

Department of Planning, Housing and Infrastructure

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# Draft Mutual Recognition Framework for Local Approvals

Section 68 of the *Local Government Act 1993*

December 2024





# 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.

Published by NSW Department of Planning, Housing and Infrastructure

[dphi.nsw.gov.au](http://dphi.nsw.gov.au)

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First published: December 2024

Department reference number: A934987

More information

Office of Local Government

Locked Bag 3015 NOWRA NSW 2541

Ph (02) 44428 4100

[vibrancy@olg.nsw.gov.au](mailto:vibrancy@olg.nsw.gov.au)

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DPHI-MC-R-LC-V1.0

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# Introduction

Mutual recognition of local council approvals is one of the ways in which the NSW Government is creating vibrant places and increasing economic opportunity for local communities. As part of the broader Vibrancy Reforms, the Mutual Recognition Framework will cut red tape for both councils and mobile businesses such as food trucks, buskers, outdoor fitness trainers, and market stall holders.

A 2016 report published by the Independent Pricing and Regulatory Tribunal found that councils issue about 120,000 new local approvals each year under section 68 of the *Local Government Act 1993*.<sup>1</sup> The report also found that inspections for these mobile business approvals could be halved, reducing the estimated \$15 million that approvals cost such businesses each year.

To help achieve this, the NSW Parliament passed the *Local Government (Amendment) Act 2019* (the Amendment Act). This provides for a Mutual Recognition Framework that would allow councils to recognise each other's approvals for a selection of mobile business activities.

To commence this Mutual Recognition Framework, we need to understand the local approvals processes currently in place across councils. The Office of Local Government is doing research and consulting with key stakeholders across NSW to develop the requirements for the framework. The aim is to reduce the regulatory burden on both councils and mobile businesses.

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## About this report

This report shares the key themes and issues the Office of Local Government found in its research and consultation about mutual recognition. This includes feedback received from submissions to the Mutual Recognition Survey, which we released for 6 weeks on 12 September 2024.

The report outlines what we heard and proposes evidence-based principles and draft policy settings for a Mutual Recognition Framework. The key aim is to ensure that mutual recognition operates safely and effectively, addressing the diverse needs of councils, mobile businesses and local communities. To achieve this, the Office of Local Government will hold future

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<sup>1</sup> Independent Pricing and Regulatory Tribunal (2016) *Review of reporting and compliance burdens on Local Government*, [https://www.ipart.nsw.gov.au/Home/Industries/Local-Government/Reviews/Local-Government-Regulatory-burdens/Review-of-reporting-and-compliance-burdens-on-Local-Government/21-Jun-2019-Final-Report/Final-Report-Review-of-reporting-and-compliance-burdens-on-Local-Government?timeline\\_id=6081](https://www.ipart.nsw.gov.au/Home/Industries/Local-Government/Reviews/Local-Government-Regulatory-burdens/Review-of-reporting-and-compliance-burdens-on-Local-Government/21-Jun-2019-Final-Report/Final-Report-Review-of-reporting-and-compliance-burdens-on-Local-Government?timeline_id=6081)

workshops to get more input from stakeholders. Councils can also choose whether or not they want to take part in mutual recognition.

This report consists of:

- an overview of the current regulatory environment for section 68 approvals
- a detailed summary of feedback received in the online Mutual Recognition Survey, including key issues raised and the desired outcomes we identified
- a proposed model for the Mutual Recognition Framework, including underlying principles and policy settings
- next steps for the development of the framework.

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## What is a section 68 approval?

Under section 68 of the *Local Government Act 1993* (Local Government Act), individuals and businesses must get council approval to carry out certain activities in a public place – that is, on land that a council owns or manages (section 68 approvals). Section 68 approvals cover a wide range of activities from installing temporary structures and installing water or sewer connections, through to conducting business operations in a public place.

The approval process aims to ensure that proposed activities meet regulatory requirements including safety, community and environmental standards.

## When section 68 approvals are necessary

Any business or individual wishing to operate in public places managed by councils needs a section 68 approval. These places include areas such as parks, streets and beaches. Individuals or businesses must generally apply for a section 68 approval from each individual council where they wish to operate, even when they have received the same approval from another council.

### Example

A food truck currently operates across 3 local government areas under separate section 68 approvals. Under the current process, the approval involves applying separately to each council, submitting extensive and varying documentation. This includes details of food safety compliance, public liability insurance, operational plans and other information. Each council has distinct requirements such as application forms, processes and fees ranging on average from \$150 to \$300. Fees can be as high as \$650.

Processing times vary depending on the council, as well as the period for which the approval is valid. Permission to operate across the 3 local government areas can cost the food truck greatly in time and money.

As the food truck considers expanding into more council areas to reach more customers or take part in regional events, the administrative and financial burden of applying for and managing separate approvals in each local government area increases. This, along with assessment time frames, limits their capacity to take part in time-limited events or seek opportunities in new locations.

## Local approvals policies

A local approvals policy is a regulatory framework developed by individual councils under the Local Government Act. Local approvals policies guide the approval process for activities requiring section 68 approvals. These policies define conditions and manage exemptions that apply to the individual local government area. Local approvals policies specify the conditions under which certain activities may or may not need approval, and outline criteria that councils will use to assess applications.

Councils that receive a large volume of section 68 applications often implement a local approvals policy to reduce the administrative burden. A local approvals policy sets clear guidelines, simplifies application processes and reduces uncertainty for applicants. In some cases, councils have adopted policies that exempt applicants from the need to apply for section 68 approvals if they meet certain criteria and conditions.

## Exempt activities

Under the Local Government Act, councils can specify when a person or business would be exempt from the need to get a section 68 approval.

Councils often consider exemptions for low-risk activities and where such exemptions streamline processes and reduce the administrative burden on the council. Exemptions may include low-risk activities such as:

- unamplified musical busking performances
- one-to-one personal fitness training sessions outdoors
- market stalls selling non-hazardous, non-consumable items.

The departmental chief executive of the Office of Local Government must approve draft exemptions. If exemptions are approved, these are outlined within council's local approvals policy, along with relevant conditions.

A mobile business that meets the conditions for an exempt activity does not need to get a section 68 approval from council. If an activity is exempt in the home council, then the mobile business does not have to apply for a section 68 approval from the home council. The mobile business can apply to the subsequent council in which it trades and that council will be designated as the home council for that mobile business for that activity. The mobile business can then rely on the section 68 approval from the subsequent council as the basis for notifying councils of an intent to trade in their local area.

As at the date of this report, there are 23 councils that have local approvals policies with exemptions for activities under section 68 Parts D and F of the Local Government Act, as outlined below.

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## Approvals to which mutual recognition will apply

Mutual Recognition is initially intended to apply to a selection of items under section 68 Table of Approvals under Parts D and F which include:

### **Part D Community land**

- 1 Engage in a trade or business
- 2 Direct or procure a theatrical, musical or other entertainment for the public
- 4 For fee or reward, play a musical instrument or sing
- 5 Set up, operate or use a loudspeaker or sound amplifying device.

### **Part F Other activities**

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

These activities relate to operations on community land, as defined under the Local Government Act. This can include council-managed land such as parks, streets, footpaths, beaches, areas of cultural significance or other areas for general community use. There are 4 mobile business activities of immediate focus:

- buskers (Part D 2, 4, 5)
- outdoor fitness trainers (Part D 1)
- food trucks (Part D 1, Part F 7)
- market stalls (that is, temporary food outlets and other stalls requiring s68 approval) (Part D 1, Part F 7).

While the following also contribute to vibrant communities across NSW, distinct processes separate from or in addition to section 68 apply to them:

- Approvals required to operate on land that is not community or council-managed land (for example, residential, privately owned land or other);
- Development approvals, for example, for brick-and-mortar businesses.

# What we heard

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## What consultation has occurred?

To inform the development of a Mutual Recognition Framework, the Office of Local Government released a public survey seeking feedback for 6 weeks between September and October 2024. Key stakeholders we invited to make a submission included councils, mobile businesses, the public and other interested parties. The survey sought views about:

- fees and charges
- application processes and timing
- key issues
- how mutual recognition might work in practice.

We received 239 submissions in total. Refer to Table 1 to Table 3.

Table 1. Submissions we received

Category	Total submissions
Councils (from a total of 48 councils)	56
Mobile businesses	162
Other stakeholders and the public	21
<b>Total</b>	<b>239</b>

Table 2. Submissions from mobile businesses

Mobile businesses	Submissions
Food trucks	85
Temporary food market stalls	63
Buskers	7
Outdoor fitness trainers	6
Market stall organisers	1



Table 3. Submissions from other stakeholders and the public

Other stakeholders and the public	Submissions
Public	1
Industry body	2
Fitness	1
Market organiser	12
Food truck	1
Council staff	2
Market stall	2

To identify potential risks and areas of concern, the Office of Local Government also did targeted consultation with some individual stakeholders including:

- councils
- NSW Government agencies
- industry bodies
- outdoor fitness groups
- buskers
- market organisers
- market stall holders
- food trucks.

This consultation has been further supported by a desktop analysis of current section 68 approval processes across all councils. This highlights:

- shared conditions and requirements between councils
- key differences in approaches
- areas where mutual recognition can reduce the regulatory burden on councils and mobile businesses.

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## Current challenges

The consultation supported engagement from a broad range of stakeholders, delivering robust and valuable feedback with diverse perspectives. Stakeholders highlighted key considerations for the development of the framework and advocated for a consistent, streamlined approach to section 68 approvals. Among the key challenges raised are:

- **Varying approval requirements**
  - Councils have different processes and requirements for section 68 approvals, which increases complexity to receive the same approval and places increased administrative burden upon mobile businesses.
  - Record-keeping for multiple separate approvals (including tracking renewal dates, and maintaining appropriate documentation) requires significant time investment for mobile businesses, which can affect other commercial priorities.
  - Councils are spending more time and resources requesting more information from mobile businesses to ensure applications comply with their local process.
- **Operations and costs**
  - Fees vary between councils, which increases cumulative approval costs for mobile businesses.
  - Councils carry significant regulatory burden and section 68 approvals are an important part of cost recovery for some councils.
  - **Mutual recognition should not result in a ‘race to the bottom’** (that is, where mobile businesses seek out the lowest application fees), as this may result in a significant, unbalanced resource burden on some councils while also reducing appropriate avenues for cost recovery.
  - Councils advocate for being able to set their own fees, as they are best placed to determine the cost of administering approvals and compliance.
- **Compliance enforcement**
  - The needs of communities vary between councils and imposing a **one-size-fits-all set of conditions for mobile businesses may reduce councils’ ability to address local concerns.**
  - Food trucks and temporary food stalls that hold satisfactory inspections completed by other councils within the last 12 months are sometimes being re-inspected by councils, which increases costs.
  - If mobile businesses do not need to seek separate approvals from each council, there is an increased risk of non-compliant mobile business activity, as councils

may not be aware of commercial activity and therefore be unable to conduct compliance checks accordingly.

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## Key themes raised in survey responses

Table 4 to Table 7 summarise the detailed responses to the survey, categorising issues raised into 4 key themes:

1. Current approvals process
2. Desired approvals process
3. Compliance considerations
4. Fees and charges.

Table 4. Theme 1: Current approvals process

Issue	Summary
<b>Desire to operate across multiple local government areas</b>	<ul style="list-style-type: none"><li>• 83% of mobile businesses currently operate across 2 or more council areas.</li><li>• 91% wish to expand their areas of trade.</li><li>• Most mobile business respondents were mobile food mobile businesses.</li></ul>
<b>Time frames for section 68 approvals</b>	<ul style="list-style-type: none"><li>• Most section 68 approvals are for one year. There are some variations such as temporary approvals issued on an event-by-event basis, or 2- to 5-year durations offered by some councils, depending on the activity and compliance history of the mobile business.</li><li>• The average time taken to process a section 68 approval is about 10 days. Asking applicants for more information takes up most of this time.</li></ul>
<b>Variations among councils</b>	<ul style="list-style-type: none"><li>• Councils appear to have different processes, fees, and criteria for the same or similar type of approval (for example, busking varies greatly across council areas).</li><li>• Mobile businesses had difficulty in understanding council requirements, which causes delays in council processes and issuing final approval.</li><li>• Both councils and mobile businesses feel that this places further administrative burden on both parties.</li></ul>

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Issue	Summary
<p><b>Impacts on economic opportunity</b></p>	<p>Mobile businesses noted that the administration of approvals often impacted their business activities such as:</p> <ul style="list-style-type: none"> <li>• the cost of time required to find information through council websites or liaising with councils, understanding the local requirements, undergoing inspection(s), submitting an application and supporting documentation</li> <li>• duplication of mobile food business inspections within a 12-month period</li> <li>• extensive record-keeping such as tracking the validity of approvals and keeping up to date with renewals</li> <li>• logistics of mobile food business organising multiple inspections</li> <li>• understanding the intersection of council area and suburb boundaries to find which council is the relevant authority for some markets</li> <li>• ability to accept last-minute invitations to trade at festivals and markets in other council areas.</li> </ul>
<p><b>Inspections of food trucks and temporary food stalls</b></p>	<ul style="list-style-type: none"> <li>• If mobile businesses can provide a satisfactory Food Premises Assessment Report<sup>2</sup> done in a different council area within the last 12 months, some councils may recognise this while others may not.</li> <li>• The <i>Guidelines for Mobile Food Vending Vehicles</i> published by the NSW Food Authority recommends mutual recognition of inspections.</li> </ul>

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<sup>2</sup> A Food Premises Assessment Report is the template used by authorised officers (including council Environmental Health Officers) to conduct inspections of food handling premises under Division 1, Part 4 of the *Food Act 2003*.

Table 5. Theme 2: Desired approvals process

Issue	Summary
<p><b>Suggested improvements for applications</b></p>	<p>Improvements for the application process were suggested including:</p> <ul style="list-style-type: none"> <li>• standardising the criteria and application process for section 68 approvals across NSW</li> <li>• a single application form with the option to identify the councils where the mobile business wishes to trade</li> <li>• automatic approval across all councils without the need to verify with each council</li> <li>• a central database of all section 68 approvals issued that would allow councils to check mobile businesses' compliance and approval history, and allow mobile businesses to apply to multiple councils.</li> </ul>
<p><b>Retaining flexibility for councils</b></p>	<p>There was collective understanding that not all council areas and communities operate the same way, so council officers would need to continue to enforce specific local conditions. Suggested methods for ensuring local conditions are clear and that mobile businesses comply with them included:</p> <ul style="list-style-type: none"> <li>• mobile businesses notifying councils of an intent to trade in their local area</li> <li>• councils providing local conditions that mobile businesses must adhere to in their council area, regardless of which council issued the initial approval</li> <li>• options for councils to review a mutual recognition approval and reject an intent to trade under certain conditions (for example, where the proposed activity is non-compliant with local conditions).</li> </ul>
<p><b>Consolidation of administrative burden early in the process</b></p>	<p>It was acknowledged that if mutual recognition offers a standardised section 68 approval application, the initial application may increase in length. However, this would be balanced by reducing the number of applications required overall.</p>

Table 6. Theme 3: Compliance considerations

Issue	Summary
Compliance rates	<p>Most councils reported needing to address non-compliance in mobile businesses between 0 to 10 times per year, with a narrow minority reporting 11 to 40 compliance enforcements per year.</p>
Local approvals policies	<ul style="list-style-type: none"> <li>• 63% of councils that participated in the survey currently have a local approvals policy.</li> <li>• Of the councils that do not, 54% are reported to be in the process of developing a local approvals policy or have information about section 68 approvals separately on their website.</li> </ul>
Environmental and commercial risks	<p>Many councils and other stakeholders acknowledged the need to ensure minimal environmental and commercial effects on bricks-and-mortar businesses such as restaurants and cafes. This includes consideration of matters such as:</p> <ul style="list-style-type: none"> <li>• hours of operation</li> <li>• maximum trading hours based on location or per week</li> <li>• restricted areas and no-go zones</li> <li>• waste management</li> <li>• noise Management</li> <li>• appropriate insurances</li> <li>• alcohol sales and service</li> <li>• lighting management</li> <li>• compliance with relevant legislation for food safety and road use.</li> </ul>

Table 7. Theme 4: Fees and charges

Issue	Summary
Current costs	<ul style="list-style-type: none"> <li>• The average cost for a section 68 approval is \$100 to \$300.</li> <li>• Mobile businesses spend on average \$200 to 500 per year for approvals across all council areas in which they operate.</li> <li>• 45% pay more than \$400 per year.</li> <li>• Some reporting cumulative costs over \$1,000.</li> </ul>

Issue	Summary
Financial sustainability	<ul style="list-style-type: none"> <li>• Councils noted costs incurred from enforcing compliance such as inspections of food trucks would still need to apply.</li> <li>• Most mobile businesses cited cumulative costs of separate approvals as a primary concern. Mutual recognition will provide an incentive to expand business activity.</li> </ul>
Proposed costs	If mutual recognition approvals were to include a fee, most respondents proposed fees that were below the cost of an initial approval, ranging from free to nominal charges of \$50 to \$100.

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## Supplementary desktop analysis

The Office of Local Government did a desktop analysis of information and resources across each of the 128 NSW councils' websites. This included a review of accessible policies and procedures, web resources, application processes and council-specific conditions and requirements for each activity.

### Local approvals policies

Of all councils across NSW, 27% have a local approvals policy and 16% have a local approvals policy with limited exemptions for section 68 Part D and F Activities.

### Mobile food vending vehicles

Of all councils, 48% have clear policies relevant to mobile food vending vehicles either in a standalone policy or within in a local approvals policy. Thirty-four per cent of councils had only limited information available on their website and 19% did not have any information available online for this activity.

### Market stalls

Of all councils, 40% have clear policies associated with market stalls either in a standalone policy or within in a local approvals policy. Thirty-five per cent of councils had only limited information available on their website and 25% did not have any information available online for this activity.

## Busking

Of all councils, 38% have clear policies associated with busking either in a standalone policy or within in a local approvals policy. Twelve per cent of councils had only limited information available on their website and 50% did not have any information available online for this activity.

## Commercial fitness

Of all councils, 24% have clear policies associated with management and approvals of mobile food vending vehicles within a standalone policy or covered in a local approvals policy. Thirteen per cent of councils had only limited information available on their website and 63% did not have any information available online for this activity.

## Local conditions and requirements

As mutual recognition would continue to give councils opportunity to enforce local conditions, we also reviewed current conditions. Of all councils, 52% have local conditions applicable to mobile food vending vehicles, including established zones where trade is generally permitted or prohibited. Forty-one per cent have local conditions for market stalls, 44% for busking and 30% for commercial fitness activities.

After receiving a section 68 approval, some mobile businesses may also have to reserve a specific location for their intended activity. This incurs separate fees, particularly where locations are in high demand.

## Application processes

Section 68 approval processes vary across NSW councils. At the time of writing, 53 councils use the NSW Planning Portal for online submissions of generic section 68 activity applications, while other councils may have embedded webforms on their websites or rely on downloadable forms, requiring applicants to submit by email or in person.

Some councils offer activity-specific forms, tailored to different section 68 activities such as food vending or busking, ensuring relevant information is captured and requirements are easier to understand for the applicant.

Some also offer markets and event organisers a 'blanket' section 68 application for their event on behalf of all mobile food businesses in attendance. Councils then conduct a bulk section 68 assessment, identifying any mobile businesses from which they will require more information and communicating through the market organiser. In these circumstances, the market organiser pays a fee to council and can recover the approval cost through stall holder attendance fees. This blanket approval process for an event should remain possible under the Mutual Recognition Framework. Event organisers should collate approvals issued by other councils if they are recognised by the council where the event will be held.



# Proposed way forward

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## Principles for mutual recognition

Councils are operating in an environment of increasing complexity and demand for delivery of services, and in some cases with resourcing constraints. Our intent is that streamlining the administration of section 68 approvals will help councils redirect their resources to their key daily business operations.

The underlying premise of the guiding principles below is to support mobile businesses wishing to operate across multiple council areas while streamlining regulatory and resourcing options for councils.

### Flexibility

Councils will be able to opt in to the Mutual Recognition Framework for section 68 approvals. This recognises that councils are inherently different in how they control their operations, their areas of control and the communities they serve.

The Office of Local Government will ensure there is a clear, accessible, updated list of participating councils available online. This will allow mobile businesses to know the areas where their current approval will be recognised.

### Consistency for businesses and councils

The whole process from start to finish should be straightforward, user-friendly and avoid double handling. Streamlining and standardisation of processes across those councils opting in will make it easy for councils and mobile businesses.

The Office of Local Government can help by developing a common application process including requirements, documentation and criteria for councils participating in mutual recognition.

### Local conditions still apply

Participating councils will continue to determine location-specific requirements through their local approvals policies and current guidelines, which may include considerations such as operating hours, prohibited areas or distance requirements (for example, to existing permanent businesses), fees and charges. Under the Mutual Recognition Framework, mobile businesses will need to agree to comply with any local conditions of the local government areas they trade in, regardless of which council issues their section 68 approval.

## Clear criteria

Local approvals policies should be easy to find, read and understand. To this end, policies must be in clear, plain English and accessible to mobile businesses. Where a council does not have a local approvals policy, it may choose to publish any relevant policy on its website.

The Office of Local Government will develop a Mutual Recognition Model Policy toolkit that may help councils that currently do not have a local approvals policy.

## Reasonable costs

Councils will continue to set fees for approvals and recognising another council's approval. Mutual recognition fees should be set on a cost-recovery basis to reflect the minimal administration involved and be lower than the fee for issuing a council's own section 68 approval.

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## Proposed Mutual Recognition Framework

After considering stakeholder feedback and desktop analysis, the Office of Local Government has developed the draft Mutual Recognition Framework below. Refer to **Error! Reference source not found.** for a process map on page 21. We give example scenarios in Appendix A.

### 1. Councils adopt mutual recognition

Mutual recognition will be on an opt-in basis. If and when a council adopts the Mutual Recognition Framework, it becomes the home council for food trucks, market stalls, buskers and outdoor fitness trainers that are registered or reside within the local government area.

A mobile business must seek section 68 approval from its home council first before it can trade in another council area. This prevents a 'race to the bottom' where businesses might seek approval from the council with the lowest fee or most favourable conditions of trade.

Any council area that is not the mobile business's home council is a secondary council. If the mobile business activity is exempt in the home council, then the first secondary council that the mobile business trades in becomes the home council for that mobile business for that activity.

## 2. Mobile businesses apply for section 68 approval with their home council

When they adopt mutual recognition, councils will also adopt the standard section 68 application forms and criteria for the 4 mobile business types that the Office of Local Government is developing.

Mobile businesses will need to submit this application with the appropriate documentation for council to assess. This will be available as a PDF form, which the mobile business should email to councils along with copies of supporting documents such as evidence of appropriate insurance.

If the details or nature of the goods/services sold by the mobile business change during the validity of an approval period, the mobile business must notify the home council and secondary council(s).

## 3. Mobile businesses pay the section 68 application fee

The council will inform the mobile business of any fees it must pay for council to process or issue a section 68 approval. Councils will continue to set fees and charges for these approvals in line with all relevant legislation and in consultation with the community.

## 4. The home council issues an approval or refusal

After assessing a section 68 application, council will issue an approval or refusal. The approval is to include:

- the date of the approval
- the name of the council and title of the approving officer
- relevant Parts and Item of section 68 under which the approval is granted
- the approval expiry date (that is, showing the period of approval to be 12 months)
- a seal of approval (signature or stamp)
- **the officer's assessment of the activity risk level**
- a copy of the local conditions relevant to the activity with which the mobile business must comply.

A refusal should give the reasons for refusal. If the application is refused, the mobile business may consider appealing the decision through the Land and Environment Court as provided for by the Amendment Act.

If approved, the mobile business may start trading within the home council area.

Figure 1 Flowchart of Mutual Recognition Framework and Approvals Processes. Key: FPAR means Food Premises Assessment Report

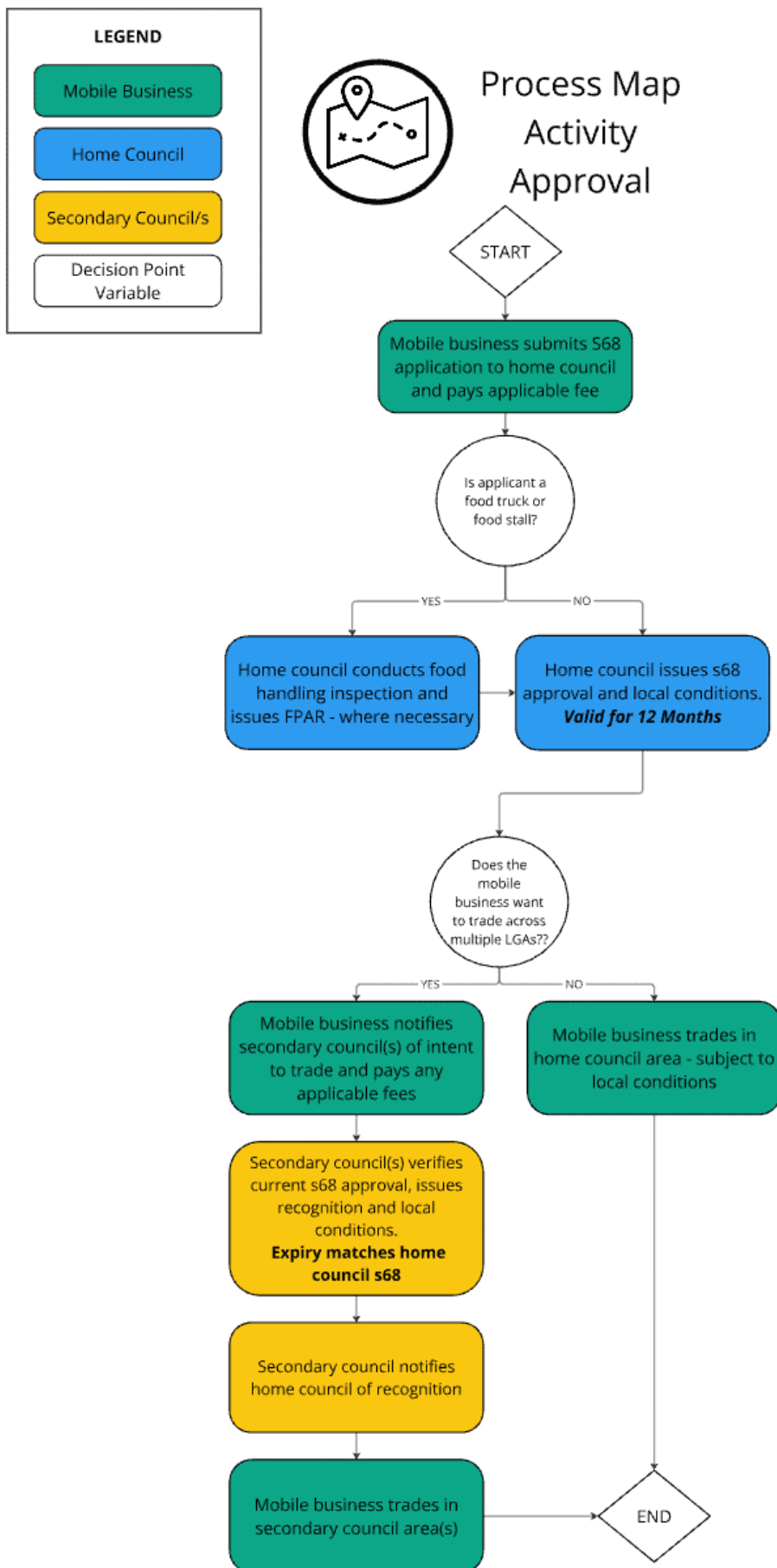
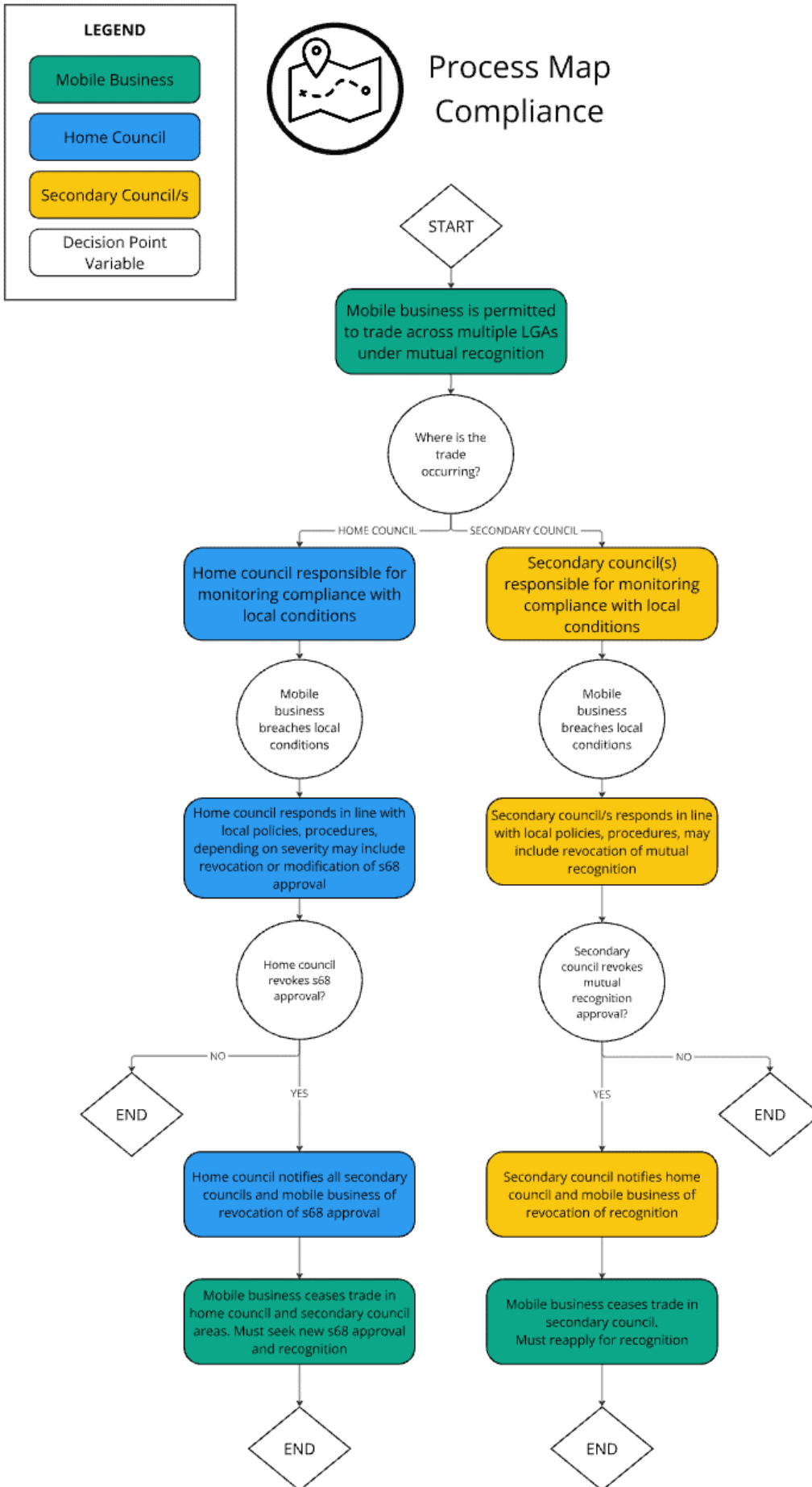


Figure 2 Flowchart of Council Compliance and Enforcement



## 5. The mobile business submits an Intent to Trade form to a secondary council

If the mobile business wishes to trade in one or more secondary council areas, it submits an Intent to Trade form to the secondary council(s), accompanied by the home council approval.

The Intent to Trade form includes:

- details of the applicant and business
- details of the activity
- a copy of the section 68 approval issued by the home council
- agreement to comply with any of the secondary council's local conditions relevant to the activity.

## 6. The mobile business pays a verification fee to the secondary council

Councils may set a fee for verifying an Intent to Trade form. However, the fee should reflect the minimal administration required. Conversations with a selection of councils' environmental health officers have estimated reviewing an approval issued by another council should take generally no more than 15 minutes.

## 7. Secondary council issues recognition of the home council approval

The secondary council may issue an approval or refusal of the Intent to Trade form after verifying:

- a section 68 approval issued by a home council has been provided
- the details of the intended activity match the home council approval
- the applicant agrees to comply with local conditions in the secondary council area.

Approvals must be issued with a copy of the relevant local conditions that apply to the approved activity. Refusals should give the reason(s). Disputes about mutual recognition of a section 68 approval may be considered by the Land and Environment Court, as provided for by the Amendment Act.

Once approved, some councils may also require the mobile business to reserve an area to trade in (for example, a section of a park for an outdoor fitness session or a food truck to park). After this, the mobile business can begin trading in the secondary council area.

## 8. Councils do compliance checks as needed

Mobile businesses must comply with legislation and local conditions in any local government area they trade within. This may include trading hours, permissible and prohibited locations, and maximum number of mobile businesses trading in one area. Mobile businesses must also

carry copies of all relevant documentation when trading and produce these for inspection by an authority, if requested. This includes:

- the home council approval
- the approved Intent to Trade form
- registrations or licenses
- certificates (for example, Food Safety Supervisor Certificate), if applicable.

Authorised officers may conduct compliance checks at any time for breaches of local conditions, road rules, food safety or other non-compliant activity. This may include issuing penalty infringement notices, directions to remedy the breach, modifying or revoking an approval. This aligns with existing practices. We do not propose changing these.

If an authorised officer in a home council modifies or revokes (cancels) an approval, they should inform any secondary councils that have recognised the approval. If a secondary council revokes recognition of an approval, it should inform the home council.

## 9. Mobile business renews home council section 68 approval

A section 68 approval issued by a home council is valid for 12 months from the date of issue. Mobile businesses may not trade in any council area without a valid section 68 approval and will need to seek renewal from their home council to continue trading. Each Intent to Trade form must also be renewed following the home council renewal.

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## Food-based business inspections

Under the *Food Act 2003*, temporary food stalls and food trucks must register as a food business with councils they trade in. They may also have to complete a food handling inspection and get a satisfactory Food Premises Assessment Report issued by an environmental health officer or other authorised person. While these are required on top of getting section 68 approval, they may be carried out at the same time as a section 68 application.

The [Guidelines for Mobile Food Vending Vehicles](#) published by the NSW Food Authority and the Food Premises Assessment Report describe this process, related criteria, and how the home jurisdiction rule applies to inspections. Councils will continue to set their own fees.

When trading, food-based businesses must be able to produce a copy of the following if requested during a compliance check:

- a satisfactory Food Premises Assessment Report that is less than 12 months old when trading
- a Food Safety Supervisor Certificate.

In the case of a mobile food truck business operating multiple vehicles, each vehicle will require a separate Food Premises Assessment Report and section 68 approval.

## Example

A **mutual recognition** system between participating councils would allow a food truck mobile business to apply for a single section 68 approval in its home council, which would assess:

- compliance with Food Safety Guidelines
- necessary documentation (for example, public liability insurance, food safety supervisor certificates, operational plans)
- any other required information.

Following approval in its home jurisdiction, the food truck would be able to notify other participating councils of its intent to trade and have this approval verified. The food truck would receive details of local conditions such as permissible zones, operating hours and any restrictions that would apply to the mutual recognition approval.

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## Developing criteria for home council approvals

The criteria should be easy to understand, relevant to the activity and risk-based. The Office of Local Government is undertaking a desktop analysis of the current processes in place across councils including criteria, forms, and supporting documentation. We will workshop draft standardised application forms and criteria councils during further consultation.

Criteria may include (depending on the activity):

- applicant's contact and business details
- vehicle registration details
- nature of the activity and any associated risks (for example, performances with fire, potentially hazardous foods, vulnerable clientele)
- food business registration
- public liability insurance of \$20 million
- a satisfactory Food Premises Assessment Report issued within the last 12 months
- a Food Safety Supervisor Certificate
- details of equipment (whether allowed or required)
- type of food sold
- number of people in a fitness training session



- waste management plans
- noise management plans
- any other relevant qualifications or registrations.

Guidelines and fact sheets will support these standardised forms and explain what to expect from the application process, including how mobile businesses can meet the criteria or provide supporting documentation. For example, this supporting information could explain to mobile businesses that they can:

- note more than one council on their public liability insurance policy
- request a certificate of currency from their insurance provider as supporting evidence to their application, instead of needing a separate insurance policy for each council.

This may also contain an indemnity clause to the effect of, 'It is hereby agreed that the indemnity given by this policy is extended to any local government where the activity is taking place'.

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## How we will implement mutual recognition

The Mutual Recognition Framework will have 5 key elements:

1. **Local Government Act 1993:** section 68 will continue to give councils the power to issue approvals for mobile businesses to do certain activities in their local government area. Provisions in the Amendment Act will begin and be inserted into the Local Government Act, allowing for a mutual recognition Regulation to take effect.
2. **Mutual Recognition Regulation:** we will draft this to contain the legislative requirements that allow councils to recognise each other's section 68 approvals, and any associated conditions with which councils and mobile businesses must comply. This will form part of the Local Government (General) Regulation 2021.
3. **Mutual Recognition Model Policy:** the Office of Local Government will develop a model policy and resources that councils may amend and adopt, which will set out relevant local conditions to address any community concerns. The policy will be supported by the following guidelines and standard application forms.
4. **Mutual Recognition Guidelines:** will contain plain English guidance and support material for councils and mobile businesses to understand and implement the framework, including:
  - fact sheets and a process flowchart to explain what documentation will be needed at each stage
  - guidance about any fees and charges
  - what a local approvals policy is and how it works.

5. **Mutual Recognition Standard Application Forms:** this will consist of an application form and clear documentation requirements. It will be the same application across all participating councils, which gives individual councils assurance that mobile businesses have been assessed to a reliable standard and set of conditions.

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## Potential considerations for the future

### A centralised database for approval and compliance

Some responses to the survey referenced systems available in other jurisdictions, including a centralised database for councils to access approvals issued by another council. While this option falls outside the current scope of the Mutual Recognition Framework, however it may be considered in future iterations of mutual recognition.

### Future potential mobile business types

Mutual recognition may be rolled out to more mobile business types such as dog groomers (under section 68 Part D), skip bin operators (under Part C) or other mobile business activities in the future. We expect that research will be done into the approvals processes for these mobile businesses to develop standard application forms and criteria.

### Evaluation of the framework

We recommend evaluating the Mutual Recognition Framework about 2 years after it begins. The evaluation may consider matters such as:

- council adoption rates
- financial sustainability of the model for both councils and mobile businesses
- common enquiries
- relevant issues raised.

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## Next steps

The Office of Local Government will hold workshops to develop the proposed standardised section 68 application process with councils, mobile businesses and industry bodies who expressed an interest during the survey process. We will consider all feedback when finalising the proposed Mutual Recognition Model Policy, Regulation, and supporting guidance materials over the next few months. The Regulation will set out specific approvals to which mutual Recognition may apply and provide the legislative requirements for those approvals.

We will publish information about the progress of the Mutual Recognition framework on the [Mutual Recognition](#) page of our website. Please contact our Policy Team if you have any questions via email: [vibrancy@olg.nsw.gov.au](mailto:vibrancy@olg.nsw.gov.au).

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## Definitions

**Activity** means busking, outdoor fitness, and the retail sale of food and drinks from a mobile outlet such as a food truck, food van or temporary market stall.

**Busker** means a travelling musician or actor 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 travelling musician or actor.

**Council area** means the same as local government area. It is the area under the jurisdiction of a local council and can vary in size, consisting of a group of suburbs, a town, or a rural area. Visit the [Office of Local Government website](#) for an interactive map of the 128 local government areas in NSW.

**Mobile food vending vehicle** is any means of transport – self-propelled or not – including a bicycle, cart, or food truck, which is moved from place to place and used for selling and serving food and drinks. A shipping container is considered a ‘building’, so it is unlikely to be a mobile food vending vehicle.

**Food truck** means a mobile food vending vehicle that serves food, often prepared and cooked onsite, and/or a vehicle that functions as a mobile kitchen.

**Home council** means:

- for a mobile business – the council area of the registered business address
- for an individual – the council where they reside
- for inspecting a mobile food vending vehicle – the council in which the mobile food vending vehicle is ordinarily garaged
- if an activity is exempt in the home council, then the first secondary council that a mobile business trades in becomes the home council for that mobile business for that activity.

**Home jurisdiction rule** is taken from the Guidelines for Mobile Food Vending Vehicles, which is published by the NSW Food Authority. At the time this Mutual Recognition Framework was published, this definition appeared on page 21.

**Market stalls** means businesses that offer products including food at events such as fairs, festivals, markets and shows.

**Mobile** means activities and vehicles that temporarily trade and then move on to a new location. It does not include vehicles fixed or permanently located. If food truck and drink outlet mobile businesses wish to set up a permanent outlet, they can contact their council to understand the local rules.

**Mobile business** means any small mobile business including an individual carrying out an activity, as defined above.

**Outdoor fitness** means structured physical training sessions run by professional trainers. These activities may include group exercise classes and personal training.

**Secondary council** means any participating council that is not a mobile business' home council (that is, not the council area of the registered business address).

# Appendix A – Example Scenarios

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## Market food stall

### Current process

A market food stall based in Sydney currently operates across 4 different local government areas, participating in various weekend markets and events. The mobile business is interested in expanding to more local government areas, especially to take advantage of last-minute opportunities when market spots become available or new events are scheduled. However, the mobile business faces significant obstacles because of varying requirements, processes and access to information among councils.

In some local government areas, each individual mobile business must apply for individual section 68 approvals, while in others, the market organiser can secure a general approval that covers all mobile businesses. This inconsistency makes it difficult to know exactly where to go for each approval.

Additionally, certain councils require an inspection of the mobile business's set-up when they operate within their local government area, even though the mobile business has passed an inspection in another council area within the past 12 months. Meanwhile, other councils recognise these previous inspections, so there is no need to do another.

Each council also has unique documentation requirements that add to the complexity. Insurance policies, staff training records, waste management plans and risk assessment formats vary widely. For example, one council may require a detailed diagram with details of all equipment, waste management plan, and proof of staff training. Other councils may have a more streamlined and less onerous approach such as the use of checkboxes.

Fees across councils also vary, compounding the cost for each new approval. Validity periods range from one-off approvals for specific events through to longer periods of up to a year or more. These variations and inconsistencies make the entire approval process time-consuming, costly and in many cases uneconomical, discouraging the mobile business from expanding operations or pursuing last-minute opportunities.

### Proposed process

The mobile business can streamline operations by applying for a section 68 approval once in their home council. If the Office of Local Government develops a standardised application, this would ensure that all necessary information is collected in a consistent format. Other councils participating in the Mutual Recognition Framework would recognise this approval, assured

that all relevant information has been provided and reviewed by the home council and is available for their reference. This would reduce the administrative burden on other councils, as the home council would have completed a thorough assessment of their standardised application and be responsible for conducting a yearly inspection.

Under the framework, councils would still have the authority to impose local conditions, such as designated waste disposal requirements or specific operational hours. Councils could still carry out added inspections if concerns arise or if they believe there are compliance issues, allowing them to address local needs without duplicated documentation requests or re-inspections.

For the mobile business, mutual recognition would simplify the approval process and reduce costs, enabling them to respond flexibly to last-minute opportunities without facing prohibitive administrative barriers.

Councils in turn would benefit from reduced application processing times and a more effective compliance oversight model, focused on local conditions rather than duplicating previously conducted reviews. Mutual recognition would also benefit the community by enhancing access to a wider variety of options and bringing greater vibrancy to local events and markets.

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## Outdoor fitness trainer

### Current process

An outdoor fitness trainer primarily offers personal training sessions at a local park in their council area. The fitness trainer has sought and got section 68 approval to carry out this activity, paid fees and provided all necessary documentation including insurances, certifications and risk assessments as part of their application.

An existing client has asked for a temporary change in training location. They would like to do this activity closer to their workplace so it can be during their lunch break. This new park is in a different council area.

The fitness trainer would likely need to get a new section 68 approval from the council that manages the park, source information on application requirements, duplicate their documentation (for example, insurance, qualifications) and pay separate fees. Processing time frames vary significantly across different councils and different assessment processes may restrict the fitness trainer's ability to respond to the changing needs of their client. Added costs may be unfeasible.

## Proposed process

The fitness trainer could get a single section 68 approval within their home council, which could be recognised by other councils participating in the Mutual Recognition Framework. The fitness trainer would still need to meet local conditions that apply to the second park, such as booking requirements, noise levels, permissible locations and time restrictions.

However, if both councils recognise each other's approvals, their application and documentation requirements would match, enabling the fitness trainer to avoid repetitive applications, fees and processing times.

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## Busker

### Current process

A busker who performs acoustic guitar without amplification mainly operates in their home council area. The home council has a local approvals policy that provides exemptions for busking if no amplification is used. This arrangement allows the busker to perform freely without needing approval or permits, as their performance aligns with local guidelines.

However, when the busker would like to perform in other local government areas, they face a range of requirements that vary significantly.

Many councils require the performer to apply for a section 68 approval, which involves fees. Some councils request documentation such as insurance coverage, photos, and sample music. These requirements create complications and added financial and administrative burdens, complicating the busker's ability to perform across different areas.

### Proposed process

The busker would start applying for section 68 approval in the first local government area where their activity is not exempt. Once issued, the approval would be recognised by other councils, meaning the busker would only need to apply once and ensure they comply with the local conditions in each new council in which they are performing. These conditions would be made available to the busker when seeking recognition of their existing approval.