



KIAMA MUNICIPAL COUNCIL
your council, your community

Kiama Development Control Plan 2020

Chapter 7. Commercial Premises



RESPECT



INNOVATION



INTEGRITY



TEAMWORK



EXCELLENCE

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Chapter 7. Commercial Premises

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Topic 7.1 – Business Premises

Hairdressers, Beauticians and Skin Penetration Premises

This topic provides controls for the establishment and operation of hairdressing, beautician and skin penetration premises carried out either in home or in a commercial premise.

Topic 7.1 Business Premises should be read in conjunction with the following *Environmental Health Guideline*;

- [Beauty Premises Guideline \(Hairdressers, Beauticians and Skin Penetration\)](#)

Unhygienic procedures can affect the health of the client, may jeopardise the health of the operator and increase the spread of infectious diseases. Skin penetration procedures include the following:

- Acupuncture;
- Tattooing;
- Ear piercing;
- Hair removal (waxing);
- Any other procedure that involves skin penetration such as body piercing, hair removal using wax or electrolysis, cosmetic enhancement and semi-permanent make-up;
- Any beauty treatment that involves the deliberate penetration or removal of the skin including cutting of cuticles; and
- Any other procedure prescribed by the regulations, such as colonic lavage

The following information and documentation is to be submitted to Council as part of a Development Application to allow Council staff to make an assessment of compliance with the relevant Australian Standards:

- Site Plan scale 1:100
- Floor Plan scale 1:50 detailing:
 - Layout of all equipment
 - Door and window openings
 - Customer waiting area including number of seats and area of room
 - Customer and staff toilets
- Sectional Elevations scale 1:50
- Hydraulic Plan 1:50:
 - Detailing plumbing connection and floor waste locations
- Schedule of finishes

Food and drinks premises (both home based and commercial) are to be designed, constructed and operated in accordance with this section of the Kiama DCP 2020 and the *Kiama Food & Drink Premises Guideline*.

The objectives and controls of this topic are separated into the construction phase of your development and the ongoing use of your development.

Objectives

O:7.1.1	all hairdressers and businesses that provide services that involve skin penetration are fitted out in such a way that they can be effectively cleaned and maintained.
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Controls

7.1.1 The construction and fit-out of a business premises (hairdressers and beauticians including skin penetration procedures) is to comply with Section 6 of the Beauty Premises Guideline and the relevant Australian Standards. This includes the construction, materials and finishes, and the provision of hand wash basins for treatment rooms within a premises

Ongoing Use and Management

Objective

O:7.1.2	To ensure standards of hygiene, client safety and staff safety are maintained at the highest possible standard.
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Controls

7.1.2 The ongoing management of a business premises (hairdressers and beauticians including skin penetration procedures) is to comply with Section 7 of the Beauty Premises Guideline and the relevant Australian Standards. This includes the use of needles sharps and other articles, disposal of sharps, infectious and non-infectious waste, protective equipment, use of inks and pigments, use of wax for hair removal and linen

Topic 7.2 – Retail Premises

Food & Drink Premises

Kiama Municipal Council is committed to ensuring the activities that are regulated by Council are safe, healthy and comply with all relevant and current legislation and guidelines.

Topic 7.2 Retail Premises should be read in conjunction with the following *Environmental Health Guideline*;

- [Food & Drink Premises Guideline](#)
- [Footpath Dining Policy](#)

This topic of the DCP covers the design, construction and fit out of food premises. It provides information for:

- Food business operators (including domestic food businesses);
- Architects;
- Designers;
- Builders;
- Equipment manufactures; and
- Charities and not-for profit organisations.

Food and drinks premises (both home based and commercial) are to be designed, constructed and operated in accordance with this section of the Kiama DCP 2020 and the *Kiama Food & Drink Premises Guideline*.

The objectives and controls of this topic are separated into waste associated with the construction phase of your development and the ongoing use of your development.

Construction/Design

To allow Council staff to make a proper assessment of a Development Application involving subdivision/demolition/construction works, the following documentation is to be submitted:

- Site Plan scale 1:100
- Floor Plan scale 1:50 detailing:
 - Layout of all equipment, benches, fixtures, fittings and mechanical exhaust
 - Door and window openings
 - Customer waiting area including number of seats and area of room
 - Customer and staff toilets
- Sectional Elevations scale 1:50 – through any building showing details of mechanical ventilation NB: Inlets and outlets
- Hydraulic Plan 1:50:
 - Detailing plumbing connection and floor waste locations
- Schedule of finishes – details of floors, walls, ceilings, equipment, fixtures and fittings
- Customer seating area – square metres of floor space and number of seats
- Customer and staff toilets

- If it is deemed from Sydney Water that a tradewaste system is not required a letter or other appropriate evidence from Sydney Water is required to be submitted

Objective

O:7.2.1 To ensure that all food shops are fitted out in such a way that they can be effectively cleaned and maintained, harbourage or vermin is minimised and standards of hygiene and food handling are maintained at the highest possible standard;

Controls

- 7.2.1 Food and drinks premises (both home based and commercial) are to be designed, constructed in accordance with Section 6 of the *Food & Drink Premises Guideline*

Ongoing Management

Objective

O:7.2.2 To ensure that food commercially prepared and sold is safe to consume.

Controls

- 7.2.2 Prior to opening, the proprietor must notify the NSW Food Authority (NSWFA). This can be done by logging on to the food notify website www.foodnotify.nsw.gov.au and select "Notify a food business". The NSWFA will generate a notification number which is to be included on Council's "Food Premises Registration" for
- 7.2.3 The proprietor must appoint a Food Safety Supervisor (FSS) if the business deals with all three (3) of the following criteria:
1. Ready to eat food;
 2. Potentially hazardous food; and
 3. Not sold and served in its package.
- 7.2.4 The proprietor must complete Kiama Council's "Food Premises Registration" form and submit it to Council with a copy of the Food Safety Supervisor Certificate issued by the NSWFA. A copy of the Food Safety Supervisor Certificate must be kept on the premises at all times. Council must be notified of the details of the Food Safety Supervisor and any changes that may occur to these details within seven (7) days
- 7.2.5 All food and drink premises are to be managed in accordance with the Food Safety Act and the Guideline

Footpath Dining Policy

This section should be read in conjunction with the following *Environmental Health Policy*;

- [Footpath Dining Policy](#)

In accordance with Part 2 Division 1 Subdivision 20A of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the use of a footway or public open space within the meaning of the *Roads Act 1993* as an outdoor dining area associated with lawful food and drink premises does not require development consent. However, Subdivision 20A of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* outlines that approval under section 125 of the *Roads Act 1993* is required. This section is Council's Footpath Dining Policy for the purposes of section 125 of the *Roads Act 1993*.

This policy applies to all public road reserves in the Kiama Municipality in commercial or business areas under the care, control and management of Council.

Objective

- | | |
|---------|------------------------------------------------------------------------------------------------------------------------|
| O:7.2.3 | To encourage the establishment of footpath dining directly related to the operation of an adjoining food business; and |
| O:7.2.4 | To ensure that footpath dining areas do not disrupt traffic and pedestrian flow or compromise safety. |

Controls

7.2.6 The *footpath pedestrian zone* is for general pedestrian use with footpath dining excluded. The footpath pedestrian zone is a minimum two metres as measured from the front boundary of the shop premises, except that section of Terralong Street between Railway Parade and Collins Street where it is three metres.

In some cases, footpath dining areas in association with the adjoining food premises is more appropriately located directly next to the shopfront taking into account pedestrian movement and crossing points at adjoining roads. These locations will be assessed on merit as part of the footpath dining application process

7.2.7 The conditions of use for the footpath dining area are:

- the footpath area able to be considered in conjunction with the adjoining food premises corresponds with the actual shop frontage width and clear of the footpath pedestrian zone referred to in 5.1 above. In addition, an 800mm exclusion zone exists from the roadside kerb to allow access to/from vehicles parked on the street.
- at all times a 1.5 metre exclusion zone must be maintained to all public infrastructure such as bins and public street furniture that are located within the footpath dining area.
- footpath dining directly in front of an adjoining shop will only be considered with the written consent of the shop owner. The adjoining owner can retract consent at any time.
- footpath dining can only be considered where the pavement grade or cross fall can safely support chairs and tables.
- screens, barriers and the like in conjunction with footpath dining are allowed to separate dining areas from the footpath pedestrian zone and the road. Screens and barriers need to be designed and secured and not be a hazard to users of the footpath.

- footpath dining furniture needs to consider the presentation of the footpath areas to the general public that positively contributes to the street environment.
 - all furniture is to be removed from the footpath after each trading day.
 - furniture needs to withstand weather conditions and be safe for use. Umbrellas must be firmly anchored.
 - umbrellas cannot span outside designated approved footpath dining areas and need to maintain a vertical clearance from the ground surface of two metres.
 - ancillary structures such as supplementary menus or specials boards must not interfere with patron movement and safety or be positioned in footpath pedestrian zones or exclusion zones.
- 7.2.8 Footpath dining may not be supported where there is concentrated pedestrian traffic movement or vehicle traffic concerns such as near public transport stops or pedestrian crossing points.
- 7.2.9 Where there is an awning extending over the public footpath and no evidence has been provided to Council for structural certification of the awning for the proposed period of the footpath dining consent, footpath dining will not be supported.
- 7.2.10 Street rubbish bins cannot be used for the disposal of waste associated with footpath dining.
- 7.2.11 Footpath dining areas are smoke-free in accordance with the *Smoke Free Environment Act 2000*. Signage and control of smoke-free footpath dining is the responsibility of the footpath dining consent holder.
- 7.2.12 The consent holder must indemnify Council in respect of any claim which may arise from use/occupation of the footpath area and all actions, sums of money, costs, claims, demands and other liabilities which may be sustained or suffered or recovered or made against Council by any person during the term of a consent to operate.
- 7.2.13 The public liability insurance extended to indemnify Council is \$20,000,000 or a greater sum if notified by its insurers.
- 7.2.14 Council has established alcohol free zones under section 644 of the *Local Government Act 1993* prohibiting alcohol consumption over designated public roads and footpaths in the Kiama Municipality. Any footpath dining operation intending to serve alcohol requires licensing from the NSW Liquor and Gaming Authority in the first instance.
- 7.2.15 The rental fee payable to Council for the use of the footpath for outdoor dining is based on a rate/m² for the total footpath dining area available plus GST and is invoiced monthly. Council's Fees and Charges are reviewed annually. New and renewed footpath dining consents require payment of the application fee expressed in Council's Fees and Charges.
- 7.2.16 Consent for footpath dining will be granted for up to three years after which time a new consent will need to be obtained for continued use

Application for consent needs to be made to Council using the *accompanying [Application for Footpath Dining Form](#)* with the application fee.

Mobile Food Vans and Temporary Food Stalls

Kiama Municipal Council is committed to ensuring the activities (such as itinerant, mobile, and temporary food stalls) that are regulated by Council are safe and healthy and comply with all relevant and current legislation and guidelines. Kiama Municipal Council is also committed to providing an equitable and fair business environment.

The [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) outlines that in certain circumstances mobile food vans and temporary food stalls may be considered exempt from requiring development consent.

When operating on a public place mobile food vans and temporary food stalls are required to obtain approval under Section 68 of the [Local Government Act 1993](#) even if they are considered exempt from requiring development consent. Council is required to take ensure that any approvals issued under Section 68 of the [Local Government Act 1993](#) comply with the relevant Local Approvals Policy.

A Local Approvals Policy is prepared and adopted under [Chapter 7, Part 3 of the Local Government Act 1993](#). This section of the DCP is a Local Approvals Policy, under the [Local Government Act 1993](#), for the use of a standing vehicle or any article for the purpose of selling any article in a public place (i.e. mobile food vans and temporary food stalls).

For the purposes of the [Local Government Act 1993](#) a public place includes:

- (a) a public reserve, public bathing reserve, public baths or public swimming pool, or
- (b) a public road, public bridge, public wharf or public road-ferry, or
- (c) a Crown reserve comprising land reserved for future public requirements.

This Section/Policy is divided into three parts:

Part 1 specifies activities for which a person is exempt from requiring an approval from the Council.

Part 2 lists the matters/controls that Council will consider when determining applications under the Policy. This section is intended to provide general information to applicants on the considerations that will be made by Council when assessing applications.

Part 3 contains information regarding the application process, including any information that is required to be submitted with applications.

Objectives

- | | |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| O:7.2.5 | To ensure that, in public places, food sold to the public from non-conventional food premises, that is, mobile food vending vehicles and temporary food stalls, is safe for human consumption and that the construction, fitting out and facilities for cleaning utensils, articles, fittings and appliances in vehicles and stalls are of an appropriate standard. |
| O:7.2.6 | To ensure that mobile and food vans are inspected annually for compliance with the guidelines set out by the Food Authority. |
| O:7.2.7 | To ensure that, in public places, temporary food stalls are registered with the Food Authority and with Council and the stall holders are aware of and are able to gain access to the conditions they must comply with during operation of the stall. |
| O:7.2.8 | To ensure the creation of adverse traffic, pedestrian and general public safety conditions, is avoided, particularly on routes where the dominant function is the safe movement of vehicular traffic. |
| O:7.2.9 | To regulate the level and intensity of vendor activities on road reserves and other public places necessary to ensure that the site is retained primarily for its purpose (ie community/traffic use and not commercial). |
| O:7.2.10 | To accommodate appropriate vendor activities in order to provide services that enhance the visitor/resident experience. |

O:7.2.11 To ensure that parking of vehicles (or erection of other equipment) will not adversely affect the public amenity and the characteristic streetscape of the area and the street.

Part 1 - Exemptions

A person is exempt from requiring an approval from the Council under the provisions of the *Local Government Act 1993* for a mobile food van/temporary food stall where the operation is in part of an approved market or event on a public place *and local sporting clubs directly servicing patrons in conjunction with scheduled weekend sporting activities*. Exempt mobile food vans/temporary food stalls will be required to be operated in accordance with any approval conditions, relevant legislation and any codes or guidelines ([Food & Drink Premises Guideline](#)) as issued by Council the NSW Food Authority or other government department or agencies.

Part 2 - Controls

Controls - General

- 7.2.17 Mobile food vans/temporary food stalls will be required to be operated in accordance with any approval conditions, relevant legislation and any codes or guidelines ([Food & Drink Premises Guideline](#)) as issued by Council the NSW Food Authority or other government department or agencies.
- 7.2.18 Charities may be exempt from certain provisions of the food safety legislation and food standards. Charities are those community based groups which do not derive funds for personal financial gain, but direct any profits back to the community (e.g. local sports clubs, Lions and Rotary clubs). These concessions granted relate to:
- Notification of food business is not required if food sold is not potentially hazardous (eg scones) or is to be consumed immediately after thorough cooking (eg sausage sizzle)
 - Food Safety Supervisor requirements do not apply.
 - Some labelling requirements do not apply.
- Further information can be obtained from the NSW Food Authority or Council.
- 7.2.19 Council will only permit mobile food vans/temporary food stalls in locations that are safe for both operators and customers. This includes both public road reserves and public reserve that allow for easy and safe parking/manoeuvrability and that do not result in unsafe pedestrian and vehicle interactions.
- 7.2.20 Only one (1) mobile food van/temporary food stall is permitted to operate, at one time, per location identified in Appendix 7 and Appendix 8.

Controls - Public Roads

- 7.2.21 Mobile food vans/temporary food stalls are only permitted for mobile vending purposes on any road, or a part of any road prescribed in [Appendix 7](#) to this chapter.
- 7.2.22 A road not prescribed in [Appendix 7](#) may be traversed by a vehicle, but the operator must not stop the vehicle on any such road for the purpose of making a sale of goods carried in, or on, the vehicle.

- 7.2.23 In circumstances deemed appropriate by the General Manager in a particular case, a condition may be imposed at any time specifying a date or time during any day when a nominated road must not be used for the purpose of mobile food vending (e.g. road is closed for a special event).
- 7.2.24 The use of a road for mobile vending operations must be in compliance with the requirements of the Roads and Traffic Authority (RTA) and [“Guidelines for Control and Operation of Street Vending \(1996\)”](#).
- 7.2.25 When carried out on land within or immediately adjacent to a residential zone—only be carried out between 7.00 am and 7.00 pm on any day
- 7.2.26 When not carried out on land within or immediately adjacent to a residential zone—only be carried out between 6.00 am and 9.00 pm on any day

Controls – Public Reserve

- 7.2.27 Mobile food vans/temporary food stalls are not permitted on public reserves within the areas identified in [Appendix 8](#) to this chapter.
- 7.2.28 When carried out on land within or immediately adjacent to a residential zone—only be carried out between 7.00 am and 7.00 pm on any day
- 7.2.29 Mobile food vans/temporary food stalls can operation within the Seven Mile Holiday Park and only in the months of December and January (inclusive), between 6.00 pm and 9.00 pm on any day
- 7.2.30 Mobile food vans/temporary food stalls can operation within the Werri Beach Holiday Park, Surf Beach Holiday Park and Kendalls Beach Holiday Park between:
- 7.00 am and 7.00 pm February to November (inclusive), and
 - 7.00 am and 9.00 pm December to January (inclusive)

Part 3 – Approval Process

You need to use [Council’s Activity Application form](#) to apply for an approval under Section 68 of the *Local Government Act 1993*. This form outlines what information needs to be submitted to Council when applying to operate a mobile food van/temporary food stall on a public place.

Appendix 1 – Mobile Food Van/Temporary Food Stall Permitted Road Locations





**Mobile Food Van/Temporary Food Stall
Permitted Locations
Rose Valley Princes Highway Interchange**

 Mobile Food Van/Temporary Food Stall Permitted Location







**Mobile Food Van/Temporary Food Stall
Permitted Locations
Surf Beach Holiday Park**

 Mobile Food Van/Temporary Food Stall Permitted Location





**Mobile Food Van/Temporary Food Stall
Permitted Locations
Kendall's Beach Holiday Park**

 Mobile Food Van/Temporary Food Stall Permitted Location





**Mobile Food Van/Temporary Food Stall
Permitted Locations
Werri Beach Holiday Park**

 Mobile Food Van/Temporary Food Stall Permitted Location





**Mobile Food Van/Temporary Food Stall
Permitted Locations
Gerringong Boat Harbour**

 Mobile Food Van/Temporary Food Stall Permitted Location





**Mobile Food Van/Temporary Food Stall
Permitted Locations
Gerroa Headland, Stafford Street, Gerroa**

 Mobile Food Van/Temporary Food Stall Permitted Location





**Mobile Food Van/Temporary Food Stall
Permitted Locations
7 Mile Beach Holiday Park**

 Mobile Food Van/Temporary Food Stall Permitted Location



How to contact Council

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Office hours

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