



The  
Treasury

Contact: Peter Boland  
Telephone: (02) 9228 5973  
Our Reference: P15/5135

Mr P Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
Ballina NSW 2478



Dear Mr Hickey

I am writing regarding applications under the *Public Holidays Act 2010* (the Act) for the declaration of local public holidays and local event days for 2016.

The Act permits the Minister for Industrial Relations to declare a local public holiday, or a local event day for the whole or part of the Council's local government area. This may be limited to a particular location in the Council's area, such as the boundaries of a particular town or a police district in an area nominated by the Council.

The application may request the declaration of a part day local public holiday or local event day to accommodate the holding of an afternoon event. In recent years a number of councils have made applications nominating the times during which a local public holiday is to apply to facilitate the holding of such events.

In determining whether to apply for a local public holiday, or a local event day, it is important that the Council takes into account the costs to businesses and local communities of declaring a local public holiday within the designated area. It is expected that the Council will undertake a public consultation process on the matter, including consultation with relevant stakeholders, such as the local chambers of commerce, local banks, major employers and local schools located within the designated area.

Where it is proposed to request a half-day local public holiday, consideration should be given to the effect which a half-day holiday will have on local schools and on the transport of school students who attend school on the day. **In this regard, it is expected that the consultation process with local schools will take account of the transportation arrangements for students on the half-day.**

I have attached for the Council's information, the *Guidelines for Local Public Holiday and Local Event Day Applications* which will assist the making of applications to the Minister for Industrial Relations for the declaration of local public holidays and local event days.

**Please note** that the guidelines were recently amended to provide for the making of biennial public holiday applications. The amendment enables Councils to make applications for the declaration of full or part-day public holidays and local event days for two consecutive years to reduce the administrative burden on Councils regarding the process for the making of annual applications under the Act. Under the amended guidelines, Councils may still elect to make applications on an annual basis if more convenient to do so.

To accommodate the making of biennial applications for the declaration of full or part-day public holidays, Council applications must include additional information which is listed in the attached guidelines on pages two and three.

Consistent with past practice, it is proposed to have the Ministerial Orders declaring the 2016 local public holidays and local event days published early in 2016.

Should the Council wish to apply for the declaration of a local public holiday or local event day, it will be necessary for the application to be forwarded to me by **Friday, 4 December 2015** to enable sufficient time for the application to be processed. If Council has already made an application then it does not need to make a further application.

Any inquiries you may have concerning an application for a local public holiday or local event day may be directed to Peter Boland, Legal Officer, NSW Industrial Relations, on telephone number (02) 9228 5973 or to Sonia Crescitelli, Policy Officer, NSW Industrial Relations, on telephone number (02) 9228 5977.

Yours sincerely



Vicki Telfer  
**Executive Director**  
**NSW Industrial Relations**

16 October 2015



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## Guidelines for Local Public Holiday and Local Event Day applications

The following guidelines are provided to assist in the making of applications to the Minister for Industrial Relations for the declaration of local public holidays and local event days under the *Public Holidays Act 2010* (NSW).

Under the *Public Holidays Act 2010* all public holidays and local event days (including part-days) must be declared by Order of the Minister and published on the NSW legislation website.

In determining whether to apply for a local public holiday or local event day, it is important that the Council be mindful of the potential impact the application will have upon businesses and communities located within designated public holiday areas.

### Declaration of a Local Public Holiday

In circumstances where a local public holiday is declared by the Minister, a bank located in the designated holiday area will be required to close during the declared public holiday hours unless the bank is exempted from the requirement to close under Part 3A of the *Retail Trading Act 2008*. Shops located within the designated holiday area are free to open without restriction.

Where it is proposed to request a half-day public holiday, consideration should be given to the effect the half day holiday will have on local schools and on the transport of students who attend school on the day. **In this regard, it is expected that the consultation process with local schools will take account of the transport arrangements for students on the half day.**

### Implications for Employers

The public holiday provisions contained in the National Employment Standards of the *Fair Work Act 2009* (Cth) apply to local public holidays declared under the *Public Holidays Act 2010*. This means that all employees irrespective of their former entitlements and whose place of work is within a local public holiday area will be entitled to be absent from work for the day or part day declared to be a public holiday. In addition, employees who work on the day or part day may have an entitlement to penalty rates under a relevant award or enterprise agreement.

In considering an application to the Minister for a public holiday or part-day holiday, it is expected that the Council will consult with the affected community and other relevant stakeholders as to the impact of a local public holiday or part-holiday on businesses located in the local government area.

### Declaration of a Local Event Day

The capacity for the Minister to declare a local event day or part day at the request of a local council is also available under the *Public Holidays Act 2010*. The Minister must be satisfied that the day or part day is, and will be observed as, a day of special significance to the community in the area concerned.

The declaration of a local event day or part day does **not preclude banks or shops located within the designated holiday area from opening or trading on the day.**  
**Implications for Employers**

A declared local event day does not automatically mean that employers in the particular locality are compelled to treat the day as a public holiday. Entitlements to paid leave or penalty rates on a local event day will only arise where agreed to at the workplace level, usually in the form of an enterprise agreement or by contract. This goes some way to restoring the industrial arrangements that existed prior to changes in the Commonwealth workplace laws.

### **The application process**

An application for the declaration of a local public holiday or local event day (including a part-day holiday or event day) must be made in writing to the Executive Director, NSW Industrial Relations, and contain the following information:

1. a statement regarding the history of the event and whether the event day has traditionally been observed as a full or half-day public holiday.
2. the date, the designated area and, if relevant, the hours during which the public holiday or local event day is to be observed;
3. the extent of community consultation undertaken in respect of the proposal;
4. copies of advertisements seeking public comment and a summary of the public's responses;
5. a summary of correspondence to, and responses from, relevant stakeholders, including bank managers; school principals; and chambers of commerce regarding the Council's proposal.
6. internal reports or information prepared for consideration by the Council and a copy of the Council's resolution authorising the making of the application;
7. where an application is made for a public holiday or part-day holiday, details of:
  - alternatives considered by the Council including the declaration a local event day; and
  - transport arrangements for school students.

### **Biennial declaration of public holidays and local event days**

Applications may be made for the declaration of public holidays and local event days (and part days) over a consecutive two year period for the holding or celebration of annual events, such as a local show day, race day or carnival.

However, in making an application for a full or part-day public holiday it is expected that the Council will provide additional information focused on the economic and social importance of the event for the designated holiday area. This could include information provided by event organisers, local businesses or relevant industry surveys or statistics.

**Additional information required for biennial applications**

Where a Council intends to make a biennial application for the declaration of public holidays or local event days (including part-day declarations), the Council must conduct a consultation process as to the proposal and provide the following information:

- the level of support for and against the application from local businesses and stakeholders
- the benefits to the local community in terms of employment, business activity, tourism and industry promotion of the region
- demonstration of the economic benefits to the local community in terms of employment, business activity, tourism and industry promotion of the region
- details of the importance of the event from a social and community perspective

**Sections 5 and 8 of the *Public Holidays Act 2010***

Copies of sections 5 and 8 of the *Public Holidays Act 2010* relating to the declaration of local public holidays and local event days have been included for the information of the Council in Appendix A.

## Sections 5 and 8 of the Retail Trading Act 2008

### 5 Additional public holidays

- (1) The Minister may by order published on the NSW legislation website declare a specified day or part-day in a particular year to be a public holiday. The order must be published at least 7 days before the public holiday.
- (2) The order can declare a public holiday for the whole State or for a specified part of the State.
- (3) The Minister may by order published on the NSW legislation website cancel a public holiday declared under this section. The order must be published at least 7 days before the public holiday.

### 8 Local event days

- (1) The Minister may by order made at the request of the council of a local government area declare a specified day or part-day to be a local event day in the local government area or in a specified part of the local government area.
- (2) The Minister is not to declare a local event day unless satisfied that the day or part-day is, and will be observed as, a day of special significance to the community in the area concerned.
- (3) The order declaring a local event day must be published on the NSW legislation website at least 7 days before the local event day.
- (4) The declaration of a local event day does not make the local event day a public holiday.

## 10.5 Ballina Cup - Holiday Arrangements.DOC

**Sandra Bailey**

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**From:** Ballina Jockey Club CEO <ceo@ballinajockeyclub.com.au>  
**Sent:** Wednesday, 18 November 2015 1:59 PM  
**To:** Sandra Bailey  
**Subject:** RE: Holiday Arrangements for Ballina Cup

Dear Sandra

Please note that the Interim Date(s) for the running of the next two Ballina Cup's are;

- Thursday September 8<sup>th</sup> 2016
- Thursday September 14<sup>th</sup> 2017

We would appreciate the matter being heard at the next Ballina Shire Council ordinary as described below.

Please advise if you require any further information

Regards

Matthew Bertram  
General Manager  
Ballina Jockey Club and Function Centre  
office: (02) 6686 0333 fax: (02) 6686 7925 mobile: 0438102278  
email: [generalmanager@ballinajockeyclub.com.au](mailto:generalmanager@ballinajockeyclub.com.au)  
web: [www.ballinajockeyclub.com.au](http://www.ballinajockeyclub.com.au)

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**From:** Sandra Bailey [<mailto:Sandra.Bailey@ballina.nsw.gov.au>]  
**Sent:** Wednesday, 18 November 2015 12:10 PM  
**To:** [ceo@ballinajockeyclub.com.au](mailto:ceo@ballinajockeyclub.com.au)  
**Subject:** Holiday Arrangements for Ballina Cup

Hello Matthew, we have today received the guidelines from NSW Industrial Relations in relation to applications for public holidays. The Guidelines have been amended to provide for the making of biennial public holiday applications. This amendment enables councils to make applications for the declaration of full or part-day public holidays and local event days for two consecutive years to reduce the administrative burden on councils regarding the process for the making of annual applications under the Act. Under the amended guidelines, Councils may still elect to make application on an annual basis if more convenient.

As their deadline for any applications is 4 December, we are therefore going to submit a report to our Ordinary meeting next Thursday 26 November 2015 so that Council can determine what it would like to do.

Are you able to advise of the dates for the 2016 and 2017 Ballina Cup (if 2017 is known at this stage) and advise what you preference would be – ie part-day public holiday, local event day etc. However, we would require this information by cob tomorrow Thursday (sorry but we only received notification from Industrial Relations today). If you only know the date for 2016 that is fine.

Thanks