
Interim Policy on the Management of the Commercial Use of Beaches, Reserves & Buildings/Facilities in Warringah

1 Policy Statement

This policy provides a framework for the management of commercial use of Warringah's beaches, reserves and buildings/facilities, having regard to the natural environment whilst enhancing recreation opportunities for residents and visitors.

1.1 Policy Background

This policy has been prepared to manage the commercial use of open space. The Warringah Local Environmental Plan permits commercial use subject to other legislative restrictions. A policy framework is required to appropriately manage proposed commercial uses of Warringah's open space network.

1.2 The Purpose of this Policy

The purpose of this policy is to:

- provide a framework for the equitable, efficient and effective management of Warringah's beaches, reserves and open space buildings/facilities in respect to commercial activities.
- provide a process for the assessment of applications to Council for the use of Warringah's beaches, reserves and open space buildings/facilities for commercial purposes.

1.3 Scope of this Policy

This policy refers to commercial use of Community Land and of Crown Land, under Council's trusteeship. It is applicable to all public open space and buildings/facilities located on the public open space, and includes bushland reserves, waterways, neighbourhood parks, sports grounds, coastal open space and land designated for community use and mapped as public open space in Council's Local Environmental Plan.

It should be noted that many activities captured by this policy will require authorisation in a plan of management and are subject to standard development assessment and approvals under the LEP. **In addition, where conflict exists between this policy and state government policies that relate to Crown Lands, the state government policies take precedence over this policy.**

1.4 Objectives of this Policy

The objectives of this policy are to:

- provide a management framework which enables Council to manage the use of beaches, reserves and buildings/facilities for commercial purposes in an equitable, efficient and effective manner.
- enhance the recreation experience of beach and reserve users through the approval of commercial recreation activities while conserving the natural character and environment of the beaches, coastline, bushland and reserves.
- ensure broad community access to Warringah's public open spaces.
- fulfil the requirements of State Government and Council policies in relation to the management of Community Land and Crown Land under Council's trusteeship.
- achieve a financial return to Council which, at a minimum, covers the cost of administration and any costs associated with use of the open space by a commercial operator.
- provide Council, the community and commercial operators with a clear, open and accountable process for the assessment of applications for the use of open space and associated facilities for commercial activities.

1.5 Policy Management Principles

- Commercial use of Warringah's open space will be managed with regard to the natural environment, cultural and heritage values of the area. Where conflict exists between commercial use and protection of these values, the protection of the natural environment, cultural and heritage values will take precedence over recreational use.
- Protection of public safety and Council's risk exposure will be a paramount consideration in the assessment of applications for commercial use of Warringah's open space and associated facilities.
- Short and long term commercial use of the open space will be managed to ensure that the open space is not overused to the detriment of the environment or public amenity.
- Only those activities that are ancillary to the public recreation purpose of the land, do not unreasonably alienate the reserve and have a reasonable degree of community benefit, whether social or economic, will be considered.
- Council will aim to achieve a financial return from commercial use of open space, which recoups at a minimum the costs associated with administration, use of the reserves and additional maintenance.
- The use of beaches, reserves and buildings/facilities will comply with relevant Plans of Management.
- The principle of shared multi-use of community facilities will be applied in considering commercial activities.
- Allocation of commercial use opportunities will follow appropriate competitive selection procedures.

- To appropriately manage commercial use of open space by community organisations ensuring mutual benefit to the community groups, Council and the wider community.

1.5.1 Appropriate Commercial Activities

All commercial activities will be subject to the model conditions of use, which are outlined in Appendix A.

In general only those activities that have a clear link between the recreational use, reservation or categorisation and values of the open space area will be considered. That is, the activity must be an **ancillary activity** to the public recreational purpose of the open space. The following sections guide both the plan of management process and lease/licensing process as to what activities may be considered appropriate for inclusion within a plan of management and allowed on area of open space at any one time. **Again, any proposals on Crown Land must be acceptable under the relevant state government legislation and policies.**

1.5.2 Prohibited Uses

Specific activities that Council will not consider are documented below. In addition Council reserves the right to refuse any application.

- **Gaming** as described in the definitions.
- **Regular Merchandise sales** (except within approved organised markets and the sale of event-specific memorabilia not otherwise regularly available).
- Major fast food operations that essentially service a passing trade rather than the reserve users and cannot be regarded as ancillary to the reserve.
- Registered clubs as described in the Registered Clubs Act.
- Advertising not in accordance with Warringah LEP 2000 and State Environmental Planning Policy No. 64.
- Sale of tobacco products.
- **Amusement rides/infrastructure** (except in the case of designated community events.)

Restricted Areas

Due to environmental sensitivity, Plan of Management restrictions, or high levels of passive recreational use some open space areas, adjacent reserves and buildings/facilities will not be available for commercial activities. Only privately provided educational activities will be considered in these areas consistent with a plan of management. These areas are:

- 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 area of James Meehan Reserve)
- Manly and Curl Curl Lagoon water bodies
- Watercourses and wetland areas
- High conservation bushland (eg supporting threatened species)
- Manly Warringah War Memorial Park
- Allenby Park
- Areas of sensitive coastal open space
- Areas of Cultural & heritage significance (eg Aboriginal sites)

Other areas may be added at a later date in response to changing circumstances or as further defined in a plan of management.

1.5.3 Length of Use Conditions

The following section outlines what activities are considered appropriate for approval through a short-term casual licence or a longer-term agreement. This is to be used as a **guide** in preparing plans of management and assessing proposals.

Short term, casual use

Short term, casual use is defined in the Local Government Act and associated regulations and shown in the Definitions. All short term, casual use of open space will be managed according to these regulations.

In keeping with the above principles, the following types of short-term activities are considered appropriate for Warringah's public open space:

Beaches and adjoining reserves

Activities where there is a clear nexus between the activity and the beach/coastline/waterway. Whilst not a comprehensive list, these could include beach related sport, recreation and community based events such as multicultural festivals, beach volleyball, environmental awareness activities, surf and swimming carnivals, triathlons and other endurance events, fun runs/walks, food & beverage outlets and markets.

All other Open Space

Sport, recreation, cultural and social activities and other events, which are in keeping with the values of the area of open space and the principles of this policy.

Examples of activities that may be considered for short-term use within a plan of management would include:

- Corporate sports/recreational events
- Personal trainers
- Sports clinic

- Open air cinemas/concerts

Longer- term use

For uses of the reserve that exceed a short-term casual basis the provisions for publicly advertising and assessing lease/licenses required for community land shall apply for all public open space managed by Council (in addition to any requirements for Crown Lands). This is to ensure a consistent approach across all public open space.

In general longer-term activities must be appropriately authorised in a plan of management.

Activities that may be considered for longer-term commercial use within a plan of management would include:

- Food & beverage outlets, such as kiosks, cafes & restaurants
- Markets
- Recreational equipment hire, such as bicycles, watercraft or similar
- Recreational instruction/lessons such as surf schools, personal training and water safety
- Locker storage equipment

Usage Levels

Each beach, reserve and associated building/facility will have usage levels outlined in the relevant plan of management based on the system outlined in Appendix B. It is intended that this policy will guide the consideration of activities to be authorised in a plan of management. In the absence of a plan of management where the Local Environmental Plan allows only recreational facilities then Appendix C may be used to assist in this assessment.

Revenue Generated

Revenue generated from commercial use of beaches and reserves are to be allocated to the appropriate cash Reserve. Council's current Reserves are listed in note 6 of the Annual Financial Report and as of 30 June 2001, relevant reserves included 'Brookvale Oval Redevelopment' Reserve and 'Tennis Court Improvements' Reserve.

In addition Council with the adoption of this Policy established two new reserves. One is to be known as the Coastal Improvements and Maintenance Reserve. The second is to be known as the Parks and Bushland Improvements and Maintenance Reserve.

Further, Council through the adoption of this Policy, undertakes to expend revenue raised on Crown Land only on Crown Land.

1.6 Context**1.6.1 Relationship to Council's Strategies, Plans of Management and Strategic Plans**

Existing related policies include:

CCS-PL 610 Beach Services

CCS-PL 410 Community Facilities Management and Subsidies

ENV-PL 640 Allocation of Canteen Usage Rights on Playing Fields

ENV-PL 630 Approval for Circus performances

ENV-PL 620 Helicopter Landings on Council owned and controlled property

3.5.29 Reserves Booking Team/ Reserves Booking Policy

3.8.03 Filming Permits Council Land

3.5.23 Special Events Area - Playing Fields, Fitzpatrick Ave, Frenchs Forest

CCS – PL 310 Community Centres Policy

1.7 Evaluation Criteria

- Number of commercial activities approved that adhere to this policy.
- Number of applications received for the use of the beaches, reserves and buildings/facilities for commercial purposes that adhere to this policy, measured over time.
- Level of community satisfaction with approved commercial activities on beaches, reserves and buildings/facilities, measured over time.

1.8 Amendments

This policy should be reviewed two years from the date of adoption or when deemed necessary due to changes in the environmental sensitivity of the beaches, reserves and buildings/facilities.

Last amended on 7.8.06

1.9 Document Owner

Manager Strategy and Policy

1.10 Policy Register And File Number

The policy register number for this policy is:
CCS-PL-612

1.11 Authorisation

This policy was authorised by Council on 6 August 2002.

2 Policy Implementation

2.1 Implementation Responsibility

Manager Assets

2.2 Assessment Criteria

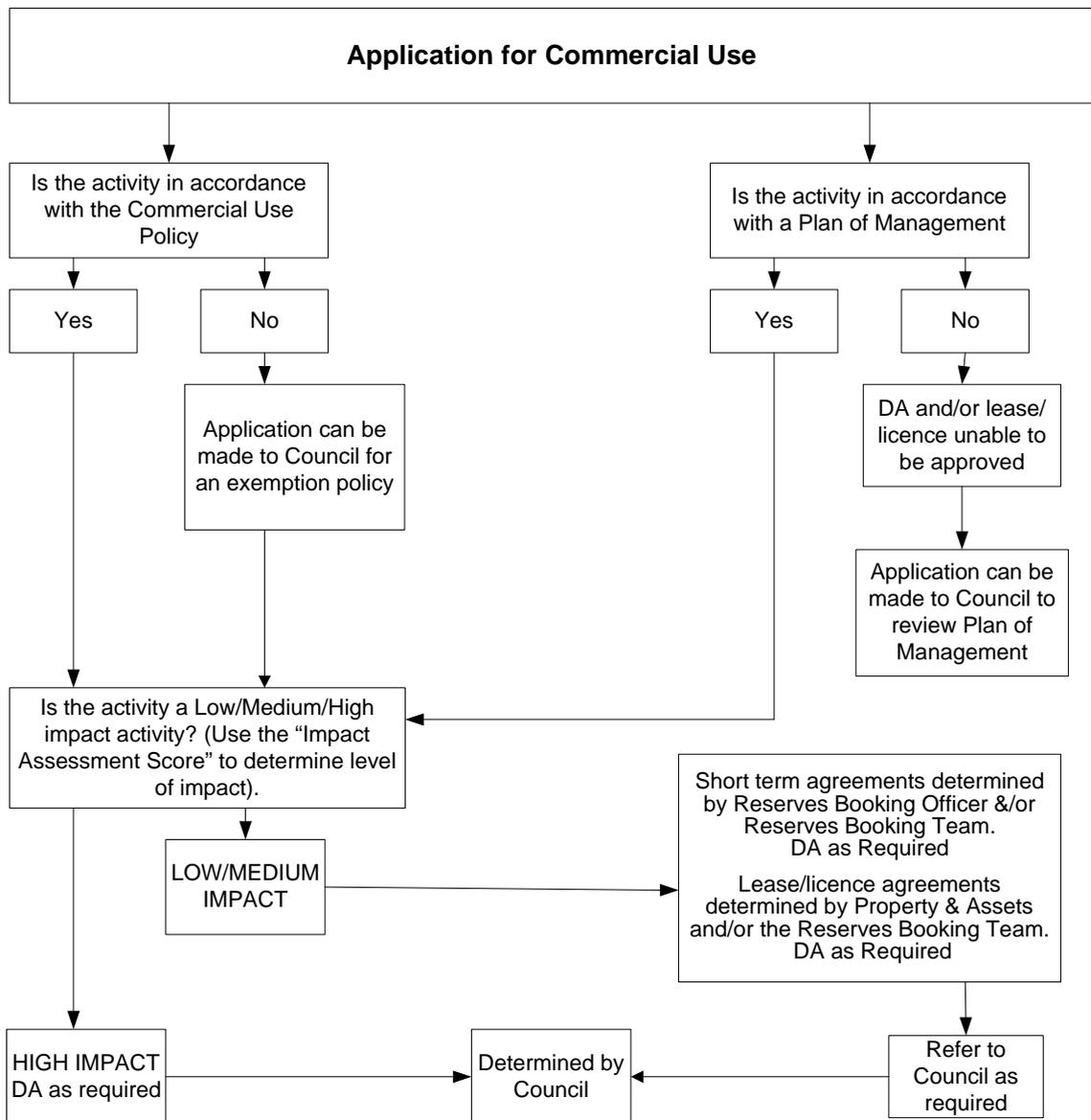
In preparing a plan of management or when determining an application for commercial use, proposals will be assessed by the reserves booking team and interim approval will be granted if the activity meets the following criteria.

1. That there is significant public benefit either in providing recreational opportunities or meeting a perceived community need.
2. That there is an identified gap in current service provision opportunities within the Warringah community. This includes non-profit or volunteer service providers.
3. That community access and unstructured use of the beach/reserve is minimally impacted.
4. That the level of risk associated with an activity, both for participants and community members in the vicinity, can be assessed and managed. This includes the adequate provision of public liability insurance coverage.
5. That it is assessed as having manageable social and environmental impact.
6. That it will provide economic and tourism benefit for the Warringah Community.
7. That the activity is ancillary to the public recreation purpose of the land.

Applications will be assessed as low, medium or high impact according to the criteria outlined in Appendix B.

Council maintains the right to approve other short-term events that may impact the commercial activity. Activities managed under a lease or licence will have an agreed level of exclusivity defined in the lease or licence agreement.

2.3 Assessment Process



See Appendix D for criteria used to assess the appropriate approval process.

2.4 Exemptions

Voluntary community organisations (such as surf life saving clubs) are not subject to the commercial return principles under this Policy. However, the principles established in Section 1.5 apply insofar as Council is not to be financially penalised from commercial activities conducted by voluntary organisations.

Any other group may seek to gain exemption from this policy upon application in writing to Council. Exemptions will only be granted where extenuating circumstances can be demonstrated.

Only Council can grant exemptions and this authority cannot be delegated.

Definitions

Amusement rides/infrastructure: refers to establishment of permanent structures for the operation of rides (including with use of animals), bungee, trampoline or the like.

Ancillary activities: refers to activities that are compatible with or supplement the public recreation purposes of the land.

Café: is a refreshment room or coffee shop which serves snacks, light meals and beverages to take away or be consumed on the premises or immediately adjacent seating.

Coastal open space: Refers to areas of open space managed in the Coastal Lands, Griffith Park and Dee Why Lagoon Wildlife Refuge Plan of Management.

Commercial use/activity: A commercial use's principle purpose is to derive profit to an individual(s) or (registered) company. For the purposes of this policy activities that occur in partnership, through agreement or otherwise, with a not-for-profit organisation are subject to the policy unless otherwise stated. In addition, fund raising by not-for-profit groups not associated with a Council sanctioned event are subject to this policy for the purpose of managing open space use only - that is, the revenue generating aspects of the policy do not apply. (Therefore a fund raising activity by not-for-profit groups at a surf carnival, or sporting competition or the like, are exempt for the purposes of this policy).

Gaming: any game of chance that is conducted for commercial return, including (but not limited to) poker machines, sale of lottery items and related products and totaliser operations.

Kiosk: an establishment that provides snacks, packaged and prepared light foods with non-alcoholic beverages to take away.

Regular Merchandise sales: Merchandise sales are those that essentially aim to sell goods or products to the general public on a regular basis. This may include souvenirs, clothing, household items etc. Infrequent one-off events that may be characterised as 'clearance sales' in community buildings are permitted.

Short-term (casual basis): The definition of a short-term activity is derived from the general regulations to the Local Government Act and is an activity where:

- (a) the use or occupation does not involve the erection of any building or structure of a permanent nature, and
- (b) in the case of any use or occupation that occurs only once, it does not continue for more than 3 consecutive days, and
- (c) in the case of any use or occupation that occurs more than once, each occurrence is for no more than 3 consecutive days, not including Saturday and Sunday, and the period from the first occurrence until the last occurrence is not more than 12 months.

Longer-term use: Any use that requires a lease, licence or other estate.

Recreation: Recreation is the participation in active and passive leisure and sporting activities. See Warringah LEP for a definition of recreational facilities.