

Waitomo District Council

Lease Policy

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INTRODUCTION | KUPU ARATAKI

Waitomo District Council (WDC) leases land and buildings through ground leases, residential, and commercial leases. The Lease Policy (the Policy) outlines how leases are to be managed, determines standard rental rates, and who pays the outgoings, and establishes a Community Lease Grant (the Grant) for eligible organisations leasing WDC land or buildings.

The Grant recognises that community organisations provide a social benefit to the wider community and that there is value in providing some support to these groups.

The intention of the Policy is not for WDC to increase net revenue, but to make leasing land and buildings administratively simpler, more transparent, and fairer for everyone.

PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

1. The purpose of this Policy is to:
 - a) Enable the use of WDC owned land and buildings;
 - b) Determine and standardise the rental methodology used to charge for leases; and
 - c) Support the work of community organisations by establishing consistent guidelines by which community organisations may be provided with a Grant.
2. The Policy applies to all land and buildings which are owned or administered by WDC and leased to the public, but excludes pensioner flats, residential tenancies, quarries, easements, community halls and reserves used principally for public recreational purposes.
3. The Policy also does not apply to short term hireage of WDC facilities (these are covered by the Fees and Charges).
4. The provisions in the Policy will be applied to all new leases and will be applied to existing agreements where they allow at rent review or lease renewal, or where aspects of an existing agreement is silent or ambiguous.
5. Where a lease provides for rent reviews, the new rental charge and conditions will be set according to this Policy, commencing from the next review date and following approval of the change.

DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

Casual Hireage	WDC offers some buildings to the public for casual hire by the day or hour. These are subject to a Hireage Agreement and not covered by this Policy.
Community Organisation	A not-for-profit organisation that has the primary objective to provide programmes, services or activities that benefit any or all of the social, cultural, economic, and environmental wellbeing of communities in the Waitomo District. A community organisation must also be a legal entity as defined below.
Council	Shall mean the elected members that form the governing body (Council) of the District Council.
Lease Agreement	A contract between WDC and a third party for the third party to have exclusive use of a property. The agreement guarantees length of tenure, rent, and other relevant conditions.
Lessee	A person or organisation who holds the lease of a property.
Lessor	A person or organisation who leases or lets a property they own or administer to another.

Legal entity	A legal entity is an organisation that has its own legal identity separate from its members. Legal entity status includes incorporated societies, trusts registered under the Charitable Trusts Act 1957, companies with charitable purposes, school boards of trustees, and Māori trust boards.
Licence to occupy	A licence to occupy is most often shorter in term than a lease agreement and can give a right to use a property (e.g. access through) but does not guarantee exclusive access or use.
Sublease	A lease of land and/or buildings by a tenant to another tenant.
Waitomo District Council (WDC)	Shall mean the organisation established to administer Council affairs, conduct operations, and bring effect to Council policy and strategies.

POLICY | KAUPAPA HERE

1. Eligibility to Occupy

- 1.1. There are no criteria under this Policy regarding eligibility to occupy WDC owned or administered land or buildings.
- 1.2. Land will be leased in alignment with Council’s Community Outcomes.

2. Lease Agreement and Licence to Occupy

- 2.1. A lease agreement or a licence to occupy shall be in place prior to occupancy of the land and/or building.
- 2.2. Where a lessee is granted exclusive use of land and/or any part of a building, a lease agreement shall be put in place. All other agreements for lessees to occupy WDC land shall be in the form of a license to occupy.
- 2.3. Agreements in relation to land that is subject to, or administered under, the Reserves Act 1977 (the Act), will reflect the requirements of the Act and any applicable regulations (e.g., the Waitomo District Comprehensive Reserve Management Plan).
- 2.4. Standard occupancy responsibilities (e.g., utilities, building repairs and maintenance, and insurance) will be set out in the lease agreement.
- 2.5. The lessee is not permitted to sublease the land and/or building unless prior consent has been given by the lessor (WDC) in writing.

3. Lease Charged

- 3.1. Occupants of any WDC land and/or building with a lease agreement in place, regardless of type or use, shall be charged rent at the market rate in accordance with the Lease and Occupancy Guidelines (the Guidelines).
- 3.2. Market rates will be reviewed at least every three years.
- 3.3. WDC retains discretion to charge any alternative rate (e.g., land locked sections).
- 3.4. Occupants of land with a licence to occupy agreement shall be charged agreed rates according to the Guidelines.
- 3.5. Where a piece of land is owned by WDC and occupied by an external party in such a way that greater benefit is received by WDC than the occupant, a licence to occupy will be used and a negotiated reduced licence fee (if any) will be charged to the occupant in accordance with the Guidelines.

4. Community Lease Grant

- 4.1 WDC administers a Community Lease Grant (the Grant) to support community organisations who lease WDC buildings or land.
- 4.2 ELIGIBILITY
- 4.3 To be eligible for the Grant, groups must meet the following criteria:
- a) The land and/or building must be used exclusively or principally for sporting, recreation, or community purposes; and
 - b) The applicant, who must also be the tenant, must be a community organisation (or representative of) as defined in this Policy.
- 4.4 Organisations who exist for private pecuniary profit or engage in recreational, sporting, or community services as a secondary purpose are not eligible.
- 4.5 GRANT
- 4.6 The usual value of the Grant is equal to 50% of the amount charged for the lease of the land and/or building. The Council may, at its discretion, approve a further Grant where exceptional circumstances apply.
- 4.7 The Council retains discretion as to whether to provide a Grant in any particular case.
- 4.8 APPLICATION
- 4.9 Applications can be made at any time and must be made on the prescribed form and at the discretion of WDC, may be required to include the organisation's latest financial accounts, the equivalent of a profit-and-loss statement, and balance sheet. Payments, if granted, will be back dated to the date of application or date of renewal.
- 4.10 Applications for the Community Lease Grant are assessed by the Property and Facilities Manager and the Manager Community Development in accordance with this Policy.
- 4.11 Being granted a Grant under the Policy does not make a group ineligible for any other WDC grants. Groups are able to make applications for other forms of assistance.
- 4.12 Approved applicants will receive the Grant for three years, or for the period of the existing lease agreement, whichever is shorter. A reapplication will be accepted triennially.
- 4.13 It is the responsibility of the applicant to inform WDC of any changes in circumstances where they may no longer be eligible for the Grant. In these circumstances the duration of the Grant may be reduced. Where an applicant has failed to inform WDC of changed circumstances and continued to receive the Grant, WDC may seek reimbursement.
- 4.14 ACCOUNTABILITY
- 4.15 Recipients of the Grant are required, each year, to submit an annual report within 30 days of the anniversary of the lease.

5. Related Documents

- 5.1 This Policy should be read in conjunction with the following documents:
- a) Reserves Act 1977
 - b) Waitomo District Comprehensive Reserve Management Plan
 - c) Waitomo District Council Fees and Charges
 - d) Community and Partnerships Fund Policy
 - e) Waitomo District Council Lease and Occupancy Guidelines (A686809)
 - f) Community Lease Grant Application Form