



# GENERIC COMMUNITY LAND Plan of Management



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## **1. INTRODUCTION**

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The management of open space and recreation areas (parks and reserves) is one of the most important functions of any Council. However, prior to 1993 there were few specific guidelines describing the way in which this land should be managed.

The Local Government Act 1993 introduced new requirements on all Councils to ensure Council owned land is managed appropriately and that the community is actively involved in decisions affecting the management and use of Council owned land.

### **1.1 The Local Government Act 1993**

The Local Government Act 1993, herein referred to as the Act, required Council to take and maintain an inventory of all land owned by Council. This land was then to be classified as either:

1. Community Land, or
2. Operational Land

Community Land was defined for the purposes of the Act to be that land which is set aside for community use, such as parks, sportsgrounds, beaches, community centres and walking tracks. Development and use of this land is subject to strict controls set out in the Act and described in Appendix One. In addition to these controls, any land identified as Community Land during the classification process must be governed by a Plan of Management.

Conversely, Operational Land comprises that land which serves a commercial or operational function (eg. a depot or car park), or land which is being retained for commercial or strategic reasons. The range of controls which apply to Community Land do not apply to the use and management of Operational Land.

In 1998, the Local Government Act 1993 was amended with respect to Community Land. This amendment resulted in the Local Government Amendment (Community Land Management) Act 1998 and subsequently the Local Government (General) Amendment (Community Land Management) Regulation 1999.

Whilst the original Act required Councils to categorise all Community Land as either sportsground, park, natural area or general community use and to prepare a Plan of Management for all Community Land, no further guidelines were provided to assist with the categorisation or management process. The Act, as amended in 1998 has provided Councils with guidelines to ensure all community land is appropriately categorised and managed in accordance with identified management objectives, described in the Act as core objectives.

Community Land must now be categorised as one, or more, of the following:

- Sportsground
- Park
- General Community Use

- Area of Cultural Significance
- Natural Area

Natural Areas must be further categorised as:

- Foreshore
- Bushland
- Wetland
- Escarpment
- Watercourse

Councils are required to review all Community Land categorisations and existing Community Land Plans of Management to ensure compliance with the Amendments by 31 December 2000.

Shoalhaven City Council's Plan of Management, Community Land, Plan No.1, was adopted by Council on 5 September 1995. This document met the requirements of the Local Government Act 1993. However as a result of the amendments to the Act and Council's commitment to the provision of high quality open space both now and in the future, more detailed plans are now being prepared.

## **1.2 What is a Plan of Management?**

A Plan of Management is a document which guides the management of particular categories, or specific areas, of Community Land.

The management orientation of Council's Parks and Recreation Unit is guided by the dominant community values for community land. Identified management issues are considered against stated values, and objectives are then developed to remedy issues of concern.

The series of Plans of Management for Community Land expands upon this theme and in so doing, aims to develop a range of strategies and actions to assist with the improved management of all Community Land.

The Plan of Management may be generic (ie. covering more than one area of Community Land) or specific (covering one area only). The Parks Plan of Management is a generic Plan of Management.

A generic Plan of Management must identify:

- (a) the category of the land;
- (b) the objectives and performance targets of the plan with respect to the land ;
- (c) the means by which Council proposes to achieve the plan's objectives and performance targets and;
- (d) the manner in which Council proposes to assess its performance with respect to the plan's objectives and performance targets.

## **1.3 Land to Which this Plan Applies**

This Plan of Management covers all Community Land categorised by Shoalhaven City Council as Park.

### ***1.3.1 Definition of Park***

The definition of Park is that the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities. The use of these spaces and facilities must be mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others. Within this Plan of Management, the terms park and reserve are used interchangeably.

### ***1.3.2 Crown Land***

Many of Council's parks have been developed on Crown Land. Council manages this land in trust for the Crown, and while it is not classified as Community Land in accordance with the Act, Crown Land which is utilised as a park will be managed in accordance with this Plan of Management. Council will work with the Department of Land & Water Conservation to ensure the appropriate management of the Crown Reserve System.

### ***1.3.3 Dual Classifications and Categorisations***

Some parcels of land may be classified and categorised in more than one way, eg:

- Part Operational Land eg. car park and part Community Land eg. sportsground
- Part Sportsground and Part Natural Area - Bushland;
- Part Natural Area - Bushland and Part Natural Area - Wetland

The Local Government (General) Amendment (Community Land Management) Regulation 1999 states that where more than one category is used to define a portion of Community Land, the plan must clearly identify the land or parts of the land and the separate categories (by a map or otherwise). These are provided in Appendix Two.

In some cases, a reserve has not been given a dual categorisation, even though there are elements of another category present on the reserve. This may be due to the fact that the areas are small and fragmented. For example, many sportsgrounds contain areas of parkland, and many parks are situated along foreshores.

It is therefore appropriate that Council retains sufficient flexibility in its approach to the management of these areas. In the case of the above examples, the option to manage and develop those areas in accordance with community need is retained. This will facilitate future development of park facilities on sportsgrounds, or the protection of foreshore vegetation to buffer an erosion threat to a park.

### ***1.3.4 Schedule of Land***

A Schedule of Land is attached which identifies all land categorised as Park and managed in accordance with this Plan of Management. This Schedule may be added to or changed over time in accordance with the Local Government Act 1993 and Amendments.

## **1.4 Community Consultation**

Effective community consultation and community input is essential to ensure that a Plan of Management meets the needs of the local community and has the support of the local community at the implementation stage.

This Plan of Management has been developed using the results of research recently undertaken by Council, such as the Shoalhaven Recreation Study (1997) and the Community Survey (1999) as well as Council's regular contact with Parkcare groups and the community regarding park management matters.

The draft Parks Plan of Management was advertised to the community and exhibited for a period of 28 days with an additional fourteen (14) day submission period provided.

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## **2. BASIS FOR MANAGEMENT**

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Proper management of parks in the Shoalhaven requires consideration and integration of a number of factors. These include the core objectives for park management as specified in the Act, identified community values and the range of legislation and policy which has been developed at Federal, State and local level to guide land use and management.

The following summarises the information used as a basis for managing parks in Shoalhaven City.

### **2.1 Core Objectives for Parks**

The Local Government Act, in an effort to ensure the appropriate and sustainable management of Community Land, identified core objectives for each category of Community Land.

The core objectives for management of community land categorised as Park are:

- to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and
- to provide for passive recreational activities or pastimes and for the casual playing of games, and
- to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

### **2.2 Community Values**

Adequate consideration of community values is essential when developing a Plan of Management. Community values are the attributes which make something (eg. Parks) important to the community as a whole. Values tend to change little over time and to be broad in nature.

In 1996, Council undertook a Recreation Study to identify community values, needs, expectations and levels of satisfaction with respect to recreation facilities and services in the Shoalhaven. The results of this Study formed the basis of the Shoalhaven Recreation Strategy (1999). The community values for Parks reflected in the Recreation Strategy have been used as a basis for management in this plan.

#### **2.2.1 Social Values**

For hundreds of years, parks have been incorporated in the design of residential and urban settlements. The planned inclusion of parks in urban design over this time demonstrates how integral parks are to the quality of life which is experienced by the community they serve.

Parks provide a sense of spatial relief in built up environments, they provide opportunities for socialisation (for all age groups) and contribute to the local identity of an area. For example, Nowra is well known for its “water feature parks”.

### **2.2.2 Recreational Values**

Recreation is becoming an increasingly important value for individuals and the wider community as people are realising the benefits of recreation in achieving quality of life. One of the most important functions of parks is to provide recreation opportunities to the community.

The recreational value of parks is enhanced when a broad range of high quality opportunities are provided, which are capable of meeting the needs of the majority of the population. These opportunities include physical activity, relaxation, solitude and socialisation depending on the individual nature of the park, and the needs of the individual.

### **2.2.3 Health Values**

Parks contribute to the health and well being of the community. The provision of open space and expanses of vegetation improve air and water quality and provide a visual relief from developed environments.

Particularly in areas where there is high housing density and small allotment sizes, parks provide an opportunity to enjoy the outdoors in a safe and stimulating environment. The presence of play equipment, walking trails and the like also allow for the community to participate in locally based, no-cost physical activity.

### **2.2.4 Environmental Values**

Parks make up a significant proportion of the Shoalhaven's reserve network and as such, are valued highly by the community for the open space they offer and for the functions this space performs. As previously mentioned, the presence of parks and the associated vegetation allows for improvements to air and water quality. Parks also provide habitat for native wildlife and allow for the protection of biodiversity. When parks are developed within a connective open space system, they can also act as wildlife corridors which are essential to maintain the genetic biodiversity of native flora and fauna.

The preservation and enhancement of these areas is of paramount importance in maintaining the lifestyle enjoyed in the Shoalhaven.

### **2.2.5 Economic Values**

The economy of the Shoalhaven is particularly dependent on tourism. Tourism NSW states that the Shoalhaven is the second most popular tourist destination in the state (after Sydney). In 1999, it was estimated that the direct expenditure of tourists in the Shoalhaven was \$250 million. Much of this visitation and expenditure is based on the natural environmental beauty of the Shoalhaven and the diverse range of recreational opportunities this environment provides.

Due to their location and the diverse range of recreational opportunities available, parks are extremely popular with visitors to the Shoalhaven. The economic value of well appointed and maintained parks is integral to the overall economy of the area.

### **2.3 Legislative and Policy Framework**

In addition to the requirements of the Local Government Act 1993 and Amendments, this Plan of Management must comply with all other relevant legislation and policy, across all three levels of government.

Examples of other legislation and policy which must be taken into account include The Environmental Planning and Assessment Act 1979, State Environmental Planning Policies, Crown Lands Act 1989, Native Vegetation Conservation Act 1997 and the Shoalhaven Local Environment Plan 1985. A description of these, and other relevant legislation and policy, is provided in Appendix One.

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## **3. MANAGEMENT FRAMEWORK**

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### **3.1 The Current Situation**

Parks are an important and visual part of the services Council offers to the community. Open space is defined as a park if the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities. The use of these spaces and facilities must be mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.

At present Council manages over 600 parks which are diverse in location, use, style of management and in the level and type of facilities offered. In some cases, high quality playgrounds or picnic facilities are not complemented by the necessary level and type of ancillary facilities, such as car parks or toilet blocks. In other cases, parks which are well located and heavily used, have not been designed to cater for the level and nature of use they receive. Council is committed to the provision of a range of parks across the Shoalhaven which can meet the wide variety of existing, and future, community needs and expectations.

### **3.2 Issues**

Issues have the potential to challenge the core objectives and community values which form the basis of how parks should be managed. To date, issues with regard to the appropriate management of parks have been identified as follows.

#### ***3.2.1 Community Involvement***

The local community has always been actively involved in the management of parks particularly in those which are adjacent to residential properties or are of a high profile nature. For example, the various Service Club parks which are situated throughout the City, are developed and maintained in partnership between the Service Clubs and Council.

There are many benefits to be gained by fostering a sense of community ownership of parks. This has application across all categories of park but has special significance for Local Parks. Due to the large numbers of Local Parks and their relative profile, input from the community via a partnership arrangement with Council can significantly improve the appearance and amenity value of specific parks. Partnership arrangements in all categories of park are of interest to Council and operate very successfully for bushland reserves through the Shoalhaven Bushcare program and for Sportsgrounds through Management and Ground Committees. A Parkcare program has commenced to replicate the success of the Bushcare program. Volunteer input shall be developed and coordinated to enable community input to the management of the parks system.

Community ownership of parks should also be promoted through consultation when significant changes to a park are planned. Any proposal to vary a park in a way which could impact on the neighbouring community, shall be the subject of consultation. This consultation should take place prior to design but following some advance planning so that community discussions have some

focus. Follow-up discussions should take place when the detailed design is prepared.

### **3.2.2 Provision of a range of opportunities**

The primary function of parks is to cater for the recreational needs of people of all ages. This plan provides guidelines to ensure that these needs are met and, in particular, to ensure the provision of high quality recreational facilities and an attractive visual amenity while maximising usage of parks by residents and visitors to the Shoalhaven.

Shoalhaven's parks typically provide a variety of opportunities for passive recreation. These include children's playgrounds, picnic facilities, seating for rest and relaxation and open space for free-form play. However, parks are suitable for a wider range of recreational development, including bike tracks, skate parks, fitness equipment and other facilities for unstructured, active recreation. Any significant development on parks, such as skate parks will be the subject of a detailed site assessment and community consultation, and shall be determined by a Development Application

The *Shoalhaven Recreation Study - Summary of Findings* (1997) showed that use of parks by the community was second only to restaurants, and equal to library patronage with 58% of respondents using a facility within the previous six months. The importance of parks to respondents was clearly stated with 67% rating the facility as important to them.

However, the results show a gap between the perceived importance and performance of parks. Only 14% rated parks as 'good or very good'. Fifty-six percent of respondents wanted parks improved with upgraded or new facilities.

Most residents enjoy proximity to recreational open space. However, the Recreation Study showed that facilities need to better reflect the requirements and expectations of residents through improved maintenance and upgraded facilities. Opportunities to develop a range of new facilities, as local needs are identified should continue.

### **3.2.3 Distribution**

Parks should be evenly distributed throughout the city and ensure that in their distribution, the wide range of park sizes, facilities, opportunities and environments are addressed.

The evolution of the parks network has produced various levels of service and facility provision. Effective planning for these resources requires categorisation of all open spaces and the prescription of maintenance levels, quality and quantity of play equipment and landscaping standards. The aim is to ensure equity in the provision of quality facilities throughout the Shoalhaven.

The range of parks in the Shoalhaven are identified as either:

1. *Regional Parks* – strategically located, intensively developed venues for unstructured recreation. These are the ‘flagship’ parks which offer the widest range of recreation opportunities at the highest standard.
2. *District Parks* – parks of a substantial size which are well developed and offer a broad range of quality recreation opportunities. These parks are distributed throughout the Shoalhaven and receive a high degree of visitation from residents and visitors.
3. *Local Parks* – small parks which have been designed primarily to meet the needs of local residents. Local parks are located within residential areas and are designed to offer recreational opportunities for a small catchments only.
4. *Linkages/Buffers* – are generally linear parks which link urban areas and provide pedestrian and wildlife corridors.

#### **3.2.4 Access**

Council’s philosophy in the planning for and development of parks is to ensure that they are strategically located to ensure maximum advantage for the community and are accessible to the whole community, regardless of age, ability or gender.

Access to parks in the Shoalhaven is dependent upon the size and situation of the park. As larger, more developed parks are attractions in themselves, access is often by car, as much as by cycle or foot. As such there is a need to ensure safe and appropriate car parking for vehicles and cycles as well as safe pedestrian and cycle paths linking these parks with residential and commercial centres.

Smaller parks and linkages attract use only from the local area, or as part of a thoroughfare. As such, there is no need to provide car parking. However, ensuring safe cycle and pedestrian access to the parks is essential.

Parks will be more accessible to the community if they are appropriately named and signposted and are included in maps of the local area.

#### **3.2.5 Provision of Facilities**

Council is committed to developing new high quality recreation facilities and also to upgrading and enhancing existing Parks.

To assist in the allocation of resources, determining the minimum level of facility provision and the specifications of these facilities for each category of park, is essential. This should take into consideration planning for a range of facilities, including amenity blocks, play equipment, BBQ’s, shade structures, seating, picnic facilities, garbage bins, bubblers, car parking, signage, landscape treatment and the like.

Improvements to Parks are primarily funded through the Parks and Recreation Capital Works Program. The Parks and Recreation Capital Works Program is the source of funding for other works aimed at enhancing existing parks, or developing new parks, sporting facilities and other recreation developments. The recently developed Passive Recreation Capital Works Planning Process has been designed to ensure a transparent approach to the allocation of these capital works resources to ensure those projects with the greatest need and greatest benefit are the first to be funded. This process requires the active involvement of the community by way of annual needs assessments to ensure precise identification and prioritisation of these projects.

### **3.2.6 Environmental Impacts**

As much parkland is adjacent to land categorised as Natural Area, the unique management requirements of these areas must be recognised, in order to avoid potentially adverse impacts of park management practices and park use on the natural environment. In those cases where a park contains elements which are considered to be environmentally significant (such as a stand of remnant bushland) the areas in question will be managed with reference to the core objectives within the Local Government Act for Natural Areas and the relevant Natural Area sub-categories. Management reference will also be made to the variety of legislation and policy which covers the planning for, management of and use of the natural environment.

Park design and improvement works will take into account the need for water quality control, monitoring of imported soil and materials, management of soil compaction and erosion, stormwater management, the protection of vegetation and habitats and the planting of additional vegetation to improve local amenity, develop wildlife corridors, improve habitat and provide shade.

The principles of Ecologically Sustainable Development guide Council in ensuring that the environment is protected, thus allowing both the present and future communities of the area to use and enjoy parks.

The removal of vegetation to improve views or to provide access is inappropriate and illegal on community land. Where it is apparent that such action has been taken, Council is erecting signage in place of the vandalised vegetation which will remain in place until such time as new vegetation is established on the site.

### **3.2.7 Maintenance**

The maintenance of parks is one of Council's core business areas. In keeping with Council's Service Level Agreement and individual Maintenance Agreements with Management Committees, a minimum requirement has been developed at which each park should be maintained. Maintenance includes mowing, weed removal, irrigation, building/equipment repairs, painting, rubbish collection, addressing acts of vandalism and the like.

Council is concerned with ensuring the safety of all users of Council land. Parks in particular, due to the degree and nature of use they receive, are of increasing management concern. Regular inspections of parks shall be undertaken to address risk management concerns regarding the quality of the

play equipment, safety of built structures, access arrangements and other matters depending on circumstances. The community is encouraged to report any safety concerns immediately to Council to minimise the risk of injury occurring.

### **3.2.8 *Encroachments onto Public Land***

Alienation of public land occurs when local residents encroach on public land to extend gardens, BBQ areas and the like. Sometimes this occurs through extending fencing beyond the actual boundary of a property, by planting gardens within the reserve and/or by mowing beyond property boundaries. Using public land for storage or access is also an encroachment. The effect of this is to restrict public access over public land and/or to create a feeling of trespassing, even when on public land or to limit the amount of public land available for the community to enjoy.

Many residents also use community land to obtain vehicular access to private property. The Local Government Act prohibits the use of community land to provide vehicular access to private property and as such this activity will no longer be permitted.

Encroachments onto public land occur throughout the Shoalhaven and are of considerable concern to Council. Public education and removal of existing encroachments is essential to ensure that all public land is able to be used by the wider community.

### **3.2.9 *Bushfire Mitigation***

Council has a responsibility under the Rural Fires Act, 1997 to 'prevent the occurrence of bushfires on, and to minimise the danger of the spread of bushfires on and from any land vested in or under its control and management'. Additionally, significant natural areas need to be protected from wildfire.

Bushfire management in the Shoalhaven is undertaken according to the Bushfire Risk Management Plan adopted by the Shoalhaven District Bush Fire Management Committee in December 2000.

Generally, bushfire mitigation activities are undertaken on land mapped as Bushfire Prone, although consideration is given to sites that are not mapped as Bushfire Prone but have a history of ignitions.

Council's extensive bushfire mitigation program establishes and maintains firebreaks and Asset Protection Zones on Council managed land to provide a measure of protection to adjacent private assets. These activities are certified under the Bushfire Environmental Assessment Code. Council does not allow maintenance of these zones by members of the public. Appendix Four lists the location and extent of maintenance provided on Community Land under Council's bushfire mitigation program.

Permission to establish Asset Protection Zones for adjoining freehold development on public land will only be granted in exceptional cases, such as proposals involving infill developments or additions to existing developments where no other options are available. Any proposal to establish Asset Protection for new freehold subdivisions on adjoining public land will not be supported.

### ***3.2.10 Foreshore Management***

Foreshore reserves are highly valued for their social, cultural, economic, and environmental attractions. By their very nature, these reserves have a degree of environmental sensitivity as the transition zone between aquatic and terrestrial ecosystems.

All foreshore reserves are public resources under public ownership and are managed by various levels of government. Within the Shoalhaven City Council area, foreshore reserves are described as Council Land (Community Land) or Crown Land (Council as Trust Manager or having a Care, Control and Management responsibility). These reserves adjoin permanent water bodies or intermittent watercourses including oceans, estuaries, lakes, rivers, creeks, watercourses and wetlands.

Recognising the need to guide management of its foreshore reserves, Shoalhaven City Council in June 2004 adopted a Foreshore Reserves Policy. A summary of this policy is provided in Appendix One.

### ***3.2.11 Leases, Licences and Other Estates***

The Local Government Act 1993 contains important restrictions on the ability of Council to grant leases, licences and other estates over Community Land. These requirements are presented in detail in Appendix Three.

Council will ensure Parks are not alienated from their intended purpose by ensuring that any leases, licences and other estates granted on Parks are:

- consistent with the core objectives for Parks,
- in accordance with the purposes listed in the Act

Any application for a lease, licence or other estate on Parks will be the subject of formal notification and community consultation, as outlined in the Local Government Act 1993.

Permits may be granted for short term, or casual use of Parks for a nominal fee. For example, a group or individual may require temporary use of a park.

In accordance with the Regulations, permits will be granted for the following activities:

- a) the playing of a musical instrument, or singing for a fee or reward
- b) engaging in a trade or business
- c) the playing of a lawful game or sport
- d) delivering of a public address
- e) commercial photographic sessions
- f) picnics and private celebrations such as weddings and family gatherings
- g) filming for cinema or television

Council may grant an easement over Community Land for the provision of public utilities or works associated with or ancillary to public utilities, in accordance with the Act. There are no additional requirements within the Act for the granting of these easements.

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## **4. ACTION PLAN**

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Proper identification of management issues is required in order to develop management objectives and strategies which will promote appropriate management and to counter potential or actual negative impacts on the proper functioning of parks.

The Local Government Act requires the Plan of Management to identify objectives and performance targets for the subject land, including specific actions and assessment criteria. Shoalhaven City Council has also defined approximate time frames and responsibilities for the achievement of these objectives.

The action plan that follows sets out a range of management objectives aimed at addressing and ultimately remedying issues of concern.

Issues, objectives, targets, priorities and responsibilities are presented in the form of a matrix. The following explanations will be useful to understand the matrix.

ST	Short Term	1-2 years
MT	Medium Term	3-4 years
LT	Long Term	5+ years
O	Ongoing	
C	Commenced	
CT	Completed	

ACM	Asset Construction & Maintenance
CCS	Corporate and Community Services
CS	City Services
PS	Planning Services
DS	Development Services

Council will have met the objectives of the Plan of Management if all the targets identified are met, within the allocated time frame.

Implementation of this Plan of Management will be reviewed on an annual basis, with a complete review of the plan every five (5) years.

<b>Core Objective 1: To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities</b>				
<b>Objective</b>	<b>Performance Target</b>	<b>Means of Achievement (Action)</b>	<b>Manner of Assessment (Performance Indicator)</b>	<b>Timeframe &amp; Responsibility</b>
To plan for the development of a park network which will meet the needs of existing and future residents and visitors	Completion of a twenty year plan for the development of the parks system	Identify residential growth areas within the City and determine likely population growth	Growth areas identified and documented	ST/ - PS
		Identify land within the City which may be suitable to dispose of or add to the park system	Land identified and prioritised for disposal/acquisition	ST/ - CS/CCS/PS
		Develop a process to allow input into the manner in which public reserves are integrated into new subdivisions	Process developed and implemented	ST – CS/ PS /DS
		Determine which land may be suitable for acquisition using Section 94 funds	Section 94 Plan for Passive Recreation reviewed and adopted	ST- CS / PS
		Develop a plan for the development of the park network in the City	Parks Development Plan completed	MT – CS / PS
To ensure an even distribution of recreation opportunities across the City	Criteria for the distribution of the complete range of parks developed	Develop a parks hierarchy to guide the development and distribution of parks	Parks hierarchy developed, documented and implemented	ST – CS / ACM
		Implement the Parks Development Plan / Section 94 Plan for Passive Recreation	Plan(s) implemented	O – CS / PS / CCS

<b>Core Objective 1: To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities</b>				
<b>Objective</b>	<b>Performance Target</b>	<b>Means of Achievement (Action)</b>	<b>Manner of Assessment (Performance Indicator)</b>	<b>Timeframe &amp; Responsibility</b>
To provide adequate car parking (on and off road), including disabled parking at all parks	Off-road car parking provided and formalised at 10 parks	Develop a plan to prioritise the provision of appropriate car parking at parks	Plan prepared and implemented as funding permits	ST/O - CS
To improve pedestrian/cycle access to parks	Plans developed to improve pedestrian/cycle access parks, including cycle parking	Provide input into Council's Pedestrian Access & Mobility Plan (PAMP) to ensure pedestrian access to district & local parks is considered	Comments provided and incorporated into the PAMP	ST – CS
		Provide input into reviews of the Shoalhaven Bicycle Strategy (1997) to ensure cycle access to district & local parks is considered	Comments provided and incorporated into reviews of the Shoalhaven Bicycle Strategy	O – CS
		Provide bicycle parking within key locations	Plan of key locations developed and implemented as funding permits	MT – CS
To improve access to all parks for people with disabilities	20% of parks include facilities which are accessible to people in wheelchairs/with limited mobility	In consultation with Council's Access Advisory Committee, undertake an audit of all parks to determine what is required to ensure wheelchair accessibility	Audit completed and works list prepared and prioritised	LT – CS
		Provide appropriate facilities to allow people in wheelchairs and/or with limited mobility to use parks	As funding permits, provide accessible facilities	O – CS

<b>Core Objective 1: To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities</b>				
<b>Objective</b>	<b>Performance Target</b>	<b>Means of Achievement (Action)</b>	<b>Manner of Assessment (Performance Indicator)</b>	<b>Timeframe &amp; Responsibility</b>
To improve signage to parks to increase community awareness of their location	All of the Shoalhaven's parks appropriately signposted	Undertake an audit of all parks to determine what signage is required to and within parks	Audit completed and works list prepared and prioritised	LT – CS
		Consider the formal naming of feature parks to improve awareness and promotional opportunities	Suitable parks formally named through the Geographical Names Board	O – CS
		Include the provision of signage at parks within the Parks & Recreation Capital Works budget	Requests for signage considered within budget allocations	O – CS
To ensure the management and use of parks does not negatively impact on the natural environment	No identifiable incidences of environmental damage from park use or maintenance in any given year	Promote community education regarding the need to protect parks and natural processes occurring on parks	Community education program developed and implemented	ST – CS
		Identify areas where vegetation has been removed to extend views or otherwise, replace vegetation and install appropriate signage	Areas revegetated/regenerated and signage installed as appropriate	O – CS / CCS
To reduce the incidence of dumping in Parks	An annual reduction in the sites used for dumping (as identified on Clean Up Australia Day and similar)	Develop a strategy aimed at reducing the amount of illegal dumping which occurs in Parks	Strategy developed, adopted and implemented	O – CS/CCS

<b>Core Objective 2: To provide for passive recreational activities or pastimes and for the casual playing of games</b>				
<b>Objective</b>	<b>Performance Target</b>	<b>Means of Achievement (Action)</b>	<b>Manner of Assessment (Performance Indicator)</b>	<b>Timeframe &amp; Responsibility</b>
To provide a minimum level of facility provision as prescribed for each category of park	50% of the Shoalhaven's Parks to meet the minimum standard of facility provision	Develop a set of Park Enhancement Specifications to detail the level and nature of facilities for each park category	Park Enhancement Specifications developed and adopted	ST – CS
		To continue to provide funding for minor upgrades and major capital developments within parks	Inclusion of Passive Recreation and Minor Works within the Parks & Recreation Capital Works Program	O – Council
		Utilise the Passive Recreation Capital Works Planning Process to guide resource allocation for major works in parks	Passive Recreation Capital Works Planning Process utilised	ST / O – CS
To ensure that all facilities and signage within Parks are coordinated and identifiable as managed by SCC	Council's Reserve Signage Policy and Enhancement Specifications are adhered to	Provide all furniture & equipment in accordance with the Park Enhancement Specifications	Council's Park Enhancement Specifications are adhered to at all times	O – CS / ACM
		Provide signs as prescribed by the reserve signage standard	Council's Reserve Signage Standard is adhered to at all times	O – CS / ACM

<b>Core Objective 3: To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management</b>				
<b>Objective</b>	<b>Performance Target</b>	<b>Means of Achievement (Action)</b>	<b>Manner of Assessment (Performance Indicator)</b>	<b>Timeframe &amp; Responsibility</b>
To encourage community involvement in the upgrading of the Shoalhaven Parks network	Membership of Parkcare Groups increases annually	Develop Draft Guidelines for Incorporating the Principles of ESD into Shoalhaven City Council Activities	Guidelines developed and adopted	ST – PS
		Develop a training program for Parkcare groups/staff to ensure an understanding of all relevant guidelines, standards & codes	Training program developed and regularly implemented	LT – CS
		Develop Parkcare program to include Maintenance Agreements with volunteers for individual parks	Maintenance Agreements are established when a Parkcare group registers	O – CS
		Promote the Parkcare program to ensure all volunteers are provided with appropriate assistance and cover	Parkcare promoted in local media and through local Associations	ST – CS
To eliminate all non-sanctioned encroachments onto community land	No new encroachments onto community land reported and the number of existing encroachments reduced each year	Negotiate with landowners to remove encroachments onto community land	Identified encroachments are removed in co-operation with local landowners	O – CS
To maintain parks to ensure the safety of all users	No reported incidents or accidents occurring in parks as a result of poor maintenance	Conduct regular inspections of parks within each category to ensure all facilities are safe and appropriately maintained in accordance with the Parks Service Level Agreement	Monthly inspections of up between 20 and 30 parks undertaken, including parks from each category and throughout the City	O – CS
		Conduct regular audits of the Council Action Management System (CAMS) reports to ensure all repair work is undertaken	CAMS reports reviewed each quarter	O – CS

<b>Core Objective 3: To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management</b>				
<b>Objective</b>	<b>Performance Target</b>	<b>Means of Achievement (Action)</b>	<b>Manner of Assessment (Performance Indicator)</b>	<b>Timeframe &amp; Responsibility</b>
To ensure that leases and licences over community land are granted in accordance with the Local Government Act 1993 and other relevant legislation and policy	Granting of any lease or licence is consistent with the requirements of the Local Government Act and other relevant legislation and policy	Develop a summary checklist to ensure all applications comply with the relevant sections of the Local Government Act and other relevant legislation and policy	Checklist developed and utilised for all applications	ST – CS/CCS
To ensure that easements over community land are granted in accordance with the Local Government Act 1993 and other relevant legislation and policy	Granting of any easement is consistent with the requirements of the Local Government Act and other relevant legislation and policy	Develop a summary checklist to ensure all applications comply with the relevant sections of the Local Government Act and other relevant legislation and policy	Checklist developed and utilised for all applications	ST – CS/CCS

## LIST OF RELEVANT DATES AND AMENDMENTS

<b>Amendment Number</b>	<b>Adopted For Exhibition</b>	<b>Exhibited</b>	<b>Adopted</b>	<b>Notes</b>
Adopted Plan	27 March 2001	26 April 2001 – 6 June 2001	31 July 2001	
Amendment No. 1	22 October 2002	28 October 2002 – 6 December 2002	17 December 2002	
Amendment No. 2	23 June 2003	9 July 2003 - 15 August 2003	23 September 2003	
Amendment No. 3	19 October 2004	1 November 2004-15 December 2004	25 January 2005	

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## Rodgers, Natasha

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**From:** Aalfs, Diane  
**Sent:** Tuesday, 27 November 2007 09:05  
**To:** IT\_Orders  
**Subject:** FW: Create Adobe document for the attached files that from the Parks Plan of Management

**Attachments:** Appendix Two - UPN83371 Map.doc; Appendix Two - UPN89230 Map.doc; Appendix Two - UPN90471 Map.doc; Park Properties.xls; Parks Cover.pdf; Parks.doc; Appendix One.doc; Appendix Three.doc; Appendix Two - Parks.doc



Appendix Two -  
UPN83371 Map.do...



Appendix Two -  
UPN89230 Map.do...



Appendix Two -  
UPN90471 Map.do...



Park Properties.xls  
(122 KB)



Parks Cover.pdf  
(229 KB)



Parks.doc (188 KB)



Appendix One.doc  
(46 KB)



Appendix  
Three.doc (43 KB)



Appendix Two -  
Parks.doc (19 K...

inal Message-----

From: Harris, James  
Sent: Tuesday, 27 November 2007 8:50 am  
To: IT Helpdesk  
Cc: Schofield, Ailsa  
Subject: Create Adobe document for the attached files that from the Parks Plan of Management

Please format the Adobe document in the following order and forward to me:

Parks Cover.pdf  
Parks.doc  
Park Properties.xls  
Appendix One.doc  
Appendix Two - Parks.doc  
Appendix Two - UPN83371 Map.doc  
Appendix Two - UPN89230 Map.doc  
Appendix Two - UPN90471 Map.doc  
Appendix Three.doc

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



## **APPENDIX ONE - LEGISLATIVE & POLICY FRAMEWORK**

The management of Community Land requires compliance with existing government legislation & policy. The main aspects of current legislation and policy affecting the management of Community Land are outlined below:

### **The Local Government Act, 1993**

The Local Government Act 1993 includes a range of requirements on the management and use of public land.

Council owned land must be classified as either Community Land or Operational Land.

Section 35 of the Act requires that Community Land is used and managed in accordance with the following:

- The Plan of Management applying to the land
- Any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land
- This Division

Section 38 of the Act requires that Council give public notice of a draft Plan of Management. The plan must be exhibited for at least 28 days with a submission period totally 42 days. Any relevant supplementary material must also be exhibited. A public hearing is only required if the Plan of Management proposes that Community Land be re-categorised.

Section 45 of the Act dictates the dealings a Council can have in community land, as follows.

- (1) A Council has no power to sell, exchange or otherwise dispose of Community Land
- (2) A Council may grant a lease or licence of community land, but only in accordance with this Division
- (3) A Council may grant any other estate in community land to the extent permitted by this Division or under the provisions of another Act
- (4) This section does not prevent a Council from selling, exchanging or otherwise disposing of Community Land for the purpose of enabling that land to become, or be added to, a Crown Reserve or to become, or be added to, land that is reserved or dedicated under the National Parks and Wildlife Act 1974.

Sections 46 and 47 of the Act provide clear guidelines for Council with respect to the granting of leases, licences and other estates on community land. This includes permissible uses, means of granting leases, licences and other estates, timeframes and subleases, development and dedication of community land as public road.

The Local Government Act 1993 also considers acts of vandalism in public places (eg. injuring plants and animals or defacing property) and gives Councils the power to establish and enforce alcohol free zones.

## **The Fisheries Management Act, 1994**

Under Section 205 of the Act, the Minister's consent is required for any cutting, removal, damage or destruction of mangroves, seagrasses or any other prescribed marine vegetation on public land.

## **Native Vegetation Conservation Act 1997**

This Act replaces SEPP 46 and incorporates native vegetation clearing controls previously contained in SEPP 46, the Soil Conservation Act 1938, the Western Lands Act 1901, the Crown Lands (Continued Tenures) Act 1989 and the Forestry Act 1916. The Act provides for the development of Regional Vegetation Management Plans by community based Regional Vegetation Committees. Among other things, the plan will highlight areas where the condition of native vegetation should be improved and recommend areas that should be revegetated.

Section 7 provides that a person shall not ringbark, cut down, poison, top lop, remove, injure or otherwise destroy any tree or cause such to be done on any protected land in or within 20 metres of the bed or bank of any part of a river, stream, lake, lagoon or swamp, etc, without prior approval from the Department of Land and Water Conservation.

Protected lands which are identified as prescribed streams in the Shoalhaven are:

- \* Clyde River and 8 tributaries
- \* Coonemia Creek
- \* Croobyar Creek
- \* Crookhaven River
- \* Currumbene Creek
- \* Parma creek
- \* Shoalhaven River and 28 tributaries including
- \* Kangaroo river
- \* Brogers Creek
- \* Broughton Creek
- \* Yalwal Creek
- \* Wandandian Creek

## **National Parks and Wildlife Act, 1974 (as amended)**

The National Parks and Wildlife Act, Part 8A, 118A states that:

- (1) "A person must not buy, sell, or have in possession or control any threatened species or endangered population."
- (2) "A person must not pick any threatened species, population or ecological community, being a plant."

A number of plants & animals, that are not threatened are also protected by the National Parks & wildlife Act.

This applies on community land as well as National Park or Crown land.

## **Threatened Species Conservation Act 1995**

The objectives of this Act are:

- a) *To conserve biological diversity and promote ecologically sustainable development.*
- b) *To prevent the extinction and promote the recovery of threatened species, populations and ecological communities*
- c) *To protect the critical habitat of those threatened species, populations and ecological communities that are endangered*
- d) *To eliminate or manage certain processes that threaten the survival of evolutionary development of threatened species, populations and ecological communities.*
- e) *To ensure that the impact of any action affecting threatened species, populations and ecological communities is properly assessed.*
- f) *To encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management.*

Species Impact Assessments must be written for all proposed new work that is 'likely to significantly affect threatened species, populations or ecological communities or their habitats'.

## **Rural Fires Act 1997**

Section 63(1) states:

"It is the duty of a Public Authority to take the notified steps (if any) and any other practicable steps to prevent the occurrence of bush fires on, and to minimise the spread of a bush fire on or from:

- (a) any land vested in or under its control or management, or
- (b) any highway, road, street, land or thoroughfare, the maintenance of which is charged to the authority."

One of the objects of the Rural Fire Act is to provide "for the protection of the environment by requiring certain activities to be carried out having regard to the priorities of ecologically sustainable development described in Section 6(2) of the Protect of Environment Administration Act 1991"

## **NSW Environmental Planning & Assessment Act 1979**

The EP&A Act has the following objectives:

- to encourage the proper management, development and conservation of natural .. resources ...for the purpose of promoting the social and economic welfare of the community and a better environment
- the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities and their habitats.

### ***Zoning***

Any land use proposed for an area must be consistent with the zoning that is applied to the land by Council's Local Environment Plan.

### ***Environmental assessment***

Environment Assessment must be carried out for any proposed activity or development. Any change in the use of a reserve area requires a development application (DA) and environmental assessment of the proposed activity under Part 4 of the EP&A Act forms part of the DA. A review of environmental Factors (REF) under Part 5 of the EP&A Act must also be written for those proposed activities which do not require development consent.

## **Protection of Environment Operations Act 1997**

This legislation replaces the Clean Air Act 1961, Clean Waters Act 1970, Pollution Control Act 1970, Noise Control Act 1975, and the Environmental Offences and Penalties Act 1989. It is an offence for a person to discharge pollutants to waters unless they hold an environment protection licence.

## **Crown Lands Act, 1989**

Many of the Crown reserves managed by Council have been categorised, for management purposes, as Natural Area. The Crown lands Act requires that Council, in managing this land, must observe environmental protection principles; conserve natural resources (including water, soil, flora, fauna and scenic quality) wherever possible; encourage, where appropriate, multiple use, including public use and enjoyment; and where appropriate, sustain, in perpetuity, the land and its resources. Council must manage the land in the best interests of the people of New South Wales.

## **Water Management Act 2000**

The objects of this Act are to provide for the sustainable and integrated management of the water sources of the State for the benefit of both present and future generations and, in particular:

- (a) to apply the principles of ecologically sustainable development, and
- (b) to protect, enhance and restore water sources, their associated ecosystems, ecological processes and biological diversity and their water quality, and
- (c) to recognise and foster the sufficient social and economic benefits to the State that result from the sustainable and efficient use of water, including:
  - (i) benefits to the environment, and
  - (ii) benefits to urban communities, agriculture, fisheries, industry and recreation, and

- (iii) benefits to culture and heritage, and
- (iv) benefits to the Aboriginal people in relation to their spiritual, social, customary and economic use of the land and water,
- (d) to recognise the role of the community, as a partner with the government, in resolving issues relating to the management of water sources
- (e) to provide for the orderly, efficient and equitable sharing of water from water sources,
- (f) to integrate the management of water sources with the management of other aspects of the environment, including the land, its soil, its native vegetation and its native fauna
- (g) to encourage the sharing of responsibility for the sustainable and efficient use of water between the Government and water users,
- (h) to encourage best practice in the management and use of water

### **Part 3A Protection of Rivers and Lakes (covered under Rivers and Foreshores Improvement Act 1948)**

Protected land – the bank, bed or shore of protected waters; note more that 40m from top of the bank or shore of protected waters; material deposited on or under the above mentioned land.

Protected waters – a river, lake (assoc. with river), coastal lake or lagoon (include. any permanent/temp. channel between a coastal lake or lagoon & the sea).

A permit is required to excavate on, in, under protected land; remove material from protected land; do anything which obstructs/detrimentally affects flow of protected waters (or is likely to do so).

This does not apply to Council. However if the Constructing Authority believes that work conducted by/for Council has

- (a) damaged or detrimentally affected or is likely to damage or detrimentally affect protected land, or
- (b) caused or is likely to cause, whether directly or indirectly, protected waters to contain their course

then they may require Council to undertake specified works in a specified time.

### **Environment Protection and Biodiversity Conservation Act 1999**

This Act provides protection for matters which are considered to be of national environmental significance (NES). Specifically:

- World Heritage properties
- RAMSAR wetlands
- Nationally threatened species and communities
- Internationally protected migratory species
- Commonwealth areas
- Nuclear actions

The EPBC Act establishes a new legislative framework to protect and conserve nationally important aspects of the environment and to conserve biodiversity.

The Act is triggered only if there is a direct action (on-ground) involved, if there is an effect on an NES matter and if the impact is significant.

Should the Act be triggered, all State Government approvals are firstly required before the matter is referred to the Federal Government for final approval.

### **NSW Coastal Policy 1997**

The overriding vision of the 1997 Coastal Policy is the ecological sustainability of the NSW coast. The natural environment of the coastal zone must be protected, rehabilitated, and improved whilst providing for ecologically sustainable development and use of resources, including appropriate public access and use.

### **NSW Wetlands Management Policy 1996**

The NSW Wetlands Policy encourages the management of wetlands so as to halt or, where possible, reverse: loss of wetland vegetation; declining water quality; declining natural productivity; loss of biological diversity; and declining natural flood mitigation.

### **Shoalhaven City Council Recreation Strategy (1999)**

Council adopted a Recreation Strategy in late 1999 which aims to

*“Improve the quality of life in the Shoalhaven by creating a diversity of recreation opportunities whilst protecting and enhancing the natural and built environment”*

The Recreation Strategy identifies a range of actions to meet this goal, based on the following:

The provision of recreation facilities, programs and services is to:

- (a) be based upon an assessment of current and future needs
- (b) be realistic in terms of Council’s (and the community’s) ability to operate and maintain them
- (c) ensure the achievement of equity of opportunity for all individuals and groups within the city, regardless of age, ability, ethnicity or economic capacity
- (d) avoid unnecessary duplication of opportunities
- (e) be based upon efficiency, quality and continuous improvement principles and approaches
- (f) be based upon meaningful community consultation
- (g) incorporate resource sustainability practices and principles
- (h) incorporate best practice risk management processes to reduce public risk
- (i) include the encouragement and support of community and commercial initiatives in the provision and management of recreation opportunities

## **Shoalhaven City Council Policy for the Provision of Local Skateboard Facilities (1999)**

Council adopted a policy in late 1999 to assist local communities in the development of local skateboard facilities.

This policy states that

- (a) a needs assessment will be undertaken by Council before Council commits support to the project,
- (b) Council will only contribute 50% of the cost of the facility (up to \$40,000),
- (c) allocation of resources depends on annual budget allocations,
- (d) in-kind donations will not be accepted for construction
- (e) a total project cost must be determined (this is to include the cost of landscaping, signage, shade, garbage bins and the like).

## **Foreshore Reserves Policy (2004)**

Shoalhaven City Council in June 2004 adopted a Foreshore Reserves Policy. The purpose of this policy is to provide a management framework to guide decision making and to determine how foreshore reserves should be used and managed.

The Foreshore Reserves Policy aims to provide direction and certainty in the future management of foreshore recreational needs as well as for property and environmental protection. The Policy provides a clear outline of Council's role and describes opportunities for community involvement in the appropriate management of these areas in accordance with relevant legislation and policy.

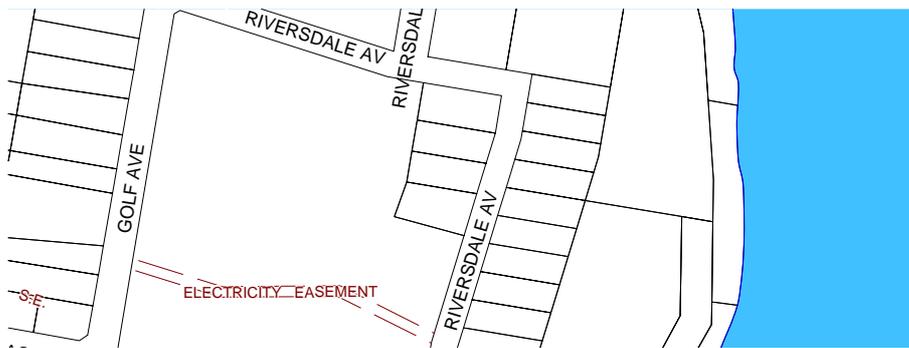
Where anything in this policy conflicts with a Council-adopted specific area Plan of Management, State or Federal policy or legislation, the provisions of the adopted plan, policy or legislation will apply.

## **APPENDIX TWO MAPS OF LAND WITH DUAL CATEGORISATION**

- UPN 83371 (Lot 614 DP 831890 Mollymook)  
Part Park, Part Natural Area – Foreshore
- UPN 89230 (Lot 630 DP 882833 Bomaderry)  
Part Park, Part Natural Area – Bushland
- UPN 90471 (Lot 832 DP 1010509 Bomaderry)  
Part Park, Part Natural Area – Bushland

**Property: UPN 83371 (Lot 614 DP831890 Mollymook)**

**Category: Pt Natural Area – Foreshore, Pt Park**



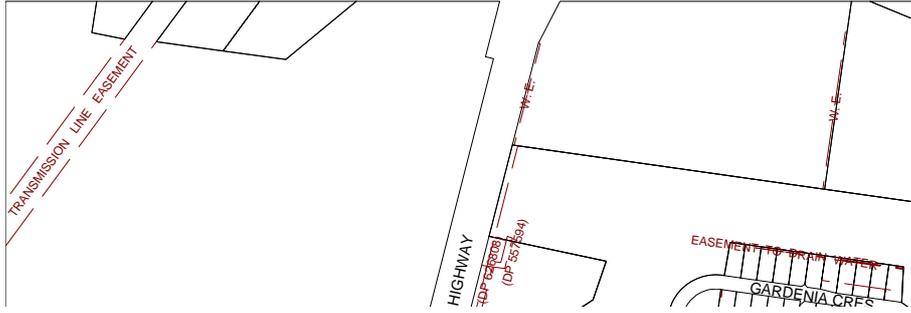
**Property: UPN 89230 (Lot 630 DP 882833 Bomaderry)**

**Category: Pt Natural Area – Bushland, Pt Park**



**Property: UPN 90471 (Lot 832 DP 1010509 Bomaderry)**

**Category: Pt Natural Area – Bushland, Pt Park**



## APPENDIX THREE – LEASES, LICENCES AND OTHER ESTATES

### [s 45] What dealings can Council have in community land?

45 (1) [No power to sell] A council has no power to sell, exchange or otherwise dispose of community land.

(2) [Lease or licence] A council may grant a lease or licence of community land, but only in accordance with this Division.

[subs (2) am Act of 1998 s 3 and sch 1]

(3) [Grants] A council may grant any other estate in community land to the extent permitted by this Division or under the provisions of another Act.

Note: The word estate has a meaning. See the Interpretation Act of 1987, Section 21 (1)

[Note Insrt Act 140 of 1998 s 3 and sch 1]

[subs (3) subst Act 140 of 1998 s 3 and sch 1]

(4) [Reserved or dedicated land] This section does not prevent a council from selling, exchanging or otherwise disposing of community land for the purpose of enabling that land to become, or be added to, a Crown reserve or to be come, or be added to, land that is reserved or dedicated under National Parks and Wildlife Act 1974.

[subs (4) insrt Act 44 of 1994 s2 and sch 2]

### [s 46] Leases, licences and other estates in respect of community land - generally

46 (1) [Requirements] A lease, licence or other estate in respect of community land:

(a) may be granted for the provision of public utilities and work associated with or ancillary to public utilities, or

(b) may be granted, in accordance with express authorisation in the plan of management and such provisions of the plan of management as apply to the granting of the lease, licence or other estate:

(i) for the purpose prescribed by subsection (4), or for the purpose prescribed by any of sections 36E to 36N as a core objective of the categorisation of the land concerned, or

(ii) for a purpose prescribed by the regulations, if the plan of management applies to several areas of community land, or

(iii) for a short-term, casual purpose prescribed by the regulations, or

(iv) for a residential purpose in relation to housing owned by the council, or

(v) for the purpose of providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider that is situated on the community land, but may not otherwise be granted.

(2) [Limitation on purpose] Despite subsection (1), a lease, or licence or other estate in respect of community land may be granted for a purpose mentioned in subsection (1)(b) only if the purpose for which it is granted is consistent with the core objectives, as prescribed in this part of its categorisation.

(3) [Time limit] A council must not grant a lease or licence for a period (including any period for which the lease or licence could be renewed by the exercise of an option) exceeding 21 years.

(4) [Prescribed purposes] The following purposes are prescribed for the purposes of subsection (1)(b)(I):

(a) the provision of goods, services and facilities, and the carrying out of activities, appropriate to the current future needs within the local community and of the wider public in relation to any of the following:

- (i) public recreation
  - (ii) the physical, cultural, social and intellectual welfare or development of persons,
- (b) the provision of public roads

(5) [Purposes included] Purposes prescribed by subsection (4) in relation to the matters mentioned in subsection (4) (a) (ii) included, but are not limited to maternity welfare centres, infant welfare centres, kindergartens, nurseries, child care centres, family day-care centres, surf life saving clubs, restaurants or refreshment kiosks.

(6) [Void] A plan of management is void to the extent that it purports to authorise the grant of a lease, licence or other estate in contravention of this section.

**[s 46A] Means of granting leases, licences and other estates.**

46A (1)[By tender] A plan of management is to specify, in relation to the community land to which it applies, any purpose for which a lease, licence or other estate may be granted only by tender in accordance with Division 1 of Part3.

(2) [No preclusions] Nothing in this section precludes a council from applying a tender process in respect of the grant of any particular lease, licence or estate.

(3) [Over 5 year term] A lease or licence for a term exceeding 5 years may be granted only by tender in accordance with Division 1 of Part3, unless it is granted to a non-profit organisation.

[s 46A insrt Act 140 of 1998 s 3 and sch 1 ]

**[s 47] Leases, licences and other estates in respect of community land - terms greater than 5 years**

47 (1) [Notice] If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must :

- (a) give public notice of the proposal; and
- (b) exhibit notice of the proposal on the land to which the proposal relates; and
- (c) give notice of the proposal to such persons as appear to own or occupy the land adjoining the community land, and
- (d) give notice of the proposal to any other person, appearing to the council to be the owner, occupier of land in the vicinity of the community land, if in the opinion of the council the land is subject to the proposal is likely to form the primary focus of the person's enjoyment of the land.

[subs (2) am Act 140 of 1998 s 3 and sch 1]

(2) [Contents of notice] A notice of the proposal must include:

- information sufficient to identify the community land concerned
- the purpose for which the land will be used under the proposed lease, licence or other estate
- the term of the proposed lease, licence or other estate ( including particulars of any option for renewal)
- the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)
- a statement that submissions in writing may be made to council concerning the proposal within a period, not less than 28 days, specified in the notice.

[subs (1) am Act 140 of 1998 s 3 and sch1]

(3) [Submissions] Any person may make a submission in writing to the council during the period specified for the purpose of the notice.

(4) [Consideration of submissions] Before granting the lease, licence, or other estate the council must consider all submissions duly made to it.

(5) [Minister's consent] If a person makes a submission by way of objection to the proposal, the council must not grant the lease, licence or other estate except with the Minister's consent.

[subs (5) am Act 140 of 1998 s 3 and sch 1]

(6) [Application for consent] If the council applies for the Minister's consent, it must forward with it's application

- a copy of the plan of management of the land
- details of all objections received and a statement setting out, for each objection the council's decision and the reasons for it decision
- a statement setting out the all the facts concerning the proposal to grant the lease, licence or other estate
- a copy of the newspaper notice of the proposal
- a statement setting out the manner in which and the extent to which the public interest would, in the council's opinion, be affected by the granting of the proposed lease, licence or other estate, including the manner in which and the extent to which the needs of the area with respect to the community land would, in the council's opinion, be adversely affected by the granting of the proposed lease, licence or other estate.

[subs (6) am Act 140 of 1998 s 3 and sch 1]

(7) [Director's report] On receipt of the application, the Minister must request the Director of Planning to furnish a report concerning the application within such a period as the Minister specifies.

(8) [Terms and Conditions] After considering the application and any report of the Director of Planning, the Minister, if satisfied that:

- (a) subsections (1), (2) and (6) have been complied with, and
- (b) such consent would not contravene section 46, and
- (c) in all circumstances, it is desirable to grant consent

may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.

[subs (8) subsrt Act 140 of 1998 s 3 and sch 1]

(9) [Statement of reasons] On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to, the granting of a lease, licence or other estate in accordance with subsection (8)

[subs (9) insrt Act 140 of 1998 s 3 and sch ]

(10) [Option for renewal] For the purpose of this section, any provision made by a lease or licence, or by an instrument granting any other estate, in respect of community land, according to which the council:

- (a) would suffer disadvantage or penalty if the same or similar lease, licence or other estate were not to be granted, for a further term, after the expiry date of the current lease, licence or other estate, or
- (b) would enjoy an advantage or benefit if the same or similar lease, licence or other estate were to be so granted,

is taken to confer an option for renewal for a term equal to the further term.

**[s47A] Leases, licences and other estates in respect of community land - terms of 5 years or less**

47A (1) [Applications] This section applies to a lease, licence or other estate in respect of community land granted for a period that (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) does not exceed 5 years, other than a lease, licence or other estate exempted by the regulations.

(2) [Applicable provisions] If a council proposes to grant a lease, licence or other estate to which this section applies:

- (a) the proposal must be notified and exhibited in the manner prescribed by section 47, and
- (b) the provisions of section 47(3) and (4) apply to the proposal, and
- (c) on receipt by the council of a written request from the Minister, the proposal is referred to the Minister, who is to determine whether or not the provisions of section 47(5) - (9) are to apply to the proposal

(3) [Ministerial determination] If the Minister, under subsection (2) (c), determines that the provisions of section 47(5) - (9) are to apply to the proposal:

- (a) the Council, the Minister and the Director of Planning are to deal with the proposal in accordance with the provisions of section 47(1)-(8), and
- (b) section 47(9) has effect with respect to the Minister's consent.

[s 47A insrt Act 140 of 1998 s 3 and sch 1]

**[ s 47B] Lease or licence in respect of natural area**

47B (1) [Restrictions] A lease, licence or other estate must not be granted, in respect of community land categorised as a natural area:

- (a) to authorise the erection or use of a building or structure that is not a building or structure of the kind prescribed by this section, or the regulations, or
- (b) to authorise the erection or use of a building or structure that is not for a purpose prescribed by this section or the regulations

(2) [Void] A lease, licence or instrument granting any other estate is void to the extent that its provisions are inconsistent with this section

(3) [Erection] In this section, erection of a building or structure includes rebuilding or replacement of a building or structure

(4) [Prescribed subs (1)(a)] The following purposes are prescribed for the purposes of subsection (1)(a):

- (a) walkways,
- (b) pathways,
- (c) bridges
- (d) causeways
- (e) observation platforms
- (f) signs.

(5) [Prescribed subs (1)(b)] The following purposes are prescribed for the purposes of subsection (1)(b):

- (a) information kiosks,
- (b) refreshment kiosks (but not restaurants),
- (c) work sheds or storage sites required in connection with the maintenance of the land,
- (d) toilets or restrooms.

[s47B insrt Act 140 of 1998 s 3 and Sch 1]

**[S 47C] Sublease of Community Land**

(1) [Further Restrictions] In addition to any restrictions created by the lease, community land that is the subject of a lease cannot be sublet for a purpose other than:

- (a) the purpose for which, as notified under Section 47(2), the land was to be used under the lease, or
- (b) a purpose prescribed by the regulations.

(2) [Void] A lease is void to the extent that its provisions are inconsistent with this section.

[s47C insrt Act 140 of 1998 s 3 and Sch 1]

**[S 47D] Occupation of Community Land Otherwise than by Lease or Licence**

(1) [Prohibition] The exclusive occupation or exclusive use by any person of community land otherwise than in accordance with:

- (a) a lease, licence or estate to which Section 47 or 47A applies, or
  - (b) a sublease or other title directly or indirectly derived from the holder of such a lease, licence or estate,
- is prohibited.

(2) [Application] This section does not apply to:

- (a) the occupation or use of part of the site for a senior citizens centre or home or community care facility by a duly appointed manager of the centre, or
- (b) the occupation or use of community land by persons, and in circumstances, prescribed by the regulations.

[s47D insrt Act 140 of 1998 s 3 and Sch 1]