

## 1. Introduction

Council is custodian of community land and facilities on behalf of the Tablelands community. Council seeks to support the activities of not-for-profit organisations and various stakeholders by providing subsidised use of Council owned and controlled property.

## 2. Purpose

The purpose of the Council Land Use and Tenure Policy is to guide the provision of subsidised occupancy to community and recreation groups in Council owned or controlled community facilities.

The objectives of the policy are to:

- Provide existing users of facilities priority ongoing use of community facilities;
- provide for the efficient renewal of lease and licence agreements in order to maintain the status quo to enable community organisations to apply for grant funding opportunities;
- Align capital renewals and upgrades with/disregard whole of life costs and asset sustainability in respect to community facility not identified for disposal;
- ensure a wide range of community activities, projects and programs are supported through the provision of Council subsidised space for community activities;
- comply with relevant legislative requirements in respect to any commercial lease arrangements.

## 3. Scope

This policy applies to the allocation and ongoing management of all Council owned and controlled property. Provisions in this policy may contradict terms of agreements entered into before the commencement of this policy. The policy is not intended to apply retrospectively. Further, the scope of this policy does not extend to the use of land and facilities defined as Prescribed Activities under Council's Local Laws or Council's facility booking system.

## 4. Legislative and Policy Framework

Council's Land Use and Tenure Policy is governed by various legislation, regulation and related documents, including but not limited to:

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Land Act 1994*
- *Land Regulation 2020*
- *Land Title Act 1994*
- *Associations Incorporation Act 1981*
- *Native Title Act 1993*

- *Retail Shop Leases Act 1994*
- *Property Law Act 1974*

## 4.1 Related Documents

- *Department of Resources State Land Policies*
- *Tablelands Regional Council Strategic Asset Management Plan*
- *Tablelands Regional Council Open Space Strategy*
- *Tablelands Regional Council Sport and Recreation Plan*
- *Tablelands Regional Council Rates and Charges Concession Policy*

## 5. Background

### 5.1 Community Profile

Tablelands Regional Council is a regional council comprised of three former Shires - Atherton, Eacham and Herberton. Prior to amalgamation, each former Shire had a portfolio of community facilities designed to service its respective communities. However, after amalgamation, each individual shire's approach to land tenure resulted in the Tablelands Regional Council inheriting inconsistent tenure and land use arrangements over 'legacy' infrastructure.

Projected changes to the community profile will affect the types and means by which community facilities are provided. This policy will ensure that access to Council facilities are not unnecessarily restricted and allow them to be redeployed over time to meet changing community needs.

### 5.2 Strategic Direction

Council's leasing policy will seek to preserve the status quo for community organisations who currently occupy Council facilities. As groups voluntarily relinquish occupancy, Council will progress its strategic direction in relation to planning of future open space and community facilities on a case by case basis.

### 5.3 Aim of Policy

Through the implementation of this policy, Council aims to:

- Implement Council's adopted level of service, currently to maintaining existing facilities;
- maximise the community benefit from the use of community facilities, by promoting underutilised assets;
- ensure the sustainable management of community assets through adequate resourcing of facility maintenance budgets;

## 6. Policy Statement

### 6.1 Part One – Community Facilities

Council recognises and is committed to meeting the requests of community organisations by providing access to community facilities. Community facilities owned and controlled by Council make an important contribution to the region's ability to achieve its objectives. The facilities referred to in this part include both land and buildings, occupied by community organisations and available for use by the public. Council acknowledges that its assets are aging and not necessarily fit-for-purpose. Community groups in possession of Council facilities will continue to be accommodated and will continue to occupy on facilities on an 'as is basis'.

Council will endeavour to maintain its existing asset portfolio to the extent that facilities are not identified for future disposal.

Where an applicant is approved to lease a community facility, the rent charged will be a nominal rent i.e. \$1.00 (if demanded).

Community organisations are expected to be responsible for paying outgoings and the reasonable maintenance of facilities except where Council decides otherwise.

### 6.2 Part Two – Commercial Use

For any proposed disposal of land or grant of licence for commercial purposes, Council will enter into agreements on commercial terms. Commercial terms will generally include requirements that:

- a lessee, licensee or permittee pays the market rental/usage fee (either by open tender, auction or in accordance with a valuation).
- a lessee, licensee or permittee pays for the reasonable costs for the preparation, survey and registration of agreements and plans.
- a lessee, licensee or permittee pay for all costs associated with the ongoing use of the land or facility, including but not limited to utilities, rates and charges, maintenance, taxes and planning consents.

## 7. Review

It is the responsibility of the Coordinator of Legal and Governance to monitor the adequacy of this policy and recommend appropriate changes. This policy will be reviewed as required by Council.

This policy is to remain in force until otherwise determined by Council.

## Assessment Checklist

<b>Application Criteria</b>			
<b>PART A – Renewal Applications</b>			
1.	Is the organisation and existing licence or lease holder?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <b>(Continue to Part B)</b>
2.	Has the facility has been identified for permanent disposal by resolution of Council?	<input type="checkbox"/> Yes <b>(Complete Part C)</b>	<input type="checkbox"/> No <b>(Continue to Part B)</b>
<b>Outcome 1</b>	If applicant is an existing occupant and the facility has not been identified for disposal, it is recommended that the lease or licence be renewed on Council's standard lease and licence terms and conditions, provided the organisation has not substantially breached previous agreement(s). Where exclusive use is sought, a nominal lease will be proposed. A report to Council is required to apply the relevant exemption under the <i>Local Government Regulation 2012</i> .		
<b>PART B – New Applications</b>			
3.	Is the organisation an incorporated not-for-profit organisation?	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No (Applicant is not eligible, application to be refused)
4.	Has the facility has been identified for permanent disposal by resolution of Council?	<input checked="" type="checkbox"/> Yes <b>(Continue to Part C)</b>	<input checked="" type="checkbox"/> No (go to Q5)
5.	Is there an identified community need for the service provided by the organisation (ie. Council strategy identifies the service as desired to be delivered or facilitated by Council).	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No (Application to be refused)
<b>Outcome 2</b>			
<b>PART C – Consideration for Disposal of Asset</b>			
6.	Did the applicant answer "yes" to Part A, Question 1?	<input checked="" type="checkbox"/> Yes (Council will consider options for disposal in accordance with relevant strategies including in priority to the applicant organisation)	<input checked="" type="checkbox"/> No (Council will consider options for disposal in accordance with relevant strategies)