

Community Leasing and Licence Agreement Policy

Local Government Act 2009

1. Policy Statement

To provide a structured framework and basic principles to ensure a consistent and equitable approach by Townsville City Council (Council) for the provision and management of tenure over Council-controlled land and infrastructure to community organisations that deliver community, cultural, sporting, recreational or environmental services to residents.

Council will manage the community leasing portfolio to meet the changing needs of the community seeking to optimise the use and availability of the limited resources of community land.

2. Principles

Council is committed to:

- maximising the community benefit and use of Council-owned and controlled land and facilities;
- ensuring equitable and inclusive, needs-based distribution of land;
- ensuring consistent tenure conditions;
- defining responsibilities and costs associated with the development, maintenance and operation of land;
- acknowledging the contribution of community organisations to the wider community; and,
- working with community organisations to support appropriate financial and asset management practices.

3. Scope

This policy applies to all tenure agreements for use of Council-controlled lands. This policy will provide guidance to Council workers to negotiate tenure agreements. This policy does not apply to commercial leases.

To be eligible for tenure of Council-controlled land, a community organisation must:

- be an incorporated association or equivalent;
- maintain all necessary insurances as determined by Council; and,
- meet one of the following categories:
 - sport;
 - recreation;

- community;
- cultural; or,
- environmental.

4. Responsibility

The Chief Executive Officer, Director Infrastructure & Operations, General Manager Property, Fleet & Emergency Management and Team Manager Property Management are responsible for ensuring this policy is understood and adhered to by relevant workers.

5. Definitions

Authorised Contact/s - individuals of a group, organisation or club who have been nominated as the primary contacts for all lease, or licence to occupy correspondence.

Commercial Lease - is a tenure agreement entered into between Council and a commercial tenant.

Commercial Tenant - is an organisation that is not a community organisation, or is a community organisation, utilising land for purposes which are not related to:

- sporting;
- recreation;
- community;
- culture; or
- the environment.

Community Organisation - an entity that carries out activities for a public purpose, or another entity whose primary object is not directed at making a profit.

Land - means land and any building, fixtures and other improvements owned or managed by Council, including land held in trust, that supports the physical, cultural and social well-being of the community.

Lease – means a lease granted over Council-controlled land, including a trustee lease by a contract which one party conveys an exclusive right to use the land to another for a specified time usually in return of periodic payment.

Licence 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*.

Licensee - a group, club or organisation that holds a licence to occupy for the non-exclusive use of land.

Manager - an individual responsible for overseeing and coordinating specific functions, departments, teams or projects within Townsville City Council.

Public Liability Insurance - a type of insurance that covers an organisation or group against losses or damage to a third party as a result of that group's or organisation's activities.

Sub-Lease - is a tenure for all or part of a premises under a lease agreement between the original/primary tenant of the premises and a new tenant.

Tenant - including a lessee and licensee.

Tenure - means a lease or licence to occupy for the purposes of this policy.

Workers - includes employees, contractors, volunteers and all others who perform work on behalf of Council.

6. Policy

Council will ensure consistent and fair access to its land for community organisations that supports the physical, cultural and social well-being of the community.

Council will aim to increase community access to activities and services by ensuring optimal utilisation of Council land by encouraging multiuse, integration and co-location.

Any new tenures should be negotiated on the terms set out in this policy. For the purposes of tenancy negotiation, all tenures shall be classified into one of the categories as outlined in Appendix A - Classification of Tenure Categories.

Council's approved suite of standard terms will be applied to all new tenures, including renewals of existing agreements. Council reserves the right to make variations in its discretion to meet the operational or business needs of Council or the permitted use for the agreement. A tenant may request to vary the standard terms. However, the terms will not be varied at the tenant's request unless it is required to meet the operational needs of the tenant, and only then will minor variations be considered.

Council will enter into one of the following agreements for the use of Council-owned and managed land, a lease or licence to occupy.

6.1 Advertising a Land for Lease / Licence

Council will advertise and seek a tender for consideration, to lease or licence to occupy a land or portion of a land when:

- a new or existing building or space becomes vacant;
- an existing agreement expires and is not renewed; or
- an agreement is terminated by either party.

Tender submissions will be assessed by a panel against Council's tender criteria including:

- demonstrated need for activities in the local area or within Townsville.
- the proposed activities will increase community, arts, sports, recreation and/or cultural participation levels.
- capacity and willingness to share the land in collaboration with other community organisations.
- viability of the community organisation and the capacity to manage a community land, including financial capacity to meet maintenance and operational costs and any agreed development commitments.
- evidence that the grant of tenure will demonstrate community benefit and be in the public's best interest.
- commitment to work with Council on the continuous improvement of the community land.

- ability to meet any other criteria deemed relevant by Council in relation to the land.

All tender submissions must demonstrate how they satisfy each of the tender criteria and provide a formal proposal including the following:

- a comprehensive business/organisation plan detailing the applicant's vision for the proposed lease space; and
- evidence that the proposed service/activities provide community benefit and/or an identified need of the community; and,
- a development plan.

6.2 Lease Administration and Management

Tenure, fees and charges and all tenant obligations are outlined in Appendix A.

Where practicable, utility charges will be individually metered for each tenant; otherwise, an equitable percentage of the overall site utility charges will be agreed and applied.

Council will undertake annual property inspections (where resource permits) to ensure tenure conditions are met and will provide the tenant with a copy of the inspection report and appropriate feedback. Prior notice of the inspection will be given to the tenants in accordance with the terms of the tenure.

The tenant is expected to maintain and keep the premises clean and in good repair as determined by the tenure agreement. The tenant should install signage, as provided by Council, within one month of occupation as recognition of the support the community organisation receives from Council.

Tenants are not permitted to sub-lease any part of the leased premises without the prior written consent from Council.

When a tenant seeks to renew a lease or licence the negotiations should commence within six months of the expiry date. If the community or sporting group demonstrate that they are sustainable and are delivering a community benefit, the exception will be considered under the *Local Government Regulation 2012* Sect 236(1)(b)(ii).

Council leases land to community organisations that may then make improvements to the land. In this case, written approval is required from Council prior to commencement of any works. The maintenance and capital repairs are the responsibility of the community organisation. Upon expiry, surrender or termination of the lease, Council reserves the right to decide on the future allocation, disposal or removal of the community organisation developed improvements.

6.3 Termination

Where a tenant is in breach of the tenure terms, Council may terminate the agreement. In addition to early terminations resulting from a breach of tenure terms, Council reserves the right to terminate a tenure agreement prior to expiry when:

- the land is required for Council's infrastructure planning or construction requirements; or
- the tenure holder is not optimising the use of the land.

In the event of a tenure agreement being terminated for a reason other than a breach, Council will provide appropriate notification to the organisation, and where possible, make all reasonable attempts to provide an alternative tenure agreement.

7. Legal Parameters

Land Act 1994

Local Government Act 2009

Local Government Regulation 2012

Work Health and Safety Act 2011

8. Associated Documents

Nil.

Appendix A - Classification of Tenure Categories

Category 1a - Small Volunteer Community Groups

<p>Criteria: Locally based organisations with a voluntary management committee and are a stand-alone not-for-profit organisation/community group. Run solely by volunteers and land programs/activities specifically targeted at local residents. Demonstrates limited or no capacity to generate revenue through land use and/or activities. Income is generally limited to low membership fees.</p>	
Tenancy Term	Minimum term of 2 years - Maximum term of 5 years
Lease and fee charges	<p>Annual rent: \$1</p> <p>Outgoings:</p> <ul style="list-style-type: none"> • Emergency Services Levy (exemptions for historical societies) • All utility costs related to the tenant's use of the premises • Waste charges (exceptions for historical societies) • Annual routine maintenance charges applicable to the land • Rates (discounted)
Tenant Obligations	<ul style="list-style-type: none"> • Contents, Public Liability Insurance and any other insurances associated with the tenant's use of the land • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the land and the tenant's use. • Pest control • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenant's use.
Council Obligations	<ul style="list-style-type: none"> • Structural maintenance • Capital improvements • Annual termite inspections and treatment as required (subject to tenant meeting pest control obligations outlined in the agreement) • Graffiti removal

Category 1b - Not for Profit Community Groups and Organisations

<p>Criteria: Locally based not-for-profit organisation, club, or community group run by volunteers or paid workers and are incorporated. Their primary base of operations located within the Townsville LGA. Demonstrates an affordable membership regime and land programs and activities that add value to the social and community fabric of Townsville. Has the capacity to generate revenue through membership, use of the premises, or activities consistent with the organisations purpose.</p>	
Tenancy Term	Minimum term of 2 years - Maximum term of 10 years
Lease and fee charges	<p>Annual rent: \$1</p> <p>Outgoings:</p> <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenant's use of the premises • Waste charges • Annual routine maintenance charges applicable to the land • Rates (discounted)
Tenant Obligations	<ul style="list-style-type: none"> • Contents, Public Liability Insurance and any other insurances associated with the tenant's use of the land • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the land and the tenant's use. • Pest control • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenant's use.
Council Obligations	<ul style="list-style-type: none"> • Structural maintenance • Capital improvements • Annual termite inspections and treatment as required (subject to tenant meeting pest control obligations outlined in the agreement) • Graffiti removal

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Category 2 - Sporting Clubs and Recreational Groups

Criteria: Locally based sporting clubs and recreational groups with a voluntary management committee. Demonstrates an affordable membership regime and land sporting or recreational activities and programs that add value to the social and community fabric of Townsville. Has the capacity to generate revenue through its use of the property by way of membership, bar/kitchen land, or activities consistent with the club/groups purpose. Excludes state and national sporting/recreational bodies	
Tenancy Term	Minimum term of 2 years - Maximum term of 10 years
Lease and fee charges	Annual rent: \$1 Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenant's use of the premises • Waste charges • Annual routine maintenance charges applicable to the land • Rates (discounted)
Tenant Obligations	<ul style="list-style-type: none"> • Contents, Public Liability Insurance and any other insurances associated with the tenant's use of the land • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the land and the tenant's use. • Pest control • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenant's use.
Council Obligations	<ul style="list-style-type: none"> • Structural maintenance • Capital improvements (at discretion of Council and if external funding opportunities are exhausted) • Annual termite inspections and treatment as required (subject to tenant meeting pest control obligations outlined in the agreement) • Graffiti removal

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Category 3 - Large Not for Profit Organisations, State or National Clubs / Associations

Criteria:	
Large not-for-profit groups that are professional organisations with paid staff and are generally government funded, externally funded, or generates its own revenue through membership fees, events, venue hire, services, or other means consistent with the organisations purpose.	
Tenancy Term	Minimum term of 2 years - Maximum term of 10 years
Lease and fee charges	<p>Annual rent: Between 20%- 80% of market valuation plus GST, or as otherwise determined by Council following a tender process.</p> <p>Outgoings:</p> <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenant’s use of the premises • Waste charges • Annual routine maintenance charges applicable to the land • Rates (discounted)
Tenant Obligations	<ul style="list-style-type: none"> • Contents, Public Liability Insurance and any other insurances associated with the tenant’s use of the land • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the land and the tenant’s use. • Pest control • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenant’s use. • Capital improvements
Council Obligations	<ul style="list-style-type: none"> • Structural maintenance • Annual termite inspections and treatment as required (subject to tenant meeting pest control obligations outlined in the agreement) • Graffiti removal

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