

Policy



STRATEGIC

TENURE POLICY

Head of Power

Land Title Act 1994

Land Act 1994

Key Supporting Council Document

Lockyer Valley Regional Council Corporate Plan (2022-2027):

- Council optimises the use of its open spaces and facilities by improving access to and the quality of the facilities for individuals and groups for cultural, recreational and community activities.
- Compliant with relevant legislation.

Definitions

<i>Asset</i>	means any Council Controlled Land or Council Owned Land.
<i>Community Organisation</i>	means: <ul style="list-style-type: none">• an Entity that carries on activities for a public purpose; or• another Entity whose primary object is not directed at making a profit and:<ul style="list-style-type: none">○ does not distribute its income and property among members; and○ does not pay dividends to members, as set out in Schedule 8 Dictionary to the <i>Local Government Regulation 2012</i> .
<i>Council</i>	Lockyer Valley Regional Council
<i>Council Controlled Land</i>	Land that is held in trust by Council, land that is leased or subleased by Council or any other land in which Council has a proprietary interest and includes any facilities and improvements on the land; and/ or which Council acts as the landowner.
<i>Council Owned Land</i>	Freehold land owned or held on trust by Council including any facilities and improvements on the land.

<i>Entity</i>	means an incorporated body, government agency, educational agency or religious organisation that has appropriate legal standing to enter into a Tenure Arrangement.
<i>Sporting Club</i>	means an Entity that encourages community participation through sporting activities.
<i>Request</i>	means a request for: <ul style="list-style-type: none"> • the grant or renewal of a Tenure Arrangement; or • maintenance; or • improvement, in relation to an Asset by a third party who currently uses, or desires to use, the Asset under a Tenure Arrangement.
<i>Third Party/Parties</i>	means an individual, Community Organisation, Sporting Club or other Entity that makes a Request of Council.
<i>Tenure Arrangement</i>	means the grant of a lease, licence, user agreement or management agreement or other form of written agreement for the use of the Asset by a third party.

For clarity, tenure arrangements under this policy do not include use rights granted:

- through Council’s facility booking system (Bookable); or
- by another government agency, such as the Department of Resources; or
- under a local law approval or development approval.

Policy Objective

This policy outlines how Council will manage the use of its Assets in accordance with legislative requirements to facilitate timely, optimal, sustainable, equitable and consistent asset management, to the benefit of Council and its community.

Policy Statement

Council owns and manages a large and varied portfolio of land and facilities and is committed to ensuring that tenure, maintenance and improvement is provided in a transparent manner that is appropriate to the type of land and facility, outcomes for Council and the community, and suitable to the proposed access or use.

This Policy applies to all requests for use, maintenance or improvement for which a tenure arrangement for Council Owned Land and Council Controlled Land exists or may be granted under this Tenure Policy and the Tenure Procedure.

Principles

Council will manage its Assets, including any improvements on them, effectively, efficiently and sustainably by:

- granting Tenure Arrangements that:
 - suit the circumstances of a particular Asset and use;
 - optimise the value of the Asset; and

- contribute to a range and diversity of activities and essential service provision to the Lockyer Valley.
- preferring Third Parties that are locally based and/or providing a regionally delivered service that benefits the Lockyer Valley community.
- ensuring a consistent, equitable and fair approach to enabling access to and use of Assets.
- providing more certainty and simplicity in how Tenure Arrangements are drafted and managed.
- preferring Tenure Arrangements that grant:
 - leases with up to 5 year terms over Assets generally, which may include option terms of up to 5 years in Council's discretion.
 - user agreements with 1 year terms or licences with up to 3 year terms in circumstances where Council proposes to enter into Tenure Arrangements with various users of multi-use facilities.
 - management agreements as a last resort and for a term determined to be suitable to maximise value and sustainability for all parties.
- promoting a user pays approach where:
 - financial or in-kind assistance from Council for maintenance of an Asset is documented in the Tenure Arrangement and calculated with reference to the full cost to Council of providing the assistance in accordance with Council's identified service levels.
 - costs required to facilitate the Tenure Arrangement, such as development applications, survey and registration costs, are the responsibility of the Third Party.
 - outgoings, or a contribution to them, is payable by the Third Party to incentivise the use of services in a sustainable manner.
- minimum provision of reportable items includes currency of relevant insurances, level and frequency of use, audited annual financial statements and current contacts of the user's governing body.
- evidence of the Third Party's entity and governance structure is provided and confirmed prior to the grant or renewal of a Tenure Arrangement.
- establishing an inspection programme to monitor compliance with the Tenure Arrangement, relevant laws and Council requirements.
- observing the local government principles and the sound contracting principles in sections 4 and 104(3) of the *Local Government Act 2009* respectively.

Human Rights

Council is committed to respecting, protecting and promoting human rights. Council has an obligation under the *Human Rights Act 2019* to give proper consideration to human rights when making a decision, and to act and make decisions in a way that is compatible with human rights. To the extent that an act or decision under this policy may engage human rights, Council will have regard to the *Human Rights Act 2019* in undertaking the act or making the decision.

Relevant Legislation

Land Regulation 2020

Land Title Regulation 2022

Local Government Act 2009
Local Government Regulation 2012
Property Law Act 1974
Property Law Regulation 2013

Related Documents

Asset Management Policy
Community Grants and Assistance Policy
Procurement Policy
Procurement Guideline
Tenure Procedure
Working on Council Land Form