



# **Commercial Activities on Public Land**

## **Specifications**

October 2023

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<b>Version Control</b>
Document amended 26 October 2023
Document amended 13 October 2011
Document amended 25 October 2011
Document amended 19 December 2011
Document amended 14 May 2012
Document amended 23 August 2012
Document amended 9 October 2013
Document amended 22 August 2014
Document amended 9 October 2019

## **INTRODUCTION**

The following specifications apply to each commercial activity permissible in Ballina Shire under the "Commercial Activities on Public Land – Policy No C10".

Holders of a Commercial Activity Licence must adhere for the duration of the Licence to:

- Schedule 1 – Standard Specifications and the applicable
- Schedule 2 – Activity Specifications.

Those schedules identified as "Tendered" relate to licences issued under a "Request for Tender" process.

Documentation demonstrating the Schedule 1 and applicable Schedule 2 Activity Specifications must be lodged with Council at the time of application. Once awarded it is the Licensee's responsibility to maintain current qualifications and insurances as per the Schedules.

## **SCHEDULE 1 – STANDARD SPECIFICATIONS**

Licensees must meet the following Specifications.

### **Qualifications**

- 1 Senior First Aid Certificate (from a recognised registered training organisation).
- 2 Working with Children Check in accordance with current Child Protection Legislation unless the activity does not involve children.

### **Safety and Legal Specifications**

- 1 Comply with the Work Health and Safety Act 2011 (WHS Act 2011) and the Work Health and Safety Regulation 2017 (WHS Regulation 2017), and
- 2 Prepare, submit to Council and adhere to an approved "Safety and Operational Plan" according to legislative requirements. This is to include a risk assessment to cover the whole operations of your activity taking into account all associated hazards, the likelihood of consequence and appropriate control of identified hazard, first aid, emergency response and evacuation plan. This is also to include demonstrated experience in the activity to a high professional standard, understanding and knowledge of local conditions, natural and cultural history, ecological processes and possible constraints, capacity to meet licence conditions, capability to promote interpretive and educational information and demonstrated compatibility with the Reserve purpose or any Plans of Management.
- 3 Not allow the operation to result in an "offensive noise" to nearby residents as defined in the Dictionary of the Protection of the Environment Operations (POEO) Act 1997.
- 4 Comply with the Crown Land Management Act 2016.
- 5 Comply with the NSW Biodiversity Conservation Act 2016 and the Biodiversity Conservation Regulation 2017 for the interaction with marine mammals.
- 6 Comply with the NSW Fisheries Management Act 1994.
- 7 Comply with any other legislation relevant to the use of the reserve.
- 8 Licensees are to provide to Council copies of Incident Report Forms completed within 48 hours of any serious incidents (including, but not limited to, if any emergency services are involved) or serious injuries to persons.

### **Insurances**

The Licensee will hold a policy of public liability insurance providing \$20 million of cover. Such policy is to list Ballina Shire Council as an interested party. The Licensee must produce to Council a Certificate of Currency for any policy of insurance within seven days of written request by Council.

### **Operating Specifications**

- 1 Licensees are only permitted to run booking based operations and are not to operate reserve based hiring of equipment or shopfronts.
- 2 Licensees do not have priority over any other licensee when using the public land.

- 3 Each Licensee is encouraged to liaise with other Licensees to ensure that only one Licensee is in the same area, at one time and the areas are shared.
- 4 Licensees do not have exclusive occupation over the reserve and must not interfere with any other reserve user. Licensees must not place items on footpaths.
- 5 Licensees must not operate within 150m from other Licensees and surf lifesaving flagged areas, excluding "Surfing for People with Disabilities" Licensees.
- 6 Licensees must be easy to identify from a distance and be distinguishable from clients and other Licensees by using distinctive garments with clear and visible colour coding.
- 7 The Licensee's business name must be clearly visible on garments, vehicles or equipment.
- 8 Vehicles are not to be driven on the beach or grassed reserves except when adhering to the Seven Mile Beach 4WD permit and Schedule 2 - (Applicable) Activity Specifications. Any vehicle driving on Seven Mile Beach must hold a current Seven Mile Beach 4WD permit and comply with all conditions of that permit.
- 9 Licensees are not permitted to operate on sand dune conservation areas unless accessing via approved tracks.
- 10 Advertising on the reserve is only permitted when affixed to vehicles and trailers, uniforms and activity equipment.
- 11 A-frame advertising is not permitted. A single temporary tear drop flag style sign may be used while carrying out an activity on a particular day, provided the sign is not close to a footpath or road, and must not cause a safety issue for other users of the area or the public. The sign must be removed at the end of the activity on that day and must not be kept on public land after the activity has concluded for the day. Such signs should not be used on high wind days or in high wind areas where it is likely the sign may become detached.
- 12 Any class area or parking area is to be kept in a clean and tidy condition, free from litter at all times.
- 13 Trailers and or the like (including vehicles and boats containing or promoting a commercial activity/business) when not in use/operation must not be left at any time unattached or unattended on public roadsides, carparks and reserves.
- 14 Vehicles and trailers must be lawfully parked at all times.
- 15 Licensees must adhere to all NSW road rules that apply for public roads, road reserves and carparks.
- 16 Licensees must adhere to all regulatory and advisory signage at all times.
- 17 Licensees are required to provide caution and safety at all times when in close proximity to the public.
- 18 Licensees must cancel or relocate the activity if conditions are unsafe or if an event is being held that the Licensee is not a part of.

- 19 Council reserves the right to undertake an onsite audit of the Licensee at any time covering qualifications of instructors, safety and operating equipment, operations, compliance with conditions and daily signed records, including details of participants. All audit requirements must be made available by the Licensee to Council as requested onsite. Council may also request this information in writing and the Licensee must provide this information within 30 days of request.
- 20 If in breach of the licence conditions, Council may take action under the terms of the licence or under the "Commercial Activities on Public Land Policy".
- 21 The Licensee must adhere to any additional conditions or directions from Council officers onsite at any time.
- 22 The Licensee must adhere to the directions from any other applicable Authorities including but not limited to: Lifeguards, Surf Life Saving Patrols, Maritime Authority, Cape Byron Marine Park, Police, NSW Department of Primary Industries (Fisheries) and NSW Office of Environment and Heritage.
- 23 Licensees must not use any type of balloons while on public land.

### **Class Specifications**

- 1 Licensees are limited to operating one activity/class/tour at a time and must not run two or more activities/classes/tours concurrently, unless expressly permitted in the Schedule 2 – Activity Specifications for the activity.

### **Assignment or Transfer of Licences**

- 1 Ownership of the Licence is limited to one Licence per company or one Licence per person.
- 2 Licensees shall not sublet, assign or otherwise deal with the Licence.

### **Licence Fee Specifications**

1. Licensees shall pay to the Council an application fee and annual licence fee each year as determined by the Council.
2. The annual Licence and application fees shall be made on or prior to the commencement date of the Licence.
3. The Council will not issue a Licence until after the annual licence and application fees have been paid.
4. Licence fees are not refundable. No pro-rata refunds or fee waivers apply if the Licensee is not able to operate their business for any part of the year.

### **Schedule Specifications**

1. The Schedule 1 Standard Specifications and applicable Schedule 2 Activity Specifications list a number of requirements for the Activity current as at the date of this Policy, however, the Specifications in Schedule 1 and Schedule 2 is not exhaustive and will change over time as laws change. It is for the Licensee to determine all qualifications, licences and permits the Licensee requires at any point in time in order to lawfully operate the Licensee's particular business.

2. The Licensee must hold all qualifications, licences and permits required for the operation of the Licensee's business, and comply with all laws relating to the operation of the Licensee's business.

## **SCHEDULE 2 – ACTIVITY SPECIFICATIONS**

### **Low Impact Activities**

#### **Schedule 2A – Beekeeping Specifications**

This applies to Licensees accessing or using public reserves under the control of Council for beekeeping.

All Licensees must meet the following minimum specifications.

#### **Qualifications**

1. Adhere to the current Australian Honey Bee Industry Biosecurity Code of Practice for Beekeeping.
2. Biosecurity Licence under the Biosecurity Act 2015.
3. Apiary Permit as issued by the NSW Government.

#### **Safety and Legal Specifications**

1. Maintain DPI registered dealings number visible on hive boxes.

#### **Operating Specifications**

1. Native vegetation is to be protected and hives may only be located on grassed areas at Council approved locations.
2. Should the Licensee propose or create an impact, then appropriate licences/permits with the relevant Authority must be obtained.
3. Consent of the Jali Aboriginal Land Council may be required if accessing onto or through Jali Aboriginal Land Council lands, or cultural heritage sites.
4. Licensees may be permitted to operate using fire trails on public reserves but may not block or impede hazard reduction of fire trails.
5. Licensees must not cause a fire hazard to exist and must maintain the hives operationally.
6. Licensees will be required to fund security access on public reserve gates and bollards and maintain secure at all times.
7. Licensees are required to remove all hive material once finished seasonally.

## **Schedule 2B – Ecotourism Specifications**

This applies to Licensees undertaking flora, fauna, interpretive or cultural heritage activities and tours.

All Licensees must meet the following minimum specifications.

### **Qualifications**

1. Tour guide/leader/instructor accreditation with an Educational Accreditation Organisation, Council or Academy in the same field as the proposed ecotourism topic.

### **Safety and Legal Specifications**

1. Any licences or permits as required by the NSW Government Office of Environment and Heritage, NSW Roads and Maritime or Department of Primary Industries.
2. Additional water safety qualifications will be required if operating in and around water.

### **Operating Specifications**

1. Licensees are permitted to operate at all public reserves in Ballina Shire except for Fawcett Park, Ballina and all sporting fields.
2. Licensees are limited to a maximum of thirty clients per tour.
3. Licensees may not incorporate any surf or paddle craft of any form.
4. As regular water quality monitoring and testing is not carried out, swimming is not recommended at Killen Falls and Tosha Falls.
5. Should the Licensee propose or create an impact, then appropriate licences/permits with the relevant Authority must be obtained.
6. If the Licensee wishes to include anything other than General Interpretation of Aboriginal cultural heritage, the Licensee must either:
  - a. employ or engage members of the relevant Aboriginal community to undertake the interpretation; or
  - b. have specific authorisation from appropriate representatives of the relevant Aboriginal community to the person delivering the Aboriginal cultural heritage interpretation and to the content of that interpretation, and provide a copy of that authorisation to Council.
7. In this Schedule 2B, General Interpretation is limited to:
  - a. the traditional name of a place and its meaning; and
  - b. the traditional names of the local Aboriginal communities.

## **Schedule 2C – Personal Fitness (2 Clients) Specifications**

This applies to Licensees undertaking a range of fitness activities including but not limited to fitness training, boot camps, boxing, martial arts, yoga, tai chi.

All Licensees must meet the following minimum specifications.

### **Qualifications**

1. Personal Fitness Trainers require Certificate III and IV in Fitness with an Australian based national accreditation organisation.
2. Other fitness activities require industry accreditation with an Australian based national accreditation organisation.

### **Operating Specifications**

1. Licensees can operate at all Shire beaches north of the Richmond River and reserves in Ballina Shire excluding Fawcett Park in Ballina, Angels Beach, the southern end of Sharps Beach south of the intermittent stream, Boulder Beach, Lennox Headland hang gliding/paragliding operational times/locations, all public carparks and limited sporting fields.
2. Sporting fields may be permitted upon request, however if the sporting field is booked by a sporting club or for an event, the Licensee must relocate to another location.
3. Licensees may not incorporate any surf or paddle craft of any form into their training but may include swimming activities upon approval by Council.
4. Licensees are limited to a maximum of two clients for each class.
5. Licensees are to commence no earlier than 6am and finish no later than 8pm every day.
6. Licensees must maintain public safety and not block any public thoroughfares. Any equipment used must be small handheld items (such as kettle bells, hand weights, ropes, boxing gloves etc), but must not include large gym equipment (such as rowing machines, treadmills etc).
7. Licensees must maintain a single file when using public paths, steps and ramps.
8. Licensees cannot place or attach activity materials to structures, paths, footpaths, car parks, steps, ramps or trees.
9. Licensees shall not create any noise from training activities that unreasonably disturbs other users adjacent residents or adjacent businesses.
10. Amplified noise is only permitted:
  - (a) between 8am and 8pm daily; and
  - (b) when located more than 50m from residential properties.

## **Schedule 2D – Surfing for People with Disabilities Specifications**

This applies to Licensees accessing or using public reserves under control of Council for teaching surfing to people with disabilities.

All Licensees must meet the following minimum specifications.

### **Qualifications**

1. Therapy or disability accreditation with a recognised Australian based Educational Accreditation University or TAFE or equivalent; and
2. A beginner or intermediate level surf coach accreditation with a recognised Australian based Surf Coach Educational Accreditation Organisation, Council or Academy; and
3. Current Surf Rescue Certificate - Surf Life Saving Australia (SLSA); or Current Bronze Medallion (SLSA); or Current Certificate II in Public Safety (Aquatic Rescue) (SLSA); or Current Ocean Safety Surf Coach Award (APOLA);
4. Minimum 2 years' experience working with people with disabilities.

### **Safety and Legal Specifications**

1. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.
2. Comply with the National Standards for Disability Services.

### **Head Licence Specifications**

1. Licensees are required to meet all of the conditions of the Head Licence No. RI 587307 between Ballina Shire Council and NSW Department of Primary Industries excepting the provisions for sub-letting.

### **Operating Specifications**

1. Licensees are permitted to operate at all Shire beaches north of the Richmond River, Shaws Bay and Lake Ainsworth.
2. Licensees are to avoid becoming navigational hazards to other water users.
3. Licensees are limited to a maximum of two clients per session.
4. Licensees may have unlimited sessions per day.
5. Licensees must comply with "all beach closure" notifications by authorities due to sharks or other hazards or conditions, and this includes all ocean and river locations.

## **Medium Impact Activities**

### **Schedule 2E – Dog Training Specifications**

All Licensees must meet the following minimum specifications.

#### **Qualifications**

1. Dog Training accreditation with an Australian based Dog Training Educational Accreditation Organisation, Association, Council or Academy.
2. Dog training experience and/or prior work experience as a dog trainer.

#### **Safety and Legal Specifications**

1. Comply with the Companion Animals Act 1998.
2. Comply with Ballina Council's "Companion Animals Management Plan".
3. Provide, apply and promote the legal collection and disposal equipment/bags/procedure for all class dog faeces.

#### **Operating Specifications**

1. Licensees may request reserves for Council assessment that they would like to use for their dog training school.
2. Criteria used to assess the suitability of a reserve include: available space, reserve compatibility, restriction of wet areas, toilet and water availability, residential proximity, public and sporting uses.
3. Licensees upon final determination will be authorised to use an agreed area in a reserve.
4. Licensees will not be permitted to operate in Fawcett Park, Ballina.
5. Licensees are limited to a maximum of ten dog clients per class.
6. Licensees must provide a minimum of one instructor per ten dog clients.
7. Licensees may only operate between the daylight hours of 8.00am - 6.00pm.
8. Licensees must maintain all dogs under effective control at all times.
9. Licensees must ensure that all client dogs 12 weeks of age or older have been microchipped by an authorised implanter and have provided the microchip information to Council for entry in the NSW Companion Animals Register.
10. Licensees must ensure that all dogs 6 months of age or older are registered with the Companion Animals Registry.
11. Licensees must use advisory safety signage on the class perimeter to prevent members of the public from interfering with the classes.

## **Schedule 2F – Fishing Tour Specifications**

This applies to Licensees accessing public reserves under the care, control and management of Council including beaches and rocky foreshores. Licensees may include 4WD based fishing tours, beach fishing tours and rock fishing tours.

All Licensees must meet the following minimum specifications.

### **Qualifications**

1. Fishing Guide/Coach accreditation with the Professional Fishing Instructors and Guides Association of Australia or a similar recognised Fishing Guide/Coach Educational Accreditation Organisation, Council or Academy;
2. NSW Recreational Fishing Licence; or
3. Recreational Fishing Fee Exemption Certificate (if applicable).

### **Safety and Legal Specifications**

1. Comply with the Marine Safety Regulation 2016.
2. Comply with the Rock Fishing Safety Act 2016.
3. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.
4. Hold and comply with a current 4WD Beach Access Permit for Seven Mile Beach, Lennox Head if operating within the Seven Mile Beach, Lennox Head public 4WD area.

### **Operating Specifications**

1. A maximum of four clients are permitted per tour.
2. Licensees are permitted to operate at all Shire beaches and headlands north of the Richmond River up to the Shire border at Seven Mile Beach, Lennox Head and including the Richmond River and its tributaries.
3. Licensee vehicles are not to be driven on any beach or beach area, sand dunes or any grassed reserve except for within the Seven Mile Beach, Lennox Head public 4WD area.

## **Schedule 2G – Kayak/Canoe Tour Specifications**

This applies to Licensees accessing public reserves under the care, control and management of Council including boat ramps, pontoons, wharves and marine infrastructure.

### **Qualifications**

1. Current Accreditation required to lead kayak/canoe tours, issued through Paddle Australia or another recognised national accreditation provider; and
2. Certificate of Operation under Part 4, Division 3 of the Marine Safety (Domestic Commercial Vessel) National Law Act 2012 or more current legislation.

### **Safety and Legal Specifications**

1. Comply with the current Paddle Australia Safety Guidelines.
2. Comply with the provisions and conditions of any NSW Roads and Maritime Service licence including the prescribed Plying Limits within the Richmond River unless alternative conditions are stipulated.

### **Operating Specifications**

1. Licensees can only operate within the Richmond River and its tributaries, including North Creek, Fisheries Creek, Emigrant Creek, Maguires Creek, Prospect Lake and Shaws Bay.
2. Licensees may not operate at Lake Ainsworth.
3. A maximum of twenty kayaks/canoes per tour is permitted.
4. Licensees require at least the minimum ratio of instructors to clients as set out in the Paddle Australia Safety Guidelines.
5. Licensees are required to protect and conserve sensitive riparian vegetation areas.
6. Licensees are to avoid becoming navigational hazards to other water users.

## **Schedule 2H – Kite Surfing Specifications**

All Licensees must meet the following minimum specifications.

### **Qualifications**

1. Level 1 Kite surf instructor/coaching accreditation with an Australian based Kite boarding Educational Accreditation Organisation, Association, Council or Academy; and
2. Current Surf Rescue Certificate (SLSA); or  
Current Bronze Medallion (SLSA ); or  
Current Certificate II in Public Safety (Aquatic Rescue) (SLSA); or  
Current Ocean Safety Surf Coach Award (APOLA);
3. Three years' experience instructing/coaching kite surfing.

### **Safety and Legal Specifications**

1. Comply with the Marine Safety (Domestic Commercial Vessel) National Law 2012 and the Marine Safety Regulation 2016.
2. Comply with the relevant Aquatic Licence as required by the NSW Road and Maritime Services.
3. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.
4. Comply and educate clients with the NSW Maritime Authority "Safe Kiteboarding Be in the Clear" safety system.
5. Hold and comply with a current 4WD Beach Access Permit for Seven Mile Beach, Lennox Head if operating within the Seven Mile Beach, Lennox Head public 4WD area.

### **Operating Specifications**

1. Licensees can only use a maximum of two kites with a maximum of six students and one instructor at any one time.
2. Licensees are only permitted to operate at the following locations:
  - Seven Mile Beach, Lennox Head from between north of the Lennox Point Hotel and the Shire boundary.
  - Sharps Beach only north of the "Sharps Creek" intermittent stream located approximately 340m north of the Flatrock surfers beach access track.
  - Richmond River on the northern side of the Richmond River and foreshore area between the sand spit located approximately 300m east of the Sailing and Rowing Club boat ramp and the Richmond River/North Creek junction.
3. Licensees are to avoid becoming navigational hazards to other water users.

## **Schedule 21 – Personal Fitness (10 Clients) Specifications**

This applies to Licensees undertaking a range of fitness activities including but not limited to fitness training, boot camps, boxing, martial arts, yoga, tai chi.

All Licensees must meet the following minimum specifications.

### **Qualifications**

1. Personal Fitness Trainers require Certificate III and IV in Fitness with an Australian based national accreditation organisation.
2. Other fitness activities require industry accreditation with an Australian based national accreditation organisation.

### **Operating Specifications**

1. Licensees can operate at all Shire beaches north of the Richmond River and reserves in Ballina Shire excluding Fawcett Park in Ballina, Angels Beach, the southern end of Sharps Beach south of the intermittent stream, Boulder Beach, Lennox Headland hang gliding/paragliding operational times/locations, all public carparks and limited sporting fields.
2. Sporting fields may be permitted upon request, however if the sporting field is booked by a sporting club or for an event, the Licensee must relocate to another location.
3. Licensees may not incorporate any surf or paddle craft of any form into their training but may include swimming activities upon approval by Council.
4. Licensees are limited to a maximum of ten clients for each class.
5. Licensees are to commence no earlier than 6am and finish no later than 8pm every day.
6. Licensees must maintain public safety and not block any public thoroughfares. Any equipment used must be small handheld items (such as kettle bells, hand weights, ropes, boxing gloves etc), but must not include large gym equipment (such as rowing machines, treadmills etc).
7. Licensees must maintain a single file when using public paths, steps and ramps.
8. Licensees cannot place or attach activity materials to structures, paths, footpaths, car parks, steps, ramps or trees.
9. Licensees shall not create any noise from training activities that unreasonably disturbs other users, adjacent residents or adjacent businesses.
10. Amplified noise is only permitted:
  - (a) between 8am and 8pm daily; and
  - (b) when located more than 50m from residential properties.

## High Impact Activities

### Schedule 2J – Boat Tour Specifications

This applies to Licensees with boats that dock on pontoons, wharves or use marine infrastructure under the control of Council. This may apply to marine and aquatic tours, fishing tours, taxiing, sailing tours, adventure, lessons and general tourism.

All Licensees must meet the following minimum specifications.

#### Qualifications

1. Maintain current Certificates of Competency, Safety and Manning and Vessel Survey Permits in accordance with the Marine Safety (Domestic Commercial Vessel) National Law 2012.

#### Safety and Legal Specifications

1. Comply with the Marine Safety Act 1998.
2. Comply with the Marine Safety Regulation 2016.
3. Comply with the Marine Safety (Domestic Commercial Vessel) National Law 2012.
4. Comply with each individual vessels Safety Management System and risk assessments as required by the NSW Roads and Maritime Service.
5. Comply with the specified Code of Conduct for the Operation of Commercial Adventure Vessels as required by the NSW Roads and Maritime Service.
6. Comply with the provisions and conditions of any NSW Roads and Maritime Service licence including the prescribed “Plying Limits” within the Richmond River unless alternative conditions are stipulated.
7. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.

#### Operating Specifications

1. Licensees are permitted to operate within the Richmond River and its tributaries (including Mobbs Bay) and outside the Richmond River mouth in open ocean but not in Shaws Bay, Chickiba Lake, Prospect Lake and Lake Ainsworth.
2. Licensees are limited to two boats in operation at any one time using public docking infrastructure. The two boats may operate a tour at the same time, however, the Licensee must stagger loading and unloading of passengers if using the commercial pontoon (west end) of the Lance Ferris Wharf.
3. Licensees number of passengers per boat is to be in accordance with the Vessels Survey Permit Conditions.
4. Licensees are permitted to use the commercial pontoon (west end) of the Lance Ferris Wharf at Fawcett Park in Ballina and all other Council controlled wharves and pontoons for docking and the embarking and disembarking of passengers.

5. Licensees are not permitted to use the public pontoon (east end) of the Lance Ferris Wharf and the RSL boardwalk unless Council consent is provided.
6. Licensees have a thirty minute docking time limit for the embarking and disembarking of passengers when using Council controlled wharves and pontoons.
7. A Licensee advertising flag may only be temporarily attached to a wharf pylon (at a Council approved location) during the docking time limit.
8. Licensees shall maintain close liaison with the NSW Roads and Maritime Services and Ballina Coastguard Tower during the activity.

## **Schedule 2K – Fish Harvesting Specifications**

This applies to Licensees undertaking commercial fish, pipi or worm harvesting as permitted by NSW Department Primary Industries.

All Licensees must meet the following minimum specifications.

### **Qualifications**

1. Ocean Hauling Endorsement or Hand Gathering Endorsement issued by the NSW Department of Primary Industries.
2. Current NSW/QLD Drivers Licence (if vehicle driving on beaches).

### **Safety and Legal Specifications**

1. Comply with the Marine Safety Regulation 2016.
2. Comply with the Marine Safety (Domestic Commercial Vessel) National Law 2012.
3. Comply with the Rock Fishing Safety Act 2016.
4. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.
5. Hold and comply with a current 4WD Beach Access Permit for Seven Mile Beach, Lennox Head if operating within the Seven Mile Beach, Lennox Head public 4WD area.

### **Operating Specifications**

1. The minimum and maximum number of Licensees permitted is as determined by the Fisheries Management (General) Regulation 2019 and the NSW Department of Primary Industries.
2. Licensees are permitted to operate at all Shire beaches, headlands, river and foreshore areas under the control of Ballina Shire Council.
3. Licensees are permitted to drive their 4WD vehicles on all Shire beaches under the control of Ballina Shire Council excluding Boulder Beach.
4. Licensees must have their Ocean Hauling/Hand Gathering Endorsement as issued by the NSW Department of Primary Industries attached to their 4WD at all times.
5. Licensees when driving 4WD's on any beach must comply with the following:
  - a. Only enter and exit beach at the designated 4WD beach access;
  - b. Not drive within 10metres of any part of the vegetated dune;
  - c. Drive only on firm sand where possible;
  - d. Not drive on any other dune area or dune walking track;
  - e. Not exceed a speed limit of: 30km/h on beach; or:
  - f. 15km/h within 50m of any other beach user.

## **Schedule 2L – Group Fitness (20 Clients) Specifications**

This applies to Licensees undertaking a range of fitness activities including but not limited to fitness training, boot camps, boxing, martial arts, yoga, tai chi.

All Licensees must meet the following minimum specifications.

### **Qualifications**

1. Personal Fitness Trainers require Certificate III and IV in Fitness with an Australian based national accreditation organisation.
2. Other fitness activities require industry accreditation with an Australian based national accreditation organisation.

### **Operating Specifications**

1. Licensees can operate at all Shire beaches north of the Richmond River and reserves in Ballina Shire excluding Fawcett Park in Ballina, Angels Beach, the southern end of Sharps Beach south of the intermittent stream, Boulder Beach, Lennox Headland hang gliding/paragliding operational times/locations, all public carparks and limited sporting fields.
2. Sporting fields may be permitted upon request, however if the sporting field is booked by a sporting club or for an event, the Licensee must relocate to another location.
3. Licensees may not incorporate any surf or paddle craft of any form into their training but may include swimming activities upon approval by Council.
4. Licensees are limited to a maximum of twenty clients for each class.
5. Licensees are limited to a maximum of two classes per day.
6. Licensees are to commence no earlier than 6am and finish no later than 8pm every day.
7. Licensees must maintain public safety and not block any public thoroughfares.
8. Licensees must maintain a single file when using public paths, steps and ramps. Any equipment used must be small handheld items (such as kettle bells, hand weights, ropes, boxing gloves etc), but must not include large gym equipment (such as rowing machines, treadmills etc).
9. Licensees cannot place or attach activity materials to structures, paths, footpaths, car parks, steps, ramps or trees.
10. Licensees shall not create any noise from training activities that unreasonably disturbs other users, adjacent residents or adjacent businesses.
11. Amplified noise is only permitted:
  - a. between 8am and 8pm daily; and
  - b. when located more than 50m from residential properties.

**Schedule 2M – Hang Gliding and Paragliding Specifications**

All Licensees must meet the following minimum specifications.

**Qualifications**

1. Sports Aviation Federation of Australia (SAFA) Advanced Pilot Certificate and Chief Flight Instructor Certificate.
2. Any other qualifications and endorsements required by SAFA for the Licensee's operations.

**Safety and Legal Specifications**

12. Comply with the Civil Aviation Safety Authority approved current SAFA operations manuals and other SAFA manuals, and comply with the Civil Aviation Safety Regulations, at all times.
13. Licensees may operate from the Pat Morton lookout area on Lennox Headland or Skennars Headland (ground training only) on the western side of The Coast Road and the sites must be SAFA recognised sites.
14. A duty pilot or local safety officer must be present on site with every flight to oversee all commercial flying operations if either two or more instructors are in operation, a flight experience instructor is in operation, the reserve taking off/landing site is becoming congested with public or if the SAFA operations manuals or other SAFA manuals otherwise require it.
15. A maximum of two instructors and two hang gliders per each hang gliding flight business at any one time, with the instructors holding the current qualifications required by SAFA for their operations.
16. A maximum of four commercial paragliders for the one paragliding flight business at any one time, with the instructors holding the current qualifications required by SAFA for their operations.
17. Each hang gliding or paragliding business is to provide upon renewal, copies of each instructor pilots SAFA certificate accreditation records.
18. Licensees must comply with any onsite Council approved safety and interpretive sign advising the public and visiting pilots about the site and the site requirements of the SAFA Affiliated Club.
19. Each flight business and each individual instructor working for a flight business must maintain SAFA membership at all times and hold all qualifications required by SAFA for all operations of the flight business.
20. Each flight business must ensure that all operations of the flight business (including each instructor of the flight business) are covered under public liability insurance issued in the name of the flight business, providing at least \$20million cover and listing Ballina Shire Council as an interested party. Public liability insurance cover meeting these requirements must be maintained at all times.
21. Each flight business must comply with the safety requirements of the SAFA Affiliated Club for this site.

22. Each flight business must provide to Council copies of Incident Report Forms completed within 48 hours of any serious incidents (including, but not limited to, if any emergency services are involved) or serious injuries to persons. This is in addition to any requirement of SAFA to report accidents or incidents to SAFA.

### **Operating Specifications**

1. Maximum of five flight business at any one time shall have licence to use a reserve.
2. A minimum of one instructor per one hang gliding student and one instructor per two paragliding students is provided at all times.
3. Licensees are only permitted to operate at the sites in adherence to the Council approved Safety and Operational Plan prepared by the SAFA Affiliated Club for this site.
4. Licensees are prohibited from pruning or removing any vegetation at the site unless it is in accordance with a Council approved vegetation management plan and with Council consent.
5. Licensees may maintain the upper take off area structure to ensure operational and public safety and only when in consultation with Council.
6. Licensees may advise the public of operational safety requirements when taking off and landing as per the approved Safety and Operational Plan prepared by the SAFA Affiliated Club for this site.

**Schedule 2N – Horse Riding Seven Mile Beach Specifications**

All Licensees must meet the following minimum specifications.

**Qualifications**

1. Horse Riding Guided Tour accreditation with a recognised Australian based Horse Trail/Riding Educational Accreditation Organisation, Association, Council or Academy and/or Compliance with “NSW Government SafeWork NSW Code of Practice: Managing risks when new or inexperienced riders or handlers interact with horses in the workplace February 2017”.
2. Five years horse riding experience and prior work experience as a trail guide.

**Safety and Legal Specifications**

1. Comply with “NSW Government SafeWork NSW Code of Practice: Managing risks when new or inexperienced riders or handlers interact with horses in the workplace February 2017”.
2. Comply with the current NSW Governments “Road Users Handbook”.
3. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.

**Operating Specifications**

1. Licensees may only operate on Seven Mile Beach, Lennox Head north of the designated horse beach access track and south of the Shire’s northern boundary (2.9km to north).
2. Licensee beach access is permitted only at the designated horse beach access track east of the road past Camp Drewe, Lennox Head.
3. Licensees shall only operate so that with one Licensee allowed five days per week or two Licensees alternating days so shared and only one operating per day.
4. Licensees may only operate on weekdays and not on public holidays or weekends.
5. Licensees are limited to ten horses with a maximum of eight students and two trail guides per tour and maximum two tours per day.
6. Licensees are to ensure horses are kept under control, only walk and not canter or gallop on the beach and vegetation pruning is not permitted.
7. Horses are not to be tethered to any vegetation nor allowed to eat any native vegetation or be washed down on the reserve.
8. Licensees are required to remove all generated horse manure from the beach, walking track and car park area and legally dispose of it.

## **TENDERED COMMERCIAL ACTIVITIES**

The following commercial activities may only be undertaken if awarded a licence from Ballina Shire Council following successful tender for each activity . The last tendered period for surf schools, elite surf coaching and stand up paddle boarding commenced on 1 May 2021 for three years.

## **SCHEDULE TENDERED – SURF SCHOOL SPECIFICATIONS**

All Licensees and coaches must meet the specifications set out in the request for tender documents **and** the following minimum specifications

### **Qualifications**

- a. A beginner or intermediate level Surf Coach accreditation with a recognised Australian based Surf Accreditation Organisation, Council or Academy;

#### **AND**

- b. Current Surf Rescue Certificate (SLSA); or
- c. Current Bronze Medallion (SLSA ); or
- d. Current Certificate II in Public Safety (Aquatic Rescue) (SLSA); or
- e. Current Ocean Safety Surf Coach Award (APOLA);

#### **AND**

- f. Senior First Aid Certificate (from a recognised registered training organisation); and
- g. Working with Children Check in accordance with current child protection legislation.

### **Safety Specifications**

1. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.

### **Head Licence Specifications**

1. Licensees are required to meet all of the conditions of the Head Licence No. RI 587307 between Ballina Shire Council and NSW Department of Primary Industries excepting the provisions for sub-letting.

### **Licence Fee Specifications**

1. Licensees shall pay to the Council an annual licence fee as determined by the Council.
2. The first payment shall be made on or prior to the commencement date of this licence with subsequent payments each year thereafter until expiry date of the Tender period.
3. The Council may cancel or withdraw the licence at any time and without prior notice if any payments due under this Licence remain unpaid for thirty days after they become due.

### **Operating Specifications**

1. Licensees are permitted to operate at all shire beaches north of the Richmond River up to the Shire border at Seven Mile Beach, Lennox Head including the Richmond River and its tributaries.
2. Licensees are not permitted to operate in Shaws Bay or Lake Ainsworth.
3. Licensees are limited to a maximum of twenty clients per class.
4. Licensees are limited to only two classes per day.

5. Licensees must provide a minimum of one instructor per eight clients.
6. Licensees must comply with “all beach closure” notifications by authorities due to sharks or other hazards or conditions, and this includes all ocean and river locations.
7. Licensees are to avoid becoming navigational hazards to other water users.

If there is any inconsistency between the above minimum specifications and the specifications set out in the request for tender, the specifications in the request for tender prevail to the extent of the inconsistency.

## **SCHEDULE TENDERED – ELITE SURF COACHING SPECIFICATIONS**

This applies to Licensees who coach high performance surfing including professionals, elite juniors, advanced surfers, surf fitness, personal training and people with disabilities.

All Licensees and coaches must meet the specifications set out in the request for tender documents **and** the following minimum specifications.

### **Qualifications**

#### **For elite surf coaching:**

- a. An advanced, elite, club level or master surf coach accreditation with a recognised Australian based Surf Accreditation Organisation, Council or Academy;

#### **For coaching people with disabilities:**

- b. A beginner or intermediate level surf coach accreditation with a recognised Australian based Surf Accreditation Organisation, Council or Academy; and
- c. Therapy or disability accreditation with a recognised Australian based Accreditation University or TAFE or equivalent, and
- d. Minimum 2 years' experience working with people with disabilities;

#### **AND, for both elite surf coaching and coaching people with disabilities:**

- e. Current Surf Rescue Certificate (SLSA), or
- f. Current Bronze Medallion (SLSA), or
- g. Current Certificate II in Public Safety (Aquatic Rescue) (SLSA); or
- h. Current Ocean Safety Surf Coach Award (APOLA);

#### **AND**

- i. Senior First Aid Certificate (from a recognised registered training organisation); and
- j. Working with Children Check in accordance with current child protection legislation.

### **Safety Specifications**

1. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.

### **Head Licence Specifications**

1. Licensees are required to meet all of the conditions of the Head Licence No RI 587307 between Ballina Shire Council and NSW Department of Primary Industries excepting the provisions for sub-letting.

### **Licence Fee Specifications**

1. Licensees shall pay to the Council an annual licence fee as determined by the Council.
2. The first payment shall be made on or prior to the commencement date of this licence with subsequent payments each year thereafter until expiry date of the Tender period.

3. The Council may cancel or withdraw the licence at any time and without prior notice if any payments due under this Licence remain unpaid for thirty days after they become due.

### **Operating Specifications**

1. Licensees are permitted to operate at all Shire beaches north of the Richmond River including the Richmond River and its tributaries, the Ballina Coastal Reserve, Shaws Bay and Lake Ainsworth in Ballina Shire.
2. Licensees are limited to a maximum of seven clients per class.
3. Licensees are limited to only two classes per day.
4. Licensees must provide a minimum of one instructor per seven clients.
5. Licensees must comply with “all beach closure” notifications by authorities due to sharks or other hazards or conditions, and this includes all ocean and river locations.
6. Licensees are to avoid becoming navigational hazards to other water users.

If there is any inconsistency between the above minimum specifications and the specifications set out in the request for tender, the specifications in the request for tender prevail to the extent of the inconsistency.

## **SCHEDULE TENDERED – STAND UP PADDLE BOARDING SPECIFICATIONS**

All Licensees and coaches must meet the specifications set out in the request for tender documents **and** the following minimum specifications.

### **Qualifications**

- a. Coaching accreditation with a recognised Australian based Stand Up Paddle Boarding Accreditation Organisation, Council or Academy, applicable to the location of operations (for example, flat water, exposed waters, intermediate surf etc.);

### **AND**

- b. Current Surf Rescue Certificate (SLSA); or
- c. Current Bronze Medallion (SLSA); or
- d. Current Certificate II in Public Safety (Aquatic Rescue) (SLSA); or
- e. Current Ocean Safety Surf Coach Award (APOLA);

### **AND**

- f. Senior First Aid Certificate (from a recognised registered training organisation); and
- g. Working with Children Check in accordance with current child protection legislation.

### **Safety Specifications**

1. Comply with the NSW Marine Parks Permit as required if operating within the boundaries of the Cape Byron Marine Park.

### **Head Licence Specifications**

1. Licensees are required to meet all of the conditions of the Head Licence No. RI 587307 between Ballina Shire Council and NSW Department of Primary Industries excepting the provisions for sub-letting.

### **Licence Fee Specifications**

1. Licensees shall pay to the Council an annual licence fee as determined by the Council.
2. The first payment shall be made on or prior to the commencement date of this licence with subsequent payments each year thereafter until expiry date of the Tender period.
3. The Council may cancel or withdraw the licence at any time and without prior notice if any payments due under this Licence remain unpaid for thirty days after they become due.

### **Operating Specifications**

1. Licensees are permitted to operate within the Richmond River and its tributaries, Shaws Bay, Prospect Lake, Lake Ainsworth and Seven Mile Beach north of Lake Ainsworth up to the Shire boundary only.

2. Licensees are not to operate at the same location in the surf or the Richmond River and tributaries, should a licensed surf, elite or surfing for people with disabilities school be present.
3. Licensees must comply with “all beach closure” notifications by authorities due to sharks or other hazards or conditions, and this includes all ocean and river locations.
4. Licensees are to avoid becoming navigational hazards to other water users.

### **Class Specifications**

1. Licensees are limited to a maximum of fourteen clients per class when within the Richmond River and its tributaries.
2. Licensees are limited to a maximum of seven clients per class when operating at Seven Mile Beach and up to the Shire boundary.
3. Licensees are limited to a maximum of three clients per class when operating within Lake Ainsworth, Prospect Lake or Shaws Bay.
4. Licensees must provide a minimum of one instructor per eight clients.
5. Licensees are limited to only two classes per day.

If there is any inconsistency between the above minimum specifications and the specifications set out in the request for tender, the specifications in the request for tender prevail to the extent of the inconsistency.