

Department of Planning, Housing and Infrastructure

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# Workshop Feedback Summary Report

Mutual Recognition of Local Approvals Scheme

March 2025





# Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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# 1 Purpose of this report

On 5 and 12 February 2025, the Office of Local Government held online workshops with mobile businesses and councils on the draft Mutual Recognition of Local Approvals Scheme. Participants were very engaged and gave valuable feedback on topics such as:

- the opt-in process
- standardisation of forms
- potential compliance actions
- opportunities to further streamline the draft scheme.

We received almost 300 questions and comments and 80 suggestions through the MS Teams chat and the Miro board activities.

This document responds to the feedback thematically and clarifies the scope of the proposed scheme. It also shows how what we heard has informed the further development of the scheme.

## 2 Changes informed by feedback

After the workshops, we updated the proposed Mutual Recognition Scheme in response to the feedback we received. Table 1 below details the changes to the scheme.

In Part 4 of this document, we have responded in detail to the feedback.

Table 1 Comparing the draft Mutual Recognition Scheme and the refined scheme

Draft scheme before feedback	Refined scheme after feedback
<b>Councils opt-in voluntarily</b> <ul style="list-style-type: none"><li>• Approvals can only be recognised if issued by a council that has opted in.</li><li>• Councils must pass a resolution to opt-in which can take a lot of time.</li><li>• Participating councils may change over time.</li></ul>	<b>Open to all</b> <ul style="list-style-type: none"><li>• No opt-in required.</li><li>• All councils can begin recognising approvals when the legislation commences.</li><li>• Councils have discretion to recognise approvals, taking a risk-based approach.</li></ul>

Draft scheme before feedback	Refined scheme after feedback
<p><b>Limited to 4 activities</b></p> <ul style="list-style-type: none"> <li>Councils can only recognise approvals for busking, outdoor fitness, food trucks, and market stalls.</li> </ul>	<p><b>Open to any Part D and F7 activity</b></p> <ul style="list-style-type: none"> <li>Councils can recognise any approval issued under Part D or Part F7 of Section 68 of the <i>Local Government Act 1993</i> (as outlined in the Appendix). This facilitates recognition of local approvals for mobile businesses such as mobile pet groomers, roadside vendors, temporary entertainment structures, public meetings and other activities.</li> </ul>
<p><b>Forms and approval periods are mandatory</b></p> <ul style="list-style-type: none"> <li>Standardised forms and approval processes replace any existing.</li> <li>Forms include considerations for food vendors.</li> <li>Gather comprehensive detail on applicants and activities.</li> <li>Approvals expire after 12 months.</li> </ul>	<p><b>Optional forms and approval periods</b></p> <ul style="list-style-type: none"> <li>Forms and policy templates are optional</li> <li>Councils can continue to use current forms and systems (for example, council webforms or the NSW Planning Portal).</li> <li>Councils can recognise approvals up to their expiry date or an earlier date.</li> </ul>
<p><b>Home Council approval required</b></p> <ul style="list-style-type: none"> <li>Applicants must seek approval from the council where their business is registered, or their food truck is garaged or where they live.</li> <li>Businesses registered in a non-participating council area can seek approval from any participating council.</li> </ul>	<p><b>An approval issued by any council can be recognised</b></p> <ul style="list-style-type: none"> <li>Mobile businesses must obtain an approval or recognition from each local government area they trade in.</li> <li>Applicants can seek approval and recognition from any council.</li> <li>Existing approvals can be submitted to councils for recognition.</li> </ul>
<p><b>Policies in the area of trade prevail</b></p> <ul style="list-style-type: none"> <li>Councils must give applicants a copy of local conditions or policies when issuing a recognition.</li> <li>Mobile businesses must comply with the local conditions and policies in the area where they are trading.</li> </ul>	<p><b>Policies in the area of trade prevail</b></p> <ul style="list-style-type: none"> <li>No change. Councils can continue to set policies and conditions with which mobile businesses must comply when trading in a local government area.</li> <li>Councils can adopt policies for when and how they will recognise an approval.</li> </ul>



## 3 What the Mutual Recognition Scheme does not include

Many workshop participants asked us to clarify how the Mutual Recognition Scheme will affect or integrate with their current approvals and processes. The Office of Local Government understands the investment that councils have made to develop their current processes and operations. To minimise the need for administrative adjustments when the mutual recognition scheme commences, the following are not proposed:

- **Changes to the *Food Act 2003***, the Food Safety Standards or any legislative requirements with which mobile food vendors must comply. No changes will be made to council processes or approvals required under food-related legislation.
- **Updates to the Planning Portal.** Councils will still be able to continue to assess applications and issue local approvals through the NSW Planning Portal and recognise approvals from other councils through PDF-fillable forms. Councils may choose to integrate these forms within existing systems and convert them into webforms.
- **Approvals issued by Placemaking NSW** <sup>1</sup> cannot be recognised by councils. However, Placemaking NSW can recognise local approvals issued by councils.

## 4 Supporting guidance

The Office of Local Government will provide support materials such as a model policy, optional forms and templates. Councils will be able to adopt or amend these or develop their own processes to issue or recognise a local approval. This will provide confidence to councils that other councils' approvals have been thoroughly and consistently assessed through a robust process using the best practice guidance and forms.

Councils will be also encouraged to:

- actively promote the councils whose approvals they are prepared to recognise and for which activities, and
- collaborate with other councils to increase the number of approvals recognised.

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<sup>1</sup> Placemaking NSW is the NSW State agency which manages Sydney harbourside locations including The Rocks, Barangaroo, Darling Harbour, Luna Park, Ballast Point Park and waterfront areas in Pyrmont.

# 5 Key themes from feedback

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## A central digital database of approvals

**Feedback:** Mobile businesses and councils said they would like to be able to see and track current and past approvals, including applicants' compliance history.

**Response:** Mutual recognition of local approvals is the first scheme of its kind in Australia. As it will apply to many activities that involve multiple council processes, it would take significant time and resources to standardise these processes; streamline criteria, requirements, and forms; and develop a digital platform. The proposed Mutual Recognition Scheme with optional forms has the flexibility to meet council needs while also immediately reducing red tape.

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## Opt-in model

**Feedback:** Councils were uncertain whether they would opt-in. Many councils thought there would be potential delays in implementing the scheme because they would need to develop a mutual recognition policy, undertake consultation and obtain a council resolution before opting-in. In addition, councils may wish to opt-in or out over time, which would make seeking and maintaining valid approvals uncertain for mobile businesses.

**Response:** Councils often take a risk-based, collaborative approach with their neighbouring councils when performing other regulatory functions. Removing the opt-in model will further support this and cut red tape as soon as the scheme becomes available, removing the need for a council resolution.

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## Fees for recognition

**Feedback:** Councils and mobile businesses agreed that fees should generally be lower for recognition than the initial approval to reflect the reduced administrative burden on councils.

**Response:** This feedback is consistent with the draft framework report. The Mutual Recognition Scheme will guide councils to set fees in line with these principles. Councils' powers to set fees will not change. The scheme will not prescribe a set fee or cap fees for recognising an approval.

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## Concept of Home Council

**Feedback:** There was concern that if a mobile business or sole trader has to get approval from their home council (the council area where the business is registered or where a sole trader lives), this may disadvantage mobile businesses that do not operate in their Home Council area. The Home Council requirement would create more administrative and financial burdens for mobile businesses under the opt-in model.

**Response:** In light of the feedback, there will be no requirement for a Home Council approval. Mobile businesses will be able to seek recognition of an approval from each of the councils in the areas where they wish to operate. Councils will be able to recognise an approval issued by any other council regardless of the applicant's registered address.

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## Standardisation of processes and forms

**Feedback:** Requiring councils and mobile businesses to adopt a standardised application package affects councils and businesses by:

- overlapping with councils' food notification processes (required under the *Food Act 2003*) as well as different licensing and permit options available across councils
- increasing the time to complete or assess the comprehensive information needed on the forms
- requiring councils to update a range of operating structures, resources and systems that vary from council to council
- not accounting for differences in assessment expertise, techniques and risks which vary between councils and may obstruct recognition
- restricting approval periods to 12-months, which can add costs to some mobile businesses and lead to inefficiencies for councils or mobile businesses.

**Response:** The Office of Local Government will develop optional Mutual Recognition templates which, if adopted, will give councils confidence that the initial application assessment was thorough, consistent, and conducted to a high standard. These optional forms will be amended to remove duplication under other legislation such as the *Food Act 2003*.

Alternatively, councils can choose to use, modify or develop their own forms and templates. This provides councils the flexibility to begin recognising other councils' approvals immediately, while providing a clear path to standardisation where appropriate.



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## Choosing which activities to recognise

**Feedback:** Councils preferred to have the flexibility to recognise certain activities and not others, or recognise approvals issued by a selection of councils.

**Response:** The Mutual Recognition Scheme will give councils discretion to recognise an approval and set policies, and outline criteria for doing so. This encourages recognition of activities as appropriate within each local government area.

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## Notifying other councils of breaches

**Feedback:** Councils stated that revoking (cancelling) approvals is extremely rare. However the requirement to notify other councils when recognising or revoking an approval would create more red tape and administrative burden.

**Response:** Councils currently take a risk-based approach to issuing and revoking approvals. This will continue under the Mutual Recognition Scheme, which will require mobile businesses to notify councils if their approval has been modified or revoked. They must stop trading if approval is revoked. Failure to notify councils and stop trading can incur strong penalties. Councils can currently issue orders and fines for individuals and businesses operating without a valid approval. These regulatory actions will equally apply to mobile businesses whose recognised approval has been revoked.

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## Ensuring businesses comply with conditions

**Feedback:** Mobile business activity should comply with certain conditions such as permitted and prohibited areas of trade, hours of operation and noise impacts. Councils should make mobile businesses aware of these conditions when they first apply for an approval or recognition to trade in a local government area.

**Response:** This is consistent with the draft Mutual Recognition Scheme, which encourages councils to develop and apply any relevant local conditions in consultation with their community. Conditions may include prohibited or permitted areas of trade, hours of operation, or other operational matters. The scheme also requires councils to give these conditions to an applicant when recognising an approval. Councils should enforce compliance with these conditions through appropriate regulatory checks.

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## Insurance

**Feedback:** It is challenging to streamline public risk insurance requirements because of existing variations across councils. While \$20 million for public liability insurance would be reasonable in some circumstances, insurance was not needed in others. For example, some councils provide coverage for certain types of busking under their community liability insurance. Requiring a standard level of insurance may disadvantage some mobile businesses.

**Response:** Insurance requirements will depend on the level of risk for each activity and the risk appetite of each council. Under the refined scheme it is up to each council to outline the level of insurance needed. Supporting material may provide guidance on this. For example, requesting that the applicant's insurance policy list the council as an interested party.

## 6 Next steps

The Office of Local Government is preparing the Regulation and supporting material that will enable councils to recognise each other's approvals. This includes:

- Legislative scheme that enables councils to recognise each other's approvals
- Guidelines to assist councils and mobile businesses implement the Mutual Recognition Scheme such as:
  - step-by-step instructions
  - checklists
  - process flowcharts
  - fees and charges
- Optional, best practice templates including:
  - a model policy
  - application and recognition forms
  - risk-based management plans

We expect that councils will be able to begin recognising approvals from 1 July 2025.

Please contact the Office of Local Government Policy and Frameworks Team if you have a question or need help.

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Phone: 02 4428 4100.

# Appendix

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## **Section 68 of the Local Government Act 1993**

### **Part D - Community land**

- 1 Engage in a trade or business
- 2 Direct or procure a theatrical, musical or other entertainment for the public
- 3 Construct a temporary enclosure for the purpose of entertainment
- 4 For fee or reward, play a musical instrument or sing
- 5 Set up, operate or use a loudspeaker or sound amplifying device
- 6 Deliver a public address or hold a religious service or public meeting

### **Part F - Other activities**

- 7 Use a standing vehicle or any article for the purpose of selling any article in a public place