

POLICY NAME: Community Property Leasing & Licensing
POLICY REF:
MEETING ADOPTED: Resolution No.
POLICY HISTORY:



TABLE OF CONTENTS

OBJECTIVE..... 1
APPLICATION..... 1
BACKGROUND..... 2
LEGISLATION..... 2
DEFINITIONS (FOR THE PURPOSES OF THIS POLICY)..... 3
SCOPE OF POLICY 4
RELATED DOCUMENTATION..... 4
POLICY..... 4
LEASES AND LICENCES 5
POLICY IMPLEMENTATION..... 8
PROCEDURAL MATTERS 9
REVIEW13
ATTACHMENT 1 (PERIODICALLY UPDATED TO REFLECT UPDATED INFORMATION)14
ATTACHMENT 221
ATTACHMENT 322
ATTACHMENT 423

OBJECTIVE

The objective of this policy is to provide a process and criteria to assess the granting and renewal of leases and licences to sporting bodies, community groups and charitable groups (referred collectively to as Not-For-Profit Organisations ("NFPO") throughout this policy) for certain Council owned or managed land and buildings in a timely manner that meets legislative requirements.

This policy categorises lessee/licensees into three groups (A, B and C) which determines the amount of rent and outgoings payable, maintenance obligations, lease term and legal fees. It also provides assessment criteria to assist in assessing the suitability of the tenant. This will enable the establishment and management of a clear and transparent system for leasing and licensing of Council property, ensuring an equitable agreement is reached. These principles are shown in Attachment 2.

This policy will ensure that, when considering the leasing or licensing of Council owned and/or managed assets (including Crown Land), Council explores options and applies processes that are demonstrably equitable, consistent and transparent. The aim of this approach is to obtain beneficial economic and social outcomes for the residents of the Ballina Shire.

Note: This policy does not apply to sporting groups using sporting grounds for seasonal competitions, as this will be the subject of a separate policy following a sporting needs analysis.

APPLICATION

Land to which this policy applies

This policy applies to the land in Ballina Local Government Area set out at Attachment 1 to this policy and land classified as community land, and incorporates property, assets or land owned or managed by Ballina Shire Council that is predominately used for community (as opposed to commercial) purposes. This policy does not apply to all Council owned land and application is not solely distinguished by land classification.

Exclusions

This policy does not apply to:

- Licenses for occasional or short term hire of land or facilities;
- Hire of spaces within Council' Community Facilities (eg Ballina Surf Club, Lennox Head Cultural and Community Centre);
- Non-exclusive use of Council property;
- Roads;
- Crown Land not managed by Ballina Shire Council;
- Land or facilities owned by Ballina Shire Council as commercial investments or significant commercial components;
- Operational land or facilities owned by Ballina Shire Council (eg, quarries, water facilities, waste facilities);
- Sporting grounds
- Emergency services; and
- Surf life saving facilities; (unless listed in Schedule 1)

This policy will apply to all new tenancy applications and any existing agreements that require renewal from 1 July 2016.

BACKGROUND

Prior to adopting this policy, Council did not have an adopted policy for the leasing or licensing requirements of public land. This policy provides a consistent and transparent framework for Council and the community to follow in relation to leasing, licensing and tenure matters. In the past, Council has entered into a number of agreements on community land which remain active and are unaffected by this Policy.

Community groups and organisations provide significant benefits to the broader community through the range of services and support programs they deliver. To assist groups with their activities, Council provides land and facilities to be used by these groups in their endeavours. Council also assists with the maintenance and day to day costs associated with the occupation of Council facilities. Often, community groups raise funds for their core activities which in turn provide benefits to the broader local community. Ballina Shire Council supports income generating activities by community groups, and also considers it appropriate that the community groups engage in activities which generate income to support the core activities of the group.

As income which is generated from activities conducted on public land provides a broader community benefit (whether or not funds are received by Council for the use of a property), it is appropriate that information regarding these benefits, both financial and non-financial, be made available to the community and supports the underpinning principles of Council's Community Strategic Plan.

LEGISLATION

The *Local Government Act 1993* requires Council to classify land owned by it as either "community land" or "operational land".

The *Crown Lands Act 1989* is land owned by the Crown and managed by Council under the Reserve Trust Management system. All such land has a "reserve purpose" and must only be used or leased in accordance with that reserve purpose.

Therefore, land leased by Council falls into three groups:

1. Operational land;
2. Community land; and
3. Crown land covered by the *Crown Lands Act 1989*.

There are different legal and management requirements for each type of land in these categories.

Community Land – General

Leasing of Council owned community land is governed by sections 45 to 47D of the *Local Government Act 1993*. Leases for community land must only be granted for uses consistent with the core objectives of the category of land, for a use prescribed by the Act or Regulations and expressly authorised by a Plan of Management for the land.

Operational Land - General

Operational land is used for Council's administrative and works functions and need not be kept for general community use.

If the Council property to be leased or licensed to a Lessee/Licensee is classified as "Operational" land, Council is at liberty to enter into a Lease or Licence of the Property without giving public notice or exhibiting the proposed Lease or Licence.

Crown Land

Leasing of Crown Land is governed by sections 41 to 50 of the *Crown Lands Act 1989*.

Licensing of Crown Land is governed by sections 108 and 109 of the *Crown Lands Act 1989*.

The Minister also retains powers to grant leases and licences over Reserve Trust land. This is governed by sections 34, 34A and 34AA of the *Crown Lands Act 1989*.

Other legislation

The Conveyancing Act 1919 and the *Real Property Act 1900* contain provisions and formal requirements for leases, and these provisions determine the length and terms able to be offered under a lease. These terms do not usually apply to licences.

DEFINITIONS (FOR THE PURPOSES OF THIS POLICY).

Community Group	A social organisation, club or association which is involved in the promotion, arranging and managing of leisure, welfare or sport activities.
Community Land	Land is dedicated for community use. Classification as community land reflects the importance of the land to the community because of its use or special features and must be managed according to special guidelines in the Local Government Act.
Community Benefits	Financial or non-financial outcomes which improve, enhance or add value to the community and/or its facilities.
Council Land	Land owned by Council, either classified as operational or community land, as defined in the Local Government Act
Crown Land	Land owned by State Government, where Council has been appointed as Reserve Trust Manager. As Reserve Trust Manager, Council controls the use of this land, in consultation with the State Government.
Charity	As per the Charities Act, an organisation must be not-for-profit, have only charitable purposes that are for the

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

public benefit, not have a disqualifying purpose, and not be an individual, a political party or a government entity.

Lessee/Licensee

An authorised person or incorporated body that has entered into or is proposing to enter into either a lease or licence with Council for the use of Council property.

Council will only grant a lease or licence to specific persons, incorporated bodies, (that is, organisations that are incorporated under the Associations Incorporation Act 1984 NSW) or bodies corporate (as defined under the Corporations Act 2001 (Cth). This means a lease or licence agreement cannot be made with people representing a group eg. Committees or partnerships.

SCOPE OF POLICY

This policy applies to:

- Council staff
- Councillors
- Community groups

RELATED DOCUMENTATION

Related documents, policies and legislation:

Charities Act 2013 (Cth)
Conveyancing Act 1919
Crown Lands Act 1989
Crown Lands Reserve Trust Handbook
Generic Plan of Management for Community Land
Government Information (Public Access) Act 2009
ICAC Guidelines – “*Direct negotiations – Guidelines for Managing Risk*”
Land Register
Local Government (General) Regulations 2005
Local Government Act 1993
Office of Local Government Guidelines
Public Land Management – Practice Note – Division of Local Government
Real Property Act 1900
Retail Leases Act 1994

POLICY

The purpose of this policy is to provide guidelines in relation to the leasing and licencing of public land by:

- Defining the general terms and conditions of Leases and Licences in respect of Council owned or managed property (see policy exclusions);
- Ensuring that leasing and licencing of Council owned or managed property is consistent, transparent, fair and impartial;

- Ensuring that all conduct in granting and renewing tenure documents is undertaken in accordance with ICAC guidelines (*Managing Risks in Direct Negotiations*)
- Ensuring that leases or licences are prepared and executed in accordance with the relevant legislation and regulations dependent upon their classification.

This policy does not alter the terms and conditions of any existing lease, license or estate granted over public land in the Ballina Shire. This policy will be applied should community partners wish to renew arrangements when existing agreements reach their expiration date.

LEASES AND LICENCES

Distinction between a Lease and a Licence

Council is able to grant leases and licences over public land.

A lease or a licence is a contractual agreement between Council (lessor or licensor) and another party (lessee or licensee) that binds both parties to the terms of the agreement.

The individual circumstances surrounding the land and buildings and the needs of the users will assist in guiding whether granting a lease or licence is appropriate.

The essential differences between the documents are:

Lease

A lease provides for exclusive possession of property by the lessee. A lease is granted for a set term and provides for the payment of rental and other terms set out in the lease agreement.

A lease creates an interest in the land which can be transferred to the Lessee for the period of the lease

A lease can be transferred to another party with consent of the land owner.

A lease is not revocable unless essential terms of the lease are breached by either party.

Licence

A licence is the granting of permission to use land for a specific purpose, and provides for payment of a licence fee by the licensee.

A licence does not grant exclusive possession.

A licence does not create interest in the land and is not transferable

A licence is revocable.

Eligible Lessee/Licencees

A lease or licence may be granted to an individual, a company, an incorporated association or a local government body. For the purposes of this policy, Council applies the following categories of lessee/licensee.

Group A – Commercial

Group A lessee/licensees occupy Council property on a commercial basis.

Examples of these tenants are commercial organisations which, whilst providing for community services or benefits have a commercial or business oriented profit objective and Government organisations. These groups include:

- For profit long day care facilities;
- Non government organisations receiving significant government funding;
- Government agencies

Group B – Community Groups, Clubs and Organisations

Group B lessee/licensees include recreational or community groups that provide a range of services to the Ballina Shire community. These tenants include member based sporting clubs, groups that charge fees for services and organisations that have the capacity to generate substantial revenue from use of the Council property or other activities consistent with the organisational purpose (but do not operate to make a commercial profit). The groups include:

- sporting clubs generating income through means additional to basic sources (such as membership fees, funding from the primary sporting body, canteen sales etc). Additional revenue sources include liquor sales, ticket sales and sponsorships;
- non-government organisations who receive government funding;
- corporate entities providing community services;

Group C – Not-for-Profit Community Groups (peppercorn)

Group C lessee/licensees include incorporated community groups that service the community and are not classified as a Group A or Group B entity. These tenants do not have the capacity to generate a significant amount of income and operate on a not for profit basis. These groups include

- Community based preschools and long day care centres
- Community halls (including properties occupied by Management Committees and Progress Associations with the objective of operating and maintaining the hall as a community space,)
- Toy libraries and play groups
- Scout/girl groups
- Historical societies, research societies

IMPLEMENTATION NOTE

Any rental which is applicable to the above categorisation will not be payable until two years after the implementation of this policy. This section of this policy is to be reviewed after 18 months of operation of the policy in preparation for its implementation. This is to allow for the collection of additional information from user groups to enable policy adjustments a required prior to the implantation of charges, to ensure that any charges are fair and consistent.

General Terms and Conditions of Tenure Documents

A lease or licence must be authorised in the Plan of Management relating to the land and be for purposes consistent with the core objectives for the category of land.

Council may only grant a lease or licence over community land if:

- The plan of management expressly authorises the lease or licence; and
- The purpose of the lease or licence is consistent with the core objectives for the category of land (s.46(2)); and
- The lease or licence is for a purpose listed in section 46(1)(b) of the *Local Government Act*.

Types of Leases

Types of leases or purposes for which leases may be granted, include:

- a. Retail businesses;
- b. Commercial and business ventures (non-retail);
- c. Non-profit sporting or community groups or clubs;
- d. Mixed uses, for example commercial activities on land leased to a non-profit organisation.

Leases and Licences for terms of 5 years or less in respect of Community Land (s47A Local Government Act 1993)

Once a lease or licence complies with s46 (explained above), Council must:

- Give public notice of the proposal
- Place a notice of the proposal on the land
- Notify owners adjoining the land
- Notify persons living in the vicinity of the land if Council believes that the land "is the primary focus of the person's enjoyment of community land"
- Consider submissions made about the proposal.

Council must call tenders for leases over 5 years, unless the lease is to be granted to a Group C non-profit organisation (s.46A).

Leases and Licences for terms of 5 to 21 years in respect of Community Land (s47 Local Government Act 1993)

Council may only grant leases or licences over community land for terms up to 21 years. For leases between 5 and 21 years Council must:

- Give public notice of the proposal
- Place a notice of the proposal on the land

- Notify owners adjoining the land
- Notify persons living in the vicinity of the land if Council believes that the land is the primary focus of the person's enjoyment of community land
- Consider submissions made about the proposal
- Refer the proposal to the Minister for Local Government if Council has received an objection to the proposal.

If an objection has been received, Council cannot grant the lease or licence and must refer the proposal to the Minister for approval.

Lease and Licence on a Crown Reserve

The term of a lease/licence should be as short as possible, taking into account the particular circumstances of the reserve and the lessee's proposed use of it. Council understands terms of more than 20 years will not normally be approved by Crown Lands.

A lease or licence of a Crown reserve can only permit the lessee/licensee to use the reserve in a way that is consistent with the reserve purpose (as stated when the reserve was dedicated or reserved).

However, temporary licences (licences for up to one year) can be granted for purposes listed in clause 31 of the *Crown Lands Regulation 2006*.

The devolution of care, control and management of reserves under the provisions of Section 48 of the *Local Government Act 1993*, authorises Council to enter into lease/licence agreements with the Minister's consent.

However, the Minister's consent does not need to be obtained before a lease or licence is signed if:

- It is a temporary licence (ie. the term does not exceed one year) and it is for a use that comes within one of the permitted purposes under clause 31 of the Regulation; or
- If the reserve trust manager has obtained prior written consent under section 102A of the *Crown Lands Act* to enter into certain leases and licences without the need for Ministerial consent.

If the agreement is a lease for a term exceeding 5 years, arrangements are made to advertise the Minister's intention to give consent in accordance with Section 102(2) of the *Crown Lands Act*.

POLICY IMPLEMENTATION

This policy is administered by Council's Property Officer - Community Land.

Each new lease or licence may be subject to a review process which includes an internal referral (refer to flowchart Attachment 4).

The internal referral process provides relevant departments within Council an opportunity to comment and provide any additional information relating to the proposed lease or licence.

Where a proposed lease or licence is not opposed by departments through the internal referral process, a report may be required to seek Council approval, or alternatively, a delegate of the General Manager may commence negotiations and approve the lease or licence.

PROCEDURAL MATTERS

Expression of Interest (EOI) and Tenure Renewals

Council may decide to conduct an EOI process to determine a suitable lessee/licensee. The decision to conduct an EOI process for a Council property will be based on factors including the following:

- Size of the Council property
- Location of the Council property
- Value of the Council property
- Expected rental return
- Likelihood of multiple interested applicants and users
- Type of proposed or desirable service delivery
- Opportunity for innovative or flexible solutions for the Council property.
- The duration of occupation by the incumbent tenant.

Council recognises that many existing lessees or licensees of public land have strong historical, social and recreational ties to the facilities they use. In many cases, organisations have contributed cash or in kind contributions to the maintenance or improvement of these facilities.

In considering tenure renewals of such facilities, Council will take the following factors into account and upon a written request will not require Expressions of Interest or Tenders to be called unless there is a history of non-conformances with Council's requirements for the occupation of the property or there is a resolution of the Council requiring a different approach.

In circumstances where Council acquires community property or a property becomes vacant or is proposed for occupation by a new tenant, the expression of interest process will apply.

Rent Payable

Rent will be required to be paid in advance either annually, quarterly or monthly, as per the terms of the agreement. Payment must be paid within 14 days of receipt of an invoice or as requested by Council.

Rental Assessment

Market rental is assessed for all public land tenancies and included in the tenure agreement. Market rent may then be rebated to a lesser amount in consideration of the not for profit status of the organisation. To establish the eligibility of an organisation to pay the minimum fee, each organisation shall be requested to submit its annual report and financial statement through the terms of any lease or licence offered.

- a. A rental at less than market rate will apply in the following manner:
 - i. On Council-owned land, peppercorn rental will apply. Peppercorn rental is set each year in Council's fees and charges;
 - ii. On Crown Land, statutory minimum rental in accordance with s141A of the Crown Lands Act will apply. This rental amount is set quarterly by the Department of Primary Industries – Lands;
- b. The purposes of this market rent rebate is to provide financial support to NFPOs who are assisting the broader community by the services they provide. The rebated rental amounts will be reported annually to the elected council.

Council's intention in providing a rental rebate is to assist NFPO's in their day to day operations providing benefits to the local community. Activities undertaken by lessee/licensees are not activities which are being undertaken by or on behalf of Council.

Security Deposit

Council may request a security deposit from the lessee/licensee. The amount required will at a minimum be equivalent to one month's rent.

Council may call on the security deposit if the lessee or licensee does not comply with any of its obligations under the lease or licence.

GST

All tenants must pay GST and is payable in accordance with the requirements of Australian Taxation Law.

Market Rent Review

Rental reviews may be determined by the Council's Valuer and will take into consideration the category assessment of the lessee/licensee.

Annual Reporting

All lessee/licensees must provide the Council with the following upon request:

- Annual reports of financial statements
- Details of membership.
- Business plan.
- Details of all contributions/sponsorships.
- A copy of the certificate of currency with respect to the insurance required under the lease or licence each year.
- Summary of all maintenance or building works carried out or planned in the next financial year.

Incorporation

Council requires all NFPOs who are occupiers of public land to be incorporated associations in accordance with the *Associations Incorporation Act 2009*.

Not for Profit Status

As public land is intended to provide benefits to the broader community, it is appropriate that the occupation of public land is by NFPO. To establish an organisation as NFPO for the purposes of this policy, inclusion on the Australian Charities and Not-for-Profit Commission Register or registration with the NSW Department of Fair Trading as a Not for Profit Association is acceptable.

Sub-letting

The lessee may not sub-lease the leased premises without Council's prior written consent (which may be given conditionally) and subject to approved terms and conditions. If consent is granted, Council may review and adjust the terms of the head lease.

Standard Lease and Licence

Council has developed standard lease and licence agreements and these will be used as the basis of all tenancies. The agreements may vary over time and will be prepared and tailored to each proposed lessee/licensee. Additional clauses will be included in the agreements when necessary to meet specific requirements of Council or the proposed tenant.

Term of Lease or Licence

The length of each lease or licence will be negotiated taking into account the particular circumstances of the Council property and lessee/licensee, including capital investment and long-term planning, the connection between facility use, the Council plan objectives, relevant strategies and the extent to which the facility is used for multi-purpose activities.

A licence term will not be granted for more than five years. A lease term will not be granted for more than three years. This is based on occupation being on a temporary basis allowing flexibility for both Council and the tenant.

Under exceptional circumstances Council may grant tenure that exceeds 5 years. This will require a public exhibition process and be subject to approval being granted by the relevant Minister.

If tenure exceeding 3 years is granted, any costs associated with obtaining Minister's consent, development approvals, subdivisions for leasing purposes, registration costs and any other costs of formalising the tenure will be borne by the lessee/licensee.

Withdrawal of Lease or Licence Offer

In the event an offer of tenure is made, which is not accepted by the lessee within three months of the date of the offer, Council may withdraw the offer and seek expressions of interest from other organisations for occupation of the property.

Resolution of Council

Decisions of Council to grant new leases and or licences, or renewals of leases and licences over owned or managed land are to be made by formal resolution of

Council, including a resolution that the Common Seal of the Council be affixed to the lease or licence and related Real Property Dealing or supporting documents.

Leases and Licences of Crown Land – Minister’s Consent

If the status of the land is Crown Land, vested in the care and control of Council or with Council as Reserve Trust Manager, the consent of the Minister responsible for the administration of the *Crown Lands Act 1989* must be obtained before the lease or licence is executed by Council.

Lessee/Licensee’s Obligations

In lieu of a rebated market rental, it is expected that occupants of community facilities will:

- Attend diligently to day to day maintenance and repair of the facilities;
- Advise Council promptly of any major maintenance items requiring repair;
- Notify Council of proposed works and seek authorisation;
- Provide to Council on an annual basis a list of preventative maintenance items for consideration in Council’s annual works program;
- Any improvements to public land or premises made by the lessee/licensee will become the property of Council or the Crown at the termination of the lease

Insurance

Lessees/licensees of public land must provide to Council evidence of the insurances set out below, whenever requested to do so. A copy of the policy must be provided to Council at the commencement of any new agreement. The evidence must be in a form acceptable to Council and should be as issued by the insurer (not an Insurance Broker or other intermediary).

It is the obligation of the lessee or licensee to ensure that public liability insurance is maintained for the duration of their lease.

Any claims, excess or deductions payable under the terms and conditions of the insurance policy are entirely the responsibility of the lessee/licensee. The lessee/licensee must provide Council a copy of the Certificate of Currency annually.

All lessee/licensees of Council property will be required to hold:

1. Public liability insurance - in an amount provided annually by Council. The Public Liability Insurance policy must be an insurer approved by Council and note the interest of Ballina Shire Council as owner of the land.
2. Contents Insurance – for any contents and/or private articles kept on the leased premises;
3. Workers Compensation Insurance – appropriate workers compensation insurance as required by the relevant legislation to provide protection for volunteers or casual employees;
4. Products Liability Insurance – as required by relevant legislation for any goods or products made by the lessee/licensee.

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ensuring Leasing and Licencing is Consistent, Transparent, Fair and Impartial

Council has an obligation to ensure all public assets are managed an open manner which provides transparency and benefits to the community. All leases and licences, as well as communications relating to renewal, are subject to the *GIPA Act*, which promotes the granting and renewing of tenure in a fair and impartial manner.

REVIEW

The Community Property Leasing and Licensing Policy will be reviewed every four years.

The organisation categorisation provisions under this policy are to be reviewed after 18 months of the operation of the policy.

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ballina Shire Council

Community Property Leasing and Licensing

ATTACHMENT 1 (periodically updated to reflect updated information)

#	Precis	Applicant (NAR)	Tenure	Term
1	Alstonville & District Football Club Inc, Crawford Park Clubhouse, Part Lot 161 DP247578 Bruxner Highway, Alstonville	Alstonville and District Football Club Inc	C004 Council Licence	4Y
2	Alstonville Plateau Historical Society, Crawford House, Lot 6 DP235088, 10 Wardell Road Alstonville	Alstonville Plateau Historical Society	C003 Council Lease	3Y
3	Alstonville Community Preschool, Lot 1 DP1205880, Freeborn Place, Alstonville	Alstonville Community preschool Incorporated	C003 Council Lease	20Y
4	Alstonville Tennis Club Inc, Lumley Park Tennis Courts, part Reserve 575670 for Public Recreation notified 12 December 1924 being part of Lot 333 DP 755745 and whole of Lot 7004 DP 92641, Alstonville	Alstonville Tennis Club Incorporated	C001 Crown Land Lease	3Y
5	Alstonville Tennis Club Inc, Russellton Tennis Courts, Part Lot 2 DP 1135399, 16 Kays Lane, Alstonville	Alstonville Tennis Club Incorporated	C003 Council Lease	1Y
6	Ballina and District Community Services Association, Ballina Community Youth Centre , Lot 13 & 14 DP1714, 32 Swift Street, Ballina (known as Wigmore Park)	Ballina and District Community Services Association	C003 Council Lease	4Y
7	Ballina and District Equestrian Club Inc, Ballina Equestrian Complex, Part Lot 114 DP755684 & Lot 386 DP 755684, "lease area of 4.8 hectares", Gallans Road, Ballina	Ballina and District Equestrian Club Inc	C003 Council Lease	4Y
8	Ballina Bowling and Recreation Club, Ballina Croquet Club, Part Reserve 540004 for the purpose of Public Recreation, notified 20 August 1886 being part Lot 561 DP 1119965,	Ballina Bowling and Recreation Club	C001 Crown Land Licence	6Y

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ballina Shire Council

Community Property Leasing and Licensing

#	Precis	Applicant (NAR)	Tenure	Term
9	Ballina Community Gardens Incorporated, Ballina Community Garden, Reserve No. R83963 for Public Recreation notified on 24 August 1962 and situated at Canal Road, Ballina	Ballina Community Gardens Incorporated	C005 Crown Temp Licence	1Y
10	Ballina Fox Street Preschool Inc, Fox Street Preschool, Lot 1 DP 781710, No. 84 Fox Street, Ballina	Ballina Fox Street Preschool Inc	C003 Council Lease	5Y
11	Ballina Hockey Club Inc, Ballina Hockey and Sports Complex, Part Reserve No. 82164 for purpose of Public Recreation notified on 20 November 1959 being part Lot 7064/1118403 being Ballina & Sports Complex	Ballina Hockey Club Inc	C001 Crown Land Lease	3Y
12	Ballina Naval and Maritime Museum Inc, Ballina Naval and Maritime Museum, Part Reserve 97786 for Public Recreation and Museum notified 10 May 1985, being part Lot 502 DP 729388,	Ballina Naval and Maritime Museum Inc	C001 Crown Land Lease	3Y
13	Ballina Netball Association Inc, Ballina Netball Clubhouse and Canteen, part Reserve 82164 for Public Recreation notified 20 November 1959, being part Lot 7064 DP1118403, Owen Street, Ballina	Ballina Netball Association Inc	C002 Crown Land Licence	3Y
14	Ballina Players Inc, Ballina Players Theatre, Lot 7 DP 668267 & Part Lot 70 DP 1005100, 24 Swift Street, Ballina	Ballina Players Inc	C003 Council Lease	4Y
15	Ballina River Street Children's Centre Inc, River Street Children's Centre, 2/1/758047; 5/1/758047; 6/1/758047; 7/1/758047; 8/1/758047	Ballina River Street Children's Centre Inc	C006 Council as Lessee/Licensee	Under review
16	Ballina Rugby Club Inc, Quays Reserve Clubhouse, Lot 62 DP263861, No. 96-98 Kalinga Street, Ballina (Quays Reserve), Clubhouse, Carpark and Playing Field	Ballina Rugby Club Inc	C003 Council Lease	4Y

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ballina Shire Council

Community Property Leasing and Licensing

#	Precis	Applicant (NAR)	Tenure	Term
17	Ballina Senior Citizens Inc, Wigmore Hall - Senior Citizens, Lots 9 and 10 DP 1714 and Lot 70 DP 1005100, 26-28 Swift Street, Ballina (known as Wigmore Hall).	Ballina Senior Citizens Inc	C003 Council Lease	4Y
18	Ballina Shire Band, Wigmore Hall - Ballina Band, Lots 9 and 10 DP 1714 and Lot 70 DP 1005100, 26-28 Swift Street, Ballina (known as Wigmore Hall). Ballina Shire Concert Band Inc occupy part of the Wigmore Hall being part Lot 70 DP 1005100	Ballina Shire Band Incorporated	C003 Council Lease	4Y
19	Ballina Sports Club Inc, Saunders Oval Clubhouse, part Reserve 83963 for Public Recreation notified 24th August 1962 being part of Lot 495 DP 729297 known as Saunders Oval, Canal Road, Ballina	Ballina Sports Club Inc	C001 Crown Land Lease	3Y
20	Ballina Tennis Inc, Ballina Tennis Club, part Dedication (D540004) for Public Recreation notified 20 August 1886, being whole Lot 441 DP 45984 and part Lot 561 DP 1119965, known as Hampton Park, Burnet Street, Ballina	Ballina Tennis Inc	C002 Crown Land Licence	3Y
21	Department of Education (Southern Cross K-12 School), Prospect Lake Boat Shed	Department of Education (Southern Cross K-12 School)	C004 Council Licence	3Y
22	Fripp Oval Sports Club Inc (Bombers ARFC & Bears Cricket Club), Fripp Oval Clubhouse and Storage, Canal Road Ballina Lot 494 DP729298	Fripp Oval Sports Club Inc (Bombers ARFC & Bears Cricket Club)	C002 Crown Land Licence	3Y
23	Girl Guides Association of New South Wales, Wigmore Hall - Girl Guides, Part of Lots 9 & 10 DP 1714 and Lot 70 DP 1005100, 26-28 Swift Street, Ballina (known as the Girl Guides Section)	Girl Guides Association of New South Wales	C004 Council Licence	4Y
24	Lennox Head Combined Sports Association Inc, Williams Reserve Clubhouse, Reserve No. Part 82927, Part Lot 473 DP 729088, Park Lane Lennox Head	Lennox Head Combined Sports Association Inc	C002 Crown Land Licence	5Y

Page 16 of 23

<Policy No.>

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ballina Shire Council

Community Property Leasing and Licensing

#	Precis	Applicant (NAR)	Tenure	Term
25	Lennox Head Community Preschool Inc, Lennox Head Preschool, Lot 415 DP 755684 21 Mackney Lane, Lennox Head	Lennox Head Community Preschool Inc	C003 Council Lease	4Y
26	Lennox Head Community Preschool Inc, Lennox Head Preschool, Preschool Yard, Reserve 97839 for Kindergarten notified 12 July 1985 being Lot 466 DP 729058, Mackney Lane, Lennox Head NSW	Lennox Head Community Preschool Inc	C002 Crown Land Licence	3Y
27	Lennox Head Soccer Club Inc, Skennars Head Sports Fields Clubhouse, Licenced Area 1 - Part Lot 12 DP 1004858, Licenced Area 2 - Portion of Storage facility located on part Lot 12 DP 1004858	Lennox Head Soccer Club Inc	C003 Council Lease	3Y
28	Lennox Head Soccer Club Inc, LEBA Boardriders Club, Lions Club, Skennars Head Sports Fields Storage Shed	Under review	Under review	Under review
29	Lions Club of Ballina Inc, West End Hall, Lot 1 DP 721625, 3 Brunswick Street Ballina (occupation of hall and storage shed)	Lions Club of Ballina Inc	C003 Council Lease	4Y
30	Little Pelicans Playgroup, Ballina Playgroup, 2/1/758047, 5/1/758047, 6/1/758047, 7/1/758047, 8/1/758047	Little Pelicans Playgroup	C006 Council as Lessee/ Licensee	under review

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ballina Shire Council

Community Property Leasing and Licensing

#	Precis	Applicant (NAR)	Tenure	Term
31	Newrybar Community Hall Committee Inc, Newrybar Hall, Lot 1 DP 784894 & Lot 1 DP 918865, 13-15 Old Pacific Highway, Newrybar	Newrybar Community Hall Committee	C004 Council Licence	4Y
32	Northlakes Community Centre Management Committee, Northlakes Community Hall, Lot 139 DP 1010847 Whiting Way, Ballina	Northlakes Community Centre Management Committee	C004 Council Licence	4Y
33	Pimlico Ladies Charitable Organisation, Pimlico Hall, Part of Lot 3 DP 561944, 580 Pimlico Road, Pimlico	Pimlico Ladies Charitable Organisation	C003 Council Lease	1Y
34	Rainbow Childrens Centre Inc, Rainbow Childrens Centre, 210/735156, 4 John Sharpe Street, East Ballina	Rainbow Childrens Centre Inc	C003 Council Lease	5Y
35	Richmond River Sailing & Rowing Club Inc, Richmond River Sailing Club, part reserve 87280 for Public Recreation notified 25 July 1969, being part Lot 1 DP 1051004, River Street Ballina	Richmond River Sailing and Rowing Club Inc	C002 Crown Land Licence	3Y
36	Richmond-Tweed Family History Society Inc, Richmond-Tweed Family History Research Centre, Part Reserve 97786 for Public Recreation and Musuem notified 10 May 1985, being part Lot 502 DP 729388, Regatta Avenue, Ballina	Richmond-Tweed Family History Society Inc	C002 Crown Land Licence	3Y

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ballina Shire Council

Community Property Leasing and Licensing

#	Precis	Applicant (NAR)	Tenure	Term
37	Surf Life Saving Far North Coast Branch Inc, Shelly Beach Surf Club Building, Reserve No. 1010068 for Public Recreation and Coastal Environmental Protection notified on 13 August 2004, part Lot 402 DP 755684, Shelly Beach Road, East Ballina	Surf Life Saving Far North Coast Branch Inc	C002 Crown Land Licence	1Y
38	Tintenbar East Ballina Soccer Club and Ballina Little Athletics Club Incorporated, Power Drive, Cumbalum Part Lot 99 in DP1196589	Tintenbar East Ballina Soccer Club Incorporated and Ballina Little Athletics Incorporated	C003 Council Lease	3Y
39	Tintenbar Oval Clubhouse & Tennis Courts	Under review	Under review	Under review
40	TS Lismore Australian Navy Cadets, TS Lismore Navy Cadets, Lot 69 DP 778628, No. 26 Endeavour Close, Ballina	TS Lismore Australian Navy Cadets	C003 Council Lease	4Y
41	Wardell Progress Association, Wardell and District War Memorial Hall	Wardell Progress Association	C003 Council Lease	3Y
42	Wardell Progress Association, Wardell Tennis Club	Under review	Under review	Under review

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ballina Shire Council

Community Property Leasing and Licensing

#	Precis	Applicant (NAR)	Tenure	Term
43	Wollongbar Alstonville Rugby Club Inc, Lyle Park Clubhouse, Lot 106 DP 807798, Lyle Park Wollongbar	Wollongbar Alstonville Rugby Club Inc	C004 Council Licence	4Y
44	Wollongbar Community Preschool Inc, Wollongbar Preschool, Lot 7 DP 778746, 5 Hall Court, Wollongbar	Wollongbar Community Preschool Inc	C003 Council Lease	10Y
45	Wollongbar Progress Association, Wollongbar Community Hall, Lot 41 DP 262103, Hall Court, Wollongbar	Wollongbar Progress Association	C004 Council Licence	4Y

ATTACHMENT 2

Assessment Criteria

An assessment will be conducted to determine the eligibility and suitability of a tenant by considering the objectives of this policy. The following criteria will be assessed in no particular order:

- Community benefit in accordance with objectives contained in Council's Community Strategic Plan;
- Financial return to Council
- Tenant's capacity to pay
- Future use of the Council property
- Impact on the Council property; and
- Suitability if the Council property for the proposed use:
 - Planning requirements
 - Building requirements
 - Other statutory requirements

9.5 Policy (New) - Community Property Leasing and Licensing.DOC

Ballina Shire Council

Community Property Leasing and Licensing

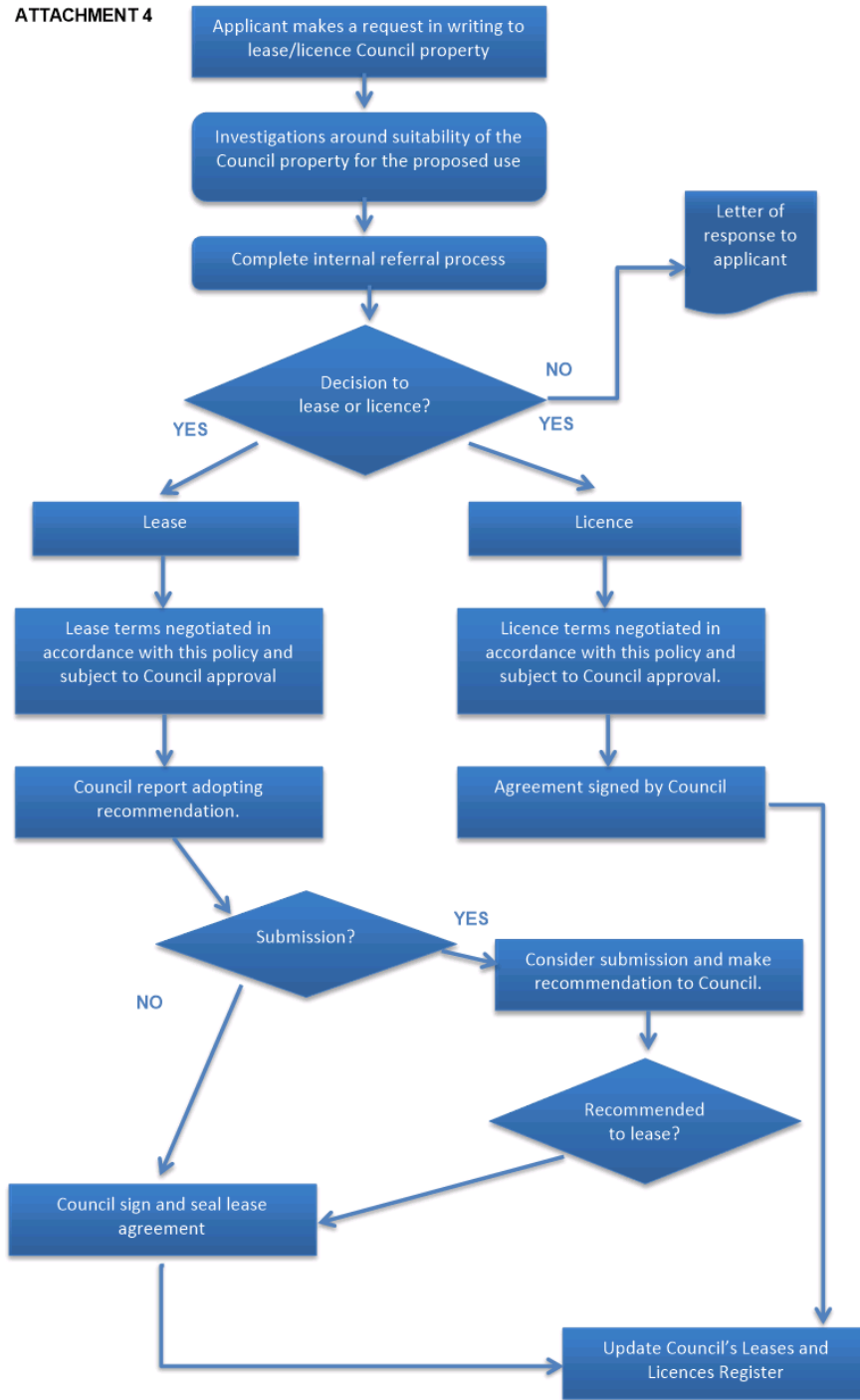
ATTACHMENT 3

Category Assessments

Category	Rent	Outgoings/ Utilities	Maintenance	Rent Reviews	Term
Group A	Commercial Rate determined by Council's valuer	100%	In accordance with the terms of the lease or licence	In accordance with the terms of the lease or licence	By negotiation
Group B <i>Council</i>	Reduced commercial rental rate as set in Council's yearly fees and charges	100% in accordance with Council's donations policy	In accordance with the terms of the lease or licence. Council to attend to structural or major maintenance or repairs.	Annual CPI increase	3 years
Group B <i>Crown</i>	Crown Statutory Minimum Rental				
Group C <i>Council</i>	Peppercorn rental as set in Council's yearly fees and charges	100% in accordance with Council's donations policy	In accordance with the terms of the lease or licence. Council to attend to structural or major maintenance or repairs	Annual CPI increase	3 years
Group C <i>Crown</i>					

9.5 **Policy (New) - Community Property Leasing and Licensing.DOC**

ATTACHMENT 4



Alstonville Plateau Historical Society Inc

"Crawford House"
10 Wardell Rd Alstonville 2477
Phone: (02) 6628 1829



PO Box 65 Alstonville NSW 2477
info@aphmuseum.org.au
www.aphmuseum.org.au

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2477

10 June 2016

Dear Mr Hickey

Community Property Leasing & Licensing Submission

Alstonville Plateau Historical Society maintains Crawford House Museum for the benefit of thousands of Shire residents and visitors. We also preserve and make available Ballina Shire's history. Since taking over management of Crawford House more than 12 years ago, we have invested more than \$300,000 and countless hours of work. In the last year alone, we have installed floor covering, built additional storage cupboards and will soon be repainting various internal parts of the house and replacing some carpet.

We recommend several amendments to the new policy:

1. The **prime Objective** should be to manage these properties for the benefit of the community.
2. We wish to have greater certainty of tenure to allow us to continue to invest for the future, so we would like a **lease term than longer than 3 years**, as applies to many other organisations. Specifically, at least 5 years with built-in option to renew. Our preference is for a **perpetual lease**.
3. We are also concerned about spending our time on **unnecessary paperwork** with reports to Council and re-doing our lease too frequently.

We expect to be here for much more than another 12 years and hope that Council will support us in this endeavour.

Yours faithfully,

Ina le Bas
President

Affiliated with the Royal Australian Historical Society
ABN: 14 079 187 469

From: [molyneux@ballina.nsw.gov.au](#)
To: [Ballina Shire Council](#)
Cc: [Bon & Mary Eard](#)
Subject: WPA Inc Submission: Draft Leasing and Licensing Policy
Date: Wednesday, 6 July 2016 8:17:19 PM

Wollongbar Progress Association Inc.

Telephone: 66283880

6th July 2016.

Mr P. Hokey, General Manger,
Ballina Shire Council,
BALLINA 2478.

ATTENTION: Amy Cahill, Strategic and Community Facilities group.

Dear Paul,

SUBMISSION: Draft Policy - Leasing and Licensing of Community Property

We were concerned on reading

This policy categorises lesseelicensees into three groups (A, B and C) which determines the amount of rent and outgoings payable, maintenance obligations, lease term and legal fees. (p.1), and are confused about which category WPA Inc falls into. The policy applies to us, as Wollongbar Hall is on Council land and we are a NFPD.

We are surprised that Community Halls are not mentioned in the Draft Policy, but presume our organisation would fall into Category C.

WPA Inc is an incorporated body that manages Wollongbar Hall on behalf of Ballina Council, and endeavours to enhance the social, cultural

and environmental landscape for Wollongbar people. (see Object, attachment 1)

Any fundraising undertaken each year is to help offset the significant cost of Public Liability insurance. If Hall hirings cover that cost, as well as

our maintenance obligations relating to the Hall (regular cleaning, yard maintenance, gutter clearing, etc), then we do not undertake fundraising activities.

Membership of WPA Inc is an annual subscription of \$10 per household or family. For the 2016-17 year, our membership of twelve brings \$120 into

the organisation. If, under this Policy, our organisation has to pay rent or fees to Council, we would hand Wollongbar Community Hall back to Council

to administer, and our organisation would hire the Hall on an 'as needs' basis.

We trust our Submission will aid Council in fine-tuning the Leasing and Licensing of Community Property Draft Policy.

Yours sincerely,

Ron Birch President, WPA Inc.

Attachment 1:

Wollongbar Progress Association Inc

Objects:

- to liase with Ballina Council, and other areas of government, on behalf of Wollongbar Community
- to manage Wollongbar Hall on behalf of Ballina Council
- to work towards optimum social and environmental outcomes for the Wollongbar community.

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

RECORDED
6 JUL 2016
ER

5 July 2016

Amy Cahill
Property Officer Community Land
Strategic and Community Facilities Group
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Amy

Draft Policy - Leasing and Licencing of Community property

Council's letter dated 16 June 2016 relating g to the above subject, was received by Tintenbar Tennis Club Inc. (the organisation) on 5 July 2016. I note that this organisation was not aware that it "leased" a community property from Council. I further note that submissions on the draft policy close on 8 July 2016, which precludes this organisation from making any submission.

Subsequent to receiving the letter today, a committee member contacted council to discuss the matter. The advice received was that the organisation needs to apply for the lease of the community property in the name of TINTENBAR TENNIS CLUB Inc. The postal address is: PO BOX 1 TINTENBAR NSW 2478.

Thank you,

Ricky Johnston



President
Tintenbar Tennis Club Inc.

RECORDS
SCANNED
7 JUL 2016
Doc No.....
Batch No.....