
L10. Leases – Council Property

Title: Leases – Council Property – Maintenance of By Lessee/Licensee Policy

Policy No: L10

Replaces Policy: L20

Keywords: Maintenance, Rates and Charges, Leases, Licences, Property

Responsible Officer: Executive Manager, Corporate Services

1. PURPOSE AND AUTHORITY

The objective of this policy is to set out Council's adopted policy position with respect to the leasing and licensing of Council property.

2. POLICY STATEMENT

- (a) That Council continue its existing practice when granting leases or licences of Council property to require the lessee/licensee to maintain the premises.

Further, that all organisations having the exclusive use of Council owned property be required as a matter of policy to enter into appropriate lease or licence agreements.

- (b) That where equipment and facilities are made available for exclusive use of any organisation and where such is financed in whole or in part by the Council, all maintenance of such facilities be carried out by the organisation concerned.

That the abovementioned policy not apply to the following properties:-

- (a) Bligh Park Pre-School Kindergarten
- (b) Manly Senior Citizens' Centre
- (c) Ivanhoe Park Pre-School/Guide Hall
- (d) North Steyne, South Steyne and Queenscliff Surf Clubs
- (e) Manly Art Gallery.

That all leases of Council owned property or property under the Council's care, control and management require that the lessees pay Council rates and other charges directly resulting from the leasing of the land except where occupied by amateur organisations or clubs which are unlicensed and operated primarily to provide recreation facilities for the community.

(O.M.13.11.79)
(Confirmed 20.10.97)

3. PRINCIPLES

The underlying principles of this policy are as follows:

- the principles of equity and fairness,
- the charter principle that Council is a steward and custodian of public monies, and
- the user-pays principle.

4. SCOPE

This policy applies to all Council officials (including Councillors and Council staff and consultants engaged by Council) who are involved, directly or indirectly, in decision-making (including preparatory and recommendatory decision-making) with respect to the subject-matter of this policy.

Insofar as land is concerned, this policy applies to all Council properties in the Manly local government area other than the ones mentioned that are expressly excluded from the operation of the policy.

As respects leases (but not licences), and insofar as the obligations of lessees are concerned, the policy requirement to pay rates and charges does not apply to Council properties occupied by amateur organisations or clubs which are unlicensed and operated primarily to provide recreation facilities for the community.

5. DEFINITIONS

See the Dictionary at the end of the Local Government Act 1993 for definitions of various terms and expressions used in this policy.

6. IMPLEMENTATION

This policy will be implemented without delay once adopted by Council. Upon adoption this policy will be entered into Council's policy register, made available online and provided to all staff and any other people directly affected by this policy.

Council and/or the General Manager may, during a civil emergency only, set aside any policy terms to ensure public safety.

7. MONITORING AND BREACHES

Regular monitoring of compliance with this policy, relevant legislation and Manly policies and procedures will be undertaken and documented by the responsible officer for this policy.

Breaches of this policy are considered to be breaches of Manly Council's Code of Conduct and therefore invoke the relevant sanctions outlined in that Code. Persons in breach of any legislation may be subject to relevant criminal action.

8. REPORTING

No specific reporting is required by this policy.

9. POLICY REVIEW

This policy is subject to regular review at a maximum interval of two (2) years.

For the purposes of carrying out and giving effect to this policy, the General Manager may from time to time prepare, adopt or vary, and otherwise issue to Council staff, guidelines and directions relating to any aspect of this policy.

Any recognised change to relevant legislation; or directives or guidelines issued by agencies including the NSW Ombudsman and the Division of Local Government; or to Manly Council's related guidelines and procedures will activate an immediate review of this policy to ensure it remains current and aligned to best practice policies.

10. RELEVANT REFERENCES AND LEGISLATION

Local Government Act 1993
Local Government (General) Regulation 2005

11. RELEVANT COUNCIL POLICIES

Nil. (**Note:** This policy now includes the substance of former policy L20: Leases – Council Property – Payment of Rates and Charges by Lessee.)

12. REVISION SCHEDULE

Minute No	Date of Issue	Action	Author	Checked by
PS53/11	2 May 2011	Periodic Review	Secretariat, Corporate Services	Manager, Administration
	June 2013	Comprehensive Review		General Counsel
PS16/14	3 March 2014	Periodic Review	OM CSS	Manager Governance