

Policy on the Use of Council Reserves by Commercial Fitness Groups and Personal Trainers

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| Contact Officer: | Coordinator Open Space Assets |
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1. Objective

To effectively manage the use of Community and Crown lands under the care, control and management of Council by commercial fitness groups and personal trainers.

2. Background

Management of the use of public reserves within the Randwick 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.

Personal fitness training is one of the strongest growth segments in the Fitness Industry. Increasing numbers of commercial fitness trainers using public reserves has raised a number of issues including:

- a) Equity of access issues - e.g. potential conflict with displaced users, management of demand, domination and monopolisation of areas and exploitation of public land by commercial operators.
- b) Impact on the asset - e.g. trainers (especially of large groups) are causing wear-and-tear to recreational facilities.
- c) Public liability concerns - e.g. trainers with insufficient insurance.
- d) Amenity impacts upon nearby residents and the public.

The need to regulate use of public reserves by organised or commercial fitness groups and personal fitness trainers has been identified. This policy responds to this need.

3. Local Government Act and Crown Land Act

Local approval from Randwick City Council to "engage in a trade or business" on Community Land is required under Part D Section 68 of the Local Government Act, 1993. This is the mechanism for undertaking a local approval process to allow activities undertaken by commercial fitness groups and personal trainers. Temporary licences are issued under Section 108 of the Crown Land Act 1989.

4. Aims

In implementing this policy, Council aims to:

- Ensure equity of access to public parks and reserves.
- Reduce the impact of commercial fitness activities on asset condition and maintenance.
- Minimise public liability concerns.
- Appropriately manage the open space system to prevent conflict of uses.

- Minimise the impact on nearby residents and users of public places.

5. Scope

This policy will cover:

- a) one on one sessions and / or group activities.
- b) all lands including beaches, parks, public reserves within the Randwick Local Government Area under the care control or management of Council.

Council approved commercial fitness trainers must only operate in the areas specified in their approval and temporary licence.

6. Exclusion zones

No commercial fitness training will be approved in high activity areas and/or areas of cultural, environmental or natural significance. Specific areas where these activities are generally prohibited the following areas:

- Picnic sheds and benches
- The central terraces at Coogee Beach
- The terraces at Maroubra Beach
- All ocean pools
- Exclusive use of public outdoor fitness equipment in parks and reserves
- Randwick Cemetery
- 20 metres from memorials
- 20 metres from any playgrounds or play equipment
- 20 metres from any public change room, toilet or kiosk areas
- In coastal parks, 100 metres from any neighbouring residential property due to their proximity and intensity of use
- For inland parks, distance from neighbouring residential property will be at the discretion of Manager, Technical Service
- Any designated sports field or facility without a specific booking
- Training on stairways and pathways including but not limited to the Coastal Walkway and Fred Hollows Reserve
- The beach at Little Bay
- The section of beach south of Frenchmans Bay
- 100 metres from the Yarra Bay Sailing Club
- Entire area of Grant Reserve, Coogee

These and other designated areas can be transited but are not to be used for either static or repeated training routines. Council may nominate other areas in the exclusion zone during the life of this policy as it sees appropriate.

7. Permissible fitness activities under the policy (subject to approval):

- gym sessions (with or without weights, fitballs, skipping ropes and/or individual personal gym equipment)
- boxing and pad training
- organised aerobic activity
- Yoga, Tai Chi and Pilates classes and like activities
- circuit training
- a combination of any of the above
- other associated activities approved by Council

8. Excluded activities

- Aggressive and intimidating activities will not be approved including excessively loud voice calls or instructions.
- Amplified music or amplified audio (voice) equipment is not permitted.
- The erection of any temporary structures.
- The use of artides or any other activities which may affect the safety of the public and other users.

The failure to comply with “excluded activities” may result in the non- renewal of the temporary licence by Randwick City Council.

9. Eligibility

The following criteria must be met to gain approval to undertake organised or commercial fitness training activities in Randwick City Council's public reserves. Evidence of the following must be provided at the time of application.

Essential

- Current Senior First Aid Certificate.
- Current public liability insurance which indemnifies Randwick City Council to a minimum of \$10 million.

Desirable

- A registered professional with Fitness NSW.

10. Groups excluded from this policy

The policy does not apply to the following groups:

- Local sporting clubs
- Local schools
- Surf Life Saving Clubs
- Corporate groups
- Defence Forces

Any significant, organised activities these groups may wish to conduct on a public reserve, however, would be subject to an approval process under Council's normal park booking system and procedures.

11. Size of groups

Council officers will determine the number of persons permitted per group and the number of groups that are issued an approved temporary licence. However, an approved temporary licence **will not** be issued for groups that have more than **10** participants.

12. Local Approval and Allocation of Temporary Licences

Under the Local Government Act, Randwick City Council will provide local approval for the training to occur in a designated area for a session (i.e. 2 hour period). An approval will be valid for **one year** and will authorise each trainer to use Community and/or Crown Land for fitness activities in accordance with this policy on a **non-exclusive basis**.

Applications for approval and the number of temporary licences to be issued will be determined by Council officers taking into account the following factors:

- Usage demand, intensity of use of the area and times requested
- Number of approved trainers already using the area
- Other activities (passive and active) being undertaken in the area
- The aims, objectives and requirements of the policy
- Type of activities to be undertaken and the potential impact on other users and neighbouring residents during the times requested
- Whether the activities will contribute to increasing congestion or user conflict in the area requested

In considering the above, Council officers may decide to:

- a) approve an application and issue a temporary licence
- b) issue limited approval with restrictions on the number and types of activities, group size and the time and location of activities
- c) not approve the application.

Approvals and licences may be issued subject to standard and specific conditions of approval.

One trainer only may be authorised by Council to operate at any one time under the approval and licence issued. However, the authorised trainer

can nominate a replacement person in case of illness or leave. The trainer must notify Council within 24hrs of the scheduled session, quote the temporary licence/tag number and specify the replacement trainer and provide contact details for that trainer including contact phone numbers. Alternatively, a Company can nominate a trainer/s that will be operating under the licence. The company must provide a roster listing the qualified trainers who will operate under the approval/temporary licence. Note again that only one authorised trainer can use the temporary licence at any one time.

All trainers must be insured and eligible to operate under the approval/temporary licence in accordance with this policy (refer to pt 7). Each approval/temporary licence issued will include confirmation of the type of activities to be undertaken, when and where these activities can take place, the number and size of groups, number of sessions and session times.

12.1 Session Times

An approved applicant will be issued with an approval/ temporary licence that allows for a maximum of two (2) hours per session in a specific designated area.

12.2 Designated Areas

A designated area is the area defined by Council where approval may be given for commercial fitness training. These areas may change from time to time depending on outcomes from community consultation and other operational matters.

13. Identification requirements

Each commercial fitness trainer allocated a temporary licence will be issued with a colour coded identification tag that will contain information on the approval/licence conditions such as group size, fee category, etc.). This must be displayed at all times and be shown to Council officers when requested.

14. Licence Fees

An annual application/administration fee and an annual license fee is applicable under this policy. These fees will be set out in the fees and charges section in Council's Management Plan and is available on Council's website www.randwick.nsw.gov.au.

Fees for the temporary licensing will be due on an annual basis and be for a 12 month period. The year will be from 30 June to 30 June of two consecutive years. If application is made outside this time frame Council will give consideration to processing that application and a pro rata licence fee will be calculated.

15. General Conditions

Approvals and licences are subject to the following general conditions of approval, which may be supplemented or varied (where necessary) in the relevant specific approval or licence. Each commercial fitness trainer approved by Randwick City Council:

- a) must only provide the activities for which they are suitably qualified and that have been approved by Council
- b) must only operate in the areas designated and at the times specified by Council in the approval and temporary licence
- c) commercial fitness classes are to commence no earlier than 6am and finish no later than 7.30pm every day. Commercial fitness training at Goldstein Reserve will not be permitted on the weekend, unless otherwise specifically approved by Council
- d) must manage the activities to minimise wear and tear on grassed areas (this includes rotating within the designated area and / or alternating activities)
- e) must comply with reasonable directions of Council's Rangers, Beach Inspectors and other authorised Council officers in relation to any unacceptable practices or, to display evidence of the licence in the prescribed manner
- f) shall, prior to commencing static/grid training, inspect the immediate area to ensure no hazards are evident 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
- g) shall not assign their rights under this approval or attempt in any other manner to transfer their rights under temporary licence to any other person, it being clearly understood that the licence is issued to a particular individual and is not transferable unless approved by Council in accordance with this policy
- h) shall indemnify and hold the Council harmless from and against all damages, sums of money, costs, charges, expenses, actions, claims and demands which may be sustained or suffered or recovered or made against the Council by any person for any loss of life or injury or damage any person may sustain due to the negligent act of a trainer whilst conducting a training session
- i) when conducting training on public reserves shall always conduct themselves in a proper and orderly manner and be considerate to other reserve users and adjacent residents
- j) shall conduct their activities so not to dominate, monopolise and/or obstruct any stairways or pathways

- k) must not create any noise from training activities that unreasonably disturbs other users and adjacent residents
- l) shall not suspend boxing or kickboxing bags from trees and / or structures in the public reserves
- m) shall ensure that any exercise equipment used does not create any hazards or obstruction
- n) must ensure that any training group for which they are responsible, runs in single file when running in narrow areas
- o) shall ensure that their clients do not step on or walk on or in any other way inappropriately use picnic tables and park furniture and shall leave the training area in the same condition it was at the commencement of training
- p) shall take out and maintain in their name and indemnifying Randwick Council, for the duration of the term of the approval/temporary licence, Australian Prudential Regulation Authority (APRA) approved public liability insurance for a minimum of \$10 million and produce documentary evidence of this at the time of application
- q) shall agree that, notwithstanding any implication or rule of law to the contrary, the Council shall not be liable for any damage or loss that any trainer and their clients may suffer by the act, default or neglect of any other person or by reason of the Council failing to do something on or to the public space used
- r) is only authorised to provide the training sessions specified in their approval/temporary licence and must not sell clothing or equipment or refreshments or any other good, service or product
- s) must not display any advertising signage including banners or 'A' frame signs on Council's public reserves
- t) must not interfere with any Council approved or booked activity including but not limited to filming, commercial photography, wedding, birthday party, corporate BBQ, sport or sporting activity that is being carried out on any oval or reserve or part thereof and the trainer acknowledges that such a booking has priority over the trainer's use
- u) shall be responsible for satisfying all occupational health and safety legislation and regulations
- v) shall be liable for any fees or levies required by the Department of Industrial Relations or Work Cover or any other public authority or statutory body

A key consideration of renewing a twelve month temporary license will depend on the Commercial Fitness Trainer's previous compliance with the policy.

Council does not, and will not, accept liability for any debts incurred by any trainer and Council shall not be in any way responsible for any

property of a trainer or any other person that may be left on the land or for any loss of any such property by theft or otherwise.

16. Non-Renewal of Temporary Licence

The Council reserves the right to not to issue or renew an application for an approval or a temporary licence of a trainer undertaking commercial training. This action can be undertaken if in its sole opinion it has determined that the trainer has failed to comply with the reasonable direction of its staff or has breached the terms of the approval or licence or the terms of Council's Policy on the Use of Council's Reserves by Commercial Fitness Groups and Personal Trainers.

Also, Randwick City Council may decide not to approve or renew a temporary licence to allow a more equitable distribution of designated areas and session times.

17. Applicant Lodge an Objection to Council's Determination

A trainer whose local approval has not been approved or renewed and is dissatisfied with Council's determination of the application, may request a review of the determination under the provisions of Right of Review –S.100 LGA 93 and Right of Appeal to Land and Environment Court - S. 176 L.E.C LGA 93.

In the application you are required to state the reasons for the appeal. This can be done in writing to:

General Manager,
Randwick City Council,
30 Frances Street,
Randwick NSW 2031

18. Review

This policy will be reviewed as determined by Randwick City Council.

19. Responsibility

The Director City Services is responsible for the overall management of this policy.

Minute No: W30/2010
Meeting Date: 7 December 2010