



Guidelines for the use and hire of public land and property
December 2018
Engineering and Works

Guidelines for the use and hire of public land and property

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1.0 Objectives

The objectives of this policy are to:

- identify casual uses and organised events on Council owned and managed public property – public reserves, public buildings and other public facilities and the permits/licences required
- simplify and streamline the approval process and provide certainty to all stakeholders regarding permitted uses of public land under permit and licence arrangements

2.0 Exclusions

Use/hire of the Council facilities listed below can be made on the relevant application form (used by that facility). The listed facilities are excluded from the operation of these guidelines. The exempt facilities are:

- The Pavilion
- Kiama Leisure Centre
- Old Fire Station Community Arts Centre
- Joyce Wheatley Community Centre
- Council sportsfields (managed by Kiama Sports Association)

These guidelines do not make provision for the following:

- works and activities on road reserves for construction or maintenance related purposes (sections 138 & 139 Roads Act 1993)
- footpath dining (section 125 Roads Act 1993) – managed under separate policy

3.0 References

This document should be read in conjunction with:

- Use of Public Reserves for Commercial Fitness and Personal Training Activities (2015)
- Guidelines - Surf Schools on Seven Mile Beach Gerroa (2018)
- Busking Policy (2014)
- Sustainable Events Guidelines
- Plans of Management

4.0 Definitions

For the purpose of this document the following definitions apply:

community land refers to that land owned by Kiama Municipal Council and classified under the Local Government Act 1993)

crown land refers to that land owned by the Crown where Kiama Municipal Council is the crown land manager

event refers to those uses of land generally being one off during a calendar year which are expected to generate visitation and interest that can be approved by a permit

expression of interest (EOI) is that process conducted by Council where interested parties nominate to undertake activities on public property and the selection of a party/parties to operate the activity under permit or licence

licence refers to those agreements (excluding short term licences) which Council may issue under the Local Government Act 1993 on community or operational land or under the Crown Land Management Act 2016

market activities are those uses of land and buildings where multiple stallholders operate

major event refers to those activities expected to generate visitation and interest from within and outside the local government area (LGA), is likely to have economic multiplier effects and is designated as a major event by Council's Events Coordination Working Party

mobile vending refers to the use of vehicles or other similar devices capable of and purpose built to move from place to place for the production, storage or sale of food and/or beverages but does not include those situations where stalls or stands are set up with markets and the like for the sale of food items and produce

operational land refers to that land owned by Kiama Municipal Council and classified under the Local Government Act 1993

permit refers to that written permission of Council to use public reserves, public buildings and facilities and can be for short term occupation at any one time or consecutive usage over a specified time period not exceeding a twelve month duration (unless allowed under a specific policy). Permits are a form of short term licence.

public buildings refers to those buildings of/managed by Kiama Municipal Council located on community, operational or Council managed crown land which are able to be hired for use at a fee expressed in Council's Fees and Charges and in these guidelines includes the Jamberoo Youth Hall

public facilities refers to those facilities located on community, operational or Council managed crown land which are able to be hired/occupied at a fee determined by Council's Fees and Charges

public land and property refers to all land either owned or managed by Kiama Municipal Council including any assets or facilities on that land

road reserves refers to sections of public road under the ownership of Kiama Municipal Council which may be able to be used for specific purposes under these guidelines by permit

street vending/stalls is the occupation of a nominated footpath area of a road reserve for the purpose of fundraising by not-for-profit and community/sporting groups including charities and not involving the general sale and distribution of food, drink and retail items

surf coaching and tuition refers to the use of a beach for surfboard riding instruction or training where the maximum participant number is eight, there is no more than one instructor and the maximum number of coaching sessions per day is two excluding Kiama surf beach

surf school refers to a business responsible for the instructing of a group of people in the art of surfboard riding on Seven Mile Beach Gerroa under licence

sustainable events guidelines refers to those requirements of Council for waste, recycling, public toilet facilities and environmental health associated with events and activities on public reserves allowed under these guidelines where greater than fifty (50) people are expected to attend

short term licence refers to those agreements which Council may issue under the Local Government Act 1993 or Crown Land Management Act 2016 on community or operational land for a period of less than 12 months

5.0 Permitted uses

Uses that Council can issue a permit or licence for listed in Table 1 & 2.

6.0 Approvals

Council can issue a *permit* or *licence* for the approved use of public property for community, commercial or other purposes in accordance with the identified uses in Table 1 or 2. The standard application form for the use of public property is to be completed and payment of fees.

Plans of Management

There may be specific Plans of Management applying to public land which Council has to consider with any proposal for a permit or licence.

Sustainable Events Guidelines

Council has a Sustainable Events Guidelines document. It sets out the requirements for the use of twenty-four (24) Council reserves having regard to proper waste management, recycling and public toilet facilities. The Sustainable Events Guidelines apply where fifty (50) or more people are expected to attend.

Council will impose conditions under the Sustainable Events guidelines where it is considered necessary for any additional waste and recycling bins (above the fixed public provision of bins at the location) and bin servicing during and after an event, as well as additional public toilet cleaning during an event and additional temporary toilet provision.

Forms that need to be completed under the Sustainable Events Guidelines are required between two to four weeks prior to the event taking place.

6.1 Permits

General Permit:

- a) where the use identified in Table 1 is generally less than twenty four (24) hours duration (including any bump-in/bump-out) and is a one-off event, ie: of a short term or casual nature.

Specific Permit:

- a) where the use identified in Table 1 is for short term occupation at any one time but is recurring (eg: commercial/personal fitness training, surf coaching, mobile vending on permissible roads), or
- b) where the use identified in Table 1 extends between one (1) day and three (3) consecutive days (including any bump-in/bump-out) and takes place generally once per year, or
- c) where a proposed use identified in Table 1 has a duration of one (1) day and may occur up to four (4) separate occasions in a calendar year, or
- d) where a proposed use identified in Table 1 has a duration of use that takes place for a minor part of one (1) day and may occur up to sixteen (16) separate occasions in a calendar year.

Extended Permit:

- a) where a proposed use identified in Table 1 extends between three (3) and fifteen (15) consecutive days (including any bump-in/bump-out). The use can take place up to four (4) separate times per calendar year – if it does the cumulative number of days that the activity can occupy the land is fifty-two (52).

Development consent is generally not required prior to the issue of a permit.

Major events may require Council resolution at the discretion of the General Manager.

6.2 Licences

Licence:

Uses identified in Table 2. A licence term is generally up to five (5) years. Longer terms are able to be considered. Agreements for uses in this category may transition into lease agreements.

Development consent is generally required prior to the issue of a licence agreement.

A licence may require the formal resolution of the Council as follows:

- lease or licence term >5 years including any option periods
- rental/income is based on market valuation, competitive tendering or other method outside Council's Fees and Charges AND the agreement exceeds a 12 month term
- where a submission received by Council with formal notification/advertising of a proposed licence exceeding 12-months is considered relevant to be determined by the full Council.

Short term licence:

Uses identified in Table 2 and up to twelve (12) months duration.

Development consent is generally not required for a short term licence.

7.0 Notification and advertising

Type of Approval	Notification/advertising requirements
<i>Permit</i>	No - unless the activity is defined as a <u>major event</u> (and notification is determined to be necessary having regard to the potential public interest/impact) - letters to adjoining property owners and occupiers + notice on Council's website for seven (7) days
<i>Licence</i>	Yes - letters to adjoining property owners/occupiers and notice on Council's website for twenty eight (28) days Exceptions: operational land, or if specific policy exists for the use
<i>Short term Licence</i>	No - unless considered necessary due to the potential public interest/impact; letters to adjoining property owners and occupiers and notice on Council's website for seven (7) days

8.0 Competitive tendering by Expression of Interest

Type of Approval	Competitive tendering requirement
<i>General Permit</i>	none
<i>Specific Permit</i>	<ul style="list-style-type: none">• for commercial fitness/personal training - as required under the respective policy• for other uses/activities - where it is considered that there is potential for other operators to undertake the proposed use and where there may be benefit to the community in seeking competitive process
<i>Extended Permit</i>	<ul style="list-style-type: none">• Christmas Carnival at Black Beach Reserve operates under 3 year EOI process• where it is considered that there is potential for other operators to undertake the proposed use and where there may be community benefit in seeking competitive process
<i>Licence</i>	<ul style="list-style-type: none">• for other uses/activities where it is considered that there is potential for other operators to undertake the proposed use and where there may be community benefit in seeking competitive process – over a 5 year term it is to be expected that competitive tendering may be considered

The method of Expression of Interest process can include either or a combination of TenderLink and Council's website depending on Council's assessment of the best option/s and exposure to achieve competitive interest for the proposed use or activity.

In the event a competitive tendering process results in a fee being less than Council's Fees and Charges rate, Council will revert to the Fees and Charges rate.

9.0 Major events

A permit can be categorised by Council as a major event. Determination whether a proposed use is a major event is made by Council's Events Coordination Working Party during the pre- lodgement or enquiry phase. If a proposed use is assessed as being a major event, the following minimum information is required to be submitted to Council (but may not be limited to):

- waste management
- traffic management
- public amenities provision and cleaning
- ancillary activities (such as food stalls and food vans) in association
- event co-ordinator & event management details
- noise impact
- risk assessment
- liquor licence

The above information may require assessment by Council, committees of Council or external bodies. Assessment will enable a determination to be made whether a permit can be issued and special conditions to be attached. Applicants must ensure they give sufficient lead time to ensure these processes can be undertaken for the required pre-event consultation to be undertaken.

10.0 Special considerations

Events calendar:

Council has a Reserve Hire/Events Calendar for the use of public reserves and buildings. Booking requests can be made at any time and allocation is generally on a first-in basis. Council may decline booking requests on the basis of existing bookings, the impact of proposed cumulative bookings on the potential enjoyment and availability of a public asset by the general community and consideration for wear and tear (asset condition).

Seasonal demand:

During particular times of the year such as the summer school holidays, Australia Day and Easter long weekends, the public reserve areas of Kiama experience high general usage. This will be considered by Council with booking requests. In addition there are a number of annually recurring events in the Kiama Municipality. These events have broad social and economic spin-offs for the area and at these times Council will be mindful of cumulative impacts with any other booking requests at these times.

11.0 General restrictions

Use/Location	Restriction
<p>Public reserves <i>General</i></p>	<p>No reserve hire is permitted to continue after dusk with the exception of special events such as outdoor entertainment in Hindmarsh Park/public performances in general where usage can extend to 9:30pm under permit</p> <p>No jumping castles/other inflatable devices are permitted to be used on public reserves as part of a permit for private celebrations and the like</p> <p>Reserve hire under a permit in conjunction with the use of the adjoining private property (eg: private celebrations and functions) is not supported</p> <p>Reserve hire for private celebrations such as weddings, picnic shelter hire, rotunda hire and the like will be capped to maximum 4 hour duration</p> <p>Available picnic shelters for hire are located in Cooke Park, Gerringong and Coronation Park, Kiama</p> <p>Available rotundas for hire are located in Coronation Park, Kiama and Reid Park, Jamberoo</p> <p>Marquee use as part of a permit for the use of a public reserve for private celebrations and the like are to be a maximum size of 12mx6m</p>
<p>Mobile vending (food and beverage) on public reserves</p>	<p>Council's development control plan 2012 (Chapter 17) deals with mobile food vans. It excludes mobile vans operating on certain roads, within 300m of a business area and public/crown reserves (except if part of an</p>

Use/Location	Restriction
<p>and public roads</p>	<p>approved market or event) - see Table 3 for locations and conditions.</p> <p><u>Reserves - Events</u></p> <p>A. Temporary mobile vending (food/beverage) in reserves can be considered as part of an approved event under a permit. Applicants need to demonstrate that mobile vending will enhance the visitor/participant experience associated with the approved event, taking into account the location and accessibility of food and beverage premises to the event that can potentially service the activity to take place on the public land. Where Council can justify mobile vending in reserves in conjunction with an event, it may allow beverage and food outlet.</p> <p>Exceptions: local service clubs are permitted to operate food-based services in conjunction with an approved event without a permit.</p> <p>B. Local sporting clubs occupying Crown and public reserves within the 300m radius of business zones are allowed mobile vending for the direct servicing of its patrons associated with scheduled weekend sporting club activities and competitions without a permit but special events conducted by sporting clubs outside scheduled weekend fixtures do require a permit.</p> <p><u>Reserves - Markets</u></p> <p>C. Temporary mobile vending (food and beverage) in reserves in association with approved markets under development consent/licence does not require separate permit. The maximum number of mobile vending “vehicles” may be established by the respective development consent/licence. In determining the maximum number, market organisers need to demonstrate that their inclusion will enhance the visitor/participant experience associated with the markets and taking into account the location and accessibility of food and beverage premises to the event that can potentially service the activity to take place on the public land.</p> <p>Exceptions: local service clubs are allowed to operate food based services in conjunction with approved markets without a permit.</p> <p><u>Roads</u></p> <p>D. Mobile vending on permitted road reserves under a permit will be considered having regard to any impact on traffic, car parking and user convenience.</p>
<p>Major Events on Public Reserves</p>	<p>Council will generally only support <u>one major event</u> to take place in each of its town centres on any day. These guidelines support the distribution of major events on separate dates where possible to avoid potential traffic and car parking issues and to distribute visitation to the Kiama LGA to balance the needs of</p>

Use/Location	Restriction
	residents, tourism operators and businesses
Events on Public Reserves	There may be situations where the combination of separate events (not being major events) on the one day is justified such as a scheduled market with another event
Events and activities - Hindmarsh Park and Black Beach	<p>Council may only support <u>one land use/activity</u> under permit or licence in the Hindmarsh Park/Black Beach precinct in Kiama on any day to avoid potential traffic and car parking issues and also to assist in achieving a balance between resident needs for public recreation and open space enjoyment and the tourism/economic benefits of attracting visitation to Kiama.</p> <p>Any event taking place in Hindmarsh Park Kiama <u>cannot be additionally approved for mobile vending</u> or any other food and produce sale at any time with the exception of sanctioned charitable or fund raising initiatives.</p>
Markets on Public Reserves	<p>Council will only allow <u>one market to operate on any day</u> in the Kiama Council area irrespective of location</p> <p>A scheduled market may operate in conjunction with another event</p>
Council managed facilities General	<p>No private or commercial youth dances are permitted in any Council facility.</p> <p>Applications for 18th or 21st birthday celebrations or similar functions where alcohol may be served need to be accompanied by details of the organiser, type of function to be held, anticipated number of attendees, method of crowd and entry control, proposed supervision and security provisions, means of controlling the restriction on use of alcohol and other substances and how persons affected by alcohol/substances will be restricted from accessing the premises.</p> <p>Council may seek comments from NSW Police for proposed uses.</p> <p>In the event a use is deemed by Council to require the attendance of a Council officer, this will be mandated on time cost basis.</p>
Jamberoo Youth Hall	<p>The Jamberoo Youth Hall is independently managed external to Council.</p> <p>Proposed usage of the facility has to be approved by Council except recurrent/regular hiring usage.</p> <p>No 18th or 21st birthday celebrations or the like are permitted under any circumstances</p>
Werri Beach Progress Hall and Gerringong School of Arts	<p>The Werri Beach Progress Hall and Gerringong School of Arts shall not be used for any purpose after sunset with the exception of meetings and the like and not generating noise or disturbance to adjoining residential properties.</p> <p>No parties, balls, dances, weddings and the like are</p>

Use/Location	Restriction
	permitted due to proximity to residential properties. Exception is made at Council's discretion for children's birthday parties up to the age of 12.

12.0 Fees

Council's Fees and Charges set the fees for the use of public reserves and buildings under permit or licence, reviewed annually. Different fees apply depending on the actual use. In addition there are some uses of property which have a fee system determined through competitive expression of interest process or market valuation. In these cases there is an up-front permit/licence application fee as well as on-ongoing fees (rental based).

The Fees and Charges also make provision for the payment of a bank guarantee for damage to a reserve/facility (including unsatisfactory waste management/facility cleaning), the return of any key issued for reserve or facility access and separate charges for cleaning and waste.

Permit fees including applicable bank guarantees, insurance premiums and waste/cleaning charges must be paid prior to the permit being issued.

If cancellation is made greater than thirty (30) days from the event, 90% of the permit fee will be refunded. If cancellation occurs less than thirty (30) days from the event, no refund will be given unless a new (replacement) booking is in place for the facility and in this situation 90% of the permit fee will be refunded.

12.1 Refund of Fees:

- If a permit is cancelled >30 days from the event, 90% of the permit fee will be refunded.
- If a permit is cancelled <30 days from the event, zero refund applies (but Council may apply a 90% refund only if there is a substitute or replacement booking to off-set the original permit fee paid to Council).
- For permits involving regular hiring of a Council-managed building, refund of permit fees will only be considered when prior notice is given to Council that the facility is no longer required for the duration of the booking period. Zero refund applies for individual cancellations/non-use during the regular hiring booking period.

13.0 Table 1 – permitted uses - Permit

Permitted uses - Permit

- provision of public utilities and works
- emergency occupation of the land
- Events – functions, exhibitions/shows, festivals
- engaging in a trade or business
- sporting and organised community or charitable events
- recreation
- playing of a musical instrument or singing/public performances whether or not for fee or reward
- commercial photographic sessions and filming
- animal agistment/stabling (on land not otherwise used for general community or recreational purposes)
- private celebrations such as weddings
- surf coaching and tuition
- commercial and personal fitness training
- temporary access through a reserve
- helicopter landing (on Minnamurra Headland and Kiama Harbour)
- mobile vending (food and beverage) on public reserves associated with an approved event
- mobile vending (food and beverage) on roads (excluded roads on Table 3)
- street vending/stalls
- hire of Council picnic shelters or rotundas on public reserves

14.0 Table 2 – permitted uses – Licence

Permitted uses – Licence
<ul style="list-style-type: none">• commercial activities of an on-going or continuing nature (including those uses identified in Table 1) operating outside the established timeframes for a permit• camping in association with an approved event• surf schools• markets• the operation of carnivals and amusement/other devices where amplified music will be used whether in isolation or as part of a land use in Table 1 or Table 2• provision of goods, services and facilities and the carrying out of activities appropriate to the current and future needs within the local community and the wider public in relation to public recreation or the physical, cultural, social and intellectual welfare or development of persons• Events – concerts, musical performances

15.0 Table 3 – Excluded roads and areas – mobile vending (food and beverage)

Mobile vending (food and beverage)- excluded roads and areas
<p><u>General</u></p> <ul style="list-style-type: none">• Crown and public reserves (including immediately adjoining streets) unless part of an approved event under permit/licence or lease• land within 300m radius of any business area within the Kiama LGA (maps identified in Chapter 17 of Kiama DCP 2012) but not including the normal scheduled weekend activities and competitions of local sporting clubs occupying Crown and public reserves• Princes Highway (unless supported by Roads and Maritime Services and their policy for mobile vending in rest areas)• Jamberoo Road <p style="text-align: right;">(Continued over page)</p>

Excluded roads and areas – mobile vending (food and beverage)

Kiama

- Collins Street (between Gipps Street and Bong Bong Street)
- Manning Street
- Terralong Street
- Gipps Street
- South Kiama Drive
- Saddleback Mountain Road (between South Kiama Drive and Princes Highway)
- Bong Bong Street (between Collins Street and Thomson Street)
- Bland Street (between Shoalhaven Street and Princes Highway)
- Farmer Street (between Manning Street and Shoalhaven Street)
- Shoalhaven Street (between Farmer Street and Bland Street)

Gerroa

- Crooked River Road

Jamberoo

- Allowrie Street
- Churchill Street

Kiama Downs

- Meehan Drive
- North Kiama Drive
- Charles Avenue (between Links Street and Oxley Avenue)
- Riverside Drive

Gerringong

- Belinda Street (between Fern Street and Princes Highway)
- Fern Street
- Archibald Street

16.0 Document control

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