

LOCAL GOVERNMENT

GUIDE FOR LEASING AND LICENSING SPORT AND COMMUNITY FACILITIES

CONTENTS

01	Introduction	01	05	Fee Models	25
	Introduction	01		Common fee models	26
	Need for Guide	01		Discounts/Incentives	28
	Approach	02		Invoicing fees	29
	What is a community facility	02		Case Study: City of Marion fee model	30
	Community facility tenants	02		Case Study: Mount Barker District Council fee model	31
	Benefits of letting community facilities	03	06	Council Services	32
	Current state of lease & licensing	05		Council provided services	33
	Relevant legislation	05		Maintenance services	33
02	Policy Setting	07		Facility management support	33
	Why does Council need a Policy	08		Club development support	33
	What should the policy address	08		Grant assistance and capital funding	33
	Policy development	10	07	Leading Practice	34
03	Occupancy Agreements	11		Moving towards leading practice	35
	Why do Council's need and occupancy agreement	12	08	Templates	37
	Occupancy agreement types	12		Tenant skills assessment template	38
	Process for determining occupancy agreements	15		Occupancy agreement conditions template	39
	Case Study: Kauri Parade Sporting Complex	16		Tenant review template	41
	Sub-leasing	17	09	Resources	44
	Occupancy agreement conditions	18		Resources	45
04	Property Management	19	10	Appendices	46
	Property management	20		Appendix 1 - Example fee models	47
	Pre-assessment of a potential tenant	20			
	Inspection and reviews	21			
	Key performance indicators	22			
	Supporting good governance	22			
	Case Study: City of Onkaparinga STARCLUB KPI	23			
	Working in partnership	24			

Disclaimer

The project is being funded by City of Onkaparinga, Local Government Research Fund and the Office for Recreation, Sport and Racing

The information provided is for the purpose of a general guide only and you should not act solely based on the information contained in this Guide. None of the comments in this Guide are intended to be advice, whether legal, professional or financial. Legal and compliance issues associated with leasing Council owned facilities to the community are complex and do not act on the information contained in the Guide without first obtaining specific advice regarding your circumstances from a legal professional. Further, as laws change there may have been changes to the law since the Guide was written.

While every care has been taken in the preparation of the material contained in this resource, no responsibility can be accepted for any errors or omissions.

Cover page photo source: City of Onkaparinga

GLOSSARY

Club

A club is defined as a group combining for a common purpose and is normally an incorporated not-for-profit association. The club may have a focus on sporting, recreation, social, educational, environmental, arts, cultural and/or health and wellbeing activities provided for the benefit of the community. Clubs are the most common type of tenants occupying community facilities owned and managed by Councils.

Council

A local government area constituted and managed in accordance with the Local Government Act 1999 (South Australia).

Community

People who work, live or play in the Council area.

Community facility

Council owned or managed buildings (e.g. clubrooms, halls, community centres) and playing areas (such as an ovals, pitches, courts, bowling greens) that are provided to benefit the community. It also includes community facilities located on Crown Land under the care, control and management of Council.

Ground lease

An agreement in which a tenant is permitted to develop land during the lease period, after which the land and all improvements are turned over to the property owner.

Lease agreement

An agreement where the tenant has exclusive use of a community facility for a set period.

Licence

An agreement giving official permission to occupy a community facility for a set period but the tenant may not necessarily have exclusive use.

Key Performance Indicator (KPI)

A quantifiable measure used to evaluate performance of set objectives.

Peak Body

An organisation which has membership of smaller organisations with allied interests. They are generally established for the purpose of developing standards and processes and to promote the interests of the members.

Management agreement

A contract signed between Council and another party, where the other party is occupying a community and sets out each parties' responsibilities.

Occupancy agreement

Occupancy agreement collectively describes all types of Council/ Tenant agreements i.e. permit, licence, lease and management agreements.

Permit/hire agreement

A permit is once-off or short-term use of facility.

Playing area

An area set aside for sport, recreation and community use, such as sporting grounds, courts and parks i.e. (ovals, tennis courts, bowling greens and pitches).

SEIFA

Socio Economic Indexes for Areas is an ABS index that ranks areas in Australia according to relative socio- economic advantage and disadvantage.

STARCLUB

An initiative of the South Australian Office for Recreation, Sport and Racing for use by sport and active recreation clubs for club development.

STARservice

A joint initiative of the South Australian Office for Recreation, Sport and Racing and the Department of Human Services for community group development.

Sub-lease

An agreement by the head tenant to another organisation which stipulates the negotiated fees/ charges/conditions and times of use for the period of the agreement.

Tenant

The occupier of a community facility under an occupancy agreement.

Tenure

The legal right to occupy land or building for a period of time.

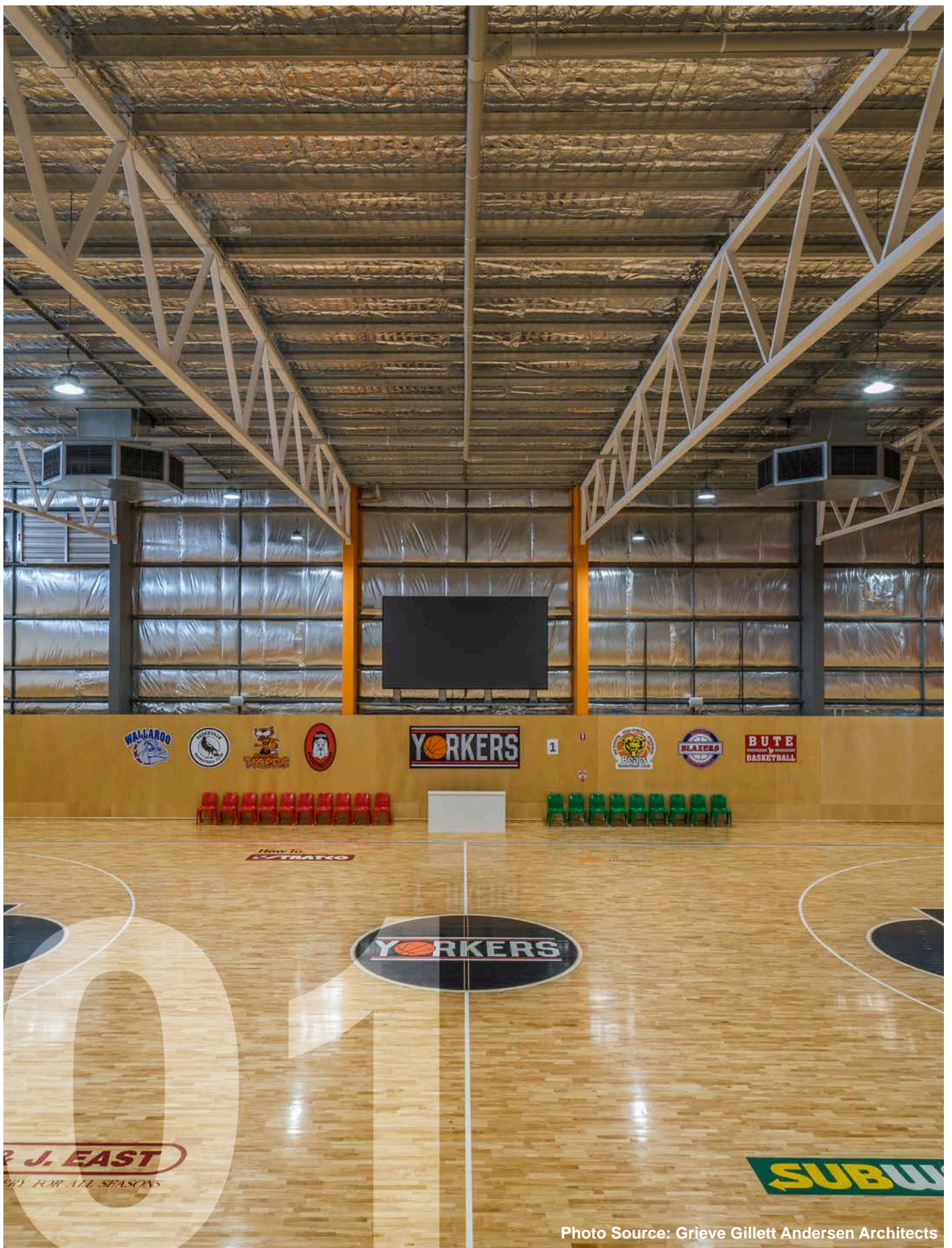


Photo Source: Grieve Gillett Andersen Architects

Introduction

Councils are a key provider of community facilities in South Australia. Councils make community facilities available for use to clubs through occupancy agreements. They recognise the community benefits provided by these clubs. Each Council manages the leasing and licensing of community facilities individually, and this had led to a lack of consistency across and within Councils. Leasing and Licensing of community facilities can be complex, with Councils faced with land tenure issues and changes in demands for community facilities.

This Guide encourages Councils to establish policies which are strategically aligned and promote equitable access. The Guide defines common occupancy agreements and provides examples of commonly used fee models. The Guide promotes Councils and clubs to work together in order to maximise the community benefits from existing and future community facilities.

Need for Guide

The Office for Recreation, Sport and Racing (ORSR), the Local Government Association and City of Onkaparinga recognised a need to develop a guide for leasing and licensing sport and community facilities. Recent studies and feedback highlighted a lack of consistency in lease and licence agreements. Some Councils have no formal occupancy agreements in place and the community feel that letting Council owned facilities can be complex, confusing and, potentially, inequitable.

To develop a guide for Leasing and Licensing Sport and Community Facilities the City of Onkaparinga sought and received funding from the Local Government Research and Development Scheme (LGRDS) and the ORSR.

The objective of this Guide is to provide a resource that Local Government can use to ensure community facilities are made available for use by the community in an equitable and sustainable manner.

The Guide will benefit Council by:

-  Identifying the importance of letting community facilities, including the social, health and economic outcomes.
-  Assisting Council to establish policies which are strategically aligned and promote equitable access.
-  Recognising the different types of occupancy agreements.
-  Identifying assessment criteria for a potential tenant.
-  Identifying property management activities that support Council's risk profile and is manageable within its available resources.
-  Providing examples of equitable fee models, including potential discounts and/or incentives.
-  Encouraging Council to provide services to support the tenant's development and sustainability.
-  Highlighting common issues and identifying actions to move towards leading practice.
-  Provide templates for Council use.

Approach

In preparing this Guide, extensive research and consultation was conducted, including literature reviews, interviews, surveys and workshops. We would like to thank the many Councils (43) and Clubs (50) that informed and contributed to the development of this Guide. We would like to thank City of Holdfast Bay, City of Marion and Mount Barker District Council for providing information for the case studies. Also special thanks to the project team who managed and developed the Guide; Craig Hobart and Chris Maschotta, City of Onkaparinga; Leah Cassidy, Sport SA; Andrew Haigh, Berri Barmera Council; Simon Bradley, City of Prospect; Neil Tredwell and Kate Spanagel from Tredwell Management.

Throughout this Guide leading practices are outlined, and this has been defined as:

- evidence based
- endorsed by a subject matter expert
- successfully implemented and, ideally, evaluated.

What is a community facility?

For the purposes of this Guide a community facility is a Council owned or managed building or playing area. This includes buildings and playing areas located on Crown Land under Council's care, control and management.

Common examples of community facilities include:

- Indoor recreation centres
- Community centres
- Community halls (including community centre outreach sites)
- Youth centres
- Arts and cultural centres
- Senior citizens clubs
- Sporting clubrooms
- Changerooms
- Storage facilities
- Sporting playing areas such as ovals, courts, bowling greens and pitches
- Kindergartens and childcare centre buildings

Community facility tenants

For the purposes of this Guide, clubs include:

- Community groups
- Cultural groups
- Resident associations
- Sporting clubs
- Sporting associations
- Community organisations
- Volunteer NFP Boards
- Recreational groups

For the purposes of this Guide a tenant refers to permit holders, licensees, lessees and managers (under a management agreement).

PARTICIPATION DATA (SA)

Sport

Annual Participants:

1,282,402 Adults¹

235,197 Children¹

Percentage of population who participate through a club:

22% Adults¹

47% Children¹

Community Centres:

Over **2 million** volunteers annually²

Volunteers:

\$5 billion annual contribution of Volunteers in South Australia³

¹ SPORTAUS (Ausplay) South Australia 2018/2019 financial year

² Economic and Social Impact Study: Community and Neighbourhood Centres Sector Nov 2013, South Australian Centre Economic Studies (Adelaide and Flinders University)

³ Volunteering Strategy for South Australia 2014-2020

Benefits of letting community facilities

Throughout South Australia, Australia and Overseas it is well recognised that sport, community, and recreational activities provide social benefits, health benefits and economic benefits. Councils are key contributors to sport, community and recreational activities via the provision of community facilities and the provision of services and support. Without, fit for purpose community facilities, clubs would not be able to exist, grow or prosper.

Council invest significantly in providing community facilities for the benefit of the local community. Council recognises the social, health and economic benefits through the provision of these community facilities. Council does not, in most instances, recover anywhere near the full cost of providing these community facilities.

Social benefits are achieved by:

- bringing people together and providing opportunities for social interaction
- providing a network and sense of belonging
- drawing together people of different backgrounds, ages, religions and cultures
- fostering community pride and creating hubs of community life
- creating volunteer opportunities to develop life skills and leadership abilities.

Health benefits are achieved through providing physical activities, resulting in:

- reductions in obesity levels
- reductions in the incidences of non-communicable disease
- improved mental health.

This results in reducing healthcare costs and eases pressure on the health system. Reducing the incidence of disease extends life, reduces the rate of early mortality and increases the quality of life.

Economic benefits are generated through:

- the construction, maintenance and operation of community facilities
- creating employment opportunities
- the provision of special events and associated increased tourism
- increased output from those who are physically active, as healthy workers are more productive and take fewer sick days.

“Community centres contribute to mental and social well-being through the connections to the community they provide. One way in which this is done is through identifying specific needs in their communities and developing programs targeted to those needs.

The community and neighbourhood centre sector facilitates social inclusion by reaching the most vulnerable and disengaged in the community. It strengthens individuals, families and communities through a strong and cohesive network of locally based centres”

(Economic and Social Impact Study: Community and Neighbourhood Centres Sector, South Australian Centre for Economic Studies, Adelaide and Flinders Universities)

Community tenants play a critical role in the facilitation and delivery of community benefits.

When Councils are determining and setting their policies and lease fees, they should consider the level of community benefit provided by the prospective tenant in order to establish the level of discount they apply. Often the greater the recognition of community benefit, the lower the occupancy fees are set for the tenant.



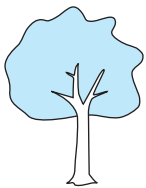
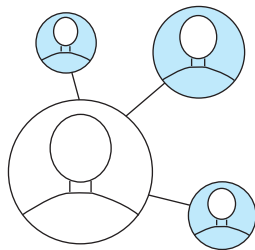
National community benefits



\$5.1 BILLION

WORTH OF SOCIAL BENEFIT

+ Increased human capital resulting from the social interactions that are facilitated by community sport infrastructure.

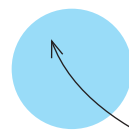
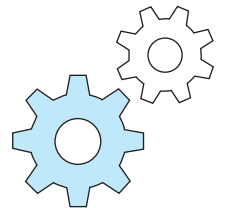


+ Broader community benefits of providing green space¹.

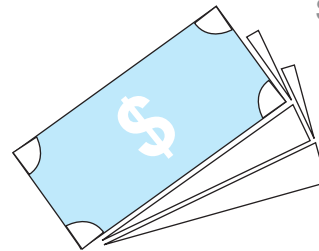
\$6.3 BILLION

WORTH OF ECONOMIC BENEFIT

+ Construction, maintenance and operation of community sport infrastructure.



+ Increased productivity of those who are physically active as a result of such infrastructure³.



Sport generates

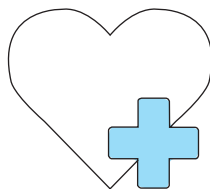
2-3%

of Australia's gross domestic product (GDP)⁴.

\$4.9 BILLION

WORTH OF HEALTH BENEFIT

+ Personal benefits to those who are less likely to contract a range of health conditions which are known to be associated with physical inactivity



+ The benefits to the health system from a healthier population².

¹ The Value of Community Sport Infrastructure (KPMG 2018)

² The Value of Community Sport Infrastructure (KPMG 2018)

³ The Value of Community Sport Infrastructure (KPMG 2018)

⁴ Australian Sports Commission 2019-2020 Corporate Plan

Current state of leasing and licensing

In preparing this Guide, research was conducted into the current state of leasing and licensing in South Australian Councils. This research identified:



Councils and the wider community value that the benefits of providing community facilities ensure.



Community facilities which can range from smaller, older and dysfunctional buildings to new, large, highly functional and modern multi-use facilities.



Councils are facing increasing expectations from clubs and the general community to provide a higher standard of facilities and services.



The increase in the number of larger and more sophisticated regional level community facilities is changing the way Councils let and manage them.



Policies, fee structures and services such as maintenance levels provided by Councils can vary considerably between Councils and, in some cases, within the same Council area.



The level of progression varied considerably, with some Councils not even having a current policy in place. Other Councils have had a policy in place for many years and are working towards leading practice governance and management.



Councils are facing increasing pressure to recognise the community benefits and to reduce or remove fees.

Relevant legislation

The following legislation is relevant to the leasing and licensing of community facilities and needs to be considered by Councils.

Local Government Act 1999

The Local Government Act provides Councils with the legal capacity to grant a lease or licence of community land and governs public consultation requirements and tenure periods. The Act also requires Councils to prepare and adopt community land management plans which need to state if the community land can be leased or licensed for certain purposes.

The Local Government Act:

- emphasises the importance of service to the community
- seeks to ensure that council resources are used fairly, effectively and efficiently
- seeks to provide services, facilities and programs that are adequate and appropriate
- seeks to ensure equitable access to services.

Retail and Commercial Leases Act 1995

The Retail and Commercial Leases Act 1995 has applied to most leases and licences entered by Council, as these sites include a food or beverage service and sales to the public. An exemption can be sought through the Small Business Commissioner. In December 2019 the Retail and Commercial Leases (Miscellaneous) Amendment bill was passed, which states that a Council or other authority with powers and function of local government will be excluded from the Retail and Commercial Leases Act where the lessee is of a class specified by the regulations. The regulations are still under development by the Office of the Small Business Commissioner and should provide further direction on who is exempt, however, it is anticipated that clubs, in most cases, will be excluded.

Further legislation

Other legislation may be relevant depending on the uses of the community facility and the type of tenant who is letting the community facility. This can include, but is not limited to, the:

Crown Land Management Act 2009

Liquor Licensing Act 1997

Recreation Grounds Rates and Taxes Exemption Act 1981

Gambling Machine Act 1992

Gambling Administration Act 2019

Work Health and Safety Act 2012

Child Safety (Prohibited Persons) Act 2016

Adelaide Park Lands Act 2005

Fair Work (Commonwealth Powers) Act 2009

The Building Code of Australia.

Government Business Enterprise (Competition) Act 1996 (competitive neutrality principles)

Complexities for Councils

Legal and compliance issues associated with Council's leasing of community facilities are complex. Factors that contribute to the complexities include:

- varied levels of demand and supply across South Australia Councils
- no specific legislation for fee setting
- varied users
- varied sizes, ages and types of community facility
- varied land tenure
- varied levels of investment, by clubs, into community facilities.

It is recommended that Council seek legal advice relevant to its individual circumstance as this Guide is a resource guide only.

Complexities for Clubs

Clubs and the community find the process for letting community facilities complex. Factors that contribute to the complexities include:

- varied fee structures and property management processes between Councils
- varied levels of volunteer support and expertise
- club member and Council expectations
- club legal and compliance issues
- increasing cost, including utilities, continue to be a financial burden.

Further Information

Further information on relevant legislation can be found at:

Local Government Association of South Australia (www.lga.sa.gov.au)

LGA Mutual Liability Scheme (www.lgrs.com.au)

Small Business Commissioner South Australia (www.sasbc.sa.gov.au)

The Law Society of South Australia can provide a listing of legal practitioners with Local Government experience:

Law Society of South Australia (www.lawsocietysa.asn.au)



Photo Source: Tredwell Management

Why does Council need a policy?

A leasing policy provides guidance for Council, current tenants and future tenants when entering into occupancy agreements for community facilities. An overarching policy will provide consistency and assist to ensure that community facilities are used fairly, effectively and provide equitable access to the community.

The policy should be aligned to the Council’s vision, strategy and values, while optimising the use of community facilities to leverage positive social, health and economic outcomes.

What should the policy address?

The occupancy framework (see page 9) was designed to assist Councils in identifying key areas to consider when developing or amending a leasing policy. This framework was developed based on research of existing leading practice policies.

The key areas include:

Strategic alignment: Does the policy reflect the Council’s strategy and clearly state the objectives of the policy?

Legislation constraints: Does the policy comply with all relevant legislation?

Finance: Is the fee structure equitable and affordable? Is the operating cost understood? Have community benefits been recognised in the fee model?

Risk management: Have risks been identified and assessed? What risk mitigation processes are in place?

Community use: Does the policy encourage multi-use and optimal use of community facilities? Has the policy considered all types of users?

Property management: What management processes will be used throughout the tenure of the occupancy agreement? What due diligence is required to be undertaken when assessing new tenants? What reporting is required and when?

Council services: Does the policy deem what services Council will provide to the tenant and define the tenants responsibilities?

Occupancy agreements: What are the key occupancy agreements to be used? (e.g. permit, licence, lease and/or management agreements)

Demand drivers: Have all demand drivers for users and community facilities been considered? (e.g. participation rates, usage levels, demographics)

TIPS

- + Having clear objectives upfront will guide the process.
- + Consult with Elected Members and other key stakeholders early in the process.
- + “Road test” the policy on all current occupancy agreements.
- + Consider a phased approach for significant policy changes.

Occupancy agreement framework for community facilities

SUSTAINABILITY FACTORS

SOCIAL

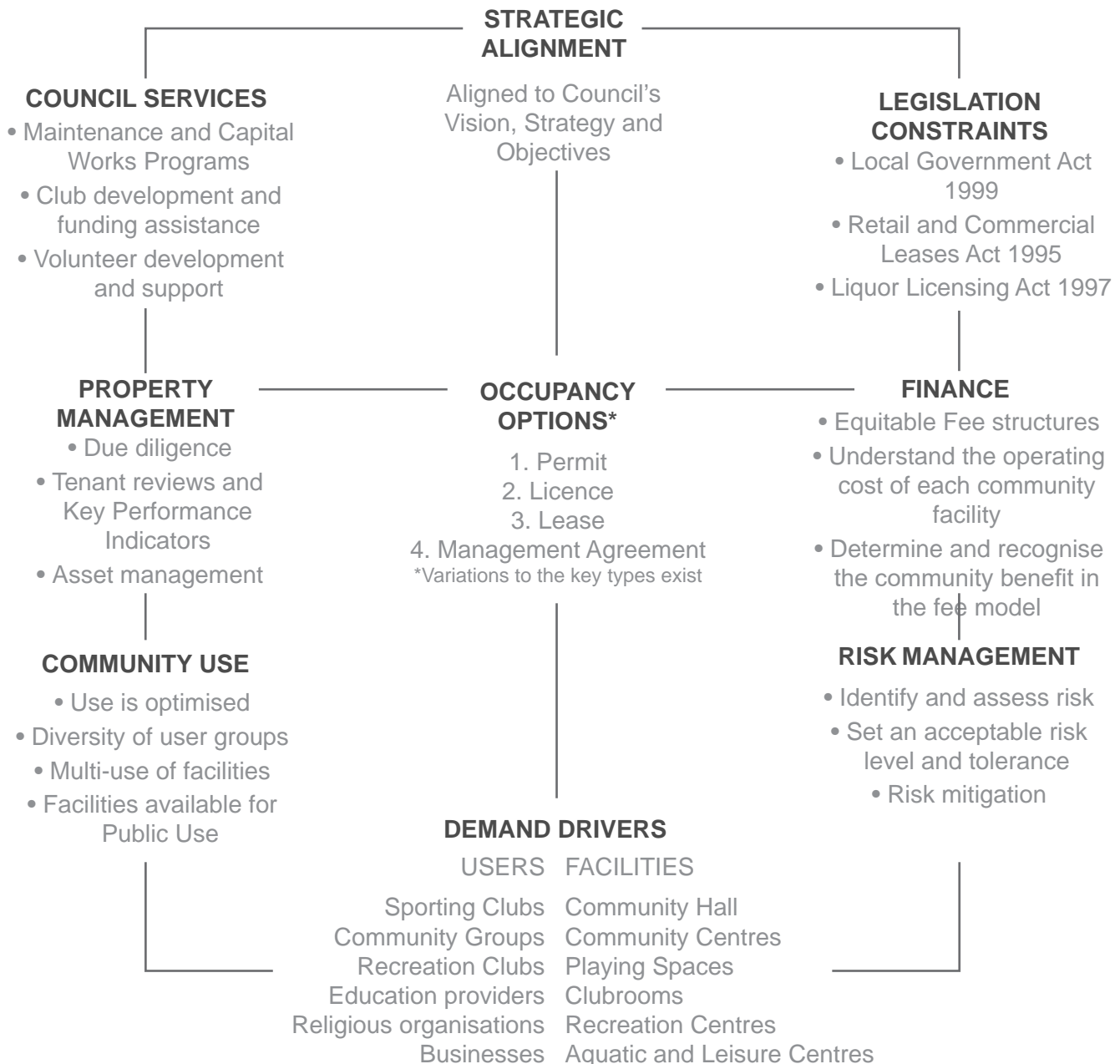
- Increased community benefits
- Increased membership base and participation rates
- Community support and development

ECONOMIC

- Value add to community
- Sustainable operations
- Employment creation

ENVIRONMENTAL & CULTURAL

- Minimise impact on the environment
- Create sense of place
- Activate public spaces



Policy development

The steps for developing a policy or modifying a policy are shown in the below flowchart.

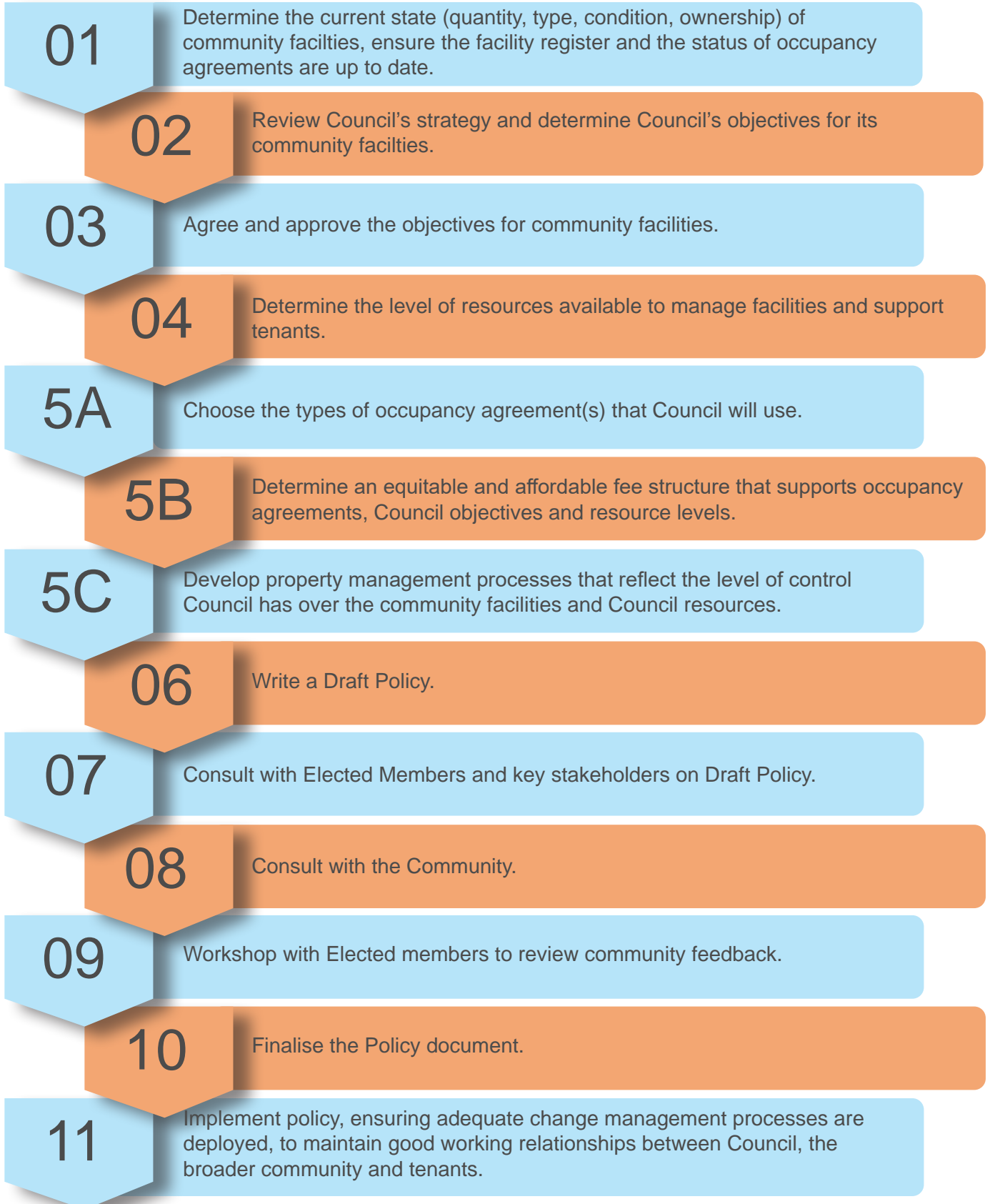




Photo Source: Tredwell Management

Why do Council's need an occupancy agreement?

Councils require an occupancy agreement to ensure that Councils and tenants have an agreement which clearly articulates the legal responsibilities of both.

The occupancy agreement will:

- provide full details of rent payable
- provide full details of the length of the agreement, including options to renew
- outline maintenance responsibilities
- outline other specific responsibility
- clarify specific termination clauses and dispute management.

Occupancy agreements types

Occupancy agreements can take a variety of forms. Commonly used occupancy agreements are listed below.

Permit

A hire agreement for once off or short- term use of a community facility.

Licence

An agreement giving official permission to occupy a community facility for a set period, but the tenant may not necessarily have exclusive use.

Lease

An agreement where the tenant has exclusive use of a community facility for a set period. Leases are often provided for longer terms e.g. 5, 10, 20 years.

Management agreement

A contract signed between Council and another party, where the other party is occupying a community facility and sets out each parties' responsibilities. In most cases Council pays a fee to the management body to provide services to the community. A management agreement can be used for community facilities where Council want to adopt a shared management approach.

There are variants to these occupancy agreements.

Head lease

A lease with one main tenant, who then sub-leases the community facilities to other tenants.

Sub-lease

An agreement by the head tenant to another organisation which stipulates the negotiated fees/ charges/conditions and times of use for the period of the agreement.

Ground lease

An agreement in which a tenant is permitted to develop land during the lease period, after which the land and all improvements are turned over to the landowner.

Crown land lease

A lease (or licence) of dedicated land owned by the Crown but under the care and control of Council. Leases on Crown land will require Minister approval, except if native title rights have been extinguished or Council can demonstrated the lease will not impact native title rights and the leases will not cause any new development and is consistent with the purpose of the dedication or management plan.

It should be noted that regardless of what the occupancy agreement is named, if it takes the form of a lease then, legally, it may be viewed as a lease.



Photo Source: Tredwell Management

Types of occupancy agreements

Table 1 provides guidance on the advantages and disadvantages of each common occupancy agreement and provides examples of community facilities and tenants that are most suited to each agreement.

Table 1: Types of occupancy agreements

AGREEMENT	PERMIT	LICENCE	MANAGEMENT AGREEMENT	LEASE
TIMEFRAME	Once off or regular short-term use e.g. < than 1 year	Longer term than a permit and/or seasonal use	Varied -Term management contract	Normally 5 or more years
COMMUNITY FACILITIES MOST SUITED	<ul style="list-style-type: none"> Community Halls Community Centres Ovals 	<ul style="list-style-type: none"> Shared community facilities Playing areas (e.g. ovals, pitches) Shared Clubrooms 	<ul style="list-style-type: none"> Community Centres Aquatic Centres Sporting & Recreation Complexes (multi-use) 	<ul style="list-style-type: none"> Sporting clubrooms Tennis Courts Netball Courts Bowling Greens
TENANTS MOST SUITED	<ul style="list-style-type: none"> Community groups Cultural groups Resident associations Private hirers Public 	<ul style="list-style-type: none"> Sporting Clubs 	<ul style="list-style-type: none"> Sporting associations Community organisations Commercial Venue Management Organisations Volunteer NFP Boards 	<ul style="list-style-type: none"> Sporting clubs Community group Recreational group
ADVANTAGES FOR COUNCIL	<ul style="list-style-type: none"> Accessible to a wider range of the community Higher control of community facility Regular access to community facility Minimal governance requirements Facility utilisation knowledge Ability to respond quicker to changing demands and trends. Council can set KPI to measure performance 	<ul style="list-style-type: none"> Accessible to multiple licence holders at once Higher control of community facility Regular access to community facility Low administration/ costs with bookings Facility utilisation knowledge Tenant may maintain specialist maintenance requirement such as line marking and turf preparation Access to community facility in-between seasons for scheduled maintenance Greater certainty of community facility use Council can set KPI to measure performance 	<ul style="list-style-type: none"> Outsourcing the co-ordination of clubs and bookings Outsourcing the day to day maintenance of the facility Leverage specialist knowledge of management body Council can set KPI to measure performance 	<ul style="list-style-type: none"> Lower maintenance responsibility for council as tenant has the responsibility for on-going maintenance No administration requirements with bookings Lower administration associated with longer term leases in lease renewal Tenant has a greater sense of ownership Council can set KPI to measure performance

AGREEMENT	PERMIT	LICENCE	MANAGEMENT AGREEMENT	LEASE
<p>DIS-ADVANTAGES FOR COUNCIL</p>	<ul style="list-style-type: none"> • Administration cost/burden to manage bookings and fees • Lack of long-term certainty over community facility utilisation • Lack of certainty over community facility use/ income stream. 	<ul style="list-style-type: none"> • Tenants may not have the skillset to manage the community facility or the skillset of the organisation will change overtime. However, Council tends to have a greater management role than if it was a lease. • Cost/resources associated in preparing complex licence agreement. 	<ul style="list-style-type: none"> • Cost/resources associated in preparing complex management agreements. • Significant resources required to actively manage the agreement 	<ul style="list-style-type: none"> • Less accessible to the wider community • Lower knowledge of community facility utilisation • Lower control over the maintenance and ongoing condition of the community facility • Challenges to respond quickly to changing demands and trends • Tenants may not have the skillset to manage the community facility or the skillset of the organisation will change overtime • Difficult to change the terms of the lease if required • Cost/resources associated in preparing complex lease agreement

Process for determining occupancy agreements

It is unlikely that there will be an occupancy agreement format that meets the needs of all Councils and all community facilities. There are a selection of occupancy agreements that Councils can deploy based on the:

- level of control the Council requires
- level of the Council resources available to manage the community facility
- type of community facility
- tenant type

- number of tenants using the community facility
- length of the tenure required
- whether exclusive or non-exclusive use is required.

Table 2 provides questions Council can use to assist in determining which occupancy agreement applies to its individual circumstance. These questions are a general guide only, and there may be specific circumstances that Council need to consider, such as some management agreements that may be subject to the Retail and Commercial Leases Act.

Table 2: Which occupancy agreement

	Hire Permit	Licence	Management Agreement	Exclusive Lease
Does the tenant require the community facility for a single-use event?	✓	X	X	X
Does the tenant require shorter-term use at a specific time or season?	✓	✓	X	X
Does the tenant require longer-term use (normally greater than 1 year)	X	✓	✓	✓
Does the tenant require exclusive use?	X	X	✓	✓
Can the tenant have sub-tenants?	X	✓	X	✓
Does the Retail and Commercial Leases Act 1995 apply?	X	✓	X	✓
Is the tenant likely to want to invest in the facility?	X	X	X	✓
Can the tenant obtain a Liquor Licence?	✓	✓	✓	✓
Is the tenant likely to be responsible for maintenance?	X	X	✓	✓

Case study: Kauri Parade Sporting Complex

City of Holdfast Bay Council had a new community facility and needed to decide which occupancy agreement to use. Their main objective was to ensure that the facility was used by the community as well as the existing club members.

The Kauri Parade Sporting Complex is a sporting, community and function facility with:

- a hockey pitch
- an outdoor netball and tennis courts
- a music centre
- a large function room with a bar facility
- smaller meeting rooms which are available for hire.

The complex is in Seacliff within the City of Holdfast Bay Council and is one of three main hubs for sport and recreation in the area. This new facility accommodates all the existing clubs.

City of Holdfast Bay Council considered if any of the existing clubs had the capacity to manage the facility. These clubs did not have the resources to maintain a facility of this size and were not resourced to have the facility open outside the hours of their club's use. The Council and clubs investigated the idea of creating a new association created with representation from each of the clubs, or having Council operate the centre directly.

The Council chose to manage the facility via a management agreement with a leisure management organisation, as they wanted to increase facility usage quickly, and manage the facility efficiently. The tenure was on a one year plus one basis.

The benefits from this Occupancy Agreement for the City of Holdfast Bay Council and the community include:

- outsourcing coordination of the clubs
- outsourcing daily maintenance of the facility
- easy access to staff for booking enquiries
- easy access to staff for maintenance issues
- optimised community engagement with community and commercial programming.

Challenges arose, as the Clubs had less flexibility over when they could access the function rooms, but the rooms are now more accessible to the community.



Photo Source: City of Holdfast Bay



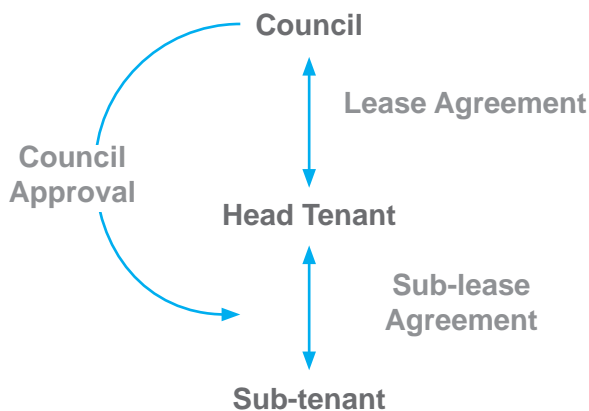
Photo Source: City of Holdfast Bay



Photo Source: City of Holdfast Bay

Sub-leasing

Council's leasing policy and occupancy agreements may allow the head tenant to sub-lease the community facility on a regular basis. Council's role in sub-leasing will reflect the resource and risk profile of the Council, but, in most instances, the head tenant must seek approval from the Council prior to entering into an agreement with the sub-tenant. Council should perform due diligence upfront, to assess the capacity of the sub-tenant, as they would for a head tenant. Once the sub-lease agreement is in place, Council can delegate the day to day management of the sub-tenant to the head tenant.



Councils can encourage this practice as it ensures the facilities are well utilised and accessible to more members of their community. Council should ensure head tenants are encouraging sub-tenants who have objectives that are consistent with Council's strategic plan and other relevant plans, e.g. community land management plans.

Where the demand for community facilities is high, and some clubs find themselves without a community facility, Council may work with existing tenants and new tenants to investigate potential sub-leasing opportunities.

There are two typical sub-tenants, a club providing a community service or a commercial tenant providing a commercial service. Determining which type of sub-tenant is an important factor when setting sub-tenant fees. When setting fees for a club sub-tenant, consideration should be given to how much it costs them to use the facility. This normally includes utilities, maintenance, insurances and cleaning. Examples of club sub-tenant fee models include the head tenant charging a cost per square metre

rate fee (e.g. total costs ÷ total floor area) or the head tenant charging a fee per member/participant. Fee reduction incentives could be offered to encourage them to contribute to the management of the community facility, either through committee representation or support with providing club services such as a bar, kitchen and cleaning. Fee reductions could be determined based on an agreed rate calculated on the number of volunteer hours provided.

The opportunity may arise for the head tenant to sub-let to a commercial tenant, examples of these can include a commercial coffee shop in a surf-club, or a commercial fitness operator at a sports club. A commercial sub-tenant will require commercial rates to comply with competitive neutrality principles. In these circumstances, it is suggested Council lead the negotiations and have a closer role in management of the sub-tenant. This rental income can contribute to a sinking fund and be reinvested into the community facility.



Photo Source: City of Onkaparinga

Occupancy agreement conditions

Occupancy agreements, regardless of the type, will be governed by the conditions stated in the agreement. Conditions provide advice to the tenant on its legal responsibilities throughout the tenure of agreement and the legal responsibilities of Council.

Examples of highly important conditions include:

- tenant has a legal status (exclusions for permits)
- tenant meets Council’s insurance requirements
- tenant is using the community facility for an appropriate use (that it is not used for anything illegal or immoral)
- tenant complies with the provision of all applicable Acts, Regulations and by-laws.

Further conditions will be required and will reflect the type of community facility and the nature of the occupancy agreement.

TIPS

- + Seek Legal advice on preparation of occupancy agreements.
Templates are available from the Local Government Association.
- + Establishing a good working relationship with the tenant at the onset will be beneficial for both parties over the tenure of the occupancy agreement.
- + Discuss the conditions verbally with the tenant in “plain English” to ensure that all parties have a clear understanding of their responsibilities.
- + Councils should offer potential tenants an induction meeting prior to the signing of agreements, and when there is a changeover of signatories of the agreement.

Further Information

Further information on occupancy agreement conditions and an example checklist to assist Council in setting conditions is provided on page 39.
Template: Occupancy Agreement Conditions Template



Photo Source: City of Onkaparinga

Property management

It is suggested that each Council considers developing property management processes to ensure its community facilities are well maintained and well utilised throughout the duration of the occupancy agreement.

Pre-assessment of a potential tenant

Allocating a community facility to a tenant is an important step. Council should seek to ensure the process is equitable, timely and considers Council's strategic objectives.

Leading practice is to have an Expression of Interest process, or something similar, which assesses the applicant on a pre-determined set of criteria. Initially, Council should review the community benefit that the tenancy will offer and their proposed use of the community facility.

Due diligence on the potential tenant should be completed prior to entering into an occupancy agreement. Council should assess if the tenant has the necessary skills and competencies to manage the facility. Skill and competency gaps, once identified, can be resolved through training and support.

Pre-assessment of a potential tenant

Can the tenant:

- Align its use of the community facility to Council's strategy?
- Provide activities that benefit and engage with the community?
- Provide evidence of a legal entity?
- Provide the required insurances?
- Provide recent Annual General Meeting Reports and minutes?
- Pay rent as agreed?
- Provide a financial report? Reviewed or audited if required.
- Demonstrate there are no unresolved issues with Council?
- Demonstrate the community facility is fit-for-purpose?
- Increase current utilisation of the community facility?
- Provide evidence of membership and participation numbers?
- Specify when and for how long they will use the community facility?
- Demonstrate they have the skills and experience to manage the facility?
- Demonstrate they have succession planning in place to ensure the transfer of skills and knowledge to emerging leaders?
- Meet the Key Performance Indicators (KPI) or objectives set by Council?
- Demonstrate membership of a peak body?
- Demonstrate accreditation to a club development program such as STARCLUB?

Further Information

Further information of assessing the skills and capacity of potential tenant is included on page 38. Template: Tenant Skills Assessment Template.

Inspections and reviews

Regular community facility inspections and tenant reviews are an important way of staying connected with the tenant, understanding the overall status of the tenant and being assured that the community facility is well utilised and adequately maintained.

Reviews can be formal scheduled review meetings or can take a more informal approach. It is suggested that reviews occur at least annually, and at the end of the tenure. It is also suggested that Council work closely with the tenant and identify where support may be needed.

Leading practice topics identified for inclusion in the review process, should include facility maintenance, facility utilisation, capital development planning, Annual General Meetings (AGM) and financial review. There should be opportunities for both parties to further work together to achieve the desired outcomes.

TIPS

- + For Councils that are holding formal reviews for the first time, tenants may need assistance in meeting information requests.
- + A new tenant or new facility may require a review relatively soon after the signing of an occupancy agreement (e.g. six months) to ensure that any issues are dealt with in a timely manner.
- + Timing of reviews can be aligned to processes, such as annual grant submissions in order to reduce the duplication of information requests.
- + Councils can encourage tenants to be accredited with club development programs such as STARCLUB/ STARservice, and use this accreditation to assist in ensuring that they are meeting the minimum legislative compliance, which is required to operate legally in South Australia.





Further Information

Further information on inspections and reviews can be included on page 41. Template: Tenant Review Template. The template is required to be signed by Council and the tenant and becomes a useful record of information.

Key performance indicators

KPI are a tool for measuring to ascertain if the objectives of leasing community facilities are being achieved. Leading practice KPI are clear, measurable, achievable, outcome focussed and specific to the community facility and the tenant.

Examples of measurable KPI include:

-  Tenant has increased membership base by x%
-  Tenant has increased attendance by x%
-  Tenant has established 1+ new sub-leasing or hire agreements
-  Tenant has established at least 1+ new programs for a target group
-  Tenant provides participation/usage or visitor numbers every x
-  Tenant has no outstanding maintenance issues x days after routine site inspection
-  Tenant has maintained a customer satisfaction rating of x% (or x% improvement)
-  Council has received zero complaints regarding the Tenant
-  Council has received zero complaints regarding the community facility
-  Tenant has advised Council of all Health and Safety incidents within x days



Tenant has x% attendance at all Council facilitated trainings



Tenant has achieved STARCLUB or STARservice recognition status by x

KPI are useful when Council has longer term occupancy agreements in place. The example KPI may not apply in every situation. It is important for Council to consider the resource requirements for both Council and the tenant in obtaining and analysing the data requirements of the KPI to ensure that they are achievable. Council can align its requests for KPI information with tenant reviews so as to reduce duplicate requests for information.

Supporting good governance

Clubs are often affiliated with state and/or regional associations who often have their own specific good governance programs. Clubs can also participate in club development programs such as STARCLUB or STARservice.

Council can use governance programs that are already in existence. This will reduce the administration for Council and tenants.

Councils can encourage their tenants to become STARCLUB or STARservice recognised providers by making it a condition of the occupancy agreement. This could be a KPI within the occupancy agreement or a condition of Council funding.

Case study: City of Onkaparinga STARCLUB KPI

In 2014, the City of Onkaparinga Elected Members endorsed the inclusion of STARCLUB recognition as a lease condition for all clubs that were offered a turf irrigation water subsidy. Since 2019 all new occupancy agreements, greater than six months in tenure, include, as a KPI, STARCLUB accreditation for sporting clubs or STARservice accreditation for non-sporting clubs. KPI are an additional annex to the main body of the occupancy agreement.

The City of Onkaparinga selected the STARCLUB program as it clearly defines the requirements for sport and recreation not-for-profits to meet minimum legal obligations, as defined by the State Government. The City of Onkaparinga are strong advocates for continual improvement in club governance and identify STARCLUB and STARservice as valuable resources to assist in ensuring that Council owned community facilities are safe, welcoming and well managed.

The KPI requires tenants to complete six compulsory questions within the first six months of the occupancy agreement and to complete the remainder of the program within two years.

Being incorporated is a key requirement of STARCLUB and a lease for a community facility will not be considered unless the tenant is incorporated.

The City of Onkaparinga provide support to achieve the KPI through its dedicated club development program OACNET.



Photo-Source: Tredwell Management

Working in partnership

A good working relationship between Council and clubs will benefit both parties and assist in realising the community benefits. It is suggested that Council work in partnership with the tenant, to provide direct support, facilitate support (such as that provided through a peak body), or facilitate a club development program. This relationship can be enhanced by effective communication and the use of Council provided services.

A good example of effective partnership is the role of the Building and Recreation Manager at Mt Barker District Council, which works in partnership with clubs to complete an annual business plan. Further details on the annual business plan is included in the Case Study: Mount Barker District Council Fee Model (page 31).

A good example of an effective structured communication and continuous improvement between Council and clubs is the Onkaparinga Active Community Network (OACNET). OACNET provides club governance and development support, training, a quarterly newsletter, forums, networking events and regular industry updates.

When Council identifies a tenant who is not complying with the conditions of the occupancy agreement, it is suggested that Council assist the tenant to avoid non-compliance issues.

If Council is faced with non-compliance, it will need to follow its dispute management clauses. These may require mediation or further legal services to resolve the situation.

The below graphic is a suggested pathway to support tenants in achieving compliance and positive outcomes for the community.





Photo Source: City of Onkaparinga

Common fee models

The Local Government Act allows Councils to impose fees for the use of any facilities controlled, managed or maintained by the Council. It does not state how to set these fees. This flexibility of the act has led to a variety of fee models being currently used by Councils. Council may use different fee models for different community facilities or occupancy agreements.

Factors to consider when choosing a fee model include:

- Council's strategic objectives identified in its Community Plan
- the level of recognition of benefit to the community
- sustainability factors (e.g. social, economic and environmental)
- demographics of the Council area
- socio-economic profile of the Council area
- type of the community facility
- age and condition of the community facility
- location of the community facility.

Fee Models will be set and guided by each Council's:

- policy process as recommended in the guide
- budget and resources
- individual needs
- capacity to support tenants financially
- position on the balance between the community benefit and the need to charge fees.

Council should ensure that its policy supports an equitable fee model, noting that this is a challenge given all the variables that are in play. When Councils are considering their fee model, they can undertake a benchmarking exercise with adjacent Councils or those of a similar size. Councils can combine their fee model with discounts or financial incentives to assist in achieving an equitable outcome.

The Local Government Act governs when Councils can charge rates to tenants. This is in addition to the occupancy fee. Land which is occupied under a lease, licence or permit granted by a Council, and is used by the tenant for the purposes of sport or recreation, is exempt from rates per the Local

Government Act and the Recreation Grounds Rate and Taxes Exemption Act 1981.

The Local Government Act also allows for a rebate of rates at 75% (or, at the discretion of the Council at a higher rate) for community service organisations. The Act defines community service organisations as an incorporated not-for profit that provided community services without charge or for a charge that is below the cost to the body of providing the services.



Photo Source: City of Onkaparinga

Further Information

Further examples of Councils fee models is included on page 47, Appendix 1 - Example fee models.

For further examples of policies, fee structures, occupancy agreements, maintenance schedules or other documents please feel free to contact Councils listed in this Guide directly to obtain a copy or for further information.

Table 3 provides common fee models and the advantages and disadvantages of each.

Table 3: Common fee models

FEE MODEL	FEE IS SET...	ADVANTAGES	DISADVANTAGES
PEPPERCORN RENT	At a nominal amount e.g. \$1 or \$100, on-going maintenance service is generally not provided by the council but managed by tenant.	Low fees place lower financial burden on tenant, allowing tenant to focus on community benefit. Simple fee model to administer invoices. Tenant may become responsible for more maintenance and outgoings.	Community facility may not be well maintained. Low Council rental revenue which limits the resources that can be reinvested back into the community facility to improve its performance.
PERCENTAGE OF MARKET VALUE	As a percentage of market value. Maintenance will be provided by Council or per occupancy agreement conditions.	Fee is objective and has a direct relationship to the value of the community facility. Higher Council rental revenue which can be reinvested back into the community facility or support tenant services.	Fees can be very high and place some sporting and community clubs under financial pressure. Requires market value appraisals and increased administrative burden.
PERCENTAGE OF CAPITAL REPLACEMENT VALUE	As a percentage of capital replacement value. Maintenance may be provided by Council or per occupancy agreement conditions.	Fee is objective and has a direct relationship to the value of the community facility noting a Community facility may be run down and doesn't function as a new facility may. Higher Council rental revenue which can be reinvested back into the community facility or support tenant services.	Fee can increase considerably when Community facilities reach end of life and a new community facility is built with higher capital replacement value.
PERCENTAGE OF MAINTENANCE COSTS	As a percentage of maintenance costs. Maintenance services provided by Council.	Fee is objective and has a direct relationship to the on-going cost of maintaining the community facility.	Fee can be resource intensive for Council to calculate and some maintenance activity would need be annualised. It is also difficult in some situations to identify the maintenance costs specifically attributed to the tenant.
SCHEDULE OF FEES	As a schedule of fees that reflect an hourly/ daily rate etc. Maintenance would normally be provided by Council.	Equitable Fees Structure available for all to view and endorsed by Council.	A complex fee schedule can add resources. There may be no clear rationale for the level of fees set.
FEE PER SQUARE METRE	As a per square metre fee and charged against the total floor area of the community facility. (buildings). Maintenance services can either be funded by the Council and on-charged or maintenance can be managed by the tenant.	Fee is objective and has a direct relationship to the size of the facility. Fee does not reflect capital replacement cost or market value. So, the same size building will attract the same size fee regardless of location. Higher Council rental revenue which can be reinvested back into the community facility or support tenant services.	Fee reflects size of facility only and does not take into consideration the value of the facility, i.e. a tenant with a new facility would pay the same as a tenant with an older facility of the same size.

Discounts / Incentives

A key driver for Council to provide discounts and incentives is to recognise the community benefit provided by the tenant. Discounts or incentives can also be used by Council to achieve desired behaviours or outcomes.

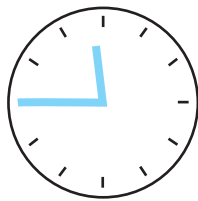
Fee discounts are suited to a fee model which generates a higher base fee. Incentives are suited to a fee model with generates a lower base fee. Council can offer discounts or incentives for one or more of the below categories depending on Council circumstance and its set objectives.

Advantages include:

- demonstrating a Council recognised community benefit
- encouraging good governance
- encouraging optimal use
- assisting in achieving an equitable fee model.

It is important for Council to consider the resource requirements, for both Council and the tenant, in obtaining and analysing the information to meet the discount/incentive requirements.

FACILITY UTILISATION



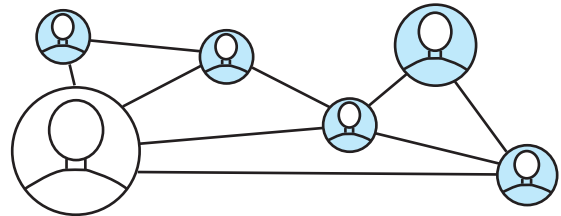
Discount or Incentive based on:

Evidence of membership/user/ participant numbers and hours of use.

Evidence of activities and initiatives undertaken to increase utilisation.

Evidence of shared use.

SOCIAL INCLUSION



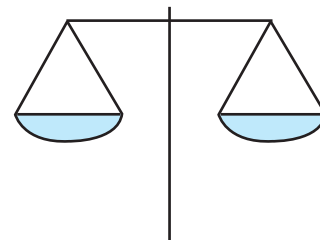
Discounts or Incentives based on:

Activity or service they provide which is non-discriminatory and is open to all residents who meet the stated criteria for participation.

Activities which support wider social inclusion targets. These may include such groups as; Low socio-economic background; older adults; Aboriginal and Torres Strait Islanders; Culturally and Linguistically Diverse (CALD) communities; children and young adults; people with disabilities.

Activities which are provided for multicultural initiatives, diversity of gender in membership/ participation and Committee/Board representation.

CLUB EQUITY



Discounts or Incentives based on:

Club funded capital development or improvements (e.g. tenant has invested in the upgrade of a kitchen through its own fundraising.)

GOOD GOVERNANCE



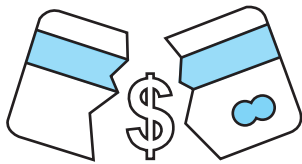
Discount or Incentives based on:

Continued improvement by the club through development programs (e.g. STARCLUB, STARservice).

Good financial management e.g. provision of AGM minutes and annual financial report.

Evidence of quality management.

FINANCIAL HARDSHIP/ SOCIAL ECONOMIC STATUS

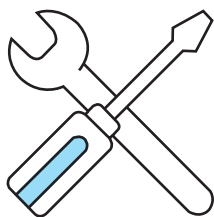


Discount or Incentives based on:

Socio-economic status of the tenant's participants. This is measured by SIEFA index (Socio-Economic Indexes for Areas calculated by the Australia Bureau of Statistics).

The club experiencing and demonstrating financial hardship.

UTILITIES / COSTS



Discounts or Incentives to assist with:

Meeting significant utilities or other costs particularly when the broader community may also benefit from the community facility.

Invoicing fees

Councils will invoice all tenants in line with the conditions outlined in the occupancy agreements. Where the tenant has received a discount, it is suggested to invoice at the full rate and deduct all discounts provided to arrive at the net fee payable. This method clearly shows to the tenant, that Council values the social and economic benefits the tenant contributes to the community.

LOGO

Company name
Street Address
City, State, ZIP Code
Phone
Email

Name
Company Name
Street Address
City, State, ZIP Code
Phone

INVOICE

Invoice No: xxxx
Date: xxxxxxxx
Customer ID: xxxxxx

xxxxx	xxxxx	xxxxxxxx	xxxxx
xxxxx	xxxxx	xxxxxxxx	xxxxx

Commercial rent value for property xyz 1 July 2020 – 31 June 2021	\$20,000	\$20,000
Discount for recognised community benefit	-50%	(\$10,000)
Discount for achieving KPI	-10%	(\$2,000)
Total		\$8,000

Subtotal

TOTAL

TIPS

- +
 Set up a process for obtaining evidence prior to the invoice generating date.
- +
 For seasonal sports, consider the timing of when invoices are raised and sent to the tenant, for instance a cricket club do not want to receive an invoice over winter in its off-season.

Case Study: City of Marion fee model

The aim of the City of Marion Leasing and Licensing Policy is to ensure an equitable and consistent approach. This encourages high utilisation rates, diversity of use and supports organisations, occupying Council community facilities, in being sustainable.

They have established an equitable fee model with an annual lease/licence fee that is calculated at up to 93% of the market rental rate of the leased area/s. Council will offer the subsidies on the annual fee to not for profit organisations, based on a subsidy criteria aligned to the aim of its policy.

The subsidy criteria includes:

- 33% for demonstration of good governance
- 30% for demonstration of facility utilisation
- 20% for demonstration of social inclusion
- 5% for demonstrating the organisation promotes, supports and develops volunteers
- 5% for demonstrating the organisation can demonstrate that it promotes and implements environmental initiatives.

The City of Marion have a Sport and Recreation department with the primary objective of assisting clubs with governance, volunteer management, club culture, social inclusion, strategic planning and sponsorship. The Sport and Recreation department assists clubs in the areas of seeking grant funding and planning. This support is provided through conducting a range of workshops which is aimed at improving the overall performance of local sport and recreation clubs. The City of Marion has an e-newsletter, "Clublink" and a specific page on its website dedicated to available grants.

All clubs are encouraged to become STARCLUB members. STARCLUB accreditation is a condition of Council funding for capital works and Council contributions to projects. City of Marion took the stance that clubs need to display effective governance and financial sustainability before they invest in the community facilities.



Photo Source: City of Marion



Photo Source: City of Marion

Case study: Mount Barker District Council fee model

The Mount Barker District Council fee model is based on a peppercorn rent, where the fee is set at a \$1 nominal amount. The ongoing maintenance is the responsibility of the tenant. The Council has implemented a financial incentive to ensure good governance and the community facility is maintained as fit-for purpose. Mount Barker District Council will pay an annual financial contribution to the costs of managing the facility, provided the tenant submits a business plan, financial statements, including a profit and loss statement, bank balances, and a Tax Invoice for the required amount. The tenant is required to submit forms that show that they have had inspections of fire extinguishers, residual-current devices, smoke alarms and the testing and tagging of electrical equipment carried out.

The financial contribution is applied at one rate for sports clubs, halls and institutes. A higher rate is set for sports recreation grounds. Each tenant of a sport recreation ground is responsible for turf maintenance and receives an additional amount for turf contribution. The Council’s sports curator manages the collection of the turf contribution and offers each club committee advice and assistance.

The business plan is a requirement if the tenant is to receive the annual contribution. The plan comprises of:

- details of the community, other user groups and individuals who use the premises
- proposed fees and charges for the use of the premises
- details of the proposed maintenance program
- details of any proposed capital works program
- the names of the competent persons responsible
- development assistance required from Council.

The Building and Recreation Manager aids and works in partnership with the clubs to complete the business plan. This has developed good working relationships between Council and clubs.

The business plan is a useful document when applying for external or Council funding as it shows how activated the facility is. The business plan can be used for prioritising Council’s capital works program.

Mount Barker District Council has advised that the financial contribution works well for them. Due to the standardised amounts, they do not receive complaints from club committees as they are receiving the same amount of funding. It provides the club committees with the autonomy to manage how they use the money, but, they have a very clear understanding of their responsibilities and expectations.

The success of this model does heavily rely on dedicated tenants, which the Mount Barker Council area currently has with its volunteers. There are necessary Council resources to assist the club committees in developing their business plans.



Photo Source: Mount Barker District Council



Photo Source: Mount Barker District Council



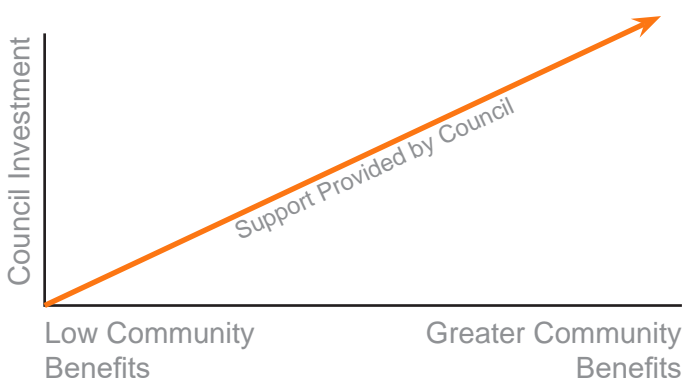
Photo Source: City of Onkaparinga

Council provided services

To fully achieve the social, health and economic benefits, Councils and tenants need to develop good working relationships. This working relationship can be enhanced by Council offering a variety of services including:

- maintenance services
- facility management support
- club development support
- grant assistance
- capital funding.

If good working relationships are established and Council supports its tenants, these tenants have the capacity to achieve greater benefits for the community.



Council involvement and support will vary between Councils and is subject to the available resources and the number of community facilities within the Council area. For example, large metropolitan Councils are likely to be more resourced than a smaller rural/remote Council. Councils should consider these factors when developing their policy.

Maintenance services

Councils will provide a level of maintenance for the facility or playing area, but, in some cases, particularly where leases are in place, the tenants are responsible for day-to-day maintenance. Leading practice is to provide a maintenance schedule as an appendix to the occupancy agreement specifying the responsibility of the Council and the club.

Council often governs the maintenance activities that require specialised or professional assistance, such as a licensed trade or if working from heights is required. The level of maintenance services required

is a decision Council will need to make after considering the age of the facilities and the amount of resources Council have available to complete it. It is normally, and most often, the legal responsibility of the tenant to undertake day-to-day maintenance, such as cleaning carpets. The landlord provides for capital improvements and replacements, for example a roof replacement.

Facility management support

As clubs are often run by volunteers, they may not have the skill set and knowledge to manage the facility or an understanding of building management requirements, such as fire safety, pest control and all abilities access. Councils may find it beneficial to assist through education and training with facility management to ensure that the facilities are appropriately managed.

Club development support

Councils can provide club development support in order to gain a greater understanding of the club's activities and future planning. This support can include an on-line newsletter or a portal to share information with the clubs. Council may host regular training sessions to support volunteers. This could include strategic planning, club culture, grant funding, volunteer recruitment and support. Council can encourage clubs to become part of a club development program such as STARCLUB, or something similar. Clubs should also be encouraged to contact Council if they have concerns about their tenancy or viability before it becomes an issue.

Grant assistance and capital funding

Councils provide services and advice on available grants and funding and may have a role such as a Sport and Recreation Development Officer or a Grants Officer who could assist in writing and lodging grant and funding applications. Councils may establish sinking funds to assist clubs with capital developments or significant maintenance requirements for example court resurfacing. Councils can work with their tenants to develop and prioritise capital works programs.



Photo Source: City of Onkaparinga

Moving towards leading practice

Councils across South Australia can face various issues as they move from their historical practices towards leading practice.

The following are common issues facing Councils associated with letting of Community facilities and a proposed strategy or action to address the issue.

ISSUES

STRATEGY OR ACTION

Council operating with no Policy, or outdated Policy.



- Review strategy and determine objectives for community facilities.
- Develop a leasing policy in consultation with Elected members and the local community reflecting Council's strategy and objectives.

Council has no register of community facilities or an understanding of current occupancy agreements.



- Audit community facilities and gain understanding of occupancy agreements currently in place.
- Create a register of information.

Council has outdated historical agreements.



- Upon renewal of historical agreements transition occupancy agreements to new agreement reflecting current policy.
- Change management techniques will be required where tenant is faced with significant change.

Council tenant is a volunteer organisation requiring assistance to meet Governance criteria.



- Council host training sessions for the tenant to address skill gap.
- Council encourages the tenant to become a member of a club development program.

Council tenant is a volunteer organisation and has experienced turnover of key roles/contacts and loss of knowledge.



- Council hosts an annual tenant information forum to update any new volunteers.
- Council sets conditions on occupancy agreement to be notified of key contact changes.
- Council to meet with new key contact.

Council is looking to change fee model.



- Choose a fee model based on the policy of the Council. Review potential discounts and incentives to ensure an equitable outcome.

Council requires a better understanding of its community facility utilisation.



- Request usage data as part of an annual tenant review and/or develop a usage survey and/or conduct a usage audit.

Tenant is unclear on maintenance obligations for the facility.



- Develop a maintenance schedule which clearly specifies the responsibility of the Council and the responsibility of the tenant.

Council is seeking to increase usage of its community facilities.



- Encourage licence over exclusive leasing, encourage sub-leasing and hire permits.
- Implement a Fee Model which rewards increased use of the facility.
- Develop tenant KPI to encourage higher utilisation.

ISSUES

STRATEGY OR ACTION

Club is considering changing the length of its occupancy agreement.



- Ensure tenure complies with Local Government Act. If the Retail and Commercial Lease Act applies ensure that the tenure complies with this Act.

Council has clubs / community groups not wanting to share facilities



- Implement a Fee Model that rewards the sharing of facilities.
- Develop tenant KPI which measure shared use of community facility.

Council has a tenant not complying with its occupancy agreement conditions



- Gain an understanding of the reasons the tenant is not complying and work with tenant to overcome the barriers.
- Deploy dispute management processes, including potential mediation.



Photo Source: Tredwell Management

Templates

1. Tenant skills assessment template
2. Occupancy agreement conditions template
3. Tenant review template

1. Tenant skills assessment template

Skills and Competencies	Skill met (✓)	Skill not met (X)	How Evidenced (e.g. qualifications, employment experience, documentation etc)
Finance/Accounting			
Staff/Volunteer Management			
Facility Management			
Fundraising and Sponsorship			
Hospitality sector management			
Governance (Board) Management			
Marketing			
Legislative/Statutory Compliance (e.g. Incorporations Act, Equal Opportunity Act, Work, Health and Safety Act)			
Information Technology			
Risk Management			

2. Occupancy agreement conditions template

Fee	
	Is the fee amount clearly specified?
	Is the fee renewal date and method stated?
	Is the invoice date and payment terms stated?
Tenure	
	Is the tenure of the agreement stated?
	What are the renewal options?
	Has a holding over condition been considered?
Costs (including Utilities and Rates)	
	What costs are the responsibility of the tenant?
	What costs are the responsibility of the Council?
	Have all the costs for utilities and services (use of telephone, light and other facilities and the consumption of electricity, gas, water) been considered?
	Is there are separate meter for utilities?
	Have all rates and taxes been considered? Is the tenant required to reimburse these costs?
Use of community facility	
	What purpose can the tenant use the community facility for?
	What activities are not permitted in the community facility.
	Are there any management plans or guidelines that the tenant is required to follow?
Hiring / Sub-leasing	
	Can the Tenant sub-lease?
	If so, are the terms clear on when and how they can sub-lease?
	Does it specify Council can be involved in negotiations of sub-lease?
	Can the Tenant issue hire permits?
	If so, are the terms clear on when and how they can issue hire permits?
Legal Compliance	
	Is the legal requirement of the tenant clearly stated? This may include, but is not limited to, complying with the provisions of all Acts, regulations, by-laws, all laws dealing with workplace safety, public health, public safety, fire safety and safety generally.
Liquor and Gaming Licences	
	Can the tenant obtain a liquor and gaming licence?
	Do they require Council approval?
	What are the responsibilities with having a liquor and gaming licence?
Maintenance and Repair	
	What maintenance and repairs are the responsibility of the tenant?
	What maintenance and repairs are the responsibility of the Council?
	Is a detailed maintenance schedule required?
	What is the process for Council requesting the tenant to carry out a maintenance activity, e.g. work must be completed within 14 days to the satisfaction of the Council?
	What is the process when Council must carry out a maintenance activity that is the responsibility of the tenant?
Pests	
	What pest control measures are required by the tenant?

Cleaning	
	Have the cleaning requirements been outlined for the tenant?
	What are the tenant's responsibilities in regard to litter?
Structural work	
	What are the rules for structural repairs, including erection and alteration of buildings?
	What is the process when Council is required to work on the Council Asset?
Council Access	
	When can Council enter the occupied community facility?
	What notice are they required to give the tenant?
	Have all exceptions been covered?
	Has the timing of reviews been scheduled?
Signs	
	Can the tenant display signage?
	Do the signs require Council approval?
Accidents and Hazards	
	Is the tenant required to notify the Council of any accidents and hazards?
	What is the process for this notification?
Security	
	Have the security requirements been clearly outlined?
Governance Documentation	
	Is the tenant required to supply the Council with a copy of its constitution, rules and by-laws?
	Is the tenant required to supply the Council with any amendments to the constitution, rules or by-laws of the occupier? What timeframe are they required within?
	Is the tenant required to provide a copy of the annual report?
	What documents are required on request?
Insurances	
	Does the tenant have the required insurances? e.g. Public Risk, Property and Contents Insurance.
	Have the certificates of currency been sighted?
	How is this governed throughout the term of the lease?
	Is the tenant required to notify Council of any insurance claims?
Indemnities	
	Does the agreement require an indemnity clause?
	Are the limits on Council's liability specified?
Expiry or Early Termination of Lease	
	What conditions can result in early termination of the lease?
	What is the process for expiration or early termination?
Special Conditions	
	Are there any special conditions?
Disputes	
	Is there are clear process for handling disputes?
Damage or Redevelopment?	
	What is the process if Council want to redevelop the site?
	What is the process if the Council asset is significantly damaged and cannot be accessed?

3. Tenant review template

1. Community Facility			
Community Facility Description		Community Facility Address	
Council Review Date		Reviewed by	
2. Tenant Information			
Name of Organisation			
Postal Address			
Contact Person Name		Contact Person Mobile	
Contact Person Email			
What are the aims and objectives of your organisation or group?			
What is the current membership total of your organisation or group?			
3. Occupancy Agreement			
Agreement number (Council Identifier)		Agreement Expiry Date	
4. Governance			
Is the Tenant Incorporated? Yes / No		Has the Tenant provided the appropriate Insurance Certificates? Yes / No	
Has the Tenant provided the minutes of the last AGM? Yes / No		Has the Tenant provided latest financial report? Yes / No	
Has the Tenant any unpaid debts? Yes / No		Other; please comment	
Does the Tenant have the required skills and expertise in the current membership base?			Yes / No
Details			

Has the Tenant complied with required KPI (if applicable)?		Yes /No
Details		
5. Community Facility Site Inspection		
Brief description of community facility condition		
Have the maintenance conditions been met?		Yes / No
Details		
Are there any outstanding maintenance Issues?		Yes / No
Details		
Are there any planned capital developments?		Yes / No
Details		
6. Community Facility Utilisation		
What are the key times the community facility is in use?		
Has asset utilisation or participation rates increases since the last review?		Yes /No
Details		

Is the facility sub-leased or regularly hired out? Yes / No					
Is the Sub-tenant on a formal agreement? Yes / No					
Sub-tenant Details					
Does your organisation target any of the following groups? Please tick.					
Low socio-economic background		Over 60's years of age		Aboriginal or Torres Strait Islander	
Culturally and Linguistically Diverse		Children under 17 years of age		Physically and Intellectually Disabled	
Female Participation in sport		Other, please specify			
7. Council Support					
What Council support services have you used since the last review?					
Details					
What Council services do you require over the next 12 months?					
Details					
Any other feedback?					
8. Review Sign-Off					
Council Officer Name		Tenant Officer Name			
Council Officer Position		Tenant Officer Position			
Council Officer Signature		Tenant Officer Signature			
Sign-off date		Next Review Date			



Photo Source: Tredwell Management

09

Resources

Organisation	Website	Resources
Local Government Association of South Australia	www.lga.sa.gov.au	<ul style="list-style-type: none"> Guidelines for Sustainable Management of Community Recreation Facilities South Australian Regional Level Recreation and Sport Facilities Planning Guidelines Policy Templates Permit Facility Hire (Occasional) Template Permit Facility Hire (On going) Template Recreational and Sporting Facilities Licence or Lease Template
LGA Mutual Liability Scheme	www.lgrs.com.au	
Sport Australia	www.sportaus.gov.au	<ul style="list-style-type: none"> Australian Sports Commission Corporate Plan 2019-2023 KPMG The Value of Community Sport Infrastructure Report
Office for Recreation, Sport and Racing	www.orsr.sa.gov.au	<ul style="list-style-type: none"> Office for Recreation, Sport and Racing (ORSR) State-wide Consultation Report Environmental Sustainability Guide for Sport and Recreation Clubs Increased cost of utilities review Resources to help run sport and recreation clubs
Small Business Commissioner South Australia	www.sasbc.sa.gov.au	<ul style="list-style-type: none"> Key features of Retail and Commercial Leases Act 1995 Retail and Commercial Leasing Guide
STARCLUB	www.starclub.sa.gov.au	Club Development Program
STARservice	www.starservice.sa.gov.au	Community organisation development program
Department of Premier and Cabinet	www.dpc.sa.gov.au	Competitive Neutrality Policy Statement
Consumer and Business Services South Australia	www.cbs.sa.gov.au	Information regarding Club Liquor Licences
Law Society of South Australia	www.lawsocietysa.asn.au	South Australian Legislation



Photo Source: Tredwell Management

Appendix 1 - Example fee models

Council	Base Fee	Discount / Incentive	Discount/Incentive Criteria
City of Charles Sturt	Building Rent: 2.5 % of book value	No rent charged on club equity Social Inclusion discounts	Social Inclusion Discount criteria (Total Building, Land and Maintenance Fee):
	Land Rent: (size of playing surface x average value/square metre) x 2%	Where a facility is “non-exclusive” land rental will be discounted 100%. Social Inclusion discounts	5% -Social disadvantage 5% - Junior membership outweighs senior membership. 5% - Women/Non- English speaking/Disabled/ Over 60’s club (active membership in two categories)
	Ground Maintenance: Average size of playing surface per sporting code x square metre differential costs*	Social Inclusion discounts	5% - More than 75% reside in City of Charles Sturt 5% - Club Development Initiatives Council authorised to negotiate further if fee will cause undue hardship.
City of Marion	Rent based on the market rate	Not for profit organisations will be eligible for up to 93% discount	Discount criteria: 33% Good Governance 30% Facility Utilisation 20% Social Inclusion 5% Volunteer Management 5% Environmental Initiatives
City of Holdfast Bay	Rent based on a market appraisal of the property by an independent valuer	Sporting Clubs and Community groups will be eligible for up to 70% discount	Discount criteria: 10% Public Access 20% Inclusion 20% Good Governance 10% Youth/Aged Focused Program 10% Multi -users

Council	Base Fee	Discount / Incentive	Discount/Incentive Criteria
City of Unley	Fees as a percentage of the assessed Capital Replacement Value (CRV)	Discount embedded in the base fee through a lower percentage charged on CRV per tenant category	Tenant category: Local community - 1% of CRV State-wide/peak body - 3% of CRV Semi commercial/ community - 8% of CPV
City of Onkaparinga	Building Rent: (Service fee) = BV X 1.5% X 20% BV – Building Value 1.5% - means percentage of annual building maintenance (Industry sets a scale of 1% to 3%)	Clubs pay - 20% of the annual building maintenance fee (80% Subsidy)	<ul style="list-style-type: none"> • Update contact details annually • Supplying utilisation and participation statistics • Provision of public liability insurance certificate • STARCLUB recognised (within 2 years)
	Ovals / Grounds: Annual Maintenance fee	Council refunds a subsidy of the total maintenance fee for all Council and Community owned ovals CPI increases apply (2019/20 fee \$3407 for 1 oval and \$5410 for 2 ovals)	Subsidy criteria <ul style="list-style-type: none"> • Number of Onkaparinga residents accessing the club • Supplying utilisation statistics • STARCLUB recognised Ovals are maintained to a community sport level
	Tennis and Netball Courts: Court Maintenance Fees Contribution	Council funds 50% of the court resurfacing cost.	<ul style="list-style-type: none"> • Clubs contribute to a sinking fund which is amortised over the number of years the surface is expected to last.
	Halls	Management agreement with a financial contribution from council to undertake daily operations	Subsidy criteria <ul style="list-style-type: none"> • Supplying utilisation statistics • STARservice recognised

Council	Base Fee	Discount / Incentive	Discount/Incentive Criteria
Adelaide City Council (Park Lands Property Strategy)	Base Rent: Assessed as \$50/ m ² and applied against the total floor area of each Park Lands building and associated land.	A discount factor will be applied based on tenant category	Tenant category: Commercial - nil Community (Educational) -80% Community (Sporting) -90%
Mt Barker District Council	Peppercorn	Financial Contribution	Financial Contribution (Incentive) criteria: <ul style="list-style-type: none">• Business Plan• Financial Statement• A Certificate of Compliance (fire extinguishers, smoke alarms and testing and tagging of electrical equipment carried out)
		Turf Contribution	
Mildura Rural City Council	(A) Fees as a 3% of the assessed Capital Replacement Value (CRV) Final Fee is AxBxCxD	Discount imbedded in fee by assessing: (B) Tenant category (C) Financial Circumstances (D) Co-location	(B) 17% (liquor licence, food registration, hire facility out, can charge entry) 14% (liquor licence, food registration, hire facility out, sporting activity) 5% (non-sporting groups who provide community service and predominately volunteer based) (C) Contributed to Facility \$0 – 100% <50% - 75% 50 -75% - 50% >75% - 25% (D) 100% Tenant has exclusive use 50% Tenant is co-located with another group

Council	Base Fee	Discount / Incentive	Discount/Incentive Criteria
<p>City of Burnside</p>	<p>A facility is to be used by a community organisation that will deliver a community service to our residents, including sporting and social opportunities, a peppercorn rent of \$1 per annum will be applied</p>		
<p>District Council of Loxton Waikerie</p>	<p>Fee will be 4% of the current written down value (refer to as market rent) Council commissions regular valuations</p>	<p>\$250 Minimum rent –</p> <ul style="list-style-type: none"> • use approved by Council • meet all eligibility criteria • provides significant community benefit • limited revenue raising ability <p>Negotiated discount -</p> <ul style="list-style-type: none"> • use approved by Council • meet 3 of 5 eligibility criteria <p>or</p> <ul style="list-style-type: none"> • has revenue raising capacity/ external funding 	<p>Eligibility criteria based on:</p> <ul style="list-style-type: none"> • Consistency with Council objectives • Use of Volunteers • Services and program fees • Access • Extent of external funding • Track record of Council tenant

Council	Base Fee	Discount / Incentive	Discount/Incentive Criteria
<p>City of Tea Tree Gully</p>	<p>Fee will be 6% of the current written down value of the leased areas as per Council's Asset Register</p> <p>Indexed by CPI on an annual basis.</p>	<p>Eligible for up to 85% discount</p>	<p>Discount criteria:</p> <ul style="list-style-type: none"> 20% - demonstrated responsible tenant 15% - demonstrate financial capital through provision of annual financial reports. 10% - increase social inclusion/community participation/promote health and well-being of local community 10% - provide facility utilisation data 5% - consistent with strategic plan 5% - inclusive 15% - shared use
		<p>Further discount to recognise capital contribution.</p> <p>Max subsidy 100%</p>	<p>\$1 for every \$5000 contributed (max \$250,000).</p>

Note: (*) Differential cost is the cost difference between maintaining the oval as a Reserve and as a Sports Surface.



Government of South Australia
Office for Recreation, Sport and Racing

