



2 September 2016

Samuel Griffith  
Principal Council Officer  
Upper House Committees  
Legislative Council  
Parliament of NSW

By email: [GPSC6.GPSC6@parliament.nsw.gov.au](mailto:GPSC6.GPSC6@parliament.nsw.gov.au)

Dear Mr Griffith

**General Purpose Standing Committee No. 6 - Inquiry into Crown Land**

I refer to your email dated 12 August 2016 and forward the following.

1. Corrected transcript (#E2016/81261)
2. Answers to questions taken on notice (#E2016/81054)
3. Answers to supplementary questions (#E2016/81051)

Please do not hesitate to contact myself on 6626 7155 should you require any further information.

Yours sincerely

Mark Arnold  
Director Corporate and Community Services

Encl. #E2016/81261, #E2016/81054, #E2016/81051



# Questions on Notice

## Inquiry into Crown Land Questions for Byron Shire Council

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### Question 1 – Net Cost of Managing Crown Land

#### *Council Response*

The following information is provided in response to the question taken on notice from Mr Mick Veitch on the net cost to Council of maintaining and managing Crown Land within the Byron Shire local government area.

#### Crown Reserves

Council is the Reserve Trust Manager of 28 Crown reserves within the Byron Shire local government area. The net cost to cost of maintaining an managing these Crown Reserves is detailed as follows based on Crown Reserve Reporting prepared by Council as the Reserve Trust Manager for the 2014/15 Financial year.

- Reserve 84627 Mullumbimby Golf Course Reserve Trust \$1,375.00 surplus
- Reserve 89621 Byron Bay – cnr Fletcher St and Byron St \$0
- Reserve 95798 Brunswick Heads – Brunswick Valley Rescue Squad, Byron St \$0
- Reserve 96441 Byron Bay – Between Belongil Beach and Creek \$0
- Reserve 1003023 Byron Bay – Butler St Reserve \$0
- Reserve 540006 Mullumbimby – Old Council Chambers and Mullum Neighbourhood Centre \$5,777 deficit
- Reserve 97213 William Flick Lane (includes Emergency Accommodation Building) \$4,439 deficit
- Reserve 140052 South Golden Beach \$1,902 deficit
- Reserve 140034 Seven Mile Beach \$0
- Reserve 97748 Mullumbimby Heritage Park, part Riverside Tennis Court \$18,046 deficit
- Reserve 97604 Brunswick Heads (South Beach Road next to Tennis Courts) \$0
- Reserve 97139 Brunswick Heads (beach land at Surf Club, Tennis Courts, land around Scout Hall and wedge between river and South Beach Lane \$124,640 deficit
- Reserve 97066 Suffolk Park – Tallow Beach \$31,285 deficit
- Reserve 96998 Byron Bay Pre-School \$8,193 deficit
- Reserve 95667 New Brighton – Sports Field \$32,707 deficit
- Reserve 95471 Federal Community Centre, Preschool \$3,573 deficit
- Reserve 89520 Byron Bay – Marvel Street Senior Citizens Club \$11,521 deficit
- Reserve 88993 Byron Bay – Butler Street Reserve, Byron Farmer's Market, Byron Community Market \$593 deficit
- Reserve 85663 Mullumbimby – Pine Avenue Sports Field \$53,640 deficit
- Reserve 82000 Byron Bay Main Beach, part Clarkes Beach, part Belongil Beach, Fishheads at Byron Bay \$126,283 surplus
- Reserve 80457 Brunswick Heads (next to Fisherman's wharf and highway) \$225 deficit
- Reserve 80349 Brunswick Heads – Memorial Park Fawcett St, Markets \$18,873 deficit
- Reserve 78676 Brunswick Heads – Brunswick Heads Playing Fields \$66,242 deficit
- Reserve 73836 Mullumbimby – Jubilee Avenue Stuart Park \$0
- Reserve 72386 Bangalow – Bangalow Showground, Markets and Farmers Market \$28,225 deficit
- Reserve 55796 Durrumbul Hall, Preschool \$8,475 deficit
- Reserve 42924 Mullumbimby – Swimming Pool \$269,537 deficit
- Reserve 31910 Mullumbimby Rec Grounds and Museum \$37,036 deficit

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It should be noted that the surplus generated on Reserve 82000 to offset losses on other Crown Reserves, so when this surplus is excluded as it is allocated to the Crown Reserve the deficit or net cost to Council grows to \$723,554 for the 2014/2015 financial year.

#### Crown Land

Council also maintains Crown Land within the local government area for which **it** is not the appointed Reserve Trust Manager. This land includes primarily foreshore parks and reserves. The estimated additional net cost to Council for these programs in 2014/15 is between \$250,000 to \$300,000.

#### Beach Protection

The net cost incurred by Council in relation to Beach Protection works, studies and professional advice since 1 July 2000 to 30 June 2016 is \$2,390,084.

### **Question 2 – Construction Costs and the Owner Contribution to the Cost Construction of the Interim Beach Access Stabilisation Wall at Belongil**

#### *Council Response*

The construction cost of Interim Beach Access Stabilisation Wall at Belongil was \$1,568,341.

The contribution from adjoining landowners was \$300,000.

### **Question 3 – New South Wales Holiday Parks Trust**

#### *Council Response*

The following information is provided in response to the question taken on notice from Mr David Shoebridge in relation to the recent meetings between representatives of Trust and Council, convened with the objective of improving the relationship between the organisations and the type and level of consultation undertaken by the Trust with the Council and the community on issues such as amendments to the adopted Plans of Management and the operations of the three (3) Crown Holiday Parks in Brunswick Heads. These Holiday Parks being the Ferry Reserve, Massey Greene and Terrace Reserve Crown Holiday Parks.

#### 8 October 2015 Meeting at the Byron Shire Council Administration Building, Mullumbimby

Council representatives met with representatives of the NSW Crown Holiday Parks Trust on Thursday, 8 October 2015 to discuss both the concerns of the community and Council in relation to works on the Brunswick Heads Foreshore Reserves and the applications submitted for the renewal of the S68 Approvals to Operate the Crown Holiday Parks in Brunswick Heads.

The meeting was held on a “*without prejudice*” basis and as such the meeting and the Minutes are regarded as confidential, due to the “*commercial in confidence*” nature of the matters that were discussed.

The representatives from the Trust included the Chair, Wendy Machin and the CEO, Steve Edmonds and the Council Representatives included the Mayor, Cr Simon Richardson, Cr Woods and the General Manager, Ken Gainger.

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### 26 November 2015 Meeting at the Byron Shire Council Administration Building, Mullumbimby

A further meeting was held on Thursday, 26 November 2015, with representatives of the NSW Crown Holiday Parks Trust and staff to discuss the development of a Memorandum of Understanding between the Trust and Council. The purpose of the Memorandum of Understanding being to guide and improve the future interaction and relationship between the parties, to allow both the Trust and Council to perform their respective roles in regard to the care, control and management of the Crown Reserves in Brunswick Heads.

The draft Memorandum of Understanding was considered by Council at its Ordinary meeting held on 10 December 2015, and following the adoption of Part 2 of Resolution 15-651, the finalisation of the Memorandum of Understanding was listed for discussion at a teleconference meeting held on 27 February 2016.

*"2. That Council develop a Memorandum of Understanding with NSW Crown Holiday Parks Trust to guide future interaction and relationship between Council and the Trust in performing Respective roles relating to Crown Reserves in Brunswick Heads"*

### 27 February 2016 Meeting – Teleconference

It was agreed at this meeting that rather than focusing on negotiations to finalise the Memorandum of Understanding, the Trust with reference to the previous discussions between the representatives of each organisation, and also to the Resolutions and special conditions detailed in Part 3 of Resolution 15-651, would concentrate on reviewing and amending (refer Part 5 of Resolution 15-651) the Plan of Management maps for each of the three Crown Holiday Parks in Brunswick Heads being the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks.

*"3. That Council invite the NSW Crown Holiday Parks Trust to submit applications for Section 68 Approval with consideration given to the boundaries as stated in resolutions:*

- *12/627 of August 2012*
- *12/995 of 20 December 2012*
- *13/25 of 14 February 2013*
- *13/237 of 9 May 2013*
- *15/323 of 16 July 2015*

*Special Conditions to include:*

- *Use of the foreshore Area at Ferry Reserve Caravan Park for soft camping only at peak holiday periods i.e. Christmas, Easter, and School Holidays only. Soft camping to be tents and or camper trailers.*
- *Use of the South End of The Terrace Reserve Caravan Park for soft camping only at peak holiday periods i.e. Christmas, Easter, and School Holidays only. Soft camping to be tents and or camper trailers (camper trailers to be limited by weight)".*

*"5. That, should NSW Crown Holiday Parks Trust need more time to review/change the Plans of Management for the recreational areas, the Trust is to advise Council of the period required to complete the changes and subsequently submit the application."*

The representatives from the Trust included the CEO, Steve Edmonds and the Council representatives included the Mayor, Cr Simon Richardson.

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### 7 July 2016 Meeting on site at the Ferry Reserve, Massey Greene and Terrace Reserve Crown Holiday Parks

On 7 July 2016 a site inspection was conducted by the Trust and attended by Council representatives. The inspection ground-truthed the revised maps prepared by the Trust since the teleconference on 27 February 2016. The maps considered both the operational boundaries of the Holiday Parks and the integration with the adjoining recreational areas, and the Resolutions and special conditions defined by Council in Part 3 of Resolution 15-651.

The representatives from the Trust included the CEO, Steve Edmonds and the Council Representatives include the Mayor, Cr Simon Richardson and Cr Woods.

### 11 August 2016 Councillor Strategic Planning Workshop at the Byron Shire Council Administration Building, Mullumbimby

At the Councillor Strategic Planning Workshop held on 11 August 2016, Councillors received a presentation from the Trust on the Plan of Management amendments proposed for each of the three (3) Brunswick Heads Crown Holiday Parks. This was supported by the Briefing Paper – Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks, Brunswick Heads NSW, distributed to Councillors prior to the Workshop.

### 25 August 2016 Ordinary Council Meeting at the Byron Shire Council Chambers, Mullumbimby

Council at its Ordinary meeting held on 25 August 2016 considered a staff report titled “*Report 13.10 - NSW Crown Holiday Parks Trust – Brunswick Heads Holiday Parks Update*”. A copy of this report can be viewed at [http://byron.infocouncil.biz/Open/2016/08/OC\\_25082016\\_AGN\\_531.PDF](http://byron.infocouncil.biz/Open/2016/08/OC_25082016_AGN_531.PDF)

Council following consideration of the report adopted the following Resolution.

**“16-464 Resolved** that Council for the purpose of further consultation by the New South Wales Crown Holiday Parks Trust:

- a) *endorse in principle the proposed amendments to the Plan of Management Maps, as detailed in the Briefing Paper – Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks, Brunswick Heads NSW.*
- b) *note the tabling of the draft Plan of Management Maps (E2016/79046) in the Briefing Paper – Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks, Brunswick Heads NSW at the meeting; and*
- c) *request that NSW Holiday Parks Trust incorporate the following in the draft plans of management for the operation of the Crown Holiday Parks in Brunswick Heads:*
  - i. *Tree management strategy that prohibits:*
    - *use of any land within a 5m radius of a Coastal Cypress Pines to prohibit compaction of soil*
    - *no discharge of untreated water over the critical root system*
    - *removal of exotic grasses and introduction of native grasses within the area of the critical root system*

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- *progressive on site replacement of each memorial pine*
- ii. *That Table 3 'Terrace Reserve Holiday Park' (page 73 of agenda) be amended as follows:*
  - *underneath column Trust Proposal in the first cell change the word 'buildings' to 'built structures'*
  - *in the third cell include the words at the end of the sentence 'to be completed within 5 years'."*

The Trust in the presentation to the Councillor Strategic Planning Workshop provided the following framework for the further consultation process.

- Consultation with Council, Crown lands, park residents and the community undertaken concurrently
- Council site meeting, briefing and formal response to draft concepts
- Crown Lands technical review and approval of the Minister to amend the adopted Plans of Management
- Community consultation to include briefing materials, guided site tours and period for feedback and comment.
- 6 week formal public exhibition period is proposed for draft amendments

The further consultation referred to in Resolution 15-464 involves the last two (2) dot points.

Council has advised the Trust of the above Resolution on 26 August 2016.

# Supplementary Questions

## Inquiry into Crown Land Questions for all Local Councils

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**1. With regards to Plans of Management can you provide the following information.**

**(a) Do Plans of Management provide the best mechanism for the management of crown land?**

The adoption of a Plan of Management for a specific parcel or parcels of Crown Land has been the traditional tool used for planning and consultation with the Community over the current and future uses of Crown Land. The use of a Plan of Management has been an effective framework but is not necessarily a framework that is keeping pace with more contemporary frameworks used in engaging with communities.

Byron Shire Council has recently developed a Masterplan for the Byron Bay Town Centre which used an engagement process that was much broader than the traditional consultation framework, and which included both Crown and Council community land. This style of planning is not as rigid or as legislatively constrained as the traditional framework for a Plan of Management, and allows for the integrated use and activation of community spaces in a defined precinct area such as a CBD, rather than just for a specific parcel of land.

Council is in the process of working with the Bangalow, Mullumbimby and Ocean Shores communities to develop a Masterplan for each of these communities which, like the Masterplan for the Byron Bay Town Centre, will include catalyst sites on both Crown and Council land. With this approach the community is able to see the broader picture and not just a constrained view focussed on a specific area.

There is still a role for Plans of Management but the Masterplan style of document is more holistic in its approach and provides a framework that integrates community spaces in defined precinct areas.

**(b) What crown land is best served by the development of a Plan of Management?**

Parcels of land that can not, due to their location be incorporated into a precinct area, Crown Land used for commercial purposes such as a Holiday Park and for land parcels which are isolated by their location but are used for a common specific purpose where an overarching Plan of Management could be developed.

**(c) What crown land does not need a mechanism such as a Plan of Management?**

There should be a management framework for all Crown Land but this framework does not have to be a formal Plan of Management under the Crown Lands Act.

**(d) What is the best consultation period for developing Plans of Management?**

This needs to be assessed on a case by case basis and to be guided by the location and the use of a parcel of land. There would be an argument that the current framework as minimum would be appropriate in specific cases, but in other cases the process should be extended beyond consultation to engagement with the community. This may mean that the process could be between six (6) to twelve (12) months where the community is involved in the planning process from beginning to end.

**(e) What are the best consultation methods for developing Plans of Management?**

The response to this question is similar to the response to the previous question. This should be based on a case by case basis and dependent on location, current use and proposed future uses of the land.

## **Supplementary Questions**

### **Inquiry into Crown Land Questions for all Local Councils**

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**(f) What are the best mechanisms to appeal a Plan of Management?**

The Byron Shire community has in the past felt that the views expressed in the submission process on a draft Plan of Management have not been adequately considered by the Trust in the development of the final Plan of Management. An opportunity for further community review and/or comment or a process where an “appeal” could be lodged and considered by an “independent” third party empowered to make recommendations to the Minister on further amendments may provide such a framework.

**(g) What are the best mechanisms to amend a Plan of Management?**

The best mechanism will be dependent on the nature and potential impact of the amendment. A similar process that is currently used by local government requiring the development and exhibition of an amended Plan of Management could be used for minor amendments, although this process would need to clearly articulate the type, impact and nature of the amendments. For major amendments that significantly changed the current and future uses for Crown Land, and that will be of a significant public interest, then the process should be similar to that for a new Plan of Management.

**(h) Do you have suggested improvements for the development of Plans of Management?**

No suggestions provided.

**(i) Is there a better way to manage the crowns asset?**

The alignment and the integration of crown assets into the Masterplans for community precincts developed by the local authority would be a good starting point. Currently the Councils and Crown Lands struggle with the management of Crown assets and Council land or assets, under two different systems (determined by the Crown Lands Act and Local Government Act), even though the assets adjoin each other. There are also a number of examples in Byron Shire where although land is one reserve area, the management of the land is undertaken by Council and a Trust that is not Council. This causes confusion to the community.

The Crown Lands White Paper included the transfer of land to Councils where agreement could be reached. This was supported by Council. One system for the management of community land not based on the type of land tenure would improve the management of this land for the benefit of the local community as well as visitors to those communities.

**(j) What community consultation should take place prior to the sale of any crown land parcel?**

This should again be based on a case by case basis with minimum standards clearly defined and to include public notification and a submission period.

This process may need to exempt Crown Land transferred to local Councils under a White Paper process, which should be the subject of a separate defined process.

Crown Land transferred to Councils under a White Paper process should then be subject to the Policy of the Council for Land Disposal and the legislative framework of the Local Government Act.



## **Supplementary Questions**

### **Inquiry into Crown Land Questions for all Local Councils**

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**2. How do you ensure local indigenous communities are consulted during the development of a Plan of Management?**

The framework for consultation should be developed in consultation with the local indigenous communities within each area.

The development of a Memorandum of Understanding or Terms of Reference for communication and/or engagement processes, could be used as the basis for determining the minimum the consultation process, and the matters on which local indigenous communities should be consulted.

This framework has been developed by Byron Shire Council with the Arakwal Corporation through a Memorandum of Understanding. Council is also seeking to develop consultation processes with the Land Councils that operate within the Shire, although the framework for the consultation process will be dependent on the discussions with each group.

**3. How do you identify and protect sites with indigenous importance on Crown Land?**

Council seeks to consult with the Corporation or Land Council that represents the effected local indigenous community in the planning processes that relate to Crown Land.

Council in working with local indigenous communities is aware of the protections that exist under State Government Legislation and the sites that have been identified.

Council though, through a number of cultural programs and cultural heritage projects and studies, is seeking to work with the local indigenous communities to identify other sites, including any culturally significant sites on Crown Land. The success of these projects in identifying new or potential locations is dependent on the success of the relationships developed through the frameworks detailed in question 2.