



BYRON SHIRE COUNCIL

Draft POLICY NO. 5.52

COMMERCIAL ACTIVITIES ON COASTAL AND RIPARIAN CROWN RESERVES

INFORMATION ABOUT THIS DOCUMENT

Date Adopted	16 August 2001	Resolution No.	
Policy Responsibility	Property Management		
Review Timeframe			
Last Review Date:	October 2011	Next Scheduled Review Date	

Document History

Doc No.	Date Amended	Details Comments eg Resolution No.
	30 November 2004	
#421342	15 December 2005	Res 05-930
#456736	15 August 2006	Res 06-499
#939163	3 March 2010	Res 09-1128
#1177191	8 December 2011	Res 11-1000

Further Document Information and Relationships

Related Legislation	<p>Crowns Lands Act Crowns Lands Regulation 2000 Local Government Act 1993 Local Government (General) Regulation 2005 National Parks and Wildlife Act 1974 National Parks and Wildlife Regulation 2009 Marine Parks Act 1997 Marine Safety Act 1998 Marine Parks Regulation 2009 Marine Parks (Zoning Plans) Regulation 1999 Food Act 2003</p>
Related Policies	
Related Procedures/ Protocols, Statements, documents	<p>Food Safety Plan (Code) #82795 Crown Licence Agreement RI 406617 for Commercial Activities – Appendix “C”</p>

TABLE OF CONTENTS

1. PREAMBLE	1
2. MISSION STATEMENT.....	1
3. OBJECTIVES OF THIS POLICY.....	1
4. DEFINITIONS.....	1
5. REVIEW	1
6. POLICY STATEMENT.....	2
1 Land to which this Policy Applies.....	2
2 Activities that can be regulated	2
3 Temporary Licences or Approvals to be obtained under this Policy	3
5 Activities requiring a Temporary Licence or Approval.....	4
6 Applications for Temporary Licences	4
7 Matters to be considered in Issuing Class 2 Sub-Licences	5
8 General Provisions for the Operation of Class 2 Sub-Licences.....	6
9 Licences and Performance Standards – Class 2.....	7
10 Temporary Licences and Performance Standards – Class 1	7
11 Granting of New Temporary Licences	7
12 Appeals against refusals to issue a Class 2 Sub-Licence.....	8
13 Nature and Determination of Fees and Charges	8
14 Breaches and Unlicensed Activities.....	9
15 Revoking of Temporary Licences	9
SCHEDULE ‘A’	10
SCHEDULE ‘B’	12
SCHEDULE ‘C’	14
SCHEDULE ‘E’.....	18
SCHEDULE ‘F’.....	19
APPENDIX ‘A’ DEFINITIONS.....	20
APPENDIX ‘B’ MAPS	21

**POLICY TITLE COMMERCIAL ACTIVITIES ON COASTAL AND RIPARIAN
CROWN RESERVES**

FILE REFERENCE COR050504

1. PREAMBLE

Byron Shire is endowed with a huge range of unique geographical and topographical features and richly biodiverse plant and wildlife both on land and in the sea. It is now recognised throughout the world as one of the most desirable places to visit with Byron Bay listed as “most preferred” destination by the world backpacker group of travellers.

Byron Shire’s “*Jewel in the Crown*” is our ribbon of beautiful, white sand beaches, crystal clear ocean and year round quality surf. Adventurous activities abound for people of all ages from the extremely challenging to those safe for young children. Our beaches and excellent surfing breaks are easily accessible to everyone.

With public demand for our beaches and reserves increasing rapidly, we must take every care to protect them and the safety and comfort of people who use them.

2. MISSION STATEMENT

Commercial activities on beaches and adjoining reserves must not diminish the recreational amenity of residents or visitors who are attracted to this Shire for its natural beauty and environment.

It is our special responsibility to ensure ecologically sustainable use and protection of the coastal zone for the benefit and enjoyment of future generations.

3. OBJECTIVES OF THIS POLICY

To retain coastal Crown reserves, that are under the care, control and management of Council, where authorised, as the Reserve Trust Manager, as places for passive and active recreation where appropriate for residents and visitors.

To set out what activities can be carried out on coastal Crown reserves with, and without, permission of Council, where authorised, as the Reserve Trust Manager.

To regulate the level of temporary business or commercial activity on coastal Crown reserves under the care, control and management of Council, where authorised, as the Reserve Trust Manager.

To provide criteria for determining applications to carry out commercial activities on coastal Crown reserves.

4. DEFINITIONS

For the purposes of interpreting this policy a list of definitions is provided as an appendix to this document.

5. REVIEW

This policy is subject to ongoing review at a minimum every twelve (12) months after adoption and as part of the preparation of Council’s Coastal Zone Management Plan for Byron Bay Embayment.

6. POLICY STATEMENT

1 Land to which this Policy Applies

1.1 This policy applies to all beaches and adjoining parks that are coastal Crown reserves under the care control and management of Byron Shire Council, where authorised as the Reserve Trust Manager. The coastal Crown reserves are:

Reserve No.	Reserve Name	Beach Name	Purpose
R140034	Byron Coast Reserve	Seven Mile Beach	Public Recreation
R140052	Byron Coast Reserve	South Golden Beach	Public Recreation/Protection from Sand Drift
R82000	Byron Coast Reserve	Byron Bay Beach	Public Recreation
R97066	Byron Coast Reserve	Tallow Beach	Public Recreation/Protection from Sand Drift
R97139	Byron Coast Reserve	Brunswick Heads Beach	Public Recreation

Council as authorised by Crown Licence Agreement RI 564194 for Commercial Activities

R49122	Lighthouse Hill Reserve	Clarkes Beach	Public Recreation/Preservation of Native Flora
R82780	Crown Land	South Brunswick Heads Beach	Future Public Requirements
R755695	Crown Land	Suffolk Park Beach	Future Public Requirements
R755687	Crown Land	New Brighton Beach	Future Public Requirements
R755695	Crown Land	Belongil Beach	Future Public Requirements

1.2 Crown licence RI 564194 may provide for further licenced areas not listed above that apply to this Policy.

Site maps for all the above reserves are attached to this policy.

2 Activities that can be regulated

2.1 Activities Regulated by the *Crown Lands Act 1989* (NSW) include:

The only activities for which Council, as the Reserve Trust Manager, pursuant to Section 92 (5) of the *Crown Lands Act*, can issue a **temporary licence** under s108 of the *Crown Lands Act* for are the activities listed in clause 31 of the *Crown Lands Regulation 2006* (NSW) (as amended from time to time). This clause, as at the date of the policy, states as follows;

“For the purpose of section 108 of the Act:

- Advertising
- Camping using a tent, caravan or otherwise
- Catering
- Entertainments
- Equestrian events
- Exhibitions
- Filming (within the meaning of the *Local Government Act 1993*)
- Functions

Policy – Commercial Activities on Coastal and Riparian Crown Reserves

- *Hiring of equipment*
 - *Holiday accommodation*
 - *Markets*
 - *Meetings*
 - *Mooring of boats to wharves or other structures*
 - *Sales*
 - *Shows*
 - *Sporting and organised recreational activities*
 - *Stabling of horses*
- (b) *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, and*
- (c) *unless it is revoked sooner or is granted for a shorter period, a temporary licence ceases to have effect one year after it is granted.”*

2.2. Activities Regulated by the *Local Government Act 1993* (NSW) includes:

Council, as the Reserve Trust Manager, may grant an approval under Item 7 of Part F to the table to Section 68 of the *Local Government Act* on a Crown reserve for “*use a standing vehicle or an article for the purposes of selling an article in a public place*”.

2.3. Council as the Reserve Trust Manager may, by resolution, in respect Class 1 Activities, grant approval for advertising as follows:

- (a) Approval will be by way of Class 1 Licence;
- (b) Advertising must only and directly relate to sponsorship of the activity covered by the Class 1 Licence;
- (c) Advertising must be of dimensions defined in the Licence;
- (d) Advertising must be placed on the land to which the Licence relates; and
- (e) Advertising must not be placed so as it might reasonably be expected to;
 - Distract drivers and/or pedestrians;
 - Impact on traffic flow or traffic management of the area of the activity or;
 - Obstruct the line of sight of either drivers or pedestrians; or
 - Incite or antagonise other persons by virtue of the message displayed.

Nothing in this clause removes the necessity to obtain development consent for advertising signage where such development consent is required.

- ### 2.4. Council may grant a sub-licence authorised by a head Trust licence issued under Section 34A of the *Crown Lands Act 1989* (NSW) for permitted reserve uses of:
- Surf schools, personalised surf schools, sea kayak and stand up paddle board schools; and mobile kiosk and mobile beach locker hire.

3 Temporary Licences or Approvals to be obtained under this Policy

- ### 3.1. Any activity, including commercial and / or business activities (including any activity which involves a standing vehicle or any article to be used for the purposes of selling any article) cannot be carried out on a coastal Crown reserve where a notice is erected under section 632 of the *Local Government Act* about that activity, unless a temporary licence or approval has been obtained from the Council, as the Reserve Trust Manager, in accordance with that notice.
- ### 3.2. Activities on a coastal crown reserves are not limited to activities taking place wholly on the reserve but also include activities that involve crossing the reserve, or transferring people or items on, off or over the reserve. This includes the embarking or disembarking of people / items from or to water based activities adjoining the

reserve. Council, as the Reserve Trust Manager, is entitled to require licensing of any activity or part of an activity involving a reserve.

4 Activities not requiring a Temporary Licence or Approval

- 4.1 In accordance with clause 31 of the *Crown Lands Regulation*, Council, as the Reserve Trust Manager, has determined that the following activities can be carried out on coastal Crown reserves without the need to obtain a temporary licence or approval for non-commercial activities being:
- Emergency Services performed by recognised Emergency Service Organisations;
 - Passive recreation activities;
 - Social Gatherings; and
 - Volunteer Rescue Organisation Training Days.

5 Activities requiring a Temporary Licence or Approval

- 5.1 In accordance with clause 31 of the *Crown Lands Regulation*, Council as the Reserve Trust Manager, has determined that the following activities require a **Class 1** temporary Licence:

- access though a reserve;
- catering;
- emergency occupation;
- entertainments (non-commercial and consistent with the Reserve purpose);
- exhibitions (non-commercial and consistent with the Reserve purpose);
- filming;
- functions (limited to educational based community activities, fundraising by registered charities, political or religious functions and weddings); and
- sporting & organised recreational activities.

All other activities listed in clause 31 of the *Crown Lands Regulation* may be possible only by a Reserve Trust resolution.

Generally Class 1 activities will only be approved for a short term or temporary basis for example one day or less. An application fee must be paid for a **Class 1** application and a licence fee may apply.

- 5.2 Council, as the Reserve Trust Manager, will consider applications for filming (within the meaning of the *Local Government Act 1993*). Filming applications will be subject to the terms, conditions and fees outlined in Council Policy No. 3.41 “Filming on Council owned and controlled land”.
- 5.3 All other activities that are of a commercial nature and conducted on a commercial basis require a **Class 2** sub-licence.
- 5.4 If any of the commercial activities requiring a **Class 2** sub-licence involve the use of a standing vehicle, or any article for the purpose of selling any article on a Crown reserve, then in addition to the temporary licence, an approval must be obtained from the Council, as the Reserve Trust Manager, under Item 7 of Part F of the table to Section 68 of the *Local Government Act*.

6 Applications for Temporary Licences

- 6.1. All applications shall be in writing on the approved form, setting out the proposal in detail, the desired location (including the size of the area it is intending to occupy) and be accompanied by the appropriate application fee.

- 6.2. Any application for a temporary licence under this Policy that fails to meet the requirements of clause 6.1 shall be rejected with reasons given and returned to the applicant by Council.
- 6.3. All applications for temporary licences under this Policy shall be assessed and determined by the General Manager of Byron Shire Council as the delegated officer of the Reserve Trust, or by his or her delegate, in consultation with representatives from, but not limited to, Crown Lands Division, Cape Byron Headland Trust and National Parks and Wildlife Service, where appropriate.
- 6.4. All applications for temporary licences are to be assessed and determined within a three month period from date of receipt.

7 Matters to be considered in Issuing Class 2 Sub-Licences

Council, as the Reserve Trust Manager, will assess the information provided in applications for Class 2 sub-licences based on the following selection criteria:

7.1 Mandatory criteria:

- 7.1.1 Instrument of Tender:
- A valid Australian Business Number (ABN);
 - Details of Organisational profile;
 - Referee details;
 - A statement if acting as an Agent or Trustee (if applicable); and
 - A statement if intending to sub-contract requirements (if applicable).
- 7.1.2 Details of Financial Viability.
- 7.1.3 Details of Insurance or statement of ability to obtain required insurance.
- 7.1.4 Statement of ability to meet minimum work health and safety requirements.
- 7.1.5 Proof of holding relevant qualifications to operate the business purpose of the sub-licence.
- 7.1.6 Statement of a commitment to ethical business practice principles.
- 7.1.7 Conflict of interest declaration.

7.2 Qualitative criteria:

	Weighting
7.2.1 Demonstrate successful experience in the activity to a high standard.	20%
7.2.2 Demonstrate history and experience of environmentally acceptable operations.	15%
7.2.3 Demonstrate appropriate level of knowledge and understanding of local conditions, natural and cultural history, ecological processes, possible constraints and restrictions on operations.	20%
7.2.4 Demonstrate experience in meeting licence conditions, including the keeping of records and prompt payment of fees.	10%
7.2.5 Demonstrate knowledge and ability to provide appropriate safety requirements and duty of care responsibilities	15%
7.2.6 Demonstrate capability to provide interpretive and educational information that ensures clients are receiving instructions on minimal impact techniques, environmental protection and ethics of appropriate behaviour.	10%
7.2.7 Demonstrate compatibility with purpose of Crown, Cape Byron Marine Parks & National Parks & Wildlife Reserves, and the NSW Coastal Policy, and whether the proposed activity will promote and be ancillary to the use and enjoyment of the Reserves.	5%
7.2.8 Demonstrate the benefit of the activity provided to the wider Byron Bay community	5%

8 General Provisions for the Operation of Class 2 Sub-Licences

- 8.1. The general provisions listed in this clause will apply to all Class 2 sub-licences.
- 8.2. Class 2 sub-licence where Council is the Reserve Trust Manager will be issued for a maximum period of one (1) year.
- 8.3. Class 2 sub-licences where Council is authorised by Trust Licence RI 564194, will be issued subject to the Ministers consent, for a minimum term of one (1) year and a maximum term of six (6) years.
- 8.4. An open tender process will be used for all Class 2 sub-licences.
- 8.5. Class 2 sub-licence can be issued to a Holder being:
 - (a) Individuals only; or
 - (b) Individuals and companies (with personal guarantees by all directors); or
 - (c) Companies only (with personal guarantees by all directors).
- 8.6. Where the licence is issued to a company then the company can only retain the licence so long as there is no change in the shareholding of the company.
- 8.7. A company licensee must advise Council (as the Reserve Trust Manager) by giving at least twenty eight (28) days written notice:
 - (a) of any proposed changes in the shareholdings of the company, and
 - (b) when those changes will take effect.
- 8.8. Class 2 sub-licences are not transferable in all circumstances. A Class 2 sub-licence may only be transferred or assigned only upon:
 - (a) the death of a sole or surviving sub-licensee; or
 - (b) proof a sub-licensee is suffering hardship.

Council retains discretion to permit the transfer or assignment of sub-licensee rights under a Class 2 sub-licence.
- 8.9. Class 2 sub-licence conditions will use industry standards, where applicable.
- 8.10. Class 2 sub-licensee and their employees, agents or contractors must provide a current working with children check or provide a copy of their current accreditation that includes a reference to a current with working with children check.
- 8.11. Class 2 sub-licences will, generally only be issued for beach or water based and non-mechanised activities.
- 8.13. Should a Class 2 sub-licence holder fail to operate a licence for a continuous period exceeding one (1) month, then the licence will lapse, unless Council, as the Reserve Trust Manager, has provided prior approval.
- 8.14. A Holder may be granted, and hold separately, one (1) surf school sub-licence, concurrently with one (1) stand up paddle board school sub-licence, otherwise a Holder may not hold more than one(1) sub-licence.
- 8.14. No motorised craft will be approved for Hire.

9 Licences and Performance Standards – Class 2

9.1. The maximum number of Class 2 sub-licences to be issued annually is detailed in the following table.

Activity	Number of sub-licences	Student / Instructor Ratio	Maximum Students	Frequency (Number of Classes per day)
Surf Schools	Four (4) only.	8 students to 1 instructor. 9 students to 2 instructors.	10	Two (2) classes per day with one (1) class from each school is permitted at the same time.
Personalised Surf Schools	Two (2) only.	2 students to 1 instructor.	2	
Sea Kayaks	Two (2) only.	8 kayaks to 1 instructor.	18 kayaks	
Stand Up Paddle Board Schools	Three (3) only.	8 students to 1 instructor.	8	

Class size for the above activities may be increased only on application by the NSW Department of Education, or any other higher learning institution and Licensee's must comply with Education Department guidelines. For example, surf schools, one instructor in charge of ten (10) students and one instructor or group leader in charge of remaining students, to a maximum of 20 students on the beach at any one time.

Activity	Number of sub-licences	Conditions
Mobile Kiosk (non-motorised)	Three (3) only.	At designated operational locations.
Mobile Beach Locker Hire	One (1) only.	A designated operational location.

- 9.2. Council, as the Reserve Trust Manager, reserves the right to issue none or less than the proposed number sub-licences for each Class 2 activity type.
- 9.3. Operating requirements have been developed for Class 2 activities is set out in the Schedules "A" to "F" in this Policy.
- 9.4. Council, as the Reserve Trust Manager, must determine any amendment to the number and/or type of Class 2 sub-licences issued. This determination is to be made after consultation with the Council Committee, if any, established to review the management of commercial activities on coastal crown reserves.

10 Temporary Licences and Performance Standards – Class 1

- 10.1. Class 1 temporary licences will be issued on an as required basis, as determined by Council, as the Reserve Trust Manager.
- 10.2. Operating requirements for Class 1 temporary licences will be listed in the licence as provided by Council, as the Reserve Trust Manager.

11 Granting of New Temporary Licences

- 11.1 The granting of a new temporary licence to replace a temporary licence that has expired, vacated or relinquished will be dependent on satisfactory compliance with both the letter and spirit of the licence conditions and this Policy, and the standards of performance. Accordingly, the following will apply:
- 11.1.1. Strict compliance with the policy and licence conditions is required.

- 11.2. The granting of a new temporary licence will be dependent on the licensee showing a satisfactory standard of performance in all areas.
- 11.3. Breaches of temporary licence conditions, or lapses in standards, may result in licence cancellation.
- 11.4. Council, as the Reserve Trust Manager, reserves the right not to grant new temporary licences to replace any expired temporary licences.
- 11.5. If a Class 2 sub-licence becomes vacant, Council, as the Reserve Trust Manager, reserves the right to determine how it wishes to allocate that vacant sub-licence, if and when a decision is made to issue a new sub-licence. Options that Council, as the Reserve Trust Manager will consider include, but are not limited to the calling of tenders or expressions of interest for the sub-licence.

12 Appeals against refusals to issue a Class 2 Sub-Licence

- 12.1. Any applicant for a new Class 2 sub-licence under this Policy may appeal to the Council, as the Reserve Trust Manager, if the application is refused. Such an appeal must be made in writing, attaching all relevant documentation, and within 28 days of the date of the refusal.
- 12.2. The hearing, management and determination of any appeals as per clause 12.1 will be a matter for the General Manager of Byron Shire Council, as the delegated officer of the Reserve Trust, to determine.

13 Nature and Determination of Fees and Charges

- 13.1. Council, as the Reserve Trust Manager, must determine the fees and charges in accordance with this Policy as part of Council's Integrated Planning and Reporting Framework.
- 13.2. Council, as the Reserve Trust Manager, must determine at a minimum, the following fees;
 - (a) Class 1 Temporary Licence – Application Fees;
 - (b) Class 2 Sub-Licences – Application Fees; and
 - (c) Class 2 Sub-licences – Annual Licence Fees.
- 13.3. Application fees are payable for all Class 1 and Class 2 licences, with the exception when an existing Class 2 sub-licence holder has a new Class 2 sub-licence issued based on the conditions of the existing Class 2 sub-licence.
- 13.4. Class 2 sub-licence fees may be paid annually or monthly in advance.
- 13.5. Fees will be determined taking into account, and not limited to, the following:
 - nature of the activity;
 - scale of its operation;
 - use and impact on the coastal Crown reserve; and
 - impact on the community both beneficial and detrimental.
- 13.6. A performance bond will be required for licensees who have not held a licence previously with Council. Bonds may also be required for existing licensees at the discretion of Council, as the Reserve Trust Manager.
- 13.7. All fees are payable unless subsidised by Council, as the Reserve Trust Manager, or its delegated officer, in accordance with Council policy and approved delegations. This clause 13.7 does not apply to Class 2 sub-licences.

14 Breaches and Unlicensed Activities

14.1. Where there is any breach of any licence conditions, including unlicensed activities, Council, or as Reserve Trust Manager, is to take all necessary action to remedy the breach. This includes, but is not limited to, the issuing of penalty notices, the taking of injunction proceedings and other legal action, and where appropriate, the removal of the activities from the coastal Crown reserve by an employee of the Council, or a Police Officer.

15 Revoking of Temporary Licences

15.1. Council, as Reserve Trust Manager, reserves the right to revoke any licensed activities for management reasons including, but not limited to, environmental protection, public safety, and changes in policy or legislation.

15.2. The licence may also be terminated in the following circumstances:

- a) if any fees payable, or any part thereof are in arrears for 30 days, whether formally demanded or not;
- b) if the Licensee breaches any conditions of this Policy or the temporary licence;
- c) if the Licensee has committed an act of bankruptcy; and
- d) if the Licensee commits an unlawful act or breaches the requirements of any other relevant Authority.

15.3. If a license is to be terminated due to the circumstances set out in this clause, the Council, as the Reserve Trust Manager, may terminate the temporary licence by:

- a) notifying the Licensee to that effect; or
- b) restricting the Licensee from operating the activity on the coastal Crown reserves, by force if necessary; or doing both.

15.4. If a breach of a condition in the licence is witnessed and recorded by a Council Officer, written notice may be forwarded to the operator. Council, as the Reserve Trust Manager, reserves the right to issue verbal warnings for minor deviations from the licence.

15.5. A Licensee has a right to appeal a written notice within 28 days of receipt. The General Manager has the authority to determine whether or not the notice should be waived based on the appeal.

15.6. If a Licensee receives two written notices, within a three year period, the Council, as Reserve Trust Manager, will advise in writing that any further breach within three years of the first notice will result in the termination of the licence. If three notices are issued within a three year period, the licence is terminated from the time of the third notice, subject to clause 15.7 below.

15.7. Licensee granted a one (1) year, Class 2 sub-licence, the issuing of two written notices in that period will result in termination of the licence.

**SCHEDULE 'A'
SURF SCHOOL**

1 Introduction:

A Surf School provides beginner and intermediate surf lessons to individuals and groups in licensed reserves.

2 Fees:

A Surf School sub-licence fee is published annually in Council's Fees and Charges.

3 Qualifications:

- 3.1.1 Current Surf Rescue Certificate (SLSA Community Award) OR Current Bronze Medallion (SLSA proficient annually) OR Ocean Rescue Award (RLSS proficient annually) AND
- 3.1.2 Minimum - Level 1 Surf Coaching Accreditation from an Australian Nationally Recognised Training Institution;
(Note: Level 1 Accreditation insures basic coach education and annual coach education updating and requires mandatory updating of resuscitation, first aid and rescue certificates); AND
- 3.1.3 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross); AND
- 3.1.4 Current Working with Children Check in accord with relevant Child Protection Legislation.

Risk Management Protocol

The following equipment is to be provided on the beach at every Surf School class:-

- 3.1.5 A Mobile Telephone;
- 3.1.6 A First Aid Kit (to be audited each quarter to the satisfaction of the Byron Bay Surf Lifesaving Club and reviewed by Council, as the Reserve Trust Manager, during each licence period);
- 3.1.7 "Soft Safes" surfboards with soft fins used at entry level;
- 3.1.8 Instructor's rescue board on beach;
- 3.1.9 Flags denoting area colour coding exclusively on flags; and
- 3.1.10 Drinking water.

Insurance Cover

- 3.1.11 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e. Byron Shire Council, and the Minister Administering the Crown Lands Act); AND
- 3.1.12 Minimum \$5 million Professional Personal Indemnity.

- 4 A maximum of four (4) Surf Schools shall be sub-licensed to operate in coastal Crown reserves under control of the Byron Shire Council, as the Reserve Trust Manger and other lands included in RI 564194, and only one class from each Surf School shall be permitted in the reserve, in the lesson area at the same time.
- 5 A maximum of ten (10) students, only two (2) schools per day from each Surf School in the reserve, in the lesson area, at one time.
- 6 Class sizes may be increased when a Surf School is requested by the State Education Department or higher learning institutions but must comply with State Education Department guidelines, (i.e. one instructor in charge of seven (7) students and one instructor or group leader in charge of remaining students, to a maximum of 40 students from each Surf School, on the beach, at any one time.) Byron Shire Council, as Reserve Trust Manager, must be advised in writing in advance of such a request.
- 7 A Surf School must operate at a minimum distance of 100 metres from any other sub-licensed Surf School.
- 8 No Surf School shall operate from the western side of the Byron Bay Surf Club to a line extending from Middleton Street.

Policy – Commercial Activities on Coastal and Riparian Crown Reserves

- 9** No Surf School will have priority over any other Surf School in the licensed areas. A Surf School must liaise with other sub-licensed Surf Schools to ensure only one class from each school is in the reserve, in the lesson area at one time.
- 10** A Surf School must not interfere with other beach users, or enjoy exclusive use rights over any licensed area.
- 11** A Surf School must have distinctive garments for each student and instructor; and
 - 11.1 Students from each Surf School must be identifiable and distinguishable from any other type of sub-licensed Surf School;
 - 11.2 Instructors from each Surf School must be easy to identify from a distance and be distinguishable from other sub-licensed school;
 - 11.3 Each Surf School must have clear and visible colour coding exclusively on all garments, beach flags and surf boards;
 - 11.4 Surf Schools must use bright colours on all garments and other apparel when on the beach to assist in easy and quick identification.
 - 11.5 All students must wear a leg-rope that is attached to the surf board.
- 12** Surf Schools must keep and retain records of all students and daily signed logs, such records to be made available for inspection to Council as required.
- 13** A Surf School must maintain a close liaison with the Surf Life Saving Officers, if on duty, at a particular beach to be used by a Surf School.
- 14** All participants in a Surf School must be educated in the prohibition of surf craft in flagged areas on the beach under control of Surf Life Saving Officers.
- 15** A Surf School class must be cancelled if conditions are unsafe or if a surf carnival or other major event is being held. All reasonable directions from Surf Life Saving Officers, NSW Police Force Officers or Council Officers must be complied with.
- 16** No vehicles are to be driven on any licensed area including the beach or in any grassed reserve under the control of Byron Shire Council.
- 17** No advertising is permitted on the beach or on any uniforms or equipment used by a Surf School with exception of the Surf School business logo. Advertising of any kind is not permitted on shore based equipment such as flags.
- 18** Any class area or parking area must be kept in a clean and tidy condition free from litter and refuse at all times.
- 19** Any other conditions that Council, as the Reserve Trust Manager, may impose from time to time.

**SCHEDULE 'B'
PERSONALISED SURF SCHOOL**

1 Introduction:

A Personalised Surf School provides individualised one on one surf lessons to members of the public.

2 Fees:

A Personalised Surf School sub-licence fee is published annually in Council's Fees and Charges.

3 Qualifications:

- 3.1.1 Current Surf Rescue Certificate (SLSA Community Award) OR
Current Bronze Medallion (SLSA proficient annually) OR
Ocean Rescue Award (RLSS proficient annually) AND
- 3.1.2 Minimum - Level 1 Surf Coaching Accreditation from an Australian Nationally Recognised Training Institution;
(Note: Level 1 Accreditation insures basic coach education and annual coach education updating and requires mandatory updating of resuscitation, first aid and rescue certificates);
AND
- 3.1.3 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross); AND
- 3.1.4 Current Working with Children Check in accord with relevant Child Protection Legislation.

Risk Management Protocol

The following equipment is to be provided on the beach at every Personalised Surf School class:-

- 3.1.5 A Mobile Telephone;
- 3.1.6 A First Aid Kit (to be audited each quarter to the satisfaction of the Byron Bay Surf Lifesaving Club and reviewed by Council, as the Reserve Trust Manager, during each licence period);
- 3.1.7 "Soft Safes" surfboards with soft fins used at entry level;
- 3.1.8 Instructor's rescue board on beach;
- 3.1.9 Flags denoting area colour coding exclusively on flags; and
- 3.1.10 Drinking water.

Insurance Cover

- 3.1.11 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e. Byron Shire Council, and the Minister Administering the Crown Lands Act);
AND
- 3.1.12 Minimum \$5 million Professional Personal Indemnity.

- 4 A maximum of two (2) Personalised Surf Schools shall be sub-licensed to operate in coastal Crown reserves under control of the Byron Shire Council, as the Reserve Trust Manger and other lands included in RI 564194, and only one class from each Personalised Surf School shall be permitted in the reserve, in the lesson area at the same time.
- 5 A maximum of two (2) students, only two (2) schools per day from each Personalised Surf School in the reserve, in the lesson area, at one time
- 6 A Personalised Surf School must operate at a minimum distance of 100 metres from any other sub-licensed Surf School.
- 7 No Personalised Surf School shall operate from the western side of the Byron Bay Surf Club to a line extending from Middleton Street.
- 8 No Personalised Surf School will have priority over any other sub-licensed Surf School in the licensed areas. A Personalised Surf School must liaise with other sub-licensed Surf Schools to ensure only one class from each school is in the reserve, in the lesson area at one time.
- 9 A Personalised Surf School must not interfere with other beach users, or enjoy exclusive use rights over any licensed area.

Policy – Commercial Activities on Coastal and Riparian Crown Reserves

- 10** A Personalised Surf School must have distinctive garments for each student and instructor; and
 - 10.1 Students from each Personalised Surf School must be identifiable and distinguishable from any other Personalised Surf School;
 - 10.2 Instructors from each Personalised Surf School must be easy to identify from a distance and be distinguishable from any other type of sub-licensed school;
 - 10.3 Each Personalised Surf School must have clear and visible colour coding exclusively on all garments, beach flags and surf boards;
 - 10.4 Personalised Surf Schools must use bright colours on all garments and other apparel when on the beach to assist in easy and quick identification.
 - 10.5 All students must wear a leg-rope that is attached to the surf board.
- 11** A Personalised Surf School must keep and retain records of all students and daily signed logs, such records to be made available for inspection to Council as required.
- 12** A Personalised Surf School must maintain a close liaison with the Surf Life Saving Officers, if on duty, at a particular beach to be used by a Surf School.
- 13** All participants in a Personalised Surf School must be educated in the prohibition of surf craft in flagged areas on the beach under control of Surf Life Saving Officers.
- 14** A Personalised Surf School must be cancelled if conditions are unsafe or if a surf carnival or other major event is being held. All reasonable directions from Surf Life Saving Officers, NSW Police Force Officers or Council Officers must be complied with.
- 15** No vehicles are to be driven on any licensed area including the beach or in any grassed reserve under the control of Byron Shire Council.
- 16** No advertising is permitted on the beach or on any uniforms or equipment used by a Personalised Surf School with exception to the Personalised Surf School business logo. Advertising of any kind is not permitted on shore based equipment such as flags.
- 17** Any class area or parking area must be kept in a clean and tidy condition free from litter and refuse at all times.
- 18** Any other conditions that Council, as the Reserve Trust Manager, may impose from time to time.

**SCHEDULE 'C'
STAND UP PADDLE BOARD SCHOOL**

1 Introduction:

A Stand Up Paddle Board School provides an opportunity for any member of the public to experience the sport of stand up paddle boarding in enclosed flat waters of the Brunswick River.

2 Fees:

A Stand Up Paddle Board School sub-licence fee is published annually in Council's Fees and Charges.

3 Qualifications:

- 3.1.1 Current Surf Rescue Certificate (SLSA Community Award) OR
Current Bronze Medallion (SLSA proficient annually) OR
Ocean Rescue Award (RLSS proficient annually); AND
- 3.1.2 Minimum - Level 1 Stand Up Paddle Instructor (Enclosed Flat Water) Accreditation from an Australian Nationally Recognised Training Institution; AND
- 3.1.3 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross); AND
- 3.1.4 Current Working with Children Check in accord with relevant Child Protection Legislation.

Risk Management Protocol

The following equipment is to be provided on the beach with every class:-

- 3.1.5 A Mobile Telephone;
- 3.1.6 A First Aid Kit (to be audited each quarter to the satisfaction of the Byron Bay Surf Lifesaving Club and reviewed by Council, as the Reserve Trust Manager, each licence period);
- 3.1.7 A Stand Up Paddle Board School Instructor must be clearly identifiable by apparel or craft;
- 3.1.8 All life jacket and other safety regulations must be adhered to; and
- 3.1.9 All personalised safety apparel, hard hats, safety vests or shirts must clearly distinguish a Stand Up Paddle Board School from any other Stand Up Paddle Board School.

Insurance Cover

- 3.1.10 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e. Byron Shire Council, and the Minister Administering the Crown Lands Act); AND
- 3.1.11 Minimum \$5 million Professional Personal Indemnity.

- 4 That a maximum of three (3) Stand Up Paddle Board Schools is available to operate in the flat waters of the Brunswick River.
- 5 Sub-Licence conditions provide for a maximum of:
 - 5.1 Eight (8) students to one (1) instructor to a maximum of eighteen students in any one class; and
 - 5.2 The instructor must accompany all students while in on the Brunswick River; and
 - 5.3 Two (2) Stand Up Paddle Board classes per day; and
 - 5.4 One (1) Stand Up Paddle Board class from each Stand Up Paddle Board School is permitted in the reserve, in the lesson area at the same time.
- 6 A Stand Up Paddle Board School must not operate less than 300m from the Brunswick River mouth.
- 7 A Stand Up Paddle Board School must operate at a minimum distance of 100 metres from any other Stand Up Paddle Board School.
- 8 No Stand Up Paddle Board School will have priority over any other Stand Up Paddle Board School in the licensed area. A Stand Up Paddle Board School must liaise with the other sub-licensed Stand Up Paddle Board Schools to ensure only one class from each school is in the reserve, in the lesson area at one time.
- 9 A Stand Up Paddle Board School must not interfere with other reserve users, or enjoy exclusive use rights over any licensed area.

Policy – Commercial Activities on Coastal and Riparian Crown Reserves

- 10** A Stand Up Paddle Board School must have distinctive garments for each student and instructor; and
 - 10.1 Students from each Stand Up Paddle Board School must be identifiable and distinguishable from any other Stand Up Paddle Board School;
 - 10.2 Instructors from each Stand Up Paddle Board School must be easy to identify from a distance and be distinguishable from the other sub-licensed activity;
 - 10.3 Each Stand Up Paddle Board School must have clear and visible colour coding exclusively on all garments and boards;
 - 10.4 All students must wear a leg-rope that is attached to a stand up paddle board.
- 11** A Stand Up Paddle Board School must keep and retain records of all students and daily signed logs, such records to be made available for inspection to Council as required.
- 12** A Stand Up Paddle Board School class must be cancelled if conditions are unsafe. All reasonable directions from Surf Life Saving Officers, NSW Police Force Officers or Council Officers must be complied with.
- 13** No vehicles are to be driven on any licensed area including the beach or in any grassed reserve under the control of Byron Shire Council.
- 14** No advertising is permitted on any uniforms or equipment used by an A Stand Up Paddle Board School with exception to the A Stand Up Paddle Board School business logo. Advertising of any kind is not permitted on shore based equipment.
- 15** Any class area or parking area must be kept in a clean and tidy condition free from litter and refuse at all times.
- 16** Any other conditions that Council, as the Reserve Trust Manager, may impose from time to time.

**SCHEDULE 'D'
SEA KAYAK**

1 Introduction:

Sea Kayak provides adventure tours to individuals and groups in licensed area.

2 Fees:

A Sea Kayak sub-licence fee is published annually in Council's Fees and Charges.

3 Qualifications:

- 3.1.1 Current Surf Rescue Certificate (SLSA Community Award) OR
Current Bronze Medallion (SLSA proficient annually) OR
Ocean Rescue Award (RLSS proficient annually); AND
- 3.1.2 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross); AND
- 3.1.3 Certificate of Operation under Part 4, Division 3 or the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cth); AND
- 3.1.4 Current Working with Children Check in accord with relevant Child Protection Legislation.

Risk Management Protocol

The following equipment is to be provided on the beach with every class:-

- 3.1.5 A Mobile telephone;
- 3.1.6 A First Aid Kit (to be audited each quarter to the satisfaction of the Byron Bay Surf Lifesaving Club and reviewed by Council, as the Reserve Trust Manager, each licence period);
- 3.1.7 All Sea Kayak (maximum of eighteen (18)) craft must be licensed by the NSW Roads & Maritime Services with licence numbers clearly displayed on each craft;
- 3.1.8 For safety purposes the Instructor's or Tour Guide's Sea Kayak craft must be distinctly marked for quick identification as the instructors kayak craft;
- 3.1.9 All life jacket and other safety regulations must be adhered to; and
- 3.1.10 All personalised safety apparel, hard hats, safety vests or shirts that clearly distinguish one Sea Kayak tour from any other sea kayak activity.

Insurance Cover

- 3.1.11 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e. Byron Shire Council, and the Minister Administering the Crown Lands Act); AND
- 3.1.12 Minimum \$5 million Professional Personal Indemnity.

4 A Maximum of two (2) Sea Kayak sub-licences is available to operate in open waters of licensed reserves.

5 Sub-Licence conditions provide for a maximum of:

- 5.1 Eight (8) students to every one (1) instructor, to a maximum of eighteen (18) kayaks in any one tour; and
- 5.2 Two (2) Sea Kayak tours in open waters of reserve areas; and
- 5.3 One (1) Sea Kayak tour in the flat waters of the Brunswick River; and
- 5.4 One (1) Sea Kayak tour from each Sea Kayak operator is permitted in the reserve, in the lesson area at the same time.

6 No Sea Kayak will have priority over any other sub-licensed Sea Kayak when using the parks or beaches. Sea Kayak operators are encouraged to liaise with other Sea Kayak operators, to ensure that only one class from each operator is in the reserve, in the lesson area at one time.

7 Sea Kayak tour must not interfere with other reserve users, or enjoy exclusive use rights over any licensed area.

8 Approaching Marine Mammals

- 8.1 Sea Kayak operators will comply with the *National Parks and Wildlife Act 1974* (NSW) as amended and the *National Parks and Wildlife Regulation 2009* (NSW) as amended for the interaction with marine mammal.
- 8.2 Sea Kayak operators will liaise with the National Parks and Wildlife Service ('NPWS') on a regular basis and comply with any requests or directions from the NPWS by necessity.

Policy – Commercial Activities on Coastal and Riparian Crown Reserves

- 8.3 Sea Kayak operators will inform all participants of each tour of conditions 8.1 and 8.2 (approaching marine mammal) before departing the beach.
- 9 All licensed Sea Kayak operator must have distinctive garments for each student and instructor; Students from each Sea Kayak business should be identifiable and distinguishable from any other Sea Kayak business;
 - 9.1 Instructors from each Sea Kayak operator should be easy to identify from a distance and be distinguishable from other Sea Kayak operators; and
 - 9.2 Each Sea Kayak operator should have clear and visible colour coding exclusively on all garments, beach flags and kayaks; and
 - 9.3 Sea Kayak operators should use bright colours on all garments and other apparel when on the beach to assist in easy and quick identification.
- 10 Sea Kayak operators are to keep and retain a record of clients and daily signed logs, such records to be made available for inspection by Council, as required.
- 11 A Sea Kayak tour must be cancelled if conditions are unsafe. All reasonable directions from Surf Life Saving Officers, NSW Police Force Officers or Council Officers must be complied with.
- 12 No vehicles are to be driven on any licensed area including the beach or in any grassed reserve under the control of Byron Shire Council.
- 13 No advertising is permitted on any uniforms or equipment used by a Sea Kayak business with exception of the Sea Kayak business logo. Advertising of any kind is not permitted on shore based equipment.
- 14 Any class area or parking area is to be kept in a clean and tidy condition free from litter and refuse at all times.
- 15 No vehicles to be driven on the beach.
- 16 Any other conditions that Council, as the Reserve Trust Manager may impose from time to time.

**SCHEDULE 'E'
MOBILE KIOSK**

1. Introduction:

A Mobile Kiosk serves food that is not potentially hazardous such as pre-packaged foods like soft drinks, ice creams and packaged confectionery.

2. Fees:

A Mobile Kiosk sub-licence fee is published annually in Council's Fees and Charges.

3. Insurance:

3.1.1 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e. Byron Shire Council, and the Minister Administering the Crown Lands Act); AND

3.1.2 Minimum \$5 million Professional Personal Indemnity; AND

3.1.3 Minimum \$20 million Product Liability.

1. A Mobile Kiosk may operate daily with the hours as specified by the sub-licence.
2. A Mobile Kiosk is a non-motorised unit that may only operate within licence areas as specified by the sub-licence.
3. A Mobile Kiosk must not operate from a fixed location but maintain a regular route within the licenced area as specified in the sub-licence.
4. A Mobile Kiosk sub- licensee must supply a suitable non-motorised unit for use for the carrying, storage and sale of foodstuffs and be approved by Council's Environmental Health Officers before use. Suitability of the unit is at the discretion of Council.
5. A Mobile Kiosk sub- licensee must comply with the *Food Act 2003 (NSW)* and *Regulations* and adopt Council's Food Code.
6. A Mobile Kiosk sub- licensee must provide for sale only pre-packed foodstuffs for example soft drink cans, ice blocks and packaged confectionery.
7. A Mobile Kiosk sub- licensee may sell sunscreen products approved by the Cancer Council of NSW. This excludes all fixtures and structures such as umbrellas, sun shades or similar that restricts movement by people on the coastal Crown reserve.
8. A Mobile Kiosk sub- licensee or any of his / her employees shall have attained a current 'Bronze Medallion in Surf Life Saving' and a senior level 'First Aid Certificate' which is current before commencing trade on any coastal Crown reserve.
9. A Mobile Kiosk sub- licensee must provide suitable containers for the collection of garbage and must actively encourage all customers to dispose of litter in a responsible manner.

**SCHEDULE 'F'
MOBILE BEACH LOCKER HIRE**

- 1. Introduction:**
A Mobile Beach Locker Hire is aimed at providing 7 days public access to safely store their personal chattels while at the beach.
- 2. Fees:**
A Mobile Beach Locker Hire sub-licence fee is published annually in Council's Fees and Charges.
- 3. Insurance:**
 - 3.1.1 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e. Byron Shire Council, and the Minister Administering the Crown Lands Act);
 - 3.1.2 Minimum \$5 million Professional Personal Indemnity; AND
 - 3.1.3 Minimum \$20 million Product Liability.
- 4.** A Mobile Beach Locker sub-licence is the right to operate a locker business only no other services or goods are to be offered for sale or hire.
- 5.** A Mobile Beach Locker Hire sub- licensee must at their own cost, provide all equipment necessary to officially carry out a mobile beach locker business and must remove all such equipment on the termination of the Licence.
- 6.** The Mobile Beach Locker Hire sub- licensee may operate daily with the hours as specified by the sub- licence.
- 7.** The Mobile Beach Locker Hire sub- licensee may only operate from fixed location as specified by the sub- licence.
- 8.** A Mobile Beach Locker Hire sub- licensee must be legally operated in a businesslike and efficient manner.
- 9.** A Mobile Beach Locker Hire sub- licensee must ensure not display advertising matter other than reasonably necessary to identify the business and the service provided.
- 10.** A Mobile Beach Locker Hire sub- licensee must ensure that all equipment and structures associated with the locker business is well maintained and all approvals are obtained under relevant laws.
- 11.** While a Mobile Beach Locker Hire sub- licensee has discretion to make changes to their business, the sub- licensee must at all time reasonably have regard to the nature of the service being provided.
- 12.** No tickets, pamphlets or other material with potential to become litter can be used in connection with the operation of the business unless authorised by the sub- licensor.
- 13.** All material used for the operation of the Mobile Beach Locker Hire or ancillary to the business must not be stored on the beachfront when not in operation. The lawful parking of associated trailers and vehicles must be the responsibility of the Licensee.
- 14.** A Mobile Beach Locker Hire sub- licensee must not use any public address or other sound amplification system in association with the provision of the service.
- 15.** A Mobile Beach Locker Hire sub- licensee must not drive a vehicle onto the designated beach area in a way that poses a risk to any person of the public walking on a footpath, the Licensee must take all necessary risk management steps to prevent any injury to persons or property.
- 16.** Any other conditions that Council, as the Reserve Trust Manager, may impose from time to time.

APPENDIX “A”

DEFINITIONS

In this Policy:

Approved form means a form determined by the Byron Shire Council for the purposes of this policy in relation to which this expression is used.

Coastal Crown reserves means the reserves identified within this Policy.

Council means the Byron Shire Council.

Educationally based community activities mean organised activities for the purpose of providing and distributing educational information.

Holder means the person named as the sub-licensee in a Sub-Licence.

Passive Recreational Activities means passive recreational / leisure activities undertaken by people on an informal basis.

Political Functions means organised gatherings of people, for the purpose of expressing political beliefs.

Religious functions mean organised gatherings of people, for the purpose of expressing religious beliefs.

Social Gatherings means small gatherings of people, meeting on an informal and social basis.

Sporting events – organised means events organised on a not-for-profit and community oriented basis, where prizes are distributed on an amateur basis.

Weddings – means weddings that constitute gatherings of ten or more people that then impact on the management and use of the reserve.

APPENDIX “B”

MAPS











