



Draft Plan of Management **Lot 22 DP 1073165, 156 Stuart Street,** **Mullumbimby**

Byron Shire Council

Adopted [*date to be inserted*]

Acknowledgement of country

Byron Shire Council acknowledges Traditional Aboriginal Custodians and recognises the continuing connection to lands, waters and country.

We recognise and respect the Bundjalung of Byron Bay – Arakwal and the Widjabul Wia-bal Peoples native title rights and interests within the Shire.

Byron Shire Council also acknowledges the Tweed Byron, Jali and Ngulingah Local Aboriginal Land Council's under the Aboriginal Land Rights Act NSW 1983.

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Contents

Executive Summary	5
1 Introduction.....	6
2 Land Description.....	9
3 Basis of Categorisation	21
4 Objectives and Performance Targets.....	29
5 Review of the plan.....	34
6 Appendices	35
Appendix A1 – Community Land Categorisations	35
General Community Use	35
Sportsground.....	39
Natural Area – Watercourse.....	42
Natural Area – Bushland.....	44
Appendix A2 – Management of Community Land Categories.....	46
General Requirements	46
Appendix A3 – Plan of Management Legislative Framework.....	52

List of figure and tables

Figure 1	Plan of management process flowchart
Figure 2.	Location map of Mullumbimby
Figure 3	Location of Lot 22 DP 1073165
Figure 4	Land Use Zonings
Figure 5	Flood functions
Figure 6	Fill exclusion areas
Figure 7	Saltwater and Kings Creek
Figure 8	High Environmental Value Vegetation
Figure 9	Site plan of Lot 22 DP 1073165 including existing licence areas
Figure 10	Enterprise Garden Structures
Figure 11	Community land categorisation map
Table 1	Summary land information
Table 2	Definitions Community and Enterprise Gardens
Table 3	Summary of the use of the land and structures
Table 4	Current licences over Lot 22 DP 1073165
Table 5	Use of General Community Use land
Table 6	Use of Sportsground land
Table 7	Use of Natural Area – Watercourse land
Table 8	Use of Natural Area – Bushland
Table 9	Objectives and performance targets
Table 10	General Community Use – Permissible use
Table 11	General Community Use – Leases, licences and other estates
Table 12	Sportsground – Permissible use
Table 13	Sportsground – Leases, licences and other estates
Table 14	Natural Area – Watercourse – Permissible use
Table 15	Natural Area – Watercourse – Leases, licences and other estates
Table 16	Natural Area – Bushland – Permissible use
Table 17	Natural Area – Bushland – Express authorisation leases, licences and other estates

Executive Summary

This Plan of Management (PoM) has been prepared by Byron Shire Council and provides direction as to the use and management of Lot 22 DP 1073165 classified as 'community land' in Mullumbimby. The PoM is required in accordance with Section 36 of the *Local Government Act 1993*.

This PoM specifically addresses the management of Lot 22 DP 1073165. The PoM outlines the way the land will be used and provides the framework for Council to follow in relation to the express authorisation of leases and licence on the land.

This PoM is a Specific PoM and supersedes the previous site-specific Plan of Management adopted by Council in 2008.

1 Introduction

The Byron Shire is located on the far north coast of New South Wales. It comprises 556 square kilometres and is home to diverse and vibrant communities with each town and rural village having a distinctive look and feel. The region is famed for its rural beauty and beaches. The Shire's major townships include Mullumbimby, Byron Bay, Bangalow, Suffolk Park, Brunswick Heads and Ocean Shores.

This Plan of Management guides the future use, development, and management of an area of land identified as Lot 22 DP 1073165, 156 Stuart Street, Mullumbimby located adjacent to the Mullumbimby Recreation Grounds on the southern side of the township of Mullumbimby.

Purpose of the plan of management

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

The purpose of this PoM is to:

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

Further information about the legislative context of community land PoMs can be found in the Appendix of this document.

Process of preparing this plan of management

The process of preparing this Plan of Management is illustrated in Figure 1.

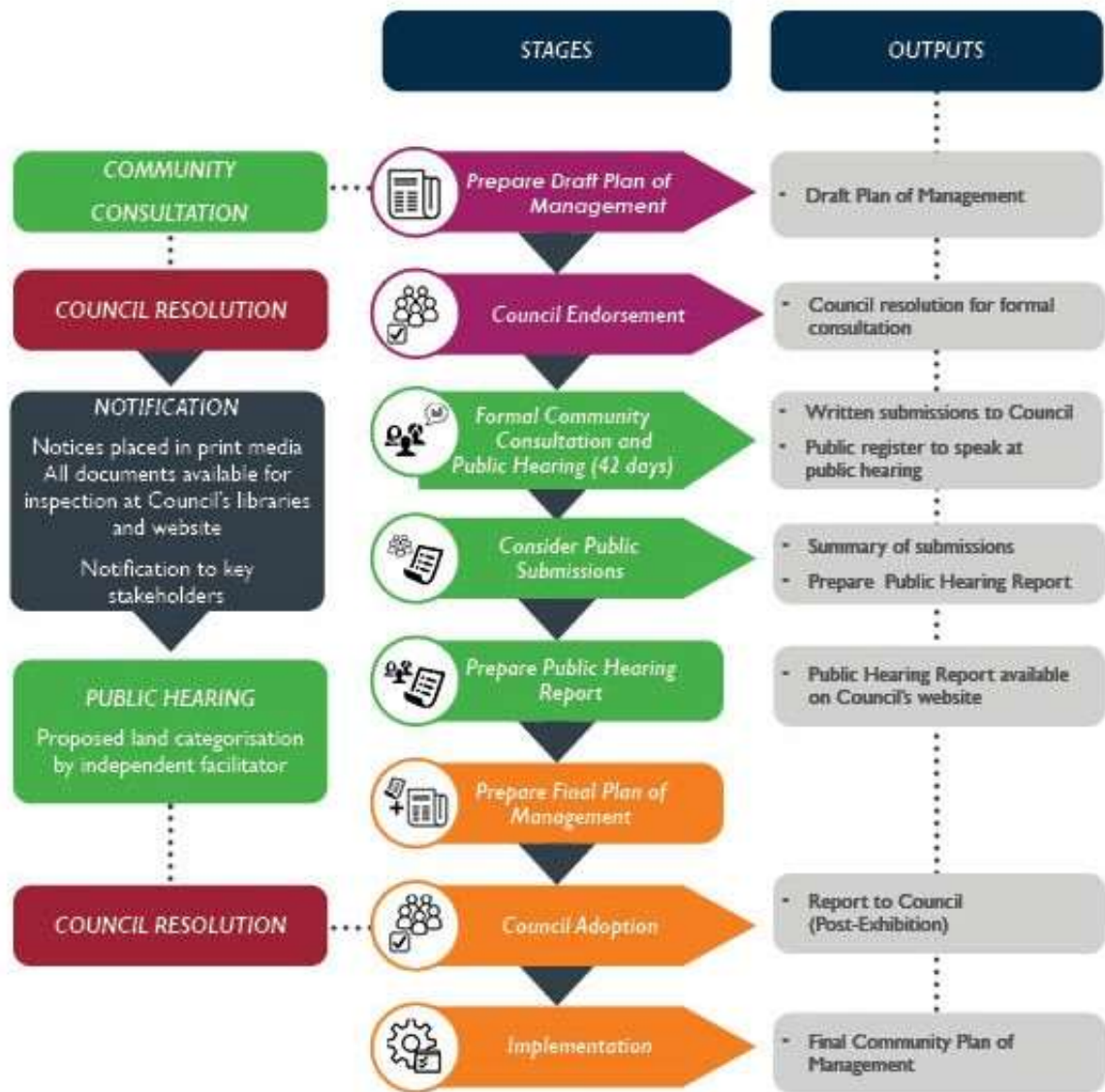


Figure 1: Plan of Management process flowchart

Consultation

Effective community engagement is important in the preparation of a Plan of Management to ensure it reflects current and future community values and expectations. Community consultation for this PoM was undertaken in accordance with Council's Community Engagement Strategy and Community Participation Plan, and the LG Act. This requires that a draft Plan of Management is placed on public exhibition for a minimum of 28 days and has a 42-day submission period.

The LG Act also prescribes that Council must hold a public hearing if any Council owned Community land is intended to be categorised or re-categorised. The public hearing must be conducted by an independent facilitator and Council must make a copy of the report outlining the hearing proceedings available for inspection at a public location within four days of receiving the report.

Engagement Framework

Council's Community Engagement Strategy establishes a framework to involve the community in the decision-making process of local government. Council's Community Participation Plan specifically addresses what council will do when engaging with the community on PoMs. For this PoM, Council consulted with key stakeholders during the preparation of the draft plan. Council will carry out broader consultation with the community when the draft PoM is on exhibition to ensure that it reflects community and stakeholder needs and expectations. Engagement will utilise Council's website, social media, local newspaper advertising and a public hearing meeting to provide an opportunity for key stakeholders and members of the community to provide feedback on the PoM.

Stakeholders

Consultation to inform the Plan of Management included targeted consultation with existing lessees of the land, as well as internal Council Officers regarding values and constraints on the land. Key issues identified through consultation have been summarised within this plan.

Public exhibition

The draft PoM will be placed on public exhibition for a period of 42 days during which the community and other stakeholders can make submissions. Copies of the draft PoM will be available for review during the public exhibition period at:

- Byron Shire Council Offices, Mullumbimby
- Byron Shire Council website.

An independently facilitated public hearing will also be held during the public exhibition period.

2 Land Description

Location and description

This Plan of Management applies to Lot 22 DP 1073165, 156 Stuart Street, Mullumbimby which is located adjacent to the Mullumbimby Recreation Grounds and is in the southern part of Mullumbimby, refer to Figures 2 & 3.

The land is community land owned and managed by Byron Shire Council.

The land was purchased by Council in 2002 and is bordered by Saltwater Creek to the north, Mullumbimby Recreation Grounds to the west and agricultural land to the south.

The table below summarises key land information for Lot 22 DP 1073165.

Table 1: Summary land information.

Owner of the Land	Byron Shire Council
Land use zoning	Local Environmental Plan (LEP) 2014: <ul style="list-style-type: none">• Public Recreation (RE1)• Deferred Matter (DM). LEP 1988 Coastal Habitat (7b) zone applies until C3 Environmental Management zone takes effect in the next 12mths.
Land parcel/s	Lot 22 DP1073165
Area (Ha)	31.84 hectares
Assigned category/categories	General Community Use Sportsground Natural Area - Waterway Natural Area - Bushland

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

Figure 2: Location of Mullumbimby in Byron Shire. Image Google Map 2024.

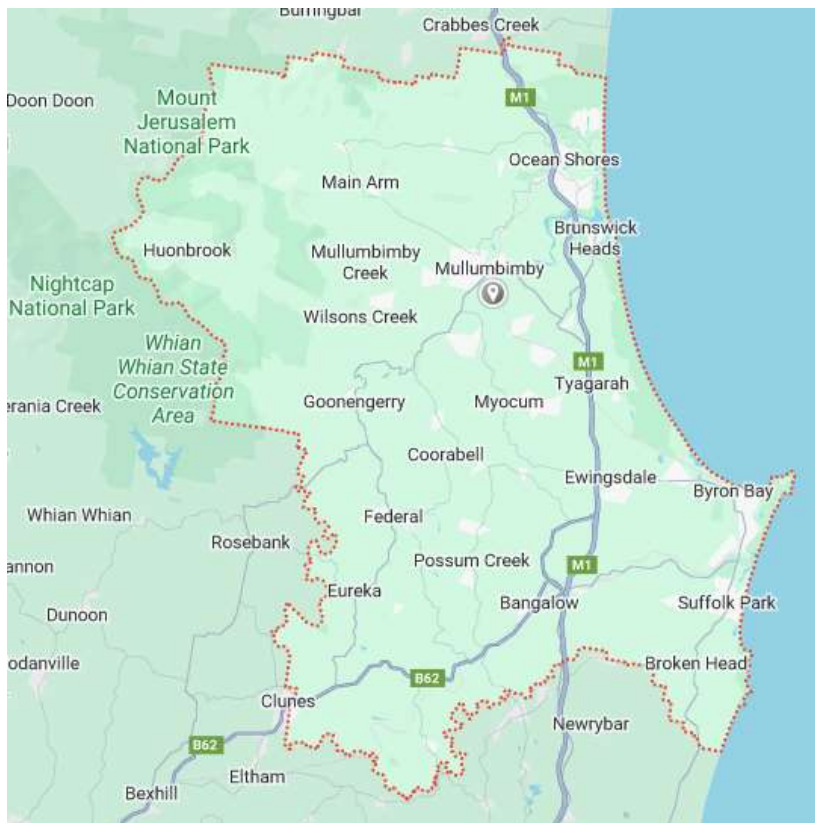
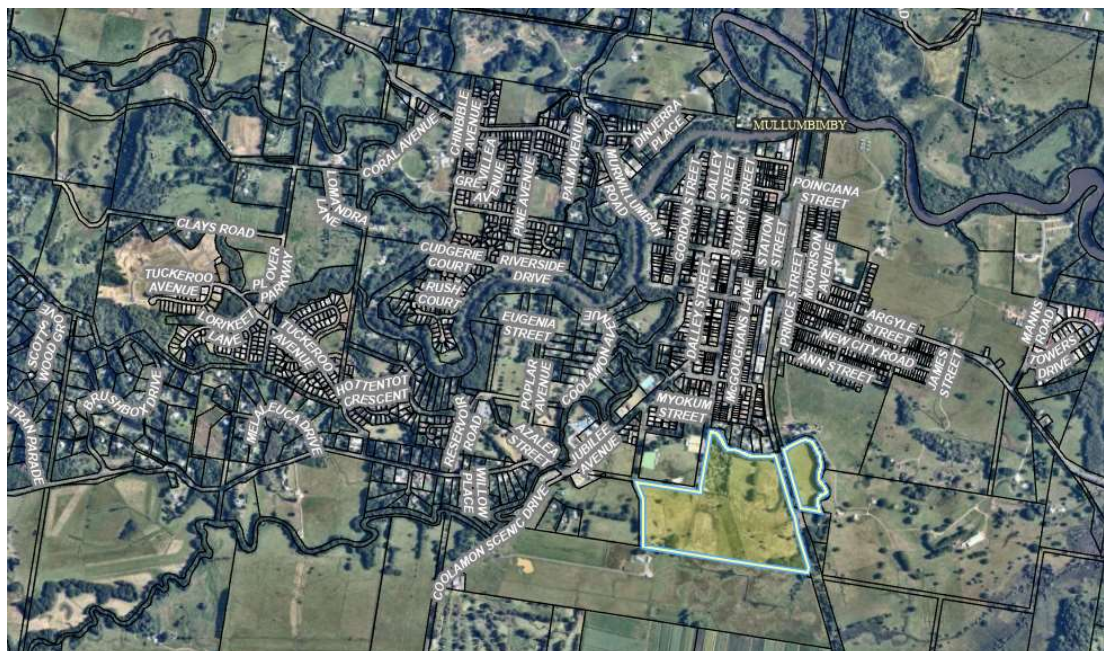


Figure 3: Location of Lot 22 DP 1073165 , 156 Stuart Street, Mullumbimby



Land Use Zoning

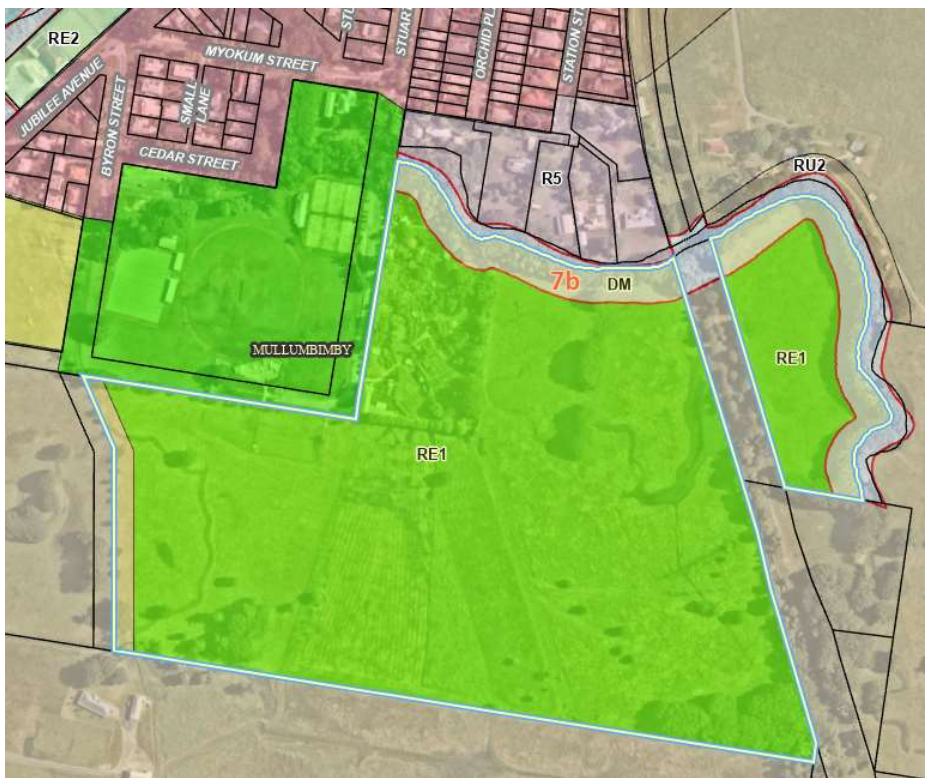
Lot 22 DP 1073165 is predominantly zoned as RE1 Public Recreation in the Byron Local Environment Plan, 2014 (LEP 2014). This zone applies to public open space and land used for public recreation activities. The zone intends to provide a range of recreational settings and compatible land uses while protecting and enhancing the natural environment for recreational purposes.

There is a small portion of Deferred Matter (DM) land along the northern boundary. Several areas with environmental values throughout the Shire were deferred from being zoned in LEP 2014, pending the outcome of the Department of Planning & Environment's Northern Councils C Zone Review (the C Zone Review). The review is now complete, and Council has received a Ministerial direction that clarifies how the C Zones are to be applied.

Council's LEP 1988 Coastal Habitat 7b zone applies to the DM land until it is rezoned under LEP 2014. The DM for Lot 22 DP 1073165 is to be rezoned to C3 Environmental Management, and this is likely within the next 12 months (2024/2025).

The objective of the C3 zone is to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values whilst providing for passive recreation, environmental education and a limited range of development that doesn't adversely affect those values.

Figure 4: Land Use Zonings



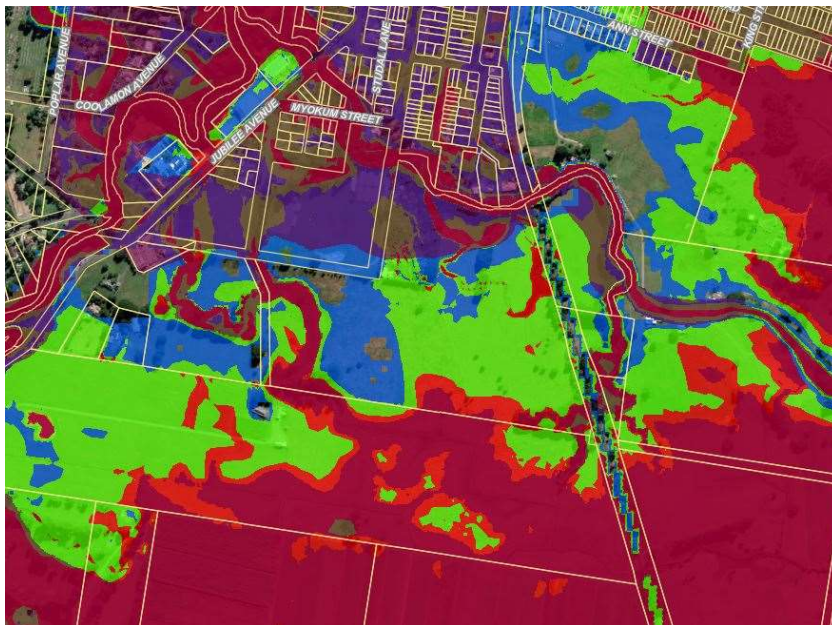
Physical Environment

Council's flood studies have identified that the site supports several flood functions including floodway, flood fringe, and flood fringe. Fill exclusion areas on the land have been identified to retain these flood functions and avoid impacts on neighbouring residential land. Future use of the land should be compatible with identified flood constraints.

The key below applies to the Figures 5 & 6.



Figure 5: Flood functions



To maintain the flood functions identified above, Council has further identified fill exclusion areas.

Figure 6: Fill exclusion areas



There are two creeks that transect the site Saltwater Creek to the north which is part of the Lower Brunswick River catchment and Kings Creek on the western side which is part of the Kings Creek catchment.

Figure 7: Saltwater Creek and Kings Creek



High Environmental Value Vegetation runs along the northern boundary of the site along Saltwater Creek.

Figure 8: High Environmental Value Vegetation



Aboriginal Cultural Heritage

The Bundjalung of Byron Bay, Arakwal People, are the traditional custodians and hold Native Title over the lands in this area including the parcel of land that contains the Mullumbimby Recreation Grounds, and the Saltwater Creek waterway which adjoins Lot 22 DP 1073165.

Native Title rights and interests have been determined to have been extinguished over Lot 22 DP 1073165, however, ongoing management and use of Lot 22 DP 1073165 needs to consider the continuing exercise of the Arakwal People of their rights and interests in these areas.

While Saltwater Creek is outside the scope of this Plan of Management, it is important to note that any works proposed over the waterway, for example, a pedestrian walkway linking to Lot 22 DP 1073165, would need to comply with the requirements of the Native Title Act 1993 (Cth).

The Tweed Byron Local Aboriginal Land Council also have a vested interest in this land under the NSW Aboriginal Land Rights Act.

A search of the Aboriginal Heritage Information Management System indicates that aboriginal sites are not recorded on this land. However, there is a site recorded near Lot 22 DP 1073165.

Council will be required to complete due diligence investigations into Aboriginal Cultural Heritage before proceeding with future works.

Current use of the land

Condition and use of the land and structures

The land identified as Lot 22 DP 1073165 is relatively level with individual and small groupings of native trees and introduced species. Most of the site has historically been used for cattle agistment with consistent grass coverage and in apparent good condition. A 2.80 hectares (6.91 acres) section located on the northern boundary of the land has been licensed to a community organisation and developed into an Enterprise Garden.

Table 2: Definitions

Term	Definition
Community garden	<p>Public land identified for the primary purposes of growing fresh produce, including Enterprise Gardens.</p> <p>Community gardens may host gardening-related recreational and educational activities, in line with their licence agreement. They provide a range of social, environmental, and educational needs.</p>
Enterprise garden	<p>An Enterprise Garden is a type of Community Garden located on public land (at Lot 22 DP 1073165, Mullumbimby).</p> <p>Enterprise gardens are not-for-profit. They may also support, in accordance with the licence agreement:</p> <ul style="list-style-type: none">• Small-scale sustainability related open days and/or workshops,• Environment-related recreational, educational and sustainability initiatives,• Social and community enrichment groups and activities ancillary to a community garden.

Table 3: Summary of the use of the land and structures:

Land category	Description of use	Use of the land and structures
General community use	Community Garden - Enterprise Garden	<p>Mullumbimby Sustainability Education & Enterprise Development Inc (SEED) have held a license with Council for the establishment of a community garden since 2008. A new licence was issued to Mullum SEED on 27 April 2023 to properly capture the area of the site that they utilise.</p> <p>Structures that exist on the Mullum SEED site include:</p> <ul style="list-style-type: none"> • Entrance gate and perimeter fencing • Community notice board • Two office buildings • Nursey houses • Round house • Under-cover event shelter • Communal kitchen • Rotunda • Events shed • Tool shed • Storage container • Public composting toilets • Chook shed • Shade shelter • Men’s Shed.
Sportsground	Agistment of cattle	Cattle agistment is permitted over a portion of the site through an annual agreement with Council. The areas of agistment are fenced to restrict cattle movement over the site.
Sportsground	Fenced dog off-leash area	The fenced dog off-leash area is a 500m ² park with separate areas for small and large dogs. It has perimeter fencing, pathway entrance, drinking fountain, seating, and plantings. The park opened in December 2023. Additional minor embellishments are intended for installation when funds allow.

Figure 9: Site Plan of Lot 22 DP1073165 including existing licence areas



Legend

- - - Property Boundaries
- - - Plan of Management - Lot Boundary
- - - Enterprise Garden
- - - Dog Park
- Agistment Area

Notes

Agistment Areas:	25 ha and 3.5 ha
Enterprise Garden Area:	2.80 ha
Dog Park Lease Area:	0.54 ha
Total Lot Area:	31.84 ha

Figure 10: Enterprise Garden structuresImage



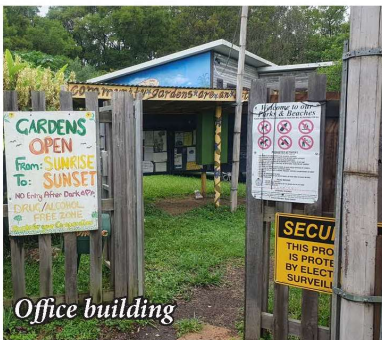
Entrance gate



Community notice board



Office building



Office building



Round house



Tool shed



Composting toilets



Mens Shed



Storage container



Communal kitchen



Nursery houses



Rotunda

Current leases and licences

Two formal tenure arrangements exist over the land, Table 4.

Table 4: Current leases and licences over Lot 22 DP 1073165

Type and Purpose of Tenure	Lessee / Licensee	Term of tenure
Licence (Enterprise Garden)	Mullumbimby Sustainability Education & Enterprise Development Inc (SEED)	Five-year term Commenced: 1 May 2023 Expires: 30 April 2027
Licence (Agistment)	Henry Stenning Sue-Ellen Stenning Maurice Maher Rhonda Maher	Annual

Future Use

Byron Shire Council recognises the dynamic nature of its community and that several factors will continue to influence the demographic profile of its diverse towns and communities. These factors will in turn influence the potential future use of Lot 22 DP 1073165 to meet the changing needs of the community.

The following key issues were identified that are relevant to the Plan of Management:

- Council continues to receive requests from community organisations for land and/or facilities to support not-for-profit community organisations providing services including:
 - Child services such as preschools
 - Art space
 - Community libraries
 - Theatre space
 - Crisis accommodation
 - Office space.
- Council recognises the importance of recreation and sport facilities to support residents' health and wellbeing and may consider the suitability of the site for uses that meet the needs of the community
- Studies to inform land use planning, such as flood impacts, will provide Council with information to base decisions on evidence regarding the best use of the land to meet the needs of the community
- Collaboration with government, government agencies, and community organisations present opportunities for innovative problem solving to meet the needs of the community, beyond those under the remit of Council, such as education and health.

The PoM provides a framework to allow appropriate use of community land for purposes consistent with the land categories and Council LEP.

3 Basis of Categorisation

Community land management goals

Byron Shire Council intends to manage its community land to meet:

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

Community needs and values

The *Byron Shire Open Space Recreation Needs Assessment and Action Plan 2017-2036* provides a strategic framework for the provision of public open space and recreation opportunities across the local government area. Of note, the Plan identifies that no further sport land or sport facility development is required for Mullumbimby's forecast population profile and density. Therefore, consideration of the best use and categorisation of the community land identified as Lot 22 DP 1073165 is required, in a manner that retains flexibility allowing Council to respond to the community's changing needs over time.

Characteristics of the land

The physical characteristics of the land must be considered in applying community land categorisations. Land that possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature should be considered for categorisation as one of the Natural Area categories. In such a case the plan should describe the related characteristics of the land.

Lot 22 DP 1073165 includes areas of high environment value vegetation (HEVV) and existing waterways. These have been categorised as Natural Area -Bushland and Natural Area - Watercourse.

Categorisation of the land

All community land is required to be categorised as one or more of the following categories.

The *LG Act* defines five categories of community land:

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

Four categories of community land have been applied to Lot 22 DP 1073165:

- General Community Use
- Sportsground
- Natural Area – Waterway
- Natural Area – Bushland.

General community use

General community use land is defined in clause 106 of the *LG (General) Regulation 2021* as land that may be made available for use for any purpose for which community land may be used, and does not satisfy the definition of natural area, sportsground, park or area of cultural significance.

The core objectives for community land categorised as general community use, as outlined in Section 36I of the *LG Act*, are to:

- promote, encourage and provide for the use of the land
- 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).

Key issues

Key issues in relation to management include:

- Containment of Enterprise Garden activities within land categorised for general community use and licensing conditions
- Appropriate development approval for Enterprise Garden and related activities
- Managing sustainable growth of the Enterprise Garden that is consistent with the core objectives for management of community land categorised as general community use
- Managing events and activities to minimise impacts on neighbouring properties.

Application

The General Community Use categorisation applies to the footprint of the Enterprise Garden. The categorisation enables these facilities to be leased/licenced for complementary commercial, social, recreational and community purposes.

Current use of the land

Use of the land and structures

Table 5: Use of General Community Use land

Land category	Description of use	Use of the land and structures
General Community Use	Enterprise Garden	2.80 hectares (6.91 acres) of the site is categorised as General Community Use and is occupied by an Enterprise Garden including activities such as: small-scale workshops, related initiatives, and social and community enrichment groups and activities.

Current leases and licences

The community land categorised as General Community Use is licensed for Enterprise Garden purposes.

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 sport or the playing of outdoor games.

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.

Key Issues

Key issues in relation to management include:

- Management of current uses to prevent any adverse impacts on the land
- Future development and maintenance of the land to facilitate recreational pursuits
- Ensuring use of the land is consistent with the core objectives for management of land categorised as sportsground.

Application

The Sportsground categorisation applies to the bulk of the land and will enable the future use of the space for active and organised sports.

Current use of the land

Use of the land and structures

Table 6: Use of Sportsground land

Land category	Description of use	Use of the land and structures
Sportsground	Predominantly undeveloped land preserved for future active recreation use	Most of the designated portion of the site has no infrastructure. A dog park has been established on the north-west boundary of the site.

Current leases and licences

The bulk of the community land categorised as Sportsground is included in the areas licensed for agistment purposes.

Natural Area – Watercourse

Watercourses are defined in clause 110 of the *LG Regulation 2021* as any stream of water, perennial or intermittent, in a natural or artificial channel, and associated riparian land or vegetation.

The core objectives for watercourses, as outlined in Section 36M of the LG Act, are to:

- manage watercourses to protect the biodiversity and ecological values of the instream environment, particularly in relation to water quality and water flows
- manage watercourses to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability
- restore degraded watercourses
- promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category.

Key Issues

Key issues in relation to management include:

- limiting any detrimental impacts of land use on the watercourse including limiting access to the waterway by stock
- identifying potential negative impacts on the watercourse and minimising or eliminating these through proactive management including buffers to protect the watercourse
- supporting and enhancing the natural processes of the watercourse and its functions.

Current use of the land

Use of the land and structures

Table 7: Use of Natural Area – Watercourse land

Land category	Description of use	Use of the land and structures
Natural area - watercourse	Preservation of ecologically significant natural feature	The designated portion of the site has no infrastructure. An informal walking track has been formed by use (desire line).

Current leases and licences

Part of the community land categorised as Natural Area - Watercourse is included in the lease area of the Enterprise Garden, and the remainder is included in the areas licensed for agistment purposes.

Natural Area – Bushland

Bushland is defined in clause 107 of the LG (General) Regulation 2021 as land containing primarily native vegetation that is the natural vegetation or a remainder of the natural vegetation of the land, or although not the natural vegetation, is still representative of the structure or floristics of the natural vegetation in the locality.

The core objectives for bushland, as outlined in Section 36J of the LG Act, are to:

- ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna of the land and other ecological values
- protect the aesthetic, heritage, recreational, educational and scientific values of the land
- manage 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 to minimise or mitigate disturbance caused by human intrusion
- restore degraded bushland
- protect existing landforms such as natural 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.

Key issues

Key issues in relation to management include:

- limiting any detrimental impacts of land use on high environmental value vegetation (HEVV)
- identifying potential negative impacts on the vegetation and minimising or eliminating these through proactive management
- supporting and enhancing the natural processes of the ecosystem and its functions.

Current use of the land

Use of the land and structures

Table 8: Use of Natural Area – Bushland land

Land category	Description of use	Use of the land and structures
Natural area – bushland	Preservation of ecologically significant natural feature	The designated portion of the site includes fencing, and an informal walking track has been formed by use (desire line).

Current leases and licences

Part of the community land categorised as Natural Area- Watercourse is included in the lease area of the Enterprise Garden, and the remainder is included in the areas licensed for agistment purposes.

Further information

Refer to Appendix A1 & A2 for further details on the permissible uses and the issue of leases, licences and other estates for these three community land categories.

Community Land Categorisation Map

The categorisation of the land is shown in the following Community land categorisation map.

Figure 11: Community land categorisation map



4 Objectives and Performance Targets

Section 36 of the LG Act requires that a PoM for community land details:

- objectives and performance targets for the land
- the means by which the council proposes to achieve these objectives and performance targets
- the manner in which the council proposes to assess its performance in achieving the objectives and performance targets.

The following table provides a decision-making framework for the future management of Lot 22 DP 1073165 and addresses the requirements of section 36 of the LG Act. It sets out management targets that define a series of desired outcomes which seek to conserve and enhance the sites values and address management challenges and opportunities. They are to be implemented over the life of this PoM as need and opportunity arise and resources permit.

Table 9: Objectives and performance targets, means of achieving them and assessing achievement for community land

Management Issues and objectives	s.36(3)(b) Performance targets and actions	s.36(3)(c) Means to achieve	s.36(3)(d) Performance assessment
Access and connectivity	Encourage and facilitate sustainable access	<ul style="list-style-type: none"> • Ensure clear information and regulatory signage • Maintain links between areas of Community land through tree planting, signage, tracks, pedestrian / cycle pathways 	<ul style="list-style-type: none"> • Signage appropriate to need/issues • Connectivity maintained
	Provide adequate opportunities for people with disabilities to access Community land	<ul style="list-style-type: none"> • Identify suitable opportunities to provide access for wheelchairs and those with reduced mobility • Incorporate <i>Disability Discrimination Act 1992</i> (DDA) requirements into facilities and infrastructure • Support inclusive events and activities on Community Land 	<ul style="list-style-type: none"> • Provision of inclusive facilities

Management Issues and objectives	s.36(3)(b) Performance targets and actions	s.36(3)(c) Means to achieve	s.36(3)(d) Performance assessment
	Public access to and use is provided on a fair and equitable basis	<ul style="list-style-type: none"> • Ensure all approved activities and events comply with relevant policies and legislation • Permit leases, licenses and other estates in accordance with the applicable community land category and provisions of the LG Act • Ensure leases, licences and other estates are granted only where there is demonstrated community benefit and/or significant infrastructure improvements • Regularly monitor leases and licences to ensure compliance with terms and conditions • Ensure all advertising and signage complies with legislation and Council regulations • Ensure fencing and signage minimises community perception of inappropriate alienation 	<ul style="list-style-type: none"> • Permit leases, licenses and other estates are compliant
	Restrict access to areas of sensitive vegetation and threatened species habitat to ensure their protection and conservation	<ul style="list-style-type: none"> • Rationalise existing unmarked tracks and provide clear signposted walking trails to encourage visitors to keep to the defined routes • Restrict vehicular access to designated car-parking areas (except for maintenance, fire control and emergency purposes) • Ensure the location and use of tracks and pathways do not have an adverse impact on areas of sensitive vegetation and threatened species habitat 	<ul style="list-style-type: none"> • Track routes and designated parking maintained

Management Issues and objectives	s.36(3)(b) Performance targets and actions	s.36(3)(c) Means to achieve	s.36(3)(d) Performance assessment
Biodiversity and ecology	Protect native flora and fauna and their habitats	<ul style="list-style-type: none"> • Protect all native vegetation and wildlife on Community land • Implement relevant provisions of the EPBC Act and BC Act in managing Community land • Maintain and restore remnant native vegetation using appropriately qualified persons in accordance with legislative requirements and best practice techniques • Utilise locally indigenous species when undertaking planting or re-vegetation in or adjacent to natural areas • Undertake regular weed inspections and enforce biosecurity duty requirements of the <i>Biosecurity Act 2015</i> 	<ul style="list-style-type: none"> • Native vegetation protected • Bushland actively managed • Weed inspections undertaken
	Improve biodiversity	<ul style="list-style-type: none"> • Maintain and expand locally indigenous vegetation plantings in riparian corridors to provide a buffer zone to improve stream health and increase fauna habitat and movement • Enhance natural linkages such as creek lines and riparian corridors • Maximise the retention and protection of existing mature trees (particularly hollow-bearing) on Community land • Maximise opportunities to provide additional native fauna habitat e.g. artificial hollows • Ensure development and use of Community land is undertaken in an ecologically sensitive manner to minimise potential adverse impacts 	<ul style="list-style-type: none"> • Sites managed for natural regeneration • Diversity of native flora and fauna recorded (species richness) • Presence of natural and or artificial hollows
Community education and involvement	Increase community appreciation of, and participation in, the care and custodianship of Community land	<ul style="list-style-type: none"> • Promote and expand community involvement in Council's volunteer Landcare program • Encourage community custodianship through education regarding the values of Community land and negative impacts on these values, such as dumping, litter, weeds, etc 	<ul style="list-style-type: none"> • Presence of Landcare groups
	Increase community awareness of the range of recreational opportunities available in Community land	<ul style="list-style-type: none"> • Promote the diversity of active and passive recreational opportunities available via Councils website and social media 	<ul style="list-style-type: none"> • Social media posts and interaction/reach

Management Issues and objectives	s.36(3)(b) Performance targets and actions	s.36(3)(c) Means to achieve	s.36(3)(d) Performance assessment
Contamination	Minimise Council liability from land contamination	<ul style="list-style-type: none"> Ensure prompt investigation of all reports of asbestos dumping and undertake prompt remedial action required Implement appropriate asbestos control measures and protocols where asbestos is discovered on Community land Ensure timely removal of all recently dumped asbestos on Community land Undertake appropriate assessment of Community land where evidence indicates the presence of legacy asbestos materials within soils 	<ul style="list-style-type: none"> Prompt removal in accordance with relevant legislation and policy
Domestic and Pest Animals	Encourage responsible use of Community land by pet owners	<ul style="list-style-type: none"> Provide and promote use of Community land by pet owners in accordance with Council's plans, strategies and policies 	<ul style="list-style-type: none"> Compliance reported Social media posts & signage
Erosion and Stormwater	Decrease impacts of stormwater on terrestrial and aquatic environments in Community land	<ul style="list-style-type: none"> Compliance with Council's plans, strategies and policies relating to erosion and stormwater management 	<ul style="list-style-type: none"> Development in accordance with approvals
Fire Management	Minimise bushfire threat and associated risks to life and property adjacent to Community land	<ul style="list-style-type: none"> Develop bushfire mitigation strategies in partnership with appropriate authorities 	<ul style="list-style-type: none"> Bushfire mitigation strategies developed where required
Litter and Dumping	Minimise litter and rubbish dumping in Community land	<ul style="list-style-type: none"> Ensure all litter and dumping reports are investigated promptly to maximise opportunities for offender education and prosecution Undertake community education to increase awareness of the negative impacts of dumping and littering on Community land Install clear signage outlining penalties imposed for littering and dumping in Community land 	<ul style="list-style-type: none"> Investigations undertaken Educational awareness & signage as required
Maintenance	Community land is well maintained to standards appropriate for its function and level of use	<ul style="list-style-type: none"> Implement a coordinated maintenance program including a schedule of regular inspections on all Community land Ensure all maintenance on Community land complies with applicable Australian Standards, legislation and best practice techniques 	<ul style="list-style-type: none"> Community satisfaction surveys

Management Issues and objectives	s.36(3)(b) Performance targets and actions	s.36(3)(c) Means to achieve	s.36(3)(d) Performance assessment
Planning	Implement ecologically sustainable development principles in developing Community land	<ul style="list-style-type: none"> • Ensure compliance with environmental assessment requirements under the EP&A Act for proposed development or activities on Community land • Develop and implement best-practice mitigation measures to minimise the potential environmental impacts of development on Community land 	<ul style="list-style-type: none"> • Development in accordance with approvals
Safety and Risk	Facilitate a safe community perception of Community land	<ul style="list-style-type: none"> • Encourage community reporting of inappropriate activities on Community land • Ensure all hirers and lessees comply with the permit and licence requirements for selling alcohol on Community land 	<ul style="list-style-type: none"> • Compliance with lease and licences
	Minimise Council exposure to compensation and litigation	<ul style="list-style-type: none"> • Implement proactive risk management of Community land through regular inspections of buildings, infrastructure, natural features and surfaces • Encourage Council staff to identify potential hazards and quantify the associated level of risk and potential liability • Eliminate or minimise safety risks identified on Community land 	<ul style="list-style-type: none"> • Asset inspections undertaken • Remedial works if required

5 Review of the plan

Lifespan of the plan

If the Plan of Management is to remain relevant in the future it is essential that its implementation is reviewed on a regular basis to ensure any relevant changes are incorporated.

Changes that may need to be addressed include:

- New legislation
- Changes in community values
- Project priorities
- Inclusion of additional land
- Funding resources
- New opportunities for future upgrades.

Given that community expectations and requirements change over time, this plan also needs to have some flexibility to adapt to any changes of circumstance.

Process for review

It is recommended that the plan be reviewed in the following sequences and time spans:

Annually:	Monitor progress of the PoM.
Every five years:	Undertake a review of all values based on revised analysis, issues and amended planning legislation. Review outcomes against survey information, photographic record and register of correspondence. Review and amend the PoM, where required.
Every ten years:	Review of the PoM.

Other triggers for review

Should a major development or works be proposed that is not represented in the authorised uses and developments listings, the PoM will require amending.

Should changes in categorisation be proposed, the PoM will require amendment, re-exhibition and the need to undertake a public hearing prior to adoption.

6 Appendices

Appendix A1 – Community Land Categorisations

General Community Use

The General Community Use categorisation applies to most of Lot 22 DP 1073165 excepting a natural waterway that has been identified and categorised as Natural Area – Waterway and High Environmental Value Vegetation categorised as Natural Area – Bushland. These categorisations best reflect the values of the land and the best use of the land for the community in accordance with Council’s strategies and plans.

Permissible uses / future uses

The general types of uses which may occur on community land categorised as General Community Use, and the forms of development generally associated with those uses, are set out in detail in Table 8. The facilities on community land may change over time, reflecting the needs of the community.

Table 10: Permissible use and development of community land categorised as General Community Use by council or the community.

<i>Purpose/Use, such as...</i>	<i>Development to facilitate uses, such as...</i>
Providing a location for, and supporting, the gathering of groups for a range of social, cultural or recreational purposes. Providing multi-purpose buildings (for example, community halls and centres) with specialised community uses such as: <ul style="list-style-type: none"> • casual or informal recreation • meetings (including for social, recreational, education or cultural purposes) • functions • concerts, including all musical genres • performances (including film and stage) • exhibitions • fairs and parades • workshops 	Development for the purposes of social, community, cultural and recreational activities, such as libraries, childcare centres, youth services, aged services, men’s sheds, health services, sports. Development includes: <ul style="list-style-type: none"> • provision of buildings or other amenity areas to facilitate use and enjoyment by the community • development (particularly within buildings) for the purposes of addressing the needs of a particular group (for example, a stage) • landscaping and finishes, improving access, amenity and the visual character of the general community area

Purpose/Use, such as...	Development to facilitate uses, such as...
<ul style="list-style-type: none"> leisure or training classes child-care (for example, before and after school care, vacation care) designated group use (e.g. scout and girl guide use) educational centres, including libraries, information and resource centres entertainment facilities active cemeteries caravan parks and camping grounds (NB: Specific PoM required) 	<ul style="list-style-type: none"> water-saving initiatives such as rain gardens energy-saving initiatives such as solar lights and solar panels car parking and loading areas advertising structures and signage (such as A-frames and banners) that: <ul style="list-style-type: none"> relate to approved uses/activities are discreet and temporary are approved by the council locational, directional and regulatory signage.

Express authorisation of leases, licences and other estates

This plan of management expressly authorises the issue of leases, licences and other estates over the land categorised as General Community Use, listed in Table 9.

Table 11: Leases, licences and other estates and purposes for which they may be granted for community land categorised as General Community Use

Type of tenure arrangement	Maximum term	Purpose for which tenure may be granted
Lease	<ul style="list-style-type: none"> 21 years 	<ul style="list-style-type: none"> ancillary commercial or retail uses associated with a facility aquatic and indoor sporting facility management e.g. swimming pools, leisure centres, indoor courts cafes, kiosks, restaurants (including seating and tables) children's services e.g. child-care, preschool, playgroups, before and after school care, vacation care community clubs and services e.g. scouts and guide halls, men's shed, youth and senior citizens centres, service clubs, volunteer organisations community gardens emergency services operations e.g. SES licenced sporting and community recreation clubs (including bars and restaurants) e.g. bowling clubs monitoring stations (e.g. air quality)

Type of tenure arrangement	Maximum term	Purpose for which tenure may be granted
		<ul style="list-style-type: none"> • outdoor sporting facility management e.g. fields, sports courts • recreation equipment hire e.g. bicycles • telecommunication facilities and public utility infrastructure • agistment for grazing purposes
Licence	<ul style="list-style-type: none"> • 5 years 	<ul style="list-style-type: none"> • cafes, kiosks, restaurants (including seating and tables) • children’s services e.g. child-care, preschool, playgroups, before and after school care, vacation care • community clubs and services e.g. scouts and guide halls, men’s shed, youth and senior citizens centres, service clubs, volunteer organisations • community gardens • educational activities e.g. community classes, workshops • organised recreation activities e.g. personal trainers, fitness classes • outdoor sporting facility management e.g. fields, sports courts • recreation equipment hire e.g. bicycles • scientific research, surveys and monitoring • telecommunication facilities and public utility infrastructure • agistment for grazing purposes
Short-term licence	<ul style="list-style-type: none"> • 1 year 	<ul style="list-style-type: none"> • public speeches, meetings, seminars and presentations, including educational programs • functions (including commemorative functions, book launches, film releases, balls, and similar activities) • displays, exhibitions, fairs, fashion parades and shows • events (including weddings, corporate functions, and community gatherings) • concerts and other performances, including both live performances and film (cinema and TV) • broadcasts associated with any event, concert, or public speech

Type of tenure arrangement	Maximum term	Purpose for which tenure may be granted
		<ul style="list-style-type: none"> • engaging in an appropriate trade or business delivering a public address, community events; auctions, markets and similar activities
Other estates		<ul style="list-style-type: none"> • biodiversity conservation or stewardship agreements • carbon farming or sequestration projects • public utility infrastructure • underground connections (including pipes, conduits or similar) to public utilities by adjoining properties

Sportsground

The Sportsground categorisation applies to most of Lot 22 DP 1073165, however the land is currently predominantly undeveloped for that purpose, excepting a dog park established on the land.

Permissible uses / future uses

The general types of uses which may occur on community land categorised as Sportsground, and the forms of development generally associated with those uses, are set out in detail in Table 12. The facilities on community land may change over time, reflecting the needs of the community.

Table 12: Permissible use and development of community land categorised as Sportsground by Council or the community

Purpose/Use, such as...	Development to facilitate uses, such as
<ul style="list-style-type: none"> • Active recreational and sporting activities consistent with a recreational area or outdoor facility, for example but not limited to: <ul style="list-style-type: none"> ○ Oval (cricket, football, rugby, soccer, Australian rules, track and field athletics, hockey, baseball, softball) • Advertising (e.g. banners and signage) • Ancillary ceremonies (e.g. rehearsal of opening and closing ceremonies, cheer squads) • Broadcasting of sporting fixtures • Casual or informal recreation • Community, cultural, educational and social uses (e.g. events, gatherings and public meetings) • Conducting a commercial photography session or filming (as defined in the LG Act) • Emergency occupation for prevention preparedness, response and recovery • Management and operation or recreation purposes • Organised and unstructured sporting activities (including fixtures and events) 	<ul style="list-style-type: none"> • Advertising structures and signage (e.g. banners and signage) that: <ul style="list-style-type: none"> ○ relate to approved uses/ activities ○ are discrete and temporary ○ complies with Planning requirements ○ are approved by Council • Amenities to facilitate the safety, use and enjoyment of the recreational area or outdoor facility (e.g. seating, shelters, shade structures, drinking fountains) • Development for the purposes of conducting and facilitating organised sport (both amateur and professional) • Development for the purposes of improving access including disability access and facilities, amenity and the visual character of the recreational area or outdoor facility (e.g. landscaping, lighting, paved areas. Hard and soft landscaped areas) • Development of outdoor recreational facilities that support the permissible uses and activities (e.g. sports fields, skateparks, courts, goal posts, sight screens and fencing)

<ul style="list-style-type: none"> • Seating embankment for spectators along edge of playing field • Shade structures, storage ancillary to recreation uses, community events or gatherings, and public meetings • Shelters, seating and drinking fountains associated with path around perimeter of playing fields • Signage (cultural, educational, regulatory, and wayfinding) • Sports, fitness and leisure training or classes • Temporary structures (e.g. building/construction or events related) • Uses reasonably associated with the promotion or enhancement of sporting groups, fixtures and events (e.g. “guest” events for juniors, gala days, club meetings) • Venue hire 	<ul style="list-style-type: none"> • Development that facilitates energy and water efficiencies (e.g. solar lighting and photovoltaic panels, water storage vessels, irrigation and water reticulation systems) • Environmental management (e.g. remediation and flood mitigation work) • Promotion of organised and unstructured recreation activities • Signage (cultural, educational, regulatory, and wayfinding) • Temporary structures (e.g. building/construction or events related)
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Express authorisation of leases, licences and other estates

This plan of management expressly authorises the issue of leases, licences and other estates over the land categorised as Natural Area – Watercourse, listed in Table 11.

Table 13: Leases, licences and other estates and purposes for which they may be granted for community land categorised as Natural Area – Watercourse

Type of tenure arrangement	Maximum term	Purpose for which tenure may be granted
Short-term licence	<ul style="list-style-type: none"> • 1 year 	<ul style="list-style-type: none"> • Active recreation and sporting activities • Advertising consistent with reserve purposes • Ancillary ceremonies • Broadcasting or filming of sporting fixtures • Casual or informal recreation • Community, cultural, educational and social uses (e.g. events, gatherings, and public meetings) • Conducting a commercial photography session or filming (as defined in the LG Act)

Type of tenure arrangement	Maximum term	Purpose for which tenure may be granted
		<ul style="list-style-type: none"> • Emergency occupation for prevention, preparedness, response and recovery • Organised and unstructured sporting activities (including fixtures and events) • Seasonal, one-off, and irregular sporting competitions and training • Signage • Sports, fitness and leisure training or classes • Temporary structures (e.g. buildings/construction or events related) • Uses reasonably associated with the promotion or enhancement of sporting groups, fixtures and events (e.g. "guest" events for juniors, gala days, club meetings) • Venue hire
Other estates		<ul style="list-style-type: none"> • underground connections (including pipes, conduits or similar) to public utilities by adjoining properties

Natural Area – Watercourse

The Natural Area – Watercourse categorisation applies to a natural waterway that traverses the site and connects to Saltwater Creek.

Permissible uses / future uses

The general types of uses which may occur on community land categorised as Natural Area – Watercourse, and the forms of development generally associated with those uses, are set out in detail in Table 10. The use, management and facilities on community land may change over time, reflecting the needs of the community.

Table 14: Permissible use and development of community land categorised as Natural Area – Watercourse by Council or the community.

<i>Purpose/Use, such as...</i>	<i>Development to facilitate uses, such as</i>
<ul style="list-style-type: none"> • Preservation of the council’s natural heritage including the identified endangered ecological communities • Preservation of biological diversity and habitat • Providing a location for relaxation and passive, informal, water-based recreation, unless prohibited • Approved bush care projects requiring ecological restoration activities associated with the protection and conservation of flora and fauna • Restoration works associated with the protection of the biodiversity and ecological values of the in-stream environment. 	<ul style="list-style-type: none"> • Low-impact walking trails • Interpretive signage • Water-saving initiatives such as rain gardens, swales and sediment traps • Bridges, observation platforms • Temporary erection or use of any building or structure necessary to enable a filming project to be carried out • Locational, directional and regulatory signage • Flood mitigation works, such as detention basins, realignment of water flows and banks, installation of pipes, culverts and other structures to assist in control of flood waters.

Express authorisation of leases, licences and other estates

This plan of management expressly authorises the issue of leases, licences and other estates over the land categorised as Natural Area – Watercourse, listed in Table 11.

Table 15: Leases, licences and other estates and purposes for which they may be granted for community land categorised as Natural Area – Watercourse

Type of tenure arrangement	Maximum term	Purpose for which tenure may be granted
Lease	<ul style="list-style-type: none"> • 21 years 	<ul style="list-style-type: none"> • walkways, pathways, bridges, causeways • observation platforms, signs • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Licence	<ul style="list-style-type: none"> • 5 years 	<ul style="list-style-type: none"> • walkways, pathways, bridges, causeways • observation platforms, signs • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Short-term licence	<ul style="list-style-type: none"> • 1 year 	<ul style="list-style-type: none"> • scientific studies and surveys or similar • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Other estates		<ul style="list-style-type: none"> • underground connections (including pipes, conduits or similar) to public utilities by adjoining properties

Natural Area – Bushland

The Natural Area – Bushland categorisation applies an area of bushland identified as high environmental value vegetation (HEVV) located along the northern boundary of the land.

Permissible uses / future uses

The general types of uses which may occur on community land categorised as Natural Area – Bushland, and the forms of development generally associated with those uses, are set out in detail in Table 12. The use, management and facilities on community land may change over time, reflecting the needs of the community.

Table 16: Permissible use and development of community land categorised as Natural Area – Bushland by council or the community

<i>Purpose/Use, such as...</i>	<i>Development to facilitate uses, such as</i>
<ul style="list-style-type: none"> • Preservation of the council’s natural heritage including the identified endangered ecological communities • Preservation of biological diversity and habitat • Providing a location for relaxation and passive, informal, water-based recreation, unless prohibited • Approved bush care projects requiring ecological restoration activities associated with the protection and conservation of flora and fauna • Restoration works associated with the protection of the biodiversity and ecological values of the in-stream environment. 	<ul style="list-style-type: none"> • Low-impact walking trails • Interpretive signage • Water-saving initiatives such as rain gardens, swales and sediment traps • Bridges, observation platforms • Temporary erection or use of any building or structure necessary to enable a filming project to be carried out • Locational, directional and regulatory signage • Flood mitigation works, such as detention basins, realignment of water flows and banks, installation of pipes, culverts and other structures to assist in control of flood waters.

Express authorisation of leases, licences and other estates

This plan of management expressly authorises the issue of leases, licences and other estates over the land categorised as Natural Area – Bushland, listed in Table 13.

Table 17: Leases, licences and other estates and purposes for which they may be granted for community land categorised as Natural Area – Bushland.

Type of tenure arrangement	Maximum term	Purpose for which tenure may be granted
Lease	<ul style="list-style-type: none"> • 21 years 	<ul style="list-style-type: none"> • walkways, pathways, bridges, causeways • observation platforms, signs • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Licence	<ul style="list-style-type: none"> • 5 years 	<ul style="list-style-type: none"> • walkways, pathways, bridges, causeways • observation platforms, signs • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Short-term licence	<ul style="list-style-type: none"> • 1 year 	<ul style="list-style-type: none"> • scientific studies and surveys or similar • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Other estates		<ul style="list-style-type: none"> • underground connections (including pipes, conduits or similar) to public utilities by adjoining properties

Appendix A2 – Management of Community Land Categories

General Requirements

This section sets out the general requirements for Lot 22 DP 1073165 and is applicable to all community land categories, as outlined in Section 6 of this Plan of Management.

Permitted development and use

Section 36 of the LG Act states that a PoM must expressly authorise any proposed uses and development activities on community land.

Byron Shire Council encourages a wide range of uses on community land and intends to facilitate uses which increase the activation of the land, where appropriate. The use of community land is often supported by appropriate ancillary development. The general types of uses which may occur on community land categorised as General Community Use and Natural Area, and the forms of development generally associated with those uses are set out in Section 3 and Appendix A1 within this PoM. Any proposal for the development and use of buildings, structures and spaces at Lot 22 DP 1073165 will be considered on merit and benefits to the community and balanced against physical constraints, the amenity of adjoining residents and land uses.

Buildings and Structures

Express authorisation

This PoM expressly authorises the development of new buildings, structures and civil infrastructure, and the redevelopment / refurbishment of buildings, structures and civil infrastructure which support the desired use of Lot 22 DP 1073165. Such buildings, structures and civil infrastructure will not materially harm the use of the land for any of the purposes in which it was dedicated and will be consistent with the:

- Core objectives of the categories that apply to the land
- LEP and any other applicable Environmental Planning Instruments
- Applicable master plans, asset management plans and any subsequent detailed design plans.

Consistent with the objectives of this PoM, development activities must also include sustainable initiatives and measures, where feasible.

Assessment and approval of permissible uses and development activities

The authorisation in a PoM gives ‘in principle’ support for uses and development activities consistent with the objectives for land categorisation to proceed to development assessment under the Environmental Planning and Assessment Act 1979 (“EP&A Act”). This PoM does not in itself imply or grant consent for uses or development activities. Any proposed uses and development activities which are consistent with this PoM must still be referred for development consent and where required, be advertised widely for information and invitation to comment. Any subsequent application for development consent would be supported by and assessed against this PoM.

Prohibited activities

Activities and uses that are inconsistent with the reserve purpose or core objectives associated with the applicable community land category are prohibited. Certain activities at Lot 22 DP 1073165 may also be prohibited by the applicable land use zoning. Council may prohibit certain activities from time to time. Prohibited uses will be communicated via Council bookings, lease and licence agreements, or otherwise communicated where prohibited activities may be temporary.

Managing impacts on adjoining land uses

Uses and activities permitted at Lot 22 DP 1073165 must consider the needs of and impacts on residents, workers and adjoining land uses in terms of accessibility, noise, lighting, traffic and parking.

Scale and intensity of use

The scale and intensity of development and activities on community land is to be generally compatible with the scale and anticipated use of the park, and associated facility. In particular, the scale and intensity of use will be consistent with the carrying capacity of the land, and any master plan or development consent relating to the land.

Enterprise Garden

This PoM specifically authorises activities at Lot 22 DP 1073165 which may attract large number of people including events and community education and training.

The scale and intensity of such activities will be managed by Council’s event process and associated lease conditions of use.

Informal use

The intensity of use for informal recreational activities across Lot 22 DP 1073165 will be determined by the community use of the site but will be managed to avoid undue impacts on park fabric and environment.

Commercial uses

Commercial operations for cafes, markets and kiosks that support and encourage community use of the open space, and/or address a community need are to be assessed based on the proposed scale and intensity of use and are subject to compatibility with the objectives identified within this PoM. If a commercial activity was considered appropriate, then it is required to be competitively available to the market (eg via tenders or expression of interests processes) where everyone can compete for the same opportunities to comply with the LG Act.

Leases and licences

Leases and licences formalise the use of community land by groups such as sporting clubs, community groups and schools, or by commercial organisations and individuals providing facilities or services for public use. The occupation of community land not only applies to the surface of the land but also includes the airspace above and subsurface below.

A lease is normally issued where exclusive control of all or part of an area by a user is proposed. Licences allow multiple and nonexclusive use of an area. A licence may be required where intermittent or short-term use or control of all or part of the land, or associated facilities are proposed. Several licences for different users can apply to the same area at the same time, provided there is no conflict of interest.

Short-term uses

Agreements for the use of community land may be granted for short-term activities such as access, filming and events. These casual arrangements allow for non-exclusive use of any associated land and/or facility that may range in duration from a few hours to 12 months. The short-term uses permissible within this PoM are detailed within Appendix A1.

Other estates

Easements across community land for the purpose of public utilities, providing pipes, conduits, or other connections under the surface of the ground, for the connection of premises adjoining the community land to a facility on the community land shall be authorised by this PoM, and shall be subject to the following criteria:

- There is no feasible alternative to connecting to a facility on the community land
- There is no significant impact on the land
- Where the proposal involves the creation of an easement and/or a restriction on the future development potential of the property, compensation is assessed.

In instances where there is an encroachment (existing or proposed) upon public land by a permanent structure, and the structure does not significantly interfere with the functioning of Lot 22 DP 1073165 and is consistent with the lands categorisation and zoning, Council may consider the creation of an easement. In all cases, the applicant is to be responsible for all costs incurred by Council in the creation of the easement.

Subject to the provisions of Section 47F of the LG Act, an estate in respect of this land category is expressly authorised by this PoM for the purpose of a “public road” where the provision of that road is consistent with the core objectives stated herein and where the road is necessary for the enjoyment of that land.

Authorisation of tenure

Tenure may be granted for exclusive and nonexclusive uses to any organisation for any compatible purpose, as determined by Council, on such terms as Council may provide. Under Section 46 of the LG Act, a lease or licence may only be granted for a maximum term of 21 years, including options. A lease or licence for a term exceeding 5 years may be granted only by tender unless it is granted to a non-profit organisation. All leases and licences must be publicly notified for a minimum period of 28 days. Agreements for a short-term, casual purpose may be issued in accordance with Section 46 of the LG Act where that purpose is prescribed by the Regulations. To ensure that usage or occupation of a Crown reserve is appropriate for the proposed tenure, a council Crown land manager must always consider:

- Compatibility with the Crown reserve purpose and core objectives for the category of the land
- Compatibility with the applicable land zoning
- If development consent is required and has been obtained (and other consents under the EP&A Act and LG Act)
- Environmental and social impacts of the activities to be permitted by the proposed tenure
- Appropriate term (period of occupation)
- Current and future use of the land
- If the issue of the proposed tenure will materially harm the use of the land for any of the purposes for which it was dedicated or reserved.

In addition to the conditions provided within the authorisations, the granting of tenure must also:

- Have no negative impact on historical heritage sites or significant fabric
- Not alienate the park or reserve unreasonably
- Be ecologically sustainable
- Have a component of community benefit
- Demonstrate a clear nexus between the activity and the park
- Not result in overuse of the area or conflict with community use of the area

- Ensure traffic, parking and essential or required vehicular access implications are considered
- Be in accordance with all Council policies and procedures governing the use of open space.

Where the land is subject to a claim under the Aboriginal Land Rights Act 1983 the issue of any lease, licence or other estate will not prevent the land from being transferred in the event the claim is granted.

Express authorisation of Tenure under this Plan of Management

Appendix A1 details the specific authorisations and purposes for which tenure may be granted in accordance with the community land categories for Lot 22 DP 1073165. The purposes for which tenure may be granted are consistent with existing uses and will enable the social, intellectual, spiritual and physical enrichment of residents, workers, and visitors to the Byron Shire Council area. The following outlines general authorisations applicable under this PoM and an indication of the criteria in which specific activities are to be assessed by Council.

Access

Access for building-related activities including for construction or maintenance purposes

Access across community land shall be authorised under this PoM provided that (but not limited to):

- The access is of a temporary nature
- In circumstances where proposed works require access and it is associated with an adjoining property, proponents must clearly demonstrate that there are no alternative means of access available to avoid access through community land to undertake the required development works
- Relevant fees and charges are paid in accordance with Council's Schedule of Fees and Charges e.g. in respect of potential damage to Council assets
- All necessary approvals have been obtained
- Council is in receipt of proof of suitable insurances including public liability insurance.

Temporary structures

Land use planning controls

Under the LEP, the temporary use of community land may be deemed as exempt development if the proposed activity can be authorised under the LG Act and is no more than 52 days in any 12-month period (the prescribed period).

Temporary structures for building-related activities including for construction or maintenance purposes

Council may authorise a short-term licence for the placement of temporary building-related structures provided that (but not limited to):

- The use of community land is within the prescribed period
- In circumstances where the proposed works are associated with an adjoining property, proponents must clearly demonstrate that there are no alternative means of placement available to avoid use of community land to undertake the required development or maintenance works including satisfying any safety requirements under the Work, Health and Safety Act 2011
- Building-related structures comply with Council's requirements
- All necessary approvals have been obtained and relevant fees paid
- Council is in receipt of proof of suitable insurances including public liability insurance.

Temporary structures relating to events

The use of community land for the placement of temporary event structures shall be authorised under this PoM provided (but not limited to):

- The use of community land is within the prescribed period
- The event structures comply with Council's requirements and where required relevant standards identified within relevant State Environmental Planning Policy
- All necessary approvals have been obtained and relevant fees paid
- Council is in receipt of proof of suitable insurances including public liability insurance.

Appendix A3 – Plan of Management Legislative Framework

Local Government Act 1993

Section 35 of the *Local Government Act 1993* (LG Act) provides that community land can only be **used** in accordance with:

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

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

- 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.

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.

Note: photographs of buildings/structures located on the reserve should be considered. Council should also consider including a rating system for building/structures.

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

- a) a natural area
- b) a sportsground

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

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

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

Additionally, under section 36 of the LG Act, a site-specific PoM must be made for land declared:

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

Classification of public land

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

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

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

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

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

Other state and Commonwealth legislation

NSW state legislation

State Environmental Planning Policy (Transport & Infrastructure) 2021

This policy empowers Council, as a public authority, to undertake a range of development as 'exempt' or 'permitted without consent'. Whilst 'exempt' development has no approval or assessment requirements under the EP&A Act, any development 'permitted without consent' requires an environmental assessment (Review of Environmental Factors) under Part 5.

Any type of development not specified within this SEPP will likely require approval and assessment under Byron Local Environmental Plan 2014 (LEP) LEP.

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

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

Environmental Planning and Assessment Act 1979

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

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

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

Byron Shire Local Environmental Plan 2014 & 1988

The Byron LEP regulates the development and use of land within the LGA. It prescribes development controls and zoning to reflect land characteristics and principal intended use/s. Any use or development of land must be consistent with the objectives for the zone,

and permissible with or without consent, or is otherwise prohibited (unless otherwise permitted under a SEPP).

Biodiversity Conservation Act 2016

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

Fisheries Management Act 1994

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

Rural Fires Act 1997

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

Water Management Act 2000

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

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

Heritage Act 1977

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

Commonwealth legislation

Environmental Protection and Biodiversity Conservation Management Act 1999

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

Native Title Act 1993

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

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

Telecommunications Act 1997

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

Byron Shire Council Policy and Strategy Framework

Byron Shire Council, in consultation with the community, has developed an extensive range of policies which guide Council decision-making. A number of these influence planning and management decision-making for open space and must be referred to in conjunction with this Plan of Management.

Byron Shire Council has also developed a range of strategies focused on specific issues. While strategies are high-level guideline documents and usually carry less influence than policies, they can provide important references for planning and management of open space.

Generally, policy guidance for management of specific issues shall take precedence where no guidance is provided in the plan. However, all decision-making, and ongoing management must also have regard to the conservation of the specific park values and application of the core objectives of the applicable community land category/categories.

Community Strategic Plan 2032

The Byron Shire Community Strategic Plan 2032 has been developed in conjunction with the local community to understand the community's vision, aspirations, and priorities. The Plan will guide Council's activities over the next 10 years.

Operational Plan

Council's Operational Plan underpins the Community Strategic Plan and Delivery Program and specifies individual actions that will be undertaken for the coming financial year. It incorporates the annual budget and revenue statement.

Open Space Asset Management Plan

Council's Open Space Asset Management Plan details information about infrastructure assets required to provide an agreed level of service in a cost-effective manner. It includes recreation facilities, sports equipment, pools, park facilities, play equipment and softfall, irrigation, public art, beach accesses and garden beds.

Open Space and Recreation Needs Assessment and Action Plan

Council's Open Space and Recreation Needs Assessment was written in conjunction with the local community and outlines the community's recreation and sporting needs, existing opportunities and relevant trends impacting on recreation services or facility provision. The assessment provides Council with a clear planning framework to 2036.

The Assessment considers the community's current and future recreation and sporting demands, existing options for meeting those demands, the nature of spaces required for particular activities, and the types of services that support particular activities.

The Plan focuses on Council owned or managed public open space (community land, Crown land under Council control and road reserves). Natural areas, including state-owned bushland reserves, have been considered for their role in providing for nature-based recreation.

The Assessment and Action Plan identifies an over-supply of land for formal sports as well as capacity within the existing network to meet the needs of the existing and future communities. Relevant to this Plan of Management, Lot 22 DP1073165 had previously been set aside for the future development of sportsgrounds.

Future Policy and Strategy Guidance

It is intended that future policy and strategy development undertaken by Byron Shire Council and applicable to Lot 22 DP 1073165 will inform specific aspects of planning and management of the land.

Other relevant legislation, policies, and plans

Biosecurity Act 2015

Catchment Management Authorities Act 2003

Companion Animals Act 1998

Disability Discrimination Act 1992

Local Land Services Act 2013

Operations Act 1997

Pesticides Act 1999

Protection of the Environment Operations Act 1997

Retail Leases Act 1994

Soil Conservation Act 1938

NSW Invasive Species Plan 2008-2015

National Local Government Biodiversity Strategy

NSW Biodiversity Strategy