

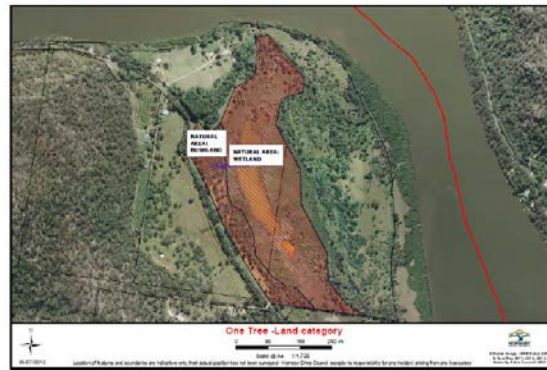
HORNSBY SHIRE COUNCIL

PUBLIC HEARING REPORT

**PROPOSED CATEGORISATION OF COMMUNITY LAND
IN ONE TREE REACH WETLAND**



Figure 5 One Tree Reach Wetland Land Category Map



FINAL REPORT

21 OCTOBER 2013



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1 INTRODUCTION

1.1 Purpose of this public hearing report

This public hearing report has been prepared under Section 40A of the *Local Government Act 1993* (the Act). The purpose of this report is to report to Hornsby Shire Council on the submissions made in relation to a public hearing held on 25 September 2013 regarding the proposed categorisation of community land in One Tree Reach Wetland at Laughtondale.

1.2 Land covered by this report

This public hearing report addresses the proposed categorisation of land classified as community land under the *Local Government Act 1993* which is included in the Draft Plan of Management for One Tree Reach Wetland which was prepared in May 2013 by Waratah Ecoworks and J. Wyndham Prince for Hornsby Shire Council. That Plan of Management is referred to as the Draft Plan of Management in this report.

One Tree Reach Wetland is located at 901 Singleton Road at Laughtondale. The subject land is Lot 1 DP 616661 which is owned by Hornsby Shire Council.

1.3 Legislative requirements

1.3.1 Requirements for categorisation of community land

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

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

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

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

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

Guidelines and core objectives for the various categories of community land, which set out Council's intentions for the use and management of land in each category, are prescribed by legislation, including the *Local Government Act 1993* and the *Local Government (General) Regulation 2005* (the Regulation). Council must categorise community land according to these guidelines, and manage the community land according to these core objectives. Any additional

Council objectives for the land must comply with the core objectives established within the Act. The importance of the prescribed core objectives is to ensure that any uses or developments of the land are consistent with the core objectives for that category of land.

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

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

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

1.3.2 Requirements for public hearings

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

1.4 Proposed categorisation of community land in One Tree Reach Wetland

The northern and western section of One Tree Reach Wetland is owned by Hornsby Shire Council, and the eastern and southern section is Crown land, as shown in Figure 1.1.

The Council-owned land is classified as community land, but has not yet been categorised.

Figure 1.1 Ownership of land in One Tree Reach Wetland



Date: 24/05/2013
Checked by: C Hall

Waratah Eco Works (WEW) endeavours to ensure the information provided in this map is correct at the time of publication. WEW does not warrant, guarantee or make representations regarding the currency and Accuracy of information contained in this map



Figure 2 One Tree Reach Wetland Location

Source: One Tree Reach Wetland Draft Plan of Management (May 2013)

The community land in One Tree Reach Wetland is proposed to be categorised as:

- Natural Area: Bushland
- Natural Area: Wetland.

Council proposes to categorise the community land as shown in Table 1.1 and Figure 1.2.

Table 1.1 Proposed categorisation of One Tree Reach Wetland

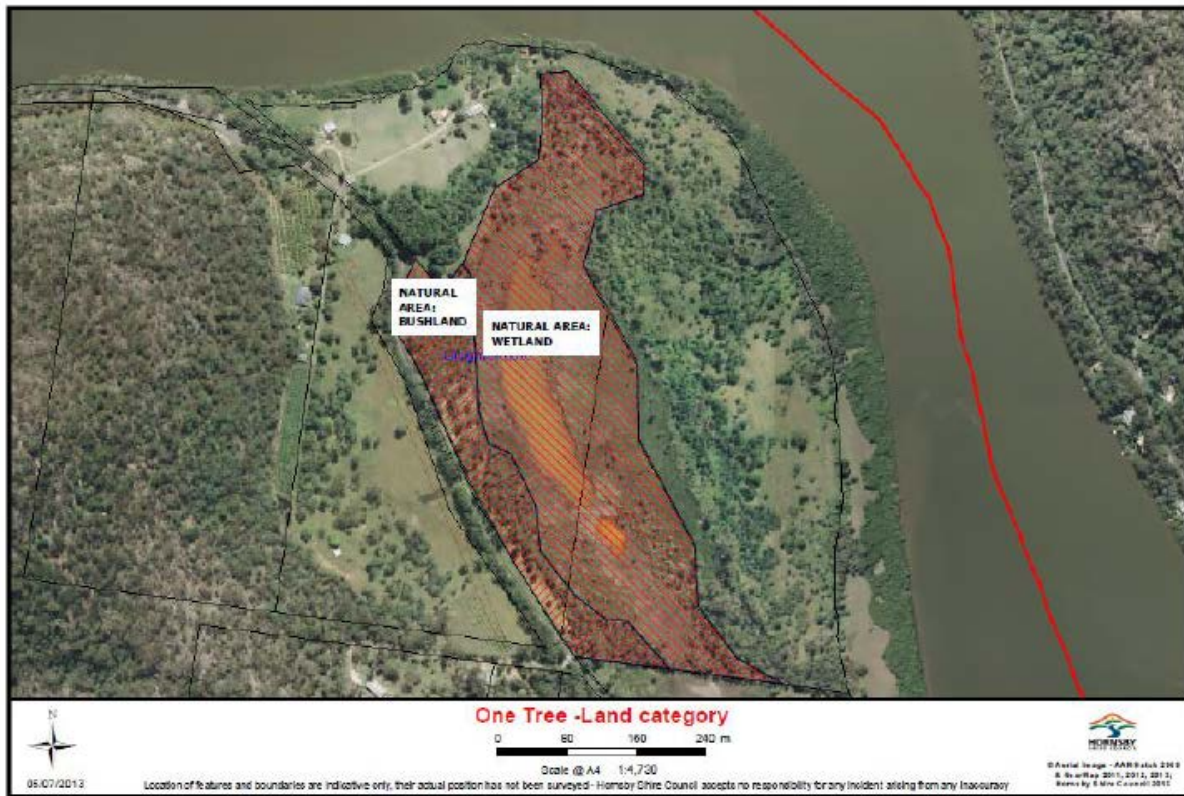
Table 2 Land Ownership and Management One Tree Reach Wetland

Legal Description	Address	Owner	Current Zoning	Proposed Zoning	Classification	Proposed Categorisation
Lot 101/752029	Singleton Road, Loughtondale	Crown Reserve R45642 (Hornsby Shire Council Trustees)	Environmental Protection A (wetlands)	Environmental Management E3.	Community Land	Wetland, Watercourse and Bushland
Lot 1/616661	901 Singleton Road, Loughtondale	Hornsby Shire Council	Environmental Protection A (wetlands) Environmental protection B (River Catchment)	Environmental Conservation E2 and Environmental Management E3.	Community Land	Wetland and Bushland

Source: One Tree Wetland Draft Plan of Management (May 2013)

Figure 1.2 Proposed categorisation of One Tree Reach Wetland

Figure 5 One Tree Reach Wetland land Category Map



Source: One Tree Wetland Draft Plan of Management (May 2013)

The guidelines and core objectives for the Natural Area-Wetland and Natural Area-Bushland categories of community land are set out in Table 1.2. The guidelines and core objectives for the other categories of community land are in Appendix B.

Table 1.2 Guidelines and core objectives for proposed categories of community land in One Tree Reach Wetland

Category	Guidelines	Core objectives
Natural Area	If the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the Act.	<ul style="list-style-type: none"> <input type="checkbox"/> conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area. <input type="checkbox"/> maintain the land, or that feature or habitat, in its natural state and setting. <input type="checkbox"/> provide for the restoration and regeneration of the land. <input type="checkbox"/> provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion. <input type="checkbox"/> to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the <i>Threatened Species Conservation Act 1995</i> or the <i>Fisheries Management Act 1994</i>.
Under Section 36(5) of the Act, Natural Areas are required to be further categorised as bushland, wetland, escarpment, watercourse or foreshore based on the dominant character of the natural area.		
Natural Area – Wetland	Land that is categorised as a natural area should be further categorised as wetland under section 36 (5) of the Act if the land includes marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a water-body that is inundated cyclically, intermittently or permanently with fresh, brackish or salt water, whether slow moving or stationary.	<ul style="list-style-type: none"> <input type="checkbox"/> protect the biodiversity and ecological values of wetlands, with particular reference to their hydrological environment (including water quality and water flow), and to the flora, fauna and habitat values of the wetlands, and <input type="checkbox"/> restore and regenerate degraded wetlands. <input type="checkbox"/> facilitate community education in relation to wetlands, and the community use of wetlands, without compromising the ecological values of wetlands.
Natural Area – Bushland	Land that is categorised as a natural area should be further categorised as bushland if the land contains primarily native vegetation and that vegetation: (a) is the natural vegetation or a remainder of the natural vegetation of the land, or (b) although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, of the natural vegetation in the locality.	<ul style="list-style-type: none"> <input type="checkbox"/> ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land. <input type="checkbox"/> protect the aesthetic, heritage, recreational, educational and scientific values of the land. <input type="checkbox"/> promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion. <input type="checkbox"/> restore degraded bushland. <input type="checkbox"/> protect existing landforms such drainage lines, watercourses and foreshores. <input type="checkbox"/> retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term. <input type="checkbox"/> protect bushland as a natural stabiliser of the soil surface.

1.5 Public hearing details

1.5.1 Timing of the public hearing

The public hearing to receive submissions on the proposed categorisation of community land in One Tree Reach Wetland was held on Wednesday 25 September 2013 from 6.30pm to 7.30pm at the Wisemans Ferry Community Centre, 21-39 Singleton Road, Wisemans Ferry.

The public hearing was held during the public exhibition of the Draft Plan of Management for One Tree Reach Wetland from Thursday 29 August to Tuesday 1 October 2013, with a further two weeks for receipt of submissions until 15 October 2013. The timing of the public hearing allowed public notification of the public exhibition of the Draft Plan and the public hearing to occur at the same time.

1.5.2 Advertising and notification

Section 38 of the *Local Government Act 1993* provides that Councils must give “public notice” of a draft Plan of Management, and the length of time for which it must be on public exhibition and for submissions to be made. The contents of the public notice are set out in Section 705 of the Act.

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

- a page on Council’s website in the ‘On Exhibition’ section.
- public notices in the *Hills News*, *Hills Shire Times* and *Hornsby Advocate*.
- Council advertisement page in the *Hills News* and *Hornsby Advocate*.
- Council’s news page on the *Hornsby Advocate* website.

The Draft Plan of Management was on public exhibition at:

- Council’s website.
- Council’s Administration Building.
- Hornsby Library.
- Wisemans Ferry Bowling Club.
- Wisemans Ferry Artists Shop.

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

1.5.3 Attendance at the public hearing

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

The following Council officers attended the hearing to represent Council, to provide background information, and to answer questions:

Mark Hood Biodiversity Project Officer
Alex Fraser Ecologist – Biodiversity Planning

Two consultants who prepared the Draft Plan of Management for One Tree Reach Wetland attended the hearing to answer any technical questions:

Carolyn Hall Waratah Ecoworks
Geoff Hunter J. Wyndham Prince

Two members of the community attended the public hearing:

Joan Bellamy
Eric Bellamy

1.5.4 Agenda of the public hearing

The agenda for the public hearing is in Appendix A.

Ms Hoy explained the legislative basis for categorisation of community land, and the requirement for public hearings, based on a background information document distributed to people attending the public hearing (refer to Appendix B).

Submissions regarding the proposed categorisation were received and recorded at the hearing. Other comments and questions about One Tree Reach Wetland and the draft Plan of Management were recorded, but are outside the scope of this report. The content of the submissions which are relevant to the proposed categorisation are outlined in more detail in Section 2 of this report.

With there being no further submissions or questions, Ms. Hoy closed the hearing at 7.20 pm.

1.6 Written submissions

The closing date for written submissions regarding the Draft Plan of Management was 15 October 2013.

Mr. Hood advised that no written submissions were received about the Draft Plan or the proposed categorisations by the end of the public exhibition period.

1.7 This report

This report makes recommendations to Council regarding the proposed categorisation of community land in One Tree Reach Wetland.

Information included in the Appendices is:

- agenda for the public hearing.
- background information which was compiled for reference at the public hearing.

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2 CONSIDERATION OF SUBMISSIONS

The people who attended the public hearing asked several questions regarding the proposed categorisation of community land In One Tree Reach Wetland. The responses by Council officers and/or the consultants to those questions are set out in Table 2.1.

Table 2.1 Questions and responses

Question	Response
How were the categorisations mapped?	The Swamp Mahogany vegetation and the rehabilitated area were mapped as Natural Area-Bushland. The wetland and land surrounding it were mapped as Natural Area-Wetland.
Is there any difference between the Natural Area-Wetland and Natural Area-Bushland categories in terms of the way in which the land is managed?	Reference was made to the guidelines and core objectives for the Natural Area-Wetland and Natural Area-Bushland categories in the background information document available at the public hearing (refer to Table 1.2 and Appendix B of this report). Those guidelines and core objectives for management were taken into account when the proposed categorisations were determined.

Based on this information, the people who attended the public hearing were satisfied that the proposed categorisation of community land in One Tree Reach Wetland as Natural Area-Wetland and Natural Area-Bushland is appropriate.

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3 RECOMMENDATIONS

3.1 Recommendations regarding proposed categorisation

Based on the representations to the public hearing supporting the proposed categorisation, my recommendations to Hornsby Shire Council are to:

- note the verbal submissions made in Section 2.
- adopt the proposed categorisation of community land in One Tree Reach Wetland as Natural Area-Wetland and Natural Area-Bushland as shown in Figure 1.2 of this report and Figure 5 of the Draft Plan of Management for One Tree Reach Wetland (May 2013).

3.2 Adoption of proposed categorisation

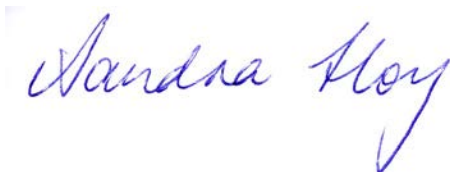
Council must agree to the proposed categorisation of community land in the Draft Plan before resolving to adopt the final Plan of Management for One Tree Reach Wetland.

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

3.3 Reporting

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

- send a copy of the public hearing report to the people who attended the public hearing.
- keep a copy of the public hearing report for inspection at its Administration Centre, at Hornsby Library, and at Wisemans Ferry Bowling Club.
- place an electronic copy of the public hearing report on Council's website.



Sandy Hoy
Principal,
Parkland Planners

21 October 2013

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APPENDIX A

AGENDA FOR PUBLIC HEARING

PUBLIC HEARING

PROPOSED CATEGORISATION OF ONE TREE REACH WETLAND

**Wisemans Ferry Community Centre
Singleton Road
Wisemans Ferry**

**Wednesday 25 September 2013
6.30pm-7.30pm**

AGENDA

1 INTRODUCTIONS

2 THE PUBLIC HEARING

Purpose of the public hearing

Role of the independent chairperson

Making a submission

3 REQUIREMENTS OF THE LOCAL GOVERNMENT ACT AND REGULATION

Classification and community land

Plans of Management for community land

Categorisation and re-categorisation of community land

Public hearing and public hearing report

4 PROPOSED CATEGORISATION OF ONE TREE REACH WETLAND

Draft Plan of Management for One Tree Reach Wetland

Background to proposed categorisation of One Tree Reach Wetland

5 SUBMISSIONS ABOUT PROPOSED CATEGORISATION OF ONE TREE REACH WETLAND

6 QUESTIONS ABOUT ONE TREE REACH WETLAND PLAN OF MANAGEMENT

7 NEXT STEPS

8 THANKS AND CLOSE

APPENDIX B

BACKGROUND INFORMATION

PROPOSED CATEGORISATION OF ONE TREE REACH WETLAND

Public hearing

Wisemans Ferry Community Centre
Singleton Road
Wisemans Ferry

Wednesday 25 September 2013
6.30pm-7.30pm

BACKGROUND INFORMATION

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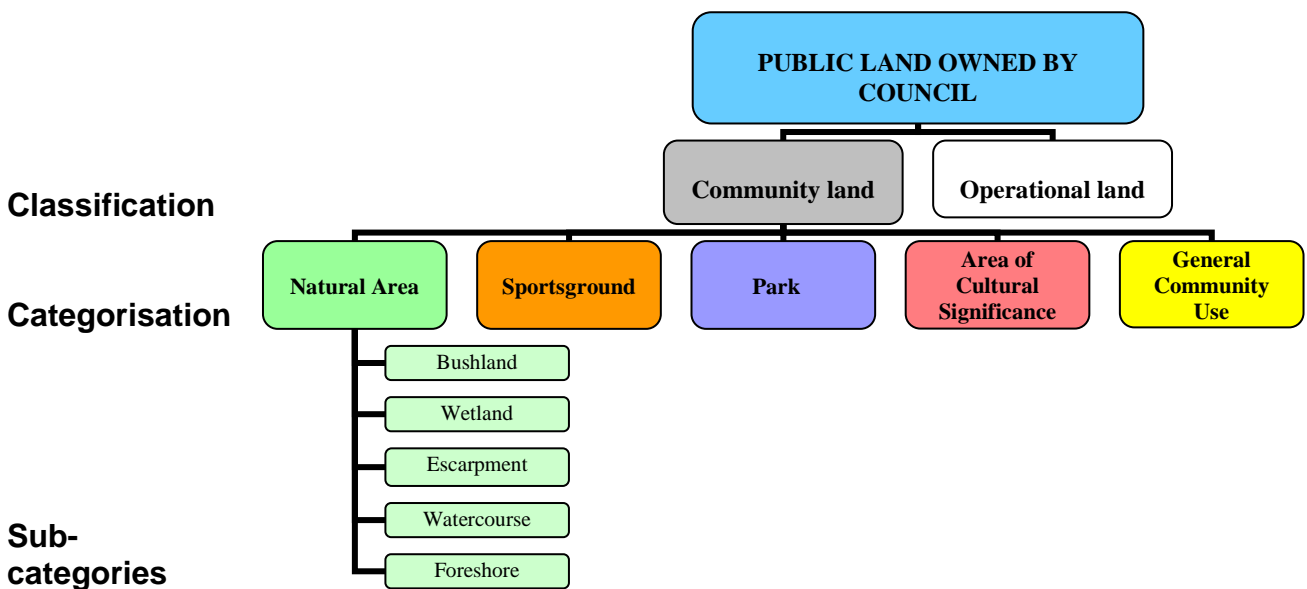
Appendix A Legislation

1 LEGISLATIVE REQUIREMENTS FOR CATEGORISATION OF COMMUNITY LAND

1.1 Introduction

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

Figure 1.1 Framework for public land management



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

1.2 What is community land?

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

One Tree Reach Wetland includes land which is classified as community land. It also includes Crown land.

Community land is intended to be managed for use by the community for purposes including environmental protection, recreational, cultural, social and educational activities. Community land may not be leased for more than 21 years, cannot be sold, and its use is restricted to the above purposes.

Conversely, operational land is land that can be used for any purposes deemed fit by Council, may be used for commercial purposes, be leased for more than 21 years, and can be sold.

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

1.3 Plans of Management

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

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

1.4 Categorisation of community land

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

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

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

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

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

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

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

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

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

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

Land owned by the Crown is not required to be categorised under the Local Government Act, because it is not owned by Council. Council, who manages Crown reserve trusts, often manages Crown land which adjoins community land. To maintain consistency of management across such an entire park or reserve, categories of community land may be applied to Crown land. The Public Purpose of the Crown land will ultimately determine acceptable use of the Crown land. The community land category(s) applying to the Crown land should be consistent with the Public Purpose(s) of the Crown land.

1.5 Core objectives for managing community land

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

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

1.6 Why hold a public hearing to categorise community land?

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

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

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

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

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

2 CATEGORISATION OF LAND IN ONE TREE REACH WETLAND

2.1 Ownership and management of One Tree Reach Wetland

The northern and western section of One Tree Reach Wetland is owned by Hornsby Shire Council, and the eastern and southern section is Crown land, as shown in Figure 2.1.

The Council-owned land is classified as community land.

Figure 2.1 Ownership of land in One Tree Reach Wetland



Date: 24/05/2013
Checked by: C Hall

Waratah Eco Works (WEW) endeavours to ensure the information provided in this map is correct at the time of publication. WEW does not warrant, guarantee or make representations regarding the currency and Accuracy of information contained in this map



Figure 2 One Tree Reach Wetland Location

Source: *One Tree Reach Wetland Draft Plan of Management (May 2013)*

2.2 Proposed categorisation of One Tree Reach Wetland

The Council-owned community land in One Tree Reach Wetland is not categorised. Council proposes to categorise the community land as shown in Table 2.1 and Figure 2.2.

Table 2.1 Proposed categorisation of One Tree Reach Wetland

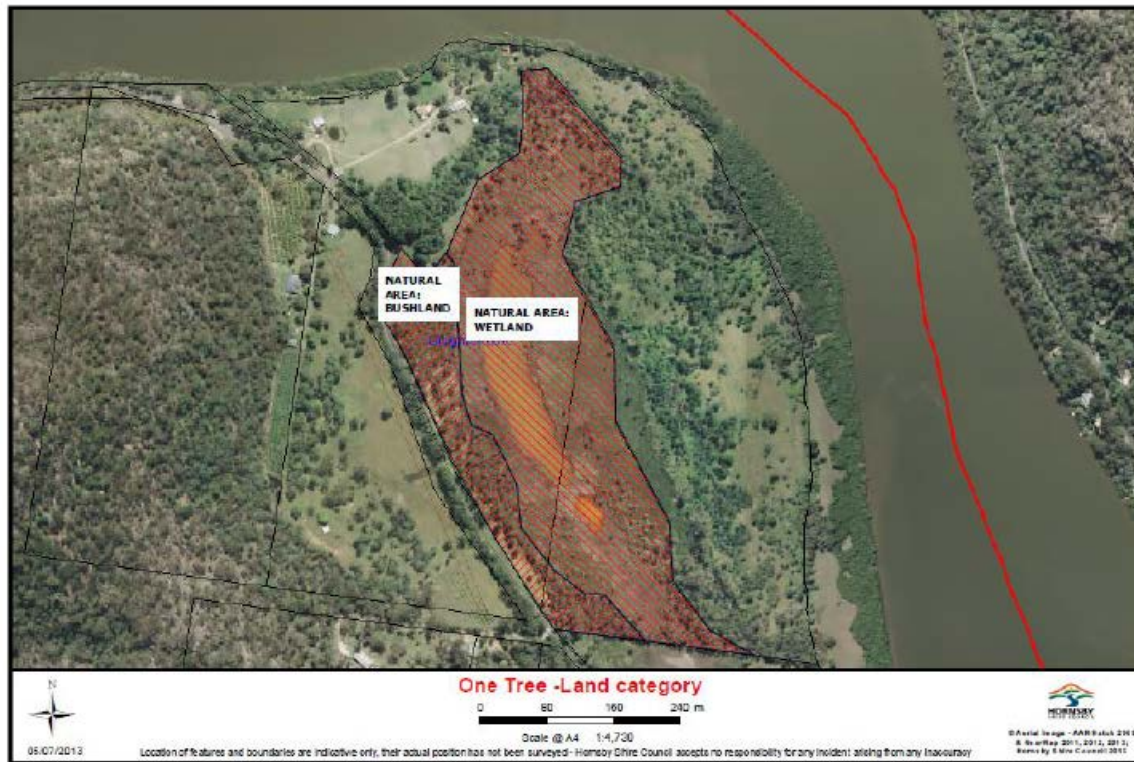
Table 2 Land Ownership and Management One Tree Reach Wetland

Legal Description	Address	Owner	Current Zoning	Proposed Zoning	Classification	Proposed Categorisation
Lot 101/752029	Singleton Road, Laughtondale	Crown Reserve R45642 (Hornsby Shire Council Trustees)	Environmental Protection A (wetlands)	Environmental Management E3.	Community Land	Wetland, Watercourse and Bushland
Lot 1/616661	901 Singleton Road, Laughtondale	Hornsby Shire Council	Environmental Protection A (wetlands) Environmental protection B (River Catchment)	Environmental Conservation E2 and Environmental Management E3.	Community Land	Wetland and Bushland

Source: One Tree Reach Wetland Draft Plan of Management (May 2013)

Figure 2.2 Proposed categorisation of One Tree Reach Wetland

Figure 5 One Tree Reach Wetland land Category Map



Source: One Tree Reach Wetland Draft Plan of Management (May 2013)

2.3 Guidelines and core objectives for categorisation of One Tree Reach Wetland

The guidelines and core objectives for each of the categories proposed to apply to community land in One Tree Reach Wetland are set out below. The guidelines for categorisation are set out in Clauses 102 to 111 of the *Local Government (General) Regulation 2005*. The core objectives for each category are set out in Sections 36E to 36N of the *Local Government Act 1993*.

Table 2.2 Guidelines and core objectives for proposed categories of community land in One Tree Reach Wetland

Category	Guidelines	Core objectives
Natural Area	If the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the Act.	<ul style="list-style-type: none"> <input type="checkbox"/> conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area. <input type="checkbox"/> maintain the land, or that feature or habitat, in its natural state and setting. <input type="checkbox"/> provide for the restoration and regeneration of the land. <input type="checkbox"/> provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion. <input type="checkbox"/> to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the <i>Threatened Species Conservation Act 1995</i> or the <i>Fisheries Management Act 1994</i>.
Under Section 36(5) of the Act, Natural Areas are required to be further categorised as bushland, wetland, escarpment, watercourse or foreshore based on the dominant character of the natural area.		
Natural Area – Wetland	Land that is categorised as a natural area should be further categorised as wetland under section 36 (5) of the Act if the land includes marshes, mangroves, backwaters, billabongs, swamps, sedgeland, wet meadows or wet heathlands that form a water-body that is inundated cyclically, intermittently or permanently with fresh, brackish or salt water, whether slow moving or stationary.	<ul style="list-style-type: none"> <input type="checkbox"/> protect the biodiversity and ecological values of wetlands, with particular reference to their hydrological environment (including water quality and water flow), and to the flora, fauna and habitat values of the wetlands, and <input type="checkbox"/> restore and regenerate degraded wetlands. <input type="checkbox"/> facilitate community education in relation to wetlands, and the community use of wetlands, without compromising the ecological values of wetlands.
Natural Area – Bushland	Land that is categorised as a natural area should be further categorised as bushland if the land contains primarily native vegetation and that vegetation: <ul style="list-style-type: none"> (a) is the natural vegetation or a remainder of the natural vegetation of the land, or (b) although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, 	<ul style="list-style-type: none"> <input type="checkbox"/> ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land. <input type="checkbox"/> protect the aesthetic, heritage, recreational, educational and scientific values of the land. <input type="checkbox"/> promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement

Category	Guidelines	Core objectives
	of the natural vegetation in the locality.	measures directed to minimising or mitigating any disturbance caused by human intrusion. <ul style="list-style-type: none"> <input type="checkbox"/> restore degraded bushland. <input type="checkbox"/> protect existing landforms such drainage lines, watercourses and foreshores. <input type="checkbox"/> retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term. <input type="checkbox"/> protect bushland as a natural stabiliser of the soil surface.
Natural Area – Watercourse	Land that is categorised as a natural area should be further categorised as a watercourse if the land includes: <ul style="list-style-type: none"> (a) any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel that has been artificially improved, or in an artificial channel that has changed the course of the stream of water, and any other stream of water into or from which the stream of water flows, and (b) associated riparian land or vegetation, including land that is protected land for the purposes of the <i>Rivers and Foreshores Improvement Act 1948</i> or State protected land identified in an order under section 7 of the <i>Native Vegetation Conservation Act 1997</i>. 	<ul style="list-style-type: none"> <input type="checkbox"/> manage watercourses so as to protect the biodiversity and ecological values of the in stream environment, particularly in relation to water quality and water flows, and <input type="checkbox"/> manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability, and <input type="checkbox"/> restore degraded watercourses, and <input type="checkbox"/> promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category.

Appendix A Relevant legislation

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

For more information on the Local Government Act and other NSW government legislation, refer to www.legislation.nsw.gov.au or www.austlii.edu.au/au/legis/nsw.

LOCAL GOVERNMENT ACT 1993 -SECT 25

25 All public land must be classified

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

LOCAL GOVERNMENT ACT 1993 -SECT 26

26 What are the classifications?

There are 2 classifications for public land "community" and "operational".

Note. On the commencement of this Part, certain land that is vested in or under the control of a council is taken to have been classified as community land by the operation of clause 6 of Schedule 7.

LOCAL GOVERNMENT ACT 1993 -SECT 35

35 What governs the use and management of community land?

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

- (1) "the plan of management applying to the land
- (2) "any law permitting the use of the land for a or otherwise regulating the use of the land
- (3) "this Division.

LOCAL GOVERNMENT ACT 1993 -SECT 36

36 Preparation of draft plans of management for community land

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

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

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

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

(3A) A plan of management that applies to just one area of community land:

(a) must include a description of:

(i) the condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and

(ii) the use of the land and any such buildings or improvements as at that date, and

(a) must:

(i) specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and

(ii) specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and

(iii) describe the scale and intensity of any such permitted use or development.

(4) For the purposes of this section, land is to be categorised as one or more of the following:

(a) a natural area,

(b) a sportsground

(c) a park,

(d) an area of cultural significance

(e) general community use.

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

(a) bushland,

(b) wetland,

(c) escarpment,

(d) watercourse,

(e) foreshore,

(f) category prescribed by the regulations.

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

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

(b) prescribing guidelines for the categorisation of community land and the effect of any guidelines so prescribed.

LOCAL GOVERNMENT ACT 1993 -SECT 36E

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

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

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

LOCAL GOVERNMENT ACT 1993 -SECT 36F

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

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

- (a) to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and
- (b) to ensure that such activities are managed having regard to any adverse impact on nearby residences.

LOCAL GOVERNMENT ACT 1993 -SECT 36G

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

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

- (a) to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and
- (b) to provide for passive recreational activities or pastimes and for the casual playing of games, and
- (c) to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

LOCAL GOVERNMENT ACT 1993 -SECT 36H

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

(1) The core objectives for management of community land categorised as an area of cultural significance are to retain and enhance the cultural significance of the area (namely its Aboriginal, aesthetic,

archaeological, historical, technical or research or social significance) for past, present or future generations by the active use of conservation methods.

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

- (a) the continuous protective care and maintenance of the physical material of the land or of the context and setting of the area of cultural significance,
- (b) the restoration of the land, that is, the returning of the existing physical material of the land to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material,
- (c) the reconstruction of the land, that is, the returning of the land as nearly as possible to a known earlier state,
- (d) the adaptive reuse of the land, that is, the, enhancement or reinforcement of the cultural significance of the land by the introduction of sympathetic alterations or additions to allow compatible uses (that is, uses that involve no changes to the cultural significance of the physical material of the 'area, or uses that involve changes that are substantially reversible or changes that require a minimum impact),
- (e) the preservation of the land, that is, the maintenance of the physical material of the land in its existing state and the retardation of deterioration of the land.

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

LOCAL GOVERNMENT ACT 1993 -SECT 36I

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

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

- (a) in relation to public recreation and the physical, cultural, social and intellectual welfare-or development of individual members of the public, and
- (b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

LOCAL GOVERNMENT ACT 1993 -SECT 36J

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

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

- (a) to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land and
- (b) to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and

- (c) to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and
- (d) to restore degraded bushland, and
- (e) to protect existing landforms such drainage lines, watercourses and foreshores, and
- (f) to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and
- (g) to protect bushland as a natural stabiliser of the soil surface.

LOCAL GOVERNMENT ACT 1993 -SECT 36K

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

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

- (a) to protect the biodiversity and ecological values of wetlands, with particular reference to their hydrological environment (including water quality and water flow), and to the flora, fauna and habitat values of the wetlands, and
- (b) to restore and regenerate degraded wetlands, and
- (c) to facilitate community education in relation to wetlands, and the community use of wetlands, without compromising the ecological values of wetlands.

LOCAL GOVERNMENT ACT 1993 -SECT 36L

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

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

- (a) to protect any important geological, geomorphological or scenic features of the escarpment, and
- (b) to facilitate safe community use and enjoyment of the escarpment.

LOCAL GOVERNMENT ACT 1993 -SECT 36M

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

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

- (a) to manage watercourses so as to protect the biodiversity and ecological values of the in stream environment, particularly in relation to water quality and water flows, and
- (b) to manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability, and
- (c) to restore degraded watercourses, and
- (d) to promote community education, and community access to and use of the watercourse without compromising the other core objectives of the category.

LOCAL GOVERNMENT ACT 1993 -SECT 36N

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

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

- (a) to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and
- (b) to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.

LOCAL GOVERNMENT ACT 1993 -SECT 40

40 Adoption of plans of management

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

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

- (a) publicly exhibit the amended draft plan in accordance with the provisions of this Division relating to the public exhibition of draft plans, or:
- (b) if it is of the opinion that the amendments are not substantial, adopt the amended draft plan without public exhibition as the plan of management for the community land concerned.

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

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

LOCAL GOVERNMENT ACT 1993 -SECT 40A

40A Public hearing in relation to proposed plans of management

(1) The council must hold a public hearing in respect of a proposed plan of management if the proposed plan would have the effect of categorising or recategorising community land under section 36(4) or (5).

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

LOCAL GOVERNMENT ACT 1993 – SECT 47G

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

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

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

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

LOCAL GOVERNMENT (GENERAL) REGULATION 2005

Part 4 Community land

Division 1 Guidelines for the categorisation of community land

101 Application of this Division

- (1) This Division sets out guidelines for the categorisation of community land.
- (2) A council that is preparing a draft plan of management under section 36 of the Act must have regard to the guidelines set out in this Division.

102 Guidelines for categorisation of land as a natural area

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

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

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

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

103 Guidelines for categorisation of land as a sportsground

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

104 Guidelines for categorisation of land as a park

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

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

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

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

- (i) has been declared an Aboriginal place under section 84 of the *National Parks and Wildlife Act 1974*, or
 - (ii) whether or not in an undisturbed state, is significant to Aboriginal people in terms of their traditional or contemporary cultures, or
 - (iii) is of significance or interest because of Aboriginal associations, or
 - (iv) displays physical evidence of Aboriginal occupation (for example, items or artifacts such as stone tools, weapons, engraving sites, sacred trees, sharpening grooves or other deposits, and objects or materials that relate to the settlement of the land or place), or
 - (v) is associated with Aboriginal stories, or
 - (vi) contains heritage items dating after European settlement that help to explain the relationship between Aboriginal people and later settlers, or
- (b) an area of aesthetic significance, by virtue of:
- (i) having strong visual or sensory appeal or cohesion, or
 - (ii) including a significant landmark, or
 - (iii) having creative or technical qualities, such as architectural excellence, or
- (c) an area of archaeological significance, because the area contains:
- (i) evidence of past human activity (for example, below-ground features such as building foundations, occupation deposits, features or artifacts or above-ground features such as buildings, works, industrial structures, and relics, whether intact or ruined), or
 - (ii) any other deposit, object or material that relates to the settlement of the land, or
- (d) an area of historical significance, because of the importance of an association or position of the land in the evolving pattern of Australian cultural history, or
- (e) an area of technical or research significance, because of the area's contribution to an understanding of Australia's cultural history or environment, or
- (f) an area of social significance, because of the area's association with Aboriginal life after 1788 or the area's association with a contemporary community for social, spiritual or other reasons.

106 Guidelines for categorisation of land as general community use

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

- (a) may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public, and
- (b) is not required to be categorised as a natural area under section 36A, 36B or 36C of the Act and does not satisfy the guidelines under clauses 102–105 for categorisation as a natural area, a sportsground, a park or an area of cultural significance.

107 Guidelines for categorisation of land as bushland

- (1) Land that is categorised as a natural area should be further categorised as bushland under section 36 (5) of the Act if the land contains primarily native vegetation and that vegetation:
 - (a) is the natural vegetation or a remainder of the natural vegetation of the land, or
 - (b) although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, of the natural vegetation in the locality.
- (2) Such land includes:

- (a) bushland that is mostly undisturbed with a good mix of tree ages, and natural regeneration, where the understorey is comprised of native grasses and herbs or native shrubs, and that contains a range of habitats for native fauna (such as logs, shrubs, tree hollows and leaf litter), or
- (b) moderately disturbed bushland with some regeneration of trees and shrubs, where there may be a regrowth area with trees of even age, where native shrubs and grasses are present in the understorey even though there may be some weed invasion, or
- (c) highly disturbed bushland where the native understorey has been removed, where there may be significant weed invasion and where dead and dying trees are present, where there is no natural regeneration of trees or shrubs, but where the land is still capable of being rehabilitated.

108 Guidelines for categorisation of land as wetland

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

109 Guidelines for categorisation of land as an escarpment

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

- (a) the land includes such features as a long cliff-like ridge or rock, and
- (b) the land includes significant or unusual geological, geomorphological or scenic qualities.

110 Guidelines for categorisation of land as a watercourse

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

- (a) any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel that has been artificially improved, or in an artificial channel that has changed the course of the stream of water, and any other stream of water into or from which the stream of water flows, and
- (b) associated riparian land or vegetation, including land that is protected land for the purposes of the *Rivers and Foreshores Improvement Act 1948* or State protected land identified in an order under section 7 of the *Native Vegetation Conservation Act 1997*.

111 Guidelines for categorisation of land as foreshore

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

Division 2

Preparation and adoption of draft plans of management for community land

112 Consultation concerning categorisation of land as an area of cultural significance

- (1) A council that is considering whether or not land is an area of Aboriginal significance (within the meaning of clause 105 (a)) must give notice of that consideration to Aboriginal people traditionally associated with the area in which the land is situated.
- (2) That notice must be given by:
 - (a) giving written notice to the following:
 - (i) the Local Aboriginal Land Council for the area concerned,
 - (ii) New South Wales Native Title Services Limited (ACN 098 971 209),
 - (iii) the Registrar appointed under the Aboriginal Land Rights Act 1983,
 - (iv) the Director-General of the Department of Aboriginal Affairs,
 - (v) the Director-General of the Department of Environment and Conservation, and
 - (b) placing an advertisement in a newspaper circulating across the State that is primarily concerned with issues of interest to Aboriginal people, and
 - (c) placing a written notice on the land in a position where the notice is visible to any person on adjacent public land.
- (3) The notice:
 - (a) must state that submissions may be made to the council, in relation to the council's consideration, by any Aboriginal person traditionally associated with the area in which the community land is situated, and
 - (b) must specify a period of not less than 28 days after the date on which the notice is given during which submissions may be made to the council.
- (4) A council that is considering whether or not land is an area of Aboriginal significance (within the meaning of clause 105 (a)) must not make a final determination on that matter unless the council has considered any submissions made under this clause by Aboriginal people traditionally associated with the area in which the community land is situated.
- (5) A council must not prepare a draft plan of management that categorises community land as an area of cultural significance on the ground that the land is an area of Aboriginal significance (within the meaning of clause 105 (a)) unless the council has called for and considered any submissions made under this clause by Aboriginal people traditionally associated with the area in which the community land is situated.

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

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

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

- (1) This clause applies if:
 - (a) a council prepares a draft plan of management, and
 - (b) the council receives any submission, made in accordance with the Act, concerning that draft plan that makes any objection to a categorisation of land under the draft plan, and
 - (c) the council adopts the plan of management without amending the categorisation that gave rise to the objection.
- (2) If this clause applies, the resolution by which the council adopts the plan of management must state the council's reasons for categorising the relevant land in the manner that gave rise to the objection.