



**KIAMA MUNICIPAL COUNCIL**

your council, your community

## **Busking | Guidelines**

## Objectives

This policy has been developed:

1. To encourage activities that contribute colour and life to the Kiama Municipality.
2. To provide an equitable system of use for popular busking sites in the Kiama Municipality among buskers wishing to perform.
3. To identify locations in the Town Centres of Kiama and Gerringong as suitable busking sites.
4. To minimise complaints, criticism and other problems associated with buskers operating in the Kiama Municipality, while supporting the rights of individuals to express themselves in a democratic manner.



## Definitions

### ***Busking***

In the context of the Kiama Council Busking Policy and Guidelines, a busker is considered to be an entertainer who is actively providing a public performance in the public space in exchange for a donation.

Busking is defined as sounding or playing a musical instrument, singing, reciting or performing, conjuring, juggling, puppetry, miming, dancing or other entertainment or doing any of those things concurrently. Busking also includes the activity of drawing any message, picture or representation on a paper or canvas surface.

Types of busking performances may include:

- performing with an instrument or multiple instruments, conventional or self-constructed
- performing a song, dance routine, mime, clowning, juggling, puppetry, comedy, magic or living statue act
- actively working in an artistic medium (this excludes pre-built static displays and artworks advertising or promoting a company, event or charity)
- performing a Circle Act

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

Balloon sculptors, tarot card and palm readers, fortune readers, artists selling their works (such as portrait artists), masseurs or masseuses, vendors of any kind (including vendors of reindeer ears, fluffy toys, jewellery etc), solicitors of money for any purpose.

### ***Performance***

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

### ***Soliciting of Funds***

The act of asking, begging, seeking 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 (for example, CDs or cassettes).

### ***Dangerous Materials and Implements***

Materials and implements that pose 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.

### ***Preferred Sites***

Specified sites within the Town Centres of Kiama and Gerringong where busking is preferred under defined conditions.

### ***Circle Acts***

Structured performances requiring the audience to stop and watch or participate in the performance. Approximate duration 20-40 minutes.

### ***Walk-by Acts***

Spontaneous performances where the audience is not required to stop and watch.

### ***Professional Performer***

Someone who performs as their only source of income.

### ***Amateur Performer***

Someone who is a student, unemployed, retired or has a source of income from another job.

### ***Authorised Council Officer***

Council Rangers have delegated authority to enforce breaches of policy via the Local Government and Impounding Acts



## Principles

### ***Artistic Value***

Buskers can make an important contribution to the cultural life of an area by reflecting styles, values and the issues of society at large and provide entertainment and thought provoking experiences to tourists and members of the general public.

### ***Employment***

Busking is a valid means for people to make a living.

### ***Appropriate Location***

Busking 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.

### ***Attractive and Quality of Appearance***

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

### ***Diverse and engaging***

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

### ***Safety and Amenity***

The safety and security of crowds, pedestrians and residents are significant considerations. Busking should provide a sense of safety and security at all times during the performance. It should not unduly interfere with pedestrian traffic, the conduct of business, or contribute to a lack of safety.

### ***Accessibility***

Busking 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.

### ***Suitability of performance***

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

## Guidelines and Conditions

**Buskers must hold an authorised permit to busk, issued by the Municipality of Kiama.** Permits may be obtained from the Customer Service Centre at Council's Administration Centre.

### ***Fees***

- An application fee of \$51.00 per year will apply for all new permit applications.
- A reapplication fee of \$28.00 per year will apply.
- An application fee of \$18.00 for short term permits which are valid for three (3) months.

Annual Busking Permits are valid for a year from the permit's commencement date. Three month permits are valid for three months from the permit's commencement date.

Details of Buskers holding Permits to Busk will be entered into a Register of approvals granted by Municipality of Kiama pursuant to section 113 of the Local Government Act. Additionally, pursuant to Sections 113(2) and 113(5) of the Act the information recorded will include the name and address of the person or persons to whom the approval is granted and photo identification.

### ***Age Restrictions***

Kiama Council reserves the right to impose conditions on approvals to busk for persons under the age of 18 years. Performers under the age of 18 must have parental or legal guardian consent to apply for a permit. It is mandatory that children under this age have parental or legal guardian supervision at all times whilst performing.

### ***Photograph***

The photograph of the proposed busker is to be taken at the Council's Administration Building by an officer authorised by Kiama Municipal Council.

### ***Group Acts***

Each member of the group must complete and submit a permit application form. Only one fee will be charged for the group to perform together.

However, to perform as an individual, payment must be made by each group member wishing to perform.



### **Children**

If a busking activity content and focus is directed at children then the applicant must provide evidence of a Working with Children Check [www.kids.nsw.gov.au/Working-with-children/New-Working-With-Children-Check/apply/-apply](http://www.kids.nsw.gov.au/Working-with-children/New-Working-With-Children-Check/apply/-apply) e.g. Clowns/Puppet shows/story telling, etc.

Any activity of this nature should not engender fear or anxiety or present a risk of harm to children. If Council receives any complaints of a nature that, once investigated, represents any risk to a child's well being; then the identified Buskers Permit will be immediately revoked without refund.

### **Documentation**

Applicants will be required to present or provide a photocopy of the following items, at the time of application:

1. Identification:

- a current motor vehicle driver's license,
- a student identity/proof of age card,
- a current passport,
- a bankcard or credit card with signature, or
- birth certificate.

2. Non Resident:

Passport and appropriate Work Visa if the applicant is a non-resident of Australia.

3. Parental Consent

Proof of parental consent for applicants under the age of 18 years must be completed on the application form.

4. Insurance Requirements

- Professional Musicians - Certificate of currency for public liability insurance having a minimum value of \$10 million
- Amateur Musicians – Insurance will be covered under Kiama Councils insurance policy following approval from Council's insurer

### **Approval and Busking**

By accepting the permit, the busker agrees to fully comply with all of the terms and conditions of the permit including the Busking Policy and Guidelines on the understanding that the permit may be suspended, cancelled or revoked for non-compliance of any condition contained within these guidelines.

Buskers must display their Permits to Busk in a prominent, highly visible position in the busking site at all times during their acts.

### **Permit Transfers/Refunds**

Permits are non-transferable or refundable and apply only to the nominated holder.

### **Special Circumstances**

At different times of the year and particularly during the summer months Kiama enjoys a variety of programs featuring renowned local, interstate and overseas



artists. During such times, busking permit conditions may be altered to incorporate a wider range of activities for brief periods of time.

### ***Animals***

The use of non-domesticated animals will not be permitted as part of a busking performance. Buskers who use animals as part of their act:

- need to ensure that their act complies with RSPCA guidelines for the use of animals in entertainment ([http://kb.rspca.org.au/RSPCA-Policy-C01-Animals-in-sport-entertainment-recreation-and-work-general-principles\\_172.html](http://kb.rspca.org.au/RSPCA-Policy-C01-Animals-in-sport-entertainment-recreation-and-work-general-principles_172.html))
- must comply with the Domestic Animal Act 1994
- must provide a clean, comfortable and safe environment for the animal while performing
- must not put themselves, the animal or any member of the public in danger at any time
- will be wholly responsible for addressing any allegations of cruelty or misconduct directed against them

### ***Group Acts***

Group acts are generally limited to three (3) performers, except as otherwise approved in a particular case by the office of the General Manager or such officer delegated by the General Manager, having regard to the special nature of the group. The same busking conditions apply to both individual, duo and group acts.

### ***Public Liability***

Buskers are wholly responsible for all claims made against them for personal injury or property damage.

### ***Safety***

Buskers must work to ensure that, neither themselves nor their audience, pedestrians or the general public are put at risk at any time during their performance. Buskers must accept responsibility for any impact that their performance may have on other Kiama services and activities. A busker shall not create a threat to public safety including by use of dangerous materials or implements.

### ***Pedestrian Access/Audience Management***

Buskers are responsible for maintaining pedestrian flow and public amenity at all times. Buskers and street performers must ensure free and safe access for pedestrians along any pathways or thorough - fares near the performance site.

Performers should ensure that they, or their audience, do not block shop doorways during business hours, dining areas and cafes, bus stops, fire escapes, driveways, roads and residential doorways.

Wheelchair access around a site must be maintained at all times. To enable unobstructed access and safety for people who are visually impaired, busking against the building line is not permitted.

Buskers must publicly announce and direct crowds either before and/or during the performance to maintain essential access clearances as indicated above.



Buskers must not unreasonably interfere with pedestrian flow or public amenities or cause obstruction to traders or vehicles, including by way of encouraging audience formation in such a manner as to cause such interference. Buskers shall not operate closer than 4 metres from the door of premises open for business and 2 metres from an outdoor seating area.

### ***Cleanliness***

Buskers 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.

Buskers shall not affix any matter on things or mark or draw on any footing or paved area. Circle Act permit holders must ensure that the busking site is not stained with any material, chemical or other residue.



### ***Management of Sound Generated by Busking***

Sound from busking in the public realm has the potential to disrupt business trading, affect workplace performance and detract from public amenity.

Even though street sound from busking contributes to the vibrancy of the area, it can be the cause of great discomfort for others when it is excessive.

Buskers may **only use amplification that is battery operated**. Mains voltage amplification and generator powered batteries are prohibited.

Excessive amplification will not be tolerated. Loud acts may be asked to lower their volume or cease busking. The Kiama Municipality reserves the right to impose a decibel limit on amplified sound in appropriate circumstances.

Buskers shall not operate in an area adjacent to a place of worship. Any entertainment activity shall not create any disturbances during funeral services or other occasions of solemnity.

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 Kiama Council Rangers to cease busking.

### ***Designated Sound Levels***

Busking activity in the Kiama Municipality should 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 readily audible over other background noise when a person is more than two standard building frontages from the source of sound

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.

Where required by Council sound from busking must be maintained in accordance with the designated sound levels listed below:

<b>Source</b>	<b>3m sound level</b>	<b>6m sound level</b>
Busking – General	75 dBA L10, 1 min	69 dBA L10, 1 min

Regardless of the above sound levels, if the noise output has generated complaints and is determined to be intrusive, the busker must cease performance immediately or if amplified, at least turn it down to a level acceptable to an authorised officer.

An enthusiastic audience or an increase in another performer's volume levels are not valid reasons for exceeding the designated sound levels.

Repeated excessive noise may result in the cancellation of a busking permit.

***Bagpipes, drums and other instruments that are naturally loud without amplification***

Additional restrictions for locations and timings may apply to instruments identified as loud without the use of amplification.

***Performance Locations***

Buskers may only use sites designated in map attachments to this document. Sites may move, be temporarily unavailable or permanently removed at the discretion of Kiama Council. This may occur particularly at times of major events and festivals in the Municipality. Buskers must follow the direction of Kiama Council Rangers if any busking site becomes unavailable either temporarily or permanently.

Some sites are restricted due to their close location to child play areas. To busk in these sites you must have a Working with Children Check.

[www.kids.nsw.gov.au/Working-with-children/New-Working-With-Children-Check/apply/-apply](http://www.kids.nsw.gov.au/Working-with-children/New-Working-With-Children-Check/apply/-apply)

***Distance between Busking Performances***

Sound performances should be situated at least 30 metres away from another sound performance and buskers are expected to negotiate cooperatively with each other.

Performers generating sound need to consider other buskers who may not use sound. Performers who generate sound, especially amplified, are expected to negotiate appropriate distances with silent or quieter buskers such as artists, statue acts and magicians.

***Performance Times***

Each permit is valid between the hours of:-

- 10.00am and 5.00pm seven days per week (Eastern Standard Time)

- 10.00am and 8.00pm seven days per week during the summer daylight savings period.

Buskers should perform in the allocated locations within the allocated timeframes and only perform for a maximum of two (2) hours per day at each location.

Buskers are encouraged to take breaks. Upon completion of the two (2) hour maximum for that location the busker must move to another busking location (at least more than four building frontages away) and not return to that location again that day.

Only one busker or one busking group to perform at a location at any given time.

### ***Circle Acts***

A performance must not exceed sixty (60) minutes in duration. Time on the site should also include pack up and cleaning of the site.

### ***Permit Display***

Buskers should display their Busking Permit in a clearly visible position during their performance and be in possession of their busking permit at all times when carrying out busking activities i.e. setting up.

### ***Monetary Appreciation***

Buskers may give audiences an opportunity to provide voluntary donations by placing a container on their site. Buskers may not approach individuals requesting money or solicit funds in a way that is overtly offensive to members of the public.



For buskers wishing to sell original merchandise in conjunction with their busking performance, the following conditions and guidelines apply:

- Buskers engaged in a musical or circle act performance are permitted to sell and display a small number of pre-recorded CDs/DVDs of their own original work
- Buskers are not permitted to play pre-recorded music in the busking location in lieu of a busking performance or while taking a break from busking
- Street performers may not display, demonstrate or advertise other goods or services for sale or associate themselves with advertising in conjunction with their performance
- Buskers must have clearly displayed prices
- Soliciting, spruiking, touting, haggling and bartering are strictly prohibited.

### ***Access to site***

An authorised Council Officer, any member of the NSW Police, Emergency Service personnel and any other authorised officer may require the busker to relocate to another busking site for the duration of any particular works including emergencies that are being carried out in the area.

### ***Public Interaction and etiquette***

The busker should add to the amenity of the area by adhering to the Busking Policy and Guidelines and exercising a community minded approach to their performance.

Buskers are encouraged to establish good relationships with retailers and nearby traders.

Buskers are expected not to harass, annoy or disturb people, traders or residents while busking.

In the interest of self-regulation, if a busker is located directly outside a retailer or residential building and is breaching their permit, and/or causing a nuisance (loud or intrusive, repetitive, or causing any other obstruction) the busker should attempt to resolve the issue amicably.

If there is no mutually agreeable solution the busker should move on if requested to do so by the retailer or resident or contact a Kiama Council Ranger to mediate.

### ***Complaints, Dispute Resolution and Compliance***

In the interests of creating and maintaining a lively, safe and entertaining community environment, Kiama Council encourages self-regulation of busking activities. The Busking Policy and Guidelines encourages street performers to work co-operatively and take responsibility for managing performance spaces and to solve disputes and complaints at a local level.

Where it is evident that this is not the case, Kiama Council undertakes an educational approach by initiating discussions with permit holders to explain the reasons behind permit specifications. This method of open communication seeks to resolve issues as quickly and amicably as possible.

Following a complaint or a report of a breach of permit conditions or any requirements under the Busking Policy and Guidelines, a Kiama Council representative will visit the site and seek rectification if a breach is identified. Action will be initiated according to what effect the breach is having on the safety, access and amenity of the area.

### ***Cessation and/or relocation***

If, after all reasonable steps have been taken to rectify a complaint, Kiama Council Rangers or any member of the NSW Police, may direct that a busker cease busking or relocate to another site, if the officer is of the opinion that the performance is:

- loud or intrusive
- excessively repetitive
- causing public inconvenience
- likely to cause harm to the public or property

- is contrary to Council's policy or guidelines in any way.

The busker must immediately comply with such a request, which may also result in suspension or cancellation of the permit.

Buskers must also comply with directions issued by Kiama Council Rangers and members of the NSW Police Force, Ambulance, Fire and any other Emergency Services.

Kiama Council Rangers may confiscate permits for non-compliance.

### ***Breach of Permit Conditions, Suspension or Cancellation of Permit***

The general enforcement protocol is as follows:

- Education and verbal warning issued – details documented on file
- Written warning – A Notice to Comply is issued
- Infringement Notice is served if offender has failed to act after Notice to Comply
- Permit will be suspended or cancelled
- Any further offence will be dealt with by the immediate issuing of an Infringement Notice or by the suspension/ cancellation of the permit.

Kiama Council may issue a show cause notice on the person or persons holding a busking permit, giving reasons for the suspension, amendment or cancellation of the permit.

The show cause notice will allow the permit holder to respond within a specified period as to why the permit should not be suspended, amended or cancelled.

A decision notice will then be issued by an authorised Kiama Council officer at the expiration of the specified period.

Busking permits may be cancelled immediately and without prior notification in circumstances where the performance/performer is:

- Deemed by Kiama Council to be causing a nuisance, behaving in an offensive, inappropriate, dangerous manner or causing detriment to the amenity of the area.
- Causing an obstruction to pedestrians or vehicular traffic or entrances to shops/buildings.
- Interfering in any way with an approved event or activity without permission.
- Selling or offering for sale any articles or commodity without authorisation.
- In breach of the conditions of the permit.



## ***Behaviour***

### Expected Behaviours and Attitudes

- cooperation with retailers, residents, other buskers, Kiama Council Rangers and other authorised officers
- respect
- responsibility for own performance and surrounding environment
- willingness to address complaints

The following behaviour will not be tolerated under any circumstances. Buskers engaging in this behaviour will have their permits suspended immediately and may be cancelled depending on the circumstances. Kiama Council maintains the right to suspend or cancel permits for repeated inappropriate behaviour

### Unacceptable behaviour

- aggressive, abusive, offensive or hostile behaviour
- use of obscene expletives
- unwillingness to cooperate with retailers, residents, other buskers, Kiama Council Rangers and other authorised officers
- personal attacks or insults
- hostility
- threats of physical violence

For an further information on the Kiama Council Busking Policy and Guidelines please contact 4232 0549 or email [louisec@kiama.nsw.gov.au](mailto:louisec@kiama.nsw.gov.au)





## Kiama CBD

- Preferred sites
- Sites requiring Working with Children Check







## Gerringong CBD

- Preferred sites
- Sites requiring Working with Children Check



**Blowhole Point**  
● Preferred site