

ITEM 9

POLICY REVIEW: COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE COUNCIL POLICY

The Commercial Fitness Training Activities on Public Open Space Council Policy has been revised as part of the Council policy review process. This Policy has been reviewed and administrative changes made to align with Council's new Policy Framework.

The revised Commercial Fitness Training Activities on Public Open Space Policy is presented to Council for adoption.

RECOMMENDATION

Council adopt the revised Commercial Fitness Training Activities on Public Open Space Policy

REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation

Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Draft Commercial Fitness Training Activities on Public Open Space - Council Policy
- 2 Draft Procedural Guideline - Commercial Fitness Training Activities Public Open Space

BACKGROUND

Council's Commercial Fitness Training Activities on Public Open Space Policy was due for review in June 2022. The Policy outlines the requirements for commercial fitness training activities 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.

Commercial Trainers and outdoor fitness groups need to get a licence from Council to use public spaces for their activities. Council currently 56 licenced outdoor fitness locations across the Wollongong LGA that cater to both small and large groups.

The intent of the existing Policy is to ensure the sustainable use of public open space while providing equitable access for general community use and commercial fitness training activities, whilst encouraging and supporting the utilisation of public open space for health and recreational pursuits. This Policy has evolved over time based and incorporated feedback from community members and commercial fitness operators and has been well received.

The Commercial Fitness Training Activities on Public Open Space Council Policy has now been reviewed and remains current. In line with Council's new Policy Framework, administrative changes to the Policy are proposed including the removal of procedural components for inclusion in a new standalone Procedural Guideline. As part of this review, the Policy and new Procedural Guideline were referred to Council's Property Management Section, Governance team and Regulation Enforcement Division, with no further changes other than minor edits and formatting identified during the consultation phase.

The key changes as part of this Policy review are:

- 1 Removal of procedural components of the Policy, and development of a stand-alone Procedural Guideline.
- 2 Update to new Council Policy template.

PROPOSAL

The reviewed Commercial Fitness Training Activities on Public Open Space Council Policy be adopted.

CONSULTATION AND COMMUNICATION

Consultation was undertaken with staff from the following divisions:

- Property and Recreation
- Regulation and Enforcement
- Governance and Customer Service.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2032 goal 5 “We have a healthy community in a liveable city”. It specifically contributes 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”.

RISK ASSESSMENT

The risk in relation to this Policy is considered low based on Council’s risk matrix. Ensuring commercial fitness training activities are conducted in a safe manner is a key focus of this Policy.

FINANCIAL IMPLICATIONS

Fees and charges are set via Council’s annual planning process.

CONCLUSION

The Commercial Fitness Training Activities on Public Open Space Policy remains effective at managing commercial fitness training activities on public open space. The changes proposed as part of this review are administrative in nature and the revised Policy should be adopted.



COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE COUNCIL POLICY

ADOPTED BY COUNCIL: [TO BE COMPLETED BY GOVERNANCE]

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.

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE **COUNCIL POLICY**

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.

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

COUNCIL POLICY

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 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-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.

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

COUNCIL POLICY

- 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).

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

COUNCIL POLICY

- 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 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:~~

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

COUNCIL POLICY

~~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.~~

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

COUNCIL POLICY

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 ACTIVITIES ON PUBLIC OPEN SPACE

COUNCIL POLICY

~~Commercial Fitness Training Operators are to act in accordance with Council's Code of Business Ethics policy in their dealings with Council.~~

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.

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

COUNCIL POLICY

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	[To be inserted by Governance]
Date/s of previous adoptions	25/06/2018, 22/06/2015, 27/10/2009
Date of next review	[Not more than two years from last adoption]



COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE PROCEDURAL GUIDELINE

ADOPTED BY MANAGER [DIVISIONAL MANAGER] | DATE: [DATE]

CONTEXT

The purpose of this document 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.

This Procedural Guideline is to be read in conjunction with the Commercial Fitness Training on Public Open Space Council Policy (the Parent Policy).

DEFINITIONS

Commercial Fitness Training	The term 'commercial fitness training' where stated in this document 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 document 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 document 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 document refers to any item that is deemed immovable or securely positioned including signs and storage containers.
Licence	The term 'licence' where stated in this document 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.
Notices	The term 'notices' where stated in this document 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 document 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 document 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.

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

PROCEDURAL GUIDELINE

STATEMENT OF PROCEDURES

Commercial Fitness Activities and Licences on Public Open Space will be managed in accordance with the below terms and conditions:

1. Security Deposit

- a. 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.
- b. 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.

2. Fees

- a. 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.

3. Industry Requirements

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

4. Site Capacity and Trainer/Participant Ratio

- a. 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.
- b. 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.
- c. 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.

5. Hours of Operation

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

6. Qualifications

- a. To be eligible for consideration of a Licence Agreement, a commercial fitness activity trainer must:
 - i. 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
 - ii. Have a current Senior First Aid Certificate.
 - iii. Proof of being a current registered professional with Fitness Australia or the relevant peak body.
 - iv. All fitness trainers employed by the licence holder are also required to hold the above qualifications.

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

PROCEDURAL GUIDELINE

7. Storage

- a. 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.

8. Sale of Merchandise

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

9. Car Parking

- a. 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.

10. Waste

- a. 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.

11. Environment

- a. 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).

12. Risk Management

- a. Licence holders must comply with industry guidelines including ensuring:
 - i. Availability of a well-equipped first aid kit in close proximity for the duration of the activity.
 - ii. Pre-exercise screening of all participants to ensure effective and safe programming.
- b. 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.

13. Insurance

- a. 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.

14. Business Interruption

- a. 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.

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

PROCEDURAL GUIDELINE

15. Noise/Disturbance

- a. Under this Procedural Guideline and the allocation of a Licence Agreement, commercial fitness training activity operators must:
 - i. 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.
 - ii. Not create any noise from training activities that unreasonably disturbs other users and adjacent residents.
 - iii. Ensure that all noise associated with their activities does not cause offensive noise as defined by the Protection of the Environment Operations Act 1997.
 - iv. Ensure that any exercise equipment used does not create any hazards or obstruction.
 - v. 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.
 - vi. 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.
 - vii. Leave the training area in the same condition it was at the commencement of training.

16. Penalties for Acting Contrary to Notices

- a. 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.

17. OTHER CONDITIONS

- a. Under this Procedural Guideline and the allocation of a Licence Agreement, commercial fitness training activity operators are to:
 - i. Use their licensed area as the primary location for all activities.
 - ii. Ensure that their activities do not impact on other licensed activities outside of their licensed area.
 - iii. It is acknowledged that operators would, from time to time, as part of normal training activities,
 - iv. move from the 'primary site' to other locations, including neighbouring parks, reserves, beaches,
 - v. footpaths/cycleways. These activities though, should not impact on the general community or other
 - vi. licensed areas/activities as outlined in the Commercial Fitness Training Activities on Public Open Space Policy and Procedure.
 - vii. Primary site licence holders must ensure that they commence and cease their commercial fitness
 - viii. training activities from within their licensed location.
 - ix. Commercial Fitness Training Operators are to act in accordance with Council's Code of Business Ethics policy in their dealings with Council.

REVIEW

This Procedural Guideline will be reviewed every two years or in-line with the review of the parent policy (where applicable) and at other times as required. Changes to the Procedural Guideline that are consistent with the parent policy can be approved by the Manager Governance and Customer Service.

COMMERCIAL FITNESS TRAINING ACTIVITIES ON PUBLIC OPEN SPACE

PROCEDURAL GUIDELINE

APPROVAL AND REVIEW	
Responsible Division	Property and Recreation
Date adopted	[Date Adopted]
Date of previous adoptions	Not Applicable
Date of next review	[Review Date]
Responsible Manager	Manager Property and Recreation
Parent Policy	Commercial Fitness Training on Public Open Space Council Policy