

POLICY NAME: BUSKING

POLICY REF: B01

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1 OBJECTIVE

The objectives of this policy are:

- to encourage activities that contribute colour and life to the town centres and provide opportunities for public performances;
- to provide an equitable system of allocation of popular busking sites in the town centres among the buskers earning a living through their art form;
- to identify suitable locations for different busking types; and
- to minimise negative impacts of buskers operating in the Ballina Shire area.

2 POLICY

2.1 Obtaining a Busking Approval

- a) Any busker performing within Ballina Shire must have the approval of Council to do so. [Applications for Busking Approval](#) may be made, during business hours, at the Council's Customer Service Centre.
 - i) Buskers performing acts **which involve** the use of [dangerous materials](#) or [dangerous implements](#) must obtain an approved **Special Busking Approval**.
 - ii) Buskers performing acts **which do not involve** the use of *dangerous materials* or *dangerous implements* must obtain an approved **Standard Busking Approval**.
- b) Applicants must agree to adhere to the conditions of holding a Busking Approval, provide all the information requested on the Busking Application form and pay the prescribed fee (identified in the [adopted Fees and Charges](#)). Approvals may be issued for either a 3 or 12 month period.
- c) The following information must be provided when applying for a **Standard Busking Approval**:
 - i) Passport photograph.
 - ii) One of the following forms of proof of identity:
 - (1) a current motor vehicle drivers licence;
 - (2) a student identity/Proof of Age Card; or
 - (3) a current passport.
 - iii) If under the age of 18 years, your parent or guardian is required to complete a consent form.
- d) The following additional information must be provided when applying for a **Special Busking Approval**:
 - i) A current First Aid Certificate.
 - ii) Evidence of holding relevant licences/certificates, eg chainsaw operators certificate, pyrotechnics certificate.
 - iii) Evidence of holding public liability insurance indemnifying Council to the value of \$5 million.

2.2 Public Liability

- a) Busking is an activity that Council has inherently only a very limited ability to control. Accordingly, Council cannot accept liability for any acts or omissions of buskers, whether or not they hold an approval issued by Council. By issuing approvals to buskers, Council does not assume any responsibility for any public liability claims made against buskers, nor does the issue of an approval imply that the busker is independently insured for public liability. Council does not maintain insurance for the activities of buskers.

- b) Council requires holders of **Special Busking Approvals** for acts involving the use of *dangerous materials* or *dangerous implements* to hold public liability insurance indemnifying Council to the value of \$5 million.

2.3 Terms of Holding a Busking Approval

- a) Busking Approvals are valid for a period specified on the approval, and may remain valid for 3 or 12 months from the date of issue.
- b) Approvals are not transferable or refundable.
- c) Busking Approvals may be issued to individual buskers or groups. However, the name of each busker in a performance troupe must be listed on the application form and all performers listed on the approval must be performing when the group is performing. Members of the troupe cannot be omitted or substituted.
- d) The requirements of this policy relating to the payment of the prescribed fee and presentation of proof of identity are waived for persons under the age of 18 who are attending school. In such cases the busking activity is only to occur on weekends, and in public and school holiday periods. The remaining requirements and conditions of this policy still apply and such persons must still obtain a Busking Approval to busk.
- e) Details of buskers holding approvals to busk will be entered into a Register of Approvals granted by Council pursuant to section 113 of the *Local Government Act 1993*. Additionally, pursuant to sections 113(2) and 113(5) of the Act, the information recorded will include the name and address of the person or persons to whom the approval is granted, and this information will be available for public inspection without charge during ordinary office hours.
- f) Pursuant to sections 89, 109, 110 and 124 of the *Local Government Act 1993*, Council may revoke or modify approvals if the approval holder fails to comply with the requirements and conditions of approval. Council rangers may confiscate approvals for non-compliance. Council may serve notice upon the person or persons holding a Busking Approval, giving reasons for the revocation or modification of the approval and providing the approval holder with the opportunity to show cause why the approval should not be revoked or modified.

2.4 General Busking Conditions

All buskers must adhere to the following conditions at all times:

- a) Buskers must display their **Standard Busking Approval** in a prominent, highly visible position in the busking site at all times during their [performances](#).
- b) Buskers must not interfere with pedestrian flow or public amenities or cause obstruction to traders or delivery or emergency vehicles, including by way of encouraging audience formation in such a manner as to cause such interference.

There must be a minimum two (2) metre pedestrian corridor. In maintaining this corridor the busker must take into consideration other obstructions on the footpath (eg outdoor dining areas, public seats, power poles) so that a continuous corridor is maintained at all times.

- c) Buskers must keep the site in use clean while they are working and ensure that their use of the site does not pose a threat to public safety.

- d) Buskers must not consume alcohol or perform under the influence of alcohol.
- e) Buskers should be aware of their responsibilities with regard to the [Work Health and Safety Act 2011](#) and the [Work Health and Safety Regulation 2011](#).
- f) The distance between busking acts shall be a minimum of 30 metres.
- g) On any one day, buskers may perform for a total period of up to three (3) hours at the same spot. However, the performances must be of a maximum duration of one (1) hour, and there needs to be at least one (1) hour between performances.
- h) Buskers may receive voluntary donations from the audience, but may not [solicit funds](#). An exception to this applies for performers of [circle acts](#), who may invite donations at the conclusion of the performance.
- i) The only articles that may be sold by the busker are recordings consisting of the busker's own work. Buskers may not offer other goods and services for sale, display, demonstrate or advertise goods for sale or associate themselves with such advertising in conjunction with their performance.
- j) Buskers may not perform within five (5) metres of the entry to retail outlets without approval from affected shop or property owners.
- k) Buskers may not perform in front of, or beside bank automatic teller machines (ATMs), or within 10 metres of any public telephone.
- l) Buskers may not perform within 10 metres of any street intersection or pedestrian crossing.
- m) Buskers using amplification are restricted to battery-operated amplifiers. Amplified acts may only be performed between the hours of 7 am and 10 pm.
- n) Council reserves the right to modify or revoke any Busking Approval if the performance results in offensive noise, within the terms of the *Protection of the Environment Operations Act 1997*. Further, Council rangers and Police officers are empowered, under provisions of the *Local Government Act 1993* and the *Protection of the Environment Operations Act 1997*, to require the immediate cessation of any performance that results in excessive or offensive noise.
- o) Buskers may not perform during [special events](#), unless agreed by event organisers. Please check with Council to determine busking restrictions applicable during *special events*.
- p) Buskers must be mindful of, and respect the rights of patrons using public parks and reserves for recreation.
- q) Buskers may not sit or use public seating/benches while performing.
- r) Buskers may only use *dangerous materials* or *dangerous implements* if they hold a **Special Busking Approval** to do so.
- s) Buskers must comply with directions issued by officers of the NSW Police Service, Ambulance, Fire and any other Emergency Services.

- t) Council rangers reserve the right to prohibit the use of any area while public works are in progress.
- u) Council rangers may at any time request a busker to cease busking if the officer is of the opinion that the performance is causing public inconvenience, or is likely to cause harm to the public or property. The busker must immediately comply with such a request.
- v) Busking may include *pavement art* where it can be seen as a form of public entertainment under the guidelines of the Busking policy, with all the existing conditions applying and the following specific conditions:
 - i) *Pavement art*, for the purposes of this policy, is defined as renderings done on removable surfaces such as canvas or plastic, displayed on the pavement. Drawing directly on the pavement is prohibited.
 - ii) Individual renditions of the artist's work may not be [offered for sale](#), or sold to the public.
 - iii) Any proposed material to be used in carrying out *pavement art* must not be capable of leaving any mark or residue on the pavement.
 - iv) The positioning of the artwork must not be such as to be likely to cause a public hazard.
- w) Buskers must be aware and adhere to the restrictions placed on busking in certain places within the shire. These areas, termed [restricted areas](#), are identified in the Appendix. Buskers performing in *restricted areas* must adhere to the restrictions identified in [Table 1 of the Appendix](#).
- x) *Circle acts* and acts which involve the use of percussion instruments (such as drums and cymbals) may only be performed in [designated sites](#) as identified in [Table 2 of the Appendix](#).

2.5 Special Busking Approval Conditions

Performers of acts which involve the use of *dangerous materials* or *dangerous implements* must obtain a **Special Busking Approval**. Holders must:

- a) Not be younger than 18 years old.
- b) Comply with the General Conditions for Busking.
- c) Comply with the Special Conditions for Special Busking Approval holders.
- d) Hold public liability insurance indemnifying Council to the value of \$5 million.

2.6 Special Conditions for Special Busking Approval Holders

Buskers holding a **Special Busking Approval**, when using *dangerous materials* or *dangerous implements* in their acts, must adhere to the following additional conditions in the interests of public safety, and their own. The Special Approval busker must, at all times:

- a) Only perform acts involving the use of *dangerous materials* or *dangerous implements* in the location identified by the symbol "S" on [Map 1 in the Appendix](#).

- b) Ensure the health and safety of the audience witnessing the performance.
- c) Ensure that public property is not damaged in the course of the performance.
- d) Define the performance space to be used by establishing a physical boundary of **at least two (2) metres** between herself/himself and the audience, utilising one of the following options:
 - i) Roped or chained off area.
 - ii) Chalk line (if the surface to be drawn upon is not of a porous material such as granite and sandstone, and if the line drawn is water-soluble and removed once the busker has completed the act).
- e) If the performance utilises fire or flammable materials, include a WorkCover-approved fire blanket and a dry chemical fire extinguisher in their performance kits. These items are to be kept visible and accessible throughout the performance.
- f) Have a First Aid Kit and First Aid Officer present during the performance.
- g) In the case of the use of flammable liquids:
 - i) Fuels that can be used are limited to kerosene, firewater or scented lamp oils (eg citronella) only. No other fuels will be approved.
 - ii) Store and transport any flammable liquids approved under the Code of Practice in accordance with section 7 of the *Australian Dangerous Goods Code*, that is:
 - (1) Portable plastic containers of no greater than a 5 litre capacity.
 - (2) Containers conspicuously marked with the words:
 - (a) **HIGHLY FLAMMABLE**, in capital letters on both sides of container;
 - (b) "Class 3 Flammable Liquids"; and
 - (c) the name of the liquid in the container, eg kerosene, etc.
- h) Use an appropriate lidded container as a drip tray for flares or torches, or preferably use a pre-soaking method for the flares or torches. Council will not tolerate drip stains on ground surfaces that are not immediately removed or able to be removed by the busker after the act has been completed. It is recommended that performers carry a wipe-up towel that can be used to wipe away spills from concrete or when shaking off excess fuel from implements prior to performing (rather than shaking it onto the ground).
- i) If using *dangerous implements* in a performance, as defined under the Dangerous Goods Act, clauses 14, 31, 239, 240, 242 and 248, covering the use and packaging of prohibited items, all edges on metal implements must be blunted and rendered non-dangerous (including chainsaws and other mechanical devices). An implement is determined as blunt if it is incapable of piercing human skin when pressure is directly applied to its edge or point against human skin.
- j) Hold appropriate licences/certificates, eg chainsaw operators certificate, pyrotechnics certificate.

3 BACKGROUND

Ballina Shire Council recognises that:

- a) buskers make an important contribution to the cultural life of a town by reflecting styles, values and the issues of society at large;
- b) buskers provide entertainment and thought-provoking experiences to visitors and residents;
- c) busking is a valid means for people to make a living; and
- d) busking should not interfere with pedestrian traffic, the conduct of business, or impact on public safety.

4 DEFINITIONS

Busker: An entertainer who provides performances for the public by playing a musical instrument, dancing, singing, pavement art, clowning or juggling, or performing other acts of a similar nature in public places.

*The following activities are **not** considered to be busking under the terms of this policy and, as such, approval will not be issued:*

- a) *tarot card and palm readers, fortune readers;*
- b) *artists selling their works (such as portrait artists);*
- c) *masseurs or masseuses;*
- d) *vendors of any kind;*
- e) *solicitors of money for any other purpose; or*
- f) *any like act or activity.*

Circle acts: Structured performances requiring the audience to stop and watch or participate in the performance.

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Dangerous implements: Include knives, spears, swords, spikes, heavy or sharp implements of any kind that pose a threat of harm to the general public.

Dangerous materials: Include flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements, or anything giving off a level of heat or toxicity that poses a threat of harm or damage to members of the public and public property.

Designated sites: Specified sites (identified in [Map 1](#) and [Map 2](#)) where particular busking acts can only be performed (refer to [Table 2](#)).

<i>Offering for sale:</i>	The display or demonstration of items, particularly multiples of items, with an implication that they are available for sale or otherwise in exchange for money.
<i>Pavement art:</i>	Renderings done on removable surfaces such as canvas or plastic, displayed on the pavement.
<i>Performance:</i>	Musical, dramatic or other entertainment substantially involving musical, theatrical or circus performance skills.
<i>Restricted areas:</i>	Specified areas (identified in Map 1 and Map 2) that have additional conditions or restrictions placed on busking within them (refer to Table 1).
<i>Soliciting of funds:</i>	The act of asking, begging or requesting money or goods from members of the public.
<i>Special event:</i>	A function or event open to the public or a section of the public and includes a ceremony, concert, cultural celebration, dance, exhibition, fair, festival, fete, gathering, market, open air theatre, parade, sporting event or street parade.
<i>Walk-by acts:</i>	Performances where the audience is not required to stop and watch.

5 SCOPE OF POLICY

This policy applies to community members.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [Commercial Use of Footpaths policy](#)
- b) *Local Government Act 1993*.

7 REVIEW

The Busking policy will be reviewed at least every four years.

APPENDIX 1 – RESTRICTED AREAS AND DESIGNATED SITES

The following special conditions apply to areas identified as *restricted areas* and *designated sites* in Maps 1 and 2:

- 1 Busking in *restricted areas*, as identified in [Map 1](#) and [Map 2](#), is approved only in accordance with restrictions identified in [Table 1](#).
- 2 Percussion busking acts may only be performed at *designated sites* identified with the symbol “P” on [Map 1](#) and [Map 2](#), and defined in [Table 2](#).
- 3 [Circle acts](#) are only approved in designated Circle Act sites, identified with the symbol “C” on [Map 1](#) and [Map 2](#), and defined in [Table 2](#).
- 4 Acts involving the use of [dangerous materials](#) or [dangerous implements](#) are only approved in the site identified by the symbol “S” on [Map 1](#).

With reference to attached Maps 1 and 2, the following *restricted areas* are identified for the purpose of the Ballina Shire Busking policy:

TABLE 1 – RESTRICTED AREAS			
Symbol	Description of Area	Restriction to User/Usage	Refer to Map
R1	Fawcett Park and Fawcett Street, between Cherry Street and Riverwalk Arcade Ballina	Busking is approved only between the hours of 10 am and 10 pm	1
R2	Ballina Street Lennox Head, between Park Lane and Byron Street	Busking is approved only between the hours of 10 am and 10 pm	2

With reference to the attached Map 1, the following *designated sites* are identified for the purpose of the Ballina Shire Busking policy:

TABLE 2 – DESIGNATED SITES			
Symbol	Designation	Description of Area	Refer to Map
C	<i>Circle acts</i>	Fawcett Park – location shown on map	1
P	Percussion acts	No allocations made	N/A
S	Acts involving the use of <i>dangerous materials</i> or <i>dangerous implements</i>	Fawcett Park – location shown on map	1

NOTE: Buskers performing acts involving the use of *dangerous materials* or *dangerous implements* must obtain a **Special Busking Approval** to do so.



