

STRATEGY AND POLICY REVIEW COMMITTEE
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POLICY AND PLANNING

A8

**USE OF COUNCIL RESERVES BY
COMMERCIAL HEALTH AND FITNESS
GROUPS AND PERSONAL TRAINERS**

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ATTACHMENTS:

**GUIDELINES FOR THE USE OF COUNCIL
RESERVES BY COMMERCIAL FITNESS
GROUPS AND PERSONAL TRAINERS**

1. EXECUTIVE SUMMARY

- 1.1. This report discusses the use of Council reserves, by commercial health and fitness groups and personal trainers. It proposes regionally (Bayside, Kingston, Frankston and Mornington Peninsula Councils) developed general principles, which would guide Council's management of these activities.
- 1.2. Guidelines have been developed for the use of Council Reserves by Commercial Fitness Groups and Personal Trainers based on the regionally developed principles. The guidelines will support healthy and active lifestyles whilst ensuring preservation and protection of the social and physical environment of public open space.
- 1.3. The Community Plan 2007-2017 identifies the preservation of open spaces as a key priority. The 2006 Community Plan survey indicated that 52.7% of residents identified beaches, foreshore and the bay as what they most value about Port Phillip and 30% identified parks gardens and open areas as what they most value.
- 1.4. The Sport and Recreation Strategy recognises the benefits from providing sport, leisure and recreation opportunities and has a key target of improving community health and vitality
- 1.5. Having an agreed set of principles and procedures better enables councils to manage the conduct of the commercial health and fitness groups in a manner that reflects community and environmental values. It also provides a level of transparency and consistency of process that the peak fitness bodies are able to advocate to their members.
- 1.6. The regional approach has been strongly supported by the peak fitness bodies. It also deters commercial operators from 'window shopping' from council to council, thereby sharing the land use more equitably.

2. BACKGROUND AND CONTEXT

- 2.1. Parks, reserves and the foreshore are highly valued by the Port Phillip community. The 2006 Community Plan survey indicated that 52.7% of residents identified beaches foreshore and the bay as what they most value about Port Phillip and 30% identified parks gardens and open areas as what they most value.
- 2.2. Management of the use of public reserves within the City of Port Phillip is regulated by the Local Government Act 1989 and Crown Lands Reserves Act 1978, Council's Committee of Management obligations for care and management of public spaces and Council Local Laws.
- 2.3. There has been an increase nationally in the presence of commercial health and fitness training groups using public open space, particularly along the foreshore. Personal Fitness training is one of the strongest growing segments of the Fitness Industry. The increased use of public reserves by commercial fitness trainers has raised a number of issues including:
 - 2.3.1. Competition and equitable access to limited public open space
 - 2.3.2. Managing impacts generated by organised fitness training groups on the public open space, park assets and other park users
 - 2.3.3. Effective management and regulation of personal trainers conducting activities on public opens space, including public liability and occupational health and safety concerns for Council, participants and personal trainers
- 2.4. Health and fitness activities are a normal part of foreshore/reserve use and its inherent value to personal well being is acknowledged. However the growing demand and commercial nature of these groups highlighted the need for Council to manage these activities in a manner which supports healthy and active lifestyles whilst preserving and protecting the social and physical environment of public open space.
- 2.5. Port Phillip, Bayside, Frankston, Kingston and Mornington Peninsula Councils have formed a working partnership to provide a regional response to managing these activities on council managed land.
- 2.6. As part of the regional response the following has occurred;
 - 2.6.1. Significant benchmarking and discussion with other council's both in Victoria and nationally that identified that whilst there was not a consistency in management processes, one of the areas that was common was the issue of growing "non compliance" of fitness trainers
 - 2.6.2. To address the issue it was agreed that support was required from the fitness industry accreditation bodies, a joint education and communication program and authority to be able to "enforce"
 - 2.6.3. Each of the regional partners consulted with key departments within individual councils including planning and local laws
 - 2.6.4. External advice was also sought which confirmed the advice from the Council planning departments that these activities do

not require a planning permit and are better managed through the Council Local Law permit processes.

- 2.6.5. The Department of Sustainability and Environment (DSE) are conducting a reform of commercial tour and activity operator's use of public lands managed by DSE. It "seeks to create a licensing system that ensures environmental protection and safety of the participants and encourages a more sustainable industry". Advice provided by DSE, was that council management of the foreshore for commercial health and fitness training is not inconsistent with the Victorian Coastal Management Strategy or the direction of the DSE reform project.
- 2.7. The two key peak fitness bodies Kinect and Fitness Victoria were consulted and supported the regional approach agreeing to collaborate in promoting and endorsing the proposed general principles and "code of conduct" through their networks.
- 2.8. Health and fitness groups have not been included with other commercial arrangements managed under a leasing or licence system, as the activity does not require infrastructure, static equipment or exclusivity of land use. Currently, similar activities are typically managed through the booking or allocation of Council open space, and this is considered appropriate.
- 2.9. The general principles that have been developed with the regional bayside councils and supported by the two peak state fitness bodies are:
 - 2.9.1. Councils support managed commercial health and fitness groups using councils' reserves, with the primary consideration given to land management and conservation, community access and amenity.
 - 2.9.2. Councils' Local Laws provide the authority, scope, usage objectives and enforcement to manage the activities.
 - 2.9.3. Formalised booking to be aligned with the current seasonal allocation processes.
 - 2.9.4. Bookings will only be taken from accredited trainers who are registered with the recognised peak bodies with the trainers having appropriate insurance cover.
 - 2.9.5. The terms of use will ensure that social, cultural and environmental impact is minimised and will only be in appropriate designated areas.
 - 2.9.6. Under the Council permit, bookings would not exceed groups of 15 participants; conduct must not be aggressive or intimidating; noise cannot disturb the "quiet enjoyment" of other users or residents; signage will not be permitted; there must be no damage to any assets; and any equipment used must be portable by hand.
 - 2.9.7. Education with the phasing in of permit requirements and a code of conduct will be done in partnership with the peak industry bodies, regional council partners and council officers.
 - 2.9.8. The fees and charges schedule be amended to reflect the "user pays" principles of this activity.

- 2.9.9. Pricing will balance the commercial nature of the activity with the community health benefits.

3. RECOMMENDED OPTION

3.1. Criterion for recommendation

It is recommended that Council endorse the regional general principles and City of Port Phillip Guidelines that are based on these general principles that will guide Council's management of the use of Council reserves by commercial fitness groups and personal trainers.

These principles aim to manage these activities in a manner that balances supporting safe, physical wellbeing activity, protection of the natural asset and maintains community access and amenity.

3.1.1. Exclusion Area

In managing the use of reserves by commercial health and fitness operators and personal trainers exclusion zones will be identified. There would be no organised or commercial fitness training or organised ball sports permitted in the following areas or sites of: high pedestrian activity; horticultural, cultural, or environmental significance; or areas designated for children's play or family amenity. Specific areas where these activities would be prohibited include:

- Playgrounds
- Picnic and BBQ facilities
- Public Exercise Stations
- Memorials
- St Kilda Botanic Gardens
- Environmentally sensitive areas such as bushland, foreshore areas including sand dunes
- Cemeteries
- Any designated sports field without a specific booking
- Stairways within open spaces and on public footpaths may be transited but not used for static or circuit training
- Static training (in one spot) along the shoreline of City of Port Phillips six beaches at Elwood, St Kilda, Middle Park, South Melbourne, Port Melbourne and Sandridge.

3.1.2. Purpose

In implementing these principles Council aims to assist promotion of active and healthy communities; ensure equity of access to public parks and reserves; reduce the impact of

commercial fitness activities on asset condition and maintenance; and minimise public liability concerns

4. SUSTAINABILITY ASSESSMENT

<p>Social Pillar</p>	<p>Parks, reserves and the foreshore are highly valued by the Port Phillip community and health and fitness activities are normal part of foreshore/reserve use and its inherent value to personal well being is acknowledged.</p> <p>The social and health benefits from participating in supervised, safe health and fitness activities is acknowledged and encouraged. The use of pleasant outdoor spaces to conduct physical activity also enhances community and personal wellbeing.</p> <p>The development of the general principles will have as primary consideration maintaining the community access and amenity of parks, reserves and foreshore.</p> <p>The principles allow Council to manage these activities in a manner which supports healthy and active lifestyles whilst preserving and protecting the social and physical environment of public open space.</p>
<p>Economic Pillar</p>	<p>Currently there is minimal “recoup” from the commercial providers for the use of Council reserves. A review of pricing will balance the commercial nature of the activity with the community health benefits. The fee structure is only to recover direct costs of the application process and extent of usage to assist in the effective management of the use of public open space.</p>
<p>Environmental Pillar</p>	<p>The protection and preservation of Council’s natural assets is core to the proposed general principles. The process will provide Council with a better ability to manage, and regulate the use of Council reserves by the commercial providers. Having well articulated principles and processes will assist the fitness industry to promote to its members respect for environmental protection and community open space.</p>
<p>Cultural Pillar</p>	<p>Many of our local cultural and heritage icons are located on public open space, these will not be impacted by better management of reserves in relation to use by commercial health and fitness operators.</p>

4.1. Policy and legislative implications

4.1.1. Councils Open Space Strategy 2006 details a number of principles which are intended to guide future decisions taken by Council in regard to the supply and management of public open space. Specifically ‘Principle 2’ states that ‘Commercial events in parks need to demonstrate net community benefit. The impacts of commercial events upon public access to open space will be monitored and regulated’.

- 4.1.2. The proposed guidelines are consistent with achieving a key target in the Sport and Recreation Strategy which looks at increasing participation in physical activity by 10%.
- 4.1.3. The Community Plan 2007 -2017 also highlights that open space and its use and preservation are important and valued, and the guidelines seek to ensure this.

4.2. Risk implications

- 4.2.1. Council has a responsibility to take reasonable measures to manage risk and protect assets. The development, endorsement and promotion of Council's requirements for this use of Council reserves will assist both.
- 4.2.2. To provide a safer environment for participants, applications will only be taken from accredited trainers who are registered with a recognised peak body with the appropriate insurance cover.

4.3. Resource implications

- 4.3.1. There are no financial resource implications with this option

5. ALTERNATIVE OPTIONS

5.1. Alternative 1

Council could choose not to endorse the regionally developed general principles and either 1) continue to allow use without permits and therefore not manage the level of use or 2) adapt its own principles. This could result in;

- Increased use by commercial health and fitness operators and personal trainers within City of Port Phillip
- Damage to reserves where there is increased use
- Increased impacts on the community

5.1.1. Policy and legislative implications

Not endorsing the proposed principles and or introducing a framework to managed the use of council reserves by commercial health and fitness operators and personal trainers is not consistent with Council's 2006 Open Space Strategy

5.1.2. **Risk implications**

Not implementing the regionally developed principles could result in greater use and less protection of reserves increasing the risk of damage caused by over use.

5.1.3. **Resource implications**

Increased use of Council Reserves could result in increased damage resulting in higher maintenance costs

6. PARTICIPATION AND ENGAGEMENT

6.1. **Internal**

6.1.1. The people who have been engaged with in relation to this issue are:

- Community Development Officers Sport, Recreation and Leisure, Patrick Jess and Helene Agius
- Local Laws Coordinator, Kirsten Hughes
- Senior Urban Planner, Simon Gutteridge
- Manger Culture and Recreation, Ian Hicks
- Coordinator Open Space, Dwayne Carter
- Risk Management and Insurance, Adviser Julie Snowdon

6.2. **External**

6.2.1. The external people and/or organisations who have been engaged with in relation to this issue are:

- Bayside City Council
- Kingston Council
- Frankston Council
- Mornington Peninsula Council
- Kinect
- Fitness Victoria

7. IMPLEMENTATION

7.1. The guidelines would be implemented in October 2008 initially for a six month trial period.

7.2. In the initial six month period no fees would be charged.

7.3. The guidelines/permit process would be implemented by the sport and recreation unit.

- 7.4. The intent of these principles and guideline is to ensure the effective management of Council reserves supporting healthy and active lifestyles whilst preserving and protecting the social and physical environment of public open space.
- 7.5. It is proposed that in the trial period the fee be waived. Following the trial period an evaluation would occur and fees would be introduced. Pricing of fees will balance the commercial nature of the activity with the community health benefits. The fee structure is only to recover direct costs of the application process and extent of usage to assist in the effective management of public open space.

8. COMMUNICATION

- 8.1. A communication plan will be developed that via the fitness peak bodies will focus on educating fitness and training providers on their obligations and also inform the community about the process for management of these activities in public space.
- 8.2. Information will be provided on the Council's web site and an information sheet will be available
- 8.3. These guidelines provide a way forward in managing the impact of personal training on public space and community use, while ensuring that we retain a diversity of opportunities for people to participate in recreation and fitness.

9. RECOMMENDATION

That the Strategy and Policy Review Committee recommend that Council resolve to:

- 9.1. Note this report on the use of Council reserves by commercial health and fitness groups and personal trainers.
- 9.2. Endorse the proposed general principles for the use of Council reserves by commercial health and fitness groups and personal trainers.
- 9.3. Endorse the guidelines for the use by City of Port Phillip in the management and administration of reserves by commercial health and fitness groups and personal trainers.