

Mobile Food Vending, Busking and Outdoor Fitness Activities on Community Land - Local Approvals Policy Template

Delete After Reading: This Model Local Approvals Policy assists councils in establishing a framework for determining applications for approval under Section 68 of the *Local Government Act 1993*, outlining whether any exemptions apply to particular activities and process for administering the Mutual Recognition scheme.

While this Model Local Approvals Policy refers to specific mobile business activities, councils should identify any relevant mobile business activities to which their policy will apply.

It is intended to be introduced as a local approvals policy under Section 158 of the *Local Government Act 1993*. Highlighted fields should be completed by each council. Prompts provide guidance on individualised policy considerations. Councils may edit and remove any clauses as required to address community needs.

Introduction

Title of this Policy

This Local Approvals Policy (LAP) is titled the **[Insert Council Name]** Mobile Food Vending, Busking and Outdoor Fitness Activities on Community Land Local approvals Policy (“Policy”).

Purpose

The purpose of this Policy is to provide a clear and consistent framework for determining applications for approval and recognising existing approvals granted under Section 68 of the *Local Government Act 1993* for Mobile Food Vendors, Buskers and Outdoor Fitness Trainers operating on Community Land.

This Policy supplements provisions of the *Local Government Act 1993* and the Local Government (General) Regulation 2021.

The Policy is divided into three parts in accordance with the requirements of the *Local Government Act 1993*:

- Part 1 of this Policy specifies the circumstances (if any) in which a person would be exempt from obtaining Council approval for a particular activity.
- Part 2 of this Policy specifies the criteria which Council must consider when determining whether or not to grant approval for a particular activity.
- Part 3 of this Policy specifies any other matters relating to approvals.

Objectives

The Policy aims to:

- Facilitate a variety of activities that contribute to the vibrancy, cultural diversity, and recreational value of public spaces.
- Ensure that approved activities operate in a manner that prioritises public safety, minimises disruption to surrounding residents and businesses and maintains the amenity of public spaces.

Local Approvals Policy

This Policy is a Local Approvals Policy prepared and adopted by [Insert Council Name] in accordance with Section 158 of the *Local Government Act 1993*.

Commencement date

This Policy commences on the [Insert Date of Policy Adoption]

Revocation date

In accordance with Section 165 (4) of the *Local Government Act 1993*, the Policy is automatically revoked at the expiration of 12 months after the declaration of the poll for that last general council election (unless adopted since the last election).

Scope

The Policy applies to activities taking place on community land within the [Insert Council Name] local government area, which require approval under section 68 Part D items 1, 2, 4 and 5 and Part F item 7 of the *Local Government Act 1993*.

Specifically, this Policy applies to the following activities and sections:

- Mobile Food Vending (Part F7)
- Busking (Part D2, 4, 5)
- Outdoor Fitness Training (Part D1)

This Policy does not apply to Mobile Businesses trading on private land in accordance with a development consent or the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Responsibilities

[Insert Council Name] is responsible for:

- Developing this Policy in accordance with the provisions of the *Local Government Act 1993*, and ensuring good governance, including open and transparent consultation during its development and review.
- Authorised officers of Council will issue approvals, enforce conditions of approval, and monitor and regulate non compliances in line with this Policy, Local Conditions and any other relevant legislation.

Mobile Businesses covered under this Policy are responsible for:

- Applying for and receiving necessary approval prior to engaging in activities on Council managed Community Land.
- Complying with the requirements of this Policy, Local Conditions and relevant legislation while trading on Council managed Community Land.

Consultation

Delete After Reading: Section 160 of the *Local Government Act 1993* requires a council to give public notice and exhibition of a draft Local Approvals Policy (LAP) with a minimum exhibition period of 28 days and at least 42 days following exhibition for submissions to be made.

In accordance with Section 160 of the *Local Government Act 1993* this Policy has undergone a public consultation process and formal consideration of comments prior to adoption.

Part 1: Exemptions from Approval

Delete After Reading: Section 158(3) of the *Local Government Act 1993* requires a Local Approvals Policy (LAP) to specify the circumstances (if any) in which a person would be exempt from the necessity to obtain a particular approval from Council. Councils may wish to consider exemptions for a variety of low impact/risk activities including those under section 68 Part D items 1, 2, 4 and 5 and Part F item 7.

Mobile Food Vendors

Under Section 68 Part F7 of the *Local Government Act 1993* (Act), a person must obtain council approval to use a standing vehicle or any article for the purpose of selling any article in a public place. Mobile Food vendors are approved under this part.

Legislative Exemptions

Insert Legislative Provisions as per legislative amendments

Act Sections	Excerpt	Application
Reg Section	Excerpt	Application

Policy Exemptions

There are no policy exemptions from the necessity to obtain approval under this Policy for Mobile Food Vending that is used for the sale of food and drink in public places within the [Insert Council Name] Local Government Area. Council approval is required in accordance with Section 68 Part F7 of the *Local Government Act 1993* (Act).

Or

Council to specify the circumstances (if any) in which a person would be exempt from the necessity to obtain approval for this activity.

Buskers

In accordance with Section 68 Part D2, 4 and D5 of the *Local Government Act 1993*, a person must obtain approval from council to carry out busking activities on community land. Depending on the nature of the busking activity, these are approved under the following parts.

- Section 68 Part D2 - Direct or procure a theatrical, musical or other entertainment for the public.
- Section 68 Part D4 - For fee or reward, play a musical instrument or sing.
- Section 68 Part D5 - Set up, operate or use a loudspeaker or sound amplifying device.

Legislative Exemptions

Insert Legislative Provisions as per legislative amendments

Act Sections	Excerpt	Application
Reg Section	Excerpt	Application
Clause 49 of the Local Government (General) Regulation 2021	<p>Approval for the use of loudspeaker or amplifying device on community land not required in certain circumstances</p> <p>A loudspeaker or sound amplifying device may be set up, operated or used on community land without the prior approval of the council if it is done in accordance with a notice erected on the land by the council or if it is done in the circumstances specified, in relation to the setting up, operation or use (as the case may be), in Part 1 of the local approvals policy applying to the land.</p>	Application

Policy Exemptions

There are no policy exemptions from the necessity to obtain approval under this Policy for busking activities within the [Insert Council Name] Local Government Area. Council approval is required in accordance with Section 68 Part D of the *Local Government Act 1993* (Act).

Or

Council to specify the circumstances (if any) in which a person would be exempt from the necessity to obtain approval for this activity.

Delete After Reading: Example: Councils may wish to consider exemptions for low risk/impact activities in their draft LAP. This may include activities such as unamplified busking provided the activity complies with local conditions, operates within designated zones, time restrictions or receives support from neighbouring businesses or residents.

Outdoor Fitness Trainers

Fitness Trainers undertaking Activities on Community Land within the [Insert Council Name] Local Government Area. Council approval is required under Section 68 Part D1 of the *Local Government Act 1993*.

Insert Legislative Provisions as per legislative amendments

Act Sections	Excerpt	Application
Reg Section	Excerpt	Application

Policy Exemptions

There are no policy exemptions from the necessity to obtain approval under this Policy for Outdoor Fitness Trainers. Council approval is required under Part D1 of the *Local Government Act 1993*.

Or

Council to specify the circumstances (if any) in which a person would be exempt from the necessity to obtain approval for this activity.

Part 2: Council Approval Requirements

Council must consider the criteria as outlined in this Policy when determining applications for approvals to undertake Mobile Business Activities within the [Insert Council Name] Local Government Area.

Policy Statement

1. Principal Approvals

All Mobile Businesses covered under this Policy require approval under Section 68 of the *Local Government Act 1993* (unless exempted under Part 1) to operate on Community Land within the [Insert Council Name] Local Government Area.

The Mobile Business is required to submit an Application Package consisting of a completed Principal Approval Section 68 Activity Application Form and:

- For Mobile Food Vendors, a completed Form 2A Operational Plan of Management

- b) For Buskers and Outdoor Fitness Trainers, a completed Form 2B Operational Plan of Management.

Council will assess the Application Package in accordance with this Policy, Local Conditions and other legislative requirements and provide the applicant with an outcome of the application and either issue approval, or reasons why approval is not granted.

Mobile Businesses who are issued approval will be provided a list of Local Conditions of operation that must be complied with at all times when operating in the Local Government Area.

Council will charge a fee for the relevant category of Activity approval as per the Schedule of Fees and Charges adopted by Council.

2. Recognition of Current Approvals

Mobile Businesses with a current approval issued by another Council (as defined in this Policy) that is not [Insert Council Name], and who wish to operate in the [Insert Council Name] Local Government Area, are required to submit a completed Request for Recognition Form along with their Principal Approval.

Council will assess the Request for Recognition in accordance with this Policy and Local Conditions and provide the applicant with an outcome of the application and either issue Certificate of Recognition or reasons why the approval is not recognised.

Mobile Businesses who are issued Certificate of Recognition will be provided a list of Local Conditions of operation that must be complied with at all times when operating in the Local Government Area.

[Council may charge a fee associated with Mutual Recognition as per the Schedule of Fees and Charges adopted by Council].

3. Updates to Application and Approval Particulars.

Mobile Businesses are required to notify Council should there be any significant changes to the nature of the Mobile Business Activities including change of business ownership, nature of products or services sold, equipment used or changes to the details outlined in the Approval Section 68 Activity Application and/or relevant Operational Plan of Management.

- a) For Principal Approvals - Mobile Businesses are to notify the issuing council first by submitting an updated Approval Section 68 Activity Application and/or relevant Operational Plan of Management.

- b) For Secondary Councils, Mobile Businesses are to notify council by submitting an updated Request for Recognition.

4. Revocation of Approvals.

Council may revoke Principal Approval or Recognition Certificate as a result of non-compliance with this Policy, Local Conditions, *Local Government Act 1993* or any other relevant legislation.

Council will give written notice to the Mobile Business of its intention to revoke the approval or Recognition Certificate and provide the approval holder an opportunity to show cause why the approval should not be revoked.

5. Issuing of Approval.

Delete After Reading: Councils may amend this section to identify what documentation must be readily displayed or produced by the Mobile Business when it trades within council's Local Government Area. This may include certificates, stickers or paperwork issued by council. Example: For Food Vendors, council may provide a vehicle marker such as a window sticker or certificate that must be displayed on the vehicle dashboard when trading.

Approvals issued by Council will be to a person or business. Approvals for Mobile Food Vending Vehicles are issued on a per vehicle basis which is non-transferable between vehicles.

Principal Approvals will be issued in writing, and the applicant will be provided a copy of the Application Package including the assessed Principal Approval Section 68 Activity Application and Operational Plan of Management which is to be kept on site all times when trading and available for inspection.

Recognition Certificates issued under Mutual Recognition will be issued in writing and the applicant will be provided a copy of the assessed Request for Recognition which is to be kept on site all times when trading in a Secondary Council area and must be made available for inspection upon request by a council officer or other authorised person.

Local Conditions

Delete After Reading: Councils may wish to develop or include details of any specific conditions, restrictions or requirements applicable to the Local Government Area. Factors for consideration are listed below and should be amended to suit local needs.

Mobile Food Vendors

1. Locations

Permitted Locations: Council to specify any designated locations or zones where Mobile Food Vendors are permitted to trade or advice on general locations where activity should occur. If there are specific locations assigned to certain Vending Vehicle Type or Market Stall, include detail of this here.

Prohibited Locations: Council to specify locations or zones where Mobile Food Vendors are prohibited to trade. This may include advice on general locations where activity should not occur.

Where councils have limits on the number of businesses operating in a specific location or zone, this should be included in this part (e.g. Park A – Limit of 1 Food Truck at a time – booking required).

Details of any booking processes and methods (if any) can be included here.

An aerial map or table of locations may be included in an annexure to this Policy.

2. Hours of Operation

Council to specify any specific conditions or restrictions on hours/days of trade. This may include certain hours for certain zones or vehicle types.

Council may wish to include any conditions or restrictions associated with set-up and pack down times.

Council may also specify whether there are any limits on set-down times within a specific location (e.g. food trucks can stop at one location for no more than x hours/minutes or no more than x number of days in a week/month).

3. Proximity to Residents and Businesses

Mobile Food Vendors must provide details of any community impacts associated with the Business Activity in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may have local conditions that aim to minimise any impact on neighbouring residents or businesses such as proximity restrictions to “brick and mortar” retail food premises, residential areas or restrictions on serving food of a similar type within a certain radius of established businesses. E.g. Mobile Food businesses cannot operate within x Metres of y.

4. Parking

Include any specific requirements associated with parking in relation to this activity.

5. Signage and Promotion

Councils may include any specific requirements associated with erecting signage or promotion in relation to this activity.

6. Deliveries

Councils may include any specific requirements associated with receiving deliveries in relation to this activity.

7. Serving

Councils may include any specific requirements associated with the serving of food or beverages in relation to this activity.

8. Noise

Mobile Food Vendors must provide details of any noise control measures in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may include any specific restrictions associated with noise such as use of specific noise generating equipment or expectations of Mobile Food Businesses to manage noise from operations.

9. Waste

Mobile Food Vendors must provide details of any waste measures in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may include any specific requirements associated with management of waste generated through the business activity such as prohibiting use of council bins for waste disposal and requirements for suitable waste transportation details to be included in the Operational Plan of Management.

10. Incident Notification and Reporting

Mobile Food Vendors must provide details of any safety management procedures in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may include any specific requirements associated with notifying council of any accidents, incidents or injuries associated with the business activity.

11. Insurance

Mobile Food Vendors must maintain a Public Liability Policy of no less than \$20,000,000 and have all councils in which the Mobile Business Activity operates listed as an interested party. Proof of Public Liability Policy is to be included in the applicants Operational Plan of Management.

Buskers

1. General

Councils may include details of general conditions or restrictions associated with busking activities, this may include restricting certain high risk busking performance activities from taking place or tools/equipment being used (e.g. chainsaws) or specific requirements for high-risk activities (e.g. accredited chainsaw training).

2. Locations

Permitted Locations: Council to specify any designated locations or zones where Buskers are permitted to trade or advice on general locations where activity should occur. If there are specific locations assigned to certain Busking Activities or Group Sizes, include detail of this here.

Prohibited Locations: Council may want to specify any designated locations or zones where Buskers are prohibited to perform or advice on general locations where activity should not occur.

Where councils have limits on the Buskers in a specific location or zone, this should be included in this part (e.g. Mall A – Limit of Groups up to 1 Performer).

Details of or reference to any booking processes and methods (if any) can be included here.

An aerial map or table of locations may be included in an annexure to this Policy.

3. Hours of Operation

Council to specify any specific conditions or restrictions on hours/days of busking. This may include certain hours for certain zones or performance types.

Council may wish to include any conditions or restrictions associated with set-up and pack down times.

Council may also specify whether there are any limits on set-down times within a specific location (e.g. Buskers can operate at one location for no more than x hours/minutes or no more than x number of days in a week/month).

4. Proximity to Residents and Businesses

Buskers must provide details of any community impacts associated with the Business Activity in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may have local conditions that aim to minimise any impact on neighbouring residents or businesses such as proximity restrictions to businesses, passive zones or residential areas E.g. Buskers cannot operate within x Metres of y.

Councils may also require Buskers to obtain consent of neighbouring businesses in order to perform in close proximity.

5. Parking

Councils may include any specific requirements associated with parking in relation to this activity.

6. Signage and Promotion

Councils may include any specific requirements associated with erecting signage or promotion in relation to this activity.

7. Noise

Buskers must provide details of any noise control measures in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may include any specific restrictions associated with noise such as use of specific noise generating equipment or expectations of Buskers to manage noise from operations.

8. Incident Notification and Reporting

Buskers must provide details of any safety management procedures in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may include any specific requirements associated with notifying council of any accidents, incidents or injuries associated with the activity.

9. Insurance & Accreditation

Councils may include any specific requirements associated with insurance for Buskers and whether the council has a blanket policy that Buskers may be covered under.

Outdoor Fitness Trainers

1. General

Councils may include details of general conditions or restrictions associated with outdoor fitness activities, this may include restricting certain high risk or impact activities from taking place or tools/equipment being used (e.g. martial arts) or specific requirements for high-risk activities (e.g. training)

2. Locations

Permitted Locations: Council to specify any designated locations or zones where Outdoor Fitness Trainers are permitted to trade or advice on general locations where activity should occur. If there are specific locations assigned to certain Fitness Activities or Group Sizes, include detail of this here.

Prohibited Locations: Council may want to specify any designated locations or zones where Outdoor Fitness Trainers are prohibited to trade or advice on general locations where activity should not occur.

Where councils have limits on the Fitness Trainers in a specific location or zone, this should be included in this part (e.g. Park A – Limit of Groups up to 10 participants – booking required)

Details of or reference to any booking processes and methods (if any) can be included here.

An aerial map or table of locations may be included in an annexure to this Policy.

3. Hours of Operation

Council to specify any specific conditions or restrictions on hours/days of trade. This may include certain hours for certain zones or exercise types.

Council may wish to include any conditions or restrictions associated with set-up and pack down times.

Council may also specify whether there are any limits on set-down times within a specific location (e.g. Fitness Trainers can operate at one location for no more than x hours/minutes or no more than x number of days in a week/month).

4. Proximity to Residents and Businesses

Outdoor Fitness Trainers must provide details of any community impacts associated with the Business Activity in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area

Councils may have local conditions that aim to minimise any impact on neighbouring residents or businesses such as proximity restrictions to playgrounds, passive zones or residential areas E.g. Fitness Trainers cannot operate within x Metres of y.

5. Parking

Councils may include any specific requirements associated with parking in relation to this activity.

6. Signage and Promotion

Councils may include any specific requirements associated with erecting signage or promotion in relation to this activity.

7. Noise

Outdoor Fitness Trainers must provide details of any noise control measures in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may include any specific restrictions associated with noise such as use of specific noise generating equipment or expectations of Fitness Trainers to manage noise from operations.

8. Incident Notification and Reporting

Outdoor Fitness Trainers must provide details of any safety management procedures in their Operational Plan of Management and comply with the below requirements when operating in the Local Government Area.

Councils may include any specific requirements associated with notifying council of any accidents, incidents or injuries associated with the business activity.

9. Insurance & Accreditation

Outdoor Fitness Trainers must provide details of insurances and accreditations in their Operational Plan of Management, which includes the following minimum requirements:

Public Liability Policy of no less than \$20,000,000 and have all councils in which the Mobile Business Activity operates listed as an interested party.

Professional Indemnity Insurance of no less than \$xx in relation to this activity

Proof of Professional Accreditation and First Aid Training.

Part 3: Other

Appendix A – Definitions

Definitions

Activity and **Activities** means any activity requiring approval under Parts D and F7 Section 68 of the *Local Government Act 1993*.

Principal Approval Section 68 Activity Application Form is the best practice form to be completed by Mobile Businesses when applying for Principal Approval under Section 68 of the *Local Government Act 1993* with the Council.

Application Package refers to the combination of both standardised forms being that of the OLG Practice Forms: Principal Approval Section 68 Activity Application Form and Operational Plan of Management (as defined in this Policy) as well as all required attachments contained in these forms or as directed by the Council.

Busker(s) means a travelling musician(s) or actor(s) who performs activities such as playing a musical instrument, pavement art, singing, conjuring, juggling, mime, mimicry, dancing, puppetry, performance art, and other theatrical or visual activities

Busking means performing in a public place as a Busker.

Community Land and **Public Land** means council-managed land such as parks, streets, footpaths, beaches, areas of cultural significance or other areas for general community use.

Recognition Certificate means the formal notification of recognition of a Principal approval issued by a Secondary council in accordance with the Local Government (General) Regulation 2021.

Request for Recognition is the method of requesting recognition of a Principal Approval with a Secondary Council.

Request for Recognition Form refers to the OLG best practice form titled Request for Recognition Form

Mobile Business, Mobile Businesses means any small mobile business or businesses including an individual or sole trader carrying out an Activity, as defined above.

Mobile Food Vendors and **Mobile Food Vending** is any Mobile Food Business engaging in the sale of trade or food and/or drinks on council managed or owned community land or public places requiring approval under Section 68 of the *Local Government Act 1993*

Mutual Recognition refers to the recognition of another council's Principal Approval issued under Section 68 Part D1-6 or Part F7 of the *Local Government Act 1993*.

Local Conditions means the conditions of operation which apply to each local council as advised under this Policy or otherwise provide to an applicant as part of a Section 68 Principal Approval application or Request for Recognition.

Operational Plan of Management Template refers to one of the OLG Best Templates which are to be completed by Mobile Businesses and attached to the Principal Approval Section 68 Activity Application. For Mobile Businesses this is either:

- Form 2 A – Operational Plan of Management for Mobile Food Businesses on Community Land
- Form 2 B - Operational Plan of Management for Outdoor Fitness and Busking Activities on Community Land

Outdoor Fitness in relation to this policy means any structured physical training sessions run by professional trainers taking place on council owned or managed community land and requiring approval under Section 68 Part D1 of the *Local Government Act 1993*.

Outdoor Fitness Trainers means any Mobile Business undertaking Outdoor Fitness Activities as defined above.

Secondary Council means a council receiving a Request for Recognition or issuing a Recognition Certificate in accordance with 68 of the *Local Government Act 1993* and the Local Government (General) Regulation 2021.