

## PURPOSE

Wollongong City Council plays a significant role in providing recreational opportunities and the supporting infrastructure on public land that encourages physical activity among the community. In addition to Council's provision, there is a demand for commercial fitness trainers to provide assistance in enhancing public health and well-being. In supporting the use of public open space for such fitness endeavours, Council recognises the need to plan and coordinate for the provision and maintenance of open space to limit the potential impact of activities and ensure equitable use of open space.

The purpose of this policy is to provide for the effective management of commercial fitness training activities occurring on public open space to ensure that they are delivered in a manner which protects public infrastructure, minimises disturbance to surrounding residents and addresses public risk concerns.

## POLICY INTENT

The main objectives of this policy are to:

- 1 To ensure the sustainable use of public open space while providing equitable access for general community use and commercial fitness training activities.
- 2 To encourage and support the utilisation of public open space for health and recreational pursuits.
- 3 Reduce and manage the potential impact of commercial fitness training activities on public assets.
- 4 Minimise public liability concerns.

## WOLLONGONG 2032 OBJECTIVES

Our Wollongong 2032 outlines the community's main priorities for the future and includes strategies for achieving them. This policy supports the delivery of the community Goal, "we have a healthy community in a liveable city", contributing to the delivery of Objective 5.4 "Provide a variety of quality and accessible public places and opportunities for sport, play, leisure, recreation, learning and cultural activities in the community".

## SCOPE

This policy applies to all Council-managed public open space within the Wollongong Local Government Area (LGA), including all parks, sportsgrounds, beaches, pools, cycle ways, footpaths and shared paths within parks and open spaces/reserves but does not include Council owned Leisure /Recreation Centres, libraries or community facilities situated on public open space. The scope of this policy refers to all individual and group sessions on these lands.

## DEFINITIONS

Combat Training	The term 'combat training' where stated in this policy refers to physical activities which involve opposing individuals and/or competitive or fighting and is of an aggressive or intimidating nature.
Commercial Fitness Training	The term 'commercial fitness training' where stated in this policy refers to the teaching of exercise for the purposes of conducting a business and to assist participants in the improvement of physical fitness and mental wellbeing. Engaging in such business involves the exchange of fee, reward or payment.
Commercial Fitness Training Activity Operator	The term 'commercial fitness training activity operator' where stated in this policy refers to those people owning, managing, teaching or instructing mental wellbeing and physical fitness training for the purposes of conducting a business for exchange, reward, fee or payment.
Commercial Fitness Training Activities	The term 'commercial fitness training activities' where stated in this policy refers to the various physical fitness activities conducted for the purposes of conducting a business through training participants on how to improve their physical fitness and mental wellbeing.
Licence Agreement and Licence	The term 'licence' and/or 'Licence Agreement' where stated in this policy refers to a printed document that gives official permission from Wollongong City Council to a specific person, operator or company to conduct commercial fitness training activities within a designated area of public open space. A licence may be issued in accordance with the Local Government Act 1993 and Crown Lands Act 1989.
Mobile Licence	The term 'mobile licence' where stated in this policy refers to a licence which permits an operator to undertake commercial fitness training activities involving no greater than three (3) participants only, on public open space where development consent/Council approval has been granted.
Notices	The term 'notices' where stated in this policy refers to signs erected by Council which relate to the doing of anything in a public place, the use of the place or any part of the place or the payment of a fee for entry or use of the public place.
Primary Site Licence	The term 'primary site licence' where stated in this policy refers to a licence which permits an operator to undertake commercial fitness training activities involving greater than three participants per session, on public open space where development consent/Council approval has been granted.
Public Open Space	The term 'public open space' where stated in this policy refers to land that is provided for the use of the community and administered through its representatives in government. Specifically, 'public open space' includes land designated as public parks and reserves, sportsgrounds, beaches, cycleways, shared pathways and footpaths within public parks/open spaces that are within the ownership of Wollongong City Council or Crown Land vested in the care and control of Wollongong City Council.

## POLICY

Management of the use of public open space within the Wollongong Local Government Area is regulated by the *Local Government Act 1993* and *Crown Lands Act 1989* and is subject to Council's Plans of Management.

As a growing segment in the Fitness Industry, the use of public open space for commercial fitness training highlights a number of issues including:

- Access – e.g. equity of access to public open space for the greater community and the potential risks of monopolisation of areas by commercial fitness training operators.
- Asset – e.g. increasing impact on public open space, potentially causing wear and tear to public recreational facilities.
- Public Liability – e.g. concerns for public liability and sufficient insurance for commercial fitness training.

This policy complements Our Wollongong 2032 in ensuring good planning of public infrastructure for community cohesion, health and well-being. The policy also aligns with Wollongong City Council's Strategic Framework for Open Space, Recreation Facilities and Community Facilities, *Planning People Places*, in providing a proactive approach to the broadening of lifestyle and activity opportunities, while ensuring quality spaces and management that is sensitive to the cultural and environmental facets.

## 1. Approval Process

All commercial fitness training activities covered by this policy require development consent (unless exempt by legislation). Approved sites are licensed in accordance with the *Local Government Act 1993*, the *Crown Lands Act 1989*, and any other relevant statutory requirements, and Council's 'Lease and Licenses of Council Owned and Managed Land, Buildings and Public Roads' Policy. Council approved commercial fitness training operators are permitted to operate commercial exercise activities in areas in accordance with their Licence Agreement. Council at its discretion will also determine appropriate zones to assist in managing demand and impact on public property.

Council acknowledges that a number of commercial fitness training activities occur in public open space that may involve personal (one-on-one) or small group (one-three participants) training activities. These activities are typically of a roving nature and operators will be required to obtain a 'mobile licence' which permits them to undertake such commercial activities where development consent/Council approval has been granted.

Where commercial fitness training activities involve greater than three (3) participants (per session), operators will be required to obtain a 'primary site licence' which permits them to undertake such commercial activities from a base location where development consent/Council approval has been granted.

## 2. Exclusion Zones

Commercial fitness training activities are not permitted within or on the following areas:

- Cemeteries – not permitted at any time.
- Natural areas, sand dunes and dune stabilisation areas – not permitted at any time.
- Beaches – within 100 metres either side of patrolled areas (i.e. flagged areas) with the exception of those sites given Development Approval and a Licence Agreement and subject to the daily advice of Council Surf Lifeguards and volunteer Surf Patrols.
- Within 10 metres of heritage monuments, memorials, playgrounds, or public change rooms.
- Council picnic shelters, park furniture, and trees.
- Stairways within the Blue Mile Precinct, with the exception of the stairway located at City Beach where use is only permitted through specific licence conditions.

- Use of designated sportsgrounds and courts within public open space is permitted, however a separate booking for group activities at each location is required. Fees, charges, terms and conditions relevant to the sportsgrounds and courts will apply. This includes operating in accordance with sportsground closure processes.
- Use of areas such as swimming centres and tennis courts within public open space is permitted in accordance with the relevant facilities fees, charges, terms and conditions.

***Council may nominate other exclusion areas during the life of this policy from time to time.***

### **3. Activities for which the Policy applies**

Commercial fitness training activities are limited to the normal activities of a registered personal trainer/instructor, which would include but not be limited to:

- Gym sessions (with or without weights, fit balls, skipping ropes etc).
- Boxing and pad training.
- Organised aerobic activity.
- Yoga, Tai Chi and Pilates classes and like activities.
- Circuit training.
- Walking and running.
- Bike skills.

### **4. Prohibited Activities**

The following activities within public open space are prohibited under this policy:

- Aggressive or intimidating activities including combat training.
- Outdoor recreational activities conducted with amplified music or voice including megaphones or whistles which cause offensive noise as defined by the Protection of the Environment Operations Act 1997.
- Organised ball sports and competitions (unless conducted on designated ovals, sportsgrounds or courts which are subject to the payment of applicable published fees and charges).
- The soliciting of funds directly from park visitors or the public.
- The erection of advertising signs, flags, and banners without Council's prior written consent.
- Erection of signs, stakes, rope, or tape.
- Suspending boxing (or kicking) bags, training slings, ropes, or any other equipment from trees and/or structures.
- Dragging of logs, tyres, heavy ropes, and other equipment that may damage the natural environment.
- Using trees, seating, picnic tables, rotundas, and other park infrastructure for exercise training, except as permitted by the particular individual licence conditions.

### **5. Exempt Activities/Groups**

This policy does not apply to the following activities:

- Not-for-profit individual or small group exercise (e.g. Tai-Chi or Meditative Yoga).
- Not-for-profit walking, jogging, or cycling groups.

- Community training groups (where no participation fees are charged).
- Recreation activities performed by local schools under the supervision of a Teacher.
- Irregular recreation activities performed by local sporting clubs, Surf Life Saving Clubs and Associations under the conditions of a site-specific booking or approval.
- Emergency services for training drills and exercise regimes.
- Defence Force activities including but not exclusive to training drills, Army Reserves, and exercise regimes.

Any significant, organised activities which these groups may wish to conduct on a public park, sportsground or beach must be independently hired and would be subject to Wollongong City Council's Terms and Conditions for Use of Council Playing Fields, Parks and Beaches and Wollongong City Council's current Major Events Policy.

## 2

### 6. Signage

Prominent Public Open Space Areas covered under this Policy are currently signposted with notices relating to areas in which Commercial Fitness Training Activities are prohibited in accordance with Section 670 of the Local Government Act.

### 7. Enforcement

Under Sections 632, 670 and 679 of the *NSW Local Government Act 1993* Council has the power to:

- erect notices which relate to the doing of anything in a public place, the use of the place or any part of the place or the payment of a fee for entry or use of the public place.
- serve, by means of an authorised person, a fine upon any person who fails to comply with the terms of any such notice; and

Should a commercial fitness training operator be using public open space on a regular basis for activities without Council approval and licence, Council Compliance officers will be able to undertake compliance action in accordance with the Local Government Act 1993.

### 8. Term of Licence

A commercial fitness training operator's Licence Agreement will be valid for a period of not less than six (6) months and not greater than five (5) years and will authorise each trainer to use designated public open space for commercial fitness training activities in accordance with this policy on a non-exclusive basis.

## LEGISLATIVE REQUIREMENTS

This policy complies with and supports implementation and compliance with the following policies and instruments:

- Local Government Act 1993
- Crown Lands Management Act 2016

- Environmental Planning and Assessment Act 1979
- Wollongong Local Environmental Plan 2009

If any legislation changes occur that are contrary or inconsistent with this management policy, the updated legislation will prevail.

## REVIEW

This Policy will be reviewed every two years from the date of each adoption of the policy, or more frequently as required.

## ROLES AND RESPONSIBILITIES

Property & Recreation is the Division - Recreation Services are responsible for the administration and review of this Policy and Property Services are responsible for the review, management and issuing of licences under this Policy.

Regulation & Enforcement is the division responsible for any compliance action if required.

## RELATED PROCEDURES

- Commercial Fitness Training on Public Open Space Procedure
- Wollongong City Council's Terms and Conditions for Use of Council Playing Fields, Parks and Beaches

APPROVAL AND REVIEW	
Responsible Division	Property and Recreation
Date adopted by Council	12 September 2022
Date/s of previous adoptions	25/06/2018, 22/06/2015, 27/10/2009
Date of next review	September 2024