

# Introduction of Permits for Personal Trainers and Commercial Fitness Operators in Parks / Gardens / Reserves

## Background

With increasing rates of obesity and diabetes in our communities, greater importance is being placed on our parks and gardens as a way to promote and provide opportunities for people to engage in physical exercise and adopt an active lifestyle.

Participation in physical exercise improves health, fitness, well being and quality of life.

## Purpose

The purpose of the 'Guidelines for Commercial Fitness operators in Parks, Open Spaces and Reserves' is to establish a fair and affordable framework that allows commercial fitness operators to be an integral and dynamic part of the local community through the sustainable use of parks and gardens while promoting the benefits of physical activity.

## Objectives

To provide a framework for commercial fitness operators to work in partnership with local councils with a view to:

- Promoting active and healthy communities by facilitating access to open space
- Ensuring equity of access to public open space for local residents, park users and commercial fitness operators
- Developing strategies to preserve park/reserves assets while minimising the impact and address any ongoing maintenance issues
- Ensuring operators are appropriately covered by public liability and professional indemnity
- Developing a universal code of conduct for all commercial fitness operators to be implemented across all municipalities
- Maintaining the enjoyment and use of all parks and reserves by local residents and park users
- Reduce the administrative burden and complexity for small business involved with local government

## Scope

It is envisaged that this document will help form the foundation for all municipalities undergoing the transition to managing open space for commercial fitness operators.

Initially it is recommended that a six month trial be introduced. This will follow the strategy adopted by the City of Port Phillip in consultation with commercial fitness operators and the fitness industries governing bodies, Fitness Australia and Kinect Australia.

## Definitions

### • Parks, open space and reserves

A park and/or public open space is defined in Part 1 No.7 General Local Law 2005 as a "Reserve":

"...any land within the Municipal District that is owned, occupied or controlled by the Council and dedicated or used for cultural, recreation or entertainment purposes, excluding those areas designated by Council as 'sports grounds'."

### • Commercial fitness operator

"A commercial fitness operator conducts an activity that is initiated for commercial gain and aimed at attracting participants for which fees are charged. Similarly commercial fitness operator includes any organisation or individual ("the permit holder") using a public park in order to deliver a product from which that organisation will derive income or profit."

### Permit Holder

A commercial fitness operator who has successfully applied to conduct fitness activities using a public park in order to deliver a product from which that organisation will derive income or profit. From the participants who attend.

### Guidelines

Public liability and Professional Indemnity Insurance  
A Certificate of Currency for Public Liability Insurance must be produced for a cover of at least \$10 million. It should include the following:

- expiry date of the insurance policy
- evidence that the insurance premium has been paid
- the names of all the insured parties
- details of what is covered under the policy
- details of all the exclusions (including policy excess)
- address for correspondence with the insurers (also their head office and/or their Australian office)
- detail of the insurer's local representatives
- claim forms and claims procedures.

Permit Holders must be a registered professional with Kinect Australia, Fitness Australia or other recognised peak body association membership and which membership 'Conditions' require all fitness trainers to be fully qualified.

### Instructor and business registration

All businesses to be registered (with documented evidence):

- Every trainer must be level 2 first aid qualified and be covered by insurance. Copy of qualifications must be provided.

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## Prescribed fitness training areas

- Exclusive use is not permitted; non-participants are not to be excluded from public open space
- Area to be left clean after each session. Trainer shall leave the training area in the same condition it was at the commencement of training
- Any damage occurred or cleaning required as a result of a booking will require all costs to be met
- Trainer shall be liable for costs for damage to Council assets that have occurred as result of the activities by the permit holder
- Trainer must manage the activities to minimise wear and tear on grassed areas (this includes rotating within the designated area and / or alternating activities).
- Inspect the area for any hazards before session and take appropriate action to remove hazard or alter session if required
- Trainer must report to Council in writing any hazards / issues/ park maintenance which require Council's attention
- Council reserves the right to suspend or cancel the use of the park during times when:
  - The grounds are unsuitable for the prescribed activity
  - Increased damage and deterioration to the ground surface could result from excessive usage or
  - Programmed maintenance needs to be undertaken

## Permitted fitness activities

- Permit Holder must only provide the activities for which they are suitably qualified and that have been approved by Council.
- Permit Holder is only authorised to provide the training sessions specified in their permit and must not sell clothing or equipment or refreshments or any other goods, service or product.
- Approved activities include but are not limited to:
  - Gym sessions (with or without hand weights, fit balls, skipping ropes etc)
  - Boxing and pad training
  - Organised aerobic activity and running groups
  - Circuit training
  - A combination of any of the above.
- Activities not permitted include:
  - Aggressive or intimidating activities including combat/ fighting training
  - Organised ball sports (restricted to designated sports grounds)
  - The offering for sale of clothing, merchandise, equipment, refreshments, goods, services or products

## Exempt Groups

The guideline does not apply to the following groups:

- Tai-Chi
- Meditative yoga
- Pilates - any other relaxation or balance based activities –
- Walking groups
- Surf Life Saving Clubs
- Activities performed by local schools under the supervision of a teacher
- Activities performed by local sporting clubs, associations under the conditions of a booking permit.

Any significant, organised activities these groups may wish to conduct on a public reserve would be subject to an approval process under Council's general beach and park usage policy.

## Classification and size of groups

Groups will be classified according to group size, being:

- Personal trainer: one-on-one or one-on-two
- Small groups
- Medium groups
- Large groups

## Fitness training equipment

- Permit Holder is to ensure that any exercise equipment does not create any hazards or obstruction to participants and non-participants
- Any equipment used must be portable by an individual by hand and free standing (ie equipment must not be pegged into the ground)
- The following equipment is not allowed:
  - Amplified music or use of amplified audio (voice) equipment
  - Gymnasium type equipment that requires setting-up (eg. weight benches, weight stacks, stationary bikes, punching/ boxing bags, treadmills, steppers etc)
  - Whistles and megaphones

## Promotional and advertising material

- Use of advertising ie. the display of 'A' frames and/or banners will require a written application as per Council's signage policy
- Permit Holder shall ensure that all promotional material is presented in a professional manner and does not contain any material likely to cause offence or embarrassment to any person or Council.
- Excluded promotional/advertising equipment include:
  - flyers
  - other forms of promotional material

## Health and safety

- Permit Holder is responsible for satisfying all occupational health and safety legislation and regulations, including sun smart practices eg. encouraging the use of sunhats and sunscreen, Sufficient protective clothing for the elements (thermals/raincoat in winter).
- Permit Holders to have access to a mobile phone and an emergency participant contact list.
- Permit Holders to have a basic first aid kit, mobile phone and pocket mask.
- Draft 'Emergency response/action plan' for all instructors to follow should an injury/illness occur to another instructor or client.
- Log book for all injuries/illnesses of serious nature.
- Pre session check with all clients re: any new injury complaints or concerns not already known.
- Physiotherapy contact for all clients before/during a course to discuss any personal or pre-existing issues.
- Buddy system to be implemented where two participants are to know the whereabouts of their partner at all times.
- Group sizes of larger than 20 participants are to be separated into smaller sub groups of less than 20 participants located at least 200 meters from each other.
- Special care must be taken while training in low-lit areas.
- Exposure to elements – check weather conditions prior/ undercover options for inclement weather.
- Clients to pass on any safety concerns to instructors and fellow clients immediately.

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## Participant pre-course medical screening

- The Permit Holders must disclose the exact nature and intensity of activities to be carried out.
- A client's prior 'medical' and 'exercise' history must be assessed over phone or in person
  - are they 'suitable' to commence a fitness course? Refer to local doctor/GP should they require medical 'clearance'.
- Pre-course injury prevention – provide a draft on 'how best to prepare' for a course (footwear/minimal physical parameters to commence).
- All clients to complete a detailed 'medical clearance' form prior to commencing (signed and dated).

## Local residents and park users

Any noise created by training activities shall not be audible from nearby residential properties:

- Permit Holder to comply with the EPA noise control guidelines.
- Language expectations (no indecent or intimidating language to be tolerated)
  - \*Consideration of offer park users and residents at all times
- Permit Holder and participants will conduct themselves in a proper and orderly manner and be considerate of other users and residents in the area

## Park structures, fixtures, amenities, buildings and vegetation Fitness trainers must ensure:

- Fitness activities do not dominate, monopolise and/or obstruct any stairways or pathways.
- Any training group, for which they are responsible, runs in single file when running in narrow areas.
- Clients do not step on, or walk on, or in any other way inappropriately use park furniture, structures, shrines, memorials, or public art works.

No Permit Holders is permitted in the following areas, or sites of; high pedestrian activity; cultural, social or environmental significance; or areas designated for children's play or family amenity. Specific areas where these activities are prohibited include, but are not limited to the following:

- Playgrounds
- Trees, garden beds and vegetation
- Picnic and barbecue facilities
- Park furniture, buildings and structures
- Public exercise stations
- Environmentally sensitive areas such as bush land, foreshore areas, including sand dunes.
- Socially or culturally sensitive areas, including memorials, cemeteries, shrines and public art works
- Any designated sports grounds without a specific booking
- Stairways within open spaces and public footpaths may be transited but not used for training activity
- Any other areas that may be nominated by Council at any time
- Any areas that may be temporarily closed by Council

## Public Liability

Council does not accept liability for any debts incurred by Permit Holders and shall not be responsible for any property of a Permit Holders or any other person that may be left on the site or for any loss of any property.

## Permit compliance

Non compliance of the guidelines or non fulfilment of certain criteria will result in the permit being revoked or the application being void.

## Permit duration

The permit duration will allow commercial fitness operators to plan and execute fitness activities on a sustainable basis.

## Permit renewal

On the renewal of the permit, Council will review and evaluate the permit holder's service and it's delivery in accordance with compliance to the Open Space guidelines.

With the mutual consent of both parties the permit will be renewed for another agreed period.

## Termination of permit

Council has permission to terminate its agreement with a trainer without notice if:

- The trainer has failed to comply with reasonable direction of staff or have breached the terms of the permit.
- Council receives a high level of complaints about a particular group/trainer or site Council reserves the right to restrict or cancel permit.
- Permit Holder is convicted of a criminal offence.

## Appeal of Council's decision

A Permit Holders whose permit has been terminated can appeal:

- In writing to the Chief Executive Officer or relevant Council Department.
- Make an application for investigation and Mediation of Complaint by the Small Business Commissioner.
- Lodge a complaint with the State Ombudsman.

## Assignment of permit/transferability of permit

The permit can be transferred to another commercial fitness operator if the business is sold or the permit holder is incapacitated.

## General Permit/Licensed Conditions of Use

The Permit Holder must:

- Carry permit certificate at all times.
- Not interfere with any Council approved or booked activities, including but not limited to, a wedding, birthday party, function, special event, sport or sporting activity that is being carried out on any Council owned or managed reserve.
- Not conduct activities on any areas that Council has withdrawn for use.
- Not bring any vehicles into the park.
- Remove all litter/waste at the completion of the session.
- Provide active and continual consultation/feedback to local 'rangers'.
- Notify council of all fitness trainers assigned to use the permit or notify council in the event that the fitness trainer is no longer involved.