

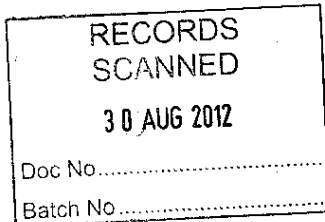


**Finance
& Services**

Level 23, McKell Building,
2-24 Rawson Place
Sydney NSW 2000
Tel 131 628 Fax 02 9020 4700
TTY 1800 555 677 ABN 81 913 830 179
www.industrialrelations.nsw.gov.au

NSW IR No: 12DOC0396

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



27 AUG 2012

Dear Mr Hickey

2013 LOCAL PUBLIC HOLIDAYS

I am writing in regard to the administrative process for local councils to apply to the Minister for Finance and Services 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 local public holidays and local event days (including half days) must be declared by Order of the Minister and published on the legislation website. Consistent with past practice, it is proposed to have the Ministerial Orders declaring the 2013 local public holidays and local event days published by the end of December 2012.

In determining whether to apply for a local public holiday or local event day, it is important that the Council be aware 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 unless it holds an approval to open on the day under Part 3A of the *Retail Trading Act 2008*. Shops located within the designated holiday area are free to open without restriction.

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 on the day or half day that is the local public holiday or half holiday. In addition, employees who work on the day or part day may then have an entitlement to penalty rates under a relevant award or an enterprise agreement where previously that entitlement may not have existed.

In considering an application to the Minister for a local public holiday or half day, Council is expected to consult with the affected community and other relevant stakeholders, as to the impact of a local public holiday or half holiday on businesses located within your local government area. As part of that consultation, Council may consider the option of a local event day declaration instead of a public holiday or half day.

Declaration of a Local Event Day

The capacity for the Minister to declare a local event day or half day at the request of a local council is also available under the *Public Holidays Act*. 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 half day does not preclude banks or shops located within the designated holiday area from opening or trading on the day.

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 time off work or penalty rates on a local event day will only arise where they have been agreed at the workplace level usually in the form of an enterprise agreement or a contract. This goes some way to restoring industrial arrangements for the occasion to those that existed prior to changes to Commonwealth workplace laws.

The application process

Should the Council wish to proceed with a request for a local public holiday or local event day (including a half day) then, following resolution by the Council on the matter, could you please inform me in writing before 12 October 2012 of the desired dates and occasions in 2013 specifying the category of declaration requested. In addition, in support of the Council's request, it would be of assistance if the following information was provided:

- (i) whether the request was approved by resolution of the Council;
- (ii) whether consideration was given to the alternative of local event day; and
- (iii) the extent of community consultation undertaken in respect of the request.

In respect of (iii) it would assist the application process if copies of correspondence sent to relevant stakeholders, including bank managers, school principals and chambers of commerce about the possibility of a forthcoming Ministerial declaration for the relevant local government area was included.

The receipt of requests for a local event day or local public holiday (including half days), specific date and defined area information from all councils will allow the Minister to properly consider such requests and seek further information if required before making a decision. Confirmation of the Minister's approval of your request will be issued in advance of the Notice publication date.

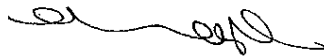
You may be assured that any special day or half day not covered by such an omnibus Notice may continue to be the subject of a one-off Notice.

To assist you I have attached copies of sections 5 and 8 of the Public Holidays Act relating to the declaration of local public holidays and local event days.

Any inquiries you may have concerning the operation of these administrative arrangements may be directed to Peter Boland, Legal Services Branch, NSW Industrial Relations, on telephone number (02) 9020 4628.

I look forward to your early response in this matter.

Yours sincerely



Vicki Telfer
Executive Director
NSW Industrial Relations

Public Holidays Act 2010 No 115

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.

Note. Instead of cancelling an additional public holiday declared under this section, the Minister can decide to substitute a different day for the holiday under section 6.

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 2013.DOC

From:Rodney Williams [SMTP:rodney40@bigpond.com]
To:Ballina Shire Council [SMTP:council@ballina.nsw.gov.au]
Received-Date:20120916
Received-Time:7:05:17 AM
Sent-Date:20120916
Sent-Time:7:05:17 AM
Subject:Ban the half day holiday for the Ballina Races

Dear Mayor and the Ballina Council,

As a parent of 2 children that attend Alstonville High School last Friday they had to leave school at 12 noon because of this stupid public 1/2 day holiday. I myself had to work and my wife that work at a local child care centre had to work all day. Not everyone gets the holiday and therefore the safety of our children of getting home from school was jeopardised.

School buses did not run because not all schools closed and they would not do 2 runs. If you actually care about children (the new Mayor does as he is a school teacher) please consider in helping all the parents in the Ballina Shire that has to work or cannot get their children home from school.

Regards

Rodney Williams