

Item 4.

Post Exhibition - Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy

File No: X085068.004

Summary

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

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

The Policy is a Local Approvals Policy under section 68 of the Local Government Act 1993. In accordance with section 165(4) of the Local Government Act 1993, the Policy is reviewed and exhibited within 12 months of the election of Council.

The existing Policy and approach to managing busking is relatively new and was the result of extensive research and community consultation in 2017 and 2018. City staff have reviewed the Policy and consider it still fit-for-purpose, with some minor edits for clarity prior to exhibition. In August, Council approved an amended draft Policy for public exhibition. It was exhibited for 44 days and received one submission in support of the policy.

This report recommends the exhibited draft Policy be adopted by Council.

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

Recommendation

It is resolved that:

- (A) Council adopt the Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy, as shown at Attachment A to the subject report;
- (B) Council note the Sydney Busking Code, as shown at Attachment B to the subject report, to be published as a guidance document to accompany the Policy;
- (C) authority be delegated to the Chief Executive Officer to make amendments to the Aboriginal and Torres Strait Islander Cultural Practice Policy and the Sydney Busking Code in order to correct any minor drafting errors and finalise design, artwork and accessible formats for publication.

Attachments

Attachment A. Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy

Attachment B. The Sydney Busking Code

Background

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

- (g) Other users of public space, residents, business owners and workers in the city have a right to quietly enjoy the city's open spaces and to not be subjected to extended high volume or repetitive performances audible within their homes or places of work, or to be exposed to unsafe or offensive behaviour.
 - (h) Regulation of busking activity should expect nothing more or less of buskers than any other person or group of people using shared public space.
8. The Policy is the result of extensive research and community consultation undertaken in 2017 and 2018. The consultation revealed broad support for busking in Sydney but noted the previous approach to managing busking in Sydney was complex and overly focused on rules and exclusions - "what not to do" - rather than actively guiding buskers on how to busk well and in harmony with the community and other buskers. As a result, the Sydney Busking Code was established which provides practical guidance to buskers on "how best to busk" in Sydney.
9. The Policy outlines three categories of Busking Act - Low Impact, High Impact, and Extended Duration. The Policy contains definitions and criteria to group a Busking act into one of these categories. A different permit and conditions are assigned to each category.
10. This Permit system and the Busking Code have been well received by the busking community and have effectively managed busking in implementation. Hence, the Policy was re-exhibited with only minor amendments.
11. The following amendments to the current policy were included in the exhibited draft:
- (a) The use of live flames is restricted, in general, unless specifically allowed in certain locations (Special Busking Sites). The 2018 review of the busking policy recommended an unrestricted approach to the use of fire in busking acts. Following trials with buskers it is recommended fire only be permitted in pre-determined suitable locations. The definition of a High Impact Act has been amended accordingly.
 - (b) Providing the City with a valid, current phone or email contact is a condition of obtaining and keeping a busking permit. This is to ensure that buskers can receive important relevant information regarding changes to busking conditions across the city, and to ensure enforcement action can be taken against buskers who breach the conditions of their permit.
 - (c) The required act Assessment for obtaining a High Impact Busking Permit may be conducted via video call or the submission of a suitable video recording. This will allow for remote assessments if required, efficiency and the flexibility to implement online applications and approvals in the future.
12. The exhibited draft contained minor edits:
- (a) to describe more succinctly the requirements and processes for assessing High Impact Acts;
 - (b) to better define outdoor events that may affect the availability of busking locations;
 - (c) to identify temporary Special Busking Sites that may be established in association with outdoor events and festivals, such as Vivid Sydney; and

- (d) to more clearly demonstrate the procedures involved in revoking a busking permit.
13. The draft Policy was placed on public exhibition from 29 August 2022 to 11 October 2022 (44 days). A 'Sydney Your Say' page featuring information about the draft Policy was sent to registered buskers and over 7,000 eNews subscribers. The draft Policy documents were downloaded 16 times and one submission was completed. The submission was in favour of the draft Policy.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

14. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic directions and objectives:
- (a) Direction 3 – Public places for all - - busking makes a notable contribution to a vibrant city centre, in particular retail areas such as Pitt Street Mall. In a city seeking to recover from the impacts of the Covid-19 pandemic, busking helps contribute to the human experience of visiting the city centre to shop, socialise and be entertained. We seek to have connections to Aboriginal and Torres Strait Islander peoples evident in our public places. This Policy enables Cultural Practice in our public places.
 - (b) Direction 8 – A thriving cultural and creative life - - busking is an important part of the music ecosystem, providing professional development and economic opportunities for musicians. Consultation for this Policy revealed many professional musicians supplement their gig income with busking.

Support for the authentic, un-regulated practice of Aboriginal and Torres Strait Islander Culture in public places across the city facilitates a right of First Nations people to practice and share their cultural traditions and encourages all residents and visitors to Sydney to engage in contemporary expressions of First Nations culture, for a richer, deeper appreciation of place and cultural identity.

Organisational Impact

15. The draft Policy requires no changes to how the management of busking is currently resourced.

Risks

16. The Policy requires no changes to the management of busking that would increase the risks already associated with busking and Aboriginal and Torres Strait Islander cultural practice. These risks are assessed in balance with the considerable benefits that both of these activities generate for the city. The Policy and the Sydney Busking Code are designed to manage those risks.

Cultural

17. A comprehensive review of the City's approach to busking was recommended in an action in the City's Live Music and Performance Action Plan, 2014. This action initiated the comprehensive review undertaken in 2017 and 2018.

18. Busking is noted as making a positive contribution to the cultural life of the City and creativity in the public domain in the Creative City Cultural Policy 2014-2024.

Environmental

19. The Policy introduces restrictions on acts involving live flames which will reduce the impact of spilled fuels and flammable chemicals on pavements and pathways and potential run-off into waterways.

Financial Implications

20. The Policy requires no changes to the currently budgeted resources for managing busking.

Relevant Legislation

21. Local Government Act 1993.

Critical Dates

22. In accordance with section 165(4) of the Local Government Act 1993, the current Busking and Aboriginal and Torres Strait Islander Cultural Practice Policy expires on 22 December 2022.

Public Consultation

23. The draft Policy was placed on public exhibition from 29 August 2022 to 11 October 2022 (44 days). One submission was received.

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