

10 September 2018

At the conclusion of the Environment Committee



Cultural and Community Committee

Sydney 2030 / Green / Global / Connected

Agenda

1. **Disclosures of Interest**

Cultural and Creative Sub-Committee

2. **Public Exhibition - Busking Policy and Guidelines Review**
3. **Ad Hoc Cultural and Creative Grant - 107 Projects Incorporated**

Guidelines for Speakers at Council Committees



As part of our democratic process, the City invites members of the community to speak directly to Councillors during Committee meetings about items on the agenda.

To enable the Committee to hear a wide range of views and concerns within the limited time available, we encourage people interested in speaking at Committee to:

1. Register to speak by calling Council's Secretariat on 9265 9310 before 12.00 noon on the day of the meeting.
2. Check the recommendation in the Committee report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker (with a warning bell at two minutes) and prepare your presentation to cover your major points within that time
4. Avoid repeating what previous speakers have said and focus on issues and information that the Committee may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.
6. Before speaking, turn on the microphone by pressing the button next to it and speak clearly so that everyone in the Council Chamber can hear.
7. Be prepared to quickly return to the microphone and respond briefly to any questions from Councillors, after all speakers on an item have made their presentations.

Committee meetings can continue until very late, particularly when there is a long agenda and a large number of speakers. This impacts on speakers who have to wait until very late, as well as Council staff and Councillors who are required to remain focused and alert until very late. At the start of each Committee meeting, the Committee Chair may reorder agenda items so that those items with speakers can be dealt with first.

Committee reports are on line at www.cityofsydney.nsw.gov.au, with printed copies available at Sydney Town Hall immediately prior to the meeting. Council staff are also available prior to the meeting to assist.

Item 1.

Disclosures of Interest

Pursuant to the provisions of section 451 of the Local Government Act 1993, Councillors are required to disclose pecuniary interests in any matter on the agenda for this meeting of the Cultural and Community Committee.

Councillors are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting of the Cultural and Community Committee in accordance with the relevant clauses of the Code of Conduct – February 2016.

In both cases, the nature of the interest must be disclosed.

Written disclosures of interest received by the Chief Executive Officer in relation to items for consideration at this meeting will be laid on the table.

Item 2.

Public Exhibition - Busking Policy and Guidelines Review

File No: S122196.001

Summary

This report proposes that a draft Local Approvals Policy for Busking and Cultural Practice be placed on public exhibition. It is the result of an extensive process of research and consultation.

In April 2014, the City of Sydney adopted its live music and performance action plan. Within this, the City committed to reviewing its busking policy to identify ways to simplify the busking framework, explore opportunities to support busking and promote buskers to the general public, retail operators, landowners and event producers.

The review has been completed and draws upon research commissioned by the City of Sydney and independently conducted, as well as policies and program examples from some of the best busking cities in the world.

Central to the review, in March 2017, the City released a Discussion Paper titled “Busking in the City of Sydney” and called for public feedback on a series of talking points through the Sydney Your Say website. Feedback to the Discussion Paper has been analysed alongside one-on-one consultation with City staff, buskers, community members and a broader stakeholder workshop. Feedback from all sources is overwhelmingly supportive of busking, recognising the important contribution buskers make to the creative life and the lived experience of Sydney for residents, workers and visitors alike. The review has identified six priorities for the City to better support and manage busking.

The key finding from the review is an opportunity to reform the regulatory framework that manages busking in Sydney. This reform would replace the current system for issuing approvals to busk on public land with a new permit system. The new permit system is intended to simplify and clarify the conditions applying to different types of busking acts. The new permit system will focus on the impact of busking performances on their environment and classify them according to their level of impact. This will replace the current system which seeks, at times imprecisely, to classify buskers by the nature of their act.

The proposed permit categories based on impact are seen as a way of broadly capturing all eligible busking activities by using a measurable set of criteria, regardless of nuance or the particulars of any given act or any new performance trends that may emerge over time. Importantly, the proposed categories consider the volume and nature of sound an act will generate in assessing its impact, as well as size, scale and any potential hazards.

The proposed permit system and the six priorities for busking in Sydney are outlined in an accompanying Policy and Guidelines Review document to be read alongside the proposed new Local Approval Policy for Busking and Aboriginal and Torres Strait Islander Cultural Practice.

Recommendation

It is resolved that:

- (A) Council approve the draft Local Approvals Policy for Busking and Aboriginal and Torres Strait Islander Cultural Practice, as shown at Attachment A to the subject report, for public exhibition for a minimum of 42 days in accordance with the requirements of the Local Government Act 1993;
- (B) Council note the draft Protocols for the practice of Aboriginal and Torres Strait Islander Culture in public places, as shown at Attachment C to the subject report, for public exhibition alongside the draft Policy;
- (C) Council note that staff will work with the busking community and the public to develop a Busking Code of Practice during the public exhibition period of the Local Approvals Policy for Busking; and
- (D) authority be delegated to the Chief Executive Officer to make minor changes to the draft Local Approvals Policy for clarity or correction of drafting errors prior to public exhibition.

Attachments

- Attachment A.** Draft Local Approvals Policy for Busking and Aboriginal and Torres Strait Islander Cultural Practice 2018
- Attachment B.** Busking Act Categories
- Attachment C.** Draft Protocols for the Practice of Aboriginal and Torres Strait Islander Culture in Public Places
- Attachment D.** Example Code of Practice for Busking - "Sydney Busking Code"

Background

1. Busking in the City of Sydney is currently managed under an Interim Busking Policy and Interim Busking Guidelines. These documents were adopted in 2011.
2. In 2014, Council adopted its Live Music and Performance Action Plan. Within this, the City committed to reviewing its busking policy to identify ways to simplify the busking experience, explore opportunities to support busking, and promote buskers to the general public, retail operators, landowners and event producers. This commitment arose from recommendations of the Live Music Taskforce and was reinforced by consultation undertaken to support the Live Music and Performance Action Plan.
3. This commitment complements the Creative City: Cultural Policy and Action Plan 2014 – 2024. Adopted in August 2014, this Plan identifies ‘precinct distinctiveness’ and creativity in the public domain as a strategic direction. This strategic priority highlights the need for creativity to be visible on the streets of Sydney, in both a planned and unplanned way.
4. Both Action Plans focus on reducing regulatory ‘red tape’ barriers to cultural activity and participation. Hence, the review of the City’s busking policy prioritises an evaluation of the current regulatory and compliance framework used to issue busking permits and monitor busking activities.
5. A review of the City’s busking policy and program is timely as the city undergoes significant transformation through the new Light Rail corridor and a large number of property developments affect open spaces throughout the CBD. At this time there are fewer places for buskers to perform and considerably more background noise for them to compete with. It could be said that buskers are currently experiencing unusual stressors. On the flip side, this construction in the city is making way for a pedestrianised George Street and other new public spaces that will provide an increase in busking-suitable public space in the near future.
6. In 2016, a Pilot Program for busking in Pitt Street Mall was introduced to trial a more hands-on approach to regulating busking activity in high traffic pedestrian areas. Pitt Street Mall offers buskers one of the most lucrative locations to busk in the country. The pilot guidelines were developed to provide a more equitable access to Pitt Street Mall pitches for more buskers, and to minimise the impact of regular, repeat acts on neighbouring businesses and residents.
7. The busking policy review occurs after the governance of Circular Quay and Darling Harbour (two of Sydney’s busiest busking locations) has been transitioned from the Sydney Harbour Foreshore Authority to Property NSW, and council mergers across NSW, such as the newly formed Inner-West Council, have resulted in new Local Government Areas with a need to rework their previous policies. This timing provides the City of Sydney with an opportunity to take a leadership position in the management, support and regulation of busking across greater metropolitan Sydney in pursuit of a more consistent regulatory landscape for buskers to negotiate and comply with.

8. Review Methodology:
 - (a) In 2015, the City undertook research on community attitudes towards busking in and around Pitt Street Mall. The researchers conducted over 300 quantitative interviews with business owners, residents and visitors to the area. This research has informed the busking policy review.
 - (b) Later that year, Julia Quilter and Luke McNamara of the University of Wollongong published an academic review of busking policy and legislation in Sydney and Melbourne. Titled “Long May the Buskers Carry on Busking: Street Music and the Law in Melbourne and Sydney” the paper drew upon independent consultation with buskers, compliance officers and staff of both councils to appraise the efficacy of busking regulations. This research has informed the busking policy review.
 - (c) In 2017, the City prepared a report on the City of Sydney busking policy and guidelines. The report reviewed local and international literature on busking and conducted interviews with stakeholders and performers in the city. This review formed the basis of a Discussion Paper developed by City staff to stimulate feedback on the current busking policy.
 - (d) The City of Sydney’s Discussion Paper, titled “Busking in the City of Sydney” covers a broad range of areas, including costs and processes for getting a permit, places where busking can occur, navigating different landowners and jurisdictions, the current City of Sydney Policy and Guidelines, strategies for monitoring busking impacts and compliance, access to high value pitches, investigating the development of new or unused pitches, opportunities for government agencies to collaborate and projects that would increase the skills and promotion of buskers. The Discussion Paper was released, with an accompanying survey through the Sydney Your Say engagement portal. An open call for feedback received 72 submissions to the discussion. Thirty-three per cent of submissions were made by buskers, the rest were from a balanced mix of businesses, residents and visitors to the City of Sydney.
 - (e) After reviewing the submissions to the Discussion Paper, a workshop was conducted with a broad range of stakeholders including buskers, businesses, residents, arts advocacy organisations and representatives from other council areas. The workshop discussed the Sydney Your Say feedback and invited participants to offer further, more detailed feedback and imaginatively propose models for busking regulation and alternative guidelines.
 - (f) In addition, extensive consultation was carried out with relevant City of Sydney internal staff and the City's Aboriginal and Torres Strait Islander Advisory Panel.
9. The City of Sydney plays two roles in relation to busking:
 - (i) As a creative city that strives to support cultural activity, participation and interaction, the City of Sydney supports busking and the contribution buskers make to the city’s character and cultural industries.

- (ii) As the governance authority that regulates the use of public space to ensure the safety, amenity and harmonious enjoyment of these spaces for all, the City of Sydney must establish the rules and a regulatory framework for busking on public land.
10. The policy and guidelines review aims to consider both these responsibilities in equal measure. Proposed changes to the regulation of busking in Sydney have been established in consultation with buskers, businesses, residents and visitors to the City of Sydney and draw upon learnings from the world's best busking cities.
11. The review has identified six priorities for the City to better support and manage busking.

(i) Recognise that the practice of Aboriginal and Torres Strait Islander cultures is not busking and requires a separate regulatory approach

The cultural identity and expression conducted by Aboriginal and Torres Strait Islander people currently on busking permits is part of the continued practice (including performance, storytelling and arts) of Aboriginal and Torres Strait Islander cultures and should be considered as distinct from busking. Although, like busking, this cultural practice takes place in the public domain and is often met with financial reward from audiences, the purpose of the performance is the continuation of cultural heritage and is more accurately (and respectfully) associated with cultural identity, ceremony and cultural exchange.

It is proposed that the new Local Approval Policy for Busking outline criteria by which the practice of Aboriginal and/or Torres Strait Islander cultures in public places may be exempt from requiring an approval (permit). This exemption will be supported by a set of protocols outlining a best practice approach to the practice of Aboriginal and Torres Strait Islander culture in public places.

This proposal is supported by research undertaken by Terri Janke and Co, looking at national and international precedent for policy addressing the rights of Indigenous people, and input from the City's Aboriginal and Torres Strait Islander Advisory Panel.

(ii) Advocate for consistent busking rules and / or permit systems across Sydney

The number one priority articulated by buskers in all consultation and research conducted was the need for a single permit system and consistent guidelines across greater Sydney.

Buskers are required to negotiate different policies and guidelines for each jurisdiction across metropolitan Sydney. A separate permit is required to busk in Circular Quay and Darling Harbour (Property NSW governed) and any other Local Government Area. These permits often come with fees and their guidelines are far from consistent, which makes obtaining and complying with multiple permits costly and confusing for buskers.

The City will investigate and advocate for systems that increase consistency and facilitate permit transfer between jurisdictions.

(iii) Make information about busking clearer and more easily accessed, for everyone

Research and consultation suggests that a significant number of buskers are not abiding by current guidelines because they either do not understand the guidelines or the guidelines are impossible to self-monitor.

Currently, to understand the full range of rules and responsibilities of busking in Sydney a busker has to read a busking policy, busking guidelines, interim guidelines for busking in Pitt Street Mall and the conditions of their Busking Permit. In addition, they are required to consult a set of Busking Locations Maps. This complex tangle of inter-connected documents and their “legal-speak” style may be counter-productive to the purpose of these guidelines – to communicate the rules of busking to buskers. There is evidence that buskers will benefit from a far more straight-forward, straight-talking code for busking.

Currently, information about busking is only available in English and there are few visual resources available to buskers who may have limited literacy to help illustrate how they should conduct their performances. Likewise, the current busking guidelines almost exclusively focus on what not to do rather than articulating the right ways to busk.

Busking resources will be updated to provide clear visual communications, in multiple languages, that demonstrate both the dos and the don'ts of busking in Sydney.

It is proposed that during the exhibition period, the City consult with local buskers to develop a "Sydney Busking Code". This will provide a guidance to those busking within the City as to matters including busking etiquette, appropriate approaches to conflict resolution and the management systems of popular pitches. The Code will ultimately be approved by the Chief Executive Officer and is intended to be a living document which will be able to be reviewed and amended as necessary from time to time. The Code will accompany the more stripped-back, regulation-focused local approvals policy.

(iv) Change the language we use to describe busking (to facilitate cultural change)

Buskers make sound not noise, and the payments they receive from audiences are not donations. Donations are for charities, whereas buskers get paid a taxable income. The language the City uses to describe and regulate busking has an impact on the way buskers are perceived and valued in the community.

Feedback to the Busking Discussion Paper highlighted a disconnection between how buskers see themselves and how the community view busking. Over half of the buskers who responded described busking as a profession and a legitimate source of income, whereas 20 per cent of the non-buskers surveyed described busking as a good alternative to welfare. Many respondents conflated beggars, protestors and those preaching religious beliefs with buskers. Not a single response from a non-busker expressed concerns about the safety of buskers when performing alone in public. On the other hand, 25 per cent of buskers spoke of their concerns for their own safety from theft or violence when busking.

Using carefully chosen language in our policy documents and guidelines may help facilitate a shift in public perceptions of busking, help recognise the activity as a cultural industry and build empathy and respect for these performers.

Whilst guidelines are intended to minimise the negative impacts and risks associated with busking, the language used should be balanced and should not be so focused on articulating risks that it demonises buskers who are, by and large, very well organised and respectful contributors to our communities.

(v) Advocate and act for a more busker-friendly city

Most of the common issues associated with busking can be remedied by providing more spaces and better infrastructure for buskers across the city.

High volume sound, back-to-back performances and the repetition of certain acts in certain places are the most common complaints that the public make about buskers. Opening up more locations across the city will reduce the reliance on certain key pitches that can suffer from over-supply of buskers, and disperse performers through new locations. This will reduce competition, increase access and diversify the frequency of certain acts in certain locations.

The City will work in partnership with landholders and neighbouring Councils to actively increase the number of quality, defined public busking pitches in Sydney and will encourage busking programs in privately held, unexpected places.

(vi) Simplify and clarify busking regulation and better involve buskers in writing the rules

It is easy to break the current busking guidelines without even knowing it. For example, the Pitt Street Mall pilot guidelines stipulate a decibel limit on volume produced by an act to be captured at 6 metres from the source of the sound. It is impossible for a solo busker to gauge their own volume from 6 metres away during their performance.

Even when the criteria set out in the guidelines are possible to achieve, they are often difficult to interpret or require complicated subjective or expert measurements to assess.

The key finding from the review is an opportunity to reform the regulatory framework that manages busking in Sydney. This reform would replace the current system for issuing approvals to busk on public land with a new permit system. The new permit system is intended to simplify and clarify the conditions applying to different types of busking acts.

The new permit system will focus on the impact of busking performances on their environment and classify them according to their level of impact. This will replace the current system which seeks, at times imprecisely, to classify buskers by the nature of their act, which in itself can be open to interpretation.

The permit categories based on impact are seen as a way of broadly capturing all eligible busking activities by using a measurable set of criteria, regardless of nuance or the particulars of any given act or any new performance trends that may emerge over time. Importantly, the proposed categories consider the volume and nature of sound an act will generate in assessing its impact, as well as size, scale and any potential hazards.

High Impact acts will be subject to more restrictive conditions than Low Impact acts, and through working with the City and busking peers, acts categorised as High Impact may choose to alter their performance to be reclassified as Low Impact. Likewise, a Low Impact act causing adverse issues or receiving valid complaints may be reclassified as High Impact.

12. The proposed new permit system has been designed to provide:
 - clear cut conditions for holding a busking permit;
 - a scale of permit conditions proportionate to the level of environmental impact of an act;
 - an opportunity to troubleshoot potential issues through a pre-permit assessment;
 - common sense, self-assessable rules to adhere to;
 - accessible, adaptable and responsive guidance for how best to busk in Sydney; and
 - an incentive to monitor and alter performances to minimise adverse impacts and a means of applying additional controls to those acts that are causing concerns.

13. The draft Local Approvals Policy for Busking proposes the following changes to the regulation of busking:
 - (a) Permits
 - (i) categorise busking acts by the kind of impact they have on their surrounds;
 - (ii) consider use of space, higher risk activities, volume and the type of sound being produced in assessing the potential impact of an act;
 - (iii) issue busking permits based on categories of impact and apply a set of conditions to each permit type. This will mean the conditions applying to the busker's act are the same as the conditions applying to their permit;
 - (iv) issue permits for High Impact acts, Low Impact acts and Extended Duration acts;
 - (v) apply time limits on performances for each of the permit types:
 - a. two hours per location per day for Low Impact,
 - b. one hour per location per day for High Impact,
 - c. eight hours per location per day for Extended Duration;
 - (vi) require any act that is considered to potentially meet the criteria for High Impact to attend an assessment. The assessment is to ascertain whether the act is performed safely and how much of an impact it is likely to have on neighbouring residents and businesses;

- (vii) at an assessment, a busker who meets the criteria for a High Impact Permit will have the opportunity to work with the assessors to find ways to make their act Low Impact if they wish it to be;
 - (viii) conversely, should a Low Impact busker have repeated legitimate complaints made about their act or cause repeated public disturbances, they can be required to attend an assessment and could be re-classified as High Impact. This will provide an incentive to maintain a considered volume and to manage any adverse impacts an act might be making; and
 - (ix) allow larger group acts (5 or more individuals) the opportunity to be assessed for a High Impact busking permit. Currently groups of 5 or more are not permitted.
- (b) Times
- (i) delay the permissible start time for busking performances from 7am to 8am, in line with the City's neighbourhood noise guidelines for playing musical instruments or using PA systems that may be heard in neighbouring premises. This is purely for policy consistency.
- (c) Locations
- (i) abandon the current Busking Site Maps;
 - (ii) provide buskers with the criteria by which the City would assess and select eligible busking sites (ie ample performance space and pedestrian zones) and allow them to self-assess the suitability of a space for their act;
 - (iii) authorised persons have the power to 'move on' any busking act at any time where there is a legitimate reason to do so; and
 - (iv) keep busking pitches 100m apart. Having minimum spacing between pitches is a useful tool for volume control. ie "if you can be heard at the next busking pitch, you are playing too loud".
- (d) Special Busking Locations
- (i) areas formerly called "Restricted Busking Sites" to be renamed "Special Busking Sites" e.g. Pitt Street Mall;
 - (ii) Special Busking Sites are locations with additional performance conditions, programmed sets or busker-managed queuing or booking systems. These systems help facilitate equitable access to popular pitches for a diverse range of buskers; and
 - (iii) the conditions applying to Special Busking Sites will be outlined in a Sydney Busking Code and will be developed in consultation with buskers and neighbouring residents or businesses. The Busking Code is intended to be updated from time to time without requiring a policy review or Council approval and will allow City staff and the busking community to be more flexible and responsive in managing high-traffic busking sites and also to enable new locations to be added as they are created as a result of development.

- (e) Sales
 - (i) remove the restrictions on selling products and artworks, because:
 - a. The City aims to remove obstacles for the creative sector to build industry and commercial opportunities, to survive and thrive;
 - b. in an increasingly cashless world, selling products for a fixed fee could help increase busking income when “cash tips” are on the decline;
 - c. the world has moved on from CDs and DVDs and performers need to be agile and responsive in how they sell their work;
 - d. allowing a musician to sell a CD but not allowing a visual artist to sell a reproduction of their work is a double standard;
 - e. merchandise for popular buskers could make for a unique souvenir for visitors to Sydney, contributing to the tourist experience; and
 - f. the proposed conditions still expressly require that the sale of products or merchandise must be secondary to the busking performance and must not be delegated to another person. These are not ambiguous conditions and can be easily enforced.
- (f) Obligations, suspensions and modifications
 - (i) it is recommended that heavy-handed guidelines around offensive behaviour, damage to public property, or causing a disturbance or nuisance are not included in the policy. These are unlawful activities under other legislation that are forbidden to any user of public space and should be a police matter.
- (g) Sound and volume
 - (i) measured volume limits and amplification has not been addressed in the policy as it is not recommended that any volume or amplification conditions be introduced;
 - (ii) amplification restrictions are not recommended because:
 - a. the volume of amplified instruments is easy to control as it can be turned down;
 - b. the sound produced by the types of instruments that use amplification can be more melodic and less intrusive in its nature;
 - c. the nature of the sound of the types of instruments that usually don't require amplification, such as drums, bagpipes and brass instruments, tends to be more repetitive and intrusive and very loud even without amplification; and

- d. volume of all busking performances needs to be considered and controlled regardless of amplification. Volume management is about exercising sensitivity on a case-by-case basis, respecting the varying needs of others and learning how to adapt to pitch conditions on any given day. Setting fixed restrictions and rules does not encourage collaborative, empathetic reasoning; and
- (iii) no measurable volume limits are recommended because:
- a. there is no evidence that using volume limits is an effective way to reduce volume impacts of busking;
 - b. set volume limits are extremely difficult for City Rangers to monitor with consistency and inconsistent enforcement of the busking policy tends to lead to further noncompliance by some buskers;
 - c. a solo busker is unable to measure their own volume with a decibel reading at 6 metres while performing, so dB readings are not self-assessable;
 - d. set volume limits assume that the busker has the required equipment to accurately measure their dB reading;
 - e. like a speed limit, a volume limit gives a busker a volume “to aim for” rather than guiding them towards an appropriate volume setting for their space on that day; and
 - f. it is recommended that guidance on identifying and assessing the appropriate volume to play at be included in a Sydney Busking Code rather than the policy or permit conditions.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

14. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. 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 5 - A Lively and Engaging City Centre - in unprompted, open-text submissions, sixty-six per cent of respondents to the Busking Discussion Paper identified that busking brings life and vibrancy to city streets. Busking in Pitt Street Mall regularly attracts large enthusiastic crowds while unexpected acts on street corners bring delight into the every day.
 - (b) Direction 6 - Vibrant Local Communities and Economies - in unprompted, open-text submissions, over one third of respondents to the Busking Discussion Paper valued the presence of busking for improving mood, enhancing wellbeing and contributing to a sense of community connection. Busking is widely considered an economic driver in busy tourist destinations and provides a legitimate income source for creative professionals.

- (c) Direction 7 - A Cultural and Creative City - busking actively contributes to a number of strategic priorities of the City's Cultural Policy including: creativity in the public domain; increased avenues for creative participation; and the sustainability of the creative sector.

Organisational Impact

15. The operational management of the City's busking program has recently moved from the Culture and Creativity team (City Life) to the Venue Management team (City Services).
16. There will be operational and administrative impacts of replacing the existing busking permits with a new set of busking permits. The operational roll-out of a new permit system will require detailed planning, correspondence with all buskers on current permits, and dedicated budget and staff hours to implement.
17. Once implemented, the operational management of the new permit system will have no long-term organisational impact.

Risks

18. Operational risks associated with implementing the proposed new policy are considered to be low and have been explored by City staff. There has been internal consultation with staff across impacted areas of the City during the development of the draft documents. Further consultation and consideration will be given to the operational impact of implementing the policy during the exhibition period.
19. Public consultation on the impacts of implementing the new policy system is required to identify any risks in relation to the City's support of busking and buskers.
20. The proposed changes to the busking permit system will place additional restrictions on certain musicians (drummers, for example). Previously these musicians have not been required to observe any special conditions based on the nature of their act. This could have relationship management impacts with these buskers and potential reputational risks for the City with the live music sector.

Budget Implications

21. The implementation of a new permit system will require dedicated funds. A budget has been allocated for the implementation of the new policy and permit system in the Strategy and Urban Analytics 2018-19 budget.
22. A budget for community engagement and consultation during the public exhibition period for the new policy has been allocated in the 2018-19 Strategy and Urban Analytics budgets.

Relevant Legislation and City of Sydney Policies

23. Local Government Act 1993.
24. Local Government (General) Regulation 2005.
25. Creative City Cultural Policy and Action Plan 2014 – 2024.

26. Live Music and Performance Action Plan 2014.

Critical Dates / Time Frames

27. The anticipated time frame for public exhibition, consultation, revision and adoption of the new Local Approval Policy for Busking is as follows.

17 September 2018	Council Meeting (approval to exhibit)
September - October 2018	Public Exhibition Period Consultation with Buskers and community stakeholders Development of "The Busking Code".
November 2018	Review of submissions
10 December 2018	Council Meeting (approval and adoption)
January 2019	Implementation

Options

28. The current busking permit system and guidelines do allow us to manage busking in the city, albeit with shortcomings as outlined in this report, and could be maintained.
29. The proposed changes to the permit system reflect community sentiment for better management of loud, repetitive and back-to-back performances in busy busking locations, and clearer guidelines for buskers to adhere to. The proposed permit system aims to address the common issues that arise from busking in Sydney and install a more effective model for managing busking long-term.
30. If the public exhibition and feedback identifies poor support or objection to the implementation of the new Local Approvals Policy for Busking and busking permit system, the current busking policy and guidelines could be refreshed and maintained.

Public Consultation

31. The Local Approval Policy will be placed on public exhibition for at least 28 days, with submissions being able to be made for at least 42 days in accordance with the requirements of section 160 the Local Government Act 1993. The related documents will also be placed on public exhibition on conjunction with the Local Approvals Policy to assist the public in understanding the proposed policy direction.

32. In accordance with clause 77 of the Local Government (General) Regulation 2005, public notice of the draft local approvals policy will be given in at least one local newspaper circulating in the local government on at least two occasions, as well as on Council's website.
33. This policy review is an action of the City's Live Music and Performance Action Plan. The plan was developed in consultation with a Live Music Taskforce established by the City.
34. Greater support for busking is also identified in the City's Cultural Policy and Action Plan and contributes to strategic priority one: precinct distinctiveness and creativity in the public domain. The Cultural Policy and Action Plan is the result of extensive consultation with the creative industries, cultural sector and broader community.
35. For the Busking Policy and Guidelines Review, significant public consultation has already taken place, including several commissioned studies, the exhibition of a discussion paper, workshops and targeted consultation.
36. Further consultation will be conducted during the exhibition period including a survey, focused workshops with buskers, and internal and external consultation with key stakeholders.
37. A report on the outcomes of public consultation and feedback on the policy will be provided with the final draft of the Local Approvals Policy for adoption by Council.

KIM WOODBURY

Chief Operating Officer

Lisa Colley, Manager Cultural Strategy

Attachment A

**Draft Local Approvals Policy for Busking
and Aboriginal and Torres Strait Islander
Cultural Practice**

Local Approvals Policy

Busking and Aboriginal and Torres Strait Islander Cultural Practice

Acknowledgement

All buskers and cultural practitioners in the City of Sydney perform on Gadigal Land. The Gadigal people of the Eora nation are custodians of one of the world's oldest continuing cultures, a culture that is practiced, expressed and shared through a tradition of dance, song and storytelling.

Purpose

This local approvals policy applies to all buskers and cultural practitioners undertaking or wishing to undertake a performance for fee or reward within the City of Sydney. This policy outlines the criteria for exemptions for cultural practitioners as well as the criteria for giving or receiving an approval to busk, the conditions of the approval and regulations that apply to busking in the City of Sydney.

This policy aims to support and promote busking culture in Sydney, in balance with the expectations and needs of all users of public space. The City of Sydney plays two roles in relation to busking:

1. As a creative city that strives to support cultural activity, participation and interaction, the City of Sydney supports busking and the contribution buskers make to the city's character and cultural industries.
2. As the governance authority that regulates the use of public space to ensure the safety, amenity and harmonious enjoyment of these spaces for all, the City of Sydney must establish the rules and a regulatory framework for busking on public land.

This policy aims to consider both these responsibilities in equal measure. It was established in consultation with buskers, businesses, residents and visitors to the City of Sydney and members of the Aboriginal and Torres Strait Islander community. It draws upon learnings from the world's best busking cities.

Principles

This policy and the City of Sydney's approach to regulating busking is underpinned by the following principles:

- Sydney has a strong tradition of busking and buskers contribute to a sense of place and the character of the city.
- 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, in doing so they help reduce isolation and build community cohesion.
- Buskers contribute to the tourist experience of Sydney and drive foot-traffic and commerce in business districts.
- Busking is a legitimate means for professional artists and performers to make income.
- Busking is a legitimate means for hobbyists, amateur performers, enthusiasts or anyone to express themselves creatively in the public domain.
- 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.
- The practice of Aboriginal and Torres Strait Islander Cultural Heritage is a unique and important activity that takes place in the public domain. It has a fundamental purpose of maintaining connection to culture for Aboriginal and Torres Strait Islander people. For this reason, it is considered to be a distinct activity and is not included in the City's definition of busking.
- Regulation of busking activity should expect nothing more or less of buskers than any other person or group of people using shared public space.
- 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.

Scope

This is a Local Approvals Policy under the *Local Government Act 1993*. It relates to activities under section 68 Part D items 2, 4, 5 and 6 and Part E item 2 insofar as those activities relate to the particular activity of busking or cultural practice.

This policy applies to the City of Sydney local government area. It does not cover areas where the City is not the regulatory authority for these activities, presently:

- Areas managed by Property NSW including Darling Harbour, Circular Quay, the Rocks and the Goods Line.
- Areas managed by Transport for NSW including the rail network.
- The Sydney Opera House forecourt.
- The Botanic Gardens, Centennial Park and Moore Park.
- Areas regulated by the Barangaroo Delivery Authority

Part 1 of this policy sets out the circumstances where an approval is not required.

Part 2 of this policy outlines the criteria for giving or refusing an approval to busk.

Part 3 of this policy outlines other matters regarding the regulation of busking.

Definitions

Term	Meaning
Aboriginal and/or Torres Strait Islander person	A person of Aboriginal or Torres Strait Islander descent who identifies as Aboriginal or Torres Strait Islander and is accepted as such by the community in which he or she lives.
Aboriginal and/or Torres Strait Islander Heritage	The intangible and tangible aspects of the whole body of cultural practices, resources and knowledge systems developed, nurtured and refined by Aboriginal and Torres Strait Islander people and passed on by them as part of expressing their cultural identity. This heritage is a living one, it continues to develop, and includes items which may be created in the future.
Aboriginal and/or Torres Strait Islander Cultural Practitioner (“cultural practitioner”)	An Aboriginal and/or Torres Strait Islander person expressing Aboriginal and/or Torres Strait Islander Cultural Heritage, including knowledge and cultural expression such as songs, stories, dances, performing arts and creating artistic works.
Act	The performance or artwork that a busker is making. Can be interchangeable with <i>performance</i> .
Animal	Any bird, fish, insect, reptile or animal other than a human.
Authorised Person	An appropriately delegated employee of the City of Sydney or an officer of the police force.
Busker	Someone performing or creating an artwork in a public place with the intention of entertaining the public for financial reward, but does not include an Aboriginal and/or Torres Strait Islander cultural practitioner.
Busking Pitch	A site or location where buskers and cultural practitioners perform. Also referred to as a <i>pitch</i> .
The Busking Code	Or <i>Sydney Busking Code</i> outlines the etiquette expected of buskers and the systems by which Special Busking Sites are shared and managed by the busking community.
City of Sydney	May refer to both the Council of the City of Sydney and the Local Government Area of Sydney. Also referred to as <i>The City</i> . The lower case ‘city’ refers to the place known as Sydney.
Higher Risk Materials	Flammable liquids or gases, toxins or extremely hot or cold substances.
Higher Risk Equipment	An object that may pose a risk or hazard to the safety or welfare of a member of the public or the person handling the object. This includes items such as knives, swords, chainsaws and other sharp objects, mallets, chains or other items swung or thrown in the air.

Consultation

This Policy was placed on exhibition from **xx date** to **xx date**.

Approval

Council approved this policy on **XXX date**.

(A copy of the CEO's signature should be inserted here.)

References

Laws and standards

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Anti-Discrimination Act 1977
- Children and Young Persons (Care and Protection) Act 1998
- Companion Animals Act 1998
- Work Health and Safety Act 2011
- United Nations Declaration on the Rights of Indigenous Peoples

Policies, procedures and guidelines

- Creative City Cultural Policy and Action Plan 2014 – 2024
- Live Music and Performance Action Plan 2014
- Eora Journey Economic Development Plan 2016
- City of Sydney Event Guidelines 2015

Review

Review period	Next review date	TRIM reference
Within one year from the commencement of a newly elected Council	Month, Year	20XX/XXXXX

Part 1

Exempt from approvals – the practice of Aboriginal and Torres Strait Islander cultures.

The City of Sydney respects and celebrates Aboriginal and Torres Strait Islander cultural heritage. The City recognises that practicing culture is vital to maintaining personal identity and connection to culture for Aboriginal and Torres Strait Islander people, as well as sharing cultural knowledge with the community and visitors to Sydney.

Whilst the practice of Aboriginal and Torres Strait Islander cultures, outdoors and in public places, can be both an entertainment and an economic activity, 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, Aboriginal and/or Torres Strait Islander people wishing to practice Aboriginal and/or Torres Strait Islander culture in public and on community land are not required to apply for an approval in the circumstances outlined below.

Further information regarding cultural practice can be found in the City's protocols for the practice of Aboriginal and Torres Strait Islander culture in public places.

The following criteria apply to this exemption:

1. **Application**

This exemption applies to the practice of Aboriginal and/or Torres Strait Islander cultural heritage ("cultural practice") by an Aboriginal and/or Torres Strait Islander person.

2. **Times and Durations**

Cultural practice does not require an approval or a permit

- i. between the hours of 6am and 10pm.
- ii. if taking place for no more than two hours per location per day per individual or group.

3. **Locations**

Sites for practicing culture must not be established in a location that is likely to block access to an entry or exit of a building (including any fire exit), street, laneway or carpark or within 100 meters of a busker or within 100 meters of an approved outdoor event.

4. **Safety**

A minimum one metre perimeter for pedestrian flow must be maintained around any site for practicing culture. Any fire or other higher risk materials or higher risk equipment that may cause harm to any member of the public must remain within the site and surrounding perimeter.

5. **Insurance**

Cultural Practitioners are required to maintain adequate Public Liability Insurance coverage for their public activities. Cultural Practitioners may either:

- i. Obtain their own insurance policy and coverage, or
- ii. Register for free cover under the City's Community Engagement Liability Insurance policy by completing a registration form at any City of Sydney customer service centre. Refer to Section 3, Item 5 of this policy for more information about the cover.

6. **Queuing**

When a busker or another cultural practitioner is already occupying a site, a queue system should be introduced whereby each person or group awaits the completion of the previous performance and then takes their turn. Cultural Practitioners using Special Busking Sites, as outlined in Section 3 of this policy, must follow the rules of that Special Busking Site.

7. **Sales**

Cultural practitioners may receive donations from the public and proceeds from the sale of artworks. The sale of artwork must be secondary and only in addition to the practice of Aboriginal and/or Torres Strait Islander Cultural Heritage.

8. **Compliance with laws and directions**

Cultural practitioners shall comply with all relevant laws, regulations and policies and the lawful directions of Authorised Persons. Authorised persons may restrict any public space from use for practicing culture during special events, emergencies or as circumstance may require.

Part 2

Busking approvals.

All people wishing to busk in the City are required to obtain an approval to busk in accordance with s68 of the Local Government Act 1993. The following criteria apply to approvals to busk:

9. Busking Acts

9.1. Busking Acts are categorised by the amount of space and time they occupy in a public place, and the volume and type of sound they are likely to generate. Busking Acts will fall into one of the following categories.

i. Low Impact

Low Impact Acts have a small footprint in public space and have sound that is easily managed. A Low Impact Act is defined by meeting all of the following criteria:

- a. does not need more than 2m² performance space
- b. does not use higher risk equipment or materials such as fire or sharp objects, and
- c. does not use instruments that are naturally loud, even without amplification, including drums of any kind, bagpipes and brass instruments

Examples of Low Impact Acts may include: solo musicians or small musical groups, magicians, puppeteers and other solo performers.

ii. High Impact

High Impact Acts have a large footprint in public space and/or have sound that is harder to manage and/or incorporate materials and equipment that may pose a greater risk to the busker or their audience. A High Impact Act is defined by any one or more of the following criteria:

- a. needs more than 2m² performance space
- b. actively encourages an audience to gather, wait and watch
- c. uses higher risk equipment or higher risk materials such as fire or sharp objects
- d. uses instruments that are naturally loud even without amplification including drums of any kind, bagpipes and brass instruments, or
- e. features 5 or more performers

Examples of High Impact Acts may include: dance groups, acrobats and circus acts, drummers, bagpipe and trumpet players.

iii. Extended Duration

An Extended Duration Act has a low impact in terms of the space it requires or the volume of sound it generates, however requires a longer period of time to be performed. An Extended Duration Act is defined by all of the following criteria:

- a. the artwork or performance is made continuously and evolves over a period of more than two hours
- b. the artwork or performance is quiet, non-musical and non-amplified
- c. the artwork or performance does not significantly restrict access or use of the public space in which it is created

Examples of Extended Duration Acts may include: pavement art, chalk art, durational performance art and human statues.

9.2. The following acts will not be approved for a Busking Permit in Sydney.

- i. Acts which involve handing out plastic or paper items that may have an adverse impact on parks, waterways, bird life or marine life, such as balloon sculpting.
- ii. 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.
- iii. 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.

10. Permits

10.1. All buskers (or people wishing to undertake busking) within the City of Sydney must obtain a Busking Permit and must agree to comply with the terms and conditions of the Permit and this Policy.

10.2. The City of Sydney issues three types of Busking Permit:

- i. Low Impact Busking Permit, for Low Impact Acts
- ii. High Impact Busking Permit, for High Impact Acts
- iii. Extended Duration Busking Permit, for Extended Duration Acts

10.3. Low Impact and Extended Duration Busking Permits may be approved by a Customer Service officer of the City of Sydney at the time of application.

10.4. Buskers applying for a High Impact Busking Permit are required to satisfactorily complete an Assessment of their act before a Permit can be issued. If required, to determine the appropriate permit category for an act, any applicant may be requested to attend an Assessment at the discretion of the issuing officer.

10.5. Performers with a PASS (Peer Assessment for Street Safety) accreditation, issued by SPA (Street Performers Australia) are eligible to apply for a High Impact Permit without attending an Assessment.

10.6. Buskers who have previously completed an Assessment can renew their High Impact Busking Permit without attending another Assessment if:

- i. they have been assessed in the previous two years
- ii. their previous permit is current or expired less than six months prior

- iii. their act has not significantly changed since it was approved, and
 - iv. they have not received a formal warning or penalty since their last permit was issued.
- 10.7. All members of a group act are required to obtain a permit.
- 10.8. Proof of identity is required with an application for a Busking Permit.
- 10.9. Proof of parental consent is required for applicants under the age of 16.
- 10.10. Buskers are required to pay a service fee for a Busking Permit. The fees are published annually in the City's register of fees and charges.
- 10.11. If a busker wishes to perform a combination of Low Impact, High Impact and Extended Duration acts from time to time they may apply for multiple permits at an Assessment.

11. Act Assessment

- 11.1. Any Busker whose act might meet the criteria for a High Impact act (as outlined in section 9.1. of this policy) will be required to attend an assessment of their act prior to a Busking Permit being approved.
- 11.2. Assessments are conducted by a City Officer and an experienced Busker engaged by the City as a peer assessor.
- 11.3. The purpose of the assessment is to identify that:
- i. the busking act can be performed safely and measures are in place to mitigate any potential risks to the performer(s) or public
 - ii. the busking act does not generate a sound that could potentially be intrusive or disruptive to nearby businesses or residents, and
 - iii. the sound generated by the performance is being monitored and controlled by the performer(s) as best as it can be
- 11.4. At an assessment the busking act will either be approved for a High Impact Busking Permit or a Low Impact Busking Permit, or will not be approved for a Permit.
- 11.5. At an assessment, a busking act may be assessed as low impact and offered a Low Impact Busking Permit if the busker can demonstrate a capacity to minimise the potentially intrusive elements of their act.
- 11.6. If a busking act is not approved for a Permit they will be told why they have not been approved.
- 11.7. If a busking act is not approved for a Permit they may arrange to attend another assessment on another day.
- 11.8. The artistic quality of the act or any subjective appraisal of the talent or skill of the performer(s) is not an assessment criteria.

Part 3

Other Matters.

The following guidelines apply to busking acts in the City of Sydney.

These guidelines for busking are complemented by a Busking Code which outlines expected etiquette for street performers, guidance on managing volume and public safety, and the booking and queuing systems that apply to high-traffic Special Busking Sites in Sydney.

12. Busking Permits

- 12.1. Buskers must have a valid permit clearly displayed on their person or pitch when busking.
- 12.2. Permits can be issued for one month, three months or twelve months.
- 12.3. Permits are not transferable or refundable.

13. Busking Times

- 13.1. Subject to compliance with the Sydney Busking Code, holders of a Busking Permit may perform:
 - i. 8am – 10pm Sunday to Thursday
 - ii. 8am – midnight Friday and Saturday
- 13.2. Subject to compliance with the Sydney Busking Code:
 - i. Low Impact buskers may busk for up to two hours in any one location per day.
 - ii. High Impact buskers may busk for up to one hour in any one location per day.
 - iii. Extended Duration buskers may busk for up to 8 hours in any one location per day.
- 13.3. Buskers who have performed the maximum time in a location on one day may move their performance to another location at least 100 metres from their previous pitch.
- 13.4. Buskers under the age of 15 must be supervised by an adult guardian whenever busking.

14. Busking Pitches

- 14.1. Buskers with a current Busking Permit may busk in any public place or footpath with ample open space for their performance and a further 2 metres on at least two sides of their performance area for pedestrian flow.
- 14.2. High Impact buskers using higher risk materials or equipment must visually demarcate their performance area with a rope or similar boundary placed on the ground.

- 14.3. Busking is restricted to one performance per site at any one time.
- 14.4. Buskers must not busk within 100 meters of another busker (unless busking on a Special Busking Site with multiple busking pitches within 100 metres of each other).
- 14.5. A busking site must not be established where the act or their audience is likely to block access to an entry or exit of a building (including any fire exit), street, laneway or carpark.
- 14.6. Authorised persons may restrict any public space from use for busking during special events, emergencies or as circumstance may require.

15. **Special Busking Sites**

- 15.1. Some areas in the city are recognised busking locations and have specific, defined busking pitches. These pitches experience high pedestrian traffic and can provide buskers with a very visible performance space and big crowds. In order to provide equitable access to these high-value busking locations for a diverse range of buskers, these Special Busking Sites have certain additional conditions. These conditions are determined by the busking community in consultation with the City and are outlined in the Sydney Busking Code.
- 15.2. Buskers need to familiarise themselves with the locations and conditions of Special Busking Sites in the Busking Code.

16. **Insurance**

- 16.1. As long as the busker complies with the conditions of their permit, holders of a Busking Permit are covered for public liability under the City of Sydney's Community Engagement Liability Insurance policy.
- 16.2. The City's policy is limited to \$10 million for any one loss and the busker is responsible for the first \$500 of each and every loss. This coverage and excess may be subject to change over time. Current details of the liability insurance policy will be made available to buskers on receipt of their permit.
- 16.3. Buskers may prefer to obtain their own public liability insurance. If a busker is covered by their own or any other public liability insurance policy, they will be considered covered by that policy for their busking activities and not the City's Community Engagement Liability Insurance policy.

17. **Sales**

- 17.1. Buskers may sell their own original music or video recordings, artwork or merchandise as a complement to their performance.
- 17.2. The sale of music, video, artwork or merchandise must not be delegated to another person and must not dominate the time a busker is occupying a busking pitch.
- 17.3. The primary purpose of busking is to perform an act or to make an artwork for the entertainment of the public, any sales of any products must be secondary to this purpose and directly related to the approved busker and their busking act.

18. Other matters

- 18.1. Buskers with a valid permit may perform in any public place in Sydney in accordance with the Local Government Act and any other applicable law, this policy and the Sydney Busking Code.
- 18.2. Buskers are responsible for their impact on their environment and should take all necessary precautions and actions to limit any risks or hazards they may pose to the public.
- 18.3. Busking acts must not cause a public disturbance or nuisance, whether by the volume or nature of the sound they produce or the physical impact of the act on other people, property or public space. If a busker is directed to stop or modify their act by any authorised person they must do so immediately.
- 18.4. Where a public space is required for the use of an approved event or an authorised activity such as a retail promotion or public gathering, buskers are obliged to make way for those other activities and should not busk within 100 metres of such an event or activity.
- 18.5. Buskers shall comply with all relevant laws, regulations and policies and lawful directions of Authorised Persons. The holding of a busking permit will not constitute a defence where a busker has committed an offence.
- 18.6. The use of political, religious, racist, sexist, sexually explicit, homophobic or transphobic material that may be deemed offensive or discriminatory is prohibited as determined by the *NSW Anti-Discrimination Act 1977*.

19. Suspensions, Modifications, Cancellations and Penalties

- 19.1. Busking permits may be suspended or conditioned where a busker has breached any laws, this Policy, or any of the conditions of their Busking Permit.
- 19.2. A Busker holding a Low Impact Busking Permit who receives multiple complaints about their act or is repeatedly observed playing at excessive volume or is regularly causing a disturbance to foot-traffic in pedestrian zones may be required to attend an assessment and may have their permit re-issued as a High Impact Busking Permit.
- 19.3. Pursuant to sections 109, 110 and 627 of the Local Government Act 1993, City of Sydney may, in certain circumstances, revoke or modify permits or issue an on the spot fine if the permit holder fails to comply with the requirements and conditions of the permit.

20. Responsibilities

- 20.1. The implementation of this policy is the responsibility of the Venues Management team of the City of Sydney. Officers monitor and respond to public enquiry or complaints in relation to buskers, manage day to day operations in relation to busking and make recommendations to the Busking Code.
- 20.2. The City's Rangers will enforce the Busking Policy and ensure buskers are compliant with the conditions of their permit.

Attachment B

Busking Act Categories

Low Impact	High Impact	Extended Duration
<p>Low Impact Acts have a small footprint in public space and have sound that is easily managed</p>	<p>High Impact Acts have a large footprint in public space and/or have sound that is harder to manage and/or use materials that pose a greater risk.</p>	<p>Extended Duration Acts have minimal impact on their surrounds (in both space and volume) but require a longer period of time to be performed.</p>
<p>Criteria:</p> <ul style="list-style-type: none"> • Under 2m² performance space • Amplified instruments that can have their volume adjusted • Non-amplified instruments that can be played at lower volume 	<p>Criteria:</p> <ul style="list-style-type: none"> • Over 2m² performance space • Encourages an audience to gather, wait and watch • Uses higher risk equipment or materials • Incorporates instruments that are naturally loud even without amplification 	<p>Criteria:</p> <ul style="list-style-type: none"> • Artwork that is made continuously over a long time • Quiet, non-musical and non-amplified
<p>Examples:</p> <p>Solo performers or small groups, musicians, magicians, puppeteers</p>	<p>Examples:</p> <p>Dance groups, acrobats and circus acts using fire or sharp objects, drummers, bagpipes, brass instruments</p>	<p>Examples:</p> <p>Pavements artists, durational performance artists, human statues</p>
<p>Conditions:</p> <ul style="list-style-type: none"> • Max 2 hours per day per location 	<p>Conditions:</p> <ul style="list-style-type: none"> • Max 1 hour per day per location 	<p>Conditions:</p> <ul style="list-style-type: none"> • 8 hours per day per location
<p>Act Assessment:</p> <ul style="list-style-type: none"> • Does not require assessment • Repeated issues with an act may result in an assessment to see if the act should be re-classified as High Impact. 	<p>Act Assessment:</p> <ul style="list-style-type: none"> • Requires assessment • May be deemed Low Impact at assessment (ie, if a busker with a “naturally loud” instrument can demonstrate they are able to play at a considered volume). 	<p>Act Assessment:</p> <ul style="list-style-type: none"> • Does not require assessment

Attachment C

**Draft Protocols for the Practice of
Aboriginal and Torres Strait Islander
Cultures in Public Spaces**

Protocols

for the practice of Aboriginal and Torres Strait Islander cultures in public spaces.

In 2015 Councillors of the City of Sydney resolved to create a Reconciliation Action Plan that would complement and progress the work that the City does with Aboriginal and Torres Strait Islander communities. The Innovate RAP approach is focused on working with our Aboriginal and Torres Strait Islander stakeholders to trial new approaches for building relationships, showing respect and improving opportunities for Aboriginal and Torres Strait Islander people. It also includes a focus on raising internal awareness about our organisation's commitment to reconciliation by providing opportunities for our staff to engage in reconciliation activities.

The City has an extensive history working with local Aboriginal and Torres Strait Islander communities and we are excited about the opportunity to pilot new approaches.

Purpose

The City of Sydney acknowledges the practice of Aboriginal and Torres Strait Islander cultures is testament to the resilience, fortitude and continuation of these living cultures. The City of Sydney respects and celebrates Aboriginal and Torres Strait Islander peoples' right and responsibility to practice and maintain their Cultural Heritage. The City recognises that the practice of culture is vital to maintaining cultural identity and connection to place for Aboriginal and Torres Strait Islander peoples. This intrinsic right to practice culture is respected and valued by the City of Sydney and viewed as a vital conduit to sharing cultural knowledge with the wider community and visitors to Sydney.

The practice of Aboriginal and Torres Strait Islander cultures, outdoors and in public spaces, is the practice of an inherent cultural right as articulated in Article 11 of the *United Nations Declaration on the Rights of Indigenous Peoples*.

The City of Sydney, in consultation with the Aboriginal and Torres Strait Islander Advisory Panel and community, has an understanding and expectation that the following protocols will be observed and honoured when the practice of cultures takes place in public spaces.

Respect

The Gadigal people of the Eora Nation are the traditional custodians of the place we now call Sydney. Practitioners of any Aboriginal and/or Torres Strait Islander Heritage are welcome and valued in Sydney, however the Gadigal people should be afforded appropriate acknowledgement and local cultural protocols should be observed and respected.

Aboriginal and Torres Strait Islander Control and Self-Determination

Aboriginal and Torres Strait Islander peoples have the right to determine how their cultural and intellectual property is used and the right to maintain control over its depiction, practice and dissemination including involvement in the practice of aspects of their cultures by other people or organisations.

Interpretation, integrity and authenticity

The City has an understanding and expectation that the practice of Aboriginal and Torres Strait Islander cultures in public spaces will be an informed, authentic representation of the cultural intellectual property depicted and will be undertaken with the endorsement of the sitting Aboriginal and Torres Strait Islander panel and communities. As a guide, the Cultural practitioners and the cultural intellectual property they practice and share in public should meet the following definitions.

- **Aboriginal and/or Torres Strait Islander person**
A person of Aboriginal or Torres Strait Islander descent who identifies as Aboriginal or Torres Strait Islander and is accepted as such by the community in which he or she lives.
- **Aboriginal and/or Torres Strait Islander Heritage**
*The intangible and tangible aspects of the whole body of cultural practices, resources and knowledge systems developed, nurtured and refined by Aboriginal and Torres Strait Islander people and passed on by them as part of expressing their cultural identity.
This heritage is a living one, it continues to develop, and includes items which may be created in the future.*
- **Aboriginal and/or Torres Strait Islander Cultural Practitioner**
An Aboriginal and/or Torres Strait Islander person expressing Aboriginal and/or Torres Strait Islander Cultural Heritage, including knowledge and cultural expression such as songs, stories, dances, performing arts and creating artistic works.

Continuing cultures

Aboriginal and Torres Strait Islander peoples have inherent rights and responsibilities to ensure the survival, practice and transmission of their cultures continues into the future. This may include new and emerging styles of performance and expression, and these protocols also apply to any new, contemporary expression of culture as defined by them.

Attachment D

**Example Code of Practice for Busking –
“Sydney Busking Code”**

The Sydney Busking Code (example for public consultation purposes)

Sydney has a thriving busking culture and is home to some of the most lucrative busking pitches in the country. We welcome street performers from across Australia and the world to share their performances on Sydney streets alongside our local talent.

We, the Buskers of Sydney:

- ❖ Recognise and respect that we perform on Gadigal Land. We share our busking spaces with practitioners of Aboriginal and Torres Strait Islander culture who experience and share their cultural heritage through dance, song and storytelling.
- ❖ Are ambassadors for the cultural life of Sydney and its diverse, harmonious communities.
- ❖ Perform in public places to contribute something positive to those spaces. If our performance is having a negative effect on anybody, we do our best to remedy it.
- ❖ Look out for each other, welcome newcomers, and keep fellow buskers in check if they're over-stepping the expectations and obligations of buskers in Sydney.
- ❖ Work in cooperation with each other, local government and the police to manage any issues that arise from a busker's performance or behaviour. We understand that the way we conduct ourselves may affect the reputation and livelihood of all buskers in Sydney.
- ❖ Have a right and an opportunity to actively engage in monitoring and improving busking regulations and busking culture in Sydney.

The Busking Code is our guide to busker etiquette and pitch sharing arrangements in Sydney.

The Basics

In Sydney, busking acts are grouped in three categories. Each category has its own set of performance conditions.

If your act does not:

- need more than 2m² performance space
- require an audience to gather, wait and watch
- use "naturally loud" instruments such as drums, bagpipes, pan pipes or brass instruments
- use higher risk materials or equipment like fire or sharp objects

You have a Low Impact act and may busk for up to 2 hours per location per day.

If your act:

- needs more than 2m² performance space; or
- encourages an audience to gather, wait and watch; or
- uses "naturally loud" instruments such as drums, bagpipes, pan pipes or brass instruments; or
- uses higher risk materials or equipment like fire or sharp objects; or
- features 5 or more performers

You have a High Impact act and may busk for up to 1 hour per location per day. You'll need to speak to the City of Sydney about attending an act assessment before you can get a permit to busk.

High Impact acts often need more space, hence there are less places where they can perform. Keeping acts to 1 hour duration provides more performers with access to these limited larger performance spaces and breaks up the impact of loud or large acts on neighbours, pedestrians and the public.

If your act:

- is quiet, non-amplified and non-musical, and
- involves creating a work of art continuously over a long period of time such as pavement art or durational performance art

You have an Extended Duration act. As long as your pitch isn't restricting other people from using the area around you, you can perform for up to 8 hours per location per day.

Where to busk

You can establish a busking pitch on any public land in Sydney that meets these criteria:

- there is enough open space for you to conduct your performance plus a further two metres for pedestrian flow on at least two sides of your pitch;
- the site is not being used by an approved event or gathering;
- you are 100 metres from another busker or an approved event or gathering;
- your pitch and your audience does not block access to the entry or exit of any building, street or carpark; and
- if the location is a Special Busking Site with set pitches and a booking or queuing system, you observe the conditions of the site (see Special Busking Sites below).

Making and managing your pitch

The pitch is your stage, keep it looking clean, well laid-out and professionally put together.

Minimise clutter or any unnecessary items that might be a trip hazard.

For Low Impact Acts, keep your equipment near to you and encourage your audience to gather close.

For High Impact Acts, consider laying a rope on the ground or drawing a chalk circle to show the audience where you want them to gather. You want them to be as close as they can be, while still safely outside your performance area.

For Pavement Artists, use a chalk that is entirely removable by water or draw onto a removable canvas that you lay over the pavement. Make sure your materials aren't slippery and your canvas isn't a trip hazard by fixing it to the ground with a tape that does not leave behind an adhesive residue.

Content of your Act

Sydney buskers are ambassadors for the cultural life of the city and the values we celebrate: diversity, generosity, respect and inclusion. Buskers do not tease, humiliate or harass anyone.

Sydney buskers are some of the best in the world. We have innovative, original, expertly performed acts. We have a varied repertoire and never repeat the same material during a set. If you don't have enough content to fill your time at a pitch without repeating anything, then trim your set to the amount of material you have and move to another pitch.

Volume

Performing too loudly can negatively affect neighbouring homes and businesses and it can drive your audience away. Buskers who play too loudly earn less money as crowds keep a distance from the performance. Pushing your audience away from you with high volume also adds to congestion and crowding in pedestrian zones, so people are less likely to hang around and watch your performance.

Ensuring that your performance cannot be heard at 50 metres from your pitch is a courtesy to other buskers. As busking pitches can be a minimum of 100 metres apart, the sound of your act should not travel more than 50 metres where it may begin to effect another busker's performance.

The following are guides to help you monitor if your act is at the right volume. Be aware that an authorised person from the local council or police can tell you to lower your volume at any time and you need to follow their instruction.

- If you cannot hear any background noise during your performance, you are playing too loud.
- If your audience are gathering more than 3 metres from you, you are playing too loud.
- If you can see that your audience is shouting to speak to each other, turn it down.
- If your performance can be heard 50 metres from your pitch, you're playing too loud. Get a friend or fellow busker to walk 50-60 paces from your performance and see if they can still hear you. If they can, turn it down.
- If you find that no one is paying you any tips, try reducing your volume and see if people become more comfortable approaching you.
- If somebody living or working inside a building near where you are performing complains that they can hear your performance over their own conversation, you are playing too loud. Remember, you can reach a compromise. You don't have to be silenced if a neighbour is bothered by your act, but you do need to accommodate their concerns. Keeping good relations with the neighbours is good for all buskers and busking culture in Sydney.

Flammable Materials

If you use flammable materials, liquids or gasses in your act:

- Always define the boundary of your performance space using a rope or similar demarcation. The audience should be at least two metres from you on all sides.
- Keep a Work Cover approved Fire Blanket and a wet towel at hand and within reach
- Never carry more than 2 litres of flammable liquids with you. Mark the container with the words "HIGHLY FLAMMABLE" on all sides, along with the name of the combustible such as "Kerosene".
- Always keep your fuel container securely shut.
- Take all measures to prevent fuel from dripping on the ground. If it does, clean it up immediately.

Sales

The sale of buskers' own music, video, artwork or merchandise is encouraged in Sydney, but it has to be supplementary to your performance. You can't spruik your products or get someone else to sell them on your behalf. You are at a busking pitch to busk not to conduct a market stall, if somebody happens to approach you to buy your music or merch, it's a bonus.

Special Busking Sites

Special Busking Sites have additional conditions or operating systems. These are self-managed by the buskers who use the pitches and are overseen by City Rangers and City of Sydney staff.

MARTIN PLACE

- There are six pitches in Martin Place
 1. The eastern side of the George Street intersection, facing George St (Low Impact only)
 2. The eastern side of the Pitt Street intersection, facing Pitt Street
 3. In the Mall between Castlereagh and Elizabeth Street
 4. In the Mall between Phillip Street and Elizabeth Street
 5. The eastern side of the Phillip Street intersection, facing Phillip Street (Low Impact only)
 6. The western side of the Macquarie Street intersection (non-musical only)
- Buskers may perform once per day in any of these locations.
- All acts in all six pitches are limited to a 45 minute duration between 10am and 4pm Monday – Friday.

PITT STREET MALL

- There are three pitches in Pitt Street Mall:
 1. North, near the King Street intersection.
 2. Middle, half way between North and South pitches, near Mid City Centre.
 3. South, near the Market Street intersection under the Westfield sky-bridge.
- The Northern and Southern pitches are for Low Impact and High Impact Acts only
- Buskers may perform in the Northern and Southern pitches for a maximum of one hour, per pitch, per day
- Low Impact Acts may not play the same pitch on consecutive days
- High Impact Acts may not play directly after another High Impact Act (ie, not back-to-back)
- One hour sets on the Northern and Southern pitches can be booked on the day. A sign-up sheet is available at the concierge desk in the Westfield Centre from 8am daily.
- The Middle Pitch is for Extended Duration Acts only
- The Middle Pitch is allocated on a first-in basis, but cannot be used by the same busker on consecutive days.

GEORGE STREET LIGHTRAIL CORRIDOR

TBC. Pitches and conditions to be developed in consultation with businesses and buskers.

QUEEN VICTORIA BUILDING

The southern forecourt of the QVB may be occupied by one Extended Duration Act and either one Low Impact Act or one High Impact Act at any one time.

BROADWAY SHOPPING CENTRE

The Bay Street entrance to the Broadway Shopping Centre is for Low Impact Acts only.

Buskers may perform for up to one hour per day.

SAMPLE

Item 3.

Ad Hoc Cultural and Creative Grant - 107 Projects Incorporated

File No: X003604

Summary

107 Projects Incorporated (107 Projects) is a cultural organisation that operates at the intersection of artistic practice, sustainable community development and social enterprise. Operating since 2000, 107 Projects promotes, presents and produces a broad range of arts and community cultural development activities. 107 Projects is a leader in transforming urban spaces into inspiring places that engage with the community and provide creative participation opportunities for all sectors of the community.

In June 2017, Council resolved to lease the Joynton Avenue Creative Centre, 3 Joynton Avenue, Zetland, to 107 Projects for three years at 100 percent subsidy, with an additional two-year option under the Accommodation Grants Program. The lease was signed in May 2018. The Accommodation Grant is to manage the Creative Centre, providing creative workers, artists and the community with access to affordable space, programming, activities and learning opportunities.

107 Projects has submitted an out-of-round proposal for a two-year cash grant from the City for the period 2018 to 2020 under the Cultural and Creative Grants and Sponsorship program to support the start-up phase of activating the Creative Centre. This will include developing inclusive community engagement activities, delivering outreach initiatives, developing partnerships to create pathways for sustainable return in future years and undertaking a business and development planning process. 107 Projects has requested \$50,000 in year one and \$50,000 in year two.

The application for funding has been assessed as being consistent with the objectives of the City's Cultural and Creative Grants and Sponsorship program. A cash grant of \$50,000 in year one and \$50,000 in year two is recommended.

107 Projects will be required to sign a contract, meet specific performance outcomes and acquit their grant.

All figures in this report exclude GST.

Recommendation

It is resolved that:

- (A) Council approve two years of funding from when the agreement is signed at a total of \$100,000 (excluding GST) to be paid as a cash grant of \$50,000 (excluding GST) in 2018/19 and \$50,000 (excluding GST) in 2019/20 to 107 Projects Incorporated towards business model establishment costs at the Joynton Avenue Creative Centre; and
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer an agreement under terms consistent with this resolution and the Grants and Sponsorship Policy.

Attachments

Nil.

Background

1. 107 Projects Incorporated (107 Projects) is a registered charity and a cultural organisation that uses the arts and creative industries to engage with the wider community to create positive social change and support emerging communities to be more connected, healthy and sustainable.
2. 107 Projects has been part of the Accommodation Grants Program since 2011, transforming a former car garage at 107 Redfern Street, Redfern, into a successful multi-arts creative centre. From this space, the organisation manages exhibitions, performance spaces, artist studios, creative offices and creative hot desk hires. Their diverse operation in Redfern includes producing an in-house program of events, community organised exhibitions, talks, meetings, presentations, and providing educational programs, seminars and opportunities for learning.
3. Over the course of seven years in the Accommodation Grants Program, 107 Projects has established themselves as a leading force in transforming urban spaces into inspiring places that engage with the community and provide creative participation opportunities for artists and the community to express themselves. They have demonstrated their capacity to work with diverse local communities and the cultural sector to generate meaningful and high quality outcomes that have strong artistic merit, are socially responsible and community-focused.
4. In March 2017, Council resolved to lease the Joynton Avenue Creative Centre, 3 Joynton Avenue, Zetland, to 107 Projects for three years at 100 percent subsidy under the Accommodation Grants Program, with a two-year option made available to the tenant, based on assessment against agreed performance criteria. The lease was signed in May 2018. The Accommodation Grant is to manage the Creative Centre, providing creative workers, artists and the community with access to affordable space, programming, activities and learning opportunities.
5. 107 Projects has submitted a proposal for a two-year grant from the City for 2018 to 2020. This application has been assessed against the City's Cultural and Creative Grant Program. It was found to strongly align with the following key outcomes of the program:
 - (a) opportunities for creative practitioners to gain economic benefit or professional development; and
 - (b) opportunities for audiences, including the City's residents, workers and visitors, to engage with creativity, self-expression, learning and cultural participation.
6. The grant will support the start-up phase of 107 Projects activating the Creative Centre. This will include:
 - (a) creating structured pathways for community engagement and outreach activities through establishing committees and working groups;
 - (b) producing public awareness events that will promote the centre and the precinct;
 - (c) trialling and piloting event ideas, workshop classes and community initiatives;
 - (d) creating and delivering partnership strategies to secure partners for the facility that will support its annual programs and ongoing initiatives;

- (e) developing and delivering a marketing strategy and an annual marketing plan with communication collateral; and
 - (f) following a review of pilot activities, developing an annual rolling program of key events and programs.
7. 107 Projects will measure all project and program outcomes for the duration of the grant, including quantitative and qualitative data that captures its community and cultural sector impact.
 8. It is recommended Council approve a total cash grant of \$100,000 over two years, 2018-2020. This grant will enhance 107 Projects' ability to meet the newly established community's demands, while they develop and foster a business model which will sustain the facility in to the future. 107 Projects plans to be less dependent on the City for further financial support from year 2021 onwards and begin to produce surplus income to self-support its activities at the Creative Centre.
 9. City staff will work closely with 107 Projects over the next two years to ensure the delivery of the program, good governance, quality assurance and continuous improvement.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

10. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This grant is aligned with the following strategic directions and objectives:
 - (a) Direction 6 - Vibrant Local Communities and Economies - the provision of support to cultural organisations contributes to the diverse range of services and support that the City provides for our community. The diversity of these groups contributes to the vibrancy of the city's villages and the communities within them.
 - (b) Direction 7 - A Cultural and Creative City - supporting cultural development through the support of creative workers, and the delivery of culturally stimulating activities that engage our communities.

Organisational Impact

11. City staff will monitor Key Performance Indicators within this contract with the operator in order to support delivery of programming and activation goals, and provide guidance and support as required.

Social / Cultural / Community

12. The contribution of the community and cultural organisations that are part of the Program to support the development, coordination and management of the many services and activities available to our community is invaluable. In this way, the City and the community act collaboratively to bring to life the City of Villages.

Budget Implications

13. Funding of \$50,000 is available for this grant in the Grants and Sponsorship 2018/19 operating budget for the current financial year.
14. Provision will be made for \$50,000 in the 2019/2020 Grants and Sponsorship budgets.

Relevant Legislation

15. Section 356 of the Local Government Act 1993. Section 356 of the Local Government Act 1993 provides that a council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

Critical Dates / Time Frames

16. A contract will be developed for this application after Council approval to ensure their funding is released in time for the project to commence in October 2018.

ANN HOBAN

Director City Life

Lauren Simpson, Project Manager Cultural Venues