

Plan of Management  
**Ulladulla Rotary Park  
War Memorial**

2021



Responsible Officer: Caitlin Mahony

Reviewed By: First Last Name

Date Adopted: xx/xx/xxxx

Adopted By: First Last Name

Resolution No: (if relevant) xxxxx

Review Due Date: xx/xx/xxx

Revision No: xxxxx

Previous Versions: xxxxx

Minute No: (if relevant) xxxxx

Descriptions of Amendments: Insert text here

Author/Editor: First Last Name

Review/Sign Off:

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# 1 Key Information

This Management Plan has been prepared by Shoalhaven City Council and provides direction as to the asset management of R75456. This management plan has been prepared as required by section 3.23 of the Crown Land Management Act and Section 36 of the Local Government Act 1993.

This Plan of Management outlines how the reserve will be used and provides a framework for Council to follow in relation to Leasing, Licensing and Permit processes for the land.

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# 2 Introduction

Shoalhaven City Council is located on the south coast of New South Wales, the regional centre of Nowra-Bomaderry is located approximately 160km south of Sydney. The population is mostly concentrated along the coast. Major centres include Nowra-Bomaderry, Milton-Ulladulla, Huskisson-Vincentia, St Georges Basin, Culburra Beach and Sussex inlet.

As Shoalhaven City Council has an area of over 4600 square kilometres, it contains significant areas of National Park, State Forest, bushland, beaches and lakes, with strong natural amenity, the area is a popular among new residents, holiday makers and day trippers.

Shoalhaven City Council has a large amount of Crown land, with over 170 Crown reserves, with approximately 120 of those being under the management of Council. Crown land in the Shoalhaven is varied in its use and in the purpose for which the land was reserved, however the reserve purposes typically found in the Shoalhaven are:

- Public Recreation
- Access
- Community Purpose
- Bush Fire Brigade
- Study/Preservation of Native Flora
- Cemetery
- Public Recreation & Showground
- Local Government Purposes
- Wharf Facility
- Museum
- Public Recreation & War Memorial
- Parking
- Camping
- Public Recreation & Racecourse
- Environmental Protection

The categorisation of Crown land managed by Shoalhaven City Council was done so that the categorisation most closely relates to the reserve purpose. As a result, the most common categorisation of Crown land in the Shoalhaven is Park and Natural area.

## 2.1 Purpose of the Plan of Management

The *Local Government Act 1993* (LG Act) requires a plan of management (PoM) to be prepared for all public land that is classified as 'community land' under that Act.

The *Crown Land Management Act 2016* (the CLM Act) authorises local councils (council managers) appointed to manage dedicated or reserved Crown land to manage that land as if it were public land under the *Local Government Act 1993* (LG Act). A PoM is required for all council-managed Crown reserves on community land.

The purpose of this PoM is to:

- contribute to the council's broader strategic goals and vision as set out in the Community Strategic Plan.
- ensure compliance with the *Local Government Act 1993* and the *Crown Land Management Act 2016*.
- provide clarity in the future development, use and management of the community land.
- ensure consistent management that supports a unified approach to meeting the varied needs of the community.

Further information about the legislative context of Crown Reserve PoMs can be found in Appendix 2 of this document.

## 2.2 Process of Preparing this Plan of Management

Figure 1 illustrates the process followed by council in preparing this PoM.

<b>Step</b> <b>1</b>	<b>Drafting the PoM</b> <ul style="list-style-type: none"><li>○ The PoM must meet all the minimum requirements outlined in section 36(3) of the LG Act and identify the owner of the land.</li><li>○ Any activities (including tenure or development) to be undertaken on the reserve must be expressly authorised in the PoM to be lawfully authorised.</li><li>○ Council must obtain written advice from a qualified native title manager that the PoM and the activities under the PoM comply with the NT Act.</li></ul>
<b>Step</b> <b>2</b>	<b>Notifying the landowner and seeking Minister's consent to adopt</b> <ul style="list-style-type: none"><li>○ The department as the landowner is to be notified of the draft PoM prior to public exhibition of the PoM under s.39 of the LG Act.</li><li>○ Council is also required to seek the Minister's written consent to adopt the draft PoM (under clause 70B of CLM Regulation). The Minister's consent can be sought at the same time as notifying the landowner (the department) of the draft PoM.</li><li>○ Note: In certain circumstances, Council may only be provided with consent to proceed to public exhibition. Following public exhibition, Council will be required to re-submit the draft PoM for a final review where Minister's consent to adopt the draft PoM will be provided.</li></ul>
<b>Step</b> <b>3</b>	<b>Community consultation</b> <p>Councils are required to publicly notify and exhibit PoM under section 38 of the LG Act</p> <ul style="list-style-type: none"><li>○ Councils are <u>not</u> required to hold a public hearing for Crown land under section 40A of the LG Act (exemption under clause 70A of the CLM Regulation).</li></ul>
<b>Step</b> <b>4</b>	<b>Adopting a PoM</b> <ul style="list-style-type: none"><li>○ If there are any significant changes to the draft PoM following public exhibition (or in circumstances when consent to adopt was not previously provided), council must seek the Minister's consent to adopt the PoM.</li><li>○ A council resolution of a PoM that covers Crown land should note that the PoM is adopted pursuant to section 40 of the LG Act in accordance with 3.23(6) of the CLM Act.</li><li>○ Once a council has adopted the PoM, a copy of the adopted PoM and minutes of the council resolution should be forwarded to the department (<a href="mailto:council.clm@crowland.nsw.gov.au">council.clm@crowland.nsw.gov.au</a>) for record purposes:.</li></ul>

## 2.3 Change and Review of this Plan of Management

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This Plan of Management will be reviewed within five years, from the date of its adoption. The plan will be reviewed in relation to the performance targets which are outlined in this plan and in relation to the accuracy of reserves included in Appendix 1.

This Plan of Management may also be reviewed if directed by Council, or if there is significant change in legislation.

## 2.4 Community Consultation

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This PoM was placed on public exhibition from [XX/XX/XXXX to XX/XX/XXXX], in accordance with the requirements of section 38 of the *Local Government Act 1993* (LG Act). A total of [XX] submissions were received. Council considered these submissions before adopting the PoM.

In accordance with section 39 of the LG Act, prior to being placed on public exhibition, the draft PoM was referred to the Department of Planning, Industry and Environment – Crown Lands, as representative of the state of NSW, which is the owner of the Reserve. Council has included in the plan any provisions that have been required by Department of Planning, Industry and Environment – Crown Lands.

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# 3 Land Description

This plan of management covers Ulladulla Cemetery (Old). The reserve information is detailed in Table 1. The land is owned by the Crown and is managed by council as Crown land manager under the Crown Land Management Act 2016.

## 3.1 Owner of the Land

Table 1: Information about reserve covered by this plan of management

<b>Reserve Number</b>	R75456
<b>Owner of the Land</b>	Crown Lands Office
<b>Reserve purpose</b>	Public Recreation, War Memorial
<b>Gazettal date</b>	14/11/1952
<b>Land parcel/s</b>	Lot 7024 DP 1030677
<b>Area (Ha)</b>	645m2
<b>LEP zoning</b>	RE1
<b>Assigned category/categories</b>	Area of Cultural Significance & Park (PoM only applies to land categorised as Area of Cultural Significance)
<b>Native Title Claim/Determination</b>	South Coast People, Fed. Court No: NSD1331/2017

This PoM is specific to the land mentioned in Table 1 above. Contact the council or refer to the council's website for information about other public land not listed above.

## 3.2 Site Overview

At the date of adoption of this plan, the reserve is currently used for passive recreation and for memorialization of those who served in the defence force in time of war. The reserve is also used periodically to hold commemorative ceremonies and memorial services. Part of this reserve is managed under the Generic Plan of Management for Parks.

Ongoing maintenance of the existing memorial is a priority, there is scope in future to further improve the memorial and the reserve provided the proposed improvements are in line with the reserve purposes and all relevant legislation such as the Local Government Act 1993, The Crown Land Management Act 2016, The Aboriginal Land Rights Act 1983 and the Native Title Act 1993.

If required, the reserve can continue to be utilised for the holding of commemorative ceremonies and services as it has been in the past.

A comprehensive site development plan is recommended in this case to ensure a strategic approach to further development.

Development which seeks to remove the War Memorial should not be considered for this reserve.

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# 4 Basis of Management

Shoalhaven City Council intends to manage its community land to meet:

- assigned categorisation of community land
- the LG Act guidelines and core objectives for community land
- restrictions on management of Crown land community land.
- the council's strategic objectives and priorities
- development and use of the land outlined in Section 6 of the LG Act.

## 4.1 Categorisation of the Land

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All community land is required to be categorised as one or more of the following categories. Where the land is owned by the Crown, the category assigned should align with the purpose for which the land is dedicated or reserved.

The LG Act defines five categories of community land:

- **Park** – for areas primarily used for passive recreation.
- **Sportsground** – for areas where the primary use is for active recreation involving organised sports or the playing of outdoor games.
- **General community use** – for all areas where the primary purpose relates to public recreation and the physical, cultural, social, and intellectual welfare or development of members of the public. This includes venues such as community halls, scout and guide halls, and libraries.
- **Area of Cultural significance** – for areas with Aboriginal, aesthetic, archaeological, historical, technical, research or social significance.
- **Natural area** – for all areas that play an important role in the area's ecology. This category is further categorised into bushland, escarpment, foreshore, watercourse and wetland categories.

**Note: Significant Natural Areas and Areas with Critical Habitat** - must be in a site-specific PoM also

The categorisation of the land is identified in Appendix 1, as well as shown by maps in Appendix 1.

## 4.2 Guidelines and Core Objectives for Management of Community Land

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The management of community land is governed by the categorisation of the land, its purpose, and the core objectives of the relevant category of community land. Council may then apply more specific management objectives to community land, though these must be compatible with the core objectives for the land.

The guidelines for categorisation of community land are set out in the Local Government (General) Regulation 2021. The core objectives for each category are set out in the LG Act. The guidelines and core objectives for the Park, Sportsground, General Community Use, Natural Areas and Area of Cultural Significance categories are set out in this plan of management.

Community land is valued for its important role in the social, intellectual, spiritual and physical enrichment of residents, workers, and visitors to the Shoalhaven area.

The intrinsic value of community land is also recognised, as is the important role this land plays in biodiversity conservation and ecosystem function.

Shoalhaven City Council encourages a wide range of uses of community land and intends to facilitate uses which increase the activation of its land, where appropriate. Within buildings, swimming pools, and recreational and sporting facilities in particular, Shoalhaven City Council intends to permit and encourage a broad range of appropriate activities.

## 4.3 Restrictions on Management of Crown Land

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Council is the Crown land manager of the Crown reserve/s described in this plan of management in accordance with the legislation and conditions imposed by the Minister administering the *Crown Land Management Act 2016*. The use of the land described in this plan of management must:

- be consistent with the purpose for which the land was dedicated or reserved
- consider native title rights and interests and be consistent with the provisions of the Commonwealth *Native Title Act 1993*
- consider the inchoate interests of Aboriginal people where an undetermined Aboriginal Land Claim exists
- consider and not be in conflict with any interests and rights granted under the *Crown Land Management Act 2016*
- consider any interests held on title.

## 4.4 Council's Strategic Objectives and Priorities

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Shoalhaven City Council, in consultation with the community, has developed the following strategies and plans to identify the priorities and aspirations of the community and the delivery of a vision for the future. They have a direct influence on the objectives, uses and management approach covered by PoMs.

### Community Strategic Plan

Shoalhaven City Council, in consultation with the community, has developed a community strategic plan identifying key themes that summarise important community priorities. The Shoalhaven Community Strategic Plan (CSP) is known as Shoalhaven 2032, and is the roadmap devised by our community for the future of Shoalhaven City.

There are four themes identified within Shoalhaven 2032. These themes are:

- Theme 1 – Resilient, safe, accessible, and inclusive communities.
- Theme 2 – Sustainable, liveable environments.
- Theme 3 – Thriving local economies that meet community needs.
- Theme 4 – Effective, responsible & authentic leadership.

Shoalhaven 2032 has a direct influence on the objectives, uses and management approach covered by this PoM. The land covered by this PoM shall therefore be managed in accordance with the key themes outline in Shoalhaven 2032.

### Delivery Program Operational Plan

Shoalhaven City Council's Delivery Program and Operational Plan Resourcing Strategy outlines Council's annual delivery plan. It is prepared by Council in collaboration with and on behalf of residents, businesses, all levels of government and local agencies, to help build and maintain a vibrant and sustainable future for the local community. The Delivery Program and Operation Plan Resourcing Strategy can be found online on Council's website.

# 5 Development and Use

Shoalhaven City Council is committed to the ongoing maintenance of Crown Lands under its management, ensuring an acceptable level of maintenance and service based on the local requirements and the use of the land and facilities. Council priorities resources based on making the best use of the available funds, while adhering to Councils resourcing strategy.

Crown Land will be maintained, in accordance with Council maintenance schedule, through Asset Management Plans (AMP) which outline life cycle costing, asset replacement and rehabilitation and maintenance policies and procedures.

## 5.1 Current Use of the Land

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At the date of adoption of this plan, the reserve is currently used for passive recreation and for memorialization of those who served in the defence force in time of war. The reserve is also used periodically to hold commemorative ceremonies and memorial services.

## 5.2 Conditions Report

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At the time of adoption of this Plan of Management, the condition of the land and structures is as follows.

Condition rating was given to the Land and Structures, using the following scale.

Rating	Scale	Condition of asset
5	Very Poor	Structure has failed and is not operational Maintenance is not viable Unfit for purpose Environmental/contamination/pollution issues exist
4	Poor	Structure is badly deteriorated Potential structural problems Inferior appearance Major defects
3	Fair	Average condition Significant defects are evident Services are functional but maintenance is required Deferred maintenance work exists
2	Good	Minor defects Superficial deterioration Major maintenance not required
1	Very Good	No defects

		As new condition and appearance
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The condition of the land and structures are as follows:

Brick Wall Memorial: **1 (Very Good)**

Eastern Garden and Anchor: **1 (Very Good)**

Western Garden and Propellor: **1 (Very Good)**

Artillery Gun: **1 (Very Good)**

## 5.3 Permissible Uses / Future Uses

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Community land is valued for its important role in the social, intellectual, spiritual and physical enrichment of residents, workers, and visitors to the Shoalhaven area. The intrinsic value of community land is also recognised, as is the important role this land plays in biodiversity conservation and ecosystem function.

Shoalhaven City Council encourages a wide range of uses of community land and intends to facilitate uses which increase the activation of its land, where appropriate. Within buildings, swimming pools, and recreational and sporting facilities in particular, Shoalhaven City Council intends to permit and encourage a broad range of appropriate activities.

The use of community land is often supported by appropriate ancillary development such as playground equipment, amenity blocks or food kiosks.

The general types of uses which may occur on community land categorised as Park, Sportsground, General Community Use and Natural Area and Areas of Cultural Significance and the forms of development generally associated with those uses, are set out in this plan of management.

Ongoing maintenance of the existing memorial is a priority, there is scope in future to further improve the memorial and the reserve provided the proposed improvements are in line with the reserve purposes and all relevant legislation such as the Local Government Act 1993, The Crown Land Management Act 2016, The Aboriginal Land Rights Act 1983 and the Native Title Act 1993.

If required, the reserve can continue to be utilised for the holding of commemorative ceremonies and services as it has been in the past.

A comprehensive site development plan is recommended in this case to ensure a strategic approach to further development.

Development which seeks to remove the War Memorial should not be considered for this reserve.

## 5.4 Express Authorisation of Leases and Licences and Other Estates

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Under section 46(1)(b) of the LG Act, leases, licences and other estates formalise the use of community land. A lease, licence or other estate may be granted to organisations and persons, community groups, sports clubs and associations, non-government organisations, charities, community welfare services, non-profit organisations and government authorities.

The lease or licence must be for uses consistent with the reserve purpose(s), the assigned categorisation and zoning of the land, be in the best interests of the community as a whole, and enable, wherever possible, shared use of community land.

Any lease or licence proposal will be individually assessed and considered, including the community benefit, compatibility with this PoM and the capacity of the community land itself and the local area to support the activity.

A lease is normally issued where exclusive control of all or part of an area by a user is proposed. In all other instances a licence or short-term licence or hire agreement will be issued.

### 5.4.1 Leases and Licences Authorised by the Plan of Management

This plan of management **expressly authorises** the issue of leases, licences and other estates over the land covered by the plan of management, provided that:

- the purpose is consistent with the purpose for which it was dedicated or reserved
- the purpose is consistent with the core objectives for the category of the land
- the lease, licence or other estate is for a permitted purpose listed in the Local Government Act 1993 or the Local Government (General) Regulation 2021
- the issue of the lease, licence or other estate and the provisions of the lease, licence or other estate can be validated by the provisions of the Native Title Act 1993 (Cth)
- where the land is subject to a claim under the Aboriginal Land Rights Act 1983 the issue of any lease, licence or other estate will not prevent the land from being transferred in the event the claim is granted
- the lease, licence or other estate is granted and notified in accordance with the provisions of the Local Government Act 1993 or the Local Government (General) Regulation 2021
- the issue of the lease, licence or other estate will not materially harm the use of the land for any of the purposes for which it was dedicated or reserved.

Table/s in the relevant sections of this plan of management further identify the purposes for which leases and licences may be issued over the reserves identified in this plan of management, and the maximum duration of leases, licences and other estates.

### 5.4.2 Short-term Licences

Short-term licences and bookings may be used to allow the council to program different uses of community land at different times, allowing the best overall use.

Fees for short-term casual bookings will be charged in accordance with the council's adopted fees and charges at the time.

Short-term licences issued under Clause 116 of the Local Government (General) Regulation 2021 are authorised for the purpose of:

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

This PoM expressly authorises Council to issue short-term licences (for up to 12 months) under s2.20 of the Crown Land Management Act for the prescribed purposes listed in Clause 31 of the Crown Land Management Regulation 2018.

Short-term licences granted under s2.20 of the CLM Act are authorised for the following prescribed purposes:

- a) access through a reserve,
- b) advertising,
- c) camping using a tent, caravan or otherwise,
- d) catering,
- e) community, training or education,
- f) emergency occupation,
- g) entertainment,
- h) environmental protection, conservation or restoration or environmental studies,
- i) equestrian events,
- j) exhibitions,
- k) filming (as defined in the Local Government Act 1993),
- l) functions,
- m) grazing,
- n) hiring of equipment,
- o) holiday accommodation,
- p) markets,
- q) meetings,
- r) military exercises,
- s) mooring of boats to wharves or other structures,
- t) sales,
- u) shows,
- v) site investigations,
- w) sporting and organised recreational activities,
- x) stabling of horses,
- y) storage.

### **5.4.3 Native Title and Aboriginal Land Rights Considerations in Relation to Leases, Licences and Other Estates**

When planning to grant a lease or licence on Crown reserves, the council must comply with the requirements of the *Commonwealth Native Title Act 1993* (NT Act) and have regard for any existing claims made on the land under the *NSW Aboriginal Land Rights Act 1983*.

It is the role of the council's engaged or employed native title manager to provide written advice in certain circumstances to advise if the proposed activities and dealings are valid under the NT Act (see Appendix 3 for more information).



# 6 Management of Land

## 6.1 Area of Cultural Significance

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Through the Initial Categorisation process the initial category of Area of Cultural Significance is applied to the land, as this category is the closest category to the reserve purpose of Community Purposes and Heritage Purposes.

### 6.1.1 Guidelines and Core Objectives

Areas of Cultural Significance are defined in clause 105 of the LG Regulation 2021 as land which:

- contains an area of Aboriginal significance.
- contains heritage items dating after European settlement that help to explain the relationship between Aboriginal people and later settlers.
- is an area of archaeological significance
- is an area of historical significance, because of the importance of an association or position of the land in the evolving pattern of Australian cultural history, or
- is an area of technical or research significance, because of the area's contribution to an understanding of Australia's cultural history or environment, or
- is an area of social significance, because of the area's association with Aboriginal life after 1788 or the area's association with a contemporary community for social, spiritual or other reasons.

The core objectives for an area of cultural significance, as outlined in Section 36H of the LG Act, are to retain and enhance the cultural significance of the area (namely its Aboriginal, aesthetic, archaeological, historical, technical or research or social significance) for past, present or future generations by the active use of conservation methods.

### 6.1.2 Management Framework for Reserves Categorised as Area of Cultural Significance

Based on legislative and corporate goals, community needs, and expectations the following management guidelines have been identified. The Guidelines apply to all categories of the reserve.

#### Alcohol

The occasional sale of alcohol by a community group requires the approval of the NSW Office of Liquor Gaming and Racing through the issue of a Limited Licence. The Licence should be provided to Council in each instance. When making an application for the use of a recreation area if the sale of alcohol is intended, applicants are required to comply with any requirements of both the Office of Liquor Gaming and Racing and Council.

#### Companion Animals

Domestic pets may use the reserve where authorised by signage provided that they are on leash and under the control of a responsible person at all times and do not cause loss of amenity to other users of the land, except where specifically publicly notified.

- Dogs are not permitted within any area (on or off leash) that is:

- Set aside for the playing of organised games, or
- Within 10 metres of a children's playing apparatus or
- Within 10 metres of cooking or eating facilities

### **Building and Amenities**

Buildings and amenities may be provided where consistent with the need to facilitate the purpose of the land, provided that a Native Title assessment has been carried out by the Council's Native Title Manager, the land is not subject to a claim under the Aboriginal Land Rights Act 1983 and the provisions of the Local Government Act 1993 and the Crown Land Management Act 2016 have been complied with.

Buildings and amenities are to be maintained to ensure they are fit for purpose, reliable, safe and secure with funds available for resources.

### **Infrastructure**

Any necessary infrastructure to service the purpose of the land may be constructed provided that a Native Title assessment has been carried out by Council's native Title Manager, the land is not subject to a claim under the Aboriginal Land Rights Act 1983 and the provisions of the Local Government Act 1993 and the Crown Land Management Act 2016 have been complied with.

Infrastructure assets are to be maintained to ensure they are "fit for purpose, reliable, safe and secure" with funds available for resources.

### **General Maintenance**

General maintenance will match the level and type of use and wherever possible users will be encouraged to assist through the Parkcare program. Areas held under lease, licence or regular occupancy shall be maintained by the user where appropriate.

Maintenance (Planned, programmed, reactive and / or take out of service) shall be considered as part of the life cycle activities by the Asset Custodian to ensure the assets are "fit for purpose, reliable, safe and secure" with funds available for resources. Decision making process to achieve the optimum outcome shall consider but not limited to current/ future service provision, risk, utilisation, condition of assets, etc.

### **Access**

This Plan of Management seeks to facilitate access to the land to enable its use for the purposes of Area of Cultural Significance and.

### **Trees, Vegetation and Landscape**

Proper management of landscaping measures, trees and vegetation is important to provide a high degree of amenity on the land.

Trees will be maintained as will maintenance of appropriate growing conditions involving management of soil compaction and other encroachments in accordance with Council policy.

## **6.1.3 Permissible Uses / Future Uses**

The general types of uses which may occur on community land categorised as Area of Cultural Significance, and the forms of development generally associated with those uses, are set out in detail in Table 5. The facilities on community land may change over time, reflecting the needs of the community.

Table 5 Permissible use and development of community land categorised as Area of Cultural Significance by council or the community.

Purpose/Use, such as...	Development to facilitate uses, such as...
<ul style="list-style-type: none"> <li>• Preservation of the council’s natural heritage including the identified endangered ecological communities</li> <li>• Providing a location for relaxation and passive informal recreation</li> <li>• Walking and cycling</li> </ul>	<ul style="list-style-type: none"> <li>• Picnic tables</li> <li>• BBQs</li> <li>• Sheltered seating areas</li> <li>• Lighting</li> <li>• Interpretive signage</li> <li>• Water saving initiatives such as rain gardens, swales and sediment traps</li> <li>• Energy-saving initiatives such as solar lights and solar panels</li> <li>• Observation platforms, signs</li> <li>• Information kiosks</li> <li>• Locational, directional and regulatory signage</li> </ul>

### 6.1.4 Express Authorisation of Leases, Licences and Other Estates

This plan of management expressly authorises the issue of leases, licences and other estates over the land categorised as Area of Cultural Significance, listed in Table 6.

Table 6. Leases, licences and other estates and purposes for which they may be granted for community land categorised as Area of Cultural Significance.

Type of tenure arrangement	Purpose for which tenure may be granted
Lease	<ul style="list-style-type: none"> <li>• walkways, pathways, bridges, causeways</li> <li>• observation platforms, signs</li> <li>• information kiosk</li> <li>• temporary erection or use of any building or structure necessary to enable a filming project to be carried out</li> </ul>
Licence	<ul style="list-style-type: none"> <li>• walkways, pathways, bridges, causeways</li> <li>• observation platforms, signs</li> <li>• Information kiosk</li> <li>• temporary erection or use of any building or structure necessary to enable a filming project to be carried out</li> </ul>
Short-term licence	<ul style="list-style-type: none"> <li>• scientific studies and surveys or similar</li> <li>• temporary erection or use of any building or structure necessary to enable a filming project to be carried out</li> </ul>
Other estates	This PoM allows the council to grant ‘an estate’ over community land for the provision of public utilities and works associated with or ancillary to public utilities and provision of services, or connections for premises adjoining the community land to a facility of the council or public utility provider on the community land in accordance with the LG Act.

## 6.1.5 Action Plan

Performance Targets	Means of Achievement	Manner of Assessment of Performance	Responsibility
<p>The continuous protective care and maintenance of the physical material of the land or of the context and setting of the area of cultural significance.</p>	<p>When required, Council will undertake restorative works on the memorial and surrounds.</p> <p>Council to supplement maintenance undertaken by volunteers when required.</p> <p>Council to promote the existence of Park Care groups</p>	<p>The site is maintained in line with an acceptable standard and requests for maintenance work are carried out.</p> <p>There is increased participation in the Park Care group for this site</p>	<p>Asset Custodian</p>
<p>The adaptive reuse of the land, that is, the enhancement or reinforcement of the cultural significance of the land by the introduction of sympathetic alterations or additions to allow compatible uses (that is, uses that involve no changes to the cultural significance of the physical material of the area, or uses that involve changes that are substantially reversible or changes that require a minimum impact</p>	<p>Ensure that the development of a Masterplan or Site Plan over the site, does not seek to remove or downgrade the current memorial.</p> <p>Ensure that the development of a Masterplan or Site Plan does not impact upon the cultural significance of the physical material of the area.</p>	<p>Any masterplan adopted by Council over this site is in line with this Plan of Management and is subject to community consultation.</p>	<p>Asset Strategic Planner</p>

# Appendices

## Appendix 1 Community Land Covered by this Plan of Management

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<b>Reserve Number</b>	R75456 SUL940
<b>Owner of the Land</b>	Crown Lands
<b>Reserve purpose</b>	Public Recreation, War Memorial
<b>Gazettal date</b>	14/11/1952
<b>Land parcel/s</b>	Lot 7024 DP 1030677
<b>Area (Ha)</b>	646m2
<b>LEP zoning</b>	RE1
<b>Assigned category/categories</b>	Area of Cultural Significance & Park (PoM only applies to land categorised as Area of Cultural Significance)
<b>Native Title Claim/Determination</b>	South Coast People, Fed. Court No: NSD1331/2017
<b>Figure – Appendix 2</b>	Figure 1
<b>Current Lease/Licence</b>	N/A

# Appendix 2 Maps



Figure 1

# Appendix 3 Plan of Management Legislative Framework

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The primary legislation that impacts on how community land is managed or used is briefly described below. You can find further information regarding these acts at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

## 3.1 Local Government Act 1993

Section 35 of the LG Act provides that community land can only be **used** in accordance with:

- the plan of management applying to that area of community land, and
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land, and
- the provisions of Division 2 of Chapter 6 of the Act.

Section 36 of the Act provides that a plan of management for community land must identify the following:

- the category of the land,
- the objectives and performance targets of the plan with respect to the land,
- the means by which the council proposes to achieve the plan's objectives and performance targets,
- the manner in which the council proposes to assess its performance with respect to the plan's objectives and performance targets,
- and may require the prior approval of the council to the carrying out of any specified activity on the land.

A plan of management that applies to just one area of community land:

- a) must include a description of:
  - (i) the condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and
  - (ii) the use of the land and any such buildings or improvements as at that date, and
- b) must:
  - (i) specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and
  - (ii) specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and
  - (iii) describe the scale and intensity of any such permitted use or development.

Land is to be categorised as one or more of the following:

- a) a natural area
- b) a sportsground
- c) a park
- d) an area of cultural significance
- e) general community use.

Land that is categorised as a natural area is to be further categorised as one or more of the following:

- a) bushland
- b) wetland
- c) escarpment
- d) watercourse
- e) foreshore
- f) a category prescribed by the regulations.

Additionally, under section 36 of the *Local Government Act 1993* (LG Act), a site-specific PoM must be made for land declared:

- as critical habitat, or directly affected by a threat abatement plan or a recovery plan under threatened species laws (sections 36A(2) and 36B(3))
- by council to contain significant natural features (section 36C(2))
- by council to be of cultural significance (section 36D(2)).

### **3.1.1 Classification of public land**

The LG Act requires classification of public land into either 'community' or 'operational' land (Section 26). The classification is generally made for council-owned public land by the council's Local Environmental Plan (LEP) or in some circumstances by a resolution of the council (Section 27).

Crown reserves managed by council as Crown land manager have been classified as community land upon commencement of the *Crown Land Management Act 2016* (the CLM Act). Councils may manage these Crown reserves as operational land if written consent is obtained from the minister administering the CLM Act.

Classification of land has a direct effect on the council's ability to dispose of or alienate land by sale, leasing, licensing or some other means. Under the LG Act, community land must not be sold (except for scheduled purposes), exchanged or otherwise disposed of by the council, and the land must be used and managed in accordance with an adopted PoM. In addition, community land is subject to strict controls relating to leases and licences (sections 45, 46, 46A and 47) of the LG Act.

By comparison, no such restrictions apply to operational land that is owned by councils. For example, operational land can be sold, disposed, exchanged or leased including exclusive use over the land, unencumbered by the requirements which control the use and management of community land. Crown reserves managed by council as operational land may generally be dealt with as other operational land but may not be sold or otherwise disposed of without the written consent of the minister administering the CLM Act.

Operational land would usually include land held as a temporary asset or an investment, land which facilitates the council carrying out its functions or land which may not be open to the general public (for example, a works depot).

The classification or reclassification of council-owned public land will generally be achieved by a Local Environmental Plan (LEP) or by a resolution of council in accordance with sections 31, 32 and 33 of the LG Act. If land is not classified by resolution within a three-month period from acquisition it automatically becomes community land, regardless of whether it satisfies the objectives for community land as outlined in the LG Act.

For Crown land, Council cannot reclassify community land as operational land without consent of the minister administering the CLM Act.

## **3.2 Crown Land Management Act 2016**

Crown reserves are land set aside on behalf of the community for a wide range of public purposes, including environmental and heritage protection, recreation and sport, open space, community halls, special events and government services.

Crown land is governed by the CLM Act, which provides a framework for the state government, local councils and members of the community to work together to provide care, control and management of Crown reserves.

Under the CLM Act, as Council Crown land managers, councils manage Crown land as if it were public land under the LG Act. However, it must still be managed in accordance with the purpose of the land and cannot be used for an activity incompatible with its purpose – for example, Crown land assigned the purpose of 'environmental protection' cannot be used in a way that compromises its environmental integrity.



Councils must also manage Crown land in accordance with the objects and principles of Crown land management outlined in the CLM Act. The objects and principles are the key values that guide Crown land management to benefit the community and to ensure that Crown land is managed for sustainable, multiple uses.

### **Principles of Crown land management**

- Environmental protection principles are to be observed in the management and administration of Crown land.
- The natural resources of Crown land (including water, soil, flora, fauna and scenic quality) will be conserved wherever possible.
- Public use and enjoyment of appropriate Crown land are to be encouraged.
- Where appropriate, multiple uses of Crown land should be encouraged.
- Where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained.
- Crown land is to be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the state of NSW, consistent with the above principles.

### **Crown land management compliance**

In addition to management and use of Crown reserves that is aligned with the reserve purpose(s), there are other influences over council management of Crown reserves. For example, Crown land managers may have conditions attached to any appointment instruments, or councils may have to comply with specific or general Crown land management rules that may be published in the NSW Government Gazette. Councils must also comply with any Crown land regulations that may be made.

## **3.3 Native Title Act 1993**

The Commonwealth Native Title Act 1993 (NT Act) recognises and protects native title rights and interests. The objects of the NT Act are to:

- provide for the recognition and protection of native title
- establish ways in which future dealings affecting native title may proceed and to set standards for those dealings
- establish a mechanism for determining claims to native title
- provide for, or permit, the validation of past acts invalidated because of the existence of native title.

The NT Act may affect use of Crown land, particularly development and granting of tenure.

Specifically, the CLM Act makes it mandatory for council to engage or employ a native title manager. This role provides advice to council as to how the council's dealings and activities on Crown land can be valid or not valid in accordance with the NT Act.

Council must obtain the written advice from an accredited native title manager that Council complies with any applicable provisions of the native title legislation when:

- a) granting leases, licences, permits, forestry rights, easements or rights of way over the land
- b) mortgaging the land or allowing it to be mortgaged
- c) imposing, requiring or agreeing to covenants, conditions or other restrictions on use (or removing or releasing, or agreeing to remove or release, covenants, conditions or other restrictions on use) in connection with dealings involving the land
- d) approving (or submitting for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in (a), (b) or (c).

## **3.4 Council plans and policies relating to this plan of management**

Council has developed plans and policies that are concerned to some extent with the management of community land. These documents have been considered when preparing this PoM.

Land included in this Plan of Management is zoned under the Shoalhaven Local Environmental Plan 2014 (SLEP). The Local Environmental Plan sets out the objectives for each zone, as well as the activities, developments and structures which are permissible with or without development consent, and those which are prohibited within the Zone.

## 3.5 Other state and Commonwealth legislation

### 3.5.1 NSW state legislation

#### ***Environmental Planning and Assessment Act 1979***

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the framework for planning and development across NSW and guides environmental planning instruments which provide a basis for development control.

The EP&A Act ensures that effects on the natural environment, along with social and economic factors, are considered by the council when granting approval for or undertaking works, developments or activities.

This Act is also the enabling legislation for planning policies which may have a direct influence on open space management. On a state-wide level there are State Environmental Planning Policies (SEPPs). On a regional level there are Regional Environmental Plans (REPs). On a local level there are Local Environmental Plans (LEPs) as well as Development Control Plans (DCPs).

#### ***Aboriginal Land Rights Act 1983***

The *Aboriginal Land Rights Act 1983* (ALR Act) is important legislation that recognises the rights of Aboriginal peoples in NSW. It recognises the need of Aboriginal peoples for land and acknowledges that land for Aboriginal people in the past was progressively reduced without compensation. Crown land meeting certain criteria may be granted to an Aboriginal Land Council. This Act may affect dealings with Crown land that is potentially claimable.

#### ***Coastal Management Act 2016***

The *Coastal Management Act 2016* (the Act) establishes a strategic framework and objectives for managing coastal issues in NSW. The Act promotes strategic and integrated management, use and development of the coast for the social, cultural, and economic wellbeing of the people of NSW.

#### ***Biodiversity Conservation Act 2016***

This Act covers conservation of threatened species, populations and ecological communities, the protection of native flora and fauna. This Act primarily relates to community land categorised as natural area. However, other categories may also be affected.

The *Threatened Species Conservation Act 1995* has been repealed and superseded by the *Biodiversity Conservation Act 2016*. However, references to the former legislation remain in the LG Act and are therefore retained in this guideline.

The Department's Energy, Environment and Science division advises that recovery plans and threat abatement plans made under the *Threatened Species Conservation Act 1995* were repealed on the commencement of the *Biodiversity Conservation Act* in 2017. These plans have not been preserved by any savings and transitional arrangement under the Biodiversity Conservation Act or LG Act, meaning pre-existing plans have no legal effect.

For this reason, requirements relating to recovery plans and threat abatement plans for local councils preparing plans of management under section 36B of the LG Act are now redundant. Councils will be advised if future amendments are made to the LG Act to enable these mechanisms.

Certain weeds are also declared noxious under this Act, which prescribes categories to which the weeds are assigned, and these control categories identify the course of action which needs to be carried out on the weeds. A weed may be declared noxious in part or all of the state.

### ***Fisheries Management Act 1994***

The *Fisheries Management Act 1994* (FM Act) includes provisions for the management of state fisheries, including the conservation of fish habitats, threatened species, populations and ecological communities of fish and marine vegetation and management of the riparian zone, waterways and threatened marine/freshwater aquatic species. This relates to community land categorised as natural area (foreshore, watercourse or wetland).

Where an area of community land is declared to be critical habitat, or if that area is affected by a recovery plan or threat abatement plan under Part 7A of the FM Act, a site-specific plan of management will need to be undertaken.

### ***Rural Fires Act 1997***

This Act contains provisions for bushfire risk management and the establishment of a Bushfire Management Committee. It also includes direction on development in bushfire prone lands.

### ***Water Management Act 2000***

This Act is based on the concept of ecologically sustainable development, and its objective is to provide for the sustainable and integrated management of the water sources of the state for the benefit of both present and future generations. The Act recognises:

- the fundamental health of our rivers and groundwater systems and associated wetlands, floodplains, estuaries has to be protected
- the management of water must be integrated with other natural resources such as vegetation, native fauna, soils and land
- to be properly effective, water management must be a shared responsibility between the government and the community
- water management decisions must involve consideration of environmental, social, economic, cultural and heritage aspects
- social and economic benefits to the state will result from the sustainable and efficient use of water.

### ***Heritage Act 1977***

This Act contains provisions for the conservation of items of heritage and may relate to community land categorised as cultural significance or natural area.

### **Commonwealth legislation.**

### ***Environmental Protection and Biodiversity Conservation Management Act 1999***

This Act enables the Australian Government to join with the states and territories in providing a national scheme of environment and heritage protection and biodiversity conservation. It incorporates threatened species on a national level and with relevance to Matters of National Environmental Significance.

### ***Telecommunications Act 1997***

This Act provides for telecommunication facilities being permitted on community land without authorisation in a PoM.

## **State Environmental Planning Policies**

### **State Environmental Planning Policy no. 19 – Bushland in urban areas**

This planning policy deals with bushland in urban areas, so is applicable to PoMs for community land categorised as Natural Area – Bushland.

#### **State Environmental Planning Policy (Transport & Infrastructure) 2021**

This planning policy lists development allowed with consent or without consent on community land.

#### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

This policy deals with clearing of native vegetation in urban areas and land zoned for environmental protection.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

This policy promotes a strategic approach to reduce threats from inappropriate land use in important coastal and marine areas.

#### **Other relevant legislation, policies, and plans**

*Catchment Management Authorities Act 2003*

*Companion Animals Act 1998*

*Disability Discrimination Act 1992*

*Local Land Services Act 2013*

*Operations Act 1997*

*Pesticides Act 1999*

*Protection of the Environment Operations Act 1997*

*Retail Leases Act 1994*

*Soil Conservation Act 1938*

*NSW Invasive Species Plan 2008-2015*

*National Local Government Biodiversity Strategy*

*NSW Biodiversity Strategy*

*A Vegetation Management Plan for the Sydney Region (Green Web Sydney)*

*Australian Natural Heritage Charter*

*Open Coast and Jervis Bay Coastal management Program (In development)*

# Appendix 4 Aboriginal Interests in Crown Land

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Crown land has significant spiritual, social, cultural and economic importance to the Aboriginal peoples of NSW. The CLM Act recognises and supports Aboriginal rights, interests and involvement in Crown land.

The management of Crown land can be impacted by the Native Title Act 1993 (Cth) and the Aboriginal Land Rights Act 1983 (NSW).

## 4.1 Native Title

Native title describes the rights and interests that Aboriginal and Torres Strait Islander people have in land and waters according to their traditional law and customs. Native title is governed by the Commonwealth Native Title Act 1993 (NT Act).

Native title does not transfer the land to the native title holder, but recognises the right to land and water, by providing access to the land and if applicable, compensation for any loss, diminution, impairment or other effect of the act on their native title rights and interests.

All Crown land in NSW can be subject to a native title claim under the NT Act. A native title claim does not generally affect Crown land where native title has been extinguished or it is considered excluded land.

When preparing a PoM, Council is required to employ or engage a qualified native title manager to provide advice and validate acts (developments and tenures) over the reserve, in line with the NT Act. The most effective way to validate acts under the NT Act is to ensure all activities align with the reserve purpose.

If native title rights are found to exist on Crown land, council Crown land managers may be liable to pay compensation for acts that impact on native title rights and interests. This compensation liability arises for local councils whether or not the act was validated under the NT Act.

For further information about native title and the future acts framework see the Crown lands website.

## 4.2 Aboriginal Land Rights

The Aboriginal Land Rights Act 1983 (ALR Act) seeks to compensate Aboriginal peoples for past dispossession, dislocation and removal of land in NSW (who may or may not also be native title holders).

Aboriginal land claims may be placed on any Crown land in NSW. The Department of Planning, Industry and Environment is responsible for investigating claims as defined in the ALR Act. If a claim is established, the land is transferred to the Aboriginal Land Council as freehold land.





Email: [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)

Bridge Road, Nowra (02) 4429 3111

All communication should be addressed to

The Chief Executive Officer:

PO Box 42, Nowra NSW 2541

DX 5323 Nowra NSW

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)    