

Name of policy:	Use of Public Open Space by Commercial Fitness Trainers		
Adoption by Council:	20 March 2024	Minute number:	99/2024
Last review date:	October 2023		
Review timeframe:	2 years		
Next scheduled review date:	October 2025		
Related legislation:	<i>Local Government Act 1993</i> <i>Crown Land Management Act 2016</i>		
Associated policies/documents:	MCC Open Space and Recreation Strategy 2023 - 2035		
Responsible division:	Liveable Communities		

Background

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 MidCoast 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.

Policy objective

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

MidCoast Council actively promotes healthy activity and encourages residents to utilise local parks and infrastructure for exercise, leisure and family activity.

Coverage of the policy

This policy applies to all MidCoast Council managed public open space within the Local Government area including beaches, parks, public reserves, public open spaces, footpaths, cycleways, and sporting grounds.

Policy content

The policy is designed to manage the public open space portfolio of Council managed land. This land is defined in the Open Space and Recreation Strategy 2023 – 2035 and includes all crown land that is managed by MidCoast Council and all publicly accessible community land.

The policy intent is detailed in the Policy Objectives and is defined as seeking to balance the different uses and users that access Council managed open space.

The enforcement of this policy is based on a license system. This system, managed and enforced by MidCoast Council, seeks to regulate the commercial use of our open spaces.

Fitness Australia's guidelines for commercial fitness trainers form the basis for the implementation of this policy. All applicants are encouraged to hold Fitness Australia professional registration¹ whilst conducting fitness activities on Council managed land.

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:

- 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 individuals (eg tai-chi or meditative yoga or similar)
- Not-for-profit walking, jogging or cycling groups, such as Parkrun.
- Defence Force and emergency services activities including exercise and training drills.

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

¹ <https://fitness.org.au/registration>

- 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 MidCoast Local Government Area:

- Aggressive and intimidating activities
- Outdoor recreational or fitness activities conducted with amplified music or voice including megaphones or whistles. For the purposes of this policy the following definition for music and noise will apply:
 - Noise associated with the event shall not be a source of "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997*. Amplified music or ancillary equipment must not be audible within a habitable room in any other residential premises (regardless of whether any door or window to that room is open).
- Dragging and/or flipping of 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.
- Fitness activities not to be undertaken where wet or adverse ground conditions are apparent.

Community Strategic Plan

The use of Public Open Space by Commercial Fitness Trainers Policy aligns with the following objectives of MidCoast Council's Community Strategic Plan:

Community Outcome 1: A resilient and socially connected community.

Our diverse communities offer active and social opportunities for everyone; they are safe and are places where we work together with a creative focus acknowledging our rich history and culture.

1.2 *We have access to a wide range of services and activities that contribute to the wellbeing of all members of our community*

1.4 *We protect the health and safety of our communities.*

Community Outcome 2: *An integrated and considered approach to managing our natural and built environments.*

Our natural environment is protected and enhanced, while we maintain our growing town centres and manage our resources wisely.

2.1 *We protect, manage and restore our natural environment and our biodiversity*

2.2 *We understand and manage environment and climate change risks and impacts*

2.5 *We balance the needs of our natural and built environment*

The policy also aligns with the objectives of the Open Space and Recreation Strategy 2023 – 2035.

Legislation

Related Legislation:

- Sections 68, 626, 627, 632, 650 and 651 of the *Local Government Act 1993*
- *Road Rules 2008*
- *Work Health and Safety Act 2011 – NSW*
- *Crown Land Management Act 2016*
- *Protection of the Environment Operations Act 1997*

References and related documents

- MidCoast Open Space and Recreation Strategy 2023 - 2035.
- Fitness Australia guidelines for fitness professionals

Open space availability

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

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:

- Within 10 metres of turf cricket wickets
- Baseball and Softball diamonds
- Trees, landscaped areas and gardens
- Coastal clifftop 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 areas
- 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 being used by 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

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

Compliance with terms and conditions of the 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.

Responsible officer (position)

Manager Strategy and Projects.

Appendix 1

Terms and conditions

Under this policy Commercial Fitness Trainers approved by MidCoast Council must:

- Must have their licence on them whilst conducting their activities and present it to an authorised Council officer when requested.
- 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 licence 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. 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 authorised officers in relation to any unacceptable practices, or to display evidence of the licence
- Keep a logbook 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 licence granted are not transferable.