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|  | CENTRAL HIGHLANDS REGIONAL COUNCIL POLICY | |
| | Community Organisation Tenure of Council Owned or Controlled Land | POLICY REF NO CHRCP: 0049 |

1. Policy Purpose

- 1.1. The purpose of this policy is to guide Council in the allocation and maintenance of tenure over Council-owned or Council-controlled land to community organisations.
- 1.2. This policy seeks to:
 - a. provide a consistent and equitable approach to the granting and renewal of tenure;
 - b. ensure that community organisations that are granted tenure operate viably and have the ability to meet their tenure obligations;
 - c. provide certainty of tenure to community organisations; and
 - d. activate Council-owned and Council-controlled land for the purposes of providing sporting, recreational, cultural and other not-for-profit community services and activities in the communities of the Central Highlands.

2. Policy Statement

- 2.1. Council appreciates the contributions made by volunteer-based community organisations and the role that these organisations play in providing valuable services to the community. These include activities that enhance the physical activity, social interaction and cultural development of the community.
- 2.2. Council is committed to supporting community organisations through the granting and maintenance of tenure agreements that:
 - a. capitalise on the versatility of Council-owned and Council-controlled land to maximise the community benefit from these facilities;
 - b. provide opportunities for long-term, sustainable use and management of open spaces, buildings and facilities;
 - c. support the long-term sustainability of community organisations;
 - d. encourages shared use of facilities wherever possible to achieve the best community outcomes.
- 2.3. Council will ensure that an open, transparent and consistent process is followed for every tenure agreement issued under this policy.
- 2.4. When considering applications for tenure agreements for community organisations, Council will seek to ensure that:
 - a. tenure arrangements provide the best use of a site;
 - b. internal Council application and approval procedures are followed;
 - c. tenure terms are consistent with the anticipated future requirements of the subject site;

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- d. any community use of Council-owned or Council-controlled land does not adversely impact the subject site assets or the environment.
- 2.5. For-profit organisations are not eligible for a tenure agreement under this policy.
- 2.6. Each tenure agreement issued under this policy will contain clearly defined rights and obligations of Council and community organisations for the use of Council-owned or Council-controlled land, building and facilities, for the period of the agreement. While community organisations are mostly volunteer-run, Council expects organisations to value, protect and preserve community assets for the ongoing benefit of the community.

3. Standard Tenure Documents

- 3.1. For-profit organisations are not eligible for a tenure agreement under this policy.
- 3.2. A tenure agreement made under this policy may include additional or special conditions relevant to a particular facility, having regard to the nature of that facility and the requirements of the community organisation entering into the tenure agreement.
- 3.3. Council's standard tenure documents may address:
- a. tenure term;
 - b. options (freehold land only);
 - c. where subletting is, or is not permissible;
 - d. standard maintenance and management obligations of Council under tenure agreements;
 - e. standard maintenance and management obligations of community organisations under tenure agreements;
 - f. the making of improvements, additions or alterations to Council-owned or Council-controlled land or facilities thereon;
 - g. community organisations' reporting obligations to Council;
 - h. ownership of assets on termination or expiry of tenure agreements;
 - i. council's rights of access, audit and inspection;
 - j. health and safety;
 - k. legislative obligations;
 - l. caretaker arrangements (if applicable); and
 - m. grounds for termination of tenure.

4. Eligibility

- 4.1. To be eligible to apply for, or hold, tenure over a Council-owned or Council-controlled site, a community organisation must:
- a. be incorporated under the *Associations Incorporation Act 1981*, the *Corporations Act 2001* or other applicable legislation acceptable to Council;
 - b. demonstrate that the proposed use of the site is for community purposes, sport or recreation;
 - c. carry public liability insurance for a minimum of \$20,000,000 in respect of any one event unless some higher amount is set by Council;
 - d. hold appropriate insurances as specified in the tenure agreement;
 - e. provide demonstrated capacity to develop and maintain a facility, effectively share facilities where appropriate, and grow participation and activate facilities;

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- f. demonstrate the ability to meet all financial and operation obligations and key performance indicators as specified in Council’s standard tenure documents and/or the respective tenure agreement;
- g. use and regularly update Council’s communication and engagement platforms for the collection and management of tenure and other documents.

5. Tenure Terms

- 5.1. Council’s preferred length of tenure is a five-year term.
- 5.2. Tenure terms in excess of five years may be offered where:
 - a. the community organisation has invested, or will invest, significant funds towards the development of the site, buildings or facilities;
 - b. a longer tenure term is required to provide longer-term planning certainty for the community organisation, such as to manage repayments of a mortgage over a lease.
- 5.3. Requests for tenure terms in excess of five years will be considered and decided on a case-by-case basis.
- 5.4. Under the *Land Act 1994*, trustee leases and trustee permits cannot include options to renew or hold over at the expiry of the tenure agreement.

6. Tenure Fees

- 6.1. All community organisations that enter into a tenure agreement with Council will be required to pay an annual rent of one dollar payable on demand for User Agreements or an agreed amount for lease or permit agreements. The rights and obligations for the usage, activation, management and maintenance of the subject site will be recognised in the conditions of the tenure agreement.
- 6.2. Responsibility for the following matters, as well as other matters identified from time to time, will be addressed in each tenure agreement or through tenure negotiations:
 - a. tenure establishment costs;
 - b. field and grounds maintenance;
 - c. indoor and outdoor building maintenance;
 - d. major maintenance or upgrades;
 - e. utility charges (including water and waste charges);
 - f. trade waste and pump outs;
 - g. insurances;
 - h. fire protection;
 - i. pest control;
 - j. weed control;
 - k. electricity;
 - l. communications;
 - m. council rates, levies or charges payable by community organisations under section 122(1)(b) of the Local Government Regulation 2012;
 - n. relevant licenses, permits and approvals;
 - o. condition and compliance audits;
 - p. community access to the site outside of organised community, sport or recreation activities.

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7. Failure to perform

- 7.1. Each tenure agreement will detail the process for non-compliance and dispute resolution.
- 7.2. If a community organisation breaches its obligations under its tenure agreement, Council may:
- perform the community organisation's obligations and recover the cost of doing so from the organisation;
 - enter and take possession of the premises and the tenure agreement may be terminated;
 - take legal action to recover damages from the community organisation for any loss or cost incurred by Council as a result of the breach.

8. Matters Referred to Council

- 8.1. The following matters will be referred to the Council for decision:
- tenure-related matters, requests or renewals that are not consistent with this policy;
 - requests for sub-leasing arrangements that are not consistent with this policy;
 - strategic planning matters that relate to community, sport and recreation facilities that do not advance Council's community or sport and recreation strategies;
 - recommendations made that are not consistent with Council's policies, plans or strategic documents.

9. Definitions

Community organisation means a legally-constituted, not-for-profit entity whose primary object is cultural, sporting, recreational or community services purposes and whose constitution or rules provide that its income, profits and assets may only be applied to the promotion of its objects and may not be applied to the payment of dividends or distributions to its members.

Council-controlled land means land that is held in trust by Council, land that is leased or subleased by Council or any other land in which Council has a proprietary interest and includes any improvements to the land.

Council-owned land means land that is owned freehold by Council and includes any improvements to the land.

Exclusive use means the use of an area, that is subject to a tenure agreement with a community organisation, that is not formally shared by any other organisation.

Expression of interest means a competitive process where organisations are asked to demonstrate their interest, capacity and proposed usage of available Council-owned or Council-controlled land.

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

Lease means an agreement under which Council grants to a lessee, in return for valuable consideration, the right to occupy Council-owned or Council-controlled land for an agreed period of time, and includes a trustee lease under the *Land Act 1994*.

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Permit means an agreement specifying occupation rights under which Council grants to a permittee, in return for valuable consideration, the right to occupy Council-owned or Council-controlled land for an agreed period of time, and includes a trustee permit under the *Land Act 1994*.

Standard tenure documents means the standard terms and conditions for tenure agreements approved by Council from time to time.

Sublet means the granting of formal access rights by a community organisation to another entity as a subtenant of all or any part of the subject site for a defined period of time. Permission to sublet is subject at all times to the community organisation obtaining Council's approval prior to entering into a subletting arrangement. Council retains the right to approve, approve with conditions or refuse any application for such approval. In principle, community organisations may not charge another community organisation for subletting, however they may charge to recover their other expenses (eg services). Community organisations may charge commercial enterprises for purposes such as advertising, sponsorship, space or room hire, if approved by Council in the Tenure Agreement.

Tenure agreement means a lease, permit, user agreement or other right of use granted by Council.

Trustee lease means a lease given by the trustee of trust land under the *Land Act 1994*.

Trustee permit means a permit given by the trustee of trust land under the *Land Act 1994*.

User agreement means a formal agreement specifying occupation rights under which Council grants to a community organisation, in return for valuable consideration, the right to occupy Council-owned or Council-controlled land for an agreed period of time.

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| Strategic Link | <i>Land Act 1994 (Qld)</i> <i>Local Government Act 2009</i> Local Government Regulation 2012 |
| Category | Community Development |
| Lead Business Unit | Sport and Recreation |
| Public Consultation | Yes |
| Adoption Date | 09/09/2020 |
| New Review Date | |
| Document Number | 1171505 |
| Record Keeping | ECM, Council Website, Vine |
| Related Documents | Central Highlands Regional Council's Standard Tenure Documents; Central Highlands Regional Council User Agreement assessment form; Central Highlands Regional Council's leases, permits and user agreements as amended from time to time; Mandatory standard terms for trustee leases made under the provisions of the <i>Land Act 1994</i> ; Central Highlands Regional Council's workflows for new and renewed tenure agreements; Community organisation tenure complaints and escalation processes; Community organisations community relations procedure. |

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