



Outdoor Commercial Recreation Policy

Version 2, August 2022





Guideline Governance

Responsible Service / Department:

Open Space, Recreation and Community Resilience

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Council

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Local Laws

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Inclusive Port Phillip

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Sport and Recreation Strategy 2015 - 2024

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City of Port Phillip Outdoor Commercial Recreation Policy (2019 Version1)



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Purpose

To provide a framework through which the City of Port Phillip can manage the provision of a range of high quality outdoor commercial recreation providers across the municipality.

Outcomes

- To encourage Commercial Recreation Activities (CRA) in public space to provide a variety of opportunities to enhance residents and visitors' experience and contribute to the development of a healthy and inclusive community.
- To ensure CRA operators are providing quality, safe activities which contribute to a Vibrant Port Phillip.
- To ensure CRA operators have measures in place to minimise impacts on public space, Council assets or to residential amenity.
- To provide opportunities for people of all backgrounds regardless of age, gender, culture and ability.
- Support Council to deliver an alternative to organised sport to encourage diverse opportunities of physical activity.

Definitions

Table 1. Definition of Terms

Term	Definition
Council	Refers to City of Port Phillip
Commercial Recreation	Refers to any activity (recreation or sport related) which is conducted outdoors along the foreshore, parks, beaches and other approved public spaces. Refers to an activity and for which a fee is charged, or other commercial gain is obtained. The activity must be recreation based implementing an educational component
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)
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



Term	Definition
	management and providing guidelines and licences for Tour Operators
Open Space and Public Lands	Refers to land administered under the 'National Parks Act 1975, Forest Act 1958, Crown land (Reserves) Act 1978 and Land Act 1958
Outdoor Commercial Recreation Operator	A person/ business who conducts commercial recreational activities to the community within City of Port Phillip
Tour Operator	Means a person or business who conducts an organised tour or outdoor recreational activity for profit on public lands in Victoria
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
Tour	Means an activity, guided tour or recreation programme conducted or coordinated by an approved operator for a licenced area
Itinerant Trading	Refers to a business that trades goods from any temporary method of transport including a caravan, trailer, table, stall or other similar structure at Council approved locations
Major Events	Refers to all outdoor events, promotions and markets on Council managed public space within the municipality. Including (but not limited to) events which are run by private organisations, businesses, schools, special interest groups or community groups
Permit	An official document issued by Council under Local Law that authorises a use or activity
Permit Holder	Refers to the individual who has been issued the permit

Scope

This policy applies to businesses who wish to conduct outdoor commercial recreational activities within Port Phillip's public space.

The policy does not apply to:

- Events, promotions or markets
- Personal training



- Indoor activities
- Seasonal and casual use of sports grounds for sports clubs
- Itinerant traders
- Aircraft and helicopter landings
- Once off recreational event
- Activities held around Albert Park Lake (this area is managed by Parks Victoria)

Assessment Criteria

Commercial Recreation Principles

All applications will be assessed against the following principles:

1. Provide the community with social, recreational and active opportunities to increase community participation and improve health and wellbeing.
2. Conducted in a safe manner that implements high-quality risk management plans and adherence to industry standards.
3. Are inclusive for all, including promotion of gender equality and enhances opportunities for female participation.
4. Are well governed and have a suitable business model to ensure financial viability of the business plus value for money for the local community.
5. Increase visitation to the area and support local businesses.
6. Operators provide an educational experience, promote skill development and learning opportunities.
7. Show commitment to sustainable practices demonstrating an environmentally friendly business model.
8. Demonstrate experience in delivering high quality activities.

Limitations/ Restrictions

Across the municipality, Council will only issue:

- One Skydiving licence, to be located at Moran Reserve Elwood.
- Up to three Kite Boarding licences, to be located at West Beach St Kilda.

The following activities will not be permitted:

- Activities that do not meet goals or objectives of the Council Plan.
- Activities that include promotion of tobacco, gambling or alcohol.
- Motorised water sports i.e., jet skis.
- Activities in environmentally sensitive areas such as bushland and sand dunes.



Water activities and those requiring access to jetties or boat ramps require further approvals from Parks Victoria.

There are no restrictions on the number of licences one CRA operator may hold.

Application

Applications:

- CRA's demonstrating professional operations may be approved through the general application process and will be considered when there is availability.

Permit and Licence

All CRA operators must enter into an agreement with Council, most will require both a permit and licence.

Permit

A Council Permit is required to conduct outdoor CRAs on Council owned or managed land and is provided by Council (Land Manager). Approved CRAs delivered across the municipality on Council managed land must be in accordance with the Local Government Act 2020.

Licence

If the nominated site is classified as Crown Land, the applicant may also be required to enter into a Tour Operator Licence Agreement under the Crown Land Act 2009 (Lease and Licence Terms) and will be managed by Council on behalf of DELWP.

Further information on the Tour Operator Licence can be found on DELWPs webpage –

[Tour Operators \(forestsandreserves.vic.gov.au\)](https://forestsandreserves.vic.gov.au)

Requirements

All operators will be required to adhere to Federal, State or Local Government regulations.

- It is the responsibility of the CRA operators to seek and gain all approvals relating to their activities. Council may require approvals from other relevant regulatory bodies, such as (but not limited to) Victoria Police, WorkSafe, Parks Victoria, Maritime Safety Victoria, CASA (Civil Aviation Safety Authority) or State Sporting Associations. All operators must use equipment and infrastructure that is well maintained, structurally sound and has the ability to withstand exposure to climatic conditions. Pre-safety checks must be undertaken prior to all operations to evaluate and eliminate any risks/ hazards that may harm participants and



- the community. All operators are responsible for all their staff, including ensuring they are appropriately insured and qualified (industry related qualification/s) and have appropriate Child Safety Policies.
- Noise from activities must not unreasonably disturb other users or adjacent residents/businesses and must comply with Council's Outdoor Event Noise Management Guidelines, the Environment Protection Act (EPA) 2017 and the State Environment Protection Policy.
 - Water-based activities must follow EPA advice regarding water quality when programming their activities - [EPA Water Quality](#)
 - Where possible Council may work with the operator on an alternative and suitable location on a temporary basis.
 - CRA can apply to have an onsite trailer to support their business functions. Council will review the application and consider suitability and applicable fee.

Liability and Indemnity

All CRA require Public Liability Insurance of a minimum of \$20m indemnifying Council.

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 outdoor commercial recreation activity. The approved permit/licence holder is responsible for managing risks associated with the activities at their allocated site/s.

Operators must have risk management in place that includes provisions to cancel activities in unsafe situations.

Council may cancel or modify CRA at any stage due to safety concerns, identified risks or unsafe practices.

Non-Compliance

- Permit conditions are breached.
- Any laws are broken.
- A misrepresentation is identified in documentation.
- Warning: an authorised officer may, on behalf of Council, issue a warning to an operator who is not abiding by the permit conditions.
- Notice to Comply: an authorised officer may, on behalf of Council, issue a Notice to Comply, if the warning is ignored.
- 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.



Fees and Charges

Council fees

Outdoor Commercial Recreation operators will be required to pay an annual fee which is set through the annual Council budget process, or as varied by Council resolution.

A permit will be issued after the fee is paid in full.

DELWP user fees

The Tour Operator Licence “user fee” is issued by DELWP, applies to all CRA on Crown Land. All operators will be required to maintain a record of the number of persons who participate in the recreational activity daily and must be reported to Council on a quarterly basis. Council will invoice quarterly for the user fees.

For more information on DELWP licences or fees visit - <https://www.forestsandreserves.vic.gov.au/tour-operators>

Cancellation and refunds

No refunds of fees will be provided for outdoor commercial recreation operators wishing to cancel their licence prior to the expiry date, or if an area allocated in their permit is not usable during the permit period.

Relevant Policy, Regulations or Legislation

- City of Port Phillip Council Plan 2021-2031
- City of Port Phillip Public Space Strategy 2022-2032
- City of Port Phillip Local Law No.3 (Community Amenity) 2013
- Crown Land Acts Amendment (Lease and Licence Terms) Act 2009
- Department of Sustainability and Environment - Licensing system for Tour Operators and Activity Providers on Public Land in Victoria 2018
- City of Port Phillip Outdoor Events Policy 2017
- Council’s Outdoor Event Noise Management Guidelines 2018
- City of Port Phillip Sport and Recreation Strategy 2015 - 2024
- City of Port Phillip Fitness Training Policy 2021
- Local Government Act 1989
- Child Safe Standards Policy 2018
- Foreshore Management Plan 2012