

## Strategic policy

### Community Groups Occupying Council Owned or Council Controlled Land and/or Infrastructure

Corporate Plan reference:	<p>2. A strong community</p> <p>2.1 <i>Resilient and engaged communities</i></p> <p>4. Service excellence</p> <p>4.5 <i>Assets meet endorsed standards for sustainable service delivery</i></p>
Endorsed by Council on:	29 April 2021 (OM21/32)
Manager responsible for policy:	Head of Property, Business Performance

### Policy purpose

The purpose of this policy is to establish consistent and transparent direction for Council and community groups in relation to the provision and management of occupancy arrangements (tenure) over Council owned or Council controlled land and/or infrastructure.

### Policy outcome

The policy seeks to establish a structured, consistent, equitable and transparent approach to the provision and management of community occupancy arrangements over Council owned and Council controlled land and/or infrastructure.

This approach maximises use of community land and infrastructure and clarifies roles and responsibilities to expedite decision-making, benefiting the community and ultimately building resilient, engaged and strengthened communities.

### Policy scope

The policy considers management of occupancy arrangements over community use land and infrastructure and does not give regard to other classes of tenure management within Council's property portfolio (i.e. commercial, residential etc.).

For the purpose of this policy, the term “tenure” refers to leases, licences and State-issued permits only. Council-issued permits, Hire Arrangements and Management Agreements, Maintenance Agreement, Caretaker Agreements are administered by relevant Branches as determined by the requested activity and are documented to govern the attributes specific to the individual request under the applicable Governing body.

## Policy statement

All occupancy arrangements for community use land and infrastructure will be issued in accordance with the principles of this policy unless otherwise determined by Council.

## Guiding principles

The development of this policy position and its implementation is to:

1. promote resilience and engagement in community groups;
2. provide equitable access to community use land and infrastructure;
3. document and standardise occupancy arrangements as much as possible;
4. support community groups to contribute to the development of the Sunshine Coast community;
5. not provide groups with disincentive/s to looking after assets within their occupancy arrangements;
6. provide a platform to then engage with community groups to facilitate financial and advisory support opportunities;
7. maintain Council owned assets at the endorsed standard and in line with occupancy arrangements;
8. Identify opportunities for consolidation of services into common/multi-use facilities; and
9. Identify under-utilized facilities and develop a plan for greater use, decommissioning or sale/disposal.

## Types of occupancy arrangements (tenure)

Occupancy arrangements can include:

- Lease – an agreement between the Lessee and Lessor where the Lessee has exclusive use of Council land and/or infrastructure;
- Licence – an agreement granted by Council to an organisation or community group who has non-exclusive use of Council land and/or infrastructure;
- Trustee Permit – an agreement granted to an organisation or community group by Queensland Government (for state-owned land) giving permission to use land (and improvements) for a specified activity in accordance with Land Act 1994.

## Ownership of improvements

All fixed improvements constructed or installed upon Council property will be considered to be in

the ownership of Council from the time that they are constructed or installed.  
Exceptions to this include:

- Specified Crown ownership (outlined in Trustee leases);
- Council determining that the improvement owner be an alternate entity;
- An existing agreement that has determined that the improvement owner is an alternate entity.

In the case of any of the exceptions listed above, then all improvements constructed or installed upon Council property will be considered to be in ownership of Council at the end of the tenure period.

## Tenure Selection

An application for tenure for community purposes is eligible for consideration when:

- The proposed use is for sporting, recreational or community services purposes;
- The applicant is an incorporated not-for-profit community based organisation, local to the Sunshine Coast Region and/or the applicant has appropriate status under other legislation acceptable to Council;
- The applicant has an open membership
- The applicant can demonstrate the ability to meet all financial and operational obligations pursuant to the tenure arrangement.

Organisations which receive significant external financial contributions from State or Federal Government are not eligible for tenure under this policy and/or other rental amounts may apply.

## Tenure Documentation

The preparation of the documentation for occupancy arrangements will be coordinated using standard terms documentation for a licence, permit or lease (including Trustee leases).

Council will cover the costs associated with an initial tenure term including tenure preparation, survey fees and registration.

Occupants are responsible for all costs associated with any changes or amendments to tenure documentation during the term, if changes are required as a result of their request or actions. Associated costs will include preparation of tenure documentation, survey fees and registration.

## Tenure Inspections

Tenured sites will be monitored with scheduled inspections annually to ensure that Council's and the occupants obligations, pursuant to the tenure arrangements, are complied with.

## Rental amounts

Rental charges applied to Council property for community purpose will be as follows:

- Community organisations with open membership, without a liquor licence – one (1) unit per annum;
- Community organisations with open membership and a commercial liquor licence or Community Club liquor licence and fewer than 2000 members (all membership types) – five (5) unit per annum;

- Community organisations with open membership and a commercial liquor licence or Community Club liquor licence and more than 2000 members (all membership types) – Ten (10) unit per annum;
- Community organisations with a commercial sublease – up to 50% of the sublease rental is remitted to Council.

A unit of rent is as it appears in Council’s list of Fees and Charges, which are reviewed annually.

Tenure holders under new and renewed leases are responsible for all applicable rates, utilities, taxes, assessments, duties, levies, impositions and other charges in respect of the occupancy arrangement.

### Tenure period

Tenure arrangements on Council Property may be either:

- Freehold Licence 1 to 3 years
- Trustee Permit 1 to 3 years
- Lease >3 years by exception

Council may consider a longer tenure period should exceptional circumstances be demonstrated. A proposal and business case, based on investment and/or improvements on the site and benefits to the community must be submitted for consideration and does not guarantee tenure will be offered beyond 3 years. Tenure beyond 3 years will also be subject to a Council Resolution, and for State Reserve land, the State’s consent.

### Maintenance and Alterations

Council's standard lease document will identify maintenance responsibilities and obligations of both the tenure holder and Council, as specified in the following schedule of maintenance.

The maintenance obligations imposed on a Tenure holder will differ and is dependant on the asset or improvement being recognized as owned by Council or not. The Tenure holder will retain sole responsibility of maintaining, repairing and replacing any assets or improvements where they are the recognised owner.

Schedule of Maintenance for Council owned assets or improvements (standard lease):

Planned Maintenance	
Statutory Maintenance and Inspections	Council Obligation
Preventive Maintenance	Tenure Holder Obligation
Programmed (Scheduled) Maintenance	Tenure Holder Obligation
Structural Maintenance	Council Obligation
Unplanned Maintenance	
Emergency Maintenance Task	Tenure Holder obligation unless Structural or Statutory element
Repairs	Tenure Holder obligation unless Structural or Statutory element
Corrective Maintenance	Tenure Holder obligation unless Structural or Statutory element
Other	

Lifecycle Replacement or Refurbishment	Council Obligation
<b>Identified State or Local heritage places</b> Burra Charter: The industry standard for managing heritage places	
Restoration	Council and Tenure Holder partnership
Conservation	Council and Tenure Holder partnership
Preservation	Council and Tenure Holder partnership
Reconstruction	Council and Tenure Holder partnership

All works are to be undertaken in a safe and legislatively compliant manner and in the case of Heritage places, in accordance with the requirements of the Governing Authority.

### Closed Landfill sites

A number of sporting fields and other recreational activities have been established on closed landfills within the Council region. This provides a beneficial usage for the site after landfilling activities have ceased.

Tenure holders on a closed landfill sites will have additional responsibilities in their tenure arrangement to protect all users of the land from potential risks. This is of particular importance if any works are being undertaken on the land, including excavation, removal or disposal of soil, trenching works or building or fencing construction of any infrastructure including lighting. Depending on the extent of your project a Suitably Qualified Person (SQP) may be required to provide expert advice.

Tenure holders must not disturb the ground soil without prior discussion with and approval by Council.

### Insurance

Council will hold and assume responsibility for building insurance, in accordance with Council's insurance policy position, for buildings and facilities for which it is the recognised owner.

Tenure holders will be responsible for building insurance on any building, facilities or assets for which they are the recognised owner and in accordance with conditions of the tenure documentation.

Tenure holders must hold and maintain other insurance policies as are required by Council and legislation in respect of their occupation and use of Council owned or Council controlled improvements and in accordance with conditions of the tenure documentation.

### Annual update to Council

Tenure holders must provide Council with copies of certificates of currency, maintenance inspection evidence and reports, facility utilisation records and audited financial reports annually.

### Guarantees and Indemnities

Council does not take guarantees or indemnities on not-for-profit community organisations, as they are incorporated associations where officeholders and members cannot be held liable for the club's debts.

## Roles and responsibilities

Head of Property is responsible for administering tenure arrangements of all Council owned or Council controlled community land and infrastructure. This includes tenure preparation and tenure management.

Manager Sport and Community Venues and Manager Community Planning and Development are responsible for relationship management with community groups seeking to hold or having existing tenure under this policy. This includes recommendations to Property Management of viable community groups suitable for tenure and general support during tenure.

## Measurement of success

Successful implementation of this policy will be evidenced through improved engagement with community groups, occupying community land and/or infrastructure that is fit for purpose and managed in accordance with tenure conditions.

## Definitions

**Caretaker Agreement** - an agreement where a person is allowed to reside at the property and is responsible to perform duties on Council-owned or Council-controlled land or infrastructure, where asset ownership and responsibility for it rests with Council;

**Council-Issued Permits** – Permits issued by Council for high-use/high impact commercial activities and low-use/low impact commercial activities on community land. These activities can include street stalls or vending, film production, holding an event, advertising signs, footpath dining.

**Closed Landfill** - Land which previously had a landfilling operation undertaken on it, and is listed on the Queensland State Government's Environmental Management Register (EMR)

**Corrective Maintenance** - The actions performed, as a result of failure or inspection, to restore an item or asset to its original condition, as far as practicable. Corrective maintenance may or may not be programmed;

**Emergency Maintenance Task** - A maintenance task carried out in order to avert an immediate health, safety, security or environmental (HSSE) hazard, or to correct a failure with significant economic impact;

**Hire Agreement** - an agreement used when a person or organisation rents a venue owned by Council for the purpose of holding an event

**Lease** – an agreement between the Lessee and Lessor where the Lessee has exclusive use of Council property;

**Licence** – an agreement granted by Council to an organisation or community group to use Council property;

**Lifecycle Replacement or Refurbishment** - Major refurbishment and replacements to extend the useful life of the building;

**Maintenance Agreement** – an agreement to oversee the maintenance of Council-owned or

Council-controlled land or infrastructure by another party, where asset ownership and responsibility for it rests with Council;

**Management Agreement** – an agreement to oversee the operations and management of Council- owned or Council-controlled land or infrastructure, where asset ownership and responsibility for it rests with Council;

**Open membership** – open to all persons who are willing to accept the responsibilities of membership, without discrimination or requirement to meet certain criteria, eligibility or qualification.

**Preservation** - Means maintaining a place in its existing state and retarding deterioration.

**Preventive Maintenance** - The actions performed to retain an item or asset in its original condition as far as practicable by providing systematic inspection, detection and prevention of incipient failure;

**Programmed (Scheduled) Maintenance** - The orderly sequencing of repair and maintenance projects and/or tasks based upon the assessed Condition-Based Needs Assessment and relative priority of work, taking into account the scope, cost and timing of repairs and maintenance to be implemented;

**Repairs** - Any activity which returns the capability of an asset that has failed to a level of performance;

**Restoration** - Returning a place to a known earlier state by removing accretions or by reassembling existing elements without the introduction of new materials.

**Statutory Maintenance** - Maintenance that must be carried out to meet statutory requirements, including the following and any other item which requires inspection under legislation:

Fire: Periodic fire equipment (hydrants, hose reels, extinguishers, blankets, emergency and exit lighting and any other equipment used to control a fire)

Electrical: Residual Current Device (RCD) testing

Backflow Devices: Plumbing service/inspection/testing

Fall Arrest Systems: periodic inspection

**Structural Maintenance** - Any component or part of an assembly which provides necessary supporting structure to the whole or any part of the building. Any internal or external load-bearing component of the building that is essential to the stability of the building any part of it, including, the Building's foundations, windows, roof, elevators and elevator shafts, structural portions of load-bearing walls, structural floors and sub floors, and structural columns and beams.  
Any component (including weatherproofing) that forms part of the external walls or roof;

**Tenure** – for the purpose of this policy, the term “tenure” refers to leases, licences and-Trustee permits only. Other Council-issued permits, Hire Arrangements and Management Agreements are administered by relevant Branches as determined by the requested activity and are documented to govern the attributes specific to the individual request;

**Tenure holder** – The incorporated not-for-profit community based organisation named on the tenure document.

**Trustee Permit** – an agreement granted to an organisation or community group by Council (as Trustee for state-owned land) giving permission to use land (and improvements) for a specified activity in accordance with Land Act 1994;

## Related policies and legislation

*Land Act 1994*

*Local Government Act 2009*

*Local Government Regulation 2012*

*State's Operational Policy – Secondary use of Trust land under the Land Act – PUX/901/209*

*SLM/2013/493*

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Review of Interim Policy	Y		29/04/2021
1.1	Update department names	N	Corporate Governance	

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