



# Fitness Training Policy

Policy outcome	<ul style="list-style-type: none"><li>• To provide health and wellbeing opportunities to support physical and mental health for all members of the community through outdoor fitness training</li><li>• To preserve the quality and longevity of public open space and council assets within these spaces</li><li>• To ensure fitness training activities do not unreasonably impact community access to public open space</li><li>• 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</li><li>• To provide equity in the management of outdoor fitness trainers, considering other fitness and commercial recreation providers and events who operate in the municipality</li></ul>
Responsible area	Open Space, Recreation and Community Resilience
Version	Version 2.0
Date approved/adopted	19 June 2024
Planned review date	June 2026



To provide a framework for the City of Port Phillip to manage recreation activities facilitated by fitness and wellness providers across the municipality and support a range of recreation opportunities that reflect the cities diverse community.

Recreation activities provide health and wellbeing benefits to individuals and the community. This 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, in line with the Sport and Recreation Strategy 2015-2024 and Council objectives.

Any recreation activity conducted on Crown Land requires a Tour Operator Licence issued by DEECA. For streamlined management, one policy will be used to manage fitness and wellness activities in the City of Port Phillip on both Council owned and Council managed land.

*At the time of writing this policy, DEECA is reviewing its Tour Operator Licence policy and framework that applies to commercial operators with a Fitness and Wellbeing licence. CoPP is working with DEECA 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. Currently, fitness trainers are exempt from per participant fees, however future changes to DEECA policy and framework will be applied to this policy as appropriate.*

This policy applies to all recreation activities conducted by fitness and wellness providers in public space.

These activities are conducted in public open space within the City of Port Phillip (CoPP), with up to 15 participants per session.

**This policy applies to:**

All fitness, recreational or wellness classes/activities in public space including:

- Personal training classes using no equipment or using small equipment
- Fitness classes such as boxing, pad training, boot camps and circuit training
- Movement classes such as aerobics, dance or Pilates
- Wellness groups such as meditation, yoga or Tai Chi
- Any similar activities

**This policy does not apply to**

- Any activities with over 15 participants
- Any activity heavy equipment, infrastructure or vehicles
- Events, promotions or markets



- Indoor activities
- Seasonal and casual use of sports grounds for sports clubs
- Any activity licenced or excluded under separate section of the Local Law or policy
- Activities held at Albert Park Reserve (this area is managed by Parks Victoria)

### **Fitness and wellness equipment**

Recreation activities are licenced to utilise the following equipment:

- Mats and bands
- Medicine balls
- Handheld weights of up to 10kg
- Skipping ropes
- Battle ropes of up to 10kg
- Lightweight infrastructure
- 1 x small A-Frame or banner signage

Fitness activities/equipment not permitted under this policy include:

- Aggressive or intimidating activities including combat/fighting training
- Activities using heavy gymnasium equipment or structures
- Vehicle access to public space
- 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
  - Tying ropes around park fixtures or trees
  - Using park seating for fitness activities such as step up
- Equipment attached to Council assets, including battle ropes or any type of resistance equipment

### **Permitted Sites**

There are specific parks, gardens, reserves and foreshore areas where fitness training is licenced, as outlined on the Council website.

All approved recreation activity 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 and wellness activities and satisfy Council's strategic objectives.

Each site is subject to unique regulations pertaining participant numbers, training times and number of trainers per hour/day.

Licences will specify sites, times and any exclusion zones within the licenced areas.

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



Recreation activities must only be conducted in the specific areas allocated in the licence and at the specified times.

No more than two locations can be allocated per provider.

### **Exclusivity**

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

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

The licence holder is entitled to exclusive use of the marked zone for the duration of the training session. The licence 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 licence holders must conduct a pre site check to ensure safety of area to conduct activity.

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

### **Events and Capital Works Projects**

All maintenance, capital projects and council permitted events take precedence over activities permitted under this policy.

In the instance that scheduled works or an event impacts operations, providers can apply to relocate to an alternative location on a temporary basis. Council officers will work with the operator to determine if there is a suitable location.

### **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 dependent on the availability and suitability of other designated fitness training sites.



### **Restricted areas:**

Recreation classes cannot be conducted on or within 10 meters of the following:

- Playgrounds and play equipment
- Skate parks
- Designated pedestrian and cycling pathways – including the foreshore promenade
- Sportsgrounds
- 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 and verandas
- 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

### **A licence is required for:**

All operators within scope of this policy will require a licence in accordance with the Local Government Act 1989.

If the nominated 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.

Further information on the Tour Operator Licence can be found on DEECAs webpage [Tour Operators Licence - DEECA](#)

Licences are issued to individual trainers and providers, not the business entity. The applicant is considered the primary trainer, and each primary trainer is required to have their own licence. The licence 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.

Providers can apply for up to two (2) different sites, with a separate licence required per site. A maximum of two licences (two sites) can be held by one operator.

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

### **Schedule of obtaining a licence**

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



There will be two applications periods for licences June and November. The application assessment process will take four (4) weeks.

## **Fees**

Fitness and wellness providers are required to pay an annual fee when their application for a licence has been approved. A licence will be issued after the fee is paid in full.

The annual fee is applied per licence/site, noting applicants can hold up to two (2) sites.

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

Recreation activity providers are not required to pay the per participant fee enforced by DEECA, at the time of this Policy review, however this may be reinstated by Council as per direction by DEECA.

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

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

## **Mandatory requirements**

Fitness and wellness trainers must complete and submit the application form, which can be found on the Council website: [Fitness and Personal Training Application Form](#).

The applicant must provide:

- 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
- Participant waiver form
- Images of any marketing/signage for display (must be no larger than standard A-Frame)

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
- The types of activities that will be conducted



- Typical equipment used for the activities
- Strategies for sustainable use of public open space and how the impact of such activities will be minimised.

### **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

### **Issuing a Licence**

If approved, the applicant will be required to pay the annual fee per site upfront, before Council issues their licence. 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 DEECA on behalf of the applicant (timeframe for competition can vary depending on approvals).

### **Compliance**

A licence holder must comply with all statutes, regulations, local laws and by-laws applicable to the allocated area or the licenced 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 cancelation of the licence.

1. *Warning*: an authorised officer may, on behalf of Council, issue a warning to a trainer, who is not abiding by the licence 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 licence / infringement notice*: An authorised officer may, on behalf of Council, issue a licence cancellation notice or Victoria Police may issue an infringement notice, if a notice to comply has been ignored and a provider is found to be operating without a licence, 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 licence
- Licence holders are following the terms and conditions of the licence

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

## Disciplinary action

### *Cancellation of licence*

Council reserves the right to cancel a licence if:

- There has been a serious or ongoing breach of the conditions of the licence
- 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 licence holder is found responsible of any offence against the Crown Land Act or Local Law
- Misleading or untrue information is identified in the licence application
- The licence holder no longer meets the requirements of holding a licence e.g. insurance or first aid qualifications are no longer current.

## Liability and indemnity

The Licence 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 licence holder is responsible for managing risks associated with the activities at their allocated site/s.

All approved recreation providers must have current Public Liability Insurance (\$20 million) indemnifying Council

- City of Port Phillip Council Plan 2021-2031
- City of Port Phillip Sport and Recreation Strategy 2015-24
- Places for People: Public Space Strategy 2021-31
- 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





### **Council, City and CoPP**

Refers 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, Energy and Climate Action (DEECA).

### **DEECA**

Refers to Department of Environment, Energy and Climate Action 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 DEECA 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.

### **Licence**

An official document issued under Local Law that authorises a use or activity.

### **Licence holder**

Refers to the person who has been issued the licence.

### **Public Space**



Public space is an all-encompassing term that the City of Port Phillip use for all external spaces in the City that the public can access and use. It includes privately and publicly owned land that is zoned and set aside for different purposes.

### Recreation activities

Any organised sport, recreational, wellness or health activity conducted in public space – including beaches, foreshore, parks, and other council managed open spaces. May be free, donation or user pays activities.

### 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.

- Fitness Training Policy Standard Conditions of Use 2024

### Document history

Version	Date of approval/adoption	Changes made	ECM record
Version 2	19 June 2024	<ul style="list-style-type: none"><li>• The definition of fitness training altered to 'recreation activities' to include PTs, wellbeing providers, fitness classes and all types of activities not typically defined as personal training</li><li>• This policy now only applies to providers operating within 15 or less participants. This will remove any overlap with CR policy.</li><li>• All activities with large infrastructure will now only be permitted under the CR Policy (e.g. ice baths). This policy has more rigorous application and risk management, and this change should reduce the chance of impacts to reserves.</li></ul>	