

Policy

Title: Leases to Non-profit Organisations (NFPO)

Category: Property Management

Date Last Adopted 7 March 2016

1. Objectives

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

This policy replaces Council Policy 7.06.13 – Leases to Non-Profit Organisations and Council Policy 7.05.04 – Leasing of Sportsgrounds.

There are a number of properties leased by the Council through a range of leasing and licensing arrangements, some of which are leased to Not For Profit Organisations through a subsidised rental lease agreement.

A Not For Profit Organisation (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 at the local level.

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:

- provide facilities and/or activities for the community;
- manage the facilities on behalf of the Council;
- cover operational costs and some maintenance;
- invest in the development of the facility; and in some cases
- directly distribute some of their surplus funds back into the local community.

In return, NFPOs receive subsidised rental.

It is essentially a reciprocal arrangement.

3. Policy

That:

1. 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 at the time of renewal of existing leases.

Works

2. There is an expectation by the Council that the costs of internal, and in some cases, external maintenance are borne by the lessee.

Notwithstanding this, the lessee may approach the Council for separate funding assistance to help meet such maintenance and/or other building costs.

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

Rates and Rental Charges

4. 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 (to offset administrative costs), subject to an assessment process, detailed below.

Eligibility

5. Organisations deemed to be eligible to apply for a rental subsidy must satisfy the definition of a Not For Profit Organisation, as 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

6. The following criteria shall be considered in order for the Council to determine whether it will grant a lease, provide subsidised rental and the level of subsidy. These criteria will apply to NFPOs applying for a new lease and those seeking the renewal of a current lease. The criteria are fully described in the attachment to this policy.
 - (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 :
 - Health and wellbeing
 - Lifelong learning
 - Arts and culture
 - Social inclusion
 - Heritage and history
 - Economic
 - Environment / environment management
 - 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;
- (xii) For lease renewals only, the level of compliance with existing lease terms and conditions.

Tenure

7. The following criteria shall be considered in order for the Council to determine reasonable tenure to be granted to NFPOs.
 - (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;
 - (vi) Future Council needs for the asset or the site.
8. Leases to NFPOs are generally not to exceed a term of five (5) years, unless otherwise determined by the Council based on consideration of issues raised in the Council report, which could include by way of example, where 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.
9. Should a leased community asset become vacant / available, an Expression of Interest process will be advertised, for eligible NFPOs interested in applying for a lease. The criteria outlined in 3.5, 3.6 and 3.7 will be used to assess these Expressions of Interest.

Valuations and Building Condition Assessments

10. A market valuation will be undertaken prior to a new lease application 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

11. Leases with accepted practice terms and conditions will apply to all NFPO leases on Council-owned property, however additional terms and conditions may apply, depending on the type of facility, its purpose and use. The development of an Asset Maintenance Plan between the Council and the lessee will be included as a condition of all leases.

All terms and conditions will be clearly outlined in the lease and provide the opportunity for the Council to monitor compliance with lease conditions.

Many of these will essentially be performance criteria, and the lessee will be obliged to provide information annually about:

- community access and utilisation of the leased facility;
- income and expenditure, including maintenance;
- investment in the asset and the community from surplus funds raised through income generation; and
- 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

12. The lessee will be required to acknowledge the Council's support in providing a facility for the lessee's use at a reduced rental and for the Council's ongoing maintenance of the asset, where applicable.

In order to recognise the contribution that the Council makes, organisations receiving subsidised rental will be listed in the Council's Annual Report.

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

General

13. A report, which assesses each criteria in 3.5, 3.6 and 3.7, will be referred to the relevant Council Committee as 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 in the level of rental imposed on them by the Council.

4. Legislation, Terminology and References

s177 *Local Government Act 1993*

s78 *Fire Service Act 1979*

Responsible Officer:	Director Corporate Services
Policy first adopted by the Council:	21/09/2015
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