

**SELWYN DISTRICT COUNCIL
POLICY ON COMMERCIAL ACTIVITIES AND
EVENTS IN PUBLIC PLACES 2018**

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1. INTRODUCTION

Commercial activities and events in public places, where appropriate and well managed, can add character, vibrancy and visitor experience without detracting from the wider community's use of the public space. These activities can also entertain and educate and assist in strengthening the existing function of public areas as community spaces. Public places include public roads and reserves.

However, commercial activities and events need to be balanced against the needs of the environment and the impact such activities may have on the general use of public areas and private properties adjacent to public areas.

This policy outlines the guidelines for:

- Commercial activities and obstructions in public places to give effect to the Selwyn District Council Public Places Bylaw 2017 (this policy being the operational policy referred to in the Bylaw).
- Events in public places including (but not limited to), festivals, theme days, recreation/promotional activity, concerts, fairs, parades, outdoor family movies, sporting events, circus and fireworks and music on the green sessions.

A key element of the Council's involvement in commercial activities and events is to contribute to the protection, promotion and maintenance of the health and safety of all persons associated with the activity or event.

2. PURPOSE

The policy aims to ensure that commercial activities and events in public places enhances the life and attractiveness of an area by adding vibrancy and appeal, without detracting from the use of the area by others or inhibiting the safety and efficiency of pedestrian movement and vehicle travel.

3. SCOPE

The policy covers commercial activities, obstructions and events in public places, as defined in this policy and the Bylaw.

4. DEFINITIONS

In this Policy, unless the context otherwise requires:

“Authorisation” means an authorisation issued by the Selwyn District Council for an event, as defined in this policy.

“Business Vehicle” means any vehicle that is used in supplying goods and services for profit.

“Bylaw” means the Selwyn District Council Public Places Bylaw 2017.

“Commercial activities” includes:

- both static and mobile based trading, which includes selling, hiring, or displaying for sale any goods (including vehicles) or services;
- advertising goods and services;
- the provision of outdoor dining facilities for the sale and/or consumption of food and beverages, including those offered by alcohol licensed premises;
- busking and street performing; and/or
- any other activities or services undertaken for payment or reward.

“Council” means the Selwyn District Council.

“Event” means a lawfully planned market, festival, public fireworks display, sporting event, theme day, rally, recreational / promotional activity, concert, fair, parade or other similar temporary occasion, or a series of such occasions.

“Passenger Service Vehicle” has the same meaning as in Section 2 of the Land Transport Act 1998.

“Permit” means a permit issued by the Council under the Public Places Bylaw 2017.

“Public place” means an area that is open to or used by the public, which is under the control of the Council, and includes:

- roads, streets, carpark, footpaths, cycleways, accessways, reserve or public reserve (as defined under the Reserves Act 1977), parks and recreational grounds; and
- State Highways within the district with a posted speed limit of less than or equal to 70 km per hour for which there is current delegation in place from the New Zealand Transport Authority to the Council.

5. GENERAL APPROACH

No person may carry out commercial activities or organise events in a public place without the consent of the Council. This requirement is given effect to through two separate mechanisms:

- A Permit under the Bylaw will be required for any commercial activity or obstruction in a public place, subject to the exceptions within the Bylaw.
- Events in public places will require an application to, and written Authorisation from, the Council in accordance with this policy.

Free community events and events that are for charitable purposes that are run by local authorities, voluntary/charitable trusts, schools, community groups, or not for profit organisations will only require an authorisation under this policy and will not require any permits under the Bylaw. However, where an event does not fit within these exclusions, it will require an authorisation from the Council and a separate permit under the Bylaw for a commercial activity (and possibly for obstructions).

A permit or authorisation under the Bylaw and/or this policy only gives the applicant the right to carry out activities or organise events in the specified public area. It is not a permission for the purposes of food hygiene, sale of alcohol or traffic management, nor does it constitute a resource consent under the Resource Management Act 1991.

Any other required licences, permit or approvals must be obtained through the proper process. Obtaining any other required approvals will be a prerequisite of a permit/authorisation to conduct commercial activities or deliver an event, in a public place. This may include providing a temporary Traffic Management Plan where normal traffic flows are disrupted.

New permits/authorisations must be applied for and issued in accordance with this policy, unless the activity can be carried out without a permit/authorisation as stated in the Bylaw or this policy. Any current permit/authorisation to carry out an activity in a public place that contains an expiry date can continue until the expiry date or as otherwise specified in the permit/authorisation.

6. PRINCIPLES OF THIS POLICY

The following principles apply when considering applications for commercial activities and events in public places:

- Commercial activities and events in public places can have positive impacts economically, socially and culturally when managed appropriately relative to a sites' characteristics.
- The use of public places should provide opportunities for the public to participate in activities such as leisure, retail, recreation and entertainment.
- Commercial activities and events should add to the district's vibrancy, maintain public safety and strengthen the existing function of areas.
- The effects on existing businesses, including potential economic impacts, will be taken into account, and where possible mitigated.
- Businesses, groups and individuals that are permitted to use public places for commercial activities and events are responsible for managing these activities in accordance with any applicable Council policies, guidelines and conditions of use identified in the permit or authorisation.
- Consideration will be given to health and safety and traffic management issues, including minimising traffic disruptions and effects on motorists,

pedestrians and cyclists using the adjoining roads, streets, footpaths and cycleways

- In determining the location of commercial activities and events, the Council will approve/select sites at which:
 - appropriate standards of health, safety, pedestrian priority and visual amenity are maintained
 - the permitted activity is appropriate and sympathetic to the surrounding area
 - the commercial activity or event supports or enhances the existing function of the area.

7. ALIGNMENT

This policy gives effect to the Bylaw and should be read in conjunction with the Council's General Bylaw 2009, Traffic and Parking Bylaw 2009, Parks and Reserves Bylaw 2009, the Cemetery Bylaw 2011 and the relevant rules, policies and objectives in the District Plan.

This policy is aligned to the following District Council strategies, plans and policies:

- The Community Spaces Plan
- Open Space Strategy
- Selwyn Visitor Strategy
- Event Funding Policy and Guidelines

8. AUTHORISATIONS FOR EVENTS IN SELWYN DISTRICT

All events in public places must comply with the provisions and principles of this policy.

A wide range of community events which entertain, engage and encourage community participation take place in Selwyn District. Some of these events are organised and managed by Council staff and some by private individuals and/or organisations.

The use of Council parks and reserves (as opposed to roads), are encouraged to be used for a range of activities. If a person or group wishes to hold an activity in a park or reserve for which dedicated space is required then written Authorisation is required before the event takes place. Applications for events may be submitted by community and not for profit organisations, charitable trusts, incorporated societies, churches, individuals or groups, businesses and commercial organisations and any other organisations as may be agreed to by the Council. An authorisation will be

valid for a period of one year from the date of issue, until otherwise agreed with the Council.

Authorisation for an event will not be required for sports clubs providing non-commercial activities where the primary purpose or activity is playing their sport. In addition, the Council is not required to apply to itself for authorisation for Council-run events in public places.

Applications for authorisation for events can be made via council reserves or community services staff. Application forms are available on the Council's website www.selwyn.govt.nz

In addition to an authorisation, permits under the Bylaw will be required if the event constitutes a commercial activity under this policy and does not fit within the exclusions provided in the Bylaw

The Council provides an events listing service of events on its website for events taking place in the District. This includes events on private property which may be listed with the Council.

9. PERMITS FOR COMMERCIAL ACTIVITIES AND OBSTRUCTIONS IN A PUBLIC PLACE

Commercial activities and obstructions in a public place will require a permit under the Bylaw, subject to the exclusion contained within the Bylaw.

Application forms can be obtained from the Selwyn District Council Customer Services or downloaded from the Selwyn District Council website.

The application form sets out the information needed to accompany each permit application (as appropriate) and where to send the completed application.

Applications for a permit under the Bylaw will be considered individually by Council officers and take into account:

- the need to maintain public safety
- the surrounding transport networks
- the nature of the proposed activities
- the nature of the public place
- the potential effect on existing businesses and properties
- the purpose and principles of this policy

Specific Requirements for Outdoor Dining Facilities

A permit is required for outdoor dining facilities (including those offered by alcohol licensed premises) in any public place.

When applying for such a permit, applicants must provide a scaled site plan that accurately shows:

- the width of the footpath from the building façade to the kerb edge;
- the proposed location and size of the dining furniture or any other obstruction in relation to existing features, including the kerb edge, neighbouring properties and any other features such as carparks, bus stops, street light poles, rubbish bins and any other street furniture; and
- that there is a clear continuous width of 2 metres of unobstructed pedestrian thoroughfare in relation to any obstruction.

10. TERMS AND CONDITIONS FOR PERMITS AND AUTHORISATIONS

Permits/authorisations will usually include the following information:

- Details of the permit/consent holder
- The type of activity covered by the permit/consent
- Designated hours of operation
- The site to be occupied
- The permit approval date and approving officer details
- The permit period and expiry date.

The permit/authorisation application process, terms and conditions may vary depending on the type of commercial activity or event. However, unless otherwise stated, the following general conditions apply to all permits / authorisations:

- Permits/authorisations must be displayed prominently for the view of members of the public, if the permit indicates that it must be displayed, or have it available to be inspected by any Council officer or Police Officer on request.
- All commercial activity occupying land designated Reserve must comply with the provisions of the Reserves Act 1977 and may be subject to resource consent applications.
- Unless specifically allowed to remain, any stall or market and related items such as tables, seats and signs must be removed from the public place at the end of each business day.
- All permits/authorisations are non-transferable, unless stated otherwise on the permit/authorisation
- Operators of food stalls or stalls in open air markets selling food, on public or private land, need to obtain the appropriate authorisation under the Food Act 2014.
- A permit/authorisation under the Bylaw and/or this policy only gives the applicant the right to carry out the specified activity in the specified public area. It is not an approval for the purposes of food hygiene, sale of alcohol and traffic management, nor does it constitute a resource consent under

the Resource Management Act 1991. Any other required permits, licences, or consents must be obtained through the proper process before the permit/authorisation may be exercised.

Without limitation, other requirements that may be specified as conditions in permits/authorisations include:

- Adequate space for pedestrians
- A traffic management plan
- Public liability insurance
- Implementation of management regimes for storage and waste disposal.
- Health and Safety Management Plan
- Food Control Plan
- Any other permits, licences and plans required for the activity.

A permit may be altered, suspended or cancelled by the Council in accordance with the provisions of the Bylaw. An authorisation may be altered, suspended or cancelled by the Council if any of the conditions of the authorisation are not complied with or because of a change in circumstances in the public place in which the event will be held.

11. FEES

Commercial activities and obstructions

Fees and charges for commercial activities and obstructions that require a permit under the Bylaw are set out in the Council's Schedule of Fees and Charges, which is available on request and can be found on the Council's website. The fees and charges are reviewed on an annual basis.

Permit fees may include the costs of permitting, monitoring and enforcement of any activity being undertaken. The applicant must pay the full permit fee and supply all the required documentation before the permit will be issued.

In addition to and separate from permit fees, the Council reserves the right to charge rental fees for all commercial activities and obstructions in a public place. The rent will be set at a level that reflects the value of the location, type and size of event/activity, and ensure that businesses on private property are not unfairly disadvantaged.

Further fees may be charged in accordance with any other approval that may be needed for the activity under other bylaws, policies or legislation, including any resource consents that may be required under the Selwyn District Plan. This may include a bond that is payable prior to the activity commencing.

Events

No fees are payable for event authorisations although the Council at its discretion may charge for venue hire or rental fees and may require a bond to cover the potential costs of property damage caused by the event. Should damage occur in circumstances where a bond has not been required the council will seek the recovery of the costs of repair.

12. MONITORING AND ENFORCEMENT

The Council will regularly monitor trading and events in public places, and will investigate complaints to ensure that the holders of permits / authorisations are complying with their conditions and that no unauthorised commercial activities, obstructions or events are taking place in public places.

Individuals or groups carrying out activities or organising events in a public place without the necessary permit/authorisation will be asked to remove their material/equipment and cease the activity.

Council will take enforcement action under the Bylaw against any business, organisation or individual that operates activities in a public place without a required permit or against any permit holder who does not comply with this policy or the conditions of any permit issued.