Policy for the use of public reserves for commercial fitness activities and personal training
Adopted 20 December 2016
Engineering and Works
Use of public reserves for commercial fitness activities and personal training

1.0 Purpose
To provide for the effective management of commercial fitness trainers/groups occupying designated public land in the Kiama Municipality to ensure open space areas can continue to be enjoyed and accessed by the community for general use and without adverse impacts to surrounding residents, public risk and public infrastructure.

2.0 Objectives
The areas making up the Kiama Local Government Area (LGA) offer attractive outdoor locations for commercial fitness groups to use with significant areas of public recreation along the foreshore, headlands and elsewhere. Commercial fitness/personal training activities play an increasing role in the provision of exercise and physical activity and these activities are at times undertaken on public reserve areas.

Kiama Municipal Council is responsible for the management of public reserve areas. Council supports the use of public reserves for fitness activities on the basis of the considerable health and well-being benefits to the community. Council needs to manage and coordinate public reserve use to ensure continued accessibility for all groups and limit potential impacts of commercial fitness activities on other users of the reserve.

3.0 Scope
This policy applies to all Council-managed public reserves within the Kiama LGA. This policy nominates locations where Council may allow commercial fitness trainers to operate with a permit. These locations are listed on Schedule 1.

4.0 References
This document should be read in conjunction with:
- Guidelines for the use and hire of public land and property
- Plan of Management for each reserve listed in Schedule 1.

5.0 Definitions
For the purpose of this document the following definitions apply:

- active activities refers to that group of commercial fitness training activities where the range of physical movement is high involving resistance, muscular and/or cardiovascular output

- base permit refers to those fitness training activities which involve more than two participants and takes place principally at a designated location

- block training permit refers to those situations where a fitness trainer conducts training on or for part of a scheduled day and can operate up to a specified maximum number of other occasions in the calendar year

- commercial fitness training refers to the teaching of exercise for the purpose of conducting a business and to assist participants in the improvement of physical fitness and mental well-being. Engaging in such business involves the exchange of fee or payment
commercial fitness trainer or personal trainer refers to those people owning, managing or instructing physical fitness training for the purposes of conducting a business for exchange of fee or payment.

commercial fitness training activities refers to the various physical fitness activities conducted for the purposes of conducting a business through training participants on how to improve their physical fitness and well-being.

mobile permit refers to those situations where a fitness trainer conducts a fitness training activity for 1-2 participants on any land approved for fitness training activities.

passive activities refers to that group of commercial fitness training activities such as Yoga, Tai Chi and Pilates where the range of physical movement is slow and is not based on significant cardiovascular or muscular energy/output.

permit refers to the permission from Kiama Municipal Council to a specific person, operator or company to conduct commercial fitness training activities on a designated area of public reserve land.

public infrastructure refers to an item that is immovable or securely positioned being an asset of Kiama Municipal Council, including but not limited to chairs, benches, tables, bollards, buildings and fencing.

public reserve refers to land that is provided for the use of the community including land designated as public parks, reserves, sportsgrounds, beaches, cycleways and pathways that are within the ownership of Kiama Municipal Council or crown land vested in the care and control of Kiama Municipal Council.

6.0 Permits

Activities provided for in this policy are subject to the provisions of Part 1 of Chapter 7 of the Local Government Act 1993. All commercial fitness/personal training activities covered by this policy require a permit in accordance with the Local Government Act 1993 or the Crown Lands Act 1989.

Council approved operators are permitted to undertake commercial fitness training activities in accordance with their permit. There are three types of permit that Council can issue reflecting the respective group/participant size:

1. base permit
2. mobile permit
3. block trainer permits.

A base permit is issued to commercial fitness training activities where there are greater than two participants. It is acknowledged that a base permit holder may from time to time move to other public reserve locations in the course of a class/session for example when routines involve running. In moving from place to place as part of normal fitness routines, there can be no impact to other base permit holders or the general community.

A mobile permit is issued for one-two participant classes (one-on-one or small group personal training sessions). These groups may be more inclined to be of a roving nature across sites. This type of permit allows for commercial fitness training activities on multiple sites. A mobile permit allows the holder to occupy any of the approved locations listed on Schedule 1. Due to the small group/participant size these are unlikely to have any substantive impact on general community usage of public reserves or other larger group fitness classes.
**A block trainer permit** is issued to those fitness training operations which take place usually by promotion/lead-up. Council can allow the same operator to conduct this type of fitness training on several occasions during the year but is capped to a maximum number. If a block training event takes place over part of a day, the permit holder is additionally allowed to undertake the activity a further 16 times in the calendar year. Availability of a reserve is subject to booking including the ordinary use of a reserve for fitness training under base permit and general reserve bookings by the public. Base permit holders do not require a block trainer permit to additionally operate these types of activities.

At the commencement of this policy and every two years thereafter, an expression of interest (EOI) will take place for interested commercial fitness trainers/personal trainers to obtain a permit to operate. This will properly allocate permits across the identified public open space areas to ensure distribution of commercial fitness-trainer activities and to ensure fitness trainers have equal ability to seek a permit to operate from a particular reserve. Individual permits will be issued for two (2) years after which time the holder needs to apply for renewal with Council with the respective EOI process. People seeking a permit to operate between EOI processes will be advised of available public reserves to seek a permit to conduct their commercial fitness training activities from.

Within the two-year permit period, invoicing will take place on a quarterly basis by Council. In addition, this policy provides for an October-March inclusive “seasonal” period. Outside of the main season it may be possible for the permit holder to drop to a lower participant number/category upon written request on the basis that there may be seasonal variations in class numbers and to provide flexibility with regard to fluctuating participant numbers.

The permit will give the holder *non-exclusive* access to the nominated public reserve. If the area is being occupied by the general public, sporting groups/clubs or other booked usage such as wedding ceremonies and picnic shelter use, these groups or individuals cannot be forced to relocate. Commercial fitness trainers/personal trainers need to be flexible in their approach to the use of nominated public reserves to reflect the overall policy objective that open space areas continue to be enjoyed and accessed by the community.

A permit may include restrictions on the number of times a reserve may be used on a daily or weekly cycle depending on the use of and demand for the reserve by the general public/other purposes.

There can be no transfer or assignment of a permit.

A commercial fitness trainer using a public reserve for activities without Council approval (permit) will be the subject of investigation and potential enforcement action by Council Rangers under the *Local Government Act* 1993.

### 7.0 Permit identification

A permit identification (credit card size) will be issued to the company/applicant operating and must be able to be produced if requested by an officer of Council. Individual permits will not be issued to individual instructors where there is more than one instructor engaged by the fitness trainer/organisation.

### 8.0 Fees

A permit application fee will be charged by Council at the commencement of a new permit as well as with subsequent permit renewals. On-going usage fees will be charged on a quarterly pro rata basis using the annual permit fee on
Schedule 2 as the applicable rate. This fee reflects the number of participants as specified by the individual permit.

The permit and usage fees (subject to annual review) are within Council’s Fees and Charges.

9.0 **Permitted activities**

Commercial fitness training activities includes those fitness training drills/activities acknowledged by the peak industry group, Fitness Australia (or other relevant body in existence). The permitted activities broadly include:

- walking and running
- circuit training
- organised aerobic activity
- gym sessions
- boxing and pad training
- yoga, Tai Chi and Pilates classes
- use of skipping ropes, fit balls and weights in any of the above.

10.0 **Exempt activities and groups**

Exempt activities from the operation of this policy include:

- individual or small group exercise where no fees are charged to participants
- walking, jogging and cycling groups where no fees are charged to participants
- local sporting clubs where no fees are paid to a trainer
- local schools where no fees are paid to a trainer
- defence force personnel training where no fees are paid to a trainer.

11.0 **Prohibited activities and exclusion areas**

No active commercial fitness training use is permitted:

- on beaches within 50m of patrolled areas
- within 20m of residential property
- within 10 metres of memorials/places of significance, children’s playgrounds, public BBQ facilities, picnic shelters and gazebos
- using public infrastructure (public seats, benches, tables, fencing, signage, public toilets and change rooms and other buildings) for training drills and routines
- on sand dune stabilisation areas
- in ocean pools
- that uses aggressive or intimidating training methods
- that uses amplified music and voice
- that uses rope, stakes and vehicle tyres
- attaching any equipment to vegetation
- having exclusive use of fixed outdoor fitness equipment in reserves
- using stairways and pathways for static or repeated training routines
- in car parking, constructed footpath and cycleway areas.

During the life of this policy including individual permits, Council may nominate additional exclusion areas and prohibited activities.

### 12.0 Training group sizes

In order to balance the needs of the general public in their passive and recreational pursuits with opportunities to facilitate commercial fitness trainers/groups, the maximum class size (participants) is 30. However some areas for commercial fitness training activities (Schedule 1) have a capped maximum participant number less than 30.

In some instances, multiple permits may be issued for the use of a reserve. However the aggregate total of participants will not exceed the total participant number in Schedule 1. For example a reserve with an allowable participant number of 30 could be made up of one trainer or two-three trainers each with small class sizes but in total amounting to 30 participants in the reserve.

In other locations, the maximum 30 class size/participant number will be reviewed on merit such as at sportsgrounds where greater land area exists to disperse multiple users. These locations are identified on Schedule 1. At these locations it may also be justified for Council to approve more than one fitness group at a time exceeding 30 participants in total on the reserve.

In situations where Council is able to approve class sizes greater than 30 under a base permit, the annual fees will be adjusted by increasing fees by 25% for every 1-10 additional participants.

A merit assessment will take into account:
- the size of the public reserve
- frequency and intensity of usage of the reserve by the general public
- number of permits in place for commercial/personal fitness trainers on that reserve
- operating times of commercial/personal fitness trainers.

### 13.0 Operating times

Commercial fitness training activities need to be restricted between specified hours and dates due to potential impact to surrounding residents, community-based user groups such as sporting clubs for their training and competition fixtures and general public use.

Approved commercial fitness/personal training activities can take place as follows:

#### Daylight Savings Time
- Monday – Saturday 6am – 8:30pm
- Sunday 7am-10am (with block-out period 25 December to 26 January inclusive).

#### Eastern Standard Time
- Monday – Saturday 6am – 7:00pm
- Sunday 7am-10am

In the event of any inconsistency, Schedule 1 of this policy prevails.
Certain days of the year are excluded from approved commercial fitness training activities under this policy including:

- Australia Day
- Good Friday
- Easter Sunday
- ANZAC Day
- Christmas Day

The Kiama LGA is host to several activities operating under existing licences occupying public reserves. Approved commercial fitness training permits require the permit holder to not interfere with these specific events. These events include (but are not limited to) the various outdoor markets, annual Christmas/New Year carnival on School Flat, Kiama Show, seasonal camping grounds and the like. It is incumbent on commercial fitness trainer permit holders to be aware of the approved events on public reserves and the times/dates they operate.

14.0 Disturbance to public reserve users and residents

Under this policy and through the issue of individual permits for commercial fitness training activities, there can be no:

- unreasonable noise disturbance to public reserve users and adjoining residents
- interference with the ability of the general public to use public reserve areas and the facilities within
- amplified music or voice
- hazards or obstructions from training equipment
- prevention/obstruction of members of the public from safely using cycleways, footpaths and steps.

On-going complaints relating to the above matters can result in permit revocation and Council will not be liable for loss of business and any costs as a result.

15.0 Insurance

Public liability insurance will have to be taken out by approved fitness training operators and be held continuously for the duration of a permit for a minimum $10M. Kiama Municipal Council will need to be fully indemnified from any liability by the operation of commercial fitness trainers operating on public reserve land and if applicable, the Minister administering the Crown Lands Act 1989.

16.0 Risk Management

Risk assessments will need to be conducted by approved commercial fitness training operators and they will need to make their own assessment of the suitability of approved locations and safety and other factors such as wet weather and ground surface conditions and operating outside daylight hours. It is the responsibility of permit holders to take appropriate action to remove any hazards or alternatively make alternative provisions if that training site is unsuitable.
17.0 Business disturbance

Council will not take any responsibility or liability for any interruption to the business of any fitness trainer caused by the need by Council or any authority to carry out any work, maintenance or event or action taken by inclement weather and ground conditions. Council will not mow public reserves outside its regular schedule and will not be liable for loss of business or other matter due to grass height or general ground condition.

18.0 Qualifications

In order to be issued with a permit to operate commercial fitness training activities, evidence must be available of:

- current qualification/accreditation/registration with Fitness Australia or relevant peak body
- current Senior First Aid Certificate.

These qualifications have to be maintained for the duration of a permit.

19.0 Document control

<table>
<thead>
<tr>
<th>Directorate:</th>
<th>Engineering &amp; Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy name:</td>
<td>Use of public reserves for commercial fitness activities and personal training</td>
</tr>
<tr>
<td>Date adopted by Council or N/A:</td>
<td>19 May 2015</td>
</tr>
<tr>
<td>Date endorsed by MANEX:</td>
<td>N/A</td>
</tr>
<tr>
<td>Last revision date:</td>
<td>20 December 2016</td>
</tr>
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<td>Next review date:</td>
<td>May 2019</td>
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<td>Trim doc number:</td>
<td>16/98704</td>
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**SCHEDULE 1**

Public reserves - commercial fitness/personal training activities

<table>
<thead>
<tr>
<th>Reserve Name</th>
<th>Property</th>
<th>Activity/Use</th>
<th>Hours of operation (refer clause 13 for EST &amp; DST hours)</th>
<th>Maximum total participant number</th>
</tr>
</thead>
<tbody>
<tr>
<td>James Oates Reserve, Minnamurra</td>
<td>Lot 70 DP243062</td>
<td>passive active</td>
<td></td>
<td>30</td>
</tr>
<tr>
<td>Jones Beach Reserve, Kiama Downs</td>
<td>Lot 1027 DP232243</td>
<td>passive active</td>
<td></td>
<td>30</td>
</tr>
<tr>
<td>Old School Flat, Kiama</td>
<td>Lot 7007-Pt.7008 DP1074746 Lot 7034 DP1061039</td>
<td>passive active</td>
<td>(Note 1) merit</td>
<td></td>
</tr>
<tr>
<td>Coronation Park, Kiama</td>
<td>Lot 7016 DP1074643</td>
<td>passive active</td>
<td></td>
<td>30</td>
</tr>
<tr>
<td>South Werri Reserve, Werri Beach</td>
<td>Lot 1 DP1075959</td>
<td>passive active</td>
<td></td>
<td>30</td>
</tr>
<tr>
<td>Cooke Park, Gerringong</td>
<td>Lot 7003 DP1069649</td>
<td>passive active</td>
<td></td>
<td>20</td>
</tr>
<tr>
<td>Ricketts Reserve, Gerroa</td>
<td>Lot 2 DP329172</td>
<td>passive</td>
<td></td>
<td>20</td>
</tr>
<tr>
<td>Emery Reserve, Gerroa</td>
<td>Lot 2 DP1065357</td>
<td>passive</td>
<td></td>
<td>20</td>
</tr>
</tbody>
</table>

Note 1: excludes those dates/times where an approved market or event operating with consent or licence from Council is occupying the land
# Sportgrounds - commercial fitness/personal training activities

<table>
<thead>
<tr>
<th>Sportground name</th>
<th>Property (Lot/DP)</th>
<th>Activity/ Use</th>
<th>Hours of operation (refer clause 12 for EST &amp; DST hours)</th>
<th>Maximum total participant number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gainsborough Chase Reserve, Kiama Downs</td>
<td>Lots 338-389 DP790657</td>
<td>passive active</td>
<td>(Note 2)</td>
<td>merit</td>
</tr>
<tr>
<td>Bombo Hill, Kiama Downs</td>
<td>Lot 100 DP841672</td>
<td>passive active</td>
<td></td>
<td>merit</td>
</tr>
<tr>
<td>Chittick Oval, Kiama</td>
<td>1-2-8-10 (Sec 3) DP758563 Lot 12 DP200390 Lot A DP161881 Lot 1 DP200068 Lot 1 DP1115030</td>
<td>passive active</td>
<td>(Note 1 &amp; 2)</td>
<td>30</td>
</tr>
<tr>
<td>Chapman Reserve, Kiama</td>
<td>Lot 7018 DP1074642</td>
<td>passive active</td>
<td>(Note 1 &amp; 2)</td>
<td>30</td>
</tr>
<tr>
<td>Kiama Sports Complex, Kiama (Field 4 only-</td>
<td>Lot 12 DP708075 Lot 4 DP248979</td>
<td>passive active</td>
<td>(Note 2)</td>
<td>merit</td>
</tr>
<tr>
<td>excludes turf wicket and athletics track)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bonaira Oval, Kiama</td>
<td>Lot 492 DP208118 Lot 475-478 DP33905</td>
<td>passive active</td>
<td>(Note 2)</td>
<td>merit</td>
</tr>
<tr>
<td>Kevin Walsh Oval, Jamberoo</td>
<td>Lot 1 DP1146766 Lot 101 DP1063277</td>
<td>passive active</td>
<td>(Note 2)</td>
<td>merit</td>
</tr>
<tr>
<td>Gerry Emery Reserve, Gerringong</td>
<td>Lot 601 DP739447</td>
<td>passive active</td>
<td>(Note 2)</td>
<td>merit</td>
</tr>
<tr>
<td>Dorothy Bailey Oval, Gerringong</td>
<td>Lot E DP38381</td>
<td>passive active</td>
<td>(Note 2)</td>
<td>merit</td>
</tr>
</tbody>
</table>

Note 1: excludes those dates/times where an approved market or event operating with consent or licence from Council is occupying the land

Note 2: the Kiama Sports Association manages all sports fields use and bookings by sporting clubs on behalf of Council. Sporting clubs have priority use of sports fields. Use of sports fields for commercial fitness training activities may have limitations with regard to areas able to be used and the times/days of operation due to training, competitions and carnivals. Any permit application to be conducted on a sports field will be referred to the Kiama Sports Association to ensure the different users can co-exist.
SCHEDULE 2

Fee structure*
(proposed fee structure 2017/18 shown in italics subject to adoption by Council with 2017/18 Operational Plan)

1. Annual fees – Mobile and Base permits (per annum)

<table>
<thead>
<tr>
<th>Class size (No. of participants)</th>
<th>Category</th>
<th>Annual usage fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2 (Mobile permit)</td>
<td>A</td>
<td>$250</td>
</tr>
<tr>
<td>3-10 (Base permit)</td>
<td>B</td>
<td>$1,200 ($1600)</td>
</tr>
<tr>
<td>11-20 (Base permit)</td>
<td>C</td>
<td>$1,600 ($2000)</td>
</tr>
<tr>
<td>21-30 (Base permit)</td>
<td>D</td>
<td>$2,400 ($2800)</td>
</tr>
<tr>
<td>more than 30 (Base permit)</td>
<td>E</td>
<td>Preceding category fee + 25% for every 1-10 participants</td>
</tr>
</tbody>
</table>

2. Annual fees – Block trainer permits (per annum)

<table>
<thead>
<tr>
<th>Class size</th>
<th>Category</th>
<th>Annual usage fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>unlimited</td>
<td>F</td>
<td>$400</td>
</tr>
</tbody>
</table>

3. Permit application/renewal fee

<table>
<thead>
<tr>
<th>Permit application/renewal</th>
<th>Annual usage fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial permit</td>
<td>$200 (up-front)</td>
</tr>
<tr>
<td>Subsequent permit renewal</td>
<td>$125 $150 (every 2 years)</td>
</tr>
</tbody>
</table>

*fees and charges are subject to annual review