

THE CITY OF
PROSPECT



Lease and Licence of Community Facilities Policy

Adopted by Council

28 October 2008

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1 PURPOSE

The Lease and Licence of Community Facilities Policy (the Policy) aims to provide a structured and consistent approach to the management of Council's lease and licence agreements with local not-for-profit organisations for the use of community facilities.

2 SCOPE

The Policy relates to agreements made between Council and not-for-profit organisations based in City of Prospect.

3 DEFINITIONS

- 3.1 **Agreement** pertains to a legal agreement in the form of a lease or licence made between Council and an organisation for exclusive or part use of a community facility for a period of time in excess of 6 months.
- 3.2 **Schedule** pertains to the terms and conditions specific to the agreement made between Council and an organisation for use of a community facility.
- 3.3 **Not-for-profit organisations** are incorporated associations whose primary objective is service to the community rather than profit.
- 3.4 **Community Facilities** are Council properties which may include halls, ovals, open space, playing fields, clubrooms, courts, car parks, spectator facilities and/or any combination of the above.

4 LEGISLATIVE AND CORPORATE REQUIREMENTS

In adopting the Policy it is recognised that there are specific legislative requirements to be met, these include the:

- Local Government Act 1999 (Section 202)

Alienation of community land by lease or licence.

(1) A council may grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve).

(2) Before the council grants a lease or licence relating to community land, it must follow the relevant steps set out in its public consultation policy.

(3) However, a council need not comply with the requirements of subsection (2) if —

(a) the grant of the lease or licence is authorised in an approved management plan for the land and the term of the proposed lease or licence is five years or less; or

(b) the regulations provide, in the circumstances of the case, for an exemption from compliance with a public consultation policy.

(4) A lease or licence is to be granted or renewed for a term (not exceeding 21 years) stated in the lease or licence.

(5) A lease or licence may provide for—

(a) the erection or removal of buildings and other structures for the purpose of activities conducted under the lease or licence;

(b) the exclusion, removal or regulation of persons, vehicles or animals from or on the land, and the imposition of admission or other charges;

(c) any other matter relevant to the use or maintenance of the land.

(6) A lease or licence must be consistent with any relevant management plan.

- Development Act 1993
- Environment Protection Act 1993

5 POLICY STATEMENT

Council will provide a range of well-maintained and well-managed community facilities and enter into agreement with locally based not-for-profit organisations for their use in order to encourage the health and wellbeing of its community.

5.1 PRINCIPLES OF THE POLICY

Council will ensure fair and equitable access for locally based organisations to its community facilities.

Council will work in partnership with locally based organisations to provide opportunities for all members of the community to participate in a range of activities.

Council will ensure that its community facilities are managed to an appropriate and sustainable standard.

6 APPLICATION OF POLICY

- 6.1. Sporting bodies will be granted a licence to use Council owned facilities in those situations where the body only requires use of the facility for set hours and/or days. A lease will only be entered into when an organisation has the exclusive use of the facility at all times and only after undertaking community consultation in accordance with the Community Consultation Policy.
- 6.2. A standard document shall be used in respect of all agreements. Council shall have the right to attach a schedule to the agreement setting out special conditions, fees or concessions as appropriate.
- 6.3. The organisation will be responsible for the general maintenance of the facility and for the cost of all utilities. Where services are made available to the wider

public or a common access point is shared between Council and the organisation, the contribution of the organisation towards this cost will be negotiated and outlined in the schedule attached to the agreement.

- 6.4. Where Council services are sought by the organisation to maintain the facilities in any way, Council shall recoup the full cost of providing those services in the fee as set out in the schedule attached to the agreement.
 - 6.5. Council will guarantee loans to organisations for approved capital development of Council facilities where the organisation concerned can satisfy Council that it has the financial ability to service the loan.
 - 6.6. Organisations are expected to pay for the preparation of plans, specifications and all architects' fees incurred by the Council for any proposed developments or improvements to be made to the facility at their request.
 - 6.7. Fees for minor development applications for provisional planning consent for community facilities are to be paid by the organisation where consideration of the application must be undertaken by an external organisation.
 - 6.8. Not-for-profit organisations and Council shall work together to ensure that the facilities are safe and in keeping with the standards required to ensure a quality experience for all users.
 - 6.9. Prior to an agreement being made a condition statement shall be produced to determine the condition of the facility at the time of the agreement being made with the organisation.
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- 6.10. Council shall delegate full authority for the negotiation of agreements to the Chief Executive Officer or nominee. Authority to approve the schedule and to sign and seal the agreement shall be vested in Council.
- 6.11. Where practicable at least three months prior to the termination or commencement of an agreement, a report shall be presented to Council providing the following information:
- The organisation's financial position and capacity to pay;
 - The number of members and participants;
 - The number of members and participants based in the City of Prospect;
 - The contribution to date (financial and in-kind) of the organisation to the maintenance and development of the facility;
 - Whether the activity is already available in Prospect;
 - Whether the organisation caters for or targets groups with special needs;
 - Whether the facility is shared and/or is able to be accessed by the community;
 - Whether the organisation operates in an environmentally sustainable manner.
 - the cost to Council of maintaining the facility
 - the current rent charged for use of the facility.
- 6.12. When recommending the amount of rent to be charged to an organisation for lease or licence of a community facility, the above information will be taken into consideration and four options will be presented to Council for a decision:
- a) maintain the current rent charged for the facility;
 - b) a minimal increase to the current rent charged;
 - c) a moderate increase to the current rent charged;
 - d) a substantial increase to the current rent charged.

- 6.13. All agreement terms will be of any period up to three years, and contain triennial periods for review if full term is in excess of three years.
- 6.14. Annual automatic rental indexations in line with the Consumer Price Index will be applied where appropriate.
- 6.15. A report shall be presented to Council where practicable at least three months prior to the extension of an agreement if:
- a) the organisation is in default;
 - b) the organisation and the Council administration fail to reach agreement on the terms and conditions.
- 6.16. Organisations must seek written permission from Council prior to entering into any agreement with another organisation for use of the facility.
- 6.17. Organisations may not sub-let the facility to any other organisation for the purpose of conducting a commercial or profit making activity.
- 6.18. The installation of gaming machines is not permitted in any Council owned facility.

7 REVIEW

- 7.1 The Policy will be reviewed in line with Council's Policy Framework or earlier in the event of major changes to legislation or related policies/procedures or if deemed necessary by the Chief Executive Officer or nominee.
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8 ACCESS TO THE POLICY

8.1 The Policy is available for public inspection on Council's website www.prospect.sa.gov.au and from Customer Service at 128 Prospect Road, Prospect SA 5082.

8.2 The Policy is available for staff inspection on Council's intranet site.

9 FURTHER INFORMATION

For further information about the Lease and Licence of Community Facilities Policy please contact:

Director, Community Wellbeing
City of Prospect
128 Prospect Road
Prospect SA 5082