

Leasing of Reserve Land Policy

Policy Sponsor: General Manager, Water & Facilities
Policy Owner: Facilities Manager
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Introduction

The Waikato District Council has a critical role to play in fostering the well-being and strength of communities. This role includes facilitating community networks, providing recreation opportunities, and supporting community facilities. The Council is always looking to find the best ways to do this.

Council provides leases (of land and/or buildings) to a wide range of groups undertaking a wide range of activities. The land and buildings are a limited resource that have competing interests for their use. The Council needs to be able to say with some degree of certainty that the resource is being put to the best possible use to meet various community needs.

The Council may provide other support such as grants and administrative support. While the Council has a role in supporting community and recreation groups, it also has the role of being the steward of public land and resources. This involves balancing needs between different sections of the community. For example, leasing land and the construction of buildings on reserve land may limit the amount of open space available for use by the public.

Objective(s)

The objectives of this policy are:

- To strengthen communities through leasing land and buildings to groups.
- To ensure that the granting of leases is fair, equitable and responsive to community needs.

This Policy does not choose particular groups that the Council will support. Groups have made different contributions in the past, their resource requirements are different and changing, and their activities have differing abilities to generate revenue and support. Negotiating leases that reflect particular circumstances will therefore be part of the leasing process.

Relevant Documents/Legislation

Reserves Act 1977

Application

This policy is concerned with the management of Council-owned land and associated buildings through leases granted to recreation and community groups. Leases may relate to land, land and buildings, or just buildings. The Policy also sets out how the land and buildings are to be managed to ensure proper asset management and that risks are addressed.

In the broadest sense, the Policy is seeking to ensure that applications for the grant of leases are consistent with Council's strategic direction.

This Policy applies predominately to leases and licences of Council owned land and/or buildings on land subject to the Reserves Act 1977 for recreation and community purposes, but also leases and licences held for recreation and community purposes on other Council land.

Policy Statements

1.1 Structure of the policy

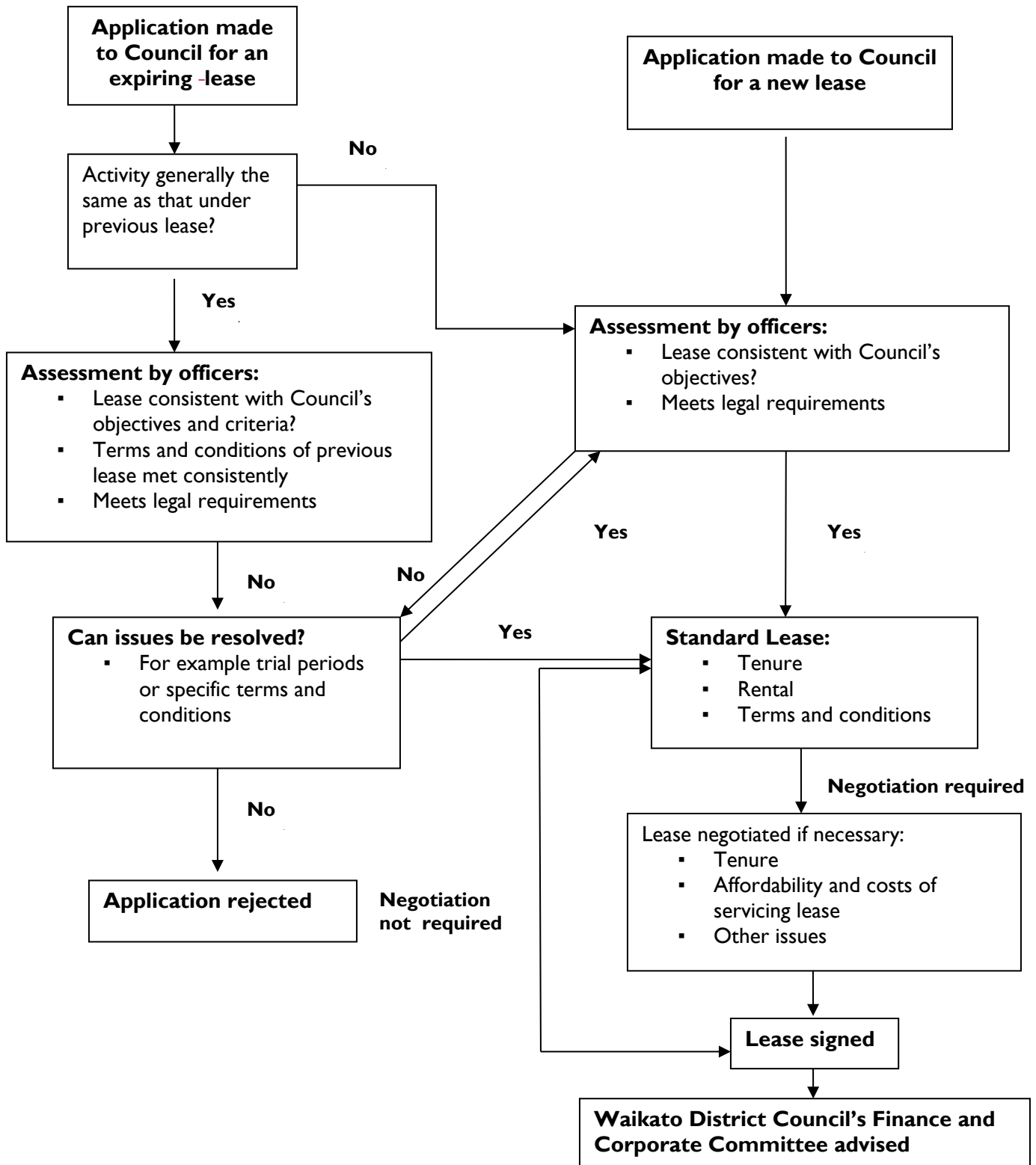
This Policy is in three main parts. Section 2 describes general principles about the Council's administration of leases. Section 3 looks at the rental and tenure for leases. Section 4 deals with procedural matters and the responsibilities and requirements of the lessee and lessor.

1.2 Policy Implementation

It is important to note the following about the implementation of this Policy:

- Implementation will occur as leases are renegotiated or new leases are entered into.
- In the application of this Policy, the Council will be consistent and as fair as possible to community/recreation groups.
- Implementation will be undertaken with the firm understanding that the success of recreation or community groups depends significantly on the energy and commitment of those groups (voluntary labour, fund raising, and personal effort). The Council recognises that these groups make an investment of time and energy in the well-being of the community. It is not an environment where strict market principles can be readily applied.

2.0 THE LEASING PROCESS



2.1 Decision making

In order to determine whether a lease should be granted or renewed the assessment process outlined in Section 4 should be followed.

Waikato District Councils Finance and Corporate Committee will be regularly advised of any lease agreements entered into.

2.2 Ability to consider lease applications

Where applications do not meet legal requirements (such as those defined in the Reserves Act 1977) or the objectives of management plans, the Council is unlikely to accept the application.

2.3 Leasing of public land and the Reserves Act 1977

Land that is held for reserve purposes (under the Reserves Act 1977)¹ may be leased where this will result in the provision of facilities which will benefit the people of Waikato District. The primary objective of leasing reserve land is to enable facilities to be established which will facilitate the public's recreational use of the land.

Any granting of a lease, which in effect gives a group or organisation rights over public land, must be tested against the purpose for which the land is held and the relevant legislation.

2.4 Management plans

When granting leases, where a management plan exists the relevant provisions of the plan must be observed. Management Plans are key documents in this respect. Where there is no management plan the proposed activity should be tested against the purpose for which the land is held and/or classification of the land.

Management plans provide a degree of clarification which can be valuable when deciding what activity or structure can or cannot be accommodated on an area of land or the use to which the land can be put.

2.5 Reporting requirements

The lessee should communicate with Council throughout the term of the lease with regard to any issues affecting the lessee's obligations under the lease agreement. There will also be reporting requirements as set out in the lease document.

¹ The Reserves Act 1977 sets out the procedures that must be followed for leasing land classified as reserve. This includes public consultation.

3.0 GENERAL LEASE CONDITIONS

3.1 Reserve land

There may be some instances where leases may also be granted to organisations in respect of land other than reserves for community purposes. The charges and responsibilities set out below will apply.

3.1.1 Organisations that do not engage in commercial activities and who construct and own the building

Non commercial organisations must be registered as either an Incorporated Society or an Incorporated Charitable Trust.

The following charges and responsibilities apply to non-commercial organisations that construct and own a building on reserve land:

- a) Ground rental of \$10.00 plus GST per annum, plus any annual changes in the Consumer Price Index using 2010 as the base year
- b) Rental charges will be reviewed every 5 years using the annual changes to the Consumer Price Index
- c) Service charges will be paid by the lessee
- d) Interior, exterior and structural maintenance of buildings is the responsibility of the lessee

3.1.2 Organisations that do not engage in commercial activities and Waikato District Council owns the leased building

Non commercial organisations must be registered as either an Incorporated Society or an Incorporated Charitable Trust.

The following charges and responsibilities apply to non-commercial organisations that lease a building on reserve land and do not own the leased building:

- a) Rent of \$520.00 plus GST per annum will be charged, plus any annual changes in the Consumer Price Index using 2010 as the base year
- b) Rental charges will be reviewed every 5 years using the annual changes to the Consumer Price Index
- c) Service charges will be paid by the lessee
- d) Lessee will be responsible for all internal maintenance of buildings
- e) Council will be responsible for structural and external maintenance of buildings

3.13 Fully commercial organisations leasing reserve land

Any fully commercial entity wishing to operate on reserve land must provide financial information and information as to business and management experience as required by Waikato District Council.

The following charges and responsibilities apply:

- a) Rental charges will be assessed by valuation by a registered valuer
- b) Rental charges will be reviewed every three years by valuation assessment
- c) All rates and other charges will be paid by the lessee
- d) A guarantor will be required if the lessee is a limited liability company
- e) All interior, exterior and structural maintenance of buildings is the responsibility of the lessee

3.14 Licences in respect of reserve land

Under Section 74(1) of the Reserves Act 1977 the Council may grant licences to temporarily occupy reserves for certain purposes for a term not exceeding 10 years. Section 74(2) of the Act identifies the purposes for which such licences can be granted. Public notification of the Council's intention to grant such a licence is required in accordance with Section 119 of the Act.

All Waikato District Council rates and service charges will be the responsibility of the licensee.

4.0 ASSESSMENT PROCESS

The assessment of applications for a lease will be undertaken in accordance with certain criteria. Leases are evaluated as either new leases or renewals of existing leases.

It is important that enough information is available to make robust decisions. The provision of this information is the responsibility of the applicant.

4.1 Assessment Criteria

By asking a number of questions Council officers will be able to develop a picture of how well the application supports Council's objectives for strengthening communities.

The following criteria will be used to assess the activity or activities that the lease application is for:

Strategic Fit

Criteria 1: Are the groups or organisation's activities consistent with the Council's strategic direction?

Activity sustainability

Criteria 2: Will the group be sustainable in terms of membership or users of the service and its financial position for the period of the lease?

Optimal use of resources

Criteria 3: At what level will the resource (land and/or buildings) will be used? How will it affect existing uses?

Environmental impact

Criteria 4: Does the activity have the potential to adversely affect environmental values?

Demonstrated need and support from the community

Criteria 5: Is there demonstrated support and need within the community for the activity?

Need for a lease

Criteria 6: Are other options available instead of a lease?

The outcome of this assessment process is a decision whether or not to recommend that a lease be granted.

4.2 Assessment of new leases

New leases are usually granted where:

- The land and/or buildings have not previously been leased; or
- There has been an existing lease, but the lessee has not elected to renew it and it is available to be leased to another group.

New leases will be looked at more critically than renewals of expiring leases, as there may be an opportunity to use the land or building in a different way. All the assessment criteria apply to new leases.

New leases will be subject to a more critical appraisal than a renegotiation of an expiring lease (particularly those anticipating constructing new buildings where Criteria 4 and 6 will be important). The qualitative assessment will be more difficult and officers will need to take a careful approach to the assessment.

Consideration of the criteria will be in terms of future potential rather than past performance. For example:

- Criteria 1 becomes “What is the likely contribution that the stated aims of the applicant will make to delivering Council’s community or recreation objectives?”
- Criteria 2 becomes “How likely is it that the group will be sustainable in terms of membership or users of the facilities and its financial position for future years?”

The experience of the performance of similar groups will assist in assessing new leases. If the applicant/activity was previously in operation elsewhere and is changing sites or amalgamating with another group, then the information on past performance will be useful for the assessment.

Officers will need to satisfy themselves that the information provided is robust and that any predictions are as accurate as is relevant to the situation.

After assessment of the application, the officer will make a recommendation as to whether a lease should be granted and what terms and conditions may be relevant. The uncertainty

associated with a new group's performance may be reflected in the tenure of the lease. For example, it may be felt that a five-year trial period may be useful².

Officers will document any decisions that have been reached by the Council and will communicate these to the applicant. Communication prior to and during the process of assessment will assist this process.

Where an established building has become vacant the lease will be advertised to the community as being available.

4.3 Assessment of expiring leases

Renewal of leases are those where the current lessee is seeking to renew the existing lease. The Council recognises that most groups have made investments in assets and this is a key consideration in the evaluation of a lease renewal. Applications for a renewal of lease will require the applicant to provide such information to the Council as is necessary for officers to assess the application. This will include information on financial matters, historical patterns of use and future prospects.

The assessment process will be used to check that:

- a) The lease will continue to be consistent with Council's objectives (only assessment Criteria 1 and 2 apply)
- b) The covenants, including the covenant to pay rent and other charges, have been consistently met by the lessee

If the above criteria are met renewal of the lease will be granted. If the activity under the lease has changed significantly, the Council will require an application for a new lease.

Officers will document any decisions and will communicate these to the applicant. Communication prior to and during the process of assessment, as well as past information sharing on the group's activities (such as annual returns), will assist this process.

4.4 Delegations

Pursuant to Schedule 7 Clause 32 of the Local Government Act 2002 the authority to enter into a lease or licence to occupy any one property is delegated to:

Facilities Manager	\$25,000.00 p.a.
General Manager Water and Facilities	\$50,000.00 p.a.
Chief Executive	\$150,000.00 p.a.
Finance and Corporate Committee	Up to \$200,000.00 p.a.
Council	Over \$200,000.00 p.a.

² Potential capital investment will also be taken into account in such a situation.

Policy Review

(how often should this policy be reviewed?)