

Attachment D

**Engagement Report – Proposed Changes
for Busking in Sydney**

Engagement Report

Proposed changes for busking in Sydney

City of Sydney
Town Hall House
456 Kent Street
Sydney NSW 2000



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Proposed changes for busking in Sydney

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Introduction

From 25 September 2018 to 19 November 2018, we asked the community for feedback on proposed changes to our busking policy and guidelines. The consultation was an opportunity for buskers, stakeholders and the community to provide feedback on the proposed changes. Consultation activities included emailing buskers, face-to-face engagement at consultation workshops, online engagement and postcards ('flyers'). The proposed changes received broad media coverage and the Sydney Your Say webpage attracted strong interest. In addition to feedback at the consultation workshops, the City received 44 formal submissions.

This report outlines the community engagement activities that took place to support the consultation and summarises the key findings from the consultation.

Background

In April 2014, the City 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 producer

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.

The review included extensive research into models for regulating busking from around the world, a facilitated stakeholder workshop, and insights from staff involved in managing busking in neighbouring jurisdictions and the City of Melbourne.

The key finding from the review is an opportunity to reform the regulatory framework that manages busking in Sydney. This would include a new permit system that applies conditions and controls to busking performances in balance with the impact the acts have on their immediate surrounds. The proposed new permit system is outlined in the draft Local Approvals Policy for Busking and Aboriginal and Torres Strait Islander Culture (The Local Approvals Policy).

A number of operational priorities for the City's busking program were also identified. These do not fall within the scope of the Local Approvals Policy, rather, these are considerations for the operational teams responsible for monitoring and supporting busking in Sydney. These operational recommendations were outlined in a Busking Policy and Guidelines Review document that accompanied the policy on exhibition.

Engagement Summary

Purpose of the engagement

The purpose of the engagement was to:

- Gather feedback from stakeholders and the community about a proposed new approach to managing busking
- Determine the level of satisfaction with the proposed new approach
- Educate stakeholders and the community on the rules that apply to busking and how the new approach might simplify and clarify these conditions
- Propose a policy position to the community that the practice of Aboriginal and Torres Strait Islander Cultural Heritage in public places is not busking and should not be regulated with busking permits and guidelines.

Outcomes from the engagement

1. Sydney Your Say

The Sydney Your Say page was **visited 1,172 times** during the consultation period and consultation documents were **downloaded 238 times**. This result indicates a high level of interest and that a significant number of people were engaged over the consultation period.

2. Submissions

39 submissions were received via Survey Monkey and **five (5) submissions** were received via email during the public exhibition period. 39 submissions were from individuals and five (5) were from agencies/organisations.

A list of the agencies/organisations that made submissions is:

- Scentre Group
- Arts Law Centre of Australia
- Destination NSW
- Ziggy Zapata Enterprises
- Potts Point & Kings Cross Heritage & Residents' Society

3. Stakeholder Workshops

A series of face-to-face workshops were conducted throughout the exhibition period to directly engage with key stakeholders effected by the proposed Local Approvals Policy. Three workshops focused on buskers and practitioners of Aboriginal and Torres Strait Islander cultural heritage. One workshop focused on retailers near busy busking locations.

The workshops were facilitated by JOC Consulting and **13 people** participated.

Key findings

- The proposed draft Local Approvals Policy and new approach to regulating busking activity is supported.
- The proposal to provide an exemption from approval for the practice of Aboriginal and Torres Strait Islander culture in public spaces is supported.
- The implementation of site-specific conditions for Special Busking Sites with a high volume of busking activity is supported.
- Removing current restrictions on the sale of artworks and merchandise that directly relate to a busker's act, in contemporary media and formats, is strongly supported by buskers.
- Replacing the current Busking Guidelines with a Sydney Busking Code is supported.

In addition, some concerns and ideas were raised about operational elements of the City's Busking Program. Many of these are outside of the scope of the Local Approvals Policy but will help inform the Sydney Busking Code – a more flexible guidance document that assists with managing busking in the City. Those issues have been included in the feedback summary below.

Feedback

The following topics or themes were raised in submissions and workshop feedback.

Objection to “free busking permits for Aboriginal and Torres Strait Islander people”.

During the exhibition period there was extensive and syndicated news coverage representing the policy as providing Aboriginal and Torres Strait Islander performers with free permits to busk. Whilst most of this coverage was supportive and championed the idea, the premise is erroneous and misrepresents the policy.

Examples of this coverage include:

- Guardian Australia, October 2 2018, *Indigenous Performers Could Busk Without Permits Under City of Sydney Plan*.
- Channel Ten (10 Daily), October 2 2018, *Indigenous Buskers May Not Need a Permit in Some Parts of Sydney*.
- Daily Telegraph, October 3 2018, *Ridgy-Didgeridoo*.
- Daily Mail UK, October 2 2018, *Sydney Indigenous Busking Permit-Free Call*.

Nine (9) submissions objected to “free busking permits” for Aboriginal and Torres Strait Islander people. The respondents are concerned that the City may be applying different rules to certain buskers on the basis of race. These submissions seem to be a response to the incorrect media coverage and contain no feedback to the actual content of the draft policy.

The policy proposes that the practice of Aboriginal and Torres Strait Islander culture no longer be recognised as a busking activity and be respected as a distinct activity that is unique to Aboriginal and Torres Strait Islander communities. It is proposed that this activity be exempt from requiring an approval from Council as long as it meets the criteria outlined in Part 1 of the Policy. Two (2) submissions objected to this policy as it has been proposed.

Concerns about permit suspensions or revocations being inconsistent with legislations.

Two (2) buskers submit that there is no statutory power or provision which authorises the suspension of busking permits.

Under s108 of the Local Government Act 1993, a Council may revoke or modify an approval to busk. A modification may take the form of the imposition of an additional condition or variation or rescission of a condition to which the approval is subject. To this extent, a “suspension of a permit” is a modification of an approval to busk.

The authority to modify, condition or revoke an approval to busk is assigned to suitably qualified management staff in the Register of Delegations from the CEO to Directors and Staff.

Section 109(d) of the Local Government Act 1993 states that an approval to busk may be revoked or modified for any failure to comply with a condition of the approval. The items outlined in Sections 2 and 3 of the Local Approvals Policy are the conditions of a busking approval.

Although the City of Sydney does have the authority to revoke, modify and “suspend” a busking approval for any breach of the Busking Policy, the City continues to take a proactive approach to dispute resolution and working with buskers who have intentionally or unintentionally breached the conditions of their approval to busk.

As per s110 of the Local Government Act 1993, before revoking or modifying an approval to busk, Council officers will notify the busker with the reason for the revocation or modification and provide the busker with an opportunity to “show cause” as to why their approval should not be revoked or modified. Additional information about how a busker may appeal the revocation or suspension of their permit has been added to the draft Local Approvals Policy for greater clarification.

Concerns there is inadequate space for circus/circle acts and the High Impact permit will only allow these acts to perform once per day, in already limited locations.

One (1) busker submits that there is already considerable pressure on buskers who perform circus and physical theatre style acts to find adequate, permissible space in the City. Placing these acts on the proposed conditions of a High Impact permit will limit them to only performing once, for a maximum of one hour, in these locations a day. Currently, in high season, certain professional acts will perform shorter shows multiple times a day in the few areas that can accommodate them.

The Busking Policy Review recommended that particular thought be given to increasing the number of suitable locations for circus and physical theatre acts in the development of Special Busking Sites. Further, in suitable locations, a number of performances by the same busker in one day may be permitted.

To clarify this, an additional clause has been added to the post-exhibition draft policy to explicitly state that Special Busking Sites may provide performers with a different set of times, durations and frequencies than the base permit conditions. This was always the intention of the policy and should satisfy the respondent’s concerns.

Concerns about high volume and amplification, and that greater volume controls are needed.

16 submissions mention the loud volume of busking acts in Sydney and that greater efforts are required to reduce the volume of performances.

The draft Local Approvals Policy is proposing a new approach to volume controls for busking.

The research conducted for the Busking Policy Review suggests that imposing decibel limits on busking does not effectively reduce the volume of busking performances and, rather, imposes complicated guidelines that are difficult for both buskers and City staff to measure. Buskers are unable to effectively monitor their decibel limits mid-performance and hence an approach that uses practical guidance and peer review has been proposed.

Requiring loud performances to sit an assessment prior to obtaining a permit gives the City an opportunity to negotiate the right volume for any given performance with the performer. This will be done with the support of an experienced busking peer.

Banning amplification is not supported by the community as a majority of contemporary busking performances rely on some kind of amplifier, and the community overwhelmingly supports busking in Sydney.

Comments recommending a quality standard be applied to busking, or that permits should be issued on merit.

This approach is generally not supported by feedback to the Local Approvals Policy and research undertaken for the Busking Policy Review. The community have demonstrated strong support for busking as an organic, open-access activity available to all.

Comments relating to overcrowding in public spaces.

Eight (8) submissions mention concerns about crowding caused by buskers. This was also a common theme in consultations for the Busking Policy Review and research concluded that crowding is better managed through the operational monitoring of busking and through guidance issued to buskers through the Sydney Busking Code.

The conditions regarding where and how a busking pitch can be established in Sections 2 and 3 of the Local Approvals Policy require buskers to minimise obstruction to public thoroughfares caused by their act or their audience.

Clarity on the powers of Authorised Persons to exclude areas from busking or to move on buskers in public areas required for special events or works.

The submission from Destination NSW requested greater clarity be introduced in the sections of the Local Approvals Policy which deal with the power of Authorised Persons to exclude areas from busking or to move-on buskers when public spaces are required for special events, crowd management, road or building works. An edit to the Draft Local Approval Policy has been made to satisfy this request.

Comments relating to the safety of buskers.

During the consultation workshops with buskers a few alarming stories were raised relating to buskers being harassed and robbed while performing. This prompted conversations regarding how the City might facilitate a communication platform for buskers whereby they may call upon each other for help if needed, or warn others of incidents occurring around busking pitches.

This is being further investigated and scoped by City staff.

Support for the Policy

35 submissions, roughly 61%, expressed support for the Policy. All face-to-face workshop participants expressed support for the Policy. The high level of engagement with the policy documents on the Sydney Your Say website, and relatively small number of objections or concerns submitted is also considered evidence of support for the Policy.

The submission from Arts Law Centre of Australia notes:

Arts Law acknowledges and supports the City of Sydney's proposed changes to exempt Aboriginal and Torres Strait Islander cultural practice from the activities that require a busking permit. Arts Law, through its Artists in the Black program, is a strong advocate for the respect and protection of Aboriginal and Torres Strait Islander cultural heritage and traditional knowledge. In principle we support, the City of Sydney's proposal to exempt cultural practice from the busking approvals process and the development of protocols to support this practice.

The submission from the Co-Chair of the City's Aboriginal and Torres Strait Islander Advisory Panel notes:

The existence and development of such policies recognises the inherent right of Aboriginal and Torres Strait Islander peoples to maintain their distinct identities and cultures and to practice, express and share these in the public domain.

The introduction of the Busking and Cultural Practice Policy further demonstrates Council's commitment to the achievement of social, cultural and economic outcomes for Aboriginal and Torres Strait Islander community members and it recognises the valuable contribution Aboriginal and Torres Strait Islander peoples make to City life.

Developed through principles of respect and recognition, this policy will support cultural practitioners in the City of Sydney to continue to connect to their culture, heritage and identity which is vital in strengthening communities and enabling the wider community to observe and honour cultural practice.

I would like to commend the City for recognising its role and obligation to work in partnership with members of the City of Sydney Aboriginal and Torres Strait Islander community to develop this policy and I look forward to seeing the outcomes it creates for the community as a whole.

Key themes from consultation

Topic	Written Submissions	W'shops	Totals	
Broadly supportive of busking and the busking aspects of the policy although may suggest some operational actions.	3, 11, 13, 14, 15, 17, 19, 20, 24, 25, 28, 29, 30, 31, 32, 33, 36, 37, 38, 39, 1b, 2b	13	35	61%
Objection to “free busking permits for Aboriginal and Torres Strait Islander people”. (out of scope)	2, 3, 5, 7, 8, 9, 18, 27, 40	0	9	16%
Do not support an exemption from requiring a permit for the practice of Aboriginal and Torres Strait Islander culture.	12, 37	0	2	4%
Concerns about permit suspensions or revocations being inconsistent with legislation.	30, 31	0	2	4%
Concerns there is inadequate space for circus/circle acts and the High Impact permit will only allow these acts to perform once per day, in already limited locations.	32	0	1	2%
Concerns about high volume and amplification. Greater volume controls are needed.	1, 10, 16, 17, 19, 20, 22, 24, 25, 28, 29, 34, 35, 37, 39, 4b	2	18	32%
Comments recommending a quality standard be applied to busking, or that permits should be issued on merit.	6, 18, 20, 27, 28, 33, 35, 36	2	10	18%
Comments relating to overcrowding in public spaces.	1, 1b, 19, 22, 25, 35	1	6	11%
Concerns about permit suspensions or revocations being inconsistent with legislation.	30, 31		2	4%
Clarity on the powers of Authorised Persons to exclude areas from busking or to move on buskers in public areas required for special events or works.	1b		1	2%
Comments relating to busker safety		3	3	5%

Activities to support and promote the consultation

a. Sydney Your Say webpage

A Sydney Your Say webpage <https://www.cityofsydney.nsw.gov.au/council/your-say/proposed-changes-for-busking-in-sydney> was created. The page included an electronic copy of the proposed new policy and other key information about the policy review.

b. Online feedback form via Survey Monkey

The community and stakeholders were able to give feedback using an online feedback form on the Sydney Your Say website.

c. Public notice ads

Public notice ads were published in several newspapers to notify stakeholders and the community of the consultation.

SYS-branded public notice ads were placed in the local papers listed below:

- 26 September - Wentworth Courier
- 26 September - Central Sydney
- 25 September - Inner West Courier
- 25 September - Southern Courier

A standard CoS lineage ad was placed in the Sydney Morning Herald on 25 September.

d. Consultation workshops

Buskers and Aboriginal and Torres Strait Islander Cultural Practitioners were invited to attend one of three consultation sessions about the proposed changes to busking. These sessions were held at Town Hall House on 6 October, 11 October and 17 October 2018. 11 buskers attended.

A consultation session was also held for retailers in the City. The session was held at Town Hall House on 24 October 2018. 2 retailers attended.

e. Stakeholder email and letter

An email notifying of the proposal and inviting stakeholders to provide feedback was sent to all 471 currently registered buskers who had provided an email contact with their permit application. This includes some Aboriginal and Torres Strait Islander cultural practitioners. The information was also sent to stakeholders in key organisations and neighbouring councils, and members of the community who had previously responded to the busking discussion paper in 2017.

A notification letter was distributed to street level retailers on George Street, between Bathurst and King Street, to invite them to a retailers' consultation session. It is anticipated this pedestrianised area of George Street will attract buskers once the new light rail service is operational.

f. Postcards ('flyers')

200 postcards were printed and handed out across the city, particularly targeting Buskers and Aboriginal and Torres Strait Islander Cultural Practitioners.