

ORDINARY MEETING	1
24 OCTOBER 2018	

SIX MONTH REVIEW OF BUSKING BEST PRACTICE MANAGEMENT POLICY

Karen Duffin | 8/27/3 | #5878878

RECOMMENDATION:

That Council:

1. **Supports the proposed amendments to the Busking Best Practice Management Policy; and**
2. **Delegates authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to finalise any and all matters relating to the above.**

EXECUTIVE SUMMARY:

On 1 February 2018, Council implemented a new Best Practice Management Policy for Busking to help manage busking activities within the Cairns Local Government Area.

The purpose of the Policy is to provide guidelines and requirements to ensure that busking occurs at appropriate locations and results in quality performances that are appropriate, safe and contribute to the vibrancy of Cairns.

A six-month review was undertaken to ensure the Policy is meeting its intended objectives. Whilst it is considered that the implementation has been largely successful, a small number of amendments have been identified. These changes will provide additional clarity for buskers, Council officers, and business owners.

The amendments relate to:-

1. Including a requirement for children under 16 years of age to be supervised;
2. Clarification of mapping for pre-approved busking locations;
3. Removal of duplicated/redundant conditions in busking permits;
4. Mandatory auditions to ensure quality of performance.

This report was originally tabled at the September 12 Ordinary Meeting but was deferred to allow for the investigation of the impacts of increasing performance times along the Esplanade from 50 minutes, to 1 hour and 50 minutes.

Additional consultation was undertaken on this proposal and the increased time for performance on the esplanade is not recommended.

BACKGROUND:

At Council's Ordinary meeting on 24 February 2016, a General business resolution to investigate the establishment of a busking policy to effectively permit, control and support busking activities in the CBD was passed. The attached policy was prepared to facilitate appropriate busking activities within the Cairns local government area and more specifically within the Cairns CBD.

COMMENT:

Proposed amendments to the Busking Best Practice Management Policy are identified and justified below.

Amendment	Reason
Busking Best Practice Management Policy (BPMP) Standard Terms and Conditions: insert a condition that supervision is required at all times for buskers aged 16 years and under.	There is currently no provision within the Busking BPMP for adult supervision of buskers 16 years of age and under. In order to prevent an instance whereby a busker's safety is threatened, particularly given busking is permitted up until 11:50pm, it is proposed to add a condition that supervision is required at all times for buskers aged 16 years and under. This is consistent with conditions imposed by cities such as Brisbane and Melbourne who have an active busking culture.
Pre-approved busking locations map: include a metric of '10m' either side of the corner Grafton and Shields Streets and the corner of Sheridan and Shields Streets, and '20m' either side of the corner of McLeod and Shields Streets, to clarify where pre-approved busking areas end.	Council's map indicating pre-approved busking locations in the CBD, contained within the Busking BPMP, required additional clarification. It was not clear to buskers where pre-approved busking areas end.
Pre-approved busking locations map: remove green square on the corner of Grafton and Shields Streets indicating time restrictions in this location.	Council's map indicating pre-approved busking locations in the CBD, contained within the Busking BPMP, shows a green square on the corner of Grafton and Shields Streets indicating time restrictions in this location. This carried forward from the previous policy, and was originally intended to minimise noise impacts on the Tourist Information Centre during business hours given it is a largely open premises. Given there are other premises within the CBD of a similar layout, it is proposed that this restriction is removed to ensure consistency. Note there have been no complaints received from Traders in this area since the new Policy was implemented.

Amendment	Reason
Busking BPMP Standard Terms and Conditions: <ul style="list-style-type: none"> • Conditions 13 and 27 are to be consolidated • Condition 17 to be removed 	The Busking BPMP Standard Terms and Conditions section has been reviewed with the view to remove/consolidate any conditions that are redundant or duplicated.
Amendment	Reason
Re-instigate mandatory audition upon application for an Initial (4 week temporary) Permit.	At present, auditions are mandatory upon application for a Standard (12 month) Permit only. This means there are periods when Council is issuing permits to buskers whose performances may not meet the relevant assessment criteria. Having buskers audition at the outset enables Council to better manage performance quality. Once buskers have auditioned and been issued an Initial Permit they will not be required to re-audition if they apply for a Standard Permit. It should be noted that this change has minimal impact on staff resourcing in terms of availability to undertake auditions. Buskers will still audition once, but the audition component will be required upon application for an Initial Permit.

At the Council meeting on 12 September 2018, this matter was deferred to allow for consideration of extending the performance time from 50 minutes to 1 hour and 50 minutes. Following further consideration, it is recommended that Council retain the 50-minute performance time along the Esplanade for the following reasons:

1. The shorter duration promotes turnover of performance space, which provides equitable access to premium locations and a variety of performances;
2. A consistent performance time across the regulated areas ensures an ease of adherence to permit conditions for buskers, and consistency in regulation for compliance; and
3. It is consistent with busking time frames set by other local governments.

OPTIONS:

That Council:

1. Supports the proposed amendments to the Busking Best Practice Management Policy; and
2. Delegates authority to the Chief Executive Officer in accordance with the Local Government Act 2009 to finalise any and all matters relating to the above.

OR

That Council does not support the proposed amendments to the Busking Best Practice Management Policy.

OR

That Council supports the proposed amendments to the Busking Best Practice Management Policy subject to changes.

CONSIDERATIONS:

Risk Management:

The Busking Best Practice Management Policy seeks to manage and mitigate risks associated with busking by establishing a process and considerations for the assessment of applications and standard conditions to be imposed through permits.

Council's Public Liability insurance covers busking activities that are deemed low risk. These are identified as Category A busking activities within the Best Practice Management Policy. Busking that involves activities deemed high risk require the busker to hold an appropriate amount of public liability cover before being issued a permit, and are identified as Category B busking activities within the Policy. Category B buskers must also to undertake a risk assessment as part of this process, ensuring all busking performances meet appropriate safety standards.

Council Finance and the Local Economy:

It is considered that the amendments to the Busking Best Practice Management Policy will have no specific impacts on Councils finances or the local economy. However, the Policy recognises that busking is a valid means for people to make a living.

Community and Cultural Heritage:

Busking, when undertaken in appropriate locations and where performances are of an appropriate standard can contribute to the vibrancy and dynamics of the location. To contribute to the city in a positive manner the quality of busking needs to be of a standard that improves the experience of a place rather than detracts from it. The Busking Best Practice Management Policy seeks to achieve these outcomes.

Statutory:

The Best Practice Management Policy for Busking was prepared in conjunction with, and is provided effect under Councils Local laws. The process and provisions contained within are of statutory effect to busking activities through the issue of a permit and conditions.

CONSULTATION:

Proposed amendments were suggested and agreed upon by the following Council departments involved in the preparation and implementation of the Busking Best Practice Management Policy: Strategic Planning; Community, Sport and Cultural Services; City Safe.

Following the deferral of the matter from the last meeting, additional consultation was also undertaken with the Cairns Chamber of Commerce.

If approved, amendments will be communicated to existing permit holders by way of letter, and future permit holders via Councils website.

ATTACHMENTS:

1. Current Best Practice Management Policy for Busking # 5564499.
2. Track changes version of amended Best Practice Management Policy for Busking
3. Final version of amended Best Practice Management Policy for Busking



Kelly Reaston
General Manager Planning & Environment

Attachment 1: Current Best Practice Management Policy for Busking

Best Practise Management Policy for Busking

1. About the Busking Best Practice Management Policy

Cairns Regional Council has prepared this Best Practice Management Policy to help manage busking activities within the Cairns Local Government Area.

The purpose of this document is to provide guidelines and requirements to ensure that busking occurs at appropriate locations and results in quality performances which are appropriate, safe and contribute to the vibrancy of Cairns. The Best Practice Management Policy acknowledges that busking assists in creating a vibrant and dynamic city, while balancing the needs of stakeholders, including businesses, residents and visitors.

This Policy provides a framework to assist in understanding the rules for busking and outlines the minimum requirements for busking, the application process and the standard permit conditions.

This Policy has been prepared as guidelines and is to be read in conjunction with Cairns Regional Council *Local Law No. 1 Administration* and *Local Law No. 11 Local Government Controlled Areas and Roads*, which can be found at www.cairns.qld.gov.au

2. Principles

The overarching principles of the Busking Best Practice Management Policy are to:

- Recognise that busking contributes to a sense of place, provides entertainment and thought provoking experiences and makes an important contribution to the cultural life of a city and encourages activities that contribute to the vibrancy and life of public areas.
- Recognise that busking is a valid means for people to make a living.
- Provide opportunities for public performances in appropriate locations and an equitable system for the use of popular busking sites.
- Ensure that busking occurs in a manner that maintains the amenity, comfort, safety and enjoyment of public places and nearby private spaces.
- Provide guidelines that facilitate busking in a manner that minimises complaints and other problems associated with busking activities.

3. Relationship of the Busking Best Practice Management Policy to Cairns Regional Council's Local Laws

Council has a suite of local laws that provide for the good rule and government of the Cairns Local Government Area. The local laws require permits to be sought before prescribed activities are undertaken within the Cairns Local Government Area. Busking is regulated under the local laws as a prescribed activity, where it occurs on a local government controlled area or road. Permits ensure that performers are operating with an understanding of the Busking Best Practice Management Policy and in accordance with local law requirements. The local laws also provide a mechanism to seek compliance with conditions of a permit or to revoke a permit.

Councils *Local Law No. 1 Administration* and *Local Law No. 11 Local Government Controlled Areas and Roads* provide for the regulation of activities that occur in public spaces, including busking. Under Councils local laws, busking is defined as a *general activity*, and certain general activities do not require a permit, however all busking requires a permit to be issued prior to undertaking the activity on a local government controlled area or road.

The Busking Best Practice Management Policy has been prepared as a complimentary document to the local laws that establishes the best practice management for busking within the Cairns Local Government Area. In accordance with section 9(1)(e) of *Local Law No. 1 Administration*, the Best Practice Management Policy for Busking forms part of the general criteria for assessing, deciding and conditioning applications and permits for general activities (busking).

4. What is busking

Busking is a person, or group of people, who is actively providing a performance for the purpose of entertainment within a public place for gratuities. Buskers provide performances for the public through playing a musical instrument, dancing, singing, clowning or juggling, performance conjuring, puppetry, miming or doing other acts of a similar nature. Busking also includes the activity of drawing pictures, messages or representations on pavement, paper or canvas surface. Busking does not include the sale of any goods.

Types of busking performances may include:

- Performing with a musical instrument or multiple musical instruments; or
- Performing a song, dance routine, mime, clowning, juggling, puppetry, comedy, magic or living statute act; or
- Actively working in an artistic medium (this excludes pre-built displays and artworks).

5. What is not busking

Busking does not include any other activity identified as a *general activity* or other activity regulated under Cairns Regional Council's Local Laws. Examples of activities that are not busking are listed below:

- Begging;
- Advertising or promotion of goods;
- Vendors of any kind soliciting money for any purpose;
- Fundraising events, even if they include a performance element;
- Touting or spruiking;
- Political rallying;
- Religious spruiking;
- Face or body painting;
- Tarot card reading, palmistry and fortune telling;
- Massage, chiropractic treatment or any other physical manipulation;
- Artists displaying pre-fabricated artworks or goods or displaying pre-fabricated displays.

6. Permit types

The Best Practice Management Policy provides for two types of permit; an **initial permit** and a **standard permit**.

An initial permit provides a short term permit for busking where an applicant has not previously been issued a busking permit and is not undertaking Category B busking (refer to Types of busking below).

Circumstances where an initial permit for busking may be applied for:

- The busker has not previously applied for or been issued with an initial permit;
- The busking does not include busking activities which are identified as Category B busking activities;
- The busking activities will occur within the Cairns CBD, as identified within Schedule 1.

Where for repeat applications, or for busking in circumstances that are not authorised by an initial permit, a standard permit must be sought.

Circumstances in which an initial permit for busking may not be applied for:

- The busker has previously applied for or been issued an initial permit for busking;
- The busking activities will occur outside the Cairns CBD, as identified within Schedule 1;
- The busking includes activities which are identified as Category B busking activities.

An initial permit for busking activities is valid for four (4) weeks from date of issue. A standard permit for busking activities is valid for twelve (12) months from date of issue, unless otherwise stated within the permit.

Please note that Cairns Regional Council reserves the right to limit the number of permits issued at any time and that busking may be restricted or not permitted during special events.

7. Types of busking

Category A

Category A busking is all busking activities that are not otherwise identified as a Category B busking activity.

Category B

Category B busking is busking activities that:

- Include the use of dangerous materials or implements in their performance; or
- Are for balance, juggling or circle acts; or
- Pavement art performances; or
- Involve the use of percussion or noisy instruments.

8. Application requirements

All applications for a busking permit, including an initial permit must be accompanied by the following:

- A completed application form, which includes but may not be limited to the following informational requirements:
 - Details of the buskers repertoire. The buskers repertoire must be sufficient to cover the allotted busking time of 50 minutes without undue repetition;
 - Details of any instruments, props, costumes, materials or other implements used within the buskers performance;
 - Details of any amplification equipment to be used;
 - Details of any potential risks, including injury to the public or the busker from the performance, any possible damage to property and mitigation and management measures proposed by the busker to limit the risk to person or property;
- Proof of identity in the form of a driver's license, passport, proof of age card or student identity card;
- If an applicant is under the age of 16, all applications must be accompanied by proof of parental or guardian consent and proof of identify of the parent or guardian consenting to the application;
- For performers that use dangerous materials or implements - proof of required Public Liability insurance (\$20m);
- Any additional information reasonably required by an authorised person.

Where a group of performers is seeking a permit for busking, each individual within the group must hold a valid busking permit. No group permits are issued.

The use of materials and implements that may be dangerous is restricted to buskers who have highly developed skills and experience in their use and who are able to ensure the safety of both the performer and the viewing public.

Additional requirements for applications for busking that is for juggling, balance or circle acts, pavement art performances, or includes the use of dangerous materials or instruments in their performance:

- Busking applications are to be accompanied by a risk assessment undertaken in accordance with the requirements contained within this Best Practice Management Policy;
- Buskers must provide a demonstration of their performance;
- At the discretion of an authorised person, applicants may be required to submit a peer endorsement, completed and signed by two appointed peers.

Buskers applying for a permit other than an initial permit are required to audition. Auditions are required to demonstrate a buskers repertoire and to ensure that performers and performances satisfy the assessment criteria. The date and time a Busker is required to audition will be communicated upon submission of application.

All applications must be made in the approved form. Application forms are available at www.cairns.qld.gov.au or by contacting Council on (07) 4044 3044.

9. Assessment criteria

Applications for busking are assessed on the broad criteria of the appropriateness of performance and location, contribution to the provision of a safe and comfortable environment for all and the maintenance of an appropriate standard of amenity and accessibility for all.

Appropriate performance

Busking within the Cairns Local Government Area should provide for a variety of diverse and engaging performers and performances, with busking activities contributing to the attractive and quality appearance of the area.

Busking activities are required to be suitable and acceptable, in the opinion of an authorised person, with regard to the professionalism, presentation and appearance of the performer and the entertainment value, quality and content of the performance.

Safety, amenity & accessibility

Busking must not adversely affect public safety, pedestrian or vehicular traffic or the amenity of a public space for residents, businesses and visitors. Busking must not make a public area uncomfortable for visitors.

Appropriate location

Busking should only occur within approved busking locations, where the activity enhances the area, and where it does not unduly disturb residents, businesses and visitors. The availability of space within the footpath or public space for busking is a consideration, as is the ability to maintain a clear and trafficable footpath, roadway and access to businesses.

The previous behaviour of a busker including during earlier permit periods, will be taken into consideration when assessing an application. Any legitimate behavioural complaints against a busker or history of non-compliance with conditions of permit may result in the refusal of an application or for a current permit to be revoked.

Additional criteria for Category B busking activities

Where busking includes a Category B busking activity, applications will also be assessed on the busker's demonstrated understanding of safety for the public and the performer in the use of the intended dangerous materials and/or instruments.

10. Permit conditions

Standard conditions

The following conditions apply to all busking permits unless modified by an authorised person. Additional conditions or requirements may be applied to individual permits as considered necessary by an authorised person:

1. Group acts are limited to a maximum of five performers.
2. Buskers must display their permit to busk in a visible position in the busking site at all times during their act.
3. Permits are not transferable or refundable and apply only to the nominated holder.
4. Busking may only be undertaken in an area identified within Schedule 1 of the Busking Best Practice Management Policy as an approved busking area, as modified by these conditions.
5. Busking activities must be located a minimum of 10 metres from outdoor dining areas and Licensed venues, when operational, except for the identified busking location within Schedule 1 of the Busking Best Practice Management Policy.
6. Busking activities must be separated from other busking activities by a minimum of 50 metres, as measured by the most direct path, not including private property.
7. Buskers may only perform between the hours of 8am – 11.50pm inclusive.
8. Buskers may only perform for a maximum of 50 minutes at any one location.
9. Buskers may only undertake busking activities at any one busking site once on any one calendar day.
10. Time slots for busking are between the hour and 50 minutes past the hour. Buskers may only set up in the 10 minutes prior to their busking time slot and pack up within the 10 minutes post their busking time slot (for example a busker may set up their performance between 1.50pm and 2.00pm, undertake busking activities between 2pm and 2.50pm, and pack up between 2.50pm and 3.00pm noting that the next act may be setting up within this time). If a Busker arrives after the start of the hour they can commence busking, however they must pack up at 50 minutes past the hour.
11. Buskers must keep the busking site clean while they are working and ensure that their use of the site does not pose a threat to public safety. The busking site must be left in the condition that it was found in.
12. Sound must not exceed 70dBA, as measured from a point three (3) metres from the source.
13. Regardless of the sound level emitted from a busker, an authorised person may require the volume to be reduced, if in the opinion of the authorised person the sound is unduly impacting upon the amenity of an area.
14. Busking against the building line is not permitted. Busking must be setback a minimum of two (2) metres from the property boundary or a minimum of ten (10) away from market stalls to ensure an adequate pedestrian zone is maintained to provide a continuous, clear, safe and trafficable pedestrian corridor.
15. The maximum size of a busking site is 1.5m x 1.5m.
16. Buskers must not interfere with pedestrian flow or cause obstruction to traders or delivery vehicles, including by way of encouraging audience formation in such a manner as to cause such interference or contribute to a reduction of amenity or safety. Buskers must ensure that they,

- or their audience, do not block shops doorways during business hours, dining areas and cafes, bus stops, fire escapes, driveways, roads or any other entrance to private or public property.
17. Audience members must not participate in performances, except if the performance is classified as a Circle Act. Buskers must discourage audience from participating in performances, including by requesting audience cease participating in performances, if necessary.
 18. Buskers must publicly announce and direct crowds either before and / or during a performance to maintain essential access and clearances, including those stipulated in condition 14.
 19. Buskers must ensure that, neither they nor their audience, pedestrians or the general public are put at risk at any time during their performance.
 20. Buskers must ensure that public or private property is not damaged during a performance.
 21. Buskers should exercise a community minded approach to their performance by:
 - a. Establishing a good relationship with retailers and nearby traders;
 - b. Not harassing, annoying or disturbing people, traders or residents;
 - c. Behaving co-operatively with and respectfully towards other buskers.
 22. Buskers must maintain socially acceptable standards of appearance.
 23. Buskers must not engage in unacceptable behaviour, which includes but is not limited to:
 - a. Aggressive, abusive, offensive, threatening, bullying or hostile behaviour;
 - b. Unwillingness to co-operate with businesses, residents, other buskers or the direction of an authorised person.
 24. The content of a busker's performance must not:
 - a. Include or involve sexually explicit performances, this includes by simulation of sexual acts;
 - b. Include defamatory content;
 - c. Include lewd, crude or rude material.
 25. A busker must not behave in a manner which is offensive or inappropriate in the opinion of an authorised person.
 26. Buskers may receive voluntary donations from the audience but must not solicit funds.
 27. Buskers must not offer goods for sale. The offering of goods for sale is separately regulated under Council's local laws and requires a separate permit
 28. Buskers must not solicit for funds through the act of begging or requesting money or goods.
 29. Buskers are wholly responsible for all claims made against them for personal injury or property damage.
 30. Buskers must comply with all reasonable directions of an authorised person in the time specified by the authorised person.
 31. Busking is not permitted in relation to special events unless busking forms part of that event or specific invitation is granted by Cairns Regional Council.
 32. By accepting the permit, the busker agrees to fully comply with all of the terms and conditions of the permit and the Busking Best Practice Management Policy on the understanding that the permit may be suspended, cancelled or revoked on non-compliance with any condition contained within the permit or standard condition contained within the Busking Best Practice Management Policy.

Additional conditions for busking activities including amplification

1. Buskers approved to use amplification are restricted to battery operated amplifiers. The use of amplification must cease at 9.50pm.
2. Amplified sound must not exceed 70dBA, as measured from a point three (3) metres from the source of amplification. An authorised person may require the volume to be reduced, if in the opinion of the authorised person the amplified sound is unduly impacting upon the amenity of an area.

Additional conditions for busking activities including percussion

1. Busking activities that include percussion instruments are restricted to performing in the specified area identified within Schedule 1 as being suitable for percussion instruments.
2. The use of percussion instruments must cease at 9.50pm.

Additional conditions for busking activities including pavement art

1. Drawing on pavement may only occur where the material used is removable by water and does not leave a residue and the surface of the pavement is non-porous material, such as bitumen or concrete. Surfaces not able to be drawn upon directly include sandstone, granite and other porous surfaces.
2. Individual renditions of the artist's work may not be offered for sale, or sold to the public.
3. Any proposed material to be used in carrying out pavement art must not be slippery (whether wet or dry) and must not be such as to be likely to cause a public hazard.
4. The performance space must be reinstated to its pre-performance condition at the end of the performance.

Additional conditions for busking activities including circle acts

1. Busking activities that include circle acts are restricted to performing in the specified area identified within Schedule 1 as being suitable for circle acts.

Additional conditions for busking activities including the use of dangerous materials and implements

1. Buskers whose activities include the use of dangerous materials or implements in a performance must hold and maintain current Public Liability insurance policy.
2. Busking activities that include the use of dangerous materials or implements in a performance are restricted to areas identified within Schedule 1 as being suitable for the use of dangerous materials and instruments.
3. All dangerous implements to be used in the performance, as defined by the Dangerous Goods Act, must have edges blunted and be rendered non-dangerous (including chainsaws and mechanical items). An implement is determined to be blunt if it is incapable of piercing human skin when pressure is directly applied to its edge or point against human skin.
4. Where flammable liquids are to be used, fuels are limited to low odour kerosene or citronella oil.
5. Where flammable liquids are to be used, all storage and transport must be per the Code of Practice in accordance with Chapter 7 of the Australian Dangerous Goods code. No more than five (5) litres capacity must be transported and containers are to be conspicuously marked as highly flammable.

6. It is the responsibility of the busker to ensure any drip stains are immediately cleaned up and that the performance space is reinstated to its pre-performance condition at the end of the performance.
7. Performances using fire must keep a fire blanket and fire extinguisher in their performance kit and it must be kept clearly visible and accessible at the busking site throughout the duration of the performance.
8. Buskers performing with dangerous materials or instruments must maintain an adequate separation distance from members of the public and trafficable areas to ensure public safety is maintained at all times.

11. Risk

Where a busking activity is required to undertake a risk assessment, the risk assessment is required to be undertaken in accordance with ISO 31000:2009 including any updated version.

Where a busking application is required to be accompanied by a risk management plan, the plan must include the following:

1. A plan of the performance area indicating minimum safety spaces between the performer and audience and / or trafficable areas;
2. Details of the means used to maintain the minimum safety spaces nominated on the plan;
3. Details of the means used to maintain safety for the duration of the performance;
4. Details of all dangerous instruments and/or materials to be used in the performance;
5. Details of all safety devices on site during the performance;
6. Details of the first aid kit and first aid officer on site during the performance;
7. Details of all appropriate or necessary licenses or certificates including operator's certificates or pyrotechnics certificates.

12. Breach of permit conditions

All breaches of permit conditions will be dealt with in accordance with Council's *Local Law No. 1 Administration and Local Law No. 11 Local Government Controlled Areas and Roads*.

13. Permitted busking locations

Approved areas and locations for busking are identified within Schedule 1 of this Best Practice Management Policy. Sites may move, be temporarily unavailable or permanently removed at the discretion of Cairns Regional Council. Buskers must follow the direction of an authorised person if a site becomes unavailable either temporarily or permanently. Busking is not permitted at any other location, except for where specified within conditions of a permit.

14. Definitions

Approved busking area – a location identified for busking in Schedule 1 or any location specified within a condition of a permit as being approved for busking.

Authorised person – a person who is an authorised person for a local law under an Act.

Balance act – a performance where a buskers performance includes balancing on a structure, object or the like.

Dangerous materials and implements – are materials and implements that may pose a risk, hazard or uncertain outcome for people or property. *Dangerous materials* include flammable materials and chemicals, fire, fireworks, smoke, flairs, 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.

Dangerous implements includes knives, spears, swords, spikes and sharp implements of any kind that pose a threat of harm to the general public.

Identified busking location – a location identified in Schedule 1 of the Busking Best Practice Management Policy as being approved for busking. ‘The McDonald’s Corner’, on the corner of the Esplanade and Shields St, is the only approved busking location in the CBD where within 10m from an outdoor dining area. Buskers are permitted to perform here. The exact location where a busker can perform on this corner is identified in Schedule 1.

Juggling act – a performance where a buskers performance includes juggling.

Noisy instruments – any musical instrument which is naturally loud without the use of amplification, such as bagpipes or drums.

Pavement art- chalk drawings rendered directly onto the pavement or renderings done in other materials on removable surfaces such as canvas or plastic, laid out onto the pavement and/or footpath.

Pedestrian zone – Is the area of the footpath measured from the property boundary and is for the exclusive use of pedestrians.

Percussion instrument – A musical instrument played by striking (by hand or by sticks), such as a drum.

Soliciting of funds – the act of asking, begging or requesting money or goods from members of the public.

Special events – An event of a public nature utilising wholly, or in part public land, public roads and/or footpath areas.

Schedule 1 - Permitted busking locations



Attachment 2: Track changes version of amended Best Practice Management Policy for Busking

Best ~~Practise~~ Practice Management Policy for Busking

1. About the Busking Best Practice Management Policy

Cairns Regional Council has prepared this Best Practice Management Policy to help manage busking activities within the Cairns Local Government Area.

The purpose of this document is to provide guidelines and requirements to ensure that busking occurs at appropriate locations and results in quality performances which are appropriate, safe and contribute to the vibrancy of Cairns. The Best Practice Management Policy acknowledges that busking assists in creating a vibrant and dynamic city, while balancing the needs of stakeholders, including businesses, residents and visitors.

This Policy provides a framework to assist in understanding the rules for busking and outlines the minimum requirements for busking, the application process and the standard permit conditions.

This Policy has been prepared as guidelines and is to be read in conjunction with Cairns Regional Council *Local Law No. 1 Administration and Local Law No. 11 Local Government Controlled Areas and Roads*, which can be found at www.cairns.qld.gov.au

2. Principles

The overarching principles of the Busking Best Practice Management Policy are to:

- Recognise that busking contributes to a sense of place, provides entertainment and thought provoking experiences and makes an important contribution to the cultural life of a city and encourages activities that contribute to the vibrancy and life of public areas.
- Recognise that busking is a valid means for people to make a living.
- Provide opportunities for public performances in appropriate locations and an equitable system for the use of popular busking sites.
- Ensure that busking occurs in a manner that maintains the amenity, comfort, safety and enjoyment of public places and nearby private spaces.
- Provide guidelines that facilitate busking in a manner that minimises complaints and other problems associated with busking activities.

3. Relationship of the Busking Best Practice Management Policy to Cairns Regional Council's Local Laws

Council has a suite of local laws that provide for the good rule and government of the Cairns Local Government Area. The local laws require permits to be sought before prescribed activities are undertaken within the Cairns Local Government Area. Busking is regulated under the local laws as a prescribed activity, where it occurs on a local government controlled area or road. Permits ensure that performers are operating with an understanding of the Busking Best Practice Management Policy and in accordance with local law requirements. The local laws also provide a mechanism to seek compliance with conditions of a permit or to revoke a permit.

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The Busking Best Practice Management Policy has been prepared as a complimentary document to the local laws that establishes the best practice management for busking within the Cairns Local Government Area. In accordance with section 9(1)(e) of *Local Law No. 1 Administration*, the Best Practice Management Policy for Busking forms part of the general criteria for assessing, deciding and conditioning applications and permits for general activities (busking).

4. What is busking

Busking is a person, or group of people, who is actively providing a performance for the purpose of entertainment within a public place for gratuities. Buskers provide performances for the public through playing a musical instrument, dancing, singing, clowning or juggling, performance conjuring, puppetry, miming or doing other acts of a similar nature. Busking also includes the activity of drawing pictures, messages or representations on pavement, paper or canvas surface. Busking does not include the sale of any goods.

Types of busking performances may include:

- Performing with a musical instrument or multiple musical instruments; or
- Performing a song, dance routine, mime, clowning, juggling, puppetry, comedy, magic or living statute act; or
- Actively working in an artistic medium (this excludes pre-built displays and artworks).

5. What is not busking

Busking does not include any other activity identified as a *general activity* or other activity regulated under Cairns Regional Council's Local Laws. Examples of activities that are not busking are listed below:

- Begging;
- Advertising or promotion of goods;
- Vendors of any kind soliciting money for any purpose;
- Fundraising events, even if they include a performance element;
- Touting or spruiking;
- Political rallying;
- Religious spruiking;
- Face or body painting;
- Tarot card reading, palmistry and fortune telling;
- Massage, chiropractic treatment or any other physical manipulation;
- Artists displaying pre-fabricated artworks or goods or displaying pre-fabricated displays.

6. Permit types

The Best Practice Management Policy provides for two types of permit; an **initial permit** and a **standard permit**.

An initial permit provides a short term permit for busking where an applicant has not previously been issued a busking permit and is not undertaking Category B busking (refer to Types of busking below).

Circumstances where an initial permit for busking may be applied for:

- The busker has not previously applied for or been issued with an initial permit;
- The busking does not include busking activities which are identified as Category B busking activities;
- The busking activities will occur within the Cairns CBD, as identified within Schedule 1.

Where for repeat applications, or for busking in circumstances that are not authorised by an initial permit, a standard permit must be sought.

Circumstances in which an initial permit for busking may not be applied for:

- The busker has previously applied for or been issued an initial permit for busking;
- The busking activities will occur outside the Cairns CBD, as identified within Schedule 1;
- The busking includes activities which are identified as Category B busking activities.

An initial permit for busking activities is valid for four (4) weeks from date of issue. A standard permit for busking activities is valid for twelve (12) months from date of issue, unless otherwise stated within the permit.

Please note that Cairns Regional Council reserves the right to limit the number of permits issued at any time and that busking may be restricted or not permitted during special events.

7. Types of busking

Category A

Category A busking is all busking activities that are not otherwise identified as a Category B busking activity.

Category B

Category B busking is busking activities that:

- Include the use of dangerous materials or implements in their performance; or
- Are for balance, juggling or circle acts; or
- Pavement art performances; or
- Involve the use of percussion or noisy instruments.

8. Application requirements

All applications for a busking permit, including an initial permit must be accompanied by the following:

- A completed application form, which includes but may not be limited to the following informational requirements:
 - Details of the buskers repertoire. The buskers repertoire must be sufficient to cover the allotted busking time of 50 minutes without undue repetition;
 - Details of any instruments, props, costumes, materials or other implements used within the buskers performance;
 - Details of any amplification equipment to be used;
 - Details of any potential risks, including injury to the public or the busker from the performance, any possible damage to property and mitigation and management measures proposed by the busker to limit the risk to person or property;
- Proof of identity in the form of a driver's license, passport, proof of age card or student identity card;
- If an applicant is under the age of 16, all applications must be accompanied by proof of parental or guardian consent and proof of identify of the parent or guardian consenting to the application;
- For performers that use dangerous materials or implements - proof of required Public Liability insurance (\$20m);
- Any additional information reasonably required by an authorised person.

Where a group of performers is seeking a permit for busking, each individual within the group must hold a valid busking permit. No group permits are issued.

The use of materials and implements that may be dangerous is restricted to buskers who have highly developed skills and experience in their use and who are able to ensure the safety of both the performer and the viewing public.

Additional requirements for applications for busking that is for juggling, balance or circle acts, pavement art performances, or includes the use of dangerous materials or instruments in their performance:

- Busking applications are to be accompanied by a risk assessment undertaken in accordance with the requirements contained within this Best Practice Management Policy;
- Buskers must provide a demonstration of their performance;
- At the discretion of an authorised person, applicants may be required to submit a peer endorsement, completed and signed by two appointed peers.

Buskers applying for a permit other than an initial permit are required to audition. Auditions are required to demonstrate a buskers repertoire and to ensure that performers and performances satisfy the assessment criteria. The date and time a Busker is required to audition will be communicated upon submission of application.

All applications must be made in the approved form. Application forms are available at www.cairns.qld.gov.au or by contacting Council on (07) 4044 3044.

9. Assessment criteria

Applications for busking are assessed on the broad criteria of the appropriateness of performance and location, contribution to the provision of a safe and comfortable environment for all and the maintenance of an appropriate standard of amenity and accessibility for all.

Appropriate performance

Busking within the Cairns Local Government Area should provide for a variety of diverse and engaging performers and performances, with busking activities contributing to the attractive and quality appearance of the area.

Busking activities are required to be suitable and acceptable, in the opinion of an authorised person, with regard to the professionalism, presentation and appearance of the performer and the entertainment value, quality and content of the performance.

Safety, amenity & accessibility

Busking must not adversely affect public safety, pedestrian or vehicular traffic or the amenity of a public space for residents, businesses and visitors. Busking must not make a public area uncomfortable for visitors.

Appropriate location

Busking should only occur within approved busking locations, where the activity enhances the area, and where it does not unduly disturb residents, businesses and visitors. The availability of space within the footpath or public space for busking is a consideration, as is the ability to maintain a clear and trafficable footpath, roadway and access to businesses.

The previous behaviour of a busker including during earlier permit periods, will be taken into consideration when assessing an application. Any legitimate behavioural complaints against a busker or history of non-compliance with conditions of permit may result in the refusal of an application or for a current permit to be revoked.

Additional criteria for Category B busking activities

Where busking includes a Category B busking activity, applications will also be assessed on the busker's demonstrated understanding of safety for the public and the performer in the use of the intended dangerous materials and/or instruments.

10. Permit conditions

Standard conditions

The following conditions apply to all busking permits unless modified by an authorised person. Additional conditions or requirements may be applied to individual permits as considered necessary by an authorised person:

1. Group acts are limited to a maximum of five performers.
2. Buskers must display their permit to busk in a visible position in the busking site at all times during their act.
3. Permits are not transferable or refundable and apply only to the nominated holder.
4. Busking may only be undertaken in an area identified within Schedule 1 of the Busking Best Practice Management Policy as an approved busking area, or as modified by these conditions.
5. Busking activities must be located a minimum of 10 metres from outdoor dining areas and Licensed venues, when operational, except for the identified busking location within Schedule 1 of the Busking Best Practice Management Policy.
6. Busking activities must be separated from other busking activities by a minimum of 50 metres, as measured by the most direct path, not including private property.
7. Buskers may only perform between the hours of 8am – 11.50pm inclusive.
8. Buskers may only perform for a maximum of 50 minutes at any one location.
9. Buskers may only undertake busking activities at any one busking site once on any one calendar day.
10. Time slots for busking are between the hour and 50 minutes past the hour. Buskers may only set up in the 10 minutes prior to their busking time slot and pack up within the 10 minutes post their busking time slot (for example a busker may set up their performance between 1.50pm and 2.00pm, undertake busking activities between 2pm and 2.50pm, and pack up between 2.50pm and 3.00pm noting that the next act may be setting up within this time). If a Busker arrives after the start of the hour they can commence busking, however they must pack up at 50 minutes past the hour.
11. Buskers must keep the busking site clean while they are working and ensure that their use of the site does not pose a threat to public safety. The busking site must be left in the condition that it was found in.
- ~~12.~~ Sound emitting from busking activities must not exceed 70dBA, as measured from a point three (3) metres from the source.
- ~~13.~~ Regardless of the sound level emitted from a busker, an authorised person may require the volume to be reduced, if in the opinion of the authorised person the sound is unduly impacting upon the amenity of an area.
- ~~14.~~~~12.~~ Busking against the building line is not permitted. Busking must be setback a minimum of two (2) metres from the property boundary or a minimum of ten (10) metres away from market stalls to ensure an adequate pedestrian zone is maintained to provide a continuous, clear, safe and trafficable pedestrian corridor.
- ~~15.~~~~13.~~ The maximum size of a busking site is 1.5m x 1.5m.
- ~~16.~~~~14.~~ Buskers must not interfere with pedestrian flow or cause obstruction to traders or delivery vehicles, including by way of encouraging audience formation in such a manner as to cause such interference or contribute to a reduction of amenity or safety. Buskers must ensure that they,

- or their audience, do not block shops doorways during business hours, dining areas and cafes, bus stops, fire escapes, driveways, roads or any other entrance to private or public property.
- ~~17. Audience members must not participate in performances, except if the performance is classified as a Circle Act. Buskers must discourage audience from participating in performances, including by requesting audience cease participating in performances, if necessary.~~
- ~~18-15.~~ Buskers must publicly announce and direct crowds either before and / or during a performance to maintain essential access and clearances, including those stipulated in condition ~~1412.~~
- ~~19-16.~~ Buskers must ensure that, neither they nor their audience, pedestrians or the general public are put at risk at any time during their performance.
- ~~20-17.~~ Buskers must ensure that public or private property is not damaged during a performance.
- ~~21-18.~~ Buskers should exercise a community minded approach to their performance by:
- a. Establishing a good relationship with retailers and nearby traders;
 - b. Not harassing, annoying or disturbing people, traders or residents;
 - c. Behaving co-operatively with and respectfully towards other buskers.
- ~~22-19.~~ Buskers must maintain socially acceptable standards of appearance.
- ~~23-20.~~ Buskers must not engage in unacceptable behaviour, which includes but is not limited to:
- a. Aggressive, abusive, offensive, threatening, bullying or hostile behaviour;
 - b. Unwillingness to co-operate with businesses, residents, other buskers or the direction of an authorised person.
- ~~24-21.~~ The content of a busker's performance must not:
- a. Include or involve sexually explicit performances, this includes by simulation of sexual acts;
 - b. Include defamatory content;
 - c. Include lewd, crude or rude material.
- ~~25-22.~~ A busker must not behave in a manner which is offensive or inappropriate in the opinion of an authorised person.
- ~~26-23.~~ Buskers may receive voluntary donations from the audience but must not solicit funds.
- ~~27-24.~~ Buskers must not offer goods for sale. The offering of goods for sale is separately regulated under Council's local laws and requires a separate permit.
- ~~28-25.~~ Buskers must not solicit for funds through the act of begging or requesting money or goods.
- ~~29-26.~~ Buskers are wholly responsible for all claims made against them for personal injury or property damage.
- ~~30-27.~~ Buskers must comply with all reasonable directions of an authorised person in the time specified by the authorised person, ~~including but not limited to a direction to reduce volume.~~
- ~~31-28.~~ Busking is not permitted in relation to special events unless busking forms part of that event or specific invitation is granted by Cairns Regional Council.
- ~~32-29.~~ By accepting the permit, the busker agrees to fully comply with all of the terms and conditions of the permit and the Busking Best Practice Management Policy on the understanding that the permit may be suspended, cancelled or revoked on non-compliance with any condition contained within the permit or standard condition contained within the Busking Best Practice Management Policy.

Additional conditions for busking activities including amplification

1. Buskers approved to use amplification are restricted to battery operated amplifiers. The use of amplification must cease at 9.50pm.
2. Amplified sound must not exceed 70dBA, as measured from a point three (3) metres from the source of amplification. An authorised person may require the volume to be reduced, if in the opinion of the authorised person the amplified sound is unduly impacting upon the amenity of an area.

Additional conditions for busking activities including percussion

1. Busking activities that include percussion instruments are restricted to performing in the specified area identified within Schedule 1 as being suitable for percussion instruments.
2. The use of percussion instruments must cease at 9.50pm.

Additional conditions for busking activities including pavement art

1. Drawing on pavement may only occur where the material used is removable by water and does not leave a residue and the surface of the pavement is non-porous material, such as bitumen or concrete. Surfaces not able to be drawn upon directly include sandstone, granite and other porous surfaces.
2. Individual renditions of the artist's work may not be offered for sale, or sold to the public.
3. Any proposed material to be used in carrying out pavement art must not be slippery (whether wet or dry) and must not be such as to be likely to cause a public hazard.
4. The performance space must be reinstated to its pre-performance condition at the end of the performance.

Additional conditions for busking activities including circle acts

1. Busking activities that include circle acts are restricted to performing in the specified area identified within Schedule 1 as being suitable for circle acts.

Additional conditions for busking activities including the use of dangerous materials and implements

1. Buskers whose activities include the use of dangerous materials or implements in a performance must hold and maintain current Public Liability insurance policy.
2. Busking activities that include the use of dangerous materials or implements in a performance are restricted to areas identified within Schedule 1 as being suitable for the use of dangerous materials and instruments.
3. All dangerous implements to be used in the performance, as defined by the Dangerous Goods Act, must have edges blunted and be rendered non-dangerous (including chainsaws and mechanical items). An implement is determined to be blunt if it is incapable of piercing human skin when pressure is directly applied to its edge or point against human skin.
4. Where flammable liquids are to be used, fuels are limited to low odour kerosene or citronella oil.
5. Where flammable liquids are to be used, all storage and transport must be per the Code of Practice in accordance with Chapter 7 of the Australian Dangerous Goods code. No more than five (5) litres capacity must be transported and containers are to be conspicuously marked as highly flammable.

6. It is the responsibility of the busker to ensure any drip stains are immediately cleaned up and that the performance space is reinstated to its pre-performance condition at the end of the performance.
7. Performances using fire must keep a fire blanket and fire extinguisher in their performance kit and it must be kept clearly visible and accessible at the busking site throughout the duration of the performance.
8. Buskers performing with dangerous materials or instruments must maintain an adequate separation distance from members of the public and trafficable areas to ensure public safety is maintained at all times.

11. Risk

Where a busking activity is required to undertake a risk assessment, the risk assessment is required to be undertaken in accordance with ISO 31000:2009 including any updated version.

Where a busking application is required to be accompanied by a risk management plan, the plan must include the following:

1. A plan of the performance area indicating minimum safety spaces between the performer and audience and / or trafficable areas;
2. Details of the means used to maintain the minimum safety spaces nominated on the plan;
3. Details of the means used to maintain safety for the duration of the performance;
4. Details of all dangerous instruments and/or materials to be used in the performance;
5. Details of all safety devices on site during the performance;
6. Details of the first aid kit and first aid officer on site during the performance;
7. Details of all appropriate or necessary licenses or certificates including operator's certificates or pyrotechnics certificates.

12. Breach of permit conditions

All breaches of permit conditions will be dealt with in accordance with Council's *Local Law No. 1 Administration and Local Law No. 11 Local Government Controlled Areas and Roads*.

13. Permitted busking locations

Approved areas and locations for busking are identified within Schedule 1 of this Best Practice Management Policy. Sites may move, be temporarily unavailable or permanently removed at the discretion of Cairns Regional Council. Buskers must follow the direction of an authorised person if a site becomes unavailable either temporarily or permanently. Busking is not permitted at any other location, except for where specified within conditions of a permit.

14. Definitions

Approved busking area – a location identified for busking in Schedule 1 or any location specified within a condition of a permit as being approved for busking.

Authorised person – a person who is an authorised person for a local law under an Act.

Balance act – a performance where a busker's performance includes balancing on a structure, object or the like.

Dangerous materials and implements – are materials and implements that may pose a risk, hazard or uncertain outcome for people or property. *Dangerous materials* include flammable materials and chemicals, fire, fireworks, smoke, flairs, 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.

Dangerous implements includes knives, spears, swords, spikes and sharp implements of any kind that pose a threat of harm to the general public.

Identified busking location – a location identified in Schedule 1 of the Busking Best Practice Management Policy as being approved for busking. ‘The McDonald’s Corner’, on the corner of the Esplanade and Shields St, is the only approved busking location in the CBD where within 10m from an outdoor dining area. Buskers are permitted to perform here. The exact location where a busker can perform on this corner is identified in Schedule 1.

Juggling act – a performance where a buskers performance includes juggling.

Noisy instruments – any musical instrument which is naturally loud without the use of amplification, such as bagpipes or drums.

Pavement art- chalk drawings rendered directly onto the pavement or renderings done in other materials on removable surfaces such as canvas or plastic, laid out onto the pavement and/or footpath.

Pedestrian zone – Is the area of the footpath measured from the property boundary and is for the exclusive use of pedestrians.

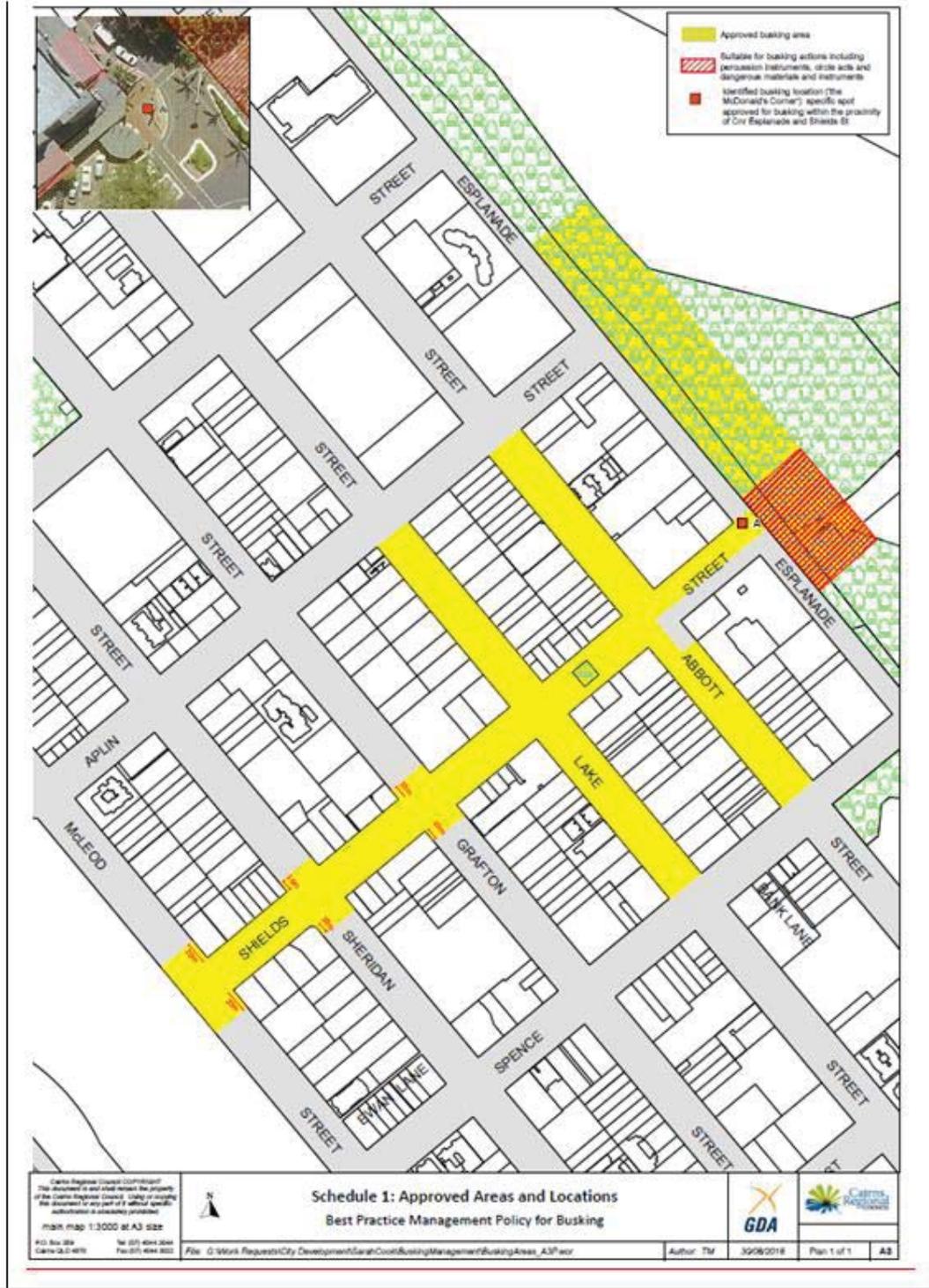
Percussion instrument – A musical instrument played by striking (by hand or by sticks), such as a drum.

Soliciting of funds – the act of asking, begging or requesting money or goods from members of the public.

Special events – An event of a public nature utilising wholly, or in part public land, public roads and/or footpath areas.

Schedule 1 - Permitted busking locations





Attachment 3: Final version of amended Best Practice Management Policy for Busking

Best Practice Management Policy for Busking

1. About the Busking Best Practice Management Policy

Cairns Regional Council has prepared this Best Practice Management Policy to help manage busking activities within the Cairns Local Government Area.

The purpose of this document is to provide guidelines and requirements to ensure that busking occurs at appropriate locations and results in quality performances which are appropriate, safe and contribute to the vibrancy of Cairns. The Best Practice Management Policy acknowledges that busking assists in creating a vibrant and dynamic city, while balancing the needs of stakeholders, including businesses, residents and visitors.

This Policy provides a framework to assist in understanding the rules for busking and outlines the minimum requirements for busking, the application process and the standard permit conditions.

This Policy has been prepared as guidelines and is to be read in conjunction with Cairns Regional Council *Local Law No. 1 Administration* and *Local Law No. 11 Local Government Controlled Areas and Roads*, which can be found at www.cairns.qld.gov.au

2. Principles

The overarching principles of the Busking Best Practice Management Policy are to:

- Recognise that busking contributes to a sense of place, provides entertainment and thought provoking experiences and makes an important contribution to the cultural life of a city and encourages activities that contribute to the vibrancy and life of public areas.
- Recognise that busking is a valid means for people to make a living.
- Provide opportunities for public performances in appropriate locations and an equitable system for the use of popular busking sites.
- Ensure that busking occurs in a manner that maintains the amenity, comfort, safety and enjoyment of public places and nearby private spaces.
- Provide guidelines that facilitate busking in a manner that minimises complaints and other problems associated with busking activities.

3. Relationship of the Busking Best Practice Management Policy to Cairns Regional Council's Local Laws

Council has a suite of local laws that provide for the good rule and government of the Cairns Local Government Area. The local laws require permits to be sought before prescribed activities are undertaken within the Cairns Local Government Area. Busking is regulated under the local laws as a prescribed activity, where it occurs on a local government controlled area or road. Permits ensure that performers are operating with an understanding of the Busking Best Practice Management Policy and in accordance with local law requirements. The local laws also provide a mechanism to seek compliance with conditions of a permit or to revoke a permit.

Councils Local Law No. 1 Administration and Local Law No. 11 Local Government Controlled Areas and Roads provide for the regulation of activities that occur in public spaces, including busking. Under Councils local laws, busking is defined as a *general activity*, and certain general activities do not require a permit, however all busking requires a permit to be issued prior to undertaking the activity on a local government controlled area or road.

The Busking Best Practice Management Policy has been prepared as a complimentary document to the local laws that establishes the best practice management for busking within the Cairns Local Government Area. In accordance with section 9(1)(e) of *Local Law No. 1 Administration*, the Best Practice Management Policy for Busking forms part of the general criteria for assessing, deciding and conditioning applications and permits for general activities (busking).

4. What is busking

Busking is a person, or group of people, who is actively providing a performance for the purpose of entertainment within a public place for gratuities. Buskers provide performances for the public through playing a musical instrument, dancing, singing, clowning or juggling, performance conjuring, puppetry, miming or doing other acts of a similar nature. Busking also includes the activity of drawing pictures, messages or representations on pavement, paper or canvas surface. Busking does not include the sale of any goods.

Types of busking performances may include:

- Performing with a musical instrument or multiple musical instruments; or
- Performing a song, dance routine, mime, clowning, juggling, puppetry, comedy, magic or living statute act; or
- Actively working in an artistic medium (this excludes pre-built displays and artworks).

5. What is not busking

Busking does not include any other activity identified as a *general activity* or other activity regulated under Cairns Regional Council's Local Laws. Examples of activities that are not busking are listed below:

- Begging;
- Advertising or promotion of goods;
- Vendors of any kind soliciting money for any purpose;
- Fundraising events, even if they include a performance element;
- Touting or spruiking;
- Political rallying;
- Religious spruiking;
- Face or body painting;
- Tarot card reading, palmistry and fortune telling;
- Massage, chiropractic treatment or any other physical manipulation;
- Artists displaying pre-fabricated artworks or goods or displaying pre-fabricated displays.

6. Permit types

The Best Practice Management Policy provides for two types of permit; an **initial permit** and a **standard permit**.

An initial permit provides a short term permit for busking where an applicant has not previously been issued a busking permit and is not undertaking Category B busking (refer to Types of busking below).

Circumstances where an initial permit for busking may be applied for:

- The busker has not previously applied for or been issued with an initial permit;
- The busking does not include busking activities which are identified as Category B busking activities;
- The busking activities will occur within the Cairns CBD, as identified within Schedule 1.

Where for repeat applications, or for busking in circumstances that are not authorised by an initial permit, a standard permit must be sought.

Circumstances in which an initial permit for busking may not be applied for:

- The busker has previously applied for or been issued an initial permit for busking;
- The busking activities will occur outside the Cairns CBD, as identified within Schedule 1;
- The busking includes activities which are identified as Category B busking activities.

An initial permit for busking activities is valid for four (4) weeks from date of issue. A standard permit for busking activities is valid for twelve (12) months from date of issue, unless otherwise stated within the permit.

Please note that Cairns Regional Council reserves the right to limit the number of permits issued at any time and that busking may be restricted or not permitted during special events.

7. Types of busking

Category A

Category A busking is all busking activities that are not otherwise identified as a Category B busking activity.

Category B

Category B busking is busking activities that:

- Include the use of dangerous materials or implements in their performance; or
- Are for balance, juggling or circle acts; or
- Pavement art performances; or
- Involve the use of percussion or noisy instruments.

8. Application requirements

All applications for a busking permit, including an initial permit must be accompanied by the following:

- A completed application form, which includes but may not be limited to the following informational requirements:
 - Details of the buskers repertoire. The buskers repertoire must be sufficient to cover the allotted busking time of 50 minutes without undue repetition;
 - Details of any instruments, props, costumes, materials or other implements used within the buskers performance;
 - Details of any amplification equipment to be used;
 - Details of any potential risks, including injury to the public or the busker from the performance, any possible damage to property and mitigation and management measures proposed by the busker to limit the risk to person or property;
- Proof of identity in the form of a driver's license, passport, proof of age card or student identity card;
- If an applicant is under the age of 16, all applications must be accompanied by proof of parental or guardian consent and proof of identify of the parent or guardian consenting to the application;
- For performers that use dangerous materials or implements - proof of required Public Liability insurance (\$20m);
- Any additional information reasonably required by an authorised person.

Where a group of performers is seeking a permit for busking, each individual within the group must hold a valid busking permit. No group permits are issued.

The use of materials and implements that may be dangerous is restricted to buskers who have highly developed skills and experience in their use and who are able to ensure the safety of both the performer and the viewing public.

Additional requirements for applications for busking that is for juggling, balance or circle acts, pavement art performances, or includes the use of dangerous materials or instruments in their performance:

- Busking applications are to be accompanied by a risk assessment undertaken in accordance with the requirements contained within this Best Practice Management Policy;
- Buskers must provide a demonstration of their performance;
- At the discretion of an authorised person, applicants may be required to submit a peer endorsement, completed and signed by two appointed peers.

Buskers applying for a permit other than an initial permit are required to audition. Auditions are required to demonstrate a buskers repertoire and to ensure that performers and performances satisfy the assessment criteria. The date and time a Busker is required to audition will be communicated upon submission of application.

All applications must be made in the approved form. Application forms are available at www.cairns.qld.gov.au or by contacting Council on (07) 4044 3044.

9. Assessment criteria

Applications for busking are assessed on the broad criteria of the appropriateness of performance and location, contribution to the provision of a safe and comfortable environment for all and the maintenance of an appropriate standard of amenity and accessibility for all.

Appropriate performance

Busking within the Cairns Local Government Area should provide for a variety of diverse and engaging performers and performances, with busking activities contributing to the attractive and quality appearance of the area.

Busking activities are required to be suitable and acceptable, in the opinion of an authorised person, with regard to the professionalism, presentation and appearance of the performer and the entertainment value, quality and content of the performance.

Safety, amenity & accessibility

Busking must not adversely affect public safety, pedestrian or vehicular traffic or the amenity of a public space for residents, businesses and visitors. Busking must not make a public area uncomfortable for visitors.

Appropriate location

Busking should only occur within approved busking locations, where the activity enhances the area, and where it does not unduly disturb residents, businesses and visitors. The availability of space within the footpath or public space for busking is a consideration, as is the ability to maintain a clear and trafficable footpath, roadway and access to businesses.

The previous behaviour of a busker including during earlier permit periods, will be taken into consideration when assessing an application. Any legitimate behavioural complaints against a busker or history of non-compliance with conditions of permit may result in the refusal of an application or for a current permit to be revoked.

Additional criteria for Category B busking activities

Where busking includes a Category B busking activity, applications will also be assessed on the busker's demonstrated understanding of safety for the public and the performer in the use of the intended dangerous materials and/or instruments.

10. Permit conditions

Standard conditions

The following conditions apply to all busking permits unless modified by an authorised person. Additional conditions or requirements may be applied to individual permits as considered necessary by an authorised person:

1. Group acts are limited to a maximum of five performers.
2. Buskers must display their permit to busk in a visible position in the busking site at all times during their act.
3. Permits are not transferable or refundable and apply only to the nominated holder.
4. Busking may only be undertaken in an area identified within Schedule 1 of the Busking Best Practice Management Policy as an approved busking area, or as modified by these conditions.
5. Busking activities must be located a minimum of 10 metres from outdoor dining areas and Licensed venues, when operational, except for the identified busking location within Schedule 1 of the Busking Best Practice Management Policy.
6. Busking activities must be separated from other busking activities by a minimum of 50 metres, as measured by the most direct path, not including private property.
7. Buskers may only perform between the hours of 8am – 11.50pm inclusive.
8. Buskers may only perform for a maximum of 50 minutes at any one location.
9. Buskers may only undertake busking activities at any one busking site once on any one calendar day.
10. Time slots for busking are between the hour and 50 minutes past the hour. Buskers may only set up in the 10 minutes prior to their busking time slot and pack up within the 10 minutes post their busking time slot (for example a busker may set up their performance between 1.50pm and 2.00pm, undertake busking activities between 2pm and 2.50pm, and pack up between 2.50pm and 3.00pm noting that the next act may be setting up within this time). If a Busker arrives after the start of the hour they can commence busking, however they must pack up at 50 minutes past the hour.
11. Buskers must keep the busking site clean while they are working and ensure that their use of the site does not pose a threat to public safety. The busking site must be left in the condition that it was found in.
12. Sound emitting from busking activities must not exceed 70dBA, as measured from a point three (3) metres from the source. Busking against the building line is not permitted. Busking must be setback a minimum of two (2) metres from the property boundary or a minimum of ten (10) metres away from market stalls to ensure an adequate pedestrian zone is maintained to provide a continuous, clear, safe and trafficable pedestrian corridor.
13. The maximum size of a busking site is 1.5m x 1.5m.
14. Buskers must not interfere with pedestrian flow or cause obstruction to traders or delivery vehicles, including by way of encouraging audience formation in such a manner as to cause such interference or contribute to a reduction of amenity or safety. Buskers must ensure that they, or their audience, do not block shops doorways during business hours, dining areas and cafes, bus stops, fire escapes, driveways, roads or any other entrance to private or public property.
15. Buskers must publicly announce and direct crowds either before and / or during a performance to maintain essential access and clearances, including those stipulated in condition 12.

16. Buskers must ensure that, neither they nor their audience, pedestrians or the general public are put at risk at any time during their performance.
17. Buskers must ensure that public or private property is not damaged during a performance.
18. Buskers should exercise a community minded approach to their performance by:
 - a. Establishing a good relationship with retailers and nearby traders;
 - b. Not harassing, annoying or disturbing people, traders or residents;
 - c. Behaving co-operatively with and respectfully towards other buskers.
19. Buskers must maintain socially acceptable standards of appearance.
20. Buskers must not engage in unacceptable behaviour, which includes but is not limited to:
 - a. Aggressive, abusive, offensive, threatening, bullying or hostile behaviour;
 - b. Unwillingness to co-operate with businesses, residents, other buskers or the direction of an authorised person.
21. The content of a busker's performance must not:
 - a. Include or involve sexually explicit performances, this includes by simulation of sexual acts;
 - b. Include defamatory content;
 - c. Include lewd, crude or rude material.
22. A busker must not behave in a manner which is offensive or inappropriate in the opinion of an authorised person.
23. Buskers may receive voluntary donations from the audience but must not solicit funds.
24. Buskers must not offer goods for sale. The offering of goods for sale is separately regulated under Council's local laws and requires a separate permit.
25. Buskers must not solicit for funds through the act of begging or requesting money or goods.
26. Buskers are wholly responsible for all claims made against them for personal injury or property damage.
27. Buskers must comply with all reasonable directions of an authorised person in the time specified by the authorised person, including but not limited to a direction to reduce volume.
28. Busking is not permitted in relation to special events unless busking forms part of that event or specific invitation is granted by Cairns Regional Council.
29. By accepting the permit, the busker agrees to fully comply with all of the terms and conditions of the permit and the Busking Best Practice Management Policy on the understanding that the permit may be suspended, cancelled or revoked on non-compliance with any condition contained within the permit or standard condition contained within the Busking Best Practice Management Policy.

Additional conditions for busking activities including amplification

1. Buskers approved to use amplification are restricted to battery operated amplifiers. The use of amplification must cease at 9.50pm.
2. Amplified sound must not exceed 70dBA, as measured from a point three (3) metres from the source of amplification. An authorised person may require the volume to be reduced, if in the opinion of the authorised person the amplified sound is unduly impacting upon the amenity of an area.

Additional conditions for busking activities including percussion

1. Busking activities that include percussion instruments are restricted to performing in the specified area identified within Schedule 1 as being suitable for percussion instruments.
2. The use of percussion instruments must cease at 9.50pm.

Additional conditions for busking activities including pavement art

1. Drawing on pavement may only occur where the material used is removable by water and does not leave a residue and the surface of the pavement is non-porous material, such as bitumen or concrete. Surfaces not able to be drawn upon directly include sandstone, granite and other porous surfaces.
2. Individual renditions of the artist's work may not be offered for sale, or sold to the public.
3. Any proposed material to be used in carrying out pavement art must not be slippery (whether wet or dry) and must not be such as to be likely to cause a public hazard.
4. The performance space must be reinstated to its pre-performance condition at the end of the performance.

Additional conditions for busking activities including circle acts

1. Busking activities that include circle acts are restricted to performing in the specified area identified within Schedule 1 as being suitable for circle acts.

Additional conditions for busking activities including the use of dangerous materials and implements

1. Buskers whose activities include the use of dangerous materials or implements in a performance must hold and maintain current Public Liability insurance policy.
2. Busking activities that include the use of dangerous materials or implements in a performance are restricted to areas identified within Schedule 1 as being suitable for the use of dangerous materials and instruments.
3. All dangerous implements to be used in the performance, as defined by the Dangerous Goods Act, must have edges blunted and be rendered non-dangerous (including chainsaws and mechanical items). An implement is determined to be blunt if it is incapable of piercing human skin when pressure is directly applied to its edge or point against human skin.
4. Where flammable liquids are to be used, fuels are limited to low odour kerosene or citronella oil.
5. Where flammable liquids are to be used, all storage and transport must be per the Code of Practice in accordance with Chapter 7 of the Australian Dangerous Goods code. No more than five (5) litres capacity must be transported and containers are to be conspicuously marked as highly flammable.
6. It is the responsibility of the busker to ensure any drip stains are immediately cleaned up and that the performance space is reinstated to its pre-performance condition at the end of the performance.
7. Performances using fire must keep a fire blanket and fire extinguisher in their performance kit and it must be kept clearly visible and accessible at the busking site throughout the duration of the performance.
8. Buskers performing with dangerous materials or instruments must maintain an adequate separation distance from members of the public and trafficable areas to ensure public safety is maintained at all times.

11. Risk

Where a busking activity is required to undertake a risk assessment, the risk assessment is required to be undertaken in accordance with ISO 31000:2009 including any updated version.

Where a busking application is required to be accompanied by a risk management plan, the plan must include the following:

1. A plan of the performance area indicating minimum safety spaces between the performer and audience and / or trafficable areas;
2. Details of the means used to maintain the minimum safety spaces nominated on the plan;
3. Details of the means used to maintain safety for the duration of the performance;
4. Details of all dangerous instruments and/or materials to be used in the performance;
5. Details of all safety devices on site during the performance;
6. Details of the first aid kit and first aid officer on site during the performance;
7. Details of all appropriate or necessary licenses or certificates including operator's certificates or pyrotechnics certificates.

12. Breach of permit conditions

All breaches of permit conditions will be dealt with in accordance with Council's *Local Law No. 1 Administration and Local Law No. 11 Local Government Controlled Areas and Roads*.

13. Permitted busking locations

Approved areas and locations for busking are identified within Schedule 1 of this Best Practice Management Policy. Sites may move, be temporarily unavailable or permanently removed at the discretion of Cairns Regional Council. Buskers must follow the direction of an authorised person if a site becomes unavailable either temporarily or permanently. Busking is not permitted at any other location, except for where specified within conditions of a permit.

14. Definitions

Approved busking area – a location identified for busking in Schedule 1 or any location specified within a condition of a permit as being approved for busking.

Authorised person – a person who is an authorised person for a local law under an Act.

Balance act – a performance where a buskers performance includes balancing on a structure, object or the like.

Busker – a person who undertakes the act of busking.

Busking – see Section 4.

Busking restricted areas – specified areas within the Local Government Area that have had restrictions placed on busking activities that may occur in them. Schedule 1 identifies busking restricted areas.

Circle acts – Structured performances requiring the audience to stop and watch or participate in the performance in a manner that partially or fully surrounds the performer. Circle acts generally require a larger area to accommodate the performance and the audience

Dangerous materials and implements – are materials and implements that may pose a risk, hazard or uncertain outcome for people or property. *Dangerous materials* include flammable materials and chemicals, fire, fireworks, smoke, flairs, 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. *Dangerous implements* includes knives, spears, swords, spikes and sharp implements of any kind that pose a threat of harm to the general public.

Identified busking location – a location identified in Schedule 1 of the Busking Best Practice Management Policy as being approved for busking. ‘The McDonald’s Corner’, on the corner of the Esplanade and Shields St, is the only approved busking location in the CBD where within 10m from an outdoor dining area. Buskers are permitted to perform here. The exact location where a busker can perform on this corner is identified in Schedule 1.

Juggling act – a performance where a buskers performance includes juggling.

Noisy instruments – any musical instrument which is naturally loud without the use of amplification, such as bagpipes or drums.

Pavement art - chalk drawings rendered directly onto the pavement or renderings done in other materials on removable surfaces such as canvas or plastic, laid out onto the pavement and/or footpath.

Pedestrian zone – Is the area of the footpath measured from the property boundary and is for the exclusive use of pedestrians.

Percussion instrument – A musical instrument played by striking (by hand or by sticks), such as a drum.

Soliciting of funds – the act of asking, begging or requesting money or goods from members of the public.

Special events – An event of a public nature utilising wholly, or in part public land, public roads and/or footpath areas.

Schedule 1 - Permitted busking locations

