



BUSKING AND SPRUIKING GUIDELINES

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1 Introduction

Lismore City Council has an adopted *'Approvals and Use of Land Owned or Managed by Council'* Policy. This guideline has been made under that policy to assist staff, performers, businesses and residents in understanding the assessment and operational framework for busking and spruiking. The aim of this guideline is to foster an environment that encourages and enables a range of street activities and performances while recognising the importance of having a structured policy framework in place to minimise complaints, criticism and other issues relating to the ambience and amenity of public spaces.

2 Objectives

The objectives of this guideline are to:

- support Councils Policy *'Approvals and Use of Land Owned or Managed by Council'*
- support busking and spruiking to enhance the vibrancy, vitality, diversity and ambience of public spaces
- provide certainty and self-regulation to buskers and spruikers within a clearly understood, fair and transparent operating framework
- maintain existing levels of public amenity
- minimise complaints, criticism and other problems associated with busking and spruiking, and
- facilitate regulated use of public spaces.

3 Assessment Guidelines

Lismore City Council recognises that:

- there is a strong history of using public land for activities that contribute to the character of public spaces
- busking and spruiking activities should not adversely affect public safety, pedestrian traffic or the amenity of an area.

a) **Appropriate Location**

Activities should only occur in those locations where the activity enhances the vibrancy and social activation of particular streets or precincts. The capacity of the street in terms of footpath width and pedestrian volumes is also a primary consideration.

b) **Attractive and Quality of Appearance**

Activities should create a comfortable ambience in the public realm and contribute to the amenity of the public space.

c) **Diverse and engaging**

Activities should offer a variety of performances, positively engage passers-by and create a sense of interest and curiosity.

d) **Safety and Amenity**

The safety and security of crowds, pedestrians and residents are significant considerations when assessing an application. Activities should provide a sense of safety and security at all times during the performance and must not compromise the amenity of area caused by noise, excessive amplification, anti-social behaviour for example.

e) **Accessibility**

Activities should be integrated into the street in a way that does not compromise circulation requirements for other street activities, pedestrian or traffic safety through maintaining adequate clearances.

f) **Suitability of performance**

Activities in the public realm should be considered suitable and acceptable with regard to safety, amenity and its public appeal.

4 What is busking

A busker is considered to be an entertainer who is actively providing a performance in the public place in exchange for a donation.

Busking is defined as sounding or playing a musical instrument, singing, giving a recitation or performing, conjuring, juggling, puppetry, miming, dancing, entertaining or doing any of these things concurrently.

Busking also includes the activity of drawing any message, picture or representation on a pavement, paper or canvas surface or the like.

5 What is not considered busking

The activities listed below are not considered busking under the terms of this guideline.

- vendors of any kind – including glow sticks, flowers, jewelers and other merchandise sellers
- tarot card reading, palmistry and fortune telling
- massage, chiropractic treatment or any other physical manipulation
- face or body painting
- artists selling pre-fabricated work – pavement artists must be actively engaged in producing their artistic medium and not simply selling displayed goods
- temporary tattoo applications, or
- any like activity.

Other approvals may still be required by Council for the above activities.

6 What is spruiking

Spruiking is using a human voice to generally promote goods or services to passing pedestrians on a street or in a public place. This is different to touting, which involves standing in front of a business and enticing or propositioning individuals to enter the premises and purchase goods.

7 Applying for approval

Standard busking/spruiking activities (activities that **do not** involve dangerous materials or implements) must be in writing (completion of Councils nominated application form) and be supported by:

- A passport type photo
- One of the following forms of proof of identity
- A current Australian drivers licence
- A Student identity/ proof of age card
- A current passport
- Another document containing a signature, a recent photograph and date of birth which establishes the person's identity to the satisfaction of Council
- If under the age of 18 years old a parent or guardian is required to complete consent form
- Payment of the application fee nominated within Council Fees and Charges

Special Busking/spruiking activities (activities that **do** involve dangerous materials or Implements) must be support by information required for a standard activity plus the following additional information:

- A current first aid certificate
- Evidence of holding relevant licences/certificates (i.e. relevant operators certificate, pyrotechnics certificate)
- Evidence of holding public liability insurance indemnifying Council to the value of \$10 million dollars.

- Evidence of an Australian Circus & Physical Theatre Association (ACAPTA) accredited busking permit (Buskers applying for this Permit will be assessed by an ACAPTA) or equivalent. Details can be found on the ACAPTA website.

8 Approval period

Approvals are issued for a 24 month period. Approvals are not transferable or refundable.

9 Insurance

All applicants are recommended to hold appropriate public liability insurance cover. Council reserves the right to require proof of evidence of insurance where nature of the activity presents an unreasonable risk to the public.

Applications for special busking/spruiking activities must be supported by a public liability insurance cover indemnifying Council to the value of \$10 million dollars.

10 Register

The Local Government Act 1993 requires Council to keep a register of applications/approvals and this information is to be made available for public inspection at the office of the Council on request. The accessible information includes the busker's name, address, duration of the approval, description of what has been approved and whether the approval has been revoked or modified.

11 Renewal of approvals

Standard and Special approvals should be renewed before the expiry date. Activities cannot be undertaken on land owned or managed by Council unless a valid approval is in place. Enforcement action maybe initiated where unauthorised or expired permits are used.

12 Lost or Stolen Permits

A replacement fee (as listed in Councils Fees and Charges) will apply to the re-issue of a lost or stolen Busking Permit.

13 Non acceptable activities

Offering for sale or the provision of goods or services or one-on-one consultation for money, fee or reward are not considered to be busking under the terms of this policy; for example: Balloon sculpting or modelling, fortune, tarot card and palm reading, artists selling their works (such as portrait artists), massage or any type of healing therapy, selling of any kind, solicitation of money for any purpose.

Council does not permit any performance which involves an animal, reptile or bird and approvals will not be issued for such activities.

An individual who is supported by an assistance animal (as defined by section 5 of the Companion Animals Act 1998) may undertake an activity whilst accompanied by that assistance animal however the assistance animal must not form part of any performance.

14 Activities undertaken by persons under the age of 18

Proof of parental consent is required for applicants under the age of 18 years. Council's application form must be completed and signed by the applicant's parent or guardian in person at the time of application. Council strongly recommends that all buskers under the age of 18 be accompanied or regularly supervised by a parent, guardian or other appropriate adult at all times.

15 Group activities

Each member of a group activity is to be clearly identified within any approval. Groups will generally be limited to a **maximum** of 5 members. This is to ensure that pedestrians are able to move freely through the public space.

16 Display of approvals

For busking activities approvals must be displayed in a prominent, highly visible position in the busking site at all times during performances. For spruiking activities approvals must be able to be produced on request by a Council Officer.

17 Public amenity and pedestrian and vehicle access

Activities must not include any act that could be considered as causing a public nuisance including excessive noise and/or the use of offensive or discriminatory language or behaviour.

Activities must not unreasonably interfere with pedestrian flow or public amenities or cause obstruction to traders or delivery vehicles, including by way of encouraging audience formation in such a manner as to cause such interference.

Applicants are responsible for maintaining pedestrian flow and public amenity at all times and must ensure:

- Activities are not undertaken within five (5) metres of a road intersection including any pedestrian crossing or traffic signals.
- Free and safe access for pedestrians along pathways or thoroughfares near performance site
- Their audience do not block shop doorways during business hours, dining areas and cafes, bus stops, fire escapes, roads and residential doorways, wheelchair access and safety must be maintained at all times
- Unobstructed access and safety for people who are visually impaired, busking against the building line is not permitted and must be located adjacent to the kerb

18 Hours

Activities are to be undertaken between the following times:

- 9.00am – 8:00pm Monday – Friday
- 10:00am – 6:00pm Sundays and Public Holidays.

19 Duration

Activities may be undertaken at any one site for:

- Maximum of 2 hours, or
- Maximum of 8 hours for pavement art.

20 Behaviour

Activities must not include any act that could be considered a public nuisance such as the use of excessive noise, offensive language or anti-social behaviour. The use of political, religious, racial, sexually explicit or homophobic material that may be deemed unduly persuasive, offensive or discriminatory is strictly prohibited as determined by the NSW Anti-Discrimination Act 1977.

Applicants must comply with directions issued by any Event Organisers and members of the Ambulance, Fire and any other Emergency Services or by an Authorised Council Officer who may at any time request the activity to cease if it is deemed loud or intrusive, or excessively repetitive, or is causing public inconvenience, or is likely to cause harm to the public or property.

Applicants must take all reasonable precautions to ensure the health and safety of the audience witnessing the performance and must ensure that public property is not damaged in the course of the performance.

21 Cleanliness

Applicants must keep the site in use clean while they are working, ensure that their use of the site does not pose a threat to public safety and that the busking site is left in the condition that it was found. Pavement Art applicants must ensure that the busking site is not stained with any material, chemical or other residue.

22 Amplification

Activities are to operate at a level so that the sound:

- Is not intrusive above background levels to the degree that a passer-by would have to strain their voice to be heard above the sound
- Is not to be readily audible over other background noise when a person is more than two standard building frontages from the source of sound
- Should not be audible from the far side of a four lane carriageway

The sound levels from a busking performance shall at no time disrupt business trading including retail and dining establishments, affect workplace performance or detract from public amenity. Excessive amplification is not permitted. Loud acts may be asked to lower their volume or cease the activity. Council reserves the right to impose a decibel limit on amplified sound in appropriate circumstances.

Activities may only use amplification that is battery operated. Mains voltage amplification and amplification powered by a generator is prohibited. All speakers and amplifiers are to be kept within 1 metre of the performance. Exposed or unsecured speaker or electrical cables must not be located in any location that may present a risk to the public.

Where a complaint has been received about excessive noise, level of noise amplification, music of a percussive or repetitive nature, or excessive duration of an act, particularly in relation to the proximity of that act to a place or work or residence, and the complaint is deemed to be justified, a busker may be directed by Authorised officers to cease busking.

23 Soliciting of funds

Applicants may receive a monetary appreciation from the audience for their performance but may not solicit funds in a way which is likely to cause any discomfort to any individual.

24 Advertising/selling

Applicants cannot offer goods and services for sale; display, demonstrate or advertise goods or services or associate themselves with such advertising in conjunction with their performance.

Applicants are permitted one sign advertising their own original CD and/or act. The sign must be no greater than a standard A4 card and displayed in a way that doesn't create a trip hazard. It is recommended the sign be attached to the applicants' collection receptacle.

25 Pavement art

Activities utilising pavement (chalk) art as a form of entertainment may only do so where:

- the material used is removable by water and does not leave a residue
- the surface is of a non-porous material, such as bitumen and concrete
- draw onto a large removable surface (such as canvas or plastic) at least 2m x 2m laid on the pavement
- individual renditions of the artists' work may not be offered for sale, or sold to the public
- any proposed material to be used in carrying out pavement art must not be slippery (whether wet or dry) and must not be likely to cause a public hazard
- the site is used for no more than 8 hours

- the work space to be used is to be clearly defined and artist's tools and personal belongings must be kept within this area.

26 Legal obligations and cancellation

Applicants shall comply with all relevant laws, regulations and policies and lawful directions of Authorised Persons. The holding of an approval will not constitute a defence where an applicant has committed an offence. Approvals may be revoked or modified where persons breach any laws or any of the conditions listed in these Guidelines.

Where non-compliance is identified enforcement action will be considered in accordance with Councils Enforcement Policy and associated Guidelines. The general enforcement protocol is as follows:

1. Education and verbal warning issued – details documented on file
2. Written warning – A Notice to Comply is issued
3. Infringement Notice is served if offender has failed to act after Notice to Comply
4. Approval will be revoked or cancelled.

27 Monitoring

Monitoring will be undertaken periodically by Authorised Persons ensure the objectives and principles of this guideline are being satisfied.

28 Restricted areas

Activities are not to be undertaken:

- within five (5) metres of any intersection, pedestrian crossing or traffic signal unless otherwise designated and excluding circle act pitches
- in any location that prevents easy access to and from designated transport stops
- outside of hospitals
- outside accommodation hotels, motels and residential buildings.
- in designated residential zones
- outside, adjacent to places of worship, religious, and memorial sites
- narrow streets and footpaths with inadequate pedestrian capacity and against the building line
- directly in front of entrances or exits to shopping centres or arcades.

29 Application forms

Application Forms are available:

- at the front counter of Councils Corporate Centre, 43 Oliver Avenue, Goonellabah between 7.30am to 5pm, Monday to Friday
- to download from Councils Website: www.lismore.nsw.gov.au