

COMMUNITY USE OF COUNCIL PROPERTY



This guide relates to 'part 1 use by not for profit community groups' of Cairns Regional Council's General Policy for managing tenure over Council property. There are over 200 sport, recreation and community clubs and associations that have tenure arrangements with Council that are managed under the Policy. The key principles of the Policy are to:

- provide an equitable approach to the use of Council's land and community infrastructure;
- maximise the versatility, long term use and sustainability of Council's open spaces and associated improvements;
- assist the long term sustainability of not for profit (NFP) groups; and
- support shared use of facilities as a means of achieving more efficient use of available resources.

WHAT TYPES OF TENURE ARRANGEMENTS ARE AVAILABLE FROM COUNCIL?

A number of different tenure arrangements are available for NFP groups. The type of tenure arrangement offered by Council will depend on:

- the type of activity undertaken;
- what infrastructure is required;
- the suitability of the premises; and
- how regularly the activity occurs.

Council has registered standard terms documents for leasing that contain the terms and conditions Council applies to its leases. Leases over Council's trust land are also subject to the State government's mandatory standard terms document.

WE ARE A NEW GROUP, CAN WE USE COUNCIL LAND?

If your organisation is interested in occupying Council's property, you will need to complete an Application to Occupy Council Property. Before making an application, it is important to consider:

- Can your organisation co-locate with other NFP groups or share an existing facility?
- What benefit / service does your organisation provide the community?
- Do you have an identified facility in mind?
- What capacity does your organisation have to undertake maintenance, improvement works or development of a facility?
- If your group is a sporting organisation, is your group registered with Go-Clubs? (refer to www.goclubs.com.au)



To occupy a Council facility, your organisation **must** be incorporated under the *Associations Incorporation Act 1981 (Qld)*. Sporting organisations **must** be registered with Go Clubs which is Council's club development program.

WE CURRENTLY HAVE AN ARRANGEMENT WITH COUNCIL, WHAT HAPPENS WHEN IT EXPIRES?

Prior to the expiry of the term of your tenure arrangement, Council officers will undertake a review of the feasibility of a further arrangement being offered. Council officers will either recommend the tenure be renewed or commence discussions with your organisation about the future of the group at that facility.

Regular reviews are undertaken on the strategic and future need of Council's facilities and land.

Sometimes Council may undertake a master plan over the land that your organisation occupies to ensure optimum use and identify future needs. The implementation of a master plan or other strategic direction may result in some changes to your existing tenure arrangement.



WHAT IS MOST IMPORTANT ABOUT OUR TENURE ARRANGEMENT WITH COUNCIL?

Your tenure arrangement will be legally binding and it is important to read the entire document before entering into an arrangement with Council. By signing the document you are agreeing to all of the terms and conditions contained therein, so if you have questions or concerns, it is recommended that you seek clarification from Council officers or obtain your own legal advice. Here are some important points to consider:

IMPROVEMENTS TO THE LAND OR FACILITY

Improvements to the land or facility must be consistent with the permitted use of your tenure arrangement (*for example, a lease where the permitted use is for a tennis club does not permit the lessee to use part of the land to agist horses*). Before undertaking any improvements to the land or facility, you are required to seek Council's approval by completing and submitting the Application for Improvement Works Form. Council also has a template Project Management Tool to assist your group to properly plan and manage the financial considerations for your proposed project.

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 revert to Council's ownership when the premise is vacated. Improvements to Council facilities may require development and building approvals. For more information on these processes, visit Council's building, planning and business website.

We know most NFP groups rely on volunteer support, however, all improvement works must be undertaken by licensed personnel. Licensed personnel are licensed under an Act to perform the work being carried out. This doesn't mean the work can't be done at a discounted rate by a volunteer, it just means that Council must be able to ascertain that the improvement works were carried out by a licensed person.

MAINTENANCE AND REPAIRS

Your tenure arrangement will specify what maintenance and repairs are the responsibilities of your organisation and what the responsibilities of Council are. Maintenance should be undertaken on a regular basis to ensure the upkeep and longevity of the facility and in accordance with all relevant legislation. A record of any certificates and invoices for maintenance or repair items should be kept by the organisation's committee.

BUILDING INSPECTIONS AND LEASE COMPLIANCE INSPECTIONS

Leases are subject to the lessee obtaining a building inspection report from a certified building inspector every five (5) years. This is to ensure that the facility is safe and that maintenance is regularly being undertaken to preserve the useful life of the facility.

Council's Property Services team will conduct regular compliance inspections of facilities. Groups will be notified of the inspection times and proof of insurance policies, pest control and fire safety maintenance will need to be provided. All occupiers of Council's facilities and land are required to adhere to all relevant Federal, State and Local Government regulations.

ASBESTOS

The *Workplace Health and Safety Regulation 2011* states all buildings constructed prior to 2001 must be inspected by a licenced company to determine if the building contains Asbestos Containing Material (ACM).

If ACM has been detected, Council is required to label the building to indicate that asbestos material is contained within; prepare, maintain and update a register of all ACM; and ensure that the register is available to all persons using the facility. **The ACM label is not to be removed.** Please consult with Council officers for any matters concerning asbestos.

COMMITTEE CHANGES AND AGMs

It's important for Council officers to know when your committee and contact details change so we can ensure we're in contact with the most relevant person from your organisation. Please complete a Change of Committee Details Form to advise of any changes.

If your organisation is seeking a tenure arrangement, the following information will need to be provided with your application:

- a copy of the minutes from annual general meetings;
- a copy of the treasurer's report and financial statements; and
- details of current membership numbers.

LIQUOR LICENCE

In order to sell liquor from a Council facility, users are responsible for obtaining a liquor licence or permit issued by the Office of Liquor and Gaming Regulation, in accordance with the *Liquor Act 1992*. For further information regarding liquor licences, please refer to www.olgr.qld.gov.au.

INSURANCES

The following types of insurance coverage are applicable for a tenure arrangement with Council:

- ❖ Public Liability Insurance (PLI) – PLI protects the employees and members of the organisation by providing indemnity against legal liability to pay damages arising from accidental injury. It is a mandatory requirement to hold a certificate of currency for \$20 million PLI in order to have a tenure arrangement with Council.
- ❖ Professional Indemnity – professional indemnity insurance covers coaches, trainers or other persons giving advice or imparting skills by protecting such persons for claims made against them for negligent acts, advice, instructions or omissions during their work.
- ❖ Directors and Officers Liability – incorporated associations may insure their directors and officers against liability to a third person, provided the liability is not for negligent acts or breach of duty.
- ❖ Property – property insurance covers loss or damage to your organisation’s building and contents. This may include loss or damage caused by events such as fire, flood, storms, and burglary. Council requires tenants to ensure they have appropriate insurance coverage for their contents in the event of damage occurring.

For more information on insurance for NFP organisations, visit Local Community Insurance Services website <https://www.localcommunityinsurance.com.au/>.

WHAT COSTS ARE ASSOCIATED WITH A TENURE ARRANGEMENT?

Council’s current fees and charges will set out the applicable annual rent for a tenure arrangement held by a NFP organisation. The fees can be located on Council’s website.

Council’s rates and charges may apply to the tenure arrangement. However, Council’s Rates Based Financial Assistance Policy provides for concessions to NFP groups for general rates and sewerage charges. To apply for assistance under this policy, please complete an ‘Application for Rates Based Financial Assistance Form’ and submit it to rates@cairns.qld.gov.au

Other costs include, but are not limited to:

- fire levy, sewerage usage charges and water usage charges
- electricity, telephone and other utility charges
- maintenance and repair costs for the premises (if applicable)
- liquor license fees (if applicable)

WHO CAN WE CONTACT TO SPEAK FURTHER ABOUT COMMUNITY LEASING?

Council’s Property Services team is available to answer any questions about your existing tenure arrangement or the possibility of your group securing a new tenure arrangement over Council property. To get in contact with an officer please phone (07) 4044 3044 or email property.services@cairns.qld.gov.au.