

## ITEM 4 CROWN LAND - PLANS OF MANAGEMENT

The *Crown Land Management Act 2016* (CLM Act) came into effect on 1 July 2018. The CLM Act authorises Council to manage certain Crown Land as if it were public land under *the Local Government Act 1993* (LG Act).

On 29 October 2018 Council endorsed an initial classification and categorisation of the reserves and submitted them to the NSW Department of Industry – Crown Land. The Department has reviewed the requests for classification and the initial categorisation of the reserves. The Department has supported the majority of Council’s nominations for the reserves.

The next step is to prepare PoM for 46 Crown Reserves. All Crown Land that is classified as community land requires a CLM Act compliant Plan of Management (PoM) over the land by 30 June 2021. It is proposed that the PoM be prepared following preliminary consultation and Ministerial consent be sought for formal exhibition in accordance with the *Local Government Act 1993* and *Crown Lands Management 2016*.

### RECOMMENDATION

- 1 The advice from the NSW Department of Industry – Crown Land concerning the classification and initial categorisation of Council Managed Crown Reserves be noted.
- 2 Crown Land Management Act 2016 compliant Plans of Management be developed in three stages, as outlined in this report.
- 3 Further reports will be provided to Council following preliminary community consultation seeking a resolution to forward draft Plans of Management for Ministerial consent to allow public exhibition of those Plans.
- 4 A letter be sent to the Minister for Water, Property and Housing and the Minister for Planning and Public Spaces (jointly responsible for the Crown Lands Management Act 2016) outlining Council’s concern over the inadequate funding provided by the State for Council to prepare Plans of Management for Crown Land.

### REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy

Authorised by: Mark Riordan, Director Planning and Environment - Future City and Neighbourhoods (Acting)

### ATTACHMENTS

- 1 The 46 Crown Reserves

### BACKGROUND

On 1 July 2018 the *Crown Lands Act 1989* was repealed and replaced with the CLM Act. Council manages approximately 944 hectares of Crown Reserves that includes open space, beaches, parks, sportsgrounds, community facilities, tourist sites, natural areas and cemeteries.

Council manages two types of Crown Reserves:

- 1 Reserves where Council is the “Council Crown Land Manager” for the land. Council may grant a tenure (license, lease or easement for example) over the land subject to the requirements of the CLM Act. Council is the Council Crown Land Manager for 51 Crown land reserves covering approximately 584 hectares.

- 2 “Devolved” reserves, where Council manages the land as a caretaker. Council maintains devolved land for its use by the public for its reserve purpose or purposes but does not have the authority to grant tenure over the Crown Land. Council manages 20 Crown Land reserves that are “devolved” reserves which cover approximately 360 hectares.

Some examples of devolved reserves include Helensburgh Cemetery, Bulli Cemetery, Garrawarra Cemetery, Wollongong Cemetery, some foreshore lands around Lake Illawarra, and part of Lang Park. These reserves are not subject to the requirements outlined in this report.

Under the CLM Act legislation, Council is required to classify and manage Crown Land, where it is the Council Crown Land Manager, as if it were public land under the LG Act.

The CLM Act requires Council to:

- 1 Nominate a classification for the Crown Land as either Community Land or Operational Land (similar to how Council land is classified under the LG Act)
- 2 Nominate an initial categorisation of the Community Land that reflects the reserve purpose (similar to how Council land is categorised under the LG Act). (Figure 1 lists the categories.)
- 3 Prepare Plan(s) of Management for the Community land, over the next three years. Plans of Management are to be prepared by 30 June 2021. A Plan of Management over the land may introduce further categories in addition to the initial category.

On 29 October 2018, Council considered a report on the proposed classification and initial categorisation of the 51 reserves where Council is the Crown Land Manager.

The report proposed that:

- 42 reserves remain classified as Community Land and nominated an initial categorisation that best matched the existing reserve purpose.
- Three reserves be classified as Operational Land, including the Austinmer and Otford Rural Fire Service Station sites, and some of the land occupied by Helensburgh Community Hall (the Hall is also partially on Council owned Operational Land).
- The three large coastal reserves which contain the Bulli, Corrimal and Windang Tourist Parks be partially classified as Operational Land (the Tourist Parks) and the remainder retain a Community Land classification.
- Parts of three other reserves, namely the Bulli Pass Scenic Reserve, Hill 60 and Bulli Gateway, be partially classified as Operational Land and the remainder retain a Community Land classification.

Council resolved that:

- 1 *Council endorse the initial classification and categorisation of Crown Land as identified in Attachment 1, of the report.*
- 2 *The General Manager be authorised to finalise and submit a Classification of Crown Land as operational land form to apply for Ministerial consent to classify and manage the Crown land identified in Attachment 1 Part 3, of the report, as Operational Land.*
- 3 *The General Manager be authorised to finalise and provide written notice of initial categorisation applied to Crown Land under the management of Council as a Crown Land Manager under section 3.23 of the Crown Land Management Act as identified in Attachment 1 Parts 1 and 2, of the report.*

The initial classifications and categorisations were submitted to the NSW Department of Industry – Crown Land.

On 14 March 2019 the Department of Industry – Crown Land advised that it had reviewed Council's requests for Operational Land classification and the initial categorisation of each Crown reserve. In terms of the Operational Land requests, the Department:

- Approved the Austinmer (R180047) and Otford Bushfire Brigade reserves (R96789) being classified as Operational Land.
- Did not support the following three reserves being part or fully Operational Land and they will remain Community land:
  - Helensburgh War Memorial Hall (the Hall is also partially located on Council owned Operational Land)
  - Part of Bulli Pass Scenic Reserve, and
  - Part of Bulli Gateway Reserve.
- Deferred a decision on the three Council managed Tourist Parks at Bulli, Corrimal and Windang.

In relation to the tourist parks, the Department advised:

*“Three Crown reserves (R81722, R95911 and R53977) comprising of caravan, tourist and camping grounds are on hold pending the outcome of departmental policy position and have not be dealt with as part of this request. Council will be notified of the outcome and request to classify land as operational on confirmation of the policy position.”*

In terms of the requests for the initial categorisation of the reserves, the Department:

- Approved the submitted categorisation of 43 reserves, as they most closely align with the reserve purpose.
- Determined that Bulli Park (R580062) should be categorised as Park rather than Sportsground.
- Determined that Bulli Gateway (R1004388) be categorised as General Community Use.
- Determined that Helensburgh Community Hall (R500332) be categorised as General Community Use.
- Advised that the categorisation of the three Council managed Tourist Parks at Bulli, Corrimal and Windang. (R81722, R95911 and R53977) has been placed on hold pending a departmental policy position on the future management of caravan and tourist parks.

Accordingly, 46 Crown Reserves have been classified as Community Land and had their initial categorisation confirmed. Council can now start the process of preparing a PoM for each of these Reserves (Attachment 1), which is the subject of the remainder of this report.

## PROPOSAL

In relation to the recent determination of classification and categorization, the Department of Industry – Crown Lands advised that:

*“Council is encouraged to progress the preparation of draft Plans of Management (PoMs). As required under the Local Government Act 1993 (LG Act) the draft PoMs must be referred to the landowner prior to public exhibition”*

Developing a Plan of Management over the Crown land allows Council the opportunity to consult with the community on how these lands are managed by Council and to consider if additional community land categories, beyond the CLM Act required “initial category” should be applied to the land.

Land that is classified as Community Land can be categorised as Park, Sportsground, General Community Use, Area of Cultural Significance and Natural Area. Natural Area categorised land is further sub-categorised as either Bushland, Wetland, Escarpment, Watercourse and Foreshore. The possible Community Land categories that may apply to Community Land are shown in Figure 1.

**Figure 1: Public Land under the Local Government Act 1993 – Classification and Categorisation**



Each Community Land category has legislative “core objectives” which any lease or license authorised in Plan of Management needs to be consistent with. This is a new requirement for Crown land that is classified as community land and is a result of the CLM Act legislation.

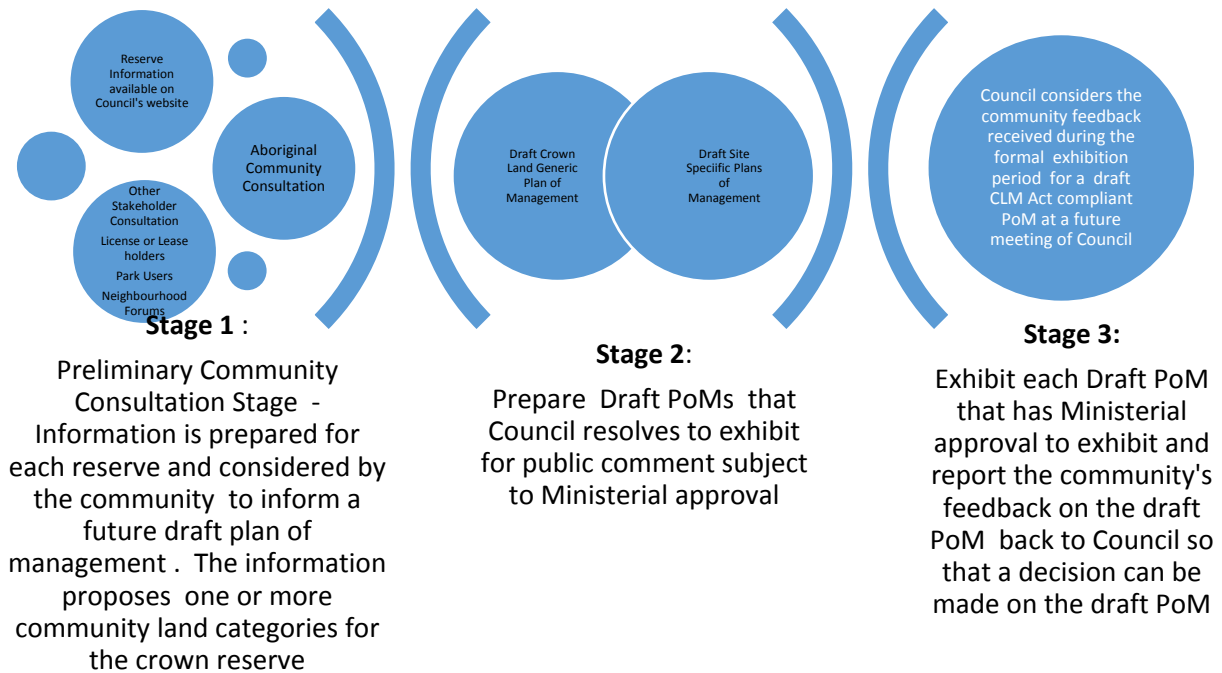
For Council owned Reserves, Council currently has adopted a Generic Plan of Management (2018), as well as eight PoMs for specific locations (most recently Beaton Park). The PoMs for Andrew Lysaght Park, the Wollongong City Foreshore (the Blue Mile) and Stanwell Park Reserve - Bald Hill Lookout which include substantial portions of Crown land, do not meet the requirements of the new CLM Act.

**CLM Act compliant Plan of Management Development**

Council officers have attended training on how to best meet the legislative requirements under the CLM Act relating to meeting Native Title obligations and PoM development. As a result, it is proposed that the development of CLM Act compliant PoMS should follow these stages as noted below and shown in Figure 2:

- Stage 1:** Preliminary Community Consultation to inform future draft PoMs
- Stage 2:** Preparing Draft Plans of Management that are CLM Act compliant
- Stage 3:** Exhibiting Draft CLM Act compliant Plans of Management subject to Minister’s consent and reporting the community feedback on those draft Plans of Management to Council

**Figure 2: The proposed stages of the development of CLM Act compliant Plans of Management under the Local Government Act 1993 over certain Crown reserves**



### **Begin Stage 1: the Preliminary Consultation Phase for 46 Crown Reserves**

Council Officers have commenced preparing community consultation information for 46 Crown Reserves and has been informally talking with key stakeholders (the Aboriginal community, current lease and license holders, neighborhood forums) about developing PoM. Information on each reserve will be available on Council's website in the Have Your Say section so that interested persons and organisations can review the information and provide feedback to Council. Feedback from the preliminary community consultation stage can assist Council with determining:

- How is the land currently being used by the community and does this meet community needs?
- Are additional community land categories beyond the initial category required to address how the land is being used by the community?

The information gathered in the preliminary consultation phase will be used to assist Council in its preparation of draft PoM. It is envisioned that most Crown reserves will be managed through a generic PoM. Some reserves however will have their own site-specific PoM developed. Preliminary consultation will inform Council's determination on this matter.

### **CONSULTATION AND COMMUNICATION**

Council's Property and Recreation, Governance, Open Space, Community Cultural and Economic Development Divisional Teams have been consulted during the review of Crown Reserves and current PoMs and have been instrumental in preparing information that will form the preliminary community consultation on each of the 46 Crown Reserves.

Community consultation for Stage 1 – *Preliminary Community Consultation to inform the preparation of future CLM Act compliant Plans of Management*, will be undertaken by:

- Preparing community consultation information on each of the 46 Crown Reserves and posting this information on Council's website for community feedback.
- Notifying all key stakeholders - via e-mail or letter - of the information available on Council's website and seeking their input on how the relevant reserve is currently managed by Council. Key stakeholders are currently identified as follows:
  - The South Coast People – the native title claim group with a registered claim seeking recognition of their native title rights and interests within the Wollongong Local Government Area (and beyond). The South Coast People are represented by NTSCORP Limited, a native title service provider for traditional owners in NSW and the ACT. Crown land can be the subject of a native title claim under the Native Title Act 1993 (Cth). The Act provides for the legal recognition of the traditional rights and interests which Aboriginal people have in land and water. There are approximately 170 undetermined native title claims throughout Australia.
  - NSW Aboriginal Land Rights Act 1983 (ALRA) Claimants. The ALRA enables State and Local Aboriginal Land Councils to claim Crown Land to compensate them for historic dispossession of land and to support their social and economic development. There are undetermined ALRA land claims across NSW; the NSW Land Council has made a claim across all of the Crown land in South East NSW.
  - Members of Council's Aboriginal Reference Group (*Council will seek their direction for broader Aboriginal community consultation*).
  - Neighborhood Forums.
  - Current lease and license holders over the 46 Crown Reserves.
  - Volunteer groups who assist Council's activities on the 46 Crown Reserves.
  - Property owners of land adjoining the 46 Crown Reserves.

The draft PoM will be reported to Council for endorsement to be submitted to the Minister of Lands / Department of Industry – Crown Lands. Ministerial / Department consent is required prior to the commencement of formal exhibition.

Each draft PoM is required to be exhibited for a minimum of 28 days with a further period of 14 days allowed for the public to lodge a submission in writing, making it a 42 day exhibit and comment period. Depending on the content of a draft PoM, public meetings chaired by independent chairpersons may be required.

Following the exhibition period, a post exhibition report will be prepared and submitted to Council seeking the finalization of the PoM.

## PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goals: We value and protect our environment. We are a healthy community in a liveable city.

It specifically delivers on core business activities (Community Land Management Planning) as detailed in the Land Use Planning Service Plan 2018-19.

## RISK ASSESSMENT

Council is required to have a compliant PoM over Crown Land before it can issue any licenses or leases of Crown Land not permitted by the transitional provisions of the CLM Act. Under the legislation Council is required to have PoMs over Crown land by 30 June 2021. Preliminary community consultation as

outlined in this report should facilitate a determination of the number of site specific PoM required compared to generic PoMs for the 46 Crown reserves.

## FINANCIAL IMPLICATIONS

Each Local Government Area has received a nominal grant from NSW Department of Industry – Lands and Water to assist with the preparation of Plans of Management, based on a formula. Council has received a grant of \$39,652.

As part of the draft Budget, Council has allocated \$369,352 over 3 years to employ an additional resource to assist with the preparation of the required Plans of Management for Crown Reserves. Council is also required to fund the exhibition and public hearing costs, estimated at \$8,000 per plan. The State contribution of \$39,652 represents only a small percentage of the estimated cost. It is recommended that Council send letters to the Minister for Water, Property and Housing and Minister for Planning and Public Spaces (jointly responsible for the Crown Lands Management Act 2016) outlining Council's concern over the inadequate funding provided by the State for Council to prepare Plans of management for State owned Crown Reserves.

## CONCLUSION

The classification and initial categorisation of 46 Crown Reserves has been determined. The next step is preliminary community consultation to assist in the development of a Crown Reserve Generic Plan of Management and a small number of site-specific Plans of Management. Developing CLM Act compliant PoM by 30 June 2021 will enable Council to continue to provide quality open spaces, parks, sportsgrounds, and natural areas to the community.



**46 Crown Reserves Proposed for Stage 1 – Preliminary Community Consultation for future CLM Act compliant draft Plan of Managements**

| Crown Reserve Name                                | Gazetted Date | Initial Category      | Reserve Number (Row #) | Purpose  | Suburb                        |
|---|---------------|-----------------------|------------------------|--|-------------------------------|
| ANDREW LYSAGHT PARK                               | 17/10/1969    | Park                  | 1000384 (1)            | Public Park  | WOLLONGONG                    |
| AUSTINMER BEACH AND RESERVES                      | 16/11/1973    | Park                  | 89084 (2)              | Public Recreation                                    | AUSTINMER                     |
| AUSTINMER BOATHARBOUR, PINECOURT PARK             | 16/03/1973    | Park                  | 88873 (3)              | Public Recreation                                    | WOMBARRA, AUSTINMER, COLEDALE |
| BATTERY PARK RESERVE                              | 3/01/1947     | Park                  | 72138 (4)              | Public Recreation                                    | WOLLONGONG                    |
| BELLAMBI LAGOON                                   | 18/03/1988    | Park                  | 180029 (5)             | Public Recreation                                    | BELLAMBI                      |
| BELLAMBI POINT RESERVE                            | 8/01/1971     | Park                  | 88075 (6)              | Public Recreation                                    | WOONONA, BELLAMBI             |
| BRIGHTON LAWN                                     | 19/09/1906    | Park                  | 40908 (7)              | Public Recreation                                    | WOLLONGONG                    |
| BULLI GATEWAY                                     | 8/04/2005     | General Community Use | 1004388 (8)            | Tourist Facilities And Services                      | THIRROUL                      |
| BULLI PARK  | 31/05/1887    | Park                  | 580062 (9)             | Park   | BULLI                         |
| BULLI PASS SCENIC RESERVE                         | 1/07/1938     | Park                  | 67711 (10)             | Public Recreation                                    | AUSTINMER, MADDENS PLAINS     |
| BULLI ROCK POOL - REPLACED BY NEW POOL            | 13/02/1904    | Park                  | 37214 (11)             | Public Baths   | BULLI                         |
| COLLINS PARK                                      | 25/06/1971    | Park                  | 88274 (12)             | Public Recreation                                    | WOONONA                       |
| CORRIMAL MEMORIAL PARK                            | 2/09/1921     | Park                  | 580087 (13)            | Park   | CORRIMAL                      |
| DARKES FOREST                                     | 7/02/1958     | General Community Use | 80366 (14)             | Public Hall~Public Recreation                        | DARKES FOREST                 |
| FLAGSTAFF POINT                                   | 31/10/1941    | Park                  | 580103 (15)            | Public Recreation                                    | WOLLONGONG                    |
| GLADSTONE PARK                                    | 5/12/1919     | Park                  | 580081 (16)            | Public Recreation                                    | BERKELEY                      |
| HARRY MORTON PARK                                 | 15/01/1943    | Park                  | 70792 (17)             | Public Recreation                                    | PORT KEMBLA                   |
| H'BURGH & DISTRICT HISTORICAL SOCIETY MINE MUSEUM | 28/03/1947    | Park                  | 72217 (18)             | Public Recreation                                    | HELENSBURGH                   |
| HELENSBURGH - PROPOSED POUND SITE                 | 17/11/1978    | General Community Use | 91278 (19)             | Public Pound Purposes                                | HELENSBURGH                   |
| HELENSBURGH BABY HEALTH CENTRE                    | 11/01/1946    | General Community Use | 1000263 (20)           | Baby Clinic, Community Purposes, Government Purposes | HELENSBURGH                   |
| HELENSBURGH COMMUNITY HALL                        | 4/06/1943     | General Community Use | 500332 (21)            | Hall~War Memorial                                    | HELENSBURGH                   |
| HELENSBURGH FLORA & FAUNA RESERVE                 | 3/05/1957     | Natural Area-Bushland | 79561 (22)             | Native Fauna~Preservation Of Native Flora~Public     | HELENSBURGH                   |



| Crown Reserve Name                             | Gazetted Date | Initial Category      | Reserve Number (Row #) | Purpose                 | Suburb                            |
|--|---------------|-----------------------|------------------------|-------------------------|-----------------------------------|
|  |               |                       |                        | Recreation              |                                   |
| HELENSBURGH PARK                               | 8/10/1898     | Park                  | 500340 (23)            | Public Recreation       | HELENSBURGH                       |
| HELENSBURGH PARK                               | 29/03/1892    | Park                  | 500345 (24)            | Public Recreation       | HELENSBURGH                       |
| HELENSBURGH PRE-SCHOOL                         | 2/09/1977     | General Community Use | 90884 (25)             | Kindergarten            | HELENSBURGH                       |
| HILL 60  | 6/07/1984     | Park                  | 97344 (26)             | Public Recreation       | PORT KEMBLA                       |
| J A BEATSON PARK                               | 8/01/1913     | Park                  | 580078 (27)            | Public Park             | WOLLONGONG                        |
| LANG PARK FORESHORE RESERVE                    | 12/07/1911    | Park                  | 580076 (28)            | Public Recreation       | WOLLONGONG                        |
| MATTHEWS PARK                                  | 15/07/1966    | Park                  | 85882 (29)             | Public Recreation       | PORT KEMBLA                       |
| NICHOLSON PARK                                 | 29/11/1899    | Park                  | 580071 (30)            | Public Park             | WOONONA                           |
| NORTH WOLLONGONG SLSC                          | 13/04/1945    | Park                  | 71482 (31)             | Baths~Public Recreation | WOLLONGONG, NORTH WOLLONGONG      |
| OTFORD PARK                                    | 27/12/1946    | Park                  | 72128 (32)             | Public Recreation       | OTFORD                            |
| PATRICK MCCARTHY HALL - HALL DESTROYED BY FIRE | 6/06/1969     | General Community Use | 87211 (33)             | Public Hall             | HELENSBURGH                       |
| PIONEERS REST PARK                             | 7/11/1940     | Park                  | 580102 (34)            | Public Park             | WOLLONGONG                        |
| PROUD PARK                                     | 28/10/1905    | Park                  | 39863 (35)             | Public Recreation       | HELENSBURGH                       |
| SOUTH THIRROUL BEACH                           | 12/02/1913    | Park                  | 48554 (36)             | Public Recreation       | BULLI, THIRROUL                   |
| STANWELL PARK                                  | 5/05/1961     | Park                  | 83095 (37)             | Public Recreation       | STANWELL PARK                     |
| STUART PARK                                    | 29/09/1885    | Park                  | 580060 (38)            | Park                    | NORTH WOLLONGONG                  |
| SURF LIFE SAVING HEADQUARTERS                  | 25/09/1987    | General Community Use | 180016 (39)            | Community Purposes      | WOLLONGONG                        |
| TARRAWANNA TEACHERS COLLEGE                    | 8/04/1971     | Park                  | 88200 (40)             | Public Recreation       | BALGOWNIE                         |
| THIRROUL RESERVE                               | 7/12/1973     | Park                  | 89099 (41)             | Public Recreation       | THIRROUL                          |
| TOWRADGI COMMUNITY HALL                        | 25/09/1953    | General Community Use | 580082 (42)            | Public Hall             | TOWRADGI                          |
| Unnamed Reserve                                | 29/03/1974    | General Community Use | 89168 (43)             | Parking                 | PORT KEMBLA                       |
| WARRAWONG RESERVE TRUST                        | 4/03/1988     | Park                  | 180030 (44)            | Public Recreation       | CRINGILA, WARRAWONG, LAKE HEIGHTS |
| WISEMAN PARK                                   | 8/01/1913     | Park                  | 580077 (45)            | Park                    | GWYNNEVILLE                       |
| WOLLONGONG RESERVE TRUST                       | 10/05/1963    | Park                  | 84424 (46)             | Public Recreation       | WOLLONGONG                        |