

Public Exhibition - Busking and Aboriginal and Torres Strait Islander Cultural Practice Local Approvals Policy

File No: X112445.004

Summary

The Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy (the Policy) has 2 purposes.

1. It outlines the criteria by which the practice of Aboriginal and Torres Strait Islander culture may take place in public places without an approval from the City.
2. It outlines the criteria and conditions for receiving an approval to busk (a Busking Permit).

The Policy is a Local Approvals Policy under section 68 of the Local Government Act 1993. In accordance with section 165(4) of the Local Government Act 1993, the Policy is automatically revoked at the expiration of 12 months after the declaration of the poll for that election, unless the Council revokes it sooner.

The existing Policy and approach to managing busking was the result of extensive research and community consultation in 2017 and 2018. City staff have reviewed the Policy and consider it still fit-for-purpose, only requiring minor amendments for clarity and enforceability.

This report recommends the current Policy be exhibited for public consultation with only minor changes. Details of those changes are outlined in this report and Attachment A.

The Policy is accompanied by the Sydney Busking Code, a guidance document developed in consultation with buskers to explain, in plain English, the rules for busking and how best to busk, as well as the management systems for popular high-traffic busking locations.

The Busking Code has been updated with changes to special busking pitches on George Street and Pitt Street. These areas have significantly changed with increased pedestrianisation of the city centre and the new Special Busking sites aim to better coordinate use of these areas.

Community feedback to the Policy and the Busking Code may inform further amendments, which can be reported with a post-exhibition Policy later in the year.

Recommendation

It is resolved that:

- (A) Council approve for public exhibition the draft Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy (the Policy), as shown at Attachment A to the subject report;
- (B) Council note the amended Sydney Busking Code, as shown at Attachment B to the subject report, to be published as a guidance document to accompany the Policy;
- (C) Council note that the draft Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy, including any recommended changes, will be reported to Council for consideration following the exhibition period; and
- (D) authority be delegated to the Chief Executive Officer to undertake minor editorial corrections prior to the exhibition of the draft Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy.

Attachments

- Attachment A.** Draft Busking and Aboriginal and Torres Strait Islander Cultural Practice Local Approvals Policy
- Attachment B.** Sydney Busking Code (amended)

Background

1. The Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy (the Policy) is a Local Approvals Policy under section 68 of the Local Government Act 1993 (the Act).
2. Section 68 of the Act outlines a requirement to seek approval from the local government authority to perform an entertainment or play a musical instrument or sing for a fee or reward on community land.
3. The practice of Aboriginal and Torres Strait Islander cultures, outdoors and in public places, can be both an entertainment and an economic activity, but it is primarily the practice of a cultural right, as articulated in Article 11 of the United Nations Declaration on the Rights of Indigenous People. For this reason, the City does not require Aboriginal and/or Torres Strait Islander people wishing to practice Aboriginal and/or Torres Strait Islander culture in public and on community land to seek approval.
4. To exclude the practice of Aboriginal and Torres Strait Islander culture from requiring approval under section 68 of the Act, Part One of the Policy outlines criteria by which Cultural Practice may be undertaken without approval. The criteria set expectations for the safe and fair management of Cultural Practice in balance with the needs of other users of public space.
5. Part Two of the Policy outlines the criteria for an approval to busk, the types of approvals (Busking Permits) available and the conditions that apply to each permit.
6. Part Three of the Policy outlines guidelines and other matters relating to the management of busking activity.
7. This policy and the City's approach to regulating busking is underpinned by the following principles:
 - (a) Sydney has a strong tradition of busking and buskers contribute to a sense of place and the character of the city.
 - (b) Buskers make an important contribution to the cultural life of the city and help build a social city. They create connections between strangers and bring spontaneity to the everyday, and in doing so they help reduce isolation and build community cohesion.
 - (c) Buskers contribute to the tourist experience of Sydney and drive foot-traffic and commerce in business districts.
 - (d) Busking is a legitimate means for professional artists and performers to make income.
 - (e) Busking is a legitimate means for hobbyists, amateur performers, enthusiasts or anyone to express themselves creatively in the public domain.
 - (f) Busking is an important part of the ecology of the creative industries. It provides a training ground for emerging artists and self-determined work opportunities for established artists. Busking assists with developing new audiences for live music and performance by exposing people to the creative life of Sydney and new avenues for creative participation.

- (g) Other users of public space, residents, business owners and workers in the city have a right to quietly enjoy the city's open spaces and to not be subjected to extended high volume or repetitive performances audible within their homes or places of work, or to be exposed to unsafe or offensive behaviour.
 - (h) Regulation of busking activity should expect nothing more or less of buskers than any other person or group of people using shared public space.
8. The current Policy is the result of extensive research and community consultation undertaken in 2017 and 2018. The consultation revealed broad support for busking in Sydney but noted the previous approach to managing busking in Sydney was complex and overly focused on rules and exclusions - "what not to do" - rather than actively guiding buskers on how to busk well and in harmony with the community, nearby businesses and other buskers. As a result, the Sydney Busking Code was established which provides practical guidance to buskers on "how best to busk" in Sydney.
 9. The Sydney Busking Code also outlines the management systems for popular, high-traffic busking sites. Since the last review, George Street in the CBD has changed significantly with a number of new open spaces and extended pedestrianised areas. Staff have observed how busking activity has organically organised along George Street. It is now time to formalise these George Street pitches. The draft updated Sydney Busking Code outlines the proposed operations for these sites, for exhibition and feedback.
 10. The Policy outlines three categories of Busking Permit, each with criteria and definitions. The categories are Low Impact, High Impact, and Extended Duration, and each permit type is assigned conditions.
 11. Processes for monitoring compliance with Permit conditions are outlined in the policy. For clarity and enforceability, some edits have been recommended in the draft at Attachment A:
 - (a) The clause was revised from the Local Government Act 1993 in accordance with section 109 and rewritten in simpler, clearer language to ensure better understanding. The updated version now clearly outlines the specific reasons and conditions under which the City has the authority to suspend, modify, or cancel a permit. This change was made to improve transparency and help permit holders understand their responsibilities, as well as the consequences of non-compliance or changes in circumstances.
 12. If approved, the amended draft Policy and the Busking Code will be placed on public exhibition for 42 days. During this time, buskers and the community will be invited to provide feedback on the draft.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

13. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' aspirations and priorities for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic directions and objectives:
 - (a) Direction 3 - Public places for all - busking makes a notable contribution to a vibrant city centre, and bustling retail centres. Busking helps contribute to the human experience of visiting the city centre to shop, socialise and be entertained. By enabling Cultural Practice across our local area, we increase our communities' connections to Aboriginal and Torres Strait Islander peoples and heritage in our public places.
 - (b) Direction 8 - A thriving cultural life - busking is an important part of the music ecosystem, providing professional development and economic opportunities for musicians. Consultation for this Policy revealed many professional musicians supplement their gig income with busking.
 - (c) Support for the authentic, unregulated practice of Aboriginal and Torres Strait Islander Culture in public places facilitates a right of First Nations people to practice and share their cultural traditions and encourages all residents and visitors to Sydney to engage in contemporary expressions of First Nations culture, for a richer, deeper appreciation of place and cultural identity.

Organisational Impact

14. The Policy review has recommended no changes to how the management of busking is currently resourced.

Risks

15. The Policy review has recommended no changes to the management of busking that would increase the risks already associated with busking and Aboriginal and Torres Strait Islander cultural practice. These risks are assessed in balance with the considerable benefits that both of these activities generate for the city. The Policy and the Sydney Busking Code are designed to manage those risks.
16. The introduction of Special Busking Sites on George Street and amendments to sites in Pitt Street Mall will reduce risks associated with busking in these increasingly busy areas with very high foot-traffic.
17. This approach is within the City's risk appetite which states:
 - (a) We are committed to conducting our activities in full compliance with applicable laws, regulations and relevant industry standards.
 - (b) We have a cautious to open appetite for our strategic, community development, urban planning and creative functions and services.

- (c) We acknowledge that achieving a risk-free environment is not feasible, especially in the public domain. We therefore aim to minimise health, safety and wellbeing risks within our organisation and in the public domain as far as reasonably practicable and in keeping with our legal obligations.

Social / Cultural / Community

- 18. A comprehensive review of the City's approach to busking was recommended in an action in the City's Live Music and Performance Action Plan, 2014. This action initiated the comprehensive review undertaken in 2017 and 2018. This report recommends the continuation of the approach established at that time.
- 19. The introduction of Special Busking Sites on George Street and amendments to sites in Pitt Street Mall have been identified in reflection to community feedback regarding conflicts due to noise and crowd impacts. These changes address location-based impacts while maintaining busking activities across these two important public domain areas.

Financial Implications

- 20. The Policy review recommends no changes to the currently budgeted resources for managing busking.
- 21. Public exhibition of the draft policy and associated community consultation is accounted for within the existing operational budget.

Relevant Legislation

- 22. Local Government Act 1993.

Critical Dates / Time Frames

- 23. If approved, the Policy will be placed on public exhibition for 42 days in accordance with the requirements in the Act. Feedback will be reviewed and any recommended amendments will be reported to Council for adoption prior to September 2025.

Public Consultation

24. If approved, the draft policy will be placed on public exhibition for 42 days. Consultation will include surveys, written submissions and online forums with City staff.
25. The Policy is the result of extensive research, consultation and engagement with buskers and the broader community in 2017 and 2018.

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