

BUSKING

Summary:

The purpose of this policy is to provide clear direction for members of the community who wish to obtain a busking approval for the Tenterfield Shire. Any approval given is to adhere to the conditions outlined in this policy.

Policy Number	3.022
File Number	N/A
Document version	V3.0
Adoption Date	25 November 2020
Approved By	Council
Endorsed By	Council
Minute Number	253/20
Consultation Period	N/A
Review Due Date	November 2023 – 3 years
Department	Office of the Chief Corporate
Policy Custodian	Manager Open Spaces, Regulatory & Utilities Services
Superseded Documents	23 August 2017 - Busking Policy 23 July 2014 – Busking Policy
Related Legislation	<ul style="list-style-type: none"> • Tenterfield Shire Council - Local Approvals Policy • Local Government Act 1994 • Local Government Act (Regulations) 2005
Delegations of Authority	<ul style="list-style-type: none"> • Chief Executive, • Chief Corporate Officer • Manager Open Spaces, Regulatory and Utilities • Manager Planning & Development Services, • Ranger

1. Overview

The purpose of this policy is to provide a frame work that supports performers and mitigates any risks which could arise from busking.

This policy provides the conditions under which busking is permitted in the Tenterfield Local Government Area on community land controlled by Tenterfield Shire Council.

2. Policy Principles

Tenterfield Shire Council recognises that:

- Buskers make an important contribution to the cultural life of the Shire.
- Buskers provide entertainment and experiences for tourists and residents of the Shire.
- Busking should not interfere with pedestrian traffic, the conduct of business, or contribute to a lack of safety.

3. Policy Objectives

This policy has been developed:

- To encourage busking in the Tenterfield Shire;
- To identify locations suitable for different busking types; and
- To minimise complaints, criticism, accidents and other problems associated with buskers operating in the Tenterfield Shire.

4. Policy Statement

This policy supports Tenterfield Shire Councils Community Strategy Plan 2017-2027, through Councils community goals.

These goals are:

- Encouraging Tenterfield Shire to become a vibrant, welcoming and safe community;
- Supporting a wide range of recreation and leisure opportunities;
- Providing a welcoming, friendly and inclusive where diverse backgrounds are respected and celebrated; and
- To have the community learn and grow together and adopt an involvement in community and a creative environment.

Approval Process

To obtain approval, buskers must apply from the Tenterfield Shire Council by completing a Busking Permit Application Form and Agreement. Application forms are available on Councils website.

Pursuant to Sections 113 (1) and 113 (5) of the Local Government Act 1993 requires the Tenterfield Shire Council to keep a record or register of any person or persons approved to busk in the Shire of Tenterfield Local Government Area. The information contained in this register is to be made available for public inspection upon request.

Busking permits are valid for 12 months and the fee is displayed in Councils Current Fees and Charges. Buskers under 18 years of age require consent from a parent/guardian.

PERFORMANCE CONDITIONS

In relation to busking in all public areas of the Shire the following conditions apply:

1. Buskers not part of a festival, event or carnival must register with Council to busk in Tenterfield Shire. Registration to busk will be for a set time period.
2. Registering to busk with the Council allows the individual or group to be covered by the Council's public liability insurance when they busk, as often as they want during the set time period.
3. Registration with Council to busk is not transferrable to another busker.
4. Buskers must not interfere with pedestrian flow or cause obstruction. There must be a minimum of 1.4 metre corridor on the footpath for pedestrian flow. This distance may be varied on a case by case basis.
5. No equipment is to be placed within 600mm of the kerbside.
6. Buskers may receive voluntary donations from the audience but may not solicit funds.
7. Buskers must provide a duty of care and keep the site in use clean and ensure that their use of the site does not pose a threat to public safety and amenity.
8. Where amplified sound equipment is used, it must **not** be powered by mains power or generators. Only battery power from sealed (gel) or dry cell batteries may be used unless an application under the local approvals policies has been obtained.
9. The use of amplified sound equipment by groups of 3 or more is permitted only in the parks.
10. Buskers may not offer goods and services for sale apart from those consisting of the buskers own work.
11. Authorised officers of the Tenterfield Shire Council or the NSW Police Force may at any time request a busker to cease busking if the officer is of the opinion that the performance is causing public nuisance, offense or is likely to cause harm to the public or property. The busker must immediately comply with such a request.
12. Buskers must also comply with directions issued by Ambulance, SES, Fire and Rescue and any other Emergency Services personnel.
13. Buskers may not perform near retail outlets without permission of the shop or property owners, whilst the businesses are open.
14. Buskers must be aware that when performing in the vicinity of food outlets and serving areas, they must not use animals or materials that may leave a residue on tables, chairs or eating utensils (e.g. bubbles).

USE OF DANGEROUS MATERIALS AND IMPLEMENTS

Tenterfield Shire Council recognises that buskers may use materials and implements that may be viewed as dangerous. Tenterfield Shire Council acknowledges that, in the hands of skilled and experienced buskers, the use of dangerous materials and implements is visually exciting and popular with the viewing public.

In relation to the use of dangerous materials and implements in busking the following extra conditions apply:

1. Buskers not part of a festival, event or carnival using dangerous materials and implements must register with Council **and** apply for a permit to busk using dangerous materials and implements in the Shire.

2. Buskers not part of a festival, event or carnival using dangerous materials and implements must supply Council with a copy of their minimum \$10,000,000 public liability insurance when registering with Council.
3. Busking using dangerous materials and implements is permitted only in the areas listed on the permit.
4. The busker must, at all times ensure the health and safety of the audience watching the performance.
5. The busker must ensure that public property is not damaged before, during or after the performance.
6. The busker must, at all times define the performance space by establishing a physical boundary of at least 2 metres between herself/himself and the audience utilising either a roped or chained off area, portable traffic barriers or fence.
7. The busker must have a first aid kit with them that is accessible throughout the performance.
8. If using flammable liquids, the busker must have a fire blanket with them that is accessible throughout the performance.
9. If using flammable liquids, fuels are limited to kerosene, firewater or scented lamp oils (e.g. citronella) only. No other fuels will be permitted.
10. Storage and transport of any flammable liquids permitted will be in accordance with Section 7 of the Australian Dangerous Goods Code, that is:
 - Portable plastic containers of no greater than a 5 litre capacity;
 - Containers must be conspicuously marked with the words;
 - 'HIGHLY FLAMMABLE', in capital letters on both sides of container and 'Class 3 Flammable liquids'; and
 - The name of the liquid must be clearly marked on the container.
11. When using flammable liquids a busker must use a bucket as a drip tray for flares or torches, or preferably use a pre-soaking method for the flares or torches. Tenterfield Shire Council will not tolerate drip stains on ground surfaces that are not immediately removed, or able to be removed by the busker after the act has been completed.
12. If using dangerous materials or implements in a performance the busker must hold the appropriate licence or certificate e.g. Chain saw operator's certificate, pyrotechnics certificate.
13. Council reserves the right to withdraw a permit for Busking using dangerous materials and implements based on Council's risk assessment and continual review of hazard identification.
14. Council reserves the right not to issue a permit for Busking using dangerous materials and implements base on Councils risk assessment process.

FEES

This policy is in accordance with Council's adopted fees and charges.

PUBLIC LIABILITY

Festivals, events or carnivals organised by a third party not part of Tenterfield Shire Council must have public liability insurance to cover all festival, event or carnival activities. Buskers that are part of such a festival, event or carnival should be covered under that festival, event or carnival's public liability insurance. It is the responsibility of the individual to make themselves aware of their legal liability and or insurance obligations with the festival, event or carnival organiser.

Buskers who are not part of a festival, event or carnival can be covered by Tenterfield Shire Council's public liability insurance if they have registered with Council.

Buskers that use dangerous materials and implements must have their own minimum \$10,000,000 public liability insurance as they will not be covered by Tenterfield Shire Council's public liability insurance.

5. Scope

To define the requirement for any person or group seeking to busk in accordance with both legislation and this policy.

6. Accountability, Roles & Responsibility

Elected Council

Adopt the policy to provide guidance to the activity.

Chief Executive, Executive and Management Teams

Open Spaces Regulatory & Utilities Manager is responsible for the development, approval and maintenance of procedures/protocols that support the Council's Policies.

Council Staff

Will provide administration support and accept applications.

7. Definitions

For the purposes of this policy the following definitions apply:

Busker: An entertainer who provides performances for the public such as playing a musical instrument, dancing, singing, clowning, juggling, reading fortunes including tarot cards and palm readers or doing other acts of a similar nature in public places.

- Artists selling previously produced work, masseurs or masseuses, vendors of any kind and solicitors of money for any purpose are not considered to be buskers.

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

Dangerous materials and implements: Materials and implements that pose or perceive to pose a risk, hazard or uncertain outcomes for people.

- *Dangerous materials* include flammable materials and chemicals, fire, fireworks, explosives, smoke, flares, heated elements, or anything giving off a level of heat or toxicity.
- *Dangerous implements* include knives, spears, swords, spikes, and sharp implements of any kind.

Offensive acts: Any act by way of direct or implied sexual or discriminatory nature or inappropriate language, content or behaviour that causes a person in the audience to feel resentful, upset, or annoyed.

8. Related Documents, Standards & Guidelines

Tenterfield Shire Council - Local Approvals Policy
Local Government Act 1994

9. Version Control & Change History

Version	Date	Modified by	Details
V1.0	23/07/14	Council	Adoption of Original Policy(Res No. 253/14)
V2.0	23/08/17	Council	Review/Amended (Res No. 168/17)
V3.0	27/11/20	Council	Review/Amended (Res No. 253/20)