



Community Facilities Leasing Policy

Adopted by Council on 23 October 2006

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1 Introduction

The City of Boroondara Vision outlined in the Council Plan includes *fostering a caring and enterprising community sharing a lifestyle rich in choice; a City looking after its natural and built assets now and for future generations; and an evolving city – a city in which to live, learn and work.*

Community facilities owned and leased by Council to diverse organisations make an important contribution to the City’s ability to achieve this vision through the provision of leisure activities and community services. These facilities include land, buildings and specialised grounds, with the term “facilities” used throughout this policy to describe all these elements.

This Community Facilities Leasing Policy provides a framework for leasing Council owned properties to community groups at discounted rates of rental. It establishes the requirement for all community tenants to demonstrate the community benefit arising from their use of the property and sets out reporting requirements to ensure accountability to Council and recognition of Council’s contribution. The policy establishes the terms and conditions to be used as the basis for negotiating leases. This policy replaces the Council Property Leasing Policy adopted by Council in July 2000.

2 Background

2.1 Leasing in Boroondara

The City of Boroondara leases more than 100 properties to clubs and incorporated organisations at subsidised rates for varied purposes including use as family and community centres, child care centres, senior citizens centres, scout halls, club rooms, and sporting facilities. Guidelines for these leases were outlined in the Council Property Leasing Policy adopted by Council in 2000. A review of the policy was conducted in 2004 –2005. The resulting Issues Paper formed the basis for a revised and updated policy circulated for community consultation during August and September 2005. The outcomes of consultation have been incorporated in this policy document.

2.2 Legislative Framework

A number of laws and regulations affect Council leases. Of particular relevance are the following Victorian Acts.

Local Government Act 1989: Includes restrictions on the maximum length of leases and provisions requiring leases to be advertised in certain circumstances, including leases of 10 years or more duration and leases for properties with market rental value of more than \$50,000 a year.

Retail Leases Act 2003: Controls leases of premises that are used wholly or predominantly for retail provision of goods or services (including by not-for-profit organisations).

2.3 Community profile

Projected changes to the community profile will affect the type of facilities that the community will require. Projections of resident numbers by the State Department of

Sustainability and Environment suggest that between 2001 and 2021 the City of Boroondara will see decreases in numbers of children and young adults, and increases in all other age groups except age 50-54, with greatest increases projected in numbers of residents aged between 60 and 70. Requirements for sport and leisure facilities, children's services and senior citizen services are all related to population changes as well as changes to lifestyles and community expectations. This leasing policy will ensure that access to Council facilities and assets are not unnecessarily restricted and properties are able to be deployed to meet changing community needs.

3 Aim of Policy

Through implementation of this policy Council aims to maximise the community benefit arising from facility use while ensuring responsible management of community assets, and accountability to ratepayers for the direct and indirect expenditure on lease subsidies.

4 Policy Objectives

The objectives of the policy are to:

- a. Enhance community participation, health and well-being through provision of appropriate and accessible community facilities;
- b. Ensure Council-owned facilities are used to meet demonstrated community needs consistent with Council's Vision, policies and the Council Plan;
- c. Optimise use by the Boroondara community of Council facilities;
- d. Increase community access to activities and services, particularly access by disadvantaged and socially isolated groups;
- e. Assist not-for-profit and volunteer-based organisations that offer activities and services in the City of Boroondara;
- f. Assist tenant organisations to understand and support the achievement of Council's policies and plans;
- g. Ensure fair and consistent lease conditions between tenant organisations and equitable access to leased facilities;
- h. Develop a partnership approach to facility management and maintenance in which tenants share the responsibility and cost;
- i. Ensure that Council's contribution is publicised to the community;
- j. Provide accountability for Council expenditure on leasing subsidies, as they constitute indirect grants;
- k. Ensure that Council-owned facilities are appropriately maintained, developed and occupied responsibly having regard to the interests of local communities and the care of the assets; and

1. Ensure sound financial management and effective administration of Council community leasing.

5 Eligibility for community leases

5.1 Eligibility Criteria

Schedule 1 to this policy sets out eligibility criteria for community tenancies. Prospective tenants as well as those seeking renewal of leases will provide details of how they meet these criteria. Rent subsidies will also have regard to the extent to which organisations meet the essential and desirable criteria (see section 6.2). The criteria are in three categories:

(i) Eligible organisation criteria: includes appropriate organisational structure, financial viability and compliance with relevant laws and Council policies.

(ii) Community benefit criteria: includes use of the facility to meet community needs, number of participants, access for disadvantaged groups and contribution to community wellbeing.

(iii) Facility management and development criteria: includes appropriate and responsible use of the facility and respect for local community, and commitment to maintain and develop the property in accordance with relevant maintenance schedules.

5.2 Annual reporting against criteria

All tenants will be required to report against the eligibility criteria on request and on renewal and advise Council if their organisational status changes. Tenants will also be required each year to advise Council of insurance coverage and compliance with any relevant licensing requirement and to provide a copy of annual report and financial statements. A tenant who breaches the lease conditions by failing to meet the relevant criteria or other conditions may be required to relinquish the lease or to pay full market rent. Council Officers will assist tenant groups to comply with the reporting requirements by providing simple reporting formats and checklists, timely information, explanation and if necessary briefings or training for tenants on how to demonstrate their claims against the criteria. Council Officers may also seek additional information where necessary to better understand activities, the extent of community use and opportunities for facility and service development. Reporting requirements will be primarily based on pre-existing documents such as annual reports.

5.3 Expression of Interest in Use of Council Property

Community groups who wish to utilise Council property should contact the relevant Council Department and may lodge a written expression of interest outlining the proposed use and addressing the eligibility criteria. Expressions of interest will be considered on their merits in the event that a property becomes available for use consistent with Council's Property Holdings Principles.

6 Terms and conditions of leases

6.1 Development of Standard Lease

A standard lease will be developed reflecting the contents of this policy and relevant legislation for use as the basis of all community leases.

6.2 Rent appraisal and review

6.2.1 Market rent value

The market rental value of each property will be identified and recorded in lease documentation.

6.2.2 Rent subsidy

Council will subsidise rent for eligible tenants. Tenants will be grouped into one of three categories based on the extent to which they meet the essential and desirable eligibility criteria outlined in *Schedule 1*. Performance against these criteria and eligibility for rent subsidy will be reviewed annually. The categories are:

- A: Peppercorn
- B: Community partnership
- C: Discounted market rent

The eligibility criteria for each category are included in *Schedule 1*, and summarised in Table 1 below.

Table 1 Rent subsidy categories

Category	Annual Rent	Eligibility
A: Peppercorn	\$1 per annum rent	<ul style="list-style-type: none"> ▪ Meets all relevant eligibility criteria, <u>and</u> ▪ Provides significant community benefit, <u>and</u> ▪ Operates a type of service that has been placed by Council on a “peppercorn rent” list, (eg Neighbourhood House, Kindergarten), <u>and</u> ▪ Has limited revenue-raising ability (net of cost of service).
B: Community Partnership	Minimum \$104, maximum \$1,250 per annum basic rent (upper limit indexed annually by CPI from 2005). Basic rent negotiated within the range based on size, nature and condition of facility. Generally 0.05% of property value (CIV). Additional rent component to cover Council maintenance costs will apply in some instances where tenant has the capacity to pay, including through seeking grants from third parties that include a component for cost of premises.	<ul style="list-style-type: none"> ▪ Meets all relevant eligibility criteria, <u>and</u> ▪ Provides significant benefits for the community, <u>and</u> ▪ Has limited revenue capacity (5% of CIV p.a.), <u>or</u> ▪ Undertakes capital development and full maintenance of specialist facility, such as synthetic playing surface.
C: Discounted market rent	Full market rent with any reduction from this rate to be	<ul style="list-style-type: none"> ▪ Use approved by Council, ▪ Meets most eligibility criteria, but not

	negotiated based on community benefit criteria, level of maintenance responsibility and capital contributions made by tenant.	all, for example tenant organisation is not open to all Boroondara residents to join, or tenant earns significant revenue from facility, <ul style="list-style-type: none"> ▪ Maintains and develops community facility.
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6.2.3 Adjustment of rents

Rents will be reviewed annually with amount payable above the minimum for categories B and C increased by the Consumer Price Index each year. Category B maximum rent figure will also be adjusted by CPI annually. New rent and subsidy levels will be introduced in all new leases following adoption of the policy, including any new lease developed with current tenants. .

6.2.4 Reporting on Rent Subsidies

The value of imputed rent payments foregone through rental subsidies will be included in annual Council budget papers.

6.3 Maintenance

6.3.1 Maintenance Responsibilities

Each tenant is required to maintain the facility in accordance with a maintenance schedule attached to the lease, using the services of registered and qualified tradespeople to undertake works that require a 'Certificate of Compliance'. Schedules will specify responsibilities of Council and tenant including responsibility for maintaining the structure including the building shell; fit out including fixture and fittings; and grounds including ground surface. All tenants signing leases following commencement of this policy will be required to contribute towards maintenance of their facility. Generally this will include responsibility to fully maintain elements related to the function of the facility, such as playgrounds, specialist equipment, tennis courts and the like. The level of maintenance responsibility outlined in the relevant schedule will be determined by the function of the facility, the degree of community benefit, and the tenant's ability to generate revenue. In broad terms maintenance responsibilities are as outlined below in table 2 which should be seen as a general guide only. Specific responsibilities will be negotiated with each tenant taking into account the nature, age and condition of the facility and included in a schedule to that tenant's lease.

6.3.2 Maintenance Definitions

1. Maintain / repair: Keep in good condition in accordance with Australian Standards. Ensure useful life of the asset is met in accordance with Council's Asset Management Plan for Buildings and Other Structures.
2. Replace: Replace at end of useful life. Replace if broken or damaged beyond repair.
3. Full Maintenance: Maintain, repair, replace

Table 2: Indicative Summary of Maintenance Responsibilities

Category	Building Component	Tenant Responsibility	Council Responsibility
<u>A1. Peppercorn</u> (Council funded service) <i>Includes Community Centres</i>	All elements	Clean, keep in good condition and perform incidental maintenance not requiring a skilled tradesperson	Full maintenance
<u>A2. Peppercorn</u> (other than Council-funded) <i>Includes Child Care Centres and Preschools</i>	Building Shell	Maintain	Replace
	Fixtures / Fittings (toilet pans, taps, door furniture)	Maintain	Replace
	Interior Surfaces (painting, carpet, tiling)	Maintain	Replace
	Building services (water supply, gas, sewerage, electrical)	Maintain	Replace
	Essential services	-	Full maintenance
	Routine services (gutter cleans, pest control)		Full maintenance
	Grounds (landscape features, external furniture)	Maintain	Replace
	Trees	-	Full maintenance
	Specialist ground surface and equipment (eg playground equipment, synthetic playing surface)	Full maintenance	-
B: Partnership <i>Includes sport and leisure clubs</i>	Building shell	Maintain	Replace
	Fixtures / Fittings (toilet pans, taps, door furniture)	Full maintenance	-
	Interior Surfaces (painting, carpet, tiling)	Full maintenance	-
	Building services (water supply, gas, sewerage, electrical)	Maintain	Replace
	Essential services	-	Full maintenance
	Routine services (gutter cleans, pest control)	Full maintenance	-
	Grounds (landscape features, lawns, external furniture)	Full maintenance	-
	Specialist ground surface and equipment (eg playground equipment, court synthetic playing surface)	Full maintenance	-
	Trees	Maintain	Replace
C: Discounted market <i>Includes school facilities and restricted membership clubs</i>	All elements	Full maintenance	-

6.3.3 Maintenance Inspection

Council reserves the right to inspect the premises each year or more frequently as required.

6.4 Length of lease

The length of each lease will be negotiated taking into account the particular circumstances of the property and tenant, including capital investment and long-term planning, the connection between facility use and the Council Plan and relevant strategies, and the extent to which the facility is used for multi-purpose activities and guided by the following principles:

- A. That the length of leases offered should generally be a maximum of 5 years which may be broken into two parts, that is 3 year lease with the option to renew for 2 years.
- B. That terms longer than 5 years will be offered where a tenant invests or has invested in a fixed asset (such as a building or playing surface) and fully maintains the asset. The term offered will be calculated with reference to the projected asset life and the capital cost contributed by the tenant. A lease will be broken into parts no longer than five years with options for the tenant to renew on the same terms and conditions dependent on meeting community benefit criteria including continued demand for the activity and service.
- C. Terms longer than five years but up to ten years may be offered for categories of tenants who do not meet these criteria but who are identified by Council from time to time as requiring long term planning certainty and listed in a schedule to this policy.

6.5 Use of Licences rather than leases

Council aims to maximise access to and use of community facilities and will not generally lease a property to a single tenant for use at limited times only. Where Council wishes to make a facility available to multiple users, a license rather than a lease will be the preferred form of agreement, except where Council considers that providing exclusive rights to a single tenant is in the best interests of the community and is necessary to recognise capital investment by the tenant and secure the desired use and long term development of the property.

6.6 Use of Premises and occasional hire

Leases will only be available to tenants for approved purposes. All leases will include a statement recognising Council's policy of maximising community use and a commitment by the tenant to support shared and multiple use of the facility by community-based organisations.

Facilities should also be made available by the tenant for casual hire where appropriate and where this does not interfere with the primary purpose of the facility or adversely affect the amenity of nearby neighbours. Hiring guidelines including fees and any restrictions on property will be referred to Council for approval with venue details included in Council's Venues for Hire guide. Fees from casual hire are payable to the head tenant, not to Council.

6.7 Hours of use

The hours of use may be prescribed for all leased premises.

6.8 Sub-leasing

Tenants may only sub-lease with Council permission to approved organisations for approved purposes and subject to approved terms and conditions. Generally Council will use the same criteria to assess the sub-lease as the head lease. The subsidy level of the head tenant will immediately be reviewed when a sub-lease is developed and may be adjusted if the rent is more than cost-recovery. Any financial gain from sub-letting will normally be payable to Council rather than to the tenant except where an agreed strategy is developed to assist the tenant with occupancy and operational costs or to reinvest in the property.

6.9 Rates taxes and outgoings

The tenant shall pay for rates (if charged), and any applicable taxes (including GST and stamp duty), charges and outgoings that are levied on a premises or in conjunction with the establishment of a lease.

6.10 Insurance

A tenant must maintain its own liability insurance to a value determined by the Council's risk assessment officer as detailed in lease documents. Generally Council will fully insure all improvements on a leased premises, however if the tenant chooses to pay their own building insurance, this contribution will be recognised when determining the level of rent. Tenants may choose to insure their own contents. Council will not insure contents.

6.11 Liquor and gaming licence

Liquor and gaming applications are outside the scope of this policy. It should be noted that the level of rent is affected by holding such a licence. Council currently also offers a full rates discount (100%) to recreation clubs such as bowling clubs that do not have a liquor licence or a gaming licence. A 50% rate discount is offered to clubs that hold a liquor licence. No discount is offered to clubs that have a gaming licence, and the City of Boroondara Gambling Policy and Action Plan 2003 – 2005 outlines Council's view that gambling is more likely to undermine than enhance community well-being and its aim to oppose any increase in numbers of gaming machines.

6.12 Legal Fees

Council will pay legal costs associated with the establishment of a new lease agreement provided it conforms to Council's standard lease document, except for the cost of any independent legal advice and assistance sought by the tenant.

6.13 Keys and Locks

All keys should be compatible with the master set held by Council's Infrastructure Services Department, or otherwise be made available to enable Council access to carry out essential maintenance and emergency services.

6.14 Planning requirements

All leases will encompass the conditions of any issued Planning Permit.

6.15 Removal of Assets

The tenant may remove any assets that have been constructed or installed by them during the term of the lease, subject to the premises being returned to Council in its original condition. Any improvement not able to be removed at the end of the lease shall remain in Council ownership.

6.16 Capital improvements

Council retains ownership of capital improvements that cannot be removed unless otherwise specified in the lease. Any capital contribution of tenants will be taken into account in assessing rent levels and length of lease.

6.17 Acknowledgment of Council contribution

The tenant shall, in liaison with Council's Communications Department, erect approved signage outside the leased premises recognising Council's contribution. Tenants shall also acknowledge Council contribution in their annual report.

6.18 Nuisance

Council requires that tenants undertake their permitted activities without adversely impacting on the amenity of nearby neighbours. Council reserves the right to terminate the tenancy or to restrict the use of premises by the tenant and through occasional hire arrangements if this requirement is not adhered to.

6.19 Relocation

In accordance with its Financial Strategy Principles, Council will manage, acquire and dispose of property in the best interests of the Boroondara community. Where Council proposes to dispose of, demolish, redevelop or otherwise carry out significant alterations or additions to a leased property during the term of a lease, Council may terminate the lease with due notice and make available to the tenant a suitable alternative premises. The lease for the new premises will be on no less favourable terms for the duration of the unexpired portion of the current lease.

7 Implementation of policy

The policy will apply to all leases developed or renewed following adoption of the policy by Council. In addition all tenants with current leases will be asked to provide annual reports against the eligibility criteria during the term of the current leases, to assist Council in achieving its aim of accountability to ratepayers for the direct and indirect expenditure on lease subsidies.

SCHEDULE 1: Eligibility Criteria for Community Facility Lease

Eligibility criteria are listed below. The final three columns show which criteria are essential and which desirable for the three categories of tenant to meet. Category A tenants must also operate a service or facility of the type listed in *Schedule 2* as varied by Council from time to time.

- A. Peppercorn: (rent \$1 pa)
- B. Community partnership: Rent between \$104 and \$1250p.a. (upper limit indexed from 2005-2006) to be generally assessed at 0.05% of property value. Additional rent component to cover projected maintenance costs also charged for tenants with capacity to pay.
- C. Discounted market rent: negotiated between 0.1% of property value and full market rent

“E” in the column under the tenant category indicates that this is an essential criterion for that category of tenant to meet.

“D” under the tenant category indicates that it is a desirable criterion for that category of tenant to meet.

"n/a" under the tenant category indicates that it is not applicable for that category of tenant.

Criteria		Tenant Category		
		A	B	C
Eligible Organisation Criteria				
1	The organisation is a non-profit organisation under Australian Tax Office definitions.	E	E	E
2	The organisation is a legal entity registered under appropriate legislation (such as the Associations Incorporation Act 1981 (Vic)).	E	E	E
3	The organisation has an Australian Business Number.	E	E	E
4	The organisation is financially viable, with annual financial statements provided to Council, audited where it is required as a prescribed association under the Associations Incorporation Act.	E	E	E
5	The organisation complies with relevant legislation governing its activities, and holds any licences or registration certificates required for it to operate.	E	E	E
6	The organisation has a committee of management and appropriate governance arrangements, with established accountability and reporting methods to members of the organisation and / or to the community.	E	E	E
7	The organisation adheres to all relevant City of Boroondara policies and has complied with the terms of any previous lease and/or grant from the Council.	E	E	E
8	The organisation has limited capacity to generate revenue from use of their facility or from other activities consistent with the organisational purpose.	E	E	n/a

Criteria		A	B	C
Community Benefit Criteria				
9	Use of the facility will increase social engagement and promote health and well-being of the Boroondara community.	E	E	E
10	An annual plan for the facility use is provided including current and projected opening hours and participant and / or membership numbers.	E	E	E
11	There are reasonable grounds to believe a need or demand exists for the service or activity to be provided through the facility,.	E	E	E
12	Facility use is consistent with Council's vision and the goals outlined in the current Council Plan.	E	E	E
13	The service or activity is non-discriminatory: it will be open to all residents who meet clearly stated criteria for participation that are directly related to the nature of the service or activity, or geographic catchment area.	E	E	D
14	The service or activity can be accessed by disadvantaged groups, , with strategies in place to review and remove any barriers to participation.	E	D	D
15	The organisation promotes and supports volunteerism;	E	D	D
Facility Management and Development Criteria				
16	Proposed use of the facility is suitable for the nature of the site and the neighbourhood.	E	E	E
17	The organisation will keep the facility in good repair and undertake maintenance in accordance with the relevant City of Boroondara maintenance schedule.	E	E	E
18	Utilisation of, and community access to, the facility will be maximised, including through shared use with other community organisations, and casual hiring arrangements, consistent with any special requirements of the head tenant.	E	E	D
19	The organisation will maintain the property in accordance with the relevant maintenance schedule	E	E	E
20	The organisation will undertake significant capital works to develop the facility as an asset for the long term benefit of the community.	n/a	D	D

SCHEDULE 2: Peppercorn Rent Facilities

The facilities listed below have been authorised by Council as ones to which a peppercorn rent may apply, subject to other requirements of the policy. Tenants operating these facilities must also meet all other eligibility criteria as outlined in *Schedule 1* and section 6.2 of the policy. All peppercorn rent facilities must be community-managed and operate on a not-for-profit basis.

Peppercorn Rent

- Family Centre
- Community Centre
- Neighbourhood House
- Camcare – community support service
- Senior Citizens Centres
- University of the Third Age
- Child Care Centre: long day care
- Child Care Centre: occasional care
- Kindergarten / pre-school
- Toy Library
- RSL club room

This schedule will be updated by Council if required to response to emerging community needs.