# 5.3. AMENDED LAND MANAGEMENT PLAN-LOT 18 CROWN PLAN PTD 20939

**REPORT AUTHOR(S):** Robert Donovan, Property Officer

**GENERAL MANAGER:** Darryl Crees, General Manager Corporate Services

**DEPARTMENT:** Governance

# **RECOMMENDATION**

#### **That Council:**

- 1. endorse the amended Land Management Plan for Lot 18 Crown Plan PTD 20939 and register the Land Management Plan on the title.
- 2. delegates authority to the Chief Executive Officer in accordance with section 257 of the Local Government Act 2009 to finalise any and all matters associated with this with the lodgment and execution of the Land Management Plan.

#### **EXECUTIVE SUMMARY**

A review of the Land Management Plan dated 28 January 2010 has been undertaken for Lot 18 Crown Plan PTD 20939 being 34-56 Davidson Street, Port Douglas. The Land Management Plan (LMP) is a requirement under the *Land Act 1994* as the Trustee Lease is only for a portion of the land. The current Lessee is Port Douglas Tennis Club Inc.

The existing LMP does not allow for commercial activities to be conducted on the allotment. As such minor changes have been made to the LMP so as the remainder of the allotment can be used by Council for other secondary uses which are considered commercial in nature.

#### **BACKGROUND**

The Port Douglas Tennis Club Inc. have a trustee lease in place on part of Lot 18 Crown Plan PDT 20939 with Council which will expire 31 December 2018. This lease has been in place since December 2009. The trustee leased area is 0.706 hectares of a total allotment area of 2.227 hectares.

The existing LMP states under Clause 12.0 "Commerciality"; the various Lessee's are all non for profit community/sporting organizations and there are no commercial activities associated with any of the existing of the secondary uses. With this clause in place within the LMP Council or the Department of Natural Resources and Mines (DNRM) cannot issue a permit involving commercial activities. Proposed minor changes to the LMP will alleviate this abnormality.

### **COMMENT**

By changing Clause 12.0 "Commerciality" in the LMP to read; 'The lessee is a not for profit community / sporting organization. The Land Management Plan allows for occasional and temporary secondary land use for limited commercial activities approved by Council' Council can legally issue permits for commercial activities on this allotment. The inclusion of "limited" in the proposed amendment refers to activities that are consistent with the land use tenure.

DNRM have approved the amended LMP on the condition that the LMP is to be registered on the title under Administrative Advice.

#### **PROPOSAL**

That Council approve the amended LMP to allow for limited commercial activities to be undertaken on part of the allotment known as Lot 18 Crown Plan PTD 20939 and to register the LMP on the title of the allotment.

#### FINANCIAL/RESOURCE IMPLICATIONS

Council will be responsible for the payment of \$164.90 to the Titles Office for the registration of the LMP.

#### SUSTAINABILITY IMPLICATIONS

**Economic:** Income will be generated for council as a result of expanding the use

of part of the allotment for commercial activities.

**Environmental:** Nil

Social: The amended LMP will allow for scope to issue permits to a larger

range of activities that will benefit the community.

## CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

### **Corporate Plan 2014-2019 Initiatives:**

#### Theme 5 - Governance

5.2.1 - Provide Councilors and community with accurate, unbiased and factual reporting to enable accountable and transparent decision-making.

#### **COUNCIL'S ROLE**

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

**Asset-Owner** Meeting the responsibilities associated with owning or being the

custodian of assets such as infrastructure.

#### **CONSULTATION**

Internal: CEO Department

External: DNRM- Approved amended LMP

Port Douglas Tennis Club Inc.- Did not comment on proposal

# **ATTACHMENTS**

Attachment 1 - Amended Land Management Plan-Lot 18 Crown Plan PTD 20939



# **DOUGLAS SHIRE COUNCIL**

LAND MANAGEMENT PLAN

LOT 18 ON CROWN PLAN PTD20939

RESERVE R137 – RESERVE FOR RECREATION

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#### 1.0 INTRODUCTION

This Land Management Plan has been prepared in accordance with the Department of Environment and Resource Management guidelines for the Local Government Reserve No 137 – Reserve for Recreation located at 34-56 Davidson Street, Port Douglas.

The land the subject of the Management Plan is described as Lot 18 on Crown Plan PTD20939, and is presently partially occupied by the Port Douglas Tennis Club Inc.

The Management Plan is intended to provide for the use of the land in accordance with the purpose of the Reserve, the Planning Scheme for Douglas Shire Council, the relevant sections of the *Land Act* 1994, in particular Chapter 3 Division 5 and Division 7, and other relevant legislation.

#### 2.0 TRUSTEE DETAILS

Douglas Shire Council: 64-66 Front Street, Mossman

PO Box 723, Mossman Qld 4873

#### 3.0 EXISTING TENURE OF THE SUBJECT LAND

Existing Tenure: Reserve 137 – Reserve for Recreation Lot and Plan: Lot 18 on Crown Plan PTD20939

Local Government: Douglas Shire Council

Area of Land: 2.277 ha

Conditions of Tenure: The use of the land is to be in accordance with the relevant

lease conditions, and relevant development permits issued under the Sustainable Planning Act 2009 and the

requirements of the Council's Planning Scheme.

### 4.0 EXISTING USE OF THE SUBJECT LAND

### 4.1 Douglas Shire Planning Scheme

Under the current Douglas Shire Planning Scheme the site has the following designations/classifications:

Locality: Port Douglas and Environs

Planning Area: Community and Recreational Facilities

Use of the land will always comply with the Planning Scheme in force at the time.

#### 4.2 Local Area Description

The reserve is located at 34-56 Davidson Street, Port Douglas, and is described as Lot 18 on Crown Plan PTD20939.

The Management Plan Area comprises Lot 18 on Crown Plan PTD20939 that has a total area of 2.277 hectares, of which 6465 m<sup>2</sup> is leased to Port Douglas Tennis Club Inc.

A locality plan showing the location of the Management Plan Area is attached.

## 4.3 Existing Uses

In accordance with the Planning Area of the land the existing use of the land is for the purpose of recreation, in part for the uses of the Port Douglas Tennis Club Inc.

The area leased to the Port Douglas Tennis Club Inc has situated within three (3) tennis courts, a basketball court and a small clubhouse. The leased area is fenced and public access is restricted. This area will be under the exclusive control of the Port Douglas Tennis Club Inc.

The basketball courts are used to play basketball by the public and are fenced. The public can gain access through the gates which are always unlocked. A basketball club does not exist within the leased area.

The association proposes the construction of up to an additional two (2) tennis courts and proposes to seek funding via the Department of National Parks, Sport and Racing to assist with that proposal.

The Port Douglas Tennis Club Inc is responsible for maintenance and repair of the leased area including the fences according to the conditions of the lease.

The balance of the reserve not part of the lease to Port Douglas Tennis Club Inc is maintained open space used for sporting and recreation pursuits by the community generally. This area is maintained by Douglas Shire Council.

# 4.4 Existing Interests

Existing interest in the lease area is limited to the Port Douglas Tennis Club Inc. The balance of the reserve is available for community use.

#### 5.0 NATIVE TITLE STATUS

Native title will be suitably addressed for any dealings and development on the reserve.

In relation to Lot 18 Crown Plan PTD20939, it is noted that the trust land was dedicated in 1963 with Council as trustee. Council is aware there is a Native Title claim over the allotment (Claim No QUD602-2012). Council can establish that 'a public work' prior to 23 December 1996 as defined under section 253 of the *Native Title Act* 1993 has been undertaken on the trust land by constructing tennis courts, clubhouse building, basketball courts and kiosk.

If works are to proceed prior to settlement of Native Claims, Douglas Shire Council's Aboriginal Cultural Heritage Policy is to be implemented.

Any future Native Title claims will be suitably addressed for any dealings and development on the reserve.

# 6.0 PROPOSED USES OF THE SUBJECT LAND

In accordance with the intent of the reserve it is proposed that the area be used for the purposes of recreation. Part of the reserve, namely that part leased to the Port Douglas Tennis Club Inc, will be limited in purpose to the pursuit of competitive and social tennis.

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The use of the area leased to the Port Douglas Tennis Club Inc is considered to be compatible with the purpose of the reserve and the land has been and will continue to be developed to contain that use.

The site is close to residential areas however its use is not incompatible with the amenity of those areas.

Apart from the area leased to Port Douglas Tennis Club Inc, access to the land for the purpose of passive recreation is not intended to be restricted or obstructed.

## 7.0 SECONDARY USE

The Land Management Plan allows for occasional and temporary use for limited commercial activities approved by Council.

Any future trustee / permittee, 'registered secondary interest', will be conditioned to ensure development approvals are obtained to comply with the Douglas Shire Planning Scheme in force at the time and all legislative requirements are complied with.

#### 8.0 GOALS OF THE LAND MANAGEMENT PLAN

The goal of the Land Management Plan, which is ongoing for the life of the trust land, is to maintain a suitable facility which caters for the needs of the local community in relation to sport and recreational activities.

To ensure compliance with the Planning Scheme, the Council shall manage the land ensuring all uses and lease conditions are compliant with the Council's Planning Scheme in force at the time and the gazetted purpose of the Reserve.

Goal Statement	Issue/s Goal is to Solve or Manage	Relevant Actions	Key Performance Indicators	Who is Responsible for the Action	Completed by (Date)
To maintain a suitable facility, which caters for the needs of the local community in relation to sport and recreational activities.	Reserve is maintained as a suitable facility for sport and recreational activities. Reserve is maintained in a clean and tidy state.	Regular mowing by trustee. Removal of noxious weeds. Annual site inspections undertaken by trustee. All activities will be regulated through Council's Local Laws, relevant legislation and the Land Act 1994.	The subject land is used in accordance with the terms and conditions trustee lease and the primary purpose of the trust land. Increased use by the community and the type and level of sporting and recreational opportunities available. Compliance with relevant legislation as detailed in section 1 of this Plan	The Trustee and the 'registered secondary interests'/ permitees	Ongoing while there are formal tenure arrangements in place upon the Trust land. Reviewed by all parties every two (2) years

#### 9.0 BUDGET STATEMENT

On-going management of the trust land is supported through the normal Council budget processes and subject to availability of staff, resources and Council priorities. There is no individual budget for management of the trust land.

#### 10.0 MONITORING AND REVISION

The trustee will continually and regularly monitor, via annual inspections, the on-going use of the trust land in accordance with the terms and conditions of any formal tenure arrangements in place and the primary purpose of the trust land.

A major review of the Land Management Plan will be undertaken by the Trustee in consultation with relevant users / lessee on expiry of the term of the lease. Minor amendments may be made by the Trustee to this Plan to improve operational or administrative efficiency of the Plan, with one (1) month's notice of such amendment being given by the Trustee to the State of Queensland (represented by the Department of Environment and Resource Management), and subject to the approval of the Minister administering the *Land Act* 1994.

The trustee lease also specifically prescribes the situations in which the Lessee is required to seek the approval from the Trustee (and Minister in some situations) prior to conducting certain activities (including developments). The Trustee will be active in monitoring the Lessee's ongoing compliance with these notification requirements.

The Port Douglas Tennis Club Inc will advertise to the public their Annual General Meeting in the local paper to discuss all relevant issues including the revision of the Land Management Plan.

#### 11.0 EXCLUSIVITY AND RESTRICTIONS

The tennis courts, and existing buildings and structures, with the exception of the basketball court, are not open to use by the general community. The balance of the reserve, including the basketball court, is open to use by members of the community and visitors.

Any trustee lease is conditional on the Trustee reserving the right to make the premises available for use by school, charitable, service and other community groups.

The reserve is accessible by the general community / public during those times when not in use by an approved secondary use, or except in the case of buildings, as prescribed under section 61(4) of the *Land Act* 1994, and where it is necessary to ensure the protection, safety and security of infrastructure / facilities and persons.

The facilities onsite are currently locked when not attended to ensure security of the building and contents. There is no intention or proposal at this stage to further restrict the primary use of the trust land.

# 12.0 COMMERCIALITY

The lessee is a not for profit community / sporting organization. The Land Management Plan allows for occasional and temporary secondary land use for limited commercial activities approved by Council.

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#### 13.0 COMMUNITY CONSULTATION

The Port Douglas Tennis Club Inc is well established within the community and provides a valuable service to the local community and visitors. There have been no community concerns raised in regard to the ongoing use of the land by the Port Douglas Tennis Club Inc to the Trustee's knowledge. Any issues raised by the public will be given due consideration and accommodated where possible.

#### 14.0 SUMMARY AND RECOMMENDATIONS

Upon approval in terms of the *Land Act* 1994 of this land management plan, the trustee is able to issue trustee leases / permits for consistent use of the trust land. Any proposed inconsistent trustee leasing of the trust land that does not diminish use of the trust land for its dedicated purpose will be submitted by the trustee for approval in terms of the *Land Act* 1994.

#### **VERSION HISTORY**

Version	Date	Comment
v1 #770382	28/01/2010	Final – prepared by Cairns Regional Council and approved by the Department of Natural Resources & Mines
v2 #770383	30/05/2016	Final – prepared by Douglas Shire Council

# ATTACHMENT: LOCALITY PLAN

# Pt Douglas Tennis Club - Lease Map





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Map Grid of Australia
Zone 55 (GDA94)

