



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 **Thursday 25 January 2018 commencing at 12 noon.**

Business

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

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a long horizontal stroke underneath.

Paul Hickey
General Manager

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1. Apologies
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1. Apologies

2. Declarations of Interest

3. Deputations

4.1 Ballina Country Women's Association - Tenure

4. Committee Reports

4.1 Ballina Country Women's Association - Tenure

Delivery Program Strategic Planning

Objective To provide an overview of the Richmond River Foreshore Reserve Trust's management responsibilities associated with the Ballina CWA building and seek direction on the granting of tenure to the Ballina Country Women's Association for use of the building.

Background

Ballina Shire Council is the appointed Reserve Trust Manager for Captain Cook Park and the RSL Memorial Park (Reserve No. 71612). Council manages the land as the Richmond River Foreshore Reserve Trust.

The full area of land managed by Council as Trust Manager is shown shaded yellow in Figure 1. The area includes the Ballina CWA Hall which is located on land described as Lot 8 Section 5A DP 758047 (outlined black in Figure 1).



Figure 1: Richmond River Foreshore Reserve Trust management area (note CWA Hall located within the land parcel outlined in black)

The tenure of the CWA in the hall building was last considered by Council in 2012. At that time the Council resolved to support the continued occupation of the hall by the Ballina CWA [Minute No. 240512/5].

The most recent tenure granted to the CWA for occupation of the hall building (known as the Ballina CWA hall) was in the form of a five year licence which has now expired. The licence was an arrangement directly between Crown Lands and the Ballina CWA.

4.1 Ballina Country Women's Association - Tenure

Given that the licence has now expired, Council as Trust Manager is required to determine if a new tenure arrangement should be granted to the Ballina CWA and if so, the terms of such tenure.

This has been reinforced by the Department of Industry – Crown Lands as the Department has declined to grant a new licence to the CWA, and advised the members of the CWA to forward their request to the Trust for consideration.

The purpose of this report is to seek a direction from the Trust as to the preferred course of action in relation to the provision of tenure to the Ballina CWA for occupation and use of the Ballina CWA Hall.

Key Issues

- Appropriate management of Crown assets
- Lawful use and occupation of public land
- Building management costs

Information

As a matter of good practice, Council staff have been in liaison with Crown Lands to determine the condition of the CWA hall building. This is to gain an understanding of future maintenance and capital works liabilities that are associated with the building. Council is also in liaison with Crown Lands about other issues that may affect the granting of tenure such as Native Title.

It is important for the Trust to have a complete understanding of the building and its circumstances prior to assuming full management responsibility. Unfortunately, to date, Crown Lands has not been able to provide a suitable level of information to address the matters raised by Council (such as building condition).

However, as the Reserve Trust Manager, Council is obligated to ensure lawful use and occupation of the Reserve.

Having regard for the above, the recommended approach, outlined below, is to grant the CWA a temporary licence for the use and occupation of the CWA hall building. This provides the CWA with lawful tenure for the time being and allows time for the resolution of building and land management issues with Crown Lands before the Trust enters into a longer term tenure arrangement.

When considering tenure for the Ballina CWA, it is also important to consider the Captain Cook Park Master Plan. The adopted master plan (updated in 2017) includes the retention of the CWA hall building. Therefore, provision of tenure to the Ballina CWA for use and occupation of the building is consistent with the Trust's future plans for the reserve.

A further matter in relation to the renewal of tenure is the imminent commencement of the new *Crown Land Management Act 2016*, which is due to become operational in March 2018.

Once the new Act has commenced, a possible outcome could be that Council may end up owning the land in freehold title, or at least being able to manage the land in accordance with the *Local Government Act*. This would streamline the tenure renewal process, should the Trust resolve to offer tenure to the CWA.

It would be prudent not to commence a longer term tenure renewal until after the commencement of the new Act to provide time for Council and the Trust to develop an understanding of the practical effect of the Crown Land reforms.

Legal / Resource / Financial Implications

There are no significant financial benefits to resuming management of the building as the CWA are eligible to pay statutory minimum rental (\$486 per annum as at November 2017). Conversely, Council as Trust Manager needs to consider building maintenance and capital works costs. Building maintenance responsibilities and associated costs can be addressed as part of the licensing and leasing processes.

With respect to maintenance responsibilities, Crown Lands has indicated that any repair or maintenance works required have been the responsibility of the CWA in accordance with their (now expired) licence. This is important to consider as part of determining tenure terms with the CWA.

From a legal perspective, Council as Reserve Trust Manager is obliged to ensure current tenure for the occupation of Crown Land. Occupation of Crown Land without lawful tenure can expose the Trust and Council to risk.

Any decision of the Trust to grant tenure is able to be implemented within existing resources. However, there are currently no specific funds allocated for maintenance or repair of the building (hence the recommendation to issue a short term tenure).

Consultation

To date, informal consultation has occurred between Council and Department of Industry staff.

Discussions have also been held between Council staff and the CWA executive in relation to the tenure circumstances. Whilst Council has not sought a formal position from the CWA to date in relation to a temporary licence, the discussions undertaken indicate that the CWA is understanding of the situation and the rationale for the provision of a temporary licence. It is also understood that the CWA would ultimately like a longer term lease arrangement as the ultimate outcome of the tenure negotiation process.

Depending on the Trust's resolution, public advertising and formal consultation may be required.

Options

Option 1 - Decline to grant tenure to the CWA and advise the Department of Industry of this resolution.

4.1 Ballina Country Women's Association - Tenure

Given the responsibilities of Council as Reserve Trust Manager and the current activities of the CWA, this is not the recommended approach.

Option 2 - Grant a temporary licence to the CWA in accordance with s108 and s109 of the current *Crown Lands Act 1989*.

This approach is recommended as it allows for the address of building and land management issues with Crown Lands and for the completion of negotiations with the CWA whilst putting lawful tenure in place.

Under this approach it is recommended that a licence be issued for a period of twelve months at statutory minimal rental.

Option 3 - Grant a long term lease to the CWA.

Further information has been sought, but not yet obtained, in relation to the condition of the CWA hall building and land management matters associated with the site. It is suggested that building and land management matters should be fully examined before the Trust enters into tenure arrangements beyond a twelve month period. A temporary licence provides time for the Trust to further examine management issues associated with the property (e.g. building condition).

On this basis, a long term lease is not presently recommended.

RECOMMENDATIONS

1. That the Richmond River Foreshore Reserve Trust grant a temporary licence to the Ballina CWA for the occupation and use of the Ballina CWA hall located on Lot 8 Section 5A DP 758047 for a period of twelve months at statutory minimum rental.
2. That Council as Reserve Trust Manager authorises the Common Seal to be affixed to any document required to give effect to the temporary licence.
3. That the Reserve Trust commences formal negotiations with the Ballina CWA in relation to entering into longer term tenure under the new *Crown Lands Management Act* in accordance with Council's Community Leasing and Licensing Policy.
4. That the outcomes of further negotiations with the Ballina CWA be reported to the Reserve Trust for the purpose of determining tenure arrangements beyond the temporary licence period.

Attachment(s)

Nil