DISTRICT COUNCIL OF Streaky Bay
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BUSINESS AND PRIVATE USE OF COUNCIL LAND AND RECREATIONAL FACILITIES

Policy No: **DCSB-PM-16.10**	Approved on: **November 2024**	Administered by: **General Manager - Prosperity**
Last Reviewed: **1.1**	Review Date **November 2027**	Record No: **439905**
Classification: **Property Management**		
Strategic Plan link: A Welcoming and Cohesive Community, A Robust and adaptive Economy that provides sustainable employment, A healthy natural environment and an attractive built environment.		
References and related Policies, Procedures and Forms: *Local Government Act 1999* Local Government (Financial Management) Regulations 2011 *Planning, Development, and Infrastructure Act 2016* *The Environmental Protection Act 1993* *The Native Vegetation Act 1991*		

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1. Introduction

District Council of Streaky Bay recognises and supports the practice of selling or promoting some products and hosting of events and other activities from Council Land or Facilities within the Council area and acknowledges the need for appropriate permit procedures and guidelines for these activities to ensure public safety and fair sharing of Council's public spaces (excluding roads).

This permit system is intended to guide how public spaces and facilities are to be used for business and other private purposes in ways that ensure an appropriate balance between the interests of the Council, traders, residents, and visitors.

This Policy does not apply to:

- Use of Road Reserve
- Streaky Bay Institute Hall/Supper Room
- Streaky Bay Visitor Centre Room Hire
- Private Property
- stalls of any type or use that is intended to be located at one site for more than 3 months;
- Mobile food vendors

The Policy applies to the following, and similar, business and other activities located on Council's road verge:

- outdoor dining;
- temporary stalls;
- street vending stalls;
- fundraising stalls;
- some casual and very short-term uses by persons selling raffle tickets, holiday or festival appropriate flowers, home-made products, or persons seeking donations;
- busking or,
- seasonal stalls,
- events

2. Strategic Focus

To be the most liveable community on the Eyre Peninsula

- A Welcoming and Cohesive Community
- A robust and adaptive Economy that provides sustainable employment
- A healthy natural environment and an attractive built environment
- Infrastructure that meets our community, economic and environmental needs
- A Council that is actively responsive to community needs and delivers financial sustainability, governance, and leadership

3. Objectives

The objectives of this Policy are:

- Our community feels welcomed and included;
- To provide opportunities for our community to connect and pursue economic, recreational, and cultural opportunities;
- Provide multipurpose facilities to meet the broad, intergenerational needs of the community now and into the future
- Council provides affordable and accessible community facilities and services that contribute to our community quality of life

- Council provides access to community open spaces and facilities within parks, gardens and reserves for residents, visitors and businesses.

4. Legislative Context

4.1 Footpath Trading

Under the Local Government Act 1999 a person must not use public land for business purposes unless the use is approved by the Council. Business purposes include the use of land even if it is not intended to make a profit.

The Council cannot approve the use of community land for a business purpose if it is contrary to the provisions of a Community Land Management Plan.

4.2 By-Law No.2 – Movable Signs

By-Law 2 is developed to set the standards for movable signs. It provides conditions for (and the) placement of signs (including A-Frame signage)

This by-law can be found on Councils website – www.streakybay.sa.gov.au

4.3 Planning, Development, and Infrastructure Act 2016

The erection of some fixtures may constitute building work for the purposes of the Development Act 2016 and therefore will require the approval of Council. Where the proposed fixtures are of a temporary nature they may be deemed not to constitute building work or change in land use. Applicants should contact the Development Services section of Council to determine if a development application would be required.

4.4 Disability Discrimination Act 1992

Matters requiring consideration under the Disability Discrimination Act 1992 would include (but not limited to):

- to eliminate, as far as practicable, discrimination against persons on the grounds of disability in the areas of:
    a) access to premises
    b) the provision of goods, facilities, and services.

5. Definitions

"**Authorised Officer**" means any person to whom power has been delegated in relation to this Policy.

"**Business purposes**" includes any "**business activity**".

"**Business Activity**" means any activity that is engaged in for the primary purpose of making a profit. In general, business activities can include things like sales, operations, marketing, production, administration and developing economic opportunities. This Policy relates primarily to business activities involving selling to the public and passing trade. While other business activities can be undertaken on roadside locations, they are unlikely to be a practical or profitable use of that land. For the purposes of this Policy, land may be used for a business purpose even if the use is not intended to make a profit.

"**Community Groups or Organisations**" means groups or organisations that are incorporated for the benefit of the community and the profits of which are retained within the organisation.

"**Community Facility**" means a building or asset, generally located on Community Land, primarily available to facilitate community activities in accordance with Council's corporate desired outcomes.

"Community Land" means land so defined in the Local Government Area

"**Community Open Space**" means all Council owned or managed public open space i.e. parks, gardens and reserves.

"**Council**" means The District Council of Streaky Bay or its Administration, as appropriate.

"**Fundraising stall**" means a stall operating to raise money for a charity or not-for-profit organisation where 100% of the net proceeds of sales are directed to that charity or organisation.

"**Hire**" refers to the priority use of an area of community open space, community facility or community land (as determined by the conditions of the Permit) for short term use, but in any event for a period of less than one year.

"Mobile Trading" means the sale of items from a vehicle, where a particular item is sold to buyers from the vehicle itself.

"Outdoor Dining" is defined as tables and chairs placed on public land for the purpose of increasing the capacity of the café, delicatessen, dining or similar option for the proprietor and customers.

"**Permanent stall**" means a stall which is intended to be in place indefinitely, being more than six months continuously or consecutively, or in varying periods which together total more than six months over a 12 month permit period.

"**Permit**" means a permit to use a public land for business or private purposes as prescribed in Section 200 of the *Local Government Act 1999*.

"**Permit Guidelines**" means the documentation setting out details of the community open space and community facilities, their general usage and the permitted and prohibited activities applicable to them.

"**Private Event**" means an event, wedding, birthday party and other similar function, which is not intended to or does not generate revenue for the organiser; or any event that the Authorising Officer deems to be a Private Event.

"**Public Event**" refers to an event held over one or more days; which may have the potential to attract a crowd and/or have a potential for significant sensitivity, risk, or controversy; and/or any event that the Authorising Officer deems to be a public event,

"**Road**" Under the Local Government Act 1999, means a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicle or pedestrians or both and includes a bridge, viaduct, subway, alley, laneway or walkway.

"**Roadside Verge**" means a road verge is described as the portion of a thoroughfare which lies between the boundary of a carriageway (road) and the adjacent property boundary line.

"**Rural Areas**" means those areas outside townships.

"Small stall" means a stall no more than four (4) square metres in area.

"**Temporary stall**" means a stall which is in place for a limited time only, being not more than six months continuously or consecutively, or in varying periods which together total six months or less over a 12 month permit period.

"Township" means any part of the area of a council that contains at least 20 residences and that is defined as a township by the council by notice in the Gazette.

"Waste" waste collection is limited in parks and reserves. All waste brought to and associated with a function or event should be removed.

6. Policy Statement

6.1 **Activities Requiring Permission**

- Certain activities undertaken on community land, community open space or in community facilities, require a permit and/or hire agreement, this is including but not limited to:

  a) Entertaining and/or preaching including singing, busking or playing musical instruments

  b) Using an amplifier or other amplifying sound device

  c) Promoting, organizing, participating in any game or organized sport, recreation or amusement

  d) Weddings, parties and other large social occasions (100 or more guests)

  e) Photography shoots, movie filming, etc; and,

  f) Goods stall (selling goods).

  g) Storage of Goods or access for construction related activities or other purposes

  See Clause 6.4 for further details of when a permit is required.

6.2 **Prohibited Activities**

- Inappropriate use of equipment/and/or facilities as deemed by the delegated officers
- Causing annoyance or unreasonable interference with any other user of local government land (by making noise or creating a disturbance, engaging in socially unacceptable behaviour or inappropriate conduct) as deemed by an Authorised Officer.
- Creation of an obstruction
- Interference with, damage or defacing of local government land or assets
- Use of missiles or wilful breaking of glass or other such materials
- Offering clothing, merchandise, equipment, food, refreshments, goods, services or other products for sale, except as part of an organised event which has an approved Council Permit / Hire Agreement.

6.3 **Areas Requiring a Permit for Activities in Clause 6.1**

- Streaky Bay Jetty Platform
- Alfred Terrace Foreshore Lawn (between Bay Road and Linklater Street) – Streaky Bay
- Eyre Avenue Foreshore Lawn (between Linklater Street and Wells Street) – Streaky Bay
- Doctors Beach Playground – Streaky Bay
- Doctors Beach Shelters – Streaky Bay
- Youth Precinct – Streaky Bay
- Lions Park – Streaky Bay
- Wirrulla Triangle
- Poochera Pioneer Park
- Perlubie Beach Shelters
- All cemeteries (excluding standard burials)
- All Local Government Land for activities related to access or storage of goods or undertaking of other services

6.4 Types of permits included under this policy

- **Casual**
  - **Private Event**

    Events of short duration, of up to a maximum of one day that generate no revenue to the organiser. Available to individuals, community groups or organisations. Examples include but not limited to a wedding, family gathering, community meeting, or hourly non-regular recreational activity hire or as deemed by a delegated officer.

    A Private Event with 100 or more guests will require the completion of an Event Application Form.

  - **Public Event**

    Events that have the potential to attract a crowd, generate revenue as deemed by an Authorised Officer. Events may also require a liquor license, road closure, vehicles driving on reserves, event containment (including but not limited to fences and/or other structures such as marquees), fireworks, animals or entertainment equipment such as jumping castles and circus tents, or any other relevant request as determined by the Authorised Officer.

    All Public Events will require the completion of an Event Application Form in addition to the Land Use Form.

- **Seasonal**
  - **Non-Commercial**

    Open Space
    Regular use booking(s) by individuals, community groups or organisations with exclusive use, but not effective control of a designated site for non-commercial activities for a period of up to one year (for example, a not-for-profit community group using a particular agreed park space once a week for six months).

    Facilities
    Regular use booking(s) by individuals, community groups or organisations with exclusive use of that facility for a particular time frame (for example, not for profit community group using the Community Centre for chess).

  - **Commercial**

    Regular use booking(s) by commercial groups, instructors, personal trainers, businesses, or organisations with exclusive use of the whole or part of a designated site, but not effective control, for an activity which will generate commercial gain for the organizer, individual, group or organization for a period of up to one year (for example personal trainers, fitness providers or photographers wanting regular repeated use of a particular park, location or facility to undertake their commercial activities.

6.5 Road Closures and Parking

Should proposed events require an adjoining Road Closure a Road Closure Application must be submitted at least one (1) month prior to the event.

Parking on Reserves as part of an event (requiring an event application) will be considered as part of the event application process otherwise parking requests must be included in the application for land use.

6.6 **Advertising Associated with Trading**

Signage shall be in accordance with;

- Planning, Development and infrastructure Act 2016
- By-Law No 2 movable signs
- Council Advertising Policy
- Completion of an application form

6.7 **Exclusions**

Mobile Food Van Vendors – refer to Policy
Streaky Bay Hall/Supper Room – refer to Policy
Streaky Bay Visitor Centre – refer to Policy
Use of a Council Road – refer to Policy

7. Fees and Charges

Fees are set and reviewed each year by Council and are listed in Council's F*ees and Charges Register,* applicants are to check the register to ascertain the cost of the facility (if applicable).

A request to reduce the fee or waive any applicable fee, the applicant must complete a *Fee Waiver Request Form.*

An applicant may be required to pay a bond or other fees as determined from time to time by the Council and on a case-by-case basis.

If an event is cancelled and fee has been paid the delegated officer will assess the requirement to refund any fee or bond that has been paid prior to the cancellation.

8. Application and Permit Process

8.1 Application form to be completed and lodged with Council together with required information and requested documents at least 7 business days prior for temporary/short term use and 21 business days for larger events or longer-term trading requests.

The application *will not* be processed unless accompanied by the required documentation and signed application.

8.2 Council officer, or officers inspect the site to assess suitability of the site, in regard to the storage and use for construction or other industry purposes a before and after use inspection will be undertaken.

8.3 If it is determined the activity will require other approvals, such as approval under the Public and Environmental Health Act 1987 or development approval under the Planning, Development and Infrastructure Act 2016, the applicant will be advised that the application cannot proceed until the required approvals have been obtained.

8.4 Council is not obliged to provide a location for any group or event. Generally, appropriate sites will be made available to any individual, group, or organisation on a "first come first served" basis, if an application meets the assessment criteria, unless there are prior agreements in place.

8.5 Council will take into account the following Criteria;

- Social Benefit
- Environmental Impact
- Economic Impact
- Impact on the Community

- Supporting Information
- Timing
- Marketing and Brand Exposure

8.6 Council reserves the right to consider each request on a case-by-case basis and retains the right to ask for further information or refuse an application.

8.7 Some events may require consultation or communication with affected residents and/or businesses and/or other groups. The Authorising Officer will inform the Applicant of any requirements for consultation or communication required for Permit approval. The Applicant must pay all costs associated with that process.

9. Conditions of Permits

The following conditions, where applicable, will apply to all Roadside Trading Permits:

a) the permit holder will comply with all relevant laws of the Commonwealth and State and any relevant Council by-law;

b) the permit holder agrees to comply with permit conditions and this *Policy*;

c) vendors must comply with all provisions of the Australian Road Rules;

d) permit holders in townships and urban areas must remove all vehicles and equipment from the space at the end of each day or at the conclusion of business unless this permit indicates otherwise;

e) this permit must be supplied on request by an authorised officer of Council;

f) permits must be kept on site at all times;

g) the permit holder is required to notify Council in writing within seven (7) days of any changes of address of operations;

h) the permit is non-transferable;

i) a permit holder must indemnify Council from all actions and damages whatsoever which may be brought against them for any wilful or negligent act;

j) all permit applications that relate to the sale or distribution of any food materials, must have lodged a Mobile Food Vendor Application Form and had food preparation equipment that is intended to be used, inspected by and approved by an Environmental Health Officer;

k) signage shall be in accordance with Councils Advertising and Moveable Signs Policy and By-Laws and an appropriate application approved;

l) this permit is not valid if a major event occurs which includes the same location as approved under this permit. Approval to operate during such events in the same location must be obtained via the event organiser;

m) any breaches of permit condition(s) or of this Policy may result in the cancellation of the permit.

n) If an event is cancelled for unavoidable reasons such as inclement weather the Applicant must, at their own expense, promptly notify Council and, if required, the general public.

o) The Applicant is responsible for any costs attributed to the planning prior to the event and as a result of the cancellation of the event(s).

p) The applicant will be required to attend an inspection prior to the hire to determine a before hire condition.

q) The applicant must reinstate the area(s) and its facilities for which the Permit/Hire Agreement was issued to the satisfaction of Council at the conclusion of the use of the community land or facility.

r) Applicants are liable for any damage to public property that occurs because of the event and must pay the costs of the repair of. All such costs are deductible from any bond and any costs more than the bond must be paid to Council by the Applicant.

10. Delegations

As per Council Delegation Schedule relevant sections of the Act.

Council reserves the right to consider each Application request on a case-by-case basis and require conditions or approve exemptions at the discretion of the Chief Executive Officer.

11. Records Management

All records shall be kept and disposed of in accordance with Councils Records Management Policy & procedure and the current General Disposal Schedule.

12. Further Information and Policy Availability

This policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's internet site:

District Council of Streaky Bay
29 Alfred Terrace
Streaky Bay SA 5680
www.streakybay.sa.gov.au

Copies will be provided to interested parties upon request. Email dcstreaky@streakybay.sa.gov.au

13. Document History

Version No:	Issue Date:	Description of Change:	Date Endorsed
1.00	March 2023	First Version	21 March 2023
1.01	Nov 2024	Second Version – inclusion of Perlubie Shelters	TBC