

**ITEM 2. OUTDOOR FITNESS TRAINING VOLUNTARY CODE OF CONDUCT
– ADOPTION****FILE NO: S051483****SUMMARY**

This report recommends that the amended Outdoor Fitness Training Voluntary Code of Conduct (the Code) be adopted by Council.

At the 23 November 2015 meeting, Council approved the exhibition of the draft Code for public comment. The draft Code was exhibited from 14 December 2015 to 31 January 2016. The exhibition of the Code was advertised in the local press in December and January and on the Sydney Your Say website. The draft Code was available for download from the City's website and copies were available at the One Stop Shop and Neighbourhood Service Centres.

In total, 58 submissions were received including submissions from fitness training service providers, training participants, residents, and the NSW Small Business Commissioner. A summary of the submissions is at Attachment B.

In addition to the formal written submissions, a petition with 705 signatories as at 22 February 2016 was received via Change.org. This petition, although supporting the idea of a Code of Conduct, requested that the proposed restrictions on the use of training equipment be reconsidered.

In response to the submissions, amendments have been incorporated into the Code to clarify the types of training equipment that can be brought into the City's parks and open spaces, and to increase the maximum size for training groups from 12 to 18 persons. A copy of the amended Code is at Attachment A.

RECOMMENDATION

It is resolved that Council adopt the Outdoor Fitness Training Voluntary Code of Conduct, as amended and shown at Attachment A to the subject report.

ATTACHMENTS**Attachment A:** Outdoor Fitness Training Voluntary Code of Conduct**Attachment B:** Assessment of Submissions

BACKGROUND

1. The City's parks and open spaces provide for the diverse recreational needs of residents, workers, students and visitors. The City recognises the health and lifestyle benefits of outdoor training and encourages the responsible use of public open space in the pursuit of health, fitness and wellbeing by the whole community.
2. The use of urban parks and open spaces for fitness training has rapidly grown in popularity. Training groups are increasingly using the City's parks and open spaces, particularly near employment centres such as Central Sydney and at neighbourhood parks in residential areas. An estimated 200 to 250 fitness training groups regularly use the City's parks.
3. Training activities commonly observed include: jogging, running and sprinting; programs such as yoga, Tai-chi and other martial arts; bodyweight exercises; and circuit training involving equipment. This may include either training equipment installed by the City, or equipment imported by the training service providers or training participants.
4. The City also supports outdoor fitness training through the installation of bodyweight training equipment in some parks. The City's Park Fitness Equipment Plan, which was approved by Council on 10 August 2015, established a continuing program to install additional equipment at suitable sites throughout the local area. Such equipment is well used by training groups and individual participants.
5. The unregulated use and accumulative impact of large numbers of fitness training groups has the potential to damage park assets and can generate conflict with other park use and the amenity of neighbouring residents.
6. The draft Code was developed to guide the sustainable, responsible and equitable use of outdoor fitness training for the continuing benefit of the entire community including, training groups, residents, workers and park visitors.

Outdoor Fitness Training Voluntary Code of Conduct

7. At the 23 November 2015 meeting, Council approved the exhibition of the draft Code for public comment. The draft Code was exhibited from 14 December 2015 to 31 January 2016.
8. The exhibition period was advertised in the local press (Central Courier, Inner West Courier, Southern Courier and Wentworth Courier) in December 2015, and again in January 2016. The exhibition was promoted and available for download on the Sydney Your Say website and copies were available at the One Stop Shop and Neighbourhood Service Centres.
9. In total, 58 individual submissions were received from fitness training companies (trainers), customers of training companies, local residents and the NSW Small Business Commissioner. A summary of the submissions received is included at Attachment B.
10. In addition to the submissions, a petition with 705 signatories as at 22 February 2016 was received via Change.org. This petition, although supporting the idea of a Code of Conduct, requested that the proposed restrictions on the use of training equipment be reconsidered.

OVERVIEW OF SUBMISSIONS

11. Of the 58 submissions received:
 - (a) eight identified as fitness training service providers;
 - (b) 26 identified as customers of trainers or participants;
 - (c) 17 identified as residents;
 - (d) six identified as park users or did not specify; and
 - (e) one submission was received from the Office of the NSW Small Business Commissioner.

Concerns of Trainers (8 submissions)

12. Trainers who responded to the draft Code raised the following issues:
 - (a) The majority (six) of the submissions from fitness training service providers expressed general support for the draft Code, but opposed the proposed restrictions on the ability to bring and use training equipment to parks due to the impacts this would have on their business and on the health and wellbeing of their clients.
 - (b) The proposed restriction of group size and its associated impacts on their business was also a concern. Suggested preferences for group size ranged from 15 to 20 persons reflecting the typical size of many training groups using the City's parks.
 - (c) Two submissions from training service providers were concerned with the proposed restrictions on signage (to promote their services on site) and the impacts on their ability to attract clients and/or identify their training location to clients.

Concerns of customers of trainers (26 submissions)

13. Customers of trainers or participants who responded to the draft Code raised the following issues:
 - (a) The majority (21) of the submissions from customers of trainers expressed concern about the proposed restrictions on the ability to bring and use training equipment and the impacts this would have on their strength, health and wellbeing and their training enjoyment. Many training participants reported the benefits of weight training particularly for weight-loss, its importance for strength and mobility, and its contribution to providing variety and interest in training programs.

Concerns of Residents and Park Visitors (23 submissions)

14. Residents and park users who responded to the draft Code raised the following issues:
 - (a) Eleven raised experiences of conflict between the activity of training groups and other park usage. Three of these related incidents of conflict between running groups and pedestrians. Six submissions suggested that training should only occur in specific designated areas within parklands.
 - (b) Ten responses from residents and park visitors were concerned about the noise generated by training groups including continuing noise disturbance in the early morning at sites where trainers congregate near residences. Some of these (three) expressed dissatisfaction with the proposed 50 metre exclusion zone from residences before 7.30am.
 - (c) Eight expressed concerns about the commercialisation of parkland by the presence of commercial training providers. Some of these expressed concern that commercial trainers did not contribute financially in return for their access to community land. Some expressed concerns about the intrusion of commercial signage and advertising in parks.
 - (d) Six were concerned about compliance and enforcement, particularly that a voluntary code had little incentive for trainers to participate and would be unenforceable in practice.

Submission of the Office of the NSW Small Business Commissioner (OSBC)

15. The NSW Small Business Commissioner responded to the exhibition and raised the following issues:
 - (a) The OSBC is committed to supporting and improving the operating environment for small businesses throughout NSW. Following discussion with Fitness Australia, OSBC's research indicates that local fitness training service providers commonly operate across a number of local authority areas requiring compliance with various regulatory policies with varying conditions. The OSBC recommends that neighbouring councils work together to develop a consistent approach to the regulation of outdoor fitness training with the goal of establishing agreed standard criteria such as maximum group sizes, timing restrictions and consistent identity/permit cards, which would allow businesses to self-monitor and report non-compliance to the relevant council.
 - (b) The OSBC encourages the City to consider partnering with the Eastern Suburbs Councils (Waverly, Woollahra and Randwick) on a collaborative project to ensure consistent application and adoption of commercial outdoor fitness policies across neighbouring local government areas.
 - (c) The OSBC will provide the City with regular updates on the status of their ongoing research and discussions with other authorities in this area.

Petition via Change.org

16. An online petition from Change.org was also received. Many of the signatories to the petition received via Change.org identify as trainers and customers of trainers. Although supporting the idea of a code of conduct, signatories are strongly against banning weight-loaded equipment. There were 705 signatories to the online petition as at 22 February 2016.

RECOMMENDED AMENDMENTS TO THE CODE

17. The following amendments are recommended to the Outdoor Fitness Training Voluntary Code of Conduct:

- (a) **Maximum group training size**

In response to feedback from training service providers, and in recognition that the most popular parks used for group fitness training are larger neighbourhood sized parks with ample open space, the recommended maximum size for training groups has been increased from 12 to 18 persons. This recommended maximum size also reflects the approach used by some other local authorities. The Code has also been amended to include a recommendation that personal trainers should employ a risk based approach and tailor group size to reflect the characteristics of the site, the training activities (their diversity and complexity), and the ability and experience of training participants.

- (b) **Bringing and using training equipment**

It is acknowledged that the use of hand-held weights positively contributes to the health, wellbeing and fitness goals of training participants of all ages and abilities. The draft Code has been modified to clarify the types of permissible training equipment to be brought into the City's parks and open spaces. Hand-held weights (including dumbbells, kettlebells, barbells, sandbags, medicine balls and similar) are permitted providing they are not left unattended or of a scale likely to damage park surfaces or assets. However, the use of signage, drag sleds, tyres and other equipment likely to damage surfaces or assets is not permitted. Suspension straps, harnesses or ropes are permitted only where attached to training equipment installed by Council.

18. Amendments to the Outdoor Fitness Training Voluntary Code of Conduct are highlighted in red in Attachment A. A detailed summary of the submissions and the City's response is included at Attachment B.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030

19. *Sustainable Sydney 2030* is a vision for the sustainable development of the city to 2030 and beyond. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. The Code is aligned with the following strategic directions and objectives:
- (a) Direction 2 - A Leading Environmental Performer – the Code aims to ensure that the activities and associated impacts of training groups are sustainable and do not cause damage to parkland environments.
 - (b) Direction 4 - A City for Walking and Cycling – the Code aims to facilitate the responsible use of parks and open space for community health and wellbeing without adversely impacting on the continued use and enjoyment by others including pedestrians and cyclists.
 - (c) Direction 5 - A Lively and Engaging City Centre – the Code activates public open spaces by providing opportunity for the public to engage in physical activity in an urban social setting.
 - (d) Direction 10 - Implementation through Effective Governance and Partnerships – the Code encourages the fitness sector to work in partnership with the City to ensure that training activity is undertaken in a responsible and sustainable manner for the continuing benefit and wellbeing of the entire community.

Organisational Impact

20. Fitness training activity will be monitored and managed through current operational procedures and resources e.g. City Rangers and Parks staff. Implementation of the Code will focus on education and awareness raising of training service providers and their customers, with enforcement action only used as a last resort.
21. The Customer Service Unit will develop an application and identity system (similar to the process used for busking permits and aquatic access cards) to issue to fitness training service providers that use the City's parks and open spaces.

Risks

22. The Code recommends that fitness trainers take out membership with Fitness Australia, or other relevant industry associations, to ensure that they are appropriately qualified, experienced and possess the appropriate public liability and professional indemnity insurances. This will reduce the risks to training clients and potential claims against the City.
23. Commercial training service providers are required to possess adequate public liability and professional indemnity insurance. Certificates of Currency will be verified at the time of signing compliance with the Code.

Social / Cultural / Community

24. The Code should have a positive community impact by facilitating, promoting and encouraging local health and fitness services.

Environmental

25. The Code will assist with noise reduction from outdoor fitness training as well as provide clear direction on how to avoid damage to park assets (e.g. furniture, trees and turf).

Economic

26. The City does not charge for the use of its parks and open spaces for outdoor fitness training because it does not wish to create a barrier to community participation in outdoor exercise and its associated benefits. It is considered appropriate to provide access to parks and open spaces to training groups free of charge, providing the activities are conducted in a responsible and sustainable manner that does not cause damage to park assets, harm or unduly inconvenience other park users and neighbours.
27. The Code will have the following positive economic effects:
- (a) revenue generation for the many local small and medium businesses that provide commercial personal fitness training services to the community; and
 - (b) an increase in productivity and a reduction in lost time for local businesses through improved health and wellbeing of staff.

BUDGET IMPLICATIONS

28. The Code will be available for download online. It is anticipated the implementation of the Code will cost in the order of \$10,000 to develop the application and identity system. The ongoing monitoring of training activities and educating of training groups will be covered by current resourcing levels.
29. There are funds available in the 2015/16 operating budget to implement the Code.

RELEVANT LEGISLATION

30. Local Government Act 1993.

OPTIONS

31. Council could opt to request a more formal regulatory policy with associated user fees and charges. This is not the preferred option because a more restrictive policy with associated fees and charges would restrict community use and be more expensive to manage.

PUBLIC CONSULTATION

32. City staff consulted with Fitness Australia in preparing the draft Code, and they did not raise any objections or concerns with the document or the approach taken to educate and manage this activity in the City's parks.

33. The draft Code was exhibited for public comment from 15 December 2015 to 31 January 2016. The exhibition was advertised in the local press (Central Courier, Inner West Courier, Southern Courier and Wentworth Courier) in December 2015, and again in January 2016. The exhibition was promoted and available for download on the Sydney Your Say website and copies were available at the One Stop Shop and Neighbourhood Service Centres.

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