

10.5.2. LATE REPORT - F&G - 25/09/2023 - Vale of Clwydd Hall / Hermitage Hall

Prepared by Ross Gurney - CFIO
Department Property & Legal
Authorised by Chief Financial & Information Officer

Summary

The purpose of this report is to seek Council's endorsement of a proposal for a lease of the Vale of Clwydd Hall. The matter is reported to Council for determination as Council's Leasing and Licensing Policy 10.20 requires a resolution of Council when the lease involves use of community land.

The report also proposes hall hire fees for Hermitage Hall which will be vacated by the hall Committee by 31 December 2023.

Commentary

Council's Property and Legal Services Officer has been organising leases of premises on community land that have expired or have no formal lease. At the 25 July 2022 meeting, Council gave preliminary approval to grant leases to Lithgow Chapter No. 39 Order of the Eastern Star, Australian Red Cross Society, Wallerawang Memorial Men's Shed Inc. and Lithgow District Men's Shed Association Inc. The task of entering leases or licence agreements for the exclusive use or occupation of community land is nearly completed, with just a few agreements to be finalised. It is anticipated that the remaining arrangements will be reported to Council this year, before being placed on public exhibition.

Vale of Clwydd Hall

The Vale of Clwydd Hall has been operated by the Vale Ladies Club under a long-term historical arrangement.

The Mayor and Council management met with representatives of the Vale Ladies Club on 20 September 2023 to work through issues which club members had with any proposed lease. Club members are ageing and were prepared to wind up the club. The key issue was affordability of any lease fee. The Club will need to vote to continue operating and to accept the proposed lease.

The terms of the proposed lease are set out in the table below.

1.	Term of lease	1 to 5 years (Vale Ladies Club to decide)
2.	Rent	<p>For the first year, the rent is \$564 +GST.</p> <p>The rent will be reviewed by CPI each year on the anniversary of the commencing date.</p> <p>The lessee would be responsible for paying a one-off fee of \$300 for admin/legal costs and approximately \$200 for registration of the lease with NSW Land Registry Services.</p> <p><i>The Vale Ladies Club has asked that the one-off fees and annual rent be waived on the grounds of hardship. Council may waive or reduce fees in</i></p>

		<i>accordance with S610E of the Local Government Act 1993.</i>
3.	Public liability insurance	<p>The tenant must hold public liability insurance cover and provide a certificate of currency of insurance to Council each time it is renewed. The certificate of currency of insurance must evidence the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Amount of cover - \$20,000,000. <input type="checkbox"/> Interested party - Lithgow City Council as landlord. <input type="checkbox"/> Situation of risk – Vale of Clwydd Hall, Mort Street, Lithgow. <input type="checkbox"/> Purpose – community purposes including meetings, charity bingo, aged care dinners, social gatherings, markets.
4.	Maintenance	<p>Council is required to maintain the property in a structurally sound condition, maintain essential services and is responsible for structural repairs and repairs required due to fair wear and tear, unless such repairs are required due to an act or omission of the tenant.</p> <p>The tenant is responsible for day-to-day maintenance, including keeping the premises clean and tidy, removing all rubbish and changing light globes.</p>

Council’s authority to grant leases of premises on land classified community

Council’s authority to grant leases in respect of premises on community land is found in section 45(2) of the Local Government Act 1993, which states “A council may grant a lease or licence of community land, but only in accordance with this Division”.

A summary of the applicable rules under the Act regarding leasing community land is as follows:

1. Exclusive occupation or exclusive use of community land is prohibited, except in accordance with a lease or licence (section 47D).

As the tenant needs exclusive use, a lease is required to be entered.

2. A lease or licence of community land can only be granted in accordance with an express authorisation in a plan of management (section 46(1)(b)).

Council’s 2013 Generic Plan of Management expressly authorises leases to be entered in relation to the Vale of Clwydd hall located on Lot 2 in DP563455.

3. Public notice and exhibition requirements apply to a proposed lease or licence (section 47(1) and 47A(2)).

If Council resolves to grant the proposed lease, the draft lease will be placed on public exhibition for a minimum of 28 days inviting any person to make a submission.

Hermitage Hall

Hermitage Hall has also been operated by a Committee under a long-term historical arrangement.

A lease was proposed for Hermitage Hall and the Committee decided to vacate the hall. Council has agreed to extend the date to vacate the hall to 31 December 2023 to ensure that there is no disruption to current bookings.

Under the historical arrangement, the Committee set fees for Hermitage Hall. Council will take responsibility for hall hire bookings from the beginning of 2024 and needs to set 2023/24 fees.

Council's hall hire fees are set consistently for small halls and it is proposed to set the fees at the same rates as Meadow Flat Hall and Cullen Bullen Hall. The proposed fees are set out below.

Name of Fee	Unit	2023/24 Fee (GST inc)
Refundable Bond	Per Event	\$171.50
Function – Charity / Community / NFP / Resident (50% of commercial hire)	Per hire	\$97.00
Function – Commercial Hire	Per hire	\$195.00
Rehearsal for Function	Per hire	\$97.00
Community uses (e.g. meetings)	Per hire	\$27.50

If Council resolves to set the fees as proposed, the fees will be placed on public exhibition for a minimum of 28 days inviting any person to make a submission.

Policy Implications

Policy 9.16 - Compliance Policy
 Policy 10.20 - Leasing and Licensing Policy

Financial Implications

- Budget approved - nil.
- Cost centre - PJ 800089
- Expended to date - nil.
- Future potential impact – minor rental income or fee waiver if approved by Council.

Legal and Risk Management Implications

Ensuring that Council has leases in place for tenanted facilities ensures that Council is compliant with the Local Government Act and is effectively managing risks.

The following legislation was considered in determining leases of community land:

Local Government Act 1993
 Crown Land Management Act 2016
 Real Property Act 1900
 Conveyancing Act 1919

Attachments

Nil

Recommendation

THAT Council:

1. Give preliminary approval to grant a lease to the Vale Ladies Club for the use of Vale of Clwydd Hall.
2. Should the lease be agreed by the Vale Ladies Club, public notice be given and the proposed lease be placed on public exhibition for 28 days.
3. Waive the one-off lease fees and annual rent for the proposed lease on the grounds of financial hardship.
4. If no submissions are received during the public exhibition period, Council proceed with the lease and for this purpose authorise the General Manager to sign all documents and attend to all things necessary to give effect to the lease.
5. Endorse the proposed 2023/24 hall hire fees for Hermitage Hall as recommended in this report. Public notice of the proposed fees will be given and the proposed fees be placed on public exhibition for 28 days.
6. If in the opinion of the General Manager any submissions received during the public exhibition period for the Vale of Clwydd hall lease and Hermitage Hall fees warrant consideration by Council, the matter be returned to Council with details of relevant submissions and any proposed recommendations in respect of the matter.