

5.4. REVOKE BUSKING GENERAL POLICY

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DEPARTMENT Environment and Planning

RECOMMENDATION

That Council revoke the Busking General Policy.

EXECUTIVE SUMMARY

Busking is a Prescribed Activity under *Local Law No. 1 (Administration) 2020*. As the activity is regulated by the local law, a policy is not required.

Furthermore, most local buskers use high foot traffic areas that do not require them to have a Council approval, such as the Port Village Shopping Centre, Port Douglas Markets and the front of Woolworths in Mossman.

BACKGROUND

Prior to the 2008 amalgamation with Cairns City Council (“Cairns”), Douglas Shire did not support busking activities within its CBD areas.

Cairns permits buskers in the city centre, particularly in the mall areas. Suitable areas were designated in Cairns to minimise disruption to retailers and add vibrancy to the area. Upon amalgamation, it was expected that areas in the Douglas Shire would be subject to the same policies and, as such, busking was permitted in Port Douglas and Mossman, despite no areas being identified as suitable.

Since then, busking has been permitted with mixed results. Council has received numerous complaints and Port Douglas Police have regularly had to shut down or move on performers who are causing a nuisance to accommodation houses and retailers. The activity is a favourite for backpackers who visit the area, usually during the high season, and seek to fund or extend their stay.

COMMENT

A soft review of the local laws will be undertaken in during the 2021/22 year. This will include making minor amendments and, after consulting Port Douglas Police and the Douglas Chamber of Commerce, it is proposed that busking be limited to the Port Douglas Markets and special events such as Carnivale. This will not affect buskers who currently utilise areas on private property, such as Port Village or Mossman Woolworths. Entertainment, exercise and similar activities in Council’s Parks and Reserves can be managed through Council’s Local Laws and Prescribed Activity approvals where appropriate.

PROPOSAL

That Council revoke the Busking General Policy.

FINANCIAL/RESOURCE IMPLICATIONS

Busking permits currently cost \$26.00 for a 3 month permit. Most of the “problem” buskers attempt to operate without an approval. In the 2018/19 financial year 6 permits were applied for, in the 2019/20 year 4 permits were applied for and in the current financial year, only 1 permit has been applied for. Any potential loss in revenue will be negligible.

RISK MANAGEMENT IMPLICATIONS

Revoking the policy will have no risk management implications as the activity and applicable conditions are covered by the local laws.

SUSTAINABILITY IMPLICATIONS

Economic: Nil

Environmental: Nil

Social: Limiting busking to private property and special events will remove the potential nuisance impact on retailers and accommodation houses, particularly in Macrossan Street.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2019-2024 Initiatives:

Theme 5 - Robust Governance and Efficient Service Delivery

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

Goal 1 - We will conduct Council business in an open and transparent manner with strong oversight and open reporting.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

Regulator Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes based approach that balances the needs of the community with social and natural justice.

CONSULTATION

Internal: Environmental Health

External: Port Douglas Police, Douglas Chamber of Commerce

COMMUNITY ENGAGEMENT

Nil

ATTACHMENTS

1. Busking General Policy [5.4.1 - 5 pages]

BUSKING GENERAL POLICY

Intent

- To encourage activities that contribute vibrancy and life to public areas and to allow opportunities for public performances.
- To provide an equitable system of use for popular busking sites among the buskers earning a living through their art form.
- To minimise complaints, criticism and other problems associated with buskers operating in the city area.

Scope

This policy shall apply to busking carried out on all Council and state-controlled land within the Douglas Shire Council area. Authorised busking is permitted in approved areas in , Front Street, Mossman and the Port Douglas town centre, under the conditions outlined in this policy. Douglas Shire Council reserves the right to limit the number of approvals at any time, or to regulate through application of fees and charges.

Reference

Local Law No. 1 (Administration) 2011
Subordinate Local Law No. 1 – Schedule 6

Provisions

- Douglas Shire Council recognises a strong tradition of busking in the Region. Buskers contribute to a sense of place, provide entertainment and thought provoking experiences to tourists and members of the general public.
- Busking is recognised as a valid means for people to make a living. Buskers make an important contribution to the cultural life of a city by reflecting styles, values and the issues of society at large.
- Busking should not interfere with pedestrian traffic, the conduct of business, or contribute to a lack of safety.

Definitions

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

Circle acts: Structured performances requiring the audience to stop and watch or participate in the performance. Approximate duration: 20 minutes.

Dangerous materials and implements: Materials and implements that pose a risk, hazard or uncertain outcomes for people. *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 include knives, spears, swords, spikes and sharp implements of any kind that pose a threat of harm to the general public.

Offering for sale: 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 (for example, CDs or cassettes).

Percussion Instruments: A musical instrument played by striking, such as a drum.

Performance: Musical, dramatic or other entertainment substantially involving musical, theatrical or circus performance skills.

Restricted areas: specified areas within the town that have had restrictions placed on busking activities that may occur in them.

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

Special Busking Areas: An area designated as suitable for high risk activities such as Circle Acts, use of Dangerous Materials or Percussion instruments.

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

Walk-by acts: Spontaneous performances where the audience is not required to stop and watch.

Obtaining An Authorised Permit To Busk

Application for a Busking Permit must be made on the approved form, and be accompanied by payment of required fees and charges.

Criteria for assessing a proposed busking activity can include:

- Quality of audition
- Presentation and appearance of the performer/s
- Entertainment value and uniqueness of the performer/s
- Professionalism of the performer/s

For the purposes of identification, applicants will be required to present or provide the following items at the time of application before a Busking Permit will be issued:

- Proof of identify
- Proof of parental consent for applicants under the age of 18 years. Consent forms signed by applicants' parents or guardians must be lodged at the time of application for a permit to busk.

Three (3) Monthly Busking Permits will be issued to individuals. Permits are not transferable or refundable.

The following are not considered to be busking under the terms of this policy and as such a permit will not be issued:

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

Conditions For Busking

- Buskers must hold an authorised permit to busk, issued by Douglas Shire Council.
- Buskers **must** display their Permit to Busk in a prominent, highly visible position in the busking site at all times during their acts.
- Buskers may only perform between the hours of 8:00am and Midnight inclusive.
- Buskers may perform for a maximum of two (2) hours at any one site.
- 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.
- Buskers may receive voluntary donations from the audience but may not solicit funds.
- Buskers approved to use amplification are restricted to battery operated amplifiers. Use of amplification is to cease at 10:00pm. Restricted areas may apply.

- Buskers may offer for sale Compact Discs consisting of the busker’s own work. No other goods or services may be offered for sale, displayed, demonstrated or advertised. 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. A minimum two (2) metre pedestrian corridor must be maintained so that a continuous corridor is maintained parallel to the roadway.
- Buskers who are utilising pavement (chalk) art as a form of entertainment may only do so under the terms and conditions outlined in Attachment 1.
- Buskers may only use dangerous implements and materials if they hold a Special Busking Permit to do so and must comply with the terms and conditions in the Code of Practice at Attachment 2.
- The use of percussion instruments is limited to restricted areas and the use of percussion instruments is to cease at 10:00 pm.
- Police and Council’s Authorised Officers are able to revoke permits if the holder is causing public inconvenience, is likely to cause harm to the public or property, or is otherwise in breach of this Policy.
- Additional Terms and Conditions may be applied to individual Permits by Council’s Authorised Officer as required.

Restricted Areas

Busking is not allowed within areas designated as restricted.

Busking is not permitted in relation to Special Events unless busking forms part of that event or specific invitation is granted by Council.

Busking is not permitted within 10 metres of outdoor dining facilities or Licensed venues during operational hours unless specific invitation has been supplied by management of the business.

Busking is not permitted within 10 metres of Market Stalls.

Related Documents

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|--------|-------------------------------------|
| 456092 | Procedure – Issuing Busking Permits |
| 456000 | Busking Permits Register |
| 456066 | Application for a Busking Permit |
| 456061 | Busking Permit Card template |
| 332880 | Busking Audition Checklist |

This policy is to remain in force until otherwise determined by Council.

Manager Responsible for Review:

Manager Sustainable Communities

ADOPTED: 16/06/2015
 DUE FOR REVISION: 16/06/2019
 REVOKED/SUPERSEDED:

Attachment 1: Pavement Art Code of Practice

- 1) This code of practice only covers the areas that are the responsibility of Douglas Shire Council.
- 2) Busking may include pavement art where it can be seen as a public form of entertainment under the guidelines of the Douglas Shire Council Busking Policy, with all of the Douglas Shire Council Busking Policy conditions applying and including the following specific applications of Douglas Shire Council policies to pavement art
- 3) Pavement art, for the purposes of this policy, is defined as 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.
- 4) Drawing directly onto the pavement may only occur where:
 - a. The material used is removable by water and does not leave a residue; and
 - b. 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.
- 5) Individual renditions of the artists work may not be offered for sale, or sold to the public.
- 6) 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.
- 7) There must be no complaints received from shop owners regarding walking materials used in carrying out the pavement art into shops (such as chalk).

Attachment 2: Use of Dangerous Materials and Implements in Busking: Code of Practice

Douglas Shire Council recognises that many buskers use materials and/or implements in their performance that may reasonably be considered as dangerous. Council also acknowledges that, in the hands of skilled and experienced performers, the use of fire or superficially dangerous implements such as knives and swords within circus or juggling acts lends an appealing theatrical element that is popular with the viewing public.

The purpose of this code of practice is to ensure that the use of dangerous materials and implements 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.

1. Approval of the use of dangerous materials and/or implements

Buskers using dangerous materials and/or implements must hold a current Special Busking Permit to use such items in their performance. Buskers holding Special Busking Permits must adhere to all terms and conditions of the standard busking licence.

All dangerous implements to be used in the performance, as defined under the *Dangerous Goods Act*, Clauses 14, 31, 239, 240, 242, covering the use of prohibited items, must have edges blunted and rendered non dangerous (including chain saws 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.

Where flammable liquids are to be used, all storage and transport must be as per the Australian Dangerous Goods Code, section 7, including:

- Portable plastic containers to be no greater than 5 Litre capacity
- Containers to be conspicuously marked "HIGHLY FLAMMABLE"

2. Approved sites for the use of dangerous materials and implements.

Buskers may only use dangerous materials and/or implements within designated Special Busking Sites. Special Busking Sites will be recorded on a schedule of approved busking sites.

3. Process for Obtaining a Special Busking Permit

Special Busking Permits apply only to individual performers and not groups. All individual performers within a group must hold Special Busking Permits if they are to use dangerous materials and/or implements.

Special Busking Permits are available under the same terms and conditions as standard Busking Permits with the exception of the additional requirements nominated below:

A completed Risk Management Plan must accompany Special Busking Permit application. This risk Management Plan must include a minimum requirement the following items;

- Plan of performance area indicating minimum safety space between performer and audience
- Detail of means used to maintain safety space for duration of performance
- Detail of all dangerous implements and/or materials to be used in the performance.
- Detail of all safety devices on site during the performance
- Detail of first aid kit and First Aid Officer on site during performance
- Detail of all appropriate licences / certificates e.g. Chain Saw operators certificate, pyrotechnics certificate.