

DRAFT Community Occupancy Policy

Summary information

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Contents

1. Purpose and scope	2
2. Introduction/Background	3
3. Definitions	3
4. Alignment and integration	5
5. Policy/Policies	5
Guiding principles	5
Facility vacancy	6
Eligibility criteria for community occupancy	6
Application process.....	7
Application assessment.....	8
Decline of an application	8
Tenure.....	9
Fees and charges	9
Transition pathways.....	9
Occupancy agreements	10
Accountability.....	13
Effect of Policy on existing occupancy agreements	14
Exceptions.....	14
Policy Monitoring.....	15
6. Appendix One: Gross Lease Fee Calculation.....	15

1. Purpose and scope

- 1.1 The purpose of this Policy is to:
- provide a framework for making decisions regarding the granting and management of occupancies of Tasman District Council (**Council**) properties to Community Groups;
 - explain how fees will be calculated for Community Group occupation of Council property.
- 1.2 The Council has established this Policy to achieve the following objectives:
- ensure consistent, accessible, transparent, equitable, and responsive decision making for occupancy of Council properties by Community Groups;
 - support the vital role of Community Groups by providing occupancy of Council property at a cost that reflects the wider benefits that these Community Groups provide to the community;
 - maximise the use of community assets;

- d. ensure that Council property benefits the community;
- e. clarify roles and responsibilities of the Council and Community Groups regarding occupancy agreements; and
- f. Ensure the ongoing maintenance of Council and Community assets.

1.3 This Policy applies to the occupancy of Council property by Community Groups. This Policy does not apply to the following:

- Groups that are not Community Groups under this Policy
- residential tenancies;
- easements;
- short-term, occasional or casual use of Council property;
- Grazing licences.

2. Introduction/Background

2.1 This policy sets out the Council's role to grant and manage the occupancy of Council property by Community Groups.

The Council recognises that the community benefits from the services or activities of Community Groups. Additionally, when Community Groups take responsibility for some elements of building maintenance, this can lower operating costs for the Council and, in turn, for ratepayers.

Community Groups create social, cultural and recreational opportunities that strengthen community connections and support the social wellbeing of the Tasman District.

3. Definitions

Community Group:

An organisation or association that:

- a. is a legal entity and has not-for-profit status (e.g. registered as an incorporated society or charitable trust); and
- b. has the primary purpose of providing a service or benefit to the community; and
- c. uses any funds generated to maintain and enhance the organisation to support its community services and activities; and
- d. has open and non-exclusive membership or user criteria; and
- e. does not impose unreasonable restrictions; and
- f. demonstrate a clear and effective governance structure.

A Community Group does not include an organisation or association for which religious worship or the promotion of party politics is a primary purpose.

Council: Tasman District Council and any committee, subcommittee, or person acting under delegated authority for the Council.

Council property: Land and/or buildings owned, administered or controlled by the Council.

Expired occupancy agreement: A lease or licence that has reached the end of its term.

Guidelines: The Tasman District Council Community Occupancy Guidelines.

Lease: An agreement where the Council, as lessor, grants the lessee the right to exclusive use of a defined area as set out in the lease terms.

Licence/licence to occupy: An agreement where the Council, as licensor, grants the licensee the non-exclusive right to use a defined area.

Minor Maintenance: Upkeep of and repairs to the interior of, and not structural elements of the occupied area.

Non-exclusive use: the agreed occupation of a space or facility on a part-time or shared basis, allowing for public or alternative use during non-occupied times. This arrangement may be suitable in the following scenarios:

- Time-specific occupation: The space is utilised by a Community Group at designated times, with the remainder of the time accessible for other use.
- Shared use under separate occupation agreements: Two or more Community Groups use the same space under distinct occupation agreements.

Occupancy: The occupancy of Council property by a Community Group, pursuant to an occupancy agreement.

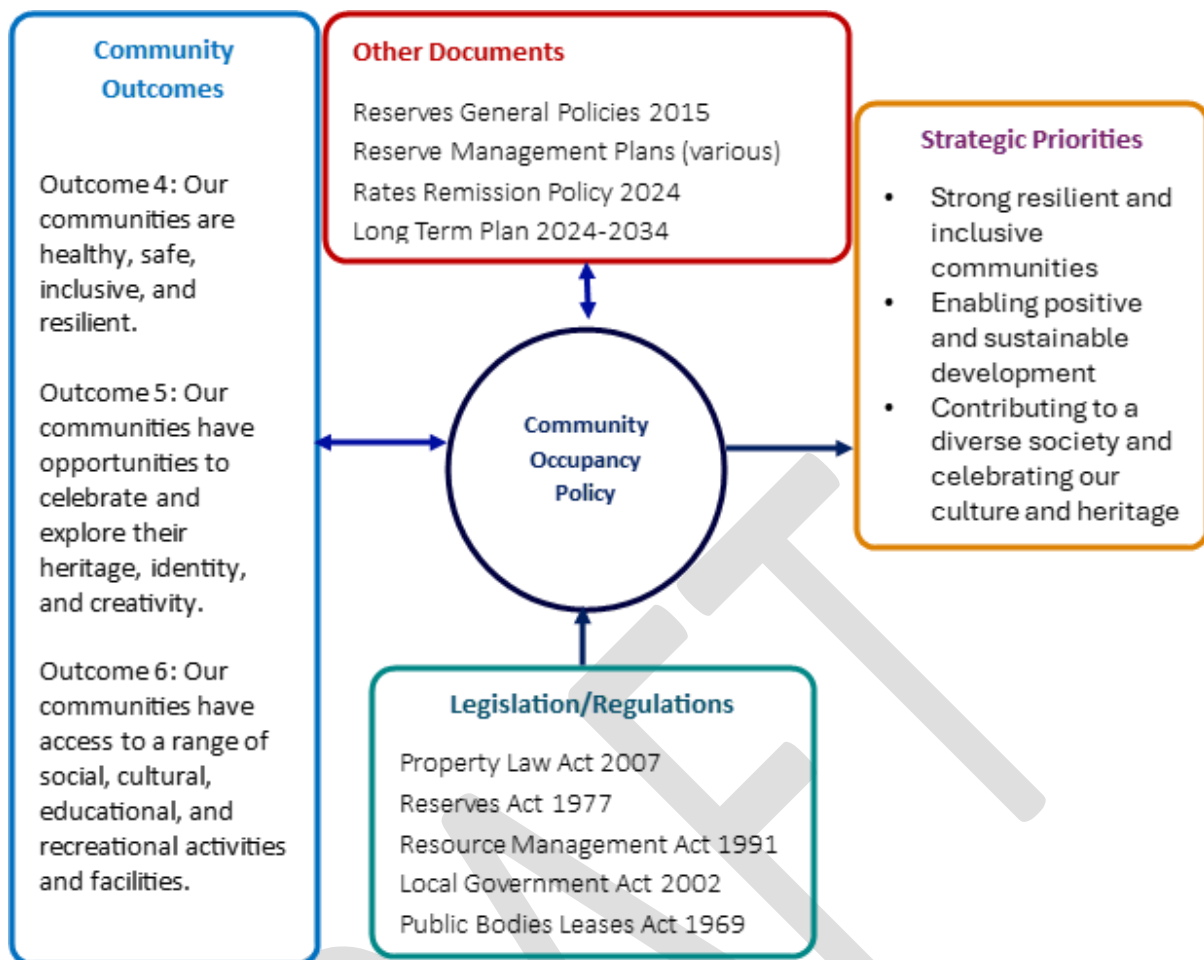
Occupancy agreement: An agreement between the Council and a Community Group recording the agreed terms of occupancy. The occupancy agreement will be a lease or licence.

Occupied area: That part of the Council's property that Council has agreed the Community Group may occupy under the occupancy agreement.

Structural Maintenance: Upkeep, repair, alteration, addition to/of the fabric or structure of the building.

4. Alignment and integration

- 4.1 This Policy should be read in conjunction with any relevant Reserve Management Plan and the Council's Reserves General Policies document. If there is any conflict, the Reserve Management Plan and the Council's Reserves General Policy will prevail.



5. Policy/Policies

Guiding principles

- 5.1 The Council's approach to granting and managing the occupancy of Council property is guided by the following principles:
- The Council will support Community Groups whose activities contribute to Council's vision and community outcomes, as recorded in the Long Term Plan current at the time of decision making, by making appropriate Council property available for occupancy.
 - The relationship between the Council and Community Groups will be collaborative. Council property will be responsibly managed; all buildings will be maintained to the standard required under the occupancy agreement.
 - To optimise community benefit, the Council may encourage Community Groups to share Council property, where feasible.
 - The Council will endeavour to maximise regional community benefit from occupancy and to balance exclusive occupation with public access, as appropriate.

Effect of Policy on existing occupancy agreements

- 5.2 This Policy does not alter the terms of existing occupancy agreements prior to their expiry, or expiry of initial term.

- 5.3 Subject to the terms of existing occupancy agreements, Council will consider any renewals and rent reviews of an existing occupancy agreement in accordance with this Policy.

Transition pathways

- 5.4 The Council acknowledges that Community Groups with occupation agreements that pre-date this Policy may need time to prepare for, and adjust to, the revised rental fee structure.
- 5.5 Existing contractual terms, including rental fees, will continue to apply unchanged until the existing occupancy agreement expires. Subject to the terms of the existing occupancy agreement, when rent review occurs in accordance with the agreement, rental fees may be set in accordance with this policy.
- 5.6 Community Groups may request an early renewal of their occupancy agreement if they wish to align with this Policy sooner. Consideration of early renewals is subject to staff capacity, and priority will be given to agreements that are due to expire or require renewals sooner.
- 5.7 For occupancy agreements that are due to expire or be renewed within three years of this Policy coming into force, and if Community Group notifies Council of its interest in entering into a new Occupancy Agreement or exercising a right of renewal, the Council will calculate an indicative rental fee under the gross lease model and compare with the Community Group's current total charges, including any rates on-charging where applicable.
- 5.8 The Council may approve a staged transition to the new rental fee where:
- a. The proposed fee represents a material increase compared with the Community Group's current charges; and
 - b. The Group can demonstrate that immediate implementation would result in affordability or Group viability pressures.
- 5.9 Where a staged transition is approved, rental fees may be phased in incrementally over a period of up to three years as follows:
- Year 1: 50% of the difference applied
 - Year 2: 75% of the difference applied
 - Year 3: 100% of the policy fee applied

Guidelines

- 5.10 Staff will develop and maintain Community Occupancy Guidelines to give effect to this Policy including to provide detail about the process for applications for Community Occupancy.

Vacancy

- 5.11 When Council property becomes available, the Council will determine if community occupancy aligns with the strategic direction for the site, and the provisions of any relevant Reserve Management Plan. If the site is appropriate, the Council will make this information publicly available.

- 5.12 An early scoping conversation is required before a formal application will be considered. All applications will be assessed against the eligibility and assessment criteria set out in this Policy and the Guidelines. If no suitable Community Group is identified, the Council may choose not to allocate occupancy.
- 5.13 Where more than one eligible Community Group applies, the Council will explore shared use of the Council property to maximize community benefit.

Eligibility criteria

- 5.14 To be eligible for consideration for occupancy, a Community Group must demonstrate it is a Community Group as defined in this Policy
- 5.15 The eligibility criteria must be met throughout the term of the occupancy agreement.

Application process

- 5.16 If Council considers a Community Group is eligible, following the early scoping conversation, (see Community Occupancy Guidelines), it will invite the Community Group to submit a formal application. Applications will be assessed in accordance with this Policy and the Guidelines.
- 5.17 Public notification of the intention to grant an occupancy agreement may be required. The Council retains discretion to approve or decline any application. Community Groups will be notified of the decision as soon as practicable.
- 5.18 When an application is approved, the Council and the Community Group will enter into an occupancy agreement..

Application assessment

Matters for consideration

- 5.19 The decision-making process will consider (but not be limited to) a range of questions to assess whether an application aligns with the guiding principles under the following themes:
- relationship and occupancy expectations;
 - suitability of the facility for the Community Group; and
 - community benefit
- Applications may be declined in accordance with this Policy and Guidelines.

Public consultation

- 5.20 Public notification and consultation may be required under the Reserves Act 1977, Conservation Act 1987, and/or the Local Government Act 2002. Council will identify whether this is the case, and act accordingly.

- 5.21 Any proposed occupation of land held under the Reserves Act 1977 that does not conform with or is not contemplated by the relevant ¹OBJ may require public notification and/or consultation.

Decline of an application

- 5.22 If Council declines an application, it will provide the applicant with reasons.

Occupancy agreements

- 5.23 An Occupancy Agreement must be in place before a Community Group occupies council property.
- 5.24 Occupancy Agreements will have standard terms that apply to all Community Group Occupancy, as well as terms specific to the Community Group and the Occupancy. The standard terms will include terms that give effect to this Policy generally, and in particular paragraphs 5.25 – 5.53.
- 5.25 The Council may vary the standard terms of an occupancy agreement in exceptional circumstances.

Tenure

- 5.26 The standard term for a lease agreement will generally be five years, with a further five year right of renewal. Exceptions may be granted to the standard term of an occupancy agreement under exceptional circumstances, such as, but not limited to:
- 5.26.1 Where a Reserve Management Plan specifies a different term; or
 - 5.26.2 Where Community Groups amalgamate or share facilities; or
 - 5.26.3 Where significant capital investment is planned
- 5.27 Licence to occupy agreements will generally have a shorter tenure.
- 5.28 Council will not agree to Occupancy Agreements for terms exceeding 33 years, with or without rights of renewal

Fees and charges

- 5.29 The Council provides occupancy agreements to Community Groups at rental fees that are significantly below market value, recognising the community benefit delivered through these arrangements. Standard rental fees are approved by the Council through the Schedule of Fees and Charges and are publicly available and reviewed periodically. Community Groups are responsible for any legal or non-standard costs associated with their occupancy agreements, including any costs arising from requested changes to the Council's standard agreement
- 5.30 The Council is responsible for invoicing Community Groups for rental fees. Local Reserve Management Committees do not invoice Community Groups, but may receive income distributed by Council in relation to occupancy arrangements.

¹ An exception to this is if the associated resource consent has been publicly notified under Section 93 of the Resource Management Act 1991.

- 5.31 Rental fees are calculated using a gross lease model. Fees are determined using a formula that is scaled for both the size of the building and area of land occupied. Where the Council owns the building, the formula is also scaled for condition. The Council will not charge separately, or in addition to this fee, for any rates or levies payable to Council
- 5.32 The gross lease formula applies a grading system of 1 to 5. The fee associated with each grade is set out in the Council's Schedule of Fees and Charges.
- 5.33 The application of the gross lease formula, including how it applies to Council-owned buildings, Community Group-owned buildings, and land only agreements is detailed in Appendix One.
- 5.34 Licence to Occupy fees will be set at 50% of the fee that would apply for the same activity under a lease.

Shared or multi-use of Council property

- 5.35 Community Groups are encouraged to share Council property and, where appropriate, co-locate or cluster activities in order to optimise use of Council property and resources..
- 5.36 Community Groups must not unreasonably restrict the hire or use of Council property when it is not required for the Community Group's own activities. Community Groups may charge fees for short-term or regular hire in accordance with a hiring framework approved by the Council, including types of users, indicative fees, and general availability. Community Groups must notify the Council of their hiring activity in the manner agreed with the Council and advise of any material changes to the approved framework.
- 5.37 All users of the facility, including third-party hirers, must comply with the health and safety requirements as set out in the occupancy agreement.
- 5.38 The Council will seek to maximise community access to and use of Council property through the terms of each Occupation Agreement. Where agreed, Community Groups must make all or part of the property available for casual or public use and may charge reasonable fees for that use. The specific access arrangements and any applicable charges will be set out in the Occupation Agreement. Any disputes regarding access or charges will be determined by the Council.

Outgoings

- 5.39 Council and Community Groups responsibilities for outgoing are summarised in the table below and described in more detail in paragraphs 5.39 – 5.42:

	Utilities	Rates	Building Insurance	Structural maintenance	Minor maintenance
The Council owns the land and the building	Group	Council	Council	Council	Group
The Council owns the land, Community Group owns the building	Group	Council	Group	Group	Group

- 5.40 Utilities include, but are not limited to, power, water, gas, internet services, telephone lines or any other user-related costs.
- 5.41 The Council will not on-charge building insurance or regulatory compliance costs to Community Groups occupying Council-owned buildings, except where otherwise agreed in an occupancy agreement.
- 5.42 Where a Building Warrant of Fitness is required:
- For Council-owned buildings, the Council is responsible for associated costs.
 - For Community Group-owned buildings, the Community Group is responsible for associated costs.
- 5.43 If a Community Group requires additional waste or recycling bins beyond those provided with the facility, the Community Group may arrange these independently and will be responsible for all associated costs.

Community Group owned buildings

- 5.44 A Community Group must obtain the Council's prior written approval before erecting or significantly altering buildings or structures within the occupied area. All proposed works must be discussed with the Council and will be assessed in accordance with this Policy and the Guidelines. Community Groups are responsible for identifying and obtaining any required statutory approvals or consents required and for all associated costs, including Building Consents and Resource Consents.
- 5.45 A signed occupancy agreement is required for and prior to constructing buildings on Council property.
- 5.46 Applications for buildings or other structures on reserve land must comply with relevant Reserve Management Plans and Policies.
- 5.47 The Council will only consider applications for new buildings on coastal reserves where the proposed building is directly associated with a recreational or community activity that relies on the coast, foreshore, or ocean as an integral part of that activity.
- 5.48 Community Groups must comply with all legal requirements for building work, including consents and certificates.
- 5.49 A bond may be required before work begins, refundable upon completion. Permission lapses if construction doesn't start within two years. All costs for the application and development are the applicant's responsibility.

Sub-leasing and assignment

- 5.50 A Community Group must not transfer, assign, sublet or dispose of any interest in an occupancy agreement without the Council's prior written approval. Approval may be withheld at the Council's discretion.
- 5.51 The Council supports efficient and effective use of Council property, including through sub-leasing and sub-licencing where appropriate. These arrangements will only be considered where the lessee or licensee or any proposed sublessee or sublicensee, and their activities, comply with this Policy, all applicable legislative requirements and any relevant management plans.

5.52 For a subleasing arrangement to be approved, the following criteria generally apply:

- a. The sublessee must qualify as a Community Group under the Policy.
- b. Financial obligations of the sublessee should not exceed those of the head lessee.
- c. Profits from subleasing must benefit the community in some manner.
- d. The sublessee must provide a service that benefits the community or fills a gap not otherwise addressed.

5.53 The Council may approve exceptions to this, which may include some cases where the proposed sub-lessee or sub-licensee is a commercial group.

5.54 Approval for commercial sublessees is rare and will be assessed against the following considerations:

- a. Enhancing the operation of the head lessee.
- b. Compatibility with the Group's activities.
- c. Providing unique community services.
- d. Operational hours.
- e. Fair competition with other local operators.
- f. Necessity for public enjoyment if on reserve land.

Expiry of occupancy agreements

5.55 The Council will engage with Community Groups prior to the expiry of their occupancy agreements to discuss whether renewal is appropriate. Occupancy agreements are typically renegotiated prior to expiry.

5.56 Renewal may not be offered where, for example:

- The Council requires the occupied area for another purpose; or
- there are concerns with compliance, governance capability, financial sustainability, or the extent and nature of facility use.

Accountability

5.57 The Council monitors the ongoing performance of the Community Group to ensure that eligibility criteria continues to be met throughout the term of their occupancy agreement.

5.58 All Community Groups are required to fulfil their reporting requirements on an annual basis. This reporting may be tailored to each Community Group and will generally include:

- a. membership numbers and/or usage rates;
- b. community events undertaken from the occupied area;
- c. hireage of land and/or buildings;
- d. financial information, including membership costs and adopted budget for the forthcoming year; and
- e. works and maintenance the Community Group has undertaken.

Exceptions

- 5.59 The Council may approve written exceptions to one or more provisions of this Policy in exceptional circumstances, in accordance with section 80 of the Local Government Act 2002.
- 5.60 The resourcing available to implement this Policy is determined through the Council's Long-Term Plan (LTP) and Annual Plan (AP) processes. The timing, prioritisation, and extent of implementation will be subject to the level of resources allocated through those processes.

Policy Monitoring

- 5.61 Monitoring ensures that the Community Occupancy Policy is implemented effectively, remains aligned with Council objectives, and continues to deliver intended community benefits while supporting prudent management of Council property.
- 5.62 The following indicators may be used to measure progress and success:
- Level of compliance by Community Groups with reporting and governance and occupancy agreement requirements;
 - The number and proportion of Groups transitioned to occupancy agreements aligned with this Policy;
 - The proportion of Community Groups under occupancy agreements meeting agreed maintenance and condition standards; and
 - The timeliness of renewals, rent reviews, and compliance actions in accordance with this Policy.
- 5.63 The Council may monitor performance and compliance through:
- annual reporting submitted by Groups, assessed against eligibility, governance, and activity requirements;
 - inspections of occupied Council property to confirm occupancy agreement terms such as maintenance, use, and safety obligations are being met; and

6. Appendix One: Gross Lease Fee Calculation

Rental fees are structured using a gross lease model, based on a formula scaled for both the size of the building and size of the land occupied. Where the Council owns the building, it is also scaled for condition of the building.

The gross lease formula uses a grading system of 1 – 5. The cost associated with each grade is set out in the Council's Schedule of Fees and Charges. A rent review will be carried out every five years.

Each Council owned building is allocated a quality assessment rating using the following table:

Category	Poor (1)	Moderate (2)	Good (3)
Condition	CGI* Grade 4 or 5	CGI* Grade 3	CGI* Grade 1 or 2
Council Services	No Council services (e.g., no water, wastewater, or recycling collection)	One or two services (e.g., water supply or recycling)	All three services provided: water supply, wastewater, and recycling collection OR more than 3 toilets connected to Council wastewater

*Condition Grade Index

The quality assessment rating produces a quality score by adding the Condition and Council Services scores together:

Poor Quality: 2 – 3	Moderate Quality: 4	Good Quality: 5 – 6
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For example, a building with a CGI grade of 3 (Moderate – 2), and 3 or more Council service connections (Good – 3), would be added together to give a score of 5, making it 'good quality'. The term 'good quality' would then be used in the building formula in below.

Council owned community buildings

Council owned community buildings have a higher charge than land-only leases to reflect that Council is responsible for significant maintenance expenses.

To calculate the annual lease charge, the grades from the building formula and the land formula in the table below are added together:

Building Formula + Land Formula = Total Annual Lease Charge

Building Formula

	Poor Quality	Moderate Quality	Good Quality
Small building ($\leq 180 \text{ m}^2$)	Grade 3	3	Grade 4
Medium building ($181\text{--}300 \text{ m}^2$)	3	4	Grade 5
Large building ($\geq 300 \text{ m}^2$)	4	5	5

Land Formula

Size	Cost per annum
Small ($\leq 2,000 \text{ m}^2$)	Grade 1
Medium ($2,001\text{--}10,000 \text{ m}^2$)	Grade 2
Large ($\geq 10,001 \text{ m}^2$)	Grade 3

For example, a moderate quality, medium sized building is grade 4. It is on a small area of land (grade 1). The fees for grades 4 and grade 1 are added together for a total annual fee.

Land only (or land plus shed)

Size	Cost per annum
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Small ($\leq 2,000 \text{ m}^2$)	Grade 1
Medium ($2,001\text{--}10,000 \text{ m}^2$)	Grade 2
Large ($\geq 10,001 \text{ m}^2$)	Grade 3

Land plus Community Group owned building

Council differentiates between land only and Community Group owned buildings as a group owned building often generates a cost for Council, such as pan charges. There is also an increased risk for Council if the Community Group were to fold or abandon the building.

	Small Land Area ($\leq 2,000 \text{ m}^2$)	Medium Land Area ($2,001\text{--}10,000 \text{ m}^2$)	Large land Area ($\geq 10,001 \text{ m}^2$)
Small building ($\leq 180 \text{ m}^2$)	Grade 2	2	Grade 3
Medium building ($181\text{--}300 \text{ m}^2$)	2	3	4
Large building ($\geq 300 \text{ m}^2$)	3	Grade 4	4