

Name of policy:	Internal Review of Council Land		
Adoption by Council:	22 March 2023	Minute number:	104/2023
Last review date:	22 March 2023		
Review timeframe:	2 years		
Next scheduled review date:	22 March 2025		
Related legislation:	<i>Environmental Planning and Assessment Act 1979 (NSW)</i> <i>Local Government Act 1993 (NSW)</i>		
Associated policies/documents:	Great Lakes Local Environmental Plan 2014 Gloucester Local Environmental Plan 2010 Greater Taree Local Environmental Plan 2010 Community Strategic Plan 2022-2032		
Responsible division:	Corporate Services - Governance		

Policy objective

The purpose of this policy is to ensure all of Council's interests are considered when determining the purpose, use, or ownership of Council Land, whether current or proposed.

The policy also ensures that Council only obtains land for which there is an identified need or interest.

Policy statement

Council shall manage its responsibilities and obligations under 'Part 2- Public Land' of the *Local Government Act 1993 (NSW)*. Furthermore, Council will assure compliance is met with 'Part 3- Environmental Planning Instruments' of the *Environmental Planning and Assessment Act 1979 (NSW)*, when amending the Zone and/ or Classification of Council Land.

Accountability and transparency will be achieved through best practices to enable representation of all internal interests in the land.

Efficiency and reliability will be achieved by the development and implementation of a review panel. The review panel will provide a conclusive response to all proposals regarding Council Land regardless of how these were initiated.

Decisions will be made in a strategic and consistent manner through an internal review process ensuring all proposals consider Council's long-term financial security, the wellbeing of our community and protection of our environment.

Coverage of the policy

The policy applies to all proposals seeking to change the purpose, use or ownership of Council Land, including:

- amendment to the Zone and/ or classification of Council Land within a LEP
- change of Categorisation and/ or Council Land Manager within the Land Register
- development on Council Land that requires consent under the LEP or State Environmental Planning Policy (Transport and Infrastructure) 2021 (or its equivalent as changed or amended from time to time)
- the commencement or expansion of a use on Council Land by a Council Asset Owner other than the Council Land Manager
- the disposal of Council Land
- consenting to the dedication or transfer of land to Council by an external party.

Circumstances that may trigger the aforementioned changes include:

- a change, reduction or closure of a Council program or facility
- an identified need for a new asset or the extension, expansion, redevelopment, or relocation of an existing asset by another Council Land Manager that requires the land (e.g. community facility or infrastructure)
- an external request to purchase, lease or gain access over Council Land
- an evaluation of the efficacy of Council assets
- identified inconsistencies between Zone, Classification and/ or land use
- an external body wishing to dedicate or transfer land to Council (e.g. provision of open space as part of a development proposal).

Despite the above, the Policy does not apply to:

- Council assets other than Council Land
- land classified as Operational Land where each of the following apply;
 - the Manager Governance is the Council Land Manager
 - the land was purchased for the specific intent of investment
 - the land is not used by or on behalf of another Council Asset Operator
- any specific action resulting from a Council resolution
- action resulting from a previous Internal Review process, where commenced within a 24-month period of such a review
- land being dedicated or transferred to Council pursuant to a Planning Agreement.

Strategic Plan link

This policy links to Council's Community Strategic Plan

- Value: Our environment

Our natural environment is protected and enhanced, while we maintain our growing urban centres and manage our resources wisely.
- Value: Our thriving and growing economy

Ensure strategies and processes recognise, maintain and support sustainable economic growth.
- Value: Strong leadership and shared vision

Provide strong corporate and financial management that is ethical, fair, transparent and accountable.

Policy content

1. Identifying Council Interests

Proponent

- 1.1** A Proponent, not being the Council Land Manager, will submit a written request to the Council Land Manager detailing the Council Land and outlining their proposal to;
- a. acquire ownership or tenure, where the Proponent is external to Council
 - b. transfer management, where the Proponent is a business unit of Council
 - c. become a Council Asset Operator, but not the Council Land Manager.
- 1.2** A Proponent, being an external party to Council, proposing to dedicate ownership of land to Council will make a written offer detailing the subject land and outlining the purpose of the transfer.

Council Land Manager

- 1.3** A Proponent, being the Council Land Manager, may initiate a proposal to amend the purpose, use, or Management of Council Land where;
- a. the Zone and/ or Classification are inconsistent with the Council Land Manager's requirements for the land; and/or
 - b. the land is identified as surplus to the Council Land Manager's need.
- 1.4** Upon receipt of a request made under Clause 1.1(a), Council's Land Manager will consider if the land is surplus to their existing or future needs.
- 1.5** In determining if land is surplus, as per Clause 1.3(b) or Clause 1.4, the Council Land Manager will consider;
- a. Consistency between existing land use, the Zone, Classification, or Categorisation, and if it is consistent, take into account the following;

- How much of the land is currently being used for its intended purpose?
- Does the use meet contemporary standards under Council's existing funding?
- Is the use/s of the land required into the future?
- Is there a viable alternative location for the use?

If consistent:

- Is the use of the land identified within any strategies or plans of Council?
 - What natural or man-made hazards affect the use of the land?
 - Has any alternative use been identified for the land, or part of the land, within any strategies or plans of Council?
- b. Is the land utilised by any other Council Asset Operator? If so:
- What are their long-term requirements for the land for the delivery of service(s)?
 - Is the use by other Council Asset Operator linked to the physical location of the land or are there alternate locations readily available?
 - Is the other use on the land considered essential infrastructure/ service?

1.6 Upon receipt of a request made under Clause 1.3(a) the Council Land Manager will consider if the proposed use is consistent with the purpose of the Council Land, as defined by the Zone, Classification, and Categorisation.

Other Business Units

1.7 Where it is determined that Council land is surplus to the need of the Council Land Manager and relevant existing Council Asset Operators, the chair of the Internal Review Panel will invite internal expressions of interest in the land, from Business Unit Managers of Council.

1.8 Where a Proponent offers to dedicate land to Council, as per Clause 1.2, the Chair of the Internal review Panel will invite internal expressions of interests in the land, from Business Unit Managers of Council.

1.9 Expressions of interest will include;

- a. identification of whether all or part of the land is required
- b. identification of whether the interested Business Unit proposes to become the Council Land Manager, a Council Asset Operator, or both
- c. The Business Units need for the land, including;
 - physical attributes of the land supporting or requiring the proposed use

- vital connections to other infrastructure or facilities or service delivery within proximity of the land
 - business case to demonstrate the ability of Council to implement any proposed improvements.
- d. identification of any adopted Council strategy or plan that support the proposal
 - e. community benefits of the proposed use
 - f. financial benefits to Council
 - g. any other matter justifying the proposed interest in the land

2. No internal interest in land

- 2.1** Where no internal expression of interest is received in relation to Clause 1.1(a) the Council Land Manager will advise the Manager Governance. Manager Governance will recommend disposal options to MANEX for consideration in their decision making, having regard to Council's legal obligations regarding disposal.
- 2.2** Where no internal expression of interest is received in relation to Clause 1.3(b), the Council Land Manager will request the Manager Governance to identify viable disposal options in discussion with Manager Land Use Planning. Manager Governance will report any viable disposal options to MANEX for decision.
- 2.3** Where no expressions of interest are received in relation to Clause 1.8, the chair of the Internal Review Panel will recommend to MANEX that the land not be accepted

Internal Review Panel

- 2.4** All expressions of interest in Council Land, or land being offered to Council, will be assessed by an Internal Review Panel in order to make recommendations to MANEX for a decision.
- 2.5** Where more than one business unit has expressed an interest in the land, the relevant business unit Managers are encouraged to meet and reach consensus, prior to the interests being considered by the Internal Review Panel
- 2.6** The Internal Review Panel provides an advisory role, and takes a collaborative approach, to providing recommendations to MANEX. The Internal Review Panel is not a determining body.
- 2.7** The Internal Review Panel includes the following memberships;
 - a. Manager Governance (Chair)
 - b. Any relevant Land Managers
 - c. Water Services Representative
 - d. Natural Systems Representative
 - e. Parks/Community Spaces Representative

- f. Manager Assessment and Regulatory Services
 - g. Manager Land Use Planning
- 2.8** Members may delegate their staff to attend Internal Review Panel meetings on their behalf and/ or provide technical expertise to inform the final recommendations.
- 2.9** The chair may also invite staff from other business units to provide technical expertise to the Internal Review Panel.
- 2.10** Where the Proponent is external to Council, they may present their interest to the Internal Review Panel but are not to partake in the discussion, assessment or formulation of recommendations to MANEX.
- 2.11** Where agreement cannot be reached by the Internal Review Panel, the identified options will be escalated to MANEX for determination.

Matter of Consideration

- 2.12** The Internal Review Panel will consider each interest having regard to the following;
- a. justification provided by each party for having an interest in the land
 - b. the lifecycle of each proposed use
 - c. physical attributes, including hazards, and their impact on future land use/s
 - d. ability for multiple uses to be accommodated on the land having regard to the specific needs of each intended use.
- 2.13** Priority is given to actions identified within an adopted core strategy of Council, over those that are not strategic in their initiation.
- 2.14** Priority is given to internal parties over external parties unless;
- a. adequate alternate land is available to meet Council and community needs
 - b. inadequate justification to identify a need for the land
 - c. the necessary improvements and/ or ongoing operating costs of the proposed use are deemed prohibitive and unlikely to be secured
 - d. the external proposal provides a greater long-term net benefit to the community from a social, environmental, and/ or economic perspective

Reporting recommendations

- 2.15** The Internal Review Panel will report its recommendations to MANEX for consideration of endorsement.
- 2.16** The report to MANEX will include the following;
- a. initial proposal by the Proponent, or prompt for review
 - b. interest/s raised by Council Business Units

- c. assessment of options considered by Internal Review Panel, and resultant recommendations
- d. any competing interests remaining unresolved by the Internal Review Panel

2.17 Following MANEX's determination, a report will be provided to an Ordinary Council Meeting in accordance with the *Local Government Act 1993* (NSW) as disposal and/or acquisition of land requires a resolution of Council.

Restriction of outcomes

2.18 The intended outcome of this policy is a Council resolution to initiate one or more of the following processes;

- a. amendment to the Zone or Classification within the LEP
- b. amendment to the Categorisation, Classification and/ or Council Land Manager within the Land Register
- c. disposal
- d. acquisition

2.19 The outcome of this policy will not guarantee or bias the outcomes of the subsequent processes identified in Clause 2.16, nor will they negate Council's legal responsibilities or obligation in relation to these.

Cost Recovery

2.20 Council may include a fee within its annual schedule of fees and charges to recoup the cost of conducting a review under this policy where a request is made under Clause 1.1(a).

Definitions

Categorisation means the Categorisation of land, in order to govern the use of the land and define its designated purpose. The meaning of Categorisation within this policy is consistent within Division 2 of Part 2, Chapter 6 within the *Local Government Act 1993* (NSW).

Classification means the Classification of Council Land as either 'community' or 'operational' as described under Division 1 of Part 2, Chapter 6 within the *Local Government Act 1993* (NSW).

Clause unless otherwise stated, is a reference to a Clause of this Policy.

Council means Mid-Coast Council (ABN 44 961 208 161).

Council Asset Operator means a Business Unit of Council or external service provider that operates a Council asset. The Council Asset Operator may be a separate Business Unit Manager from the Council Land Manager.

Council Land means land owned by Council, regardless of its classification, or land not owned by Council but leased by Council from another party or Crown Land controlled by Council.

Council Land Manager means the Manager of a Business Unit of Council delegated as being responsible for administering a parcel of Council Land for a specific purpose or function.

Internal Review Panel means a group of Business Unit Managers who assess the merits of competing interest in Council Land in order to provide recommendation option to MANEX.

Land Register means a database maintained by Council, as required under section 53 of the *Local Government Act 1993* (NSW) containing details and information on the land.

LEP means Great Lakes Local Environmental Plan 2014, Gloucester Local Environmental Plan 2010 and Greater Taree Local Environmental Plan 2010.

MANEX means Council's Executive Management team, consisting of the General Manager, Director Corporate Services, Director Liveable Communities, Director Infrastructure and Engineering Services.

Ordinary Council Meeting means a formal meeting of the elected council members which are to be open to the public. Although under certain conditions, council meetings can be closed under provisions of the *Local Government Act 1993* (NSW).

Planning Agreement means a planning agreement within the meaning of section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW).

Proponent means the party that initiates a proposal.

Zone means 'Land Use Zones' applying to land as identified within a LEP.

Responsible officer

Manager Governance