



Pre-School Leasing Policy

Sutherland Shire Council

Document review and approval

This document has been approved by

	Name	Minute No	Date approved
1	Finance & Management Committee FIN 192-10	849	21 June, 2010
2			

Revision history

Version	Author	Date	Revision
1	Manager - Property	7 June, 2010	Original Version. Originally adopted to only apply to Gynea, The Point, Heathcote and Sutherland Preschools
2	Manager - Property	17 February, 2012	Annual review conducted, no amendments necessary

CONTENTS

1. **Background**
2. **Purpose of the Policy**
3. **Application**
4. **Definitions**
5. **Principles**
6. **Relevant Legislation**
7. **Related and Associated Council Policy and Procedures**
8. **Responsible Officer/s**
9. **Responsibilities**
10. **Monitoring/Probity Requirements**
11. **Review Date**
12. **Record Keeping, Confidentiality and Privacy**
13. **Breaches and Sanctions**

1. BACKGROUND

The Sutherland Shire Council owns or controls land upon which a number of community based preschools operate. Historically there has been financial support provided by council to these preschools without a formulated policy position. The lack of a resolved policy makes it difficult for the council and the preschools to plan future budgets with certainty and does not encourage sustainability for the preschools

2. PURPOSE OF THE POLICY

To supplement the provisions of the Community Leasing Policy to have specific regard to the unique issues associated with preschools on council land and to create a framework for the financial self sustainability of preschool buildings.

To implement a policy on leased Preschool / Kindergartens on land controlled by Council that seeks to:

- Develop viable and sustainable community organisations
- Encourage a business approach to managing preschools / kindergartens
- Spread the cost of asset maintenance and replacement across all users of the services
- Decrease the potential for conflict between council and the community
- Provide greater consistency in the pricing of services that ensures greater equity in costs borne by parents across the Shire through mandating consideration of asset maintenance and replacement in the setting of fees.

3. APPLICATION

This policy will apply to all preschool leases of community land.

4. DEFINITIONS

In this Policy :

Preschools:

Means community based not for profit organisations providing preschool, occasional care or long day care services on council controlled land.

Community Land:

Means Community land under Local Government Act 1993 and land under Crown Lands Act 1989.

Lease:

Includes non exclusive licences

5. Principles

- (a) Cost neutrality That the lease of community land by preschools be on a cost neutral basis for council..
- (b) Financial independence that in all cases financial independence be achieved within five years of the adoption of this policy
- (c) Building condition report In all cases a building condition report will be provided by council to determine the asset management cost of the facility over a 21 year period.
- (d) Financial reports That a precondition of granting any lease to a preschool will be the production of the current financial reports from each preschool to determine the extent of provision for current and future asset management costs.
- (e) Building upgrades that cost of upgrading preschools to comply with statutory requirements be at the cost of preschools.
- (f) New buildings' For all new (5 years or less old) buildings or major upgrades undertaken by a preschool the preschool will assume all responsibilities for maintenance and structural repairs and continue to pay for outgoings under the lease. Full cost neutrality will apply from day one of the lease. This is on the basis that for a significant period only minor works should be needed to maintain the premises.
- (g) Multiple-Use - That council will not require multiple and optimum use of preschools in recognition of the special nature of the fit-out of the premises.
- (h) Major repairs - For other than new buildings which have been assessed by building report to require major repairs within five years preschools will need to immediately set up sinking funds as part of lease negotiations. If the works are required to be carried out before a sufficient sum is raised it will be necessary for the preschool to seek loan funds. Council may consider an interest free loan to assist in this period on the basis the sum loaned is repaid from the sinking fund. Council should resist the demand to carry out the works at its cost without recovery

6. RELEVANT LEGISLATION

The following list is not meant to be exhaustive, but identifies the primary legislation that affects council's commercial property management practices:

- Local Government Act 1993
- Real Property Act 1919
- Conveyancing Act 1919
- Crown Lands Act 1989

7. RELATED AND ASSOCIATED COUNCIL POLICY AND PROCEDURES

- Lodgement of Disclosure of Interest
- Council Seal Policy
- Conflicts of Interest
- Council Code of Conduct
- Statement of Business Ethics

8. RESPONSIBLE OFFICERS

The elected Council is responsible for considering proposals to rent council properties and the following are the responsible officers :

- General Manager
- Director Property
- Manager-Property
- Property Officer
- Property Administration Officer

9. RESPONSIBILITIES

- General Manager
 1. To grant leases under delegation in accordance with this policy and the Community Leasing Policy..
- Director-Property
 1. Ensure policy is complied with and report breaches, where appropriate, to council
 2. Recommend changes to policy;
- Manager-Property
 1. monitor performance of policy
 2. report breaches of policy.

- Community Property co-ordinator
 1. Negotiate terms of new leases and exercise of lease options;
 2. Inspect properties;
 3. Prepare inspection reports;
 4. Instruct Legal Services to prepare lease documents;
 5. Prepare ingoing/outgoing inspection reports;
 6. Instruct accounts to create sundry debtor account;
 7. Liaise with preschools on building maintenance and or repairs with Building Services unit.

10. MONITORING/PROBITY REQUIREMENTS

- Council requires the highest standard of probity from its staff and those it does business with. Accordingly, Council may request its internal probity auditor to assist in ensuring compliance with relevant ICAC and Local Government guidelines.
- Members of staff of Sutherland Shire Council are required to act in a responsible manner when dealing with council assets.
- Any interests pecuniary or otherwise need to be declared if they are likely to or may be seen to affect a council employee's decision making..
- Council staff should ensure that they are offering a property that is suitable for the use that is proposed.
- Some of these issues may be addressed where council has acquired a property and building inspections have been undertaken as part of the purchasing process.
- Council will always operate according to relevant legislation affecting a particular contract in the case of preschool leases this will include, but is not limited to :
 - * Local Government Act NSW
 - * Real Property Act
 - * Conveyancing Act
 - * Retail Leases Act
 - * Crown Lands Act

Reference should be made to these legislations where required.

11. REVIEW DATE

This policy will be reviewed every four years after adoption.

12. RECORD KEEPING, CONFIDENTIALITY AND PRIVACY

Records will be kept in hard copy where appropriate and otherwise in council corporate record keeping systems including but not limited to computer programs Proclaim and Word.

13. BREACHES AND SANCTIONS

- In most if not all instances options available to council for dealing with breaches and sanctions of preschool leases will be outlined and defined in the particular lease.
- In any case council will exercise its legal rights to protect its interests in any dealing with a preschool only after mediation or similar activity.
- All action taken by council will be through Legal Services upon instruction from Property Services.
- Any concessions given to other parties negotiating or dealing with council will be done solely within the limitations of officer's delegations and according to the codes of conduct that apply to councillors and staff as well as relevant legislation.