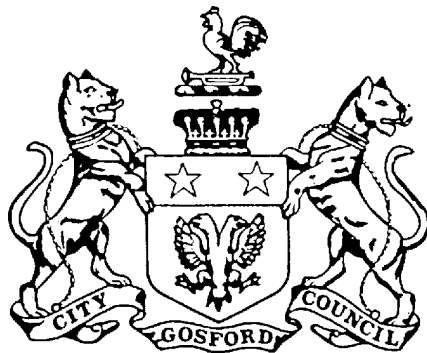




## **RENTAL - COUNCIL PROPERTIES**



## **RENTAL – COUNCIL PROPERTIES**

### **COMMUNITY GROWTH - PROPERTY & ECONOMIC DEVELOPMENT**

#### **POLICY OBJECTIVES**

To index rent charges on Council cottages to changes in market trends.

To assess market rental value, for all non residential properties.

A cottage that is used for non-residential purposes will be considered as a non-residential property for the purpose of this policy.

#### **POLICY STATEMENT**

##### **A Residential Properties**

- 1 Rental shall be at market rental rate, as assessed by Council's Property & Economic Development Unit.
- 2 All cottage rentals shall be reassessed in June each year.
- 3 Where, in the opinion of the Chief Executive Officer or his/her delegate, security to a Council asset is provided by the occupiers of the cottage, the rental shall be 75% of the market value.
- 4 Where there is a discount for security, the Directorate that obtains the benefit will pay to the rent income account an equivalent amount to the discount.
- 5 Where the cottage is occupied by an employee of Council and that person is the lessee, any fringe benefit tax will be paid by the Directorate that obtains the benefit from the security.
- 6 Where more than one Directorate obtains the benefit, the Program as determined by the Chief Executive Officer or his/her delegate, will be responsible for the payments referred to in Points 4 and 5.
- 7 Employees need not deposit any bond or security, but will authorise deduction from their salary/wages equal to the rent.
- 8 All other persons, including those who cease to retain their employment with Council, shall pay their rent weekly in advance.
- 9 Whenever the cottage is occupied by a person other than an employee, a bond will be required, however the Chief Executive Officer may, at his discretion, dispense with the requirement of that bond.
- 10 An amount equal to 7.5% will be deducted from the income account for the purposes of lease management and deposited into the Property & Economic Development general income account.
- 11 No GST will be applicable to the rental income for residential properties except where the property is defined as a Commercial residential property.

## **B Non-Residential Properties**

- 1 Rental for the premises shall be market rate as assessed by Council's valuer.
- 2 Where the occupancy rate is for a period less than 5 years, the rent shall be reviewed on an annual basis and shall be equal to the Consumer Price Index Sydney All Ordinaries.
- 3 Where the premises is leased for a period in excess of 5 years, the rent shall be reviewed to market at each 5 years and then varied on an annual basis as provided in Point 2.
- 4 Where the rental is disputed, the matter will be referred to an arbitrator.
- 5 The arbitrator will be appointed by Council with the consent of the lessee/licensee. In this situation Council will be responsible for the arbitrator's fees but shall be entitled to be reimbursed as detailed in 8.
- 6 Where there is no agreement as to the arbitrator, the arbitrator shall be the person nominated by the President of the Australian Property Institute.
- 7 Either party may request the President to make a nomination.
- 8 The party requesting the appointment of an arbitrator shall be responsible for the arbitrator's fees, but may recover from the other party an amount as directed by the arbitrator, and where there is no direction up to 50% of such fees.
- 9 The decision as to market rent made by the arbitrator is final.
- 10 When Council offers a lease/licence at a rental/fee that is less than the market rent, the concessional rent is to be paid by the lessee/licensee and a donation pursuant to Section 356 of the Local Government Act 1993 is deemed to be made to the lessee/licensee after payment, if the lessee/licensee is a person (natural or artificial) that may receive such donation but that donation is credited to the rental income account.
- 11 Where a donation is inappropriate, but there is compelling reasons and a reduction of rental fee is offered, then the Directorate that obtains the benefit of the reduced rental shall pay into the income account an amount equal to the difference between the rent paid and the market rent.
- 12 Unless the premises falls within the definition of the Retail Leases Act, where the occupation period is less than one year and there is a dispute as to the market rent, the rent as determined by the Chief Executive Officer or his/her delegate is deemed to be the market rent.
- 13 All rentals shall be paid in advance.
- 14 Where deemed appropriate by the Chief Executive Officer or his/her delegate, a bond or security is payable before occupation.
- 15 The Chief Executive Officer or his/her delegate will determine the form and quantum of the bond or security.

- 16 Where deemed appropriate by the Chief Executive Officer or his/her delegate a guarantee or security as to the payment of rent shall be given by one or more persons (natural or artificial).
- 17 The lessee/licensee is responsible for the legal costs of preparation and registration of any lease/licence document.
- 18 An amount equal to 7.5% will be deducted from the income account for the purposes of lease management.
- 19 10% GST will be applied to all commercial rental properties.

### **St Hubert's island Drainage Reserves**

- 1 The Council owns the Drainage Reserves on St Hubert's Island.
- 2 Council has issued delegation to the Chief Executive Officer to allow owners of adjoining land to lodge a development application to construct structures within the drainage reserves.
- 3 The Chief Executive Officer has delegation to determine a development application for structures within the drainage reserves.
- 4 The Chief Executive Officer has delegation to issue a Licence to construct a structure and occupy the site of the structure within drainage reserves on St Hubert's Island.
- 5 The Licence document shall be prepared or approved by Council's Solicitors.
- 6 A fee as determined in Council's annual fees and will apply for a licence to cover costs of drafting and execution. (This fee will be reviewed annually taking into consideration the fee charged by the Department of Lands for similar structures within waterways under its control).
- 7 An annual rent fee of as determined in Council's annual fees and charges will apply to licences. (This annual rent will be periodically reviewed taking into consideration the annual rent charges by the Department of Lands for similar structures within waterways under its control).
- 8 The Licence will include, but not limited to, an obligation to indemnify Council, to have in place an insurance policy and rent reviews each five years. (This rent review will have regard to the annual rent charges by the Department of Lands for similar structures within waterways under its control). right to caveat.
- 9 The owner may transfer an interest in the Licence if the interest in the land is altered but subject to either the transferee or transferor agreeing to pay Council's costs.

## **Occupation Agreements**

It is the intention of this part to include such things as (but not limited to) advertisement signs, boat launching ramps that encroach onto drainage reserves, retaining walls, steps, awnings, etc.

For the purpose of this part, land includes any road or land owned by (either community or operational) or land controlled by the Council and includes the surface, the air space above or the substratum below.

Where a building, sign or any other structure encroaches onto land or there is an apparent general use of such land (even if that general use is not exclusive) the person(s) receiving such benefit may, at the discretion of the Chief Executive Officer or his/her delegate, be required to pay an initial and annual licence fee.

Such fee will be determined by the Chief Executive Officer after considering a report on the quantum of the fee based on market forces prepared by a Registered Valuer, but where no report as to market forces the fee will be a minimum fee as determined in Council's annual fees and charges. Where the use of the land is, at the discretion of the Chief Executive Officer or his/her delegate, minimal, no fee is required.

At the discretion of the Chief Executive Officer a licence deed will be issued to the person(s) that benefit from the use of the land.

Where the occupation is on public land the appropriate Act will apply, for example, if the land is a road the Roads Act (NSW) 1993 requirements apply.

## **PROCEDURE**

This procedure, being an administrative process, may be altered as necessary by the Chief Executive Officer.

Upon adoption of this policy, all properties affected will be administered under the new policy as the existing lease / licence or occupation agreement allows.

(Min No 699/1996 - 24 September 1996 - Review of Policies)

(Min No 239/2000 - 24 October 2000 – Review of Policies)

(Min No 214/2005 - 8 March 2005 - Review of Policies)

(Min No 610/2009 - 1 September 2009 - Review of Policies)

(Min No 2013/388 - 16 July 2013 - Review of Policies)