ESPLANADE MANAGEMENT POLICY

Malcolm Robertson: 1/59/13-01: #3661849

RECOMMENDATION:

It is recommended that Council adopts the revised Esplanade Management Policy: 1:06:03.

INTRODUCTION:

On redevelopment of the Cairns Esplanade in 2003 it was deemed necessary to implement an appropriate management system to ensure the effective and efficient management of activities and events within this reserve area. The Esplanade Management Policy was subsequently developed to assist Council in its endeavours to optimise sustainable public use and enjoyment of the Esplanade Parklands, while ensuring the areas are well maintained and the impact on local residents and businesses is managed.

This report seeks to update the Esplanade Management Policy (the Policy).

BACKGROUND:

Council resolved in March 2003 to adopt the Esplanade Management Policy 1:03:15 for the newly developed Cairns Esplanade. In 2007 a wide range of operational details and processes were been removed from The Policy document to allow greater clarity.

The Esplanade area issues Local Law licence for on average 60 regulated activities per month. These licences vary from Busking and Photography licences, to exclusive use hires and major public events. The Inner City Facilities unit have developed comprehensive guidelines relating to venue hire.

COMMENT:

There are four key changes recommended to the current Policy. These are each explained below.

Local Law References

Widespread references to Council Local Laws have been removed from the Policy. The Policy document now focuses on the intent of the Cairns Esplanade Management Plan 2003 and the 2005 Cairns Esplanade North Parklands Secondary Use Management Plan. Management of the Reserve will remain through Council Local Laws and will be informed through the strategic direction provided in the Policy.
Lagoon opening hours
Lagoon opening hours are recommended to be adjusted. Current opening hours are;

- Summer (Oct-Mar) 6.00am-10.00pm
- Winter (Apr-Sept) 7.00am-9.00pm

The seasonal change in hours causes problems for regular users every year as Active Living program times are changed to suit Lagoon and amenities opening times. During winter months the start time of Active Living classes needs to be moved to 7:00am rather than 6:30am due to the Lagoon and amenities remaining closed. This change means many people cannot complete the class before work and there is confusion twice a year when programs change.

Early morning and late evening Lagoon use is proportionally low. Actual swimmers numbers are recorded every two hours, with daily averages at 9am and 9pm are shown below. The 9am figures are boosted by twice weekly morning Aquarobics classes that see average attendances of around 70 - 90 per class.

It is proposed that for simplicity the opening hours be changed to;

- 6.00 am to 9.00pm, Thursday to Tuesday including public holidays

The Policy also recognises the weekly programmed shutdown of the Esplanade lagoon to allow for maintenance activities, with Wednesday opening hours being;

- 12 noon to 9:00pm Wednesdays (programmed maintenance in morning)

A single range of hours will be easier to promote and for regular users to understand. A flow on will be a saving of around 180 hours of Lifeguard hire, equating to around $6400 per annum.

Commercial Food Outlets
Areas on Cairns Esplanade available for commercial activities are subject to the provisions of the Land Act 1994 and State Policies and Guidelines associated with the Land Act 1994, relevant to Trust Land.
During the Public Consultation behind the redevelopment of the Esplanade and creation of the Esplanade Management Plan, the sensitivity of local traders to any food outlets on the Reserve Land was highlighted. All submissions to Council at that time had reference to this issue.

There are a large number of food service facilities in close proximity to the Western Lagoon Parklands, including;

- 23 restaurant and takeaway outlets within 100m of the location on Cairns Esplanade
- Council’s leased café facility at the Lagoon
- Multiple food outlets in wider proximity such as Shield Street, Aplin Street and the Pier complex

Businesses along the Esplanade strip pay premium rates because of the location adjacent to the redeveloped Esplanade and Lagoon. There is a core expectation, derived in part from the original public consultation, that they will reap benefit from the increased usage of the Lagoon Parklands and that this is recompense for the higher rates levied. To allow itinerant traders to take the profits when events or activities are carried out in this area is a major point of contention, exacerbated by the current downturn in the economy.

Due to the availability of so many permanent food outlets in close proximity, it is considered that there is no identified need for additional temporary food outlets on the Western Lagoon Parklands. An informal restriction on food vans within this area has been trialled since 2010. Where community groups require food within their event, they are directed to either the Eastern Lagoon parklands, or Fogarty Park. These venues are not immediately adjacent to the main restaurant / takeaway strip and therefore any impact, perceived or real, is much reduced.

Where a commercial event is being held in the Western Lagoon Parklands with exclusive use and paid ticketed access, food and beverage supply will still be approved as a condition of licence. There is minimal impact in these instances as attendees generally have restricted ability to enter and leave the event.

Many community event organisers consider food provision through a licensed food van to be an essential element of their event. There are limited numbers of licensed food vans in Cairns and the products they sell are already available as takeaway within the Esplanade strip. When an event planner requires food service within a public event and require the Western Lagoon Parklands, they are requested in the first instance to formally approach the food service businesses along the Esplanade strip seeking their active involvement in the event.

Where an event held in the Western Lagoon Parklands is open to the public, consideration of impacts upon neighbouring businesses will be required prior to any approval. Only in the following instances will temporary food vans be approved for events on the Western Lagoon Parklands;

- The food service must be unique and not directly compete with any existing Esplanade businesses
- The food service must be culturally significant to a community event
- Event attendances will exceed the capacity of existing food service businesses
Delegated approval for events

Current Policy has a tiered approval delegation around events, based on anticipated attendances. The Inner City Facilities Manager has delegation to approve events anticipated to attract less than 2500 people. Branch Manager has delegation to approve events from 2500 to 5,000 and Council Resolution is required to approve events anticipated to attract over 5,000.

Approval based on attendance numbers does not necessarily provide a good measure of the potential impact to Council or the community. The Esplanade commonly hosts casual attendances over 2500. At peak season the Lagoon may have up to 500 bathers in the water alone. Average annual attendances for the Esplanade are around 4,000 people per day.

Attendances are also difficult to quantify in advance and impacts will vary according to event programs. A community festival may attract a maximum of 1500 people at any given time, but over the course of a day the total attendance may be closer to 10,000. A small concert with attendance of 1500 people has potentially greater impact.

The Inner City Facilities unit have comprehensive planning processes and stakeholder networks in place that have demonstrated to effectively manage events of all sizes. Experience has shown that appropriate planning will ensure minimal impact from events, be they for 50 or 5,000 people. It is proposed that CEO delegation allow the Branch Manager to approve events on the Esplanade, anticipated to attract over 2,500 attendees.

The one area where Council needs a higher degree of caution in event management is through the management of noise and specifically noise from outdoor concert events. Council Local Laws now include provisions to regulate outdoor concert noise volumes on Cairns Esplanade and stakeholders in the Esplanade precinct are accepting of Fogarty Park as an outdoor entertainment venue.

Outdoor concerts on Cairns Esplanade are currently restricted to no later than 10pm at night. Any decision to extend a concert beyond this time has potential to impact a wide number of accommodation houses in close proximity and cannot be taken lightly. It is proposed that any decision to extend an outdoor concert later than 10pm will require specific Council resolution. The only exception to this is the annual New Year’s Eve concert on Cairns Esplanade, which will receive ongoing approval under resolution adopting this Policy.

**CONSIDERATIONS:**

Corporate and Operational Plans:

The proposed resolution meets the requirement of Corporate Plan outcome 6.4 to “Provide a diverse range of sport and recreation opportunities for the residents of and visitors to Cairns in a manner that maximises the health, social, cultural and economic community benefits achieved for resources invested”
Statutory:

The Cairns Esplanade is Trust land in accordance with the provisions of the Land Act 1994. Applications for approval under Local Law Licence constitute a secondary use and enjoyment of the Esplanade Parklands, while ensuring the areas are well maintained and the impact on local residents and businesses is managed.

Policy:


Financial and Risk:

Cairns Regional Council acquires 100% of income received for any secondary use commercial activities as part of the Esplanade operations budget, so that the income is attributable to maintenance of the Trustee reserve.

Sustainability:

Appropriate management of venue usage will assist in ensuring the maximum life of recreational assets and resources.

Enhancing Community Health and Wellbeing
The activity includes actions that will provide access to services for all members of the community.

Delivering Sound Governance and Economic Management
The activity is within budget and meets the scope defined in the Operational Plan. The activity will, wherever possible, use materials that are sourced, grown and/or manufactured in North Queensland.

CONSULTATION:

Regular feedback from customers, traders and facility users is sought by Council and this consultation has informed the proposed changes to the Policy.
OPTIONS:

It is recommended that Council resolve to adopt the revised Esplanade Management Policy: 1:06:03.

CONCLUSION:

The revised Esplanade Management Policy more accurately reflects the original intent of the Cairns Esplanade Management Plan and will provide strategic oversight to the management of the Esplanade Reserve.

ATTACHMENTS:

Attachment 1 - #608209v4 – Draft revised General Policy number 1:06:03 – Esplanade Management Policy
Attachment 2 - #1146375 – Original General Policy number 1:06:03 – Esplanade Management Policy

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Brett Spencer
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ATTACHMENT 1: Draft revised General Policy 1:06:03 – Esplanade Management Policy

CAIRNS REGIONAL COUNCIL

NO.1:06:03

General Policy

ESPLANADE MANAGEMENT POLICY

Intent

a) To recognise the responsibilities of Council for the maintenance and management of the Esplanade Reserve Trust Lands in accordance with the requirements of the Land Act 1994 and Land Regulation 2009.

b) To recognise the goals of the Cairns Esplanade Land Management Plan to create a public open space and recreational area along the Cairns Esplanade which:
   • Encourages passive recreation
   • Complements neighbouring development and land uses’
   • Is widely used by residents and visitors
   • Enhances foreshore amenity
   • Is appropriate for cultural and natural values
   • Enjoys widespread support from the Cairns Community
   • Is environmentally sustainable

c) To recognise the Indigenous Land Use Agreements in place, and the traditional owners of Cairns Esplanade.

Core Objectives

a) To showcase Council’s commitment to the areas of environment, healthy lifestyle, culture and regional development.

b) To provide a significant open space area and casual recreational facilities for the Cairns community.

c) To provide safe, and secure and well maintained facilities for all those who visit the Esplanade parklands and lagoon;

d) To provide effective and efficient management and regulation of activities on the Cairns Esplanade with consideration of impacts to neighbouring businesses and residents;

e) To encourage sustainable public use and enjoyment of this precinct for passive recreation through provision of a wide range of recreational and cultural experiences for residents and visitors to the region.

f) To establish a Fees & Charges Structure to enable Council to both recover operating costs associated with activities and to assist with regulation of activities whilst enabling community events and activities.

Scope

This Policy applies to the lands contained within the Cairns Esplanade Reserve.

The Esplanade Reserves provide linkage and connectivity between the waterfront, the City and other neighbouring recreational and environmentally sensitive areas such as
the North Cairns Sports Precinct, Airport Mangrove Boardwalk, Botanic Gardens, Centenary Lakes, Tanks Arts Centre, Cairns Central Swamp and Cityport area. Consideration of these linkages and connectivity will be taken with any decision regarding Cairns Esplanade reserves.

Provisions

1) Authorities

Council delegates to the Chief Executive Officer the authority to ensure that the Cairns Esplanade and all activities associated with it are managed in accordance with this General Policy, while remaining within the budgetary limits established by the Council each year.

The Chief Executive Officer shall delegate responsibility for the overall management of the Cairns Esplanade to the Inner City Facilities Manager with the exception that events anticipated to attract more than 2500 participants be approved by the Manager Parks & Leisure. The delegation to the Inner City Facilities Manager shall include the responsibility for the Cairns Esplanade programming strategy and management of the Cairns Esplanade budget.

Notwithstanding the above, the Council may, by resolution, make decisions on the operations of the Cairns Esplanade. Only the Council by resolution can approve the conduct of an Open Air Concert later than 10pm. The only exception will be the annual New Year’s Eve concert that is approved through until midnight.

2) Approved Primary Use activities

The following Primary Use activities are associated with the reserve to allow opportunity to showcase the natural and cultural heritage setting:

- Public education, information and interpret displays and events
- Natural and Cultural Heritage tours
- Public Art and Landscape Installations
- Natural and Cultural Environment and Public Areas management and administration

The following uses have been determined to be ancillary and incidental to the creation of high quality parklands and swimming lagoon for recreational purposes:

- Aquatic Activities including water play, swimming life saving and special aquatic demonstration events.

The following uses provide opportunity to celebrate the diversity of the Cairns community and to provide accessible entertainment to locals and visitors:

- Outdoor Recreation and Entertainment
- Promotional Activities and Displays associated with the community purposes for which the Reserve is used
- Community Celebrations, Festivals and Markets
- Temporary uses pursuant to Cairns Plan and subject to provisions of the Land Act 1994 and State Policies and Guidelines associated with the Land Act 1994

The following uses ensure the safety and security of users of the parklands and facilities:

- Public Policing and Security Administration.

The following uses are considered ancillary and incidental to the creation of high quality parkland used for recreational purposes:

- Recreation Displays, Demonstrations and Events
Approval of food service relative to community celebrations, festival or events must consider impacts on existing businesses in close proximity. The Lagoon Western Events lawn is in immediate proximity to large numbers of food service providers. The following points must be satisfied prior to any approval of temporary public food outlets on the Lagoon Western Events lawn:

- The food service must be unique and not directly compete with any existing Esplanade businesses
- The food service must be culturally significant to a community event
- Event attendances will exceed the capacity of existing food service businesses

3) Approved Secondary Use activities

The following secondary use activities are considered consistent with the recreational and public entertainment function of the reserve;

- Recreation Displays, Demonstrations and Events where a service or entry fee may be charged and is open to the public
- Recreational Equipment Hire, with all equipment to be removed from the site daily
- Aquatic Activities such as dive and snorkel instruction, learn to swim classes or aqua aerobics where a fee for tuition is charged
- Filming and Media Activities which do not involve exclusive use of any part of the reserve and which are short term in nature
- Outdoor recreation and Entertainment where a fee may be charged and is open to the public

4) Prescribed Activities

Council Local Law 1 (Administration) authorised the approval process for a number of prescribed activities requiring Council approval and consideration with regards to Local Laws. The Cairns Esplanade is Trust land in accordance with the provisions of the Land Act 1994. Applications for approval under Local Law Licence constitute a secondary use trustee permit under the Land Act 1994.

Uses or activities not mentioned within the Cairns Esplanade Land Management Plan or 2005 Cairns Esplanade North Parklands Secondary Use Management Plan will require approval under the Land Act 1994.

5) Fees and Charges

Except where Cairns Regional Council has resolved to reduce or waive a fee, Fees are payable for all prescribed events and activities carried out on the Cairns Esplanade. Fees are calculated annually on a “Full Cost Recovery” basis and determined by Council Resolution.

To assist in facilitating Community use of facilities, Council has determined that Council’s Fees and Charges for venue hire will be subsidised according to the following definitions:

**Category A - Commercial Use – Full Cost Recovery to be paid**

Any event or activity which is exclusive and/or tickets are purchased for entry. If a commercial activity is undertaken for private or corporate gain it will attract a Category A rating.

**Category B – Private Use – 50% Subsidy on Full Cost Recovery**

Community based or private events or activities that are not exclusive and/or have little or no income generating capacity. They may possess commercial features such as advertising and or promotions (e.g. a trade show)
Category C – Charities, Not for Profit Organisations & Cairns Regional Council – 75% subsidy on Full Cost Recovery.
Community based events coordinated by a registered charity or not for profit organisation that are marketed to a broad section of the community. Events and activities organised by Cairns Regional Council.

6) Esplanade Opening Hours
The Cairns Esplanade Lagoon will remain open to the public for the following hours;
- 6.00 am to 9.00 pm, Thursday to Tuesday including public holidays
- 12 noon to 9:00pm Wednesdays
Periodic closure of the Esplanade Lagoon to allow for programmed maintenance works to be carried will occur on a biennial basis. Signage indicating closure periods will be erected on site.

Muddy’s Regional Playground will remain open to the public from 9.00am until 7.00pm, Monday to Sunday including public holidays. Periodic closure of sections of the playground will occur between 9.00am and 11.00am on Tuesdays and Thursdays to allow for programmed maintenance works to be carried out. Signage indicating closure periods will be erected on site.

Other sections of Cairns Esplanade may be closed to the public for programmed maintenance as required. Signage indicating closure periods will be erected on site.

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This policy is to remain in force until otherwise determined by Council.

General Manager Responsible for Review: General Manager Community & Cultural Services

ORIGINALLY ADOPTED: 27/03/2003
CURRENT ADOPTION:
DUE FOR REVISION:
REVOKED/SUPERSEDED:
ESPLANADE MANAGEMENT POLICY

Intent

a) To provide a safe and secure facility for all those who visit the Esplanade parklands and lagoon;

b) To provide effective and efficient management of activities on the Cairns Esplanade;

c) To optimise public use and enjoyment of this precinct;

d) To regulate the use of areas along the Esplanade, ensuring the areas are well maintained;

e) To manage the impact of activities on local businesses and residents along the Esplanade; and

f) To establish a Fees & Charges Structure to enable Council to recover operating costs associated with activities.

Scope Cairns Esplanade

PROVISIONS

1. Regulated Activities

Regulated activities are detailed within section 29 of the Esplanade Local Law 2004. Regulated activities include but are not limited to the following:

- A public performance whether amplified or not;
- Events or activities which are attended by more than 50 people;
- The serving of food to a private gathering of more than 50 people;
- The selling of food or drinks to any number of people;
- The selling of any hand made crafts or merchandise (markets);
- Consumption of alcoholic beverages;
- Exclusive use of an area;
- Displays or distribution of information or product;
- Community parades and marches;
- Sporting events;
- Media promotions;
- Fireworks;
- Spruiking;
- Wedding Ceremonies; and
- Busking.
All regulated activities require Council approval and will be considered with regards to Local Laws. The Cairns Esplanade is Trust land in accordance with the provisions of the Land Act 1994. Applications for approval under Local Law Licence constitute a secondary use trustee permit under the Land Act 1994.

Uses or activities not mentioned within sections 29(1) or 29(3) of the Esplanade Local Law 2004 will require approval under the Land Act 1994

2. **Cairns Regional Council**

Only the Council by resolution can approve the conduct of a Regulated Activity reasonably expected to:-
- attract more than 5,000 people; or
- include an Open Air Concert later than 10pm; or
- extend outside the hours of 8am to 10pm on any day.

3. **Manager of Cultural Services & Facilities**

The Manager of Cultural Services & Facilities can approve the conduct of a Regulated Activity not falling under Section 2 and which is reasonably expected to:-
- attract more than 2500 persons; or

4. **Inner City Facilities Manager**

The Inner City Facilities Manager can approve the conduct of a Regulated Activity that does not fall within Sections 2 and 3, and which is reasonably expected to attract fewer than 2500 people.

5. **Event/Activity Categorisation**

For the purpose of the application of Council’s Fees and Charges Schedule the events and activities are categorised as follows:

**Category A - Commercial Use**
Any event or activity which is exclusive and/or tickets are purchased for entry. If a commercial activity is undertaken for private or corporate gain it will attract a Category A rating.

**Category B – Private Use**
Community based or private events or activities that are not exclusive and/or have little or no income generating capacity. They may possess commercial features such as advertising and or promotions (eg. a trade show).

**Category C – Charities & Cairns Regional Council**
Community based events coordinated by a registered charity organisation that are marketed to a broad section of the community. Events and activities organised by Cairns Regional Council.
6. **Fees and Charges Schedule**

Except where Cairns Regional Council has resolved to reduce or waive a fee, Hiring Fees are payable for all events and activities carried out on the Esplanade.

The Hiring Fee is comprised of an *Application Fee* and *Venue Hire and Service Charges*... An application is constituted by receipt of the appropriate completed form, and receipt of application fees and charges. Once an application has been assessed, a quote for service will be supplied outlining the terms and conditions of Licence, and all applicable fees and charges relating to the venue hire.

All fees and charges for Venue Hire and required services must be paid to Council at least fourteen days prior to the event. If all fees are not received by the Council fourteen days prior to the event, Licence will not be issued and the event booking may be cancelled. An approval is not valid unless appropriate Licence has been issued.

6.1 Service charges apply to the base venue hire, and to all required materials and services supplied by Council.

6.2 **Security Deposit or Bond** will be resolved annually within Council's Fees and Charges Schedule. Security Deposit or Bond is payable for all Categories of hire other than the following exceptions:

- standard Barbecue hires or private events where
- no alcohol is served and/or
- less than 100 attendees are expected and/or
- no external catering is involved.

6.3 Where an event is conducted by Cairns Regional Council, bond will be taken in the form of an internal works request. In the event that Council has incurred additional expenses associated with non-compliance with the conditions of Licence, the Security Deposit/Bond may be used to make good any damage and/or to recover costs that has occurred to the facility. Any additional costs may be invoiced to the Licence holder after the event or activity.

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This policy is to remain in force until otherwise determined by Council.

**General Manager Responsible for Review:** General Manager
Community & Cultural Services

**ORIGINALLY ADOPTED:** 27/03/2003
**CURRENT ADOPTION:** 22/05/2008
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**REVOKED/SUPERSEDED:**