



RESPECT



INNOVATION



INTEGRITY



TEAMWORK



EXCELLENCE

Date adopted	15 February 2022
Resolution number	22/053OC
Previously adopted	17 September 2019 20 December 2016
Next review due	15 February 2025
Department	Engineering and Works
Responsible Officer	Property Officer
TRIM reference	22/15527
Supporting documents	Schedule 1: public reserves and sportsgrounds – commercial fitness/personal training activities Schedule 2: land use approvals categories

Table of contents

1.0 Purpose	4
2.0 Objectives	4
3.0 Scope	4
4.0 References	4
5.0 Definitions	4
6.0 Land use approvals	5
7.0 Expressions of interest	6
8.0 Proof of land use approval	7
9.0 Fees	7
10.0 Permitted activities	7
11.0 Exempt activities and groups	7
12.0 Prohibited activities	7
13.0 Exclusion areas	8
14.0 Training group sizes	8
15.0 Operating times	9
16.0 Operating times for Cooke Park	9
17.0 Disturbance to public reserve users and residents	10
18.0 Risk management and insurance	10
19.0 Business disturbance	10
20.0 Eligibility	10
21.0 Review history	11
22.0 Document control	11
23.0 Signature	11
Schedule 1: Public reserves and sportsgrounds – commercial fitness / personal training activities	12
Schedule 2: Land use approval categories	14

Use of public reserves by commercial fitness groups and personal training policy

1.0 Purpose

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

2.0 Objectives

Commercial fitness/personal training plays a large role in the provision of exercise and promotes physical activity. The rapidly growing fitness industry creates significant demand for group/personal training on public reserves.

Council supports the use of public reserves for fitness activities on the basis of the considerable health and well-being benefits to community. This policy details the way in which Council will manage and coordinate public reserve use to ensure continued accessibility for all groups and limit potential impact of commercial fitness activities to other users of the reserve.

3.0 Scope

This policy applies to all council owned and managed public reserves within the Kiama Local Government Area (LGA). This policy nominates locations where Council may allow commercial fitness trainers to operate with a land use agreement. The locations are listed in Schedule 1.

4.0 References

Relevant legislation includes:

- Local Government Act 1993
- Crown Land Management Act 2016.

This document should be read in conjunction with Plans of Management and Council's Public Land Management Guidelines.

5.0 Definitions

For the purpose of this document the following definitions apply:

Term	Definition
Base training approval	Fitness training activities which involve more than two participants and takes place principally at a designated location.
Mobile training approval	Situations where a fitness trainer conducts a fitness training activity for one or two participants only on land approved for fitness training activities.

Term	Definition
Block training approval	Situations where a fitness trainer conducts training on or for part of a scheduled day. This approval enables the holder to operate up to a specified maximum number of occasions in the calendar year.
Commercial fitness training	Teaching of exercise for the purpose of conducting a business and to assist participants in the improvements of physical fitness and mental well-being. Engaging in such business involves the exchange of fee or payment.
Commercial fitness trainer or personal trainer	Those people owning, managing or instructing physical fitness training and sports coaching for the purpose of conducting a business for exchange of fee or payment.
Sports coaching	Specific training of individuals in a particular sport or discipline to assist participants in the improvement of conditioning and skill level relating to that sport. Engaging in such business involves the exchange of fee or payment.
Community health and well-being exercise programs	Undertaking of group based exercise programs promoting general health and well-being in the community up to twice per year over blocks not exceeding 10 weeks each occurrence. Participants are required to pay a fee for participation in the program.
Passive activities	Groups of commercial 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.
Land use approval	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.
Public infrastructure	An item that is immovable or securely positioned being an asset of Kiama Municipal Council including but not limited to chairs, benches, tables, fixed exercise apparatus, bollards, buildings and fencing.
Public reserves	Land that is provided for the use of the community including land designated as public parks, reserves, sportsgrounds, beaches, cycleways and pathway that are within the ownership of Kiama Municipal Council or Crown land managed Council.
Expressions of interest (EOI)	Transparent process of seeking written interest from commercial/personal fitness trainers to operate on approved public reserves.

6.0 Land use approvals

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 under this policy require a land use approval in accordance with the Local Government Act 1993 or the Crown Land Management Act 2016.

A land use approval provides the holder with 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, picnic shelter use, etc. these groups or individuals cannot be forced to relocate. Commercial fitness/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 wider community.

A land use approval 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 or for other purposes.

A commercial fitness trainer using a public reserve without Council approval will be the subject to potential enforcement action by Council Rangers under the Local Government Act 1993

There can be no transfer or assignment of a land use approval.

Council approved operators are permitted to undertake commercial fitness training activities in accordance with their land use approval. There are three types of land use approvals reflecting the respective group/participant size:

1. base training approval
2. mobile training approval
3. block training approval.

A base training approval is a non-exclusive approval issued to commercial/personal fitness trainer where there are greater than two participants. A base training approval 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 there can be no impact to other base or mobile licence holders or the general community.

A mobile training approval is a non-exclusive approval issued for one-two participant classes (one-on-one or small group personal training sessions). This type of approval allows for commercial fitness training activities on multiple sites listed on Schedule 1. Due to the small group/participant size, these are unlikely to have any substantial impact on general community usage of public reserves, larger group fitness classes or block trainers.

A block training approval is a non-exclusive approval issued to commercial/personal fitness trainers taking place on one/part of one day, for example, bootcamp sessions. 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 single day (less than 4 hours), the approval 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 approval already issued (base training approval) and general reserve bookings by the public.

7.0 Expressions of interest

At the commencement of this policy and thereafter every three years, an expression of interest (EOI) will take place for eligible persons to obtain a land use approval to operate. This system properly allocates licenses across the identified public reserves to ensure distribution of commercial fitness-trainer activities and to ensure fitness trainers have equal opportunity to seek a land use approval to operate from a particular reserve. Individual licences will be issued for three years after which time the holder needs to apply for renewal through the respective EOI process. Trainers seeking a lands use approval to operate between EOI processes will be advised of available public reserves and no specific EOI will take place.

8.0 Proof of land use approval

A reference number will be issued to successful applicants and must be produced if requested by an officer of Council.

9.0 Fees

An application fee will be charged at the commencement of every new land use approval term (excludes renewed approvals). Ongoing usage fees will be charged on a quarterly basis using the annual fee for the approved category and reviewed annually/subject to annual change (refer to Council's Fees and Charges).

<https://www.kiama.nsw.gov.au/Council/Community-Plans/Fees-and-Charges>.

This policy nominates an October-March "main seasonal" period. Outside this main season, it may be possible for an approval holder to drop to a lower participant number/category upon written request, on the basis that there may be seasonal variations in class numbers. This enables flexibility with fluctuating participant numbers and provides equity and fairness to operators.

10.0 Permitted activities

Commercial/personal fitness training activities and sports coaching includes those fitness training drills/activities acknowledged by the peak industry group, Fitness Australia (or other relevant body in existence). The permitted activities generally 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.

11.0 Exempt activities and groups

Exempt activities under 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
- community health and well-being exercise programs.

12.0 Prohibited activities

Exempt activities under this policy include:

- aggressive or intimidating training methods

- use of amplified music and voice
- use of rope, stakes and vehicle tyres
- attaching any equipment to vegetation
- exclusive use of fixed outdoor fitness equipment in reserves
- using stairways and pathways for static or repeated training routines.

During the period of operation of this policy, Council may nominate additional prohibited activities and prevailing land use approvals will be subject to the new prohibited activities.

13.0 Exclusion areas

No active commercial/personal fitness training is permitted in the following areas:

- on beaches, within 50 metres of patrolled areas
- within 20 metres 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
- in car parking areas
- on constructed footpaths and cycleways.

During the period of operation of this policy, Council may nominate additional exclusion areas and prevailing land use approvals will be subject to the new exclusions.

14.0 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 have a capped maximum participant number less than 30 (refer Schedule 1).

Multiple licences 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 several trainers each with small class sizes but in total amounting to 30 participants on the reserve.

At some locations, the maximum 30 class size/participant number will be reviewed on merit such as sportsgrounds where greater land area exists to disperse multiple users. At these locations it may be reasonable 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, the annual fees will be adjusted by increasing fees by 25% for every 1-10 additional participants.

The merit assessment above 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.

15.0 Operating times

Commercial/personal fitness training activities are restricted to 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:

Days	Daylight savings time	Eastern standard time
Monday to Saturday	6am – 8.30pm	6am – 8.30pm
Sunday	7am – 10.00am (block-out period 25 December to 26 January)	7am – 10.00am

In the event of any inconsistency, Schedule 1 of this policy prevails.

The following days of the year are specifically excluded from approved commercial fitness training activities under this policy:

- 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 approvals require the approval 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 approval holders to be aware of the approved events on public reserves and the times/dates they operate.

16.0 Operating times for Cooke Park

Approved commercial fitness/personal training activities at Cooke Park, Gerringong are restricted to the following:

Days	Operating times	Maximum participants
Monday, Thursday and Friday	6am – 7am	10
Saturday	7am – 8am	10
Tuesday and Wednesday	Not permitted	-

17.0 Disturbance to public reserve users and residents

Under this policy and through the issue of individual approvals to commercial/personal fitness trainers, 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 in the reserve
- amplified music or voice
- hazards or obstructions caused by training equipment
- prevention/obstruction of members of the public from safely using cycleways, footpaths and steps.

Continuing complaints relating to the above can result in approval revocation as expressed in the individual land use approval to operate. Council will not be liable for loss of business and any costs as a result.

18.0 Risk management and insurance

Commercial/personal fitness training operators need to make their own assessment of the suitability of approved locations and safety and other factors such as, for example, wet weather, ground surface conditions and operating outside daylight hours. It is the responsibility of licence holders to take appropriate action to remove any hazards or make alternative provisions if that training site is unsuitable.

Public liability insurance will have to be taken out by approved trainers and be held continuously for the duration of any approval issued, for a minimum \$20M. Kiama Municipal Council will need to be fully indemnified from any liability by the operation of commercial/personal fitness trainers operating on public reserves and if applicable, the Minister administering the *Crown Land Management Act 2016*.

19.0 Business disturbance

Council will not take any responsibility or liability for any interruption to the business of any trainer caused by the need by Council or any authority to carry out any work, maintenance, 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.

20.0 Eligibility

In order to be considered for an approval to operate as a commercial/personal fitness trainer, evidence of the following must be provided at the time of application and/or approval renewal:

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

- current Public Liability insurance Certificate of Currency for the amount on \$20 million for each/any accident or event
- risk assessment.

All the above must be maintained for the duration of the licence.

21.0 Review history

This policy was adopted by Council on 15 February 2022.


This policy will be reviewed in February 2025. Any amendments to this document must be by way of Council resolution.

Council reserves the right to review or vary this document and associated processes at any time if required.

22.0 Document control

Date reviewed	Date adopted	Amendment
16 March 2021	15 February 2022	<ul style="list-style-type: none"> • EOI process and accompanying land use approvals extended to 3 year terms. • New definition for sports coaching. • New definition for community health programs and associated provisions
	17 September 2019	<ul style="list-style-type: none"> • Reviewed
	20 December 2016	<ul style="list-style-type: none"> • New Policy

23.0 Signature

Name: Jane Stroud Chief Executive Officer	Date: 3 March 2022
<p>Signature: </p>	

Schedule 1: Public reserves and sportsgrounds – commercial fitness / personal training activities

Public reserves -

Public Reserve name	Property description	Activity/Use	Operating times (refer section 5 of Policy)	Maximum participants
James Oates Reserve, Minnamurra	Lot 70 DP243062	passive & active		30
Jones Beach Reserve, Kiama Downs	Lot 1027 DP232243	passive & active		30
School Flat, Kiama	Lot 7007 and part Lot 7008 DP1074746 Lot 7034 DP1061039	passive & active	(Note 1)	merit (Note 2)
Coronation Park, Kiama	Lot 7016 DP1074643	passive & active		30
South Werri Reserve, Werri Beach	Lot 1 DP1075959	passive & active		30
Cooke Park, Gerringong	Lot 7003 DP1069649	passive & active		10
Ricketts Reserve, Gerroa	Lot 2 DP329172	passive		20
Emery Reserve, Gerroa	Lot 2 DP1065357	passive		20

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

Note 2: 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 licences in place for commercial/personal fitness trainers on that reserve, and operating times of commercial/personal fitness trainers

Sportsgrounds -

Sportsground name	Property description	Activity/Use	Operating times (refer section 5 of Policy)	Maximum participants
Gainsborough Chase Reserve, Kiama Downs	Lots 338-389 DP790657	passive & active	(Note 2)	merit*
Bombo Hill, Kiama Downs	Lot 100 DP841672	passive & active		merit*
Chittick Oval, Kiama	1-2-8-10 (Sec 3) DP758563 Lot 12 DP200390 Lot A DP161881 Lot 1 DP200068 Lot 1 DP1115030	passive & active	(Note 1 & 2)	30
Chapman Point Reserve, Kiama	Lot 7018 DP1074642	passive & active	(Note 1 & 2)	30
Kiama Sports Complex, Kiama <i>(Field 4 only - excludes turf wicket and athletics track)</i>	Lot 12 DP708075 Lot 4 DP248979	passive & active	(Note 2)	merit*
Bonaira Oval, Kiama	Lot 492 DP208118 Lot 475-478 DP33905	passive & active	(Note 2)	merit*
Kevin Walsh Oval, Jamberoo	Lot 1 DP1146766 Lot 101 DP1063277	passive & active	(Note 2)	merit*
Gerry Emery Reserve, Gerringong	Lot 601 DP739447	passive & active	(Note 2)	merit*
Dorothy Bailey Oval, Gerringong	Lot E DP38381	passive & active	(Note 2)	merit*

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

Note 2: the Kiama Sports Association manage all sportsfields use and bookings by sporting clubs on behalf of Council. Sporting clubs have priority use of sportsfields. Use of sportsfields 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 licence application proposing use of a sportsfield listed above will be referred to the Kiama Sports Association to ensure no impact to organised sports.

**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.*

Schedule 2: Land use approval categories

Category	Number of participants
A	1 – 2
B	3 – 10
C	11 – 20
D	21 – 31
E	More than 30
F	Block trainer land use approval

How to contact Council

Post

Chief Executive Officer
Kiama Municipal Council
PO Box 75
KIAMA NSW 2533

Telephone

+61 2 4232 0444

Online

Email: council@kiama.nsw.gov.au

Website: www.kiama.nsw.gov.au

Office hours

Our Administration Building located at
11 Manning Street Kiama is open 8.45 am to 4.15 pm
Monday to Friday (excluding public holidays)

