



TWEED
SHIRE COUNCIL

Chair: Tr Barry Longland

Trustees: P Youngblutt (Deputy Chair)
D Holdom
K Milne
W Polglase
K Skinner
J van Lieshout

Agenda

Tweed Coast Reserve Trust Meeting Tuesday 17 April 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.15am

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Items for Consideration of the Trust:

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CONFIRMATION OF MINUTES

- 1 [CONMIN] Confirmation of the Ordinary Minutes of the Tweed Coast Reserves Trust Meeting held Tuesday 20 March 2012

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Minutes of the Ordinary Tweed Coast Reserves Trust Meeting held Tuesday 20 March 2012 (ECM 47801210).
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REPORTS THROUGH THE EXECUTIVE MANAGER OF THE TRUST/GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING AND REGULATION

2 [PR-TCRT] Marine Rescue Point Danger (Training Facilities) Coral Street, Duranbah

ORIGIN:

Building and Environmental Health

SUMMARY OF REPORT:

Maintenance audits of Council owned/or controlled buildings for the accommodation of emergency service organisations are conducted on an annual basis. Marine Rescue Point Danger Training Facilities are located at Coral Street, Duranbah on Crown Reserve 57974. The 2011 maintenance audit (see attachment 1) highlighted the need for further works to be undertaken to extend the life of the building. As the Reserve has been earmarked by Crown Lands Division for commercial development in the medium term (3-5 years) the matter was further discussed with the Division (see attachment 2 and 3).

A response has now been received (see attachment 4).

Council is currently considering the commitment of considerable funds to repair the Marine Rescue Communications Tower at Point Danger in partnership with Gold Coast City Council. The project will repair and upgrade the current facilities and endeavour to seek legal use of the facilities for office activities that were undertaken by Marine Rescue without development consent.

Council also contributes over \$12,000 annually to the operation of the service.

The issue of relocation/co-location of marine services at the State level has been discussed for quite a number of years. The responsibility of accommodating volunteer marine rescue services is not a responsibility of local governments. In consideration of the Crown Lands Division to resume the use of the land for commercial purposes in the medium term it is not considered appropriate to invest further public monies into extending the life of the building. It is therefore requested that the Tweed Coast Reserves Trust consider resolving to limit the future availability of the building for occupation. It is recommended that the availability for occupation of the building be no longer than 30 June 2013. Should a longer period for occupation be considered then further funds will need to be secured in the 2013/2014 financial year.

RECOMMENDATION:

That:

- 1. The Tweed Coast Reserves Trust supports the position that the training facilities at Coral Street, Duranbah are in a dilapidated state and unless further significant funds are made available to repair the facility the use of the building is to be limited to 30 June 2013; and**
- 2. Marine Rescue NSW be advised to seek alternative training facilities.**

REPORT:

As per summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

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1. Letter to Marine Rescue Point Danger dated 24 November 2011 - Maintenance Audit (ECM 48487642).
 2. Letter to NSW Department of Primary Industries dated 13 December 2011 (ECM 48487645).
 3. Letter to NSW Department of Primary Industries dated 24 November 2011 (ECM 48487649).
 4. Letter from NSW Department of Primary Industries dated 22 March 2012 (ECM 48487650).
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3 [PR-TCRT] Sale of Goods and Services at Public Markets on Council Controlled Land

SUBMITTED BY: Building and Environmental Health



Supporting Community Life



Strengthening the Economy

SUMMARY OF REPORT:

At the Tweed Reserves Trust meeting of 20 March 2012 it was resolved that the Tweed Coast Reserves Trust:

- 1. Offers an extension of time to the current market operators to operate the Kingscliff and Pottsville markets for a three month period.*
- 2. Brings forward a report on the possibility of prioritising locally produced goods and services, arts and crafts and organics.*

Council does not directly operate or control the day to day market management and operation, but rather issues approvals to third party groups to perform this function. Market operators are required to conduct the markets in accordance with the relevant approval and the approved market management plan. That adopted plan is required to be prepared in accordance with Council's Market Management Plan Guidelines.

It is proposed that the Market Management Plan Guidelines be amended to include a specific requirement that priority be given to stall holders who sell locally produced goods and services, arts and crafts and organics. This requirement will then be specified in the approved market management plans and included as a condition on the relevant approval.

Background information is provided in this report about general market operation and restrictions which are applied over their operation.

It is further recommended that the Tweed Coast Reserves Trust approves the calling of expressions of interest from persons wishing to operate the Kingscliff and Pottsville markets from 1 July 2012 for a three year period.

RECOMMENDATION:

That the Tweed Reserves Trust:

- 1. Approves amendment to the Market Management Plan Guidelines to include a specific requirement that priority be given by market operators for participation by stall holders who sell locally produced goods and services, arts and crafts and organics.**
- 2. Offers an extension of time to the current market operators for a further three month period, if necessary.**
- 3. Approves the calling of expressions of interest from persons wishing to operate the Kingscliff and Pottsville markets from 1 July 2012 for a three year period.**

REPORT:

In considering whether to approve the continued operation of markets at Pottsville and Kingscliff on Council controlled land from 1 July 2012 for a period of three years it was resolved at the meeting of 20 March 2012 that the Reserves Trust:

1. *Offers an extension of time to the current market operators to operate the Kingscliff and Pottsville markets for a three month period.*
2. *Brings forward a report on the possibility of prioritising locally produced goods and services, arts and crafts and organics.*

Council does not directly operate or control the day to day market management and operation, but rather issues approvals to third party groups to perform this function. Restrictions exist under Council Policy Vending of Food on Public Reserves which are imposed on the approved market operator under the relevant approvals. There are strict limitations imposed over the maximum number of food vans or businesses which sell 'conventional food and drink'. Market operators are also required to conduct the markets in accordance with the relevant approval and the approved market management plan. That plan is developed by the market operator and is required to be prepared in accordance with Council's Market Management Plan Guidelines.

In reviewing this matter advice has been sought from the current market approval holders for Pottsville and Kingscliff. Each operator advised that they rarely have reason to reject a stall holder (except for non complying food vans or stall holders who may have previously been disruptive). Pottsville advised that they currently give priority to stall holders selling local produce and goods.

In response to the Reserves Trust resolution and to ensure that priority is given to the respective stall holders it is proposed that the Market Management Plan Guidelines be amended to include a specific requirement that priority be given to stall holders who sell locally produced goods and services, arts and crafts and organics. This requirement will then be specified in the approved market management plans and included as a condition on the relevant approval.

Additional Background Information Regarding Market Approvals and Operation

Restrictions regarding the sale of food have historically been established under Council Policy Vending of Food on Public Reserves Version 1.1. This Policy states:

Vending of Food on Public Reserves

Objective

To control the vending of food on public reserves, streets and roads to maintain the highest levels of public health, safety and convenience of persons using public reserves, streets and roads and to cause minimum financial impact to nearby retail outlets.

Policy

Approval will not be given for the vending of food on Public Reserves, Streets and Roads within the Tweed Council area except in the following circumstances:

1. Where a specific one-off event has been approved by Council then the organising body may apply for approval for the vending of food. Such approval will be subject to the vendors complying with Council's "Code for the Vending of Food at Markets and One-Day Events".
2. **Where Council approval has been granted for the conducting of a Market or similar on a regular basis on a reserve only "home made" or "home grown" produce may be sold, provided "home made" products are correctly pre-packaged and labelled and their sale complies with the "Code for the Vending of Food at Markets and One Day Events".**
3. **Where Council approval has been granted for the conducting of market or similar, on a regular basis on a reserve, then approval may be given for the sale of drinks provided there are no nearby retail outlets that may be affected and the sale of drinks complies with the requirements of the "Code for the Vending of Food at Markets and One Day Events"**

Restriction 2 above was intended to allow only the sale of food which is home made or home grown, which effectively excluded more 'commercial' types of food which may be sold from a 'food van' or food business (allowing traditional market products such as jams, preserves, cakes etc). In the past decade several reports were requested by Council about this matter, and Council subsequently permitted the operation of a limited number of food vans which sell 'conventional food and drink' at each of the four markets (four at Kingscliff, Recreation Street Tweed Heads and Knox Park Murwillumbah, and two at Pottsville). This was probably an acknowledgement that market patrons would like to buy a drink or food item in hot conditions and that sale of food often forms a major part of other market operations in the region.

Restriction 3 of the Policy was important in that it demonstrates Council's intention not to impact 'nearby retail outlets' when approving markets. However this requirement was superseded somewhat by Council resolutions to permit the operation of a limited number of food vans or businesses at each market over recent years.

In issuing previous approvals to operate the markets Council has imposed restrictions/conditions on the operators thus:

- No food shall be sold unless such food vendors comply with the NSW Food Authority's Food Handling Guidelines for Temporary Events, any other Council Policy and the NSW Food Act (2003). All food business operators shall maintain current notification with NSW Food Authority and be subject to Council's inspection program and any adopted fee. **Four (4) only approved food vans which sell conventional food and drink are permissible.** All such vendors should be registered with Council.
- The sale of goods shall be in accordance with the definition of "Market" contained in the Tweed Local Environmental Plan 2000.
- The markets are to be conducted in accordance with the approved **Plans of Management.** Updated/amended Plans of Management shall be submitted to Council if required in writing by Council. The location of the market within Council's reserve shall not be modified without the prior written consent of Council.

Importantly, the Market Management Plan Guidelines provided by Council to potential operators includes the following requirements:

The management plan shall ensure the markets are conducted so as:

- To **promote tourism and local goods/produce within Tweed Shire.**
- To **not impact adversely on existing established commercial outlets.**
- To protect local residential amenity.
- To **ensure all markets are conducted in accordance with current legislation and adopted Council policy (particularly regarding restrictions over the sale of food).**
- To minimise traffic conflict.
- To minimise impact on the environment.
- To ensure that appropriate public liability insurances are maintained by market operators.
- **Facilitate day to day operation of markets independently of Council.**

The Tweed LEP 200 defines a market thus:

Market a temporary outlet **for the sale of local crafts and goods, a large proportion of which are not available through normal commercial outlets:**

(a) which operates on one day of a week only, and

(b) which does not require the erection of permanent structures.

Council does not directly operate or control the day to day market management and operation, but rather issues approvals to third party groups to perform this function.

It can be seen from the information above that Council has historically imposed restrictions over the sale of food and produce which were intended to promote the sale of local produce and food, as well as 'cause minimum financial impact to nearby retail outlets'. These requirements are imposed via conditions on the approval document and requirements for the operators to address these matters in their adopted approved management plans.

Three of the four current approval holders are community based charitable groups. Once Council has issued an approval Council does not have involvement (other than perhaps as a regulator eg food hygiene or noise complaint) in day to day operations for liability reasons.

Strict enforcement of the above requirements would involve officers attending markets on weekends and performing a strict review of all food, produce and craft on sale. Determining the origin of all food, goods, produce or craft would be difficult and resulting regulatory action potentially time consuming and costly.

It is clear that the nature of public markets have changed over time. At one time they were a relatively small community based gathering where people did have the opportunity to sell smaller items of produce, crafts and brick-a-brac. Markets are now more commercial in nature with regular market stall holders attending multiple markets within several local government areas and selling their wares.

Whilst markets will and do include stall holders selling 'local' craft and food, there will also be marketeers who sell more 'commercial' items which are not produced locally. Ultimately markets are commercially driven to some degree in terms of the types of products offered for sale.

It is apparent from discussions with the current operators that they rarely have reason to reject a stall holder (except for non complying food vans or stall holders who may have previously been disruptive). Pottsville advised that they currently give priority to stall holders selling local produce and goods.

OPTIONS:

The following comments have been provided in previous reports to Council.

Issue No Further Approval for any Markets

Officers Comment

The markets are an attraction to visitors and residents and provide income sources to the operators and numerous stall holders involved.

Council to Operate and Administer the Markets

Officers Comment

It is most likely that additional staffing resources would be necessary to achieve internal management of markets. It is unlikely that income would totally fund this staffing. This is not necessarily a function which Council is seeking to perform and it can be performed adequately by private or community based service organisations.

Call for Expressions of Interest to Operate the Markets

Officers Comment

By opening up market management to competition (through calling expressions of interest), improvements in operation may be achieved as well as increased income to Council through competitive submissions. It is also possible that 'worthy' community organisations could successfully operate the markets, leading to income for those organisations. Three of the markets are currently operated by the Lions Club of Kingscliff, Pottsville Beach Neighbourhood Centre and the Police and Community Youth Clubs NSW.

Approve the Existing Operators with a New Approval

Officers Comment

The existing market managers of the Kingscliff, Pottsville, Knox Park Murwillumbah and Tweed Heads Recreation Ground Markets may seek to have their existing approvals to operate the Markets extended. However, it is appropriate that Council seek, through public expressions of interest, the most appropriate person or group to manage the Markets, rather than simply continuing to renew approvals with the existing managers. It may well be that following this process the existing managers are the successful applicants.

This type of competitive process may result in improvements in terms of payments to Council for use of the respective areas for markets, and also ensuring that the best possible management practices are adopted.

Council could adopt a much more active regulatory approach to markets, however this would have budgetary implications in terms of paying wages for staff to work weekends and perhaps any associated legal costs.

CONCLUSION:

In response to the Reserves Trust resolution and to ensure that priority is given to the respective stall holders it is proposed that the Market Management Plan Guidelines be amended to include a specific requirement that priority be given to stall holders who sell locally produced goods and services, arts and crafts and organics. This requirement will then be specified in the approved market management plans and included as a condition on the relevant approval.

Further, it is recommended that the Tweed Reserves Trust approve the calling of expressions of interest from interested parties to conduct the markets for a three year period.

COUNCIL IMPLICATIONS:

a. Policy:

Vending of Food on Public Reserves Version 1.1.

b. Budget/Long Term Financial Plan:

Council could adopt a much more active regulatory approach to markets, however this would have budgetary implications in terms of paying wages for staff to work weekends and perhaps any associated legal costs and is not recommended.

c. Legal:

Time and resources may be required if Council were to adopt a more active regulatory role.

d. Communication/Engagement:

Council has traditionally advertised for expressions of interest from any interested party who wishes to be considered to operate the markets. This is considered an open yet competitive process which identifies the most suitable market operator.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
 - 2.1.6 Provide social, economic and cultural initiatives which enhance access, equity and community well-being
- 3 Strengthening the Economy
 - 3.1 Expand employment, tourism and education opportunities
 - 3.1.6 Support creative practitioners and entrepreneurs to access professional and business development opportunities, to enhance their contribution to the creative economy
 - 3.1.6.1 Creative economy

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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