



## Outdoor Swimming Pool User Agreement

Please indicate which pool complex the user/hirer wishes to utilise.

Cessnock Pool

Branxton Pool

### Parties

Cessnock City Council  
ABN Number 609 19148 928  
Address PO Box 152, Cessnock NSW 2325

### And

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User

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ABN Number

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Address

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Dated

## **1. Introduction**

- 1.1 Council is the owner and operator for the swimming pool complex's known as:
- Cessnock Pool - 1A Allandale Road, Cessnock and
  - Branxton Pool - 4 Maitland Street, Branxton.
- 1.2 The user wishes to use the indicated Pool complex(es).
- 1.3 Council has consented to the user/hirer using the indicated Pool complex on the following terms and conditions specified to the users members (staff/pupils) and activities.
- 1.5 Specified Council staff authorised to give directions

## **2. User/Hirer Warrants**

The user warrants to Council that all certificates, registrations and accreditations claimed as being held by the user/hirer which relate to any swimming, diving or other water based activities, are valid, held and current and will remain so throughout the term of this agreement, the term of this agreement and any extensions thereof. The user/hirer acknowledges any breach of this warranty is a breach of the fundamental terms of this agreement, such a breach will allow Council to terminate this Agreement without notice.

## **3. Responsible and Contact Person**

The user/hirer shall nominate in writing to the Cessnock City Council a "Responsible Person(s)" who will be assigned to ensure that the terms and conditions of this agreement are adhered to.

For the purpose of administering this agreement, the user/hirer shall nominate in writing to the Cessnock City Council a person(s) able to be contacted at all times by Council, together with all reasonable contact details requested by Council. The

user/hirer shall be entitled to vary those nominated or their details from time to time by further notice.

For the purpose of this agreement the contact person for Council shall be the Recreation and Community Facilities Coordinator in most cases and, in the event that the Recreation and Community Facilities Coordinator is unavailable, the Recreation Services Manager of Council will be contactable.

#### **4. Insurances and Indemnities**

4.1 The user/hirer shall at its own cost, effect and at all times during the terms of this agreement and any extension thereof keep in full force a policy of Public Risk Insurance (with an authorised Underwriter) with respect to the Pool(s) and the activities carried out at the Pool(s) complex for a minimum amount of \$20,000,000. The relevant policy or policies shall name Cessnock City Council as owner and any persons designated by Council as mortgagee or otherwise and the user. The user/hirer shall deliver to Cessnock City Council on demand a copy of the relevant policy and a current certificate of insurance. The user/hirer unconditionally releases Cessnock City Council from all claims, suits, demands, actions or proceedings (whether at law, in equity or arising under any statute) arising out of or in connection with an act, default or omission of the user/hirer or any of the user/hirer's agents. The user/hirer agrees not to sue or make any claim or demand against council in respect to matters covered by this release.

4.2 The user/hirer indemnifies Cessnock City Council from and against all actions, claims, costs, losses, expenses and damages (including the costs of defending or settling any action or claim) in respect to:

- 4.2.1 Loss of, or damage to property of Council; or
- 4.2.2 User/hirer is informed that at any such time as they are on the premises or its surrounds, loss of damage to property and/or person shall be at their own risk. Cessnock City Council, its employees or agents, are not liable for any injury (including death) or loss of property however caused, whether negligent or otherwise.
- 4.2.3 Resulting from or by reason of anything done or omitted to be done by the user/hirer arising out of the user/hirers activities undertaken at or near the Pool complex.
- 4.3 The user/hirers liability to indemnify Cessnock City Council is reduced proportionally to the extent that any negligent act or omission of Council or its employees has contributed to the injury, damage or loss.

## **5. User/Hirer Obligations (Pool Rules) – the user shall:**

- 5.1 Ensure the terms and conditions of this agreement has been made known to all persons, and where required their parents/guardian/hirer/responsible person(s) prior to entering the Pool complex.
  - 5.1.1 Ensure that all persons swimming at the Pool complex during the time of the user/hirers use under this agreement pay the usual entrance fee charged by Cessnock City Council as per the adopted Fees and Charges.
  - 5.1.2 Not erect any structure or permanent fixture at the Pool complex without the written consent of Cessnock City Council.
  - 5.1.3 Complete a risk assessment each and every time the pool is used/hired and retain a copy for your records.

- 5.2 Not permit any persons to dive into the pool except in accordance with Royal Lifesaving Society Guidelines.
- 5.3 Persons enter the Pool complex at their own risk.
- 5.4 Ensure that all persons using the Pool do so in an orderly and well behaved manner including; No running, No jumping, No bombing, No alcohol/drugs, No smoking, No glass, No food or drink in the pool, No animals are permitted in the Pool complex and swimming in suitable swimming attire.
- 5.5 Remove, or cause to be removed, any persons from the Pool whose behaviour is inappropriate, disruptive or causes any danger or threat to any other person or property who is affected by alcohol or drugs.
- 5.6 Keep the Pool complex including all grounds and surrounds and other parts of the Pool complex of which the user/hirer has use under this agreement, clean and tidy and shall not place, leave or permit to be placed or left any debris or rubbish in any part of the Pool complex.
- 5.7 Keep trade waste, trash and garbage in proper receptacles and shall not allow such waste, trash and garbage to accumulate in or near the Pool complex.
- 5.8 Ensure after each use, the Pool complex is appropriately and adequately secured and that all security devices installed are properly engaged unless the pool is scheduled to remain open to the public.
- 5.9 Upon demand, in writing from Cessnock City Council return all keys held by or on behalf of the user/hirer to Council.
- 5.10 Comply with all reasonable directions of authorised Council staff in its use of the Pool complex.
- 5.11 Comply with all Council's requirements in relation to the use of any barbecues and gas appliances.

5.12 All children under the age of ten (10) must be accompanied by a person sixteen (16) years or older. The guardian is required to supervise the swimming and behaviour of the child while in the Pool complex.

**6. The User, Hirer, Responsible Persons acknowledges and understands the following:**

6.1 The Pool may not provide any lifeguard services at the time of the intended use by the user/hirer.

6.2 Lifeguard staff that may be present within the Pool complex are not able to provide training, instructions or supervision of persons brought in to the Pool complex by the Responsible Person(s).

6.3 Responsibility for the supervision and care of persons brought into the Pool complex by the responsible persons rests with that person(s).

6.4 It is the responsibility of the user/hirer/responsible person(s) to obtain information regarding the skills of the persons it brings into the Pool complex and to instruct/supervise those persons according to their skill set.

6.5 Obtaining and maintaining any permissions or consents required for the use of the Pool complex by persons to be brought in to the Pool complex by the responsible person(s), is the responsibility of the user/hirer and/or responsible persons.

6.6 Use of the pool is subject to a number of risks, including drowning and the responsibility for supervision and instruction of persons brought in to the Pool complex by the user/hirer and/or responsible person(s) of those risks rests with the user/hirer and/or responsible person(s).

- 6.7 Responsibility for administering first aid in the event of an emergency rests with the user/hirer and/or responsible person(s), though lifeguard assistance will be provided, where available.
- 6.8 First aid equipment is located within the Pool complex. It is the responsibility of the user/hirer and/or responsible person(s) to ensure they identify the location of that equipment upon entry to the Pool complex.
- 6.9 The pool terms and conditions of entry may be amended or added to from time to time and any alterations to such will be displayed at the entry point of the Pool complex.
- 6.10 Unless hired exclusively, the Pool complex may be utilised by other members of the public at the same time as the user/hirer.
- 6.11 Use of the pool may be subject to a Commercial / Community fee. Hire rates can be found in Council's adopted Fees and Charges.
- 6.12 The User is responsible for any third party hire arrangements and ensuring ALL up to date qualifications (as per application checklist) are submitted prior to commencement of booking.
- 6.13 The User is responsible to ensure that any third party hire arrangements work within their qualifications and strictly adhere to their qualifications code of conduct.

## **7. COVID – 19**

Upon receipt of an approval to commence/re-commence an allocation at a sporting facility or recreation area, the following additional requirements must be adhered to at all times:

- 7.1 Compliance with the requirements of the Framework for a COVIDSafe Australia
- 7.2 Compliance with the Public Health (COVID-19 Restrictions on Gathering and Movement) Order (Current at time of booking) 2020.
- 7.3 Compliance with the respective State Sporting Organisation and/or National Governing body guidelines for a return to sport/training/competition.

- 7.4 Failure to do so will be treated as a breach of the User Agreement. From this the application and allocation of the aquatic facility may be terminated, without any liability being incurred by Council.
- 7.5 All user groups must provide a NSW Government COVID-19 Safety Plan using the template for Swimming pools (including spa pools, saunas and steam rooms). This is to be approved by Council prior to allocation letter being sent to user group.
- 7.6 All user groups are to provide a COVID-19 marshal to assist in any social distancing requirements or extra sanitising at the time of the booking.

## **8. Deed of Variation**

- 8.1 In addition to the Conditions of use, due to the current COVID-19 Pandemic, Council reserves the right to execute the following agreed variations if required:
- 8.2 Council may suspend, cancel or amend the persons/individuals/organisations booking based on current Federal and/or State Government advice.
- 8.3 Council may request that the allocated person/individual/organisation provide evidence on how they will adhere to current restrictions from the Federal and/or State Government Advice and reserves the right to terminate the allocation if the evidence is not provided.
- 8.4 Council will not be liable for any other non-Council associated expenses incurred by the person/individual/organisation in relation to the allocation.
- 8.5 Council reserves the right to cancel an allocation at short notice if the hirer is found to be noncompliant with the Federal and/or State Government Advice.

## **9. Emergency Procedures**

- 9.1 A copy of Cessnock City Council's Pool Emergency Procedures Diagram will be given to user/hirer at the time of signing the agreement.



**10. Executed as an Agreement**

Executed for and on behalf of Cessnock City Council

By a duly authorised officer in the presence of

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Authorised Officer

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name of Authorised Officer

Executed for and on behalf of \_\_\_\_\_  
user/hirer

ABN \_\_\_\_\_

In accordance with Section 127(1) of the Corporations Act 2001.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Authorised Officer

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name of Authorised Officer