

# COMMUNITY LAND AND LEASE PROCEDURE

## OBJECTIVE

---

To provide a transparent framework for the equitable management, of strategic and surplus Council land and facilities.

## DEFINITIONS

---

<b>Asset Management Plan</b>	As defined by section 104 of the <i>Local Government Act 2009</i> & Sections 167 & 168 of the <i>Local Government Regulations 2012</i> to enable Council to make informed decisions on all facilities and assets.
<b>Association</b>	An incorporated association under the <i>Associations Incorporation Act 1981</i> , or similar legislation and a company limited by guarantee.
<b>Capital Expenditure</b>	Capital Expenditure is defined in Council's Buildings Asset Management Plan and includes expenditure on fixed items such as buildings, park structures and equipment and other infrastructure that is used to provide service levels. It includes new assets, upgrades to assets and rehabilitation.
<b>Commercial Business</b>	A sole trader, partnership, trust, or corporation set up for the purpose of operating a business for profit.
<b>Council Controlled Land</b>	Land for which Council is the Trustee.
<b>Community Purpose</b>	is the primary purpose for which a reserve or DOGIT may be used in accordance with the <i>Land Act 1994</i> .
<b>'DOGIT'</b>	Deed of Grant in Trust as defined under section 34P of the <i>Land Act 1994</i> .
<b>GIS</b>	Geographic information system, (e.g., KIM or Map Info Pro).
<b>Lease</b>	Includes a Trustee lease under the <i>Land Act 1994</i> .
<b>Licence</b>	A contractual right to occupy or use Council owned land without any legal right to exclude all others.

<b>Maintenance Expenditure</b>	All actions necessary for retaining an asset as near as practicable to its original condition in order to deliver a required level of service, including regular ongoing day-to-day work necessary to keep assets operating. Maintenance does not increase the service potential of the asset nor keep it in its original condition; it slows down deterioration and delays when rehabilitation or replacement is necessary. It also includes required annual inspections. Council's Asset Management Plans provide detailed direction on maintenance of facilities and assets.
<b>Not-for-Profit Community Organisation</b>	An Association whose primary object is cultural, sporting, recreational, educational or community service purposes and whose constitution or rules provide that its income, profits, and assets may only be applied to the promotion of its objects and may not be applied to the payment of dividends, distributions to its members or personal gain.
<b>Organisation</b>	An organised group of people with a particular purpose such as Not-For-Profit Organisations, for-profit business, and government.
<b>Reserve</b>	Parcels of land throughout Queensland that have been set aside under the <i>Land Act 1994</i> for public or community purposes. These are either reserves or deeds of grant in trust and are collectively referred to as 'trust land'.
<b>Specialist Facility</b>	Land on which activities conducted by lessees are considered by Council to be specialist or unique in nature or are akin to commercial operations. Examples include, lawn bowl greens, golf courses, showgrounds, historical villages, residential or aged care accommodation and kindergartens.
<b>Tenure</b>	The conditions under which land and buildings are held or occupied.
<b>Title</b>	As defined in Section 38 of the <i>Land Title Act 1994</i> .
<b>Trustees</b>	Banana Shire Council is appointed by the Minister to manage Trust land consistent with achieving the purpose of the trust and other duties as required under the <i>Land Act 1994</i> .
<b>EOI</b>	Expression of Interest.

## PROCEDURE

---

### 1. Application for Tenure

For Council owned or Council Controlled Land available for Tenure, section 222 of the *Local Government Regulation 2012* requires Council to comply with the tender and EOI processes unless, exemptions are applied from section 236 of the *Local Government Regulation 2012*.

This process is conducted to identify and determine the most suitable occupant or user of the land. In some instances, Council may target EOIs from particular community organisations that meet specific community needs. EOIs will be advertised on Council's public website. Council will assess all applications against the eligibility criteria listed in the EOI and will be considered on their merits.

Community groups who wish to utilise Council assets should contact Council by emailing [enquiries@banana.qld.gov.au](mailto:enquiries@banana.qld.gov.au).

## **2. Eligibility Criteria**

To be eligible to apply for, or renew a form of Tenure over Council owned or Council controlled land under the Council Land and Lease Policy, the applicant must:

- be able to demonstrate its ability to meet the financial obligations under the form of Tenure sought and;
- Meet any tenure criteria set by Council for the property being considered.

## **3. Types of Tenure**

### **A. Leases – Exclusive Use of Building/s or Facilities on Freehold and Reserve Sites**

A Lease provides the lessee with exclusive use of a defined lease area for specified purpose and term. Lease areas will generally be defined by building footprints, but will include access ramps, staircases and gardens which bound the building/s.

Lease areas will also include dedicated non-turf activity space (e.g. tennis/netball courts, BMX tracks) where those areas are to be used exclusively by the community organisation.

In all cases, Council reserves the right to determine how a Lease and the appropriate lease area is characterised but will take into consideration the future development plans of the lessee where possible.

Leases will be supported by an official 'Lease Survey Plan' completed by a registered surveyor, to enable the lease to be registered on the Title.

### **B. Licences – Shared Use of Building/s or Facilities on Freehold Sites**

A Licence provides the occupant with non-exclusive use of a defined licence area for a specified purpose or term. Licence areas will generally be defined by building footprints and surrounds where Council determines that exclusive use is not required, or where a facility or space within a facility is shared between two or more organisations.

Where two or more organisations are to exclusively occupy separate parts of the same building, Leases will be offered to the organisations.

In all cases the Council will determine the most appropriate form of Tenure to be granted.

### **C. Management Agreement – Shared Use of Building/s or Facilities**

In a shared facility where a lease or licence is not possible with individual occupants, a Management Committee & Agreement is an available option of tenure. These should be comprehensive and clearly cover the arrangements for funding, cost sharing, legal responsibilities, maintenance, use, supervision, staff, and access. Rights and responsibilities will be clearly established in the Management Agreement.

## Management Committees

Where a Management Committee is created, it is Council's preference that it operates as an incorporated association and in accordance with all governing rules for this type of association. Within the association's constitution it will include that each sporting group or organisation using part of the sporting reserve, site or facility must be represented by at least one member. These members will be elected by their own sporting club or organisation. Within the constitution it will also be permitted that up to two independent volunteers from a sporting group or organisation can be elected to the Management Committee's elected roles.

Where a Management Committee exists at a multipurpose reserve, they will make recommendations to Council on the management of the sport and recreation reserve, including input into the sites ten year capital plan. Where no Management Committee exists, Council will engage directly with the individual clubs using the reserve.

The Management Committee is to meet no less than five (5) times in a year. A Chairperson, Secretary, and Treasurer must be elected.

In the event of a conflict, which is unable to be resolved, Council is to be approached to determine an appropriate mediation process.

Written minutes of the Management Committee meetings shall be kept and distributed to all members and Council.

Where the Committee requires a Council Representative attendance a meeting, a written request with at least three weeks' notice is to be provided via [enquiries@banana.qld.gov.au](mailto:enquiries@banana.qld.gov.au).

## D. Permit to Occupy Reserve Sites

Where Council is the Trustee of a Reserve site and a Lease is not able to be issued, Council can issue a Permit to Occupy under Section 52 of the *Land Act 1994*.

Permits are only able to be issued in accordance with Section 60 of the *Land Act 1994* and can only be issued for a maximum of three (3) years.

## 4. Tenure Documentation

### 4.1 Not-For-Profit Organisations

Council will prepare Lease, Licence, Permit and Management Agreement documents which reflect the Council Land and Lease Policy and Procedure, the *Land Act 1994* and any other relevant legislation.

Council will meet the costs associated with Lease preparation, survey fees and title registration for Not-For-Profit Community Organisations only, unless being altered or changed at the request of the lessee. Where the Not-For-Profit Community Organisation is able to, and in agreement with Council, the costs of preparation may be shared.

Not-for-Profit Community Organisations will be required to provide a copy of their Certificate of Incorporation to Council prior to lodgement of any lease tenure, costs of providing this Certificate are to be borne by the organisation.

As required by the *Land Act 1994*, a GIS provided Site Plan in colour is to be included in all leases and licences as an Appendix.

For leases on part of a whole site, an official survey plan will need to be undertaken and lodged with the Titles Office.

Leases over a whole property or land do not require resurveying unless the plans are considered outdated by the Titles Office.

After a Lease, Licence, Permit or Management Agreement has been issued for signing, the organisation must return all copies of the original signed Tenure documents to Council within twenty (20) business days. For Incorporated Associations, the Tenure Contract must also be stamped with the association's Common Seal.

The documents will then be executed by Council's delegated officer and one original copy will be returned to the community Organisation.

All Leases to Not-For-Profit Community Organisations will be registered on the Title.

## **4.2 Commercial Business or Individual**

All leases, in accordance with the *Land Act 1994* will be registered on the Title.

The lessee will be responsible for the costs of land surveys/plans and preparation of Lease or Licence documentation through Council's approved solicitor and Title registration fees.

## **5. Length of Tenure**

The standard term of a Lease or Licence will be ten (10) years for Not-For-Profit Community Organisations, Business or Individuals. Longer terms than ten (10) years may be offered where:

- There are significant initial outlay costs to Council (i.e. Tenure documentation, preparation, and registration); or
- The Lessee is likely to be investing significant funds towards the development of the facility; or
- Council acknowledges the critical need of the Lessee, for long term planning certainty; and
- The applicant is aware they may require Development Application Approvals under Council's Planning Scheme; and
- A resolution has been approved, to this end, by Council.

The maximum term of a Management Agreement is five (5) years.

Permits on reserve land have a maximum term of three (3) years and permits over twelve (12) months must be registered with the Department of Resources in accordance with Section 60 of the *Land Act 1994*.

Options of right to renewal are only permitted on Council controlled freehold land properties.

In all cases Council will determine the most appropriate term length, in negotiation with the applicant, for any form of Tenure.

Business Incubator property sites, managed by Council, are governed by the Business Incubator Policy and Procedure.

## 6. Fees and Charges

### Annual Rental

Rental for a Lease, Licence, Permit over a building/s, fields, property etc are set in accordance with consideration of Table 1 - Rent Subsidy Categories.

**Table 1 – Rent Subsidy Categories**

Category	Annual Rent	Eligibility
A: Peppercorn Rent	As determined annually in the Council's Schedule of Fees and Charges	<ul style="list-style-type: none"> <li>• Use approved by Council – Normally assigned to Non-Profit Community Organisations.</li> <li>• Meets all relevant eligibility criteria.</li> <li>• Provides significant community benefit.</li> <li>• Has limited revenue-raising ability (net of cost of service) e.g. community play groups, neighbourhood house</li> <li>• Promotes multi-purpose use/shared use and a flexibility in activities.</li> </ul>
B: Discounted Market Rent	Full market rent with a reduction from this rate to be negotiated based on community benefit criteria, level of maintenance responsibility and capital contributions made by lessee, use of volunteers, on a sliding scale basis providing discounts of between 30% and 70%	<ul style="list-style-type: none"> <li>• Use approved by Council – Normally assigned to Not-Profit Community Organisations.</li> <li>• Has revenue raising capacity or receives external funding assistance (e.g. receives some State Government funding or from its members); and</li> <li>• Meets all relevant eligibility criteria</li> <li>• Commits to a level of capital investment in the upgrade of facilities for the benefit of the community based on the period of Tenure.</li> </ul>
C: Market Rent	Full Market Rent	<ul style="list-style-type: none"> <li>• Use approved by Council – Normally assigned to sites considered commercial in nature or defined as commercial in the EOI Tender process.</li> <li>• Provides services that are not targeted to the Banana Shire community; or</li> <li>• Is substantially funded by other agencies or governments; or</li> <li>• Operations substantially include commercial activities for profit; or</li> <li>• Has licensed Club or Poker Machines.</li> </ul>

## **Rates and Charges & Concessions**

Rates and water charges (unless excluded in tenure conditions negotiations by Council Resolution) will apply to all Leases.

Rates and Water charges concessions will be in accordance with Council's annual budget and the current Rate Concessions policy.

A Rates concession application must be lodged by Not-For-Profit and Community Focused Organisations with Council annually to be considered for rates concession. This is available in the Forms section on the Banana Shire Council website.

The lessee or occupant is solely responsible for all other rates, taxes, assessments, duties, levies, impositions, and other charges in respect of the Lease, Licence or Management Agreement area including, but not limited to:

- Electricity (including field lighting)
- Telephones
- Internet/data
- Public liability insurance
- Contents insurance
- Pay television
- Trade waste
- Solid waste
- Licencing (food, liquor, gaming etc)
- Water charges
- Contribution Costs (As agreed in the Tenure document) for compliance and strategic items of maintenance
- Gas usage (bottles)

## **7. Building and Structure Maintenance**

The lessee or occupant is solely responsible for the costs of maintaining, repairing and replacing all consumable items (e.g., light bulbs) and improvements within the lease or licence or management agreement area, as may be required to enable those improvements to be used in accordance with the purpose specified in the lease or licence or management agreement.

Council reserves the right to include other maintenance and repair costs or set a negotiated dollar value of maintenance into commercial and individual tenure arrangements.

Council reserves the right to conduct inspections and condition audits on all Council owned or controlled facilities from time to time but at a minimum of every two (2) years. Council will issue rectification orders for any items which the tenant has not maintained to Council's expectations.

Should the lessee or occupant not undertake the maintenance, repair or replacement identified in a rectification order within the designated timeframe, Council may complete the required works and issue an invoice to the lessee or occupant for the cost of the works.

The lessee or occupant must engage registered, licenced and suitably qualified tradespeople to undertake any electrical and plumbing works.



Apart from a Specialist Facility and commercial and individual business tenures, Council will be responsible for the cost of maintaining, repairing and replacing what it determines to be structural elements of the facilities in accordance with Council's Asset Management Plans.

Council considers the following items to be structural elements:

- Building foundations, stumps, footings, and piers
- Sub floor framing members
- Building roof frame and trusses
- Building roof (i.e. tiles, metal sheeting)
- Load bearing walls
- Stairs, ramps
- Deck/patio (only those structural elements of the building carrying live or dead loads e.g. Framing, posts, bearers, joists and handrails)
- Self-contained sewerage system
- Existing water, sewage and electrical supply services which are damaged by wear and tear (does not include new services or damage caused by negligent actions of the lessee or licensee).

Apart from a Specialist Facility and commercial/individual business tenures, Council will also be responsible for the following compliance/operational items:

- Six monthly & Annual testing of Residual Current Devices (RCD)
- Quarterly servicing of self-contained sewage systems
- Testing of fire services (smoke detectors, emergency lights, exit lights, alarm panels, fire extinguishers)
- Replacement of fire services (unless misused by the tenant or other party or individual)
- Play equipment repairs (excluding childcare centres and kindergartens)
- Retaining walls
- Initial supply of keys, access cards and padlocks
- Car park maintenance
- Car park lighting
- Switchboard replacement (unless an upgrade is required due to changes being made by the lessee or occupant)
- Pest treatment for termites (on a risk basis at Council's discretion)
- Repairs and replacement of gutters and down pipes (excludes cleaning)

The lessee of a Specialist Facility and commercial/individual business tenure, is solely responsible for all costs of maintaining, repairing and replacing improvements within the Tenure area as may be required to enable those improvements to be used in accordance with the purpose specified in the Lease. Council will assist the lessee of a Specialist Facility only with minor repairs to bitumen car parks and internal roadways where prior approval is given by Council before works begin.



**Table 3 – Maintenance Responsibility Matrix**

	Facility Category	Purpose	Capital Expenditure	Maintenance Expenditure	Operational Expenditure	Indicative Tenure
1	<i>Council owned land and building assets</i>  <i>Lessee** operated</i>	Community or sporting outcomes	Council: limited to planned capital upgrades documented in the Asset's 10 year capital plan & approved by Council resolution or emergent works.  <i>Lessee**</i>	Lessee (Except exemptions detailed in Section 7)	Lessee	10-year Lease
2	<i>Council owned land</i>  <i>Lessee owned building assets</i>  <i>Lessee** operated</i>	Community or sporting outcomes	<i>Lessee**</i>	Lessee	Lessee	10-year Lease
3	<i>Council owned land or facilities</i> <i>OR</i> <i>Council owned land with a lessee owned building</i>  <i>Lessee** operated</i>	Commercial Business or Individual	<i>Lessee**</i>	Lessee	Lessee	10 Years but subject to negotiation and Council requirements

**\*\* Please note: Written approval must be granted by Council in addition to any regulatory approval prior to any construction work being undertaken. The first stage in gaining such approval shall be for the lessee to submit a proposal to Council in accordance with the lessee's lease document via [enquiries@banana.qld.gov.au](mailto:enquiries@banana.qld.gov.au)**

**\*\* Lessee in this table also includes Licensee or Permit Holder**

## Other Maintenance

Lessees and occupants will be responsible for grounds maintenance (mowing, pathways, gardens etc) of their Lease, Licence, or Management Agreement area.

All grass areas must be maintained to a height of no more than 150mm, preferably 100mm where possible.

Weeds such as Khaki Burr must also be regularly treated and removed from the Tenure site.

## Water

At this time, Council does not provide a free number of kilolitres of water to be used by Not-for-Profit Community Organisations therefore it is vital that these Organisations consider all measures to conserve water while also keeping their fields at the level required.

Ideas can include:

- Inefficient use of water in open space areas such as ovals watered during hot and windy days should be addressed with automatic irrigation systems equipped with moisture sensitive devices.
- Formal gardens will also make use of drip-feed systems where possible.
- Implement best practice environmental management practices and procedures.
- Compliance with all water restrictions as Council may place on communities as deemed necessary due to low water supplies or drought.

Section 6 of this Procedure provides details of concessions available to Not-For-Profit Organisations.

## Activity Related Infrastructure

Lessees and occupants will be responsible for repairing, maintaining, and replacing all activity related infrastructure and equipment within the Tenure area. Activity related infrastructure includes, but is not limited to:

- Field line marking
- Goal posts
- Dugouts
- Spectator seating
- Fencing
- Other equipment being used for lessee or licensee's activities.

## 8. Improvements, Additions and Alterations

Lessees and occupants must obtain Council's approval before making any improvements, additions or alterations within or to the Lease, Licence, or Management Agreement area. Council may approve, approve with conditions, or refuse applications for approval at its discretion.

Grant approval or new building's support letters by Council's Land and Lease Team, as the building or landowner, will require a minimum of two (2) weeks' notice for these letters to be provided by Council. These requests can be emailed to [enquiries@banana.qld.gov.au](mailto:enquiries@banana.qld.gov.au).

Council may require the lessee or occupant to remove any illegal, non-conforming or unapproved structures (permanent or temporary), equipment or property or order the immediate non-use or securing of such items at the expense of the lessee or occupant.

Building Applications and Planning Applications may also be required.

## **9. Ownership of Fixed Assets**

Fixed improvements and structures constructed or installed upon the Lease, Licence or Management Agreement area become the property of Council even though the lessee or occupant will have control of the fixed improvements and structures during the term of their Tenure.

In rare situations for a lease tenure (for example, Aerodromes and aircraft hangers owned by the Lessee) the ownership of buildings or fixtures (including evidence of the Lessee's costs of installing the building) and how the asset will be removed, sold or donated to Council at the end of the Tenure is to be documented in the Lease.

Where the lessee is permitted to remove an asset/building on the lease site as a condition of the lease, evidence of the following will be required to be provided to Council before the asset is removed from the site.

- Evidence of the asset/building construction/purchase costs, provided to Council by way of tax invoices or construction contract.
- The lease conditions show that prior intent to construct on the lease land during the term of the lease was documented and permitted.
- Evidence of letters of approval from Council showing approval for the asset/building prior to construction.
- The lessee can show evidence that the building/asset can be removed from the lease site within four (4) weeks of the termination date of the Lease.

Council approval must be obtained before any fixed improvements or structures are removed from the land.

Lessees or occupants that construct a building or structure will be responsible for all insurance and maintenance during the life of the lease.

## **10. Access by Council**

Council officers, contractors or tradespersons are entitled to enter any Lease, Licence or Management Agreement area at all reasonable times, to inspect or make repairs and alterations as Council deems necessary for the safety, preservation, and improvement of the facility. Accordingly, where required, the tenant will be required to provide Council with a service key and security alarm codes and procedures to enable independent access to undertake these activities.

Council reserves the right to re-key facilities to enable independent access by Council officers, contractors, or tradespersons.

Council will make every endeavour to provide appropriate notice where access to a facility is required.

In the event of a declared disaster, emergency, incident, crisis, critical or adverse event, and if requested by Council, the tenant or occupant must temporarily yield up possession and immediately make available the premises to Council for use as a designated evacuation centre.

## 11. Insurances

Lessees and occupants and any community organisation applying for a tenure agreement must hold and maintain insurance policies including, but not limited to, contents insurance to cover the organisation's possessions, workers compensation insurance, volunteers' insurance and public liability insurance to the value determined by Council (as required). Council may require evidence that required insurance policies are current at any time.

Generally, Council will ensure all buildings in a damage policy, unless alternative provisions are expressly indicated in the Tenure agreement or the lease is for commercial business purposes and it will be required of the lessee to hold damage insurance with Council co-named in their policy.

## 12. Workplace Health & Safety

Lessees and occupants are responsible for Workplace Health and Safety (WHS) tasks in relation to the Tenure. Lessees and occupants must ensure that all risks are appropriately managed to ensure that its members, spectators, guests, hirers, and the public are kept safe at all times, in accordance with the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*.

No sleeping is permitted in Tenured buildings without Council approval and evidence of compliance with the *Fire Services Act 1990* and subsequent regulations has been provided.

A facility/lease wide hazard inspection must be conducted six (6) monthly by the Lessees, and hazards assessed. A risk register must be maintained and provided to Council annually.

Except for a Specialist Facility and commercial business tenure, Council, as owner or controller of the land, will be responsible for the electrical and fire safety compliance tasks as detailed in section 7 of this procedure.

All other non-maintenance responsibilities documented in the *Building Fire Safety Regulations 2008* will be the responsibility of the lessee or occupant including provision and updating of fire evacuation drawings, payment of Queensland Fire and Rescue Service's monitoring costs, implementing a compliant building emergency evacuation plan and associated compliance training and drills.

## 13. Liquor and Gaming Licences

A liquor licence or permit is required for any event or facility in which alcohol may be served or sold. Council approval as owner or Trustee of the land is required in order to lodge an application for a liquor licence or permit or gaming licence with the Office of Liquor and Gaming Regulation.

An application for these licences or permits must be submitted to Council in writing before applying to the Office of Liquor and Gaming Regulation. If the licence or permit for a facility is located on reserve land, Ministerial approval will be required.

## 14. Subleasing/Subletting

Council's approval prior to subleasing or commercially renting or otherwise sharing the use and occupation of all or any part of the lease area with another party is required. Council may approve, approve with conditions, or refuse any application for such approval.

The Lessee is solely responsible for all costs associated with a sublease including document preparation and registration.

## 15. Sporting and Recreation Reserves

### Diversity, Quality and Design

The following principles apply:

- Recreation and sport facilities will be appropriately located in sport and recreation reserves first and freehold land second, acknowledging the need for formal and informal recreation open space and natural and cultural landscapes.
- Recreation and sport buildings in the sport and recreation reserves will be visually attractive and contribute to the amenity of the sport and recreation reserves.
- Design, layout, and facilities should be of high quality and to meet the risk management and standards of the relevant sports code and provide for safe and enjoyable use.
- Tree planting for shade and amenity should have a high priority in all developments, where possible.
- If required, site plans (master, management, or site development) are to be prepared to ensure any requirements of the Banana Shire Council Planning Scheme 2021 are met.
- Recreation and sport clubs rely on advertising and sponsorship for their viability. Such advertising shall only be directed to audiences within facilities and shall not be visible from outside the licensed area. Subject to Council approval, temporary advertising may be displayed where it is associated with upcoming events or programs.

### Maximum Use of the Finite Land and Infrastructure

The following principles apply:

- Management practices and procedures for sport and recreation facilities will be financially and environmentally sustainable.
- Council is committed to ensuring recreation and sport facilities are accessible for all community members. Any new developments or new buildings need to meet any current accessibility codes within the National Construction Code and where possible, organisations and Council should consider accessibility needs on a case-by-case basis for existing sites where funding opportunities are available.
- Playing fields and surfaces that are unfenced will need to allow for unrestricted public access at times when the lessees are not using them, unless by negotiations, conditions are included in any Tenure contract.
- Where possible, every lessee is to have access to adequate facilities such as playing fields, specialist areas, change rooms and car parking areas, noting that some consolidation or sharing of facilities may be required. Different sporting codes will have to share the one facility.
- In Biloela, due to the high demand and limited space on existing reserves, any new facilities, or expansions to existing facilities due to a proven need, will be encouraged to relocate to Magavallis Sport & Recreation Reserve as Council's preferred option.

## 16. Third Party Hire of Facilities

In order to maximise the use, variety of activities and community benefit of facilities over which Tenure has been granted, community organisations may make Lease, Licence, and Management Agreement areas available to third party hirers (subject to the provisions of the subleasing section of this procedure). Use of the facilities by a third party must be in line with the main purpose of the facility. Where the purpose does not align, pre-approval for the hire of the facility to a third party will be required from Council.

Third party hire will be subject to a requirement that use of the facility by a hirer does not adversely impact the facility or neighbouring properties.

## 17. Mortgaging of Lease

No Council assets can be used as collateral for a mortgage. Council does not permit mortgages on Lease sites.

Mortgages over an occupant's interest in a Licence or Management Agreement area or any other use of that interest as security for a debt are not permitted and will not be approved by Council.

## 18. Land Management Plans and Reserve Land

Council and lessees have a responsibility to assist with the development of Land Management Plans if required by the Department of Resources for reserve sites

A minor Land Management Plan template is available for Council use stored in MagiQ (Doc #1883809).

A major Land Management Plan will require external consultant input by Council.

'Ministerial Approval' will be required where the intended use does not align with the primary purpose of the Reserve.

Reserve land leases which do align with the primary purpose set by the State can utilise the Ministers Written Authority No.1 – section 64 of the *Land Act 1994* subject to the following conditions:

- (a) The Lease complies with the requirements under section 7(2) of the *Land Regulation 2020*; and
- (b) The Lease is shown as subject to Mandatory Standards Terms Document number 711932933; and
- (c) A copy of the Written Authority forms part of the trustee lease document lodged for registration.

## 19. Termination

Where a lessee or occupant is in breach of a Lease, Licence, or Management Agreement the Council may resolve to terminate the Tenure arrangement.

Council reserves the right to terminate the Lease, Licence or Management Agreement prior to the expiry of the term in accordance with the terms of the Lease, Licence or Management Agreement. In the event of an agreement being terminated for this reason, Council will provide appropriate notification to the organisation and if possible, will make all reasonable attempts to relocate the tenant to a suitable alternative facility.

## 20. Compliance with Tenure Agreements

By entering into a Tenure agreement over Council owned or Council Controlled Land, the Tenant accepts and agree to all conditions of the Lease, Licence, Permit or Management Agreement.

Community organisations acknowledge that access to community land is offered to enhance the physical activity, social interaction, and cultural development of the community. Accordingly, lessees and occupants must not conduct, nor permit to occur, any illegal, immoral, or offensive acts on Council owned or council-controlled land.

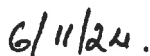
Failure to comply with the conditions of the Lease, Licence, Permit or Management Agreement may result in Council terminating or not offering renewal of the Tenure arrangement.

## CERTIFICATION

---



.....  
**ACTING CHIEF EXECUTIVE OFFICER**  
**BANANA SHIRE COUNCIL**



.....  
**DATE**