

TELECOMMUNICATION FACILITIES ON COUNCIL LAND POLICY

ADMINISTRATIVE POLICY



1 Scope

This policy applies to Council employees and contractors involved in the planning and establishment of lease agreements for telecommunication facilities on Council owned or controlled land with telecommunication or network carriers.

2 Purpose

The purpose of this policy is to:

- (a) establish a set of parameters for Council to consider prior to entering into a lease agreement with telecommunication or network carriers;
- (b) meet legislative requirements; and
- (c) ensure appropriate consideration is given to proposed sites.

3 Related Documents

3.1 Primary

Nil

3.2 Secondary

Commonwealth Telecommunication Act 1997

Commonwealth Telecommunications Code of Practice 1997

Land Act 1994

Local Government Act 2009

Local Government Regulation 2012

Australian Radiation Protection and Nuclear Safety Agency Guides/Codes

Industry Code – Mobile Phone Base Station Deployment (C564:2011)

Legal Proceedings – Commencement, Cessation and Other Matters Policy

Rockhampton Region Planning Scheme

4 Definitions

To assist in interpretation, the following definitions apply:

ARPANSA	Australian Radiation Protection and Nuclear Safety Agency
Carrier	The telecommunications or network carrier that proposes to lease Council land.
Contractor	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.

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Adopted/Approved:	Adopted 30 January 2018	Department:	Corporate Services
Version:	2	Section:	Corporate and Technology
Reviewed Date:		Page No:	Page 1 of 4

Council	Rockhampton Regional Council
CPI	Customer Price Index
FRW	Fitzroy River Water
GST	Goods and Services Tax
Heads of Term	A document setting out the main elements of the proposed lease. This document provides a basis for lease negotiations and investigations. A Heads of Term differs to the final lease agreement between both parties.
NRM	Department of Natural Resources and Mines
Public Open Space	As defined in the Rockhampton Region Planning Scheme.
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 , or reserved and set apart under the repealed Act, as shown by the current particulars in the appropriate register.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

5.1 Principal

The financial, social and environmental interests of the community must be considered before Council grants a lease to a Carrier.

5.2 Heads of Term

Carriers are seeking to expand their mobile coverage by leasing Council owned or controlled land for the placement of telecommunication/networking facilities (towers, co-locations on existing towers and associated infrastructure).

A Heads of Term document is typically provided to Council by the carrier to indicate their initial interest. Such document outlines the requirements of the carrier for the proposed site; including the commercial terms.

A Heads of Term (or similar) document must not be entered into by Council until an application to lease land to a Carrier has been approved by Council in accordance with paragraph 5.3 of this Policy.

5.3 Council Approval

Council may only enter into a Heads of Term (or similar document) or lease with a Carrier after a report detailing the key terms of the lease (for example, land being leased, rent and term of lease) has been presented to Council and the key terms of the lease have been determined or approved by Council.

5.4 Applications

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

- (a) 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. Details should also include any landscaping proposed to soften or screen the facility when viewed from a residence or public place;
- (b) Details of public consultation 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 prior to presenting any applications to Council for consideration;

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Adopted/Approved:	Adopted 30 January 2018	Department:	Corporate Services
Version:	2	Section:	Corporate and Technology
Reviewed Date:		Page No:	Page 2 of 4

- (c) Details as to why the site is suitable and, if the proposal is for a new tower, whether all opportunities for sharing and co-location have been considered and exhausted. Council's preference is co-location on an existing telecommunications facility;
- (d) Details of alternative sites that have been investigated on both public and private land and why those sites are not suitable;
- (e) The measures proposed to mitigate fears in relation to public health and whether distances to homes, schools, day care centres and the like have been maximised;
- (f) Whether any vegetation or habitat is to be removed, and if so, details of proposed mitigation or offset measures;
- (g) The community benefit of the proposal; and
- (h) An independent market rental valuation must be carried out (at the cost of the Carrier) by a licensed valuer operating in the Rockhampton Region to determine the lease fee payable. The lease fee is to be increased by CPI annually.

5.5 Legal Costs

Council must ensure all legal costs it incurs in relation to the preparation, negotiation and execution of any lease with a carrier are paid in full by the Carrier.

5.6 Reserve Land

If the land is a reserve that Council is trustee for, the NRM is to be consulted as to their requirements. Carriers must meet the requirements of any policies or conditions set by NRM.

Telecommunication facilities are not allowed on reserve land that is gazetted for a community purpose under the *Land Act 1994*, for example sport and recreation reserves.

5.7 Council Reservoirs

Council may consider applications to attach infrastructure to Council reservoirs, or land within a Council reservoir compound, and such applications are subject to the following conditions:

- (a) Evidence is provided that all other options have been exhausted and reasons why they are not suitable. It is FRW's preference that all telecommunication facilities are located on separate masts/poles;
- (b) 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;
- (c) 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. This safe distance must be in accordance with the relevant Australian Standard or ARPANSA Guides/Codes;
- (d) Should it be required, FRW 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;
- (e) The specification of the design of the installation attached to the reservoir is subject to FRW approval; and
- (f) Carriers must pay an additional \$5,000 per annum (excluding GST) to the base rate of the associated lease fee on Council land.

5.8 Allocation of Rent Received – Public Open Spaces

If the telecommunication facility lease is over Council land that is a public open space, the rent received under the lease is directed towards upgrades to the impacted public open space.

CORPORATE IMPROVEMENT & STRATEGY USE ONLY			
Adopted/Approved:	Adopted 30 January 2018	Department:	Corporate Services
Version:	2	Section:	Corporate and Technology
Reviewed Date:		Page No:	Page 3 of 4

6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the Chief Executive Officer.

7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Deputy Chief Executive Officer
Policy Owner	Manager Corporate and Technology Services
Policy Quality Control	Corporate Improvement and Strategy



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Adopted/Approved:	Adopted 30 January 2018	Department:	Corporate Services
Version:	2	Section:	Corporate and Technology
Reviewed Date:		Page No:	Page 4 of 4