

Gym Membership Terms and Conditions

Cooktown Events Centre

TERMS AND CONDITIONS OF MEMBERSHIP REGISTRATION AND AGREEMENT

This Agreement outlines the rights and responsibilities relating to the Applicants entitlements during the Membership Period to use the Cook Shire Council Events Centre Gym. Please take the time to read the Terms and Conditions of the Agreement carefully.

The Applicant and Council acknowledge and agrees that:

1. In this Agreement:

- (a) **"Agreement"** means this document.
- (b) **"Applicant"** means the individual who applies for Gym Membership at the Cooktown Events Centre and agrees to the Terms and Conditions. If the applicant is between 12 and 17 years of age, "Applicant" includes their parent or guardian who electronically accepts the Terms and Conditions on their behalf.
- (c) **"Concession"** means the applicant holds a valid Seniors Card, Pension Card or Companion Card
- (d) **"Council"** means Cook Shire Council
- (e) **"Gym"** means the Cooktown Events Centre Gym located at 3 May Street, Cooktown including any equipment and ancillary facilities contained at the Gym, and any facilities associated with the operation or maintenance of the Gym.
- (f) **"Membership Fob"** means the access code or fob used to access the Gym as issued by Council upon granting the Applicant access to the Gym.
- (g) **"Membership Fee"** means the fee specified on the Membership Agreement Form, according to membership period selected.
- (h) **"Membership Period"** means the period from the date of commencement at the Gym to the date of registration expiry, according to membership fees paid.
- (i) **"Student"** means the applicant/person is aged between 12-17 years.

2. Binding agreement

- (a) Your membership is governed by this Agreement
- (b) This document is an agreement between the Applicant and Council and is binding upon them.
- (c) By electronically accepting the terms and conditions of this Agreement, during the application process, the Applicant unconditionally agrees to be bound by its terms.
- (d) Council shall be taken to be a party to this Agreement upon receipt of the Applicants electronic acceptance and payment of the membership fees.

3. Commencement and expiry of Agreement

- (a) This Agreement commences, and is taken to be binding on the parties, when the Applicant electronically accepts the terms and conditions, pays the membership fees, and Council provides the Membership Fob to the Applicant.
- (b) This Agreement expires on the day the Membership Fob is returned by the Applicant to Council, the day the membership fees expire or the day Council terminates this Agreement.

4. Age Restrictions, Supervision Requirements and Carers

- (a) All Applicants must be a minimum of 12 years of age. If an Applicant is between 12-17 years old at the time of applying for Membership, a Parent or Guardian must electronically accept this Agreement on their behalf.
- (b) All members aged 12 years – 17 years must undertake a mandatory Gym induction prior to participating in any Gym activities.
- (c) Members aged 12-16 years must be supervised by a parent or guardian at all times.
- (d) Members aged 17 years may enter and train unsupervised.
- (e) Parents/Guardians are not permitted to use the equipment unless they are a full Gym member.
- (f) The supervising person shall be actively watching and close to the member at all times whilst in the gym.
- (g) Support workers/carers are to abide by all Conditions of Entry.
- (h) Support workers/carers are entitled to free entry when supporting their client. The client must have a valid Gym Membership.
- (i) Support workers/carers must stay and support the member at all times, providing active support as required.
- (j) Support workers/carers are not permitted to use the equipment unless they are a full Gym member.

5. Fees

- (a) The Applicant agrees to pay all Membership Fees as set out in this Agreement and agrees to be bound by the direct debit terms and conditions as described in any Payment Agreement.
- (b) The Applicant must pay all agreed fees, ensure sufficient funds are available to cover all fees and advise Council in advance if the bank account or credit card details change.
- (c) For a Direct Debit Membership you must make your payments on a fortnightly basis in advance.
- (d) For a Paid-in-Full Membership, you must pay your membership in advance as indicated in your Agreement.
- (e) The Applicant must complete and agree to a Payment Agreement authorising Council's Payment Provider to debit the Membership Fee due for each direct debit period from your Billing Account.
- (f) Council may endeavour to contact you by phone, SMS or email to inform you of any overdue payments.
- (g) In the event that Council cannot contact you, it will provide you with written notice of overdue payments.
- (h) A member will be charged a Dishonour Fee in the event that a fortnightly direct debit payment is dishonoured by their financial institution.
- (i) Additional fees (being bank charges or administrative charges incurred by the Payment Provider) will apply for any overdue or late payments.

- (j) Any failure to meet your payment obligations may be referred to a debt collection agency where additional fees may be applicable and, without prejudicing Council's rights to recover any overdue payments, your membership may be suspended or terminated.
- (k) Membership Fees may increase at any time upon approval by Cook Shire Council, members will be notified prior to any proposed increases.
- (l) Membership Fees will be as recorded on the current Membership Agreement Form.
- (m) Entry to the Gym may be refused as a result of unpaid or outstanding membership fees as detailed in this agreement.

6. Parties' obligations and acknowledgements

- (a) In consideration for council providing the Applicant with a Membership Fob, the Applicant acknowledges and agrees to comply with the terms of this Agreement, including but not limited to granting an indemnity in favour of Council.
- (b) The Applicant agrees to adhere to any policies, procedures or rules implemented by Council at the Gym, and acknowledges that any breach of those policies, procedures or rules will constitute a breach of this Agreement.
- (c) The Applicant agrees to advise the Gym Management of any changes of their contact details.
- (d) The Applicant must inform Council in advance if there are any risks to their health by participating in fitness services or seek approval from a Doctor to participate in gym and fitness programs and services at the Gym.

7. Gym access and rules

- (a) The Applicant may access the Gym 24/7, using their Membership Fob.
- (b) Casual membership access is only available during normal business hours, and the Applicant must present to reception before attending the Gym.
- (c) Membership Fobs are only issued to individual approved applicants. The Applicant must not provide their Membership Fob to other persons or permit other persons to enter the Gym by use of their Membership Fob.
- (d) Council reserves the right to change access hours or prevent access at its absolute discretion without reason and without notice.
- (e) No exclusive use or access is granted under this Agreement.
- (f) Council does not guarantee access to the Gym under this Agreement. Access may be denied at any time due to operational or other requirements of Council.
- (g) The Applicant acknowledges that all items of personal property are brought into the Gym at the Applicant's own risk and are not the responsibility of Council.
- (h) The Applicant may work out in the Gym as many times as they wish during their current membership period.
- (i) All gym users must act responsibly.
- (j) Bags and personal items must be stored where they will not present a risk to others.
- (k) Appropriate attire and closed in footwear must be worn at all times.
- (l) Council has a zero tolerance for illegal or illicit drugs – persons under the influence of drugs and alcohol will be refused entry.

- (m) Disorderly, disruptive, inappropriate or anti-social behaviour including offensive or abusive language will not be tolerated at any time.
- (n) No food or drinks besides bottled water
- (o) Please use a towel when laying down on equipment
- (p) Sanitise equipment after use
- (q) External speakers are not permitted (headphones only)
- (r) Return all equipment to their designated areas after use
- (s) Turn off lights and fans when leaving. Air-conditioners to remain on at all times at 23°C
- (t) No smoking in this facility
- (u) All members must be considerate of others
- (v) Use a spotter where necessary and think before you lift
- (w) Put back equipment when finished
- (x) Do not disrespect or distract other members

8. Cancellation, termination, transfer, suspension

- (a) Either party may terminate this Agreement upon providing seven (7) days' written notice to the other.
- (b) Where Council terminates this Agreement under clause 9(a), Council shall reimburse any fees paid in advance for use of the Gym (if any) as soon as practicable after this Agreement comes to an end.
- (c) No monies are refundable if the Applicant terminates this Agreement prior to the end of their Membership Period, except in accordance with clause 9(d).
- (d) Despite clause 9(c), Council has discretion to consider refund requests for other reasons.
- (e) The Applicant acknowledges and agrees that this Agreement is personal to the Applicant, and the Applicant cannot assign or transfer their rights under this Agreement, and this Agreement does not confer rights on any other person other than the Applicant (including, without limitation, any invitees or guests of the Applicant).
- (f) Council will suspend your Agreement if you are eligible. To be eligible you must be in good standing with all fees paid up to date and you must have been a current member for a minimum of one month. A membership can be suspended for a minimum period of 14 days and maximum period of eight (8) weeks per membership year. You must provide your request for suspension in writing to Council.

9. Membership Fobs

- (a) If a Membership Fob is lost, stolen, destroyed, or damaged, the Member should notify Cook Shire Council as soon as practicable.
- (b) If a replacement Fob is required, it can be purchased for \$15.80 from the Events Centre during business hours.

10. Damage to the Gym

- (a) Council reserves the right to demand payment for damage from any Applicant who wilfully or negligently damages Council's property.
- (b) Report any hazards, incidents, faulty equipment, misuse of equipment or unsafe practices to Council staff immediately.

11. Safety, Maintenance and Service Demand

Council may from time to time:

- (a) Close off any part of the Gym or isolate any piece of equipment for maintenance or safety reasons;
- (b) Change the hours of opening and closing, alter class timetables, or prevent access at Council's absolute discretion and without notice; or
- (c) Vary Gym rules.

12. Unmanned facility

- (a) The Gym is an unmanned facility.
- (b) Council does not provide monitoring or supervision at the Gym.
- (c) Applicants attending the Gym may be exposing themselves to the potential for serious injury, including death.
- (d) The Applicant expressly indicates an understanding of the risks associated with undertaking activities in an unmanned gym and hereby releases, indemnifies, and holds harmless, Council, their respective officers, affiliates, agents, and employees, in the event that the Applicant suffers personal loss, is injured, or killed in the Gym.
- (e) The Applicant provides this release with the intention that this release shall be as broad and inclusive as the laws of the state allow.
- (f) The Applicant acknowledges and agrees that they must not admit guests at any time to the Gym.
- (g) The Applicant agrees that if clause 13(f) is breached then the following consequences shall follow:
 - (i) the Applicant's access to the Gym may be immediately suspended for a period as determined by Council's Facilities Manager or delegate; or
 - (ii) the Applicant's membership may be immediately cancelled.

13. Damage and personal injury

- (a) The Applicant agrees that use of the Gym is solely at the Applicant's own risk, and the Applicant uses the Gym and all associated facilities on an "as is where is" basis.
- (b) The Applicant warrants that they are physically and medically fit to undertake activities at the Gym and that they have sought advice from medical professional about their suitability to carry out activities at the Gym.
- (c) The Applicant acknowledges that there may be inherent dangers and high risk to persons and property posed by factors including but not limited to the following, and the Applicant understands and accepts those risks when using the Gym:
 - (i) the nature of the Gym including any equipment;
 - (ii) the condition of the Gym including any equipment;
 - (iii) the presence of hard and/or uneven surfaces and the consequent risk of trips, slips and falls;
 - (iv) the intentional, careless, reckless, or negligent acts and omissions of persons at the Gym, including persons not authorised to be there.

- (d) Council (including its employees, representatives, contractors, or any associated entity who performs services on behalf of Council) is not liable to the Applicant in contract, tort or otherwise whatsoever for any loss or damage (including consequential loss) to any person or property arising from occupation and use of the Gym by the Applicant or others, including but not limited to:
 - (i) death, illness, or injury suffered at the Gym by the Applicant or any other person, howsoever caused; or
 - (ii) loss or destruction of or damage to property at the Gym, howsoever arising.
- (e) The applicant indemnifies Council from and against any claim, damage, loss, or expense suffered by Council or others as a result of the use of the Gym by the Applicant.

14. Security and Video Surveillance

- a) The Applicant acknowledges and agrees that Council has installed closed circuit television (CCTV) at the Gym for the purposes set out in Council's Closed Circuit Television (CCTV) Policy, including the safety and security of persons, protection of Council assets, and the deterrence, investigation and management of unlawful conduct or breaches of these conditions of use.
- b) The Applicant expressly consents to the collection, use and disclosure of CCTV footage by Council in accordance with the *Information Privacy Act 2009* (Qld) and the Queensland Privacy Principles, the *Human Rights Act 2019* (Qld), and Council's Closed Circuit Television (CCTV) Policy (as amended from time to time).
- c) Council may use footage taken in the Gym without further permission from the Applicant for the purposes set out in Council's CCTV Policy, including investigating breaches of these conditions of use or any law.
- d) Council may disclose footage to the Queensland Police Service or other relevant agencies where disclosure is authorised by Council's CCTV Policy or otherwise required by law, and such disclosure will be determined by the Chief Executive Officer or an authorised delegate in accordance with that policy, except where disclosure is compelled by warrant, subpoena or court order.
- e) Footage is retained in accordance with Council's CCTV Policy and, where applicable, the *Public Records Act 2023* (Qld).

15. Duress Alarm

- (a) The gym is equipped with several duress alarms throughout the gym for users' safety
- (b) Duress Buttons are located at each door, these alarms can be pressed to activate
- (c) Duress Lanyards are located at the front door, these alarms can be pressed to activate. Please return them to the hanging hook at the front door after use
- (d) This system is not a toy and is to be used for EMERGENCIES ONLY. Misuse of this system will result in the user's membership being cancelled.

16. Use of Equipment

- (a) Equipment inductions are available to all members free of charge. If you are unsure of correct use or operation of equipment please see Council staff.
- (b) The Applicant warrants that it will use any equipment at the Gym safely and consistently with the manufacturer's requirements and for its intended purpose only.
- (c) Council reserves the right to make changes to the exercise equipment supplied in the Gym at any time or without notice.

- (d) The Applicant is required to return equipment to their original state when they have finished including returning weights and bars to their racks and unloading plates from machines and bars.

17. Commercial Use of Gym

- (a) Commercial or professional use requires permission and an agreement with Council prior to undertaking any business activities and is at the sole discretion of Council. This applies to paid or unpaid services that may be rendered. These activities may include but are not limited to:
 - (i) Personal Training
 - (ii) Small Group Fitness Training
 - (iii) Group Fitness
 - (iv) Exercise Physiology
 - (v) Physiotherapy
 - (vi) Exercise Science Training
 - (vii) RTO Training Providers
 - (viii) Any other business

18. Breach of Terms & Conditions

- (a) Council may terminate this Agreement immediately upon notice to the Applicant in the event of the Applicant's breach of a term of this Agreement.
- (b) Where Council terminates this Agreement under clause 9(a), the Membership Fob must be immediately returned to Council.

19. Privacy

- (a) Your "personal information" (as defined by the *Information Privacy Act 2009* (Qld)) will only be used by Council to complete membership registration.

20. Severability

- (a) If any part of this Agreement is or becomes void or unenforceable then that part shall be severed, and the provisions that are not void or unenforceable shall remain in full force and effect, unaffected by the severance.

21. Entire agreement

- (a) This Agreement constitutes the entire agreement, understanding and arrangement (express and implied) between the Applicant and Council, and supersedes and cancels any relevant previous agreement, understanding and arrangement whether written or oral.