

Ku-ring-gai Council

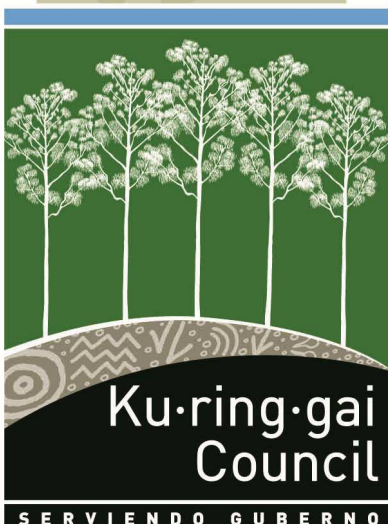
## **Draft Policy**

# Management of Community and Recreation Facilities

Version Number 2

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# Management of Community and Recreation Facilities

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## Controlled Document Information

### Authorisation Details

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### Related Document Information, Standards & References

<b>Related Legislation:</b>	Local Government Act 1993 Local Government (General) Regulation 2005 Crown Lands Act 1989 Crown Lands Management Act 2016	
<b>Related Policies (Council &amp; Internal)</b>	Code of Conduct Wet Weather Policy	
<b>Related Documents - Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements, etc</b>	Management of Community and Recreation Land and Community Facilities Procedure All current and future adopted Plans of Management	
<b>Other References</b>		

## Version History

Version Number	Version Start Date	Version End Date	Author	Details and Comments
1	10 November 2009	TBA	Mark Taylor	First version
2	Draft	TBA	Mark Taylor	Reformatting to align with current Council style guide Removal of procedural based content Review and update rebate/subsidy calculation matrix Review and update terminology to align with key Policy areas Increased scope to include provisions for “individual pursuits”

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## Policy

### Purpose

This Policy sets the requirements and expectations for use and management of community and recreation facilities, infrastructure and land owned by, or under the care, control and management of, Ku-ring-gai Council (“Council’s Community Facilities”).

### Objectives

To ensure:

- fair and equitable access to Council’s Community Facilities for user groups and individuals is achieved;
- utilisation of Council’s Community Assets, primarily community and recreation facilities is maximised;
- compliance with Legislation, Plans of Management and related Council policies;
- the process for which Council’s Community Facilities are managed is structured and transparent;
- administration and legal costs are minimised and/or recovered and operational liabilities are mitigated;
- income derived from Council’s Community Facilities is in accordance with Council’s adopted Fees and Charges;
- fee support (rebates, subsidies, and fee waivers) is provided and reported on in accordance with the Community Strategic Plan and adopted sporting and recreation strategies;
- requisite issues, terms and conditions are correctly negotiated and incorporated into the agreements prepared and executed;
- Council staff and Councillors display a unified approach when engaging with user groups and individuals regarding matters pertaining to Council’s Community Facilities.

To assist:

- provision of an appropriate range of support services throughout the local government area (LGA) that address those community needs identified in Council’s Community Strategic Plan ;
- not-for-profit entities in providing programmes and services which address the social, cultural, sporting and recreational needs of the Community;
- sustainability best practice is incorporated into the use of land and facilities.

## Scope

This Policy applies to:

- decisions pertaining to access to, and utilisation of, Council's Community Facilities for organised activity ("organised activity" is a defined term);
- individuals and user groups who seek to facilitate, or be responsible for, or participate in, or contribute to a decision pertaining to, an organised activity that utilises Council's Community Facilities ("individuals and user groups" is a defined term);
- written agreements prepared for, and executed over, Council's Community Facilities, including, but not limited to: lease agreements, licence agreements, temporary access agreements, seasonal allocations, casual, or permanent bookings, one off or casual hire arrangements, contracts for provision of services;
- general community use of Council's Community Facilities for individual pursuits ("individual pursuits" is a defined term);
- access to, and utilisation of, Council's Community Facilities that does not require a formal approval, booking, or preparation and execution of written agreement.

## Responsibilities

The Policy is implemented by the General Manager and primarily the Director Community.

The following responsibilities apply:

- The Manager Community & Recreation Services is responsible for the implementation of this Policy and any subsequent procedures and forms.
- Councillors may communicate with lessees, licensees, tenants, user groups who hire Council facilities in accordance with Council's Code of Conduct.
- The Community and Recreation Services team manages aspects of the leasing, booking and hiring processes under this Policy.

## Policy Statement

### 1. General Provisions

- 1.1. “Council’s Community Facilities” is a defined term.
- 1.2. Ku-ring-gai Council recognises that Council’s Community Facilities are valuable public assets of significant capital investment.
- 1.3. Ku-ring-gai Council is committed to providing fair and equitable access to Council’s Community Facilities for residents and visitors.
- 1.4. Council’s Community Facilities are to be effectively managed to ensure optimal utilisation and cost recovery, alignment to Council’s strategic objectives, and legislative compliance.
- 1.5. Dealings over Council’s Community Facilities must be in accordance with the Procedure and pursuant to applicable legislation and Plan of Management. In all dealings, Council’s position as either landowner or land manager must be identified in order to ascertain applicable legislative provisions.
- 1.6. Council’s smoke-free environment policy, “Smoke-free Ku-ring-gai”, applies to all of Council’s Community Facilities.

### 2. Revenue Opportunity

- 2.1 Ku-ring-gai Council recognises the letting and hiring of Council’s Community Facilities provides revenue opportunity to supplement the organisation’s budget.
- 2.2 Letting and hiring of Council’s Community Facilities is to be encouraged provided that community needs are prioritised and balanced over revenue opportunity.
- 2.3 The effect of any revenue opportunity must not be detrimental to the needs of the community or adversely affect residents or ratepayers.
- 2.4 All invoicing and accounts will be established pursuant to Council’s adopted Fees and Charges or as approved by Council for Leases and Licences and managed in accordance with the Procedure and relevant finance policy.

### 3. Access and Utilisation

- 3.1 Access to and use of Council’s Community Facilities is prioritised as detailed in the Procedure and pursuant to relevant Plan of Management and legislation.
- 3.2 Council’s Community Facilities are made available for general community use and individual pursuits without execution of written agreement subject to:
  - (a) authorisation under relevant Plan of Management;
  - (b) availability;
  - (c) adherence to applicable local ordinances;
  - (d) adherence to relevant legislation.
- 3.3 Council’s Community Facilities may be made available for organised activity subject to:
  - (a) receipt and assessment of relevant application form;
  - (b) prioritised availability;

- (c) payment of applicable fees and charges;
  - (d) execution of written agreement.
- 3.4 Council reserves the right to close Council's Community Facilities for safety and maintenance purposes. Operational staff will advise Community and Recreation Services with the times the selected locations will be closed and affected user groups notified accordingly. Notice periods stipulated in written agreements must be observed, unless impracticable due to emergency.
- 3.5 Individuals and user groups who access and use Council's Community Facilities for any purpose are not permitted to adversely impact the amenity of nearby neighbours.
- 3.6 Council reserves the right to initiate any proceedings against any individual or user group unlawfully occupying or using Council's Community Facilities.

#### **4. Organised Activity**

- 4.1 "Organised Activity" is a defined term.
- 4.2 Applications for organised activity over Council's Community Facilities must be assessed on the basis of frequency, type of usage, asset/facility involved, income derived, prioritised availability and as otherwise detailed in the Procedure for Management of Council's Community Facilities.
- 4.3 Council reserves the right to refuse any application for organised activity if the findings from the due diligence process weigh against the application.
- 4.4 An appropriate written agreement shall be determined and prepared following assessment of application.
- 4.5 Agreements for use of Council's Community Facilities for organised activity must only be granted if authorised in a Plan of Management, compliant with relevant legislation, sufficiently consistent with Council's strategic objectives, and as otherwise stipulated in this Policy and the Procedure.
- 4.6 User groups and individuals who seek to access and/or utilise Council's Community Facilities are required to ensure their allocated date(s)/time(s) is reserved within Council's booking system and confirmation of reservation is received.
- 4.7 Council's Community Facilities subject to lease or licence for a term exceeding 12 months are required to be independently valued.
- 4.8 General provisions, under written agreement, such as seasonal hire, for organised activity for access to, or use of, Council's Community Facilities:
- (a) the agreement will detail responsibility for maintenance and outgoings;
  - (b) any facilities requiring cleaning or additional cleaning by Council's staff or contract cleaners will be charged to the user group at Council's current & adopted fees and charges;
  - (c) access to Council's Community Facilities for organised activity is strictly limited to the times and dates stipulated in the agreement;
  - (d) sub-leasing and assignment of agreements is strictly prohibited, unless specified and permitted by the agreement and subject to approval;
  - (e) the approved entity is required to procure and maintain their own insurance as stipulated in the terms of the agreement and for the entire duration of the agreement;



- (f) cash bonds are required to be paid prior to commencement of agreement and refunded when the agreement terminates - Council's adopted and current fees and charges determine the bond amount;
  - (g) bank guarantees are only accepted for leases and licences 5 years and over and where the agreement returns over \$20K per year.
  - (h) keys or passes are provided to the hirer at the commencement of the agreement and must be returned to Council at the conclusion of the agreement;
  - (i) in the event of a key being lost or damaged by a hirer, the hirer will be liable to pay Council remediation damages;
  - (j) all keys are to be returned at the termination of the agreement and rangers will be instructed to ensure that activities are not being conducted without Council's authority;
  - (k) key audits to ascertain user group's compliance are conducted at Council's discretion.
- 4.9 Additional provisions, under written agreement, for organised activity for access to, or use of, Council's Community Facilities prescribed in Council's Plan of Management for Sport Facilities:
- (a) there is no automatic right to occupy or use a canteen and/or store equipment and belongings at sports facilities;
  - (b) rights to canteens and storage areas run with Seasonal Allocations agreements or with a Clubhouse Licence;
  - (c) in some cases, canteens, storage facilities, club houses and amenity buildings can be licenced on a separate basis.

## 5. Telecommunications and Emergency Services

- 5.1 Under the Telecommunications Act 1997, the Commonwealth has the power to erect any telecommunications device on State or Council owned land. All users of Council's Community Facilities must accommodate and comply with any directions from Council in this regard.
- 5.2 No relationship shall be created between telecommunication companies and user groups or individuals who hold an agreement for organised activity over Council's Community Facilities.
- 5.3 This Policy shall not predominate emergency services legislation. Any request or notice issued pursuant to applicable emergency services legislation is to be complied with.

## 6. Financial Assistance: Fee Waivers, Rebates and Subsidies, Financial Offsets

- 6.1 "Financial Assistance" and "Eligible Entities" are defined terms.
- 6.2 Financial assistance may be offered as a commitment by Council to support eligible entities who seek to utilise Council's Community Facilities in the delivery of their service.
- 6.3 Requests for financial assistance must be in the prescribed format and will be evaluated according to the matrix assistance from 0 to 90%.
- 6.4 Financial assistance is assessed when commencing and/or renewing an existing agreement, and upon each annual anniversary of the agreement thereafter, and is based on information provided.
- 6.5 Financial assistance only applies to those fees immediately associated with access to and/or use of Council's Community Facilities.
- 6.6 Council reserves the right to refuse any application for financial assistance.

6.7 The following are ineligible for financial assistance:

- (a) legal and administrative expenses (including, but not limited to, valuation charges, stamp duty, registration fees) associated with preparation and management of leases and licences;
- (b) leases with rent amount less than \$2000 per annum;
- (c) licences with licence fee amount less than \$2000 per annum
- (d) seasonal booking agreements of sporting grounds;
- (e) facilities storage agreements of less than twelve months;
- (f) temporary access agreements over Community or Crown Land
- (g) activities and agreements associated with filming approvals.

6.8 Entities receiving financial assistance are required to report annually to Council on performance indicators in relation to the entity's broader activities and specific use of the asset.

### **Fee Waivers**

6.9 Council may offer fee waivers to eligible entities as outlined in Appendix A and subject to the provisions of this Policy.

6.10 A request to waive fees is a specific request to not be charged the adopted fee established within Council's Fees and Charges for access to, and use of, Council's Community Facilities.

6.11 Fee waivers are only applicable to casual hire agreements and granted pursuant to Section 356 of the Local Government Act.

### **Rebates and Subsidies**

6.12 Council offers a rebate/subsidy level between 0% and 80% to eligible sporting groups and between 0% and 90% to eligible frontline community groups, as outlined in Appendix B – Subsidy Matrix.

6.13 A request for rebate/subsidy is assessed, as outlined in the Procedure, across four criteria on the basis of the applicant's:

- C1. current financial position;
- C2. capacity to contribute to Council;
- C3. benefit to community;
- C4. alignment to Council's strategic objectives.

### **Financial Offsets**

6.14 User groups who make a significant capital contribution may be offered a recommendation for longer term of tenure to allow for full capital depreciation benefits. For community facilities the capital contribution must be applied to the lease or licence of the facility improved. For sporting groups who contribute towards ground, lighting or facility improvements, the contribution can be transferred to any relevant lease or licence of clubhouses at the improved facility. A tender may be required if the group is not a not for profit entity.

6.15 All other improvements funded by user groups, including "Value-In-Kind" contributions, are regarded as philanthropic and Council cannot guarantee any financial offsets. All proposed improvements must be supported by the Director Operations to ensure ongoing maintenance requirements are considered.

## 7. Code of Conduct

- 7.1 Ku-ring-gai Council has adopted a Code of Conduct that is applicable to both elected Councillors and employed staff. The Code of Conduct sets out principles to ensure the business of Council is carried out in an efficient, honest and impartial way.
- 7.2 Council staff reserve the right to cease discussions and negotiations with a user group or individual if found to be attempting to lure a political member into an operational matter.

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## Definitions

Term / Abbreviation	Definition
Agreement	The contract between the user group and council to reflect the agreed terms and conditions for use of the land or facility. A lease, licence, permanent and/or casual hire and contract for provision of services is referred to as an agreement.
Casual Hire	Casual hiring arrangements pertain to a one off use, although continuous bookings over a limited defined period of time can be made for example for tennis courts for up to 10 weeks.
Capital Contribution	A DA approved monetary or other contribution (e.g. donated labour and materials) which improves, enhances, or adds value to the facility based on the replacement/refurbishment cost/s assessed in line with industry accepted quantity surveying principles.
Commercial Group	A group deemed for commercial purposes, any activity which does not fall under the ambit of not for profit, community or a sporting group.
Community Group	Is a specific entity, which provides a benefit to the community on a non-profit basis, has a constitution or charter and a program of services or activities which confirm a commitment to meeting the cultural, social and/or recreational needs of the community.
Council's Community Facilities	Community and recreational facilities, infrastructure and land owned by, or under the care, control and management of, Ku-ring-gai Council. For the purpose of this policy, "Council's Community Facilities" include: sport grounds, passive parks, open space and bushland area and any capital improvements or buildings erected upon these lands such as community centres, halls, and meeting rooms. Excluding Council owned and /or managed residential, retail and commercial properties.
Eligible Entities	An organisation based in the LGA, or its branch, principally run by volunteers seeking a discount on a casual booking for one of Council's Community Facilities where the booking will have wide community benefit.
Facility	Part or all of a Council owned/managed land and/or building asset and associated infrastructure occupied by a community group/s to provide organised recreational, cultural, sporting and community service activities. They are generally situated on Council owned Operational and Community Land or Crown Land for which Council has long term management responsibility.
Fee Waiver	A discount/or waiver on the adopted fees and charges provided to a user group which qualifies under Council's Policy to waive or discount fees. Fee waivers only apply to casual hire and must be authorised by the Director Community.

Financial Assistance	Assistance provided to approved applicants who request a reduction/waiver of a Council adopted fee/charge, and/or reduction/waiver of market rent as determined through valuation process.
Individuals and User Groups	Council staff and Councillors, ratepayers and the general public, community groups and social clubs, sporting clubs, childcare services, industry groups, businesses and commercial users, religious organisations, government organisations.
Individual Pursuits	Walking, bushwalking, off leash dog areas, non-exclusive small family gatherings and informal uses of open space of parks and gardens.
Lease	A lease is a legal agreement for the occupation of a defined lot of land for a defined term only. Consideration for this right is returned to Council as rent. On completion of the defined term the area leased reverts to Council. Consideration returned to Council is known as the 'Rent'.
Legislation	Any relevant legislation and regulation pertaining to this policy including, but not limited to, the related legislation so prescribed by this policy.
LGA	Local Government Area
Licence	A Licence is an agreement, which provides user group rights to use the facility for a defined time and defined dates. This does not constitute an occupation of land or a facility only a passing of rights of use as detailed in the agreement. Consideration returned to Council for such rights is known as the "Licence fee".
Not-For-Profit Entity	Incorporated and unincorporated non-government entities that do not operate for the purpose of generating a profit. These entities may include individuals, social/recreational clubs, sporting groups, associations, charities and registered entities with gift deductible recipient (GDR) status.
Operational Costs	The costs expended by Council to maintain the facility in good order and condition, suitable for its purposes.
Operational Funding	Funding provided to user groups for general operating purposes, as opposed to funding for a specific purpose eg capital improvements. Such funding can be sourced from State and Federal Government and/or from private sources.
Organised Activity	Any group of people (more than 5 people, or one that is commercially based) who are using any Council owned or managed land or facility on a regular basis (at least once in any eight week period) or require access to a locked or secured facility, or an area with established fees and charges for casual use (eg Tennis Courts) will be considered a user group and will therefore be required to comply with this policy. fitness instructors, together with events, festivals and celebrations.
Permanent Hire	Permanent hiring arrangements pertain to regular use of a specific

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	facility generally for a specific period of time not exceeding 12 months.
Plan of Management	<p>Refers to the requirement under the <i>NSW Local Government Act (1993)</i> that all public land be classified as either “operational land” or “community land” and a Plan of Management must be prepared for land designated community land.</p> <p>The granting of a lease or licence over a facility on community land, the conditions of the lease or licence and the potential uses of a facility are set down in the Plan of Management. The Act states: "A council may grant a lease or licence of community land, but only in accordance with Section 46 and (if relevant) section 47 NSW Local Government Act 1993."</p>
Rebate	A Rebate is a rental subsidy granted by Council applying only to leases and licences. Council may grant a rebate when a user group demonstrates requisite needs for the assistance and the level of rebate is granted pursuant to the Rebate Assessment Schedule in this policy. There is no rebate applicable to commercial, casual, permanent and seasonal hirers.
Regulation	Means the <i>Local Government (General) Regulation 2005</i> and <i>Crown Lands Regulation (2000)</i> .
Seasonal Allocation	Seasonal Allocation pertains to the majority of on-field sport ground facilities which are allocated to sports clubs or governing associations on a seasonal basis, with two allocations being undertaken per year to cater for summer and winter sporting activities. Seasonal allocation includes training and regular weekend competitions.
Sporting Group	A sporting group under this Policy is an entity that provides a benefit to the community on a non-profit basis, has a constitution or charter and a program of services or activities which confirms a commitment to meeting the sporting and/or recreational needs of the community.
Storage agreements	Agreements made for access to and/or use of Council’s designated storage facilities. Storage facilities include: rooms, cupboards and other purpose built structures designated for storage purposes only.
User Group	A user group under this Policy is an entity that provides a benefit to the community which meets the cultural, educational, social and/or recreational needs of the community. User Groups can be both not-for-profit or offer a fee for the provided service.

## Appendix A – Subsidy Eligibility Guidelines

The following eligibility guidelines apply for provisions made under 6.9, 6.10 and 6.11 of the Policy:

- (a) The organisation/group, or its branch, must be based within the LGA of Ku-ring-gai.
- (b) The organisation/group is principally run by volunteers.
- (c) Any waiving or discounting fees will not lead the organisation to expect Council to do so in future years.
- (d) The accounts be issued for the full amount of the rental, recording the fee waived or discounted by Council.
- (e) The clubs whose fees have been waived or discounted be asked to publicly acknowledge Council's contribution on their printed material where appropriate.
- (f) Processing the applications will be on a 'first come, first served' basis until the figure set by Council is reached.
- (g) The waiving or discounting of fees will be considered only as a result of extreme external impacts or extenuating circumstances.
- (h) Consideration will only be given to those requests where there is a wider community benefit than for the organisation seeking the discount or waiving of fees.
- (i) Requests to discount or waive fees will not be considered for peak hiring times.

## Appendix B – Level of Subsidy Matrix

Subsidy Category and Criteria		Level of Subsidy Offered	
		Sporting Group	Frontline Community Group
<b>Category 1</b>	<ul style="list-style-type: none"> <li>• <b>Organisational Structure (C1):</b> Small and locally based organisation or group; Staffed by volunteers only with no paid employees; Board of Directors and/or Management Committee comprised of volunteer members</li> <li>• <b>Funding, Revenue, Assets (C1):</b> No government funding received; Limited capacity to generate independent revenue; Limited, or no, pool of non-current assets; Limited, or no, cash reserve; No cash investments</li> <li>• <b>Contribution to Council (C2):</b> No capacity to contribute towards capital works; Limited capacity to provide “value-in-kind” contributions</li> <li>• <b>Locality of Client Base (C3):</b> Client and/or member base is predominantly residing in Ku-ring-gai LGA</li> <li>• <b>Strategic Alignment (C4):</b> Service delivery significantly aligned to Council’s strategic objectives</li> </ul>	<b>0 - 80%</b>	<b>0 - 90%</b>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• <b>Organisational Structure (C1):</b> Small to medium organisation; Staffed predominantly by volunteers and limited number of paid employees; Board of Directors and/or Management Committee comprised of volunteer members</li> <li>• <b>Funding, Revenue, Assets (C1):</b> Limited and/or infrequent government funding received; Minor capacity to generate independent revenue; Small pool of non-current assets; Small cash reserve; No cash investments</li> <li>• <b>Contribution to Council (C2):</b> No capacity to contribute towards capital works; Minor capacity to provide “value-in-kind” contributions</li> <li>• <b>Locality of Client Base (C3):</b> Client and/or member base is predominantly residing in Ku-ring-gai LGA with some clients/members residing in neighbouring LGA</li> <li>• <b>Strategic Alignment (C4):</b> Service delivery significantly aligned to Council’s strategic objectives</li> </ul>	<b>0 - 65%</b>	<b>0 - 75%</b>



Subsidy Category and Criteria		Level of Subsidy Offered	
		Sporting Group	Frontline Community Group
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• <b>Organisational Structure (C1):</b> Medium organisation; Staffed by combination of volunteers and paid employees; Board of Directors and/or Management Committee comprised of volunteer members</li> <li>• <b>Funding, Revenue, Assets (C1):</b> Receives a combination of government funding and independent revenue to assist delivery of operational programs/projects/activities; Medium pool of non-current assets*; Medium cash reserve; No cash investments</li> <li>• <b>Contribution to Council (C2):</b> Potential capacity to contribute towards capital works; Medium capacity to provide “value-in-kind” contributions</li> <li>• <b>Locality of Client Base (C3):</b> Client and/or member base resides in Ku-ring-gai and neighbouring LGAs</li> <li>• <b>Strategic Alignment (C4):</b> Service delivery significantly aligned to Council’s strategic objectives</li> </ul>	<b>0 -50%</b>	<b>0- 60%</b>
<b>Category 4</b>	<ul style="list-style-type: none"> <li>• <b>Organisational Structure (C1):</b> Large organisation; Staffed predominantly by paid employees with assistance contributed by volunteers; Board of Directors and/or Management Committee comprised of volunteer members</li> <li>• <b>Funding, Revenue, Assets (C1):</b> Receives specific government funding to deliver operational programs/projects/activities; Generates independent revenue to fund administrative functions; Large pool of non-current assets*, excluding real estate; Large pool of cash reserve; Short term cash investment held</li> <li>• <b>Contribution to Council (C2):</b> Potential capacity to contribute towards capital works; High capacity to provide “value-in-kind” contributions</li> <li>• <b>Locality of Client Base (C3):</b> Client and/or member base resides across Sydney Metropolitan region</li> <li>• <b>Strategic Alignment (C4):</b> Service delivery significantly aligned to Council’s strategic objectives</li> </ul>	<b>0- 35%</b>	<b>0 - 45%</b>

Subsidy Category and Criteria		Level of Subsidy Offered	
		Sporting Group	Frontline Community Group
<b>Category 5</b>	<ul style="list-style-type: none"> <li>• <b>Organisational Structure (C1):</b> Large organisation; Staffed predominantly by paid employees with limited assistance contributed by volunteers; Multi-level organisational structure with several tiers of management distributed across functional areas; Board of Directors and/or Management Committee comprised of remunerated members</li> <li>• <b>Funding, Revenue, Assets (C1):</b> Receives dedicated government funding to deliver operational programs/projects/activities; Generates independent revenue, or receives budget allocation from funding provider, to fund administrative functions; Large pool of non-current assets*, including real estate; Large pool of cash reserve; Short and long term cash investments held</li> <li>• <b>Contribution to Council (C2):</b> High capacity to contribute towards capital works; High capacity to provide “value-in-kind” contributions</li> <li>• <b>Locality of Client Base (C3):</b> Client and/or member base resides across state or national region</li> <li>• <b>Strategic Alignment (C4):</b> Some services aligned to Council’s strategic objectives</li> </ul>	0-20%	0-30%