PROPOSED CATEGORISATION/RECATEGORISATION OF COMMUNITY LAND IN KU-RING-GAI BUSHLAND RESERVES

Map 4. Huntley’s Forest (LMU 108) – Proposed categorisation

Draft
Ku-ring-gai Bushland Reserves
Plan of Management
Ku-ring-gai Council
October 2013

FINAL REPORT

2 DECEMBER 2013

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1 INTRODUCTION

1.1 Purpose of this public hearing report

This public hearing report has been prepared under Section 40A of the *Local Government Act 1993* (the Act). The purpose of this report is to report to Ku-ring-gai Council on the submissions made in relation to a public hearing held on 19 November 2013 regarding the proposed categorisation and recategorisation of community land in bushland reserves in Ku-ring-gai local government area (LGA).

1.2 Land covered by this report

This public hearing report addresses the proposed categorisation and recategorisation of land classified as community land under the *Local Government Act 1993* which is included in the Draft Ku-ring-gai Bushland Reserves Plan of Management, prepared by Council in October 2013. That Plan of Management is referred to as the Draft Plan of Management in this report.

Land parcels covered by the Draft Plan of Management proposed to be categorised or recategorised are listed below. Supporting documents, including maps of the proposed categorisations and recategorisations, will accompany this public hearing report and the Draft Plan of Management in a report to Council to adopt the Draft Plan of Management.

### Table 1.1 Proposed categorisations and recategorisation of community land in Draft Ku-ring-gai Bushland Reserves Plan of Management

<table>
<thead>
<tr>
<th>Boundary re-alignment between community land categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Ku-ring-gai Creek Reserve (LMU 20)/ Warrimoo Oval (LMU 19), St Ives Chase;</td>
</tr>
<tr>
<td>• Acron Oval (LMU 94) and Douglas Street Reserve (LMU 93) St Ives;</td>
</tr>
<tr>
<td>• Kissing Point Road Sports Field (LMU 361) South Turramurra (within Sir David Martin Reserve) (LMU 257);</td>
</tr>
<tr>
<td>• William Lewis Park (LMU 873) and Bush (LMU 216), Fox Valley Road, Wahroonga;</td>
</tr>
<tr>
<td>• Turramurra Park Oval (LMU 42), Upper Lovers Jump Creek (LMU 876), Turramurra;</td>
</tr>
<tr>
<td>• Mitchell Crescent Reserve (LMU 232), Twin Creeks Reserve (LMU 233), Warrawee;</td>
</tr>
<tr>
<td>• Rofe Park (LMUs 250 and 249), Kate Street Turramurra;</td>
</tr>
<tr>
<td>• Reading Avenue Reserve (LMU 154), and Warrington Reserve (LMU 153), East Killara;</td>
</tr>
<tr>
<td>• Seven Little Australians Park (LMU 370) and Seven Little Australians (LMU 165), Slade Avenue, Lindfield;</td>
</tr>
<tr>
<td>• Upper Bicentennial Park (LMU 285) &amp; Bicentennial Park Bushland (LMU 286) Guiders Park (LMU 13) and Glengarry Annexe (LMU 342), North Turramurra;</td>
</tr>
<tr>
<td>• Mimosa Oval and Rofe Park, Turramurra; (LMUs 251 &amp; 248);</td>
</tr>
<tr>
<td>• Darnley Oval and Governor Phillip Reserve, East Gordon Park, Gordon; (LMUs 133 &amp; 132); George Christie Playing Field and Bradley Park, Wahroonga; (LMUs 242 &amp; 236); Howson Oval and Twin Creek Reserve, Turramurra; (LMUs 237 &amp; 233);</td>
</tr>
<tr>
<td>• Koola Park and Bushranger Reserve, Killara; (LMUs 138 &amp; 137);</td>
</tr>
<tr>
<td>• Barra Brui Playing Field, Community Development Area and Barra Brui Bush, St Ives; (LMUs 134, 625 &amp; 135);</td>
</tr>
<tr>
<td>• Avondale Pony Club and Surgeon White Reserve, St Ives; (LMUs 103 &amp;102);</td>
</tr>
<tr>
<td>• Bryce Oval and Bryce Bush, St Ives; (LMUs 118 &amp; 119);</td>
</tr>
<tr>
<td>• Princes Park (LMU 340) and Scouts (LMUs 719 &amp; 720);</td>
</tr>
<tr>
<td>• Bobbin Head Road Bushland (LMU 9) and Scout Lease (LMU 725)</td>
</tr>
</tbody>
</table>
1.3 Legislative requirements

1.3.1 Requirements for categorisation of community land

Land owned by Council may be classified as either community or operational land. Community land is defined as land that must be kept for the use of the general community, and must not be sold.

Categorisation of community land determines the way in which the land will be managed. In accordance with Section 36(4) of the Local Government Act, community land is to be categorised as one or more of the following:

- Natural Area.
- Sportsground.
- Park.
- Area of Cultural Significance.
- General Community Use.

Land that is categorised as a Natural Area is to be further categorised as one or more of the following under Section 36(5) of the Act:

- Bushland.
- Wetland.
- Escarpment.
- Watercourse.
- Foreshore.

Guidelines and core objectives for the various categories of community land, which set out Council’s intentions for the use and management of land in each category, are prescribed by legislation, including the Local Government Act 1993 and the Local Government (General) Regulation 2005 (the Regulation). Council must categorise community land according to these guidelines, and manage the community land according to these core objectives. Any additional Council objectives for the land must comply with the core objectives established within the Act. The importance of the prescribed core objectives is to ensure that any uses or developments of the land are consistent with the core objectives for that category of land.

The Department of Local Government’s revised Practice Note on Public Land Management (Department of Local Government, 2000) made general recommendations on the guidelines for categorising community land. The Practice Note stated:
“Council must have regard to the guidelines in determining a category (cl.9) but are not required to adopt any category merely because the land fits the description in the guidelines. Council should look at all the circumstances of the land in making a decision as to categorisation. For example, a piece of land may seem to satisfy the guidelines for more than one category. Council has a discretion in this case to look at the land in context, taking into account all relevant material before determining a category. It is important that Council be able to justify a decision.”

Also, Council may have a piece of community land, parts of which may be best managed as different categories, for example a piece of land with remnant bushland in one part and children’s play equipment in another. Council is able to categorise land as part ‘Natural Area – Bushland’ and part ‘Park’. It is strongly recommended that the land in each category not overlap. Overlapping categories may cause conflict in management objectives and will create confusion in the minds of Council staff and the community.”

1.3.2 Requirements for public hearings

Under Section 40A of the Local Government Act 1993, Councils are required to hold a public hearing into the proposed categorisation or re-categorisation of community land. Such hearings need to be conducted by an independent chairperson under Section 47G of the Act.

1.4 Proposed categorisation and recategorisation of community land in Ku-ring-gai Bushland Reserves

The Draft Plan of Management includes community land which is proposed to be either categorised or recategorised as Natural Area-Bushland. These proposed categorisations and recategorisations were adopted by Ku-ring-gai Council on 14 December 2010, 19 July 2011, 9 August 2011, and 18 October 2011. The public hearing and this public hearing report will assist Council in resolving to formalise these adopted categorisations and recategorisations.

The essence of the public hearing is whether the community agrees or not with the parcels of land which are the subject of the public hearing being categorised as Natural Area and sub-categorised as Bushland according to the guidelines and core objectives for Natural Area and Bushland under the Local Government Act 1993 as set out below.

Table 1.1 Guidelines and core objectives for categories of community land in Draft Ku-ring-gai Bushland Reserves Plan of Management

<table>
<thead>
<tr>
<th>Category</th>
<th>Guidelines</th>
<th>Core objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Area</td>
<td>If the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the Act.</td>
<td>☐ 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.  &lt;br&gt;☐ maintain the land, or that feature or habitat, in its natural state and setting.  &lt;br&gt;☐ provide for the restoration and regeneration of the land.  &lt;br&gt;☐ 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.</td>
</tr>
</tbody>
</table>
### Category | Guidelines | Core Objectives
--- | --- | ---

- **Natural Area – Bushland**
  - Land that is categorised as a natural area should be further categorised as bushland if the land contains primarily native vegetation and that vegetation:
    - (a) is the natural vegetation or a remainder of the natural vegetation of the land, or
    - (b) although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, of the natural vegetation in the locality.
  - ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land.
  - promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion.
  - restore degraded bushland.
  - protect existing landforms such drainage lines, watercourses and foreshores.
  - retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term.
  - protect bushland as a natural stabiliser of the soil surface.

Under Section 36(5) of the Act, Natural Areas are required to be further categorised as bushland, wetland, escarpment, watercourse or foreshore based on the dominant character of the natural area.

Council may consider changing the sub-categorisation of the community land categorised or recategorised as Natural Area-Bushland in the Draft Plan of Management as either Wetland, Escarpment, Watercourse or Foreshore, in a review in Stage 2 of preparing and implementing the Draft Plan of Management.

Recategorisation of some areas of community land have required changes in the boundaries between the categories of Natural Area, Park, and Sportsground.

### 1.5 Public hearing details

#### 1.5.1 Timing of the public hearing

The public hearing to receive submissions on the proposed categorisation and recategorisation of community land included in the Draft Plan of Management was held on Tuesday 19 November 2013 from 5.00 pm to 7.00pm in the Council Chambers, Ku-ring-gai Council, 818 Pacific Highway, Gordon.

The public hearing was held during the public exhibition of the Draft Plan of Management from 23 October to 20 November 2013, with a further 14 days allowed for written submissions until 4 December 2013. The timing of the public hearing permitted public
notification of the public exhibition of the Draft Plan and of the public hearing to occur at the same time.

1.5.2 Advertising and notification

Section 38 of the Local Government Act provides that Councils must give “public notice” of a draft Plan of Management, and the length of time for which it must be on public exhibition and for submissions to be made. The contents of the public notice are set out in Section 705 of the Local Government Act.

The public exhibition of the Draft Plan and the public hearing arrangements were communicated to the community by:

- a page on Council’s website: Home > I want to… > Ask, discuss or comment > have my say (public exhibitions) > Notice of public hearing – Re-categorisation of community land.
- letters sent to local residents adjoining the proposed biobank site in Sheldon Forest, Rofe Park and Comenarra Creek Reserve.
- notifying the following stakeholder groups:

  **Statutory Stakeholders**
  1. Department of Planning and Infrastructure Land and Property Information Head Office
  2. Metropolitan Local Aboriginal Land Council
  3. NSW Aboriginal Land Council
  4. Metropolitan Lands Office
  5. Department Of Planning and Infrastructure
  6. The Minister administering the *Environmental Planning and Assessment Act 1979*
  7. NSW Rural Fire Service Headquarters
  8. Hornsby Ku-ring-gai Fire Control Centre
  9. NSW Rural Fire Service
  10. Parks and Wildlife
  11. Office of Environment and Heritage
  12. Department of Premier and Cabinet
  13. Scouts Australia NSW Branch
  14. Sydney North Region
  15. Newington College Council
  16. Sydney Water - Urban Growth Strategy
  17. Ausgrid (Electricity and Transmission Lines)

  **Strategic Stakeholders**
  18. STEP Inc.
  19. Australian Association of Bush Regenerators
  20. Ku-ring-gai Bushcare Association (KBA)
  21. Mrs Janet Harwood

  **Community Stakeholders**
  1. All residents with properties along the interface (and across the road) around the reserves.
  2. All residents within 100 metres of 26A Northcote Road, Lindfield.
The Draft Plan was on public exhibition on Council’s website, at Council’s administration centre, and at all Council libraries.

An information package about categorisation and public hearings was made available at the public hearing.

The advertising and notification arrangements informed the community that they could make a submission about the proposed categorisation and recategorisation of community land included in the Draft Plan by:

- making a written submission by 9am Monday 18 November 2013 on-line, by email or by post.
- speaking at the public hearing.

1.5.3 Attendance at the public hearing

As required under Section 47G of the Local Government Act, Council appointed an independent chairperson, Sandy Hoy, Principal of Parkland Planners, to chair the public hearing.

The following Council officers attended the hearing to represent Council, to present relevant information and to answer questions:

- Penny Colyer, Team Leader Natural Areas
- Marnie Kikken, Manager Environment and Sustainability

Six members of the community attended the public hearing.

Ms. Hoy opened the hearing at 5.10pm.

Ms. Kikken introduced herself, Ms. Colyer and Ms. Hoy.


Ms. Colyer made a Powerpoint presentation which showed maps of existing categorisations and and proposed recategorisations of the subject bushland reserves.

Questions and discussion focused on the maps and information presented by Ms. Colyer.

Some community members were interested in the proposed biobank site in Sheldon Forest, Rofe Park and Comenarra Creek Reserve. Council staff also answered questions regarding the biobank site.

With no further questions from those attending Ms. Hoy closed the hearing at 6.35pm.

1.6 Written submissions

Written submissions were invited prior to the public hearing. One submission which referred to the proposed categorisation of land in Princes Park at Lindfield was received.
One person who attended the public hearing provided a written submission to the Chairperson on which their verbal submission to the hearing was based.

1.7 This report

This report makes recommendations to Council regarding the proposed categorisation and recategorisation of community land in Ku-ring-gai Bushland Reserves.

Information included in the Appendices is:

- agenda for the public hearing.
- background information which was compiled for reference at the public hearing.
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2 ASSESSMENT OF SUBMISSIONS

2.1 Introduction

This section addresses the written submission made prior to the public hearing, verbal submissions at the public hearing, and a written submission received after the hearing from a community member who attended the hearing.

2.2 General questions

General questions about categorisation that were asked and answered at the public hearing were:

1. Can two categories apply to community land?

No, only one category may apply to any one part of community land. Overlapping categories are not permitted under the Local Government Act. However two different categories may adjoin each other.

2. Is it only mowing areas which determine the boundary of Natural Area-Bushland?

No. Council defines the boundary of the Natural Area-Bushland category by a combination of defined ‘no-mow’ areas, on-ground conservation values, and regeneration potential.

2.3 Submissions about individual reserves

2.3.1 Introduction

Submissions referring to individual reserves are outlined below, in order of being raised at the public hearing. If a reserve is not listed below a submission about it was not made, and therefore Council may assume the community supports the proposed categorisation or recategorisation which is intended to apply to that reserve.

2.3.2 Comenarra Creek Reserve

Proposal

Council proposes a biobank site at Sheldon Forest, Rofe Park and Comenarra Creek Reserve.

Maps

Not applicable

Submission

Some community members who attended the hearing live near Comenarra Creek Reserve. They had received a letter from Council about the proposed biobank site. There is no background documentation provided about recategorisation of Comenarra Creek Reserve in
the Draft Plan, so the community members wanted to make sure that the reserve is not proposed to be recategorised from Natural Area-Bushland.

**Council response**

The categorisation of Comenarra Creek Reserve is not proposed to be changed from Natural Area-Bushland.

**Assessment**

No change to the categorisation of Comenarra Creek Reserve is required.

**Recommendation**

Retain the categorisation of Comenarra Creek Reserve.

### 2.3.3 Mimosa Oval and Rofe Park

**Proposal**

A large area of Sportsground comprising Mimosa Oval is mapped as Natural Area. Council proposes to modify the boundaries of the Sportsground category to better reflect the fence and natural boundary with bushland. Rofe Park includes bushland vegetation within the park. Council proposes to re-align the LMU boundary to ensure the bushland is in the Natural Area category.

**Maps**

Map 5. Mimosa Oval (LMU 251) & Rofe Park (LMU 248) – Existing categorisation
Submission

Several people attending the hearing live near Mimosa Oval and Rofe Park. As bushland surrounds the oval they wanted to understand how the proposed recategorisation affects Mimosa Oval and Rofe Park.

Why would Council mow Section 21 in Rofe Park when Council is proposing to recategorise it to Natural Area? Why Council is proposing to mow a portion of the proposed biobank site in Rofe Park? Normally natural areas aren't mowed.

Council response

The clearing near the scout hall on the edge of Rofe Park is parkland. The bushland in Rofe Park next to the parkland is vegetated natural area.

Rofe Park includes more of the area that used to be parkland as Natural Area, with the exception of the area previously used for Scouts. Inappropriate vegetation had been planted there. Council proposes to regenerate a lot of that area but it has been categorised as parkland. The boundary of Natural Area is proposed to be changed to include some natural vegetation.

The map which mentions Section 21 is an easement map, which is not the area proposed to be recategorised. Sections 19 and 20 are a right of way/walkway which is currently mowed. The contractors may have mowed outside the agreed land management unit. Council will need to investigate the mowing regime in that area.
In relation to Mimosa Oval, Council proposes to extend the Sportsground category shaded in blue to include a small strip of disturbed area which is used as sportsground. That won’t really change the management of that land.

**Assessment**

As the area of Rofe Park questioned at the hearing is not proposed to be recategorised, it is appropriate to retain the current categorisation.

The proposed recategorisation of the small strips of disturbed land on the north-eastern and south-eastern boundaries of Mimosa Park from Natural Area to Sportsground is appropriate given that land is disturbed and is considered part of the oval.

**Recommendation**

Recategorise parts of Mimosa Oval and Rofe Park as Natural Area and Sportsground, as shown on Map 6 in the supporting documents which were displayed on Council’s website at Home > I want to… > Ask, discuss or comment > have my say (public exhibitions) > Notice of public hearing – Re-categorisation of community land.

2.3.4 **Princes Park**

**Proposal**

Two Scout halls were previously located on Princes Park, hence the two pink areas and black boxes on the maps below.

The Licence area [LMU 719] in Princes Park is currently mapped to include the car park only. The Licence area [LMU 720] does not contain any infrastructure.

Council proposes to modify the boundaries of the licensed areas as follows:

- extending the licensed area [LMU 719] to better reflect on-ground infrastructure, including the car park and brick hall.
- removing the licence area [LMU 720] and mapping as Natural Area [LMU 340]. There is no current lease or licence on this land management unit.
Maps

Map 25. Princes Park (LMU 340) and Scouts (LMUs 719&720)–Existing Categorisation

Map 26. Princes Park (LMU 340) and Scouts (LMUs 719&720)-Proposed Categorisation
Submissions

Submission 1

The proposed lease area in blue should be reduced as the northern end is very wet. Although the soil has been disturbed by construction of a timber scout hall many decades ago, since it was removed some 20 years ago, natural regeneration of native species is occurring.

The Scouts no longer occupy the brick hall which is currently used by the community for book storage and sorting for raising funds for Lifeline. The brick hall is not shown on the map.

The natural area is being regenerated by a very active bushcare group with up to 12 people attending 2 or 3 mornings per month. This year Council has undertaken an ecological burn in the south-west section which has stimulated germination of an abundance of native species. This is illustrating the viability of this precious area of Turpentine Ironbark Forest an Endangered Ecological Community.

The mapping should be amended:
1. remove the black square which indicated a lease never occupied.
2. remove the black rectangle which indicated the wooden scouthall, since removed and where natural regeneration is occurring and is generally very wet.
3. mark the existing brick building, the access track and a minimal area for vehicles needed to transport books. Unless vehicles are needed to carry books they should be parked on the street.

Council should ensure that the very large red mahogany *Eucalyptus resinifera*, to the south-east of the brick hall is protected from damage by vehicles and therefore it and its understorey vegetation should be mapped as natural area.

Ideally this hall should be relocated to the mown and little used area in Primula Street. Then the lease transferred and the site regenerated to bushland to maximise this area of this threatened ecological community.

Submission 2

With regard to Princes Park, I object to the proposed categorisation and lease/ licence of land for the Scouts on the grounds that it significantly intrudes into existing and former Sydney Turpentine Ironbark Forest (STIF), a critically endangered ecological community. This is an important STIF reserve with a current size of 14,600 square meters and has the potential to have a significant core conservation area.

The current building on the site is poorly located requiring a relatively long access road to the south through STIF. The road and associated parking spaces and building unnecessarily fragment the STIF which is a key threatening process to its long term survival. Given the rarity of this ecological community, future generations will see this as a wasteful and irresponsible use of land. In the interim, the original total area for lease/licence should not be expanded and no new dwelling or facilities created on the site. I believe most of the existing cleared areas to the north of the current building should be rehabilitated and
revegetated to STIF. Ultimately the leases for LMU 719 & 720 should be phased out and the access road and remaining land similarly absorbed into STIF.

The former Scout leases covered a total area of around 411 square meters, while the adjoining sports reserve is 31,916 square meters in size. A site inspection has indicated the significantly altered ground levels needed to establish the sports reserve have had adverse impacts on the STIF. For these reasons, it is not unreasonable in the longer term to re-categorise a small portion of the south-west or north-west corner of the sports reserve which have direct access to Primula St and relocate the remaining building within LMU 719 to this area.

Additional points made at the hearing by the person who made this submission:

- Council appears to be proposing to put in two buildings because one building is there already and the other area is cleared.
- An access road passes through an endangered ecological community to a very large car park right in the middle of a STIF. That is not satisfactory at all, and wouldn't be contemplated today. It is something we'd do in the 1950s but not in the 21st century. The carpark should be located off Primula Street to the east of the sportsground.

Council response

The southern licenced/leased area has been removed because no building remains there. Council has recognised the car park in the northern area but proposes to extend the licenced area to the existing building. Council manages its scout halls within the Plan of Management applying to the land on which they are located. The scout hall at Princes Park is currently managed through the Ku-ring-gai Bushland Reserves Plan of Management. The Land Management Unit [720] which has been created on the map helps Council to reflect the current or proposed leasing / licencing arrangement, but the land on which the infrastructure sits should be categorised as Natural Area - Bushland.

Assessment

The blue area marked as ‘Scouts’ on Map 26 above is intended to apply to an area of Princes Park which is leased/licensed, and not to refer to a categorisation under the Local Government Act 1993. It is accepted there is confusion about the shading on the map as ‘Scouts’ in relation to the intended categorisation of the land.

Council intends to categorise the blue area marked as ‘Scouts’ on Map 26, which is occupied by a brick hall and a carpark, as Natural Area to be managed under the Ku-ring-gai Bushland Reserves Plan of Management. However, Section 47B(1) of the Local Government Act 1993 states that a lease, licence or other estate must not be granted over community land categorised as a Natural Area which authorises the erection or use of a building or structure for a purpose which is not prescribed in Section 47B(4) or 47B(5). Prescribed buildings and structures are walkways, pathways, bridges, causeways, observation platforms, and signs. Prescribed purposes are information kiosks, refreshment kiosks (but not restaurants), work sheds or storage sheds required in connection with the maintenance of the land, toilets or rest rooms.
A brick hall used for book sorting is not a prescribed building/structure or purpose on community land categorised as Natural Area under the Act. As such, the lease/licence would be rendered void under Section 47B(2).

When considering the guidelines and core objectives for categorisation under the Local Government Act and its Regulation, Council has two appropriate options for categorising the brick hall and carpark in Princes Park: either as Natural Area – Bushland or as General Community Use.

Despite the hall and carpark being shaded blue as ‘Scouts’ on the proposed categorisation map above, Council intend to categorise that area as Natural Area-Bushland and to manage the hall and carpark in a way which is sympathetic to management of the adjoining Natural Area. Categorisation reflects how Council wants to use and manage its community land in the future. Categorisation of the hall and its surrounds as Natural Area-Bushland would make it easier for Council to protect the adjoining bushland, review the use of the hall, and regenerate the site to bushland in the future as desired in the two submissions above.

If the hall and its surrounds are categorised as General Community Use now, there is an expectation that the site would be used for general community uses which may or may not be compatible with natural bushland. If Council wished to relocate and/or demolish the hall and regenerate the site to bushland in future, it would need to recategorise the land from General Community Use to Natural Area-Bushland.

Recommendation

Categorise as Natural Area the area of Princes Park shown in blue as ‘Scouts’ on Map 26 in the supporting documents which were displayed on Council’s website at Home > I want to… > Ask, discuss or comment > have my say (public exhibitions) > Notice of public hearing – Re-categorisation of community land.

Review the agreement for use of the brick hall in Princes Park to reflect the requirements of Section 47B of the Local Government Act 1993.

2.3.5 Kissing Park

Proposal

Kissing Park is currently managed as if it is a natural area. It is proposed to re-categorise Kissing Park (LMU 260) from Park to Natural Area.
Maps

Map 1. Kissing Park (LMU 260) – Existing categorisation

Map 2. Kissing Park (LMU 260) – Proposed categorisation
Submission

The southern area of Kissing Park which is proposed to be recategorised as Natural Area-Bushland is mowed.

Council response

Kissing Park is largely a bushland area. However an area within the site is recognised as a mowed area, and it is intended that mowing will continue to occur in that area.

Assessment

The Natural Area category is a more appropriate category to apply to the bushland in Kissing Park than the Park category. As Council intends to continue to mow an area in Kissing Park, that does not necessarily preclude the mown area from being categorised as Natural Area. Categorisation of the mowed area in Kissing Park as Natural Area rather than Park better facilitates protection of the adjoining bushland.

Recommendation

Recategorise Kissing Park from Park to Natural Area as shown on Map 2 in the supporting documents which were displayed on Council’s website at Home > I want to… > Ask, discuss or comment > have my say (public exhibitions) > Notice of public hearing – Recategorisation of community land.
3 RECOMMENDATIONS

3.1 Recommendations regarding categorisation of community land

Verbal and written submissions regarding the proposed categorisations and recategorisations of community land in the Draft Plan were outlined in Section 2.

My recommendations arising from those submissions to Ku-ring-gai Council are to:

- Retain the categorisation of Comenarra Creek Reserve.

- Recategorise parts of Mimosa Oval and Rofe Park as Natural Area and Sportsground, as shown on Map 6 in the supporting documents which were displayed on Council’s website at Home > I want to… > Ask, discuss or comment > have my say (public exhibitions) > Notice of public hearing – Re-categorisation of community land.

- Categorise as Natural Area the area of Princes Park shown in blue as ‘Scouts’ on Map 26 in the supporting documents which were displayed on Council’s website at Home > I want to… > Ask, discuss or comment > have my say (public exhibitions) > Notice of public hearing – Re-categorisation of community land.

- Review the agreement for use of the brick hall in Princes Park to reflect the requirements of Section 47B of the Local Government Act 1993.

- Recategorise Kissing Park from Park to Natural Area as shown on Map 2 in the supporting documents which were displayed on Council’s website at Home > I want to… > Ask, discuss or comment > have my say (public exhibitions) > Notice of public hearing – Re-categorisation of community land.

- Adopt all other proposed categorisations and recategorisations of community land as shown on the maps in the supporting documents which were displayed on Council’s website at Home > I want to… > Ask, discuss or comment > have my say (public exhibitions) > Notice of public hearing – Re-categorisation of community land, because it is reasonably assumed that the community supports or has no objections to the proposed categorisations or recategorisations.

- Update the generic Plans of Management for Sportsgrounds and Parks to reflect the adopted changes in categorisation.

3.2 Reporting

Within four days of receiving this report, Council is required under the Local Government Act 1993 to make a copy of this report available for inspection by the public. It is recommended that Council:

- send a copy of the public hearing report to the people who attended the public hearing and made a written submission.
- keep a copy of the public hearing report for inspection at its Customer Service desk, and at its libraries.
3.3 Adoption of proposed categorisations and recategorisations

Council must agree to the proposed categorisation and recategorisation of community land in the Draft Plan before resolving to adopt the final Plan of Management.

If Council decides to alter the proposed categorisation of community land from that in the Draft Plan, Council must hold another public hearing in respect of the proposed Plan of Management (Section 40A(3) of the Local Government Act 1993) and re-exhibit the amended Draft Plan of Management.

Sandy Hoy
Principal,
Parkland Planners
2 December 2013
APPENDIX A

AGENDA FOR PUBLIC HEARING
PUBLIC HEARING REPORT
PROPOSED CATEGORISATION/RECATEGORISATION OF COMMUNITY LAND IN KU-RING-GAI BUSHLAND RESERVES

PUBLIC HEARING
Categorisation and recategorisation of community land
in the Draft Ku-ring-gai Bushland Reserves
Plan of Management 2013

Tuesday 19 November 2013
5.00pm – 7.00pm

Council Chambers
Ku-ring-gai Council
818 Pacific Highway
Gordon

AGENDA

1 INTRODUCTIONS

2 THE PUBLIC HEARING
- Purpose of the public hearing
- Role of the independent chairperson
- Making a submission

3 REQUIREMENTS OF THE LOCAL GOVERNMENT ACT AND REGULATION
- Plans of Management for community land
- Categorisation and re-categorisation of community land
- Public hearing report

4 PROPOSED CATEGORISATION AND RECATEGORISATION OF COMMUNITY LAND IN DRAFT KU-RING-GAI BUSHLAND RESERVES PLAN OF MANAGEMENT 2013
- Background to preparation of Draft Ku-ring-gai Bushland Reserves Plan of Management 2013
- Land proposed to be categorised or recategorised in Draft Ku-ring-gai Bushland Reserves Plan of Management 2013

5 SUBMISSIONS ABOUT PROPOSED CATEGORISATION AND RECATEGORISATION OF COMMUNITY LAND IN DRAFT KU-RING-GAI BUSHLAND RESERVES PLAN OF MANAGEMENT 2013

6 NEXT STEPS
- Public hearing report issued to Council
- Council makes Public Hearing Report available to public within 4 days of receiving it
- Public exhibition closes 4 December 2013
- Submissions considered
- Preparation of final Ku-ring-gai Bushland Reserves Plan of Management
- Plan of Management and Public Hearing Report considered by Council
- Adoption of Final Plan of Management

7 THANKS AND CLOSE
APPENDIX B
BACKGROUND INFORMATION
PUBLIC HEARING

Categorisation and recategorisation of community land in the Draft Ku-ring-gai Bushland Reserves Plan of Management 2013

Tuesday 19 November 2013
5.00pm – 7.00pm

Council Chambers
Ku-ring-gai Council
818 Pacific Highway
Gordon

BACKGROUND INFORMATION FOR PUBLIC HEARING

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1.3 PLANS OF MANAGEMENT ..................................................................................................................................................... II
1.4 CATEGORISATION OF COMMUNITY LAND ........................................................................................................................ II
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Appendix A Legislation
1 LEGISLATIVE REQUIREMENTS FOR CATEGORISATION OF COMMUNITY LAND

1.1 Introduction

The *Local Government Act 1993* sets out a range of requirements that Ku-ring-gai Council is legally bound to adhere to. These requirements include the management of public land.

A summary of the relevant requirements of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005* in relation to categorisation of community land is outlined below. The relevant sections of the Local Government Act and the Regulation are provided in Appendix A.

1.2 What is community land?

The Local Government Act requires that all public land owned by Council must be classified as "community" or "operational" land (Section 26).

Community land is intended to be managed for use by the community for purposes including environmental protection, recreational, cultural, social and educational activities. Community land may only be leased or licensed for up to 21 years without the Minister’s consent or up to 30 years with the Minister’s consent, it cannot be sold, and its use is restricted to the above purposes.

Conversely, operational land is land that can be used for any purposes deemed fit by Council, may be used for commercial purposes, be leased for a longer period, and can be sold.

*Note: Public hearings regarding categorisation or re-categorisation of community land are not related to reclassification. Reclassification is when community land is re-classified as operational land that can then be managed differently and has the ability to be sold by Council. Community land is protected under the Local Government Act and cannot be sold.*
1.3 Plans of Management

Community land is required to be used and managed according to a Plan of Management applying to the land (Section 35). Council must prepare a draft Plan of Management for community land (Section 36(1)).

A Plan of Management must identify, among other information, the category of the land (Section 36(3)).

1.4 Categorisation of community land

1.4.1 Requirements of the Local Government Act

The Local Government Act 1993 requires that all land owned by the Council that is classified as community land be categorised.

A Plan of Management must identify the categories assigned to the community land it covers.

Guidelines for categorising community land as a particular category are in Clauses 102 to 111 of the Local Government (General) Regulation 2005 (refer to Appendix A).

Community land may be categorised as one or more of the following under Section 36(4):

- a natural area.
- a sportsground.
- a park.
- an area of cultural significance.
- general community use.

Land that is categorised as a natural area is to be further categorised as one or more of the following under Section 36(5):

- bushland.
- wetland.
- escarpment.
- watercourse.
- foreshore.
- a category prescribed by the regulations.

1.4.2 Guidelines for categorising community land

The Department of Local Government’s revised Practice Note on Public Land Management (Department of Local Government, 2000) made general recommendations on the guidelines for categorising community land. The Practice Note stated:

“Council must have regard to the guidelines in determining a category (cl.9) but are not required to adopt any category merely because the land fits the description in the guidelines. Council should look at all the circumstances of the land in making a decision as to categorisation. For
example, a piece of land may seem to satisfy the guidelines for more than one category. Council has a discretion in this case to look at the land in context, taking into account all relevant material before determining a category. It is important that Council be able to justify a decision.”

Also, Council may have a piece of community land, parts of which may be best managed as different categories, for example a piece of land with remnant bushland in one part and children’s play equipment in another. Council is able to categorise land as part ‘Natural Area – Bushland’ and part ‘Park’. It is strongly recommended that the land in each category not overlap. Overlapping categories may cause conflict in management objectives and will create confusion in the minds of Council staff and the community.”

1.5 Core objectives for managing community land

Each category and sub-category of community land has core objectives that apply to it under the Local Government Act. The core objectives outline the approach to management of the land covered by the particular category.

The core objectives for each category of community land are set out in Sections 36E to 36N of the Local Government Act 1993.

Core objectives for each category and sub-category of community land are in Appendix A.

1.6 Why hold a public hearing to categorise community land?

Public hearings are required under Section 40A of the Local Government Act if the proposed Plan of Management is either categorising (that is, the Plan has not been previously been prepared and adopted by Council, or has not categorised community land), or re-categorising (changing the adopted category) the land covered by the Plan of Management.

1.7 Who conducts a public hearing?

An independent chairperson will conduct the public hearing, and provide a report to Council with recommendations on the categorisation of the subject land.

Under Section 47G of the Act, the person presiding at a public hearing must not be:

- A Councillor or employee of the Council holding the public hearing.
- A person who has been a Councillor or employee of that Council at any time during the 5 years before the date of his or her appointment.

1.8 What happens after the public hearing?

Council must make a copy of the report regarding the result of the public hearing available for inspection by the public at a location within the area of Council no later than 4 days after it has received the final report from the person presiding at the public hearing. This report will be presented to Council for their information.
2 PROPOSED CATEGORISATION AND RECATEGORISATION

2.1 Land proposed to be categorised or recategorised

The Draft Ku-ring-gai Bushland Reserves Plan of Management 2013 prepared by Ku-ring-gai Council in October 2013 includes community land which is proposed to be categorised or recategorised as Natural Area: Bushland.

Land parcels covered by the Draft Plan of Management proposed to be categorised or recategorised are listed below. Supporting documents, including maps of the proposed categorisations and recategorisations, are available on the Have My Say (Public Exhibitions) page on Council's website.

Table 2.1 Proposed categorisations and recategorisations

<table>
<thead>
<tr>
<th>Boundary re-alignment between community land categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Ku-ring-gai Creek Reserve (LMU 20)/ Warrimoo Oval (LMU 19), St Ives Chase;</td>
</tr>
<tr>
<td>• Acron Oval (LMU 94) and Douglas Street Reserve (LMU 93) St Ives;</td>
</tr>
<tr>
<td>• Kissing Point Road Sports Field (LMU 361) South Turramurra (within Sir David Martin Reserve (LUM 257));</td>
</tr>
<tr>
<td>• William Lewis Park (LMU 873) and Bush (LMU 216), Fox Valley Road, Wahroonga;</td>
</tr>
<tr>
<td>• Turramurra Park Oval (LMU 42), Upper Lovers Jump Creek (LMU 876), Turramurra;</td>
</tr>
<tr>
<td>• Mitchell Crescent Reserve (LMU 232), Twin Creeks Reserve (LMU 233), Warrawee;</td>
</tr>
<tr>
<td>• Rofe Park (LMUs 250 and 249), Kate Street Turramurra;</td>
</tr>
<tr>
<td>• Reading Avenue Reserve (LMU 154), and Warrington Reserve (LMU 153), East Killara;</td>
</tr>
<tr>
<td>• Seven Little Australians Park (LMU 370) and &amp; Seven Little Australians (LMU 165), Slade Avenue, Lindfield;</td>
</tr>
<tr>
<td>• Upper Bicentennial Park (LMU 285) &amp; Bicentennial Park Bushland (LMU 286) Guiders Park (LMU 13) and Glengarry Annexe (LMU 342), North Turramurra;</td>
</tr>
<tr>
<td>• Mimosa Oval and Rofe Park, Turramurra; (LMUs 251 &amp; 248);</td>
</tr>
<tr>
<td>• Darnley Oval and Governor Phillip Reserve, East Gordon Park, Gordon; (LMUs 133 &amp; 132); George Christie Playing Field and Bradley Park, Wahroonga; (LMUs 242 &amp; 236); Howson Oval and Twin Creek Reserve, Turramurra; (LMUs 237 &amp; 233);</td>
</tr>
<tr>
<td>• Koola Park and Bushranger Reserve, Killara; (LMUs 138 &amp; 137);</td>
</tr>
<tr>
<td>• Barra Brui Playing Field, Community Development Area and Barra Brui Bush, St Ives; (LMUs 134, 625 &amp; 135);</td>
</tr>
<tr>
<td>• Avondale Pony Club and Surgeon White Reserve, St Ives; (LMUs 103 &amp;102);</td>
</tr>
<tr>
<td>• Bryce Oval and Bryce Bush, St Ives; (LMUs 118 &amp; 119);</td>
</tr>
<tr>
<td>• Princes Park (LMU 340) and Scouts (LMUs 719 &amp; 720);</td>
</tr>
<tr>
<td>• Bobbin Head Road Bushland (LMU 9) and Scout Lease (LMU 725)</td>
</tr>
</tbody>
</table>

Community land categories amended, in their entirety, to Natural Areas

- Alea End (20 Morona Avenue, Wahroonga) (LMU 337);
- Florey Avenue Reserve, Pymble (LMU 75);
- Founders Way, St Ives (LMU122);
- Holt Avenue Reserve, North Wahroonga (LMU709);
- Kissing Park (10A Bowen Avenue, South Turramurra) (LMU 260);
- Seven Wives Wood (21 Richard Road, St Ives) (LMU 100);
- Milkmaids Reserve (19A Ellalong Road, North Turramurra) (LMU 037);
- Huntley’s Forest (37A Lynbarra Avenue, St Ives) (LMU 108).

Acquisition or dedication of additional community land to be classified as Natural Areas

- 26A Northcote Road, Lindfield, added to Seven Little Australians (LMU 165).
### 2.2 Guidelines and core objectives for categorisation of community land

The guidelines and core objectives for the categories which apply or are intended to apply to the community land included in the Draft Ku-ring-gai Bushland Reserves Plan of Management 2013 are set out below.

#### Table 2.2 Guidelines and core objectives for categories of community land in Draft Ku-ring-gai Bushland Reserves Plan of Management

<table>
<thead>
<tr>
<th>Category</th>
<th>Guidelines</th>
<th>Core objectives</th>
</tr>
</thead>
</table>
| Natural Area              | If the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the Act. | □ 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.  
□ maintain the land, or that feature or habitat, in its natural state and setting.  
□ provide for the restoration and regeneration of the land.  
□ 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.  
□ 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. |

Under Section 36(5) of the Act, Natural Areas are required to be further categorised as bushland, wetland, escarpment, watercourse or foreshore based on the dominant character of the natural area.

| Natural Area – Bushland | Land that is categorised as a natural area should be further categorised as bushland if the land contains primarily native vegetation and that vegetation: (a) is the natural vegetation or a remainder of the natural vegetation of the land, or (b) although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, of the natural vegetation in the locality. | □ ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land.  
□ protect the aesthetic, heritage, recreational, educational and scientific values of the land.  
□ promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion.  
□ restore degraded bushland.  
□ protect existing landforms such drainage lines, watercourses and foreshores.  
□ retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term.  
□ protect bushland as a natural stabiliser of the soil surface. |
Appendix A Relevant legislation

Sections of the Local Government Act 1993 and the Local Government (General) Regulation 2005 which relate to community land, Plans of Management, categorisation of community land and public hearings are provided below.


LOCAL GOVERNMENT ACT 1993 -SECT 25

25 All public land must be classified

All public land must be classified in accordance with this Part.

LOCAL GOVERNMENT ACT 1993 -SECT 26

26 What are the classifications?

There are 2 classifications for public land "community" and "operational". Note. On the commencement of this Part, certain land that is vested in or under the control of a council is taken to have been classified as community land by the operation of clause 6 of Schedule 7.

LOCAL GOVERNMENT ACT 1993 -SECT 35

35 What governs the use and management of community land?

Community land is required to be used and managed in accordance with the following:

(1) "the plan of management applying to the land

(2) "any law permitting the use of the land for a or otherwise regulating the use of the land

(3) "this Division.

LOCAL GOVERNMENT ACT 1993 -SECT 36

36 Preparation of draft plans of management for community land

(1) A council must prepare a draft plan of management for community land.

(2) A draft plan of management may apply to one or more areas of community land, except as provided by this Division.

(3) A plan of management for community land must identify the following:

(a) the category of the land;

(b) the objectives and performance targets of the plan with respect to the land.

(c) the means by which the council proposes to achieve the plan’s objectives and performance targets

(d) 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.
(3A) 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.

(4) For the purposes of this section, 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.

(5) Land that is categorised as a natural area is to be further categorised as one of the following:

(a) bushland,

(b) wetland,

(c) escarpment,

(d) watercourse,

(e) foreshore,

(f) category prescribed by the regulations.

(6) The regulations may make provision for or with respect to the categorisation of community land under this section, including:

(a) defining any expression used in subsection (4) or (5), and (b)

(b) prescribing guidelines for the categorisation of community land and the effect of any guidelines so prescribed.
LOCAL GOVERNMENT ACT 1993 -SECT 36E

36E Core objectives for management of community land categorised as a natural area;

The core objectives for management of community land categorised as a natural area 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, and

(b) to maintain the land, or that feature or habitat, in its natural state and setting, and

(c) to provide for the restoration and regeneration of the land, and

(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.

LOCAL GOVERNMENT ACT 1993 -SECT 36F

36F Core objectives for management of community land categorised as a sportsground

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

(a) to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and

(b) to ensure that such activities are managed having regard to any adverse impact on nearby residences.

LOCAL GOVERNMENT ACT 1993 -SECT 36G

36G Core objectives for management of community land categorised as a park.

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

(a) to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and

(b) to provide for passive recreational activities or pastimes and for the casual playing of games, and

(c) to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.
LOCAL GOVERNMENT ACT 1993 -SECT 36H

36H Core objectives for management of community land categorised as an area of cultural significance.

(1) The core objectives for management of community land categorised as an area of cultural significance 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.

(2) Those conservation methods may include any or all of the following methods:

(a) 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,

(b) the restoration of the land, that is, the returning of the existing physical material of the land to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material,

(c) the reconstruction of the land, that is, the returning of the land as nearly as possible to a known earlier state,

(d) 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),

(e) the preservation of the land, that is, the maintenance of the physical material of the land in its existing state and the retardation of deterioration of the land.

(3) A reference in subsection (2) to land includes a reference to any buildings erected on the land.

LOCAL GOVERNMENT ACT 1993 -SECT 36I

36I Core objectives for management of community land categorised as general community use

The core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

(a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and

(b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).
LOCAL GOVERNMENT ACT 1993 -SECT 36J

36J Core objectives for management of community land categorised as bushland

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

(a) to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land and

(b) to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and

(c) to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and

(d) to restore degraded bushland, and

(e) to protect existing landforms such drainage lines, watercourses and foreshores, and

(f) to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and

(g) to protect bushland as a natural stabiliser of the soil surface.

LOCAL GOVERNMENT ACT 1993 -SECT 36K

36K Core objectives for management of community land categorised as wetland

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

(a) to protect the biodiversity and ecological values of wetlands, with particular reference to their hydrological environment (including water quality and water flow), and to the flora, fauna and habitat values of the wetlands, and

(b) to restore and regenerate degraded wetlands, and

(c) to facilitate community education in relation to wetlands, and the community use of wetlands, without compromising the ecological values of wetlands.

LOCAL GOVERNMENT ACT 1993 -SECT 36L

36L Core objectives for management of community land categorised as an escarpment

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

(a) to protect any important geological, geomorphological or scenic features of the escarpment, and

(b) to facilitate safe community use and enjoyment of the escarpment.
LOCAL GOVERNMENT ACT 1993 -SECT 36M

36M Core objectives for management of community land categorised as a watercourse

The core objectives for management of community land, categorised as a watercourse are:

(a) to manage watercourses so as to protect the biodiversity and ecological values of the in-stream environment, particularly in relation to water quality and water flows, and

(b) to manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability, and

(c) to restore degraded watercourses, and

(d) to promote community education, and community access to and use of the watercourse without compromising the other core objectives of the category.

LOCAL GOVERNMENT ACT 1993 -SECT 36N

36N Core objectives for management of community land categorised as foreshore

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

(a) to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and

(b) to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.

LOCAL GOVERNMENT ACT 1993 -SECT 40

40 Adoption of plans of management

(1) After considering all submissions received by it concerning the draft plan of management, the council may decide to amend the draft plan or to adopt it without amendment as the plan of management for the community land concerned.

(2) If the council decides to amend the draft plan it must either:

(a) publicly exhibit the amended draft plan in accordance with the provisions of this Division relating to the public exhibition of draft plans, or:

(b) if it is of the opinion that the amendments are not substantial, adopt the amended draft plan without public exhibition as the plan of management for the community land concerned.

(2A) If a council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.

(3) The council may not, however, proceed to adopt the plan until any public hearing required under section 40A has been held in accordance with section 40A.
LOCAL GOVERNMENT ACT 1993 - SECT 40A

40A Public hearing in relation to proposed plans of management

(1) The council must hold a public hearing in respect of a proposed plan of management (including a plan of management that amends another plan of management) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36 (4).

(2) However, a public hearing is not required if the proposed plan would merely have the effect of altering the categorisation of the land under section 36 (5).

(3) A council must hold a further public hearing in respect of the proposed plan of management if:

   (a) the council decides to amend the proposed plan after a public hearing has been held in accordance with this section, and
   (b) the amendment of the plan would have the effect of altering the categorisation of community land under section 36 (4) from the categorisation of that land in the proposed plan that was considered at the previous public hearing.

LOCAL GOVERNMENT ACT 1993 – SECT 47G

(1) In this section, public hearing means any public hearing required to be arranged under this Part.

(2) The person presiding at a public hearing must not be:

   (a) a councillor or employee of the council holding the public hearing, or
   (b) a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.

(3) Not later than 4 days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the council must make a copy of the report available for inspection by the public at a location within the area of the council.

LOCAL GOVERNMENT (GENERAL) REGULATION 2005

Part 4 Community land

Division 1 Guidelines for the categorisation of community land

101 Application of this Division

(1) This Division sets out guidelines for the categorisation of community land.

(2) A council that is preparing a draft plan of management under section 36 of the Act must have regard to the guidelines set out in this Division.
102 Guidelines for categorisation of land as a natural area

Land should be categorised as a natural area under section 36 (4) of the Act if the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36 (5) of the Act.

Note. Section 36A of the Act provides that community land that has been declared a critical habitat under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994 must be categorised as a natural area.

Section 36B of the Act provides that community land all or part of which is directly affected by a recovery plan or threat abatement plan under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994 must be categorised as a natural area.

Section 36C of the Act provides that community land that is the site of a known natural, geological, geomorphological, scenic or other feature that is considered by the council to warrant protection or special management considerations, or that is the site of a wildlife corridor, must be categorised as a natural area.

103 Guidelines for categorisation of land as a sportsground

Land should be categorised as a sportsground under section 36 (4) of the Act if the land is used or proposed to be used primarily for active recreation involving organised sports or the playing of outdoor games.

104 Guidelines for categorisation of land as a park

Land should be categorised as a park under section 36 (4) of the Act if the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.

105 Guidelines for categorisation of land as an area of cultural significance

Land should be categorised as an area of cultural significance under section 36 (4) of the Act if the land is:

(a) an area of Aboriginal significance, because the land:

(i) has been declared an Aboriginal place under section 84 of the National Parks and Wildlife Act 1974, or
(ii) whether or not in an undisturbed state, is significant to Aboriginal people in terms of their traditional or contemporary cultures, or
(iii) is of significance or interest because of Aboriginal associations, or
(iv) displays physical evidence of Aboriginal occupation (for example, items or artifacts such as stone tools, weapons, engraving sites, sacred trees, sharpening grooves or other deposits, and objects or materials that relate to the settlement of the land or place), or
(v) is associated with Aboriginal stories, or
(vi) contains heritage items dating after European settlement that help to explain the relationship between Aboriginal people and later settlers, or
(b) an area of aesthetic significance, by virtue of:
   (i) having strong visual or sensory appeal or cohesion, or
   (ii) including a significant landmark, or
   (iii) having creative or technical qualities, such as architectural excellence, or

(c) an area of archaeological significance, because the area contains:
   (i) evidence of past human activity (for example, below-ground features such as building foundations, occupation deposits, features or artifacts or above-ground features such as buildings, works, industrial structures, and relics, whether intact or ruined), or
   (ii) any other deposit, object or material that relates to the settlement of the land, or

(d) 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

(e) an area of technical or research significance, because of the area’s contribution to an understanding of Australia’s cultural history or environment, or

(f) 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.

106 Guidelines for categorisation of land as general community use

Land should be categorised as general community use under section 36 (4) of the Act if the land:

(a) may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public, and

(b) is not required to be categorised as a natural area under section 36A, 36B or 36C of the Act and does not satisfy the guidelines under clauses 102–105 for categorisation as a natural area, a sportsground, a park or an area of cultural significance.

107 Guidelines for categorisation of land as bushland

(1) Land that is categorised as a natural area should be further categorised as bushland under section 36 (5) of the Act if the land contains primarily native vegetation and that vegetation:

   (a) is the natural vegetation or a remainder of the natural vegetation of the land, or

   (b) although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, of the natural vegetation in the locality.

(2) Such land includes:

   (a) bushland that is mostly undisturbed with a good mix of tree ages, and natural regeneration, where the understorey is comprised of native grasses and herbs or native shrubs, and that contains a range of habitats for native fauna (such as logs, shrubs, tree hollows and leaf litter), or
(b) moderately disturbed bushland with some regeneration of trees and shrubs, where there may be a regrowth area with trees of even age, where native shrubs and grasses are present in the understorey even though there may be some weed invasion, or

(c) highly disturbed bushland where the native understorey has been removed, where there may be significant weed invasion and where dead and dying trees are present, where there is no natural regeneration of trees or shrubs, but where the land is still capable of being rehabilitated.

108 **Guidelines for categorisation of land as wetland**

Land that is categorised as a natural area should be further categorised as wetland under section 36 (5) of the Act if the land includes marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a waterbody that is inundated cyclically, intermittently or permanently with fresh, brackish or salt water, whether slow moving or stationary.

109 **Guidelines for categorisation of land as an escarpment**

Land that is categorised as a natural area should be further categorised as an escarpment under section 36 (5) of the Act if:

a) the land includes such features as a long cliff-like ridge or rock, and

b) the land includes significant or unusual geological, geomorphological or scenic qualities.

110 **Guidelines for categorisation of land as a watercourse**

Land that is categorised as a natural area should be further categorised as a watercourse under section 36 (5) of the Act if the land includes:

a) any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel that has been artificially improved, or in an artificial channel that has changed the course of the stream of water, and any other stream of water into or from which the stream of water flows, and

b) associated riparian land or vegetation, including land that is protected land for the purposes of the *Rivers and Foreshores Improvement Act 1948* or State protected land identified in an order under section 7 of the *Native Vegetation Conservation Act 1997*.

111 **Guidelines for categorisation of land as foreshore**

Land that is categorised as a natural area should be further categorised as foreshore under section 36 (5) of the Act if the land is situated on the water’s edge and forms a transition zone between the aquatic and terrestrial environment.
Division 2

Preparation and adoption of draft plans of management for community land

113 Preparation of draft plan of management where land is categorised in more than one category

A draft plan of management that categorises an area of community land, or parts of an area of community land, in more than one category must clearly identify the land or parts of the land and the separate categories (by a map or otherwise).

114 Adoption of draft plan of management in relation to which certain submissions have been made

(1) This clause applies if:

(a) a council prepares a draft plan of management, and

(b) the council receives any submission, made in accordance with the Act, concerning that draft plan that makes any objection to a categorisation of land under the draft plan, and

(c) the council adopts the plan of management without amending the categorisation that gave rise to the objection.

(2) If this clause applies, the resolution by which the council adopts the plan of management must state the council’s reasons for categorising the relevant land in the manner that gave rise to the objection.