

Logan City Council

Telecommunications Facilities on Council Property Procedure

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Amendment History

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1 Tenure Arrangements

1.1 Application for Tenure

An application for the installation and operation of a Facility on Council Property must include:

- (a) detailed plans of the proposed installation including a site plan, elevations, landscaping plan;
- (b) photos and specifications of the proposed installation including transmitting devices and associated infrastructure;
- (c) details of opportunities for sharing and co-location have been considered and exhausted (including details of those alternative sites and why they are not considered suitable);
- (d) details of any vegetation or habitat that would be required to be removed; and
- (e) the community benefit of the proposed installation.

All applications should be forwarded to the attention of the Corporate Property Program (CorporateProperty@logan.qld.gov.au).

For a Low Impact Facility, the application may be in the form of a Land Access and Activity Notice, given under Schedule 3 of the Act.

1.2 Internal Consultation

Following the receipt of an application for the installation and operation of a Facility on Council Land, the Corporate Property Branch will be responsible for assessment of that application having regard to:

- (a) Council's current and future requirements for the Council Property which is the subject of the application, through consultation with other Council branches; and
- (b) community sentiment regarding the proposal, identified through liaison with the Divisional Councillor for the area in which the Council Property is located.

1.3 Heads of Agreement

If after internal consultation, there is support for progression of the application, a Heads of Agreement will be prepared for consideration of the Carrier. Council will determine the most appropriate form of Tenure, having regard to the nature of the Facility.

Council has adopted standard form Tenure documents, copies of which can be provided on request. The key commercial terms to be provided in the Tenure documents are as follows:

Tenure	The Tenure determined by Council as being most appropriate.
Term	10 years. Any Lease for a period in excess of 10 years will require: (a) a resolution of Council supporting that longer term; and (b) a reconfiguration of lot approval under the <i>Planning Act 2016</i> (Qld).

Rent	<p>The Regulation requires that the consideration for the grant of any Tenure must be equal to, or more than, the market value of the interest in the land.</p> <p>Rent at the commencement of the Tenure will be the higher of:</p> <ul style="list-style-type: none"> (a) the amount determined annually in Council's Schedule of Fees and Charges; and (b) the market value determined by Council's independent valuer.
Rent Review	<p>Rent will be increased on each anniversary of the Commencement Date of the Tenure by 3%. When entering into a Tenure arrangement, Council will take the advice of an independent valuer and a lesser annual increase may be agreed where appropriate.</p>
Outgoings	<p>The Carrier will be responsible for the payment of all outgoings associated with the Facility. The Carrier will be responsible for ensuring that electricity to the Leased Premises which is separately metered at the Carrier's cost and for all electricity consumed in respect of the Installation.</p>
Costs	<p>The Carrier will be required to pay for:</p> <ul style="list-style-type: none"> (a) legal fees incurred by Council in negotiation, preparation and finalisation of the Tenure document, capped at \$2,500 plus GST; (b) valuation fees incurred by Council; (c) preparation of a survey plan of the Leased Premises capable of registration in the Queensland Titles Office; and (d) all stamp duty and registration fees payable in respect of the Lease.
Permitted Use	<p>The Lessee will use the Premises for the purpose of constructing, maintaining and operating a telecommunications network and telecommunications service including but not limited to installing, storing, operating, repairing, maintaining, altering, and replacing Telecommunications Equipment and carrying out the Lessee's Works.</p>
Multiple Use	<p>A Carrier cannot enter into a colocation or any other shared use of the Leased Premises, without the prior written consent of Council.</p>
Assignment	<p>The Carrier cannot assign the Tenure without the prior written consent of Council.</p>
Insurance	<p>The Carrier is required to take out and maintain during the term public liability in an amount of \$50 million for any one event and in the aggregate. This can be reduced to \$20 million if requested by the Carrier.</p>
Trust Land	<p>If the Leased Premises are located on Trust Land, the Carrier will also be required to meet the requirements of the Department of Natural Resources, Mines and Energy.</p>

1.4 Valuation

The Regulation requires that, where Council is considering the grant of a Lease for a telecommunications tower, it can only grant that lease where the consideration received is equal to or greater than the market value of that interest in the land. The market value must be determined by a registered valuer who is independent of Council.

When those circumstances arise, Council will engage an independent valuer to deliver a market assessment of the Rent and any increases over the proposed term. The Carrier will reimburse Council for the cost of obtaining that valuation.

In addition, Council's Schedule of Fees and Charges (set annually through the budget process) will establish a minimum Rent. The Rent paid by the Carrier will be the higher of the rent determined by the market and the amount set in Council's Schedule of Fees and Charges.

1.5 Council Approval of Tenure

(a) High Impact Facility

Once a Heads of Agreement is signed by the Carrier, Council officers will prepare a report for Council to consider. That report will propose resolutions that:

- i. an appropriate officer be requested to sign a landowner consent to allow lodgement of a Development Application by the Carrier in respect of the Council Property; and
- ii. subject to the Carrier obtaining a Development Approval, Council approve the grant of the Lease for the Facility on the terms set out in the Heads of Agreement.

The provision of the landowner consent in no way fetters Council's role as a planning authority and its powers under the *Planning Act 2016* (Qld).

(b) Low Impact Facility

Where a Lease is considered the most appropriate form of Tenure for a Low Impact Facility, Council officers will prepare a report for Council to consider. That report will propose a resolution that Council approve the grant of the Lease for the Facility on the terms set out in the Heads of Agreement.

Where some other form of Tenure is considered the most appropriate and no Council resolution is required having regard to the requirements of the *Local Government Regulation 2016* (Qld), Council's delegated officer will be authorised to approve entry into the Tenure.

1.6 Development Approval

Prior to making any application for Tenure, Carriers are encouraged to participate in a pre-lodgement meeting with Council's Development Assessment Branch to discuss the planning framework for the proposed Facility.

Development Approvals may be required in respect of:

- (a) installation of a High Impact Facility; and

(b) the grant of a Tenure in excess of 10 years, which will constitute a reconfiguration of a lot under the *Planning Act 2006* (Qld).

1.7 Grant of Tenure

Once all required approvals are obtained, Tenure documents will be issued to the Carrier for signing.

The Carrier cannot undertake any works on the Council Property until the Tenure has been signed by Council.

1.8 Compliance

Carriers must comply with the terms of their Tenure throughout the term. Compliance on behalf of Council will be managed by the Corporate Property Branch.

2 Distribution of Income from Tenure

2.1 Administration

To ensure appropriate management of the portfolio of Tenure on Council Property, 5% of the income received from those arrangements will be distributed to the Corporate Property Branch. Those funds will be used towards annual inspections of leased facilities to ensure compliance, minor maintenance obligations that fall on Council and management of Council's relationship with the Carriers.

2.2 Water Business

All income received from Tenure granted over Council Property comprising Water Infrastructure, after deduction of the 5% under clause 2.1, will be managed by the Water Business to ensure ongoing maintenance and upkeep of that critical infrastructure.

2.3 Other Income

Unless otherwise determined by Council at the time of approval of the lease, the balance of income received will be transferred into a Reserve, with decisions around distribution of those proceeds to be determined as part of Council's annual budget.

All income received from Tenure granted over Trust Land will be managed consistent with Council's obligations as trustee under the Land Act 1994 (Qld). That currently requires that rent received must be spent on maintenance or enhancement of the trust land, unless written approval has been received from the Department of Natural Resources, Mines and Energy for another use. Those requirements will be coordinated by the Corporate Property Branch.

3 Definitions

Definitions for terms used within the procedure can be found in the Telecommunications Facilities on Council Property Policy (Doc Id: 14090799).

The following definitions apply to this procedure.

TERM	DEFINITION
Act	means the <i>Telecommunications Act 1997</i> (Cth) as amended from time to time.
Heads of Agreement	means an in-principle agreement between Council and a Carrier which contains the agreed terms of a future Tenure. The Heads of Agreement may be conditional on future actions including, without limitation, a development approval being obtained by the Carrier and a resolution of Council to support the grant of the Tenure.
Regulation	means the <i>Local Government Regulation 2012</i> (Qld) as amended from time to time.
Water Infrastructure	means critical water infrastructure sites on which a Facility has been located.

4 References

<i>Land Act 1994</i> (Qld)	<i>Land Title Act 1994</i> (Qld)
<i>Local Government Act 2009</i> (Qld)	<i>Local Government Regulation 2012</i> (Qld)
<i>Logan Planning Scheme 2015</i>	<i>Planning Act 2016</i> (Qld)
<i>Telecommunications Act 1997</i> (Cth)	<i>Telecommunications (Low-Impact Facilities) Determination 2008</i>