

Policy

Title: Leases to Non-profit Organisations (NFPO)

Category: Property Management

Date Last Adopted 23 September 2019

1. Objectives

- (a) To ensure the Council's community assets provide the best possible use and value to the Hobart community.
- (b) To demonstrate a clear and fair process for granting a lease to a Not-For-Profit Organisation (NFPOs) for a property owned by the Council.
- (c) To ensure the rates and rental charges for NFPOs leasing Council property are equitable.
- (d) To ensure a range of Council-owned community facilities are accessible for leasing by NFPOs through the provision of a subsidised rent.
- (e) To ensure there is recognition of the Council's contribution to the community through its provision and management of facilities for community use, granting of leases to NFPOs and the provision of subsidised rent for eligible NFPOs.
- (f) To demonstrate the benefit for the Council that derives from the provision of subsidised rental to eligible NFPOs leasing Council property.

2. Background

The Council leases a number of properties under a range of agreements, some of which are provided to NFPOs at a subsidised rate.

A NFPO can be defined as "an organisation that does not distribute its surplus funds to owners or shareholders".

The Council owns and manages a number of properties / assets for the purpose of promoting community participation in a range of accessible and affordable activities.

To assist the Council in this endeavour (and to share this responsibility with the community), many of the properties (and the activities that occur within them) are managed by NFPOs.

NFPO tenants:

- (a) provide access to facilities and/or activities for the community;
- (b) manage the facilities on behalf of the Council;
- (c) cover operational costs and some maintenance costs;
- (d) invest in the development of the facility; and
- (e) in some cases, directly distribute some of their surplus funds back into the local community.

In return, NFPOs receive a subsidised rent.

3. Policy

That:

- (a) The Council will clearly demonstrate the application of equity for all lease arrangements with NFPOs for the occupation of property owned by the Council – both for new leases and for the renewal of existing leases.

Works

- (b) There is an expectation by the Council that the costs of internal and, in some cases, external maintenance of the facility are borne by the lessee.

However, the lessee may approach the Council for separate funding assistance to help meet any maintenance and/or building costs.

- (c) The Council and lessee will work together to identify and implement strategies that would improve the environmental sustainability of the asset.

Rates and Rental Charges

- (d) The minimum level of rates and rental charges to be imposed on eligible NFPOs leasing Council-owned property will be no less than Council Service Rate/s (including the Fire Service Rate where applicable, any service charges applicable to the property - including in some cases proportional charges from TasWater) and a nominal rent of \$50.00 per annum, subject to the assessment process detailed below.

Eligibility

- (e) Organisations deemed to be eligible to apply for a rental subsidy must satisfy the definition of a NFPO stated above, and be applying for a lease in a Council-owned property located in the Hobart Municipal Area.

Assessment for Granting a Lease and Providing Subsidised Rental

- (g) The following criteria will be considered when the Council determines whether it will grant a lease, provide a subsidised rent and the level of subsidy. These criteria will apply to NFPOs applying for a new lease and those seeking renewal of a current lease.
 - (i) Use, or proposed use, of the property;
 - (ii) Alignment with the Council Strategic Plan and other relevant Council strategic documents;
 - (iii) Level of community benefit – proposed or provided, which could include one or more of the following:
 - A. Health and wellbeing;
 - B. Life-long learning;
 - C. Arts and culture;
 - D. Social inclusion;
 - E. Heritage and history;
 - F. Economic implications;
 - G. Environment/environment management; or
 - H. Welfare;
 - (iv) Value of land and buildings;
 - (v) Potential for alternative use;
 - (vi) Viability and capability of the organisation;
 - (vii) Capacity to pay after all income and expenditure is taken into account;
 - (viii) Capacity to invest in and maintain the asset, or degree of capital investment undertaken;
 - (ix) Type of facility;

- (x) Capacity to invest in the community, or level of community investment provided, through disbursement of surplus funds to local community groups, organisations or activities;
- (xi) Length of tenure sought; and
- (xii) For lease renewals only, the level of compliance with existing lease terms and conditions.

Tenure

- (h) The Council will consider the following criteria when deciding the tenure to be granted to a NFPO:
 - (i) Value of the organisation to the community;
 - (ii) Capacity to pay, including the ability to maintain the asset;
 - (iii) Potential, or actual investment in the asset;
 - (iv) Historical tenure;
 - (v) Potential for alternative use (noting that a number of community assets would be unsuitable for an alternative use); and
 - (vi) Future Council needs for the asset or the site;
- (i) Leases to NFPOs are generally not to exceed a term of five (5) years, unless otherwise determined by the Council based on the issues raised in the Council report. These issues could include whether the lessee has fully funded the construction of a facility, has/is making a substantial investment in the site, and/or is responsible for all operational costs; and
- (j) Should a leased community asset become vacant/available, an expression of interest process will be advertised which allows eligible NFPOs to apply for a lease. The criteria outlined in items 3(g)-(i) will be used to assess any expression of interest received.

Valuations and Building Condition Assessments

- (k) A market valuation will be undertaken prior to a new lease being considered, or at the time an existing lease falls due for renewal, in accordance with s177(2) in the *Local Government Act 1993*. A Building Condition Assessment will also be undertaken at this time.

Lease Management

- (l) Leases with accepted practice terms and conditions will apply to all NFPO leases for Council-owned property. However, additional terms and conditions

may apply depending on the type of facility, its purpose and its use. An Asset Maintenance Plan for the lessee may be included as a condition in the lease.

All terms and conditions will be clearly outlined in the lease.

Some conditions of the lease will be performance indicators that allows the Council to monitor compliance, and the lessee will be obliged to provide information annually about:

- (i) community access and utilisation of the leased facility;
- (ii) income and expenditure (including maintenance costs);
- (iii) investment in the asset and the community from funds raised through income generation; and
- (iv) compliance with an asset maintenance plan.

This will provide the opportunity for the lessee to demonstrate the level of benefit to the Council and the wider community that is derived from a rental subsidy.

Reciprocity

- (m) The lessee will be required to acknowledge the Council's support, whether this support is providing a facility for the lessee's use at a reduced rent and/or for the Council's ongoing maintenance of the asset.

Those organisations that receive a subsidised rent will be listed in the Council's annual report.

The Council will acknowledge the benefit it, and the Hobart community more generally, receives as a result of these arrangements.

General

- (n) A report that assesses each criteria in items 3(g)-(i) will be referred to the relevant Council Committee when leases fall due for renewal or review, when a new application for a lease of a Council facility is made by a NFPO, and/or when a specific request is made by a NFPO for a reduction rent.

4. Legislation, Terminology and References

Section 177 *Local Government Act 1993* (Tas)

Section 78 *Fire Service Act 1979* (Tas)

Responsible Officer:	Director City Governance
Policy first adopted by the Council:	21/09/2015
History:	
Amended by Council	7/3/2016
Amended by Council	23/9/2019
Next Review Date:	March 2021
File Reference:	F16/65254