

FILE NO: PSC2015-01929

TITLE: COMMERCIAL OPERATORS POLICY

POLICY OWNER: COMMUNITY SERVICES SECTION MANAGER

PURPOSE:

The purpose of the Commercial Operators Policy ('Policy') is to establish a streamlined approach to the approval of Commercial Operators on Council owned and managed land. It aims to achieve well managed commercial operations that complement the other uses of the locations, adds value to the local tourism and fitness sector and minimises negative impacts on neighbouring property owners and other site users.

CONTEXT/BACKGROUND:

Port Stephens has a diverse range of open space including parks, sports fields, foreshores, beaches, and bushland reserves. These open spaces are well suited to a wide range of passive and active recreation activities. As these open spaces have become more popular, a demand has arisen for the use of Council owned and managed land to conduct commercial operations specifically activities centred on tourism, education and healthy lifestyles. The total open space deemed suitable for these activities is 367 hectares or approximately 28% of Port Stephens Councils total open space provision (refer to Table 1).

SCOPE:

The Commercial Operators Policy applies to the management of Commercial Operators on Council owned and managed land within the Port Stephens Council local government area.

Approval to issue a license or lease under the Commercial Operators Policy does not negate the need for nor is intended as a substitute for development consent under the *Environmental Planning and Assessment Act 1979*, where required.

The Commercial Operators Policy does not apply to commercial operations on land that is not owned or managed by Council. Commercial operations on land that is not owned or managed by Council may require other development approvals.

The Policy applies to land based activities and water based activities.

The Policy does not apply to the following activities that may be subject to separate approval processes:

- Commercial activities deemed to be an event;
- Commercial activities subject to a lease arrangement;
- Commercial use of community halls;
- Commercial use of sporting facility buildings;
- Markets on Council owned and managed land; and
- Activities not considered to be a commercial activity.

DEFINITIONS:

Commercial operator	A person or entity that intends to conduct an activity for profit or personal gain on Council owned and managed land.
Commercial operators licence	A contract to operate across and or on Council owned and managed land.
Council owned and managed land	Land that is owned or managed by Port Stephens Council, including Crown Land that Council is the corporate trust manager.
Event	An activity on Council owned and managed land that is defined in the Events Policy or any related policy.
Land based activity	Activities that are conducted on Council owned and managed land. Examples of land based activities include but are not limited to: personal fitness trainers, group fitness, hiring of bicycles and tricycles, dog obedience schools.
Licensing terms and conditions	This includes guidelines, processes and other internal documents used by Council staff in the assessment and approval of Commercial Operator licence applications.
Market	An activity on Council owned and managed land that is defined in the Community and Cultural Markets Policy or any related policy.
Water based activity	Activities that are conducted mostly in waterways but require access to the waterway from Council owned and managed land. Examples of water based activities include but are not limited to: dive sites, learn to surf schools, hire of water craft, lessons in water craft use, sport adventure activities.

POLICY STATEMENT:

Council is committed to:

- 1) Permitting the use of Council owned and managed land for commercial operations that meet the purpose of the land as defined in the Local Environment Plan, any Plan of Management for the land, the *Crown Lands Act 1989*, the *Local Government Act 1993* and the licensing terms and conditions of any specific site;
- 2) Encouraging commercial operations on Council owned and managed land that encourages tourism, healthy lifestyles and education;
- 3) Ensuring Council owned and managed land is used in a safe manner;
- 4) Permitting 5 year licences for the use of Council owned and managed land by approved commercial operators;
- 5) Ensuring security of tenure for approved Commercial Operators. Accordingly, those Commercial Operators shall be offered a 5 year licence term for any new licence subject to all requirements of the *Local Government Act 1993* and the *Crown Lands Act 1989*;
- 6) Council is committed to implementing and keeping current terms and conditions that ensure that occupiers of licenced sites do not cause nuisance to neighbours and other stakeholders;
- 7) The assessment and apportioning of licence fees that are determined by market demand and the Setting of Fees and Charges Management Directive;
- 8) Providing the locations listed in Table 1 as locations that may be licensed for commercial operations.

Table 1: Council owned and managed land that may be licensed for commercial operations.

SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Anna Bay	Birubi Beach	Lot 7325, DP 1156724	2	1
Anna Bay	Robinson Reserve	Lot 7325, DP 1156724	1	0
Boat Harbour	Boat Harbour Beach Reserve	Lot 7324, DP 1205289	0	1

SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Corlette	Bagnall Beach Reserve, corner of Sandy Point Road and Pantawarra Street (A)	Lot 540, DP 823768	1	0
Corlette	Bagnall Beach Foreshore Reserve, adjacent corner of Pantawarra Street (B)	Lot 540, DP 823768	0	1
Corlette	Conroy Park	Lot 256, DP 27048	1	0
Fingal Bay	Fingal Bay Foreshore Reserve	Lot 475, DP 728127	2	0
Fingal Bay	Fingal Bay Oval	Lot 418, DP 257378	2	0
Fingal Bay	Fingal Beach (A)	Lot 475, DP 728127	1	1
Fingal Bay	Fingal Beach Boat ramp end(B)	Lot 475, DP 728127	1	1
Fingal Bay	Tom O Dwyer Oval	Lot 402, DP 753204	1	0
Fisherman's Bay	Fisherman's Bay Park	Lot 278, DP 753204	1	0
Hinton	Hinton Foreshore Reserve	Lot 26, DP 109540	1	0
Hinton	Stuart Park	Lot 1, DP 915417	2	0
Karuah	Aliceton Reserve	Lot 61, DP 24364	2	0
Karuah	Lionel Morton Oval	Lot 153, DP 753196	1	0
Lemon Tree Passage	Kooindah Park	LOT:PT 93 DP 217567	3	0
Mallabula	Caswell Reserve	Lot 93, DP 11392	0	1

SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Mallabula	Mallabula Sports Complex	Lot 398, DP 1142139	4	0
Medowie	Boyd Oval	Lot 1, DP 408155	2	0
Medowie	Coachwood Drive Reserve	Lot 37, DP 807956	1	0
Medowie	Ferodale Sports Park	Lot 22, DP 1021843	2	0
Medowie	Kindlebark Oval	Lot 59 DP 730472 LOT:129 DP 710216	2	0
Medowie	Yulong Oval	Lot 49, DP 249781	2	0
Nelson Bay	Bill Strong Oval,	Lot 101, DP 1175980	2	0
Nelson Bay	Dutchman's Beach Reserve	Lot 7318, DP1138620	3	0
Nelson Bay	Dutchman's Beach Foreshore	Lot 7318, DP1138620	0	2
Nelson Bay	Fly Point Reserve	Lot 101, DP 1175980	3	0
Nelson Bay	Little Beach Reserve	Lot 101, DP 1175980	1	0
Nelson Bay	Neil Carroll Park	Lot 101, DP 1175980	2	0
Nelson Bay	Nelson Bay Foreshore adjacent to the Nelson Bay public wharf amenities (A)	Lot 550,559, DP 1033413	1	0
Nelson Bay	Nelson Bay Foreshore adjacent Nelson Bay Kiosk and carpark (B)	Lot 550 559, DP 1033413	0	1

SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Nelson Bay	Nelson Bay Foreshore, Victoria Parade adjacent Fly Point amenities (C)	Lot 550,559 DP 1033413	0	1
Nelson Bay	Tomaree Sports Complex	Lot 1, DP 1136350	4	0
One Mile	One Mile Beach	Lot 7311, DP 1120641	1	1
Raymond Terrace	Alton Park Reserve	Lot 61, DP 24364	1	0
Raymond Terrace	Boomerang Park	Lot 1, DP 1018979	3	0
Raymond Terrace	Fitzgerald Bridge Boat Ramp area	Lot 131, DP 1120122	0	1
Raymond Terrace	King Park Sports Complex	Lot 1, DP 733011 Lot 131, DP 1120122	3	0
Raymond Terrace	Lakeside Reserve 2	Lot 261, DP 263821	1	0
Raymond Terrace	Lakeside Reserve 3	Lot 116, DP 262378	1	0
Raymond Terrace	Lakeside Sports Complex	Lot PT2, DP 502401	2	0
Raymond Terrace	Ross Walbridge Reserve	Lot 1, DP 115898	2	0
Raymond Terrace	Vi Barnett Oval	Lot 131, DP 1120122	1	0
Salamander Bay	Bagnall Beach Road Detention Basin	Lot 5072, DP 841259	1	0
Salamander Bay	George's Reserve	Lot 1, DP 852661	0	1

SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Salamander Bay	Joe Redman Reserve	Lot 356, DP 27845	1	0
Salamander Bay	Korora Oval	Lot 541, DP 27274	3	0
Salamander Bay	Roy Wood Reserve	Lot 356, DP 27946	0	1
Salamander Bay	Salamander Sports Complex	Lot 1, DP 1117732	2	0
Seaham	Brandon Park	Lot 11, DP 26452	2	0
Seaham	Seaham Park	Lot 1, DP 758899	3	0
Shoal Bay	Shoal Bay Foreshore - Boat Ramp (A)	Lot 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore Adjacent public wharf (B)	Lot; 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore Beach Road adjacent to Harbourside Haven (C)	Lot; 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore intersection of Harwood Avenue and Beach Road (D)	Lot: 7022,7023 DP 1126832	0	1
Soldiers Point	Everitt Park	Lot 322, DP 636840	1	0
Tanilba Bay	Forster Park	Lot: 7322 DP 1154060	0	1
Tanilba Bay	Peace Park	Lot 1, DP 265326	0	1
Taylors Beach	Taylors Beach Foreshore	Lot 637, DP 27626	0	1

SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Wallalong	Bowthorne Park	Lot 1, DP 703382	1	0

POLICY RESPONSIBILITIES:

Overall review and evaluation of this policy lies with the Community Services Section Manager.

Key areas for implementation are delegated to the following positions:

- 1) Contracts and Services Coordinator – implement the policy, review and update the Licensing Terms and Conditions and supporting documents relating to this policy; issuing of licence approvals under delegation; internal and external relationship management;
- 2) Property Officer Community Leasing – prepare and administer licence documentation;
- 3) Community and Recreation Assets Coordinator and the Parks and Programs Coordinator – provide advice on the implementation of the policy, asset planning and scheduled improvements, liaison with Sports Councils;
- 4) Events and Tourism Coordinator – liaison relating to coordination of events and markets bookings on Council owned and managed land.

RELATED DOCUMENTS:

- 1) Setting of Fees and Charges Management Directive (PSC)
- 2) Events Policy (PSC)
- 3) Event Guidelines (PSC)
- 4) Advertising signs Policy (PSC)
- 5) Alcohol in Parks and Reserves Policy (PSC)
- 6) Temporary Structures on Footways Policy (PSC)
- 7) Port Stephens Council Plans of Management for community land (PSC)
- 8) *Local Government Act 1993 (NSW)*
- 9) *Crown Lands Act 1989 (NSW)*

CONTROLLED DOCUMENT INFORMATION:

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TRIM container No	PSC2015-01929	TRIM record No	001
Audience	Existing and potential commercial operators, Sports Councils; Parks and Reserves 355c Committees; local business associations and their members; Destination Port Stephens and their members.		
Process owner	Contracts and Services Coordinator		
Author	Contracts and Services Coordinator		
Review timeframe	Every 4 years	Next review date	June 2019
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	28/8/07	Recreation Services Manager	Commercial Operators Policy	236
2	26/3/13	Community & Recreation Services Section Manager	Policy for the Use of Council Reserves for Commercial Fitness Groups and Personal Trainers.	73
3.1	28/7/15	Community Services Section Manager	Draft Commercial Operators Policy for Public Exhibition	221

3.2	27/10/15	Community Services Section Manager	<p>Draft Commercial Operators Policy – Post Exhibition Period.</p> <p>Two submissions were received and focused on amendments to the draft policy to include:</p> <ol style="list-style-type: none"> 1. More areas for surfing schools at all Council managed surf beaches. <p>This is not supported based on the small areas of beach actually managed by Council and the potential for beach user and operator conflict with flagged swimming areas, and other surf craft using these areas.</p> <ol style="list-style-type: none"> 2. The first right of refusal for existing licencees. <p>The first right of refusal statement has now been deleted and the draft policy now offers the approved commercial operator an increase from 2 to a total licence term of 5 years.</p> <p>The Scope was amended to clarify the that the Policy does not negate the need for nor is intended as a substitute for development consent under the <i>Environmental Planning and Assessment Act 1979</i>, where required.</p>	
3.3	10/11/15	Community Services Section Manager	Draft Commercial Operators Policy adopted by Council.	342



