

# PLAN OF MANAGEMENT 2022

## Woolgoolga Lake





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## **Acknowledgement of Country**

Coffs Harbour City Council acknowledges traditional custodians of the land, the Gumbaynggirr people, who have cared for this land since time immemorial. We pay our respects to their elders, past, present and emerging, and commit ourselves to a future with reconciliation and renewal at its heart.

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## Plan of Management 2022 - Woolgoolga Lake

December 2022: Coffs Harbour City Council. (Cover photo Woolgoolga Lake)

**Acknowledgements:** Text and photos by Plan of Management Project Manager with contributions from Council's GIS Officer, Senior Environmental Project Officer, Senior Coast and Environment Officer and Team Leader Biodiversity Coastal and Flooding.

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# PART A

## 1. CONTEXT AND BACKGROUND TO THE PLAN OF MANAGEMENT

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### 1.1 Background

The *Crown Land Management Act 2016* (CLM Act) requires local councils appointed to manage dedicated or reserved Crown land to manage such land as if it were public land under the *Local Government Act 1993* (LG Act). Section 36 of the LG Act requires a Plan of Management (PoM) to be adopted by council for all land classified as ‘community’ land and outlines the requirements of such a PoM.

### 1.2 Aims and purpose of the plan

The purpose of a PoM is to provide a framework for the management of the land by Council and the types of uses that will be permitted to occur on the land once the PoM is adopted by Council.

The Coffs Harbour City Council (Council) has been appointed under Part 3, Division 3.2, Section 3.3 of the CLM Act to manage dedicated or reserved Crown land as if it were community land under the LG Act. Hereafter, this land is referred to as the ‘Crown reserves’ or ‘reserves’.

Council has been appointed manager for more than 50 such reserves, ranging from developed sites for sporting and play, to undeveloped natural settings such as bushland, foreshores, beaches and wetlands. Immediately adjacent to some of these reserves, is the Coffs Coast Regional Park, managed by Council in partnership with the NSW National Parks and Wildlife Service (NPWS).

The Crown reserves are part of the State-wide network. They contribute to the region’s biodiversity, recreation and tourism values, contributes to the network of district sporting facilities servicing a range of sports within the Local Government Area (LGA) and contribute to the character of the region. Some reserves also possess cultural heritage values. It is the aim of Council to ensure that, where appropriate, these values are identified and a dialogue is had with the indigenous community so that their rights and interests are considered in this PoM.

For Crown reserves that are classified as ‘community’ land and where Council has been appointed land manager, the CLM Act and the LG Act contain a range of requirements in the preparation and adoption of, a PoM.

To facilitate community input and in compliance with section 38 of the LG Act, public notice of the draft PoM must be given. Thereafter, the draft document must exhibited for a period of not less than 28 days; and public submissions received for a period not less than 42 days. In accordance with these requirements, Council placed the draft PoM on public exhibition and accepted submissions between 5 September and 27 October 2022.



## 2. LINKAGE TO RELEVANT COUNCIL STRATEGIES, PLANS AND POLICIES

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### 2.1 Background

Council has developed and in many cases, formally adopted, a wide range of strategies, plans, policies and procedures. Some of these have clear timeframes over which period they are in operation while others (particularly older documents) have no clear start or end date. The documents discussed in this section (Section 2) have been included as key Council documents that relate to the use and or management of Crown reserves generally. It is standard text used in all Crown reserve PoMs prepared by Council.

The documents below will not be relevant to every PoM or every reserve covered by a PoM. However, due to the fact that they are of direct relevance to a sufficient number of reserves across the entire reserve estate, the text is retained as standard. For example, the *Vehicles on Beaches Policy 2020* may be relevant to one or more beach side reserves covered by a PoM while not being relevant to a PoM for reserves located in the CBD. Similarly, the *Coffs Harbour City Centre Masterplan 2031* is a major planning document that is directly relevant to reserves that fall within its parameters but has no relevance to reserves located in rural areas. To assist the reader to identify which Council document is relevant to this specific PoM, an asterisk (\*) has been placed against those that are not relevant.

### 2.2 MyCoffs Community Strategic Plan

The *MyCoffs Community Strategic Plan* (CSP) is a whole-of-community Plan that sets out the long-term aspirations of the Coffs Harbour LGA community. It reflects where the community wants to be in ten years and is the key reference point for decision-making impacting Coffs Harbour during this period. The management of Crown reserves plays an integral role in implementing the CSP and in particular, the theme of 'A Place for Community' with intended outcomes such as:

- Our public places and spaces are activated through good planning and design;
- Land use planning and development protects the value and benefits provided by our natural environment; and
- Local heritage is protected and the stories behind it shared.

The CSP is the over-arching document for Council's [Integrated Planning and Reporting](#) (IP&R) framework. This framework, as required by the LG Act (Chapter 13, Part 2. s.402-406), comprises various documents that articulate the actions Council intends to take and when, resource allocation, fees and charges and it also tracks the performance of Council in achieving its stated goals and objectives. The framework is composed of the following documents:

- Delivery Program - Council's four-year plan to address the MyCoffs Community Strategic Plan (including four year budgets).
- Operational Plan - What Council will undertake in the current financial year in implementing the Delivery Program (includes detailed budgets as well as fees and charges schedules.)
- Annual and 6-Monthly Reports - How Council performed against the Delivery Program and Operational Plan.
- End of Term Reports - Prepared every four years to track progress in achieving the Community Strategic Plan.
- Resourcing Strategy - Council's Long Term Financial Plan, Asset Management Strategy and Workforce Management Plan.





The *Coffs Harbour Community and Cultural Facilities Plan 2021-2031* has been adopted by Council and is intended to provide a strategic framework to guide decision-making about community and cultural facilities over the next 10 years. The Plan will help guide Council to make decisions about providing new community or cultural facilities in the context of its current facility network, service needs and population changes. It will also help Council to collect data, allocate resources, forward plan capital works projects or identify divestment or alternative options for its current facilities.

An additional step in the strategic planning process now includes all councils in NSW preparing a Local Strategic Planning Statement (LSPS). The Coffs Harbour City Council LSPS provides a 20-year land use planning vision for the Coffs Harbour LGA. It identifies 16 Planning Priorities to be delivered in four themes to 2040.

## 2.3 The Community Participation and Engagement Plan

The Coffs Harbour City Council Community Participation and Engagement Plan reinforces the idea that the best planning outcomes are reached when communities are engaged in the planning process at the earliest opportunity. It is about the people of the Coffs Harbour LGA contributing to Council decision-making through community-led recommendations. The PoM process undertaken for these Reserve(s) encapsulates all the relevant principles of consultation outlined in the Community Participation and Engagement Plan, including working closely with the traditional custodians of the land, the Gumbayngirr people.

## 2.4 Coffs Harbour Local Growth Management Strategy 2020

This strategy sets out the strategic direction and framework for land use and development in the Coffs Harbour LGA taking into account State, regional and local planning objectives, with a particular focus on the actions contained in the *North Coast Regional Plan 2036*.

## 2.5 Coffs Harbour Open Space Strategy 2010

Council is involved in the management of over 250 public reserves ranging from developed sites for sporting and play, to undeveloped natural setting such as bushlands, foreshores, beaches and wetlands. Included are extensive areas of Crown reserves managed by Council, Council owned lands and the Coffs Coast Regional Park, managed in partnership with the NSW NPWS. The *Coffs Harbour Open Space Strategy 2010* was prepared in order to guide the planning, development and management of these public spaces over the next ten years. It will be replaced by the soon to be completed *Public Realm Strategy* and *the Place and Movement Strategy*.

## 2.6 Disability Access Inclusion Plan

The *Disability Inclusion Action Plan 2017 – 2021* (DIAP) sets out what Council will do to enable people with a disability to have greater access to Council information, services and facilities.

The DIAP is a statement of Council's ongoing commitment to improving access and inclusion for people with a disability. It is Council's intention to take a leadership role within the Coffs Harbour area, to facilitate improvement across the four focus areas which have been nominated at a national level by people with a disability as being of primary importance in creating an inclusive community.



These four areas are:

- Developing positive community attitudes and behaviours.
- Creating liveable communities.
- Supporting access to meaningful employment.
- Improving access to services through better systems and processes.

All PoMs for Crown reserves will need to take account of the DIAP when formulating management prescriptions around matters such as access to facilities and areas of employment.

## 2.7 Coffs Harbour Biodiversity Action Strategy 2012-2030

This strategy was prepared with contributions from multiple authors and provides the framework for the approach to managing impacts on biodiversity, through the establishment of visions and principles through to specific management actions for individual species.

## 2.8 Leasing and Licencing Policy for Community Organisations

Crown reserves are routinely used for a range of sporting and community purposes. Many of these activities require a licence from Council and in some cases - particularly buildings, a lease. This policy provides the framework, including matters such as pricing, under which these licences and leases are granted and managed.

## 2.9 Vehicles on Beaches Policy 2020

\* This policy seeks to establish a framework that applies to vehicle use on Coffs Harbour Local Government Area beaches, with the aims of:

- Establishing a consistent approach to regulating beach access by vehicles on beaches;
- Protecting the coastal environment; and
- Ensuring the safety of all beach users allowing for sustainable and equitable recreational use of the beaches.

Council will regulate access to the beaches under Section 632 of the LG Act via designated access points and in accordance with the terms of the regulatory signage and this policy.

The Policy is supported by guidelines that provide restrictions on which beaches access is permitted and how users must conduct themselves on these beaches.

## 2.10 Coastal Zone Hazard Policy 2018

The *Coastal Hazard Zone Policy 2018*, resulted in a notation being placed on all properties within the local government area that are identified within the 100 - year Coastal Hazard Zone i.e. falls within the mapped *Coastal Hazard Zone Policy Area*, stating that any development on the lot will need to take into account the effects of coastal processes.

Council requires that residential development and commercial/tourism development to be free from the effects of coastal processes for the planning period. As such, any development application lodged in relation to land within the *Coastal Hazard Zone Policy Area* will need to be accompanied by a coast hazard assessment. Council is currently reviewing this policy and preparing a planning proposal so that the coastal hazard mapping is included as the Coastal Vulnerability Area in the *SEPP (Resilience and Hazards) 2021*.



## 2.11 Coffs Harbour City Centre Masterplan 2031

\* The City Centre Masterplan maps the future for our city centre. The Plan contains a number of strategies and projects that support key priorities previously identified through the Masterplan community consultation process.

These key priorities include a focus on revitalising the City Centre to stimulate economic activity. It is a high level visionary document that provides direction for the growth, development and design of our City Centre to 2031. It is also a 'living' document in that it sets the basic framework and directs the undertaking of other more detailed strategies and investigations at a smaller scale, in order prove and test the principles and objectives of the Masterplan.

## 2.12 Woolgoolga Town Centre Masterplan

Council at its Ordinary Meeting of 22 February 2018 resolved to adopt the Woolgoolga Town Centre Masterplan. This Masterplan is critical in guiding the orderly development and revitalisation of the Woolgoolga town centre. The plan presents a vision and strategic planning framework to guide growth and change in Woolgoolga's town centre for the next 20 years to 2036.

## 2.13 Existing Plans of Management, Policies, Plans and Strategies

In the past, Council has relied on generic plans of management for areas such as parks and sportsgrounds, other plans of management completed for specific reserves such as the Jetty Foreshores under the now repealed *Crown Lands Act 1989*, as well as other formal management instruments such as Estuary Management Plans, Masterplans etc.

While many of these instruments are now obsolete, it is likely that some content (depending on current relevance) relating to Crown reserves within these documents, will be captured and incorporated into new Crown reserve PoMs. There are many other Council policies, plans, procedures and strategies that will be relevant to one or more PoMs for Crown reserves. While it is not possible to list them all, some of the these include:

- Coffs Harbour Coastal Zone Management Plan (March 2019)
- Sustainability Policy 2017
- Coffs Coast Tourism Strategic Plan 2020
- Coffs Harbour Events Strategy 2020
- Coffs Harbour Heritage Strategy 2017-2020
- Coffs Harbour City Koala Plan of Management 1999
- Floodplain Development and Management Policy 2017
- Coastal Hazard Zone Policy 2017
- Contaminated Land Policy 2017\*
- Vegetation Vandalism Policy 2017
- Significant Tree Policy 2017
- Guideline for the Management of Seaweed on Coffs Harbour City Council LGA Beaches\*
- Coffs Coast Waste Services Strategy
- Coffs Harbour Economic Development Strategy 2017-2022
- Creative Coffs - Cultural Strategic Plan 2017-2022
- Sports Facility Plan 2016\*
- Jetty 4 Shores Concept Plan (2013)\*



### 3. RELEVANT STATE & COMMONWEALTH LEGISLATION, PLANS AND STRATEGIES

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#### 3.1 Crown Land Management Act 2016

Crown land in NSW is administered within the portfolio of the Minister for Lands. Crown land may be reserved or dedicated for a public purpose under the CLM Act. The Minister may appoint a Council or non-Council (Category 1 or Category 2) Manager to care, control and manage a reserve with regard to the purpose for which the land was dedicated or reserved.

Crown land must be managed in accordance with the Principles of Crown Land Management set out in Section 1.4 of the Act. The principles of Crown land management are:

1. Environmental protection principles are observed in relation to the management and administration of Crown land.
2. The natural resources of Crown land (including water, soil, flora, fauna and scenic quality) are conserved wherever possible.
3. Public use and enjoyment of appropriate Crown land be encouraged.
4. Where appropriate, multiple use of Crown land is encouraged.
5. Where appropriate, Crown land is used and managed in such a way that both the land and its resources are sustained in perpetuity.
6. That Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.

The Minister may also make rules, known as Crown land management rules for, or with respect to the management of dedicated or reserved Crown land by Crown land managers under Section 3.15 of the Act. Importantly, the CLM Act makes it a legislative requirement that a council manager of dedicated or reserved Crown land must manage the land as if it were community land under the LG Act (s3.23).

It must, as soon as practicable after it becomes the manager of the dedicated or reserved Crown land (including because of the operation of Schedule 7 of the Act), assign the land to one or more categories of community land referred to in section 36 of the LG Act. This must be done before the adoption of a plan of management for the land in case the Minister requires the council to alter an assigned category because:

- a) The assigned category is not the most closely related to the purposes for which the land is dedicated or reserved; or
- b) The management of the land by reference to the assigned category is likely to materially harm the use of the land for any of the purposes for which it is dedicated or reserved (s3.23[5]).

Section 3.23(6) of the CLM Act requires that council managers adopt a PoM for any Crown reserve for which it is the appointed Crown land manager for all land that is classified as 'community' land under the LG Act. All POMs must be developed in accordance with the public exhibition requirements of the LG Act. In addition, any proposed uses, development and/or management practices must conform to the public purpose for the dedicated or reserved lands, and any particular policies of the Crown Lands Division of the Department of Planning & Environment, regarding Crown reserves that may exist at the time.



## 3.2 Local Government Act 1993

The LG Act (Part 2. Div1. (25)) requires councils to classify all public land as either ‘community’ land, or ‘operational’ land. Community land is defined for the purposes of the Act to be land that is set aside for community use, such as neighbourhood parks and sportsgrounds. Development and use of this land is subject to strict controls set out in the Act. For example, community land cannot, except under very limited circumstances [S.45(4)] be sold, leased or licensed for more than 21 years and any lease greater than 5 years requires actions such as a period of public notice. In addition to these controls, the Act requires Councils to have PoMs for all ‘community’ land.

Operational land usually comprises land that serves a commercial or operational function (eg. a depot, or pump station), or land that is being retained for commercial or strategic reasons. However, there are no hard and fast rules and sometimes ‘community’ land can also possess characteristics that ordinarily would appear to be more operational in nature. The range of controls that apply to community land do not apply to the use and management of operational land and there is no requirement under the Act for the adoption of a PoM.

The *Local Government (General) Regulation 2021* provides guidelines for the categorisation of community land. The categories reflect land use and/or describe the physical characteristics of the land such as parks, sportsgrounds and natural areas. Under section 36(1) of the LG Act, POMs must be prepared for all community land. Plans of management:

- Are written by council in consultation with the community.
- Identify the important features of the land (e.g. natural significance, sportsground).
- Clarify how council will manage the land.
- Indicate how the land may be used or developed, such as leasing.

All PoMs must be prepared and adopted in accordance with the provisions of Division 2 of Part 2 of Chapter 6 of the LG Act. There are two ways in which council can develop a PoM that complies with the LG Act and CLM Act. A generic PoM that applies to more than one piece of land or a PoM that is specific to an area. However, the LG Act does not provide for the adoption of a generic PoM if any of the land is 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)); and
- By council to be of cultural significance (section 36D(2)).

Note\* - The *Threatened Species Conservation Act 1995* has been repealed and replaced by the *Biodiversity Conservation Act 2016*. The Recovery Plans and Threat Abatement Plans made under the *Threatened Species Conservation Act 1995* and as referred to in S.36A and S.36B of the LG Act, no longer apply. Consequently, this generic plan of management addresses the provisions of S.36 of the LG Act, in particular the provisions of sub-sections (1), (2), (3), (4) and (5).



**Table 3.2.1** below outlines the key sections of the LG Act relevant to the preparation and adoption of a Crown reserve PoM. Section 36(3) of the LG Act sets out the minimum requirements for all POMs, which must include the:

- Category of the land;
- Objectives and performance targets of the plan with respect to the land;
- Means by which the council proposes to achieve the plan’s objectives and performance targets; and
- Manner in which the council proposes to assess its performance with respect to the plan’s objectives and performance targets.

**Table 3.2.1: Sections of the LG Act that set the framework for PoMs**

| Requirement   | Act section |
|---|-------------|
| Use and nature of community land must not change prior to the preparation of a plan of management | 44          |
| Prepare plans of management for all community land  | 35, 36(1)   |
| Process for community land not owned by council   | 37, 39      |
| What a plan of management for council owned land must include                                     | 36(3), (4)  |
| A draft must be exhibited prior to adoption and may be re-exhibited if amended prior to adoption  | 38, 39, 40  |

### 3.3 Environmental Planning & Assessment Act 1979

Any development proposed within any reserve to which this PoM applies, may require development consent under Part 4. Low impact development or routine activities proposed by Government departments or agencies may be considered as development that is ‘permitted without consent’ or ‘exempt development’. An environmental assessment for development and/or activities that are permitted without consent may be required under Part 5 of the Act.

Any development proposed within any reserve to which this PoM applies must accord with *Coffs Harbour LEP 2013* and *Coffs Harbour DCP 2015*, unless the development and/or activity is considered to be permitted without consent or exempt development. Note: *SEPP (Transport and Infrastructure) 2021* specifies development without consent undertaken by the Crown Land Manager if the development is for the purposes of implementing a plan of management adopted for the land under the CLM Act or LG Act. It also identifies exempt development.

In summary, the development and use of Crown reserves classified as ‘community’ land must comply with all relevant SEPPS, the LEP and DCP as well as the management measures stipulated in this PoM. Of particular relevance to the management of Crown reserves in this LGA is the *SEPP (Resilience and Hazards) 2021*. The aim of this SEPP is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the [Coastal Management Act 2016](#), including the management objectives for each coastal management area by:

- a) Managing development in the coastal zone and protecting the environmental assets of the coast;
- b) Establishing a framework for land use planning to guide decision-making in the coastal zone; and





- c) Mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the [Coastal Management Act 2016](#).

Other SEPPs that may be relevant to the management of Crown reserves within the Coffs Harbour LGA may include, but not limited to, the following:

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity & Conservation) 2021

### 3.4 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) regulates a range of activities relevant to the management of Crown reserves such as vegetation in rural areas and wildlife. It also defines areas of ‘outstanding biodiversity value’ (Part 3), as well as ‘threatened species’, ‘threatened ecological communities’ and ‘key threatening processes’ (Part 4).

As highlighted previously, s36A and s36B of the LG Act, while making reference to the now repealed *Threatened Species Conservation Act 1995* which the BC Act has replaced, requires a PoM be adopted specific to the reserve if it comprises of the habitat of threatened or endangered species or contains habitat defined as ‘critical habitat’, which under the BC Act means land that is assessed as ‘areas of outstanding biodiversity value’.

### 3.5 Fisheries Management Act 1994

The *Fisheries Management Act 1994* and *Fisheries Management (General) Regulation 2019* may be relevant to the management of Crown reserves for a number of reasons.

If the reserve is adjacent to a waterway, Part 7 ‘Protection of Aquatic Habitats’ of the Act and Parts 13-14 of the Regulations may apply to the management of the land as it relates to foreshore and vegetation, such as mangroves (Division 4 of the Act).

For example, this part of the Act would apply if the PoM foreshadowed the installation of foreshore works or infrastructure such as a boardwalk as 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.

In the section of the LG Act that deals with the making of PoMs for community land (s36A and s36B), as well as making reference to the now repealed *Threatened Species Conservation Act 1995*, the provisions dealing with ‘critical habitat’, threatened species or the habitat of endangered or threatened species and ecological communities, also applies if they are so listed under the Fisheries Management Act 1994. However, unlike the BC Act, this also includes ‘Recovery Plans’ and ‘Threat Abatement Plans’ inforce under the ‘Threatened species conservation’ (Part 7A) of the Act. As with the relevant provisions in the BC Act, if a reserve’s habitats or species meet any of the pre-conditions specified above, then s36A and s36B requires that a PoM specific to the reserve be adopted, and not a generic one.

### 3.6 Marine Estate Management Act 2014

The objects of this Act are:

- a) To provide for the management of the marine estate of New South Wales consistent with the principles of ecologically sustainable development in a manner that:



- i. promotes a biologically diverse, healthy and productive marine estate, and facilitates:
  - economic opportunities for the people of New South Wales, including opportunities for regional communities;
  - the cultural, social and recreational use of the marine estate;
  - the maintenance of ecosystem integrity; and
  - the use of the marine estate for scientific research and education.
- b) Promotes the co-ordination of the exercise, by public authorities, of functions in relation to the marine estate; and
- c) Provides for the declaration and management of a comprehensive system of marine parks and aquatic reserves.

The *Marine Estate Management Strategy* (The Strategy) is a key commitment of the NSW Government in its response to the findings of the 2012 Independent Scientific Audit of Marine Parks in NSW. It sets the overarching framework for the NSW Government to coordinate the management of the marine estate over the next decade in accordance with the objects of the Act and the NSW Government's vision for the marine estate.

The Strategy outlines how to manage threats to environmental assets, as well as to the social, cultural and economic benefits the community derives from the marine estate. It identifies evidence-based management priorities and sets policy directions to manage the marine estate as a single continuous system. A PoM for a Crown reserve(s) will be consistent with the Act and any actions outlined in the Strategy.

### 3.7 Native Title Act 1993 (Cth)

The *Native Title Act 1993 (Cth)* (NT Act) came into operation on 1 January 1994. Its main purpose is to recognise and protect native title. The NT Act provides for the recognition of pre-existing rights to land and waters, the doing of acts that impact on native title, and the resolution of claims for compensation.

Any activity on Crown land where native title has not been extinguished may impact on the native title rights of the traditional owners. For example:

- The issuing of a licence or lease for partial or exclusive use.
- The construction of new public facilities such as barbecues, toilet blocks, walking tracks, tennis courts, playing fields and grandstands.
- Extensions to existing buildings or facilities.
- New roads, paths or tracks.
- The installation of infrastructure such as stormwater, sewerage pipes, power lines etc.

Under the NT Act any activity that impacts on the traditional owners' native title rights is considered to be a 'Future Act'. A future act 'affects' native title if it is at least partly inconsistent with its existence, enjoyment or exercise. 'Affects' means the act could impair, limit or extinguish native title.

Any 'future act' on Crown land that Council allows to be undertaken must be valid under Native Title Act 1993 (Cth) in Part 2—Native Title, Division 3—Future Acts etc. (if required) Generally, this will be under:





- Subdivision J—Reservations, leases etc.
- Subdivision K—Facilities for services to the public
- Subdivision L—Low impact future acts

On occasion “future acts” may be valid under:

- Subdivision F—Future acts: if procedures indicate an absence of native title
- Subdivision H—Management of water and airspace
- Subdivision I—Renewals and extensions etc.
- Subdivision M—Acts passing the freehold test

### 3.8 Native Title (NSW) Act 1994

The *Native Title (New South Wales) Act 1994*, in accordance with the Commonwealth *Native Title Act 1993*, validates any past acts, and intermediate period acts, invalidated because of the existence of native title and to confirm certain rights. It also ensures that New South Wales law is consistent with standards set by the Commonwealth *Native Title Act 1993* for future dealings affecting native title.

### 3.9 Aboriginal Land Rights Act 1983

The Act provides the legal framework within which the New South Wales Aboriginal Land Council or Local Aboriginal Land Council may claim “claimable” land that is owned by the Crown such as a Crown reserve. The purpose of the Act is to:

- provide land rights for Aboriginal persons in New South Wales;
- provide for representative Aboriginal Land Councils in New South Wales;
- vest land in those Councils;
- provide for the acquisition of land, and the management of land and other assets and investments, by or for those Councils and the allocation of funds to and by those Councils; and
- provide for the provision of community benefit schemes by or on behalf of those Councils.

### 3.10 Emergency Services Legislation

NSW Government requirements dictate that councils must account for assets supporting the NSW Rural Fire Service and NSW State Emergency Service. Councils responsibility is to supply free of charge, suitable training facilities, storage and office accommodation as per the provisions of Section 17(5) of the *State Emergency Services Act 1989*. The roles and responsibilities of Council and the SES are outlined in the Partnership Agreement between NSW State Emergency Service and Coffs Harbour City Council. In summary, the arrangement is guided by the principles of a Landlord and Tenant Agreement.

As the buildings and ancillary facilities are Council assets, Council will maintain them in good order and repair inclusive of regular, routine and required maintenance. NSW SES will assume responsibility for direct costs related to the operation of the building such as power, cleaning and pest control.



In regard to the RFS, Sections 37(3) and (4) of the *Rural Fires Act 1997* place the requirement on Council to provide facilities and accommodation to enable the fire control officer to exercise his or her functions.

The terms of the Partnership Agreement between RFS and CHCC are contained in the Coffs Harbour Rural Fire District Service Agreement 2012. In summary, the arrangement is also guided by the principles of a Landlord and Tenant Agreement. Council agrees to maintain the premises in good repair while the RFS will undertake minor repairs and maintenance including lawn and garden maintenance. A detailed list of services provided by Council is contained in Schedule 2 of the Service Agreement.

### 3.11 Environment Protection and Biodiversity Conservation Act 1999 (Cth)

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 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.

It is also relevant to the management of land to which a PoM may apply through the listing of Key Threatening Processes such as:

- Predation by feral cats;
- Loss and degradation of native plant and animal habitat by invasion of escaped garden plants, including aquatic plants; and
- Injury and fatality to vertebrate marine life caused by the ingestion of, or entanglement in, harmful marine debris.

### 3.12 North Coast Regional Plan 2036

The *North Coast Regional Plan 2036* is the blueprint for the next two decades that reflects community and stakeholder aspirations and opportunities from leveraging the North Coast's position between two of the fastest growing population corridors in the nation. The Plan encompasses a vision, goals and actions geared towards delivering greater prosperity in the years ahead for those who live, work and visit the region. For example, it identifies areas for expansion of residential land or lands geared to generate employment.

In the course of preparing a draft PoM and depending on the nature and location of the reserve(s), the Regional Plan will be considered and where appropriate, reference made in the PoM to any relevant vision, goals or actions.



### 3.13 Biosecurity Act 2015

The primary object of this Act is to provide a framework for the prevention, elimination and minimisation of biosecurity risks posed by biosecurity matter, dealing with biosecurity matter, carriers and potential carriers, and other activities that involve biosecurity matter, carriers or potential carriers.

The other objects of this Act are as follows:

- a) To promote biosecurity as a shared responsibility between government, industry and communities,
- b) To provide a framework for the timely and effective management of the following:
  - pests, diseases, contaminants and other biosecurity matter that are economically significant for primary production industries;
  - threats to terrestrial and aquatic environments arising from pests, diseases, contaminants and other biosecurity matter;
  - public health and safety risks arising from contaminants, non-indigenous animals, bees, weeds and other biosecurity matter known to contribute to human health problems; and
  - pests, diseases, contaminants and other biosecurity matter that may have an adverse effect on community activities and infrastructure.
- c) To provide a framework for risk-based decision-making in relation to biosecurity.
- d) To give effect to intergovernmental biosecurity agreements to which the State is a party.
- e) To provide the means by which biosecurity requirements in other jurisdictions can be met, so as to maintain market access for industry.

All landowners or land managers, including councils, have a general biosecurity duty under Part 3 of the Act including special provisions regarding weeds (Part 3 Section 26 – Schedule 1) that may be relevant to councils under certain circumstances.

### 3.14 Coastal Management Act 2016

The objects of this Act are to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State, and in particular to:

- a) Protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience;
- b) Support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety;
- c) Acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone;
- d) Recognise the coastal zone as a vital economic zone and to support sustainable coastal economies;
- e) Facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making;
- f) Mitigate current and future risks from coastal hazards, taking into account the effects of climate change;
- g) Recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the



sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly;

- h) Promote integrated and co-ordinated coastal planning, management and reporting;
- i) Encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events;
- j) Ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities;
- k) Support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions;
- l) Facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone; and
- m) Support the objects of the *Marine Estate Management Act 2014*.

In a manner consistent with the *Coastal Management Act (2016)* Council is currently updating its existing Estuary Management Plans and Coastal Zone Management Plans into new Coastal Management Programs (CMP). Under the Act, there is a transition period in which Councils existing plans still have effect, however Council is required to prepare new CMPs by December 2023. Council has identified a forward plan and is currently working through the CMP process by linking key estuaries together and delivering overarching CMPs for estuary clusters. The delivery plan includes the following CMPs:

- Corindi River, Pipe Clay Lake and Arrawarra Creek CMP
- Darkum Creek, Woolgoolga Lake, Willis Creek and Hearn's Lake CMP
- Moonee Creek, Coffs Creek and Boambee / Newports Creek CMP
- Bonville Pine Creek CMP
- Coffs Harbour Coastal Hazards Coastal Management Program (Open Coast)

### 3.15 North Coast Regional Strategic Weed Management Plan 2017-2022 & North Coast Regional Strategic Pest Animal Management Plan 2018-2023

In line with new Commonwealth biosecurity measures, NSW has reformed its weed, pest and disease legislation. Together, the *NSW Biosecurity Strategy 2013-2021* and *NSW Biosecurity Act 2015* (which replaced the *Noxious Weeds Act 1993*) provides a streamlined, clear framework for safeguarding primary industries, natural environments and communities from a range of pests, diseases and weeds. Overseen by the North Coast Local Land Services (LLS), The *North Coast Regional Strategic Weed Management Plan 2017-2022* is a direct response to this strategic and legislative reform.

Similarly, the *North Coast Regional Strategic Pest Animal Management Plan 2018-2023* outlines how Government, industry and the community can work together and share the responsibility to prevent, eradicate, contain or manage pest animals to achieve a balance in economic, environmental and social outcomes. The plan aims to:

- Reduce the impact of pest animals on public safety, primary production and biodiversity;
- Prioritise activities and improve systems that support pest management (reporting, surveillance, etc.);
- Support implementation of the Biosecurity Act 2015;



- Clarify how land managers can meet their obligations;
- Make it easier for land managers to participate in managing biosecurity; and
- Guide development of coordinated, cooperative, tenure neutral local pest management plans.

Council has and will continue to work closely with North Coast LLS to implement invasive species control and thereby comply with the requirements of the *Biosecurity Act 2015*.

### 3.16 National Parks and Wildlife Act 1974

This Act is particularly relevant to the management of any historic sites within reserves (S. 30F) and the protection of Aboriginal cultural heritage (Part 6). The objects of the Act relevant to the management of Crown reserves are as follows:

- a) The conservation of nature, including, but not limited to, the conservation of:
  - i. habitat, ecosystems and ecosystem processes;
  - ii. biological diversity at the community, species and genetic levels;
  - iii. landforms of significance, including geological features and processes; and
  - iv. landscapes and natural features of significance including wilderness and wild rivers.
- b) The conservation of objects, places or features (including biological diversity) of cultural value within the landscape, including, but not limited to:
  - i. places, objects and features of significance to Aboriginal people;
  - ii. places of social value to the people of New South Wales; and
  - iii. places of historic, architectural or scientific significance.
- c) Fostering public appreciation, understanding and enjoyment of nature and cultural heritage and their conservation.

### 3.17 Marine Safety Act 1998

This legislation applies to all vessels operating in State waters, including recreational vessels. It provides the framework for the safe operation of vessels on all waterways in NSW including those waters under which is submerged Crown reserve. The objects of the Marine Safety Act 1998 are:

- a) to ensure the safe operation of vessels in ports and other waterways,
- b) to promote the responsible operation of vessels in those waters so as to protect the safety and amenity of other users of those waters and the amenity of occupiers of adjoining land,
- b1) to provide an effective framework for the enforcement of marine legislation,
- c) to provide for the investigation of marine accidents and for appropriate action following any such investigation,
- d) to consolidate marine safety legislation





# PART B

## 4. LAND COVERED UNDER THIS PLAN OF MANAGEMENT

### 4.1 Background

This PoM relates to the following Crown reserve(s):

Table 4.1.1: The Woolgoolga Lake Crown reserve

| Reserve Number | Lot & DP (Applying to this PoM) | Reserve Name    | Location           | Gazetted Purpose & Date         | Categorization & Land Use Zone                            | Size   |
|----------------|---------------------------------|-----------------|--------------------|---------------------------------|---|--------|
| 70416          | Lot 7009, DP 1058576            | Woolgoolga Lake | Lake St Woolgoolga | Public Recreation<br>12/12/1941 | Natural Area - Watercourse<br>W2 (Recreational Waterways) | 13.7Ha |



Figure 4.1.1: Aerial image shaded red – Woolgoolga Lake Crown reserve R70416



## 4.2 Classification, Categorisation and Zoning of the Land

The gazetted purpose of the reserve is 'Public Recreation' and pursuant to section 34A(2)(b) of the Crown Lands Act 1989, a Relevant Interest Licence (RI526557) for the 'Extraction of Sand' was notified on 11 April 2014.

Section 36 of the LG Act requires that land within a PoM 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

The reserve(s) are classified as 'community land' and categorised as a 'Natural Area – Watercourse'. The land use zone that applies to the reserve(s) and the land use zones of adjacent landholdings can be seen at **Figure 4.1.3**. Section 36E of the LG Act also prescribes the 'Core Objectives' for management of community land categorised as a 'a natural area'.

The 'Core Objectives' are:

- a) to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area;
- b) to maintain the land, or that feature or habitat, in its natural state and setting;
- c) to provide for the restoration and regeneration of the land;
- d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion; and
- e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994.

The 'Core Objectives' of land categorised as a 'natural area' (outlined above) by necessity focus use and management on conservation and maintaining the land in a natural state. Given the reserves are categorised as 'a natural area', s.36(5) of the LG Act requires: 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

Sections S.110 of the Regulations provide a Guideline for the reserves further categorisation into one or more of the above and Woolgoolga Lake reserve is further categorised as 'watercourse'.





The land use zones prescribed by the Coffs Harbour Local Environment Plan (LEP) 2013 for Woolgoolga Lake is W2 (Recreational Waterways). The LEP determines the types of activities and developments that are permissible and prohibited on the land. The objectives, as outlined in the LEP, of the land use zone are as follows:

W2 Recreational Waterways:

- To protect the ecological, scenic and recreation values of recreational waterways.
- To allow for water-based recreation and related uses.
- To provide for sustainable fishing industries and recreational fishing.
- To consider any marine park zoning plan and to limit or manage any uses that may have an adverse effect on the continued preservation of the park.

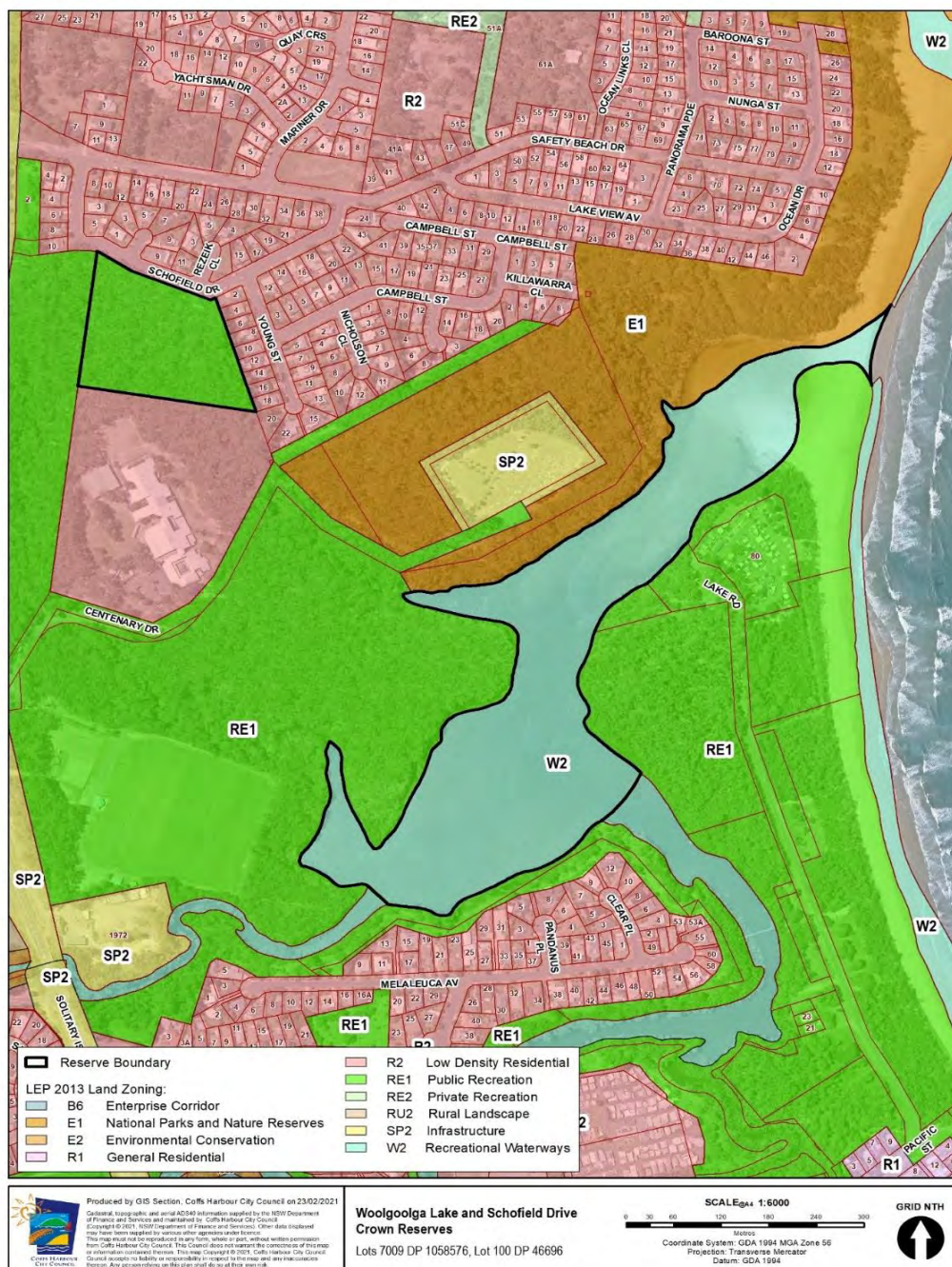


Figure 4.1.3: Woolgoolga Lake Crown reserve and surrounding land use zones





### 4.3 Ownership of the Land

The subject land is owned by the Crown and is managed by Council as Crown Land Manager under the CLM Act. No other restrictions, covenants or other management conditions other than those outlined in Section 5.3 of this PoM, have been identified on the land titles.



## 5. CONDITION, USE AND FUTURE MANAGEMENT OF THE LAND AND STRUCTURES

### 5.1 Introduction

Section 36(3A)(a)(i)-(a)(ii) of the LG Act requires that a PoM that is specific to a reserve, include a description of the condition of the land and any buildings or other improvements on the land and their use as of the date of adoption of the plan.

The description of the condition of the land is focused on matters such as:

- the conservation status of the vegetation such as whether it is an Endangered Ecological Community;
- the presence of rubbish, pollution and invasive species;
- mapped estuarine macrophytes and key fish habitats;
- whether it is mapped bushfire prone land\*, koala habitat, potentially contaminated land\*\* or if the land appears on the DPIE Biodiversity Values Map V11.2- 2021\*\*\*
- within the Flood Planning Level Area (FPL) and as per the '*Inundation Hazard 2100*' study including whether the land falls within the flooding Annual Exceedance Probability (AEP) of 1% - See *flood planning data below for more information*.

\* The Coffs Harbour LGA Bush Fire Prone Land dataset categorises vegetation communities based on structure and potential risk, and then provides a buffer.

The definition of bushfire vegetation categories is as follows:

- **Vegetation Category 1** – highest risk and is represented as red on the Bush Fire Prone Land map and given a 100m buffer. This includes areas of forest, woodlands, heaths, forested wetlands and timber plantations.
- **Vegetation Category 2** – lower risk and is represented as light orange on the Bush Fire Prone Land map and will be given a 30 metre buffer. This includes areas of rainforests, and managed land such as urban reserves.
- **Vegetation Category 3** - medium risk and is represented as dark orange on the Bush Fire Prone Land map and given a 30 metre buffer. This includes areas of grasslands, freshwater wetlands, semi-arid woodlands, alpine complex and arid shrublands. This is a new category from the previous version.

\*\* Mapping was conducted by Rodger Dwyer and Associates Mapping Consultants of Coffs Harbour, and carried out in approximately October 2001. The potential contamination is land is classed as such on the basis of its industrial land zoning, or potentially contaminating land-use activities, or both. Land-use activities identified include, but are not limited to, railway yards, waste storage and treatment, chemical manufacture, engine works, landfill sites and service stations.

\*\*\* The DPIE Biodiversity Values Map (BV Map V12- 2021) identifies land with high biodiversity value that is particularly sensitive to impacts from development and clearing. The BV Map is one of the triggers for determining whether the Biodiversity Offset Scheme (BOS) applies to a clearing or development proposal. The BV Map has been prepared by DPIE under Part 7 of the Biodiversity Conservation Act 2016 (BC Act).



### Flood Planning Data and Analysis

The dataset used to underpin this study is used to identify the inundation areas for the 2100 planning horizon in the Coastal Hazard Study undertaken by BMT WBM Pty Ltd (2010, updated 2019) for the Coffs Harbour LGA coastline.

This dataset represents predicted flooding extents for the Coffs Harbour LGA. The initial mapping was conducted by BMT WBM in May 2013 and will subsequently be updated as new information becomes available. It was generated using model-predicted 1% AEP flood levels and LiDAR elevation data.

Flood Planning Level (FPL) is the combination of flood level plus freeboard selected for the floodplain risk management purpose. For Coffs Harbour City Council a FPL of (1% AEP + 500mm) is used to define properties subject to council's flood policy. The dataset was primarily designed to identify flood prone land, for interpretation at a property level scale.

AEP - Annual Exceedance Probability, the chance of a flood of a given size or larger occurring in any one year usually expressed as a percentage e.g. a 1% AEP has a 1% (or 1 in 100) chance of occurring in any one year.

Other factors relevant to the condition, use, management or development of a reserve may include land or water:

- that falls within a 100m buffer distance of the Solitary Islands Marine Park (in compliance with s.56 of the *Marine Estate Management Act 2014* and Part 5 of the [Environmental Planning and Assessment Act 1979](#));
- within 40m of rivers or streams of a 3<sup>rd</sup> order or greater resulting in the need for this as a buffer distance;
- within the mapping of the [Coastal](#) SEPP (which means Part 2. Div (1-5) may apply to any development) including:
  - coastal zone/coastal environment/coastal use
  - coastal wetland, coastal wetland proximity areas, littoral rainforest and littoral rainforest proximity areas
  - coastal lakes

## 5.2 Permitted Future Use, Development and Management of the Land & Structures - General

**Table 5.2.1** below sets out the management issues, actions to achieve the 'Core Objectives' of the land use and measures used to assess performance.

The current and permitted future use and management of the reserves, as well as those management actions relating the reserve(s) outlined in Council's IP&R framework as required by the LG Act (Chapter 13, Part 2. s.402-406) are provided in this section of the PoM (Section 5) and are thereby authorised.



In addition to the existing and future land uses outlined above, **Table 5.2.1** sets out the range of management issues, means of achieving the ‘Core Objectives’ of the reserve’s land use and measures used to assess management performance.

This PoM authorises Council to update, modify or undertake any repairs necessary to ensure that the buildings and infrastructure on the reserve remain in acceptable condition for the on-going use by the community. Maintenance schedules are in place and may be modified as necessary by Council at any time and subject to funding. Access to adjacent landholdings for any lawful purpose via the reserve, is also authorised.

This PoM authorises Environmental Protection Works (EPW) to be undertaken in Coastal Wetland and Littoral Rainforest Areas (as defined in *SEPP (Resilience and Hazards) 2021*) by Public Authorities under Part 5 of the EP&A Act. Environmental Protection Works (EPW) and factors relevant to EPWs include:

- those works that would meet the definition in the LEP, that is: “environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works”;
- those typically undertaken by public authorities on an as needs basis as part of their general environmental management works;
- consideration for any vegetation removal in the Coastal Wetland and Littoral Rainforest Area (which may form part of EPW), in that it may trigger a Biodiversity Development Assessment Report (BDAR) under the *Biodiversity Conservation Act 2016* (this does not include marine vegetation protected under the *Fisheries Management Act 1994*).
- any other works not including EPW in the Coastal Wetland and Littoral Rainforest Area would be deemed Designated Development under the EP&A Act.

The following activities meet the definition of EPW:

Revegetation works, weed control, dune rehabilitation, bush regeneration, erosion control\*; and bank protection and stabilisation\*.

For those items marked with an asterisk (\*), the primary intent of the works must be other than for coastal protection. For example, the works may be intended to protect the health of a waterway by preventing erosion and sedimentation, to re-establish riparian vegetation and/or improve its growth and retention, to provide fish habitat, etc.

This PoM also permits the rationalisation of any buildings and facilities under lease and or licence agreements as long as all proposed works obtain written and/or development approval from Council.

Where it is proposed to construct or establish a ‘public work’ on the reserve, where the land is not excluded land, prior to approval Council will require written advice of one of Council’s native title managers that it complies with any applicable provisions of native title legislation. Where native title is not extinguished, Council will notify and give an opportunity to the relevant representative Aboriginal/Torres Strait Islander body, registered native title claimants or registered native title bodies corporate as the case maybe, in relation to the land or waters covered by the proposed work as required under the Native Title Act 1993.



**Table 5.2.1: Management issues, means of achieving core objectives and performance assessment**

| Management Issues                                    | Means of Achieving Core Objectives   | Assessing Performance   |
|--|--|---|
| Litter collection & illegal dumping                  | Regular litter collections and any illegal dumping referred for enforcement action   | Frequency of reports of illegal dumping/rubbish                           |
| Public recreation and use                            | Any facilities to enhance public use will be maintained and measures adopted to facilitate appropriate use of the reserve  | Regular inspections of facilities   |
| Native Title rights & interests                      | Protection of the rights and interests of those who hold or may hold Native Title, by ensuring future acts are undertaken in accordance with the Native Title Act 1993   | Future Acts that may affect Native Title reviewed by Native Title Manager |
| Exclude or restrict public access where applicable   | Where the current use or physical status of a reserve is not conducive to public use, appropriate signage, fencing & or barriers are installed.  | Incidence of access to off-limits areas                                   |
| Leases, licenses & other estates including easements | Applications for leases, licenses or other estates consistent with the Core Objectives of the category of the land are granted. Council may also request of the Minister that an easement be created over the land | Numbers of applications granted & rejected                                |

The reserve(s) listed in the following section (5.3) may be developed and managed to enable the land to be used for public open space and recreation purposes; provide a range of recreational settings, activities and compatible land uses; and to protect and enhance the natural environment for recreation purposes consistent with the intent of the gazetted purpose of the reserve(s), previous and current use and the 'Core Objectives' of the land use of the reserve(s) as outlined in s.361 of the LG Act.

## 5.3 Condition, Future Use, Development and Management of the Land and Structures – Reserve Specific

### 5.3.1 Woolgoolga Lake Reserve

Woolgoolga Lake reserve is an intermittently opening coastal estuary fed by two creeks, being Woolgoolga Creek and Poundyard Creek. There are no structures or improvements on the reserve. The entrance to the Woolgoolga Lake estuary naturally alternates between being open or closed to the ocean. These types of estuaries are known as an ICOLL's - Intermittently Closed and Open Lakes and Lagoons. The Lake and Creeks are part of the Solitary Islands Marine Reserve.

The Reserve is bounded by Coffs Coast Regional Park to the north, two other Crown reserves comprising Woolgoolga beach and surrounds, the Woolgoolga Sportsground Crown reserve



to the west and the Woolgoolga township to the south. It was gazetted on 12 December 1948 for ‘public recreation’ and continues to be commonly used for this purpose.

This *Coastal Zone Management Plan* (CZMP) is the primary document relating to the management of Woolgoolga Lake and this PoM authorises the actions and measures so outlined. The CZMP describes and proposes actions to be implemented by Coffs Harbour City Council, other public authorities and the private sector to address priority management issues for the Woolgoolga Lake estuary. The area addressed by the CZMP is broader than the area of the Crown reserve and comprises the tributaries, foreshores and the catchment draining to the estuary, up to the tidal limit of the tributary creeks. The CZMP also considers issues associated with the wider catchment upstream of the tidal limit.



**Figure 5.3.1: Woolgoolga Lake boat ramp for non-powered craft**

The only structure within the reserve is the boat ramp at Woolgoolga Lake for non-powered vessels shown in **Figure 5.3.1** above. The *Coffs Harbour City Council Building Condition Assessment Report and Maintenance Schedule* – March 2019 undertaken by civil engineering consultants GHD, rates the condition of the structures on the reserve. However, the boat ramp was installed after this report was completed but has since been assessed by Council staff as being in very good condition.

The other major document relating to the management of Woolgoolga Lake is Council’s *Woolgoolga Lake Entrance Management Procedure*. Its purpose is to provide Council with criteria for initiating berm height management and a procedure for undertaking works to the entrance of the estuary (seen below in **Figure 5.3.2**).

This allows Council to manage the prevention of flooding of low lying infrastructure and private property in a way that allows the lake to function as naturally as possible. This PoM





authorises Council to manage the reserve consistent with this procedure and as it is amended over time.



**Figure 5.3.2: Woolgoolga Lake entrance to the sea**

The catchment for Woolgoolga Lake encompasses a range of land uses including residential use, commercial areas, forestry and conservation areas as well as rural production such as blueberry farming as can be seen on the far hillside in **figure 5.5.3** below.



**Figure 5.3.3: Woolgoolga Lake view to the west**



The reserve possesses a range of natural values and attributes with the most significant of these being mapped:

- SEPP (Resilience and Hazards) 2021- Coastal Zone/ Coastal Use/ Coastal Environment Area/Coastal Lakes and Wetland Proximity Area
- ASS - Class 1,3 and 5
- EEC – Swamp Oak Floodplain Forest, Swamp Sclerophyll Forest and Coastal Saltmarsh
- Bushfire Prone Land (partial) - Category 1
- Beach Erosion Hazard 2100 – ‘Almost Certain’
- Inundation Hazard 2100 – ‘Almost Certain’
- Flooding – 1 % AEP Flood Extents and Flood Planning Level (FPL) area
- 100m buffer SIMP
- 40m river buffer
- Koala Habitat – Secondary
- Estuarine Macrophytes - Saltmarsh and Mangroves
- Key Fish Habitats - Coastal Lagoons and Water
- Biodiversity Values Map V12– 2021

The main form of management of the reserve by Council relates to entrance management as discussed above. However, this PoM authorises Council to undertake other works as may be required in order to protect the reserve from damage such as that caused by floods or the movement of the ocean, facilities to enhance the use of the reserve by the public as well as any works necessary to protect public or private assets.





## 6. LEASES, LICENCES AND OTHER ESTATES

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### 6.1 Legislative Requirements

#### Local Government Act 1993

Sections 45-47AA of the LG Act establishes the restrictions and requirements on Council in relation to the granting of new leases, licences and other estates of 'community' land.

New leases, licences or other estates of 'community' land may only be granted if:

- The plan of management expressly authorises the lease etc;
- The purpose of the lease etc is consistent with the 'Core Objectives' for the category of land on which it is issued; and
- The lease is for a purpose consistent with Section 46 of the LG Act, such as the provision of public utilities, public roads and carrying out of activities that are appropriate to the current and future needs of the local community and of the wider public in relation to public recreation.

Section 46-46A of the LG Act requires that tenders must be called for all leases of 'community' land over five years, unless the lease is to be granted to a non-profit organisation, and that leases not be granted for more than 21 years. Section 47 of the LG Act sets out the requirements where Council proposes to lease 'community' land for a period greater than 5 years including:

- Public notification;
- Consideration of submissions; and
- Consultation with the Minister if a submission is by way of objection.

Section 47A of the LG Act establishes the requirements where Council proposes to lease 'community' land for a period less than five years. Clause 117 of the *Local Government (General) Regulation (LGR) 2021* exempts certain uses from the requirements of Section 47A where no permanent structures are erected. Exempt uses include:

- Public performance (theatre, musical and the like);
- Playing a musical instrument or singing for reward;
- Engaging in a trade or business;
- Playing of any lawful game or sport;
- Delivering a public address;
- Commercial photographic sessions;
- Picnics and private celebrations (including weddings and the like); and
- Filming.

Section 116.(1)(A-H) of the LGR 2021 also lists a range of uses that are 'prescribed as a purpose' in respect of which a council may grant a licence to use community land on a short-term, casual basis. These uses duplicate those specified in S.117 (dot points above) but also includes the agistment of stock. Section 47C of the LG Act prohibits the sub-lease of 'community' land unless it is notified under Section 47 or permissible in accordance with Clause 119 of the LGR 2021. Clause 119 permits the sub-lease of refreshment kiosks, and allows dances and private parties for a sporting club.



Section 68 of the LG Act specifies a range of activities where approvals are required to be obtained from Council. These are often in addition, or ancillary to, standard development application (DA) requirements and are known as 'section 68 approvals'.

Section 68 approvals required for activities on 'community land' include:

- Engage in trade or business;
- Direct or procure a theatrical, musical or other entertainment for the public;
- Construct a temporary enclosure for the purpose of entertainment;
- For fee or reward, play a musical instrument or sing;
- Set up, operate or use a loudspeaker or sound amplifying device; and
- Deliver a public address or hold a religious service or public.

A person who fails to obtain an approval or who carries out an activity otherwise than in accordance with an approval within the precinct area is guilty of an offence under the LG Act. Penalties apply for the offence.

### **Crown Lands Management Act 2016**

Council as the Crown land manager of the reserve(s) can also issue a short-term licence under s2.20 of the CLM Act over these reserve(s). Purposes for which Council can issue a short-term licence include:

- 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.



A short-term licence may be granted subject to conditions specified by Council for a period up to a maximum of 12 months. The licence ceases to have effect when the term after it is granted expires, or is revoked sooner by Council. A short-term licence is also subject to the conditions prescribed by the CLM Act including any penalty that may be prescribed for failure to comply with the conditions of the short-term licence.

## 6.2 Future Leases, Licences and Other Estates

This PoM authorises Council to grant new licences for the ‘prescribed purposes’ outlined in Section 116.(1)(A-H) of the LGR 2021, s.68 of the LG Act and for the purposes outlined above in s2.20 of the CLM Act, including the use of the reserve for the placement of bee hives.

Leases, licences or any other estates for community land covered under this PoM may also be granted for purposes which are identified or consistent with, but not limited to, those examples in **Table 6.1**.

**Table 6.1: Examples of purposes for which long-term leases, licences or other estate may be granted consistent with the reserve purpose and subject to Native Title Manager Advice**

| Type of Arrangement Authorised | Facilities covered                                | Purposes for which long-term leasing, licensing and other estates may be granted  |
|--------------------------------|---|---|
| <b>Lease</b>                   | Community buildings, facilities and land          | Any lease proposal will be individually assessed and considered, including the community benefit, compatibility with this PoM and the capacity of the area to support the activity. Sympathetic, compatible uses may include: <ul style="list-style-type: none"> <li>▪ café/kiosk areas</li> <li>▪ child care or vacation care</li> <li>▪ educational purposes including education classes, workshops or galleries</li> <li>▪ health or medical practitioners associated with the relevant facility (eg. Nutrition, physiotherapy)</li> <li>▪ markets</li> <li>▪ recreational purposes, including fitness classes; dance classes and games</li> <li>▪ sporting uses developed/operated by a private operator</li> <li>▪ Emergency services</li> </ul> |
| <b>Licence</b>                 | Community buildings, facilities and land or water | Any licence proposal will be individually assessed and considered, including the community benefit, compatibility with this PoM and the capacity of the area to support the activity. Sympathetic, compatible uses including: <ul style="list-style-type: none"> <li>▪ cultural purposes, including concerts, dramatic productions, temporary artistic installations and galleries</li> <li>▪ educational purposes, including museums, education classes, workshops</li> </ul>  |



|                      |  |   |
|----------------------|--|---|
|                      |  | <ul style="list-style-type: none"> <li>▪ kiosk/café and refreshment purposes</li> <li>▪ recreational purposes, including fitness classes, dance classes, Yoga, surf schools etc</li> <li>▪ social purposes (including child care, vacation care)</li> </ul>   |
| <b>Other Estates</b> | Community buildings, facilities and land | <p>This PoM allows Council to grant ‘an estate’ over community land for the provision of public utilities and works associated with or ancillary to public utilities in accordance with the <i>Local Government Act 1993</i>.</p> <p>Estates may also be granted across community land for the provision of pipes, conduits, or other connections under the surface of the ground for the connection of the premises adjoining the community land to a facility of the Council or other public utility provider that is situated on community land.</p> |

Other community, recreational and auxiliary uses as well as purposes of a commercial nature which assists the ongoing financial feasibility of the lessee to contribute to the public’s amenity, safety, convenience and enjoyment of the land, may also be granted a lease, licence or other estate. However, any proposed use must not be inconsistent with the ‘Core Objectives’ of the category of the land (as per S.36 of the LG Act) and are subject to relevant legislation and the approval of Council. All fees and charges will be levied in accordance with Council’s adopted Fees and Charges at the time.

### 6.3 Management Agreements

Land and/or facility management agreements generally relate to the management of Council land and facilities by individuals and businesses on behalf of Council but may also include Crown land where Council is the appointed land manager. Management agreements are a legally binding commitment between Council and the third party and are considered to be an ‘estate’ for the purposes of the LG Act and so are bound by any provisions relevant to the grant of an estate. Land management agreements may include:

- co-management agreements with local landcare and/or traditional owner groups;
- land management (native vegetation) focused incentive funding (eg. Crown Reserves Improvement Fund; Local Land Services; Green Corp; etc);
- government/conservation based training initiatives; and
- covenants in support of carbon credits under various state and national schemes.

Facility management agreements may include:

- co-management agreements with sports clubs and/or community groups;
- contractual arrangements to manage specific facilities (sports centres, holiday parks, etc); and
- “fee for service” agreements to maintain facilities and/or public amenities.

This PoM authorises Council as the Crown land manager of the reserve(s) to enter into a land and/or facility management agreement with a third party, subject to:

- Consistency with the principles of Crown land management under the objects of the CLM Act



- Compliance with the relevant provisions of the LG Act including S.46, S.47 and S.47A and in relation to any request for tender that may be made (S.55 of the LG Act);
- Consistency with the reserve purpose and the public's use and enjoyment of the reserve;
- Consideration of native title and the rights and interests of the traditional owners of the land;
- Consideration of the impact of the agreement on future land use options for the reserve; and
- Funding required for ongoing maintenance responsibilities under the agreement.

#### 6.4 Native Title Considerations

Any tenure or use agreement on Crown land may impact native title rights and interests and must be granted in accordance with the future act provisions of the *Native Title Act 1993* and Part 8 of the *Crown Land Management Act 2016*, unless native title is extinguished.

For Crown land which is not excluded land this will require written advice of one of Council's native title managers that it complies with any applicable provisions of native title legislation.

#### 6.5 Leases, Licences and Other Estates at the Time of Adoption

In accordance with Section 34A(2) of the *Crown Lands Act 1989*, an additional use for the 'Extraction of Sand' was gazetted on 11 April 2014 and a Relevant Interest Licence RI 526557 granted to Council for the purposes of estuary entrance management.



## 7. NATIVE TITLE MANAGER'S ADVICE

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Written advice from a qualified native title manager has been received for the land covered by this PoM.

Lot 7009, DP 1058576 also appears on the Register as being affected by an Aboriginal Land Claim in pursuant to sections 36 or 37 of the *Aboriginal Land Rights Act 1983*.

A search of the Department of Planning & Environment's Aboriginal Heritage Information Management System (AHIMS Web Services) has shown no recorded aboriginal sites or places.



## 8. PLAN REVIEW AND AMENDMENT

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This PoM will require periodic review in order to align with community values and changing community needs, and to reflect changes in Council priorities. The performance of this PoM will also be assessed on a regular basis to ensure the land and buildings are well maintained and provide a safe environment for the public.

Strategic reviews of this PoM will occur at 5 and 10 year intervals. The community will have an opportunity to participate in reviews of this PoM as part of the planning process as required by legislation and Council policies.