

Community Leasing Policy

Head of Power

Local Government Act 2009

Related Legislation

Land Act 1994

Objective

The objective of this policy is to provide a framework for the provision and management of tenure over Council controlled land and infrastructure to community organisations that deliver community, cultural, sporting or environmental services to residents.

Definitions

Affordable housing means housing that is provided at a rental point that is affordable to low and moderate income tenants (generally 75% or less of market value), and is not Social Housing.

Community leased site means Council controlled land determined by Council as being suitable for the granting of tenure under the provision of this policy.

Community organisation means:

- a) an entity that carries on activities for a public purpose; or
- b) another entity whose primary object is not directed at making a profit.

Council means Moreton Bay Regional Council.

Council controlled land means Council freehold land or land for which Council is the trustee.

Community Housing Provider means a housing provider registered under the National Regulatory System for Community Housing (NRSCH).

Crisis housing means supported emergency or transitional accommodation to people experiencing homelessness or at-risk of homelessness provided by a registered Specialist Homelessness Service.

Lease means a lease granted in accordance with this policy over Council controlled land, including a trustee lease granted under the *Land Act 1994*.

Permit to Occupy means a non-exclusive contractual right to occupy or use Council controlled land without any legal right to exclude all others, and includes a trustee permit to occupy granted under the *Land Act 1994*.

Sublease means a formal arrangement between a Lease holder and another party giving rights to exclusively use all or part-of the premises for a term which is less than or equal to that of the head Lease.

Specialist Facility means land on which activities conducted by lessees are considered by Council to be specialist or unique in nature or are akin to commercial operations. Examples include, lawn bowl greens, golf courses, showgrounds, historical villages, residential or aged care accommodation and kindergartens.

Specialist Homelessness Service means a service that is funded by the Queensland Government under the service category of Supported Accommodation and Housing, to assist people who are experiencing homeless or at risk of homelessness.

Social housing means the provision of housing to an individual for residential use by a housing service under the *Housing Act 2003*.

Tenure means a Lease or Permit to Occupy.

Application

This policy applies to the granting of tenure to community organisations over Council controlled land identified by Council for activation as a community leased site. It does not apply to the commercial leasing activities of Council.

Policy Statement

Council recognises the important contributions that community organisations make in building healthy and active, safe and resilient, creative and connected communities. Council is committed to supporting community organisations to achieve these outcomes through the provision of tenure over Council controlled land.

Council provides tenure to community organisations to support the sustainable delivery of community, cultural, sporting and environmental services to residents of the region. Tenure arrangements provided under this policy are subsidised by Council and aim to enable community organisations to make their community focused services available and accessible to residents at a lower cost than would otherwise be possible should the organisation be required to acquire land or lease tenancy areas at commercial rates. It is noted however that, with the exception of social, affordable and crisis housing, in instances where a community organisation operates within a commercially competitive sector, the provision of tenure under this policy may not be considered appropriate by Council.

Community organisations who are provided tenure over Council controlled land assume responsibilities for the care of, development and maintenance of their area of tenure. As tenants of public assets, Council expects that all lease and permit to occupy holders understand and meet their obligations under the relevant tenure agreements, and act at all times in the public interest.

The objective of this policy is to establish a transparent and an equitable framework through which Council will enter into and manage tenure arrangements with eligible community organisations.

Eligibility

To be eligible to hold tenure under this policy, the entity must be a community organisation meeting all of the following criteria:

- be proposing a use of the land and /or facilities that will, in the Council's sole opinion, provide a significant community, cultural, sporting, recreational or environmental benefit to the Moreton Bay Region and its residents;
- be able to demonstrate its ability to meet all obligations (including financial) under the type of tenure sought; and
- have all necessary insurances as determined by Council and prescribed in *Community Leasing - Terms and Conditions of Tenure Guideline*.

Types of tenure

Under this policy, Council may grant the following types of tenure to community organisations*:

Tenure Type	Detail														
Lease	<p>Dependent upon the ownership of the land, the following leases may be granted by Council under this policy: Social, Affordable and Crisis Housing Land Leases provide registered not-for-</p> <table border="1"> <thead> <tr> <th>Tenure Sub-type</th><th>Land Ownership</th></tr> </thead> <tbody> <tr> <td>Freehold Lease</td><td>Council freehold land</td></tr> <tr> <td>Trustee Lease</td><td>State Government land for which Council is trustee</td></tr> <tr> <td>Specialist Facility Freehold Lease</td><td>Council freehold land</td></tr> <tr> <td>Specialist Facility Trustee Lease</td><td>State Government land for which Council is trustee</td></tr> <tr> <td>Social, Affordable and Crisis Housing Freehold Land Lease</td><td>Council freehold land</td></tr> <tr> <td>Social, Affordable and Crisis Housing Trustee Land Lease</td><td>State Government land for which Council is trustee</td></tr> </tbody> </table> <p>profit Community Housing Providers or Specialist Homelessness Services with exclusive use of a defined land area for a specified purpose and term. These leases will generally be subject to the delivery of key development outcomes within a specified timeframe.</p> <p>For all other leases, a lease provides a community organisation with exclusive use of a defined lease area for a specified purpose and term. Lease areas will generally be defined by building footprints, but may include access ramps, staircases and gardens which bound the building/s. Lease areas may also include some dedicated sports surfaces (e.g., tennis / netball courts, BMX tracks, etc) where those surfaces are to be used exclusively by the community organisation.</p> <p>In all cases, Council reserves the right to determine the lease area to be granted, however will take into consideration the future development plans of the lessee where appropriate.</p>	Tenure Sub-type	Land Ownership	Freehold Lease	Council freehold land	Trustee Lease	State Government land for which Council is trustee	Specialist Facility Freehold Lease	Council freehold land	Specialist Facility Trustee Lease	State Government land for which Council is trustee	Social, Affordable and Crisis Housing Freehold Land Lease	Council freehold land	Social, Affordable and Crisis Housing Trustee Land Lease	State Government land for which Council is trustee
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	<p>This form of tenure will generally be granted in circumstances where Council determines that exclusive use is not required, and/or where the permit area is to be shared between multiple organisations and/or the general public.</p> <p>Permits to occupy are also granted over sports fields, as this form of tenure provides Council with the required flexibility and access to undertake operational responsibilities (e.g., maintenance), close fields due to weather conditions and ensure that fields are accessible to multiple organisations (where necessary).</p> <p>Allocated times for use of sports fields may change from season to season and will be determined at the sole discretion of Council, in consultation with relevant community organisations.</p>

**In some circumstances, as determined by Council, tenure arrangements may be offered to community organisations outside of this policy.*

Length of tenure

The length of tenure provided by Council under this policy will be dependent upon various factors, including but not limited to:

- the type of tenure sought;
- the ownership of the land where the tenure is sought (i.e. Council freehold land or State government land held in trust by Council);
- the demonstrated experience and sustainability of the community organisation in delivering the intended services to the community; and
- the extent to which the community organisation can demonstrate its ability to meet the obligations associated with the type of tenure sought.

The table below details the standard length of tenure that Council will provide under this policy for the various tenure types detailed above. However, with the exception of Social, Affordable and Crisis Housing Land Leases, in circumstances where a community organisation has not previously held tenure over Council controlled land, or for other reasons as determined by Council, shorter lengths of tenure may be provided. For example, newly established community organisations and those unfamiliar to Council will generally be provided with up to 5 years for their first term of tenure.

Tenure Type	Tenure Sub-type	Tenure Length	Notes
Lease	Freehold lease	Up to 10 years*	Council will not grant options to extend leases. All expiring leases will be considered by Council for renewal in accordance with Council's Community Lease Renewals Directive (2160-024).
	Trustee lease	Up to 10 years*	Council will not grant options to extend leases. All expiring leases will be considered by Council for renewal in accordance with Council's Community Lease Renewals Directive (2160-024).
	Specialist Facility Freehold Lease	Up to 10 years*	Council will not grant options to extend leases. All expiring leases will be considered by Council for renewal in accordance with Council's Community Lease Renewals Directive (2160-024).
	Specialist Facility Trustee Lease	Up to 10 years*	Council will not grant options to extend leases. All expiring leases will be considered by Council for renewal in accordance with Council's Community Lease Renewals Directive (2160-024).
	Social, Affordable and Crisis Housing	Up to 50 years**	Council will not grant options to extend leases. All expiring leases will be considered by Council for

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Tenure Type	Tenure Sub-type	Tenure Length	Notes
	Land Lease - Freehold		renewal in accordance with Council's Community Lease Renewals Directive (2160-024).
	Social, Affordable and Crisis Housing Land Lease - Trustee	Up to 30 years	Under the <i>Land Act 1994</i> , Council is not permitted to grant leases over State Government land held in trust by Council for a period exceeding 30 years. Council will not grant options to extend leases. All expiring leases will be considered by Council for renewal in accordance with Council's Community Lease Renewals Directive (2160-024).
Permits to Occupy	Freehold permit to occupy	Up to 10 years*	Where a freehold permit to occupy is ancillary to a freehold lease, the length of tenure provided will generally be aligned with the length of tenure prescribed under the lease.
	Freehold sports field permit to occupy	Up to 1 year	Sports field permits to occupy are generally provided on a seasonal basis to enable Council to schedule and undertake field maintenance, and to appropriately manage changes in the usage requirements of the various permit holders.
	Trustee permit to occupy	Up to 3 years	Under the <i>Land Act 1994</i> , Council is not permitted to grant permits to occupy over State Government land held in trust by Council for a period exceeding 3 years.
	Trustee sports field permit to occupy	Up to 1 year	Sports field permits to occupy are generally provided on a seasonal basis to enable Council to schedule and undertake field maintenance, and to appropriately manage changes in the usage requirements of the various permit holders.

* In exceptional circumstances, as determined by Council, lengths of tenure exceeding these provisions may be considered.

** Longer tenure terms may be considered for Social, Affordable and Crisis Housing Land Leases where essential to the viability of the project.

Annual rental fees

Tenure arrangements granted to community organisations under this policy are provided at subsidised rates. Annual tenure rental fees, where applicable, are set by Council annually as part of its [Schedule of Fees and Charges](#) and may be subject to change.

Terms and conditions of tenure

All tenure arrangements granted by Council will be in accordance with the terms and conditions as prescribed in Council's *Community Leasing - Terms and Conditions of Tenure Guideline* (as amended from time to time), and as detailed in the relevant tenure agreements.

Related Documents

This Policy complements and is to be implemented in conjunction with other Council policies, directives and relevant documents published by other agencies including, but not limited to:

- Guideline - Community Leasing - Terms and Conditions of Tenure
- Community Leasing - Improvement Works and Area Amendments Operational Directive 2160-026
- Community Lease Renewals Operational Directive 2160-024

Review and Evaluation

This policy will be reviewed for applicability, effectiveness and consistency with relevant legislation, Council resolutions, and other Council documents. Reviews of this policy will occur as required, or at least once every four years.

The impact of this policy will be measured by the extent to which Council's community leasing arrangements support eligible community organisations in their sustainable delivery of community, cultural, sporting and environmental services to residents of the Moreton Bay Region.

Responsibility

This Policy is to be:

- (1) Implemented by the Director, Community and Environmental Services; and
- (2) Reviewed and amended in accordance with the "Review Triggers" by the Manager Community Services, Sport and Recreation.

Policy: 2150-079 Community Leasing Policy			Official Version: 67561916
Document Control			
Version / Reviewed	Version Adoption (Council meeting / Minute Page) Reviewed (revision comment)	Date	Word version reference
Version 1	Coordination Committee (14/525)	1.4.2014	A9270849
Version 2	Administrative Correction only: 'Related Documents', 'Review Triggers' - administrative wording and 'Responsibility' - position titles.	17.7.2018	A15823165
Version 3	Administrative amendments only: 'Review and Evaluation - administrative wording and Responsibility - position titles' Approved by Director, Community & Environmental Services	29.9.2020	A20867263
Version 4	General Meeting (MP. 23/11)	25.1.2023 (effective 1 April 2023)	62312711
Version 5	General Meeting (MP. 23/1605)	19.7.2023	67407005