

TrailRider All Terrain Wheelchair – Hire Terms and Conditions



Hire of Equipment			
- The TrailRider can be booked for <u>up to 7 days</u>. - All enquiries and bookings need to be made via Council's Community Projects and Partnerships team. ➤ Phone: (03) 5261 0600 ➤ Email: info@surfcoast.vic.gov.au ➤ Address: 36 Wadawurrung Way, Torquay 3228 - The TrailRider must be picked up and dropped off from Wurdi Baieer Stadium reception, during the office hours: Monday – Friday 9:00am to 5:00pm (Wadawurrung Way, Torquay 3228). - The TrailRider weighs 25kg and requires two people to load it safely into the back of a car. It folds down to a size of 172cm X 82cm X 61cm. - A copy of the Surf Coast and Lorne Walks & Waterfalls map is available.			
Refundable Bond			
Please note that while the hire of the TrailRider is free, a refundable bond of \$100.00 is required . (Credit card bonds will only be processed in the event of failing to return the TrailRider in an appropriate condition. Cash bonds will be refunded on return of the TrailRider).			
Credit Card Type			
Credit Card Number			
Expiry Date			
Date Borrowed		Date Returned	
Witness (Surf Coast Shire Representative)			
Name			
Signature			
Hirer acknowledgements:			
- The Hirer acknowledges that it must access and use the Equipment responsibly, in accordance with the Rules, these T&C's and in an appropriate and conventional manner. - The Hirer warrants they have viewed the TrailRider All-Terrain Wheelchair induction video published on Council's website. - The Hirer acknowledges that the use of the Equipment carries a risk of danger and injury including changing weather conditions, mechanical failure, loss of balance, difficulty or inability to control speed or direction and variation in terrain and the Hirer accepts all risks and dangers. - The Hirer acknowledges the passenger of the Equipment must wear a helmet. - The Equipment requires at least two people of reasonable fitness to operate. One person at the front of the Equipment and one person at the back of the Equipment. For more difficult terrain, four people are required to operate the Equipment. The level of access of the Equipment is determined by the number, strength and level of fitness of the people operating the Equipment. - The Hirer will ensure the Equipment is returned in a clean and tidy state and free from all soil, sand, water and ensure the Equipment has been dried.			
Declaration and signing			
Where are you intending to use the TrailRider? (please not the area and/or trails)			
I have read the terms and conditions for the TrailRider All-Terrain Wheelchair and agree to be bound by them.			
Date			
Signature			
Full Name (in capital letters)			
Address			
Phone Number			
Licence Number			
Car Registration Number			

To be Completed on Return

Return Checklist – TrailRider All Terrain Wheelchair			
For the Hirer to Complete:			
Where did you use the TrailRider? (Please provide specific details on the area and tracks visited)			
How many people helped to operate the chair (please tick)			
☐ 2 ☐ 3 ☐ 4 ☐ 5			
Did you experience any problems operating the TrailRider			
How did you find out about the TrailRider equipment?			
Would you use the TrailRider again?			
Would you recommend the TrailRider to others?			
Any other feedback or comments?			
For the Hirer and Surf Coast Staff representative to complete			
Please read and mark X in the column provided for each checklist item.			
The TrailRider equipment has been returned in a clean condition		☐ Yes ☐ No	
The TrailRider equipment has been checked to ensure all of the following parts have been returned with the chair and are in working order.		Arm rests	☐
		Front handles	☐
		Footrest	☐
		Kickstand	☐
		Cushions	☐
Seat insert		☐	
Date Returned		Bond Returned (if required)	
Hirer Name & Signature			
Surf Coast Shire representative Name & Signature			

Privacy Statement

SCSC is committed to protecting all personal and sensitive information consistent with the principles set out in the Privacy and Data Protection Act 2014. SCSC is collecting the information on this form for the purpose of processing this application. The information will only be collected, stored, used or disclosed for the purpose for which it was collected, with your permission or as required by law.

Terms and Conditions

1. Definitions

The parties agree that the following definitions apply to this agreement:

Bond means the security deposit that may be required by Council in the form of valid credit card details which will be held for the hire period.

Council means the Surf Coast Shire Council (ABN 18 078 461 409).

Equipment means the All Terrian Wheelchair owned by the Council.

Hire Date means the date on which the Hirer is scheduled to collect and use the Equipment under these T&C's.

Hirer means the person or entity hiring the Equipment from Council pursuant to these T&C's.

Hire Period means from the Hire Date to the Return Date while the Equipment is in the Hirer's possession.

Law means the law in force in the jurisdiction in which the Project is carried out, including common or customary law, equity, judgment, legislation, orders, regulations, statutes, by-laws, ordinances or any other legislative or regulatory measures, codes and standards including the requirements of any authority having jurisdiction over the parties or the Project.

Loss means all costs (including legal costs and expenses on a solicitor and own client basis), fees, expenses, losses, damages (including reputational damage), charges, taxes, outgoings, claims, liabilities, causes of action, proceedings, awards and judgments.

Return Date means the date on which the Hirer returns the Equipment to Council.

Rules means the rules referred to in these T & C's.

Safety Laws means all Laws, relating to the protection and safety of persons or property including the *Occupational Health and Safety Act 2004* (Vic).

T & C's means these terms and conditions.

2. General

2.1 Interpretation

- (a) A reference to a clause, schedule or appendix is a reference a clause, schedule or appendix in these T & C's unless otherwise stated.
- (b) No rule of contract interpretation is to be applied to the disadvantage of Council on the basis that it prepared, or put forward any document comprising part of, these T & C's.
- (c) The references used in these T & C's are to be interpreted as follows except where the context otherwise requires:
 - i. a reference to these T & C's, another instrument or document includes any variation or replacement;
 - ii. a reference to any statute, code, ordinance or other law includes regulations and other instruments under it and amendments, consolidations, replacements or other instruments overruling that law;
 - iii. a reference to a person will be taken to include any natural or legal person, the person's executors, administrators, successors, substitutes and permitted assigns;
 - iv. a reference to a person or body which has ceased to exist or has been reconstituted, amalgamated or merged, or other functions of which have become exercisable by any other person or body in its place, will be taken to refer to the person or body established or constituted in its place by which it's said functions have become exercisable;
 - v. a reference to any direction, approval or requirement given by the Provider is not to be construed as the Provider participating in the supervision or control of the Member and does not infer any release of the Member or its obligations to appropriately carry out any supervision and control function; and
 - vi. a reference to a group of persons is a reference to all of them collectively, any two or more of them collectively and to each of them individually.

- (d) In reading these T & C's, except where the context otherwise requires:
 - i. the headings in this document are for convenience only and do not affect the interpretation of these T & C's;
 - ii. the singular includes the plural and vice versa;
 - iii. the word 'including' means 'including without limitation';
 - iv. a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
 - v. a month is to be interpreted as a calendar month;
 - vi. a gender includes every other gender; and
 - vii. where a word or phrase is given a defined meaning in these T & C's, any other part of speech or other grammatical form in respect of such word or phrase will have a corresponding meaning.

2.2 Council rights

Council reserves the right to agree or refuse to hire the Equipment in its absolute discretion. Council may specify, in writing, any conditions of hire in addition to these T&C's where Council deems it necessary on a case by case basis.

2.3 Compliance

The Hirer:

- (a) Acknowledges that Council has statutory rights and obligations including those under the *Charter of Human Rights and Responsibilities Act 2006* (Vic), *Safety Laws* and *Child and Wellbeing Safety Act 2005* (Vic);
- (b) Must not use the Equipment in a manner that breaches any Laws;
- (c) Must comply with any reasonable directions issued and/or take any actions reasonably directed by Council to enable it to comply with any Laws and any related Council policies and procedures adopted to promote compliance with relevant Laws; and

2.4 Entire Agreement

- (a) Subject to variations as provided for in these T & C's, this document constitutes the entire agreement and understanding between the parties as to the subject matter of these T & C's.
- (b) Any prior arrangements, agreements, representations or undertakings as to the particular subject matter of these T & C's are superseded except where explicitly stated in these T & C's.

2.5 Governing Law

- (a) These T & C's are governed by and must be construed in accordance with, the Laws in force in Victoria.
- (b) The Hirer submits to the exclusive jurisdiction of the courts exercising jurisdiction in Victoria and the courts of appeal therein.

2.6 Representations and Warranties

- (a) The Hirer acknowledges and warrants that, in agreeing to these T & C's, the Hirer:
 - i. has the power to enter into and observe its obligations under these T & C's;
 - ii. has familiarised itself with Council's Rules and obtained all relevant information necessary to enable it to perform its obligations under these T & C's; and
 - iii. agrees to these T & C's based on its own investigations and has used its own endeavours and efforts to verify the accuracy of all information relied on by the Hirer.

3. Duration

- (a) These T & C's apply to the Hirer during the time period when the Equipment is in the possession or control of the Hirer until the Return Date.
- (b) The Hirer acknowledges that it will have access to the Equipment from the agreed booking commencement time. The Hirer must undertake set-up, pack-down and cleanup activities within the agreed hire time and must not cause any interference with the booking commencement times of others.

4. Cancellation

- (a) The Hirer may cancel its booking, and Council will refund the Bond.
- (b) Council may cancel bookings with ten (10) business days' notice to the Hirer where a priority booking is made under Council's Hierarchy of Use policy. Council must refund the Bond if it cancels a booking under this clause.
- (c) The booking is automatically forfeited if the Hirer fails to collect the Equipment after fifteen (15) minutes of the booking commencement time.
- (d) Hirer will not be entitled to any further claim for Loss where Council cancels a booking under clause 4(b) or 4(c).

5. Obligations

5.1 General

- (a) The Hirer must:
 - i. use the Equipment safely and properly;
 - ii. follow the reasonable directions of any Council staff;
 - iii. not sub-let the Equipment; and
 - iv. Ensure the Equipment is transported in a safe and appropriate manner.
- (b) Time will be of the essence in the performance of all obligations under these T & C's.

5.2 Bond

- (a) The Hirer must pay, at Council's direction, any Bond when booking use of the Equipment.
- (b) Council may draw on the Bond where the Hirer's breach of these T&C's cause Loss to Council.
- (c) Prior to the Bond being drawn on, Council must notify the Hirer of its intention to draw on the Bond.

5.3 Hirer Responsibilities

- (a) The Hirer will ensure they return the Equipment with all parts, bolts, straps and any instruction manual.
- (a) The Hirer acknowledges that, in addition to its general responsibilities above, the Hirer agrees to the following responsibilities –
 - i. The Hirer must bring to the attention of Council staff any matter the Hirer becomes aware of that may cause risk or injury to those accessing and using the Equipment;
 - i. Where an incident occurs in breach or possible breach of the Safety Laws involving or witnessed by the Hirer, the Hirer must co-operate with Council in respect of any

investigation or public statement which Council may, at its sole discretion, issue in respect of the incident; and

- ii. The Hirer must not, by action or omission, act in any manner that causes Council's insurance policy to be vitiated, cancelled or increases the rate of premium.

8 Loss, Damage or Breakdown of Equipment

8.6 The Hirer is responsible for any loss, damage or breakdown of the Equipment during the Hire Period (save for fair wear and tear).

8.7 In the event of theft or damage to the Equipment, Council has the right to withhold the Bond, and the Hirer will pay Council any costs incurred as a result of the theft or damage upon receipt of a separate invoice from Council.

8.8 If there is a breakdown of Equipment, the Hirer will at its cost, return the Equipment to Council and the Hirer will not attempt to repair the Equipment themselves.

9 Indemnity and Limits on Liability

- (a) Subject to clause 9(b) the Hirer indemnifies Council from and against all Losses incurred by or sustained by the Hirer (including Losses incurred or sustained as a result of a third-party claim against Council) arising out of or in connection with:
 - a. a breach of these T & C's (including any express or implied warranty or representation) by the Hirer;
 - b. injury to or death of any person caused or contributed to by the Hirer in connection with these T & C's; or
 - c. Loss of or damage to any property caused or contributed to by the Hirer in connection with these T & C's.
- (b) The Hirer is not liable under clause 9(a) to an Indemnified Party to the extent to which any Losses in respect of which the Hirer would otherwise be liable to indemnify that Indemnified Party arise directly from any negligent act or omission or wilful misconduct of that Indemnified Party.
- (c) To the extent permitted by law, the Hirer releases Council in contract, tort, statute and in any other way for any injury, damage or loss of any kind whatsoever (including without limitation, any liability for direct, indirect, special or consequential loss or damage), sustained by the Hirer for any Loss arising from or in connection with these T & C's or any act or omission of Council.

(END OF TERMS AND CONDITIONS)