

POLICY



Date adopted: 17/07/2018
File no: 911482-1
Minute number: 228/2018

Policy title: LICENCE OR LEASE OF COUNCIL OWNED OR CONTROLLED LAND TO SPORTING, RECREATIONAL AND COMMUNITY ORGANISATIONS

Directorate: COMMUNITY SERVICES

Branch: SPORT, LEISURE AND FACILITIES

Policy objective: To provide Council with an administrative framework for the granting and renewal of a licence or lease of Council owned or controlled land to sporting, recreational and community organisations.

Policy scope:

This policy will apply to all applicants for a licence or lease of Council owned or controlled land for the purpose of providing sporting, recreation and community service activities.

This policy seeks to:

1. provide a consistent process for the granting and renewal of a license or lease
2. provide security of tenure to sporting, recreation and community organisations
3. proactively activate Council owned or controlled land for the purpose of sport and recreational activities, or community services.

Definitions:

TERM	DEFINITION
Community organisation	Defined as per the dictionary schedule of the Local Government Regulation 2012, "community organisation" means: (a) an entity that carries on activities for a public purpose; or (b) another entity whose primary object is not directed at making a profit.
Council owned or controlled land	Includes land, built facilities, sporting fields and hard courts owned by Council or controlled by Council under a trustee lease from the State of Queensland.
Council's Register of Interested Organisations	A register of organisations interested in a lease of a Sport, Recreation or Community Council Facility. The Register of Interested Organisations is maintained by Council's Sport, Leisure and Facilities branch.
Expression of interest	The process used by Council to determine the most suitable applicant for vacant Council owned or controlled land.
Full liquor licence	Means a liquor licence or permit, other than a Restricted Liquor Permit, issued under the <i>Liquor Act 1992</i> (Qld).

TERM	DEFINITION
Lease	An agreement whereby the Council conveys to a Lessee, in return for a payment(s), the right to use Council owned or controlled land for an agreed period of time.
Licence	Any allowable use as directed by Council from time to time, including a licence, permit or right of use.
Reserve	Land set aside for a community purpose or public purpose under the <i>Land Act 1994</i> (Qld).
Sporting and Recreational Organisation	An entity that encourages community participation through sporting and/or recreational activities.

Policy statement:

The following principles and framework are to be undertaken for this Policy:

(A) Lease advisory group

1. A Lease Advisory Group, comprising the chairperson of the relevant committee and relevant divisional councillor, will be convened for the purpose of the Sport, Leisure and Facilities Manager referring the following matters to the group for determination:
 - (a) granting or a renewal of a licence or lease
 - (b) the undertaking of an Expression of Interest process
 - (c) the approval of a lessee and the granting of a lease to a lessee via the expression of interest process
 - (d) approval of a sub lease
 - (e) organisations remission entitlement under the Council policy titled "Remissions to sporting, recreational and community organisations".
2. Following consultation with and approval by the chairperson of the relevant standing committee, relevant divisional councillor, Director of Community Services and the Sport, Leisure and Facilities Manager may:
 - (a) grant or renew a licence or lease for the preferred length of tenure, provided a licensee or lessee has complied with its licence or lease terms and key performance indicators.
 - (b) conduct a closed expression of interest process as a facility becomes vacant, with inclusion of all compliant organisations on Council's Register of Interested Organisations.
3. The Sport, Leisure and Facilities Manager may prepare a memorandum confirming the determination of the Lease Advisory Group for signing by the chairperson of relevant standing committee, Director of Community Services and relevant divisional councillor.
4. Lease Advisory Group matters that are to be referred to full Council are:
 - (a) where a difference exists between the chairperson of the relevant standing committee and relevant divisional councillor
 - (b) variations to organisations remissions entitlement under the Council policy titled "Remissions to sporting, recreational and community organisations".
5. The Deputy Mayor may replace a member of the Lease Advisory Group and sign the memorandum prepared by the Sport, Leisure and Facilities Manager, in circumstances where:

- (a) the chairperson is also the relevant divisional councillor;
 - (b) the relevant divisional councillor declares a conflict of interest;
 - (c) the office of the relevant divisional councillor is vacant under the *Local Government Act 2009*.
6. All applications for a licence or lease on Council controlled land (crown reserve) are subject to ministerial approval.
7. A meeting of the Lease Advisory Group may be convened from time to time, for the purposes of determining whether the granting of a right of use agreement is the preferred form of tenure for a Reserve or Council Owned/Controlled Land.
8. Council resolves, in accordance with the Local Government Regulation 2012 (Qld) section 236(2), that the exception in section 236(1)(b)(ii) applies to Council on the disposal of a valuable non-current asset, by way of lease, for Council owned or controlled land to a Community or Sport and Recreation Organisation under this policy.
- (B) Tenure terms, conditions and execution of documents**
1. Granting of tenure
- (a) Sport, recreation and community organisations shall generally be granted a licence or lease in accordance with Council's standard Licence or Lease.
 - (b) Council's preferred length of tenure for a licence or lease is five (5) years. The preferred length of tenure for a renewed term is five (5) years.
 - (c) The form of tenure for sport and recreation facilities must include a lease over the whole site, as offered by Council, including sporting fields and hard courts.
 - (d) The form of tenure for community facilities must include a lease over the whole site, as offered by Council.
 - (e) Where an applicant is financially contributing to the facility, a longer tenure can be negotiated. Any extended lease tenure is to be determined by Council on a case by case basis dependant on the financial contribution to capital improvements and the level of community benefit.
 - (f) A licensee or lessee is not permitted to grant a mortgage over their licence or lease of Council owned or controlled property, without the prior written consent of Council. The consent of Council will be determined on a case by case basis.
 - (g) If a licensee or lessee proposes to sub lease, license or permanently hire a facility to a third party, the prior written approval of Council and the Sport, Leisure and Facilities Manager is required.
2. Execution of lease documents
- A time limit for the finalisation of a licence or lease will apply. After a licence or lease has been issued to the organisation for execution, the organisation must return the original signed licence or lease documents to Council within thirty (30) days.
3. Eligibility and suitability
- To be eligible for tenure over Council owned or controlled land, the following criteria must be met:
- (a) All applicants must be incorporated under the *Associations Incorporation Act 1981* (Qld) or similar legislation, prior to a licence or lease being granted.

- (b) All applicants must provide evidence of public liability insurance in the amount as requested by Council.
- (c) In determining an application for a licence or lease, Council may take into account the following factors:
 - (i) priority will be given to organisations which:
 - have capacity to lease the whole parcel of land, including the club house and any playing fields or hard courts (where applicable); or
 - have the ability to share facilities, fully activate and utilise the facilities and resources.
 - (ii) compliant submission to Council of an organisation development plan
 - (iii) likely membership and participation from the community and/or the suitability of the activity or service to meet identified community needs
 - (iv) the suitability of the facility to accommodate the proposed activity or service, including the purpose of the reserve
 - (v) the extent to which the proposal is compatible with Council's current strategy for the Logan City area
 - (vi) demonstrated capacity to undertake development and maintenance of the facility (including associated playing fields and/or hard courts, if applicable)
 - (vii) ability to meet lease key performance indicators.

(C) **Activation of Council owned or controlled land**

1. Tenure obligations:

In general, sporting, recreation and community licensees or lessees will be responsible for:

- (a) payment of tax invoice which includes: water connection fees, water base and volumetric use charges, sewerage charges and cleansing charges. Licensees or lessees will not be responsible for general Council rates
- (b) fire levy
- (c) all services used by the licensee or lessee, including electricity and telephone and associated connection/disconnection fees
- (d) insurance:
 - (i) public liability
 - (ii) workers compensation (if applicable)with all licensees or lessees policies noting Logan City Council as an interested party.
- (e) maintenance of the licence or lease area(s) to the satisfaction of the Sport, Leisure and Facilities Manager
- (f) Council's legal costs associated with any dispute resolution legal advice or court costs arising from Council enforcing the terms of any licence or lease
- (g) licensees or lessees will not be responsible for Council's administrative and/or legal costs associated with the preparation of licence or lease documentation
- (h) licensees and lessees will be billed directly for those items listed in sub-clauses (a)-(c) above

- (i) licensees or lessees may be eligible for a remission for eligible items in accordance with Council's policy titled "Remissions to Sporting, Recreational and Community Organisations".

(D) Licence or lease fee:

The following fee classification systems will be applied to determine the appropriate annual licence or lease fee for a lease of Council owned or controlled land to Sporting, Recreational and Community organisations:

LEASE FEE CATEGORY	ANNUAL LEASE FEE AMOUNT	LESSEE/ LICENSEE CLASSIFICATION
A	\$1 on demand	Sporting, recreational and community organisations
B	\$1,000 Increased by CPI on renewal of the lease term	Organisations with a full liquor licence
C	Special	Organisations to which Council has made significant capital contributions; or Council owned or controlled land to which Council has made significant capital contributions; or Organisations which receive significant external financial contributions from State or Federal Government
D	\$230 per gaming machine, per annum	Organisations that hold a gaming machine licence or permit issued by The Office of Liquor and Gaming Regulation.

If more than one (1) Lease Fee Category applies to an organisation, the higher annual licence fee category will apply.

1. Lease fee credit:

- (a) A category "B" or "D" lessee may apply to Council for a credit on its lease fee up to the total lease fee payable during the lessee's current lease term ("lease fee credit").
- (b) An application for a lease fee credit must be made in writing to the Sport, Leisure and Facilities Manager and include supporting evidence of financial investment in the leased facility or the community.

2. Key Performance Indicators:

- (a) All sporting, recreation and community licenses or leases will contain Key Performance Indicators to be reported against by licencees or lessees.
- (b) The following types of Key Performance Indicators must be considered:
 - (i) mandatory attendance at annual lessee briefings held by Council
 - (ii) submission to Council of an annual report detailing compliance with key performance indicators

- (iii) organisations must operate in strict accordance with approved governing body regulations, the associations' constitution, rules and by-laws and Council and other regulating body rules
 - (iv) demonstrated evidence of activating spaces and engaging with local communities
 - (v) a demonstrated proactive approach to good neighbour principles by evidence of complaint and dispute resolution processes
 - (vi) submission of annual audited financial statements and certificates of currency for insurances
 - (vii) submission of evidence that maintenance is carried out to an acceptable standard and complies with any relevant legislation.
- (c) The lease key performance indicators will be addressed by the lessee within their organisational development planning documentation.
 - (d) Any additional key performance indicators applicable to the licensee or lessee must be determined in reference to the size and type of sporting, recreational or community organisation applying to licence or lease Council owned or controlled land.
 - (e) Council's standard lease must include terms referencing Council's policy titled "Remissions to Sporting, Recreational and Community". Eligibility for Council grants and/or funding is to be made conditional upon compliance with lease or licence terms.
 - (f) A Form 7 Notice to remedy breach issued for payment of arrears under a licence or lease will include a requirement for payment of the arrears within seven (7) days.

3. Maintenance of Council owned or controlled land

- (a) Council will undertake condition audits every three (3) years on Council owned or controlled land (which are to be licensed or leased in accordance with this policy), including:
 - (i) fields and hard courts
 - (ii) clubhouses
 - (iii) ancillary infrastructure (i.e. car parks, bollards, footpaths).
- (b) Compliance audits of all Council owned or controlled land (which are to be licensed or leased in accordance with this policy) are required to ensure certificates of classification have been issued.
- (c) In addition to the condition audits required under clause 3(a) above, Council's Sport, Leisure and Facilities branch will undertake annual re-inspections of the items listed therein.
- (d) Information from the condition audits undertaken in accordance with this policy, will be used to inform:
 - (i) the licensee or lessees work and maintenance priorities
 - (ii) the licensee or lessees organisational development plans, and associated support to be provided by Council's Sport, Leisure and Facilities branch (Sport and Recreation Officers)

- (iii) Council's master plans and long term planning
 - (iv) Council's management of risks associated with audited assets
 - (v) Council's program of works managed by Council's Sport, Leisure and Facilities branch.
- (e) Council will take responsibility for the repair and replacement of any items identified in the condition audit as:
- (i) major asset failure
 - (ii) major replacement required; or
 - (iii) high risk/vulnerable asset.
- (f) Council's standard lease document will identify the maintenance responsibilities and obligations of both the licensee or lessee and Council, as specified in the related schedule of maintenance.
- (g) The maintenance obligations imposed on licensees or lessees will differ depending on whether the licence or lease is over a community facility managed by Council's Sport, Leisure and Facilities branch or a community or sporting/recreational facilities.
- (h) Council will take responsibility for insurance of capital assets including buildings of all Council owned or controlled land leased or licensed to sport, recreation and community organisations.

4. Essential requirements

- (a) Pre-lease signing - before a lease may be signed the following essential elements must be provided and/or undertaken:
- (i) certificate of incorporation
 - (ii) certificate of currency for applicable Insurance (as determined by Council)
 - (iii) lease survey plan
 - (iv) land management plan (as applicable for state land and approved by DNRM)
- (b) Essential pre-funding - before funding applications will be considered the following essential elements must be provided and/or undertaken:
- (i) current annual financial statements
 - (ii) organisational development plan
 - (iii) proof of no outstanding debt to Council
 - (iv) certificate of classification check
 - (v) food business licence and liquor licence check.

Related policies/legislation/other documents:

Doc ID	Document Type	Document Name
8857924	Delegation of Authority	Licence or Lease of Council Owned or Controlled Land to Sporting, Recreational and Community Organisations
9405986	Policy	Remission to Sporting, Recreational and Community Organisations

Doc ID	Document Type	Document Name
10020329	Procedures	A Guide to Sport, Recreation and Community Leasing in the City of Logan
9717410	Procedures	Lease Fee Credits
-	Schedule	Schedule of Lease Maintenance Obligations