



<b>Version Control and Objective ID</b>	Version No: 2	Objective ID: A9650284
<b>Adopted at Council Ordinary Meeting on</b>	23 November 2023	
<b>Date of Review</b>	23 November 2027	

## 1. Statement

Council seeks to maximise community services and benefits by ensuring sustainable and effective management of its assets supported by transparent and accountable processes that provide fair and equitable subsidies for tenure over council freehold and trust land and buildings and in some cases Expenditure Leases.

## 2. Purpose and Principles

The objective of this policy is to ensure a transparent and consistent process is undertaken when negotiating and entering into tenure agreements in relation to community and commercial tenure.

## 3. Strategic Plan Links

This policy aligns with the following iFuture 2021-2026 Corporate Plan themes:

- Vibrant and Growing
- Safe, Inclusive and Creative

## 4. Regulatory Authority

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Land Act 1994*
- *Land Regulation 2020*
- *Planning Act 2016*
- *Land Valuation Act 2010*
- *Land Title Act 1994*
- *Property Law Act 1974*
- *Local Law No. 4*
- *Trusts Act 1973*

## 5. Human Rights Commitment

Ipswich City Council (Council) has considered the human rights protected under the *Human Rights Act 2019 (Qld)* (the Act) when adopting and/or amending this policy. When applying this policy,

Council will act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to the decision in accordance with the Act.

## 6. Scope

This policy applies to all tenure over land that includes but not limited to open space parks, community halls and centres, sporting fields and facilities, office buildings and industrial land and buildings.

Council will determine the most appropriate agreement type based on the following:

### 6.1 Freehold Land and Buildings

#### Permit

- Short term use, minor or temporary uses and will not exceed a term of more than one (1) year. Council will determine the most appropriate term for the permit.
- The permit must indemnify council from any risk, losses, damages, costs and expenses.
- Seasonal Sports Permits will apply only to multi-purpose sports fields and halls for the temporary use by private organisations, community groups, schools and individuals performing sporting and recreation activities.
- Seasonal Sports Permits apply to the use of sporting fields and halls and will be approved for the term of a single sporting season.
- Seasonal Sport Permits will allow access for no more than two weekday afternoons/evenings and one weekend day per week, however days and times of access for each applicant will be negotiated on an individual basis.
- Additional usage outside the Permit (eg. for carnivals or events) must be formally requested and then approved by council prior to commencement.
- Seasonal Sports Permit holders will be responsible for all cleaning and maintenance responsibilities as outlined within the agreement.
- Seasonal Sports Permit holders may be responsible for the maintenance and utility costs of water and electricity consumption for sport specific/special areas (eg. cricket wickets and clay tennis court preparation) dependent on the use.
- Fees for Seasonal Sport Permits are determined under Council's Register of Fees and Charges.

#### Licence or Management Agreement

- Non-exclusive use of the property.
- In all cases council will determine the most appropriate term for the licence or Management Agreement and they will not exceed a term of more than five (5) years.
- The agreement must indemnify council from any risk, losses, damages, costs and expenses.
- Defined responsibilities for maintenance of the asset.
- The agreement may include a Site Based Management Plan that will define specific requirements of the tenant to manage the property and can be amended by council from time to time.

#### Lease Agreement

- Exclusive use of the property.
- In all cases council will determine the most appropriate term for the lease and leases will not exceed a term of more than five (5) years.

- Council's discretion to grant a lease for a term of more than five (5) years will require a business case from the lessee and will require a council resolution.
- The agreement must indemnify council from any risk, losses, damages, costs and expenses.
- Defined responsibilities for maintenance of the asset.
- The agreement may include a Site Based Management Plan that will define specific requirements of the tenant to manage the property and can be amended by council from time to time.

## 6.2 Trust Land

### Trustee Permits

- The trustee permit must not diminish the purpose of the trust land.
- A trustee permit must not be for more than three (3) years and if a trustee permit is for more than one (1) year, the trustee must lodge a copy of the permit for registration.
- Short term use with no major structural improvements and that requires limited maintenance.
- The trustee permit must include a rough sketch identifying the permitted land area.
- Defines responsibilities for maintenance of the asset. The permit must indemnify council from any risk, losses, damages, costs and expenses.

### Trustee Lease

- A trustee may lease all or part of the trust land if the trustee first obtains written 'in principle' approval from the Department Resources (DoR).
- The trustee lease must not diminish the purpose of the trust land.
- Under the *Land Act 1994* a trustee lease must not be for more than 30 years (only 20 years is allowed for sporting clubs) however council will determine the most appropriate term for the lease and leases will not exceed a term of more than five (5) years.
- Council's discretion to grant a lease for a term of more than five (5) years will require a business case from the lessee and will require a council resolution.
- The rent must be the most appropriate rent, having regard to the use, community benefit and purpose of the trustee lease and it must be spent on the maintenance or enhancement of the trust land.
- The trustee lease must include a plan of survey identifying the land being leased.
- Exclusive use of the trustee lease area.
- The agreement must indemnify council from any risk, losses, damages, costs and expenses.
- Defines responsibilities for maintenance of the asset.

## 6.3 Approval requirements

Council requires the following information for any lease or licence agreements:

- Certificate of Incorporation
- ASIC company or organisation extract demonstrating financial solvency
- Provide copies of current financial records

A Lease Agreement over council owned or managed land is subject to a resolution by council. Permit, Licences or Management Agreements may not require a council resolution.

#### 6.4 Tenure Establishment Costs

Costs associated for the establishment of tenure over council owned land will usually be borne by the tenant unless stated in *Schedule 1 – Rental Category – Freehold Land*. These include lease preparation, survey fees and document registration.

All costs relating to the registration of a trustee permit or lease including the costs of survey plan preparation will be at the tenant's expense unless otherwise determined by council.

Council will use the States Mandatory Standard Terms Document (dealing number 711932933) where applicable for all Trustee leases in an endeavour to keep lease preparation costs to a minimum.

#### 6.5 Rental Fees

##### Freehold Land

Tenure agreements will be assessed against the eligibility criteria contained in *Schedule 1 – Rental Category – Freehold Land*.

Council reserves the right to review and amend the rent if the following occurs:

- Amendment of lease area
- Significant refurbishment
- Additional improvements
- Tenant obtains Liquor Licence
- Tenant obtains Gaming Licence

##### Trust Land

The guidelines for determining the appropriate rental fee is set out in the *Land Regulation 2020 – Section 22 (Rental Categories of tenures) and Section 36 (Rent for tenures of particular categories)*.

If rent cannot be determined under the *Land Regulation 2020* council will determine the appropriate rent reflective of the purpose of the land and community benefit.

#### 6.6 Utilities

The tenant shall pay all applicable local government rates, charges and taxes (if any) relating to the premises, and all utility charges and expenses for electricity, telephone, water and sewerage incurred during the term of the lease, licence or permits or management agreements.

#### 6.7 Maintenance

Each tenant is required to maintain the facility in accordance with the Maintenance Schedule attached to their agreement. The Maintenance Schedule will specify the responsibilities of council and the tenant, including (among other things) responsibility for maintaining the structure, the building, fixtures and fittings and sporting fields.

##### General Repairs and Maintenance

The tenant will be responsible for general repairs and maintenance and must comply with all aspects in relation to their obligations specified in the Maintenance Schedule.

The tenant must advise council of any repair or maintenance work required at the premises or property which is not their responsibility as soon as they become aware that the work is required.

### **Structural Repairs and Maintenance**

Where council owns the improvements they will be responsible for the major structural repairs and maintenance of the facility.

The tenant is not required to undertake maintenance or repairs of a structural nature unless damage to the facility was caused as a result of neglect or default or they failed to comply with their obligations stated in the Maintenance Schedule.

#### **6.8 Inspections**

Council officers, contractors or tradespersons are entitled to enter any lease, licence or permit 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.

Council at a minimum will conduct annual inspections of the premises to ensure the tenant is compliant with their obligations under the agreement.

#### **6.9 Insurance & Public Liability**

Lessees and occupants and any community organisation applying for a permit, licence, management agreement or lease, must hold and maintain insurance policies including, but not limited to the following:

- Contents insurance to cover the organisation's possessions
- workers compensation insurance
- volunteers' insurance
- public liability insurance to the value of at least twenty million dollars (\$20,000,000.00)

Subject to the activity being performed on the land the tenant may be required to hold additional/specialist insurance coverage for any high risk or dangerous use of the land, eg. motorsports.

Generally, council will insure all buildings, unless alternative provisions are expressly indicated in the tenure agreement.

#### **6.10 Termination**

Where a tenant is in breach of the terms and conditions of the tenure agreement, council may resolve to terminate the agreement.

### **7. Roles and Responsibilities**

The Property Services Section is responsible for the negotiation, administration and management of tenure agreements in consultation with Asset and Infrastructure Services Department, Environment and Sustainability Department and Community, Cultural and Economic Development Department.

All Seasonal Sports Permits will be managed by Community, Cultural and Economic Development Department as outlined in the Active City Policy.

The CEO has the authority under the *Local Government Act 2009* to negotiate agreements as required.

### **8. Key Stakeholders**

- Infrastructure Strategy Branch – Asset and Infrastructure Services Department

- Community and Cultural Services Branch – Community, Cultural and Economic Development Department
- Natural Environment Branch – Environment and Sustainability Department

## 9. Related Documents

- Active City Policy

## 10. Monitoring and Evaluation

- Ensure all commitments relating to tenure agreements are achieved in the required timeframes.
- Ensure each party is meeting their obligations under the terms and conditions of the tenure agreement.
- Ensure that the land is managed in accordance with the purpose of the trust land as designated by the state.

## 11. Definitions

<b>Council</b>	Means Ipswich City Council
<b>Council freehold land</b>	Means land for which council is the owner
<b>Commercial organisation</b>	An organisation, including incorporated body, co-operative society, partnership or sole trader conducting activities for the purposes of deriving a financial return to the proprietors or shareholders
<b>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 or distributions to its members
<b>Expenditure Lease</b>	Where Council is the lessee of land and buildings. Any tenure offered over land and buildings that council leases must be in accordance with the Head Lease Agreement.
<b>Facility</b>	Constructed and/or maintained sport and recreation grounds, fields, ovals, courts, clubhouses, change rooms and other supporting infrastructure at a location that allows people to be involved in and participate in sport and recreation activities
<b>Lease</b>	An agreement where the owner grants the Tenant exclusive occupancy of a defined area as set out in the Lease, which includes the whole or part of a building and/or land
<b>Lessee</b>	The tenant, or the person to whom the lease is granted
<b>Lessor</b>	The owner of the property, the person who grants a lease (ie. Council)
<b>Licence</b>	A contractual right to occupy or use council owned land without any legal right to exclude all others
<b>Licensee</b>	The occupier of a facility under a Licence Agreement

<b>Permit</b>	A short term agreement where council grants non-exclusive rights over the land for no more than one (1) year for a specific purpose
<b>Seasonal</b>	Means the regular season in which competition occurs for a particular sport: <ul style="list-style-type: none"> <li>• Winter Season – period from last Saturday in March to 1<sup>st</sup> Saturday in September</li> <li>• Summer Season – period from 3<sup>rd</sup> Saturday in September to last Saturday in March</li> </ul>
<b>Tenant</b>	Is a person who occupies land or property rented from a landlord
<b>Tenure</b>	A lease, licence or permit to occupy
<b>Trust Land</b>	Land comprising of a reserve or deed of grant in trust
<b>Trustee Permit</b>	An agreement granted by council on trust land to a community organisation in accordance with the <i>Land Act 1994</i> .
<b>Trustee Lease</b>	An agreement between council and a lessee for trust land where the lease provides for exclusive use of the land or infrastructure in accordance with the <i>Land Act 1994</i> .

## 12. Policy Owner

The General Manager (Corporate Services) is the policy owner and the Property Services Manager – Property Services Section (Corporate Services) is responsible for authoring and reviewing this policy.

## Schedule 1 - Rental Category - Freehold Land

The following table sets out a framework for different types of agreements to be applied under various situations and with an outline of typical pre-requisites or conditions. Council will determine the category based on use of the property function of the community group, which category they fall under and agreed conditions at council's discretion.

Category	Rent	Annual Index	Outgoings Responsibility						
			Utilities	Ground Maintenance	Minor Maintenance	Major Maintenance	Legal & Survey Costs	Document Registration Costs	
<b>A</b> Community Groups – Not for Profit and Charity e.g. Scout Hall, Humanities Centre or Red Cross	<ul style="list-style-type: none"> <li>Can be any type of facility or grounds used by a community group</li> <li>Must be a registered not for profit or charity and entitled for an exemption under the <i>Local Government Regulation 2012</i>.</li> <li>Can hold a restricted Liquor Licence in accordance with the <i>Liquor Act 1992</i> s105.</li> </ul>	Peppercorn Rent - \$1 on demand	N/A	Council	Council	Council	Council (on Council owned assets only)	Each party to pay their own costs	Council to incur costs
<b>B</b> Community & Recreation Groups – Not for Profit & Minimal Improvements e.g. Cricket field with storage shed or a dog park	<ul style="list-style-type: none"> <li>Includes properties with minor improvements.</li> <li>Can hold a restricted Liquor Licence in accordance with the <i>Liquor Act 1992</i> s105</li> <li>Community Group managed and operated by volunteers defined organisational and governance structure</li> </ul>	1% of land value or \$1,000 per annum (whichever is higher)	3%	Tenant	Council/Tenant	Tenant	Council (on Council owned assets only)	Each party to pay their own costs	Council to incur costs
<b>C</b> Community & Recreation Groups – Not for Profit & Moderate Improvements - e.g. Rugby field with toilets and change rooms	<ul style="list-style-type: none"> <li>Includes properties with minor improvements.</li> <li>Can hold a restricted Liquor Licence in accordance with the <i>Liquor Act 1992</i> s105</li> <li>Community Group managed and operated by volunteers defined organisational and governance structure</li> </ul>	3% of land value or \$3,000 per annum (whichever is higher)	3%	Tenant	Council/Tenant	Tenant	Council (on Council owned assets only)	Each party to pay their own costs	Council to incur costs
<b>D</b> Community & Recreation Groups - Not for Profit –Major Improvements - e.g. Soccer field with clubhouse	<ul style="list-style-type: none"> <li>Includes properties with major improvements.</li> <li>Can hold full Gaming or Liquor Licence in accordance with the <i>Liquor Act 1992</i> s105</li> </ul>	5% of land value or \$5,000 (whichever is higher)	3%	Tenant	Council/Tenant	Tenant	Council (on Council owned assets only)	Each party to pay their own costs	Council to incur costs



IPSWICH CITY COUNCIL | Tenure over Council Property Policy

Category	Rent	Annual Index	Outgoings Responsibility						
			Utilities	Ground Maintenance	Minor Maintenance	Major Maintenance	Legal & Survey Costs	Document Registration Costs	
<p><b>E</b> Community &amp; Recreation Group with Commercial Purpose – e.g. – Operating a club house or Cafe</p>	<ul style="list-style-type: none"> <li>Community Group managed and operated by volunteers defined organisational and governance structure</li> </ul>	Market rent assessment or 10% of Turnover	3%	Tenant	Tenant	Tenant	Council (on Council owned assets only)	Each party to pay their own costs	Tenant to incur costs
<p><b>G</b> Special Category - Community &amp; Recreation Group with Commercial Purpose</p>	<ul style="list-style-type: none"> <li>Includes any other non-conventional improvements or facility.</li> <li>Community Group or Commercial Business managed and operating full time staff.</li> </ul>	Market Rent Assessment	3%	Tenant	Tenant	Tenant	Council (on Council owned assets only)	Each party to pay their own costs	Tenant to incur both parties costs