



The
Treasury

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www.industrialrelations.nsw.gov.au

21 AUG 2013

NSW IR No: 13DOC0324

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

RECORDS
SCANNED

28 AUG 2013

Doc No.....
Batch No.....

Dear Mr Hickey

I am writing in regard to the administrative process for local councils to apply to the Minister for Industrial Relations for the declaration of local public holidays and local event days under the *Public Holidays Act 2010* (the Act).

Under the Act 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. However, the Act permits the Minister to declare a local public holiday, or a local event day, for a particular location within a local government area and for part of a day to cover the holding of an afternoon event.

In determining whether to apply for a local public holiday, or a local event day, it is important that the Council be aware of the potential impact that a public holiday will have upon businesses and communities located within the designated area. It is expected that the Council will consult with relevant stakeholders, such as the local chamber of commerce, local banks, major employers and local schools located within the local government area.

Where it is proposed to request a half day local public holiday, consideration should be given to the effect the 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.

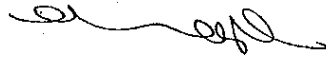
I have attached for the Council's information guidelines for the making of applications to the Minister for Industrial Relations for the declaration of local public holidays and local event days.

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 2013.

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, 29 November 2013 to enable sufficient time for the application to be processed.

Any inquiries you may have concerning an application for a local public holiday or local event day may be directed to Peter Boland, Legal Services Branch, NSW Industrial Relations, on telephone number (02) 9020 4628.

Yours sincerely



Vicki Telfer
Executive Director
NSW Industrial Relations

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 under the *Public Holidays Act 2010* (NSW). Also included in the guidelines are procedures for the declaration of local event days under the Act.

Under the Public Holidays Act all local public holidays (including half 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 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 holiday.**

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

If the Council wishes 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, the Council should inform the Executive Director of NSW Industrial Relations in writing of the desired dates and occasions in 2014, and specify the category of declarations requested. To facilitate the decision making process it is requested that applications be lodged on or before 29 November 2013.

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 you include 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 local government area.

The receipt of a request from the Council for a local event day or local public holiday (including half days), and the provision of information regarding the specific date, the defined area, and the level of community support will allow the Minister to properly consider the request.

Copies of sections 5 and 8 of the Public Holidays Act relating to the declaration of local public holidays and local event days have been provided for your information.

Vicki Telfer
Executive Director
NSW Industrial Relations

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.

16 August 2013

Mr. Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

By Email: council@ballina.nsw.gov.au

Dear Mr. Hickey,

RE: PART-DAY PUBLIC HOLIDAY – Ballina Cup Race Day

I am writing on behalf of our members in the Ballina Shire Council LGA regarding the abovementioned part-day public holiday.

The Association supports the local significance of the Ballina Cup Race Day and the positive benefit the event provides to the local community and, in particular, the local economy, and understands the purpose of the public holiday is to allow the local community to attend the event.

However, our members have expressed concern regarding the impact of the local public holiday in increasingly tight economic conditions. The primary concern of our members is that hospitality businesses in the Ballina Shire Council LGA will once again be required to pay employees penalties up to 275% of the base rate of pay if the race day is declared a public holiday.

The Association submits that for 2014, consideration be given to seeking the gazettal of a local event day for the Ballina Cup Race Day in lieu of a local public holiday.

Alternatively, the Association submits that for 2014, consideration be given to seeking the gazettal of a part day public holiday which is sufficient for the purposes of the event, but not unnecessarily impacting upon hospitality businesses in the Ballina Shire Council LGA through the application of public holiday penalty rates up to midnight.

In this respect, the Association submits a part-day public holiday applying from 12.00pm to 6.00pm is appropriate.

The above proposals are, in our view, an equitable and common sense approach to balancing the local significance of the event with



the significant financial impost on many small businesses in your area.

Should you wish to discuss this matter, please contact me on (02) 9281 6922. I thank you for your consideration of this matter and I look forward to your reply.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Paul Nicolaou', is positioned above the printed name.

PAUL NICOLAOU
Chief Executive Officer

cc: Richard Thomas Gooley, AHA (NSW) Delegate to Council,
Far North Coast (hrgooley@bigpond.com)

Level 15,
Hudson House
131 Macquarie Street
SYDNEY NSW 2000
P: (02) 9281 6922
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W: www.ahansw.com.au



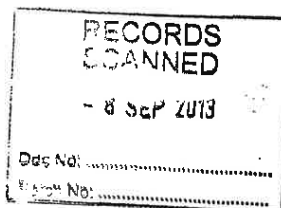
Alstonville High School

PARENTS & CITIZENS ASSOCIATION

Cawley Close, Alstonville 2477. Ph: (02) 6628 5222. Fax: (02) 6628 1223



Mr David Wright
Ballina Shire Council
PO Box 450
Ballina NSW 2478
1st September 2013



Dear Mr Wright,

The P&C of Alstonville High School requests that Ballina Council reconsider the half day public holiday that is granted for Ballina Cup racing day, as this Public Holiday has a major effect on our school.

Alstonville High School is attended by many students from neighbouring local government areas. Many parents and carers work outside the Ballina Shire and are therefore not entitled to the half day holiday. This results in difficulties in supervision and ensuring the safety of our students.

Bus travel is the only means of travel for many of our students. The bus company advises us that they are unable to change the bus schedule to accommodate the 12 noon closing time. This could lead to students being stranded and left unsupervised, or as has happened in the past, children do not attend school at all that day, as it is too difficult for them to get home.

The P&C has suggested that the race day could be changed to a weekend with more of a family focus, encouraging more people to attend.

Yours sincerely

Christine McNally

Secretary

Alstonville High School P&C

10 October 2013

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

RECORDS SCANNED 11 OCT 2013 Doc No..... Batch No.....

St Francis Xavier
Ballina

Growth Through Love & Loyalty



Dear Mr Hickey,

RE: Ballina Jockey Club – Half Day Holiday for the Ballina Cup

Thank you for your letter requesting feedback regarding the half day public holiday for the Ballina Cup Race Day. I understand that the public holiday being granted is due to a change in legislation and that this has impacted on the Ballina community as a whole.

From a school point of view I'm sure you would be aware that there are both positive and negative aspects associated with a half day public holiday. On a positive note, staff were very pleased to be able to attend the Ballina Cup and many of our staff took advantage of this and enjoyed an afternoon at the races. Those who didn't attend the races also appreciated having the holiday as they previously had not been included and had often felt left out or even reduced to offering a babysitting service on Ballina Cup day.

One of the main difficulties with a half day holiday and having to close the school is that many of the students will not attend for the half day and therefore there is some disruption to the learning program. In fact, this year we engaged in staff development for the first part of the day and therefore students were not required to attend. As with all professional development we still have to provide care for students during this time and many families took advantage of this although there is no official learning program during this time.

The other main issue with a half day holiday is the problem with school buses. As the service providers have to link up with other shires which may not have the half day holiday their services have to run as usual and cannot pick up students at 12.00pm when the school closes. This poses a problem for parents and is a major factor in students not attending for the first part of the day.

Schools in the Lismore Diocese can elect to remain open on days such as the Ballina Cup half day holiday although they are then required to give staff time off in lieu of that public holiday. As you can imagine, this would cause considerable disruption and come at quite a significant cost to the school.

Overall, being included in the Ballina Cup Holiday is very well received by the school and is seen as a significant local activity which enhances the Ballina Community. Thank you for the opportunity to provide feedback and I hope that this is helpful in your deliberations on the future of this event.

Yours faithfully,


Mark McDonald
Principal

Swift Street, BALLINA • PO Box 1647 Ballina NSW 2478
TEL 02 6686 3370 • FAX 02 6686 0244
www.balplism.catholic.edu.au



Holy Family Catholic Primary School
40 Isabella Drive
Skennars Head NSW 2478

Telephone: (02) 66875 311
Facsimile: (02) 66875 310

08/10/13

Dear Mr. Hickey,

Re: Ballina Jockey Club – Half Day Holiday for the Ballina Cup

Thank you for giving me the opportunity to provide feedback to you on behalf of Holy Family Catholic Primary School, regarding the above day in Ballina.

At Holy Family Catholic Primary School, we are happy to support the option of the public holiday to only apply from noon to 6.00pm to minimise the impact on businesses (ideally, it would work best for the school if the public holiday was from 8.00am – 6.00pm).

Best regards

Murray Deeps
Principal

Sandra Bailey

From: Michael Vella <mvella@lism.catholic.edu.au>
Sent: Thursday, 19 September 2013 8:14 AM
To: Ballina Shire Council
Subject: Half Day Public Holiday

Attention: Paul Hickey

Dear Paul

In response to your letter seeking comments on the half day public holiday for Ballina Cup and the impact on schools I would like to make the following points:

1. There are concerns regarding the inconvenience for parents who have to make arrangements for pick-up and supervision for their children after 12:00 pm on the day.
2. the fact that bus companies are not permitted to operate their school run at noon is also a concern.
3. the day comes at a time when Year 12 students are in their final stages of preparations for the HSC.
4. Whilst Xavier Catholic College conducted a Professional Development activity for staff in the morning, (not requiring students to be at school at all on the day), history suggests that there would have been a high level of absenteeism amongst students anyway.

I hope that this is of some help.

Yours sincerely
Michael Vella
Principal
Xavier Catholic College

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Sandra Bailey

From: Baker, John <John.William.Baker@det.nsw.edu.au>
Sent: Tuesday, 17 September 2013 5:00 PM
To: Ballina Shire Council
Subject: Half day holiday for Ballina Cup

Dear Council

As the Principal of a local public school with over 940 students and 200 staff I must indicate that the half day holiday as a public gazetted public holiday is very difficult. The major issue of buses for students to be returned home in the middle of the day is significant and as a result, many students and their families choose to take the whole day off school.

The impact of this is a whole day of lost teaching and learning time, and what message are we as a community sending to young impressionable minds? Gambling and the associated drinking environment is more important than learning.

The option of a Local Event Day will also lead to similar concerns, but the way I read it, without the structure whereby staff can claim a half day public holiday.
I am certainly not in favour of either approach due to the negative impact on our schools operation and core business as well as the messages that these decisions send students.

Thanks John

John Baker (JP)

Principal, Southern Cross School K-12
Chickiba Drive EAST BALLINA NSW 2478

☎ (Phone): 02 6686 0503 | 📠 (Fax): 02 6686 0508 | ✉ (Email): john.william.baker@det.nsw.edu.au

Sandra Bailey

From: Mehan, Peter <Peter.Mehan@det.nsw.edu.au>
Sent: Wednesday, 16 October 2013 12:12 PM
To: Sandra Bailey
Cc: Donna Yager; John Murray; info@chunkymonkeycreative.com.au; Margie Heffernan; Mary Weingarth (dunrobin@tpg.com.au); Richard Lutze
Subject: Ballina Cup - Local Public Holiday
Attachments: 2013 Newsletter October.pdf

Hi Sandra,

I refer to the item in the AWCC October 2013 Newsletter (see attached) requesting feedback by 16 October 2013 in relation to the Ballina Cup – Local Public Holiday. This feedback is provided as President of AWCC.

The unintentional consequences of the *Fair Work Act* 2009 is the payment of Public Holiday penalty rates from 12noon to 12 midnight. The situation was further compounded throughout the Shire when Ballina Cup Race day was moved from Thursday to Friday which is normally the busiest trading day/night of the week in the hospitality industry. Secondly, schools who used to remain open now close for a half day local public holiday. As a consequence parents are now required to take leave or incur additional child care expenses because of the school closure. This may also explain the decrease in race day patronage along with the growing tendency for major race meetings to exclude under 18 years old.

The NSW Chamber of Commerce have also made representation to the Fair Work Commission/Federal Government over the impact of penalty rates on small business particularly those who rely on the visitor economy in rural/country areas.

On behalf of AWCC we recommend the Ballina Cup Race day be re-designated as a local event day.

Regards,

Peter Mehan
Campus Manager
North Coast TAFE
Wollongbar Campus
Ph (02) 6620 4710 (Internal 74710)
M 0418 216 538
F (02) 6620 4899



We acknowledge the Bundjalung, Yaegl, Gumbaynggirr, Dunghutti, Biripi and Worimi peoples, the traditional custodians of the land on which we learn and work together, and commit to building relationships, respect and opportunities for all Aboriginal people in our Region. Be green, read it on screen.

This message is intended for the addressee named and may contain
privileged information or confidential information or both. If you
are not the intended recipient please delete it and notify the sender.

10.10 Ballina Cup 2014.DOC

Sandra Bailey

From: Ballina Chamber of Commerce and Industry <info@ballinachamber.com.au>
Sent: Monday, 16 September 2013 12:22 PM
To: Sandra Bailey
Subject: RE: Ballina Cup 2014 - Seeking Comments

Thanks Sandra.

Ballina Chamber of Commerce is strongly in support of the option to apply for a six hour public holiday to take the pressure of local businesses who suffer, and often choose not to open, as a result of the impacts penalty rates have on evening trade.

Considering the spirit of the Cup Day public holiday is to support the daytime event, and the precedent for a shorter period of time has been set elsewhere, we see this option as most suitable.

The board will submit a more considered response later this month. In the meantime, I wanted to give you an indication of our initial thoughts.

I do wonder whether the Jockey Club will wish to continue on a Friday. My understanding is that many locals are taking the opportunity to go away for the weekend and it sounds like numbers were down again this year at the track.

Kind Regards,

Nadia Elliott-Burgess
Ph: 6681 5049
Mob: 0438 484 403

Coordinator of the Inaugural Ballina Prawn Festival
Celebrating 40 Years of Las Balsas

Executive Officer
Ballina Chamber of Commerce and Industry Inc.

Regional Councillor
Northern Rivers NSW Business Chamber

Stakeholder Member
North Coast Destination Network

Sandra Bailey

From: Andrew Kneipp <andrew@mithai.com.au>
Sent: Sunday, 15 September 2013 1:33 PM
To: Sandra Bailey
Subject: Ballina Cup

I advise that I am strongly in favour of having no public holiday, or if necessary a part public holiday 12pm to 5pm for the Ballina Cup for 2014.

Regards
Andrew Kneipp