



**9.1** **FITNESS TRAINING POLICY**

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**1. PURPOSE**

1.1 To present the Fitness Training Policy for endorsement.

**2. EXECUTIVE SUMMARY**

- 2.1 Fitness training was previously included in Councils Commercial Recreation Policy 2011. However, it was removed when the new Commercial Recreation Policy was endorsed in 2019. 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.
- 2.2 Fitness trainer permits do not require a competitive allocation process unlike Commercial recreation providers.
- 2.3 The City of Port Phillip no longer has a Policy to manage fitness trainers using Council owned or managed land, within the municipality and ensure the safe and equitable use of public open space.
- 2.4 The State Government Department of Land Water and Planning (DELWP) waived the user fee for fitness training therefore a different fee arrangement is in place.
- 2.5 Council requires a policy to fairly and consistently manage fitness trainers across the municipality.
- 2.6 A standalone fitness training policy also provides a more specific and effective framework to manage fitness training in the CoPP, as the nature of the activity is notably different to other commercial recreation activities. Fitness training provides a health and wellbeing benefit to individuals and is a valuable service to the community.
- 2.7 Fitness training provides a health and wellbeing benefit to individuals and is a valuable service to the community. Allowing fitness trainers to operate in CoPP open spaces shows commitment to supporting our local businesses and the community being active.



### 3. RECOMMENDATION

That Council:

- 3.1 Adopts the Fitness Training Policy 2020 (**Attachment 1**).
- 3.2 Notes that the sites where fitness trainers can operate have changed, with some exclusions and inclusions from previously allocated sites.
- 3.3 Notes that fitness trainers can mark out a temporary exclusion zone in their allocated area for each training session.
- 3.4 Notes that each fitness trainer will be required to have their own permit, one permit will no longer cover multiple trainers from the same business.
- 3.5 Notes that Council is limited in what it can charge fitness trainers operating on Crown Land due to DELWP imposed regulations.
- 3.6 Authorises the Chief Executive Officer to make minor editorial amendments that do not materially alter the intent of the Policy.

### 4. KEY POINTS/ISSUES

- 4.1 A commercial fitness activity is 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. The activities are conducted at approved sites including, parks, reserves, sports grounds and along the foreshore and include Council owned and managed land.
- 4.2 Through 2020 personal trainers have been impacted greatly by the pandemic. As we are in the recovery stage now it's important to have clear and consistent policy guidelines for fitness trainers to follow. The policy will allow Council to have a greater ability to track, charge and review fitness training across the municipality to ensure health and wellbeing benefits are met.
- 4.3 There are some key points and changes to existing processes and requirements that should be noted, being;
  - There are currently 20 outdoor fitness trainers, operating under a City of Port Phillip permit. It is estimated that more are operating without a formal agreement with Council.
  - Permits are usually issued for the financial year. However due to the pandemic the current permits are only valid until 31st March 2021 to work in line with government restrictions that are in place at the time of expiry in 2020.
  - The policy focuses on (i) the safe and equitable use of public open space by user groups and the public (ii) the preservation of open space and appropriate levels of allocation.
- 4.4 The policy;
  - Specifies what commercial fitness training is, which includes both individual and group training.
  - Identifies the types of activities that are permitted and prohibited.



- Defines what an allocation permit is, including topics of exclusivity and hierarchy of use.
  - Documents the application process and conditions of the permit, including when a Tour Operator Licence is required.
  - Clarifies the fee structure.
  - Details non-compliance and the process for disciplinary action.
- 4.5 Permit holders will be required to provide Council with participation figures, including a gender breakdown, on a quarterly basis, to capture how this type of physical activity contributes to community health and wellbeing and recreation participation in the municipality.
- 4.6 There are no restrictions on the number of permits that Council can issue. The number of permits issued will be based on the availability and suitability of the sites in the fitness training portfolio. This Policy delegates authority to remove or restrict use of an allocated area for any reason at Council's discretion. The maximum number of allocated areas allowable for one permit at any time is two.
- 4.7 Council will be advocating to DWELP to implement a fair and equitable charging policy, that could allow Councils to determine a fee pricing structure that is sustainable, fair and equitable to all. A fee pricing structure will be aligned with Councils Allocation and Fees and Charges. This structure would be agile to ensure a fair allocation of space (both premium and under activated) and fee is developed across the municipality.
- 4.8 As most parks, reserves, sports grounds and foreshore areas in CoPP are Crown Land, Council is restricted in the fees it can charge to commercial fitness trainers by the Tour Operator Licence issued by the Department Environment Land Water and Planning (DELWP).
- 4.9 DELWP's policy and licence framework is currently under review. All land managers were consulted and had the opportunity to provide feedback. The new policy framework is expected in 2021. Future changes to the DELWP policy framework will be applied to this policy as appropriate.
- 4.10 Historically, there have been few complaints from residents and other user groups about fitness training activities and use of public open space in the City of Port Phillip.

## **5. CONSULTATION AND STAKEHOLDERS**

- 5.1 Municipalities surrounding Port Phillip were benchmarked including: City of Bayside, Yarra, Stonnington, Melbourne and Glen Eira. This included both a review of their fitness training policies / guidelines and a stakeholder interview with the relevant department.
- 5.2 Parks Victoria were consulted to understand how they manage fitness training in Albert Park.
- 5.3 A selection of current permitted fitness trainers in CoPP were interviewed to understand their needs and potential concerns.
- 5.4 The Department of Environment Land Water and Planning (DELWP) were consulted to help understand the licence and fee requirements and restrictions for fitness trainers operating on Crown Land managed by Council.



- 5.5 Internal departments at the City of Port Phillip who may be impacted by fitness trainer use of open space include: Parks Services, Events, Foreshore, Risk and Compliance and Local Laws. These teams were consulted in the policy development stage and were also invited to provide feedback on the draft policy, which was incorporated into the final policy.
- 5.6 Fitness trainers will be informed of the changes to current practice detailed in this policy and how this may impact the application process and their operation prior to renewal of permits of 1 July 2021.

## **6. LEGAL AND RISK IMPLICATIONS**

- 6.1 All fitness trainers are required to have public liability insurance indemnifying Council and maintain current qualifications (including CPR and First Aid), it is also recommended that trainers provide education qualifications to support their business.
- 6.2 The sites allocated to fitness training will be reviewed annually, through CoPP formal site selection criteria, to ensure they are fit for purpose. Trainers are also responsible for completing a site assessment checklist prior to conducting every fitness training session.
- 6.3 Fitness trainers are required to report any incident (involving a participant, member of the public or the site) to Council as soon as is reasonably practicable.

## **7. FINANCIAL IMPACT**

- 7.1 Commercial fitness trainers who operate on Crown Land are required to pay an annual administration fee only. This fee is set by DELWP and cannot be altered by Council or additional fees charged by the land manager. As most fitness training sites in CoPP are Crown Land, this is the only fee that Council will charge. This is currently being reviewed by DELWP and Council will look at ways to ensure fees are fair, equitable and in line with Council priorities for the future.
- 7.2 We expect generated revenue to increase with the new policy due to:
- an increase in the number of trainers applying for permits, with updates to the sites available for use, increasing desirability
  - an increase in the percentage of trainers currently using CoPP open space applying for permits, with increased education, compliance checks and possible incentives.
  - Through the pandemic this has been demonstrated with increase in permits due to the government restrictions. It is expected Port Phillip
  - A change in policy, which requires each trainer to have their own permit, rather than one business permit covering all trainers from that business

## **8. ENVIRONMENTAL IMPACT**

- 8.1 Fitness training activities, as allowed under the policy, typically have little impact on the environment.
- 8.2 The conditions of use (appendix 1 in the policy) details several measures to preserve open space (specifically grass and other park assets) and manage waste.



## 9. COMMUNITY IMPACT

9.1 There are several items in the conditions of use designed to minimise the impact of fitness trainers on the community and surrounding amenity including:

- Public nuisance statement
- Noise restrictions
- Clear exclusion zones where training activities take place
- Start and finish times of operation

## 10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 Strategic Direction 1: We embrace difference and people belong

- Outdoor fitness training activities, appropriately managed through a permit process, contributes to a safe and active community and facilities community access to services that support health and wellbeing

10.2 Strategic Direction 4: We are growing and keeping character

- Activating parks, reserves and open space through permitting fitness training activities, provides opportunities for the community to recreate and be physically active, including in areas of high density living

10.3 This policy is needed to compliment the new *Commercial Recreation Policy 2019*, as it doesn't cover commercial fitness training activities.

## 11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- Applications for fitness training permits are open all year round but are only valid for the financial year at the time of application, regardless of when the application is submitted. This is stipulated by DEWLP, as the annual fee is a license administration fee, not a use fee.
- All current fitness training permits will require renewal at the start of the next financial year (1 July 2021). The new policy and application process (including site selection) will be implemented for the 2021/2022 financial year.
- Council officers will assess applications and issue permits based on the selection criteria within 7-12 business days of submission.

11.2 Applicants who are successful will be required pay the annual administration fee (set by DELWP) and then formalise their permit with Council. Applicants who are allocated training areas that include Crown Land, will also be required to enter a Tour Operator Licence agreement prepared by Council on behalf of DELWP.

## 12. COMMUNICATION

12.1 The opportunity to apply for a fitness training permit will be advertised on Council's website and also provided to current permit holders.

12.2 All current fitness trainers will be advised of the new policy and any changes that will affect their application or operations, prior to permit renewal in July 2021.

12.3 Council will host one information session detailing the new allocated training sites and other new items included in the policy.



# MEETING OF THE PORT PHILLIP CITY COUNCIL 3 MARCH 2021

## 13. OFFICER DIRECT OR INDIRECT INTEREST

13.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

**TRIM FILE NO:** 76/01/363

**ATTACHMENTS** 1. Fitness Training Policy