

Conditions

1 Pre-requisites:

The permit is not effective unless and until stated pre-requisites are satisfied or in writing waived by Council.

2 Limitations:

Once effective, the permit is limited to the particulars stated earlier. A variation to any such limitation is at Council's discretion.

3. Nature Of The Permit:

The permit is not a lease or tenancy. Unless stated otherwise in special conditions, the area remains a public place and the operator does not have the exclusive use of the area.

4. Inputs:

Council is not obliged to supply any information, materials, plant, equipment or other goods or services for the event. If Council needs or is requested to supply any goods or services for the event (eg. Mobile rubbish bins, labour in set up, operation, breakdown or cleaning up), Council may recover from the promoter a reasonable fee by reference to Council's Fees and Charges Schedule then applying.

5. Promotion:

Unless stated otherwise in special conditions, the promoter may not promote the event by hanging a banner over a public road/installing signage or posters on street furniture or within window fronts/distributing leaflets by hand on footpaths within the area of Council/using the name of Council.

6. Relocation Or Rescheduling:

If the area is or includes a park or reserve, Council may require the event to relocate to an alternate venue or be rescheduled if Council believes that necessary due to inclement weather, fire risk, vandalism or for other good reasons.

7. Access Issues:

If the event is likely to impede occupiers of adjacent property having foot or vehicular access to their land, the promoter must provide safe and adequate means of access. If the event is likely to restrict or coincide with the regular kerbside collection of household waste, the promoter must provide access or assistance so that collections may proceed on schedule.

8. Site Safety:

The promoter must supply, erect, maintain and when no longer required remove from the area all barricades, guards, fencing, signs, lights, temporary roadways and footpaths needed to protect property or for the safety and convenience of the public. Limitations on the event's trading hours do not relieve the promoter from responsibility to maintain any lights, signs or barricades outside of trading hours, nor the promoters responsibility to correct any hazardous condition that may develop outside of trading hours. If Council believes the area is in unsafe condition, Council may take steps to rectify the problem and recover the costs from the promoter.

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9. Site Control:

While upon the area for the purposes of the event, the promoter must:

- not interfere with/damage any structure (including a kerb, gutter, paving, manhole lid, irrigation system) or vegetation (including a tree, shrub, garden bed) or wildlife on or about the area not essential to the event;
- if the area is a park or reserve, ensure all heavy vehicles remain upon designated roads or car parks;
- not disturb or obliterate a public survey mark – otherwise the promoter is liable for all costs and fines so incurred under the *Surveyors Act 1976*;
- take all proper measures to protect utility services upon or adjacent to the area – if a service is damaged in the event, the promoter must arrange for its repair with the appropriate authority or owner as soon as practicable, consistent with the status of the service;
- while any patrons are upon the area, not fail to provide the attendance on the area of a responsible adult having executed control of all activities;
- where a site plan approved by Council identifies a location to have a particular use (e.g. for stalls), not to use that location for any other purpose;
- keep the area sanitary, safe and reasonably free of rubbish;
- not allow disorderly conduct or a public nuisance;
- take all reasonable steps to keep down noise and dust;
- minimize restriction to foot or vehicular traffic likely to be affected;
- not allow to be done anything that, in the reasonable opinion of Council, is likely to bring Council into disrepute.

10. Standards Of Care:

While upon the area for the purposes of the event, the promoter (or contractor, as applicable) and workers must comply with (in descending priority):

- applicable laws, codes of practice and guidelines – including those for OH&S, public health, road safety, protection of the environment;
- any reasonable directions as may be given by an Authorised Officer of Council or by the police or other proper authority;
- plans/specifications/methods submitted by the promoter and approved by Council;
- applicable Australian Standards; and
- the exercise of reasonable care, skill and diligence.

11. Suspension Of Work:

If Council has reason to believe practices upon the area do not comply with these conditions, an Authorised Officer of council may require work or the event to be interrupted or suspended. In case of a serious breach of these conditions, an Authorised Officer of Council may require the event to vacate the area immediately.

12. Reports:

At any time, Council may require the promoter to provide promptly any reasonable information as relates to the event. On the same day as occurs (or, if that is not practicable, on the next working day), the promoter must notify Council (via its contact person):

- any injury to an individual upon the area requiring off-site medical treatment;
- any material loss/damage to property upon the area;
- any police attendance during the event in response to a complaint;
- any environmental harm required to be reported to the APA;
- a material variation, suspension, revocation or expiry of insurance or a 3rd party consent, licence, permit or approval the event requires.

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13. Making Good:

On the completion of the event or upon the end of the permit (whichever comes first) the promoter must:

- within 1 working day remove all property of the promoter (or its invitee) from the area and restore the area to at least the same condition as before the event;
- within two working days make good any damage caused to any 3rd party property.

14. Risk:

The promoter occupies the area and stages the event at its own risk. Council does not offer any assurance the area is suitable for the event.

15. Indemnity:

As a continuing obligation, the promoter indemnifies Council against any loss, damage, cost or expense incurred by Council in relation to property or persons to the extent caused by the promoter (or contractor or their workers, as applicable) either:

- having use of the area;

Bringing on or using on the area any materials/plant/equipment;

- holding the event;

Breaching a condition of this permit; or

- being negligent.

Liability to indemnify reduces proportionally to the extent Council's willful default or negligence contributed to the loss, damage, cost or expense.

16. Council's Insurance:

If by reason of the promoter's (or contractor's or their worker's) default or negligence Council claims under insurance held by Council, the promoter bears any excess or deductible for that claim.

17. Recourse To Security:

Council may have recourse to the security for any loss or damage caused by the promoter's breach of a condition, any unpaid fee and/or an amount for which Council is entitled to be indemnified. The promoter's liability is not limited to the security.

18. No Duty Of Care:

If Council gives a consent, approval or direction, accepts any work or inspects anything for the event:

- Council does not have a duty of care to the promoter for that thing; and

- the promoter is not to any extent relieved from its obligations to comply with these conditions.

19. About The Permit:

The permit:

- extends the promoter's contractor and/or stallholders for the event;

- is not transferable;

- may be surrendered at any time, by so notifying Council; and

- is revocable by Council as *Local Government Act 1999 s. 225* allows.

A copy of this permit must be kept upon the area, and upon demand produced to an Authorised Officer of the Council.

20. About Council:

Council grants the permit under *Local Government Act 1999 s. 200/202* (if the area is or includes a public road) and not in any other capacity. The permit does not preclude or pre-empt the exercise by Council of any other regulatory function or power. Council is not liable to compensate the promoter for properly exercising a right under these conditions.

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21. About The Promoter:

If the promoter is more than one person, each of them is bound jointly and also severally. The promoter is liable to Council for anything done or not done by its contractor or worker that if done or not done by the promoter would breach a condition. A person signing this authorization for a promoter warrants they have authority for that purpose. The promoter's contact person is taken to have authority to give and receive notices and make decisions for the promoter.

22. About These Conditions:

A variation of these conditions is only effective if in writing signed by both parties. Council waives a right under these conditions only if in writing signed by Council.

23. Special Conditions:

Any stated special conditions prevail over other conditions to the extent of any inconsistency.

Notes: *Local Government Act 1999* make it an offence for a person:

- to use community land for a business purpose unless the use is approved by the Council (s.200(1));
- to use a public road for a business purpose unless authorized to do so by a permit (s.222(1)).