



POLICY NO.	CPPH3
POLICY TITLE	Local Approvals Policy - Trade or Business on Community Land
STATUS	Council
SERVICE	Public Health and Safety
DOCUMENT ID	193754

PURPOSE

The purpose of this Policy is to supplement the provisions of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021* by:

- a. Specifying the circumstances in which a person would be exempt from the requirement to obtain a particular approval of Council, and
- b. Specifying the criteria which Council must take into consideration in determining whether to give or refuse an approval, and
- c. Specifying other matters relating to approvals.

SCOPE

The Policy applies to Council representatives, employees, and members of the public.

The Policy relates to all land within the Hunter's Hill Local Government Area.

DEFINITIONS

Council-owned land Land that is owned by Council, or Crown land under the care, control and management of Council, and land that is being leased by Council.

POLICY STATEMENT

This Policy is called the Hunter's Hill Local Approvals Policy - Trade or Business on Community Land ("Policy").

In the event of an inconsistency between this Policy and the *Local Government Act 1993* or associated Regulations, the *Local Government Act 1993* or Regulations shall prevail to the extent of the inconsistency.

The prior approval of Council is required to carry out certain activities under Section 68 of the *Local Government Act 1993*, including to engage in trade or business on community land.

Part 1 - Exemptions

The following circumstances are specified as to when a person would be exempt from the necessity to obtain a particular approval of the council.

Activities	Exemptions
Engage in trade or business on community land	Appendix 1 – Charitable Events on Community Land– Section 1 Appendix 2 – Personal Training on Community Land – Section 1

Part 2 - Considerations

The following criteria will be taken into consideration in determining whether to give or refuse an approval of a particular kind.

Activities	Criteria
Engage in trade or business on community land	Appendix 1 – Charitable Events on Community Land – Section 2 Appendix 2 – Personal Training on Community Land – Section 2

Part 3 - Other matters relating to approvals

3.1 Application for other activities

Applications for all other activities (as described in Section 68 of the *Local Government Act 1993*), that are not listed in this Policy are to be on the approved form available on Council's website.

All applications will be assessed in accordance with Section 89 of the *Local Government Act 1993*.

3.2 Lodgement of an application

Applications for activities specified in this Policy must be made on the approved form that is available on Council's website and be accompanied by all information required on the form. Any application that is unclear or illegible may be returned.

All relevant fees listed in Council's Schedule of Fees and Charges must be paid at the time of lodgement or as specified in the Schedule of Fees and Charges.

3.3 Refund of fees

If an application is withdrawn by an applicant prior to determination, 50% of the application fees will be refunded. No refund will be provided once an application has been determined.

3.4 Variations to criteria

In determining an application, Council's Director – Town Planning may choose to vary any criteria referred to in this Policy on a case-by-case basis. Any variations must have regard to the merit of the individual circumstances, the purpose of the Policy and the legislation.

3.5 Determination

When an application is determined, a notice will be issued to the applicant advising whether the application has been refused, approved or approved with conditions

3.6 Review of determination

A determination can be reviewed under Section 100 of the *Local Government Act 1993*. A request for a review must be made within 28 days after the date of the determination. A determination of a review may not be further reviewed.

3.7 Record of approvals

A record of all approvals is required to be kept in accordance with Section 113 of the *Local Government Act 1993*. The record of approvals may be viewed at Council's office.

3.8 Amendment of an approval

A person to whom an approval is granted or any other person entitled to act on an approval may apply to Council to amend the approval in accordance with Section 106 of the *Local Government Act 1993*.

3.9 Modification or revoking an approval

Council reserves the right to revoke any approval in accordance with Section 109 of the *Local Government Act 1993*. In particular, an approval may be revoked or modified in any of the following circumstances:

- a. If the approval was obtained by fraud, misrepresentation or concealment of facts, or
- b. For any cause arising after the granting of the approval which, had it arisen before the approval was granted, would have caused Council not to have granted the approval (or not to have granted it in the same terms), or
- c. For any failure to comply with a requirement made by or under the *Local Government Act 1993* relating to the subject of the approval, or
- d. For any failure to comply with a condition of the approval.

RELATED LEGISLATION

Local Government Act 1993
Roads Act 1993

POLICY AUTHORITY

Director – Town Planning

GETTING HELP

For interpretations, resolution of problems, and special situations please contact Council's Customer Service.

REVIEW

This policy is to be reviewed within the first 12 months of each term of Council or as required.

The next review date is: 2025

ADOPTED BY COUNCIL:

DATE: 24 July 2023
RESOLUTION NO: 141/23

VERSION CONTROL TABLE

DATE	VERSION	RES. NO.	KEY CHANGES	AUTHOR
2013	1.0	368/13	Policy Initially Adopted	B Smith
24/07/2023	1.1	141/23	Updates to Policy	J Davis

APPENDIX 1 – CHARITABLE EVENTS ON COMMUNITY LAND

The purpose of the Charitable Events on Community Land component of this Policy is to:

- a. Provide clear guidelines on the conditions that will apply to Charitable Events, including fundraising, collections and promotions within the Hunter's Hill LGA.
- b. Facilitate Charitable Events in the Hunter's Hill LGA on Council-owned land in a way that supports organisations but at the same time minimises disruption to residents and businesses.
- c. Provide reasonable access to Council owned-land for the purpose of Charitable Events.
- d. Allow a high level of delegation to Council officers for quick response and approval of applications for Charitable Events without delay.
- e. Maintain an efficient system for dealing with complaints.

1. Exempt Criteria

There are no exemptions under this Policy.

2. Assessment Criteria

In determining an application for a Charitable Event Approval, Council will consider the following criteria:

- 2.1 Charitable fundraising must only be conducted in the area and times specified in the approval. Roaming the streets is not permitted.
- 2.2 If charitable fundraising requires access to private property, the owner's consent must be obtained prior to the collection.
- 2.3 If conducting charitable fundraising, the applicant must comply with the Charitable Fundraising Guidelines published by NSW Fair Trading.
- 2.4 The applicant and all personnel involved in the activities shall not inconvenience or obstruct pedestrian, vehicular traffic or occupants of premises in and around the designated area.
- 2.5 The use of props, equipment, stages, back drops, signs, marquees and amplification equipment is not permitted.
- 2.6 The use of a single moveable table (no larger than 1 m x 1 m) may be permitted, subject to an assessment of traffic and pedestrian safety.
- 2.7 Any reasonable conflict of interest with a business located within the immediate vicinity will result in the application not being approved.
- 2.8 Any promotional material proposed to be distributed during a Charitable Event must be for the sole purpose of the Charitable Event, not-for-profit or charitable organisation.
- 2.9 No election material may be distributed during a Charitable Event.

3 Other matters relating to approvals

- 3.1 Application process

- a. Each Charitable Event is required to have a separate application and approval under Section 68 of the *Local Government Act 1993*.
- b. The application must be made by completing the Charitable Event application form that is available on Council's website.
- c. The application must be accompanied by a copy of the applicant's registration as a not-for-profit or charitable organisation and a copy of the Certificate of Currency (Public Liability Insurance). The Certificate of Currency must include the name of the insured, duration of cover, amount insured (\$10 million or more), name and details of the insurer, and policy number.
- d. If a table is proposed to be used during the Charitable Event, the location of the table must be detailed in the application form.
- e. If any promotional material is proposed to be distributed during the Charitable Event, a copy must be provided with the application form.
- f. If the application is being made on or behalf of a school, a letter of their intended activities is required to be provided on the letterhead of the school or the Parents and Citizens Association.
- g. If approved, Council will issue a Charitable Event Approval. The approval will summarise who it has been issued to, the location, time, a description of the event and any conditions.

3.2 Charitable Event Approval

A copy of the Charitable Event Approval must be made available to Council staff upon request.

3.3 Compliance with Reasonable Directives

The applicant and all personnel involved in the Charitable Event must comply with all fair and reasonable directives issued by Council's Rangers during the Charitable Event.

3.4 Transfer of Charitable Event Approval

A Charitable Event Approval is not transferable.

3.5 Fees and charges

Not-for-profit and charitable organisations are exempt from paying an application fee.

APPENDIX 2 – PERSONAL TRAINING ON COMMUNITY LAND

The purpose of the Personal Training on Community Land component of this Policy is to:

- a. Establish guidelines for the use of parks and reserves by professional personal trainers on a commercial basis.
- b. Ensure the process for the granting approvals is transparent to preserve the community's confidence in Council as an impartial body.
- c. Ensure equity of access to public parks and reserves.
- d. Reduce the impact of commercial fitness activities on asset condition and maintenance.
- e. Minimise public liability concerns.
- f. Regulate the use of Council-owned land for commercial interests.

1. Exemptions

This Policy does not apply to local sporting clubs, local schools or corporate groups.

Any significant, organised activities that these groups may wish to conduct on Council-owned land is subject to an application and approval under Council's general park usage procedures.

2. Assessment Criteria

In determining an application for a Personal Trainer Approval, Council will consider the following criteria:

2.1 Eligibility

An applicant must meet the following criteria:

- a. Have a current Senior First Aid Certificate,
- b. Have a current public liability insurance policy that indemnifies Council to a minimum of \$20,000,000.

It is not a requirement, however, it is encouraged that all applicants are registered as a professional trainer with AUSactive or a similar organisation.

2.2 Permitted personal training activities

The following personal training activities will be considered (subject to Council approval):

- a. Gym sessions (with or without weights, fit balls, skipping ropes etc).
- b. Boxing and pad training
- c. Aerobic activities
- d. Yoga, Tai Chi and Pilates classes or the like.
- e. Circuit training
- f. A combination of any of the above.

2.3 Prohibited personal training activities

The following personal training activities are prohibited:

- a. Aggressive and intimidating activities.
- b. Amplified music or amplified audio (voice) equipment

2.4 Group size

The maximum number of persons permitted per group and the number of groups that are issued an Approval will be determined by Council staff based on the area. An Approval will not be issued for groups that have more than 30 participants.

2.5 Duration

- a. To ensure that any area is not over utilized, only 2 sessions of 1.5 hours are permissible on any given day.
- b. Personal training activities are limited to between the hours of 5.30 am to 6.00 pm during April - September and 5.30 am to 8.30 pm during October - March.
- c. An application for additional sessions during school holidays will be assessed on individual merit.

2.6 Prohibited areas

No personal training activities are permitted in high activity areas and/or areas of cultural, environmental or natural significance. Specific areas where these activities are prohibited include but are not limited to the following:

- a. Picnic sheds and benches.
- b. Within 25 metres of memorials, playgrounds or play equipment.
- c. Within 50 metres of any neighbouring residential property.
- d. Any designated sports field or facility without a specific booking.
- e. Static training on stairways and pathways.
- f. Council's Director – Town Planning may nominate other areas during the life of this policy as they see fit.

3 Other matters relating to approvals

3.1 Application process

- a. Each personal trainer requires a separate application under Section 68 of the *Local Government Act 1993*.
- b. An application may be made by an individual personal trainer or a company. If an application is made by a company, the application must nominate the personal trainer's details who will be operating the personal training activities.
- c. All applications must be on the application form published on Council's website.
- d. All applications must be accompanied by a copy of the personal trainer's current Senior First Aid Certificate, current public liability insurance for \$20,000,000 and plan of operations. The plan of operations must detail the times, days, and locations of intended use, specific programs/ activities, and personal trainers assigned to the activities.

3.2 Personal Trainer Approval

A Personal Trainer Approval must specify the type of personal training activities to be undertaken, when and where the activities can take place, the number and size of groups, number of sessions, times and the personal trainer's details.

3.3 Personal Trainer Approval term

A Personal Trainer Approval is valid for a maximum period of twelve (12) months on a non-exclusive basis. A Personal Trainer Approval must be renewed each financial year.

3.4 Providing a copy of the Personal Trainer Approval upon request

A copy of the Personal Trainer Approval must be made available for inspection upon request by Council's Ranger.

3.5 Transfer of a Personal Trainer Approval

A Personal Trainer Approval cannot be transferred. However, a personal trainer can nominate a replacement personal trainer in case of illness or leave. To do so, the personal trainer must notify Council in writing prior to the scheduled session, quote the approval number and specify the replacement personal trainer. The company/ personal trainer must reflect this arrangement in the public liability insurance so that the replacement personal trainer is suitably covered.

3.6 Fees and charges

- a. Any application for a Personal Trainer Approval must be accompanied by the fee in Council's Schedule of Fees and Charges.
- b. Applications that are not accompanied by the fee will not be processed and may be returned after five working days if payment is not received.

3.7 Public liability insurance

All personal trainers operating on Council-owned land must have current public liability insurance with a minimum coverage of \$20,000,000.