



Licence or Lease of Council Land - Council Policy

1. PURPOSE

Council provides facilities that can be leased to not-for-profit sporting, recreational and community organisations involved in providing activities and programs to target the needs of our communities. This policy provides a framework for the granting and renewal of licence or lease of Council owned or controlled land to sporting, recreational and community organisations by:

- a) providing a consistent process for the granting and renewal of a license or lease
- b) providing security of tenure to sporting, recreation and community organisations
- c) activating Council owned or controlled land for the purpose of sport and recreational activities, or community services.

2. SCOPE & AUTHORITY

This policy applies to all applications for (or renewals of) a licence or lease of Council owned or controlled land for the purpose of providing sporting, recreation and community service activities.

This is a discretionary policy, resolved by Council under its powers in accordance with the Queensland Local Government Act (2009) Chapter 2, Section 9 which states:

9 Powers of local governments generally

(1) A local government has the power to do anything that is necessary or convenient for the good rule and local government of its local government area.

This policy is intended to be consistent with Council's Procurement Policy, particularly in relation to Valuable non-current asset contracts (Disposals), and the related over-riding detail in Sections 227 and 236 of the Local Government Regulations. For matters related to the licence or lease of Council Land to other than not-for-profit sporting, recreational and community organisations, or for purposes other than providing sporting, recreation and community service activities, Council's Procurement Policy in relation to Valuable non-current asset contracts (Disposals) and the related detail in Section 227 of the Local Government Regulations apply.

3. POLICY STATEMENT

3.1 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. whether the State require a land management plan
 - iii. 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 Corporate and Operational plans
 - 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 terms and conditions.



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3.2 Equitable and competitive process

Council may enter into a lease or licence arrangement with a community organisation or sporting/recreational organisation without the need to go to public tender or auction (refer to S236(1)(b)(ii) Local Government Regulation 2012) and Council's Procurement Policy however, Council may elect to undertake an expression of interest process where there is significant interest or demand for council owned or controlled land.

3.3 Tenure terms and conditions

The following terms and conditions apply unless a variation is approved by Council's CEO:

- a) Sport, recreation and community organisations shall be granted a licence or lease in accordance with Council's standard Licence or Lease.
- b) The length of tenure for a licence or lease is five (5) years. The 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 Chief Executive Officer, or their delegate, is required.

3.4 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.

3.5 Tenure obligations:

Unless a variation is approved by Council's CEO, 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.
- b) fire levy
- c) all services used by the licensee or lessee, including electricity and telephone and associated connection/disconnection fees
- d) insurances (with all relevant licensee or lessee policies noting Balonne Shire Council as an interested party) including:
 - i. Public liability
 - ii. Workers' compensation (if applicable)
 - iii. Professional indemnity – to cover coaches, trainers or other persons giving advice
 - iv. Directors and Officers liability – incorporated associations may insure their Directors and Officers
 - v. Property – property insurance covers loss or damage to contents and Council may require tenants to ensure they have appropriate insurance coverage for buildings/fixtures (if applicable)
- e) maintenance of the licence or lease area(s) to the satisfaction of the Director Infrastructure Services, or their delegate
- 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



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- i) licensees or lessees may be eligible for a remission for eligible items in accordance with Council's policy titled "Community Rates Support Program".

3.6 Council rates

Licensees or lessees will generally not be responsible for general Council rates however each matter will be considered individually and determined by Council's CEO.

3.7 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:

Annual Amount	Lessee/Licensee Classification
\$1 per annum peppercorn rental	Sporting, recreational and community organisations
\$1,000 increased by CPI on renewal of the lease term	Organisations with a full liquor licence
As determined by Council	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

3.8 Maintenance of Council owned or controlled land

The following will apply regarding the maintenance of Council owned or controlled land which is licensed or leased to other parties:

- 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 (a) above, Council's Infrastructure Services 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. Council's master plans and long term planning
 - iii. Council's management of risks associated with audited assets
 - iv. Council's program of works managed by Council's Infrastructure Services.
- 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.



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- 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 and maintained by Council's Infrastructure Services.
- h) Council will take responsibility for insurance of capital assets including Council owned buildings and facilities on Council controlled land leased or licensed to sport, recreation and community organisations.
- i) The licensee/lessee will take responsible for the security and insurance of capital assets owned by the Club and/or the contents kept in the Council buildings belonging to the licensee/lessee.

3.9 Master and Strategic Planning

Council may from time to time undertake a master or strategic plan over land and facilities under its control. The implementation of a master plan or other strategic direction may result in some changes to an existing tenure. Council will maintain communication with relevant organisations to keep them informed and consulted regarding any proposed plans.

3.10 Improvements to the Land or Facility

Improvements to the land or facility must be consistent with the permitted use of an organisation's tenure agreement. Before undertaking any improvements, approval is required from Council's CEO. The lessee must obtain all necessary building/development approvals. Any improvements made to the land or facility must be maintained by the lessee and if the improvements are fixed to the land, the improvements will revert to council's ownership when the premise is vacated. Works must be carried out by suitably qualified and licensed personnel.

3.11 Asbestos

Council's Asbestos Management Plan may be inspected at its council offices. Before any works are carried out on council facilities and buildings the Licensee/Lessee or its contractors are required to consult with Council.

3.12 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. details of office bearers – President, Secretary, Treasurer
 - iii. certificate of currency for applicable Insurance (as determined by Council)
 - iv. lease survey plan
 - v. land management plan (as applicable for state land and approved by the relevant State Government agency)
- b) Before funding applications will be considered Council may require the following essential elements 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
- c) On an annual basis the licensee/lessee are to provide to Council:
 - i. certificate of incorporation
 - ii. details of office bearers – President, Secretary, Treasurer
 - iii. certificate of currency for applicable Insurance (as determined by Council)

3.13 Renewal

Council will conduct regular reviews to ensure that its lease/licence register is maintained and reminders are forwarded to organisations requesting that their intentions to renew be submitted in writing. Alternatively an organisation may submit their



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intentions to renew/amend or surrender their lease or licence, in writing at least three months prior to the lease expiry date (or as detailed in the lease agreement).

If an organisation is unsuccessful in securing a renewal, then the facilities will be required back to Council in good repair, with all of the organisation's goods removed from the premises.

4. RESPONSIBILITIES

4.1 All Council employees

- Must act consistently with this policy when dealing with the use of council land and facilities by not-for-profit sporting, recreational and community organisations

4.2 Managers and Directors

- Must implement controls within their area of responsibility to ensure compliance with this policy

4.3 Director, Finance & Corporate Services

- Shall be the custodian of this policy
- Shall be responsible for the governance framework to issue and renew lease and licence arrangements
- Shall be responsible for the insurance of capital assets including Council owned buildings and facilities on Council controlled land leased or licensed to sport, recreation and community organisations (refer to Clause 3.5 (h))
- Shall determine applicable insurances required by lessees and licensees (refer to Clause 3.12 (a)(iii))
- Shall conduct regular reviews to ensure that the lease/licence register is maintained, and reminders are forwarded to organisations requesting that their intentions to renew be submitted in writing (refer to Clause 3.13)

4.4 Director, Infrastructure Services

- Shall be responsible for the day to day administration of lease arrangements and the maintenance and upkeep of council's assets and facilities
- Shall review the adequacy of maintenance of licenced or leased areas (refer to Clause 3.5 (e))
- Shall 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) (refer Clause 3.8 (a))
- Shall undertake compliance audits of all Council owned or controlled land (which are to be licensed or leased in accordance with this policy) to ensure certificates of classification have been issued (refer Clause 3.8 (b))
- Shall undertake annual re-inspections of the items listed in the 3 yearly condition assessments (refer Clause 3.8 (c) and (d))
- Shall arrange for the repair and replacement of any items identified in condition audits (refer Clause 3.8 (e))
- Shall maintain Council's Asbestos Management Plan and make available for inspection at council offices (refer Clause 3.11)

4.4 Chief Executive Officer

- Shall have authority to approve options to renew a lease or licence and execute all related agreements
- Shall have authority to determine variations to tenure terms and conditions (refer Clause 3.3)
- Shall have authority to determine variations to tenure obligations (refer Clause 3.5)
- Shall have authority to determine whether Council rates are payable by Licensees or Lessees (refer Clause 3.6)
- Shall have authority to approve proposed improvements to the land or facility by Licensees or Lessees (refer Clause 3.10)
- Shall have authority to determine whether a licensee or lessee be permitted to sub lease, license or permanently hire a facility to a third party (refer to Clause 3.3 (g))

4.5 Councillors

- Shall approve all new and renewal of lease and licence arrangements (where there is no option clause for renewal).



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- Shall determine any longer than standard tenure dependant on the financial contribution to capital improvements and the level of community benefit (refer to Clause 3.3 (e))
- Shall determine whether to consent to a licensee or lessee being permitted to grant a mortgage over their licence or lease of Council owned or controlled property (refer to Clause 3.3 (f))

5. RISK

This policy addresses the risk that Council facilities may either be under-utilised, or be inappropriately or inconsistently utilised by other parties. It does this by providing a framework whereby not-for-profit sporting, recreational and community organisations involved in providing activities and programs that target the needs of our communities can consistently and affordably be granted a licence or lease of Council owned or controlled land, thereby activating Council owned or controlled land and facilitating increased services to the community.

6. IMPACTS

Corporate Plan: Goal – 1. Community; Program Area – 1.1 Community spaces to connect, engage and learn; 1.3 Strong community organisations; 5. Governance; Program Areas – 5.4 High levels of accountability and compliance.

Human Rights Compatibility Statement: This Policy has been assessed as compatible with the Human Rights protected under the Human Rights Act 2019

Engagement: This policy has been developed with guidance from Qld State Government resources, and in consultation with the Senior Leadership Group. It provides for active engagement with the community sector not-for-profit sporting, recreational and community organisations regarding opportunities for licencing or leasing of council land and facilities.

7. RELATED LAWS

- Local Government Act 2009 (Qld)
- Local Government Regulations 2012 (Qld)

8. RELATED COUNCIL DOCUMENTS

- Community Rates Support Program
- Asbestos Management Plan
- Guide to a trustee lease under the Land Act 1994 https://www.dnrm.qld.gov.au/_data/assets/pdf_file/0018/104805/guide-trustee-lease.pdf
- Land Management Planning for Reserves or Deeds of Grant in Trust Information Kit https://www.dnrm.qld.gov.au/_data/assets/pdf_file/0014/110426/land-management-information-kit.pdf

9. REVISION HISTORY

Revokes: Licence or lease of Council Owned or Controlled Land Policy (Ref #44789) Version 1, adopted by Council 22/03/2018

Previous approved versions: Nil

Suggested to review by: [2 years from date of adoption]

10. DEFINITIONS



Licence or Lease of Council Land - Council Policy

CEO means the Chief Executive Officer of the Balonne Shire Council appointed in accordance with the Local Government Act 2009.

Community organisation means as per the dictionary schedule of the Local Government Regulation 2012:

- an entity that carries on activities for a public purpose; or
- another entity whose primary object is not directed at making a profit.

Council means Balonne Shire Council, its elected Councillors, its management and its employees.

Council Employees means all permanent, casual and temporary employees, contractors, volunteers, apprentices, trainees and work experience students.

Council owned or controlled land means land, built facilities, sporting fields and hard courts owned by Council or controlled by Council under a trustee lease from the State of Queensland.

Land Management Plan means 'Land Management Planning' deals with the sustainable use, development and management of Trust land. Land Management Planning is the process by which the trustees identify the attributes of the trust land relating to social values, environmental values and economic values. A Land Management Plan can be requested by DNRM at their discretion.

Liquor Licence means a liquor licence or permit, other than a Restricted Liquor Permit, issued under the Liquor Act 1992 (Qld).

Lease means 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 means any allowable use as directed by Council from time to time, including a licence, permit or right of use.

Reserve means land set aside for a community purpose or public purpose under the Land Act 1994 (Qld).

Sporting and Recreational Organisation means an entity that encourages community participation through sporting and/or recreational activities.

Trust Land means a collective term used to describe State land which has been previously reserved or granted in trust under the Land Act 1962, or one or more of the community purposes set out in Schedule 1 of the Land Act 1994.

11. ATTACHMENTS

Nil