



Byron Shire Council



Agenda

Byron Shire Reserve Trust Committee Meeting Thursday, 27 June 2013

held at Council Chambers, Station Street, Mullumbimby
commencing at 2.00pm

Public Access relating to items on this Agenda can be made between 9.00am and 10.30am on the day of the Meeting. Requests for public access should be made to the General Manager or Mayor no later than 12.00 midday on the day prior to the Meeting.

A handwritten signature in black ink, appearing to read 'Ken Gainger'.

Ken Gainger
General Manager

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

Non-pecuniary interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
 - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

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BYRON SHIRE RESERVE TRUST COMMITTEE MEETING

27 JUNE 2013

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BUSINESS OF MEETING

1. APOLOGIES

2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

3. EXECUTIVE MANAGER’S REPORT

Corporate Management

- 3.1. Bangalow Showground - Owners Consent to Lodge
Development Application2

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CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORT

Report No. 3.1. Bangalow Showground - Owners Consent to Lodge Development Application

5 **Executive Manager:** Corporate Management
Report Author: Leslie Beardmore, Leasing and Licensing Coordinator
File No: #E2013/33389

Theme: Property, Procurements and Contract Services

Summary: Bangalow Park Trust Management Committee is requesting owner's consent to lodge a development application for alterations, additions and change of use to the Rotunda (Taylor Fowler building) on Bangalow Park Showground Reserve over which Council is the Reserve Trust Manager.

Owner's consent is required from the Minister of NSW Trade and Investment – Crown Lands Division to lodge the development application.

This report recommends that the Reserve Trust Committee support the development application for alterations, additions and change of use to the Rotunda at Bangalow Showground and authorise the General Manager to apply to the Crown Lands Division of NSW Trade and Investment for owner's consent to lodge the development application.

10 **RECOMMENDATION:**

1. **That as Reserve Trust Manager of the Bangalow Park Showground Reserve Trust, the Reserve Trust Committee:**

15 a) **support the development application as shown at Annexure 1(a) (#E2013/33553); and**

20 b) **authorise the General Manager to apply to the Crown Lands Division of NSW Trade and Investment for owner's consent to lodge the development application as shown at Annexure 1(a).**

25 2. **That Bangalow Park Trust Management Committee pay the \$65.70 application fee to Crown Lands Division to make application for the granting of owner's consent to lodge the development application.**

Attachments:

- 30
- Development Application #E2013/33553 [25 pages] **Annexure 1(a)**
 - Map of Bangalow Showground – Rotunda (Taylor Fowler building) #E2013/33400 [1 page] **Annexure 1(b)**

35 *Annexure 1(a): Due to the size of this document it has been provided to Councillors on their Agenda CD only. It is also available for viewing on Council's website and as a hard copy at community access points throughout the Shire.*

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BYRON SHIRE RESERVE TRUST COMMITTEE MEETING

27 JUNE 2013

(3)

Report

Land Information

5	Part Crown Reserve R72386 known as Bangalow Park Showground Reserve
	Owner: Crown Lands
	Manager: Bangalow Park Showground Reserve Trust - a Council s355 Committee - "Bangalow Parks (Showground) Section 355 Management Committee" also known as "Bangalow Park Trust Management Committee"
10	Trust Manager Byron Shire Council
	Gazetted 22/08/47
	Gazetted purpose Public recreation
15	Plan of Management No

20 Bangalow Park Trust Management Committee is established under Section 355 of the Local Government Act 1993. The Committee's Terms of Reference include: To promote optimum usage of the Showground facilities (including the Poultry Pavilion located on adjoining Council owned Community Land); to care for and maintain the facility through responsible day to day management; and to ensure the safety of the patrons of the Showground.

The Bangalow Park Showground Reserve consists of the following:

- 25
- Showground Pavilion – the Moller Pavilion
 - Rotunda – Show Committee office, amenities, storeroom, announcers booth
 - Amenities blocks
 - Stables
 - Main arena

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 - Small arena

35 On 23 May 2013 a Development Application (refer Annexure 1(a)) was received from the Bangalow Park Trust Management Committee for alterations, additions and change of use to the Rotunda building located on the Bangalow Showground being part of the Bangalow Park Showground Reserve. Refer map at Annexure 1(b). The proposed development includes:

- 40
- change of use from a Class 10 building to a Class 9B building
 - reduce area of male amenities and convert to canteen
 - build paved covered outdoor space on eastern end of building
 - alter male amenities
 - provide covered access ways
 - construct first aid room
 - extend office and open onto small verandah
 - abandon existing internal stairs and build covered outdoor stairs

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 - roof the whole top floor and enclose part of it providing kitchenette and rebuild booth

50 As Council is not the owner of the land, consent to lodge the Development Application must be given by Crown Lands Division of NSW Trade and Investment. Request for owner's consent involving Crown Reserves must be accompanied by a statement of support and clear authorisation to make an application for owner's consent from the Reserve Trust Manager.

There is a fee of \$65.70 payable to Crown Lands Division to make application for the granting of owner's consent to lodge a development application. It is recommended that Bangalow Park Trust Management Committee pay this application fee.

5 Payment of development application fees has been made by Bangalow Park Trust Management Committee and is being held by Council pending owner's consent. The estimated cost of the proposed development is \$190,000 and is to be staged over a number of years. The Bangalow Park Trust Management Committee estimate that they will have \$35,000 in funds available at the end of each year to put towards the works. The Management Committee also plan to approach the Showground's stakeholders for financial support as well as make application/s for grant funding.

10 Any procurement activities relating to the works must be conducted in accordance with Section 355 Guidelines and Council's Tender and Purchasing Guide. The proposed development will enhance the existing facilities on the Bangalow Park Showground Reserve whilst maintaining uses consistent with the gazetted purpose of public recreation.

15 **Financial Implications**

In accordance with Resolution 13-137 the following information is provided to Council in all reports prepared for the 9 May, 13 and 27 June 2013 Ordinary Meetings:

- 20 • The estimated staff hours for the preparation of this report was approximately 0.5 hours.

There is a fee of \$65.70 payable to Crown Lands Division to make application for the granting of owner's consent to lodge a development application.

25 **Statutory and Policy Compliance Implications**

Crown Lands Act 1989

92 Reserve trusts

- 30 (1) The Minister may, by notification in the Gazette, establish and name a reserve trust and appoint it as trustee of any one or more specified reserves or any one or more parts of a reserve.
- (2) A reserve trust established under subsection (1) is constituted by this Act as a corporation having as its corporate name the name assigned to the trust in the notification of its establishment.
- 35 (3) The Minister may, by notification in the Gazette:
- (a) dissolve a reserve trust, or
- (b) alter the corporate name of a reserve trust, or
- (c) revoke the appointment of the reserve trust as trustee of any one or more specified reserves or any one or more parts of a reserve.
- (4) A reserve trust has the functions conferred on it by or under this Act.
- 40 (5) A reserve trust is charged with the care, control and management of any reserve (or any part of a reserve) of which it is appointed trustee.
- (6) The affairs of a reserve trust are to be managed:
- (a) by the Minister, or
- 45 (b) if a trust board is appointed under section 93—by the trust board, or
- (c) if a corporation is appointed under section 95—by the corporation, or
- (d) if an administrator is appointed under section 117—by the administrator.
- (6A) In this Division, a reference to a **reserve trust manager** is a reference to the Minister (to the extent that the Minister is responsible for managing the affairs of a reserve trust), or any such trust board, corporation or administrator.
- 50 (6B) There can be more than one reserve trust manager for a reserve trust with the function of managing the affairs of the reserve trust allocated between them by the Minister in accordance with the following provisions:
- (a) The Minister can allocate the exercise of functions in respect of different aspects of the affairs of the reserve trust or different parts of the reserve to different reserve trust

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managers, as specified in the allocation or as determined by the Minister, with those functions to be exercised in accordance with such arrangements (if any) as may be determined by the Minister.

5 (b) The Minister is the reserve trust manager for any aspect of the affairs of a reserve trust or any part of the reserve not allocated to another reserve trust manager and is accordingly allocated the function of managing the affairs of the reserve trust in respect of any such unallocated aspects of those affairs or unallocated parts of the reserve.

10 (c) A reserve trust manager has the function of managing the affairs of the reserve trust only to the extent of the allocated functions and is, for the purposes of this or any other Act or law, the reserve trust manager to that extent only.

(6C) (Repealed)

15 (7) If a reserve trust is appointed as trustee of more than one reserve (or more than one part of a reserve), a reference in this Part to the reserve (or part of the reserve) in relation to the reserve trust includes a reference to any one or more of the reserves (or any one or more of the parts of the reserve) of which the reserve trust has been appointed as trustee.

Environmental Planning and Assessment Regulation 2000

20 **49 Persons who can make development applications** (clause 46 of EP&A Regulation 1994)

(1) A development application may be made:

- (a) by the owner of the land to which the development application relates, or
- (b) by any other person, with the consent in writing of the owner of that land.

25 (2) Subclause (1) (b) does not require the consent in writing of the owner of the land for a development application made by a public authority or for a development application for public notification development if the applicant instead gives notice of the application:

- (a) by written notice to the owner of the land before the application is made, or
- (b) by advertisement published in a newspaper circulating in the area in which the development is to be carried out no later than 14 days after the application is made.

30 (3) Despite subclause (1), a development application made by a lessee of Crown land may only be made with the consent in writing given by or on behalf of the Crown.

(3A) Despite subclause (1), a development application made in respect of land owned by a Local Aboriginal Land Council may be made by a person referred to in that subclause only with the consent of the New South Wales Aboriginal Land Council.

35 (4) Subclause (3) does not require the consent of the Crown if the development application is for State significant development made by a public authority or public notification development.

(5) In this clause:

40 **public authority** includes an irrigation corporation within the meaning of the Water Management Act 2000 that the Minister administering that Act has, by order in writing, declared to have the status of a public authority for the purposes of this clause in relation to development of a kind specified in the order.

public notification development means:

45 (i) State significant development set out in clause 5 (Mining) or 6 (Petroleum (oil and gas)) of Schedule 1 to State Environmental Planning Policy (State and Regional Development) 2011 but it does not include development to the extent that it is carried out on land that is a state conservation area reserved under the National Parks and Wildlife Act 1974, or

50 (ii) State significant development on land with multiple owners designated by the Director-General for the purposes of this clause by notice in writing to the applicant for the State significant development.