


Building and Land Occupancy POLICY

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Associated documents:	South Waikato District Council District Plan South Waikato District Council Bylaws (where applicable) Community Group/Individual Leases Community Group/Individual Licence to Occupy SWDC District Reserves Management Plan	

Policy Objectives

The purpose of this policy is to:

- Provide land and/or building services, which primarily benefit South Waikato District communities rather than being aimed at benefitting a particular individual.
- Outline the framework for decision making regarding community and commercial occupancy of Council owned or administered land and/or buildings.
- Make land and/or buildings available for use by community groups or individuals for purposes outlined in an occupancy lease or licence to occupy agreement.
- Provide a framework for decision making in regard to community owned buildings on Council land.

Background

Council recognised that the leasing of Council land and or buildings needs to be undertaken in a manner that is consistent with the principles of the legislation and the behaviours expected to prudently manage public property.

It is also very important to consider that community Groups are not for profit and add significantly to the well-being of our communities so may not be able to pay commercial level rentals or rates.

Council recognises that there may be issues with buildings not being maintained or kept compliant with building warrant of fitness requirements when community groups can no longer fund the upkeep of their buildings or are no longer in a registered group.

Subsequently Council identified the need to clearly define how Council makes decisions on who can lease Council owned or administered land and / or buildings, and privately owned buildings on Council land. It needs to take in to consideration both the benefit to communities and the obligations of Council of how the land and / or buildings are maintained, and a mechanism to determine costs for occupying land and or buildings.

Scope

This policy:

- Applies to the use of Council owned or administered land and/or buildings by groups or individuals as defined by this policy
- Does not apply to casual hireage of land and/or buildings
- Does not apply to Council residential properties for pensioner and social housing held now or in the future.

Principles

This policy is underpinned by the following principles. Council will:

- Only allow groups or individuals to occupy land and or buildings if there is a formal licence to occupy or lease agreement put in place;
- Endeavour to ensure equity, consistency and transparency in the allocation of occupancy;
- Seek to balance maximising the use of open space and reserves with the desire to enable population growth and responding to future community needs and trends.

Policy Statements

Eligibility for Occupancy by Community Groups:

To be eligible for consideration for occupancy, groups shall:

- a) Meet the definition of 'Group' as defined by this policy;
- b) Provide a 'Service' as defined by this policy
- c) Not unreasonably impose restrictions that may exclude people who might want to participate in the group's activities
- d) Be sustainable for the term of the occupancy in terms of:
 - financial viability to fulfil obligations, and;
 - membership and/or users of the service;
- e) Any other reasonable requirements as determined by Council staff from time to time.

The eligibility criteria must be met throughout the term of the occupancy agreement.

Eligibility for Occupancy by Individuals:

To be eligible for consideration for occupancy, Individuals shall:

- a) Meet the definition of 'Individual' as defined by this policy;
- b) Provide a service or undertake a commercial activity on the land and or building as defined
- c) Not unreasonably impose restrictions that may exclude people from utilising or accessing land that is being managed as a reserve;
- d) Be sustainable for the term of the occupancy in terms of:
- e) financial viability to fulfil obligations;
- f) Any other reasonable requirements as determined by Council staff from time to time.

Application Process

1. A group or individual shall apply in writing and the application shall be assessed by Council staff in accordance with this policy taking into account the community benefit derived from the activity and the other considerations in this policy.
 - Applications will be considered and decisions made to approve or decline the application by a panel of Council staff that will include:
 - The Parks & Reserves Manager,
 - The Property Assets Manager, and
 - The Strategy & Engagement Manager.
2. Approval of requests for rent or lease relief shall be made at the discretion of the Chief Executive
3. Where there are competing interests or individuals cannot reach agreement with Council Staff on occupancy or land use, the matter will be referred to full Council for resolution.

Occupancy Agreements

1. Shall be in place prior to occupancy.
2. Shall take the form of either a Licence to Occupy or lease.
3. Land that is subject to, or managed under, the Reserves Act 1977, will reflect the requirements of the Reserves Act 1977 and any applicable regulations.

Rental Methodology

The category of property will determine the annual rental cost, depending on activities or purpose that the land will be used for and the entity applying for the lease

A rental cost will be set and reviewed as per the lease agreement on a payment schedule agreed between the parties.

There are three categories: Privately Owned Buildings on Council Land, Land only Rental Charges – non-commercial and Commercial Use. These are detailed below.

A: Privately Owned Buildings on Council Land

1. Within the lease there may be provision for a building to be erected as decided with the Parks and Reserves Manager for reserve land or the Property Asset Manager for general (non-reserve) land. Minor Structures not requiring a building consent are at the discretion of the appropriate manager. Any other major structures requiring a building consent will be approved at a Council meeting.
2. There may also be buildings that have been on the land previous to the current lease.
3. Within the lease document or renewal of the lease there shall be provision that Council may require evidence of the lessee's financial position in terms of continuing to be able to meet all maintenance and legal obligations relevant to their building and lease of land. This, if requested, shall be provided annually to the manager of the lease on behalf of Council.
4. Within the lease document there shall be provision that if a lessee is no longer able to meet the above conditions or the building warrant of fitness lapses or expires there is a provision, as a last resort, for Council to take ownership of the building as per legal obligations as land owner.
5. Rental methodology
 - a. If charged, \$1.00 per annum for the ground lease
 - b. Rates will be invoiced separately,
 - c. An application for a rate remission can be applied for.
 - d. Groups can apply for a rental grant in situations where rates are not affordable by the group.
 - e. Groups can apply for rental/rates relief in situations of severe hardship

B: Land only Rental Charges – non-commercial

Rents for land under this category will be determined based on the table below.

Rental charges will also consider the following:

1. There is a primary benefit to Council from maintaining land, e.g. grazing of land with difficult terrain.
2. Land is only suitable for limited use e.g. because of the small size of the land or the Council purpose of the land
3. The commercial rental value applicable to the activities being undertaken on the land.
4. The cost of Local Authority rates on the land unless these are charges separately in the lease agreement.
5. The cost of water usage if not invoiced separately.

The rental charges for land are set out in the following table:

Designation of Land Area	Rate
Non-public access/multi use	\$300.00 per hectare (per annum)
Single use/public access	\$50.00 per hectare (per annum)
Single use/non-public access	\$100.00 per hectare (per annum)

C: Commercial Use

1. Any commercial activity operated by a group or individual must be approved by Council staff before it can be operated within an occupancy.

2. If the land is subject to the Reserves Act 1977 and made available for recreational use the proposed commercial activity must enable the public to obtain benefit and enjoyment of the reserve and/or for the convenience of persons using the reserve.

All land and or buildings used for commercial purposes is to be determined by market rent and include all outgoings.

Rental/Rates relief

Rent or lease relief will be considered if severe hardship has been sustained that is deemed to have been unavoidable. This includes, but is not limited to, any declared disaster pronounced either by Central Government or Local Government that negatively affects the ability to collect income, provide services or make payments that it would have been able to do under normal circumstances.

Definitions

Commercial Activity

- a) The sale of goods or services.
- b) Gain made from agricultural or other commercial use of the land not aligned to the purpose.

Council - South Waikato District Council and includes any committee, subcommittee.

Council Staff - Any employee of the Council acting under delegated authority.

Group(s) - A group which is a not-for-profit organisation that is incorporated, either under the Incorporated Societies Act 1908 or the Charitable Trusts Act 1957 or established under any other statute, or an unincorporated group that meets the below criteria and that Council deems to be of good repute:

- a) Provides a community Service to the communities in South Waikato District;
- b) Does not make distribution of profits to its members; and
- c) Does not have a purpose of promoting party politics.

Individual - A single human being or a commercial entity as distinct from a group

Land and or buildings - Council-owned or administered land or buildings made available by the Council for use by groups or individuals.

Lease/Licence to Occupy - A legal agreement between a group or individual as lessee/licensee and the Council as licensor granting the group or individual a right to occupy specified land and or buildings.

Limited Use - Buildings or land that are suitable for limited activities only. For example, land that is suitable for grazing activity only, compared to multi-use activities such as grazing and cropping or buildings on land whose use is subject to Reserves Act criteria.

Occupancy Agreement - A lease or licence to occupy agreement

Rental Grant - Groups can apply to Council when the funds received from their community activity are not sufficient to pay the rental and / or rates charges outlined in this policy. These will be approved at a Council meeting.

Service

- a) Activities that provide benefits to South Waikato communities; or
- b) Agricultural activities that are of primary benefit to the South Waikato District Council and to a particular individual.

Relevant Delegations

References and Relevant Legislation

Local Government Act 2002

Local Government (Amendment Act 2019) 2020

Reserves Act 1977

Annotations

Res No	Date	Subject/Description
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