



Byron Shire Council



Minutes

Byron Shire Reserve Trust Committee Meeting

Thursday, 21 March 2013

BYRON SHIRE COUNCIL

Byron Shire Reserve Trust Committee Meeting Minutes
21 March 2013

INDEX OF ITEMS DISCUSSED

The following items are listed in the order in which they were dealt with.

Report No. 3.1. Byron Bay War Memorial Swimming Pool - Lease and Management Contract...1

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BYRON SHIRE RESERVE TRUST
COMMITTEE MEETING MINUTES

21 MARCH 2013

(1 of 2)

**MINUTES OF THE BYRON SHIRE COUNCIL BYRON SHIRE RESERVE TRUST
COMMITTEE MEETING HELD ON THURSDAY, 21 MARCH 2013 COMMENCING AT 5.03PM
AND CONCLUDING AT 5.06PM**

E2013/17384

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis, Cr D Dey, Cr A Hunter,
Cr S Ibrahim, Cr P Spooner, Cr R Wanchap and Cr D Woods

Staff: Ken Gainger (General Manager)
Phil Holloway (Executive Manager Community Infrastructure)
Mark Arnold (Executive Manager Corporate Management)
Ray Darney (Executive Manager Environment and Planning)
Shannon McKelvey (Executive Manager Organisational Support)
Trish Kirkland (Manager Information Services Property and Contracts)
Mila Jones (Minute Taker)

The Mayor opened the meeting and acknowledged that the meeting was being held on Bundjalung Country.

APOLOGIES: There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORT

Report No. 3.1. Byron Bay War Memorial Swimming Pool - Lease and Management Contract

File No: #E2013/11401

13-147 Resolved:

1. That the Reserve Trust Committee endorse the Council Resolution (13-145) to:

Not call for tenders for the proposed lease/management agreement of the Byron Bay Byron Bay War Memorial Swimming Pool Complex ("the Complex") for the following reasons:

- a) that Crown Lands (as Lessor) has refused to provide its consent to the calling of tenders to establish a new lease/management agreement;
- b) the specialised nature of pool management means that there are limited persons with sufficient experience and skill; and
- c) a tenure of two (2) years would be unlikely to result in commercially acceptable tenders.

2. Delegate the General Manager to negotiate a new lease/management agreement for the Complex with the current lessees/managers (Fishheads@Byron Pty Ltd) on a "without admission", "without prejudice" and "without obligation" basis and subject always to all

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necessary approvals from external agencies and resolutions of the Reserve Trust and Council being obtained.

3. Endorse the proposed lease/management agreement for the Complex be on the same basis of the existing deed of agreement, refer Annexure 1 (#E2013/17509) with the following changes:
 - a) a 24 month period commencing 1 July 2013 and terminating on 30 June 2015,
 - b) the Rent and Management Fee will be indexed where necessary,
 - c) inclusion of clauses that sever the pool management part of the agreement without fault or liability to any party should there be a plant failure during the term of the agreement, as included at Schedule 3 clause ii of Annexure 1(b),
 - d) delete the word "BYO" from Annexure 1, Page 36 of 56, - BB. Contractor's Additional Obligations, clause e), and
 - e) delete the word "BYO" from Annexure 1, Page 47 of 56, - 6 KIOSK/CAFÉ, clause iv.

subject to meeting all statutory requirements relating to any new lease including public notice and public consultation processes, obtaining approval of the Minister of Lands, as well as the Minister for Local Government if necessary.

4. That the lease/management agreement be subject to the following:
 - a) the lessees releasing Council, as Reserve Trust Manager, from all (real or perceived) claims, damages, liability, actions or the like, arising from anything to do with the tender of the Complex, leases or generally their occupation of the Byron Bay War Memorial Swimming Pool Complex at any time, such release to be in writing to the satisfaction of the General Manager and Council's solicitors; and
 - b) the lessees personally guaranteeing that they will vacate the premises by the end date of the proposed new lease, namely 30 June 2015, and indemnifying Council as the Reserve Trust Manager, from all claims, damages, actions, liability or the like in the event that they do not so vacate the premises. (Woods/Hunter)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 5.06pm.

I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 11 April 2013.

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Mayor Simon Richardson