

**Report No. 1.**                    **Commercial Trailer Parking on Crown Reserve, Byron Bay**  
**Executive Manager:** Community Infrastructure  
**Report Author:** Michael King, Manager Infrastructure Planning  
**File No:** E2013/26030

**Theme:** Community Infrastructure, Local Roads and Drainage

**Summary:** Council called for a report on a means by which parking could be provided upon Crown Reserve #82000 for the purposes of two kayak operators parking their trailers.

**RECOMMENDATION:**

1. That the Reserve Trust endorse the proposal to provide parking on Crown Reserve 82000 for the placement of trailers used by the kayak businesses at two distinct sites, as shown by Council Plan #2130/SK2 (Annexure 1(b), #E2013/34821).
2. That the provision of No Stopping at the two points of access as shown in Council Plan #2130/SK2 (Annexure 1(b), #E2013/34821) be referred to the Local Traffic Committee for consideration.
3. That funds for the proposed works as per the details in Council Plan #2130/SK2 (Annexure 1(b), #E2013/34821) come from Crown Reserves.

**Attachments:**

- Council Drawing #2130/SK1 Proposed Access Loop #E2013/34820 [1 page] .....**Annexure 1(a)**
- Council Drawing #2130/SK2 Access and Paved Areas for Each Operator #E2013/34915 [1 page] .....  
..... **Annexure 1(b)**
- Site Analysis by the Two Kayak Operators #E2013/34822 [1 page] .....**Annexure 1(c)**

## Report

A report to the Byron Shire Reserve Trust Committee meeting held 1 December 2011 considered "Commercial Activities". It was resolved:

### Res 11-1000:

1. *That Council, as Reserve Trust Manager, recommend to Council:*
  - a) *That Council adopt the amendments to Policy 5.52 – Commercial Activities on Coastal and Riparian Crown Reserves as detailed at Annexure 1(a) (#939163), to enable the calling of Tenders for Commercial Activities, and that public comment not be sought on the amended Policy.*
  - b) *That Council call tenders to establish sub-licences for Commercial Activities for Commercial Surf Schools, Personalised Surf Schools and Sea Kayak Tours.*
2. ***That report be provided to the Reserve Trust Committee in relation to the position, access, design and an indicative costing for the provisions of trailer parking for Sea Kayak operators on R82000 at Byron Bay Main Beach adjacent to the Clarkes Beach Car Park.***

This report addresses part 2 of res 11-1000.

Figure 1: Locality of kayak operations upon Reserve #82000



Within the report of 1 December 2011, the following advice in regards to trailer parking on the reserve was stated:

*"Council's current Sea Kayak sub-licensees pay \$20,000 and \$30,000 per annum respectively for their sub-licences. They have requested that Council consider parking options for their trailers. Having a dedicated parking area on the Reserve would alleviate the parking issue. They would be required to remove their trailers at the end of each day. A further report would be prepared for the Reserve Trust Committee in relation to position,*

*access, design and indicative costing in relation to an area of the Reserve being utilised for parking of the Sea Kayak Tour operators' trailers."*

Further in the report, the following advice was stated in regards to funding of any works to provide trailer parking:

*"As the income is generated on Crown reserves, they are only able to be expended in relation to maintenance and development of those reserves. There is currently approximately \$400,000 held in the Crown Reserve of which approximately \$60,000 per annum is income raised by Commercial Activities. It is proposed that Reserve Funds be utilised to provide trailer parking upon the Main Beach Reserve adjacent to the Clarkes Beach car park for the Sea Kayak Operators. A further report will be provided to the Reserve Trust Committee in relation to position, access, design and indicative costing to construct the parking area."*

Ongoing compliance issues remain relating to the parking of the trailers along the kerb side of Lawson Street.

Between 26 July 2008 to date, 34 infringements have been issued.

One of the operators appeared before the Byron Bay Local Court on 8 December 2011 in respect of the offence of "Disobey No Parking sign".

The operator entered a plea of guilty. The offence was found proved but dismissed pursuant to the provisions of Section 10 of the Crimes (Sentencing Procedure) Act.

In taking that course the Court indicated that it had regard to undertakings which had been foreshadowed.

The operator foreshadowed that it would undertake as follows:

1. the company will ensure that all vehicles and trailers associated with the company will comply with the posted parking restrictions on Lawson Street, Byron Bay
2. the company will ensure that kayak trailers are removed from the northern side of Lawson Street, Byron Bay prior to posted parking restrictions coming into effect
3. the company will not park any vehicles and trailers associated with the company on Clarkes Beach Reserve under any circumstances
4. the company will bring the terms of these undertakings to the attention of all of its officers and employees

Notwithstanding the Undertaking being foreshadowed and having received the benefit of the proposed undertaking on sentence, it has never been signed by the operator and its terms have not since been complied with.

On 10 October 2012 Council informed the applicant by email that:

*"Your current sub-licence agreement with Council has no restriction for parking on the reserve. There is an outstanding resolution for Council to consider a report on the provision of trailer parking on the reserve. This matter is with our Community Infrastructure division for*

*action. Your previous request dated 3 August 2012 was forwarded to Community Infrastructure for a response. I will also forward your email of today's date to Community Infrastructure for a response."*

On 2 January 2013 Council informed the applicant by email that:

*"I confirm that if you can physically get your trailer onto the reserve (as your 28/12 email suggests you can) that is where you should be parking (during operational hours....)"*

In a later conversation Council indicated that it would be appropriate if the trailer remained parked on the reserve overnight should its removal from the reserve at the end of operating hours be blocked.

Council has made it very clear since October 2012 that parking was available on the reserve, thereby obviating the need to park on the street.

On 2 January 2013 Council confirmed that the Rangers had been instructed not to infringe the trailer whilst further inquiries take place as to the status and content of the sub-licence.

Thereafter, as there appeared to be a readily available interim solution, Council informed the operators that it intended to withdraw the instructions to the Rangers in relation to the trailer should it be parked on the street outside posted times as and from (and including) Monday, 7 January 2013.

Recently one operator requested Council review and withdraw four Penalty Notices, being:

1. 27 December 2012 disobey no parking sign Lawson Street
2. 28 December 2012 disobey no parking sign Lawson Street
3. 20 January 2013 disobey no parking sign Lawson Street
4. 02 February 2013 disobey no parking sign Lawson Street

Two of the offences (3 and 4) occurred in 2013 at a time after Council had given instructions to the Rangers and advice to the operators. Notwithstanding the withdrawal of the instructions, Council considered that it remained the case that the whole parking issue was under discussion and that exceptional circumstances probably existed for offences 3 and 4 to be withdrawn, but that those circumstances did not exist for offences 1 and 2.

There have been several recent meetings between the two kayak operators and Council staff regarding the design of a trailer parking area on the Reserve. Most recently an on-site meeting with Community Infrastructure design staff has been held to discuss in detail a means of satisfying their requirements.

#### Options for Parking Kayak Trailers

There are a number of options available for the trailer parking, proposed either by staff or the kayak operators. They include:

1. remove the parking restrictions along the north side of Lawson Street – currently 'No parking / 1.00am to 5.00am'
2. provide exemptions to the parking restrictions along Lawson Street to the kayak operators
3. provide an indented (bus bay) parking area for the sole use of the kayak operators
4. provide designed sheds that are lockable and potentially for multi-purpose use on the reserve (one at each of the two locations)
5. provide a paved area to cater for both operators at the one locality within the reserve
6. provide a paved area for each operator separately upon the reserve
7. allow parking of the trailers upon the reserve without, any paved area being provided

Points 1 – 4 above are not addressed within the context of this report. However, in brief, there are no provisions within the traffic/parking regulations in NSW for restricted on-road parking being made available for the sole use of commercial enterprise, other than for the use of taxi services as a transport provider.

Consideration of the sole use of a commercial enterprise would be contrary to Council's Enforcement Policy, which is to the following effect:

*"The decision as to the appropriate action will not be influenced by:*

- 1. the race, religion, sex, national origin or political associations, activities or beliefs of the alleged offender or any other person involved;"*

Activities, as it is referred to in the Enforcement Policy, would include the commercial activities of the kayak operators.

Further, if an indented (bus bay) kerb side area were to be provided, the same regulations for kerb side parking apply – other than if it was built for the purpose of buses, taxis or emergency services.

As for point 4 above, this is a matter for any future consideration in terms of the ongoing commercial arrangements for the use of the Crown Reserve. The Site Analysis (Annexure 1(c)) provided by the two operators shows the locality of their operations and issues for such a proposal as this.

Points 5 and 6 are dealt with in more detail below.

#### Options for Paved Parking on the Crown Reserve

Options 5 and 6 have been investigated and discussed with the kayak operators further. Option 7 above is considered undesirable, as this will lead to the deterioration of the grassed areas. This means the loss of grass, thus creating an area that could become sloppy in wet periods and loose gravel trip hazards during dry periods.

#### Paved area to cater for both operators at the one locality

As a starting point for discussion with the kayak operators, a preliminary design of a paved parking area was carried out as an extension of the Clarks Beach car park – refer to Council drawing number 2130/SK1 at Annexure 1(a).

It provides for a drive-through area to the west of the car park and for two parking spaces for the kayak trailers. There are lockable gates at both the entry and exit to ensure it remains for the sole purpose of the operators. It has limited impact on existing car parking.

The area provides for a concrete pavement, rather than asphalt. This is to avoid break up of the pavement caused by diesel drippings from the motors of the vehicles used by the operators. A coloured concrete could be used if desirable.

Whilst the initial intent was for concrete in view of the operators' vehicles also parking in the area, it may be preferable to cater solely for the parking of the trailers, with the vehicles towing them being removed once the trailers are in place.

Operator comments:- they believe that this proposal is unsatisfactory as it is bad business to have two operators so close together when competing for business.

This option was referred to the Crown Lands Department and it was endorsed.

The other option as described below was not referred to them. However, it is expected that as they endorsed the proposal with more impact on the reserve, they are likely to endorse the option with lesser impact.

#### Paved area for each operator separately

In view of the operator's desire to be separated, and preferably to be at their current locations, the option of two paved areas is presented for consideration - refer to Council drawing number 2130/SK2 at Annexure 1(b).

This proposal involves paved areas built to suit the size required for the parking and for each to be north of the foot path. Each requires its own driveway crossing from the street. The localities are such that these driveways will have minimal, to no, impact on kerb side parking.

The Cape Byron Kayaks site (east) will utilise the existing driveway crossing currently available for their use as well as council service vehicle access.

The GoSea Kayak site (west) would utilise the bikeway access point directly opposite Cowper Street. This may require minor widening as well as relocation of the bike hand rails. This is considered to be an acceptable point of access as there is minimal movement of the kayak vehicles impacting on minimal bike usage at this point.

In both cases, though there is no parking restriction at these two kerb crossing points to ensure clear access, it is considered appropriate to provide such restrictions for both the operational benefit of the kayak businesses but also for free access by cyclists and service vehicles to the reserve. In this regard the restrictions could be provided by way of *No Stopping* signs or by the provision of kerb blisters.

The preferred locality is close to existing trees within the reserve. This will provide some shade to the trailers and the users of the kayaks as well as provide some visual shielding of the trailers.

Operator comments:- this proposal is preferred by the kayak operators. The precise location of the paved pads can be determined within the approximate locality as shown on the plans in consultation with the operators.

#### Other matters for consideration

There are a number of other matters that may have a direct impact, or at least an indirect impact, on the proposal to park the kayak trailers and/or vehicles upon the reserve.

#### *Paid Parking*

Council is to consider a report into implementing a broader paid parking scheme for Byron Bay later this year. One area for consideration is the extension of paid parking along the length of Lawson Street, up to the intersection with Massinger Street and the Clarkes beach access road. Whilst this does not at this time have a direct impact on the kayak operators, it will become an issue for them if they expect to continue parking on the road area.

#### *Angle parking*

As part of the paid parking proposals for Byron Bay, angle parking along one side of Lawson Street is being investigated. The manner in which this may be able to be implemented is not yet determined, but any proposal for angle parking along the north side of Lawson Street will impact on the current operations of the kayak businesses.

### *Pedestrian/cyclist safety*

Any increase in vehicular movement across a footpath area and/or in a reserve is a matter for consideration. In this instance, there is expected to be minimal movement of vehicles and thus minimal conflict with cyclists and pedestrians.

### *Jarjum Playground*

A number of years ago a proposal for a playground (Jarjum Playground) were planned for Reserve 82000 in the area west of the Clarkes Beach car park. Whilst these plans did not progress to development of the playground, should consideration in the future be given to it, the proposed areas for the kayak parking should have no impact on the proposal.

### **Financial Implications**

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

- The estimated staff hours for the preparation of this report was approximately 7 hours.

As per the report to Council on 1 December 2011, any funding source for any works that Council will resolve on for this matter will come from the Crown Reserve.

Detailed estimates of the costs of the various options for providing paving on the reserve have not been carried out to-date. Detailed estimates for the various options are not yet available. However, preliminary estimates for the options described above, are:

Plan Number	Estimate (preliminary)
Council Drawing #2130/SK1	\$40,000
Council Drawing #2130/SK2	\$10,000

Though detailed estimates are not provided to-date, the proportional differences of these estimates give a clear indication of the differences between the two options.

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

Nil