



Lease, Licence and Permit for Council Owned & Controlled Land & Buildings Policy

Strategic Reference	Providing leadership for the community and ensuring efficient and effective management of the community's resources.
File reference	AR17/14388
Responsibility	Infrastructure & Assets Department
Revision Number	7
Effective date	August 2008
Last revised date	September 2017
Minutes reference	193/17, 024/15, 097/12, 395/11
Next review date	Every two years, September 2019
Applicable Legislation	Local Government Act 1999, s202
Related Policies	N/A
Related Documents	Leasing and Licensing Implementation Manual for Coorong District Council. Fees and Charges Schedule

1. Introduction

Coorong District Council recognises the community value of sporting and community clubs and community land within the district.

Council acknowledges its responsibilities and recognises that it needs to provide:

- a balanced approach towards the use of land for community purposes and
- authority over its land use for community, private or commercial purposes.

2. Objective

To implement administrative procedures and authority for issuance of leases, licenses and/or permits for Council-controlled land and buildings.

Lease, Licence and Permit Policy for Council owned and controlled land and buildings

3. Policy statement

Council owns both community and operational land. Council attempts to optimise the use of its land holdings for the benefit of the community and/or to maximise the amount of revenue it derives from its land holdings including road reserves and unmade roads.

Decisions to grant leases, licences and/or permits of Council-controlled land and buildings are to be made by resolution of Council.

Approval for the renewal of existing leases, licences and/or permits is delegated to the CEO, provided the terms and conditions are in accordance with Council policies and procedures.

Management of leases, licences and/or permits of Council-controlled land and buildings will be undertaken in accordance with the provisions of this policy.

4. Scope

This policy specifically deals with all local government land including roads, road reserves and unmade roads, owned by or under Council's care and which is leased/licensed/covered by permit to third parties.

The policy should be read in conjunction with the Local Government Act 1999(The Act). Under the Act a lease or licence may be granted or renewed for a term not exceeding 21 years as stated in the lease or licence. For strategic reasons, Council will generally not offer such lengthy terms, but will consider such requests on a case by case basis.

The terms and conditions of all leases and licences will be reviewed on a regular basis consistent with the content of the agreement.

The policy does not cover all the requirements that pertain to Community and Local Government Lands as these requirements are set out in The Act and form part of Council's legal obligations. It does, however, take into account requirements of the relevant state authority that should be considered when dealing with dedicated lands owned by the Crown.

The principles of this policy will be applied initially to those leases and licences which have expired and where renewal is pending. The remaining leases/licences will follow as and when their current agreement requires renewal, or as new leases/licences/permits are taken up on Council owned or managed land.

Section 202 of the Local Government Act of 1999 outlines the principles in respect of use of Community Land by lease or licence.

5. Templates for leases, licences and permits

Council's Solicitors have drawn up templates to cover each type of use envisaged by this policy and those templates form the basis of documentation of arrangements between the parties.

6. Types of agreements

The following categorisation will be applied to Leases, Licences and Permits.

Lease, Licence and Permit Policy for Council owned and controlled land and buildings

6.1 Leases

Leases provide specific and exclusive rights to occupy or use the land on behalf of a third party.

6.1.1 Commercial Lease – Whole of Land

This template is used when the Council is leasing out land or buildings to a commercial party for a commercial rental. The lease may be in registrable form if requested by the Lessee.

6.1.2 Commercial Lease – Portion of Land

This template is used when the Council is leasing out portion of a property asset to a commercial party for a commercial rental. The lease may be in registrable form if requested by the Lessee.

6.1.3 Community Facility Lease – Whole of Land

This template is used when the Council is leasing out the whole of a Council property (e.g the whole of the land contained in a Certificate of Title) to community groups and/or sporting clubs and the Lessee does not require the Lease to be registered.

6.1.4 Community Facility Lease – Portion of Land

This template is used when the Council is leasing out portion of a Council's land and buildings to community groups and sporting clubs and the Lessee does not require the Lease to be registered.

6.2 Licences

This template is for use or occupation that does not provide sole rights to the land and buildings.

6.2.1 Community Facility Licence

This template is used where the Licensee does not have exclusive possession of the premises. It provides the Council with flexibility to licence the premises to other parties at different times and better utilise the facilities.

The extent of use and conditions for each licence are documented in the agreement. The licence need not be registrable agreement.

6.3 Ground Lease

A ground lease template is used where the lease is for land only and does not create a leasehold interest in any buildings or other improvements on the land provided that the buildings or improvements are specified as being "Lessee's Improvements" when drafting the Lease. Improvements made after execution of the Lease will be owned by the Lessee during the period of the lease or renewals but are vested in the Council if the lease is surrendered by the Lessee..

The Council is not responsible for the care and/or maintenance of improvements on a ground lease.

Lease, Licence and Permit Policy for Council owned and controlled land and buildings

6.4 Permits

This instrument generally offers a permit to carry out minor work on land or to occupy land, but not to the exclusion of other parties.

Council supports community groups which raise funds by conducting stalls and badge days in public space, including footpaths and public land. These groups include sporting clubs, recreational clubs, craft groups or associations and community based health or social welfare agencies. In the event that a stall includes the sale of food, the owner of the stall will need to comply with the appropriate requirements of the Food Act.

Community Groups and not for profit organisations will be granted a permit to operate from local government land without fee for the purposes of raising funds for charity, subject to the group providing proof of an adequate public liability insurance policy and meeting other statutory requirements if applicable.

7. Crown Land

When considering the lease of dedicated land owned by the Crown but under the care and control of Coorong District Council, it is a requirement of the Department of Environment & Natural Resources to refer the application to the Minister for Environment & Natural Resources to seek approval from the owner of the land, whether it is a renewal or a new application for a lease to ensure:

- Dedicated lands are not developed where the nature of the development contemplates use that is at variance to the purpose for which the land has been dedicated.

When considering the licence of dedicated land owned by the Crown but under the care and control of Coorong District Council, it is a requirement of the Department of Environment & Natural Resources to consult with the owner of the land.

8. Categories of user

The fee payable on land leased or licensed to third parties will be separated into three categories:-

8.1 Community based bodies

Council recognises the benefit of providing support, financial and non-financial, to community groups and organisations including “not for profit bodies”. These include service clubs, craft groups, or associations and community based health or social welfare agencies.

The following fee structure principles will apply to not for profit organisations, however individual circumstances may apply in each case, taking into account the cost of any improvements on the land and the responsibility for the maintenance of those improvements.

8.2 Sporting and community bodies

To establish balance in assessing a reasonable contribution amongst the various sporting and recreational clubs, where an organisation has the ability to enjoy profit from either an annual membership fee, or licensed facilities or a combination of both, a differential fee structure will generally be applied.

Lease, Licence and Permit Policy for Council owned and controlled land and buildings

8.3 Commercial activities

Commercial Activities will be separated into two areas, being:

- a. Landowner and/or Resident Private Use
- b. Full Commercial Use

8.3.1 Landowner and/or Resident Private use

Requests from private individuals to lease buildings or vacant land within townships will be assessed on merit in accordance with Council's strategic direction and operational requirements. A market rate will apply using the principles outlined in the template.

8.3.2 Full Commercial Use

Proposals to establish a commercial enterprise on any council land will be subject to individual consideration by council after Council has considered all aspects of the proposal.

Expansion of general farming activities from adjoining neighbours who apply to use vacant land will be considered under the category of landowners/residents/private use as outlined under 8.3.1.

A market rate will apply using the principles outlined in the template.

9. Further information

This policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's website: www.coorong.sa.gov.au

Coorong Civic Centre

95-101 Railway Terrace
Tailm Bend
Phone: 1300 785 277
Fax: 8572 3822

Meningie Information Hub

49 Princes Highway
Meningie

Tintinara Customer Service Centre

37 Becker Terrace
Tintinara

Copies will be provided to interested parties upon request. Email council@coorong.sa.gov.au

Any grievances in relation to this code of conduct or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.