

COUNCIL POLICY

## LOCAL APPROVALS POLICY

Date of Adoption: TBA

Effective Date: TBA

## Contents

Purpose and Scope of Policy.....	3
Part 1 - Exemptions .....	5
Part 2 – Criteria that Council must consider when determining applications .....	9
Part 3 – Other matters relating to Approvals .....	14

## Purpose and Scope of Policy

This Policy is called *The City of Canada Bay Local Approvals Policy* (the Policy) and is made under section 158 of the *Local Government Act, 1993* (The Act).

### Objectives

The objectives of this policy are to:

- Provide a list of exempt activities that do not need approval under the *Local Government Act, 1993*.
- Provide a mechanism for applicants to enliven our streets and parks to improve local economic activity.
- Support micro-businesses, local entrepreneurs and artisans through increased opportunities.
- Provide opportunities for the community performers/artists to activate and add vibrancy to our town centres and open spaces.
- Provide a framework for Council to receive applications for certain permits.
- Apply common and consistent requirements and procedures for the relevant types of approvals.
- To ensure consistency and fairness in the manner in which the council deals with applications for approval.

### Scope

This policy applies to community land and identified public places within the Canada Bay local government area.

The Policy applies to approvals for activities listed in Section 68 of the *Local Government Act, 1993*.

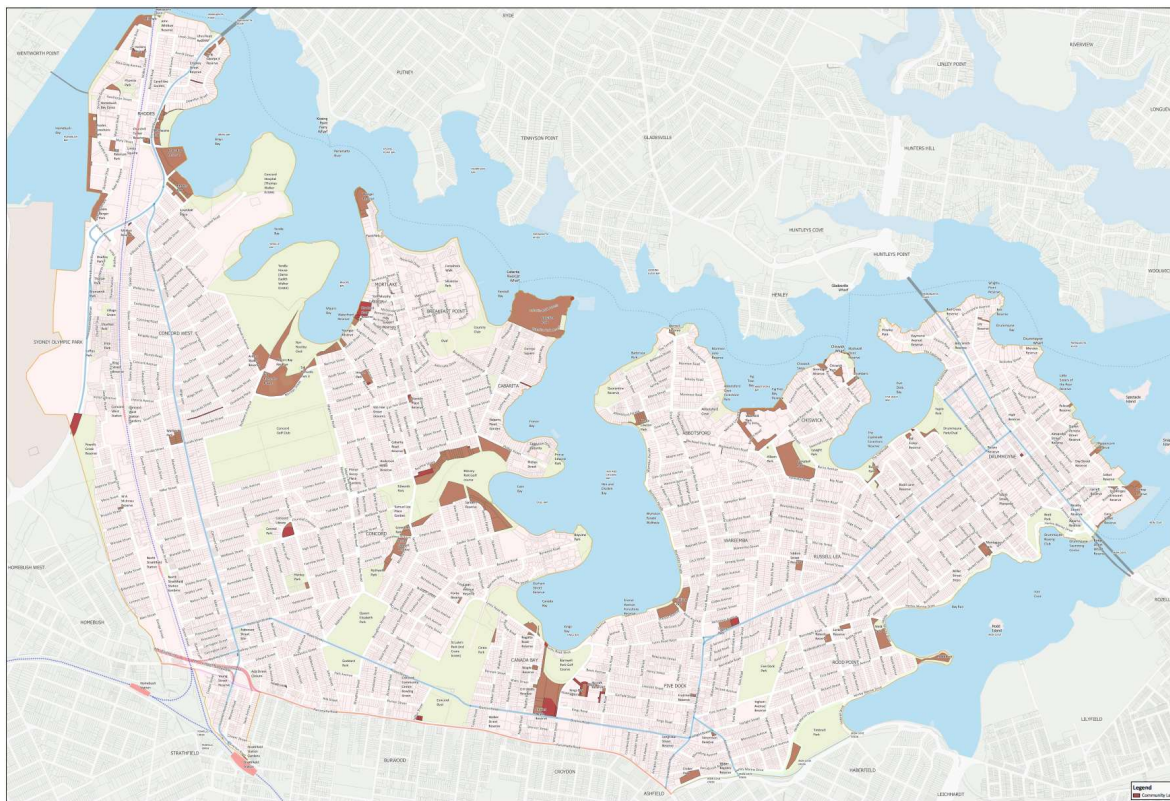
In the event of an inconsistency between this Policy and the Act or associated Regulations, the Act or regulations shall prevail to the extent of the inconsistency.

This Policy is structured in three parts:

- Part 1:** Exemptions – outlines the circumstances where an approval under Section 68 can be assumed, i.e. a formal application is not required.
- Part 2:** How to obtain Approval under Section 68 of the Local Government Act – General criteria for individual permit activities and the criteria which must be considered when determining applications.
- Part 3:** Other relevant matters – relating to applications and approvals.

## Community land

Community land in the City of Canada Bay is identified on the map below:



## Definitions

### *Public Place*

- a public reserve, public bathing reserve, public baths or public swimming pool, or
- a public road, public bridge, public wharf or public road-ferry, or
- a Crown reserve comprising land reserved for future public requirements, or
- public land or Crown land that is not—
  - a Crown reserve (other than a Crown reserve) that is a public place described above, or
  - a common, or
  - land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
  - land that has been sold or leased or lawfully contracted to be sold or leased, or
  - land that is declared by the regulations to be a public place for the purposes of this definition.

## Part 1 - Exemptions

The exemptions outlined in this document are given in the belief that those activities can function effectively without Council involvement if the operator complies with all appropriate guidelines. The exemptions apply to those activities which are of a minor or common nature and which have minimal impact.

Any exemption under this Local Approvals Policy, or the regulations, has no effect unless ***all the specified conditions of the exemption are met***. Any breach of the conditions would mean that the exemption provisions no longer apply to the activity or activities involved.

Exempted activities must comply with the *Local Government Act* and *Regulations*, the *Building Code for Australia*, any Council Plans and Policies and relevant guidelines.

Specified below are the activities which may be undertaken without obtaining the separate approval of Council.

Type of Activity	Exemption Circumstances/Requirements	Advisory Note
Engage in a trade or business on community land	<ul style="list-style-type: none"> <li>• The activity occurs in conjunction with a community event.</li> <li>• The activity does not involve the sale of unpackaged and potentially hazardous food. Note: Applicants should seek advice from Council's Environmental Health Officers.</li> </ul>	<ul style="list-style-type: none"> <li>• For use of Council's parks and reserves, either an Event Booking Application form or a Social Recreation Application Form may be required.</li> <li>• The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the activities involved and the context in which they will be undertaken.</li> <li>• Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provision of this exemption.</li> </ul>

Type of Activity	Exemption Circumstances/Requirements	Advisory Note
		<ul style="list-style-type: none"> <li>If food is being sold, the food business should notify Council of their details.</li> </ul>
Direct or procure a theatrical, musical or other entertainment for the public on community land	<ul style="list-style-type: none"> <li>If the entertainment is associated with a current development consent or existing use of public lands.</li> <li>The activity occurs in conjunction with a community event.</li> <li>Activity is by a non-profit community based organisation.</li> </ul>	<ul style="list-style-type: none"> <li>Use of Council's parks and reserves may require either an Event Booking Application form or a Social Recreation Application Form.</li> <li>The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the activities involved and the context in which they will be undertaken.</li> <li>Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provision of this exemption.</li> </ul>
Construct a temporary enclosure for the purpose of entertainment	<ul style="list-style-type: none"> <li>If the enclosure is associated with a current development consent or existing use of public lands</li> <li>If the structures are "Exempt or Complying Development" under the SEPP (Exempt &amp; Complying Development Codes) 2008</li> <li>Must be secure with no tripping hazards</li> </ul>	<ul style="list-style-type: none"> <li>The party erecting the enclosure must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the context in which the enclosure will be used.</li> <li>Council accepts no liability for any injury or damage associated</li> </ul>

Type of Activity	Exemption Circumstances/Requirements	Advisory Note
		with the enclosure under the provision of this exemption.
Set up, operate or use a loudspeaker or sound amplifying device on community land	<ul style="list-style-type: none"> <li>• Use must be associated with a current development consent, license or existing use rights for either the land use or activity.</li> <li>• The activity occurs in conjunction with a community event.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Protection of the Environment Operations Act</i> regulatory and compliance provisions must be observed.</li> </ul>
Use a standing vehicle or any article for the purpose of selling any article in a public place.	<ul style="list-style-type: none"> <li>• The food business has notified the appropriate enforcement agency of the operation of the business, in accordance with section 100 of the <i>Food Act 2003</i> at least 14 days prior to the event; and</li> <li>• In the case of a mobile food vehicle, it complies with the NSW Food Authority's Guideline for Mobile Food Vending Vehicles; and</li> <li>• In the case of a temporary food stall, it complies with the NSW Food Authority's Guideline for food businesses at temporary events; and</li> <li>• The activity is in direct association with: <ul style="list-style-type: none"> <li>○ An event organised by the City of Canada Bay; or</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• For use of Council's parks and reserves may require either an Event Booking Application form or a Social Recreation Application Form.</li> <li>• The party erecting the enclosure must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the context in which the enclosure will be used.</li> <li>• Council accepts no liability for any injury or damage associated with the enclosure under the provision of this exemption.</li> </ul>

<b>Type of Activity</b>	<b>Exemption Circumstances/Requirements</b>	<b>Advisory Note</b>
	<ul style="list-style-type: none"><li>○ The hirer of any park, sporting field or other public place.</li></ul>	

DRAFT



## Part 2 – Criteria that Council must consider when determining applications

### General

The following provisions apply to all activities in this section:

1. The parties undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the activities involved and the context in which they will be undertaken. Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken.
2. Noise arising from the activity must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained within the New South Wales Environment Protection Authority Environmental Noise Control Manual.
3. The activity must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the activity, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The activity must not give rise to the transmission of a vibration nuisance or damage to other premises.

### Market stalls in designated locations (including pop up stalls)

A pop-up is defined as a cultural or business offering of a non-permanent nature, of a short and temporary duration, small in size which “pops-up” in a public domain. Pop-ups can include stalls but are not restricted to only stalls. Activities could involve art and artisan endeavours.

Market stalls will be permitted on community land, Crown land under the care and control of Council, and in the following designated locations:

- Jellicoe Street Plaza, Concord
- Church Street shared space, Drummoyne
- Formosa Street Plaza, Drummoyne
- Fred Kelly Place, Five Dock
- Palace Lane, Mortlake
- Stanton Reserve, Mortlake
- Phoenix Park and Lewis Berger Park, Rhodes
- Union Square, Rhodes

Activities in parks will need to be consistent with the relevant Plan of Management (POM).

The following conditions may be imposed on any approval for market stalls:

1. The period in which the activity is run must not exceed 35 hours in a month.
2. Activities must not use the same one location in the local government area for more than 10 days in any calendar year.

3. Goods and / or display stands must not be more than two metres above footpath level.
4. All goods and / or display stands shall be secured to prevent them from being moved by wind or other forces and finished with no part protruding beyond the main body of the stand with no sharp corners or trip hazards.
5. All goods and / or display stands must be removed from the footpath when premises are closed.
6. The area is to be maintained in a clean condition at all times. Waste generated is to be disposed of via the host premises and not into the gutter or street bins.
7. No spruiking of goods or touting is permitted.
8. Perishable hazardous food (PHF) such as meat, fish, poultry, dairy products, eggs, cooked rice or shellfish cannot be displayed. However, whole fresh fruit and vegetables and tinned or packaged non potentially hazardous food are permitted, subject to compliance with NSW Food Authority food handling regulations.
9. Activity must be undertaken on designated community land.
10. There must be no permanent physical change to the fabric of the location where the use occurs.
11. Emergency vehicle access must be maintained to and around the location at all times,
12. Pedestrian access must be maintained along existing footpaths at the location or barriers must be erected between alternative pedestrian pathways and traffic on any adjoining road.
13. The use must not occur before 9:00am or after 9:00pm on any day. Extensions to these hours can be altered under explicit council approval.
14. Clean up time for the use must end no later than 2 hours after the use was to stop occurring.
15. A clear path of travel of a minimum of 1.5m must be provided for pedestrian circulation around the stall location.

### **Street Performances**

Street performers require a permit. These activities may include, but are not limited to:

- Musicians/ singers
- Artists
- Magicians

- Dance groups
- Puppeteers

The following acts will not be approved for a street performer permit:

- Acts which involve handing out plastic or paper items, such as balloon sculpting, that may have an adverse impacts on parks, waterways, bird life or marine life.
- Acts which incorporate any animal, with the exception of a certified assistance animal (as defined by section 5 of the *Companion Animals Act 1998*) who is supporting the performer but is not a feature of the performance.
- Acts which offer or provide a one-to-one service for a fee such as fortune telling, portrait painting, massage or any other therapeutic service.

The following conditions may be imposed on any approval for a street performer/performance:

1. Performers may only perform in one location for a maximum of 2 hours.
2. Performers must not be within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection.
3. Must not occur in any area immediately adjoining an educational establishment or place of public worship
4. Must be located 2 metres from building facade, adjacent shops or buildings
5. Must be located no closer than 600mm to the back of kerb.
6. The activity must not obstruct or hinder the passage of pedestrians or vehicles nor create any nuisance or offensive noise.
7. The performance must not involve the use of dangerous materials and implements nor include drawing or marking the footpath or affixing any matter or structure to the footpath paving.
8. Performers may subsequently relocate to another location that is at least 50 metres away.
9. Performers are not permitted when special events are in progress (unless approval given as part of the event).
10. The activity shall incorporate appropriate risk management practices so as to avoid injury or loss.
11. Proof of parental consent is required for applicants under the age of 16.

12. Must only operate between 9:00am-9:00pm as to be respectful and minimise disturbance to the community.

### **Temporary Food Stalls**

Temporary food stalls include tents, marquees and open-air stalls used for the sale of food. Care must be taken at temporary food stalls to keep food safe and protected from sunlight, dust, animals, insects and handling by customers. The stall and its associated fixtures, fittings and equipment must be kept clean and in a good state of repair and working order, free from dirt, fumes, smoke, foul odours and other contaminants.

The stall should be associated with an approved community event or permissible use of public land.

Conditions that may be imposed on permit approvals include:

1. The permit relates only to the erection of a temporary food stall and operation of same stall for the period of the consent.
2. The food stall shall be erected in a stable and secure manner capable of providing adequate ventilation and protection to the food.
3. The stall shall have three sides and a roof made from plastic or vinyl type material. The entire floor or the stall shall be covered with a durable material such as rubber matting to be impervious to dust and moisture.
4. All counter surfaces shall be finished with a smooth durable surface. The use of plastic table clothes or plastic sheeting is acceptable.
5. A portable fire extinguisher of adequate size and appropriate to the purpose shall be located in a convenient accessible location.
6. All food on display shall be either wrapped or packaged, completely enclosed in a suitable display cabinet, protected by a physical barrier such as Perspex sneeze guard or be located so as not to be openly accessible to the public.
7. Display of potentially hazardous food shall be stored within the stall at a minimum height of 150mm above the ground and kept sealed, wrapped or in a container until used.
8. Any foods given away as samples must be distributed in a supervised manner by the stallholder so as to prevent cross contamination.
9. All cooked foods shall be kept at 60 degrees Celsius. All cold foods shall be kept below 5 degrees Celsius.
10. All frozen food shall be kept -18 degrees Celsius.

11. An adequate supply of warm water, liquid soap and paper towel should be supplied to each food stall. Communal hand washing is not permissible.
12. Operators should ensure there is sufficient supply of electricity for food handling operations, particularly hot and cold food holding and water heating
13. The provision of single use eating, drinking utensils, straws etc. shall be adequately protected from contamination.
14. All condiments shall be in squeeze type dispensers or single use sachets.
15. The stall shall be provided with a garbage receptacle for the storage of waste generated by the stall. Separate storage of putrescible, paper and recyclables is encouraged.
16. Where PHF is sold a temperature measuring device which is accurate to +/-1 degrees Celsius must be provided on site (i.e. probe thermometer).
17. There must be a sufficient supply of food grade sanitiser on site at all times.
18. Each stall shall have a food safety supervisor with appropriate food safety supervisor (FSS) certificate on site.
19. Smoking is not permitted inside or at the rear of the stall.
20. The permit holder shall notify the appropriate enforcement agency at least 14 days prior to the event of their intentions of conducting the food stall.
21. The permit holder shall maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 or as prescribed, that covers the activities involved and the context in which they will be undertaken.
22. Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

## Part 3 – Other matters relating to Approvals

### Applications for other activities

Applications for other activities (as described in the Table of Section 68 of the Act) not listed in this Policy are to be made using the approved form available on Council's website, and will be assessed in accordance with Section 89 of the Act.

### Lodgement of an application

Applications must be made on the approved form and accompanied by the information required on the form. Any application which is unclear, illegible or incomplete may be returned. Applications should be lodged a minimum of 4 weeks prior to the start of requested activity.

The relevant fees, charges and security deposits listed in Council's Schedule of Fees and Charges must be paid at the time of lodgement.

### Refund of fees

The fee associated with any application which is withdrawn in writing or returned due to being unclear, illegible or incomplete shall be refunded. If the application is withdrawn prior to determination, 50% of the fee shall be returned. There shall be no refund once the application has been determined.

### Determination

Once determined, a notice will be issued advising whether the application has been refused, approved, or approved with conditions.

### Review of determination

A determination can be reviewed under section 100 of the Act. A request to review must justify the reasons for the review and be made in writing within 28 days of Council's determination. Fees as listed within Council's Schedule of Fees and Charges apply. The determination of a review is final.

### Modification or revoking of approval

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;
- 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);
- c) For any failure to comply with a requirement made by or under the Act relating to the subject of the approval;
- d) For any failure to comply with a condition of the approval.

## **Legislation Related to the Policy**

This policy is implemented in conjunction to:

- Local Government Act, 1993 Section 68
- Environmental Planning and Assessment Act 1979
- Food Act 2003
- Protection of the Environment Operations Act 1997
- Roads Act 1993
- Roads Transport (Safety and Traffic Management) Act
- Public Open Space Hire Policy – CCBC
- Food Handling and Temporary Events Policy - CCBC

DRAFT