

CONDITIONS OF USE — MULTIPURPOSE SPORTS COURTS — CASUAL HIRERS

(19/1261664)



GLEN EIRA
CITY COUNCIL

1 APPLICATION

These *Conditions of Use* apply generally to all multipurpose sports courts and associated areas, such as car parks under the control of Council at any time whether owned, operated, borrowed or leased by Council (facilities).

With respect to the casual hirer (as referred to in clause 2), these *Conditions of Use* refer to the particular facility (facility) hired by the casual hirer.

2 PARTIES BOUND

The parties bound by these *Conditions of Use* are:

Glen Eira City Council (Council)

and

The casual hirer, which expression includes the casual hirer and any association, person or other entity allowed the hire or use of or actually using the facility at any time (whether or not any formal agreement has been signed), together with all individual members and visitors of the casual hirer, association or other entity.

3 NO WAIVER

No time or other indulgence granted by Council to the casual hirer, variation of the terms and conditions of these *Conditions of Use* or judgement or order obtained by the casual hirer against Council will in any way amount to a waiver of any of the rights or remedies of Council in relation to the terms of these *Conditions of Use*.

4 LIMITATIONS ON HIRE

The casual hirer's hire of the facility does not create any tenancy or other property right in the casual hirer. The right granted is for the casual hirer to use the facility, at the times and for the period and activity stipulated in the booking confirmation or permit issued by Council, and in accordance with these *Conditions of Use*.

The casual hirer must not sell, trade, give away or otherwise deal with any part or full part of its consent to use the facility to any other third party.

The right of use is not exclusive. Council may authorise any other person or organisation to use the facility or any part of it at any time outside the casual hirer's hire period.

5 PURPOSE OF HIRE

Council facilities are multipurpose. Council does not warrant that the facility is suitable for any or any particular purpose and the casual hirer shall make its own judgement as to suitability for its purpose both overall and prior to, on each occasion, using the facility. The casual hirer is referred to and must comply with clause 30 of these *Conditions of Use* in relation to inspections and risk management.

6 COMMENCEMENT OF HIRE AND BOOKINGS

No hire of any facility is authorised by Council until the casual hirer has:

- completed and returned the Application Form — Casual Hirers. Each section of the form must be completed and include all information and attachments where required;
- received a booking confirmation or permit from Council that its application has been approved; and
- paid any applicable hire fees and/or security deposit where required.

A minimum of five (5) working days' notice is required for all hires.

7 CONTINUATION OF CONSENT TO HIRE

Continuation of Council's consent for the casual hirer to hire the facility for the hire period is conditional upon the casual hirer complying with these *Conditions of Use*, and observing all reasonable requirements of Council (whether contained in these *Conditions of Use* or otherwise), relevant laws and regulations.

8 MULTIPURPOSE SPORTS COURTS HOURS OF HIRE

The hours of hire for multipurpose sports courts are limited to the following: Monday–Sunday, 7am–10pm*

*Subject to changes notified to the casual hirer and/or the public.

9 FEES, CHARGES, SECURITY DEPOSIT AND CANCELLATIONS

9.1 Sportsground and pavilion fees and charges are fixed by Council. Invoices will be forwarded to the casual hirer

following the issue of a written booking confirmation or permit. All invoices must be paid within 30 days of receipt of the invoice or the specified due date. Payment must be received prior to the hire date. Failure to pay invoices may result in:

- the withdrawal of Council's consent to hire the facility; and/or
- the casual hirer being ineligible to make future applications to hire Council facilities.

9.2 A security deposit is payable at the time of booking and is payable by the casual hirer, and is to be held as a security against any damage caused to the facility and/or any other breach of these *Conditions of Use*. Contact Council for the details and amount of this deposit.

Subject to this clause, a refund of the security deposit will be made within 21 working days after the end of the hire period. Deductions may be made from the security deposit for any reasonable cause. Where the amount of the security deposit is not sufficient to cover the sums payable pursuant to these *Conditions of Use*, the casual hirer will be liable to pay the difference within 30 days of receipt of an invoice or the specified due date.

9.3 Where written notice of cancellation is given by the casual hirer at least two weeks before the date of hire, a full refund of the hire fees and security deposit (if any paid) will be made. Where notice of cancellation is given by the casual hirer less than two weeks before the date of hire, a 20 per cent administration fee will be deducted from the refund of the hire fees. Where notice of cancellation is given by the casual hirer less than two weeks before the date of hire and the casual hirer has not paid the hire fees at the time of booking, the casual hirer will be invoiced in a sum equivalent to 20 per cent of the applicable hire fees.

9.4 Notwithstanding any other provision of these *Conditions of Use* and regardless of whether a booking confirmation has been issued, Council expressly reserves the right to cancel any booking at any time or to refuse to allow the hire of a facility in circumstances where the facility is required for Council use, or where Council considers the proposed hire to be detrimental to Council or a third party, in which case a full refund of all monies paid will be made. Council also reserves the right to cancel any booking in circumstances where the casual hirer has submitted false or misleading information in its Application Form — Casual Hirers, or otherwise.

9.5 In addition to the circumstances referred to in clause 9.4, Council may at any time withdraw from the casual hirer, either permanently, or for a period of time, the use of any facility or part of a facility for the following reasons:

- that a sports court is unplayable due to inclement weather;
- that a sports court is unsafe for match play or otherwise;
- that a sports court requires surface repairs, maintenance and/or redevelopment works; and
- breach by the casual hirer of any of these *Conditions of Use*.

10 LEGAL COSTS

The casual hirer must pay any legal and other relevant costs incurred by Council as a result of a breach by the casual hirer of any of these *Conditions of Use*.

11 ESCAPING BALLS

Casual hirers will be responsible for any escaping balls from the facility, and will be liable for resulting loss or damage to any property or person. Casual hirers must work co-operatively with persons suffering loss or damage to ensure such loss or damage is rectified or compensated for.

12 APPROPRIATE FOOTWEAR

All facility users must wear appropriate footwear when using the facility. Footwear that is prohibited includes, but is not limited to thongs and shoes with spikes or studs (moulded and/or screw in). The casual hirer will be responsible for any loss or damage caused to the facility by inappropriate footwear.

13 PROHIBITED ACTIVITIES

The casual hirer is prohibited from conducting or performing high risk or dangerous activities at the facility. This includes, but is not limited to:

- climbing the fence;
- parkour (free running); and
- parachuting.

14 CLEANING AND MAINTENANCE

The casual hirer is responsible, on every occasion of use, for leaving the facility and surrounding areas in a clean and tidy condition, suitable for use by the next users. This includes disposing of litter (where applicable).

Any additional cleaning or rubbish removal services, such as skips or the use of commercial cleaners for special events, must be paid for by the casual hirer.

In the event of a breach of these *Conditions of Use*, the casual hirer will be responsible for all costs associated with the clean up by Council or its agents of the surrounds during the period of use.

15 DAMAGE

Other than normal wear and tear, and any damage caused by Council staff or contractors, the casual hirer will be responsible for all loss and damage caused to Council's property during the period of use by the casual hirer or resulting from breach by the casual hirer of these *Conditions of Use* — eg. failure to securely lock premises following use.

In the event of any dispute as to the timing or cause of damage between users, Council will make a final and binding decision.

16 REPORTING DAMAGE, HAZARDS OR MAINTENANCE ISSUES

Casual hirers are required to promptly report any property loss or damage, incident involving death or personal injury, hazards or maintenance issues to Council by contacting Council's Customer Service Centre on 9524 3333 and reporting the item onto the Council maintenance tracking system. The casual hirer must provide Council with as much detail as possible about the damage and required works. If required, a Council officer will provide the casual hirer with a tracking request number, which can be used to track the progress of works in the future.

Casual hirers must also comply with clause 30 of these *Conditions of Use* in relation to inspection of the facility prior to use.

17 RESTITUTION

The casual hirer is responsible for any damage to or theft of Council property resulting from or related to the use of the facility by the casual hirer during the period of hire and while the casual hirer is in possession of the swipe cards, including damage caused by casual hirer members, visitors or members of the public.

The casual hirer must pay for any consequential repairs or reinstatement undertaken by Council. An invoice will be forwarded to the casual hirer to recover the full cost of any repairs or reinstatement carried out by Council.

18 FACILITY MODIFICATIONS

The casual hirer will be permanently excluded from use of the facility if any part of the facility is modified by the casual hirer or at its direction in any way whatsoever.

19 PEGGING OR SPIKING

Casual hirers are not permitted to peg or spike items into the sports courts. Pegging or spiking may damage the sports surface. Casual hirers that are found to have pierced the sports courts will be responsible for the costs of repair.

20 ISSUE OF SWIPE CARDS

The casual hirer will be issued with one swipe card for the hire of facilities.

21 USE AND LOSS OF SWIPE CARDS

If the swipe card is lost or damaged, the casual hirer is fully responsible for the cost of replacement.

The casual hirer is responsible to ensure no other person or organisation is given the swipe cards. Copying the swipe card is prohibited.

Any misuse of the swipe card constitutes a breach of these *Conditions of Use*, and may result in the casual hirer being ineligible to make future applications for the hire of Council facilities.

22 RETURN OF SWIPE CARDS

All swipe cards must be returned within two working days of completion of the booking.

If the casual hirer does not return the swipe card, it will continue to be held responsible for any damage to the facility whilst the swipe card remains in its possession.

23 SECURITY AND ACCESS

The casual hirer is responsible to ensure the facilities are securely locked when not in use but must also ensure that Council officers can gain access to the facilities — meaning that no additional or alternate locks are to be fitted.

If the casual hirer damages the swipe reader or has extra locks fitted, it will have its sports courts booking immediately withdrawn. The casual hirer will be charged for the costs associated with the removal or replacement of all locks, and any associated lost bookings due to other users being unable to access the facility.

24 PARKING

The casual hirer is responsible to ensure the proper parking of all vehicles at the facility regardless of vehicle ownership.

The casual hirer, its members, visitors and invitees are required to comply with all notified parking restrictions.

Subject to the direction of Council officers, the casual hirer is responsible for the control of vehicles parked in the reserve by its members, visitors and invitees.

25 VEHICLES AND WHEELED RECREATION DEVICES

The casual hirer must ensure that vehicles and wheeled recreation devices are not placed or operated on to the sports courts. Wheeled recreation devices include, but are not limited to:

- foot scooters and powered scooters;
- skateboards;
- rollerblades;
- bicycles and unicycles; and
- motorbikes.

26 SALE, SERVICE, PREPARATION AND CONSUMPTION OF FOOD AND ALCOHOL

Food and drink is strictly prohibited from the playing surface, with the exception of water. All food and sports drinks must be consumed outside the facility in the area surrounding. Chewing gum is also prohibited in the facility.

Alcohol must not be served or consumed at the facility. Food must not be prepared, served or sold at the facility.

Casual hirers are not permitted to authorise food vendors to enter Council parks or reserves and sell items within the park during their hire periods.

The casual hirer will ensure no merchandising, exchange, or bartering of any sort is conducted at the facility without the written consent of Council.

27 GAMES OF CHANCE NOT PERMITTED

The casual hirer is responsible to ensure no games of chance are played, raffles conducted, tickets sold, or any other gaming activity is conducted at the facility.

28 INDEMNITY

The casual hirer agrees to indemnify, hold harmless, release and discharge Council, its Councillors, employees, contractors and agents and each of them from and against all actions, costs, claims, charges, expenses, loss and damage whatsoever (including without limitation in respect of physical injury or death) (claim), which may be brought or claimed against them, or any of them, arising out of or in relation to the use of the facility by the casual hirer or its employees, pupils, teachers, spectators, visitors, agents, contractors, licensees and invitees, except to the extent that the claim is caused or contributed to by any negligent act or omission of Council, its employees, contractors or agents.

29 INSURANCE

Where the casual hirer is an individual, Council does not require public liability insurance to be held. However, in such circumstances, the casual hirer will be personally liable for any loss or damage arising from their acts and omissions. Council strongly suggests that an individual hirer considers taking out insurance.

Sporting groups, schools or commercial entities must ensure that at all times during the period of its hire they have the benefit of a current Public Liability Policy of insurance in the name of the casual hirer, providing coverage for an amount of

at least 20 million dollars (\$20,000,000) per event.

The sporting group, school or commercial entity should also ensure it has the benefit of an insurance policy to cover the casual hirer's personal property, and the property of its members and visitors stored in the facility, as Council insurance does not cover third party property. Council recommends the casual hirer consult an insurance broker to ensure that it obtains all insurances necessary to cover its activities.

30 RISK MANAGEMENT AND INSPECTION

Prior to every use of the facility, the casual hirer must inspect the facility and complete the Risk Management Checklist (APPENDIX A). The checklist must be completed, signed and stored by the casual hirer, and be made available to Council upon request.

Any issues or hazards, including damage to the facility or non-compliance with usual standards, must be advised to Council as soon as possible. Where the hazard has safety implications, Council's emergency contact should be telephoned (clause 16). The facility should not be used until the hazard or defect has been remedied.

31 NO LIABILITY OF COUNCIL

Council will not be liable in respect of any damage or loss resulting from a hazard, which was reasonably discoverable on inspection by the casual hirer pursuant to clause 30, and was not advised to Council in accordance with clause 30.

32 TRAFFIC MANAGEMENT PLAN

The casual hirer is required to prepare a traffic management plan in circumstances where the hire of facilities will impact on the flow of traffic within the facilities the subject of the hire, the surrounds, or any other Council facilities. The plan must outline how traffic will be controlled; where traffic control devices will be located; and how people will be instructed or guided in the safe use of relevant roads, footpaths and shared paths.

33 TERMINATION OF HIRE

Upon cessation or termination of the hire period, the casual hirer must remove all of the casual hirer's property, return all swipe cards and settle all outstanding claims by Council for fees or reimbursements for damage or otherwise, as soon as practicable. The casual hirer must cease to use the facility for sports immediately upon the period of hire ending.

34 LAWS

The casual hirer will ensure that all legislative provisions including Council's Community Local Law 2019, relating to or governing the use of the facility are observed. The casual hirer will also ensure compliance with all applicable current Australian emergency management practices.

35 SMOKE FREE

The casual hirer acknowledges that smoking is prohibited on the sports courts.

36 FLAMMABLE OBJECTS

Smoke machines, fireworks, candles, naked flames of any sort and roasting spits are not permitted at the facility, and that the casual hirer is responsible for any costs associated with the Metropolitan Fire Brigade attending the facility as a result of any breach of these *Conditions of Use*.

Portable LPG gas bottles are not permitted at the facility.

37 ANIMALS

The casual hirer acknowledges that animals (other than guide dogs) are not permitted at the facility.

38 INAPPROPRIATE BEHAVIOUR

The casual hirer's attention is particularly drawn to the fact that inappropriate behaviour on Council Land is an offence under the Community Local Law 2019 and Council or its Authorised Officers may require offenders to cease the use or activity and/or leave the relevant premises. The hirer must follow any direction given by Council or its Authorised Officers under the Community Local Law 2019.

39 NOISE

Noise levels are to be kept in accordance with all legislative provisions including Council's Community Local Law 2019 and at a volume that does not cause annoyance to any person on any premises within the surrounding area.

Public address systems must not be used or operated prior to 9am or after 6pm on any day.

40 NUISANCE

The casual hirer will ensure that no nuisance, whether from noise, vehicles, behaviour, escaping balls or any other cause, is occasioned to members of the public and neighbouring properties.

41 SIGNAGE

No facility is to be in any way modified, including by the erection of any signs.

If the casual hirer wishes to erect signs on Council property, it must obtain Council's prior written consent. Council consent to erect 'banner' type signs, including advertising signs, is necessary whether or not a planning permit is required.

Consent will only be considered for removable 'banner' type signage, which is to be erected during allocated usage times and removed after use.

Consent will not be granted to erect any signs advertising alcohol or tobacco. Consent will not be granted to erect any sign deemed to be offensive.

42 LINE MARKING

The casual hirer is prohibited from line marking on the sports courts, including using any substance/s that could damage the playing surfaces. The casual hirer will be responsible for all costs associated with the reinstatement of the damaged surface caused by line marking.

43 ADHESIVE RESIN BASED PRODUCTS

Adhesive and resin based products are strictly prohibited from being used at the facility. This includes, but is not limited to adhesive tapes, blue tac, resin and glue.

44 SUBLETTING

The casual hirer is to ensure no other person or organisation has use of or access to the facility without Council consent, except in accordance with these *Conditions of Use*. Subletting, hiring out or allowing use of the facility for private purposes, with or without money changing hands, is prohibited.

45 STATUTORY REQUIREMENTS

Casual hirers are required to meet all applicable statutory obligations, including, without limitation, health regulations.

46 TENTS/MARQUEES

The erection of tents/marquees or similar structures is strictly prohibited at the facility. Random on-site inspections will be carried out by Council to ensure no tents/marquees or similar structures are erected. The casual hirer will be responsible for all costs associated with the reinstatement of the damaged surface caused tents/marquees or similar structures.

47 ELECTRIC APPLIANCES

No electrical appliance is to be installed or used in or at the facility.

48 PORTABLE GOALS/GOALPOSTS

If using portable goals or goalposts, the casual hirer is to ensure that the goals or goal posts comply fully with the relevant Australian Standards. This includes the manufacture, use and storage of these goalposts.

APPENDIX A

RISK MANAGEMENT CHECKLISTS FOR CASUAL HIRERS

The following questions are to help you identify risk and hazard issues that may be present at the facility the casual hirer is authorised to use. This checklist must be completed prior to every use of the facility (refer to clause 30 of the *Conditions of Use*).

Circle an answer yes, no, or mark not applicable for each of the following questions. Some guidance is provided, where possible, for each of the questions. If you are unsure of an answer, make notes in the space provided, and follow up the issue with someone that may know more.

Endeavour to answer these questions accurately. Answering no to any or all of the following questions does not necessarily mean that you are responsible for injuries or losses arising from the identified hazard. You may, however, be breaching your duty of care if you do nothing in response to the information that you are gathering (or fail to gather this information).

Keep the completed dated checklists as a record that you have carried out the inspection. This is necessary both to demonstrate your compliance with the *Conditions of Use*, and that you have taken steps to comply with your duty of care.

If any issues or hazards identified by you are part of facilities or assets controlled by Council or another body or group, or the responsibility for managing the identified issues lies elsewhere, sending a copy of the completed checklist with a letter requesting action could be appropriate. If the matter is a hazard and requires immediate attention, contact Council on 9524 3333 as soon as possible. This, however, will not relieve you of your responsibility to exercise a duty of care.

If you consider that your activities, or the health and safety of any participants or spectators would be compromised by any of the identified issues and you cannot immediately rectify them, you need to decide whether to proceed with the planned event.

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Checklist — specific hazard inspection by the casual hirer

This checklist is to be completed prior to each event or use of the facility, including training, match/game/competition, and social events.

A	Have spectators and competitors been warned about the existence of inherent dangers within the location of the facility?	Yes	No
Detail how this warning was conveyed:			
B	Is the condition of the surface appropriate for the event? (eg. no significant depressions or cracking; divots or mounded dirt absent; no excessive standing water; and length appropriate.)	Yes	No
C	Are surfaces clear of rubbish, animal waste, syringes and other foreign objects?	Yes	No
D	Are all participants using appropriate equipment?	Yes	No
E	Is the position of spectators, vehicles, private property, or other facilities (eg. play equipment) at the reserve likely to interfere with the event?	Yes	No
F	Can players and officials access the area of activity without undue interference from spectators?	Yes	No
G	Are the lighting conditions suitable for the intended activities?	Yes	No
If applicable:			
H	Are the people conducting this event — coaches, umpires, officials, firstaiders, instructors, (including volunteers) — adequately qualified, trained, instructed, experienced and/or supervised?	Yes	No

Given the above, in your judgement, are all of the facilities that you intend to use appropriate for the purposes for which they will be used? Yes No

If you answered no to any of these questions, you have risk issues that require management. If you do not manage these issues appropriately, you expose the casual hirer and its members and visitors to potential losses and liabilities.

Please note: you can include actions taken on the day to rectify, notify, or manage identified issues. If actions have been taken, please provide details to Recreation Services on recservices@gleneira.vic.gov.au

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Inspection details

Date of inspection: _____

Time of inspection: _____

Location (address): _____

Facility (eg. oval #2, pavilion, etc.): _____

Form completed by (name): _____

Form completed by (signature): _____

Inspected by (names): _____

Position: _____

Contact details (phone number, email, etc.) : _____

Event (eg. football training, cricket match): _____

Number of participants (competitors): _____ (Estimate if necessary)

Number of spectators expected: _____ (Estimate if necessary)

Please retain this form for your records. Where you are required to contact Council about a defect or hazard, please provide a copy of the form to Council.

Privacy collection notice

Glen Eira City Council (Council) is committed to protecting the personal information provided by you in accordance with the principles of the Privacy and Data Protection Act 2014 (Vic) (PDP Act). Personal information is collected by Council only for the purpose of Council's functions set out in section 3E of the Local Government Act 1989 (Vic). Specifically, personal information is collected to assist in the registration and processing of your application. The personal information will be used solely by Council for that primary purpose or directly related purposes. If this information is not collected, Council will be unable to process your application. In certain circumstances, we may disclose information about you where permitted or authorised under the PDP Act or other applicable law. If you would like to know more about privacy at Council, including your right to seek access to your personal information, contact Council's privacy officer on 9524 3333. Council's Privacy Policy is available at <https://www.gleneira.vic.gov.au/about-council/our-organisation/council-legislation-and-policies>