

Notice of Reserve Trust Manager Meeting

A Reserve Trust Manager Meeting will be held in the Ballina Shire Council Chambers, 40 Tamar Street, Ballina on **Wednesday 25 January 2017 commencing at 12 noon.**

Business

- 1. Apologies
- 2. Declarations of Interest
- 3. Deputations
- 4. Committee Reports

Paul Hickey

General Manager

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- **Apologies** 1.
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4. Committee Reports

4.1 Ballina Farmers Market - Relocation to Commemoration Park

Delivery Program Strategic Planning

Objective To provide the Trust with an overview of the Ballina

Farmers Market (formerly known as the Missingham Market) and to seek direction on the appointment of a market manager and the preferred location for the

market.

Background

In April 2016 Mr Mike Burless and Mr Tom Bridge were granted a licence to operate the Missingham Farmers Market (now identified as the Ballina Farmers Market) at the Missingham Park car park site for a period of 12 months. The licence enables a weekly Sunday morning farmers market. The licence was granted on the basis of the below decision of Council as Reserve Trust Manager for the land [Minute No. 250216/20]:

- 1. That Council authorises the General Manager to negotiate with Mr Burless and Mr Bridge regarding the management of the market, consistent with the sentiments expressed in this report.
- 2. That if the negotiations conducted under point one are satisfactory for the parties involved, that Council (in its capacity as Reserve Trust Manager) appoints Mr Burless and Mr Bridge as the market manager for a period of 12 months under a reserve trust temporary licence.

This followed an extensive process to determine adequate market arrangements and resolve a number of complex issues associated with the market (e.g. land tenure, market extent, refurbishment of the site and historical circumstances), along with a transfer of Council's market management functions internally.

The appointment of Mr Burless and Mr Bridge to operate the Ballina Farmers Market followed previous invitations for registrations of interest (ROI) (advertised in 2007 and 2008) to manage the market. These ROIs failed to attract respondents. Previous reports to the Council concerning the Missingham Markets have canvassed these issues.

Since the new operators have been in place the market has expanded to accommodate up to 25 stallholders. Informal feedback on the new management of the market has largely been favourable from customers and stallholders.

More recently the market was issued a temporary licence to operate on Commemoration Park to allow for the pack down of the Ballina Prawn Festival. This licence was extended to also allow for the landscaping works at the Missingham Park car park to be completed.

The temporary licence for the market to operate at Commemoration Park will expire on 5 February 2017. It was expected that following the expiry of the Commemoration Park temporary licence that the market would move back to the Missingham Park car park area (the original temporary licence for the Missingham car park area expires in April 2017).

However, the market operator has requested that the Trust authorise the permanent relocation of the market to Commemoration Park.

In addition to the above, Council recently received an application from Jo and Arthur Smith to establish a single market stall at the Missingham Park car park site. Mr and Mrs Smith previously traded as part of the Ballina Farmers Market. A temporary licence allowing Mr and Mrs Smith to operate for three Saturdays (14, 21 and 28 January 2017) has been issued to allow the sale of excess produce. This situation has raised a number of issues that are canvassed in this report.

To address the request of the operators of the Ballina Farmers Market to locate in Commemoration Market, as well as the issues arising from application made by Mr and Mrs Smith, this report seeks direction from the Trust on the appointment of a market manager for the Ballina Farmers Market, the preferred location for the market and the Trust's approach to the potential for multiple produce based markets in the Missingham Park locality.

Key Issues

- Economic development opportunities
- Framework for market operation
- Use of public land

Information

The Ballina Farmers Market has been operating at the Commemoration Park site (see Figure 1) since November 2016. Operation on this site commenced to make way for the 2016 Prawn Festival and allow for landscaping works to be undertaken at the Missingham Park car park site (Figure 2).



Figure 1: Commemoration Park (Corner of Bentinck Street and Kingsford Smith Drive)



Figure 2: Missingham Park Car Park Site (Kingsford Smith Drive)

Since the relocation, the market managers have advised that they have received customer and stallholder feedback that the site is better suited to the market in the long term. Factors in support of holding the market on Commemoration Park include increased shade and protection from the wind, proximity to play equipment and toilet facilities, better layout for the market stalls, availability of power and water and less congestion with other users as experienced at the Missingham Park car park site (e.g. dog walkers and beach goers).

The market operators prefer the market to be situated at this location due to its proximity to amenities (water and electricity), the protected nature of the site and the additional space that could allow the opportunity to expand the market.

The market operators have expressed some issues of concern reported by customers regarding parking and access especially for older customers. One customer has also provided correspondence to Council in this regard, indicating a preference for the Missingham Park car park site due to its easier access and parking.

Options to address parking at the Commemoration Park site include installation of disabled parking facilities near to Commemoration Park and enabling limited access onto the reserve for car parking. It is recommended that these options be explored further should the Trust support Commemoration Park as a suitable long term site for the farmers market.

Based on the recent experience associated with the temporary relocation, the managers of the market have now made an application for a market licence agreement for the operation of the Ballina Farmers Market at the Commemoration Park site on a more long term basis.

It has been indicated in the documentation received that the market would operate in a similar way to how it has been previously managed over the last ten months, however solely by Mr Burless.

Mr Burless demonstrates extensive experience in relation to markets, as a local farmer selling produce at local farmers markets and through his membership and involvement on the management committee and various subcommittees of the Byron and Bangalow Farmer's Market over the last eight years.

With the assistance of Mr Bridge, Mr Burless has demonstrated his capacity to manage and expand the market from the original five stalls holders to at times up to 25 stalls (the maximum limited of stalls allowed at Missingham due to its site constraints).

With respect to the original expectations identified by Council in the expression of interest process that sought a market manager, Mr Bridge and Mr Burless are considered by staff to have achieved the key outcomes envisaged under the licence arrangement. In particular, the operators have:

- Established processes for the operation of the market consistent with Council's guidelines and policy for markets on public land.
- Provided a financial return to Council commensurate with the income received under previous market management arrangements at Missingham Park.
- Grown the market to increase the number of stallholders from 6 to up to 25 at present. This also provides an opportunity for increased market income to Council (additional fees are payable to Council as the market grows).
- Provided an outlet for the sale of local produce and ready to eat food in the form of a farmers market.
- Provided an opportunity for previous Missingham Market stallholders to participate in the market.
- Communicated with Council in relation to the operation of the market.

With the relocation of the market to a larger area, it is envisaged that a greater number of stallholders could be accommodated at the Commemoration Park site. It is suggested that the area of the market at Commemoration Park be negotiated with Council's Open Spaces and Reserves staff and the market management would then determine the amount of stalls the specified area would comfortably allow.

Noise generated by the market will be limited by ensuring that the market sets up east of the play equipment, with any stalls with generators situated at the bridge end of the site. In the ten weeks that the market has been operating from the Commemoration Park site no complaints have been received from surrounding residents.

The market operating hours would be maintained as Sunday mornings between 5 am and 12.30 pm and if endorsed, a licence would be granted with licence conditions similar to those that have been provided in the previous agreement. Guidelines regarding product approvals, product mix, dispute resolution and stallholder's agreements are provided as part of the market application and are similar in nature to the management plan in place for the Missingham Market.

It is understood that the annual site rental fee of \$6,000 (as a "flat rate"), plus an additional \$5 per stall per week would be maintained at this site. This arrangement would allow an increase in income to Council commensurate with the growth of the market.

As with the Missingham Park car park site, the market would be located on Crown Land, which is managed by Council in its capacity as the Ballina Kingsford Smith Reserve Trust. The land is reserved for the purpose of Public Recreation.

The Council, as Reserve Trust Manager for the site, may authorise the occupation of the land by way of a lease, licence or temporary licence. As markets are an intermittent and low impact use of the site a temporary licence is the recommended approach.

On the basis that the currently appointed operators of the Ballina Farmers Market have met the original aims for the market as outlined through Council's expression of interest process and the general suitability of the Commemoration Park, it is recommended that the Trust endorses the operation of the Ballina Farmers Market at Commemoration Park for a period of three years. This approach is consistent with Council's Markets on Public Land Policy (adopted in July 2016).

Additional Market Application

Council recently received an application to operate a single market stall on the Missingham Park car park site from Jo and Arthur Smith. It is understood that this application was received after being provided a cease to trade notice from the managers of the Ballina Farmers Market. Importantly in relation to this, it is the role of the market operator (as opposed to the Trust) to manage and address disputes and issues arising in relation to stallholders.

A temporary licence for one market stall was subsequently issued to the Smiths on 12 January to allow their stall to operate on Saturday mornings from the Missingham Park car park site for the purpose of selling their excess produce until 28 January 2017.

This application was originally made for a stall to operate on Sunday morning at the Missingham Park car park site at the same time as the farmers market in Commemoration Park.

Issuing a licence for this farm produce stall in the same vicinity and the same time could be viewed as splitting the market over two sites and may create a situation the adversely impacts the long term potential for a comprehensive farmers market in Ballina.

This arrangement could also be considered problematic based on the current licence agreements in place as well as potential economic and social impacts to the appointed operators and current stallholders of the Ballina Farmers Market.

It is considered likely that any longer term arrangement for the Smiths or other traders to sell farm or food products on weekends in the vicinity of the Missingham Park or Commemoration Park will undermine the potential for the establishment of a long term farmers market in Ballina (of a nature similar to the farmers markets in other North Coast towns and villages).

Any arrangement that provides the opportunity for two farmers markets to coexist in the locality could ultimately lead to the erosion of the economic viability of both markets due to the split in customer base and the potential decreased takings of stallholders.

Given this, it is recommended that a single market licence only be issued for weekly weekend farmers market activity in the Missingham Park and Commemoration Park locality.

In considering the above, it is important to recognise that one of the primary reasons for seeking a market manager for the market was to attract suitable expertise to actively manage the market.

Council staff experience with markets has been that there is significant time and effort required to organise and coordinate stallholders, manage enquiries and address stallholder issues and concerns.

There also appear to be difficulties in obtaining a suitable stallholder volume to support long term market operation especially in relation to local farm produce (for example both the Fawcett Park and Alstonville (car park) Farmers Markets experienced difficulty in establishing and ultimately ceased operating). In the case of the Ballina Farmers Market, the current operator has been able to steadily grow the market in both size and product lines.

Under the licence agreement in place it is the responsibility of the market manager to address these matters. There are significant resource impacts where Council is involved in the day to day management of the market (beyond enforcing licence conditions). Having regard for this, an approach that requires Council to engage in the day to day management of the market either to address disputes or because the market is no longer attractive to a market operator will likely impact on Council's established work program through the diversion of staff resources.

If a split market arrangement is enabled there is a risk that the Ballina Farmers Market will no longer be attractive to an external operator (much of the value of the market comes, which remains in its infancy, from the ability of the operator to run the business with some certainty about its future in relation to tenure, costs, location, stallholder involvement).

Legal / Resource / Financial Implications

The continued operation of the market, under the terms of the options presented in this report, will require the preparation of a licence. This work can be accommodated within existing resources. Council will receive ongoing revenue from the market.

Consultation

Several letters and phone calls have been received from stallholders and customers in regard to the relocation of the farmers market to Commemoration Park and/or the potential economic and social conflicts a second farmers market could have.

Attached to this report are two petitions, one from customers and one from Ballina Farmers Market stallholders. The signatories of these petitions view Commemoration Park as a suitable site for the long term location of the Farmers market and that any competing farmers market would result in unnecessary social and economic impact to customers and stallholders.

It is understood that Councillors have also received submissions directly from various stakeholders in relation to the market and the circumstances associated with Mr and Mrs Smith.

Notification leaflets have also been provided to the surrounding residents regarding the temporary relocation of the market to Commemoration Park on two occasions. A further letter to property owners was provided requesting feedback on the possibility of the market permanently relocating to Commemoration Park. No resident or property owner feedback has been received to date.

Options

1. Formalise market management and the land tenure arrangement for the Ballina Farmers Market at Commemoration Park.

This option involves the appointment of Mr Burless as market manager to facilitate ongoing operation of the market on the Commemoration Park site and the issue of a licence agreement.

To formalise the management of the market, it is recommended that the Trust take the following steps, for the reasons outlined in this report:

- Negotiate with Mr Burless arrangements regarding the operation and management of the market.
- That if the negotiations conducted are satisfactory for the parties involved, that Council (in its capacity as Reserve Trust Manager) appoint Mr Burless as the market manager for a term of three years.
- Apply a fee payment structure based on the current arrangement.
- Review the operation of the market prior to the conclusion of the three year period.

This approach provides for the terms of the operation of the market to be reviewed and evaluated after a three year period of operation.

Further, under this approach, it is also recommended that the Trust resolves that it will not issue additional licences for farm produce or food based markets on weekends in the vicinity of Commemoration Park or Missingham Park for the three year period of the Ballina Farmers Market licence (except in association with approved community events) on the basis that it wishes to encourage a single comprehensive and growing farmers market in the locality.

Formalisation of the operation of the market at Commemoration Park and the appointment of Mr Burless as manager is the recommended approach.

2. Continue the market under original market licence arrangement at Missingham Park.

This option is not recommended due to the current lack of space to expand the market at the Missingham car park site and the continuing conflict that may occur with other events occurring in or around this site as outlined in this report.

Fundamentally, there is presently an opportunity to consolidate the market operation that has been difficult to achieve in the past. It is recommended that the Trust pursue this opportunity by appointing Mr Burless as market manager for a three year period.

Notwithstanding the above, if the Trust supports the markets on the Missingham Park car park site, the Trust will need to determine a suitable management arrangement. If this approach is preferred, it is recommended that the Trust resolve to pursue this option and receive a further report in this regard.

3. Seek further information prior to determining the preferred approach.

It is open to the Council to seek further information prior to determining the future operation of the market through a briefing or other means.

Due to the consultation that has been undertaken to date, this approach is not recommended.

If however, the Trust wishes to defer this matter, it is recommended that a new temporary licence be issued to enable the continuation of Ballina Farmers Market at the Commemoration Park until the overall licence arrangement is determined (to avoid the market having to relocate back to the Missingham park car park site whilst a decision is made).

In the case of deferral, it is also recommended that no further licences for food or produce based market stalls be issued in the Missingham Park and Commemoration Park locality (aside from that required to enable the continuation of the Ballina Farmers Market) until the Trust has determined its preferred overall approach to markets on the land.

A continuation of the short term arrangement for the Smiths is counter to the principle of enabling sale of excess produce and may unintentionally entrench a split market arrangement and encourage other stallholders to consider a similar approach. This may then create a situation that is more difficult to resolve with a greater impact on Council resources.

RECOMMENDATIONS

- That the Trust authorises the General Manager to negotiate with Mr Burless regarding the operation of the Ballina Farmers Market on Commemoration Park for a period of three years, consistent with the sentiments expressed in this report.
- That the Trust authorises a single weekend farmers market only in the Missingham Park and Commemoration Park locality for the term of the licence issued under Point One (except where food or produce is to be sold as part of an approved event or festival).
- Once negotiations are complete, that Council authorises the Council seal to be attached to the licence to operate the Ballina Farmers market for a period of three years.

Attachment(s)

- 1. Petition Market customers
- 2. Petition Market stallholders

ETHION

Dear valued customer,

On the 25/1 a meeting of Ballina Shire Council Reserve Trust will decide the future and terms of our market licence and also whether any other competing farmers markets will be allowed to operate in the Missingham vicinity.

It is our opinion:-

- that the Commemoration Park site is suitable for the long term security of the market. It provides shade, shelter from the elements, ready access to toilets, water and electricity and allows for the growth of the market.
- that similar markets in the same vicinity will not promote a convivial atmosphere for stall holders or customers and has the potential to be confusing for the customers and dilute the impact of one strong market.
- that a second weekly farmers market is unnecessary.

If you agree with these sentiments please support us by signing the following petition. The petition will be presented to staff and councilors of Ballina Shire Council:-

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PETITION FROM SAIL HOLDERS

15/1/2019

Dear Councillor

We, the undersigned stall holders at the Ballina Farmers Market present this petition for your consideration.

The market is held every Sunday morning at Commemoration Park. We understand that on the 25/1 a meeting of Ballina Shire Council Reserve Trust will decide the future and terms of our market licence and also whether any other competing farmers markets will be allowed to operate in the Missingham vicinity. Please consider the following points:-

- As a full fee paying stall holder at a licensed market in Ballina Shire we can say that we have full confidence in the management of the market and believe that the current site is presently the best possible option.
- We would not countenance a competing market in the vicinity at any time during the week. Experience (in Lismore for example) has shown this splintering to be hugely destructive to the market community and relationships.
- We pay for the privilege of being part of a robust and growing community market and we naturally expect the support of the Ballina Shire Council.
- We do not believe that a competing market of any size can supply to the Ballina community more than that which we already contribute.
- We believe that a competing market will create unnecessary divisiveness, confusion and conflict.
- We have worked hard to win the trust and goodwill of the Ballina community We do not want to see any of this undermined.

Yours Sincerely,

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Ballina Shire Council **25/01/17**

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Yours Sincerely,

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