

Warringah Council Policy

Policy No. PL 640 FITNESS

Policy for the Use of Council Open Space for Commercial Fitness Groups and Personal Trainers

1 Purpose of Policy

In implementing this policy, Council aims to:

- Ensure equity of access to Council's developed Open Space;
- Manage equitably the impact of commercial fitness activities on open space asset condition and maintenance; and
- Address and manage Public Liability concerns and risk exposure to Council in relation to commercial operations on Council and Crown land categorised as community land

1.1 Background

Personal fitness training is one of the strongest growth segments in the Fitness Industry. Increasing numbers of commercial fitness trainers using Council Open Space have raised a number of issues including:

- Equity of access issues – eg. potential conflict with displaced users, management of demand, noise, domination and monopolisation of areas and unpaid use of Council land by commercial operators.
- Impact on the asset – eg. trainers, especially of large groups, are causing wear and tear.
- Public liability concerns – eg. trainers with insufficient insurance.

1.2 Scope

This policy targets specifically the operation of Commercial Fitness Groups and Fitness Trainers relating to:

- One on one sessions and/or group activities.
- Use of beaches, parks, public reserves categorised as community land within the Warringah Local Government Area in accord with the requirements of the Local Government Act 1993 for the management of community land.
- Use of Crown Land under Council's Trusteeship

Council approved commercial fitness trainers must operate only in the areas specified in an approved permit.

In addition, where conflict exists between this policy and Policy CCS-PL 612 Interim Policy on the Management of the Commercial Use of Beaches, Reserves and Buildings/Facilities in Warringah, Policy CCS-PL 612 shall take precedence.

1.3 Groups excluded from this policy

This policy does not apply to:

- Sporting clubs
- Schools
- Surf Life Saving Clubs
- Corporate groups
- Defence Forces
- Social groups

Organised group activities undertaken on public reserves are however subject to an approval process under the general beach and reserve usage and booking procedures (See Reserves Booking Operating Management Standard).

2 Principles

2.1 Commercial fitness groups and personal fitness trainers must have a permit to operate at any public reserves.

2.2 Exclusion Zones

No commercial fitness training will be permitted in high activity areas and/or areas of cultural, environmental or natural significance. Specific areas where these activities are prohibited include but are not limited to the following:

- Intertidal Protected Areas (such as Dee Why Headland)
- Dee Why Headland (areas of bushland)
- Areas of Long Reef Headland (shown as environmentally sensitive in the Griffith Park Plan Of Management)
- Dee Why Lagoon Wildlife Refuge (excluding the developed areas of James Meehan Reserve)
- Manly and Curl Curl Lagoon water bodies
- Watercourses and wetland areas
- High conservation bushland (eg supporting threatened species)
- 10 metres from memorials
- 10 metres from any playground and play equipment
- 10 metres from any public change room, toilet or kiosk areas
- 30 metres from any neighbouring residential property
- 30 metres from any flagged area of beaches and/or as directed by the duty lifeguard
- Any designated sport ground when occupied by an approved hirer or allocated user
- Any rock pool when occupied by an approved hirer

Council may exclude other public areas at its discretion in the interests of meeting legislative responsibilities for the management of community land.

Council does not warrant that any public open space is suitable for the conduct of personal training or any other purpose. The permit holder must take steps to ensure that the area to be used is suitable for the intended purpose and use.

2.3 Permissible fitness activities under the policy (subject to Council approval)

- Resistance training
- 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 industry endorsed fitness activities having been submitted and approved by Council.

2.4 Excluded activities

- Any activity that is deemed to be aggressive or intimidating in nature whether real or perceived by participants or the general public.
- Amplified music or amplified audio (voice) equipment and loud shouting is not permitted.

2.5 Eligibility

The following criteria must be met by applicants to be eligible for a permit. Evidence of the following must be provided at the time of application:

- Current Senior First Aid Certificate
- Current public Liability Insurance which indemnifies Warringah Council to a minimum of \$10,000,000.
- Recognised qualifications (Certificate III or IV in Fitness) and/or registration with Fitness Australia.

2.6 Size of groups

Permits may be issued for groups of 1-20 excluding the applicant with the exception of Dee Why and Collaroy beach reserves and all rock pools where groups will be restricted to 10 excluding the applicant.

Council may consider larger groups by way of an approved Reserves Booking.

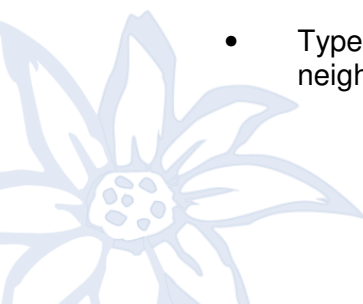
3 Permit allocation

A permit will be valid for a maximum of **one (1) year** and will authorise each trainer to use community land for fitness activities in accordance with this policy on a **non exclusive basis**.

3.1 Application process

Applications for permits and the number of permits to be issued will be determined by the Reserves Booking Officer 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.
- Type of activities being 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 factors, the Reserves Booking Officer may decide to:

- Approve an application and issue a permit.
- Issue a limited permit with restrictions on the number and type of activities, group size and time and location of the activities.
- Not approve the application.

One trainer only will be authorised by Council to operate at any one time under the permit issued. Other trainers providing assistance will be included as part of the training group number. In the event that the nominated trainer is unable to operate under the approved permit a replacement may be approved subject to meeting the eligibility requirements of this policy.

All trainers must be insured and eligible to operate under the permit in accordance with the policy.

3.2 Permit fees

Applicants can choose from a “one-off” annual permit fee or alternatively seasonal quarterly permit of 12 week duration. The fees for these permits are set out in the Council’s adopted Fees and Charges and are available on the Council’s website www.warringah.nsw.gov.au.

For 2010/2011 the fee schedule inclusive of GST is proposed as follows:

Category A Permits

Beach Areas and Beach Reserves

Groups 1-5	Per quarter	\$200.00
Groups 1-5	Per Year	\$700.00
Groups 6-10	Per Quarter	\$400.00
Groups 6-10	Per Year	\$1,400.00
Groups 11-20	Per Quarter	\$600.00
Groups 11-20	Per Year	\$2,200.00

Category B Permits

Non-Beach Areas and Sportsgrounds

Groups 1-5	Per quarter	\$125.00
Groups 1-5	Per Year	\$400.00
Groups 6-10	Per Quarter	\$225.00
Groups 6-10	Per Year	\$900.00
Groups 11-20	Per Quarter	\$350.00
Groups 11-20	Per Year	\$1,200.00

4 General Conditions

Any commercial fitness trainer operating under a permit approved by Warringah Council must:

- Provide only activities for which they are suitably qualified and have been approved by Council.
- Operate only in the areas and at the times specified by the Council permit.

- c. Manage the activities to minimise wear and tear on grassed areas (this includes rotating within the designated area and/or alternating activities).
- d. Comply with all reasonable directions of Council Rangers or other authorised Council Officers.
- e. Ensure all hazards are made safe and reported to Council immediately.
- f. Not assign their rights under this permit or attempt to transfer their rights to another person. The permit issued to an individual and is not transferable unless approved by Council in accordance with this policy.
- g. Always conduct themselves in a proper and orderly manner and be considerate to other users and adjacent residents when conducting training on public Open Space.
- h. Conduct their activities so as not to dominate, monopolise and/or obstruct any stairways or pathways.
- i. Not create any noise from training activities that may unreasonably disturb other users and adjacent residents. Noise associated with the activity shall not be audible at any residence eg: No whistles, horns, blasters, loud speakers, etc
- j. Not suspend boxing or kick boxing bags from trees and/or structures in the reserves.
- k. Ensure that any exercise equipment used is under supervision at all times and does not create any hazards or obstruction.
- l. Ensure that any training group, for which they are responsible, runs in single file when running in narrow areas.
- m. Ensure that their clients do not use inappropriately in any way picnic tables and park furniture.
- n. Ensure that the training area is restored to the same condition it was at the commencement of the training.
- o. Not sell clothing or equipment or refreshments or any other good, service or product. at the reserves etc
- p. Not display any unauthorised advertising signage including banners or unauthorised 'A' frame signs on Council's public reserves.
- q. Must provide on site advertisement of operator details and permit approval in a form approved/issued by Council.
- r. Not interfere with any Council approved or booked activity including, but not limited to a 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.
- s. Take responsibility for satisfying all occupational health and safety legislation and regulations.
- t. Ensure all fees and levies required by WorkCover or any other public body or statutory authority are paid.
- u. 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 during the conduct of a training session.



- v. Take out and maintain in their name, for the duration of the term of the permit, approved public liability insurance for a minimum of \$10,000,000 and produce documentary evidence of this at the time of application.
- w. Agree that, notwithstanding an implication or rule of law to the contrary, the Council shall not be liable for any damage or loss that the trainer and their clients may suffer by the act, default or neglect of any other person or by reason of Council failing to do something on or to the public space used.
- x. Ensure that all members of the training group are aware and comply with these conditions.

Council does not, and will not accept liability for any debts incurred by the trainer. 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.

5 Enforcing this policy

In accordance with council's Compliance and Enforcement Policy PDS-PL 120, where commercial fitness or personal training activities are observed (as described in this policy) without a permit, the operator will be directed to cease the activity and be instructed to apply for a permit from council within 7 Days. On subsequent occasions where the same commercial fitness or personal training operator(s) is observed to be conducting activities without a permit, the operator will be issued with a penalty notice under Section 626 of the Local Government Act 1993 — carry out without prior approval of council an activity specified in item 1 of Part D (Community land). Should the activity continue without approval, council will consider taking further legal action.

6 Termination

Council reserves the right to terminate its agreement with a trainer without notice 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 permit or the terms of the Council's Policy on the Use of Council's Reserves by commercial fitness groups and personal trainers.

A trainer whose permit has been terminated or application refused, can appeal in writing to the Director of Community and Environmental Services, Warringah Council, Civic Centre, 725 Pittwater Rd, Dee Why, NSW, 2099

7 Authorisation

This Policy was adopted by Council on 25 May 2010.

It is effective from 1 July 2010.

It is due for review in July 2012.

8 Amendments

Nil.

9 Who is responsible for implementing this Policy?

Manager Parks Reserves and Foreshores

10 Document owner

Director Community and Environmental Services

11 Related Council Policies

- a) Reserves, Beaches, Sports Fields and Rock Pools Operating Management Standard

- b) CCS-PL 612 Interim Policy on the Management of the Commercial use of Beaches
- c) PDS-PL 120 Compliance and Enforcement

12 Legislation and references

- a) Local Government Act 1993
- b) Local Government (General) Regulation 2005

13 Definitions

Open Space: Includes parks, beaches, rockpools, foreshores, reserves, sportsgrounds and streets.

