

24 August 2017

Memorandum

To: The Chair and Members of the Environment and Community Committee

Subject: **Amendments to the terms of reference for the review of the *Community Occupancy Guidelines 2012***

From: Paul Marriott-Lloyd, Senior Policy Manager

Purpose

1. To provide information on the amendments to the terms of reference for the review of the *Community Occupancy Guidelines 2012* in response to feedback received from the Environment and Community Committee on 18 July 2017.
2. To invite further comment through the Chair on the terms of reference.

Key messages

- On 18 July 2017, the Environment and Community Committee approved terms of reference for the review of the the *Community Occupancy Guidelines 2012*.
- Members of the committee suggested the scope of the review be expanded to ensure inclusion of matters concerning alcohol use and gambling activities at council properties, sub-leasing and reserve management plans.
- Staff have amended the terms of reference to incorporate the Committee's feedback.
- In the first stage, staff will collect data on the current state of these matters.
- In the second stage, analysis will be supplemented with qualitative data collected through targeted interviews and surveys. Staff will develop advice on whether the current state needs to be improved and what changes are appropriate (for example, amendments to current council alcohol policy).

Background

1. Auckland Council introduced the *Community Occupancy Guidelines 2012* to support local board decision-making on community leases.
2. On 18 July 2017, the Environment and Community Committee approved terms of reference for the review of the the *Community Occupancy Guidelines 2012* [ENV/2017/98 refers]. The review will assess the efficacy of the guidelines in helping the council deliver the best possible outcomes for Auckland through community leases.

Feedback from the Environment and Community Committee

3. The following topics were raised by councillors during the meeting to be included in the scope of the review:
 - revenue from the bars at council properties and any implications for alcohol use and gambling
 - revenue from sub-leasing, known or unknown to council
 - relationship between community leases and reserve management plans
 - the existing circumstances and future needs for reserves
 - consideration of community groups that are unable to access council assets due to existing leases.

Our response to the feedback

4. Feedback from the 18 July 2017 meeting will be incorporated in the review in the following ways:

Topic	Amendments to the terms of reference	Actions during the review
Alcohol use, gambling and sub-leasing	A footnote on page 1 to clarify the review will include consideration of community groups selling alcohol, gambling and sub-leasing.	<p>During stage one investigation:</p> <ul style="list-style-type: none"> staff will review the financial data from community organisations concerning revenue derived through selling alcohol, gambling and sub-leasing. <p>During stage two investigation:</p> <ul style="list-style-type: none"> staff will include survey questions and draw on relevant findings from the Facility Partnerships Project to understand the impact of these matters on community.
Reserve management plans	A footnote on page 2 to clarify that the review will assess reserve management plans and consider the current and future needs of the open space.	<p>During stage one investigation:</p> <ul style="list-style-type: none"> staff will review the reserve management plans developed under the Reserve Act 1977. This will include consideration of current and future needs of open space. the investigation will review local board decisions and staff advice on reserve management plans since 2012. <p>During stage two investigation:</p> <ul style="list-style-type: none"> staff will gather views from various groups on the current and future needs of open space through research, targeted interviews and surveys.
Community organisations that are excluded		Where possible, staff will engage with community organisations interested in accessing council leases and seek their views on other possible use of council assets.
Inclusion of examples when reporting back		<p>Staff will review all leases granted since 2012. Each lease will be reviewed individually including the advice and decisions made at each stage of the lease cycle.</p> <p>Staff will include case studies when reporting back to the Environment and Community Committee.</p>
Future funding of community organisations		The review will consider the financial data from community organisations. Staff will seek feedback on likely funding pressures during the targeted interviews and surveys.

5. A copy of the revised terms of reference is attached.

Next steps

6. The review will commence immediately based on the revised terms of reference.

7. The results of the review and any proposed changes will be summarised in a consolidated findings report. Staff will engage with local boards and key stakeholders to seek their views on the report before presenting it to the Environment and Community Committee for approval in May 2018.

Review of the Community Occupancy Guidelines 2012

Terms of Reference

1.0 Background

Auckland Council has over 1,400 community leases with community organisations that:

- serve a wide range of purposes (sport, recreation, art, culture, community etc.)
- are on different types of land (parks, reserves, camping/recreation ground etc.)
- have different ownership structures (for example: council-owned land with buildings owned by a sport club).

Leases allow community organisations to operate on council properties, mostly with peppercorn rent. In return, leaseholders are expected to deliver community benefits that align with the council's wider outcomes and priorities.

Auckland Council introduced the *Community Occupancy Guidelines 2012* to assist decision-making and to provide an overview of the process and the standard terms and conditions of new lease agreements.

Around 90 per cent of current community leases were granted by legacy councils before 2012. They continue to be subject to the terms and conditions of the original lease agreements until they expire.

The terms of reference set out the objectives, scope, methodology and timelines for a review of the *Community Occupancy Guidelines 2012*.

2.0 Project objectives

The objectives of the review are to:

- assess the efficacy of the guidelines in helping the council deliver the best possible outcomes for Auckland through community leases
- improve the guidelines to ensure consistency in assessing, granting and managing leases.

3.0 Scope

The review will aim to gain a good understanding of the current state of council's investment through community leases with a special focus on:

- the types of public and private benefits delivered through community leases and the alignment with council's strategic goals
- the regional and inter-generational implications of long-term leases
- the range of operating and business models adopted by community organisations¹
- consistency with relevant legislation, in particular the Local Government Act 2012, Reserves Act 1977², Human Rights Act 1993 and Bill of Rights Act 1990.

¹ Including for example, consideration of revenue generated from alcohol sale, gambling and sub-leasing council properties and the impacts of this on sport organisations and community.

2.1 Out-of-scope

Commercial leases are out-of-scope as they are not aimed at delivering community benefits and are subject to different operating practices and processes.

2.2 Project dependencies

The project team will ensure the results and recommendations of the review are linked with the current work to improve the SAP system (where lease data is stored) and the development of an outcome measurement tool for council's sport investment.

3.0 Methodology

The review will be conducted in two stages.

3.1 Stage One – review of leases granted under the *Community Occupancy Guidelines 2012*

Staff will review all leases granted since 2012. The review will consider the application of the guidelines at each stage of the lease cycle. There are around 150 leases that fall within the scope.

Table 1 below provides the indicative questions to consider during the review.

Table 1: Indicative questions to consider at each stage of the lease cycle

Lease cycle	Indicative questions
Application	<p>Percentage of applications that follow the application processes specified in the guidelines? Where processes vary, in what ways do they vary?</p> <p>Percentages of applications that provided sufficient information as required by the guidelines? In particular:</p> <ul style="list-style-type: none">• the activities, services or programmes the applicant provides that align with strategic outcomes and local board plans• how the needs of community identified in the local board area will be met• evidence of applicant's viability to deliver its services or activities through voluntary contributions, and/or financial commitments.
Assessment	<p>What assessment criteria were considered when granting the leases and whether they are consistent with the criteria specified in the guidelines?</p> <p>Percentage of decisions made by the local board that deviate from the advice provided by staff, and the reasons why?</p>
Lease agreement	<p>Decisions made by the local board on the terms and conditions of the leases and whether they are different to the advice provided by staff? If so, why and how?</p> <p>Does the final lease agreement comply with the guidelines?</p>

² For example, council will review reserve management plans included in the lease agreements and their alignment with Reserves Act 1977.

Lease cycle	Indicative questions
Monitoring	<p>Percentage of lease agreements that include a Community Outcomes Plan as required by the guidelines? What the plans contain?</p> <p>Percentage of leaseholders that have submitted annual reports as part of the requirement of Community Outcomes Plan? How adequately these provide monitoring information?</p> <p>Percentage of leases that had an annual review? What those reviews identified and how leases were amended?</p> <p>Percentage of annual reports that have been audited and monitored over time? What were the results? Did the results inform future renewal decisions?</p> <p>Have the termination clauses been exercised? If so, what were the circumstances?</p>
Renewal	<p>Have the expectations (for example, community benefits) set in the last lease agreement been met? In what ways?</p> <p>What are the terms and conditions for renewal?</p>

3.2 Stage Two – evaluation of the *Community Occupancy Guidelines 2012*

Stage Two will build on the findings from Stage One to evaluate the current guidelines.

A literature review will be undertaken on international good practice. It will compare the process and outcomes in each stage of the council lease cycle against international case studies.

The project team will also build on the findings from the *Facility Partnerships Project* about leaseholders' perspective on the benefits and disadvantages that they might face in regards to leases. This will be supplemented by surveys and targeted interviews with a range of existing leaseholders and elected members to gain more qualitative feedback.

The following list of evaluation principles will be used to assist the evaluation. They are based on the best practice principles developed by Organisation for Economic Cooperation and Development (OECD) for projects and programmes evaluation.³

Table 2: Evaluation principles

Principle	Description
Relevance	The practice and process should be consistent with council's current policy, operating and financial practice and meet the requirements of leaseholders and the community.
Impact	<p>Community leases should contribute to local community well-being, local board plans and wider council strategic goals and priorities.</p> <p>Clear reporting and monitoring requirements to measure progress against the desired outcomes.</p>

³ OECD (2009) 'Guidelines for Projects and Programmes Evaluation'
<https://www.oecd.org/development/evaluation/dcdndep/47069197.pdf>

Principle	Description
Effectiveness	Community leases should assist council deliver the best outcomes possible (for example, social, economic and environmental) from the council properties. This includes consideration of alternative use of the council assets.
Efficiency	The outcomes delivered should be considered against the cost and resources spent.
Transparency & consistency	Decisions on leases should be consistent across local boards, with full disclosure of the assessment criteria, processes, results and outcomes.
Equity	Community leases should support equity of outcomes for all people.
Financial sustainability	There needs to be consideration of how ongoing operating costs, renewals and other capital expenses for the council properties are addressed in the leases, while also ensuring public accessibility and affordability.

4.0 Timeline and deliverables

The key deliverables for this project and the target dates for delivery are set out in Table 3 below.

Table 3: Timelines and deliverables

Deliverable / milestones		Deadline
Report to the Environment and Community Committee seeking approval of the Terms of Reference		July 2017
Completion of Stage One		November 2017
Deliverable:	<ul style="list-style-type: none"> Summary report of Stage One review 	
Completion of Stage Two		February 2018
Deliverable:	A findings report that consist of: <ul style="list-style-type: none"> summary of the literature scan summary results of the evaluation of current guidelines any proposed changes to improve the guidelines 	
Engagement with key stakeholders and local boards for their views on the findings report		March 2018
Findings report to the Environment and Community Committee seeking approval of any proposed changes to the guidelines		May 2018