



**COUNCIL POLICY**

**(Framework to) Tenure of council-owned or controlled land to sporting and active recreation organisations**

POLICY NUMBER: [automated #]

EFFECTIVE DATE: 12 December 2017

DEPARTMENT: Communities

UNIT: Sport and Recreation

**Objective** – to provide Council with an operational framework for the granting and renewal of tenure on Council owned or controlled land to sporting and active recreation organisations.

**1.0 Purpose and Scope**

This policy will apply to all tenure arrangements over Council owned or controlled land for the purpose of providing sport and active recreation activities. This policy seeks to:

1. provide a consistent framework for the granting and renewal of tenure;
2. provide certainty of tenure to sporting and active recreation organisations; and
3. proactively activate Council owned or controlled land for the purpose of sport and active recreation.

**2.0 Reference**

- Land Act 1994 (Qld)*
- Land Regulation 2009 (Qld)*
- Local Government Act 2009 (Qld) (the Act)*
- Local Government Regulation 2012 (Qld) (the Regulation)*

**3.0 Definitions**

**Active recreation organisation** means an incorporated body that encourages community participation through active recreation activities.

**Business Process Model** means the business process model for Council asset management for Recreation Facilities.

**Committee** means the Sport and Active Recreation Committee established by Council from time to time.

**CEO** means the Chief Executive Officer of Council.

**Club Planning Toolkit** means the Council template of a forward planning document that will assist sport and active recreation organisations to reach Key Performance Indicators.

**Council** means the Central Highlands Regional Council.

**Council owned or controlled land** includes land, built facilities, hard courts, sporting fields and arenas owned by Council or controlled by Council as trustee of a Reserve.

**Days** means normal calendar days (not business days)

**General Council** means the full Council as convened from time to time.

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**Lease** means an agreement under which Council grants to a lessee, in return for valuable consideration, the right to occupy Council owned or controlled land for an agreed period of time, and includes a Trustee Lease.

**Licence** means any allowable use as directed by Council (without allowing exclusive possession) from time to time and including a licence or permit.

**Parks People Play** means the plan for parks in the Council region (as adopted by Council from time to time).

**Request to occupy** means the process undertaken by Council seeking expressions of interests and the making of applications by prospective lessees for access to Council owned or controlled land.

**Reserve** means land set aside for a community purpose or public purpose under the *Land Act 1994* (Qld).

**Specialised Facility** has the meaning provided in Parks People Play.

**Sporting organisation** means an incorporated body that encourages community participation through sporting activities.

**Standard Tenure Documents** means the standard form Lease or Licence approved by Council from time to time.

**Tenure** means a Lease or Licence.

**Tenure offer** means the issue of formal tenure documents by Council to a sporting or active recreation organisation following conclusion of engagement between Council and the sporting or active recreation organisation.

**Trustee Lease** means a Lease of the whole or any part of a Reserve.

## 4.0 Policy Statement

The following principles and framework are to be undertaken for this policy:

### 4.1 Sport and Active Recreation Committee

#### Establishment of Committee

The Sport and Active Recreation Committee will be comprised of [five (5) Councillors, General Manager Communities, Manager of Parks and Recreation and Coordinator Sport and Recreation]. The Committee will commence from 4 August 2019.

Prior to the commencement of the Committee the Game Plan Advisory Committee will be delegated with the Sport and Active Recreation Committee role.

#### Role of Committee

The Committee will be convened for the purpose of the Coordinator of Sport and Recreation referring the following matters for determination:

- (a) Consideration and determination of requests for the granting and renewal of tenure, where consistent with this framework (i.e. as part of the renewal process, consider the achievement of key performance indicators).
- (b) The undertaking of a request to occupy process, including the consideration and determination of responses to applications made through a request to occupy.
- (c) Consideration and determination of a request for Council to consent to a sub-lease, where consistent with this framework.

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- (d) Consideration and determination of a sporting and active recreation organisation's remission entitlements under Council policy number X (Remissions to Sport and Active Recreation Organisations Policy).
- (e) Consideration and determination of a request for extension to the execution period for tenure documents, as prescribed under section 4.3.
- (f) Consideration and determination of the sport and recreation grants program and applications received under this program.
- (g) Consideration of willingness to support sport and active recreation organisations making grant applications to other grant funding sources, that relate to Council owned or controlled sporting and active recreation facilities.
- (h) Consideration and determination of strategic planning matters that relate to sporting and active recreation facilities that advance Parks People Play.
- (i) Making recommendations and referring matters to General Council in accordance with this framework including:
  - i) where a request for the granting or renewal of tenure is not consistent with this framework;
  - ii) consideration of a request for Council to consent to a sub-lease, where not consistent with this framework; and
  - iii) strategic planning matters that relate to sporting and active recreation facilities that do not advance Parks People Play.

## 4.2 General Council

The following matters must be considered and decided by the General Council.

- (a) The Standard Tenure Documents, including standardised terms such as Key Performance Indicators, maintenance responsibilities and eligibility.
- (b) Any tenure-related matters which are not consistent with this framework or have been referred from the Committee.
- (c) Where a recommendation is made which is not consistent with other Council policies, plans or strategic documents (i.e. all decisions which do not advance this policy or Parks People Play).

Where matters are not identified to be decided by the General Council, the Sport and Active Recreation Committee is the decision maker.

Council resolves, in accordance with the *Local Government Regulation 2012* (Qld) section 236(2), that the exception in section 236(1)(b)(ii) applies to Council on the disposal of a valuable non-current asset, by way of lease, for Council owned or controlled land to a sport and active recreation organisation under this policy.

## 4.3 Tenure process

### Granting of tenure

- (a) Sporting and active recreation organisations shall generally be granted tenure in accordance with the terms and conditions specified in the Standard Tenure Documents.
- (b) Council's preferred length of tenure is five (5) years. Council's preferred length of tenure for a renewed term is five (5) years.
- (c) The form of tenure to be offered by Council for facilities must include tenure over specialised fields, courts and buildings (i.e. excluding carpark areas and any surplus undeveloped reserved/freehold land).

### Execution of tenure documents

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- (a) Upon receipt of a formal Tenure offer from Council the sporting or active recreation organisation has a period of forty-five (45) days to return the signed tenure agreement, unless an extension is granted by the Committee. If this is not achieved Council may offer the facility through a request to occupy process.
- (b) All applications for a Lease or Licence over a Reserve are subject to Ministerial approval.

**Eligibility and suitability**

To be eligible for tenure over Council owned or controlled land the following criteria must be met:

- (a) All applicants must be incorporated under the *Association Incorporation Act 1981* or similar legislation, prior to tenure being granted.
- (b) All applicants must provide evidence of public liability insurance for a minimum amount of \$20 million in respect of any one event. There may be circumstances where Council will request a higher level of public liability cover and this is at the sole discretion of Council.
- (c) In determining an application for tenure, Council may take into account the following factors:
  - i) The capacity of the sporting or active recreation organisation to hold tenure over the identified tenure area, including over specialised fields, courts and buildings.
  - ii) The ability of the sporting or active recreation organization to share facilities, fully activate and utilise the facilities and resources.
  - iii) The submission to Council of a compliant Club Strategic Plan.
  - iv) The potential to grow membership and participation from the community and capitalise on the opportunities the tenure offers.
  - v) A demonstrated capacity to undertake development and maintenance of the facility as required by the Standard Tenure Documents.
  - vi) An ability to meet key performance indicators required by the Standard Tenure Documents.

**4.4 Activation of Council or controlled land**

**Tenure obligations**

In general sporting and active recreation organisations, in accepting an offer of tenure from Council, will be responsible for:

- (a) Payment of tax invoices for water volumetric charges and cleansing charges in line with the sporting and active recreation organisations eligibility for remissions under Council policy X (Remissions to Sport and Active Recreation Organisations policy)
- (b) All services and utilities used by the sporting and active recreation organisation including, electricity and telecommunications and associated connection and disconnection fees.
- (c) Insurance:
  - i. Each organisation is required to maintain public liability insurance to a minimum value of \$20 million in respect of any one event or otherwise as determined by Council. Council must be identified as an interested party under the policy and evidence must be produced to satisfy this requirement.
  - ii. Sporting and active recreation organisations must take out and maintain contents insurance. Council must be identified as a 3<sup>rd</sup> party beneficiary under the policy and evidence must be produced to satisfy this requirement.
  - iii. Workers' compensation insurance (where applicable).
  - iv. General sporting insurance.
- (d) Maintenance of the tenure area consistent with the obligations imposed by the Standard Tenure Documents and to the satisfaction of Council's Manager of Parks and Recreation.
- (e) Achievement of key performance indicators specified in the Standard Tenure Documents.
- (f) Maintenance of the general community's right to access the sporting facilities outside of organised sport or recreation participation, subject to the nature of the facility.

- (g) Obtaining all necessary licenses and approvals to engage in the activities permitted by the tenure and that require licenses and/or approvals to allow that activity to be undertaken.
- (h) Council's legal costs associated with any dispute resolution, legal advice or court costs arising from Council enforcing the terms of any Lease or Licence.

Sporting and active recreation organisations will not be responsible for Council’s legal costs associated with the tenure document preparation (including survey costs and lease registration fees).

Key performance indicators

The following are the minimum key performance indicators which are included in the Standard Tenure Documents :

- (a) Attendance at 2 workshops per annum that are deemed mandatory by Council.
- (b) Submission to Council of an annual report, completed in the Council template and submitted at the time specified in the tenure agreement, detailing the sporting or active recreation organisations performance over the past 12 months, including:
  - a. a maintenance log including all parts of the leased area where works have been carried out including contractor details, licence details and the nature of work completed;
  - b. a risk management assessment of the building (if relevant), grounds, space and courts identifying all relevant safety issues either known or considered an imminent risk;
  - c. a compliance checklist (i.e. test and tag, chemical storage);
  - d. a summary of achievements for the sporting or active recreation organisation, including:
    - i. participation and membership numbers;
    - ii. number of events held;
    - iii. athlete development;
    - iv. internal or external training that was provided to members and volunteers;
  - e. facility matters requiring attention by Council, consistent with Council's maintenance obligations in the standard Lease or Licence.
- (c) Operation in strict accordance with approved governing body regulations, the association's constitution, rules and by-laws and with Council and other regulating body rules.
- (d) Demonstrated evidence of engaging with the community through activating the space over which the organisation holds tenure (e.g. hiring the facility to other community organisations, holding events open to the broader community).
- (e) Completion of the Club Planning Toolkit.

Failure to perform

The Standard Tenure Document will detail the process for non-compliance and dispute resolution

**4.5 Tenure fees**

The following annual tenure fee will be applied for sporting and recreation organisations with tenure over Council owned or controlled land:

<b>Annual tenure fee amount</b>	<b>Tenure classification</b>
\$1 on demand	Sporting and active recreation organisations

**4.6 Maintenance of council owned or controlled land**

- a) Council will undertake condition audits every 3 years on Council owned or controlled land as outlined in the Business Process Model including of the following structures:
  - i. Fields and hard courts;

- ii. Clubhouses;
  - iii. Specialized Facilities; and
  - iv. Infrastructure.
- b) Compliance audits of all Council owned or controlled land will be progressively undertaken to ensure certificates of classification have been issued.
- c) In addition to the condition audits stated in section 4.6(a) above, Council’s sport and recreation unit will undertake yearly visual reviews/inspections of facilities on council owned and controlled land.
- d) Information accumulated from the yearly review will be used to inform:
- i. Maintenance priorities for the lessees or licensees;
  - ii. Club development opportunities;
  - iii. Council’s Master Plans and long term planning;
  - iv. Capital Investment;
  - v. Sport and Recreation Grants program (funding opportunities); and
  - vi. Risk Management.
- e) Council will take responsibility for the repair and replacement of any items identified in the condition audit as:
- i. Major asset failure;
  - ii. Major replacement; and
  - iii. High risk/vulnerable asset.
- f) Council’s standard tenure documents will outline the maintenance responsibilities and obligations of both the lessee/licensee and Council, as specified in the related schedule of maintenance.
- g) Council will be responsible for insurance of capital assets including all infrastructure (e.g. buildings and grandstands) on council owned and controlled land leased or licensed to sport and active recreation organisations.

**4.7 Essential Requirements**

- a) Before a tenure agreement may be signed the following must be provided / completed:
- i. Certificate of incorporation;
  - ii. Certificate of currency of insurance (as determined by Council);
  - iii. Land Management Plan, if applicable.
- b) Before funding applications will be considered the following essential elements must be provided or completed:
- i. Current annual financial statements;
  - ii. Club Planning Toolkit;
  - iii. No outstanding debt to Council;
  - iv. Certificate of classification check; and
  - v. Food business and liquor License check.

**5 Council's Standard Tenure Documents**

Council will adopt Standard Tenure Documents, consistent with this policy, from time to time.

A tenure agreement may include special conditions relevant to a particular facility, having regard to the particular nature of that facility.

**6 Policy Review**

All policies will be reviewed annually or when any of the following occurs:

- a) Relevant legislation, regulations, standards and policies are amended or replaced.

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- b) Other circumstances as determined from time to time by Council's Chief Executive Officer, Executive Leadership Team or Managers.

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