

TELECOMMUNICATION FACILITIES ON COUNCIL LAND POLICY

(COMMUNITY POLICY)

1. Scope

The Telecommunications Facilities on Council Land Policy (this 'Policy') applies to Council employees and contractors involved in the planning and establishment of lease agreements for telecommunication facilities on Council Land with telecommunication or network carriers.

2. Purpose

The purpose of this Policy is to:

- establish a set of parameters for Council to consider prior to entering into a lease agreement on Council Land with telecommunication or network carriers;
- meet the requirements of legislation; and
- ensure appropriate consideration is given to proposed sites for telecommunication facilities on Council Land.

3. References (legislation/related documents)

Legislative reference

Land Act 1994

Land Title Act 1994

Local Government Act 2009

Local Government Regulation 2012

Telecommunications Act 1997 (Cwlth)

Telecommunications Code of Practice 2001 (Cwlth)

Related documents

Industry Code – Mobile Phone Base Station Deployment (C564:2020)

Livingstone Planning Scheme 2018

4. Definitions

To assist in interpretation, the following definitions shall apply:

ARPANSA	Australian Radiation Protection and Nuclear Safety Agency.
Carrier	The telecommunications or network carrier that proposes to lease Council Land.
Council	Livingstone Shire Council.
Council Land	Includes: a) Freehold land for which Council is owner; or

	b) State land (Reserve) for which Council is Trustee.
DoR	Department of Resources.
'Heads of Term'	A proposed agreement between parties developed by the carrier which contains the main elements of the proposed lease. This document provides a basis for negotiations and investigations. A Heads of Term differs to the final lease agreement between the parties.
Reserve land	Includes land dedicated as a reserve under the <i>Land Act 1994</i> , or reserved and set apart under the repealed Act, as shown by the current particulars in the appropriate register.

5. Policy Statement

This policy assists to ensure that Council does not enter into or execute any Carrier supplied 'Heads of Term' (or similar) document, as it would commit Council to agree with the Carriers lease conditions. Council must only enter into a lease that has been negotiated having regard for the financial, social and environmental interests of the community.

5.1 Legal Costs

The Carrier is required to meet any costs incurred by Council in respect of the preparation, negotiation and execution of any lease including legal and valuation expenses, the costs of preparation of a survey plan, stamp duty and registration fees.

5.2 Reporting to Council

Council will only consider an application to lease land to a Carrier after the Carrier has provided the following details:

- 5.2.1** Plans of the development including a site plan, elevations and a photomontage for the telecommunication tower, transmitting devices and associated infrastructure proposed to be installed on the property. Details should also include any landscaping proposed to soften or screen the facility when viewed from a residence or public place. The measures proposed to minimise residential amenity impacts from the construction, operation and maintenance activities associated with telecommunications facilities.
- 5.2.2** Details on public consultation (including a transcript of all submissions received) carried out by the Carrier to gauge the level of support from surrounding residents and neighbours of the proposed facility. This may include public meetings, newspaper advertisements, surveying neighbours via door knocking, letterbox drops, etc. Public consultation must be completed before Council will consider the application for a lease.
- 5.2.3** Details as to why the site is most suitable and, if the proposal is for a new tower, whether all opportunities for sharing and co-location have been considered and exhausted. Carriers are required to explore options for sharing and co-location before seeking to install a new facility on Council Land.
- 5.2.4** Details on alternative sites that have been investigated on both public and private land and why those sites are not suitable.
- 5.2.5** All relevant information about minimising possible adverse public health risks of electromagnetic radiation emitted from telecommunications facilities through encouraging siting of transmitting antennae away from residential land uses to the extent that it does not pose undue technical constraints to facilities.

- 5.2.6 Whether any vegetation or habitat is to be removed, and if so, details of proposed mitigation or offset measures.
- 5.2.7 The community benefit of the proposal particularly the locally impacted community.
- 5.2.8 An independent market rental valuation carried out (at the cost of the Carrier) by a licensed valuer operating in the Yeppoon Region to determine the lease fee payable.

5.3 Reserve Land

If the property is a Reserve that Council is Trustee for, the DoR will be consulted as to their requirements. Carriers must meet the requirements of any policies, procedures, guidelines or conditions set by the DoR.

Under the Secondary Use of Trust Land under the Land Act Policy SLM/2013/493 (Formerly PUX/901/209) the development of telecommunications facilities on community purpose land will be discouraged unless the facility meets a public benefit and the placement represents a superior location option on technical or planning grounds.

The Carrier will be required to submit a land management plan and a condition of the trustee lease is to include that the site is to be returned to its original condition upon decommissioning of the facility or in the case where a further trustee lease is not issued. Reference to the Secondary Use of Trust Land under the Land Act Policy SLM/2013/493 is to be included in the trustee lease.

5.4 Council Reservoirs

As an option of last resort, Council may consider applications to install infrastructure within Council Reservoir properties, and such applications will be subject to the following conditions:

- 5.4.1 Evidence is provided that all other options have been exhausted and reasons why they are not suitable. It is Council's strong preference that all telecommunication facilities are located on separate masts/poles and not affixed to Council infrastructure.

The Carrier must provide an engineering assessment and certification carried out by a Registered Professional Engineer of Queensland (RPEQ) for the structural impact of each installation confirming that the installation will not adversely affect:

- the intended use or asset service life of Council's infrastructure;
- water quality;
- site safety;
- access; or
- cost or risk of Council's continued operations and maintenance.

- 5.4.2 Installation must not be made to the reservoir roof structure or to a point close to the roof structure that would likely interfere with any future works to the reservoir roof.

- 5.4.3 Any installation must be placed a safe distance away from designated access areas (for example, ladders, hatches, walkways including rooftop area) to prevent unsafe exposure to harmful radiation. An Environmental Electromagnetic Energy (EME) Report must be supplied to show this safe distance is in accordance with the relevant Australian Standard or ARPANSA Guide/Codes.

- 5.4.4 Any mains power supply to the installed equipment must be independent of Council's power supply.

- 5.4.5 Should it be required, Council reserves the right to temporarily remove any telecommunications infrastructure in the event of a requirement to do as part of the

operation and maintenance of the reservoir, with the carrier responsible for all associated costs with the removal and reinstatement of the infrastructure.

5.4.6 The specification of the design of the installation attached to the reservoir is subject to approval of Council.

5.4.7 Carriers must pay an additional \$5,000 per annum (excluding GST) to the base rate of the associated lease fee on Council land.

In the instance of the Carrier replacing old equipment, the Carrier must restore the structure to its previous condition including, but not limited to, replacing roof cladding, removal of bolts, sealing of drill holes in concrete, removal of electrical conduits and repainting. In the event that the Carrier does not comply with a request to remove obsolete equipment, Council reserves the right to recover any costs incurred in this removal work from the Carrier.

6. Changes to this Policy

This Policy is to remain in force until any of the following occur:

1. The related information is amended/replaced; or
2. Other circumstances as determined from time to time by the Council.

7. Repeals/Amendments

This Policy repeals the former Livingstone Shire Council Policy titled 'Telecommunication Facilities on Council Land Policy (v1.1)'.

Version	Date	Action
1.0	07/02/2017	Adopted
1.1	23/10/2018	Administrative Amendments – reflect organisational restructure
2.0	19/09/2023	Adopted – full review undertaken

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