

Policy Title	Use of Public Open Space by Commercial Fitness Trainers
Related Documentation	Council's Commercial Fitness Trainers User Guide
Relevant Legislation	In accordance with the provisions under Section 68, 94 and 100 in the <i>Local Government Act 1993</i>
Responsible Officer	Executive Manager Sport, Recreation & Leisure Facilities

Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.

Objectives

1. To provide an effective management framework for the use of Council's parks, public reserves, public open spaces, and sporting grounds by Commercial Fitness Trainers.
2. To minimise the impact of commercial fitness activities on Council's assets, protecting public infrastructure, and addressing public risk concerns
3. To ensure the overall community's equity of access to Council's parks, public reserves, public open spaces, and sporting grounds.

Policy Statement

Campbelltown City Council actively promotes healthy activity and encourages residents to utilise local parks and infrastructure for exercise, leisure and family activity. Commercial Fitness Training has become one of the strongest growth sectors within the fitness industry. Outdoor fitness has significantly increased in recent years in the Campbelltown Local Government Area with Commercial Fitness Trainers utilising the parks, public reserves, public open spaces, and sporting grounds. The need to regulate use of public open space by all members of the community has been identified and this policy addresses the impact on the high level of use of Council's assets and public liability and risk concerns.

Scope

The policy for the "Use of Public Open Space by Commercial Fitness Trainers" applies to Campbelltown City Council managing its public open space within the Local Government areas including all parks, public reserves, public open spaces, footpaths, cycleways, Simmo's Beach and sporting grounds. The scope of this policy refers to all fitness training activities conducted on these properties.

Definitions

- Commercial Fitness Trainers - trainers, instructors, group fitness operators or trainers that are operating or representing a business whether a sole trader, proprietary limited or company
- Fitness Trails/Zones – fixed fitness equipment provided by Council

DATA AND DOCUMENT CONTROL

Division: City Lifestyles Section: Sport, Recreation & Leisure Facilities DocSet: 4569219	Adopted Date: 17/11/2015 Revised Date: 13/02/2018 Minute Number: 011 Review Date: 30/03/2020	Page: 1 of 7
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- Fitness training activities – include aerobic activities, resistance training (with or without equipment), punch pad training (boxing and kick boxing), relaxation or lifestyle classes such as yoga or tai chi, circuit type classes or any combination of the above.
- Commercial Group Trainers - individuals providing fitness training, activities for a fee or payment.
- Commercial Fitness - a registered business providing fitness services.
- 30m Exclusion – A minimum distance of 30m must be maintained between the nearest private landowners boundary and the service being delivered
- Sporting Grounds – areas of public reserves where organised sports are played and where Council has developed facilities for such sports.
- Park – passive area on open space.
- Play spaces - open space that includes play experiences.
- Community land - is defined as Crown Land managed by Council.
- Permit Holder - shall mean a Commercial Fitness Trainers that have been granted a permit to conduct commercial fitness training on Council's public open space.
- Club - shall also infer Association and shall mean a group of people organised into a recognisable body to administer the playing of sport or recreation activities.
- Association - shall mean existing sporting associations governing the sport in this local government area.
- Policy - this refers to the Use of Public Open Space by Commercial Fitness Trainers.

Legislative Context

Related Legislation:

- Section 68, 626, 627, 632, 650 and 651 of the *Local Government Act 1993*
- *Road Rules 2008*
- *Work Health and Safety Act 2011 – NSW*
- *Crown Lands Act 1989*
- *Protection of the Environment Operations Act 1997*

Legal action can be brought under a range of legislation therefore the Council shall adopt practices that meet the requirements of potential legal action.

Principles

APPROVAL PROCESS

- Each Commercial Fitness Trainer covered by this policy requires approval pursuant to section 68 of the *Local Government Act 1993*. Each individual Commercial Fitness Trainer will require approval from Council before obtaining a permit to conduct commercial fitness training, for example one business employing six trainers will require six approvals, one in the name of each trainer on community land.
- Each approved Commercial Fitness Trainer allocated an approval will be issued an ID card per financial year. The ID card must be produced on request from Council officers. The ID card is to be returned to Council if the approval to use public open space for Commercial Fitness Trainers is terminated or up for renewal.
- If the applicant wishes to cancel their booking, they will need to give Council a minimum of two weeks notice in writing of intention to cancel.
- Penalties may apply if the following offence(s) are committed:
 1. A Commercial Fitness Trainer is found to be using public open space for fitness training activities without Council approval
 2. An approved Commercial Fitness Trainer is not operating in accordance with the policy.

TERM OF APPROVAL

An approval will be valid for the current financial year expiring each year on 30 June. The approval will authorise each trainer to use public open space for fitness training activities strictly in accordance with this policy on a non-exclusive basis.

ISSUE OF APPROVAL

Applications for a Commercial Fitness Trainer approval will be assessed by Council officers taking into account the following factors:

- Evidence of the qualifications and insurance provided with the application
- Type of activities to be undertaken and the potential impact on the public asset, other users and neighbouring residents during the times requested
- Whether the activities will contribute to increasing congestion or user conflict in the areas requested
- Whether the proposed training site is within an exclusion zone.

In considering the above, Council officers may decide to approve or decline an application.

Approval to conduct fitness training activities within the Campbelltown Local Government Area is not transferable to any other Commercial Fitness Trainer. A Commercial Fitness Trainer can nominate a replacement person in case of illness or leave. To do so, the replacement Commercial Fitness Trainer must also have a valid and current permit from Campbelltown City Council prior to the scheduled session.

COMPLIANCE WITH TERMS AND CONDITIONS OF POLICY

Council approved Commercial Fitness Trainers must comply with the terms and conditions of the Policy for the Use of Public Open Space by Commercial Fitness Trainers. Breaches of the policy may be referred to Fitness Australia and may incur a warning and be subject to directions to cease fitness activities, a cancellation and termination.

APPROVED HOURS OF OPERATION

Commercial Fitness Trainers have approval to operate on the prescribed public open space during the following hours:

- Daylight savings time – 5.30am until 8.30pm
- Non-daylight savings – 5.30am until 6.30pm (if adequate lighting is available)

When conducting activities beyond daylight hours, Commercial Fitness Trainers must monitor and control risk to participants and ensure public safety is not impacted by their activities.

Failure to operate within these specified times will be dealt with in accordance with the Termination of Approval Clause.

SPORTSGROUND FLOODLIGHTS

Cannot be used by Commercial Fitness Trainers.

NUMBER OF TRAINERS

Based on Fitness Australia recommendations, registered Commercial Fitness Trainers should ensure that the group participant number allows for appropriate supervision and instruction for each individual during the group session.

OPEN SPACE AVAILABILITY

Council offers no guarantee or warranty that the public open space will be available at any time or suitable for use. Allocation of a Council permit does not give the permit holder exclusive use of the park. It is public open space and as such must be able to be used by the community.

TERMINATION OF APPROVAL

Council can terminate an approval to conduct fitness training activities on public open space in the following circumstances:

- The qualifications criteria are not complied with eg – no registration with Fitness Australia or equivalent body
- The approval holder has been issued three or more written warnings (this can include combination of penalty notices or written warnings), for non compliance with the policy.

Council will issue four weeks notice of termination in writing to the approved permit holder. The offending trainer will also be referred to Fitness Australia.

A Commercial Fitness Trainer whose permit has been terminated can appeal in writing to the General Manager, Campbelltown City Council PO Box 57, Campbelltown, NSW, 2560.

Permit fees will not be refunded if the agreement is terminated by Council as a result of breach of permit.

EXCLUDED AREAS

Commercial Fitness Trainers are not permitted to operate in areas of high activity and/or areas of cultural, environmental or natural significance. Specific areas where these activities are prohibited include:

- Koshigaya Park
- Mawson Park
- Raby Oval No 1
- Campbelltown Sports Stadium
- Campbelltown Showground
- Campbelltown Arts Centre
- Campbelltown Libraries
- Worrell Park
- Lynwood Park
- Within 10 metres of turf cricket wickets – Raby Sports Complex, Memorial Oval, Bradbury Oval, Jackson Park
- Baseball and Softball diamonds
- Playground areas (fenced)
- Trees/landscape areas
- Park furniture, picnic tables, shelters, seats and benches.
- Within 20 metres of memorials, playground equipment and public change rooms, toilets or kiosk areas.
- Leash free dog facilities
- Cemeteries
- Exclusive use of public outdoor fitness equipment in parks and reserves
- Stairways and pathways
- Within 30m of residential properties
- Sporting facilities (sports fields, netball courts) that are allocated to community groups and schools. Allocated community sporting groups and schools have the priority of use of sporting facilities.
- Any public or private car park, roadway, laneway or areas that are generally used by motor vehicles
- Commercial areas within the Campbelltown Local Government Area.

Council may nominate other exclusion zones during the life of this policy or approval term.

GROUPS EXEMPT FROM THIS POLICY

This policy does not apply to the following groups, however Council approval is required by these groups for use of Council owned and managed open space and active parks and reserves through Council's Sport, Recreation and Leisure Facilities Section:

- Local sporting clubs and associations
- Local schools (recreation activities performed under the supervision of a Teacher)
- Corporate groups (businesses wishing to run events)
- Community training groups (where no participation fees are charged)
- Not-for-profit individual or small group exercise (eg tai-chi or meditative yoga or similar)
- Not-for-profit walking, jogging or cycling groups
- Defence Force activities including but not exercise to training drills, army reserves and exercise regimes, with prior approval from Council.

PERMISSIBLE ACTIVITIES UNDER THE POLICY (subject to Council approval)

Fitness training activities are limited to the normal activities of a registered Personal Trainer, Yoga teacher or the like which would include but is not limited to:

- Fitness sessions (with or without weights, fitballs, skipping ropes, etc)
- Boxing and pad training
- Organised aerobic activity
- Walking and running
- Not-for-profit Yoga, Tai Chi, and Pilates and like activities
- Circuit training
- A combination of any of the above
- Other pre-approved fitness activity
- Other appropriate cardio-vascular and muscular skeletal programs that are of benefit to a person's fitness including warming up and cooling down exercises.

PROHIBITED ACTIVITIES

The following fitness training activities are not permitted on Council public open space within the Campbelltown Local Government Area:

- Aggressive and intimidating activities
- Outdoor recreational or fitness activities conducted with amplified music or voice including megaphones or whistles
- Dragging tyres or other heavy items over any surfaces including sporting fields and parks
- Portable fitness equipment/machinery such as spin bikes, weight machines and rowing machines
- Group training with companion animals on or off leash
- Organised ball sports and competitions are restricted to designated ovals, sportsgrounds or courts, which are subject to the payment of applicable published fees and charges.

PERMIT FEES

- An annual permit fee is applicable under this policy.
- Memberships are renewed on 31 March each year. Applications can be accepted after this and licence fees will be at a pro rata rate
- Fees associated with a Commercial Fitness Trainer's permit will be in accordance with Council's Fees and Charges and are available on Council's website
- No refunds will be given.

INSURANCE

Council approved Commercial Fitness Trainers must take out and maintain in their name or business name, for the duration of the term of the approval, public liability insurance for a minimum of \$20m (or such greater amount as Council may reasonably require) and produce documentary evidence of this at the time of application. In addition, Council is to be added to the policy as an interested party.

QUALIFICATIONS

The following criteria must be met to be eligible for an approval to provide fitness training activities on community land or public open space in the Campbelltown Local Government Area. Evidence (a copy of all certificates to be provided with application) of the following must be provided with the application form (www.campbelltown.nsw.gov.au):

- Approved qualifications endorsed by Fitness Australia and/or VETAB providers such as TAFE, Universities and Nationally Recognised Training institutions/colleges
- A current Senior First Aid Certificate
- Proof of being a current registered professional with Fitness Australia or the relevant peak body
- Current Public Liability Insurance (certificate of currency) which indemnifies Campbelltown City Council to a minimum of \$20m and Professional Indemnity Insurance for the life of the permit approved.

The following criteria must also be met by Commercial Fitness Trainers who carry out Children's fitness training activities:

- Completed a Working with Children Check or provide a copy of their Blue Card.
- Provide a copy of certification in having completed an accredited course specific to Children's Fitness Training.

TERMS AND CONDITIONS

Under this policy Commercial Fitness Trainers approved by Campbelltown City Council must:

- Ensure that their clients do not use picnic tables and/or park furniture to store any bags or equipment that would leave members of the public unable to utilise these facilities
- Ensure that any exercise equipment used does not create any hazards or obstruction
- Vary or rotate their location for static and repeated training so as to reduce wear on turf
- Not suspend boxing bags, kickboxing bags or any other training apparatus from trees and/or structure in public reserves
- Always conduct themselves in a proper and orderly manner and be considerate to other users and adjacent residents
- Ensure that any training group for which they are responsible, runs in single file when running on footpaths or in narrow areas
- Not interfere with any Council approved or booked activities being carried out on any Council property. This includes the allocated community sporting use of sporting fields
- Not display any advertising signage including banners, "A" frame signs or Pop Up Tents unless approved by Council
- Ensure that the parks and associated facilities are left in a clean and tidy condition after use and all articles and items brought on to the property are removed and any damage is made good. Where this condition is breached, Council may carry out works to return the property to its original condition and recover the expense of doing so from the permit holder
- Not create any noise from training activities that unreasonably disturbs other users and/or adjacent residents
- Not fence or block off areas to the exclusion of the general public
- Acknowledge Council will accept no responsibility or liability for any interruption to business caused by Council or any other authority carrying out any special event, filming or type of

maintenance works on approved public open space sites, inclement weather or any other interruption to business however caused

- Observe the closing of open space areas due to wet weather. During periods of wet weather the Commercial Fitness Trainer is responsible for viewing Council's website to determine whether parks have been closed or by phoning Council's Sport, Recreation and Leisure Facilities Section on 4546 4527. No activity is permitted if grounds are closed
- Inspect the immediate area prior to commencing any fitness training activities, to ensure no hazards are evident and take appropriate action to remove those hazards or alternatively move to another training site (if appropriate) and without undue delay
- Report to Council the hazards within 24 hours or matters observed during the training that may require Councils attention
- Ensure all equipment used for training sessions is stored off site. The erection of structures for the storage of fitness equipment is not permitted
- Ensure both themselves and participants park lawfully in designated parking areas and in accordance with parking control signs. Parking on grassed open space is not permitted and may incur penalties in accordance with sections 68, 632, 650 and 651 of the *Local Government Act 1993* and the *Road Rules 2008*
- Indemnify Council against all damages, sums of money, cost, charges, expenses, actions, claims and demands which may be sustained or suffered or recovered or made against 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 training sessions
- Comply with reasonable directions of Council's Rangers and other authorised Council officers in relation to any unacceptable practices, or to display evidence of the permit
- Keep a log book of significant accidents and injuries occurring during training sessions and advise Council of any injuries incurred on Council's property by Commercial Fitness Trainers or customers.
- Understand that the rights issued as part of the permit granted are not transferable.

Responsibility

Executive Manager Sport, Recreation and Leisure Facilities

Effectiveness of this Policy

The number of complying registered fitness providers, the communication between them and Council, and the level of fitness services and facilities provided to the community will measure the effectiveness of this policy and improve the management of the use of Council's open space.

END OF POLICY STATEMENT