

11.5 TUMBARUMBA SPORTS ACADEMY OPERATION AND MANAGEMENT AGREEMENT - ATTACHMENTS

Attachment Titles:

1. Community and Recreational Facilities Management Policy - Adopted December 2023

Attachment 1 - Community and Recreation Facilities Management Policy - SVC-ENG-PO-130-01

Policy Title	Community and Recreational Facilities Management Policy
Policy Category	Public
Number & Version	SVC-ENG-PO-130-01
Policy Owner	Infrastructure and Works
Approval by	Council – 14 December 2023
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Date for review	14 December 2024

1. STRATEGIC PURPOSE

This policy applies to Council Facilities including Recreational Facilities that are owned or are on land owned by Council.

The purpose of this Policy is to:

- Encourage the optimal use of Council's Community and Recreational facilities to cater for a range of community and sporting groups.
- Ensure that the process for which Council's Community and Recreational Facilities are managed is structured and transparent.
- Ensure fair and equitable access to Council's Community and Recreational Facilities for user groups and individuals is achieved.
- Establish a more collaborative and partnering approach with the community on how Council can deliver specific services and programs that the community has identified it needs at Council owned facilities.
- Build community capacity to run a variety of services and programs that Council cannot provide or fully fund from within its own resources.
- Build resilience and reduce the community's reliance on Council to meet every community request for service delivery.
- Build trust and relationships between Council and key stakeholders in the Community to strengthen Council's reputation as being truly representative of meeting the needs of the local community it serves.
- Ensure that contributions and work undertaken by existing users groups is formally recognised in any future agreement that Council may enter into with the user group.
- Encourage community leadership that is built upon a strengths-based approach, focusing on existing community strengths and resources rather than a community deficits or needs approach.

- Obtain a contribution from user groups to recover Council's costs of providing and maintaining facilities.
- Recognise the social value and social benefits of services and activities organised and provided by community-based groups and to subsidise these groups where it sees fit.
- Determine the most appropriate occupancy arrangement for each facility through a management agreement, licence or lease.
- Fulfill the requirements of Council and State Government policies in relation to provision of facilities on Community Land, Crown Land, Public Recreation Reserves and Open Space
- Ensure that Council's administration and operational costs are minimised.
- Ensure that all user groups support Council's non-discriminatory practices and policies.
- Clearly communicate Council's intentions in relation to management of community facilities.

2. CONTENT

Scope and Application

The scope and application principles of this policy apply to the management of Community and Recreation facilities owned by Council:

- The management framework will enable equitable opportunities for community-based groups to access community and recreation facilities in an organised and structured way.
- Where a group or organisation has regular use of a facility as supported by a management agreement, licence or lease, that group should contribute to the management and maintenance costs of the facility.
- Contributions from users of Council facilities under any agreement should be used to cover the management, maintenance, utility services costs along with minor upgrade costs associated with the use of the facility. Contributions should also be used for the development of activities or services associated with the facility.
- The process by which a facility is occupied and managed will be open, accountable, and transparent.
- All users will support Council's non-discriminatory practices and policies.
- Community and Recreational facilities will be accessible to the broader community.
- All financial arrangements and agreements between Council and user groups who use Council's facilities, including subsidy arrangements, are documented, transparent and in accordance with legislative requirements and Council policies.

Management Models

Council's Community and Recreational Facilities will generally be managed in a manner which maximises their availability for current residents and maintains the facility for future residents. Wherever possible, Council will implement a strategy of shared use of any facility, and this will be further supported by the development of multi-use community facilities.

A range of management models and agreements including direct Council management, community management, non-exclusive licenses and leases will be used. Generally, leases will only be considered in exceptional and publicly defensible circumstances.

In any management model or agreement that Council enters into for the use of its Community and Recreational facilities, the specific terms of use by user groups will be defined in the detail of the agreement. The type of information included in any agreement Council enters into will include, but is not limited to:

- Hours of operation and occupation by the user group
- Shared usage requirements between user groups and the general community
- Tenure and agreement around renewal timeframes between Council and the user group
- Maintenance responsibilities, approvals of any additions, alterations, or modifications to the facility
- Outgoings, Rent and other cost recovery arrangements to be paid to Council to cover the operational costs of the facility.
- Provision of Rental or other subsidies agreed to by Council
- Reporting and provision of information to Council.

These management models and user group agreements that Council enters into will help Council plan and manage the future use of its portfolio of Community facilities.

Community and Recreational Facilities are generally Council owned and managed properties and their immediate surrounds. They are often, but not always, situated on Council Land and/or public open space or Crown Land for which Council has the long-term management responsibility. These facilities include:

- Community Halls, function and event spaces
- Club houses and amenity rooms
- Sport and Recreation facilities
- Baby, parent and childcare centres
- Youth facilities
- Senior citizen centres
- Community and neighbourhood centres
- Arts and cultural centres
- Other properties owned by Council for different types of community use.

Hours of Operation and Occupation by the User Group

The hours of operation and occupation under any agreement with user groups of Council's Community and Recreational facilities will be determined in the specific terms and conditions of the agreement. Generally, hours of operation will be in accordance with Council's Plans of Management for the facility as well as relevant controls under Council's Local Environment Plan (LEP) and Development Control Plan (DCP). The hours of occupation will be agreed to by Council and the user group in the specific terms and conditions of the agreement and in consultation with other users of the facility.

Management Agreements, Licensing and Leasing

All management agreements, licensing and leasing of facilities will be undertaken in full consultation with all stakeholders including community representatives and existing user groups. All agreements between Council and user groups will be in accordance with Council policies and relevant legislation.

Council will not enter into any management agreements, licenses or leases which provide for exclusive use and/or access to a facility by a private individual or user group to the exclusion of the general public.

Leases will only be considered in exceptional circumstances that could include the following situations:

- the proposed use of the facility under a lease agreement has the potential to provide the best value to the community
- the lease will return a market rental to Council

- the lessee will significantly contribute to the facility's operational costs as well as capital upgrades of the facility at their expense.
- all operating and maintenance costs would be the responsibility of the lessee
- the leasing of the facility is in keeping with the policies of Council and the State Government, where the land is publicly owned
- community consultation has been undertaken and there has been no identified adverse impact to the community as a result of Council entering into a lease with the user group
- the lease is awarded through a public and contestable process open to the entire community.

Shared Use Arrangements

It is the intent of this policy and all future agreements that Council enters into that Council's Community and Recreational facilities will still be accessible to the broader community for use. In the instances where a group or organisation has negotiated an agreement with Council for regular use of a facility, that agreement must allow for shared use of the facility with existing or new user groups.

Council will not enter into any agreements which provide for exclusive or restricted access to a facility. All agreements that Council enters into for the use of its Community and Recreational facilities must include shared usage provisions.

Tenure and Renewal of Agreements

Where a current license, lease or other formal agreement exists at a Council facility, this will be honoured until its expiry.

It is not the intention of this policy that Council enters into long-term agreements with user groups. The purpose of this policy is to encourage higher utilisation of Council's Community and Recreational Facilities through enabling a broader range of user groups to have access to the facilities all year round. The policy is also designed to encourage the delivery of a range of support services throughout the Local Government Area (LGA) that address community needs at a point in time and that aligns with Council's current Community Strategic Plan.

It is recognised that these needs change over time and therefore use of Council's Community and Recreational facilities must be flexible enough to accommodate the changing needs of the community.

A review of usage and management options for any facility that Council enters into an agreement with will be undertaken within 12 months of the start of the agreement period. The review will take into account prior existing usage and utilisation of the facility compared to current usage, the alignment of activities and programs that the user group runs out of the facility with Council's Community Strategic Plan and the changing needs of the community.

The amount of rent paid or subsidy provided by Council will also be reviewed at this time. If a review indicates that an increase in rent will be charged or a change in subsidy arrangements are to be made, these changes will be introduced over an extended period to be determined by Council and the user to limit the impact on the user group. Tenancy agreement terms in any lease arrangements entered into between Council and the user group will generally be in accordance with the *Local Government Act 1993*.

Council recognises that many groups have a strong historical affiliation with the facilities which they use and have contributed cash and/or in-kind contributions to their development. However, past contributions of cash or in-kind contributions by user groups to a facility does not convey permanent or preferential access to that facility.

While Council supports the continued occupation of those facilities by those groups, it is the intent of this policy to encourage shared use of Council Facilities where it does not currently occur.

Maintenance Responsibilities, Improvements, Alterations and Additions

Responsibilities in relation to maintenance, improvements alterations and additions will be fully detailed in formal agreements between Council and user groups. In general, the following rules apply:

- Unless otherwise determined, Council is responsible for the external structural integrity of community and recreational facilities. A user group, however, is responsible for maintaining the internal building in its existing condition and this may include painting, cleaning, minor repairs, graffiti removal, etc. The exact responsibilities will be detailed in the agreement.
- Any alterations or additions to Council-owned Community and Recreational facilities must have Council's approval prior to any works being undertaken.
- Where a group voluntarily undertakes alterations or additions to a Council-owned facility with the approval of Council, these alterations and additions will be the responsibility of the user group to maintain for the duration of the agreement. Council, at its discretion, can direct the user group to remove these alterations and additions at the end of the agreement.
- In some instances, when a high level of rental subsidisation is provided, an organisation or group may take responsibility for the long-term maintenance of the facility required to ensure its sustainability and fit-for-purpose requirements. This may occur where it has been agreed by Council that a facility or part of a facility is used solely by one organisation such as in the case of sporting groups and these responsibilities will be documented in the agreement. Where applicable, Council will work with these groups to develop a long-term maintenance and asset management program for the facility.
- Unless otherwise determined, users of the facility will be responsible for the internal maintenance of the facility. Where more than one group is licensed to use a facility, contributions and responsibility for maintenance will be on a shared or *pro rata* basis determined by the floor space usage ratio the user group requires and/or the different activities (level of usage) carried out by the users.
- Facility fit out improvements that are approved by Council and undertaken by user group/s at their cost will remain the property of the user groups. Council, at its discretion, can direct the user group to remove fit out improvements at the end of the agreement.
- Structural modifications, additions and improvements are strictly not to be undertaken without the consent of Council. Any significant modifications or improvements to a Community or Recreational facility will be subject to what is permissible under Council's LEP and DCP controls and also Council's Development Application and assessment processes.

Outgoings

Responsibilities in relation to outgoing will be fully documented in formal agreements entered into between Council and the user group.

Under any agreement, unless otherwise negotiated with Council as an agreed subsidy, a user group will be responsible for all outgoing as they apply to the facility. The outgoing include, but are not limited to, the following:

- Rates
- Telephone
- Commercial waste, sanitary, sewage and cleaning charges

- Any land tax assessed on or levied in respect of the Premises
- Insurance premiums (not including building insurance)
- Fire protection
- Charges for utilities such as gas, electricity, oil and water separately metered and consumed in or on the Premises
- All other charges and impositions by any public utility or authority for the supply of any service separately metered or supplied to the premises.

This is not an exclusive list and there may be other outgoings that relate to specific buildings and or uses. The full list of responsibilities in relation out outgoings will be documented in the agreement.

Where there are more than one user group sharing the facility the users will assume a proportionate responsibility for the outgoings.

The specific user agreements that Council enters into for use of its Community and Recreational facilities will detail how outgoing are recorded and paid by user groups.

Provision of Rental or Other Subsidies

Council may assist community users groups by providing a rental subsidy or other subsidies in relation to the payment of outgoings. The rental and or other subsidies agreed to between Council and the user group will be for a period as specified in the detail of the agreement.

The extent of the rental or other subsidy will be determined by Council based on the benefit the user group brings to the community and alignment with the purpose of this Policy and Councils current Community Strategic Plan.

The level of subsidy will be reviewed on a regular basis and this will be reflected in any agreements that Council enters into. The review does not imply a change in the level of subsidy but is required so that Council is fully informed on the total level of subsidies being applied. All rental or other subsidies Council agrees to in each individual agreement must be reported to the community on an annual basis.

Council seeks to ensure that the cost to Council of the provision of community facilities is transparent. Council has a fiduciary responsibility to all ratepayers and must clearly identify the actual cost of all rental or other subsidies it agrees to for the use of Community and Recreational facilities.

How rental or other subsidies are calculated is outlined below.

Calculation of a rental or other subsidy

Step 1: A market rental value or other appropriate market-based valuation will be obtained for the property or part of the property to be utilised under an agreement with Council.

Step 2: The total costs to Council of operating the facility or part of a facility including depreciation, insurance, maintenance, rent or rates payable to other agencies, administration, utility costs and improvement costs Council has incurred will be considered on a proportion of usage (*pro rata* basis).

Step 3: The level of the rental subsidy or other subsidies determined by Council which offset costs the user has to otherwise pay will be determined based on the benefit the user group brings to the community and alignment with the purpose of this policy and Councils current Community Strategic Plan.

Appeal Process – Review Panel

If the community or user group is not satisfied with the level of rental or other subsidies offered by Council, the process will be reviewed by a panel which will consist of two other Council

officers and the Mayor or the Mayor's Delegate. If considered appropriate, an independent third-party member will be invited to participate in the review process.

The Director Infrastructure & Works will outline how the process was applied and the Community / User Group will have the opportunity to state their situation.

The basic purpose of the Review Panel is to ensure that there is an appeal process in place and that the process is applied fairly and accurately. It is important that the integrity of the process be maintained.

Accessibility

Council will seek to ensure that its Community and Recreational facilities are progressively upgraded to become accessible to all segments of the community and ensure that all facilities meet the requirements of the *Disability Discrimination Act 1992*.

Reporting and Provision of Information

Council will provide information to the community on the management of its Community and Recreational facilities through its annual report and quarterly performance reports.

Community groups and organisations who enter into an agreement to use Council's Community and Recreation facilities will be required to report annually on performance indicators in relation to the facilities utilisation, benefit delivered to the community, the group's activities and alignment with Council's current Community Strategic Plan.

Council is required to report on the level of rental or other subsidy agreed to with user groups who enter into agreements with Council to utilise its facilities on an annual basis.

Council insists on the highest level of probity in the management of its Community and Recreational facilities and annual reporting will be a mandatory requirement in any agreement Council enters into with user groups.

Council will provide guidance and advice on the reporting and provision of information it requires in the detail of each individual agreement entered into with user groups.

3. DEFINITIONS

Community facilities	Community facilities refer to Council owned and managed community buildings / sport and recreational facilities and their immediate surrounds which are used by community-based / user groups to provide recreational, cultural, sporting and community-based service activities. They are often, but not always, situated on Council Land and/or public open space or Crown Land for which Council has long term management responsibility.
Agreement	Refers to any Council management agreement, user group agreement, license and or lease

4. ASSOCIATED LEGISLATION

Local Government Act 1993
Disability Discrimination Act 1992

5. ASSOCIATED COUNCIL DOCUMENTS

- Community Assistance Policy – SVC-FIN-PO-127
- Lease / Licence of Vacant Council / Crown Land Policy – SVC-COR-PO-008

- Sports Field and Facilities Policy – SVC-ENG-PO-073
- Council’s Plans of Management
- Snowy Valleys Council Local Environment Plan (LEP)
- Snowy Valleys Council Development Control Plan (DCP) – SVC-CorpPlan-Pln-013
- Community Strategic Plan – SVC-RP-STY-011

6. HISTORY

Date	Action	Name	Policy Number	Resolution Date	Resolution Number
21/09/2023	Draft for Public Exhibition	Community and Recreational Facilities Management Policy	SVC-ENG-PO-130-01	21/09/2023	M189/23
14/12/2023	Adopted by Council	Community and Recreational Facilities Management Policy	SVC-ENG-PO-130-01	14/12/2023	M269/23