

# **Commercial Recreation Activities on Public Open Space Policy**

## **Public Consultation Report**

### **November 2014 to February 2015**

In December 2014 stakeholders were invited to provide input to assist in the completion of Council's Draft Commercial Recreation Activities on Public Open Space Policy. To assist Stakeholders the following public information sessions were held:

- For Aquatic Licence holders: 2.00pm, Tuesday 10<sup>th</sup> February at Council Offices
- For Personal Trainers: 7.00pm, Tuesday 10th February 2015 at the Banora Point Community Centre.
- For all other Stakeholders: 5.00pm Thursday 12th February at the Banora Point Community Centre

This report contains:

1. An analysis of the issues raised during the exhibition
2. A copy of all written submissions
3. A summary of comments made at the Information Sessions

## Analysis of Submissions

Submission	Response	Recommendation
<b>1. Purpose of Licence</b>		
1.1 Need specificity about what is allowed by a licence, eg surf schools and hiring, aquatic licence holders who run tours, team building, school-based activities	<p>Number of elements to this issue</p> <ol style="list-style-type: none"> <li>1. Getting operators to obtain the relevant licence from Council</li> <li>2. Getting applicants to be precise about the proposed activity, its location and scale.</li> <li>3. Determining what activities, are appropriate in a park</li> <li>4. Compliance</li> </ol>	<p>The draft Policy does not identify a policy regime for each individual activity. It sets out a general set of performance guidelines for acceptable and unacceptable activities. There should be no problem for an operator to engage in a number of activities as long as those activities (singularly and in combination) meet with the requirements of the Policy. There is no need to amend the Policy, except to clearly enunciate the 4 elements detailed in column 2,</p>
1.2 Aquatic licence holders may be servicing a school which may have particular requirements which may be contrary to licence requirements. Is the licence about “running water sports activities” which has a broad meaning eg running a junior action program to teach kids to be kids?	This is a detailed example of the issues detailed in 1.1 above	
1.3 Aquatic licence - what are the activities that are permissible – eg team building at mantra, food vending, water	This is a detailed example of the issues detailed in 1.1 above	
<p>1.4 Does informal occasional use of open space for private school overseas student use require a licence?</p> <p><i>An indigenous tour operator (name withheld) is an example of potential tourist operations that may get drawn into this</i></p>	<p>This is an example of an informal low-key tour type operation which the policy is not aimed at. However, it is difficult to separate it from other commercial activities.</p> <p>If such activities could be</p>	?????

	defined it could be treated in the same way as PTs with less than 5 participants	
1.5 Gyms now training in parks – community wants to get outdoors – how are these managed?	The use of open space by a gym is no different to any other commercial user and therefore no amendment is required to the policy. However, reference should be made in any practice notes to accompany the Policy, and gyms should be informed of this requirement.	Include reference to the use of open space by gyms in any practice notes/code of conduct. Identify and inform gyms of the need for a licence if open space is used
1.6 Not agree with some suggestions for inclusion in the document as no matter how hard one tries to cover all contingencies, there will always be circumstances that will arise outside of any guidelines required	Certainly agree. The basis of the Policy has been to provide a generic set of principles for a range of activities and open space.	No change to the draft Policy
<i>1.7 Length of licence needs more thought</i>		
1.8 Operator should erect sign indicating no parking in the park	This could be included in a code of conduct package	Include reference to the need for participants to park in accordance with standard parking requirements in any practice notes/code of conduct.
1.9 Concern at unapproved activities, eg board hire, SUP hire, hire from a shop issues of safety)	Compliance issue – see section 6	No amendment to draft Policy required. Broad publicity on the need for a licence would be appropriate, possibly targeting potential operators.
1.10 Particular concern expressed in respect of SUPs – dangerous, learn only on flat water. Banned in Queensland	Ban the use of SUPs	Amend the draft Policy
<b>2. Numbers/regularity of activity</b>		
2.1 All operators to be licensed regardless of size, as less than 5 participants may still pose problems	This comment is accepted. However the nominated threshold has been chosen	For management purposes retain less than 5 participants needing to apply for a licence;

	because of the anticipated minimal impact and to reduce Council involvement in such minimal impact activities. Nevertheless, these operators will still be required to meet all policy requirements. This could be achieved by pre-registration.	and amend draft to require such operators to pre-register, provide any necessary material as required by the Policy (eg insurance).
2.2 Some agreement that PTs with less than 5 participants should be exempt but still needing to meet code of conduct.	See above	See above
2.3 May be appropriate to cap size of groups (10 suggested, 20 too many) to manage use of public open space.	This is sensible although the numbers may be a little arbitrary.	Amend draft Policy to cap size of groups to no more than 15 participants or otherwise as may be determined by Council when an applicant can demonstrate no adverse impact.
2.4 Take account of regularity of event	This will be one of the factors considered in the determination of a licence application	Amend draft Policy to include reference to regularity of event
2.5 Should number of operators in an open space be limited?	The concern is how this to be achieved. Each open space would have to be individually assessed for the principle anticipated activities. There may be a need for this in the longer term for popular parks but it is not seen as a need at present.	No change to the draft Policy
<b>3. Fees</b>		
3.1 Can fee be related to duration of an activity, eg: <ul style="list-style-type: none"> <li>Operating for 5 hrs – 10 hrs \$ 30.00 pw</li> <li>Operating for 11 hrs - \$ 50.00 pw</li> </ul>	The fee structure for licencing has been examined in terms of <ol style="list-style-type: none"> <li>1. Revenue generation</li> <li>2. Covering management costs</li> <li>3. Nominal fee to encourage</li> </ol>	Amend draft Policy for low fee – high penalty.

	<p>compliance.</p> <p>A policy decision is required by Council when these various submissions can be considered. These comments are applicable to all other submissions in this section.</p>	
3.2 Charge more at weekends when more people want to use the open space	See section 3.1	
3.3 Argument for low fee – high penalty. Low cost licence fee: <ul style="list-style-type: none"> <li>• incentive to encourage optimum ‘buy-in’</li> <li>• encourage recreational activities</li> </ul>	See section 3.1	
3.4 Don’t want to pay \$50pw, \$50 a year would get more to register. Best to keep fees low for PTs to get people active	See section 3.1	
3.5 Licence fee should not be prohibitively high and should be relative to the number of clients so that all operators are capable of paying for the licence.	See section 3.1	
3.6 Annual fee applied to be tiered depending on usage requirements per week. Licence fee relatively small for all operators or calculated on size of the operation Operators	See section 3.1	
3.7 Make Tweed residents licences and registration cheaper	See section 3.1	
<b>4. Registration of Operators</b>		
4.1 All operators to be licensed regardless of size.	<p>This is the intent of the Policy, which does not require an operator with less than 5 participants to have to apply for a licence. There is merit in the need to pre-register before operating (see ?? above)</p>	<p>For management purposes retain less than 5 participants needing to apply for a licence; and amend draft to require such operators to pre-register, provide any necessary material as required by the Policy (eg insurance).</p>
4.2 All commercial and non-profit groups should register with TSC. Commercial groups should supply at a minimum a copy of public liability insurance and pay a licencing fee, depending on participant numbers.	This is sensible	Amend draft Policy to include appropriate provisions
4.3 Once registered all operators to receive a compliance list/code of conduct; including signage	This is sensible	Amend draft Policy to include requirement for signage as

		discussed above. Prepare compliance list/code of conduct
4.4 Commercial operators should be residents or ratepayers of Tweed Shire	Not sure if this is legal	
<b>5. Code of conduct</b>		
5.1 Need for code of conduct the basis of which is that parks are there to be shared between all sectors of the community.	This is sensible	Prepare compliance list/code of conduct which highlights the basis of the Draft Policy is the sharing of the Park by all sectors of the community and visitors alike.
5.2 Environmentally sensitive areas be highlighted and that such environmentally sensitive areas be exempt from use by commercial operators	This is sensible	Include in compliance list/code of conduct detailed in section 5.1 above.
<b>6. Compliance</b>		
6.1 Council needs to be confident that the associated compliance and regulatory regime will encourage compliance and can be adequately enforced.	Council needs to be aware that once adopted this Policy regime will involve a greater degree of compliance than at present with associated requirement for resource allocation.	Council to be made aware of the resourcing implications of the draft Policy. Amend draft Policy to finalise the compliance section.
6.2 Note the role of Council rangers, industry, and general public in ensuring compliance. Fine the ones who do wrong		No changes to draft Plan required
<b>7. Tender process for Aquatic Licences</b>		
7.1 Licenced sites carry out a lot of rescues, and provide advice. They can help to enforce compliance of Policy – tell Council, NSW Maritime	No comment	No changes to draft Plan required
7.2 Concern at implications of tender process and possibility licence for an operator will not be renewed. Why go out to tender? Business works on 5x5x5 year leases why not Council? Operators have built up networks, community support community expectations that will be there, providing tourist facility. Tender should be based on <ul style="list-style-type: none"> <li>• Highest price not necessarily win,</li> <li>• Local contacts/networks key,</li> <li>• Community benefits demonstrated,</li> </ul>	There are legal reasons why Council must go to tender. Refer this to Council's contracts section	Await outcome of referral

<ul style="list-style-type: none"> <li>• No income for about 4 months each year,</li> <li>• Best practice should be the goal,</li> <li>• Consider local performance and past performance,</li> <li>• Don't rush this</li> </ul>		
<b>8. Licence determination</b>		
8.1.Community consultation should be included in licence decision making	Whilst attractive it would delay the determination process. Community involvement should be in the determination of the Policy, and perhaps major activities (how define?)	
<b>9. Policy details</b>		
<u>2.4.4 Activities which will not be considered for a licence.</u> Omit 'activity has traditionally been accommodated in public open space' to avoid unacceptable activities being allowed just because they have been allowed in the past.	Any such activity will still have to be determined in its individual merit	No amendment to draft Policy required
<u>2.4.5 Public open space where a Licence will not be granted.</u> Include second dot point 'any area that is environmentally fragile and prone to erosion eg. sand dunes and unpaved tracks. Leave natural significance in dot point 1 but take out bracket eg sand stabilisation areas.	Accept	Amend draft Policy accordingly
<u>2.4.6 Activities to which this Policy does apply.</u> Fully support 'Any other commercial activity on public open space ... will not be entertained by Council.'	Noted	
<u>2.4.6 Activities to which this Policy does apply.</u> Regular commercial tour operators need to be licensed to ensure they are aware of the restrictions, requirements and the significance of the areas and ensuring public liability is covered	See section 4.1	
Australian Defence Force activities (such as training drills) are not included in this policy are they covered in another policy to ensure environmental damage and other detrimental effects do not occur		
<u>2.4.3 Activities for which council will not require a licence application.</u> 3. An operator utilising the open space for 4 hours or less per week.	Unacceptable???	
<b>10. Surf Schools</b>		
10.1 Do not place Surf School operations in same category as Personal	The draft Policy does not	No amendment required

Training, Yoga etc. Surf School category is quite separate, and also does not fall under the hire and drive	categorise activities. It sets out a general set of guidelines for all activities to be considered against	
10.2 Surf Schools are mobile, able to operate at different locations depending on surf conditions, safety elements etc. However, only a few beaches on Tweed Coast offer suitable conditions to conduct lessons. At the moment there does not seem to be an issue however, if more schools are operational there will undoubtedly be problems with overcrowding and competition. An easy fix would be to assign certain areas to certain schools	The principle of this issue is discussed in section 2.5. Monitor the situation	
10.3 Implementing fixed locations or a finite number of licences may mean having to implement a tender system. A tender system would have a negative impact on current operators.	The principle of this issue is discussed in section 7.2	
10.4 Historically, new schools have manipulated the rules to create revenue streams (eg Stand Up Paddle lessons becoming hires in the same areas as a hire and drive license.) These rule manipulation have repercussions on the current operators as a blanket effect of poor image or complaints lands on all operators in the industry, not just the perpetrators	This is a compliance issue	No amendment required
10.5 In previous years a maximum class size of 10pp has been implemented by council (with exceptions to education groups), which is too small for a business to operate. A number closer to 16 would be ideal without causing any significant impact to other users. As the industry is only viable due to holiday and tourism periods it is essential to be able to operate efficiently in this period, with factors such as tide, wind and rain, there are often not multiple suitable time slots per day to conduct multiple lessons.	This could be accommodated	
10.6 Currently surfboard hire is a grey area, and generally not considered part of our license. This should be reconsidered. Although surf shops hire out boards, it is often not possible for people to transport the boards from there to the beach. For tourists and locals to be able to arrive at the beach and use a board that is already there for them is very convenient, and somewhat expected. This is considered normal practice by most councils. It also ensures people without a lot of ocean skills are in one of the safest	This is a repeat of section 1.1 and could be accommodated	



spots as that is where the schools normally set up.		
10.7 There is usually added safety of either lifeguards or qualified instructors in the area not only looking at their own job but an overall beach management and safety role. There has been a problem in the past with hire of SUP (this coming from both of the last 2 new surf school licences), which has implemented a no hire part to the licence we currently hold. There is usually an estuary located at the same location as suitable learn to surf location meaning there has been cross overs with the hire and drive businesses and flat water activities. I suggest the hire of surfboards from the beach be included in the surf school licence but to leave the SUP to the flat-water operators. This would be a convenience to the public and not impact these other license holders.	See 10.6	

## **2. Stakeholder Consultation Submissions**

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## **Fingal Head Coastcare Inc.**

**P.O. Box 21  
Fingal Head 2487**

**fhcoastcare@gmail.com**

February 18, 2015

Comment on Draft Commercial Recreation Activities on Public Open Space  
Grahame Burton - Open Space Officer and Douglas Jardine - Consultant  
Recreational Services  
Tweed Shire Council

Dear Grahame and Douglas,

Fingal Head Coastcare thanks you for the opportunity to comment on the Draft Commercial Recreation Activities on Public Open Space and congratulate Tweed Shire Council for formulating this policy to minimise problems associated with this growing trend. Many other shires have experienced problems with commercial activities in public open space and a policy to avoid these is a step in the right direction. Also the Tweed Shire's proximity to the Gold Coast exacerbates these problems as already we are experiencing many Queensland operators in our parks and on our beaches.

Thank you also for the opportunity to attend the stakeholders information session on Thursday February 12. This informal, informative session was very helpful in understanding the policy's aims, processes and outcomes. It also gave stakeholders the opportunity to voice their concerns and the conveners Grahame Burton and Douglas Jardine were genuinely interested in the comments and suggestions made. I think this consultation process was very successful.

### **About Us**

Fingal Head Coastcare Inc. (FHC) is a voluntary, incorporated landcare group which has been operating continuously for 29 years revegetating crown land on the Fingal Peninsula. FHC has 166 financial members and has members working four days a week to maintain 33 hectares of regenerated native vegetation which had been destroyed by sandmining during the 1950's and 60's.

Our achievements have been recognised by a large number of local and statewide awards over the years including in 2014 - runners up in the NSW State Regional Community Partnerships Awards for Environment Protection and we were instrumental in Fingal Head winning the KAB NSW Connecting Our Coast Award for Community Action and Partnerships and Young Legends and highly commended in Environmental Protection, Environmental Education, Cultural Heritage and Litter Reduction.

### **GENERAL INTEREST AND COMMENTS**

Fingal Head Coastcare Inc. is obviously interested in ensuring that the policy is formulated so that these commercial operations do not impact negatively on the natural environment of the Tweed including Fingal Head. FHC has a number of general suggestions:

#### **Additional documentation outlining detailed requirements and limitations of activities.**

FHC is aware that a policy, by necessity needs to be a relatively brief, simple document

which can not, by this constraint, include detailed requirements for operators to ensure that no environmental damage and other detrimental effects occur as a result of the operations. We assume this policy would be supported by detailed documentation for operators explaining the requirements, limitations and restrictions for all the various operations as in Appendix 2 – Standard Conditions for Specific Activities Personal Fitness Trainer and also as exists currently for weddings in public open space. FHC would be very interested in input into these documents when they are being finalised.

**Number of Clients-** should be considered and set not in the policy but in the above accompanying documentation.

**Number of operators.**

Consideration should be given to cap the number of operators after assessment of the impacts of the associated activities. This should be written into the policy but numbers for each operation would be specified in the supporting documents. This limitation of numbers is important considering the possibility of a huge growth in the popularity of commercial activities in the outdoor settings .

**Signage and Compliance**

As explained below, FHC suggest all operators need to be licensed regardless of the size of their operation and that all operators display a sign with the operation's name and TSC licence number.

This would be a guarantee for the community and TSC staff that all proper requirements are being addressed.

**Commercial events**

Obviously, licences for individual commercial events would be considered on their individual merits but size of the events, number of participants, impact on the environment, public open space and community should continue to be taken into account. Community consultation should also be included in the decision making process.

**Resident Commercial Operators**

Commercial operators should be residents or ratepayers of the Tweed Shire as the ratepayers pay to maintain this open space.

**COMMENTS ON SPECIFIC SECTIONS OF THE DRAFT POLICY**

**Size of operations requiring a permit:** FHC notes that in 2.4.3 *Activities for which Council will not require a Licence application Part 1 (Page 14)* states that activities with fewer than 5 participants will not require a licence application. If the operators with fewer than 5 participants are not required to apply for a licence;

- there may be no mechanisms to ensure that operators are aware of the restrictions, limitation and expectations on their activities. For example last year a personal trainer regularly occupied the whole of the viewing platform at Fingal Head Main Beach with 3 clients and equipment. He was unaware that this was not acceptable.
- the TSC has no way of ensuring these operators have public liability risk or have conducted risk assessments or have ensured that there is no risk to clients or the public. The licence application would provide this..
- also, we understand that fewer clients have less impact but there is the possibility that in the future there may be a large number of operators with fewer than five clients so that the impact could be as significant as one large operator

**Suggestion:** That all operators require a licence and that the fee be relatively small for all

operators or possibly calculated on the relative size of the operation.

### **Unacceptable Activities**

#### ***2.4.4 Activities which will not be considered for a licence. Page 15***

'Council will consider a licence for a commercial activity which includes the above if the applicant can demonstrate to the satisfaction of the council. .... the commercial recreation activity has traditionally been accommodated in public open space'.

**Suggestion:** This should be omitted to avoid unacceptable activities being allowed just because they have been allowed in the past.

### **Public open space where a Licence will not be granted**

#### ***2.4.5 Public open space where a Licence will not be granted***

Should include a second dot point 'any area that is environmentally fragile and prone to erosion eg. sand dunes and unpaved tracks. Leave *natural significance* in dot point 1 but take out bracket eg sand stabilisation areas.

### **Commercial Tours and Catering**

#### ***2.4.6 Activities to which this Policy does apply***

##### ***1. General commercial activities***

FHC fully supports the statement 'Any other commercial activity on public open space (eg conference related functions or commercially catered wedding functions) will not be entertained by Council. FHC consider this inclusion excellent based on our experience with commercially catered weddings and also the experience of Byron Bay with conference functions on public open space.

##### ***2. Recreational and community activities to which this policy does not apply. Dot point 2.***

Regular commercial tours and tour operators need to be licensed to ensure they are aware of the restrictions, requirements and the significance of the areas and ensuring public liability is covered. With the growth of the tourist industry these tours could in the future be a large problem. This is already very significant for Fingal Head as there are a large number of tourist operators taking large groups to the Fingal Headland which is a very fragile and significant area.

Although this could be difficult to police regular tourist operators should not be excluded from the licencing for that reason. Licensing for these commercial tours is already required in a number of areas including National Parks.

*Australian Defence Force activities* (such as training drills) are not included in this policy are they covered in another policy to ensure environmental damage and other detrimental effects do not occur?

### **Length of Licence**

#### ***2.5 What type of licence may Council grant?***

Dot point 4. FHC suggest 'historically been granted for this period' is not a good reason to continue this. Again just because it has been done in the past is not a good reason to continue this practice in a policy which will be in place for many years. A licence for on year one year for all applicants taken on current not historical consideration is simpler and fairer.

### **Licence Fee**

#### ***2.6 Licence Fee***

FHC suggest that the licence fee be not prohibitively high and relative to the number of clients so that all operators are capable of paying for the licence. This will, in turn ensure that all operators are aware of the requirements and restrictions and TSC will know public liability is covered by the operator.

FHC is aware that the costs for issuing these licences need to be covered by TSC so when setting the fee this needs to be considered but weighed up against the benefits of all operators being licensed.

Substantial fines for breaches as well as being prohibitive could assist with financing this licensing process.

## **2.10 Compliance**

### **Signage**

As suggested and generally supported at the stakeholders meeting on Thursday February 12, it was recommended that all commercial operations display a sign which includes the name of the operator or business and the TSC Licence number. This would assist the public and in turn the Council in ensuring operators and events are licensed and if any breach of licence agreements or damage is noted this gives evidence of the the operators identification.

### **Revoking of a commercial activities licence**

#### ***2.10.2 Revoking of a commercial activities licence***

states '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.' This doesn't appear to be consistent.

### **Appendix 1. Standard Commercial Recreation Activity Licence Conditions**

**Environment** section does not specify consideration or mention damage to the natural environment and should.

### **Appendix 2. Standard Conditions for Specific Activities**

**Personal fitness trainers** should include 'may not operate in environmentally fragile areas eg, dunes, dune access tracks, bushland, unsurfaced narrow bush tracks, rock faces etc'.

**Supporting document for other activities** – Documents need to be prepared for other activities and stakeholders need to be given the opportunity of input into these.

## **CONCLUSION AND RECOMMENDATIONS**

FHC thank you for the opportunity to comment on this draft policy and generally recommend:

- Environmental damage is avoided and environmental consideration included in all relevant sections.
- Supporting documents of requirements for each activity be prepared with input from stakeholders.
- All operators are licensed.
- Fees minimal but fines for breaches substantial.
- All operators display signage showing licence number.
- Numbers of commercial operators need to be limited and number of clients restricted. This would be mentioned in the policy but specified in supporting documentation.
- Large commercial events are considered individually for approval by TSC staff with input from stakeholders.
- Tour operators need to apply for a Licence.
- An operation or event should not be approved just because it had been done in the past.

- Operators should be residents or ratepayers of the Tweed Shire
- Other dot point comments made above be considered

We request the consideration of these suggestions and I can be contacted on this email address, email address above or phone 0755233145 if clarification is required.

Submitted by

Kay Bolton  
President

**For Fingal Head Coastcare Inc.**

Hi Grahame,

It was great to finally meet the other night and do some brainstorming. You have probably already covered these bases but this is how I think, TSC can manage Open Spaces and set up a manageable Recreational Open Space Policy

Have all commercial and non profit groups register with TSC . Commercial groups must supply minimum a copy of their public liability insurance and pay a licencing fee, depending on participant numbers.

(this covers TSC liability and administration fees and gives TSC a huge data base)

Once registered all receive a compliance list; including a request that all operators supply signage on equipment, horse float, or near wedding etc with name of operator; license number if commercial operator etc

The public, rangers or other operators then can see who they are and report them if not complying with TSC compliance list or question the activity in progress. Operators then receive a warning or a sizable fine creating revenue for TSC (I think alot of the recreational policing is already being done by residence )

### **More Thoughts**

Make Tweed residence licences and registration cheaper (especially weddings ) There are many QLD wedding organisers who use the Tweed, charge huge fees and give very little to the Tweed Region.

Good Luck you have a massive job

Health and Happiness

Leisa Bolton

Fingal Adventures



Dear Grahame,

Thank you for the invitation to attend the public consultation and your and Douglas' time in presenting the Draft Policy last Thursday evening.

Following on from the general discussion that took place with stakeholders, I make only one suggested amendment:

- To include a clear distinction between commercial markets and community markets for better clarity

Other comments relating to the document:

- I have no objections to the content. I think It provides a valuable overview and framework for better managing equitable use of public open space
- I am aware this Draft Policy is not a procedural document, but as a suggestion prior to the determination of the licencing fees, etc. I favour a low cost entry level fee for licences as an incentive to encourage optimum 'buy-in' from as many potential commercial licence holders as possible. Perhaps an initial administration fee, charged at the time of the initial application may help to offset set-up costs (ie licence fee plus initial administration fee)? AND when the licence program really takes off, then there may be scope to offer a sliding scale of reduced fees in instances of multiple annual renewals – a bit like a loyalty program

Thanks again.

Kind regards,

Angela Maxwell  
Manager





Dear Stewart

Fingal Head Community Association Inc. (FHCA) sends its apologies for the Draft Commercial Recreation Activities on Public Open Space Policy stakeholder Consultation meeting scheduled for Thursday 12 February 2015. We appreciate the opportunity to provide our members views on these matters but are unable to attend the specific meeting. This policy was discussed at the February Community meeting where it was confirmed that the FHCA is seeking that the outcome of the policy ensure that public open spaces are respected by all including commercial operators.

The Fingal headland is an important historic, cultural and environmentally sensitive site which hosts the oldest building on the Tweed – the Fingal Lighthouse. There is no infrastructure to support commercial operations on the headland. As the headland is such an important part of the Tweed consideration should be given to totally excluding the headland from commercial operations.

Over the years, FHCA has raised a wide variety of concerns regarding the commercial use of public space at Fingal Head and the related issues this raises for residents and the environment. This has included the increase in commercial wedding planners, wedding photographers, commercial photographers and conduct of commercial photography courses, "fun run" events, tours, amateur club events (such as jet ski clubs, four wheel drive clubs, miniature car clubs events on the headland), horse trail riding events, commercial dog walkers and the like. In addition Fingal Head is regularly used for commercial movie production and advertising.

This list is not exhaustive.

The TSC files contain substantial correspondence from the FHCA regarding concerns about each of these commercial activities and their negative impact including damage to the environment.

On a Tweed wide basis we understand that there is some concern about regulating personal trainers. A suggestion has been put forward that all personal trainers be registered with TSC and when training they are required to display a sign indicating the name of the business and registration number. This way TSC can have a database of trainers to contact re issues and trainers are identified by the public as bonafide. If concerns do arise, the trainer can be easily identified by the public.

In fact a requirement for all commercial operators to display signage of their company name, contact details and permit number could be considered as a requirement for all commercial operators utilising public open spaces.

We also suggest that environmentally sensitive areas be highlighted in the form of an information and code of conduct pack upon registration with the TSC and that such environmentally sensitive areas be exempt from use by commercial operators.

Residents have raised the issue of the numbers involved in commercial events and the impact on the environment and residents in terms of pressure on limited parking in the village. FHCA suggests consideration of a cap on the numbers attending commercial activities as a useful strategy in managing the use of public open space.

FHCA has continued to express concern to the TSC about the regulatory and compliance of the existing requirements for usage of Public Open Space. In considering this policy overall Council needs to be confident that any compliance and regulatory regime will encourage compliance and can be adequately enforce.

Thank you for including FHCA in the draft consultation process. At this stage these comments represent our preliminary input. We look forward to contributing further as the policy is developed and would appreciate you ensuring that we are kept informed.

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Kind regards

Karen Morrison  
President – Fingal head Community Association Inc.

**Submission on Draft Policy - Commercial Recreation Activities on Public Open Space.**

After attending the information session on Thursday 12th February and reading through the Draft Policy, I came to the conclusion that such a policy was indeed needed in the Tweed Shire and felt the draft policy presented at this information session seemed to cover the situation adequately.

I could not agree with some suggestions put forward for inclusion in the document as no matter how hard one tries to cover all contingencies, there will always be circumstances that will arise outside of any guidelines required. With the inclusion of point 2.8.2 "Other Conditions", this should be sufficient to cover any contingency which may or could arise and could be discussed in more detail when the applicant applies for the licence.

After speaking with a Personal Trainer from the Gold Coast, at present the Gold Coast City Council (GCCC) do not have such a policy nor do they require operators to be licenced. However, the P.T. went on to say she would like to see such a policy adopted by the GCCC as this would weed out those operators who are a bit suspect. In her particular case, she has a Public Liability Insurance cover but knows of other operators who do not have this insurance. This P.T. also requires all her clients to sign a waiver that if an injury does occur, they will not seek compensation from the GCCC.

It is also important that the cost of a licence is kept to the lowest possible figure as we should be encouraging such recreational activities as statistics show obesity is a huge problem in many cities and towns.

It is also important that the infringement penalty for not having a licence should be high thus encouraging ALL operators to apply for a licence.

Hi Graham,

Following on from the stakeholder consultation meeting last Thursday 12<sup>th</sup> February 2015, I would like to recommend the following changes to the policy on commercial recreation activities on public open space:-

2.4.3 Activities for which council will not require a licence application

**3. An operator utilising the open space for 4 hours or less per week.**

2.6 Licence fees

**Low entry fees & high penalties for operating illegally without an approved licence.** This will encourage users to register with council and get the correct insurances and licences.

**Annual fee applied to be tiered depending on usage requirements per week**  
**eg:      Operating for 5 hrs – 10 hrs      \$ 30.00 pw**

**Operating for 11 hrs      +      \$ 50.00 pw**

Kind Regards

Rhonda Robinson – Proprietor

Top Dog Academy

Douglas,

Had a meeting late last week with Atsuko (Annie) Taylor from Tweed Byron Farmstay and Education. Contact details are

Address: 19 - 21 Cudgen Rd, Cudgen

Phone: 02 6674 1201

Email: [farmstayededucation@gmail.com](mailto:farmstayededucation@gmail.com)

Annie's comments (with my thoughts in red) are:

- This private business coordinates tours from Japanese high schools doing an overseas excursion. Much like some schools do from here when taking a class on an OS tour. They organise accommodation, normally in homestay accommodation in individual homes. Groups may stay in this area several days to a week or more.
- They are certified with department of education. They sometimes get a contract through the department but most contracts are direct with the Japanese schools. They also often have links with local high schools but again this is not essential
- They use public areas in the following ways - possible twice per year:
  - Official excursions such as doing a bushtucker/indigenous tour of Fingal Headland using local indigenous tour guide in Fingal Frank Krasna. GB thoughts - this may have implications for commercial use
  - Gatherings at a park for a social bbq, eg Faulks Park. Approx 40 people are involved and arrive on a bus. GB thoughts - we don't care about this type of use

GB thoughts:

- This is an example of a tour type operation we would rather not be involved with, but can we separate them (the Fingal Head excursion) from other commercial activities
- The indigenous tour operator Frank Krasna is an example of potential tourist operations that may get drawn into this

Hi Douglas,

Thank you very much for taking your time on Monday morning to meet with me regarding the 'Open Space' policy and meeting from the previous week. I understand the complexities and challenges faced when managing the spectrum of businesses and people that fall under these open space areas.

In regards to Surf School operations, I feel it is very important that these activities are not placed in the same category as Personal Training, Yoga and other such activities Surf School category is quite separate, and also does not fall under the hire and drive licenses such as the creek kayak businesses. Therefore, following our previous

discussion, I will try to shed some light on our industry, including some present challenges with the licensing and where I see potential future problems.

Currently, Surf School licenses are granted under an annual review from the Tweed Shire Council, (there is also peak season only licences) and operations are limited to zones 6a (open space beaches) within the Tweed Coast. Licensees must meet running

standards including: qualifications, risk management, insurances, participant numbers

and various other things.

The governing body of the sport is Surfing Australia. They are by far the leaders in the industry, but they also cover many other areas of the sport. There are other umbrella organisations that accredit surf schools, and it is possible to do it all independently, however most go with an accrediting body, and the majority with Surfing Australia.

To be accredited with Surfing Australia and participate in their program's, a surf school's insurance must be held with Surfing Australia. A school must meet their specific criteria, including qualifications - Surf-Coaching Accreditation which is Surfing Australia approved, Qualified First Aid course, an Ocean Rescue certificate

(done by other governing bodies), Risk Management Protocol and Insurance Cover as

well as a 20 million Public Liability insurance and 5 million Coaches Indemnity which Surfing Australia provides.

Tweed Shire had basically put the requirements to be approved as an operator as the same standards that Surfing Australia has outlined. One area that was dropped from Surfing Australia's qualifications this year which was not dropped by council is that of advanced resuscitation, (this was dropped as the equipment used for this qualification is carried by surf schools except in remote places) so it was up to individual councils to decide if this was a requirement they wanted to keep. I would suggest for the Tweed it is something that could be dropped.

As we discussed on Monday, the size of the population, and tourism dynamics of the Tweed is the major factor in challenges for both council making regulations and operators. However the unique dynamics also offer some huge advantages.

One of the really great things is that the licenses are mobile, meaning we can choose

to operate at different locations depending on surf conditions, safety elements and location to clients. However, there are only a few beaches on the Tweed Coast which really offer a suitable combination of conditions to conduct lessons. At the moment there does not seem to be an issue however, without a cap on how many operators can be licensed. If more schools are operational there will undoubtedly be

problems with overcrowding and competition at these areas, as multiple schools will be trying to use the same spaces at the same time. An easy fix to this would be to assign certain areas to certain schools (I see as population grows and more schools are

operational this may become a necessary move) but it would be a bummer to lose the

benefits of mobility that we now have. I have been told that implementing fixed locations or a finite number of licences may also mean having to implement a tender system, I strongly feel a tender system would have a negative impact on current operators.

Another consideration when thinking about fixed locations is also the difference between beginner lessons and Surf Coaching. Surf Coaching is something of a completely different nature, and should be taken into consideration as a field of its own. At the moment, it is not really a factor, nor should it be when discussing open space licenses or surf school operations.

Over the past 4 years I have seen a number of start up schools come and go in the hopes to make some quick easy money. (Generally the schools set up for the Christmas holiday period and then disappear when the area becomes quiet again)

This

is the area that has already caused the most problems. As new schools start they try to

get a foot into the market, often this is done by aggressive high visibility marketing (often illegal) and by offering discounted unsustainable prices (which leads

to cuts elsewhere often sacrificing quality). If there is no cap on how many schools are allowed to operate, and more surf schools open, it will continue to drive down sustainability for current operators meaning loss of quality staff, and compromises in business standards due to financial hardships.

Peak season only licences allow these pop up schools operate and take a chunk of the

tourism money then disappear for the rest of the year, this creates difficulties for schools that pay all year long and support the local customers. The peak season Licences cut into the majority of the year profits and the schools that are left here for the winter must survive on minimal income.

Historically, new schools have manipulated the rules set by the Tweed Shire to create

revenue streams (as seen with Stand Up Paddle lessons in the past becoming hires in

the same areas as a hire and drive license.) These rule manipulations can have repercussions on the current operators as a blanket effect of poor image or complaints

lands on all operators in the industry, not just the perpetrators

\*Note on stand up paddle (SUP), I believe it is far too dangerous for anyone to teach beginner SUP lessons in the ocean/waves. People should have previous surf knowledge before attempting SUP in the wave zone. Coaching (not lessons) as such should only be done with people with good ocean knowledge previous wave skill, and

then a very low e.g. 3-1 ratio should be implied.

In previous years a maximum class size of 10pp has been implemented by council (with exceptions to education groups) I would propose that this is too small a number



for a business to operate under, and that a number closer to 16 would be ideal without

causing any significant impact to other users. As the industry is only viable due to holiday and tourism periods it is essential to be able to operate efficiently in this period, with factors such as tide, wind and rain, there are often not multiple suitable time slots per day to conduct multiple lessons. Also, Party groups and Corporate events may need to be factored under the same rules as education is as they are rare, but usually come in larger groups.

Currently surfboard hire is a bit of a grey area, and generally not considered part of our license. I would propose that this be reconsidered. Although surf shops do also hire out boards, it is often not possible for people to transport the boards from the shop to the beach. For tourists and locals to be able to arrive at the beach and use a board that is already there for them is very convenient, and somewhat expected as it is

considered normal practice by most councils. It also ensures people without a lot of ocean skills are in one of the safest spots as that is where the schools normally set up.

There is usually added safety of either lifeguards or qualified instructors in the area not only looking at their own job but an overall beach management and safety role. There has been a problem in the past with hire of SUP (this coming from both of the last 2 new surf school licences), which has implemented a no hire part to the licence we currently hold. There is usually an estuary located at the same location as suitable

learn to surf location meaning there has been cross overs with the hire and drive businesses and flat water activities. I suggest the hire of surfboards from the beach be

included in the surf school licence but to leave the SUP to the flat-water operators. This would be a convenience to the public and not impact these other license holders.

As already mentioned there is a potential for overcrowding of key areas in the future should more operators be granted licences. In my opinion (even though there is now fewer licences granted than in the past), due to the nature of the businesses operating

we are currently at a maximum capacity on issued licences for it to remain sustainable

(for both the businesses and council management). It is well possible that even with the current numbers of licences, that area permits may be a future option that will need to be looked at. I feel we are still a long way from, and that a tender system would be a real negative implementation.

I have over 10 years experience running surf schools; 7 of which is here on the Tweed. As always should you ever need any advice, opinions or help with anything related to this area I am more than willing to help.

Thank you for your time and consideration.

Joshua Fuller, In2surf surf school

Douglas,

Just letting you know Big Trev (aquatic hire operator at Jack Evans Boat Harbour) is again expressing concern about the Beachcomber & Beachhouse resorts in Coolangatta bringing their stuff down to the JEBH beach for use by resort guests. For the record they:

- Bring 2 large trailers with multiple (maybe 2?) catamarans plus kayaks, standup paddle boards etc
- Are there on Tuesdays & Thursdays from around 10 till 3pm qld time
- Have resort staff on hand to assist guests
- Apparently use up to ¾ of beach area where Big Trevs hire operation works
- Are not subject to any safety rules (eg can put any number of people/young kids etc on a cat/SUP etc) while Big Trev is required to abide by his Maritime Services 'hire & drive' license conditions
- Many uncontrolled SUP's etc (unskilled or very young users) drift around the area used by Big Trev's operation creating issues for him. Trev says the area is very busy
- Trev is very upset that a large international corporation is allowed to do this while he is required to meet strict safety guidelines and pay us a license fee (admittedly its only a small amount).

This is a very difficult matter for us to manage. See an email to our rangers below about it. Its not clear if a resort can legally use a public beach etc like this although they cannot bring a vehicle (this would include a registered trailer) into a park if we have a suitable sign up. They aren't hiring out the equipment, its available 'free' to resort guests.

Not sure if we've discussed this one before but it would be helpful if our policy can address this one.

Cheers mate

### **3. Stakeholder meeting notes**

#### **Notes of Stakeholder meeting held on 12 February 2015**

Attendance = 13

Major issues raised

- Compliance
- Fees
- Certification
- Markets
- Cost of implementation/management of policy,

Markets:

- Need for markets policy – important to separate between community and commercial. Will tenders be called?

Signs:

- Need to clarify if signs can be erected
- Signs should be compulsory so people can identify licence holder
- Must define size , and include licence no., telephone contact details etc

Parking:

- Proposed details should go to Traffic Committee
- Operator should erect sign indicating no parking in the park

Distance from residential areas

- Not many parks have areas greater than 100m from residences

Certification:

- Certification, skills, integrity of operators important

Numbers/regularity:

- Less than 5 participants may still pose problems
- Need to make it clear that and exemptions for a licence still need to meet the requirements of the policy
- Take account of regularity of event
- Should number of operators in a space be limited? How is this to be achieved?

Essential consideration is the open space is to be shared

Fees:

- Can fee be related to duration of activity
- Charge more at weekends when more people want to use the space
- Argument for low fee – high penalty

Operators

- Get operators to pre-register to get large data base
- Operators should live in the Tweed

## Notes of Stakeholder (PTs) meeting held on 10 February 2015

Attendance = 4

Need specificity about what is allowed by a licence, eg surf schools and hiring, aquatic licence holders who run tours, team building, school-based activities

Fees – don't want to pay \$50pw, \$50 a year would get more to register. Bset to keep fees low for PTs to get people active

Length of licence needs more thought

Surf schools do not clash, they work together

Many small, unqualified operators. Need to ensure qualified, but issues with supervising authorities. Public liability insurance should be the key

Complaints about individual operators – cases of mistaken identity

Impact of use of equipment on other users – need for code of conduct

May be appropriate to cap size of groups , 10 suggested, 20 too many

How to ensure compliance – Council rangers, industry, public. Fine the ones who do wrong

Gyms now training in parks – community wants to get outdoors – how are these managed?

Agreement that PTs with less than 5 participants should be exempt (but pre-register?) but still needing to meet code of conduct.

## **Notes of Stakeholder (Aquatic Licensees) meeting held on 10 February 2015**

Attendance = 3 Aquatic Hire Licensees

Concern at implications of tender process and possibility licence for an operator will not be renewed. Why go out to tender? Business works on 5x5x5 year leases why not Council? Operators have built up networks, community support community expectations that will be there, providing tourist facility. Tender should be based on

- Highest price not necessarily win
- Local contacts/networks key
- Community benefits demonstrated
- No income for about 4 months each year
- Best practice should be the goal
- Consider local performance and past performance
- Don't rush this

Concern at travelling surf schools

Concern at unapproved activities (board hire, SUP hire, hire from a shop) – issues of safety

Particular concern expressed in respect of SUPs – dangerous, learn only on flat water.

Banned in Queensland

Licensed sites carry out a lot of rescues, and provide advice. They can help to enforce – tell Council, NSW Maritime

Commercial operator may be servicing a school which may have particular requirements which may be contrary to licence requirements. Is the licence about “running water sports activities” which has a broad meaning eg running a junior action program to teach kids to be kids?

Can operators put up a permanent sign like at Tumbulgum?

What are the activities that are permissible – eg team building at mantra, food vending, water based fun or educational activities