



**Byron Shire Council**



# Agenda

## Byron Shire Reserve Trust Committee Meeting

**Thursday, 25 May 2017**

**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.

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

**Ken Gainger  
General Manager**

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## 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)

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## 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

**Corporate and Community Services**

- 4.1 Byron Bay Memorial Swimming Pool Complex-proposed 12 month Lease and Management extension.....4
- 4.2 Request for a Temporary Licence to permit equestrian activities access through Lot 428 DP 729272 .....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 - CORPORATE AND COMMUNITY SERVICES

**Report No. 4.1      Byron Bay Memorial Swimming Pool Complex-proposed 12 month Lease and Management extension.**

5    **Directorate:**            Corporate and Community Services  
**Report Author:**        Ralph James, Legal Services Coordinator  
**File No:**                    I2017/494  
**Theme:**                    Corporate Management  
10                                Governance Services

**Summary:**

15    The current agreement between Crown Lands, Council and Fishheads @ Byron Pty Ltd (Fishheads) for the lease and management of the Byron Bay War Memorial Pool Complex (which includes the Café) expires on 30 June 2017. There is no holding over provision in the current agreement, no provisions for a further term, and the agreement requires Fishheads to vacate the premises on expiry of the agreement.

20    The Complex land comprises four land parcels: part Crown Reserve R82000 (part Lot 10 DP 1049827), part road reserve and part Council owned operational land (part Lot 4 DP 827049 and part Lot 5 DP 827049). Rationalising the land arrangements has been the subject of many reports to Council. Negotiations between Council and Crown Lands are continuing in accordance with resolution [12-689]. However, the rationalisation of the land tenure remains unresolved.

25    Consequently, it is necessary for Council, as the Reserve Trust Manager of Crown Reserve R82000, to determine the arrangements for lease/management of the Complex from 1 July 2017 to 30 June 2018.

30    There are two lessors in this arrangement. The first is Council in its own right as owner of the operational land and road reserve. The second is the trustee of the Crown Reserve (noting Council is the manager of the Crown Reserve and not the trustee).

35    This report and its recommendations relate to Council as the lessor in the second instance. In the first instance, a report in relation to the road reserve and Council's operational land, providing the required supportive recommendations, is included in Council's ordinary meeting agenda for 25 May 2017.

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**RECOMMENDATION**

**That Council, as Reserve Trust Manager of Crown Reserve R82000 subject to Crown consent:**

1.    **Extend the lease/management agreement over part Crown Reserve 82000, known as the Byron Bay Swimming Pool Complex, to Fishheads @ Byron Pty Ltd for 12 months, subject to acceptance of terms by the current lessee, (1 July 2017 to 30 June 2018) on the same terms and conditions contained in the current lease/management agreement, but with a CPI increase (all groups Sydney June 2017) in the rent and management fee; and**
2.    **Delegate the General Manager to negotiate a variation to the Deed 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 necessary approvals from external agencies and resolutions of the Reserve Trust and Council being obtained; and**

- 3. 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 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 2018, and indemnifying Council as the Reserve Trust Manger, from all claims, damages, actions, liability or the like in the event that they do not so vacate the premises.**

**Report**

5 The current agreement between Crown Lands, Council and Fishheads for the lease and management of the Byron Bay War Memorial Pool Complex (which includes the Café) expires on 30 June 2017. There is no provision for a further term, and the agreement requires Fishheads to vacate the premises at that time.

10 The tenure of the land on which the Byron Bay War Memorial Swimming Pool Complex (the Complex) is located, involves four land parcels being part Crown Reserve R82000 (part Lot 10 DP 1049827), part Road Reserve and part Council owned Operational Land (part Lot 4 DP 827049 and part Lot 5 DP 827049).

15 A separate report titled Fishheads Café/Restaurant and Byron Bay Swimming Pool is included in the Agenda papers for the 25 May 2017 Ordinary Meeting. It contains the occupation history and provides recommendations in relation to part Road Reserve and part Council owned Operational Land (part Lot 4 DP 827049 and part Lot 5 DP 827049).

Variation of current Deed

20 The current Deed made between Byron Shire council and the Byron Coast Reserve Trust and Fishheads @ Byron Pty Ltd be varied to include all current terms and conditions with following exceptions:

- 25 • Commencement date is 1 July 2017; and
- Term is Twelve (12) calendar months; and
- Terminating Date is 30 June 2018; and
- The Rent at the commencement date of the variation to the Deed will be determined by a market valuation indexed by CPI (all groups Sydney June 2017); and
- 30 • All other changes as necessary to reflect a single twelve (12) month term.

**Financial Implications**

35 The proposed agreement extension will increase the current rent and management fees by the CPI. The increase will be calculated after the June quarter 2017 CPI figures are released by the ABS.

**Statutory and Policy Compliance Implications**

The ability to negotiate a longer period of tenure and direct dealings

40 On 30 October 2014, Fishheads attended a Public Access session at the Ordinary Council meeting and proposed that Fishheads, Crown Lands, and Council enter into a 20 year commercial lease arrangement based on the provisions of a **draft** Crown Lands Policy called “BUSINESS DIRECTIVES (2007 - 2011) COMMERCIAL TENURE OF CROWN LANDS” that Fishhead’s relied  
45 on to support their proposal for a ‘direct dealing’ arrangement between the parties – rather than Council calling a public competitive tender process.

50 Council, subsequently made enquiries with the Office of Local Government (OLG) and Crown Lands about Council’s ability to ‘directly deal’ with Fishheads for a long term tenure arrangement.

The OLG provided verbal advice, consistent with previous correspondence over a number of years, that the site was to be offered for future tenure via a competitive public process once the land tenure rationalisation was finalised. Crown Lands verbally advised, consistent with previous correspondence over a number of years, that the site was to be offered for future tenure by public

tender in accordance with their Policies and the Independent Commission Against Corruption (ICAC) guide lines.

5 In a subsequent meeting held on 29 May 2015 between Crown Lands, Fishheads and Council, Crown Lands advised Fishheads that the **draft** Crown Lands Policy called "BUSINESS DIRECTIVES (2007 - 2011) COMMERCIAL TENURE OF CROWN LANDS" relied upon by Fishheads in their proposal was never adopted and was no longer available on their website.

10 Crown Lands advised Fishheads that the current guiding policy for any 'direct dealing' is that called "UNSOLICITED PROPOSALS" published by the NSW State Government that sets out the criteria and process for any unique proposals received and that the Fishheads proposal for a 20 year commercial lease tenure did not meet or address the criteria.

15 ICAC guidelines

ICAC guidelines define direct negotiations as exclusive negotiations between an agency and a proponent without first undergoing a genuine competitive process.

20 Varying or extending existing contracts and agreements by negotiation with the incumbent is also considered direct negotiations.

25 Where there is a close relationship between an agency and an incumbent there is a risk that the agency and/or its staff and/or officials will develop either an overly close relationship or dependency. This form of 'capture' can deter the agency from testing or retesting the market, which in turn may lead to poor value for money. 'Capture' tends to involve subtle influence and is often established over time or as a result of small favours or acts of friendship. A public official who over identifies with an incumbent may not even be aware of the fact and as such would unlikely contemplate or recognise any type of bias.

30 'Captured agencies can be susceptible to offers or suggestions made with the intention of avoiding competition or persuading the agency to depart from its usual procedures. Where the agency allows itself to be persuaded by such special offers, it can lose effective control of the process and sacrifice value for money.

35 ICAC guidelines recommend that as a general rule direct negotiations should be avoided. In the case of proposed variations or extensions to existing contracts or agreements, it is recommended that any proposed changes or variations greater than 10% be supported by applying the principals of probity and accountability, value for money, and be supported by a business case.

40 Ultimately, an open competitive selection process such as a tender or expression of interest process enables Council to demonstrate accountability and transparency and makes it difficult for private interests to influence, or be seen as influencing the outcome or variation of contracts and agreements.

45 Obtaining best value for public money is a fundamental principle of public sector work. When it is known that there are other proponents who could feasibly compete for a contract, agreeing to direct negotiations with a single proponent increases the risk that the agency may not obtain best value for money. When a proponent does not have to compete for contracts there is a higher risk that the proponent may unjustifiably increase profit margins, exaggerate expenses or otherwise  
50 boost returns on the contract

**Report No. 4.2**                    **Request for a Temporary Licence to permit equestrian activities access through Lot 428 DP 729272**

**Directorate:**                    Corporate and Community Services  
**Report Author:**                Paula Telford, Leasing and Licensing Coordinator  
5                                        Ralph James, Legal Services Coordinator  
**File No:**                         I2017/556  
**Theme:**                         Economy  
10                                        Economic Development

**Summary:**

15 Cape Byron Seahorses Riding Centre, ('Seahorses'), through its owner Jo-Ann Allchin, has made an application for a licence for access through Lot 428 DP 729272, for the purpose of continuing a commercial horse riding business on Tyagarah beach under permits issued by Cape Byron Marine Parks and National Parks and National Parks and Wildlife Services.

20 Seahorses, was recently notified by the Department of Industry – Lands, Grafton Office, that although the business operates under valid permits issued by Cape Byron Marine Parks and National Parks and National Parks and Wildlife Services, these permits did not authorise Seahorses access though the Reserve R82780 at Lot 428 DP 729272.

25 Reserve R82780 is not managed by Council as a Reserve Trust; however Lot 428 DP 729272, within the reserve, is included in Council's s34A Crown Lands licence. To permit Council, to include equestrian activities' in its s34A Crown Lands licence, the Reserve Trust must by resolution, endorse equestrian activities as a Class 2 activity in its Policy 5.52 Commercial Activities on Coastal and Riparian Crown Reserves.

30 Planning restrictions on land zoned No 7 (1f) (Coastal Land Zone) in the Byron 1988 Local Environmental Plan, will restrict the term of any licence granted in this zone.

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**RECOMMENDATION:**

1.    **That Council, as the Reserve Trust, authorise equestrian activities to be included as a Class 2 activity in Policy 5.52 Commercial Activities on Coast and Riparian Crown Reserves; and**
2.    **Authorise the General Manager to include equestrian activities as a commercial activity in Council s34A Crown Lands licence; and**
3.    **Upon addition of equestrian activities into Councils s34A Crown Lands licence, issue a temporary licence for a term of twelve (12) months, to Cape Byron Seahorses Riding Centre for the purpose of access through Reserve R82780 being part of Lot 428 DP 729272 on condition:**
  - a)    **that the temporary licence during the term, is only valid so long as Cape Byron Seahorses Riding Centre holds a current permits with Cape Byron Marine Parks or National Parks and Wildlife Services or both.**
4.    **That licence fee for the term of the temporary licence be set at a rate of minimum annual Crown Rent of \$472.00 (ex GST).**



Report

5 Cape Byron Seahorses Riding Centre, ('Seahorses') through its owner Jo-Ann Allchin, has made an application to Council, for a licence for access through Reserve R82780 for the purpose of conducting a commercial horse riding business on Tyagarah beach authorised by permits issued by Cape Byron Marine Parks and National Parks and Wildlife Services.

10 Seahorses has, operated a commercial horse riding business on Tyagarah beach under permits, in the intertidal zone being below the high water mark, for more than thirteen years. Recently the Department of Industry – Lands, Grafton Officer notified Seahorses, that although the business had valid permits issued by Cape Byron Marine Parks and National Parks and National Parks and Wildlife Services, these permits did not authorise Seahorses access through the Reserve R82780 at Lot 428 DP 729272.

15 Jo-Ann Allchin has invested considerable capital into the business, and that business is the sole source of her income. Further the business caters to both needs of tourists and local to the village of Brunswick Heads. Seahorses have consistently held permits while operating on Tyagarah Beach.

20 Background

During 2004 Cape Byron Marine Parks, in developing its Zoning and Operational Plans for the Marine Parks, consulted with Byron Shire Council regarding activities on beaches. As a result Council at its ordinary meeting of 23 November 2004 resolved in 074-920 that:

25 *“Council supports horse riding on Tyagarah Beach from 500 metres south of the Brunswick wall to 400 metres north of Belongil Creek subject to a management policy and licensing agreement with riding and licensing protocols to be developed in conjunction with Marine Parks Authority and the Department of Environment and Conservation”.*

30 In response to Council’s resolution, the Cape Byron Marine Parks issued a permit to Cape Byron Seahorses Riding Centre. The permit allow groups of up to five horses per instructor, to be ridden in the intertidal zone (below high water) of the Marine Park on Tyagarah beach for a maximum of two hours during a low tide. Horses must be effectively controlled at all times, with extra caution exercised when in the vicinity of people or shorebirds or at known locations of nesting birds.

35 Personal recreational horse riding, is also permitted by Cape Byron Marine Parks and National Parks and Wildlife Services, in the intertidal zone on Tyagarah Beach.

40 Licensed activity

Reserve R82780 was gazetted on 9 August 1960. Council is not the reserve trust manger over the reserve; however Lot 428 DP 729272, within the reserve, is included in Council’s s34A Crown Lands licence. This means that Council can only grant a temporary licence to Seahorses for access through Lot 428 DP 729272, if ‘equestrian activities’ is included in the s34A Crown Lands licence.

50 To permit Council, to include equestrian activities’ in its s34A Crown Lands licence, the Reserve Trust must by resolution, endorse equestrian activities as a Class 2 activity to permit that activity, access through Reserve R82780 being Lot 428 DP 729272.

55 Policy 5.52 Commercial Activities on Coastal and Riparian Crown Reserves, ('the Policy') includes Lot 428 DP 729272 as a land the Policy applies. Equestrian activities is not an expressed Class 1 or Class 2 activity, however, the Draft Policy currently on exhibition does permit the Reserve Trust to include additional activities by resolution only.

Licensed area

5 Tyagarah beach is management by National Parks and Wildlife Services, below the intertidal zone is managed by Cape Byron Marine Parks. Access to Tyagarah beach for equestrian activities is through Lot 428 DP 729272. Lot 428 DP 729272 is part of Reserve 82780

10 Access through Lot 428 DP 729272 is via a designated track approximately 110 meters in length and the track is maintained Byron Shire Council. The track is used regularly by private recreational horse riders and others. Council has no issues with horses using the track but is concerned about the spread of weeds from horse droppings.

15 Entrance to the track is via South Beach Road Brunswick Heads being approximately 300 metres south of the completion of the asphalt road surface to a point just before the gate preventing access into National Parks and Wildlife Services managed lands.

20 The below map displays, Lot 428 DP 729272 as outlined in black with the access track shown in orange. The track ends at the intertidal zone point on Tyagarah beach and beyond this point access is authorised by permits issued by Cape Byron Marine Parks and National Parks and Wildlife Services.



Land Zoning Implications

25 Lot 428 DP 729272 is zoned No 7 (1f) (Coastal Land Zone) in the Byron 1988 Local Environmental Plan. The zoning prohibits all activities except:

*Agriculture (other than animal establishments); beach and coastal restoration works; building of levees, drains or clearing of land; bushfire hazard reduction; clearing of land; community*

*buildings; drainage; environmental facilities; forestry; home industries; markets; roads; primitive camping grounds; surf lifesaving facilities; utility installations.*

5 Essentially all commercial recreational type activities for example equestrian activities or commercial water based activities are prohibited in the zone 7 (f1) (Coastal Land Zone).

10 Clause 48(1) of the Byron 1988 LEP does permit temporary use of land zoned 4(f1) for development not being designated development, for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year only if:

- a) such land is vested in the Crown, a Minister of the Crown or the Council, and
- b) the development does not involve the erection of permanent structures ancillary to the use of that land.

15 Lot 428 DP 729272 is vested in the Crown or a Minister of the Crown and access through Lot 428 DP 729272 does not require the construction of any permanent structures.

20 In summary, although equestrian activities is a prohibited activity in zone 7 (f1), clause 48(1) of the LEP 1988 does allow temporary use of the land for equestrian activities.

### **Financial Implications**

25 On the basis that the only purpose of the temporary licence is provide Seahorses access across Lot 428 DP 729272, to Reserve R82780, for the purpose of conducting a commercial horse riding business on Tyagarah beach authorised by permits issued by Cape Byron Marine Parks and National Parks and Wildlife Services, it is recommended that the fee for the temporary licence be set at a rate of minimum annual Crown Rent of \$472.00 (ex GST).

### **Statutory and Policy Compliance Implications**

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#### **Crown Lands Act 1989**

##### **108 Temporary licences**

- 35 (1) A reserve trust may, in respect of the whole or any part of a reserve, grant temporary licences for grazing or any other prescribed purpose.
- (2) A temporary licence may be granted subject to conditions and is also subject to such conditions as may be prescribed.
- (3) A temporary licence may not be granted for any purpose for which an authority, permit, lease or licence may be granted under the *Fisheries Management Act 1994*.
- 40 (4) A temporary licence ceases to have effect on the expiration of the prescribed period after it is granted unless it is revoked sooner or is granted for a shorter period.

#### **Crown Lands Regulation 2006**

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##### **31 Temporary licences**

- 50 (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,
  - (e) emergency occupation,
  - (f) entertainments,
  - (g) equestrian events,
  - 55 (h) exhibitions,

- (i) filming (within the meaning of the *Local Government Act 1993*),
  - (j) functions,
  - (k) hiring of equipment,
  - (l) holiday accommodation,
  - 5 (m) markets,
  - (n) meetings,
  - (o) military exercises,
  - (p) mooring of boats to wharves or other structures,
  - (q) sales,
  - 10 (r) shows,
  - (s) sporting and organised recreational activities,
  - (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.

20 **Zone No 7 (f1) (Coastal Land Zone)**

**1 Objectives of zone**

The objectives of the zone are:

- (a) to identify and protect environmentally sensitive coastal land,
- 25 (b) to enable development for certain purposes where such development does not have a detrimental effect on the habitat, landscape or scenic quality of the locality,
- (c) to prevent development which would adversely affect, or be adversely affected by, coastal processes, and
- (d) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

30 **2 Without development consent**

Nil.

**3 Only with development consent**

Agriculture (other than animal establishments); beach and coastal restoration works; building of levees, drains or clearing of land; bushfire hazard reduction; clearing of land; community buildings; drainage; environmental facilities; forestry; home industries; markets; roads; primitive camping grounds; surf lifesaving facilities; utility installations.

**48 Temporary use of certain land**

- (1) Despite any provision of this plan, a person may, without the consent of the Council, carry out development on land for any purpose (not being designated development) within Zone No 6 (a) or 7 (f1) for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year if:
- (a) such land is vested in the Crown, a Minister of the Crown or the Council, and
  - 45 (b) the development does not involve the erection of permanent structures ancillary to the use of that land.
- (2) Despite any other provision of this plan, a person may, but only with the consent of the Council, carry out development on the following land for any purpose (not being designated development) for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year if the development does not involve the erection of permanent structures ancillary to the use of that land:
- Lot 1, DP 201626 and Lot 2, DP 542178, Ewingsdale Road, Ewingsdale
- Lot 358, DP 704247, Bangalow Road, Byron Bay.

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