



WARRNAMBOOL  
CITY COUNCIL

# Occupancy of Sport and Recreation Facilities Policy

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## 1. INTRODUCTION

The allocation and management of sport and recreation facilities is a key part of Council's role in supporting the health and wellbeing of the community. The Occupancy of Sport and Recreation Facilities Policy provides the framework for the allocation and use of sporting facilities through occupancy agreements.

The policy identifies the criteria and principles that will be used to determine eligibility to enter into an occupancy agreement for the use of Council managed property in relation to sport and recreation facilities and to clarify the conditions of occupancy and management.

Council aims to ensure a high level of use of its facilities for the greater benefit of the local community.

The Policy seeks to:

- Maximise participation in sport and recreation on sporting facilities, grounds and pavilions;
- Prioritise the allocation and use of sporting grounds and pavilions to clubs which are inclusive of females, actively support juniors, people with disabilities and people from culturally and linguistically diverse backgrounds (CALD) to participate in sport and recreation;
- Enable Council to address the needs of growth sports.

### 1.1. Scope

The policy applies to Council owned or managed property utilised for sport and recreation purposes where an Agreement is entered into with an organisation.

The policy applies to:

- all existing ongoing, seasonal, annual and casual use facilities used for sport and recreation,
- all new agreements (including renewals);
- where an existing agreement has expired and the current tenant seeks to enter into a new agreement;
- where a tenant exercises an option to renew under an existing agreement and a new agreement can be prepared; and
- rent reviews where provisions for review are included in existing agreements.

Council commitments under occupancy agreements existing at the time of this policy being approved, including 'options' clauses, will be honoured in their original form.

This policy does not apply to:

- Sport and recreation facilities that operate as a commercial business; Warrnambool Bowls Club, City Memorial Bowls Club and the Warrnambool Football Club,
- Council's passive/open space reserves,
- Council contract managed facilities such as AquaZone,
- Sport and recreation facilities located on Crown Land Coastal Reserve and governed by the Leasing Policy for Victorian Crown Land (December 2020), eg: the Warrnambool Surf Life

Saving Club, the Warrnambool Offshore and Light Game Fishing Club and the Warrnambool Yacht Club.

## 1.2. Definitions

TERM	DEFINITION
<b>Organisation</b>	A legally incorporated club or community group or association that operates primarily for sport and recreation purposes which benefits the community. The organisation must not exist for the purpose of generating profit or personal gain.
<b>Occupancy Agreement</b>	Any lease, licence, seasonal tenancy, annual tenancy or hire arrangement between Council and a Tenant or Casual hirer for the use of Council managed property
<b>Hire Agreement</b>	A short term agreement entered into between Council and another party for a one-off defined activity, event or function.
<b>Lease</b>	An agreement entered into between Council and an Organisation for the exclusive use of a nominated Council managed property for an agreed period of time.
<b>Licence</b>	An agreement entered into between Council and an Organisation for non-exclusive use of a nominated Council managed property for an agreed period of time.
<b>Pre-season</b>	The period prior to the start of the official winter or summer season of the relevant activity.
<b>Seasonal</b>	Allocation of Council facilities to Organisations for either the Summer or Winter playing season each year (including the Pre-season).
<b>Council</b>	Warrnambool City Council
<b>Council managed property or the premises</b>	Property owned or managed by Council such as land, and buildings and structures including Crown Land for which Council is the Committee of Management, Council owned land, as well as property for which Council has delegated authority over.
<b>Sport &amp; Recreation Facilities</b>	Built infrastructure identified in Council's Asset Management Plan as a Community, Recreation or Cultural Facility.
<b>Tenant, user group or occupant</b>	An organisation that has entered into an agreement with Council for the use and occupancy of Council managed property.
<b>Gender Impact Assessment</b>	A requirement of the Gender Equality Act 2020 is to undertake gender impact assessments on all policies, programs and services which impact the public. The assessment: <ul style="list-style-type: none"> <li>- Assesses the effects that the policy, program or service may have on persons of different genders</li> <li>- Will define the needs of persons of different genders</li> <li>- Addresses gender inequality; and</li> <li>- Promotes gender equality.</li> </ul>

## 1.3. References

Council Plan 2021-2025 (Revised 2022)

Warrnambool 2040 Community Plan

Healthy Warrnambool 2021-2025 (Municipal Health & Wellbeing Plan)

Active Warrnambool Strategy – 2017-2030

Victorian Government - Fair Access Policy Roadmap

## 1.4. Relevant Legislation

Local Government Act 2020

Crown Land (Reserves) Act 1978

Retail Leases Act 2003

Associations Incorporation Reform Act 2012

Leasing Policy for Victorian Crown land (Updated December 2020)

Gender Equality Act 2020

## 2. POLICY

The Policy recognises that there is an overall social benefit for the community through the use of Council managed property for the provision of sport and recreation opportunities.

Council seeks to maximise the community benefits arising from the use of its sports facilities, to enhance the quality of life and wellbeing of the municipality and supporting Council's Community Vision (W2040) and the Council Plan objectives. Council must balance this with ensuring responsible management of community assets, including the financial sustainability of sport and recreation facilities.

Council also seeks to address known barriers experienced by women and girls in accessing and using community sports infrastructure following the implementation of the Victorian Government's Fair Access Policy roadmap.

Seasonal tenancy fees and charges levied for use of sports grounds and change rooms based on recovering a percentage of the operational maintenance costs. Users and tenants of regional level standard sports grounds that require a higher level of maintenance, are to contribute more than users of local level standard sport grounds. Annual rent is levied for club social rooms, club pavilions and/or club permanent storage sheds, located on public land, owned or managed by Council which are based on the unimproved value of the land occupied by the premises multiplied by a rental yield factor. Rent is subject to a minimum amount, referred to as the 'administration rent'.

### 2.1. Policy Principles

The key principles include;

- Equity - fees are fairly applied across the range of users, existing and future;
- Affordability - recognising the differing capacities of users to pay;
- Transparency – clear defined rationale and decision making, simple to understand (not subjective)
- Maximise usage – promote shared use of facilities and increased levels of usage.
- Fair Access – supporting and encouraging women and girls to have equitable access to and use of sport and recreation facilities:
  - of the highest quality available at a convenient time,

- at the best and most popular competition times and locations, and
- to support existing and new participation opportunities, and variety of sports.

## 2.2. Occupancy Agreements

Council will allocate access to its sport and recreation facilities under a Licence, Lease or Hire Agreement.

User fees and charges have been developed for the use of sport and recreation facilities, which model industry best practise and incentivises the sharing of Council's facilities to maximise use and accommodate the increasing variety of recreation and cultural Organisations and activities and participant numbers.

Legislative requirements must be adhered to when entering into these agreements.

Council will not enter into agreements under this Policy where the operation of electronic gaming machines and other commercial activities and undertaken, or are proposed to be undertaken by the tenant.

## 2.3. Eligibility Criteria

To be eligible to for an occupancy agreement, organisations must:

- carry the level of public liability insurance cover specified in the agreement;
- have met its obligations under previous agreements with Council or any outstanding debt with Council;
- be willing to share access to facilities with other groups and to work cooperatively and respectfully with other users;
- welcome diversity including gender, ability and cultural background;
- organisations must be affiliated with their State Sporting Association or Peak Body;
- be open to new members and have as its primary function a sport, recreational pursuit, special interest or cultural activity.

## 2.4. Allocation of Facilities

The allocation Council managed properties to organisations will be undertaken in accordance with Council's strategic priorities and identified needs.

Council aims to optimise use of its sport and recreation facilities through shared use of its facilities by multiple groups, and therefore requires the sharing of facilities as required and appropriate for the greater benefit of the community.

Requests for annual, seasonal, pre-season, regular and casual use of Council managed properties must be submitted through the formal application process. Applicants will be required to provide all the information specified as part of the process.

Council will consider the following issues when determining which organisation will be allocated access to a Council managed property;

- the availability and suitability of the facility for the intended use;
- Council's long term plans for the facility or site;
- the organisations history; and the requirements of the sport or recreational activity;
- organisations which primarily serve the needs of the local community over other use;
- organisations which are inclusive, welcoming and provide safe and respectful environment for all members of the community;
- organisations that are well governed, responsive and sustainable;
- organisations which participate in programs that promote club development and social responsibilities;
- organisations which are willing to share access to the facilities with others;
- organisations that have the best interests of the community and Council.

## 2.5. Type of Agreements

### 2.5.1. Licences

Licence Agreements are Council's preferred form of sports and recreation occupancy agreement.

A Licence will be issued to an organisation in the following situations:

- Use is seasonal, non-exclusive and agreements are for 3 years or less

Non-exclusive use allows access to the facility by other organisations and the general public at the same time and/or times outside those stated in the Licence Agreement.

### 2.5.2. Leases

A Lease Agreement is used to provide organisations with exclusive use of a facility for an agreed period.

The organisation has use of the leased facility/area under clearly stated terms and conditions and will only be considered in exceptional circumstances and where providing exclusive use is in line with this policy.

Lease Agreements will have terms of seven (7) years, unless otherwise negotiated. A lease term (including options) cannot exceed the maximum allowed for Crown Land in accordance with the Crown Land (Reserves) Act 1978 and Local Government Act 2020.

### 2.5.3. Hire Agreements

A Hire Agreement may be used when a sport and recreation facility is booked for a defined activity, event or function. A hire agreement may also be used for a one off casual or regular booking such as school use, community group or pre-season training.

Fees for hiring sport and recreation facilities will be determined as part of Council's annual budget process and specified in Council's Annual Fees and Charges Schedule.



Council reserves the right to suspend or terminate a Licence or Lease Agreement in accordance with the terms of that agreement including for example:

- where Council determines, in its absolute discretion, that changes within State government or changes to any laws mean that the Council managed property should no longer be used for the specified permitted use; or the licensee loses any accreditation required, or ceases to be affiliated with any national or state body required for its operation, or ceases to be an incorporated association; or
- Council wants to redevelop, grant easements or other rights over the land, carry out any works on the land, including demolition of the Council managed property,
- the organisation has breached the terms and conditions of the relevant agreement.

## 3. CONDITIONS OF OCCUPANCY

### 3.1. General

As a condition of occupancy, all organisations will enter into a formal, legally binding occupancy agreement with Council.

Where Council acts as the Committee of Management over Crown Land, Council must seek the prescribed consents in accordance with the provisions of the Crown Land (Reserves) Act 1978.

Leases and Licenses will be in the prescribed form as provided by DELWP, including Council's additional terms and conditions as part of the special conditions of the agreement.

### 3.2. Fair Access Policy Principles

The Gender Equality Act 2020 requires that Councils "...must consider and promote gender equality; and take necessary and proportionate action towards achieving gender equality."

In addition, Part One, Section 1(a) of the Gender Equality Act 2020 requires gender assessments when "...developing or revising any policy of, or program or service provided by, the entity that has a direct and significant impact upon the public" - a provision which has been in effect since 31 March 2021.

This policy seeks to implement the Victorian Government's Fair Access Policy, which was announced in August 2022, which aims to improve the access to, and use of, community sports infrastructure for women and girls.

Council is committed to the implementation of the Victorian Government's Fair Access Policy which aims to improve the access to, and use of, community sports infrastructure for women and girls, which was introduced in August 2022.

Clubs that hold an occupancy agreement with Council are expected to meet the requirements of the Victorian Government's Fair Access Policy and must demonstrate progress in meeting the requirements by providing documentation of completed Gender Impact Assessment and implemented actions. Requirements include:

- developing policies or procedures addressing equitable participation and use of facilities.

- meeting quotas of female representation on the club's committee of management as per the Policy.
- have at least 1 female team OR conduct a program with at least 5 female participants.
- demonstrate that scheduling of training was 'fair' for both genders in the previous season and that this is aligned with the clubs gender impact assessment.

### 3.3. Closed Circuit Television

Council has a role in community safety and crime prevention and provides direction and guidance on Council's management and use of CCTV systems in public places through the Closed Circuit TV (CCTV) Policy.

The primary objective for installing CCTV is to discourage and detect unlawful behaviour at public sport and recreation reserves, resulting in enhanced safety and security for the community and assets with the City.

Accordingly, to make effective contribution and to assist lawful operation, clubs are able to install security systems/CCTV in their licenced premises in accordance with their occupancy agreement and the following guidelines;

- Clubs must receive consent from Council before installing on Council premises.
- Proposals for CCTV should include a map showing the camera locations, coverage area and description of the proposed site/area.

Proposals are to respond to the criteria below including submitting any information or documentation required on how compliance with public space surveillance and privacy laws will be maintained.

- CCTV will be effective in resolving the problem
- Less privacy invasive alternatives have been considered
- CCTV is a proportionate response to the problem
- Affected stakeholders are in support of the use of CCTV
- The CCTV proposal complies with relevant laws and standards
- An appropriate management and resourcing plan for the CCTV system is proposed.

Council will not support the use of CCTV surveillance in public spaces where individuals have a reasonable expectation of privacy including in change rooms and public toilets.

Clubs are to refer to the *Community Crime Prevention, Guide to developing CCTV for public safety in Victoria* when considering the implementation of CCTV systems.

### 3.4. Multi Use of Facilities

Council is committed to maximising access to, and use of, Council managed properties for the benefit of the community. Accordingly, for all agreements with organisations, the need for exclusive use of facilities will be reviewed at the commencement of the agreement, with the preference being shared use licence agreements.

Organisations have the onus of justifying any request for exclusive use, in line with prescriptions included in this policy for exclusive use.

## 3.5. Annual Reporting

Organisations on leases and licenses must provide the following documentation prior to the agreement commencing and thereafter annually:

- a copy of the Certificate of Currency for insurance required under the agreement;
- Annual General Meeting record;
- annual report including financial statements as per requirements of the Associations Incorporation Reform Act 2012;
- copy of current Liquor License (if applicable);
- details of current Committee members and Council liaison officer;
- list of registered teams and participant numbers;
- documented evidence of progress in meeting the requirements of the Victorian Government's Fair Access Policy
- current Business Plan (Leases only); and
- any other information reasonably requested by Council.

## 3.6. Third Party Hire

Council managed properties must be made available by the organisation for casual hire by other parties, where appropriate, and where this does not interfere with the primary purpose of the facility or adversely affect the amenity of nearby neighbours.

Applications are made and hire fees payable to Council for all sports grounds and oval change rooms (except Allansford Recreation Reserve, Hockey South West)

## 3.7. Insurance

### 3.7.1. *Public Liability*

Organisations including, as relevant, subtenants and third party hirers are required to take out, in their name, Public Liability Insurance (noting the interest of Council). A minimum cover of \$20 million must be provided, or other sum as stipulated by Council.

Organisations must provide a copy of their Certificate of Currency on or before the commencement date of the agreement and annually or on renewal thereafter. The organisation is responsible for ensuring that any subtenant and casual hirer have taken out the cover prior to commencement and in the event this has not occurred, the Organisation will remain responsible under its insurance.

### 3.7.2. *Property*

Council will take out and maintain building insurance for buildings on Council managed property for the full replacement value.

Organisations using leased or exclusively occupied premises must reimburse Council the full cost of the building insurance and any excess in respect of any claim made (to be invoiced annually with the rental fee).

Organisations have responsibility for insuring any chattels, fixtures or contents within Council managed property (i.e. Contents Insurance).

### **3.8. Inspections, Maintenance and Renewal/Building Lifecycle Cost**

Council will conduct an inspection of all properties prior to commencement of an agreement and at the commencement of any agreement renewal. Facilities with Seasonal agreements will be inspected each year at the relevant changeover of seasons (for example, March/April and September/October).

In accordance with the terms of the relevant agreement, Council or Council's authorised agents may enter the premises to inspect the essential safety measures at any time after giving the tenant notice.

Council is committed to ensuring the premises remains suitable and safe for its intended use, and that the building lifecycle is extended as far as practicable for the benefit of future communities. Maintenance schedules will be included in all new agreements. Each organisation is required to maintain the facility in accordance with the maintenance schedule at their cost (unless otherwise specified).

Prior to entry into any agreement for the use of Council managed property, Council will ensure that maintenance and renewal and building lifecycle costs are mapped and factored into decision making regarding allocation of leases and licences.

Organisation and Council responsibilities for maintenance and renewal are to be determined at the commencement of the lease or licence, and clearly set out in the agreement.

### **3.9. Improvement and Alterations**

Organisations will not be able to make any alteration or additions (including signage) to the Council managed property without Council and / or DELWP consent.

All improvements, additions, structures or buildings on the premises installed or erected by the organisation during the term of the agreement will be the property of Council, unless otherwise specified.

Organisations who constructed the premises may be required to remove the building, all fixtures, fittings, plant and equipment at the expiry of the term, unless otherwise specified.

If Council requires the removal of any assets that have been constructed or installed by the organisation during the term of the lease, then the organisation must make good any damage caused by their removal.

### **3.10. Outgoings**

Organisations are responsible for all utilities and outgoings associated with the operation of their service as detailed in agreement.

### **3.11. Keys and Locks**

Council managed properties are required to be on Council's master key system.

Organisations may install a security system at their own cost, however prior written consent from Council is required. Security codes and subsequent changes to codes must be given to Council immediately after installation.

### **3.12.Security**

Council reserves the right to require the organisation to pay a security deposit, or provide a bank guarantee, prior to commencement of the lease and or licence as protection against any breach in the agreement. Council may call on the security if the organisation does not comply with obligations under the relevant agreement.

### **3.13.Risk and Occupational Health & Safety**

Council has significant legislative, financial, service delivery, asset management and contractual responsibilities. It has a duty of care to councillors, employees, contractors, volunteers, the community and environment.

Council's Risk Management Policy mandates the commitment to managing risk and the supporting framework sets out Council's key requirements, roles and responsibilities.

By entering into an Occupancy Agreement the Club accepts responsibility for immediately reporting to Council any structural damage or potential safety hazards, or any loss or damage that might result in an insurance claim.

### **3.14.Child Safe Standards**

Council is committed to creating a child safe environment where children and young people are respected, valued and encouraged to reach their full potential and minimise any risk or harm that operations may cause on children and young people. Council's policies and procedures support the implementation of requirements under the Child Wellbeing and Safety Act 2005.

If the use of Council's property involves the organisation working with children, the organisation must comply with the Child Safe Standards made under section 17(1) of the Child Wellbeing and Safety Act 2005.

### **3.15.Change of Use**

Organisations must obtain written consent from Council prior to any change of, or additional, use of Council property from that stipulated in the agreement between organisation and Council.

### **3.16.Alcohol and other drugs**

Council has a key role in minimising the harms associated with excessive alcohol consumption by improving community awareness and understanding of risky drinking and its impacts.

Prior to an organisation being granted permission to consume and/or sell alcoholic beverages at one of Council's sporting or recreational facilities, the organisation is required to contact the Liquor Licensing Commission to obtain an appropriate licence.

The organisation must also apply in writing to Council for permission to consume and/or sell alcoholic beverages at one of Council's sporting or recreational facilities following provision of the appropriate licence.

Any permission granted by Council will remain valid only for the duration of the relevant agreement pertaining to the use of the facility.

Council may revoke permission if the organisation breaches the liquor licence.

In addition:

- the times and days must be consistent with the times and days nominated by the group for use of the facility,
- alcoholic beverages will not be consumed in conjunction with junior activities such as Junior Training or Junior Competition.
- sporting groups are required to be members of the Good Sports Program.

## 4. GOVERNANCE

### 4.1. Owner

Manager of Recreation and Culture

### 4.2. Review

The Manager of Recreation and Culture will review the policy for any necessary amendments no later than three (3) years after its formulation or after the last review.

### 4.3. Compliance Responsibility

4.3.1. *Management Executive Group (Chief Executive and Directors)*

4.3.2. *Managers and Supervisors*

4.3.3. *All Employees*

### 4.4. Charter of Human Rights Compliance

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights Act (2007).

Warrnambool City Council is committed to consultation and cooperation between management and employees. The Council will formally involve elected employee health and safety representatives in any workplace change that may affect the health and safety of any of its employees.