

9.3 **Crawford Park, Alstonville - Land Categorisation.DOC**



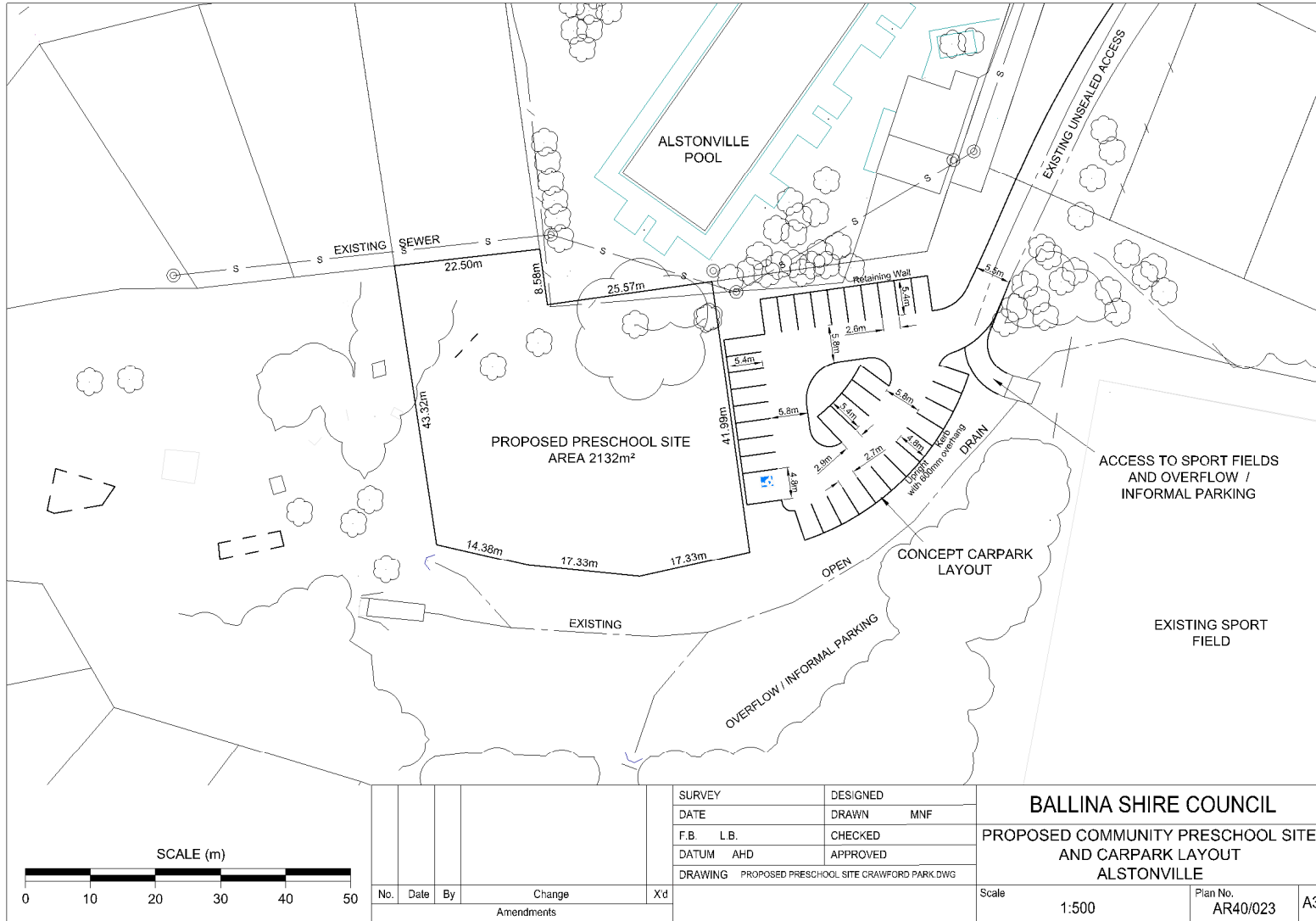
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PUBLIC EXHIBITION

Draft Principal Generic Plan of Management for Community Land Amendment No. 7

Crawford Park, Alstonville

August 2012



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1. **Public Notice - Ballina Shire Advocate, 23 August 2012**

Ballina Shire Council
Principal Generic Plan of Management for Community Land - Amendment No. 7
Proposed Alstonville Community Preschool, Crawford Park, Alstonville

In accordance with section 38 of the *Local Government Act 1993*, Council gives public notice that it has prepared a draft amendment to the Ballina Shire Principal Generic Plan of Management for Community Land (POM).

The draft amendment to the POM comprises the recategorisation of approximately 4000m² of land on the northern edge of Crawford Park from "park" and "sportsground" to "general community use" and associated special provisions. The aim of the draft amendment is to enable the establishment and leasing of the proposed Alstonville Community Preschool on this site.

The draft amendment is on exhibition for public comment at Council's Customer Service Centre, 40 Cherry Street, Ballina until 24 September 2012 and may be inspected between the hours of 8.30am and 4.30pm Monday to Friday (excluding public holidays). The draft amendment is also available for inspection at Council's Community Access Points and on Council's website www.ballina.nsw.gov.au (Noticeboard / Documents on Exhibition).

Council invites submissions in relation to the draft amendment. Submissions close on 8 October 2012.

Enquiries: Lachlan Sims, Strategic and Community Services Group, Ph 6686 1284

Note: A public hearing is required to be held into the draft amendment after the public exhibition period has concluded. Council will provide further public notification of this hearing.

Paul Hickey
GENERAL MANAGER

Exhibition Notice advertised in Public Notices section of the:
Ballina Advocate on 23 August 2012



2. Background

The *Local Government Act* 1993 (LGA) requires that all public land in Council ownership must be classified as either operational land or community land.

Land classified as operational land enables Council to utilise or dispose of the land with minimal restriction under the LGA. Operational land is land that is typically used for utility services or entrepreneurial activities.

Land classified as community land consists primarily of parks and reserves owned by Council for which there are a range of restrictions under the LGA. These restrictions ensure that community assets are retained and used for the benefit of the community. Land classified as community land cannot be sold and there are limitations on its development and use.

The LGA also requires Council to prepare a plan of management for all community land. The Ballina Shire Principal Generic Plan of Management (POM) was originally adopted by Council on 22 June 1995 and was last amended on 28 July 2011. The POM includes "general provisions" that relate to all community land, as well as further categorising each parcel of land in accordance with the requirements of the LGA.

The POM also includes "special provisions" that provide greater detail and specific controls for some parcels of community land.

Council has prepared draft amendment No. 7 to the POM to recategorise a section of Crawford Park to permit the establishment of the proposed Alstonville Community Preschool.

This document comprises the public exhibition material that outlines the background and details of the draft amendment on which public submissions are invited.



3. Draft Amendment

The draft amendment to the POM comprises the recategorisation of approximately 4000m² of land on the northern edge of Crawford Park from "park" and "sportsground" to "general community use". The amendment also involves the insertion of special provisions to enable the establishment and leasing of the proposed Alstonville Community Preschool.

This area of Crawford Park, located adjacent to the Alstonville Swimming Pool and adjoining squash courts complex, although categorised as "sportsground" is not currently actively used for sporting activities. It is, however, used for informal car parking in association with the use of the adjoining sporting facilities. A map of the current configuration of the Crawford Park land use categorisations is attached in Appendix 1.

The categorisation of this section of Crawford Park as "sportsground" and "park" currently precludes the establishment of the proposed preschool under the terms of the LGA. This amendment seeks to recategorise the nominated area to enable the establishment of the Alstonville Community Preschool and an associated formalised car parking area that will also be available for broader community use when the centre is not operating. The recategorisation will not result in the loss of any actively used sporting facilities existing in Crawford Park, nor will it impinge on the area containing the existing playground equipment known as "Apex Park". A map of the proposed recategorised area is attached in Appendix 2. Also attached, in Appendix 3, is a concept plan showing the proposed future allotment and formalised car parking area for the proposed preschool that will occupy the recategorised section of Crawford Park.

The specific terms of the draft amendment are contained in Appendix 4.

4. Council's Resolution

Council resolved to amend the POM at its Ordinary Meeting held on 24 November 2011. A copy of the resolution is contained in Appendix 5. The report which was submitted to and considered by Council in making its decision is also contained in Appendix 5. The report provides the background to the proposed Alstonville Community Preschool and the need to amend the POM.



5. Legislative Process

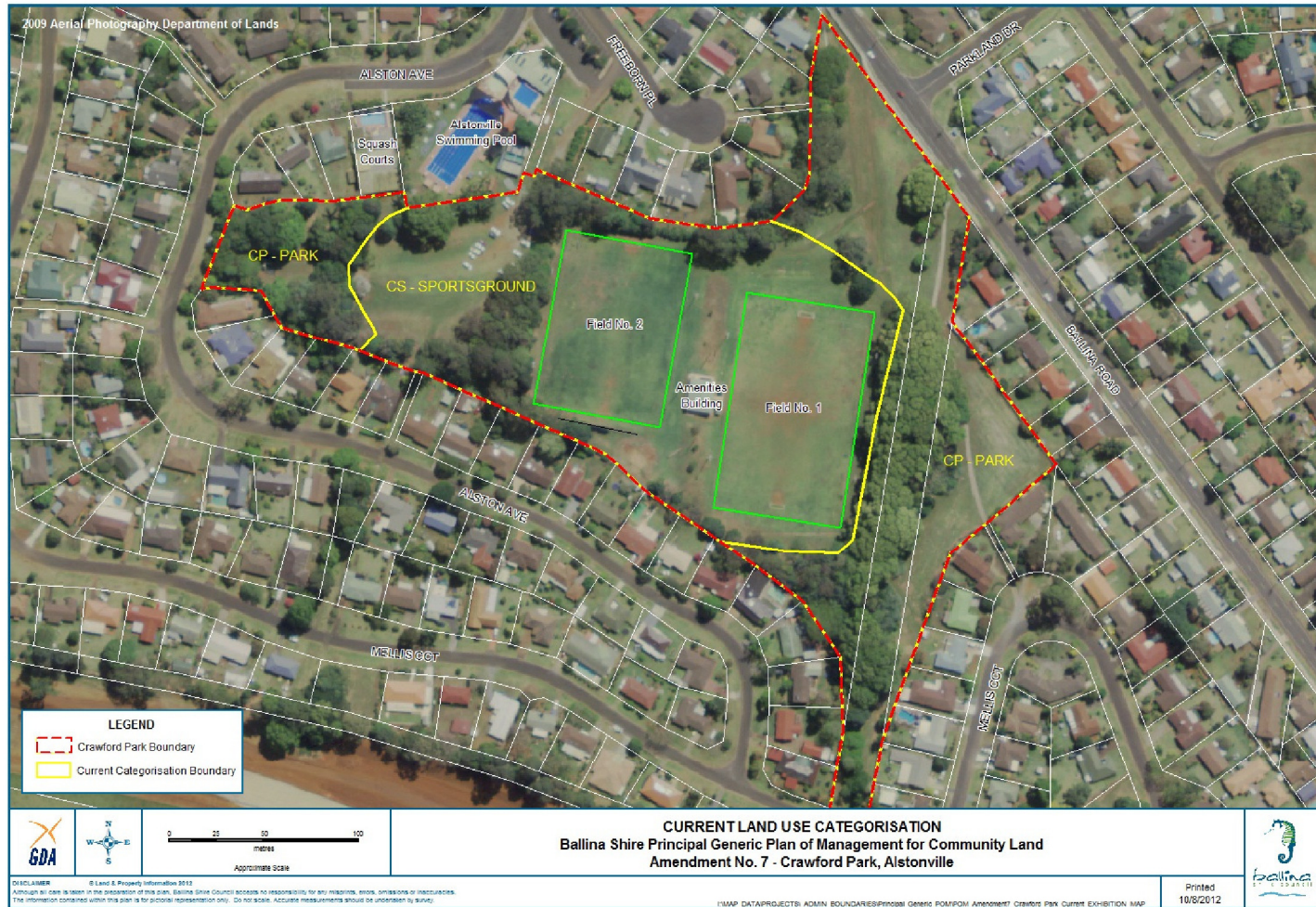
The various relevant legislative requirements that relate to the preparation of a draft POM for community land, which in this case is a draft amendment to an existing POM, are contained in the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*. A summary of the legislative process for the preparation of a draft POM is as follows:

Reference	Action Summary
s106 <i>Local Government (General) Regulation 2005</i>	Contains guidelines for the categorisation of land as general community use
s113 <i>Local Government (General) Regulation 2005</i>	Requires identification of areas or parts of community land in more than one category by a map or otherwise.
s36 <i>Local Government Act 1993</i>	Requires councils to prepare draft plans of management for community land including details of categorisation
s36l <i>Local Government Act 1993</i>	Specifies core objectives for management of land categorised as general community use.
s38 <i>Local Government Act 1993</i>	Requires councils to give public notice of draft plans of management and receive public submissions in response to the notice.
s40A <i>Local Government Act 1993</i> s47G <i>Local Government Act 1993</i>	Requires councils to hold a public hearing in relation to draft plans of management. Specifies requirements for public hearings.
s734 <i>Local Government Act 1993</i>	Requires a public report of the public hearing which council must consider before making any decision with respect to the matter.
s114 <i>Local Government (General) Regulation 2005</i>	Requires a council to state its reasons for categorisation of land where submissions are received objecting to the categorisation.
s40 <i>Local Government Act 1993</i> s46 <i>Local Government Act 1993</i>	Specifies requirements for adoption of plans of management. Details requirements for leases, licences and other estates in respect of community land – generally.
s46A <i>Local Government Act 1993</i>	Details means of granting leases, licences and other estates.



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APPENDIX 1 - Map of Crawford Park – Current Categorisation



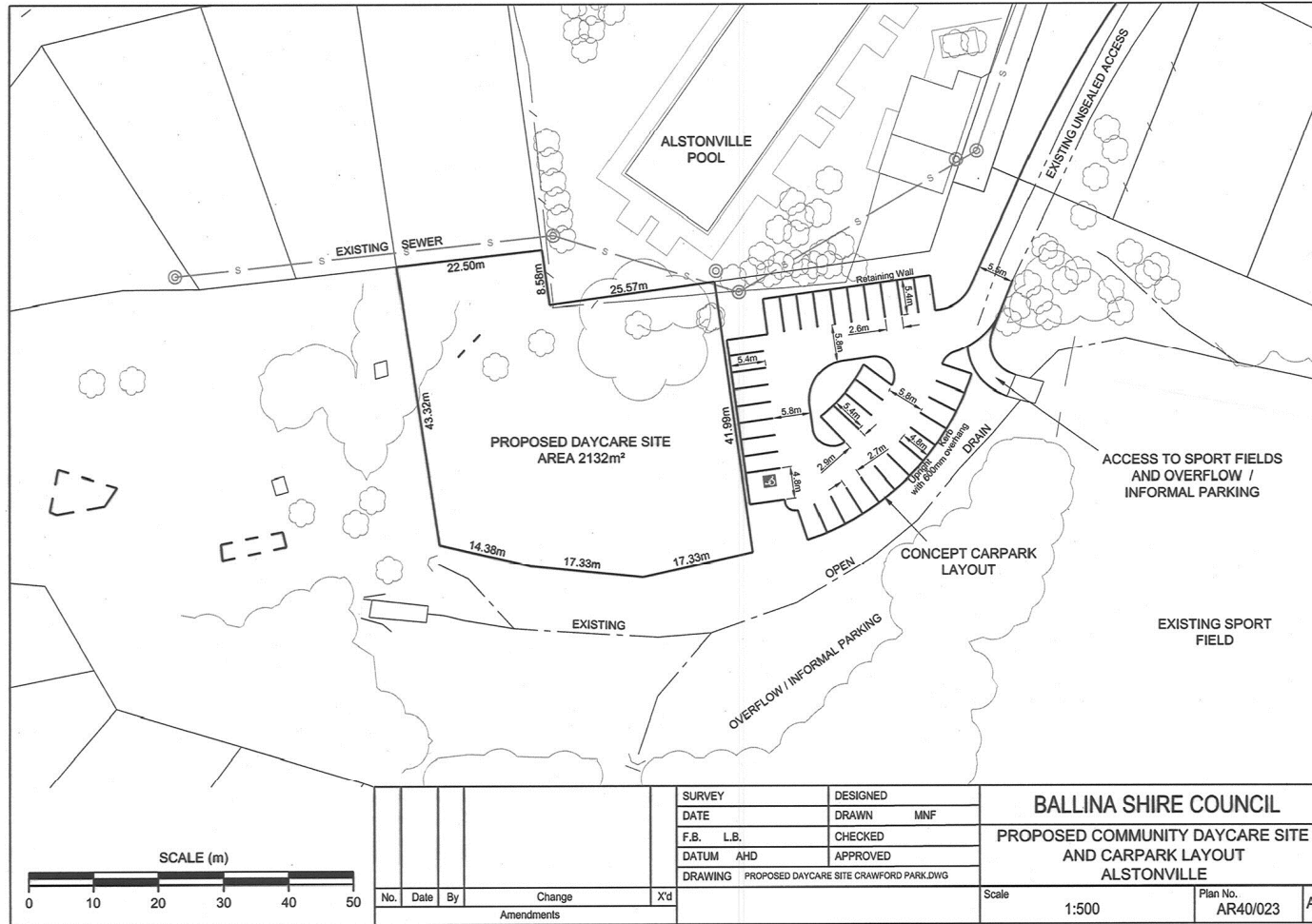
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APPENDIX 2 - Map of Crawford Park – Proposed Categorisation



9.3 Crawford Park, Alstonville - Land Categorisation.DOC

APPENDIX 3 - Plan of Proposed Preschool Site and Car Parking



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APPENDIX 4 - Terms of Draft Amendment No. 7

Draft Amendment No. 7 to the Ballina Shire Principal Generic Plan of Management for Community Land (POM) comprises the following changes:

- Remove of the existing special provisions in section 6 of the POM for Land No. 40013 and insert the following:

Land No.	Common Name/Location	Property Description	Categorisation	Land/Building/Improvements	History	Condition of Land/Building/Improvements	Current Use of Land/Buildings/Improvements	Permitted Uses	Permitted Future Uses	Scale/Intensity of Permitted Future Uses
40013	Crawford Park	Part Lot 161 DP 247578	CU - See Section 7 Map	Vacant land	N/A	Reasonable	Informal car parking area for sporting events, drainage infrastructure	Same as current uses	Use of identified area for future community activities. Construction of formalised car parking area for preschool and general public use.	Community preschool to occupy approximately 2132m ² adjacent to swimming pool and squash courts properties.
40013	Crawford Park	Part Lot 161 DP 247578 & Lot 39 DP 258802	CP - See Section 7 Map	Parkland, playground equipment, pathway	N/A	Good	Playground facilities at "Apex Park" (western end), managed parkland, pathway, vegetated areas, drainage infrastructure	Same as current uses	Same as permitted uses.	Same as permitted uses.
40013	Crawford Park	Part Lot 161 DP 247578	CS - See Section 7 Map	Soccer fields and amenities/clubhouse building containing changerooms and canteen	Amenities building approved in DA 1998/219	Reasonable	Soccer fields and amenities/clubhouse building used by Alstonville Soccer Club Inc for sporting activities.	Same as current uses. Exclusive occupation of building and its curtilage permitted	Same as permitted uses of other sporting activities as determined by Council. Exclusive occupation of land for establishment of amenities building/clubhouse.	Amenities building/clubhouse facilities at the scale of those approved in DA 1998/219 plus up to a 25% extension in the future.

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APPENDIX 4 (continued)

- Adjust the categorisation mapping in the POM to reflect the introduction of the CU – General Community Use category to the land by removing the existing Multi-category Land Map for Crawford Park in section 7 of the POM and replacing it with the following:



APPENDIX 5 - Council Resolution and Report, 24 November 2011

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
24/11/11 AT 9.10 AM**

9.2 Cumbalum Precinct B Planning Proposal

241111/ 9 RESOLVED

(Cr Sharon Cadwallader /Cr Alan Brown)

1. That Council place the Cumbalum Precinct B draft Planning Proposal on public exhibition for a period of 42 days, as soon as possible.
2. Following the conclusion of the exhibition period, Council is to receive a further report regarding submissions and outcomes of the exhibition.
3. That the proponents for Cumbalum Precinct B be invited to provide further information relating to the stormwater treatment issues outlined in this report, prior to Council receiving a further report following public exhibition.
4. That Council advise the proponent and the NSW Department of Planning that notwithstanding the Council's endorsement for the public exhibition in point one above, the Council will not proceed further with any consideration of the draft proposal until a strategy is confirmed that satisfactorily addresses Council's significant concerns in relation to infrastructure servicing issues.

FOR VOTE - Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Hordern, Cr Wright, Cr Brown

AGAINST VOTE - Cr Silver, Cr J Johnson, Cr Meehan

ABSENT. DID NOT VOTE - Cr Moore

Adjournment

The Mayor declared the meeting adjourned at 11.26 am.

The meeting resumed at 11.50 am

9.7 Alstonville Community Preschool

241111/ 10 RESOLVED

(Cr David Wright/Cr Robyn Hordern)

1. That Council authorises the General Manager to conduct a community consultation process, as required by the Local Government Act, in respect to a proposal to alter that part of Crawford Park that would be required for the Alstonville Pre-school from sports ground to general community use.
2. This consultation is to be conducted following discussions with the proponents of the pre-school and the sporting clubs currently utilising Crawford Park to determine the appropriate size and location of the area for the pre-school.
3. That Cooke Park be removed from the list of potential sites for the proposed Alstonville Preschool.

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MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
24/11/11 AT 9.10 AM

FOR VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Hordern,
Cr Wright, Cr Brown, Cr Meehan
AGAINST VOTE - Cr J Johnson
ABSENT, DID NOT VOTE - Cr Moore

Cr K Johnson declared a pecuniary interest in Item 13.1 and left the meeting at 12:04 PM.

13.1 **Notice of Motion - Coal Seam Gas**

241111/ 11 RESOLVED

(Cr Jeff Johnson/Cr Susan Meehan)

That pending further guidelines from the State or Federal Governments, any application made to Council for testing or exploration for CSG on Council owned or administered land be reported to the elected Council.

FOR VOTE - All Councillors voted unanimously.
ABSENT, DID NOT VOTE - Cr K Johnson, Cr Moore

Cr K Johnson returned at 12:19 PM

9.3 **Ballina LEP - Amendment No.90 - Stewart Farm, Skennars Head**

A **Motion** was moved by Cr Ben Smith and seconded by Cr David Wright.

That Council cease further processing of Draft LEP Amendment No. 90 for, but not limited to, the following reasons:

- Uncertainties with respect to land dedication
- Scenic Zone
- Council liability for infrastructure
- Inability to negotiate with a single owner
- Outstanding fees

An **Amendment** was moved by Cr Sharon Cadwallader and seconded by Cr Alan Brown

That Council defer processing of Draft LEP Amendment No. 90 until we receive a Voluntary Planning Agreement that addresses the outstanding matters as outlined within the report.

The **Amendment** was **LOST**.

FOR VOTE - Cr Cadwallader, Cr Hordern, Cr Brown, Cr Meehan
AGAINST VOTE - Cr Silver, Cr K Johnson, Cr Smith, Cr Wright, Cr J Johnson
ABSENT, DID NOT VOTE - Cr Moore

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9.7 Alstonville Community Preschool

9.7 Alstonville Community Preschool

File Reference	Children's Services
CSP Linkage	People attaining health and wellbeing
Delivery Program	Community Planning
Objective	To invite the Council's further consideration of assistance to the Alstonville Community Preschool in its attempt to secure new preschool premises.

Background

Council has received several reports relating to the Alstonville Community Preschool's attempts to establish a new facility to provide early childhood services in that part of the shire.

Following consideration of various site options on both public and private land by a working party comprising the Mayor and C Ward Councillors, Council at its Ordinary Meeting held on 22 September 2011 resolved as follows:

- 1 That Council notes the outcomes of the Councillor working party concerning the assessment of site options for the establishment of a new preschool in Alstonville;*
- 2 That the General Manager be authorized to hold discussions with the Alstonville Agricultural Society Inc. to assess opportunities for the proposed facility to be established on part of the Alstonville Showground. Further, that the outcomes of these discussions be reported back to Council at the first available opportunity; and*
- 3 In respect of the Council-owned properties which have been addressed at this time, Council expresses its preference for the land fronting Cooke Avenue and Parkview Circle in Alstonville as the site for the proposed Alstonville Community Preschool.*

The following report provides Council with an update of information relating to this project.

Key Issues

- Identification of site options for a new facility.

Information

Council's resolution from its meeting held on 22 September was conveyed to the Alstonville Community Preschool and a letter was also forwarded to the Alstonville Agriculture Society Inc. inviting a dialogue with Council representatives.

An informal meeting was also held with the Society's President as a means of providing a background to the proposal and Council's decision.

The Society has subsequently held a meeting to discuss the Council's resolution in more detail. As a result of those deliberations the Society has now advised that it does not wish to enable the preschool to be established on its land.

Following media coverage of Council's resolution from its 22 September meeting, considerable community interest has been raised concerning this project, particularly by the residents in the vicinity of the park fronting Cooke Avenue and Parkview Circle.

On 17 October, residents of this locality convened an informal meeting within the park to convey their displeasure concerning the potential for the new facility to be located there. The Mayor, Councillor Silver, together with Councillors Keith Johnston and David Wright, were in attendance. Representatives of the Alstonville Community Preschool were also present at the meeting.

The grounds cited by some residents for rejecting the possible establishment of the facility on this public reserve included:

- Alienation of important neighbourhood open space
- Excessive traffic generation/lack of capacity in the local street system
- Reduction in adjacent residential property values and
- General disturbance to the amenity of the locality.

A further review of the site options for the proposed facility has recently been undertaken, notwithstanding Council's earlier resolution.

C Ward Councillors have indicated that an area of Crawford Park, immediately behind the Alstonville Pool, may be able to be adapted to accommodate the new facility. An aerial photograph of this locality is **attached** to this report.

In terms of site suitability, this part of the reserve is classified as Community Land under the Local Government Act 1993, and categorized for the purpose of a Sportsground. If Council is inclined to indicate its support in principle for this site for a preschool, it will be necessary to re-categorize the western portion of Crawford Park for General Community Use.

9.7 Alstonville Community Preschool

In other respects, and in very general terms, the main function of this part of the reserve is to provide informal parking associated with the adjacent sporting fields. The land does form part of the drainage system for this part of Alstonville, conveying stormwater from the adjacent residential area. Stands of mature trees surround the central grassed area and their importance would need to be assessed if disturbance is contemplated.

Access to the reserve is via a poorly-formed track over a distance of approximately 100 metres, which extends from Freeborn Place adjacent to the eastern boundary of the Alstonville Pool.

A preliminary consideration of availability of Council's water and sewerage services indicated they are located reasonably adjacent to the reserve, though their capacity has not been assessed. The availability/capacity of other services (eg power) has not been determined.

The Alstonville Community Preschool has previously indicated that its preference would be to have access to a site containing an area of approximately 2000m² to accommodate existing and predicted enrolment numbers. Preliminary assessment of this site suggests this area could be available toward the northern part of the grassed area adjoining the pool and adjacent squash court complex.

Siting a building here may require removal of established trees, but it would have the benefit of being further away from more sensitive residential properties along Alston Avenue, which have the reserve at their rear.

As mentioned, this part of the reserve is presently used for informal parking. Construction of a building, on the face of it, may diminish the parking capacity. However, inclusion of a plan to rationalize/formalize parking for the reserve may lead to improved outcomes for other users. Further, associated illumination of the area may also be seen as advantageous.

The preparation of a concept plan(s) providing options for bringing these various elements together could be beneficial, particularly if Council wishes to proceed to amend the categorization of this part of the reserve, as mentioned above. Such a plan could assist in the mandatory community consultation processes associated with that.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Council has previously acknowledged its support for the establishment of a new preschool to promote the availability of this service to the residents of Alstonville and surrounding areas.
- **Economic**
Council is looking to support the provision of affordable and accessible children's services in the Alstonville community.

Legal / Resource / Financial Implications

To date, identification and assessment of site options for the establishment of a new preschool site has been undertaken within existing available resources (recognizing the important input from the Mayor and C Ward Councillors particularly, through the working party process).

Beyond this, Council has made no other commitment in terms of the delivery of the facility, recognizing that the project is not contained within the organisational work program.

Consultation

No formal, Council-initiated community engagement processes have been undertaken in relation to this proposal. Some Councillors attended the recent neighbourhood meeting convened by residents adjacent to the park fronting Cooke Avenue and Parkview Circle, and have an understanding of the views of those residents.

Options

Council has a number of options available to it concerning this matter, as follows:

1. Note the contents of this report. Given the advice from the Alstonville Agricultural Society Inc. (which does not support the proposed preschool on part of the Alstonville Showground), this would mean that the public reserve fronting Cooke Avenue and Parkview Circle would remain Council's preferred site for the establishment of the proposed facility.

In this scenario, no further work would be undertaken unless Council directed that more detailed investigations for this site be carried out. This further work would include a range of engineering and planning investigations that would support the lodgement of a development application in the future, as well as an engagement plan for liaising with residents of that locality. No funds have been allocated for this work;

2. Council could set aside its earlier decision in favour of an alternative site for the establishment of the proposed preschool; for example, the land described in this report. This part of Crawford Park appears to have some level of suitability, subject to the matters canvassed briefly in the above report.
3. Council can take no further action, and advise the Alstonville Community Preschool that options for the siting of a new facility on Council owned or controlled land in Alstonville have been exhausted. This would mean that the onus would rest with the preschool to identify and secure its own site to pursue the project.

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9.7 Alstonville Community Preschool

Given Council's recent commitment to the park fronting Cooke Avenue and Parkview circle, option one is the Council's current position. There have been some objections to this proposal already from local residents, and it may well be in Council's interests to investigate Crawford Park to determine whether it is viable and whether there is stronger community support for this option.

In order to achieve that, the preferred approach would be to authorise the General Manager to conduct an exhibition process to change the category of the area of Crawford Park needed for the facility from sportsground to general community use. This would be a similar process to that followed for Porter Park and would provide an opportunity for Councillors to assess the level of community support for this option as compared to the Cooke Avenue option.

Despite the previous resolution of Council this is the preferred approach as it allows further community consultation to be undertaken prior to a final decision being made.

RECOMMENDATIONS

1. That Council authorises the General Manager to conduct a community consultation process, as required by the Local Government Act, in respect to a proposal to alter that part of Crawford Park that would be required for the Alstonville Pre-school from sports ground to general community use.
2. This consultation is to be conducted following discussions with the proponents of the pre-school and the sporting clubs currently utilising Crawford Park to determine the appropriate size and location of the area for the pre-school.

Attachment(s)

1. Aerial photograph of locality - Crawford Park



Principal
Clarissa Huegill
Lawyer
B.Com, LLB Acc.Spec
[Property Law]

Solicitor
Stephen Hegedus
B Indig. St, LLB [Hons]



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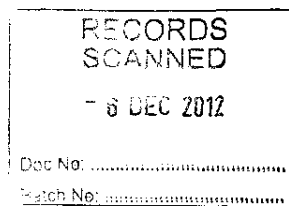
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Our Ref: CLH:120491
Your Ref: Lachlan Sims
Principal Generic Plan of Management – Amendment no 7 (12/44776)

4 December 2012

The General Manager
Ballina Shire Council
DX 27789
BALLINA NSW



Dear Sir

RE: BALLINA SHIRE COUNCIL - GENERIC PLAN OF MANAGEMENT FOR
COMMUNITY LAND
PROPERTY: CRAWFORD PARK, ALSTONVILLE

We refer to your instructions in this matter and as required now report as follows:-

1. SOURCE DOCUMENTS AND INFORMATION

In providing this report we have had access to and analysed the following documents:-

- 1.1 Draft Principal Generic Plan of Management for Community Land Amendment number 7 Crawford Park Alstonville ("the Public Exhibition Document")
- 1.2 Copy of the public notices published in the Ballina Shire Advocate on 11 October 2012;
- 1.3 Copies of all written submissions received during the exhibition period;
- 1.4 Written submission received by CH Law on 6 November 2012 from David and Fiona Murray dated 4 November 2012;
- 1.5 Ballina Shire Council Alstonville Community Pre-school Preliminary Study of Potential Sites;
- 1.6 Ballina Shire Council Aquatic Facilities Strategic Financial Plan discussion paper (2011);
- 1.7 Existing special provisions in Section 6 in the Plan of Management for Land Number 40013;
- 1.8 Education and Care Services National Regulations;
- 1.9 Ballina Shire Council officer's public meeting notes 1 November 2012;
- 1.10 Transcript of public meeting notes taken by Susannah Poole of CH Law on 1 November 2012.

Further:-

- 1.11 The writer chaired the public meeting held at Alstonville Bowling Club on 1 November 2012;
- 1.12 The writer has had discussions with one of Council's development assessment planners in respect of planning and other requirements for pre-schools, as detailed further in this report;
- 1.13 The writer has had extensive experience in relation to development of Child Care centres across the whole of NSW including appeals to the Land and Environment Court.
- 1.14 The writer is a resident of Alstonville and off-time user of the Alstonville Swimming Pool, soccer fields and parking area and has seen these areas significantly adversely affected by flooding.

2. BRIEF HISTORY AND CURRENT USE OF SITE

2.1 On 24 November 2011 Ballina Shire Council resolved as follows:-

- a. *That Council authorises the General Manager to conduct a community consultation process, as required by the Local Government Act, in respect to a proposal to alter that part of Crawford Park that would be required for the Alstonville Pre-school from sports ground to general community use.*
- b. *This consultation is to be conducted following discussions with the proponents of the pre-school and the sporting clubs currently utilising Crawford Park to determine the appropriate size and location of the area for the pre-school;*
- c. *That Cooke Park be removed from the list of potential sites for the proposed Alstonville pre-school.*

2.2 The site, the subject of the resolution, is depicted in aerial photographs appearing as Appendix 1 and 2 to the Public Exhibition Document and diagrammatically in Appendix 3 to the Public Exhibition Document. The site is community land presently categorised partly for use as park and partly for use as sportsground as depicted in Appendix 1 to the Public Exhibition Document. The area in respect of which the use is proposed to be changed to "general community use" is depicted as "CU-General Community Use" in Appendix 2 to the Public Exhibition Document ("the proposed site").

2.3 That part of the proposed site that is presently designated for use as "park" is part of an area which contains an existing playground known as "Apex Park". That part of the proposed site that is currently classified as "sportsground" is currently utilised by the users of the adjoining sports grounds (depicted as fields numbered 1 and 2 in Appendix 1 to the Public Exhibition Document) being for all intents and purposes the members, guests and other persons associated with Alstonville and District Football Club.

2.4 Sometime in early in 2011, Alstonville Community Pre-school contacted Ballina Shire Council for assistance in identifying a suitable location for its pre-school presently operating from the Alstonville Baptist Church in Wardell Road Alstonville. On and from the end of 2013 the present location of the pre-school will not be available.

2.5 From July 2011 a working party comprising of C Ward Councillors from Ballina Shire Council and the Mayor, assisted by Council staff, investigated some 20 potential sites for relocation of Alstonville Community Pre-school which provided

several reports to Council. It is not within the scope of this report to make reference to any of those alternate sites nor to investigate or comment upon their suitability or otherwise.

3. SCOPE OF REPORT

- 3.1 To review the particulars of the amendment and the level of public interest in the matter;
- 3.2 To review the written submissions;
- 3.3 To inspect the site and its surrounds;
- 3.4 To conduct and have regard to the public hearing;
- 3.5 To provide a recommendation in relation to all matters.

4. LEGISLATION

The use and management of community land is governed by Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993 ("the Act"). Pursuant to Section 35 the Act, community land is required to be used and managed in accordance with a plan of management applying to the land and pursuant to Section 36 of the Act, must categorise land as any one or more of the following:-

- (a) The natural area;
- (b) A sports ground;
- (c) A park;
- (d) An area of cultural significance;
- (e) General community use.

Section 36F of the Act provides that, in relation to management of community land categorised as sports ground, core objectives 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.

Section 36G of the Act specifies that the core objectives for management of community land categorised as park are:-

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

Section 36I of the Act provides that the core objectives for management of community land categorised as general community use, are to promote, encourage and provide for the use of land and provide facilities on the land to meet the current and future needs of the local community and 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).

Section 36(3) of the Act also provides that the plan of management for community land must identify not only the category of the land but also the objectives and performance targets of the plan with respect to the land, the means by which the Council proposes to achieve the plans, objectives and performance targets and the manner in which Council proposes to assess its performance with respect of the plans, objectives and performance targets. It specifically provides that the carrying out of any specific activity on the land may require the prior approval of the Council.

Section 38 of the Act provides that Council must give public notice of a draft plan of management with public exhibition of the draft plan for at least 28 days and allowing a period of 42 days for submissions to be made.

Section 40A of the Act provides that where a proposed plan of management has the effect of categorising or altering categorising of community land under Section 36(4) Council must hold a public hearing in respect of that proposed plan.

Section 68 of the Act provides that certain activities can only be carried out with prior approval of Council. For the purposes of this report such an activity includes operation of a pre-school.

5. REVIEW OF PARTICULARS OF THE AMENDMENT AND LEVEL OF PUBLIC INTEREST

On its face, the proposed amendment can, in simple terms, be described as simply being a change of the use of community land from "park" and "sports ground" to "general community use". As required by the Act however, the draft amendment which appears as Appendix 4 to the Public Exhibition Document does refer to "construction of formalised car parking area for pre-school and general public use". It also makes reference to the scale/intensity of permitted future uses as being "community pre-school to occupy approximately 2132m² adjacent to swimming pool and squash courts property."

Consideration must therefore be had to this specific use.

From the number of submissions received and the number of people attending the public meeting (estimated to be in excess of 100 people) the level of public interest was not limited to the general change of use per se, but particularly the identified expected future use of the proposed site as a community pre-school and formalised car parking area.

In relation to the process followed, it is our view the appropriate legislation has been properly followed and, notwithstanding some comments made in the submissions, the proposal has been adequately advertised and all reasonable steps to bring the issue to the attention of the public have been taken.

6. REVIEW OF WRITTEN SUBMISSION

As at the date of the public hearing, namely 1 November 2012, 50 written submissions had been received and, as indicated above, a further written submission was received by our office on 4 November 2012.

For the purposes of this report we have categorised those submissions (in brief) as follows:-

In Support (44)

- Need for a community pre-school
- Appropriate location
- Will attract new and young families to area
- Will prevent present undesirable use (in particular park area) eg. drinking and misbehaviour of youth
- Will add to cohesion of education in Alstonville
- Will promote Alstonville as a learning centre throughout all education phases
- Has a beneficial central location in walking distance from town centre
- Will add to relaxed and safe community village atmosphere
- Will improve the current overall infrastructure of town
- Promotes Alstonville as a growth area
- Location otherwise has limited use
- Opportunity for Alstonville and Ballina Council to be leaders in early childhood education
- Location being environmentally beneficial to children.

Submissions Objecting (4) and petition objecting (23 signatures)

- Traffic issues
- Potential for overuse of general locality
- Safety (traffic and drainage)
- Limitation on possible future pool upgrades
- Concern as to removal of large camphor laurel tree
- Loss of parking for soccer fields
- Preclusion of future expansion of soccer fields
- Failure to sufficiently consider alternate sites
- Mosquitos
- Effect of outside noise on children
- Adverse effect on neighbouring land owners (increased traffic and parking)
- Adverse environmental effects
- Benefits too few of the public being public land
- Loss of amenity to existing homes built and purchased with frontage to park land
- Limit of access to parkland
- Lack of regard to original dedication of public land for recreational and general open space use
- Lack of regard to original design considerations
- Emphasis placed on children at the expense of the elderly

- Possibility of intensification of use outside pre-school hours
- Requirement for uses of surrounding land to modify their activities
- Possible loss of impartiality in dealing with any development application
- Possible failure of original drainage and flood management designs to allow for built structures.

Other (Submission by Alstonville Swimming Club Inc)

Included above in submissions objecting. Also raises however the creation of a concept plan for future development of the pool site and adjoining parkland.

7. INSPECTION OF SITE AND SURROUNDS

- 7.1 The location of the proposed site is behind the Alstonville Swimming Pool and private squash courts located on Alston Avenue.
- 7.2 Access to the proposed site is gained through an existing unsealed access road to the east of the Alstonville Pool. Other than the proposed site being immediately adjacent to the squash courts and pool there is no land upon which improvements are constructed sharing a boundary with the proposed site.
- 7.3 There are a small number of trees contained within the proposed site including the large camphor laurel tree referred to in the objections.
- 7.4 The proposed site does not encroach on the whole of the open area which will remain categorised as sportsground and which is used as parking by the users of the soccer fields, however a significant portion of that remaining area is adversely affected by a wide open drain. This drain is located outside the boundary of the proposed site but in wet weather it appears likely the drain would preclude use of an area of land to the south of the drain for parking.
- 7.5 There are large open areas to the north of the area depicted as Field No. 1 in Appendix 2 to the Public Exhibition Document and a large tract of camphor laurel trees to its east using a significant area of land. These areas do not currently enjoy access from Ballina Road due to fencing. The open area to the north of Field No. 1 is also affected by a large open drain.

8. PUBLIC MEETING 1 NOVEMBER 2012

There were 29 registered speakers for the evening and a further 3 speakers also addressed the meeting. There were 57 attendees who registered. We are aware there were a number of further attendees who arrived a little late and did not sign the attendance sheet.

The meeting was opened by Steve Barnier who gave a brief outline of the history and thereafter, in order of registration, those speakers who wish to address the meeting did so over a period of approximately 2 hours. The meeting passed without incident and all speakers were well prepared, well informed and passionate about their respective views.

As is to be expected, many of the issues raised during the meeting had already been set out in written submissions however the following further points (in brief) were raised:-

In Support

- Need for diversification as to age and demographics;
- Implications for community if pre-school is lost;
- Possibility of development of links for children with communities and community initiatives;
- Fostering of community cohesion;
- Ability for site to meet indoor and outdoor space requirements;
- Aesthetic appeal in a natural learning environment;
- Site lends itself to development of a natural learning environment;
- Easy access to towns resources for children and teachers;
- Only used by soccer club for 7 months of the year;
- Closure of pre-school could mean loss of young families for Alstonville and cause people to no longer wish to move to Alstonville;
- Peak time for soccer is weekends therefore no clash with pre-school use;
- Moral obligation of community to provide pre-school service;
- Traffic and environment concerns can be alleviated by engineering solutions;
- Possibility of additional parking spaces available behind telephone exchange;
- Need for change to categorisation as soon as possible to enable progress of government consultation process that is, the application for a government grant cannot proceed further unless and until change of category.

Against

- Increased pedestrian traffic;
- Lack of transparency in process;
- Overflow of car parking onto nearby streets for soccer games due to formalisation of car parking spaces;
- Inability to use remaining area as parking in wet weather;
- Loss of open space;
- Coral Street (Cawley Park) netball fields would be a better site;
- Present danger to young families even without development of pre-school given configuration of street entry;
- Present difficulty even without pre-school in use of street and lack of footpaths causing danger to families particularly with prams;
- Alienation of land from intended use;

Other

- The land belonging to the community not any one group therefore there needs to be an examination of best community use;
- Likelihood of 26 cars between 8.30am and 9.30am;
- Fix drainage engineering and traffic issues prior to re-zoning.

9. OTHER COMMENTS

9.1 It is relevant to note that regardless of any amendment to the existing Plan of Management, a development application will still need to be made to Council for construction and use of a pre-school. The Education and Care Services National Regulations, as well as making reference to requiring all proper approvals from the relevant local government authority, specifically have operational requirements within chapter 4, as to children's health and safety and physical environment.

Council's planning department has confirmed that in respect of any application for a pre-school, consideration be given to all relevant planning and engineering matters and would be also conditioned to ensure full compliance with all relevant legislative instruments, which would include the Education and Care Services National Regulations.

In relation to planning issues, the planning department confirmed that the onus would be on the proponent of a development application for a pre-school to demonstrate that its design and location was suitable for its purpose. For example, any noise concerns either by or affecting the facility must be shown to have been properly attenuated; traffic issues must have been properly addressed and drainage must be engineered to the satisfaction of Council both in accordance with Australian Standards and, given the proposed use, including aspects of safety of children and others.

9.2 We do not intend to make any comment about whether or not Council may lack impartiality in assessing such a development application if it resolves to change the use so that the development application can be made. We do take the view however, that the perception this might be the case should not adversely affect the decision about whether or not to change the use of the proposed site.

9.3 Concern was raised that if the change of use was granted but the development of a preschool did not eventuate, that the proposed site might be used for other organisations for development. Because of the legislative requirements set out above in relation to Plans of Management for community land and the existing provisions relating to Land No. 40013 Crawford Park, we do not consider this concern is warranted. The present Plan of Management in relation to this land specifies as its use:-

"Fields & buildings used by the Alstonville Soccer Club Inc for sporting activities. Use of the "basin" area behind the Alstonville Swimming Pool for car parking associated with playing fields and the adjoining picnic area and Swimming Pool. Use of Park & drainage infrastructure to drain the Alstonville Pool and connect to other parts of Council's drainage infrastructure."

The amendment in issue appears as Appendix 4 to the Public Exhibition Document and is equally specific in its terms. In our view if the development of a preschool did not eventuate, a further amendment to the Plan of Management would be required before it could be put to an alternate use.

10. RECOMMENDATION

In the most simple terms, the factors to be considered and weighed in this matter are the need for a site for the preschool, which appears a favourable location in many respects but does have risks, versus the loss of amenity for the Alstonville Football Club and the potential for adverse effects on those living in the locality.

It is our opinion:-

- 10.1 The risks associated with the site must be examined and either be removed or ameliorated otherwise consent will not be granted to a development application for a preschool.
- 10.2 The site itself, risks and adverse effects aside, appears ideal.
- 10.3 Regardless of any development, there are current risk factors particularly in Freeborn Place that can and should be addressed as soon as possible (see below).
- 10.4 The need for a preschool outweighs the need for parking for the Alstonville Football Club. Further, the formed parking, whilst reducing the number of spaces available, may increase the safety of parking on the site.
- 10.5 The need for a preschool outweighs the disadvantages that might flow to the surrounding residents, particularly if those issues that presently exist are addressed.

Recommendation

Council approve the draft amendment to the Ballina Shire Principal Generic Plan of Management for Community Land appearing as Appendix 4 to the Public Exhibition Draft Principal Generic Plan of Management for Community Land Amendment No. 7, Crawford Park, August 2012.

Supplementary Recommendations

11. Some of the comments made against the proposal related to the present unsatisfactory traffic and pedestrian conditions in and around the proposed site, particularly at the entrance to and in Freeborn Place. These are not matters that should or will adversely impact on any development application however existing adverse conditions are matters that should be addressed regardless of whether there is a change of category.

Supplementary Recommendation 1

The present circumstances concerning entry speed into Freeborn Place, lack of pedestrian access around and through Freeborn Place and general safety concerns for users of Freeborn Place should be addressed by Council's traffic committee.

12. If the use of the proposed site is changed to "general community use", there will still remain a large area categorised as "sportsground" that will be available for parking. Unfortunately the drain referred to paragraph 7.4 above precludes use of a part of this area for parking. As set out in the submission from Alstonville Football Club, in wet weather, those areas that are accessible can be dangerous due to the slope of the land causing vehicles to slip.

Supplementary Recommendation 2

Consideration be given to upgrading the areas to the west of Field No. 2 on Appendix 2 to the Public Exhibition Document not affected by the change of use so that:-

- 3.1 **The area to the south of the drain referred to in paragraph 7.4 can be safely accessed by vehicles and used for parking.**
- 3.2 **The area outside the proposed site that is currently used for parking by Alstonville Football Club is upgraded to improve safety.**
-

13. In its written submission the Alstonville Swimming Club made comment about a concept plan for future development of the pool site and adjoining parkland.

This comment gives rise to a broader consideration of use of the whole of the Crawford Park area including the soccer fields, the pool, the preschool area (should it proceed) and the parklands. This is a large area central to Alstonville and highly accessible.

Supplementary Recommendation 3

Consideration be given to developing a concept or master plan for overall development/community use of the whole of the area known as Crawford Park.

Yours faithfully



CLARISSA HUEGILL