



Mr Ashley Lindsay  
General Manager  
Clarence Valley Council  
2 Prince Street  
GRAFTON NSW 2460

Attn: Dr Danny Parkin, Senior Strategic Planner

Dear Mr Lindsay

**Subject:** Clarence Valley Council draft Plan of Management – Flinders Park

Thank you for submitting Clarence Valley Council's draft Plan of Management (draft PoM) for Flinders Park under section 39 of the *Local Government Act 1993* (LG Act) on the 1 December 2020, and Council's request for consent to alter the initial assigned categorisation of the land under section 3.23(d)(i) of the *Crown Land Management Act 2016* (CLM Act).

I have reviewed the draft PoM and as a delegate for the Minister for Water, Property and Housing, I am pleased to confirm that the draft plan satisfies the requirements under section 3.23 of the CLM Act.

I have also considered Council's request to alter the initial assigned categorisation for Crown reserve R85724 included in the draft PoM. As a delegate of the Minister for Water, Property and Housing, I grant consent to alter the categories of the land as follows:

Table 1: Schedule of Crown reserves – consent to alter categorisation granted

Reserve No.	Purpose(s)	Approved Categorisation
R85724	Public Recreation Public Hall	Park General Community Use Natural Area – Bushland, Escarpment and Foreshore

Please amend the draft PoM to include a clear and accurate map showing these categorisations. The [guideline for developing PoMs](#), and other guidance materials, available on our [website](#) provide guidance on how to clearly show these categories in your map. It is important for Council to ensure readers and users have sufficient detail to allow the easy identification of category boundaries.

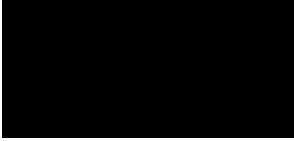
Council can now progress to the Public Exhibition stage for the draft PoM. As Council has altered the initial categorisation applying to this draft PoM a public hearing is also required as per section 40A of the LG Act.

If Council amends the draft PoM following community consultation, Council is required to again submit it to the landowner prior to adoption. A copy of the final adopted PoM should be sent Crown Lands via [council.clm@crowland.nsw.gov.au](mailto:council.clm@crowland.nsw.gov.au).

Council is reminded that an adopted PoM authorises the lawful use and occupation of Crown land. Any activities to be undertaken on the reserve must be expressly authorised in the PoM prior to implementation.

If you have any further questions or need assistance, please contact the Council Crown Land Management Team at [council.clm@crowland.nsw.gov.au](mailto:council.clm@crowland.nsw.gov.au) .

Yours sincerely



**Kylee Warner**  
**Director, Strategy**  
**Department of Planning, Industry and Environment – Crown Lands**  
30/03/2021

## Notice of Plan(s) of Management for Crown reserve(s)

Council Crown land managers must use this form to notify the Minister administering the *Crown Land Management Act 2016* (CLM Act) of a draft Plan of Management for a Crown reserve, in accordance with the requirements of section 39 of the *Local Government Act 1993* (LG Act).

This form acts as an application for Ministerial consent for council to adopt the Plan(s) of Management under clause 70B of the Crown Land Management Regulation 2018 following Public Exhibition, provided it is not altered from the exhibition draft (except for matters identified for completion such as the dates of exhibition etc.). This form can be used to notify Crown Lands of multiple Plans of Management.

### Applicant details

<b>Council name</b>	Clarence Valley Council
<b>Contact name</b>	Dr Danny Parkin
<b>Contact title</b>	Senior Strategic Planner (Public Land/Native Title)
<b>Contact phone number</b>	(02) 6643 0231
<b>Contact email address</b>	danny.parkin@clarence.nsw.gov.au
<b>Postal address</b>	Locked Bag 23, GRAFTON, NSW 2460

### Declaration

I **Ashley Lindsay, General Manager**, hereby provide written notice of the attached draft Plan(s) of Management for Crown land to the Minister administering the CLM Act. I do so on behalf of **Clarence Valley Council**, in accordance with section 39 of the LG Act. The draft Plan(s) of Management is/are listed in the below schedule(s).

#### I declare that:

I am authorised by the council to provide this written notice.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
I am seeking Minister's consent to adopt the draft Plan(s) of Management under Clause 70B of the Crown Land Management Regulation 2018.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
The information provided in this form is accurate to the best of my knowledge.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
The council has received and considered written advice from a Native Title Manager in relation to the draft Plan(s) of Management.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Name:	Ashley Lindsay		
Position:	General Manager		
Signature:		Date:	

## Details of the Plan(s) of Management

Please fill out the below table with information relating to your submitted Plan of Management. You can use this form to submit multiple Plans of Management – please copy and paste a new table and complete it for each Plan of Management. Any relevant supporting information should be attached to this form.

Flinders Park Plan of Management				
This Plan of Management seeks to alter the categorisation(s) of one or more reserve			<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Reserves covered by this Plan of Management - List all Crown reserves included in the Plan of Management				
Reserve/Dedication	Lot/DP	Gazetted purpose(s)	Initial Categorisation	Proposed new or additional categorisation (if relevant)
<i>e.g. R14935</i>		<i>e.g. Public Recreation and Environmental Protection</i>	<i>e.g. Park and Natural Area - Bushland</i>	
R85724	Lots 1, 1A Section 1 DP 759130, Lot 7031 DP 1128361, Lots 7307-7308 DP 1147276, Lot 7323 DP 1192051, Lot 180 DP 41513, Lots 125, 139 DP 751395	Public Recreation and Public Hall	Park General Community Use Natural Area – Bushland, Escarpment and Foreshore	

## Justification/supporting information

Consideration must be given to whether an alteration to the categorisation is likely to materially harm the use of the land for any of the purposes for which it is dedicated or reserved. Please provide a summary of this including, but not limited to, considerations for material harm listed from a-f on page 2 of the [Guide for Initial Categorisation](#).

Requesting Minister's consent to adopt the draft Flinders Park Plan of Management as exhibited under Clause 70B of the *Crown Land Management Regulation 2018*.

## Contact us

For more information, please contact us at:

Department of Planning, Industry and Environment  
PO Box 2155  
DANGAR NSW 2309

Phone: 1300 886 235

Email: [council.clm@crownland.nsw.gov.au](mailto:council.clm@crownland.nsw.gov.au)

Web: [reservemanager.crownland.nsw.gov.au](http://reservemanager.crownland.nsw.gov.au)

## Lodgement

Email the completed form to: [council.clm@crownland.nsw.gov.au](mailto:council.clm@crownland.nsw.gov.au)

or

Mail to:

Department of Planning, Industry and Environment  
Attn: Council Crown Land Management Team  
PO Box 2155  
DANGAR NSW 2309

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17 September 2021

Our ref: NTS 164

Dr Danny Parkin  
Senior Strategic Planner (Public Land/ Native Title)  
Clarence Valley Council  
Locked Bag 23  
Grafton NSW 2460

By email only: [Danny.Parkin@clarence.nsw.gov.au](mailto:Danny.Parkin@clarence.nsw.gov.au)

Dear Dr Parkin,

**Re: Notification of draft Flinders Park Plan of Management under s24JB of the *Native Title Act 1993* (Cth)**

1 I refer to Clarence Valley Council's (**Council**) correspondence on 13 August 2021 notifying the proposed draft plan of management for Flinders Park, being Reserve 85724, in accordance with s24JB of the *Native Title Act 1993* (Cth) (**NTA**).

██████████ and the proposed draft Flinders Park Plan of Management (**draft POM**) will be a framework for the ongoing development and management of the Flinders Park Reserve, which is located on Clarence and Queens Streets, Yamba, including activities relating to land management and facility maintenance.

**Comments on the proposed draft plan of management**

- 3 As you are aware, a majority of the land within the Flinders Park Reserve is subject to Yaegl People's native title rights and interests, including Lot 7031 DP 1128361, Lot 7323 DP 119051, Lots 7307-7308 DP 1147276, Lots 1 and 1A Section 1 DP 759130.
- 4 Further, Yaegl People's native title rights have also been recognised over the adjacent waters to Flinders Park Reserve, including the Clarence River to the west and part of the sea to the east, being that which extends east 200 metres from the intertidal waters of Turners Beach, Yamba Beach and Main Beach.
- 5 It is noted that the land covered by and surrounding the reserve is of immense cultural significance to Yaegl People and is in extremely close proximity to known sites of significance. We therefore submit that ongoing consultation with Yaegl RNTBC is essential for any activities proposed to occur over the Flinders Park Reserve, regardless of whether native title has been extinguished.

*Naming*

- 6 I note that the draft POM makes reference to and supports Yaegl People's desire for Yaegl naming of traditional places within Flinders Park as, the "*land and waters of Flinders Park and surrounds hold significant cultural value to the Yaegl people*". However, it is unclear how the draft POM will facilitate a process for the discussion and adoption of dual naming of places in consultation with Yaegl RNTBC.
- 7 We request further detail regarding the proposed process for Council's to rename Flinders Park and develop dual naming of traditional places within the reserve. As recognised in the draft POM, it is essential that such processes continue to consult with Yaegl RNTBC.

### *Maintenance and management*

- 8 Our clients also wish to communicate their concerns as to the standard of maintenance and land management care of the natural environment at Flinders Park reserve to date. The directors of Yaegl RNTBC are concerned that the natural environment of the area has not been properly managed or protected to date.
- 9 We note that under the draft POM, Council may enter management agreements with a third party, including Traditional Owner groups such as Yaegl RNTBC, to facilitate a co-management arrangement for land and facility maintenance and care. The draft POM states that management agreements can include:
- (a) land management native vegetation programs;
  - (b) biodiversity initiatives;
  - (c) contractual arrangements for the management of facilities; and
  - (d) fee for service arrangements for the maintenance of facilities and amenities.
- 10 We submit that co-management of the reserve with the Yaegl RNTBC should be included as an [REDACTED] in the draft POM.
- 11 In the draft POM, Council have identified, amongst others, the following core management objectives for Flinders Park to:
- (a) 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;
  - (b) 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
  - (c) protect the aesthetic, heritage, recreational, educational and scientific values of the land.
- 12 We suggest that it is important for Council to continually engage and consult with Yaegl RNTBC to realise these aspirations.
- 13 In particular, we suggest that Council engage Yaegl RNTBC's Wadjarr Management Team to fulfil all land management and facility management tenders for the Flinders Park reserve.

### **Non-extinguishment of native title**

- 14 In accordance with s24JB(3) of the NTA, the non-extinguishment principle will apply to any of the proposed acts that do not consist of the construction or establishment of a public work.
- 15 We note Council's reference to the Schedule Five "public works extinguishment clause" in the Yaegl native title determinations and Council's view that this clause may apply to roading and carparks, footpaths, amenities and picnic/barbecue facilities within the reserve.
- 16 We reserve our position on the above as such matters can only be determined on a case-by-case basis with regards to the evidence tendered to establish such extinguishment.
- 17 We also note in relying on this Schedule that Council bears the onus of establishing that there were public works undertaken over the relevant area which had the effect of extinguishing native title rights and interests and that Yaegl RNTBC must be afforded procedural fairness in being notified of and given the opportunity to respond to any such assertions.



### Compensation

18 Pursuant to s24JB(4) of the NTA, Yaegl People are entitled to compensation for this act in accordance with Division 5. Yaegl People reserve the right to bring future claims for compensation in respect of the final Plan of Management.

### Next Steps

19 We ask for your response on the matters raised in this correspondence, being:

- (a) the proposed process to effect the renaming of Flinders Park Reserve and dual naming of traditional places within the reserve;
- (b) ways to facilitate co-management with Yaegl RNTBC of Flinders Park Reserve; and
- (c) contracting and commercial opportunities for Yaegl RNTBC.

20 If you have any questions regarding the above, please do not hesitate to contact Helen Orr or Mishka Holt of NTSCORP Limited.

Yours sincerely,

  
**Helen Orr**  
**Solicitor**  
**NTSCORP Limited**