

BACKGROUND

To ensure the sustainable use of public open space while providing equitable access for general community use and commercial fitness training activities.

To encourage and support the utilisation of public open space for health and recreational pursuits.

OBJECTIVE

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 STATEMENT

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 REVIEW AND VARIATION

- 1 Council is to have opportunity to review and adopt, at least once during its Term, each Council policy.
- 2 A resolution of Council is required to adopt any variations to this policy, with the exception of minor administrative changes, such as updates to legislative references, which may be endorsed by the Executive Management Committee (EMC). Endorsement of administrative changes made to this policy by EMC does not alter the requirement for it to be reviewed and adopted by each Term of Council.

STATEMENT OF PROCEDURES

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DEFINITIONS OF THIS POLICY

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.

FIXED STRUCTURE

The term 'fixed structure' where stated in this policy refers to any item that is deemed immovable or securely positioned including signs and storage containers.

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 PERMIT

The term 'mobile licence permit' 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.

1 INTRODUCTION

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.

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 2028 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.

1.1 AIM

The purpose of this policy is to provide for the effective management of the regular commercial use of open space by commercial fitness training groups and personal trainers and to minimise the impact on surrounding residents and the general public's use of open space whilst recognising the increased community demand for commercial fitness activities in open space.

Through the implementation of this policy, Council aims to:

- a Ensure equity of access to public open space.
- b Reduce and manage the potential impact of commercial fitness training activities on public assets.
- c Minimise public liability concerns.
- d Contribute to delivering Our Wollongong 2028 Community Strategic Plan.

1.2 AREA TO WHICH THE POLICY APPLIES

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.

The activities provided for in this policy are subject to the provisions of the *Local Government Act 1993*.

1.3 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 Licences 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-tothree 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.

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

1.4 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 (ie 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.

1.5 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.

1.6 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.

1.7 EXEMPT ACTIVITIES/GROUPS

This policy does not apply to the following activities:

- Not-for-profit individual or small group exercise (eg 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.

1.8 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**.

1.9 SECURITY DEPOSIT

The grantee of a 'primary site licence' must deposit with Council the sum equivalent to twenty-five per cent (25%) of the annual licence fee.

This deposit will be refunded upon termination of the licence provided there is no damage to the designated area of public open space as a result of the commercial fitness training activities undertaken on the site.

1.10 FEES

Licence holders are required to pay fees and charges in accordance with Council's adopted Fees and Charges, and as per terms of the licence agreement.

2 GENERAL PROVISIONS

2.1 INDUSTRY COMPLIANCE

All commercial fitness activities must be undertaken in accordance with the recommendations and guidelines of Fitness Australia or other relevant peak body.

2.2 SITE CAPACITY AND TRAINER/PARTICIPANT RATIO

The size of a licensed site will be determined by Council however the maximum number of participants will not exceed 54 participants at one licensed location.

Commercial fitness training activities are to be undertaken in a manner that should ensure that all group participation is appropriately supervised, providing instruction to each individual.

Fitness training groups are limited to 18 participants per instructor where participants are undertaking the same activity and six (6) participants per instructor where participants are undertaking different activities.

2.3 HOURS OF OPERATION

Subject to development consent, licence holders are permitted to operate on their licensed area from Monday to Saturday between 6 am and 8 pm, and on Sunday between 7 am until 10 am.

When conducting activities beyond daylight hours, Commercial Fitness trainers must monitor and control risks to participants and ensure public safety is not impacted by their activities (e.g. use of personal lighting and high visibility garments).

Failure to operate within these specified times will be dealt with in accordance with the Termination clause outlined in a Licence Agreement.

2.4 QUALIFICATIONS

To be eligible for consideration of a Licence Agreement, a commercial fitness activity trainer must:

- a Provide evidence in having completed accredited courses specific to the type of activity being instructed and endorsed by Fitness Australia and/or VETAB providers such as TAFE, Universities and Nationally Recognised Training institutions/colleges
- b Have a current Senior First Aid Certificate.
- c) Proof of being a current registered professional with Fitness Australia or the relevant peak body.

All fitness trainers employed by the licence holder are also required to hold the above qualifications.

2.5 STORAGE

All equipment used for training sessions is to be stored off site. The erection of fixed structures for the storage of fitness equipment is not permitted.

2.6 SALE OF MERCHANDISE

Licence holders are permitted to provide/offer the sale of health and fitness clothing and equipment associated with the activity to their clients/participants.

2.7 CAR PARKING

Licence holders and participants are required to park in designated parking areas. Parking on grassed open space is not permitted and will incur penalties in accordance with the *Local Government Act 1993*.

2.8 WASTE

Licence holders are required to ensure the area used for personal training sessions is clean and tidy after use and that such is communicated to session participants.

2.9 ENVIRONMENT

Licence holders must manage the activities to minimise wear and tear on grassed areas (this includes rotating within the designated area and/or alternating activities).

2.10 RISK MANAGEMENT

Licence holders must comply with industry guidelines including ensuring:

- Availability of a well-equipped first aid kit in close proximity for the duration of the activity.
- Pre-exercise screening of all participants to ensure effective and safe programming.

Licence holders must, prior to commencing commercial fitness training activities, assess weather conditions and inspect the immediate area for hazards and take appropriate action to remove those hazards or alternatively move the training site and, without undue delay, report to Council the hazard or any other hazardous matters observed during the training that may require Council's attention.

2.11 INSURANCE

Licence holders must take out and maintain in their name, for the duration of the term of the Licence Agreement, public liability insurance for a minimum of \$10 million (or such greater amount as Council may reasonably require) and produce documentary evidence of this at the time of application and at time of renewal. Failure to hold or produce evidence of public liability insurance to Council's satisfaction will result in cancellation of the licence.

2.12 BUSINESS INTERRUPTION

Council will accept no responsibility or liability for any interruption to business caused by the need for Council or any other Authority to carry out any special event or type of maintenance works on the approved public open space site, inclement weather or any other interruption to business howsoever caused.

2.13 NOISE/DISTURBANCE

Under this policy and the allocation of a Licence Agreement, commercial fitness training activity operators must:

- Always conduct themselves in accordance with the Fitness Australia Code of Ethics, in a proper and orderly manner and be considerate to other reserve users and adjacent residents.
- Not create any noise from training activities that unreasonably disturbs other users and adjacent residents.
- Ensure that all noise associated with their activities does not cause offensive noise as defined by the *Protection of the Environment Operations Act 1997*.
- Ensure that any exercise equipment used does not create any hazards or obstruction.
- Ensure that any training group for which they are responsible, runs in single file when running in narrow areas (ie along footpaths, stairways, shared paths and cycleways), and always give way to pedestrians/cyclists using those areas.
- Ensure that any activities conducted outside of their licensed area does not interfere with any Council approved or booked activity, or the passive recreational use of an area or impact on the enjoyment of such passive use.
- Leave the training area in the same condition it was at the commencement of training.

2.14 PENALTIES FOR ACTING CONTRARY TO NOTICES

A person who fails to comply with terms of any notice erected by Council is guilty of an offence pursuant to section 632 of the *Local Government Act 1993*. Council officers and rangers may enforce penalties on any person who fails to comply with any notice.

2.15 OTHER CONDITIONS

Under this policy and the allocation of a Licence Agreement, commercial fitness training activity operators are to:

- Use their licensed area as the primary location for all activities.
- Ensure that their activities do not impact on other licensed activities outside of their licensed area.
- It is acknowledged that operators would, from time to time, as part of normal training activities, move from the 'primary site' to other locations, including neighbouring parks, reserves, beaches, footpaths/cycleways. These activities though, should not impact on the general community or other licensed areas/activities as outlined in this policy.
- Primary site licence holders must ensure that they commence and cease their commercial fitness training activities from within their licensed location.
- Commercial Fitness Training Operators are to act in accordance with Council's Code of Business Ethics policy in their dealings with Council.

SUMMARY SHEET	
Responsible Division	Property and Recreation
Date adopted by Council	25 June 2018
Date of previous adoptions	22 June 2015, 27 October 2009
Date of next review	June 2022
Responsible Manager	Recreation Services Manager
Authorised by	Director Community Services