



USE OF BARWON COAST MANAGED COASTAL RESERVES FOR COMMERCIAL PURPOSES

ADDITIONAL INFORMATION

Tour Operator Licence

Terms and Conditions

1. Introduction

The coastal foreshore and reserves are highly valued by the local community. These open spaces are an attractive environment that encourages a healthy and active lifestyle.

Barwon Coast supports opportunities for the community to participate in safe, supervised health and fitness activities that enhance physical and social wellbeing. Commercial health and fitness providers are increasingly recognising the attraction of conducting such activities in pleasant outdoor environments.

Barwon Coast aims to manage these activities in a manner that balances industry needs, supports safe physical wellbeing activities, provides protection of natural assets and maintains community access and amenity.

2. Background

Amendments to the Crown Land (Reserves) Act 1978 became effective in Victoria on 1 July 2011. This is now a consistent legislative framework for the licencing of commercial tourism and commercial activity on Crown Land in Victoria.

A 'tour operator' is now defined as 'a person or business who conducts a guided tour or recreational activity for profit on Crown Land'.

The Act applies to a number of commercial operators currently operating on Crown Land within Barwon Coast area of management; these included commercial health and fitness providers, professional coaches and commercial sport clinics.

Barwon Coast acts as land manager for Crown Land along the expanses of the foreshore.

3. Scope

These terms and conditions will apply to all commercial operators who seek to use Barwon Coast managed reserves for the provision of health and fitness training services for financial gain including, but not limited to:

- Personal training – personalised health, fitness and exercise instruction for individuals.
- Group class – supervised health, fitness and exercise classes.

The terms of the licence will apply to all beaches and foreshore areas that are managed by Barwon Coast. Applicants who are seeking to use Crown Land for a commercial purpose will be required to adhere to the terms and conditions within this document along with full compliance of the Tour Operator Licence Section 21B Crown Land (Reserves) Act 1978, issued by the Department of Environment, Land, Water and Planning.

4. Exclusion Zones

No commercial fitness training or organised ball sports are permitted in the following areas:

- Trees, garden beds and vegetation;
- Environmentally sensitive areas;
- Socially or culturally sensitive areas, including public art works;
- Any designated sports grounds without a specific booking;
- Stairways within open spaces and footpaths may be transited but not used for training activity;
- Any other areas that may be nominated by Barwon Coast at any time; and
- Any areas that may be temporarily closed by Barwon Coast.

5. Permissible fitness activities under the policy (subject to Barwon Coast approval)

- Gym sessions (with or without hand weights, fit balls, skipping ropes etc.);
- Boxing and pad training;
- Organised aerobic activity and running groups;
- Circuit training;
- Yoga/Pilates; or
- A combination of any of the above

6. Excluded Activities

- Aggressive or intimidating activities including combat/fighting training.
- Amplified music or use of amplified audio (voice) equipment.
- Organised ball sports are restricted to designated sports grounds.
- The offering for sale of clothing, merchandise, equipment, refreshments, goods, services or products.

7. Eligibility

The following criteria must be met to be eligible for a licence to provide commercial health and fitness training activities in Barwon Coast managed reserves. Evidence of the following must be provided at the time of application.

- Current public liability insurance which indemnifies Barwon Coast to a minimum of \$20 million

8. Nature and size of groups

A licence will not be issued for groups that have more than **15** participants unless prior written consent has been received from Barwon Coast.

Note: Size of the group may be limited by direction of the State government; for example the Chief Health Officer directions limiting mass gathering numbers as with COVID-19

9. Allocation of licence

The licence will authorise the named Licensee for “Use of Barwon Coast Managed Coastal Reserves for Commercial Purpose” in accordance with these terms and conditions on a non-exclusive basis. The licence is valid for the stipulated period, location, session, maximum number of participants and activity type. A licence may be cancelled by Barwon Coast if the terms of the licence are breached or if the licence is deemed as not being reasonably utilised.

10. Licence Period

Up to 3 years.

11. Application assessment

The assessment of applications will be based on the following:

- Usage demand, intensity of use of the area and times requested.
- Nature of activities to be undertaken and the potential impact on other users and neighbouring residents during the times requested.
- Management of the natural and built assets to preserve and protect the environment.
- Compliance history of the applicant.

12. Identification requirements

Each approved commercial fitness operator will be issued a licence in the name of the applicant (person or business name) that will detail the terms of the licence, such as maximum number of participants, activity type, location and times of sessions. This must be available to be shown to authorised Barwon Coast officers on request.

(See Attachment: Activity Providers operation zones)

13. Licence Fees

Fees charged by Barwon Coast will be aligned to the Regulations and indexed annually as determined by the State Treasurer.

All licence holders will be charged an annual fee and daily use fee (currently waived).

- Annual Fee – fixed amount to be paid annually prior to the commencement of each annual license period.
- Daily use fee - If Licensees are required to pay a user fee (currently waived till June 2021) All Licensees will provide a quarterly return to the Licensor indicating the numbers of classes held and participants taught during each quarter by the 10th day of the following months; April, July, October, January.

14. General licence conditions

Each commercial health and fitness provider issued a licence by Barwon Coast:

1. Must comply with the terms and conditions as outlined by the Department of Environment, Land, Water and Planning 21B Crown Land (Reserves) Act 1978 Licence when operating on Crown Land.
2. Must only provide the activities for which they are suitably qualified and that have been approved by Barwon Coast.
3. Must manage the activities to minimise wear and tear on grassed areas (this included rotating within the designated area and/or alternating activities).
4. Shall, prior to commencing static/grid training, inspect the immediate area to ensure no hazards are evident and take appropriate action to remove those hazards or alternatively move the training site and, without undue delay, report to Barwon Coast the hazard or any other hazardous matters observed during the training that may require Barwon Coast's attention.
5. Shall conduct their activities so not to dominate, monopolise and/or obstruct any stairways or pathways.
6. Must not create any noise from training activities that unreasonably disturbs other users and adjacent residents.
7. Shall not suspend boxing or kickboxing bags from trees and/or structure in the public reserves.
8. Shall ensure that any exercise equipment used does not create any hazards or obstructions.
9. Shall leave the training area in the same condition it was at the commencement of training.

10. Must not interfere with any Barwon Coast approved or booked activity including but not limited to a wedding, function, special event, sport or sporting activity that is being carried out on any Barwon Coast managed reserve, including the foreshore.
11. Shall be responsible for satisfying all occupational health and safety legislation and regulations.
12. Shall ensure that all promotional material is presented in a professional manner and does not contain any material likely to cause offence or embarrassment to any person or Barwon Coast.
13. Shall make good any damage to Barwon Coast assets that have occurred as result of the activities of the trainer and will be liable for all costs incurred by Barwon Coast.
14. Providers using Barwon Coast managed land without a licence will be asked to cease activities immediately.

15. Insurance requirements

- *Public Liability Insurance*

The licensee shall at all times during the agreed term, be the holder of a current Public Liability Policy of insurance in respect of the activities specified herein in the name of the licence holder providing coverage for a minimum sum of \$20 million.

The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by Barwon Coast and shall extend to cover Barwon Coast in respect to claims for personal injury or property damage arising out of the negligence of the licensee.

The licensee agrees to indemnify and to keep indemnified Barwon Coast, its servants and agents, and each of them from and against all actions, costs, claims, charges expenses, penalties, demands whatsoever which may be brought or made or claimed against them, or any of them, in connection with the licensee performance or purported performance of its obligations under this application and be directly related to the negligent acts, errors or omission of the applicant.

The licence holder's liability to indemnify Barwon Coast shall be reduced proportionally to the extent that any act or omission of Barwon Coast, its servants or agents, contributed to the loss or liability. Barwon Coast does not, and will not, accept liability for any activities associated with the licensee and Barwon Coast shall not be in any way responsible for any property of the licensee or any other person associated with the activities of the licensee.

16. Termination and breaches

Barwon Coast reserves the right to cancel the licence without further notice if:

- in its sole opinion it has determined that the licensee has failed to comply with the reasonable direction of Barwon Coast;
- has breached the terms and conditions of the licence; or
- the licensee has any overdue payments or outstanding debts to Barwon Coast.

Should Barwon Coast receive high level or serious complaints about a particular group/trainer or site; Barwon Coast reserves the right to restrict or cancel the licence. Barwon Coast will advise

the licensee in writing of the nature of the breach, the conditions of the restriction or cancellation of the licence and effective date.

17. Business Quality and Stability

Applicants must provide a business plan and/or the ability to demonstrate an acceptable financial and business history which would allow Barwon Coast to assess financial viability.

18. Submission of a Risk Management Plan which must include:

- Participant Safety; and
- Protection of the Environment; and
- Other User Safety; and
- Submitted a plan of the Site; and
- Submitted a Statement of Experience; and
- Submitted the required Insurance Certificate/documentation; and
- Provided an Emergency Management Plan.
- COVID Safe Plan

19. Universal Access to Services & Facilities

- Barwon Coast supports the principle of universal design in its delivery of recreation and tourism facilities and services and is required under the Commonwealth Disability Discrimination Act 1992 and the State Equal Opportunity Act 2010 to ensure access is not denied to people with disabilities wherever possible.
- Applicants should demonstrate their commitment to providing services that accommodate universal design and access to facilitate a range of disabilities consistent with legislation.

20. Vehicle & Trailer parking

Applications from licence holders to park vehicles and trailers on the concourse or grassed areas will be considered by Barwon Coast

ATTACHMENT

- No use of the 13th beach areas; 27W – 30W (The Corner)
40W – 42W

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