Draft Policy

Commercial Recreation Activities on Public Open Space

Adopted by Council at its meeting on

Minute No:
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Definitions and Acronyms

For the purposes of this Policy:

‘Commercial Recreation Activity’ means recreational and sporting activities conducted outdoors on beaches, foreshore areas, parks and other public places, and for which a fee is charged or other commercial gain is obtained. The activity must have a recreation use as its core element. Events such as promotional activities for a business will not be considered as a commercial recreation activity.

‘Commercial Recreation Activity Licence’ or ‘Licence’ means a licence issued by Tweed Shire Council or the Tweed Reserves Trust, which provides approval to operate a commercial recreational activity on or across a public open space within the Council area.

‘Council’ means Tweed Shire Council.

‘CLA’ means Crown Lands Act 1989 (NSW)


‘LGA Reg’ means Local Government (General) Regulation 2005 (NSW)

‘Passive Recreation’ means activities undertaken by any person for enjoyment in their own free time, and which are not based on formal competition or organised administration. Traditionally, these activities have centred on such activities as children’s playgrounds and play equipment, kick-about spaces, BBQ and picnic facilities, walking, cycling, jogging, and the like.

‘Public Open Space’ means public land that is accessible by the general public, that is under the care, control or management of Council and that is included in the land listed below, but excludes land occupied by community halls, libraries, civic centres, art galleries and the like:

- Crown Reserves under trusteeship or control of Council
- Crown Reserves under licence to Council
- Council owned community and operational land
- Other land managed by Council as parkland, including parks on unformed road reserves.

‘Sports Fields’ means buildings and grounds licensed by Council for use for sporting activities.

‘Trust’ means the Tweed Reserves Trust
Part 1 – Background to the Policy
1.1 Public Land Management

Council manages parks, reserves and sportsfields that are classified as either Community or Operational Land. Council also manages areas of Crown Land on behalf of the State Government and the Trust.

Additionally, Council manages some parks and reserves that are on land designated as road reserve, and on land leased from other authorities such as NSW State Rail.

The legislative authority for this Policy is to be found in:

- Local Government Act 1993 (NSW) s 46 and s 68
- Local Government (General) Regulation 2005 (NSW) cl 116
- Roads Act 1993 (NSW)
- Crown Lands Act 1989 pt 4 div 4 and ss 102 - 108

Under S35 of the LGA ‘community land is required to be used and managed in accordance with’

- This Division (of the Act)
- The Plan of Management applying to the land, and
- Any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land.

Crown Land that is under the care and control of Council should be managed in accordance with any applicable requirements of the CLA and, where appropriate, in consultation with the Crown Lands Division, NSW Department of Trade and Infrastructure.

S 116 of the LGA Reg provides that:

"the use or occupation of community land for the following events is prescribed as a purpose in respect of which a council may grant a licence in respect of community land on a short-term, casual basis:

(a) the playing of a musical instrument, or singing, for fee or reward,
(b) engaging in a trade or business,
(c) the playing of a lawful game or sport,
(d) delivering a public address,
(e) commercial photographic sessions,
(f) picnics and private celebrations such as weddings and family gatherings,
(g) filming,
(h) the agistment of stock."


1.2 The Need for the Policy

With the continuing population growth of the Tweed Shire and the increasing number of visitors, Council is experiencing conflicting and competing demands on the use of its open space network. Good stewardship, maintenance and management of this community asset is a core Council responsibility and community expectation. The Tweed Community Strategic Plan (2013 – 2023) has four key themes, each of which contains strategies that inform this Policy. These themes are:

- Civic Leadership
- Supporting Community Life
- Strengthening the Community
- Caring for the Environment

The original basis of the Tweed's public open space network was for visual amenity, and to provide for passive recreational opportunities. Traditionally, these activities centred on children's playgrounds, kick-about spaces, BBQ and picnic facilities, walking, cycling, and jogging. For sportsfields, the traditional use is organised sports clubs participating in club based sporting competitions.

Contemporary society has developed more sophisticated recreational pursuits, including:

- Personal fitness trainers.
- Commercial wedding planners
- Open-air venues for family and corporate celebrations
- Commercially based sports competitions or coaching programs.

As a consequence Council is experiencing a demand for a wide range of additional activities on public open space. These include commercial fitness training, fitness groups such as boot camps, commercially arranged weddings, surf schools, eco and fishing tours, commercially operated markets, circuses and many more.

1.3 Issues the Policy must address

Activities undertaken on public open space have led to a number of issues (particularly in respect of health and fitness related activities) which Council must address.

1.3.1 Impact on neighbours

Residential areas adjoining public open space experience increased levels of noise which residents perceive as a nuisance. Many complaints have been made by people living adjacent
to public open space used by fitness groups. The primary concern is noise, particularly in the mornings as groups call out, whistle and encourage other participants. Use of amplified music and trainers using public steps adjacent to private houses has also been a source of complaint.

After careful review of the nature of public open space in the Tweed and the complaints received by Council, it is considered that commercial recreation activities should not ordinarily be undertaken within 100m of any neighbouring residential property, tourist accommodation, or similar unless special and particular circumstances warrant a departure from this distance.

1.3.2 Impact on other users

The use of parts of a public open space for a commercial recreation activity inhibits the general public from enjoying the same area. The problems include:

- Group activities occupying areas of a park to the exclusion of others.
- The impact of the activities extending beyond the actual space occupied by the activity.
- Equipment spread across a park area, blocking paths and preventing use of park facilities. Directional markers on paths are also a concern for some people.
- Occupation of park shelters and seating areas.
- The imposing image that a large organised group of people presents to general park users. There is a perception by general users that an organised group activity may have the 'right' to the area, and the imposing nature of such groups makes it difficult for general users to challenge them.

In addition, as a result of taking groups through residential and commercial areas using footpaths and steps commercial recreation activities can have an impact beyond the boundaries of the public open space used for such activity.

1.3.3 Impact on public open space assets and maintenance

Organised group activities increase the impact on the assets in public open space, including:

- Impact on seats, tables and other park infrastructure, and potential wear on turf.
- Using and leaving items in the park, which creates significant problems for mowing and maintenance schedules.
- Groups exercising in natural areas causing erosion and related impacts, particularly in coastal dunes.
- Reduced availability of car parks for traditional recreation users.

1.3.4 Exposure of Council to public liability

Use of a public open space by an unapproved commercial recreation activity exposes Council to potential litigation for injury or loss resulting from such activities. Examples of issues include:
- Whether the appropriate qualifications, skills and insurance are held by commercial operators.
- A presumption that the area used for the commercial activity is suitable and safe.
- Use of private equipment, and possible injury through use of such equipment while on public land. The practice of leaving these items between sessions also presents the risk of an incident while the equipment is unsupervised.

1.4 Qualifications and Disclaimers

1. Nothing in this Policy implies that approval will automatically be granted even if the proposed activity appears to meet all relevant criteria.
2. Council is not responsible for the operation of a commercial recreation activity for which it grants a licence or the qualifications or abilities of licensee undertaking the activity.
3. An applicant for a Commercial Recreation Activity Licence will be required to undertake a risk assessment for the activity in the area(s) proposed prior to issue of a final licence and commencement of the activity. Holders of a Licence will be responsible for managing all risks associated with the activity. Council will not be responsible for ensuring the safe conduct of the activity.
4. An activity for which a Commercial Recreation Activity Licence is required may require development approval pursuant to the Environmental Planning and Assessment Act. As the requirement for development approval will depend on the details of a particular activity it is the responsibility of the licence holder to ensure such an approval has been obtained prior to the commencement of an activity. See Section 2.9 for further advice.
Part 2 – The Policy
2.1 Policy Objectives

Council has responsibility for an extensive public open space network which includes beaches, parks and other public places. This network is not only a significant community asset for use by residents and visitors, but also a major element in defining the character of the Tweed. This Policy provides for the management of commercial recreation activities on this network.

The objectives of the Policy are:

1. To determine those commercial recreation activities suitable for beaches, parks and other public places administered by Council and provide an effective, transparent, equitable and efficient framework for their management.
2. To optimise the equitable and sustainable use of beaches, parks and other public places for the physical, social and cultural well-being of the Tweed community.
3. To ensure all activities conducted on public open space are in keeping with the intended use of the space and are seen to contribute to the public good.
4. To protect the natural and physical assets of public open space in Tweed Shire.
5. To protect existing and proposed infrastructure on public open space.
6. To ensure that the safety of all users of public open space is safeguarded.

2.2 Guiding Principles

The range of commercial recreation activities that could utilise public beaches and high profile public open space is very wide. The natural and social values of these areas are highly valued by Council and Tweed Shire residents. Whilst commercial recreation activities provide positive social benefits they also threaten these values.

Therefore in managing the use of public open space in respect of commercial recreation activities Council will seek to achieve a number of significant social and environmental outcomes:

1. The use of the public open space must contribute to the development of a healthy, happy and inclusive community.
2. Public open space must continue to retain its natural and social values. Any commercial recreation activity must be considered in the context of possible threats to these values.
3. Public open space must continue to be maintained for use by the public. It cannot be annexed by individual groups or commercial interests in a way that discourages use by other members of the community.
4. Council will only regulate the use of the space where there is a risk that the nominated use could impact negatively on other people’s use of the space, on public safety, on the maintenance of the asset or on environmental sustainability. Members of the community are expected to manage the use and sharing of public open space in a way that respects the environment and other people; and avoids unreasonable impacts on the adjoining community and neighbouring areas.

5. The use and maintenance of any existing or proposed public infrastructure (eg park furniture, drainage) on public open space must be protected.

6. The safety of anyone using public open space must be protected.

In practical terms Council takes a conservative and carefully considered approach to any proposed commercial recreation activity on public open space. Council will encourage proponents to seek to use the most appropriate location for the particular commercial recreation activity which is proposed. To that end a proponent should seek the advice of Council Officers prior to the lodgement of an application.

### 2.3 Land this Policy applies to

This Policy applies to all public open space under the care, control and/or management of Council including:

- Crown Reserves under trusteeship or control of Council
- Crown Reserves under licence to Council
- Council owned Community and Operational Land
- Other land managed by Council as parkland, including parks on unformed road reserves.
- Facilities which are used for a commercial recreation activity, such as stairways or other facilities on public land which Council may determine from time to time requires regulation,

This Policy does not apply to:

- Caravan parks on Crown Reserves or on Council owned Community or Operational land.
- Land occupied by community halls, libraries, art galleries and the like.
- Land on which there is recreation related infrastructure that traditionally operates under a commercial framework, such as swimming pools.
- Waterways under the control of the NSW Department of Roads and Maritime Services or other agencies.
2.4 Activities this Policy applies to

A commercial recreation activity on Council-managed public open space must be approved by Council in accordance with LGA s 68 or CLA pt 4 div 4 and ss 102 and 108. This includes any commercial recreation activity that involves crossing council-managed public open space.

2.4.1 Activities involving aquatic equipment hire at nominated locations

Council has traditionally approved four aquatic hire locations being Jack Evans Boatharbour, and the three coastal estuaries of Cudgen Creek at Kingscliff, Cudgera Creek at Hastings Point and Mooball Creek at Pottsville.

The aquatic hire operations provide canoes, stand-up paddle boards and similar non-motorised aquatic recreational craft.

This Policy provides for these hire operations to continue, subject to the application requirements set out in Section 2.7.

2.4.2 Activities which may be considered for a Licence

Without limiting the specific activities requiring a Licence, the categories of commercial recreation activities for which Council may grant a Licence are as follows;

- **Organised health and sport related activities** – personal trainers, sports coaches, water based activities on adjoining water bodies (eg surfing, canoeing), cycling, yoga and the like. One-off recreation activities which are clearly commercial by nature may be considered to fall within this category.

- **Outdoor tourist style activities** - eco-tours, fishing competitions and the like which rely on the particular environment of the open space.

- **Other commercial recreation activities** – established commercial recreation/leisure activities, such as a circus or music festival, which have identifiable community benefit, and which require the use of an extensive area. Other possible activities could include dog training, horse and camel rides.

2.4.3 Activities for which Council will not require a Licence application

Notwithstanding the requirements set out in Section 2.4.2, an operator will be deemed to have the approval of Council for a commercial recreation activity in the following circumstances, and a Commercial Recreation Activity Licence will not be required.

1. A personal trainer, yoga instructor or the like with less than 5 participants, or
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2. Use of a sports field by a member of a sporting club licensed to use the sports fields who wishes to train for profit less than 5 club members at any one time, and for which either the club or the individual has appropriate public liability insurance subject. The operator will be responsible for ensuring the activity is conducted in a safe manner with risk assessments undertaken and suitable insurances held.

Anyone operating under these circumstances must ensure that:

- The activity does not include any element detailed in section 2.4.4, and
- The activity does not occur within any area detailed in section 2.4.5, and
- The operator is subject to the standard licence conditions described in Appendix 2 and 3

If an operator wishes to operate contrary to any of these requirements they must seek specific approval of Council in accordance with the requirements set out in section 2.7.

2.4.4 Activities which will not be considered for a Licence

Not all commercial recreational activities (or uses ancillary to such an activity) are appropriate on public open space. Any commercial recreation activity which involves any of the following elements will not ordinarily be granted a Licence:

- Aggressive or intimidating activities
- Use of amplified music, megaphones
- Competitive sports, unless conducted on designated sports fields, otherwise as provided by section 2.4.2
- Erection of signs, equipment, stakes or ropes otherwise as specified by the licence conditions set out in Appendix 2.
- Commercial catering.

Council will consider a Licence for a commercial recreation activity which includes the above elements if the applicant is able to demonstrate to the satisfaction of Council that:

- there are special circumstances in the community interest to justify the commercial recreation activity, which cannot be accommodated elsewhere, or
- the commercial recreation activity has traditionally been accommodated on public open space.

Before granting a Licence in such circumstances, Council shall take into account the following additional factors:

- the scale of the proposed activity, and
- any social, public health, safety or environment impacts the activity may have, and
- Council’s ability to assess and monitor the activity
2.4.5 Public open space where a Licence will not be granted

A Licence will not ordinarily be granted for any Commercial Recreation Activity within:

- any area of cultural or natural significance (eg dune stabilisation areas)
- a Cemetery
- any designated sports oval without the prior agreement of the sports body holding the licence for the oval
- 100m of any neighbouring residential property,
- a 10m radius of
  - any memorials
  - any playground or play equipment
  - any public change room, toilet, kiosk, picnic area, shelter shed or BBQ facility
- roadways including roadside footpaths
- any other area that council deems unfit or unsafe for the proposed activity

2.4.6 Activities to which this Policy does not apply

1. General commercial activities

This Policy makes no provision for any commercial activity other than recreation based commercial activities. Council has made specific provision for the following commercial uses on public open space in other Policies as follows:

- Footpath dining within a road reserve (refer to Footpath Trading Policy)
- Film production on Council land (refer to Local Government Filming Policy)
- Mobile food vendors (refer to Vending of Food on Public Reserves Policy)

Any other commercial activity on public open space (eg conference related functions or commercially catered wedding functions) will not be entertained by Council.

2. Recreation and community activities to which this Policy does not apply

This Policy concerns commercial recreation activities on public open space. Accordingly it does not apply to the following:

- Passive recreation activities, informal social gatherings and activities provided for by Council’s Casual Park Hire application process.
- Commercial tours of a transitory nature by bus companies or similar tour operators stopping for lunch, site seeing and similar activities.
- Group activities which fall within the terms of the intent and purpose of public open space, including:
  - Community events as described in Council’s Festivals and Events Policy.
  - Not-for-profit small group activities where no participation fees are charged
o Emergency service activities, including training days, conducted by emergency
service organisations as defined within the State Emergency and Rescue
Management Act 1989 (NSW), and surf lifesaving clubs.
o Activities performed by local schools under the supervision of a teacher
o Australian Defence Force activities (such as training drills).

Note: To ensure equitable use of public open space those responsible for these types of
activities are required to check the availability of the land and to book with Council their
particular use of the land.

3. Use of a sports field or associated facilities

- A sporting club operating in accordance with a Sports Facility Licence Agreement
  issued by Council for use by that club for the specified sporting activity, or
- A ‘not for profit’ organisation operating in conjunction with the sporting club for a
  community event, subject to the general conditions as detailed in section 2.8, or
- A school in respect of a sporting activity for the pupils of that school.

Note: To ensure equitable use of public open space those responsible for these types of
activities are required to book with Council their particular use of a sports field.

2.4.7 Use of Clarrie Hall Dam for Commercial Recreation Activities

The primary function of Clarrie Hall Dam is water supply. However, as a secondary function
Council may consider controlled recreation use of the water body and adjacent public land. In
addition to the requirements of this Policy any Commercial Recreation Activity at the Dam must
also meet the requirements of the Draft Clarrie Hall Plan of Management.

2.4.8 Use of Council Community Halls for Commercial Recreation Activity

Council’s Community Halls are not subject to this Policy. These halls are managed by separate
management committees with their own hiring procedures. All enquiries concerning commercial
recreation activities at these halls should be addressed to the relevant Hall Management Committee.
2.5 What type of Licence may Council grant?
Council may grant a Licence on one of the following basis:

1. for a single event, or
2. for a specified short term period for a series of events, or
3. for a general period of 12 months, or
4. for a period of 3 years in respect of existing aquatic licences detailed in section 2.4.1, which have historically been granted for this period.

2.6 Licence Fees
Council will determine the fees applicable to a Licence as part of the annual Fees and Charges determination. The basis of all fees will be the recovery of all costs for the implementation and administration of this Policy.

Council will determine, at a minimum, the following fees;

- Licence Application Fee to be paid when an application is submitted to Council. This Application Fee will not be refunded should the application be refused.
- Licence Fee, which must be paid annually in advance.

2.7 The process for obtaining a Licence

2.7.1 Making an Application for a Licence
An application for a Licence shall be in writing on the approved form, shall set out the proposed activity in detail, and shall include all necessary information required by Council.
The application shall be assessed under this Policy by the General Manager or his delegate with consultations with relevant government agencies where appropriate.
The application must be received by Council at least 30 days prior to commencement of an activity or the date of a one-off event. Council reserves the right to require a longer period should an application raise complex issues requiring further consideration. Consequently an applicant is encouraged to contact Council as early as possible.

2.7.2 Determination of an Application for a Licence
An application for a Licence will be determined by Council officers taking into account the following factors

1. The requirements of this Policy,
2. Consistency with the reserve purpose and/or any relevant management objective, requirement or the like as set out in a Plan of Management for the particular land the subject of an application,
3. The suitability of the site to accommodate the type of commercial recreation activity proposed to be undertaken and the potential impact on:
   i. other users and neighbouring residents during the times requested,
   ii. infrastructure and site management, and
   iii. the natural environment
4. The type of commercial recreation activity proposed to be undertaken and the proposed management arrangements for the activity (in particular safety measures).

2.7.3 Renewal of a Licence

In addition to the requirements of section 2.7.2 the renewal of a Licence will be dependent on the licensee demonstrating a satisfactory standard of performance in all areas for the period of the expired licence.

Council reserves the right to not renew a Licence.

2.8 What Conditions will be applied to a Licence?

2.8.1 Standard Licence Conditions

A Licence for use of a Council reserve is subject to the standard conditions addressing such matters as public liability insurance, and the licensee’s relationship with Council. These conditions are set out in Appendix 1, while examples of specific conditions Council may apply to certain activities are described in Appendix 2.

2.8.2 Other Conditions

In addition to the standard licence conditions detailed in section 2.8.1 Council may impose additional conditions in response to the nature of a proposed recreation activity. This may include a requirement to lodge with Council a bond if Council is of the opinion that the proposed recreation activity has the potential to result in damage to the reserve.

2.8.2 Variation of licence conditions

At the request of an applicant, Council may vary any of the conditions detailed in Appendix 1 and 2 if it can be demonstrated that the variation meets the objectives of this Policy.
2.9 Other Related Legislation

Activities for which a Commercial Recreation Activity Licence is required may also require approval under other legislation. It is the responsibility of an applicant to make the necessary enquiries prior to lodging an application for a Licence. The following is highlighted for the benefit of applicants.

1. Development approval pursuant to the Environmental Planning and Assessment Act. As the requirement for development approval will depend on the details of a particular activity it is the responsibility of the licence holder to ensure such an approval has been obtained prior to the commencement of an Activity. Appropriate enquiries should be made with Council’s Development Assessment Unit.

2. A review is currently being undertaken regarding the interpretation of requirements for development approval for recreational activities on public open space. Pending the outcome of this review the following general advice is provided:
   a. Recreation activities within parks and reserves. These activities could be considered to be ancillary and incidental to the ordinary use of the park or reserve and therefore further development consent may not be required because these areas have already been designated for recreation use.
   b. Recreation activities within waterways. These activities pose different issues and Council is considering introducing thresholds to guide the need for development consent. The proposed thresholds being considered for constituting ‘development’ are as follows:
      - Business delivery or pick up of equipment and craft - maximum 30 minutes per visit, maximum 2 visits per day per site.
      - Guided tours, instruction or transport - maximum 3 hours per visit, maximum 3 visits per week per site. Parking is required to be lawful and offsite.

3. Commercial recreation activities on waterways or the ocean. These activities are likely to require a 'Hire and Drive' licence or similar from the Department of Roads and Maritime Services.

2.10 Compliance

Compliance with this Policy will be achieved through the processing of Commercial Recreation Activity Licences, investigation of complaints in respect of commercial activities in areas the subject of this policy and through surveillance by authorised officers of Council.
2.10.1 Breach of Licence Conditions and Unlicenced Activities
To be detailed.

2.10.2 Revoking of a commercial activities licence
Council reserves the right to revoke any licensed activities for reasons that include environmental protection, public safety, adverse social impacts and changes in policy or legislation.

The licence may also be terminated in the following circumstances

- If any fees payable, or any part thereof are in arrears for 28 days, whether formally demanded or not;
- If proof of current public liability insurance cover is not provided prior to commencement of, or during a licence period;
- If the licensee breaches any conditions of this policy or the licence;
- If the licensee is declared bankrupt
- If the licensee commits an unlawful act or breaches the requirements of any other relevant authority

Council is not liable for any costs, loss or other actions arising out of Council revoking and/or terminating a licence.

If the licence is to be terminated due to circumstances set out in this clause, the Council may terminate the licence by:

- Notifying the licensee to that effect; or
- Restricting the licensee from operating on the reserve,

If a breach of condition in the licence is witnessed and recorded by a Council Officer or reported to Council and investigated, a written warning may be forwarded to the operator. Council reserves the right to issue verbal warnings for minor deviations from the licence.

A licensee has a right to provide a written response to a warning within 28 days. The General Manager has the authority to determine whether or not the warning should be waived based on the response.

If a licensee receives 3 written warnings within a 3 year period the Council will terminate the licence.

While a licensee holds a 1 year licence the issuing of 2 written notices in that period will result in termination of the licence.
2.11 Forms

Commercial Activity Licence for Use of a Council Reserve Application Form

2.12 Review Period

This Policy will be reviewed by Council over the first 12 months of operation.

Useful Links

Tweed Shire Council website
Appendix 1 Standard Commercial Recreation Activity Licence Conditions

(Section 2.8)

A Commercial Recreation Activity Licence for use of public open space is subject to the standard conditions set out below.

In accordance with Section 2.7.2 an Operator may apply to Council to vary some conditions. In particular Council may consider applications to:

- Use land within 100m of residential properties (Condition j.iii) refers) if it can be demonstrated that other factors will ameliorate the impact of the activity (e.g., a busy road or land form intervening between affected residential properties and the site of the activity).
- Erect a small marquee to provide shade during the period of the activity (e.g., surf school) (Condition o. refers).
- Vary the times of operation of an activity for parks not within close proximity to residential areas (Condition u. refers).

Note: A Licence is approved by Council subject to the provisions of the LGA or the CLA, depending on the status of the land as described by Section 2.2. As a consequence any of the Standard conditions set out in this section may be amended to indicate the condition is subject to Ministerial, Trust or Council requirements as appropriate.

Period of Licence

a. A Licence is issued for
   i. a specific event,
   ii. a short term period to cover a series of events,
   iii. a period up to a maximum of 12 months, or
   iv. a period of 3 years in respect of existing aquatic licences which have historically been granted for this period.

b. The licence shall expire on 30 June 20 each year

Operator

c. A Licence is not a tangible asset and cannot be sold or transferred to a new operator.
d. A Licence is granted on a non-exclusive basis.
e. No relationship of landlord and tenant is or is intended to be created between the parties hereto by virtue of this Licence or in any way whatsoever.
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f. The approved Activity shall not be conducted unless supervised by a Manager, being the Licensee, or a suitably qualified authorised employee of the Licensee.

g. The Manager, or other suitably qualified authorised employee of the Licensee, responsible for supervising activities, must be a person approved by the appropriate controlling body for the activity.

h. The Manager must be able to produce on demand from a Council officer a copy of the relevant Commercial Recreation Activity Licence when requested

Activity

i. The Activity must be conducted only in the location(s) approved in the Licence.

j. The licence holder must not:
   i. use any public equipment (eg shelter sheds, park furniture) for the activity
   ii. undertake any activity within an area identified as being of cultural or natural significance (eg dune stabilisation areas, memorial areas)
   iii. undertake any activity within 100m of a neighbouring residential property
   iv. undertake any activity within a 10m radius of
      • any memorials
      • any playground or play equipment
      • any public change room, toilet, kiosk, picnic area, shelter shed or BBQ facility
   v. undertake any activity within any other area that Council deems unfit or unsafe for the activity

Business Interruption

k. Council will accept no responsibility or liability for any interruption to business/activity caused by the need for Council or any other authority to carry out maintenance works, conduct special events or the like on the land the subject of the Licence.

Insurance

l. The Licensee shall indemnify and keep indemnified Council, the Trust and the Minister administering the Crown Lands Act against all actions, suits, claims, debts, obligations and other liabilities during the continuation of the Licence and further. The Licensee shall take out a public risk insurance policy with reputable insurance office, approved by the Trust, in the names of the Licensee, Council, the Trust and the Minister administering the Crown Lands Acts insuring them against such of the said matters as can be insured against to the sum of not less than $10,000,000 and shall produce at any time when required by the Trust or the Minister a Certificate of Currency or similar appropriate document to the satisfaction of Council.
m. The Licensee shall maintain all other insurance as may be required by the *Workers’ Compensation Act* ??? (NSW) or any other Act or Acts of Parliament in regard to the conduct of activities licensed. A copy of such insurance (or Certificate of Currency) shall be provided to Council prior to the commencement of the Activity.

**Sale of goods**

n. A licensee shall not sell clothing, equipment, food, refreshments, goods, services or products.

**Structures**

o. A licensee shall not without the specific approval of Council erect tents, marquees, awnings or similar structures.

p. A licensee may erect an identification sign (measuring no more than 1m x 1m) for the activity which is to be displayed only at the time the activity takes place.

**Risk management**

q. The operator must undertake a risk assessment prior to commencing an approved activity and take actions to address any identified risk. Such an assessment must include an inspection of the area to ensure no hazards are present, and action must be taken to remove those hazards or re-locate to a more suitable location.

r. When conducting approved activities beyond daylight hours, an operator shall monitor and manage risks to participants and ensure public safety is not impacted by the activity.

s. At the completion of an approved activity the licence holder must remove as soon as is practical all equipment, signage and the like that has been used during the activity. Should the activity involve two or more sessions during the day, equipment must be removed between sessions.

t. The licence holder shall be responsible for any injuries, losses or the like arising from any equipment used during the approved activity.

**Hours of operation**

u. Activities must not commence prior to 07.00 and must conclude by 20.00. Earlier start times may be negotiated for locations at a distance from residences where noise will not carry. Should the activity occur before sunrise or after sunset the operator is responsible for ensuring the safe conduct of the activity.

**Environment**

v. The licence holder must ensure that any activity causes minimum disruption to surrounding residents and to the general public’s right of access and enjoyment of the public open space.

w. There shall be no use of amplified music or devices.

x. The licence holder must
i. Comply with any reasonable directions of a Council officer
ii. When conducting their activities be considerate of other reserve users and adjacent residents
iii. Not interfere with any other person authorised by Council or the Trust to use the reserve or any part thereof.
y. The licensee shall immediately repair and make good, damage occasioned by their use within the area specified by the Licence.

Car parking

z. Licence holders and participants are required to park in accordance with NSW road rules.
   No vehicle is to be driven onto Council parks or other public open space

Waste

aa. Licence holders are required to ensure the area used for an activity is clean and tidy after use and all waste is collected and removed.

Amusement Devices

bb. In the event that a recreation activity involves the use of amusement devices appropriate conditions will be imposed by Council.

Other licences

cc. The licensee is responsible for obtaining any other approvals or licences that may be required to undertake the activity.
Appendix 2 - Standard Conditions for Specific Activities

(Section 2.8.1)

**Personal Fitness Trainers**

1. Commercial fitness trainers must
   a. Use every endeavour to minimise noise impacts on any nearby residents and other public users of public open space. In particular the use of amplified music, whistling, yelling and the like (which carry long distances, particularly in the early morning) must be avoided.
   b. Ensure that exercise equipment used does not create any hazards or obstructions
   c. Give way to pedestrians/cyclists when moving through narrow areas such as paths with groups

2. All fitness activities must cease at dusk

3. In addition to the activities detailed in section 2.2.3 the following activities are prohibited
   a. Dragging of logs, tyres, heavy ropes and other equipment that may damage the natural environment
   b. Suspending or tying equipment from trees and/or structures in a Reserve
Version Control:

## Version History

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