

Policy Title: LAND/LEASE ASSISTANCE FOR NOT FOR PROFIT INCORPORATED
COMMUNITY GROUPS

Policy Subject: Community Leasing
Policy No: #3080891v3 – CP072

Directorate: Organisational Services
Department: Property and Commercial Services
Section: Commercial & Leasing

Responsible Officer: Executive Manager – Property and Commercial Services
Authorised by: Director Organisational Services

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Risk Assessment: Low

OBJECTIVE:

To ensure a planned and viable approach to the future occupation and development of Council owned and controlled land by not for profit, incorporated community organisations including Sporting & Recreational, Arts & Culture, Welfare & Charitable, Emergency and Educational groups throughout the Fraser Coast region, achieving equity and consistency in dealing with Groups in:

- the planning of future facilities and upgrading existing infrastructure;
- the allocation of land for designated purposes;
- encouraging multi-use of facilities by groups; and
- assisting to ensure the financial and operational viability are possible for the clubs and groups seeking tenure.

POLICY:

This policy will assist local not-for-profit incorporated community groups to obtain suitable land leases for the development of infrastructure and facilities in accordance with the group's objectives, subject to:

- (a) any applicable adopted strategies, masterplans, policy, planning scheme and any other relevant document;
- (b) compliance with the overall requirements of this Land / Lease Assistance for Community Groups Policy
- (c) suitable land and/or resources being available

1. APPLICATION: ALLOCATION OF LANDS

This Policy shall apply to all applications for occupation of Council owned, controlled or administered land for community uses.

Meeting the requirements of this Policy shall be a prerequisite for the assessment process.

1.1 GENERAL CRITERIA

The purpose of a lease (or other land tenure arrangement) is to:

- provide security of tenure to local community organisations which propose to develop and promote a particular discipline or activity;
- to assist in the overall capital development and promotion of community facilities in the Fraser Coast region and/or for its residents.

In general, the period of the lease (or alternate) agreement shall be not greater than ten (10) years with any options to extend the lease period to be at Council's sole discretion.

1.2 ELIGIBILITY

All applicants will be required to Incorporate in terms of the Associations Incorporation Act 1981 and Regulations 1982 (as amended) and forward a written application, addressing the following prior to a lease or other form of tenure being considered or granted.

In determining applications for leases on Council controlled land, the following will be considered:

- (a) That a demonstrated need is established that is not currently able to be met via an existing facility or land;
- (b) Proposals must be consistent with Council priorities and directions for facility development. Therefore the extent to which the proposal is compatible with any applicable adopted strategies, plans, masterplans, policy, planning scheme and any other relevant approved planning documentation of Council will be considered;
- (c) Applicants must be able to demonstrate broad community benefit for the life of the lease;
- (d) Priority will be given to community groups which share (multiple usage) facilities and seek to maximise resource utilisation through the development of multi-purpose facilities and management policies;
- (e) Priority will be given to community groups which demonstrate a commitment to shared use by way of the formal agreements for shared usage and/or management of the facility and endorsed by Council;
- (f) Demonstrated capacity to perform with respect to development and maintenance of facilities. Specific performance objectives are to be negotiated with applicants for

inclusion within lease agreements where appropriate. For example, buildings and site layouts must be in accordance with Australian standards for buildings, accessibility and safety. Designs for new facilities, including grounds, buildings and irrigation, should be prepared by suitably qualified professionals. Signage should be in accordance with Council's approved signage manual designs, where they exist;

- (g) A priority will be granted to groups that demonstrate and encourage broad community participation and develop opportunities for both senior and junior participation, promote gender balance and/or disability access and promotion of use;
- (h) Provision of evidence of Public Liability Insurance to Council requirements;
- (i) Suitability and appropriateness of the site / land to accommodate the proposed activity, including reference to appropriate Town Planning legislation / advice;
- (j) Where a site has heritage, environmental or cultural value, the group must be able to demonstrate that:
 - i. they have the ability to upgrade existing facilities and meet all relevant standards
 - ii. they have the ability to restore / maintain heritage values according to standards and regulations
 - iii. they have the ability to meet safety standards
 - iv. they will create / maintain access to other groups or the general public

In these instances, Expressions of Interest or Tenders may be called by Council to best fit the site to any one or several groups.

1.3 INELIGIBLE ORGANISATIONS FOR A COMMUNITY LEASE

Ineligible organisations will include the following:

- 1) Organisations which are not incorporated and/or do not have adequate public liability coverage in place;
- 2) Organisations where there is another primary funding source (eg: State or Federal recurrent funding);
- 2) Where organisational funding is provided to a group for rental costs by any source;
- 3) Where there is significant affiliation with a substantial parent organisation that provides recurrent funding; and / or
- 4) Churches, Schools and their directly associated bodies.

NOTE: These groups may approach Council with a view to negotiating a lease of Council land on a commercial basis, provided there is no conflict with the Local Government Act and Regulations, The Land Act or Council policies.

1.4 TERM OF LEASE / AGREEMENT TO OCCUPY

Council wishes to encourage the development of recreation, arts & culture, sport and community facilities and services that meet the diverse and changing needs of residents of the Fraser Coast Regional Council area. Whilst ensuring security of tenure, Council also wishes to ensure that facilities and provisions continue to respond to future needs.

Generally, Council is unwilling to grant long term leases in other than the most extraordinary of circumstances, however may accept representations for longer leases. The granting of longer term leases will be at the sole discretion of Council.

Standard lease terms for recreation, arts & culture, sport and community uses are indicated as follows:

- Crown Reserves: up to maximum of 10 years.
- Council Freehold Properties: up to maximum of 10 years.
- Other Council Controlled Land: maximum of 10 years dependent upon Council tenure

Approval of a standard lease term is dependent upon applicants responding to the criteria referred to in this Policy.

Council retains the right to negotiate shorter lease terms where criteria are not met or in other circumstances considered appropriate by Council.

1.5 LEASE CONDITIONS

In general the following lease conditions shall apply:-

- 1) costs associated with obtaining relevant approvals and the preparation and registration of the lease agreement shall be the responsibility of the Lessee including but not limited to, development approval, legal and survey fees;
- 2) performance objectives shall be applied and incorporated within lease documentation.
- 3) unless agreed by Council because of special circumstances, occupation and development of land leased to a community group shall commence within twelve (12) months following the execution of the tenure agreement (lease or similar);
- 4) applications on Crown / Trust Land (Reserves) are subject to State Government endorsement / approval including Native Title considerations, and may be subject to preparation and approval of a Management Plan as per State Government guidelines for use of Trust Land at the cost of the applicant;
- 5) all leases will include a clause requiring groups to consider and respond to WPH&S Australian Standards and will include a clause prohibiting smoking in any Council buildings;
- 6) the commencement date for all new leases shall be twelve (12) months from Council's approval of the allocation of the land, or upon signing of the lease by the community group, whichever is sooner. Unless a formal lease document is executed within twelve (12) months of Council approval of the allocation of land, the proposal will be considered to have lapsed and use of the nominated area may be offered to an alternate group, unless Council deems it appropriate to continue existing negotiations;
- 7) qualifying groups may seek Council's consideration of renewal of a lease up to twelve (12) months prior to the expiry of such a lease. However, any offer to renew an existing lease will be at Council's sole discretion;

- 8) Council reserves the right to vary lease fees, insurance cover limits and other costs over the life of any lease, in accordance with changes to Council policies, land values and insurance increases that will occur from time to time. If Council intends to vary any conditions, twelve (12) months notice will be given to groups of intention to vary the conditions.

NOTE: Should costs become prohibitive for the sustainable operation of a group, the group shall notify Council within three (3) months of receipt of Council's notification of increased costs, that they wish to terminate the lease. This notification to Council must be in writing;

- 9) at the time of expiration of the lease, the removal of any non-fixed assets constructed on leased land shall be approved only if agreed upon at time of entering lease or at time of construction and upon proof of ownership. If Council has contributed to the costs of the asset or its construction, Council's contribution will be taken into account upon the request for removal of asset by the group;
- 10) unless otherwise approved by Council, Council's standard lease document for community groups will be used, and all registered conditions within the lease document will be applicable;
- 11) annual lease fees (rental) shall be applied as set out in the following schedule:

Rental Calculation Schedule

<i>Category</i>	<i>Amount</i>	<i>Classification</i>
<i>A</i>	<i>\$1.00</i>	<i>Community Centres managed by an incorporated group. Sporting & Recreational Clubs/Associations for Juniors and/or Seniors; Emergency Service Groups; Not for profit Educational organisations; Welfare and charitable organisations that are substantially self-funded.</i>
<i>B</i>	<i>50%(X)</i>	<i>Not for profit Incorporated Clubs with a permanent liquor license</i>
<i>C</i>	<i>100%(X)</i>	<i>Not for Profit Incorporated Clubs with gaming machines, Government.</i>

"X" shall be the market rent or an amount based on an estimate of the unimproved capital value of the land (rateable value) and an annual rental calculated at 8% of that value. Council will determine which of the above is to apply at its sole discretion.

The only exceptions when applying the above calculation for rent will be where Council has taken a head lease over land (eg. Crown / Trust Land – Reserve) on specified terms and conditions and can only sublet that land to a specific community group on those terms and conditions.

Should changes to group's circumstances effect the category of rental applied, it is the group's responsibility to notify Council immediately in writing.

1.6 **ASSESSMENT**

Applicants for large facility developments on leased land are advised that the planning stages could extend for several years, depending on which of the following project phases are required:

- Master Plan development for site
- Management Plan development (Details how project will be managed and facility once developed)
- Cash Flow projections for facility
- Regulatory approvals (Town Planning, building etc)
- Construction phase

Applications will be assessed on the basis of eligibility criteria described in this policy. Recommendations will be made by the Senior Property Officer and approved by Council's Executive for endorsement at an Ordinary Meeting of Council.

The Fraser Coast Regional Council reserves the right from year to year to identify priority areas for funding consistent with the broad strategic directions and policies endorsed by Council. It is essential that clubs and groups seeking assistance from Council for land tenure provide as much information as possible and have undertaken the planning and collected the information requested above.

Non compliance with any of the eligibility criteria requested will cause delays and the process of assessment cannot continue until all information is supplied.

Philosophy

Achieving equity and consistency in decision-making and negotiations whilst dealing with non-for-profit community and recreation groups.

Role

Ensure a planned and viable approach to the future development of Sports, Recreational, Arts & Culture, and Community facilities throughout the City.

Authorities & Responsibilities

The Senior Property Officer will receive applications and convene selection meetings to present recommendations to the Fraser Coast Regional Council arising from all eligible applications.

Scope and Activities

This policy covers all requests to Council from not for profit community, social, sporting, recreational, service clubs, arts & cultural groups, emergency services groups, educational groups and environmental groups for lease of Council land and/or facilities.

Reporting Standards

The status of applications and requests will be reported as requested by Council or otherwise as each application is processed, as per policy.

RELATED LEGISLATION:

The Land Act (Qld)
Incorporations Act (Federal)
The Local Government Act (Qld) and Regulations
The Integrated Planning Act (Qld)
The Native Title Act
The Cultural Heritage Act

RELATED DOCUMENTS (LOCAL LAWS, POLICIES, DELEGATIONS, ETC):

Fraser Coast Planning Scheme
Donations & Concessions to Community Groups, Welfare and Sporting Bodies Policy
Annual Revenue Statement - Rates, Charges and Development Fees Concessions (Community Groups)