



Byron Shire Council



Minutes

Byron Shire Reserve Trust Committee Meeting

Thursday, 13 June 2013

BYRON SHIRE COUNCIL

Byron Shire Reserve Trust Committee Meeting Minutes
13 June 2013

INDEX OF ITEMS DISCUSSED

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BYRON SHIRE COUNCIL

BYRON SHIRE RESERVE TRUST
COMMITTEE MEETING MINUTES

13 JUNE 2013

(1 of 6)

**MINUTES OF THE BYRON SHIRE COUNCIL BYRON SHIRE RESERVE TRUST
COMMITTEE MEETING HELD ON THURSDAY, 13 JUNE 2013 COMMENCING AT 2.00PM
AND CONCLUDING AT 3.13PM**

#E2013/35650

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

Staff: Ken Gainger (General Manager)
Phil Holloway (Executive Manager Community Infrastructure)
Mark Arnold (Executive Manager Corporate Management)
Sharyn French (Acting Executive Manager Environment and Planning)
Shannon McKelvey (Executive Manager Organisational Support)
Mila Jones (Minute Taker)

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

APOLOGIES: There were apologies from Crs Wanchap and Cubis.

13-288 Resolved that the apologies from Crs Wanchap and Cubis be accepted and leave of absence granted. (Woods/Richardson)

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Spooner declared pecuniary interest in Report No 3.3. The nature of the interest being that his employer, Byron Bay Community Association is a licence holder for a community market on a Crown Reserve Trust.

Cr Dey declared a non-pecuniary interest in Report No 3.4. The nature of the interest being that he occasionally plays tennis at the Brunswick Heads Tennis Courts.

PROCEDURAL MOTION

13-289 Resolved that the order of business be changed to deal with Reports 3.5 and 3.4 next on the agenda. (Richardson/Woods)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORTS

Report No. 3.5. Old School House Ewingsdale Maintenance and Tenure
File No: #E2013/17760

13-290 Resolved:

1. That Council, as Reserve Trust Manager, receive a report on the scope of urgent and immediate work required to be undertaken on Lot 3777 DP 47409 being 34 William Flick Lane, Ewingsdale that would ensure the safety of the house for occupation of residents.

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2. That Council enter into negotiations with Byron Emergency Accommodation Project Inc (BEAP) to ensure the provision of adequate alternative accommodation options for residents is available during any period that works are undertaken at the property.
3. That Council convene a meeting of relevant Council staff, Councillors, BEAP, NSW Department of Family and Community Services, North Coast Community Housing, Crown Lands, The National Trust and relevant local community support agencies to identify a long term strategy for the continuation of the community services currently provided at Ewingsdale House, either at the current location or an identified alternative location.
4. That proposed capital works cost estimates and timelines be reviewed.

(Spooner/Richardson)

The motion was put to the vote and declared carried.

Report No. 3.4. Brunswick Heads Tennis Courts maintenance and tenure

File No: #E2012/2726

13-291 Resolved:

1. That the Reserve Trust write and thank the Brunswick Heads Tennis Club for their submission, contained at Annexure 3(a) (#S2013/975).
2. That the Reserve Trust note that:
 - i) urgent asset renewal works, estimated at \$25,000, are required to the club house building
 - ii) the tall fence around the courts is due for replacement or repair, estimated at \$27,000to address decaying infrastructure and safety issues in order to reduce public risk and the Reserve Trust's liability.
3. That the Reserve Trust note that there are no available Reserve Trust funds to contribute towards the asset renewal works outlined in this report and that funding for fence renewal may be available through Sportsfield Maintenance in Community Infrastructure budget.
4. That the Reserve Trust notify the Brunswick Heads Tennis Club that the Reserve Trust's preferred tenure arrangement is a 5-year trust lease agreement with the Brunswick Heads Tennis Club at minimum rent (currently \$444.00 per annum ex GST), with the Brunswick Heads Tennis Club paying for all services, running costs, and capital works programmes, and subject to the courts and facilities remaining usable.
5. That the Reserve Trust notify the Brunswick Heads Tennis Club that, wherever possible, the Reserve Trust will provide support to the Brunswick Heads Tennis Club for grant applications, fundraising activities, and liaison with Crown Lands as might be required.
6. That the Reserve Trust seek in principal support from Crown Lands and Brunswick Heads Tennis Club for the preferred tenure arrangements, at item 5 above. (Dey/Ibrahim)

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AMENDMENT

Moved:

1. That the Reserve Trust write and thank the Brunswick Heads Tennis Club for their submission, contained at Annexure 3(a) (#S2013/975).
2. That the Reserve Trust note that urgent asset renewal works, estimated at \$25,000, are required to the club house building to address decaying infrastructure and safety issues in order to reduce public risk and the Reserve Trust's liability and that Council allocate an amount of up to \$25,000, based on competitive quotations, from the Special Rate Community Buildings budget for the repairs to the building.
3. That the fence be renewed or repaired at a cost of up to \$27,000, based on competitive quotations, be allocated by Council through the Sportsfield Maintenance in Community Infrastructure budget for the renewal of the tennis court fence.
4. That the Reserve Trust notify the Brunswick Heads Tennis Club that the Reserve Trust's preferred tenure arrangement is a 5-year trust lease agreement with the Brunswick Heads Tennis Club at minimum rent (currently \$444.00 per annum ex GST), with the Brunswick Heads Tennis Club paying for all services, running costs, and capital works programmes.
5. That the Reserve Trust notify the Brunswick Heads Tennis Club that, wherever possible, the Reserve Trust will provide support to the Brunswick Heads Tennis Club for grant applications, fundraising activities, and liaison with Crown Lands as might be required.
6. That the Reserve Trust seek in principal support from Crown Lands and Brunswick Heads Tennis Club for the preferred tenure arrangements, at item 5 above. (Woods/Hunter)

The amendment was put to the vote and declared lost.

Crs Ibrahim, Dey, Richardson, Cameron and Spooner voted against the amendment.

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORT

Report No. 3.1. Commercial Trailer Parking on Crown Reserve, Byron Bay

File No: #E2013/26030

13-292 Resolved:

1. That the Reserve Trust endorse the proposal to provide parking on Crown Reserve 82000 for the placement of trailers used by the kayak businesses at two distinct sites, as shown by Council Plan #2130/SK2 (Annexure 1(b), #E2013/34821).
2. That the provision of "No Stopping" at the two points of access as shown in Council Plan #2130/SK2 (Annexure 1(b), #E2013/34821) be referred to the Local Traffic Committee for consideration.
3. That funds for the proposed works as per the details in Council Plan #2130/SK2 (Annexure 1(b), #E2013/34821) come from Crown Reserves. (Woods/Richardson)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORTS

Report No. 3.2. Byron Bay Swimming Pool - Lease/Management Agreement

File No: #E2013/19154

13-293 Resolved:

1. That the Reserve Trust, in accordance with resolution 13-145, grant the Lease/Management Agreement over part Crown Reserve R82000, Byron Bay Swimming Pool Complex, to Fishheads@Byron Pty Ltd in accordance with the terms and conditions contained at Annexure 14(a) (#E2013/17509) for a period of 24 months commencing 1 July 2013 and terminating on 30 June 2015, subject to Crown Ministerial consent.
2. That Council enter into the Deed of Release from Fishheads@Byron Pty Ltd at Annexure 14(c) (#S2013/4783) in satisfaction of resolution 13-145 item 4. (Woods/Ibrahim)

The motion was put to the vote and declared carried.

Report No. 3.3. Markets Licences – Crown Reserves

File No: #E2013/30190

Cr Spooner left the meeting at 3.00pm in accordance with his earlier declared pecuniary interest in this matter.

Moved:

1. That the Reserve Trust Committee, in accordance with resolution 12-693, not call for tenders or conduct a similar competitive process until such time as the draft Market Policy is adopted.
2. That the Reserve Trust Committee, in accordance with resolution 12-693 and advice received from Crown Lands, offer a temporary farmers' market licence to existing farmers' market managers for each farmers' market currently operating on Crown Reserves managed by Council as the Reserve Trust Manager, commencing 1 April 2013 and ending 31 March 2014 under the terms and conditions contained at Annexure 2(b) (#E2013/32559).
3. That the Reserve Trust Committee, in accordance with resolution 12-693 and advice received from Crown Lands, offer a temporary community market licence to existing community market managers for each community market currently operating on Crown Reserves managed by Council as the Reserve Trust Manager, commencing 1 April 2013 and ending 31 March 2014 under the terms and conditions contained at Annexure 2(a) (#E2013/30448).
4. That the Reserve Trust Committee apply the adopted 2012/13 fees and charges for a Temporary Commercial Approved Activity on Council owned or controlled land of \$220.00 application fee and licence fee per day of \$320 for 8 to 21 market days per annum and \$170.00 for greater than 21 market days per annum. (Ibrahim/Woods)

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AMENDMENT

13-294 Resolved:

1. That the Reserve Trust Committee, in accordance with resolution 12-693, not call for tenders or conduct a similar competitive process until such time as the draft Market Policy is adopted.
2. That the Reserve Trust Committee, in accordance with resolution 12-693 and advice received from Crown Lands, offer a temporary farmers' market licence to existing farmers' market managers for each farmers' market currently operating on Crown Reserves managed by Council as the Reserve Trust Manager, commencing 1 April 2013 and ending 31 March 2014 under the terms and conditions contained at Annexure 2(b) (#E2013/32559).
3. That the Reserve Trust Committee, in accordance with resolution 12-693 and advice received from Crown Lands, offer a temporary community market licence to existing community market managers for each community market currently operating on Crown Reserves managed by Council as the Reserve Trust Manager, commencing 1 April 2013 and ending 31 March 2014 under the terms and conditions contained at Annexure 2(a) (#E2013/30448).
4. That the Reserve Trust Committee apply the adopted 2012/13 fees and charges for a Temporary Commercial Approved Activity on Council owned or controlled land of \$220.00 application fee and licence fee per day of \$210 for 8 to 21 market days per annum and \$145.00 for greater than 21 market days per annum. (Richardson/Cameron)

The amendment was put to the vote and declared tied.

Crs Ibrahim, Woods and Hunter voted against the amendment.

The Mayor used his casting vote in favour and declared the amendment carried.

The amendment upon becoming the substantive motion was put to the vote and declared tied.

Crs Ibrahim, Woods and Hunter voted against the motion.

The Mayor used his casting vote in favour and declared the motion carried.

Cr Spooner returned to the meeting at 3.12pm.

Report No. 3.6. Lease over part Crown Reserve R96998 known as Cavanbah Centre to Byron Bay Pre-School Incorporated

File No: #E2012/12110

13-295 Resolved:

1. That the Reserve Trust not call tenders or conduct a similar competitive process to grant a lease over Lot 9 DP47024 and Lot 10 DP 47425, known as the Cavanbah Centre, but instead negotiate with Byron Bay Pre-School Incorporated for the following reasons:
 - Byron Bay Pre-school Inc is a community based incorporated not for profit preschool.
 - the land is zoned 2 (a) residential zone
 - the land is a Crown Reserve for purpose of "Kindergarten"
 - the expenditure the organisation has, and continues to spend, in building, maintaining and upgrading the building

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- Council's Policy No. 3.44 Children's Services provides that Council "support several community preschools in the shire by providing land and/or buildings for the delivery of services for children aged 3 – 5 years. Council's involvement includes acting as Trustee of Crown Land, lease of operational and community land at nominal cost to the organisations, and the lease and maintenance of buildings. Services include Cavanbah Preschool."
2. That Council, as Reserve Trust Manager, grant a Lease to Byron Bay Pre-School Incorporated over Lot 9 DP 47024 and Lot 10 DP 47425 substantially in the form at Annexure 5(b)(E2013/8784) on the following terms, subject to Ministerial consent:
- a) Term of five (5) years commencing 1 July 2013;
 - b) Rent \$444.00 per annum excluding GST (Market rent \$40,000.00 per annum);
 - c) Rent rebate \$39,556.00 per annum;
 - d) All lease preparation and registration costs are to be met by the lessee;
 - e) Lease fee and rent rebate to be adjusted accordingly if Crown minimum rent increases prior to commencement date of the lease; and
 - f) Insert new clause in Schedule 3 Special Conditions:
 - (i) In addition to the general requirement to repair as per Clause 40, the Lessee will undertake the following repairs to ensure compliance with the Building Code of Australia (BCA):
 - Exit signage does not meet current requirements;
 - Separate hand washing facilities have not been provided to the back kitchen;
 - Access to kitchen does not appear to be restricted by a childproof gate;
 - Sanitary facilities are not accessible from the outdoor play area;
 - Screening or partitioning of toilet facilities not provided as per part F BCA
 - (ii) Such repairs as listed above are to be completed during the term of the lease to the satisfaction of the Lessor."
3. That Council, as Reserve Trust, affix the Seal to the 5-year Trust Lease with Byron Bay Preschool Incorporated over Lot 9 DP 47024 and Lot 10 DP 47425. (Richardson/Dey)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 3.13pm.

I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 27 June 2013.

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Mayor Simon Richardson