



Temporary Licensing of a Trade or Business on Open Space Areas **Policy**

27 April 2020

Policy No: CCC071

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Purpose

1. This policy provides formal guidelines for undertaking a trade or business on open space areas in the Central Coast Local Government Area, to ensure fair and sustainable use of these areas as well as the safety and wellbeing of the community.
2. The purpose of this policy is to achieve eight (8) desired outcomes for the management of a trade or business on Council managed land. Council's objectives for this Policy are:
 - a. To maximise use of open space areas for the community
 - b. To allocate and regulate use by operators wishing to conduct a trade or business on open space areas
 - c. To ensure minimal impact on the community and environment by operators conducting a trade or business on open space areas
 - d. To address associated issues of risk management and public safety on open space areas owned and managed by Council
 - e. To address issues of environmental sustainability associated with the undertaking of a trade or business on open space areas owned and managed by Council
 - f. To be consistent with Council's Plans of Management and/or Strategies for various open space areas
 - g. To ensure fairness and equity in decision making
 - h. To add positively to community active lifestyle outcomes.

Scope

3. This Policy covers a trade or business intending to undertake an activity on open space area owned and managed by Council and required to obtain a temporary licence or approval from Council.
4. Activities not governed by this policy include:
 - a. Activities not considered to be a trade or business activity
 - b. Trade or business activities deemed to be special events
 - c. Trade or business activities subject to a lease arrangement
 - d. Prohibited activities that will not be considered for approval - see Definitions (g) Prohibited Activity
 - e. Activities that are not considered ancillary to the purpose of the reserve
 - f. Activities considered to be harmful to the environment
 - g. Activities considered to be dangerous for participants or the general public

- h. Activities that could be considered to unreasonably disrupt other users of the reserve and/or adjoining neighbours
 - i. Activities involving the sale of goods (including equipment) on open space reserves.
5. This policy does not override any other Council requirements relating to trade or business activities including Council's Local Environmental Plan (LEP), Development Control Plans (DCP), State Environmental Planning Policies (SEPPs) or provisions of the Local Government Act 1993 or Crown Land Management Act 2016.

Background

6. The Central Coast covers an area of 1,680 square kilometres with an expanding population of over 340,000 people. Open Space and National Parks, accounts for more than 50% of the Local Government Area, including: mountains, bushlands, beaches, wetlands, foreshores, estuaries, informal passive areas and active recreation areas.
7. As these open space areas become more popular for permanent residents and tourists, a demand has arisen for the use of Council owned and managed open space areas to conduct a trade or business that will allow users to experience a variety of active lifestyle opportunities.

General

8. This policy supports activation of trade and business on Open Space. Examples of allowable trades and businesses include, but are not limited to, the following:
- a. Canoe, Kayak and Paddleboat Operations
 - b. Clinics and Coaching
 - c. Commercial Fishermen
 - d. Corporate Group Training
 - e. Dog Obedience Training
 - f. Personal Trainers, Fitness Groups & Boot Camps
 - g. Stand Up Paddle Board
 - h. Surf Schools
 - i. Storage
9. Council will permit the undertaking of a trade or business on open space areas owned by Council, or where Council is the Crown Trust Manager, subject to terms and conditions as determined by Council.
10. Trade or business activities conducted on open space areas must be ancillary to the purpose of the reserve and encourage active participation in a healthy lifestyle.

11. Licences under this policy will not allow for exclusive use of the land and the general public must be able to access the agreed upon reserve/s at all times.
12. Supporting guidelines or procedures, being an administrative process, may be altered as necessary by the Chief Executive Officer or the Director Community and Recreation Services. Please see Council's website for specific 'EOI' guidelines.
13. In accordance with the Crown Land Management Act 2016 and Local Government Act 1993, temporary licensing will be for a maximum twelve (12) month period over the relevant financial year.
14. Fees are payable as provided for in Council's Fees and Charges Schedule. Fees will be reviewed annually in line with Council's review of fees and charges.

Compliance, monitoring and review

15. Council, as owner or Reserve Trust Manager, reserves the right to terminate a licence if the licensee breaches any of the licence conditions. As per section 68 of the Local Government Act, any operators conducting activities requiring Council approval, including a trade or business activity, found to be operating without required approval are guilty of an offence as outlined under sections 626 and 627 of the Act and will be penalised in accordance with the Act.
16. This Policy aligns with relevant legislation, government policy and/or Central Coast Council requirements, strategies, values and activities. This policy shall not derogate from Council's responsibility to comply with any competent statutory obligation. Where this Policy conflicts with any competent statutory obligation, the statutory obligation shall prevail to the extent of any such conflict.
17. This policy is implemented and monitored to reflect the changing environment and manage emerging issues as they are identified. The policy will be reviewed within six (6) months of each local council election to evaluate its continuing effectiveness (e.g. achieving its purpose, up-to-date).
18. Suspected breaches or misuse of this policy are to be reported to the Chief Executive Officer. Alleged breaches of this policy shall be dealt with by the processes outlined for breaches of the Code of Conduct, as detailed in the Code of Conduct and in the Procedures for the Administration of the Code of Conduct.
19. Staff must maintain all records relevant to administering this policy in a recognised Council recordkeeping system.

Definitions

20. In this policy:

- a. **Licence:** means A contractual agreement between Central Coast Council (Licensor) and a person or organisation (Licensee) for which a Licensee may conduct a trade or business on an agreed open space area/s owned and managed by the Licensor.
- b. **Not-For-Profit Organisations:** means organisations/associations for which "all the income, assets and surplus funds of your organisation must be used to achieve its objectives and cannot be distributed to members" (NSW Fair Trading).
- c. **Open Space (Areas):** means any community land, and/or Crown Land reserves where Council is the Crown Trust Manager, used for structured or casual recreational activities including mountains, bushlands, beaches, foreshores, estuaries, informal passive reserves and active recreation areas
- d. **Statutory Considerations:** mean any mandatory obligation (statutory duty) imposed upon Council by any competent Act, Regulation, Ordinance, Rule or Instrument enacted by the Parliament of New South Wales or, to the extent that it is relevant, by the Parliament of the Commonwealth of Australia.
- e. **Temporary Licensing:** means the process of providing a temporary approval for a trade or business intending to undertake an activity an open space area owned and managed by Council
- f. **Trade or Business:** means any activity with a principal purpose to derive profit to an individual(s) or company and/or where a fee is obtained for a service provided. Not-for-profit groups may seek to gain exemption from this policy upon application in writing to council
- g. **Prohibited Activity:** means any activity that contravenes any Act, Regulation, Ordinance, Rule or Instrument enacted by the Parliament of New South Wales or, to the extent that it is relevant, by the Parliament of the Commonwealth of Australia.

Related resources

Legislation:

- a. [Associations Incorporation Act 2009 \(NSW\)](#)
- b. [Crown Land Management Act 2016 \(Cwlth\)](#)
- c. [Crown Land Regulation 2018 \(Cwlth\)](#)

Associated/Internal documents:

- a. [Central Coast Council – Outdoor permits information](#)
- b. [Central Coast Council Community Participation Plan 2019 - 2024](#)

- c. [Central Coast Council Community Strategic Plan 2018 - 2028](#)
- d. [Central Coast Council Disability Inclusion Action Plan 2017 - 2021](#)
- e. [Central Coast Council's Plans of Management](#)
- f. [Central Coast Council Tourism Opportunity Plan 2019 - 2024.](#)

History of revisions

| Amendment history | Details |
|--|---|
| Original approval authority details | <p>Central Coast Council</p> <hr/> <p>27 April 2021 – Minute Number 115/21</p> <hr/> <p>This policy provides formal guidelines for undertaking a trade or business on open space areas in the Central Coast NSW Local Government Area. It replaces former policy including <i>Licensing of a Trade or Business on Open Space Areas Policy</i> (former Gosford City Council, Min No 2011/242 – 24 May 2011)</p> <hr/> <p>D14587936</p> |