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1. PREAMBLE

This policy outlines Council's responsibilities and powers in relation to the third party activation of Community Land for commercial purposes.

1.1 Background

The City of Holdfast Bay is one of South Australia's premier seaside destinations and tourist precincts that accommodates local, regional and overseas travellers. Due to the nature of the location, its commerciality, and the fact that Council receives numerous applications from businesses and entrepreneurs seeking to temporarily activate portions of the area for business purposes, it has become necessary for Council to formalise its position regarding the commercial activation of community land.

1.2 Purpose

This policy sets out the terms of reference and provides a framework for the exercise of Council's powers, assessment mechanisms and intervention rights pertaining to the temporary exclusive commercial use of community land. While this policy seeks to encourage the activation and entrepreneurial use of community land, Council is required to regulate such activities in order to balance them with the needs and expectations of community. Additionally, Council is required to implement guidelines in addition to those outlined in the Community Land Register in order to ensure that the parameters of any/all commercial activities are compatible within a legislative and policy context.

1.3 Scope

1.3.1 This policy applies to the following areas within the City of Holdfast Bay:

- Wigley Reserve
- Colley Reserve
- Brian Nadilo Reserve
- John Miller Reserve
- Jimmy Melrose Park & Foreshore Reserve
- Patawalonga
- Moseley Square
- Seacliff Plaza
- Brighton Jetty and surrounding Plaza
- The Beach
- Angus Neill Reserve
- Chapel Plaza

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1.3.2 Any proposed commercial activity outside of the areas identified in Section 1.3.1 is subject to Council approval.

1.3.3 This policy does not apply to:

- Council - organised or not-for-profit events;
- Council – owned assets subject to a lease or license agreement; and
- Any/all other areas within the City whether classified as Community Land, operational land, public roads, paths, and any other such land.

1.4 Definitions

1.4.1 Commercial Activity/Use - means any good, service or activity provided for any fare, fee, rate or charge by any business or other undertaking, intended for commercial gain.

1.4.2 Community Land - means local government land classified as community land under Chapter 11 of the Local Government Act 1999.

1.4.3 Community Land Management Plan - means Community Land Management Plan as defined by the Local Government 1999.

1.4.4 Council - means a Council within the meaning of the Local Government Act 1999.

1.4.5 Dry Area - means Dry Area within the meaning of the Liquor Licensing Act 1997.

1.4.6 Liquor - means liquor within the meaning of the Liquor Licensing Act 1997.

1.4.7 Local Authority - means Council.

1.4.8 Operational Land - means all land owned by, or in the care and/or control of Council, that which is not classified as Community Land by exclusion.

1.4.9 Major Impact Activity - means commercial activity that is large scale due to: the size of the area it occupies; the number of visitors the activity attracts; the number of days over which the activity occurs; and/or the activity restricts community access to the surrounding area and amenity.

1.5 Strategic Reference

Wellbeing Focus Area – Public spaces are universally accessible, welcoming and green, just around the corner and people feel nurtured by nature.

Innovation Focus Area – We welcome entrepreneurs to utilise the city’s assets, develop creative ideas and implement them to solve our problems, enhance our city and strengthen our competitive advantage.

2. PRINCIPLES

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- 2.1 Council is committed to the principle that Community Land is inherently for the use and benefit of the City of Holdfast Bay residents and wider community.
- 2.2 Council and Administration (by delegation) may authorise the temporary use of certain areas of Community Land for commercial activity if and when such use:
 - 2.2.1 is aligned with Council strategic direction and/or objectives;
 - 2.2.2 supports the local economy;
 - 2.2.3 promotes entrepreneurial activity and innovation; and
 - 2.2.4 attracts visitors to the City.
- 2.3 Council and Administration (by delegation) will consider when assessing applications:
 - 2.3.1 the appropriateness of the type and size of the activity in relation to the location;
 - 2.3.2 the frequency and type of other events during the period of the proposed activity;
 - 2.3.3 the appropriate level of community infrastructure to support the activity e.g. parking;
 - 2.3.4 continued access by the community to the surrounding area of the proposed activity; and
 - 2.3.5 at a minimum it generates income for Council to compensate for the impact on the land and the detrimental effects of any temporary closure.

3. COMMUNITY LAND MANAGEMENT

- 3.1 For the purpose of clarification of Section 1.3 of this policy, all areas in which this policy relates are classified as Community Land.
- 3.2 Brian Nadilo Reserve, Colley Reserve, Jimmy Melrose Park & Foreshore Reserve, John Miller Reserve, the Patawalonga, Wigley Reserve and the Beach areas are sub-classified as 'Regional Open Space'.
- 3.3 In accordance with the relevant Community Land Management Plan, 'Regional Open Space' authorises commercial activities for both community and special events, and permits the operation of commercial operations.
- 3.4 The commercial use of Regional Open Spaces seeks to encourage economic growth of business and tourism, and generate increased local employment opportunities through the promotion and provision of targeted events, tourism infrastructure, attractions, as well as touring products and services.
- 3.5 Commercial activity on the Beach will be focused to the area of the Beach north of the Glenelg Jetty, however applications for other areas along the Beach will be considered if the type and size of the activity is appropriate for the proposed location.
- 3.6 It should be noted that while Brighton Jetty and Plaza, Moseley Square and Seacliff Plaza are not listed on the Community Land Register, any such commercial activity authorised thereon, should be aligned with Section 3.3 of this Policy.

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4. TERMS AND CONDITIONS OF USE

- 4.1** All applications will be assessed, by Administration on behalf of Council, to determine their impact according to the following criteria:
- 4.1.1** nature of the commercial activity;
 - 4.1.2** appropriateness of the activity for the location identified;
 - 4.1.2** scale of operation, including its duration;
 - 4.1.3** the frequency and type of other events during the period of the proposed activity;
 - 4.1.4** impact on the environment;
 - 4.1.5** impact on the public land; and
 - 4.1.6** impact on the community, including but not limited to noise and traffic.
- 4.2** Approval for all commercial activities with major impact will require full Council approval with charges to be determined at Council's discretion.
- 4.3** All compliant commercial activities with minor and medium impact will:
- 4.3.1** be approved by Administration under Section 200 of the Local Government Act 1999, "Use of community land for business purposes"; and
 - 4.3.2** will incur user charges for conducting commercial activity on Community Land, as set annually by Council.
- 4.4** All locations to which this policy applies, are declared Dry Area established under section 131 of the Liquor Licensing Act 1997, as such, any/all proposed commercial activities that include the provision of Liquor must obtain all subsequent approvals in accordance with both Council's current Liquor Licensing Policy, and the Liquor Licensing Act 1997;
- 4.5** Restrictions - commercial activities that will not be approved:
- 4.5.1** activities which are illegal, or involving the promotion or advertising of tobacco, or gambling, or likely to promote violence;
 - 4.5.2** activities that do not meet the goals and objectives of the Council plan;
 - 4.5.3** activities that are deemed a significant detriment to the public accessing public space; or
 - 4.5.4** activities that may be significantly detrimental to the land and the environment.
- 4.6** At the time of application, or any time thereafter, Council reserves the right to cancel, suspend or revoke any approved commercial use, or amend any associated conditions:
- 4.6.1** if nuisances, health or public safety issues/concerns emerge as a consequence of the associated commercial operation/use;
 - 4.6.2** if fees payables are in arrears for 30 days, or proof of current public liability insurance is not provided or if any conditions of this policy or licence are breached; or

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4.6.3 in case of changes in policy or legislation.

5. REFERENCES

5.1 Legislation

- *Local Government Act 1999*
- *Liquor Licensing Act 1997*

3.2 Other References

City of Holdfast Bay Community Land Management Plans & Registers
Liquor Licensing Policy
Unsolicited Proposals Policy
City of Holdfast Bay Fees and Charges
City of Holdfast Bay – By-law No 3 Local Government Land
Open Space and Public Realm Strategy 2018-2030
Tourism Recovery Plan 2023
Events Strategy
Disability Access and Inclusion Plans 2020-2024
Long Term Financial Plan