



Byron Shire Council



Agenda

Byron Shire Reserve Trust Committee Meeting

Thursday, 11 June 2015

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

Public Access relating to items on this Agenda can be made at 2pm 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.



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.

BYRON SHIRE COUNCIL
BYRON SHIRE RESERVE TRUST COMMITTEE

BUSINESS OF MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
4. STAFF REPORTS

Sustainable Environment and Economy

- 4.1 Proposed Activity - Photography Workshop at Apex Park4

Infrastructure Services

- 4.2 Middleton Street between Bay Street and Lawson Street.....8

Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Director or Executive Manager prior to the meeting. Any suggested amendments to the recommendations should be provided to the Administration section prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 4.1 Proposed Activity - Photography Workshop at Apex Park

Directorate: Sustainable Environment and Economy

5 **Report Author:** Claire McGarry, Events and Grants Officer
Trish Kirkland, Manager Governance Services

File No: I2015/426

10 **Theme:** Economy
Economic Development

Summary:

15 Canon Australia and National Geographic have joined together to create *Tales By Light* – a documentary series about nature photography and filming. In July 2015, they are co-hosting a series of events at the Byron Bay Community Centre to allow photographers to work with, and receive feedback from, the Master Photographers involved in creating the documentary. Ticket holders will also have the opportunity to participate in hot air balloon and scuba dive photography workshops. Additionally, free ‘photography street walks’ will be held around town and at the lighthouse throughout the weekend open to anyone with an interest in photography.

20 This report refers to a temporary licensing application to hold a free photography workshop in Apex Park on Friday 3 July 2015.

25

RECOMMENDATION:

That the Reserve Trust grant a temporary licence, under section 108 of the Crown Lands Act for the purpose of an Exhibition, to Canon Australia for a photography workshop on Friday 3 July 2015 on Crown Reserve 82000 (Apex Park).

30

Report

On March 20, 2015 Council staff received an application for a temporary licence from Canon Australia who propose to host a free two-hour photography workshop in Apex Park as part of a broader photography seminar happening in Byron Bay in July. This site has been chosen as a result of its ideal position and unique opportunity to capture the beauty of the bay. The proposed activity is outlined below:

Proposed activity

10	Event	Canon 'Tales By Light'
	Date	Friday 3 July 2015
	Time	6pm to 8pm
	Description	A 'photography at night' workshop for people to access four Master Photographers to show them how to use their cameras in a low light, natural setting
15	Estimated attendees	20 people
	Temporary Structures	A small Canon flag to show a meeting point (negotiable)

20 Crown Reserve 82000 (Apex Park) is included in Council's Policy 5.52 *Commercial Activities on Coastal and Riparian Crown Reserves*. Section 5 of this policy outlines what activities council may issue a temporary licence over this area for. These activities are:

- *Sporting Events – Organised*
- *Educationally based community activities*
- 25 • *Fundraising activities by Registered Charities*
- *Political Functions*
- *Religious Functions*
- *Weddings*

30 'Exhibition' is not referred to in the Policy as an Event or Activity that can be licensed by staff under delegation. However, 'Exhibition' is a category available for temporary licenses under Section 108 of Crown Lands Act. In accordance with part Council's resolution 14-286, '*any applications that are not expressly referred to in the Policy will be considered at a meeting of Council*'

35 Although this application has been assessed as outside Policy 5.52, staff support the application for a temporary licence given that the workshop is free to the public and has significant tourism benefits with minimal environmental and social impact.

Tourism and Economic Impacts

40 Prior to the lodgement of this application, Canon Australia staff had been working with Council's Events & Grants Officer and Destination Byron to discuss the broader activities being undertaken throughout the three-day long program of events, and potential partnership opportunities.

45 There is an opportunity for Council to partner with Canon Australia and National Geographic to promote Byron Shire to a wider audience, focusing on the "Don't Spoil Us, We'll Spoil You" brand identity. Specifically, Byron Shire Council could be included in:

- Television advertisements being run for *Tales By Light*
- Promotion at Sydney's Vivid Festival – an 18 day festival intersecting art, technology and commerce
- 50 • Access to images and footage of the Byron Shire collected over the three day program to add to Council's relatively small image library.

55 Additionally, Council looks to play a facilitation role in connecting Canon Australia with two local event organisers to build capacity, provide financial support and increase exposure for local events.

If a temporary licence is approved for this activity, Council staff will work closely with organisers to ensure it is promoted as a free opportunity for the local community.

5 **Financial Implications**

Canon Australia would be charged a \$170 application fee as a *Non-Commercial Temporary Activity (Other)* and a \$150 licence fee.

10 The non-commercial category has been applied in accordance with the adopted fees and charges definitions, as there is no income being generated from product sales or similar as part of the 'Exhibition' activities.

15 **Statutory and Policy Compliance Implications**

Clause 31 Temporary licences

20 “(1) For the purposes of section 108 (1) of the Act, in addition to grazing, the purposes for which a temporary licence may be granted are as follows:

- (a) access through a reserve,
- (b) advertising,
- (c) camping using a tent, caravan or otherwise,
- (d) catering,
- 25 (e) emergency occupation,
- (f) entertainments,
- (g) equestrian events,
- (h) exhibitions,
- (i) filming (within the meaning of the Local Government Act 1993),
- 30 (j) functions,
- (k) hiring of equipment,
- (l) holiday accommodation,
- (m) markets,
- (n) meetings,
- 35 (o) military exercises,
- (p) mooring of boats to wharves or other structures,
- (q) sales,
- (r) shows,
- (s) sporting and organised recreational activities,
- 40 (t) stabling of horses,
- (u) storage.

(2) For the purposes of section 108 (2) of the Act, in addition to any other condition subject to which a temporary licence is granted, the licence is subject to the condition that the relationship of landlord and tenant is not created between the parties.

(3) For the purposes of section 108 (4) of the Act, the prescribed period for the expiration of a temporary licence is one year following the date on which it is granted.”

Byron Shire Council Policy 5.52 Commercial Activities on Coastal and Riparian Crown Reserves

5 Section 4 of Council's Policy 5.52 *Commercial Activities on Coastal and Riparian Crown Reserves* defines what activities Council has determined may be carried out on a coastal Crown reserve without requiring the issue of a temporary licence.

These activities are:

- 10
- *Emergency Services performed by recognised Emergency Service Organisations;*
 - *Social Gatherings;*
 - *Spreading of Ashes; and*
 - *Volunteer Rescue Organisations – Training Days*

15 Section 5 of this same policy outlines what activities council may issue a temporary licence over this area for.

These activities are.

- 20
- *Sporting Events – Organised*
 - *Educationally based community activities*
 - *Fundraising activities by Registered Charities*
 - *Political Functions*
 - *Religious Functions*

25

 - *Weddings*

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 4.2 Middleton Street between Bay Street and Lawson Street

Directorate: Infrastructure Services

5 **Report Author:** Henry Spangler, Contract Engineer

File No: I2015/414

Theme: Community Infrastructure
Local Roads and Drainage

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Summary:

15 As part of the 2015/16 Capital Works Program, Middleton Street from Bay Street to Lawson Street will be reconstructed and the current car park between Middleton Street and Denning Park will be reconfigured and reconstructed.

The car park and a portion of Middleton Street are located on Crown Land.

20 The works on Crown Land require the support of the Reserve Trust and allocation of crown funds for these works.

The works include proposed paid parking which will be ancillary to the reserves primary use as recreation.

25 This report seeks the Reserve Trust's approval for the funding allocation of road and car park reconstruction.

RECOMMENDATION:

That Council, as the Reserve Trust Manager of Byron Bay (R82000) Reserve Trust, confirm its support to reconstruct Middleton Street and the Middleton Street Car Park and Council allocate \$165,000 from the Crown Paid Parking Reserve for the works in the 2015/16 budget.

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Report

Crown Land Information

- 5 Part Crown Reserve R82000 being part Lot 10 DP 1049827 known as part Denning Park, Byron Bay.
Owner – NSW Trade and Investment (Crown Lands)
Reserve Trust – Byron Coast (R82000) Reserve Trust
Trust Manager – Byron Shire Council
Gazetted – 30/10/1959
10 Gazetted purpose – Coastal Lands
Byron LEP 1988 Zone –7 F1 —Coastal Lands

Background:

- 15 As part of the 2015/16 Capital Works Program, Middleton Street between Bay Street and Lawson Street and the car park between Middleton Street and Denning Park will be reconstructed. The existing road pavement is in very poor condition and the carpark is unsealed.
- 20 The boundary of Council and Crown Land lies on the east side of Middleton Street, and the car park is entirely on Crown Lands. See Appendix A for plan proposals. Both proposals will be presented to the Local Traffic Committee meeting on 24 June 2015 for their consideration and then ultimately to Council at its meeting on 16 July 2015
- 25 Due to the projects being adjacent, works are planned to be completed simultaneously.

Proposed Works:

- 30 The project proposal is to improve the condition of Middleton Street and the Middleton Street Car Park by the following:

Middleton Street – From Bay Street to Lawson Street

Scope:

- 35
- Placement of subsoil drainage along western side of Middleton – full length;
 - Remove existing pavement and replace with DGB20 road base;
 - Addition of 40mm AC14 wearing surface;
 - Reconfiguration of traffic flow and traffic control devices at the Middleton Street and Bay Lane intersection; and

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Middleton Street Car Park – Between Middleton Street and Denning Park

Scope:

- 45
- Relocation of power pole in an easterly direction;
 - Relocation of wooden fence in an easterly direction;
 - Relocation of vegetation (pandanus tress) in an easterly direction;
 - Remove existing gravel and replace with DGB20 road base;
 - Addition of 40mm AC14 wearing surface;
 - Inclusion of concrete traffic islands, kerbing and dish drain; and

50

Financial Implications

There are two financial implications:

- 55
- Funding for construction, and
 - Potential revenue generated by paid parking

Proposed funding for the project in 2015/16 as indicated in the draft budget (on exhibition at the time of writing this report) is:

5	Total budget	\$240,000
	Which is funded by	
	Council (s94)	\$120,000
10	Reserves	\$120,000

Funding for construction:

15 Current estimate for works is \$255,000.

For the percentage of the works that are on Crown Lands, the estimate for works is \$165,000; while the works that are on Council Land is \$90,000.

20 Council seeks a contribution from Reserve Trust in the amount of \$165,000 for the completion of the works for the asset improvement on Crown Land Reserve R82000.

Note the funding for this project from the Reserve Trust needs to be increased from \$120,000 to \$165,000.

25 ***Potential revenue generated by paid parking:***

Potential paid car parking revenue will be applied according to the property on which the car parking space resides.

30 Potential paid parking revenue for the car parking spaces in Middleton Street Car Park would be applied to the Reserve Trust, where as the car parking spaces in Middleton Street would be applied to Council.

35 **Statutory and Policy Compliance Implications**

There are no negative implications as the works proposed in this report for the Crown Reserve include proposed paid parking which will be ancillary to the reserves primary use as recreation.

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Appendix A

Option 1



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Option 2

