



the bushland shire

creating a living environment

SUPPLEMENTARY BUSINESS PAPER

ORDINARY MEETING

**Wednesday, 12 August, 2009
at 6:30 pm**

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**34 HEADEN PARK HALL, SINCLAIR AVENUE, THORNLEIGH - PROPOSED
LEASE TO HORNSBY WOODWORKING MEN'S SHED INC**

EXECUTIVE SUMMARY

Since 2003, the Hornsby Woodworking Men's Shed Inc (or HMWS - formerly known as the Hills Triton User Group) has occupied the former Scout Hall, situated on community land at Headen Park in Sinclair Avenue, Thornleigh, under a licence agreement with Council at an initial rental of \$520 per annum, adjusted annually in accordance with the CPI. The HWMS has shared the use of the Hall with the Becroft Cherrybrook Junior Rugby Club Inc (BCJRC). The BCJRC has their own separate licence agreement with Council. In December 2008, Council considered Development Application No 542/2008 and gave development consent for an extension to the former Scout Hall to "better accommodate the existing use of that facility by the Hornsby Woodworking Men's Shed".

The HMWS have submitted an application to Council seeking a long term lease to secure their ongoing occupation of the existing Hall and the proposed extension to the Hall. The application has been assessed by Council officers in line with the provisions of Council's Code for the Lease/Licence of Council Land and Buildings to Community Groups (see attachment).

The officers' assessment determined that the HWMS should be offered a lease in line with the "Community Partnership" category provisions of the Code. Advice of the results of the assessment was provided to HWMS who submitted a follow up submission arguing that the "Nominal" category of the Code was more appropriate to their circumstances. Council officers have undertaken a further assessment of all the information provided by HWMS and have concluded that the "Community Partnership" category is appropriate. It is noted that the rental associated with the "Community Partnership" category is assessed on 25% of market rental exclusive of GST (\$5,238 per annum) whereas the rental associated with the "Nominal" category would be \$280 per annum exclusive of GST.

Although officers recognise the valuable contribution provided to the community by the HWMS, the officers are required to assess the application and make a recommendation to Council in accordance with the Code. Any decision outside of the parameters of the Code can only be made by Council after they have considered the officer's recommendations and any other relevant issues.

Having regard to the officers' assessment of HWMS's application, this Report recommends the granting of a ten year lease agreement to the HWMS in accordance with the "Community Partnership" category of the Code.

PURPOSE/OBJECTIVE

The purpose of this Report is to provide Council with details of the assessment of an application from the HWMS to be granted a long term lease of the former Scout Hall at Headen Park, Thornleigh; and to recommend that Council enter into a ten year lease agreement with HWMS in terms of the "Community Partnership" category of the Code.

DISCUSSION

Background

Following a public invitation which sought expressions of interest from interested parties to occupy the former Scout Hall on community land at Headen Park (in Sinclair Avenue, Thornleigh), Council, at the 12 March 2003 Ordinary Meeting (see Report No CC11/03), resolved to enter into separate licence agreements with three community groups for shared use of the Hall. Those groups were the Hills Triton User Group Inc (now known as the HWMS), the Beecroft Cherrybrook Rugby Union Football Club Inc and the BCJRC.

It was agreed that the HWMS would undertake woodworking activities on certain days, with the two sporting clubs using the space for club activities predominately during the winter sporting season. Under the conditions of the proposed licences, the three groups would each be required to pay a licence fee of \$520 per annum, exclusive of GST.

Following the withdrawal of the Beecroft Cherrybrook Rugby Union Football Club from the arrangement, licence agreements were subsequently formalised with the other two community groups and they operated until mid-2008. Since mid-2008, both groups have remained in occupation on a monthly holding over basis. HWMS is currently paying a licence fee of \$578.46 per annum (exclusive of GST) and BCJRC is currently paying a licence fee of \$572.50 per annum (exclusive of GST). Having regard to difficulties associated with apportioning outgoing costs equitably to each of the groups, there was also an agreement that outgoings associated with the use of the Hall, such as water, electricity, etc would be met by Council.

In September 2007, the executive committee of HWMS made a presentation to a number of Councillors and Council staff seeking support to extend the Hall to accommodate increasing demand and membership. At the 12 December 2007 Ordinary Meeting (see Report No CC120/07), Council considered a proposal to add an extension to the Hall. Within the Report, it was indicated that with 25% of the people living in Hornsby Shire being over the age of 55 years, and the Australian Bureau of Statistics indicating an increase in the aging demographics of the Shire, Council had a distinct role to play in supporting the changing demographics of the Shire and partnerships with groups that address the important recreational, health and social opportunities for older people. Following its consideration of the Report, Council resolved to support a joint funding application to the NSW Department of Sport and Recreation and agreed in principle to provide funding to extend the Hall by an additional 72 square metres (12m x 6m extension) to accommodate the activities of the HWMS.

At the 12 March 2008 Ordinary Meeting, Council considered Report No CC14/08 which provided updated costing estimates in respect of the proposed extension to the Hall as well as providing details concerning the progress made in preparation of the funding application to the NSW Department of Sport and Recreation. Council resolved that a Development Application for the extension to the Hall be prepared, and endorsed the finalisation of a joint funding application between HWMS and Council to the NSW Department of Sport and Recreation.

At the 12 December 2008 Planning Meeting, Council approved Development Application No 542/2008 for alterations and additions to the existing Hall to accommodate the use of that facility by the HWMS. The proposed extension encompasses the creation of an additional floor area on the south eastern corner of the existing building for use by HWMS, and the

creation of a new storage area directly underneath this extension for shared use between the HWMS and the BCJRC.

HWMS's Request for a Lease

In July 2008, HWMS submitted an application requesting a lease of the Hall (including the proposed extension) for a period of 10 years in line with the provisions of Council's Code for the Lease/Licence of Council Land and Buildings to Community Groups. A copy of the application is available on file.

The Code, which was adopted by Council in May 2007, provides a framework for the equitable, efficient and effective lease/licence of Council's property assets to community groups. The Code assists Council officers to assess community group applications for the use of Council land and buildings in a transparent manner, based on agreed eligibility criteria, and to formulate appropriate lease/licence terms and conditions for consideration by Council.

An assessment of the lease application received from HWMS was undertaken in line with the criteria set out in the Code. The assessment by Council officers determined that HWMS should be offered a lease of the Hall and proposed Hall extension in line with the "Community Partnership" category of the Code. Officers considered that if Council was supportive of granting HWMS a lease of the Hall and Hall extension, the following Heads of Lease arrangements should be applied:

1. **Period of lease** – 10 years
2. **Use of Property** – Men's Shed, as per submission
3. **Rental as per Code** – \$5,238 per annum exclusive of GST
4. **Rental Review** – Annual CPI adjustments with a market review at the end of five years
5. **Statutory Outgoings** – Payment of any Council and water/sewerage rates assessed
6. **Operating Costs** – 100% of electricity, gas, telephone, water usage, etc
7. **Insurance** – Public liability insurance, indemnity \$20 million
8. **Legal fees** – 50% of lease preparation costs
9. **Maintenance as per Code** – Responsible for repairs and maintenance of the premises as shown in the Maintenance Responsibilities Schedule
10. **Conditions of Consent** - Comply with the conditions of consent from Development Consent No DA/542/2008.
11. **Hours of operation for wood working activities** - restricted to 9.00am to 4.00pm Monday to Friday and no more than two occasions each calendar month on a weekend or public holiday between the hours of 10.00 am and 3.00 pm.
12. **Security** – security of the premises during the lease term.

(In respect of the Statutory Outgoings and Operating Costs, it is noted that no Council rates are levied on the property and the costs associated with the provision of electricity, gas and water to the property are approximately \$840 per annum, based on expenditure in 2008/09)

Advice of the above draft Heads of Lease arrangement was advised to HWMS who have subsequently provided a further submission (a copy of which will be provided to Councillors under separate cover) which objects to and comments on the assessment undertaken by Council officers. The main issue raised in the submission is a claim by the HWMS that they are eligible for a lease determined in accordance with the “Nominal” category of the Code. It is noted that if the “Nominal” category was determined as being applicable, the rental according to the Code would be reduced to a figure of \$280 per annum (exclusive of GST).

The following are the six objection points raised by the HWMS in respect of the Council officers’ assessment of their original submission. Below each point is a comment from officers to assist Council in its consideration of this matter.

Objection Point 1: *It has been unfairly assessed as being in the rent subsidy category of Community Partnership instead of our current category that is equivalent to the Nominal Category*

Officer Comments

In accordance with the provisions of the Code, to be entitled to a “Nominal” category lease, a community group is required to meet the following relevant eligibility criteria:

- a) Satisfy the eligibility criteria under section F of the Code
- b) Provide a high level of community benefit (i.e. provide services to at least four target groups identified in Council’s Social Plan)
- c) Provide optimal multiple use opportunities (i.e. fully utilised or nature of use precludes multiple use opportunities)
- d) Responsible for all capital and full maintenance of the property
- e) Has limited revenue raising and grant funding ability net of cost of service (i.e. no access to grants or fund raising opportunities)
- f) May be in need of Council’s assistance to become established

Satisfy the eligibility criteria under section F of the Code

The officers’ assessment of the initial application and subsequent submission confirms that the HWMS meets this criteria.

Provide a high level of community benefit (i.e. provide services to at least four target groups identified in Council’s Social Plan)

The officers’ assessment of the initial application and subsequent submission confirms that the HWMS meets this criteria.

Provide optimal multiple use opportunities (i.e. fully utilised or nature of use precludes multiple use opportunities)

The officers’ assessment of the initial application and subsequent submission confirms that the HWMS meets this criteria.

Responsible for all capital and full maintenance of the property

The officers’ assessment of the initial application and subsequent submission is that the HWMS does not meet this criteria. In this regard, it should be noted that the Scout Association relinquished ownership of the Hall to Council in 2001. As mentioned

above, Council is proposing to fund the capital cost of the building extension (estimated to be approximately \$130,000 in 2009/10) with assistance from funds provided through a grant from the NSW Department of Sport and Recreation. This will be supplemented, where possible, by in-kind assistance provided by members of HWMS. Since taking occupation of the Hall in 2003, the HWMS has undertaken repairs and maintenance to the Hall and undertaken some minor capital improvements. The group has indicated within their application that they are prepared to commit to similar obligations but that they would not be responsible for vandalism repairs, repairs associated with asbestos, termite damage and dry rot. As a consequence, responsibility for the ongoing structural repair and maintenance of the building would remain with Council. Given the significant capital investment by Council, and its responsibility for ongoing maintenance costs, as well as the commitment of the HMWS to undertake only minor repairs, it is clear that the application by the group does not satisfy this criteria. (It should be noted that this criteria point will generally only be met by a group when they construct a building on Council land at their own cost and are subsequently responsible for all minor and structural maintenance of the building)

Has limited revenue raising and grant funding ability net of cost of service (i.e. no access to grants or fund raising opportunities)

The officers' assessment of the initial application and subsequent submission confirms that the HWMS meets this criteria. HWMS do have limited revenue raising and grant funding ability. They have, in partnership with Council, been successful in seeking funding from the NSW Department of Sport and Recreation to undertake the extension to the Hall at Headen Park.

May be in need of Council's assistance to become established

As the HWMS is already established, officers consider that this criteria does not apply.

The Council officers assessment is that, as HWMS do not meet all of the above criteria, they are not eligible to be placed in the "Nominal" category defined in the Code.

Objection Point 2: *Rental of the amount proposed for this community beneficial Shed (comprising retired members 82% of which 59% are on full or part pensions) means it would be bankrupt within 18 months. That is unacceptable and not in the interest of Council's Community Service Strategy.*

Officer Comments

Whilst the proposed rental represents a substantial increase from the amount that HWMS has previously been paying, the rental has been determined in accordance with the eligibility criteria and rental categories contained within the Code. As outlined above, the Code was established to provide a framework for the equitable assessment by Council officers of existing and future community user groups to lease or licence Council owned land and buildings, prior to consideration of that assessment by the Council.

Objection Point 3: *The definition of Rent Subsidy on page 7 states "it will be based on the extent to which the group meets the criteria indicated in Table 1. The assessment was made without discussion with the Men's Shed.*

Officer Comments

Council officers undertook the assessment based on the information provided by the HWMS in their written application dated 1 July 2008 and their further submission dated 15 July 2009. It should also be noted that Council officers have held a number of meetings with the executive committee of the HMWS prior to the lodgement of their submission, and after the assessment was made.

Objection Point 4: *No consideration has been given to the beneficial effects of the Shed on the community generally and in particular to assisting men's health, for which it has received two Awards from the NSW Government.*

Officer Comments

Council officers have undertaken the assessment based on the information provided by the HWMS in their written application dated 1 July 2008 and subsequent submission, having regard to the key eligibility criteria contained within the Code under the headings of Community Group, Community Benefit and Facility Management. Comments are also provided in this Report about the valuable contribution made to the community by the HWMS.

Objection Point 5: *While we expected that an increase in the area available to the Men's Shed would result in an increased rental, we did not expect an increase from \$663 per annum to \$7,800 per annum or 11 times what we currently pay*

Officer Comments

The initial licence fee payable by this group was determined by Council in 2003 following a call for expressions of interest for occupiers to use the vacant Headen Park Hall. At that time, the Code had not been developed and the licence fee amount was resolved by Council to be \$520 per annum. Since the introduction of the Code in 2007, Council officers have assessed all applications for the lease/licence of council owned land and buildings by community groups in accordance with the provision of the Code. The proposed rental has been determined by Council officers in accordance with the eligibility criteria and rental categories contained within the Code. The rental has been calculated having regard to a market rental valuation obtained from Council's consulting real estate valuer.

Objection Point 6: *The charge per annum proposed would make the Hornsby Men's Shed the highest charged Men's Shed in NSW*

The purpose of the Code is "to provide Council with a framework for the equitable, efficient and effective lease/licence of its land and building assets to community groups whilst ensuring that financial allocations to community groups reflect Council's commitment to its community development role and to encourage creative, relevant, community driven initiatives within the Shire". As previously mentioned, the assessed rental has been determined by Council officers in accordance with the eligibility criteria and rental categories contained with the Code. Decisions made by other councils are the subject of their own policies and codes.

Although officers recognise the valuable contribution provided to the community by the HWMS, the officers are required to assess the application and make a recommendation to Council in accordance with the Code. Any decision outside of the parameters of the Code can

only be made by Council after they have considered the officer's recommendations and any other issues considered relevant.

Having regard to their assessment, Council officers recommend that any future lease of the Hall and Hall extension be in line with the "Community Partnership" category provisions of the Code. Officers also consider it appropriate that, in order to protect Council's interests during the construction of the Hall extension, it would be prudent for Council to require the HWMS to enter into an Agreement to Lease prior to Council incurring any expenditure in respect of the construction work.

Legislative Considerations

In line with the provisions of Section 47 of the Local Government Act, any proposal to lease community land is required to be publicly notified for a period of not less than 28 days and Council must consider all submissions received prior to the granting of any lease. In addition, should a submission objecting to a proposed lease for term greater than five years be received, Council must not grant the lease without first obtaining the consent of the Minister administering the Local Government Act. In accordance with these requirements, the leasing proposal will need to be advertised and a further report submitted to Council should any submissions be received.

Continued Occupation of Hall by BCJRC

Following discussions with both the BCJRC and HWMS concerning their space requirements at the Hall, there has been an in principle agreement that BCJRC will relinquish the rooms they presently occupy in the existing Hall in return for obtaining storage space under the proposed Hall extension. As a consequence, Council officers consider that it would be prudent to defer formalisation of this arrangement until such time as an agreement to lease has been executed with HWMS.

BUDGET

The granting of a lease of the Headen Park Hall to the HWMS on the basis recommended by Council officers will realise an additional minimum rental income to Council of approximately \$4,600 per annum. The charging of such a rental would also result in a modest reduction in the level of foregone rental provided to community groups across the Shire.

POLICY

This Report has been prepared having consideration to the Code for the Lease/Licence of Council Land and Buildings to Community Groups.

CONSULTATION

There has been consultation with representatives of the HWMS, BCJRC and officers of Council's Community Services Branch in the preparation of this Report.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes. The following Triple Bottom Line considerations apply to this Report:

Working with our community

The extension to the Hall involves a close working relationship between Council and members of HWMS. The proposed lease will be publicly advertised for a period of 28 days and a further report provided for Council's consideration should any submissions be received.

Contributing to community development through sustainable facilities and services.

The granting of a lease to the HWMS in line with the officers' recommendation will provide an ongoing woodworking facility for the Over 55 targeted group of residents of Hornsby Shire and an enhanced provision of services.

Fulfilling our community's vision in planning for the future of the Shire

The granting of a lease to the HWMS will promote the wellbeing of the Shire's growing aging population as outlined in the Strategic Plan for Older People 2005-2010, by providing opportunities for the diverse range of people in the community to access a woodworking facility and gain social interaction benefits.

Supporting our diverse economy.

The granting of a lease to the HWMS has no negative impacts on the Shire's economy. In fact, while Men's Sheds play a significant and practical role in addressing men's health and social issues, many projects may act as a catalyst in stimulating the community's economic activities.

Maintaining sound corporate and financial management.

The granting of a lease to the HWMS will provide a modest financial return to Council to assist in the long term protection of this community asset and potentially will provide a long term cost saving due to addressing the health and well being of the forecast increase in the aging population.

Other Sustainability Considerations

The existence of the HWMS ultimately promotes greater social cohesion.

RESPONSIBLE OFFICER

The officers responsible for the preparation of this Report are Mrs Robyn Abicair - Manager Administration Services Branch; Mrs Leonie Cooke - Property Officer; and Mr Rod Drummond - Manager, Commercial Property who may be contacted on 9847-6608, 9847-6725 and 9847-6589 respectively.

RECOMMENDATION

THAT:

1. The contents of Executive Manager's Report No CC61/09 be received and noted.
2. Council enter into an Agreement to Lease with the Hornsby Woodworking Men's Shed Inc in respect of a ten year lease over the existing Hall and Hall extension at Headen Park, Thornleigh subject to :
 - a) The proposed lease to Hornsby Woodworking Men's Shed Inc being publicly advertised (costs to be borne by the Men's Shed) and submissions invited within a period of not less than 28 days.

- b) A further report being provided to Council, and the Minister for Local Government as appropriate, should submissions be received objecting to the lease proposal.
3. Subject to the outcome of recommendations 2a and 2b, Council proceed with the Hall extension and delegate the General Manager authority to enter into a lease with Hornsby Woodworking Men's Shed Inc for a ten year term in accordance with Sections 46 of the Local Government Act 1993 (Lease/Licence of Community Land) on the following basis:
- a) Rental for the initial 12 months of tenure to be \$5,238 per annum (excluding GST), in respect of the extended Hall and 50% of the under storage area of the Hall.
 - b) Rental to be subject to annual review in accordance with the movement in the Consumer Price Index, with a market review by Council's Valuer at the end of year five.
 - c) The lessee to be responsible for the payment of all costs associated with services provided to the property including but not limited to electricity, gas and water usage.
 - d) The lessee to be responsible for the payment of 50% of any Council rates and water and sewerage rates assessed in respect of the Hall on an area occupied basis.
 - e) The lessee to maintain throughout the term of the lease a public liability insurance policy for an amount of not less than \$20 million for any one incident, with such policy noting Hornsby Shire Council as an interested party.
 - f) The Hall to only be used for the purpose of a men's shed.
 - g) The lessee to be responsible for the maintenance responsibilities under the "Community Partnership" category of the Code.
 - h) The lessee to acknowledge Council's support in the provision of the Hall in its annual reports and publications, any advertising and community events.
 - i) The lessee to be responsible to ensure the security of the Hall during the term of their occupation.
 - j) The lessee to bear 50% of costs incurred in respect of the preparation of the necessary lease documentation.
 - k) The lessee to comply with the conditions of consent from Development Consent No. DA/542/2008.
 - l) The hours of operation for wood working activities to be restricted to 9.00 am to 4.00 pm Monday to Friday and no more than two occasions each calendar month on a weekend or public holiday between the hours of 10.00 am and 3.00 pm.

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Attachments:

1. Code - Lease Licence of Council Land and Buildings to Community Groups

File Reference: F2004/06466
Document Number: D01207657

CODE REGISTER



HORNSBY SHIRE COUNCIL
"creating a living environment"

CODE TITLE: LEASE/LICENCE OF COUNCIL LAND AND BUILDINGS TO
COMMUNITY GROUPS

FOLDER NUMBER: F2007/00307

POLICY OWNER / DIVISION: Corporate & Community Division

POLICY OWNER / BRANCH: Administration Services Branch

FUNCTION: Council Property & Land

RELEVANT LEGISLATION:

CODE ADOPTION/AMENDMENT DATE: 8 April 2009 **REPORT NUMBER:** CC12/09

REVIEW YEAR: 2011

AMENDMENT HISTORY: 9 May 2007 (Report CC36/07)

RELATED POLICIES:

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Lease/Licence of Council Land and Buildings to Community Groups

A. Introduction

Hornsby Shire Council's land and building assets are managed by a variety of Divisions. It is important to develop an open and transparent code that relates to all Council owned/managed land and buildings assets used or to be used by community groups under lease/licence arrangements.

Council leases/licences a number of its land and building assets to community related groups, clubs and incorporated organisations at subsidised rates for a variety of purposes.

This Code will provide the framework for the assessment of existing and future community user groups to lease or licence Council owned/managed land and buildings prior to the consideration of the matter by Council. It establishes the requirement for all community groups to demonstrate the community benefit arising from their use of the Council owned/managed land and buildings and sets out reporting requirements to ensure accountability to Council and recognition of Council's contribution. The code sets out terms and conditions to be used as the basis for negotiating leases/licences.

B. Definitions

For the purposes of this code the following definitions apply.

Facility:

Part or all of a Council owned/managed land and/or building asset and associated infrastructure occupied by a community group/s under a lease/licence to provide and organise recreational, cultural, sporting and community service activities. They are generally situated on Council owned operational and community Land or Crown Land for which Council has long term management responsibility.

Community Group:

A community group under this Code is an entity which provides a benefit to the community on a non profit basis, has a constitution or charter and a program of services or activities which confirm a commitment to meeting the cultural, social and/or recreational needs of the community. Community based Kindergartens/Preschools, occasional and regular hirers of Sporting facilities and/or community/cultural facilities are not covered by this Code.

Capital Contribution:

Monetary or other contribution (e.g. donated labour and materials) which improves, enhances, or adds value to the facility based on the replacement/refurbishment cost/s assessed in line with industry accepted quantity surveying principles.

Plans of Management:

Refers to the requirement under the Local Government Act (1993) that all public land be classified as either "*operational land*" or "*community land*" and a Plan of Management must be prepared for land designated *community land*.

The granting of a lease or licence over a facility on *community land*, the conditions of the lease or licence and the potential uses of a facility are set down in the Plan of Management. The Act states: "A council may grant a lease or licence of community land, but only in accordance with Section 46 and (if relevant) section 47 NSW Local Government Act 1993."

C. Purpose of the Code

The purpose of this code is to provide Council with a framework for the equitable, efficient and effective lease/licence of its land and building assets to community groups, whilst ensuring that financial allocations to community groups reflect Council's commitment to its community development role and to encourage

creative, relevant, community driven initiatives within the Shire.

Through implementation of this code Council aims to provide optimal use of facilities by community groups and maximise the community benefit arising from such use whilst ensuring accountability and sustainable economic management of these assets.

D. Objectives of the Code

Council aims to achieve a number of outcomes from the Code including:

- Ensuring the community has the opportunity to benefit from an appropriate range of support services and activities which address identified community needs;
- Assisting community groups, to provide programs and services which address the social, cultural and/or recreation needs of the community;
- Providing lease/licence guidelines which are clear and easily understood by the community and community groups;
- Encouraging optimal use by the community of Council facilities to cater for a range of community groups and to minimise duplication of services by determining the most appropriate occupancy;
- Optimising contributions from community groups towards the cost of providing use of Council facilities;
- Ensuring Council owned facilities are used to meet demonstrated community needs consistent with Council's Vision, policies and Social Plan;
- Ensuring fair and consistent lease/licence conditions between tenant community groups and equitable access to leased/licensed community assets;
- Providing accountability for Council expenditure on lease/licence subsidies, as they constitute donations;
- Ensuring 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;
- Ensuring sound financial management and effective administration of Council community leasing/licensing;
- Recognising the value and benefits of services and activities organised and provided by community based groups and to subsidise these groups as appropriate.

E. Management Philosophy

- Council facilities which are not required for delivering Council services and which the Council has determined are suitable for lease/licence by community groups will be subject to the conditions and guidelines outlined herein. The terms of occupation will be generally in accordance with the provisions contained in Council's standard lease/licence agreement for community use of Council facilities.
- Facilities will generally be managed in a manner which preserves and maintains their flexibility and availability for current and future residents of the Hornsby Shire. Wherever possible, Council will implement a strategy of multiple shared uses between groups.
- The allocation of an available facility to any community group shall have regard to the existing level of support (financial and non-financial) already provided by Council to that community group.
- Council seeks to recover a proportion of the total operating costs of all facilities.

F. Eligibility

To be eligible to lease or licence part or all of a Council facility, a community group will be assessed against the following eligibility criteria.

The criteria indicated with an asterisk (*) are mandatory and must be met to enable assessment of an application. A weighting of the remaining criteria will be applied to assist in the assessment process.

Community Group Criteria

- The community group is one which is not operating for the profit or gain of its individual members, whether these gains would be direct or indirect
- The community group is a legal entity registered under appropriate legislation (such as the Associations Incorporation Act (NSW) 1984). *
- The community group is financially sustainable, with annual financial statements provided to Council, audited where it is required as a prescribed association under the Associations Incorporation Act.
- The community group complies with relevant legislation governing its activities, and holds any licences or registration certificates required for it to operate.*
- The community group has a committee of management or other like governance structure and appropriate governance arrangements, with established accountability and reporting methods to members of the community group and / or to the community.
- The community group adheres to all relevant Council policies and has complied with the terms of any previous lease/licence and/or financial assistance from the Council.*
- The community group has a constitution or charter which confirms the group's commitment to either the cultural, social and/or recreational well being of the community.*

Community Benefit Criteria

- Use of the facility will increase social engagement and promote health and well-being of the Hornsby community.
- A plan for the facility's use is provided including current and projected hours of operation and participant and / or membership numbers.*
- The community group provides a service or a program of activities which can be demonstrated to address an identified cultural, social, recreational or other need in the community.*
- Facility use is consistent with Council's vision and the goals outlined in Council's Social Plan.
- The support already being provided by Council to a community group both financial and non financial.
- 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.
- The service or activity can be accessed by disadvantaged groups, with strategies in place to review and remove any barriers to participation.
- The community group's promotion and support of volunteerism.

Facility Management Criteria

- Proposed use of the facility is suitable for the nature of the site and the neighbourhood.*
- The community group will keep the facility in good repair and undertake upkeep in accordance with the maintenance schedule included in this code.
- Utilisation of, and community access to, the facility will be maximised, through shared use with other community groups, consistent with any special requirements of the head tenant.
- The community group is willing to undertake significant/identified capital works as necessary to develop the facility as an asset for the long term benefit of the community.
- The community group is able to fulfil relevant insurance requirements as determined by Council's Risk and Insurance Manager.*

The eligibility requirements indicated above will be applied in the assessment of an initial request for a Council facility lease or licence and an application to renew a lease or licence.

G. Lease/Licence Provisions

Council recognises that many groups have a strong historical affiliation with the facilities which they use, and have contributed in cash and kind to their development. Generally Council supports the continued occupation of those facilities by those groups but with a preference for a shared multi-use basis where it does not currently occur.

Where a current licence, lease or other formal agreement exists, this will be honoured until its expiry. A review of future management options for the facility will be undertaken within the last 24 months of the agreement period. Community groups wishing to renew a lease or licence will be subject to a reassessment of their eligibility. Reassessment will refer to the eligibility criteria as noted in this code (refer Section F). It will also take account of existing usage rates and the potential for the facility to be used on a multi-user basis, in line with changing community needs and in consultation with the community.

An Expressions of Interest process will be undertaken for facilities covered by this code which become vacant.

A standard lease/licence will be developed reflecting the contents of this code and relevant legislation.

1. Lease Term

The period of a lease/licence will give consideration to the community groups and Council's estimation of the capital contribution made by a community group to that facility as follows:

Less than 5 years	=	0-10% of capital contribution
5 years	=	11-30% of capital contribution
5 -10 years	=	31-50% of capital contribution
11 - 15 years	=	50% and above capital contribution

Where a community group estimates it has made a capital contribution greater than 50% consideration will be given by Council to the granting of a longer lease/licence term on a case by case basis.

2. Rental

i) Rent Subsidy

The level of rental payable by Community groups who satisfy the requirements under Section F above will be based on the extent to which the group meets the criteria indicated in Table 1 Rent Subsidy Categories set out below.

The compliance of a community group against the criteria will be reviewed annually. Should a community group's category change the revised level of rental payable will be subject to the approval of Council.

Table 1 Rent subsidy categories

Category	Annual Rent	Eligibility
Nominal (excludes users of rooms within Community Centres)	\$280 per annum (exclusive of GST) as at date of adoption of Code and annually adjusted by CPI	<ul style="list-style-type: none"> • Satisfies all eligibility criteria under Section F • Provides high level of community benefit (i.e. at least four target groups identified in the Hornsby Shire Council Social Plan) • Provides optimal multiple use opportunities (i.e. fully utilised or nature of community groups operations precludes multiple use) • Responsible for all capital and full maintenance of facility • Has limited revenue-raising and grant funding ability net of cost of service (no access to grants or fund raising opportunities) • May be in need of Council's assistance to become established
Community Partnership	25% of market valuation (exclusive of GST)	<ul style="list-style-type: none"> • Satisfies all eligibility criteria under Section F • Provides high benefits for the community (i.e. one to three targeted groups identified in the Hornsby Shire Council Social Plan) • Provides reasonable multiple use opportunities (say 3 or more groups per week) • Undertakes some capital development and full maintenance of facility • Has limited revenue-raising and grant funding ability net of cost of service (access to funds/grants no greater than 20% of total revenue raising abilities)

Discounted market rent	50% of market valuation (exclusive of GST)	<ul style="list-style-type: none"> • Satisfies all eligibility criteria under Section F • Provides some benefits for the community (i.e. one or more targeted groups identified in the Hornsby Shire Council Social Plan. • Limited or no multiple use opportunity (i.e. nature of community groups operations and capital investment by group supports minimal multiple usage. • Responsible for day to day maintenance only • Has reasonable revenue raising ability from their activities, private sector sponsorship or government grants (net of cost of service)
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Market Rental Definition: The rent that would reasonably be expected to be paid for the facility, determined on an effective rent basis having regard to:

- 1) The rent that would reasonably be expected to be paid for the facility if they were unoccupied and offered for rent on the open market.
- 2) The highest and best uses for which the facility would be physically suitable and which would be permissible under the zoning of the land and by any plan of management.

ii) Adjustments of Rents.

The rent payable under the nominal category will be adjusted annually in accordance with the Consumer Price Index. The rent payable under the community partnership and discounted market rent categories will be adjusted by CPI annually with a market review to be undertaken every five years.

New rent and subsidy levels will be introduced in all new leases and licences following adoption of the code, including any new lease or licence developed with current tenants.

iii) Reporting on Rent Subsidies

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

3. Maintenance of Council Facilities

All community groups signing leases or licences following commencement of this code will be required to contribute towards the maintenance of the facility occupied. The level of maintenance responsibility will be determined by the function of the facility, the degree of community benefit, and the community group's ability to generate revenue. In broad terms maintenance responsibilities will be as outlined in Table 2 below, which should be seen as a general guide only. Specific responsibilities will be negotiated with each community group taking into account the nature, age and condition of the facility and included in a schedule to that community group's lease or licence.

Maintenance Definitions:

Maintain /repair: Keep in good condition in accordance with Australian Standards. Ensure useful life of the asset is met and does not deteriorate during the term of the lease/licence.

Replace: Replace at end of useful life. Replace if broken or damaged beyond repair.

Full Maintenance: Maintain, repair and replace

Table 2- Indicative Summary of Maintenance Responsibilities

Category	Facility Component	Community Group Responsibility	Council Responsibility
Nominal	Building Shell erected by Group	Full maintenance	
	Building Shell erected by Council	Maintain/repair	Replace
	External surfaces, including painting, pathways, fences, car parks, brickwork	Full maintenance	
	Fixtures / Fittings (toilet pans, taps, door furniture)	Full maintenance	-
	Interior Surfaces (painting, carpet, tiling)	Full maintenance	-
	Building services (water supply, gas, sewerage, electrical)	Full maintenance	-
	Essential services	-	Full maintenance
	Routine services (gutter cleans, pest control)	Maintain/repair	-
	Grounds (landscape features, external furniture)	Full maintenance	-
	Specialist ground surface and equipment (e.g. playground equipment, synthetic playing surface, trees planted by group)	Full maintenance	-
	Existing Trees	-	Full maintenance
Community Partnership	Building shell erected by Council	Maintain/repair	Replace
	External surfaces, including painting, pathways, fences, car parks, brickwork	Maintain/repair	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/repair	Replace
	Essential services	-	Full maintenance
	Routine services (gutter cleans, pest control)	Maintain/repair	-
Community Partnership Cont/.	Grounds (landscape features, lawns, external furniture)	Full maintenance	-
	Specialist ground surface and equipment (e.g. playground equipment, court synthetic playing surface, trees planted by Group)	Full maintenance	-
	Existing Trees	-	Full maintenance
Discounted market	Building shell erected by Council	-	Full maintenance
	External surfaces, including painting, pathways, fences, car parks, brickwork	-	Full maintenance
	Fixtures / Fittings (toilet pans, taps, door furniture)	-	Full maintenance
	Interior Surfaces (painting, carpet, tiling)	Maintain/repair	Replace
	Building services (water supply, gas, sewerage, electrical)	-	Full maintenance
	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 (e.g. playground equipment, court synthetic playing surface, Trees planted by Group)	Full maintenance	-
	Existing Trees	-	Full maintenance

Where a group voluntarily undertakes extensions or improvements to the exterior of a facility (e.g. pergola, sun shade) they are responsible for the maintenance and presentation of those improvements. NB: Such groups will need to comply with any relevant statutory approval processes (e.g. Development Consent).

Unless mentioned above, users of the facility should be responsible for all internal maintenance of the facility. Where more than one group uses a facility, contributions and responsibility for maintenance should be shared.

4: Statutory Outgoings

The community group shall be responsible to pay 50% of Council and Water Sewerage rates levied on a facility. If the community group utilises only part of a building, a contribution for statutory outgoings may be negotiated and included in the lease/licence agreement.

5: Operating Costs

Community groups will be responsible for the costs associated with services provided to a leased/licensed facility (e.g. electricity, water usage and gas) and any applicable taxes (including GST and stamp duty). If the community group utilises part of a building a contribution for associated services may be negotiated and included in the lease/licence agreement.

6: General

(i) Hours of use

The hours of use may be prescribed for all leased/licensed premises and determined by Plans of Management or Development Consent.

Sub-leasing

(ii) Sub-leasing

Community groups 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 may be reviewed when a sub-lease is developed and may be adjusted if the rent is more than cost-recovery. Any financial gain from subletting may in part be payable to council rather than to the community group except where an agreed strategy is developed to assist the community group with occupancy and operational costs or to reinvest in the facility.

(iii) Insurance

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

(iv) Legal Fees

Council will pay 50% legal costs associated with the establishment of a new lease/licence agreement provided it conforms to Council's standard lease or licence document. The community group will be responsible for the cost of any independent legal advice and assistance sought by the community group.

(v) Removal of Assets

The community group may remove any assets that have been constructed or installed by them during the term of the lease or licence, subject to the premises being returned to Council in its original condition. Council may request the demolition/removal of the asset if required by the lease/licence conditions. Any improvement not able to be removed at the end of the lease/licence shall remain in Council ownership.

(vi) Capital improvements

Community groups may only undertake capital improvements with the permission of Council as the asset owner.

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

(vii) Acknowledgement of Council contribution

The community group shall, in liaison with Council's Community Relations section, acknowledge Council's contribution in their organisation's annual report and publications, any advertising and community event.

(viii) Nuisance

Council requires that community groups 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 community group and through occasional hire arrangements if this requirement is not adhered to.

(ix) Reporting requirements

Community groups and organisations using Council's facilities will be required to report annually on performance indicators in relation to the facility and the group's activities. Council will provide guidance and advice on the collection of this information.

H. Legislative Considerations

Community facilities will be managed in a manner which ensures a close nexus with various legislation and Council policies including the Local Government Act, the Crown Lands Act, Entertainment (Management) Act, Copyright Act, Noise Control Act and Council's Social Plan and Cultural Plan. Where applicable, in a manner consistent with the values and directions of the Plans of Management for Community and Crown Land.

I. Implementation of Code

The code will apply to all leases and licences developed or renewed following adoption of the code by Council. In addition all community groups with current leases/licences will be asked to provide annual reports against the eligibility criteria during the term of the current lease/licence, to assist Council in achieving its aim of accountability for expenditure on lease/licence subsidies and sustainable economic management of these assets.