



Fitness Training Policy

March 2021



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Fitness Training Policy details

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Open Space, Recreation and Community Resilience

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We embrace difference and people belong

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Purpose

To provide a framework for the City of Port Phillip to manage fitness trainers across the municipality, and support a range of fitness opportunities that reflect the cities diverse community.

Outcomes

The key objectives of this policy are:

1. To preserve the quality and longevity of public open space and council assets within these spaces
2. To ensure fitness training activities do not unreasonably impact community access to public open space
3. To ensure all who recreate on Council owned and managed land within the City of Port Phillip are provided with a safe environment to do so
4. To provide equity in the management of outdoor fitness trainers, considering other fitness and commercial recreation providers and events who operate in the municipality
5. To provide health and wellbeing opportunities to support physical and mental health for all members of the community through outdoor fitness training

Definitions

| Term | Definition |
|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Council, City and CoPP | Refer to the City of Port Phillip |
| Council Land | Land, buildings and facilities which are owned or occupied by or vested in Council or in respect of which Council has the care and management to which the public has access whether an entry fee is paid or not and includes a public place |
| Council assets and public assets | Footpath, kerb and channel, nature strip, parking signs, irrigation or sprinkler systems, trees, shrubs and other vegetation, street furniture, vehicle crossings or other Council property or works forming part of a road or Council land |
| Crown Land | Land that is managed and controlled by Council as the appointed Committee of management under the Crown Land (Reserves) Act 1978 by the Department of Environment, Land, Water and Planning (Victoria State Government) |

| Term | Definition |
|--------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DELWP | Refers to Department of Environment, Land, Water and Planning which is a state government department responsible for protecting the environment, climate change, managing water resources, land and emergency management and providing guidelines and licences for Tour Operators |
| Tour Operator Licence (TOL) | Licence issued by DELWP to a person who conducts an organised tour or outdoor recreational activity for profit on public lands in Victoria |
| Open space and public lands | Refers to land administered under the Crown land (Reserves) Act 1978, Land Act 1958, 'National Parks Act 1975 and Forest Act 1958 |
| Permit | An official document issued under Local Law that authorises a use or activity |
| Permit holder | Refers to the person who has been issued the permit |
| Commercial fitness activity or Fitness activity | Any individual or group fitness activity involving a commercial fitness trainer, who derives a payment or reward, either directly or indirectly, in connection with such fitness activities |
| Commercial fitness trainer or Fitness trainer | A person who conducts commercial fitness activities (with any number of participants) |

Scope

This policy applies to all commercial fitness activities conducted in public open space on Council owned or managed land within the City of Port Phillip (CoPP), including the issuing of permits.

A permit is required for:

Any individual or group fitness activities involving a commercial fitness trainer who derives a payment or reward, either directly or indirectly, in connection with such fitness activities on Council owned or managed land.

The policy does not apply to sports clubs and their activities, or events, which are managed separately by Council.

Policy

Background

Fitness training provides a health and wellbeing benefit to individuals and is a valuable service to the community. Council is committed to facilitating a safe and active community. Physical activity reduces the risk of many chronic diseases and burden on the health care system, can improve mental health and promotes social connectedness and inclusion. Fitness training is an important part of Council's commitment to provide and facilitate a diverse range of sport and recreation programs and services to the Port Phillip community (Sport and Recreation Strategy 2015-2024).

Fitness training was included in CoPP Commercial Recreation Policy between 2011 and 2019. When a new Commercial Recreation Policy was endorsed in June 2019, fitness training was removed. This was because the Department of Environment, Land, Water and Planning (DELWP) changed the requirements for fitness trainers operating on Crown Land, which meant they were not required to go through a competitive licence allocation process, had a fixed licence fee and the user fee that other commercial recreation providers are required to pay was waived.

Many of the City's parks, gardens and foreshore is Crown Land, managed by Council as the Committee of Management. Any commercial fitness activity conducted on Crown Land, requires a Tour Operator Licence issued by DELWP. For streamlined management, one policy will be used to manage fitness training in the City of Port Phillip on both Council owned and Council managed land.

At the time of writing this policy, DELWP is reviewing its Tour Operator Licence policy and framework and CoPP is working with DELWP through this process to ensure allocation of open space and associated fees are fair, equitable and in line with Council priorities for all user groups. Future changes to DELWP policy and framework will be applied to this policy as appropriate.

Fitness training

Permissible activities

Fitness activities permissible under this policy include (but are not limited to):

- Boxing and pad training
- Organised aerobic activities
- Yoga, Tai Chi, Pilates and like activities
- Bootcamps and Circuit training
- Jogging and running drills
- The use of swiss balls, skipping ropes, foam mats, medicine balls, free weights (under 10 kg)
- Combination of any of these activities

Excluded activities

Fitness activities not permitted under this policy include:

- Organised ball sports
- Aggressive or intimidating activities including combat/fighting training
- Activities using heavy gymnasium equipment or structures
- Any activity that causes (or has the potential to cause) damage or wear to grass areas, trees, vegetation, paving or park fixtures, including:
 - Dragging tyres, equipment over grass areas
 - Driving vehicles on grass areas
 - Tying ropes around park fixtures or trees
 - Using park seating for step ups
 - Equipment attached to Council assets, including battle ropes or an type of resistance equipment

Fitness training sites

There are specific parks, gardens, reserves and foreshore areas where fitness training is permitted, as outlined on the Council website: www.portphillip.vic.gov.au

Permits will specify sites, times and any exclusion zones within the permitted areas i.e. pavilions and verandahs.

Availability of sites may vary with the seasons due to change in conditions and other uses.

Fitness activities must only be conducted in the specific areas allocated in the permit at the specified times.

No more than two areas can be allocated per permit.

Exclusivity

The area permitted can be a maximum of 20m by 20m within the allocated site.

At the start of each session, the permit holder must clearly mark a temporary exclusion zone, using cones or similar. The area marked must not already be occupied by other users.

The permit holder is entitled to exclusive use of the marked zone for the duration of the training session. The permit holder can request that others don't enter the exclusion zone once set up, however cannot request other users to remove themselves in order to mark out their exclusion zone.

All permit holders must conduct a pre site check to ensure safety of area to conduct activity.

Permit holders, must ensure that they and their participants respect, and be mindful of all other users of public open space.

Hierarchy of use

In the case of allocation conflict at a permitted site, events and sporting activities will take precedence over fitness activities in all public open space areas.

Permit holders will be issued with a schedule of major events at their allocated sites and directed to the Council website to keep up to date with changes to event schedules. Major events will include set/pack up times either side of their event date, and it is the responsibility of the permit holder to contact Council regarding these times.

Land management

The use of an allocated area may be restricted or removed at Council discretion. This includes (but is not limited to) the following:

- Inclement weather
- Deemed unsafe for use
- Undertaking maintenance works, surface repairs, redevelopment works or major capital works
- Amenity issues arising from training sessions
- Emergency or security reasons
- Provision of regeneration time due to overuse

In the case of site allocation being restricted or removed, Council will endeavour to provide an alternate training site during this time. Allocation will be dependant on the availability and suitability of other designated fitness training sites.

Site selection

All approved fitness training sites satisfy CoPP site selection criteria to ensure they are fit for purpose and aligned to the Council Plan. Sites are formally assessed annually and reviewed seasonally, to ensure they are appropriate for fitness activities and satisfy Council's strategic objectives.

Restricted areas:

Fitness activities cannot be conducted on or within 10 meters of the following:

- Playgrounds and play equipment
- Skate parks
- Picnic and BBQ areas
- Memorials, statues, public art works or cenotaphs
- Park furniture, buildings and structures
- Stairs and pathways
- Environmentally sensitive areas such as bushland and sand dunes
- Sports pavilions
- Informal recreation structures and fitness stations
- High wear areas of sports grounds including cricket pitches, centre squares, goal squares, centre corridor and bench/dug out areas

Permit

A Council permit is required to conduct outdoor commercial fitness activities on Council owned or managed land and is provided by Council (Land Manager). Approved fitness activities performed on Council managed land must be in accordance with the Local Government Act 1989.

Permits are issued to individual trainers, not the business entity. The applicant is considered the primary trainer and each primary trainer is required to have their own permit. The permit covers the primary trainer, and one additional replacement trainer, for circumstances where the primary trainer is unable to conduct a planned session. The replacement trainer must be named on the application.

The number of permits that Council will issue is dependent on the availability and suitability of the specific fitness training sites.

If the nominated training sites include Crown Land, the applicant may also be required to enter into a Tour Operator Licence agreement under the Crown Land Acts Amendments (Lease and Licence Terms) Act 2009. This process will be managed by Council.

Schedule of obtaining a permit

A permit will be issued for the financial year at the time of application and is valid until the end of that financial year (30 June). Permits require renewal at the start of each financial year (1 July).

Applications for fitness training permits can be submitted at any time during the year, but all permits expire 30 June.

Applications will be assessed and processed within seven to twelve business days of submission.

Fees

Fitness trainers are required to pay an annual fee, when their application for a permit has been approved. A permit will be issued after the fee is paid in full.

The DELWP Tour Operator Licence Fee structure will be adopted, which requires fitness trainers to pay a fixed annual licence fee. This is set through the annual Council budget process.

Pro rata fees are not applicable and no refund of fees will be provided for fitness trainers wishing to cancel their permit prior to the expiry date, or if an area allocated in their permit is not usable during the permit period.

The permit holder must reimburse Council for the full cost of repairing any damage or destruction caused by their activities, where the Permit holder is negligent. Permits may be suspended, or future permit applications may be denied until this fee is paid in full.

At the time of writing this policy, DELWP is reviewing its fee structure. Council will work with DELWP to ensure future fees are fair, equitable and in line with Council priorities and future fee changes will be applied to this policy

Unforeseen Circumstances

In the event of unforeseen circumstances, such as a pandemic, all personal trainers will be required to adhere to Federal, State or Local Government regulations.

Application

Mandatory requirements

The applicant must provide the following documentation:

- City of Port Phillip Risk Assessment Form (including emergency response plan)
- Current Public Liability Insurance (\$20 million minimum)
- Current Peak Body Registration (Fitness Body/State Sporting Association)
- Current First Aid and CPR qualifications

Submission process

- Fitness trainers must complete and submit the application form, which can be found on the Council website www.portphillip.vic.gov.au Applicants must specify:
 - Preferred location/s for training
 - Preferred days and times for training (for summer and winter seasons)
 - Estimated number of participants per session (up to the maximum number permitted – see Conditions of Use)
 - The types of activities that will be conducted
 - Typical equipment used for the activities
- Once approved, the applicant will be required to pay the annual fee upfront, before Council issues their permit
- If the applicant is required to enter into a Tour Operator Licence agreement:
 - The City of Port Phillip will prepare the licence agreement documentation, upon payment of the annual fee by the applicant
 - Applicants will be required to sign three copies of the licence agreement
 - The City of Port Phillip will complete and submit a Tour Operator Licence application to DELWP on behalf of the applicant (timeframe for completion can vary depending on approvals).

Assessment of application

Applications will be approved at the sole discretion of Council . To be issued a permit the following criteria must be satisfied:

- Meets all Council requirements
- All required documentation is submitted
- All documentation is valid and in date
- The training locations, days and times requested are available and appropriate
- History of the applicant, including (but not limited to) no outstanding debt owing to Council or past permit cancellations

Compliance

A permit holder must comply with all statutes, regulations, local laws and by-laws applicable to the allocated area or the permitted use.

A person must comply with any reasonable direction or instruction of an authorised officer, member of the Police Force or emergency service when requested to do so in urgent circumstances or for public safety reasons.

Compliance approach

Compliance will usually follow the following process, however serious breaches may lead to immediate cancellation of the permit.

1. *Warning*: an authorised officer may, on behalf of Council, issue a warning to a trainer, who is not abiding by the permit conditions
2. *Notice to Comply*: an authorised officer may, on behalf of Council, issue a Notice to Comply, if the warning is ignored
3. *Cancellation of permit / infringement notice*: An authorised officer may, on behalf of Council, issue a permit cancellation notice or Victoria Police may issue an infringement notice, if a notice to comply has been ignored

Nb. If a fitness trainer is found to be training without a permit, an infringement notice can be issued immediately

Spot checks

An authorised officer may perform a spot check at any time to ensure:

- Fitness trainers have a valid permit
- Permit holders are following the terms and conditions of the permit

Permit holders are required to carry their permit with them and produce it upon request from an authorised officer.

Disciplinary action

Cancellation of permit

Council reserves the right to cancel a permit if:

- There has been a serious or ongoing breach of the conditions of the permit
- A Notice to Comply has been issued, but not complied with within seven days after the time specified in the Notice to Comply
- If the permit holder is found responsible of any offence against the Crown Land Act or Local Law
- Misleading or untrue information is identified in the permit application
- The permit holder no longer meets the requirements of holding a permit e.g. insurance or first aid qualifications are no longer current.

Liability and indemnity

The Permit holder shall indemnify the City of Port Phillip from any claim or demand arising from or in relation to any act, omission, damage, loss, charge, liability, outgoing, payment, expense or cost

related to the fitness activity. The approved permit holder is responsible for managing risks associated with the activities at their allocated site/s.

All approved fitness trainers must have current Public Liability Insurance (\$20 million) indemnifying Council Relevant Policy, Regulations or Legislation

- City of Port Phillip Council Plan 2017-27
- City of Port Phillip Sport and Recreation Strategy 2015-24
- City of Port Phillip Public Space Strategy 2020 (Draft)
- Department of Sustainability and Environment – Licensing system for Tour Operators and Activity Providers on Public Land in Victoria 2018
- Crown Land Acts Amendment (Lease and Licence Terms) Act 2009
- Local Government Act 1989
- City of Port Phillip - Local Law No. 1 (Community Amenity) 2013 & Protocols Manual
- Foreshore Management Plan 2012
- Health and Wellbeing Plan 2017-2021

Attachments

- City of Port Phillip Fitness Training Standard Conditions of Use

Attachment 1 – Standard conditions of use

1. Public Nuisance

The permit holder must not cause or allow anything in or near the allocated area, which constitutes an actionable nuisance, annoyance or disturbance to other persons lawfully entitled to use the allocated area or any land adjoining the area.

2. Noise

Noise from activities must not disturb other users or adjacent residents and must comply with all relevant regulations, including the Environment Protection Act 1970 and the State Environment Protection Policy (Control of Music Noise from Public Premises). The noise limit is 65 dB(A) when the measurement point is located outdoors and 55 dB(A) when located indoors.

The use of amplification equipment is prohibited (including whistles, megaphones or speakers).

3. Participants

Numbers

The maximum number of participants per session is 15. At some locations, this may be lower. These details will be finalised with the trainer upon application and issue of permit.

Forms

All trainers are required to ask all clients to complete a waiver and disclose any medical conditions before starting any fitness training session. This is a non-negotiable and the forms may be asked to be sighted at any time by Council officer.

4. Start and finish times

Training must not occur before 6 am in the morning or after 9 pm at night.

Trainers must ensure they only train at times indicated on their permit and when there is adequate natural or public lighting to conduct training safely. Trainers are not to use Council car parking spaces, public paths or areas which will impact local foot traffic and other park users.

5. Signage

Signage permitted is one temporary 'A-frame' measuring no more than 600mm wide by 1000mm height (including 100mm legs):

- It can only be used during the training session and must always be within sight of the fitness trainer
- Signs must not be placed on footpaths or trees

6. Preservation of public open space and Council assets

The permit holder must not damage, destroy, disrupt or remove any native flora (live or dead) or fauna, built asset, natural feature or cultural heritage place from the allocated areas or surrounding land:

- All activities must be conducted to minimise wear and tear to grass and turf:

- Running spikes and studded boots are not to be worn by trainers or participants
- Dragging tyres, heavy weights and other equipment is prohibited
- Equipment cannot be pegged into the ground
- Training session exclusion zones must rotate within the allocated area and activities performed at each spot in the zone must alternate
- Equipment (including but not limited to, ropes, string, bands, TRX) cannot be attached to or suspended from any trees, vegetation, park furniture, light poles or any other natural or manmade structures which includes all Council assets.
- In the event of damage or destruction, Council will undertake and complete remedial action and the permit holder must reimburse Council for the cost of repairing such damage or destruction within 14 days of repair

7. Hazards and obstructions

Fitness activities and/or exercise equipment must not create hazards or unreasonably obstruct stairways or pathways.

8. Vehicles

Vehicle are not permitted to enter Council parks, reserves, foreshore or footpaths. Vehicles are to be parked in designated parking areas and must adhere to all parking restrictions.

9. Inclement weather

Council does not provide undercover training areas in the event of inclement weather. It is the responsibility of the fitness trainer to cancel the session or seek an alternative venue.

10. Participant safety

The permit holder must:

- have in their possession a suitable first aid kit
- ensure that all insurances and qualifications are current throughout the permit period
- inspect the training area and complete the pre-training site checklist prior to every session to ensure it is safe and fit for purpose

11. Exclusion zone

Prior to commencing each training session, the permit holder must mark out a training zone, (i) with cones or similar (ii) no larger than 20m by 20m (iii) that is not already occupied by other users, where they will conduct all fitness activities for that session. The permit holder has exclusive access to that zone for the duration of the training session.

12. Waste management

The permit holder must not allow rubbish to accumulate in or about the allocated area. All rubbish/waste as a result of training must be removed from the site and correctly disposed of.

The City of Port Phillip supports all sustainable waste management opportunities.

13. Incident reporting

In the event of an incident (with a participant or the site), the permit holder must, as soon as reasonably practicable:

- Notify Council by phone and provide details of the incident ph: (03) 9209 6777
- File a written incident report with Council. This is to be addressed to Private Bag No 3, PO St Kilda 3182 or emailed to recreation@portphillip.vic.gov.au

14. Participant reporting

Fitness trainers are required to report participant numbers per session to Council on a quarterly basis.

Participant data must include total number and demographic categories specified by Council, including but not limited to gender.

15. Other commercial activity

The onsite sale of clothing, equipment, refreshments or any other goods and services is prohibited.

16. Unforeseen Circumstances

If under any circumstances there is an event that takes place, that is a threat in the community or puts any one at risk such as a pandemic, all personal trainers will be required to adhere to directions or restrictions put in place by the Federal, State or Local Government authorities.