

Short-term licencing

This fact sheet outlines the granting and use of short-term licencing under the *Crown Land Management Act 2016*.

Crown land is used by a wide range of organisations and individuals to provide activities and services for the community. Any group or individual who organises activities on Crown land other than the Crown land manager is known as a user. Common examples of users include sporting clubs, service organisations, small business, schools, the local council, and individuals.

In situations where the Crown land manager is not organising or conducting an activity, they should not take responsibility for the risks involved, but rather enter into a suitable agreement that passes the responsibilities to the user. For many activities a short-term license is an appropriate agreement.

A short-term licence gives permission to occupy and use Crown land for a specified purpose and term. The licence should document the terms and conditions for access to the reserve by the user.

The *Crown Land Management Act 2016* enables Crown land managers to enter into short-term licences with users to use all or part of a reserve for up to 12 months without consent from the Minister for Lands and Forestry for a specified range of purposes.

For activities that do not fit within the specified range of short-term purposes or require a term longer than 12 months, a lease or licence with minister's consent may be considered.

General

This fact sheet is to assist Crown land managers to issue short-term licences. It will apply most frequently to Category 1 and Category 2 non-council Crown land managers but will also apply to council Crown land managers who are able to issue short-term licences under the *Crown Land Management Act 2016* prior to council adopting its first plan of management or the Crown land being classified as operational land, whichever occurs first (the initial period).

About short-term licences

- A short-term licence can be issued by any Crown land manager to a user (third party) to conduct a temporary activity on the reserve, for example to hire a hall or other facility.
- The licence term is up to the discretion of the Crown land manager as long as it is no more than 12 months.
- Crown land managers do not need the minister's consent to enter into the short-term agreement.
- The Community Engagement Strategy does not apply to short-term licences granted by Crown land managers.

Purposes for which a short-term licence can be issued

A short-term licence can be granted to a user for any prescribed purpose(s) listed in Table 1.

Although a short-term licence can be granted for any prescribed purpose(s), it is recommended that a Crown land manager considers the purpose of the reserved or dedicated Crown land before issuing a short-term licence. For example, a reserve with the purpose of *showground* may be used for equestrian activities. A reserve with the purpose of *public hall* may be used by a dance group.

Table 1: Prescribed purposes for which a short-term licence can be granted under the *Crown Land Management Regulation 2018*.

Prescribed purposes*	
<ul style="list-style-type: none"> • Access through a reserve • Advertising • Camping using a tent, caravan or otherwise • Catering • Community, training or education • Emergency occupation • Entertainment • Environmental protection, conservation or restoration or environmental studies • Equestrian events • Exhibitions • Filming (as defined in the <i>Local Government Act 1993</i>), • Functions 	<ul style="list-style-type: none"> • Grazing • Hiring of equipment • Holiday accommodation • Markets • Meetings • Military exercises • Mooring of boats to wharves or other structures • Sales • Shows • Site investigations • Sporting and organised recreational activities, • Stabling of horses • Storage

* Source for prescribed purposes is clause 31 of the *Crown Land Management Regulation 2018*

Before granting a short-term licence a Category 2 Crown land manager should consider native title rights under the *Native Title Act 1993* (Cth) and any potential effects on claimable land under the *Aboriginal Land Rights Act 1983* (NSW), contact the department if you are unsure. A Category 1 or council Crown land manager should have regard to the same considerations, and must have written advice from their native title manager.

Short-term licence templates

A short-term licence template for Crown land managers is available on the department's website (industry.nsw.gov.au/lands) for use when issuing a short-term licence under s2.20 of the *Crown Land Management Act 2016*. The template is general in nature and can be used for all short-term agreements. There is also a more specific short-term licence template that has been developed for filming on Crown land. Both templates are available on the department's website at: industry.nsw.gov.au/lands/reserves/leases-and-licences

Terms and conditions

Short-term licence templates have been provided for Crown land managers to use in general circumstances. The terms and conditions, at a minimum, relate to indemnity, land condition and insurance requirements. Crown land managers are able to include additional conditions in the licence relating to the specifics of the activity being undertaken. The objective of licence conditions is to clearly outline the obligations of each party entering into the agreement.

Market rent

All Crown land managers are required to set rent or fees for any licence on their Crown reserve at market value. Market rent is the amount payable by holders for occupation and use of Crown land that reflects the going market rate for similar use, within a similar locality, as assessed by Crown land managers.

The purpose of setting market value is to maintain fair access and a reasonable return to the Crown land manager who manages the Crown land on behalf of the people of NSW. This rent forms income for the Crown land manager and is used to cover running expenses, maintenance and improvement of the reserve for current and future generations.

Granting a rebate

A rebate is a rental subsidy provided to applicants to reduce the amount of rent payable from market rent, it is the difference between the market rent and the rent a holder (licensee) is required to pay. Note that the total rent paid or payable following a rebate generally cannot be an amount below the statutory minimum rent. The statutory minimum rent value (for a 12 month period) can be found at industry.nsw.gov.au/lands/use/rents.

Only a Crown land manager can decide if a rebate should be granted to market rent when considering the grant of a short-term licence. The Crown land manager should ensure they are in a suitable financial position to be able to offer a discounted rent.

Who is authorised to issue short-term licences

Only the appointed Crown land manager is authorised to issue short-term licences on the reserve. This responsibility includes establishing the conditions for use, setting fees, charging for use of the reserve (including hire of facilities) and rebating any fees or charges to reduce the amount payable by a licensee.

Short-term licence templates for filming

Consistent with the policy position of the NSW Government to 'make NSW film friendly', Crown land managers are encouraged to ensure:

- there is a responsive and cooperative attitude in dealing with filming requests for the Crown land they manage
- applications for access to Crown land for filming are processed promptly
- access to Crown land for filming is supported wherever possible and should not be unreasonably withheld
- where an application is refused, clear reasons for refusal should be provided and alternative sites offered if possible
- fees are kept to a minimum and should only reflect costs.

A Crown land manager is able to grant a short-term licence to authorise a filming project on the reserve by using the department's template for a short-term filming licence. A filming project means the filming component of a film, a documentary, an advertisement, a television program or a set of television programs.

Some proposed filming locations could have significant environmental values or constraints. Crown land managers should give proper consideration to such issues when considering a filming application. In such cases, the proponent film-maker should already have undertaken some form of environmental assessment. A copy of this assessment should be sought as part of the application process and used to assist the Crown land manager in ensuring the sustainable use of the location.

When a short-term licence should not be granted

A short term licence should not be used when a proposed activity:

- is for a period longer than 12 months
- is not a prescribed purpose (see table 1)
- is for any purpose for which an authority, permit, lease or licence can be granted under the *Fisheries Management Act 1994*.
- requires construction of any permanent fixtures or structures

In the circumstances above the Crown land manager should discuss the proposed activity with the department to determine the suitability of the activity occurring on the reserve and/or the pathway to consider authorising the proposed activity.

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