

USE OF PUBLIC OPEN SPACE BY COMMERCIAL SPORT AND COMMERCIAL FITNESS TRAINERS POLICY

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**PREPARED BY:
SPORTS SERVICE UNIT**



4-20 Eton Street,
Sutherland NSW 2232
T 02 9710 0333
sutherlandshire.nsw.gov.au

SUTHERLAND SHIRE

USE OF PUBLIC OPEN SPACE BY COMMERCIAL SPORT AND COMMERCIAL FITNESS TRAINERS POLICY



1. PURPOSE

The purpose of this Policy is to provide for the effective management of the use of public open space by commercial sport and commercial fitness trainers.

The Policy aims to ensure equity of access to public parks, reserves, and other open spaces and that commercial sports and commercial fitness training activities are delivered in a way that minimises the impact on surrounding residents, protects public infrastructure and addresses public risk concerns.

This Policy supports Councils Delivery Program of “Optimise the use of our open spaces to provide best value opportunities for the community”.

2. APPLICATION

This Policy applies to:

- Council managed public open space within the Sutherland Shire Local Government Area, including all parks, stadiums, sports fields, sporting facilities, beaches, footpaths and open spaces/reserves; and
- All commercial sport and commercial fitness trainers conducting training sessions on these lands.

3. PRINCIPLES

3.1 Application of Principles

No one principle should be applied to the detriment of another. Principles must be collectively considered and applied to the extent that is reasonable and practicable in the circumstances.

3.1 Equity of Access

To ensure equity of access to public open spaces for all users providing equal opportunities of accessibility for the community. (Refer to Schedule for full conditions of access).

3.2 Minimise Impact on Surrounding Residents

To minimise the impact on surrounding residents by imposing usage conditions such as limitations on group sizes and permissible activities, hours and locations of usage and general conduct obligations (refer to Schedule for full conditions of usage).

3.3 Protect Public Infrastructure

To minimise the impact on and protect public infrastructure by applying usage conditions and annual fees.

3.4 Address Public Risk Concerns

Council approved commercial sport and/or commercial fitness trainers must conduct risk inspections prior to commencing any activities on Council land and report any concerns to Council within 24 hours.

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3.5 Support Council's Delivery Program

To support Council's Delivery Program to "Optimise the use of our open spaces to provide best value opportunities for the community" by enhancing our open places and spaces to promote active lifestyles and community wellbeing.

4. RESPONSIBILITIES

4.1 Responsible Officer

The Manager Sport and Leisure Services is the Responsible Officer for this Policy and is responsible for the implementation of this Policy.

4.2 Chief Executive Officer

Council has delegated the Chief Executive Officer the authority to exercise the responsibilities detailed in this Policy.

4.3 Directors

Directors are responsible for ensuring their Directorates adheres to the requirements of this Policy and provide guidance in respect of achievement of the strategic objectives of the Policy within their Directorate and the organisation.

4.4 Employees

Employees must adhere to the requirements of this Policy and operate within its authorities.

5. POLICY COMPLIANCE

Council has authorised officers who will enforce the provisions of the *Local Government Act 1993*, the *Crown Land Management Act 2016*, and the *Environmental Planning and Assessment Act 1979*. Authorised officers will be able to take compliance action should a commercial sport or commercial fitness trainer be using public open space for activities without council approval and permit.

The Manager Sport and Leisure Services will monitor, review and report on the effectiveness of the Policy.

6. RECORD KEEPING, CONFIDENTIALITY AND PRIVACY

Council adheres to and complies with the *NSW State Records Act 1998* and *Privacy and Personal Information Protection Act 1998* through its Access to Information Policy and Privacy Management Plan.

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7. BREACHES OF POLICY

Breaches of this Policy will be dealt with in accordance with section 2 of the Policy Schedule and will be advised to Director Shire Services via the Manager Sport and Leisure Services, where appropriate.

8. RELATED DOCUMENTS

- Open Space Strategy
- Play Strategy
- Sport Strategy
- Plans of Management and Masterplans
- Community Leasing Policy
- Compliance and Enforcement Policy
- Sutherland Shire Local Environmental Plan 2015

9. RELEVANT LEGISLATION AND REGULATIONS

- *Environmental Planning and Assessment Act 1979 (NSW)*
- *Local Government Act 1993 (NSW)*
- *State Records Act 1998 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Government Information (Public Access) Act 2009 (NSW)*
- *Crown Land Management Act 2016*

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10. DEFINITION OF TERMS

Term	Meaning
Open Space	Any parcel of land owned or under the control and management of Sutherland Shire Council.
Commercial Sports Trainer	The term 'Commercial Sports Trainer' where stated in this Policy refers to the teaching, coaching, or instructing of sport, for the purposes of conducting a business and to assist participants in the improvement of physical fitness and mental wellbeing. Engaging in such business involves the exchange of fee, reward or payment.
Commercial Fitness Trainer	The term 'Commercial Fitness Trainer' where stated in this Policy refers to those people owning, managing, teaching or instructing mental wellbeing and physical fitness training for the purposes of conducting a business for exchange, reward, fee or payment.
Electronic Permit Agreement and permit	The term 'Permit and/or 'permit agreement' where stated in this Policy refers to an electronic document that gives official permission from Sutherland Shire Council to a specific person, operator or company to conduct commercial sport, fitness training activities within a designated area of public space. A permit may be issued in accordance with the <i>Local Government Act 1993 (NSW)</i> and <i>Crown Lands act 2016</i>

End of Document

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Document Name: Use of Public Open Space by Commercial Sport and Commercial Fitness Trainers Policy		Policy Accountability Manager Sports and Leisure Services	
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SCHEDULE TO USE OF PUBLIC OPEN SPACE BY COMMERCIAL SPORT AND COMMERCIAL FITNESS TRAINERS POLICY



1. Application, Assessment, and Issue of Permit

- 1.1** Each commercial sport and commercial fitness trainer that this Policy relates to requires an approval approved permit by Council, pursuant to section 68 Part D, of the *Local Government Act 1993*, for example one business employing six trainers or coaches require six approvals, one in the name of each trainer.
- 1.2** The following criteria must be met to be eligible for an approval to provide commercial sport and commercial fitness training activities in Sutherland Shire local government area. Evidence of the following must be provided with the application:
- Current Public Liability Insurance - which indemnifies Sutherland Shire Council to a minimum of \$20m.
- 1.3** Applications for a commercial sport and commercial fitness trainers' approval will be assessed by Council Officers taking into account the following factors. Evidence of insurance and certification (as per clause 1.2) provided with an application:
- Type of activities to be undertaken and the potential impact on the public asset, other users and neighbouring residents during the times requested; and
 - Whether the activities will contribute to increasing congestion and or user conflict in the areas requested.
 - Whether the proposed training site is within an exclusion zone.
 - Following assessment of an application, a formal letter of approval or refusal will be sent, via email to the applicant, association or club providing relevant information.
- 1.4** Permits will be valid for the current financial year, expiring each year on 30 June. The permit will authorise each trainer to use open space for commercial fitness training activities strictly in accordance with this Policy on a non-exclusive basis.
- 1.5** An annual fee per trainer will be applicable under this Policy. All fee's will be as adopted by Council each year in its Schedule of Fee's and Charges.
- 1.6** Each approved commercial sport and/or commercial fitness trainer will be issued an electronic permit and an ID Card. This electronic document must be presented to Council Officers when requested.
- 1.7** Each approved commercial sport and/or commercial fitness trainer will be provided with a flag/sign that must be visible and clearly displayed at all times whilst sport and/or training sessions are being conducted.

2. Termination of Permits and Penalties

- 2.1** Council may terminate an approval to conduct commercial sport and/or commercial fitness training on public open space in the following circumstances:
- The qualifications criteria are not complied with, e.g. Incorrect Public Liability Insurance, First Aid/CPR or:
 - The approval holder has been issued with three or more written warnings and or penalty notices or any combination of warnings in writing or penalty notices for non-compliance with the Policy.
- 2.2** Council will issue 28 days' notice of termination in writing to the approval holder.

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2.3 Penalties may apply if the following offence(s) are committed:

- A commercial sport and/or commercial fitness trainer is found to be using public open space on a regular basis for training activities without Council approval: or,
- An approved commercial sport and/or commercial fitness trainer is not operating in accordance with the Policy.

3. Exclusion Zones

3.1 Commercial sports and/or 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 but are not limited to the following:

- a. Kareela Synthetic Fields (unless approval is authorised)
- b. Sutherland Shire Centenary Park, Karimbla Road, Miranda
- c. Playground areas (fenced & non fenced)
- d. Exclusive use of public outdoor fitness equipment in parks and reserves
- e. Park furniture picnic tables, shelters, seats and benches
- f. Bushland areas as defined as zone 14 in the SSLEP 2006
- g. Waterhouse Gardens, (known as Camellia Gardens) President Ave, Caringbah
- h. Forby, Sutherland Gardens, Sutherland
- i. Biddy Giles Park, Kirrawee
- j. Old School Park, GyMEA
- k. Monro Park, Cronulla
- l. Peace Park, Sutherland
- m. Bushland areas within Zone C2 Environmental Conservation of the Sutherland Shire Local Environmental Plan 2015 (unless approval is authorised)
- n. Group Use (i.e. 10+ persons) of public ocean pools including Cronulla, Shelly Beach and Oak Park, Ocean pools, Cronulla
- o. Any public and or private car park, roadway, laneway or areas that are generally used by motor vehicles
- p. Within 10 metres of memorials, memorial seats, club houses, playground equipment, and public change rooms, public toilets, kiosk areas, turf cricket wickets, (Tonkin Oval, Glenn McGrath Oval, Sutherland 1)
- q. Within 50 metres of residential properties
- r. Sporting facilities (Club Houses, Sports Fields, Netball Courts, and Athletic Tracks) that have allocated sporting and active groups and school (unless approval is authorised).
- s. Allocated community sporting clubs have the priority of use of sporting facilities outside of these times must be in accordance with Councils wet weather procedures, please call the weather line: 02 9710 0105.

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4. Permitted Fitness Activities Under this Policy

- 4.1 Only the following commercial sports and fitness training activities will be approved on all Council public open space not listed in clause 3.1.
- a. fitness sessions (with or without weights, fitballs, skipping ropes etc)
 - b. boxing and pad training
 - c. organised aerobic activity
 - d. yoga, tai chi and pilates
 - e. circuit training
 - f. a combination of any of the above
 - g. other pre-approved fitness and sport activity

5. Prohibited Activities

- 5.1 The following commercial sport and commercial fitness training activities are not permitted on Council public open space within the Sutherland Shire local government area:
- a. Aggressive, intimidating behaviour and conduct as determined by Council
 - b. Use of amplified music, timers, audio equipment and or loud commands/instructions
 - c. Pushing/Pulling/Flipping/Slamming/Dropping weighted items over any surfaces including, parks, sporting fields, hard court, synthetics, buildings and or structures in public open space
 - d. Portable fitness equipment/machinery such as spin bikes, rowing machines, weight machines, ski ergs (unless pre-approved)
 - e. Group training with companion animals off leash (excluding Wanda off leash area – hours of off-leash area operation apply)
 - f. Parking to unload/load equipment in a non-designated parking zone is not permitted.
 - g. Suspension of boxing/kickboxing bags, TRX, battle ropes or any training apparatus from trees, or structures in public open space and reserves.

6. Groups Exempt from this Policy

- 6.1 This Policy does not apply to the following groups; however, Council approval is required by these groups for use of Council owned and managed land in accordance with the following table:

Exempt Group	Application: Process for use approval
Local sporting clubs and associates	Councils Sports Services Unit via Council playing field and grounds allocation process
Local Schools	Councils Sports Services Unit via Councils playing field and grounds schools allocation process
Surf Life Saving Clubs	Council Beaches Operations Unit
Corporate Groups	Councils Sports Services Unit
Defence Forces	Council Sports Services Unit

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- 6.2** Any significant organised activities the above groups may wish to conduct on public open space would be subject to Council's event application process.

7. Risk Management

- 7.1** Council approved commercial sport and/or commercial fitness trainers must, prior to commencing any activities, inspect the immediate area 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, but within 24 hours, report to Council the hazard or any other hazardous matters observed during the training that may require Council's attention. Reports can be made via Council's website at [Sutherland Shire Council \(nsw.gov.au\)](https://www.sutherlandshire.nsw.gov.au) or by phone to 9710 0333.

8. Insurance

- 8.1** Council approved applicants 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 \$20 million (or such greater amount as Council may reasonably require) and produce documentary evidence of this at the time of application.
- 8.2** Council does not accept any responsibility for any injuries sustained as a result of the use of Council's public open space by a commercial sports and/or commercial fitness trainer and/or their clientele, as per the provisions of the Policy.
- 8.3** Commercial sports and/or commercial fitness trainers may be liable for damage caused to Council's public open space assets as a result of their use of these assets.

9. Business Interruption

- 9.1** Council will not accept responsibility or liability for any interruption to business caused by Council or any other authority conducting any special event, filming or type of maintenance works on approved public open space sites.

10. Open Space Availability

- 10.1** Council offers no guarantee of warranty that either public open space will be:
- Available at any time; or
 - Suitable for use

11. General Conditions

- 11.1** Under this Policy commercial sport and/or commercial fitness trainers must:
- Always conduct themselves in a proper and orderly manner and be considerate to other users and residents.
 - Not create any noise from training activities that unreasonably disturbs other users and or residents.
 - Ensure that any exercise equipment used does not create hazards, obstructions, or damage.
 - Ensure that any training group or client for which they responsible, runs in single file when running on footpaths or in arrow areas.

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- Not interfere with any Council approved or booked activities being conducted. On any Council property, as such a booking has priority over the trainers use. This includes the allocated community sporting use of sporting fields and grounds.
- Ensure that their training group or client do not use picnic tables and or park furniture to conduct training or to store any bags or equipment that would leave members of the public unable to utilise these facilities (see clause 5 Exclusion Zones).
- Leave the training area in the same condition it was at the commencement of training
- Notify Council of any damage(s) within 24hrs.
- Not display any advertising signage including banners, A-frame signs or any other form of signage in Councils public open space and reserves at any time.
- Vary or rotate their location for static and repeated training to reduce wear on turf, grounds, and other types of surfaces.
- Not suspend boxing/kickboxing bags or any training apparatus from trees, and structures in public open space and reserves.
- All equipment used for training sessions is to be stored off site. The erection of structures for the storage of fitness equipment is not permitted.
- Conduct training in public open space under the following hours of operation:
 - Daylight savings time – 6am until 8.30pm
 - Non-daylight savings time – 6am until 8pm (if adequate lighting is available)
 - Don Lucas Reserve, Wanda (or other approved sites) permitted use from 5.30am
 - Adhere to the size of groups as indicated in permit application approval.
 - Park in designated parking areas in accordance with parking control signs. Parking on grassed open space, athletic tracks, grandstands, and other non-parking areas is not permitted and may incur penalties in accordance with sections 632, 650 and 651 of the *Local Government Act 1993 and the Road Rules 2008*.

End of Document

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