

LEASING AND LICENSING OF COUNCIL'S SPORTS FACILITIES

Adopted by Council 12 September 2017

public

MITCHAM

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1. PREAMBLE

Section 202 of the *Local Government Act 1999* (the Act) provides that Council may grant a lease or license over community land. The granting of a lease or license must be undertaken in accordance with Council's *Public Consultation Policy*, the *Retail and Commercial Leases Act 1995* and be authorised in an approved management plan for the land.

The City of Mitcham recognises that sports facilities contribute to the health and wellbeing of communities, achieve positive social interactions, and increase physical activity. Council supports informal (passive) community use of sports facilities and formal (organised) community use of sports facilities.

Formal use of sports facilities is facilitated through the granting of a lease or license to groups to use the facility, either exclusively or at specific times.

2. PURPOSE

The purpose of the Leasing and Licensing of Council's Sports Facilities Policy is to ensure an equitable and consistent approach to leases and licenses. This is with a view to facilitating appropriate asset management, supporting sporting groups to be sustainable, and encouraging high utilisation of Council's sports facilities by the wider community.

3. SCOPE

This Policy addresses the granting (or variation) of leases or licenses over City of Mitcham Sports Facilities, at the sites outlined in the table below:

AA Bailey Reserve	Hewett Sports Ground	Pembroke Place Reserve
Apex Park	Hillview Reserve	Price Memorial Oval
Balham Avenue Reserve	Karinya Reserve	Reade Park
Batchelor Reserve	Kingswood Oval	Rochester Avenue Reserve
Blackwood Bowling Club	Manson Oval	Rozelle Reserve
Blackwood Hill Oval	Mortlock Park	St Marys Park
Denman Reserve	Naomi Reserve	Tweed Reserve
Gibbs Park	Netherby Reserve	WA Norman Reserve
Hawthorndene Oval	Nieass Reserve	

4. DEFINITIONS

- **Buildings** – A permanent structure that may be used by sporting groups for shade, shelter, meeting and socialising e.g. a clubroom, community building, or shelter.
- **Sporting Grounds and Courts** – An area of land used for a specified sport or recreational purpose e.g. ovals, playing fields, greens and tennis courts.
- **Lease** – An agreement where the occupier has full and exclusive use of the premises, for a period of time in excess of six months.

- **License** – An agreement where the occupier does not have full and exclusive use of the premises, for a period of time in excess of six months.
- **Sub-Lease** – An agreement where a Management Committee agrees to hire out premises to sporting and other community groups.
- **Sport Hierarchy** (as defined and allocated to sports facilities in Council's *Sports Facilities Strategy 2016*):
 - **Regional**
 - Broad range of sport and recreation programs
 - Large number of participants
 - Across local and regional geographic catchments
 - Beyond a single local council area
 - Sporting events and specialised (for multi-sports) or sport specific
 - Best at high profile accessible sites
 - Link to transport nodes and commercial / community centres
 - **District**
 - Supports Association competition
 - Services a local catchment
 - Provides recreational, competitive and program participation
 - Potential primary function as a local finals venue
 - Central venue facilitates regular competition for multiple clubs/teams
 - **Neighbourhood**
 - Local communities and sporting clubs
 - Home and away fixtures, training and programs
 - **Local**
 - Small sites on local roads
 - Basic facilities and landscape treatments
 - Not suitable for larger facilities
 - Residential settings
 - Limited or constrained function
- **Maintenance** – All actions necessary for retaining an asset as near as practicable to an appropriate service condition, including regular ongoing day-to-day work necessary to keep assets operating. It is operating expenditure required to ensure that the asset reaches its expected useful life.
 - **Planned Maintenance** – Repair work that is identified and managed through a maintenance management system.
 - **Reactive Maintenance** – Unplanned repair work that is carried out in response to service requests and management/supervisory directions.

- **Specific Maintenance** – Maintenance work to repair components or replace sub-components that needs to be identified as a specific maintenance item in the maintenance budget.
- **Unplanned Maintenance** - Corrective work required in the short-term to restore an asset to working condition so it can continue to deliver the required service or to maintain its level of security and integrity.
- **Capital Renewal** – Expenditure on an existing asset or on replacing an existing asset, which returns the service capability of the asset up to that which it had originally. It is periodically required expenditure, relatively large (material) in value compared with the value of the components or sub-components of the asset being renewed. As it reinstates existing service potential, it generally has no impact on revenue, but may reduce future operations and maintenance expenditure if completed at the optimum time.

5. PRINCIPLES

The following principles guide the granting (or varying) of a lease or license over a sports facility:

- 1) A transparent and equitable process of granting new leases and licenses, including a lessee/licensee percentage contribution towards the cost of maintaining buildings and sporting grounds/courts.
- 2) That lessees/licensees pay fair and reasonable fees towards the cost of maintaining facilities based on the facility type (e.g. field, multi-use, bowls/croquet, courts) and hierarchy (e.g. regional/district, neighbourhood, local), while supporting the sustainability of lessees.
- 3) That Council owned facilities are appropriately maintained as Council assets.
- 4) That the term of an agreement is long enough to provide sports clubs with a level of certainty of tenure and reflects an efficient use of Council's administrative resources.
- 5) That Council and lessee/licensee responsibilities are clearly documented.
- 6) Recognising that District Level facilities have multiple uses that necessitate strong coordination between sports groups, Council will encourage Management Committees for this level of facility (noting that there are a range of management options available).
- 7) Encourage District Level facilities to actively promote use by the broader community in addition to sporting group use.
- 8) Encourage lessees/licensees to implement environmental initiatives.
- 9) Recognise that sports facilities are used by the community for informal (passive) use and formal (organised) use.
- 10) Recognise that sports facilities will be maintained to current service standards.

6. POLICY STATEMENT

6.1. Management Models

Pursuant to a lease or license Council allows its facility, in whole or part, to be used regularly in excess of six months by nominated organisation(s).

Preference will be given to the establishment of Management Committees at District level facilities used by multiple groups (noting that there are a range of management options available).

6.2. Term of Agreement

The term of agreement will usually be up to a maximum of 5 years, however, Council may offer an agreement of up to 10 years. Consideration will be given (but not limited) to the capital investment in the sporting facilities by; Council, the club (and their individual circumstances), sporting bodies or affiliated sporting organisations, federal or state government grants or initiatives when considering tenure of the Agreement.

6.3. Annual Fee

Where lessees have total responsibility for maintenance of the sporting ground/court, no fee will apply for the maintenance of the facility.

Otherwise, an annual facility fee will be charged as a contribution towards the cost of maintaining buildings and sporting grounds/courts.

To ensure fairness for all groups the overall fee per facility is split between clubs using that facility.

The annual fee is a set fee contribution towards the cost of maintenance and capital renewal and is determined by the:

- Type of facility
 - Field and Multi-use
 - Bowls and Croquet
 - Court
- Facility hierarchy
 - Regional/district
 - Neighbourhood
 - Local

In order to encourage broader community use of buildings (in line with principle 5.6), all sporting groups are able to sub-lease or hire out leased buildings for broader community use. The fee charged is to be determined

by the lessee, who may wish to use the 'Community Centres and Halls for Hire Hourly Schedule of Fees' as a guide.

Fees will be indexed in accordance with Council's Fees and Charges.

If a sports facility receives a major capital spend, Council reserves the right to review fees.

Commercial agreements with Council in relation to use of sports facilities are subject to individual negotiation.

Where there is an increase in fees to a sporting group, the increase in fee will be implemented over three years as follows:

- Year 1 (when new lease/license is issued): Existing Fee + \$500 (or up to maximum of the fee charged)
- Year 2: Existing Fee + \$1,250 (or up to maximum of the fee charged)
- Year 3: Existing Fee + \$2,000 (or up to maximum of the fee charged)
- Year 4 onwards: Total Fee applicable

6.4. Maintenance Responsibilities

The maintenance obligations will be set out in the agreement between the parties. Below is a guide to how these responsibilities may be allocated between the parties.

6.4.1 Buildings

Council will be responsible for certain maintenance and capital renewal works.

6.4.2 Sporting Grounds and Courts

Freely Accessible to the Public

Council will be responsible for all standard maintenance of sporting grounds and courts that are open to the public for informal passive recreational use.

Licensees will be responsible for maintenance of specialised areas such as turf wickets and baseball diamond bases, line marking, and any specialised infrastructure e.g. lighting.

Not Freely Accessible to the Public

Lessees will be responsible for all maintenance of sporting grounds and courts, to which the public does not have regular and free access.

6.5. Utility Charges – Water, Electricity, Gas, Telephone

6.5.1 Buildings

Lessees/licensees will be responsible for the cost of all utilities associated with their operations.

Where Council receives and pays the accounts upfront, Council then on charges these to the lessee/licensee.

6.5.2 Sporting Grounds and Courts

Freely Accessible to the Public

Contribution towards water and electricity charges is included in the Annual Fee.

Not Freely Accessible to the Public

Lessees will be responsible for all water and electricity charges of sporting grounds and courts, to which the public does not have regular and free access.

6.6. Insurances – Building and Public Liability

Council will take out and maintain appropriate insurance for the Premises and will pass on Council's costs of doing so to the Lessee as an Outgoing.

The Lessee is also responsible for:

- the cost of insuring the Improvements including all services; and the amount of any excess or deductible not paid or excluded under any insurance policy taken out by Council
- public liability insurance for the amount in Item 8 of Schedule 1 in the lease currently \$20,000,000.00(or any other amount Council reasonably requires) for each claim;
- all insurance in respect of the Lessee's Equipment for its full replacement value; and
- other insurances required by any statutory requirement or that Council reasonably requires.

6.7. Sub-Leasing or Hiring Out of Facilities

6.7.1 Buildings

Sub-leasing or hiring of leased buildings is encouraged to increase utilisation of Council's buildings by the wider community. Sub-leasing or hiring must be in accordance with this policy and any contractual templates as provided by Council. Sub-leasing is only permitted where it provides demonstrable community benefit and is not for the sole purpose of commercial gain.

The fee charged is to be determined by the lessee, who may wish to use the '*Community Centres and Halls for Hire Hourly Schedule of Fees*' as a guide.

6.7.2 Sporting Grounds and Courts

Management Committees of District Level sports facilities will be responsible for the sub-leasing or hiring out of the sporting grounds/courts,

within any times specified in the agreement between Council and the Management Committee.

Sub-leasing or hiring out of all other licensed sporting grounds and courts is not permitted. Additional users will be considered by Council and be subject to an individual license agreement.

6.8. Audited Financial Statements

The agreement will provide that lessees/licensees shall forward to Council no later than 30 days after its Annual General Meeting, a copy of the audited accounts and Annual Report.

6.9. Sporting Ground Condition Assessment

It will be a condition of the agreement that Council reserves the right to restrict use of sporting grounds due to the condition of the playing surface, catastrophic fire rating, or other reason as determined by Council.

Council will endeavour to provide a minimum 24 hours' notice to lessees/licensees of any restricted use.

6.10. Publication of Licensed Times of Use

Times of use for each sporting facility will be publicly communicated on the City of Mitcham website, including licensed hours and contact information for the lessee/licensee.

6.11. Developments at Sports Facilities

It will be a condition of leases/licenses that Council approval (as the property owner) must be sought for any proposed developments to buildings or sporting grounds and courts, prior to lodging a development application (if applicable).

In considering this, Council will be guided by Councils *Sports Facilities Strategy* and *Building Asset Management Plan*. Lessees/licensees should

liaise with Council Administration in the early stages, prior to preparing drawings for developments.

6.12. Process for Issuing and Varying Leases and Licenses (for term of 5 years or less and authorised in an approved management plan)

6.12.1

Assessed by Administration to determine to issue/not issue a lease/license*
Negotiation with sports groups including times of use and any special conditions
Prepare lease/license documentation
Execution of lease/license documentation – by sporting group
Execution of lease/license documentation – by Council under delegation
Community Land Management Plan updated
Community Land Register updated
Lease/license times listed on City of Mitcham website
* Note: If request is inconsistent with Council's <i>Leasing and Licensing of Council's Sports Facilities Policy</i> , a report will be taken to Council.

6.12.2 Variations leases/licenses

Changes to lease and license conditions and schedules (e.g. times of use) will be managed by Council Administration under delegation.

7. POLICY REVIEW

This Policy will be subject to review every four (4) years or sooner at the discretion of the relevant General Manager.

The CEO has delegated authority to endorse any amendments to the Policy that do not vary the intent of the policy.

8. VERSION HISTORY

VERSION	AUTHOR(S) POSITION	CHANGES	DATE
1	Sport and Recreation Officer	Draft Policy for Elected Member Feedback	7 March 2017
2	Sport and Recreation Officer	Updated fee contribution and other changes	July 2017
3	Governance Officer	Refer to Full Council Resolution 12 November 2019 Item 9.4	12 November 2019
4-9	Sport and Recreation Officer / Property Officer	Clauses 6.2 and 6.6	9 February 2021 Item 9.6

9. DOCUMENT CONTROL

Responsible Department	Property Team		
Delegations Apply	Yes		
Classification	Property Management		
Applicable legislation	Local Government Act 1999 Retail and Commercial Leases Act 1995		
Related Policies & Corporate Documents	Public Consultation Policy Community Land Management Plans Draft Building Asset Management Plan		
Additional references			
Endorsed by Council:	12 September 2017	Item No:	7.3
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