

Policy Type	Corporate
Function	Governance
Policy Owner	Director Corporate and Community Services
Policy Contact	Governance and Property Officer
Effective Date	28 January 2025

## Purpose

To ensure an equitable and consistent approach in the establishment and management of tenure arrangements over Council owned or controlled land or property.

## Scope

This policy applies to tenure arrangements over Council owned or controlled land or property entered into or renewed after the policy commencement. This includes lease and agreement for use arrangements for approved activities such as sporting, recreational, educational, cultural, agricultural, grazing and aerodrome hangars.

## Policy Statement

Council recognises and is committed to meeting the needs of the community having access to Council owned or controlled land or property through appropriate and consistent tenure arrangements.

Council recognises its role as Trustee of State land and the general requirement for all activities on State land to be consistent with the purpose of the reserve.

Community organisations require access to Council land to conduct a range of activities that enhance the physical activity, social interaction and cultural development of the community. Consideration is given to community organisations that demonstrate the principles and practices of multi-purpose use, shared use, flexibility in activities and can demonstrate community benefit or fulfil a community need where there is a gap in service provision. Community organisations eligible to apply for tenure include sporting, recreational, educational, cultural, other not-for-profit community service and volunteer-based organisations.

Commercial organisations and individuals also have access to Council land for agricultural purposes (i.e. grazing and crop production) and aerodrome hangars and facilities.

Council is committed to ensuring fair and consistent tenure arrangements however, it is acknowledged that some conditions and terms may be negotiated on a case-by-case basis.

## Exceptions

This policy does not apply to Council owned or controlled land under a permit to occupy, licence or hire agreement.

## Objectives

To establish consistent guidelines by which Council grants tenure of Council owned or controlled land for sporting, recreational, community, educational, commercial, agricultural, grazing and aerodrome activities.

## Types of Tenure

The type of tenure available will depend on the type of land or property to which the enquiry relates, i.e. freehold, leasehold or reserve land. Some forms of tenure grant an exclusive right to occupy the property to the exclusion of all others, whilst other forms of tenure grant non-exclusive right to occupy the property which means the occupancy may be shared.

Example tenure types include:

- (a) a lease of Council owned freehold land;
- (b) a trustee lease of reserve land controlled by Council as trustee;
- (c) an assignment or subletting of land leased by Council;
- (d) an agreement for use; and
- (e) a paddock rental agreement.

Examples of land/property types include, but are not limited to open space parks, community halls and centres, sporting fields and facilities, commercial or industrial land or buildings, land parcels and aerodrome hangars.

In all cases, Council will determine the most appropriate form of tenure to be granted.

## Application for Tenure

Applications for all types of tenure are to be made in writing and will be referred to the Chief Executive Officer for formal consideration.

### Assignment or Subletting

Lessees or users must first obtain Council's approval for Assignment/Subletting of Lease tenure arrangements before entering such arrangements. Council retains the right to refuse and/or cease any assignment or subletting arrangement.

## Eligibility Criteria

To be eligible to apply for, or renew a tenure arrangement over Council owned or controlled land or property, the applicant must:

- (a) be a community organisation, commercial organisation, or individual;
- (b) be able to demonstrate its ability to meet the financial obligations under the form of tenure sought; and
- (c) be proposing to use the land for approved activities including but not limited to sporting, recreational, educational, cultural, agricultural, grazing or aerodrome hangar purposes.

## Tenure Documentation

Council will prepare standard tenure documents that reflect this policy and meet the requirements of relevant legislation.

Trustee leases and subleases must be registered in the Queensland Land Registry pursuant to section 57(7) of the *Land Act 1994*. It is Council's preference to also register freehold leases.

## Compliance with Tenure Agreements

By entering into a tenure arrangement over Council owned or controlled land or property, lessees and users accept and agree to all terms listed in the policy, and standard tenure terms listed in Schedule A.

Lessees and users must not conduct, nor permit to occur, any illegal, immoral, or offensive acts on Council owned or controlled land or property.

Failure to comply with the conditions of the tenure arrangement may result in Council terminating or not offering renewal of the tenure arrangement.

## **Permitted Use**

Lessees and users must use the land/property only for the activities agreed upon by Council and specified in the lease reference schedule or agreement schedule.

Generally, the permitted use for community organisations are public purpose activities including cultural, sporting, recreational, educational or community service.

The permitted use for commercial organisations or individuals can include agricultural activities (i.e. grazing or crop production) and aerodrome related activities.

## **Fees and Charges**

### **Annual Rental**

Rental for a lease or agreement for use are set out in accordance with Schedule A and Council's adopted Schedule of Fees and Charges (as amended from time to time) at the time the tenure document is issued.

### **Rates and Utilities**

The lessee or user is solely responsible for all other rates, taxes, assessments, duties, levies, impositions, and other charges in respect of the tenure arrangement.

### **Costs Generally**

The lessee or user is responsible for its own costs in connection with the preparation, execution, completion and carrying into effect the tenure arrangement.

## **Inspections, Maintenance, and Improvements**

### **Capital Improvements**

Lessees and users must first obtain Council's approval before making any improvements, additions, or alterations within or to the tenure arrangement permit area. Capital improvements include alterations or additions to fixed items such as buildings, structures and equipment and other infrastructure that is used to provide service levels.

Council may approve or approve with conditions or refuse applications for approval at its discretion.

### **General Maintenance**

Lessees and users are responsible for retaining an asset to its original condition in order to deliver a required level of service, including regular ongoing day-to-day work and preventative work necessary to keep assets operating. This includes but is not limited to activities such as mowing, groundskeeping and cleaning of facilities and/or amenities.

## Operating Maintenance

Lessees and users are responsible for the operating maintenance that is continuously required to provide a service. This includes but is not limited to items such as repairs to plant and equipment, consumables and associated service activities (e.g. water, sewerage, electricity, gas, and waste collection).

## Insurance

All lessees and users are required to take out public liability insurance for no less than twenty million dollars (\$20,000,000). A copy of the Certificate of Currency must be provided to Council initially and upon renewal annually.

Other specific insurance covers that must be maintained by the lessee or user will be outlined in the lease or agreement for use.

## Termination

Where a lessee or user is in breach of the tenure arrangement, Council may resolve to terminate the tenure arrangement.

## Expiry/Renewal

Where a tenure arrangement is approaching expiry or renewal, the lessee or user must provide a written request to renew.

If there is an exception under section 236 of the *Local Government Regulation 2012*, there is no requirement to call for tender.

## Risk Management

Council owned or controlled land or property used by community, commercial organisations or individuals without formal and consistent tenure arrangements, places liability on Council in the event of injury, accident, or unenforceable agreements.

By formalising tenure arrangements, it reduces the risk of unenforceable arrangements and inappropriate use of Council owned or controlled land or property by providing appropriate and consistent tenure arrangements.

## Legislation

*Land Act 1994* (Qld)

*Land Regulation 2020* (Qld)

*Local Government Act 2009* (Qld)

*Local Government Regulation 2012* (Qld)

## Definitions and Abbreviations

<b>Commercial Organisation</b>	an organisation, including an incorporated body, co-operative society, partnership, or sole trader, conducting activities for the purposes of deriving a financial return to the proprietors or shareholders.
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<b>Community Organisation</b>	means an incorporated association – (a) that carries on activities for a public purpose; or (b) whose primary object is not directed at making a profit.
<b>Council</b>	means Burdekin Shire Council.
<b>Council controlled land</b>	means land/property or built facilities for which Council is granted trusteeship over by the State of Queensland.
<b>Council owned land</b>	means freehold land/property or built facilities owned by Council.
<b>Lease</b>	an agreement in which the lessor agrees to give the lessee the exclusive right to occupy land for a specific term.
<b>Lessee</b>	the tenant, or the person or organisation to whom the lease is granted.
<b>Lessor</b>	the owner of the property, or the entity who grants the lease (i.e. Council).
<b>Paddock Rental</b>	a contractual right to occupy or use Council owned or controlled land for grazing and/or the keeping of livestock.
<b>Tenure</b>	means a lease, agreement for use or paddock rental over Council owned or controlled land or property.
<b>Trustee Lease</b>	an agreement between Council and a lessee for trust land where the lease provides for exclusive use of the land or infrastructure in accordance with the <i>Land Act 1994</i> .
<b>User</b>	means the individual or organisation who is granted use of the land/property.

## Related Documents

Reference Number	Document Title
GOV-TEM-0001	Agreement for Use
<a href="#">Council Website</a>	Adopted Fees and Charges Schedule ( <i>as amended from time to time</i> )
<a href="#">Department of Resources Website</a>	Policy – Secondary use of trust land under the Land Act

**Document History and Version Control**

<b>Title of Document</b>	Council Property and Leasing Policy
<b>Document Reference Number</b>	GOV-POL-0021 Rev 4
<b>Review Schedule</b>	36 months
<b>Council Meeting Date</b>	28 January 2025
<b>Council Resolution Number</b>	1857875

**Schedule A – Indicative terms according to Tenure Type**

Category	Purpose	Fees & Charges		Assignment/Subletting	General Maintenance	Operational Maintenance	Term
		Annual Rent	Rates & Utilities				
<b>Council owned land (freehold)</b>	Community	\$0.10 (if demanded)	Lessee	With Lessor consent	Lessee	Lessee	5 yrs + 5 yr option
	Commercial	Market Rate	Lessee	With Lessor consent	Lessee	Lessee	5 yrs + 5 yr option
	Aerodrome	Per Adopted Fees and Charges Schedule	Lessee	With Lessor consent	Lessee	Lessee	5 yrs + 5 yr option
	Agricultural	% or \$ methodology	Lessee	With Lessor consent	Lessee	Lessee	As Negotiated
	Paddock Rental	Per adopted Fees and Charges Schedule	If Applicable	No	User	User	5 yrs
<b>Council controlled land (reserve)</b>	Community	\$0.10 (if demanded)	Lessee	With Lessor consent	Lessee	Lessee	Up to 10 years
	Commercial	Market Rate	Lessee	With Lessor consent	Lessee	Lessee	Up to 10 years
	Aerodrome	Per Adopted Fees and Charges Schedule	Lessee	With Lessor consent	Lessee	Lessee	Up to 10 years
	Agricultural	% or \$ methodology	Lessee	With Lessor consent	Lessee	Lessee	As Negotiated
	Paddock Rental	Per adopted Fees and Charges Schedule	If Applicable	No	User	User	5 yrs