising Valuer status.

3.4 Apportioning Appropriate Licence Fees for the Purpose of this Guideline

Having regard for the fact that a licence differs from a lease in that it does not provide exclusivity and generally only provides a limited use for a specific time and purpose, licence fees will generally (but not always) be set at a lower level than a rent.

Licences may be issued for a wide range of uses including temporary access or occupation, communication towers and/or antennae and temporary right of way.

Licences over Community Classified Land – in respect to licence fees applied under this guideline, the fees will generally reflect an apportionment of projected costs in terms of maintaining the licence terms in addition to a standard administration fee charged at commencement.

Licences over Operational Land – for licences to Community/Sporting Providers over operational land; the licence fees will reflect an appropriate return to the asset manager/owner and will be set by the responsible officer in consultation with the asset manager/owner.

4 Definitions

Business Plan: A business plan is a written document that describes in detail how a business, usually a new one, is going to achieve its goals. A business plan lays out a written plan from a marketing, financial and operational viewpoint.

Community Land: Is required to be used and managed in accordance with a ‘plan of management’ which is to be developed by Council.

Financial Statements: Is a formal record of the financial activities and position of a business, person, or other entity. A balance sheet or statement of financial position, reports on a company's assets, liabilities, and owners’ equity at a given point in time.

Lease: A contract by which one party conveys land, property, services, etc. to another for a specified time, usually in return for a periodic payment.

Licence: A special permission to do something on, or with, somebody else's property which, were it not for the **license**, could be legally prevented or give rise to legal action in tort or trespass.

Operational Land: Can be sold or developed for private use.

5 Key Responsibilities

<i>Position</i>	<i>Directorate</i>	<i>Responsibility</i>
Mayor	Council	To lead Councillors in their understanding of, and compliance with, this policy and guidelines.
General Manager	Executive	To lead staff (either directly or through delegated authority) in their understanding of, and compliance with, this policy and guidelines.
Directors	All Directorates	To communicate, implement and comply with this policy and related guidelines.
Executive and Managers	All Directorates	To implement this policy and related procedures.
All Council officials	Council	To comply with this policy and related procedures

6 References (laws, standards and other Council documents)

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Coffs Harbour Local Environment Plan 2013
- Crown Lands Act 1989
- Crown Land Management Act 2016
- The Crown Land Management Regulation 2018
- Conveyancing Act 1919
- Leasing and Licensing Policy for Community Organisations
- Real Property Act 1900
- Retail Leases Act 1994
- Residential Tenancies Act 2010
- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Child Protection (Offenders Prohibition Orders) Act 2004
- Guideline for Conditions of Tenure for Community Organisations

7 Details of Approval and revision

- **Approval date: 9/10/2018**
- **Responsible Section: Logistics**
- **Superseded policies/procedures:**
- **Next review date: 13/08/2021**

Table of amendments

Amendment	Authoriser	Approval ref	Date