

Lease / Licence of Vacant Council / Crown Land Policy

Policy Number: SVC -COR-PO-008-01

Aim

This policy enables Council to consider applications for the leasing and licensing of Council controlled land assets, including Crown Land and unused/closed public roads while ensuring Council is consistent and transparent, and complying with appropriate legislative requirements when determining each application. It excludes the hire of community buildings, sporting venues and facilities.

1. To lease Council owned land to the public on a three year term with an option of extension for a further three years.
2. To licence Crown Land or reserves that Council has been entrusted with to the public for a three year term.
3. To lease unused/closed Public Roads to the owner or lessee of land adjoining the public road if the road is not being used by the public for a maximum of 5 years.

To lease land that is not utilised by council in the short term for the purpose of maintaining the land in a clean and weed free condition usually for the purpose of grazing.

Legislation

Local Government Act, 1993 and associated regulations
Crown Lands Act 1989 and associated regulations
Roads Act 1993 No 33

Definitions

Council Land – Freehold land owned by Council.

Crown Land – Belonging to the crown and entrusted to Council.

Unused/closed Public Road – Council is the roads authority over land.

Lease – A contract by which one party conveys land, property, services and provides exclusive possession of a defined area of land, for a specified time, usually in return for a periodic payment.

Licence – A permit from an authority to own or use something and provides permission to use land, it allows someone access to the land of another for an agreed purpose, it provides non-exclusive use of the land.

Scope

This policy applies to all Council owned or controlled land within Snowy Valleys Council Local Government area.

Overview

Council owns or has control of a number of parcels of vacant land. These parcels of land generally are of three types being Council freehold land, unused/closed public roads and Crown Reserve lands provided under trustee status to Council by the Minister for Lands.

Council will allow leases or licences to be held over designated Council controlled land assets to ensure that the property is maintained and used in a responsible and appropriate manner, allow the occupant legal tenure over the property, and to encourage capital improvements to be made to the property.

Council land is usually leased to members of the public for a three year term with an option to renew for a further three years.

Crown Land cannot be leased and is only available under a licence agreement for terms of up to three (3) years at a time once approval from the Minister of Lands has been granted.

Unused/closed public roads are usually leased to the owner or lessee of land adjoining the public road for a period of no more than 5 years including options to renew.

Council controlled land, including Crown Land that is landlocked can only be leased/licence by an adjoining property owner or lessee. In the event multiple adjoining property owners want to lease the one parcel of land this will be determined by a resolution of Council.

Approval for the renewal of an existing lease and/or licence to be delegated to the General Manager, provided the terms and conditions are in accordance with Council policies and procedures.

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 an Expression of Interest to be called as required in section above.

Process

1. Expressions of Interest will be called from the public when the current lease expires. If there is more than one party interest in the one property, a report will be presented to council. Expressions of Interest for Crown Land must meet the minimum licence fee set by the Minister for Lands.
2. Land that is landlocked, adjoining property owners will have the opportunity to take on the lease/licence.
3. Licence fee will apply as set out in agreement and paid to Council; in addition the licensee will pay annual rates to Council and to the Hume Livestock and Pest Authority Board upon demand.
4. The Council hereby leases/licences and authorises the Lessee/Licensee to enter upon and use for the purpose of grazing use only that piece of land described in the Lease/Licence Agreement.
5. During the continuance of this Lease/Licence the Lessee/Licensee shall utilise the land for the purposes of grazing domestic livestock.
6. The Lessee/Licensee pays the Council the specified licence fee and rates levied when due and payable annually.
7. The Lease/Licence remains in force for the period specified within the agreement.
8. The Lessee/Licensee shall comply with the special conditions.
9. Council does not make or give any warranty, promise or covenant to the Lessee/Licensee for quiet enjoyment of the lease licence area.
10. Termination of this agreement may be terminated by either part by one months' notice in writing to the other and shall be sufficiently served if left at the last known address of the Lessee/Licensee.

Special Conditions

1. **Purpose** - The Lessee/Licensee shall have the use of the area for the purpose of grazing, other activities shall not be conducted without the written permission of Council.
2. **Control of Rubbish** - The Lessee/Licensee shall keep the said area and buildings clean and tidy and all papers and other rubbish shall be collected and removed.
3. **Licensee not to Permit Nuisance** - The Lessee/Licensee shall not do or permit or suffer anything in or upon the land which may be or become a nuisance or annoyance or cause of damage to the owner or to the owners or occupiers of other property in the neighbourhood. The Trust reserves the right to remove from or refuse entry to the reserve/land any person regardless of any arrangements or contract with the lessee/licensee.
4. **Protection of Trees** - During the continuance of this Licence the Lessee/Licensee will not cut down, fall, injure or destroy any growing or living timber standing or being upon the land. No removal of dead timber for firewood permitted.
5. **Control of Noxious Weeds and Animals** - The Lessee/Licensee will during the continuance of this Licence use all proper means for keeping down and exterminating upon the land all rabbits and other vermin and noxious animals and insects and all noxious weeds and plants and comply with all laws and regulations now or hereafter in force with relation to the keeping down or extermination of same.
6. **Fencing** - The Lessee/Licensee shall provide and maintain stock proof fencing where necessary around the perimeter of the land so as to prevent stock from straying. When installing or replacing fences the Lessee/Licensee should consult with adjoining landowners prior to erection.

The Lessee/Licensee must regularly inspect the stock proof fencing that encloses the stock on the land to satisfy themselves that the fencing is stock proof. The Lessee/Licensee must be aware that they hold absolute legal liability for any damage or loss to any party caused by the escape of grazing animals from the subject land. Council cannot accept liability for damage or loss to any party caused by animals escaping the subject land due to a failure of the Lessee/Licensee to inspect and maintain stock proof fencing.

7. **Insurance** – The Lessee/Licensee shall take out a public risk insurance policy with a reputable insurance office, insuring them against such of the said matters as can be insured against to the sum of not less than twenty million dollars (\$20,000,000) and shall be produced at any time when required by the Council with the last renewal receipt for payment of such premium thereon. The Lessee/Licensee shall indemnify and keep indemnified the Council against all actions, suits, claims, debts, obligations and other liabilities during the continuation of the Licence and further.

The Lessee/Licensee shall maintain all other insurances as may be required by the Workers' Compensation Act or any other Act or Acts of Parliament in regard to the conduct of activities of the licensee on the demise premises. Copy of such is to be forwarded to the Council.

8. **Council Access** - The Council may by its Agents, Servants or Workman enter upon the land described in the Schedule hereto or any part thereof during the continuance of this agreement. No relationship of the landlord and tenant is or is intended to be created between the parties hereto by virtue of this lease/licence or in any way whatsoever.

9. **Sublet** - The Lessee/Licensee shall not assign, sub-let or otherwise deal with the demised premises without the consent of Council.
10. **Fixtures** – The ownership of existing fixtures will be decided prior to the establishment of a new lease or licence. Any new fixtures erected after a new lease or licence is granted will be owned by the Lessee/Licensee and must be maintained during the period of the lease/licence. The transfer of fixtures owned by an outgoing Lessee / Licensee is their responsibility.
11. The Lessee/Licensee shall not interfere with any other person authorised by the Trust/Council to use the reserve or any part thereof.

Responsibilities

Council – Elected members of Council

Elected members of Council are responsible for the adoption of this Council policy and the consideration of resources towards the implementation of this policy.

General Manager

The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

Directors, Managers and Team Leaders

Are responsible for;

- The implementation of the policy and procedures in their work area.
- The monitoring of implementation and compliance with the policy and associated Procedure.

Director Corporate Services and Governance – Tumut Office

To implement/administer all leases/licences of Council owned and controlled land under the guidelines as set out in this policy.

Rates Officer – Tumbarumba Office

To implement/administer all leases/licences of Council owned and controlled land under the guidelines as set out in this policy.

Weeds Officer

Conduct annual Noxious Weeds Inspection of land and report to Lessee/Licensee findings.

Key Performance Indicators

All leases of Council owned and controlled property is treated under the guidelines of this policy.

Contact Officer: Director Corporate Services & Governance – Tumut
Rates Officer – Tumbarumba

Associated Documents

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| External | - | Licence Agreement from Crown Lands Department between the parties involved |
| Internal | - | Lease agreement between the parties involved |

Superseding Policy No. and Title:

Lease/Licence of Council/Crown Land Policy – GOV.11 v1.4 – Tumut Shire Council
Lease of Vacant Council Owned or Controlled Land Policy incorporating Procedure – TSC-COR-PO-123-0 – Tumbarumba Shire Council

Policy prepared by: Corporate Planning Coordinator

History table:

Version Control No	Development /Amendment Date	Approval Date	Resolution Number	Activity log
0	5.01.2017			Prepared by Corporate Planning Coordinator – Policy Review Committee to review
0		30.03.2017		Presented to Policy Review Committee
		27.04.2017		Adopted Ordinary Council Meeting for Public Exhibition
		29.06.2017	M92/17	Adopted Extraordinary Council meeting