

## CONDITIONS OF HIRE FOR PERSONAL TRAINERS AND COMMERCIAL FITNESS GROUPS

### **IMPORTANT NOTICE - COVID-19 Pandemic Measures**

*At all times it is the hirer's responsibility to observe and adhere to the latest COVID-19 advice from the NSW Government, please visit [www.health.nsw.gov.au](http://www.health.nsw.gov.au) for further information. The use of the facility may also be subject to additional cleansing and hygiene measures required by NSW Health and/or Council. Failure to implement these measures may result in the cancellation of any future hiring of the facility for the duration of the pandemic.*

### **Purpose of Policy**

The purpose of the Hornsby Shire Council Organised and Commercial Fitness Training Licence is to:

- Ensure equity of access to Council's open spaces with realistic, consistent and co-ordinated regulations
- Reduce the impact of commercial fitness activities on asset condition and maintenance
- Address and manage public liability concerns and risk exposure to Council in relation to commercial operations on Council's open spaces
- Maintenance of outdoor physical activity options for local residents.

### **Fitness Activities Included**

This policy relates to any organised or commercial fitness group and personal training activity including those conducted by schools, sporting clubs, community groups and not-for-profit organisations.

Fitness sessions are limited to the normal activities of a registered personal trainer, Yoga teacher, Tai Chi instructor or the like which would include but not be limited to:

- Gym sessions (with or without weights, fitballs, skipping ropes etc)
- Boxing and pad training
- Yoga, meditation and tai chi
- Organised aerobic activity
- Circuit training and
- A combination of any of the above.

### **Fitness Activities Excluded**

- Military style activities and/or aggressive and intimidating activities are not permitted.
- Use of any equipment associated with an activity which could cause damage to the turf is not permitted.

### **Exclusion Zones**

Organised or commercial group fitness and personal training activities are not permitted within the following areas:

- Cemeteries
- Within a 10m radius of any war memorials
- Within 5m radius of playground equipment and picnic shelters
- Within a 10m radius of any turf cricket square on Council's playing fields
- Hornsby Mall
- within 50m of residential properties before 7:30am and after 7:30pm.

- Use of designated sports fields and courts is permitted however a specific booking allocation for each location is required. Permits for the use of sports fields will also be subject to the Hire for Sportsgrounds Terms and Conditions.
- Use of areas such as swimming centres and tennis courts will be considered in accordance with the operating requirements of those facilities. Fees and Charges relevant to those facilities will apply.

Terms of these conditions of hire may be applied to any applications and subsequent approval for use of these facilities.

- Waitara Oval (for groups of larger than 3 participants).

Council may exclude other public areas at its discretion in the interests of meeting legislative responsibilities for the management of community land.

Council does not warrant any public open space is suitable for the conduct of personal training or any other purpose. The licence holder must take steps to ensure that the area to be used is suitable for the intended purpose and use.

## Eligibility

The following criteria must be met, to be eligible for a licence to operate in Hornsby Shire Council's public open space. Evidence of the same must be provided at the time of application.

- Evidence in completing accredited courses endorsed by Fitness Australia and/or VETAB providers such as TAFE and Universities specific to the type of activity to be instructed.
- Current Senior First Aid Certificate.
- Current Australian Prudential Regulation Authority (APRA) approved Public Liability Insurance for a minimum of \$20 Million with Hornsby Shire Council nominated on the policy as an interested party.
- Proof of Registration as a professional with Fitness Australia is desirable.

## Session and Group Size Requirements

The numbers of participants and session times that may be permitted to successful applicants are:

Number of participants	Session duration	Maximum Sessions Per Park, Per Day
0-2	2hrs	3
3-10	2hrs	3
11-18	2.5hrs	2

- Variation of the duration of sessions will be subject to further consideration by Council.
- Application for an additional licence will be required where sessions clearly exceed the number allowed.
- This policy can apply to one on one sessions and/or group activities.
- Maximum number of persons per group is **18**.
- Council however, holds the right, to specify in the approval notice; group sizes and the number of groups to be operating at any one time.
- Usage times permitted
 

Monday to Friday	6:00 am to 9:30 pm
Saturday and Sunday	7:30 am to 5:00 pm.

## Licence Fees

- Fees inclusive of GST are applicable to Council approved commercial fitness trainers and can be viewed on Council's website at [hornsby.nsw.gov.au/my-lifestyle/sports-and-recreation/sportsground-hire](http://hornsby.nsw.gov.au/my-lifestyle/sports-and-recreation/sportsground-hire).

- Additional fees apply for exclusive use of sporting fields, synthetic fields, pools, floodlights and tennis courts
- Licence holders may operate within this fee structure at multiple locations provided those locations are listed on the licence application.
- Non-commercial fitness trainers are exempt from fees for use of facilities other than sports fields, pools and tennis courts
  - Supporting evidence of not-for profit status is required.
- Use of floodlights at sports fields by both commercial and non-commercial trainers will incur a charge as detailed in the fees and charges schedule.
- Licence fees are determined based on the ratios of number of participants
  - Variation to the combinations of the number of sessions and number of participants will be considered on an application by application basis
  - Council may determine that the number of sessions and session duration may be varied
  - Where licence holders instruct groups of varying sizes, the number of sessions may be varied
  - Application for an additional licence will be required where sessions clearly exceed the number allowed.
  - A maximum of 3 locations per application applies.
- Where use of toilets is required, licence holders may purchase the key to the amenities. Please advise if keys are required when making a booking.

## Allocation of Licence

Applications will be assessed based on the criteria set out in the application conditions:

- Licences will be valid for twelve months and will authorise the licence holder to use the Council facilities indicated on the licence for fitness activities in accordance with these conditions on a non-exclusive basis
- Council officers will determine the number of licences to be issued as part of the allocation process. The following factors will be taken into consideration when determining the number of licences issued:
  - Usage demand and intensity of use of the area and times requested
  - Number of approved licence holders already using the area
  - Other activities (passive and active) being undertaken in area
  - Type of activities to be undertaken and its potential impact upon other users and neighbouring residents during the times requested
  - Whether the activities will contribute to increasing congestion or user conflict in the area requested.
- As part of the approval process with consideration of the above, Council officers may determine the following:
  - Approve the application and issue a licence
  - Not to approve the application
  - Offer a licence specifying:
    - type of activities, group sizes, session times, and locations for activities to occur.
- The approved licence issued will include:
  - the type of activities permitted
  - the locations where these activities can take place
  - the times these activities can take place
  - the maximum size of groups.

- Approved Fitness Trainers will be issued with a licence that displays the above details.
- One licence holder only will be authorised by Council to operate at any one time under the licence issued. Other trainers providing assistance will be included as part of the training group number. In the event that the nominated trainer is unable to operate under the approved permit a replacement may be approved subject to meeting the eligibility requirements of this policy.

## Identification Requirements

Each group training provider allocated a licence agreement will be provided with a corflute ground sign to identify themselves which will include their Licence details. This sign must be on display during any fitness activity conducted on public open space in Hornsby Shire Council and be visible to any authority in the vicinity of training activity, not limited to emergency providers, police or Council rangers.

**Repeated failure to display identification may result in the issuing of an unauthorized usage penalty.**

## General Conditions

Trainers approved by Hornsby Shire Council must:

- Check the condition of the ground immediately prior to occupation and determine whether the ground is fit for the intended use. Council will not accept any responsibility for injury caused by use of grounds in an unfit condition for intended use under this licence.
- Comply with the Commission for Children and Young People Act, and should obtain a declaration from trainers whose duties require contact with children, that they are not a prohibited person under the meaning of that Act.
- Provide only the activities for which they have received relevant qualifications for and which comply with the conditions of hire.
- Maintain public liability insurance coverage for a minimum of \$20 million dollars.
- Hold a current senior first aid certificate.
- Not sell clothing, equipment, refreshments or any other good, service or product.
- Not remove goalposts or temporary barriers which have been erected by Council.
- Operate only between the times specified by Council in their licence. Activities must not commence prior to 6.00am and must conclude by 9.30pm.
- Not display any advertising signage including banners or "A" Frame signs on Council's public open space and footpaths.
- Ensure that any activity causes minimum disruption and interference with the general public rights of access and enjoyment of parks and open space areas.
- Acknowledge that the licence is not issued for exclusive use of any Council park or sportsground.
- **Not interfere with any Council approved or booked activity including but not limited to a wedding, birthday party, corporate BBQ, school, sport or sporting activity that is being carried out on any oval or reserve or part thereof. Non-exclusive usage means that annual, seasonal and casual hire agreements are given priority of usage.**
- Manage their activities to minimise wear and tear on the surface. This includes rotating within the designated area and/or alternating activities.
- In the case of wet weather, phone Councils wet weather line to determine whether parks and open space have been closed or visit [hornsby.nsw.gov.au/my-lifestyle/sports-and-recreation/ground-closures-due-to-wet-weather](https://hornsby.nsw.gov.au/my-lifestyle/sports-and-recreation/ground-closures-due-to-wet-weather).
- Not use facilities, parks or sportsgrounds that have been closed by Council.

- Respect that from time to time, open space areas may be closed for scheduled regular and seasonal maintenance.
- Conduct themselves in a proper and orderly manner and be considerate to other users and adjacent residents when conducting training on Council's public open spaces.
- Not create any noise from training activities that unreasonably disturbs other users and adjacent residents. Excessive shouting, blowing of whistles or other noisy activities should be avoided.
- Not use any amplification device including megaphones.
- Not erect tents, awnings, marquees or similar structures.
- Conduct their activities that they do not dominate and/or obstruct footpaths and stairs from other users
- Ensure that the exercise equipment does not create any hazards or obstruction.
- Not suspend boxing, kickboxing bags, resistance training equipment, ropes, harnesses or any other item from trees and/or structures in the public open space area.
- Not conduct fitness activities that drag equipment across the ground or damage ground surfaces – including tyres and drag sleds.
- Ensure that their clients do not inappropriately use picnic tables, park furniture and fencing.
- Leave the training area in a clean, playable and tidy condition. Failure to do so will result in the cost of remediation being passed on to the hirer and place future bookings in jeopardy.
- Ensure the disposal of any litter from the area and removal of litter from the site if a disposal receptacle is not available.
- Not drive or park any vehicle on parks, open space or footpaths.
- Comply with reasonable directions of the Council's Ranger(s) and other authorised Council Officers in relation to any actual or potential conflicting activities or to display evidence of licence in prescribed manner.
- Without undue delay report to Council the hazardous defect or other hazardous matters observed during any training requiring Council's attention.
- Not sub-let or assign their rights under this agreement or attempt in any other manner to transfer their rights under the permit to any other person, it being clearly understood that the permit issued to a particular individual and is not transferable. The permit is valid for a maximum period of 12 months and must be renewed to ensure its validity.

### **Indemnification and Termination of Agreement**

- The hirer will occupy and/or use the facility at his/her own risk.
- Neither the Council nor its employees shall be liable for any loss, theft or damage sustained by the hirer or any person associated with the hirer or any person attending the facility.
- The hirer will indemnify and keep Council indemnified for and against loss of, or damage to, Council property including buildings, furniture, fittings, flooring surfaces, grounds and landscaping where the loss or damage was reasonably preventable.
- The hirer will indemnify and keep Council indemnified for and against all claims, actions, suits, costs and demands which may be made or recovered against Council by any person whatsoever in respect of any loss, injury (including death) or damage sustained in respect of or arising out of the hiring or use of the facility except to the extent that such loss, injury or damage is caused by the negligence of Council, its servants or agents.
- In the event that the hirer commits a breach of any of the Conditions of Hire, Council and/or Police may immediately terminate the agreement and require immediate vacation of the facility without prejudice to

any right or action which may arise prior to such termination. Any fees and charges paid by the hirer will be forfeited.

- Ensure that at all times that the requirements of the Occupational Health and Safety Act 2000 (NSW) and the regulations made under that Act as well as all other relevantly applicable laws (both statutory and common law) are fully observed to the satisfaction of Council of the relevantly applicable authority.
- If a licence holder is found breaching the licence conditions or park regulations an unauthorised usage fee may be charged.

### **“The Working with Children Check” (Office of the Children’s Guardian)**

- Council has a legal obligation to notify third parties hiring/leasing Council facilities for a child (under 18 years old) related activity, of their legal obligations under “Child Protection” Legislation.

All hirers who work/volunteer with children or provide a service to children under the age of 18 years old are required under legislation to complete a “Working with Children Check” (WWCC).

If the hirer has multiple staff working/volunteering with children, all are required under legislation to complete a WWCC. Hirers must verify the WWCC with the Office of the Children’s Guardian. The WWCC is valid for 5 years.

For further information contact: [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au) or email: [check@kidsguardian.nsw.gov.au](mailto:check@kidsguardian.nsw.gov.au).

### **Public Liability Insurance**

- Incorporated bodies, sporting bodies, clubs, associations of any kind, profit making, commercial and/or money raising activities cannot be covered by Council’s Casual Hirer Policy.

If a hirer is not covered by Council’s Casual Public Liability Insurance, evidence of Public Liability Insurance of not less than twenty million dollars (\$20,000,000.00), must be provided to Council. A *Certificate of Currency* must be in the same name as that on the “*hire agreement*” and a copy of this policy is to be supplied to Council prior to season commencement/prior to casual or event hire dates, and if it is updated during the season/hire period.

Hirers should note that a two thousand dollar (\$2,000.00) claim excess is payable by a hirer arising from any claim caused and/or arising from a hire. Hirers employing professionals, i.e. jumping castles, fairies, catering, disc jockeys, and the like, must ensure these third parties also have public liability insurance for not less than twenty million dollars (\$20,000,000.00).

**FAILURE TO OBSERVE THE ABOVE CONDITIONS  
MAY RESULT IN CANCELLATION OF ANY FUTURE BOOKINGS**