



Leasing and Licensing Council Controlled Land Policy

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Policy Statement

1 Objective

The objective of this policy is to ensure that, when considering the leasing or licensing of Council-controlled land-based assets, including Crown Land, Council explores possible options for the use of the land, applies processes that are demonstrably equitable, consistent and transparent, complies with appropriate legislative requirements and obtains best value results for the Woollahra community.

2 Principles

All leasing or licensing of Council-controlled land assets, including Crown Land, will:

- Be consistent with Council's economic, social and environmental objectives,
- Be undertaken in compliance with legislative and other obligations,
- Occur only after consultation with all affected stakeholders and relevant sections of the community taking into account all relevant comments and representations,
- Be undertaken with the intention of securing an optimum mix of financial and other benefits for the community,
- Be through a fair and open process and include regular market testing
- Be in accordance with ICAC guidelines
- Be open to public scrutiny while maintaining appropriate levels of commercial confidentiality, and
- Be conducted in accordance with the Council's procedures.

3 Area to Which the Policy Applies

This Leasing and Licensing Policy covers all of the Woollahra Council Local Government area and to any property assets or land owned by Woollahra Council or Crown Land controlled and or managed by Woollahra Council on behalf of the Crown or a Trust.

4 Leasing or Licensing of Council Land

Generally

Prior to leasing or licensing any land or property, Council will obtain a valuation by an independent and suitably qualified consultant. Except in special circumstances, Council will not lease or licence land or property at a market rental below that established by the

independent valuation. Special circumstances may include leases or licences to community or sporting bodies or for short-term use of rooms in community centres, as outlined below.

i. Major developments Council may enter into

A long-term lease, where major development or upgrading of the property is proposed requiring significant investment, an extended period of agreement may be necessary, so that the parties involved are able to realise a viable return on investment. Such a proposal will be subject to expert independent appraisal and evaluation and a report to Council.

ii. Leases of surplus road

Before Council will consider the leasing of a portion of a road reserve, this must be assessed by Council's Manager of Public Infrastructure to determine that the proposal is of community benefit and that the portion of road reserve is not required in the short term for widening, footpath construction or other Council infrastructure works. (Note: Leases of public road are for a maximum of five years) Section 153 to 157 of the Roads Act 1993 stipulates the clauses in relation to leasing of unused public roads.

The proposal must also be assessed by other relevant Council sections such as Planning and Development and Community Services to determine that the proposal is of community benefit, is in accordance with Council planning controls and that the portion of road reserve is not required in the short term for any other Council purpose.

These assessments will be reported to Council.

OR

Council may continue the leasing of a portion of a road reserve to accommodate an existing encroachment where this was established before the commencement of the Roads Act 1993.

Council will generally only consider leasing parcels of unused road to the owner/s of the adjoining property/properties.

iii. Leases and licences to commercial operators

In order to assess the market, where the term of an existing commercial lease is due to expire or where a new lease is contemplated, Expressions of Interest or Public Tenders will be called. Existing lessees or licensees will have the opportunity to submit Expressions of Interest or Tenders.

Unless otherwise considered appropriate, the period of any lease or license will not normally exceed five years, with an option of renewal of five years. Lease and licences will

include annual CPI adjustments, reviews to market at specified intervals during the term (generally 3 years) and a provision that lease or licence payments shall not be reduced as a result of market reviews.

iv. Leases and licences to community or sporting groups

Council recognises that many existing lessees or licensees of community land (and Crown Land), notably sporting bodies and community groups, have strong historical and/or social and/or recreational ties to the facilities they use. In some cases, they have contributed cash or in kind to the development of these facilities.

In considering new or continued leases or licences of such facilities, Council will take these factors into account and may, at its discretion and subject to a report to Council, not require Expressions of Interest or Tenders to be called as required in Section (iii) above.

v. Short term licences of rooms in community centres, etc.

Council recognises there is a demand for short-term occupation of rooms in community centres, etc. where it would be onerous and not cost-effective for Council to require Expressions of Interest or Tenders to be called as required in Section (ii) above.

In considering new or continued use of such facilities, Council will take these factors into account and may, at its discretion and subject to a report to Council, not require Expressions of Interest or Tenders to be called as required in Section (iii) above.

vi. Footway licences

(Refer to Council's Footway Approval Policy)

Footpath licences are issued by Council for the purposes of outdoor dining and the limited display of shop goods. Before a licence can be issued for a footway restaurant or display of shop goods, the business must obtain Development Consent under the Environmental Planning & Assessment (EP&A) Act 1979 and other statutory approvals. Section 125 to 127 of the Roads Act 1993 stipulates the clauses in relation to footway restaurants. Limited shop good display on the footway requires approval under Section 68(E) 2 of the Local Government Act 1993.

The footway restaurant or limited display of shop goods must comply with the Council's adopted Footway Licence Policy and be conducted in accordance with the conditions of the Licence Agreement.

5 Leasing or Licensing of Community Land and Crown Land

Council may only lease or license Community land where this is authorised by an adopted or draft Plan of Management. The terms of the lease or licence must have regard to the needs of and benefits to the community. Section 46 and 47 of the Local Government Act 1993 stipulates the clauses in relation to leasing and licensing of community land.

The leasing and licensing of Crown Land will be generally carried out under the same conditions as Council Community land. Section 41 to 50 of the Crown Lands Act 1989 stipulates the clauses in relation to leasing and licensing of Crown land.

Policy Amendments

Date	Responsible Officer	Description