

STRATEGIC POLICY

Community Purpose Land and Infrastructure Tenure Policy

<p>Corporate Plan Reference:</p>	<p>Social Cohesion <i>5.2.1 Value and support community organisations and volunteers across the region</i></p> <p>Managing Growth <i>7.5.1 Determine the types and levels of services provided by council</i></p> <p>Great Governance <i>8.1.1 Develop and implement a governance framework that provides transparent and accountable processes and enhances council's reputation</i> <i>8.1.2 Ensure legislative compliance and awareness</i></p>
<p>Endorsed by Council on:</p>	<p><Insert Ordinary Meeting Date></p>
<p>Policy Owner and Department:</p>	<p>Executive Director – Community Services Department</p>

POLICY PURPOSE

The purpose of this policy is to provide a transparent, accountable and efficient process for allocating tenure over community purpose land and infrastructure.

The policy also clearly outlines the roles and responsibilities of each department with respect to its implementation.

POLICY OUTCOME

The outcomes of this policy include:

- compliance with council's legislative obligations in relation to freehold land, reserve land held in trust by council, and infrastructure allocated for community use;
- consistent and equitable management practices;
- standardised tenure and reporting documentation; and
- maximised use of council owned and controlled community purpose land and infrastructure.

POLICY SCOPE

This policy applies to council owned and controlled community purpose land and infrastructure tenure arrangements.

POLICY STATEMENT

Council is governed by the *Land Act 1994* and the *Land Regulation 2009* to administer community tenure on community purpose land and infrastructure that is owned by the State of Queensland under the control of council as Trustee. Although Council Freehold land is not subject to the provisions of the *Land Act 1994* nor the *Land Regulation 2009*, it is governed by the principles of this policy to ensure transparency and consistency.

Community tenure arrangements range from 1-10 years and can be administered through a lease, licence or trustee permit depending on the ownership of the land and the term of tenure.

This policy details the roles and responsibilities of council departments to ensure that tenure over community purpose land and infrastructure is administered effectively. To ensure that council can sustain its role in the administration of tenure for community purposes, all rental charges, maintenance and expenses associated with community tenure arrangements will be the responsibility of tenure holders.

Council is committed to working with community organisations to ensure:

- the highest and best use of community purpose land and infrastructure is identified;
- multipurpose and shared use of land and infrastructure is achieved where possible; and
- the benefit to the community is optimised.

Community tenure will be awarded through an application process. Within this framework, council has developed an equitable process for allocating tenure in a sustainable and efficient manner. This means that all future tenure holders will receive standardised tenure documentation which consistently outlines the roles and responsibilities for all parties.

GUIDING PRINCIPLES

The following principles provide a consistent approach to guide the allocation and administration of tenure over council owned and controlled community purpose land and infrastructure.

- **Equity and Opportunity:** equitable opportunities are provided that meet the diverse community service, recreational and sporting needs of the Sunshine Coast community.
- **Community Benefit:** community organisations are supported that can demonstrate community benefit and the flexibility to share tenured facilities.
- **Sustainability:** the social, economic and environmental considerations are balanced in council's stewardship over community purpose land and infrastructure.

TENURE ARRANGEMENTS

Eligible Organisations

All community organisations are eligible to apply for tenure over council owned and controlled community purpose land and infrastructure (subject to the provisions of the *Land Act 1994* and *Land Regulation 2009*) with the exception of:

- Educational, religious and medical organisations where the proposed use is for the organisations core function;
- Political organisations; and
- Commercial businesses.

Additional eligibility criteria will be applied to assure council that eligible community organisations have the capacity and capabilities to manage and maintain the tenure and provide community benefit.

Terms of Tenure

Community tenure arrangements will range from 1 year to a maximum of 10 years and are dependent on the type of land holding (Freehold land or Reserve/Trust land).

Freehold land

Tenure arrangements on council freehold land may be either

- a licence of up to ten (10) years; or
- a lease of up to ten (10) years.

Reserve land (land held in trust)

Tenure arrangements on Reserve land (land held in trust) may be either:

- a trustee permit of up to one (1) year;
- a trustee permit of no more than three (3) years;
- a trustee lease of up to ten (10) years.

Other tenure arrangements will be considered in exceptional circumstances on a case by case basis.

Rent and other charges applied to a lease or licence

Rental charges applied to council owned and controlled community purpose land and infrastructure are as follows:

- Community organisations without liquor or gaming licences – one (1) unit per annum
- Community organisations with a Community Club liquor licence only – five (5) units per annum
- Community organisations with a Community Club liquor and gaming licence – ten (10) units per annum.

A unit of rent is as it appears in council's list of fees and charges which are reviewed annually.

Application Process

Community tenure over council owned and controlled community purpose land and infrastructure may be awarded following one of two application processes:

Registration of Interest

- The Registration of Interest process is council's primary process for awarding community tenure. This process provides eligible community organisations with an opportunity to fully explore the terms and conditions of the proposed community tenure arrangements and submit a formal application for tenure.

Direct Application

- The Direct Application process is utilised for renewing or awarding site specific community tenure arrangements. Under this process existing site specific community organisations are given a closed merit opportunity to consider council's proposed community tenure terms and conditions and submit an application for renewed community tenure.

ROLES AND RESPONSIBILITIES

The **Community Services** Department is responsible for:

- Administering community tenure arrangements in accordance with this policy;
- Ensuring tenure allocations consider all other relevant legislation and council policies; and
- Assisting community organisations with application and reporting processes.

The **Infrastructure Services** Department is responsible for:

- Providing advice on assessing and reporting on the status of council owned and controlled community purpose land and infrastructure.

The **Corporate Services** Department is responsible for:

- Advice in relation to council owned and controlled land with respect to tenure for community use;
- Determining the rates payable on community leases and licences and issuing notices; and
- Invoicing and collecting rent owing on leased and licenced land and infrastructure.

The **Legals Office** is responsible for:

- Advice on legal matters, including the finalisation of lease or licence agreements on council owned and controlled community purpose land and infrastructure to ensure compliance with legal and statutory requirements.

MEASUREMENT OF SUCCESS

The outcomes of this policy can be measured by the extent to which:

- council is compliant with relevant legislation and council policies;
- consistent and equitable management practices are established;
- standardised tenure and reporting documentation are established ; and
- council owned and controlled community purpose land and infrastructure is optimised for community benefit.

DEFINITIONS

Community organisation: An organisation whose constitution or governing rules prohibit it from operating for profit or direct or indirect gains of its individual members, and has the primary purpose of providing services to the community.

Council Controlled: see Reserve Land (land held in trust).

Council Owned: see Freehold Land.

Freehold Land: The term used simply to mean ownership of land. Fee simple is a type of freehold and refers to the estate in land which is the most extensive in quantum, the most absolute in respect to the rights it confers of all estates known to law (Butterworths Legal Dictionary).

Expenses: All expenses associated with the tenured site including: maintenance; repair; improvements; utilities; rates; and such fees as might be levied from time to time.

Lease: A contractual agreement by which one party conveys an estate in property to another party, for a limited period, subject to various conditions, in exchange for something of value, but still retains ownership. A lease creates an interest in the land and can be assigned/transferred. Leases for land for which council is trustee must comply with the requirements of the *Land Act 1994*.

Licence: An agreement on council freehold land which enables the licensee to utilise and occupy council owned community purpose land or infrastructure for a limited time and a specific purpose. A licence does not convey an interest or exclusive use of either the land or infrastructure nor does it allow for sub-letting, transfer, assignment or mortgage.

Trustee Permit: An agreement on State owned land under council trusteeship which enables the Permittee to utilise and occupy council controlled community purpose land or infrastructure for a limited time and a specific purpose. A trustee permit does not convey an interest or exclusive use of either the land or infrastructure nor does it allow for sub-letting, transfer, assignment or mortgage.

Maintenance: Ensuring any and all structures and surrounds included in the lease are maintained to a standard satisfactory to council that mitigates health and safety risks and is cognisant of all relevant legislation. This includes keeping the site in good and substantial repair, including structural repair.

Reserve Land (land held in trust): Land owned by the State of Queensland dedicated for community purposes and, in relation to this policy, under the control of council as trustee.

Tenure: means the conditions under which land and/or buildings are held or occupied. In terms of this policy tenure refers to the conditions applied to arrangements between council and eligible community organisations utilising or occupying council owned and controlled community purpose land and infrastructure.

RELATED POLICIES AND LEGISLATION

Legislation and Regulations

- *Land Valuation Act 2010*
- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Building Fire Safety Regulation 2008*
- *Civil Liability Act 2003*
- *Civil Liability Regulation 2003*
- *Property Law Regulation 2003*
- *Electrical Safety Act 2002*
- *Electrical Safety Regulation 2002*
- *Land Regulation 2009*
- *Land Act 1994*
- *Land Titles Act 1994*
- *Fire and Rescue Service Act 1990*
- *Insurance Contracts Act 1984 (Cth.)*
- *Property Law Act 1974*

Council Strategies and Policies

- *Sunshine Coast Corporate Plan 2009-2014*
- *Sunshine Coast Access and Inclusion Plan 2011-2016*
- *Sunshine Coast Reconciliation Action Plan 2011-2016*
- *Sunshine Coast Sport and Active Recreation Plan 2011-2026*
- *Sunshine Coast Open Space Strategy 2011*
- *Sunshine Coast Social Infrastructure Strategy 2011*
- *Sunshine Coast Community Grants Policy 2013*
- *Sunshine Coast Mayoral and Councillor Discretionary Funding Policy 2013*
- *Community Land and Complementary Commercial Activity Policy 2011*
- *Sunshine Coast Revenue Policy 2012*
- *Sunshine Coast Community Gardens Policy 2012*

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Create new	Y	Ordinary Meeting	DD/MM/YYYY
	Eg. Review			