



# Byron Shire Council



## Agenda

### Byron Shire Reserve Trust Committee Meeting

### Thursday, 22 November 2018

held at Council Chambers, Station Street, Mullumbimby  
commencing at 2pm

*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 blue ink, which appears to read "Mark Arnold".

Mark Arnold  
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 Report Reserve Trust Committee Proposed Activity Byron Bay Surf Festival 2019 on Reserve 82000 Byron Bay Beach.....4

***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                      Report Reserve Trust Committee Proposed Activity Byron Bay Surf Festival 2019 on Reserve 82000 Byron Bay Beach**

**Directorate:** Corporate and Community Services  
**Report Author:** Jess Gilmore, Events Liaison Officer  
**File No:** I2018/1893  
**Theme:** Sustainable Environment and Economy  
               Economic Development

**Summary:**

This report recommends granting a temporary licence for proposed activities at Main Beach Byron Bay as part of the wider Byron Bay Surf Festival (BBSF) which is taking place throughout Byron Bay township during the weekend of 22 – 24 February 2019.

The proposed activity does not fall within Council's Policy 5.52 *Commercial Activities on Coastal and Riparian Crown Reserves* and is reported to Council in accordance with part Council resolution 14-286, 'any applications that are not expressly referred to in the Policy will be considered at a meeting of Council'.

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**RECOMMENDATION:**

1.    **That the Reserve Trust grant a temporary licence in accordance with section 2.20 of the Crown Land Management Act for the purpose Entertainment, Exhibition and Artisan Markets to Byron Bay Surf Festival Pty Ltd from Friday 22 February 2019 to Sunday 24 February 2019 on Crown Reserve 82000 (Apex Park, Denning Park, Main Beach and part Clarkes Beach).**
  
2.    **That the granting of the temporary licence be subject to receipt and favourable assessment of a full Event Application.**

**Attachments:**

- 1        Byron Bay Surf Festival Program 2018, E2018/80416 , page 9 [↓](#)



**Report**

5 This report recommends granting a temporary licence for proposed activities at Main Beach Byron Bay as part of the wider Byron Bay Surf Festival ('BBSF') which is taking place throughout Byron Bay township during the weekend of 22 – 24 February 2019.

The following information is provided on the proposed activities to occur as part of the Byron Bay Surf Festival on the Main Beach foreshore.

10 This report specifically relates to the proposed activities on the Main Beach foreshore. Attachment 1 provides an overview of the broader BBSF activities throughout the township to provide context.

Figure 1 shows the area proposed to be used by the BBSF.



15 **Figure 1. Proposed area to be used by BBSF**

Event Overview

20 The multi-day BBSF has been held on the Byron Bay foreshore from 2011 – 2014, attracting up to 10,000 attendees annually. After a hiatus in 2015-16, Council approved the BBSF to be held in February 2017 and subsequently Feb 2018. BBSF have approached Council to have the event again in 2019.

25 The objective of the BBSF is to celebrate Australia's iconic surf culture, drawing from its rich local and national heritage while reflecting the values, creative energy and culture of the Byron region and community. In 2019 the BBSF will continue to support charities and will be enhancing its sustainability initiatives by promoting and supporting environmental education, conscious consumption of sustainable brands, as well as personal, group and community health.

30 This event comprises over 30 different activities. Event sites include Main Beach foreshore, the Byron Bay Community Centre and the Wategos Beach foreshore.

Main Beach Activities

35 The specific activities proposed on the Main Beach foreshore are open to the public at no charge (ie no entry fee) and include:

- Art and photography exhibition
- Outdoor film screening

- Short Film competition
- Beach clean-up
- Surf artisan stalls
- Surf and ocean-specific educational presentations
- Surf fitness workshops
- Board-shaper's exhibition
- Food stalls
- Live music.

- 10 The Event Management Plan also identifies that the event will require Council approvals for:
- Traffic Management Plan
  - Waste Management Plan
  - Noise Management Plan
  - Risk Management Plan.

### 15 Temporary Licence

#### Land Information:

- 20 Description: Lot 10 DP 1049827, Bay Street Byron Bay
- Reserve: R82000 Byron Bay Beach
- Owner: NSW Department of Primary Industries – Crown Lands
- Trustee: Byron Coast Reserve Trust
- Trust Manager: Byron Shire Council
- Gazetted Purpose: Public Recreation.

25 Crown Reserve 82000 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:

- 30
- Sporting Events – Organised
  - Educationally based community activities
  - Fundraising activities by Registered Charities
  - Political Functions
  - Religious Functions
- 35
- Weddings.

40 The proposed activity does not fit into any of the categories in Section 5 of the Policy that Council may issue temporary licences for, and therefore cannot be licensed by staff under delegation. However, under Section 2.20 of Crown Land Management Act the activity could be licensed as an Exhibition or Entertainment.

45 The application for the proposed activities, in accordance with part Council resolution 14-286, is required to be determined by Council as the Reserve Trust Manager, in that, '*any applications that are not expressly referred to in the Policy will be considered at a meeting of Council*'.

### Financial Implications

50 Byron Bay Surf Festival Pty Ltd would be charged the adopted fee for a *Commercial Temporary Activity*, which is currently \$236.00 for the application fee and \$329.00 per day (for 1 to 7 days) for the licence fee.

Additionally, event organisers will be charged fees in accordance with Council's adopted Fees and Charges for their:

- Traffic Control Plan assessment (if required)

- Waste management
- Occupation Certificate if required
- Any relevant building or health inspections.

5 In the assessment of the event application a bond for any clean up and/or remediation of the Reserve will be considered and negotiated with the event organisers.

**Statutory and Policy Compliance Implications**

10 Clause 31 Short-term licences over dedicated or reserved Crown land

“(1) *Each of the following purposes is prescribed as a purpose for which a short-term licence may be granted under section 2.20 of the Act:*

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

35 (2) *In addition to any other condition to which a short-term licence granted under section 2.20 of the Act is subject, the condition that the relationship of landlord and tenant is not created between the parties is also prescribed.*

40 (3) *The period of one year is prescribed as the maximum term for which a short-term licence may be granted under section 2.20 of the Act (including any further term available under an option or holding over provision).*

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

45 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:

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

Section 5 of this same Policy outlines what activities Council may issue a temporary licence over this area for. These activities are:

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

Native Title:

15          The proposed short-term licence will not affect native title. Native Title has been extinguished over Lot 10 DP 1049827 pursuant to sections 24EA(1) and 24EB(1)(d) of the *Native Title Act 1993* (Cth) being surrendered land in accordance with Schedule G of the Indigenous Land Use Agreement ('ILUA') between the Minister for Lands and the Bundjalung People of Byron Bay native title claimants dated 20 December 2006. Surrender of Native Title under the ILUA binds all native title holders and has the effect of extinguishing any native title that may have existed over the land.

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# 2018 Program



## WEDNESDAY 21

**ART EXHIBITION**

6-9pm Peter Crawford Photo Exhibition  
Art, photography, live music  
a Spot of Genius Store, Byron Bay.



## THURSDAY 22

**SURF LEGENDS LOUNGE**

5-7pm RVCA Gallery ANP art show  
Johnson St Byron Bay

6-9pm Surf Legends Lounge  
presented by Electric  
live music, art, live food, live  
panel discussion Hosted by  
Surfing World's Vaughn Blakey,  
Byron Bay Community Centre.

Limited tickets available 26.1.18  
via Byron Bay Community Centre.



## FRIDAY 23

**SUSTAINABILITY + SURF**

6-10pm Fluoro Friday  
presented by One Wave is all it takes  
Surfing fun to support mental  
health.  
The Pass

8am - 12pm FreeRadicals  
presented by RVCA and Electric  
Alternative shred sessions with  
world's raddest freeriders  
Secret location.

11-12pm **\*\*BYRON BAY SURF FESTIVAL  
FIRST SHORT BOARD EVENT**

9am Main Beach clean-up  
Clean Coast Collective and  
Stone & Wood. All welcome  
Denning Park Main Stage meet up.



## SATURDAY 24

**SURF ART MARKETS**

9-5pm Surf Art Markets  
Presented by Stone & Wood  
Stalls, TiPi forest, surfboard shapers,  
fashion, art, yoga, sustainability,  
environment, education panels,  
workshops, food & bev's, live music  
and more.  
Denning Park

5-7pm Sonic Immersion with Kassia Meador  
Sonic bath experience  
Byron Bay Community Centre

Limited tickets available 26.1.18  
via Byron Bay Community Centre.

7-10pm Feature Film  
TBC

9pm - 12am Live music The Vanns  
Presented by Beach Hotel and  
Stone & Wood  
Beach Hotel



## SUNDAY 25

**FREESTYLE & STOKE**

8-10pm Freestyle & Stoke surf sessions  
Alternative and modern surf.  
Surf sessions, surfboards, demo's  
including log, finless, bodybush,  
mermaids, McTavish Trim, wood,  
yingyang and the Byron Bay  
Surf Festival Party Wave.  
Vitegros

4-9pm Live music The Beautiful Girls  
BBSF Wrap Party presented by  
Beach Hotel and Stone & Wood  
Beach Hotel

**MORE EXCITING  
DETAILS COMING  
REAL SOON!!**



**Byron Bay  
Surf Festival**  
surf culture now

**ART SHOW + SUNSET CINEMA**

5-10pm The 2018 BBSF Artshow  
Ozzie Wright & Otis Carey with  
special guest Tim Kerr (USA)  
Lone Goat gallery

6-10pm Sunset cinema & Opening Ceremony  
Presented by MINI  
Opening Speech, welcome to  
country, live music, short film &  
feature film.  
Denning Park Main Stage

9pm Live music Regurgitator & Miniskirt  
Presented by Beach Hotel and  
Stone & Wood  
Beach Hotel



Byron Shire Reserve Trust Committee Agenda

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