

Leasing/Licencing of Council Land & Buildings

Purpose

To provide a consistent, transparent and fair approach to the leasing or licencing of Council owned or managed land and buildings.

To ensure legislative requirements are met.

Scope

This policy outlines the types of Council owned or managed land and buildings that can be leased or licenced to individuals or organisations and the types of leases and licences.

Definitions

The terms in this policy are consistent with the definitions in the respective applicable Acts.

Policy Principles

Land Classification

Council is both a landowner and a land manager and must manage all land and buildings in accordance with the relevant legislation and Government policies. Land and buildings able to be leased or licenced by Council falls into four types:

1. Council owned operational land (*Local Government Act 1993*);
2. Council owned community land (*Local Government Act 1993*);
3. Crown Reserves where Council is the appointed Crown Land Manager under the *Crown Land Management Act 2016*;
4. Unused Public Roads under the *Roads Act 1993*.

Plans of Management

In accordance with the Local Government Act 1993 and the Crown Land Management Act 2016, Plans of Management are required for land classified as community. Where Plans of Management are required they must be adopted by Council for the use and management of land and/or buildings. Plans of Management provide information about the reserve and its uses, and state what, why, how and by whom the values of a reserve are to be managed. Plans of Management are statements about how the reserve is to be managed in line with its purpose. Any lease and licence on land classified as community must be consistent with the relevant Plan of Management..

Before any lease or licence is entered into on Crown Land managed by Council, confirmation must also be sought from Council's Native Title Manager that it complies with the requirements of the *Native Title Act 1993*.

Types of Leases and Licences

Purposes for which leases or licenses may be granted, include:

1. Agricultural
2. Retail and other commercial businesses
3. Residential
4. Occupation of unused road reserves.
5. Use by non-profit sporting or community groups or clubs.

Types of documentation to formalise occupation include:

1. Licence agreement under the *Crown Land Management Act 2016* or *Local Government Act 1993*
2. Short term lease of unused public roads under the *Roads Act 1993*
3. Retail lease, where occupation is subject to the *Retail Leases Act 1994*
4. Residential lease, where occupation is subject to *Residential Tenancy Act 2010*
5. All other occupations are leases subject to the provisions and formal requirements under the Real Property Act, 1900 and the Conveyancing Act, 1919.

Public notice of a proposed unused road lease is required in accordance with the requirements of the *Roads Act 1993*.

Public notice is required of a proposed lease or licence of Council owned or managed land and buildings classified as community under the *Local Government Act 1993*.

Prior to entering into a lease or licence, evidence of current Public Liability insurance cover (\$20M) including a certificate of currency must be provided by the lessee.

Application of Policy

This policy covers all of the Yass Valley Local Government Area and to any land or buildings owned by Yass Valley Council or Crown Reserves managed by Yass Valley Council, where lease or licence agreements would normally apply, subject to the exclusions below:

1. Leases or other arrangements involving the use of Council owned or managed land or buildings that are occupied by emergency services. These arrangements are subject to specific legislative requirements e.g. State Emergency Services.
2. Short term temporary licence agreements
3. Casual or regular hiring of Council's community or sports facilities.

Existing leases may be extended following a review to ensure compliance with appropriate Legislations and Acts.

Responsibilities & Review

The Infrastructure & Assets Division will:

- Provide all necessary administrative support for the operation of this policy
- Develop and document any procedures for the effective implementation of this policy
- Keep sufficient records to enable monitoring of compliance with this policy and provide information required for Integrated Planning and Reporting purposes and internal organisational performance measurement.
- Review this policy every four years.

References

This policy is to be read in conjunction with the following:

Legislation	<i>Local Government Act 1993 – Division 2</i>
Policies and procedures	<i>Local Government (General) regulation 2021 – Section 116-119</i>
	<i>Roads Act 1993 and Road Regulation 2018</i>
	<i>Crown Land Management Act 2016</i>

Approval History

Stage	Date	Comment	MagiQ Reference
Original/Review	12 December 2007	Adopted by Council	Min 603
Review	14 May 2008	Adopted by PP&R	Min 204
Review	11 November 2009	Adopted by SPM	Min 475
Review	September 2021		Doc ID

Ownership and Approval

Responsibility	Role
Author	Manager Engineering Services & Manager Facility & Waste Assets
Owner	Director Infrastructure & Assets
Endorser	EMT
Approver	Council