

Land Management

Approved by Council: 21/04/2021

To set out the guiding principles governing decision making about land owned by or under Council control to support the organisation in achieving efficient ongoing operations.

Safety

Teamwork

Accountability

Respect

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Definitions

In this document the following words or phrases have the following meanings unless expressed or implied to the contrary. Terms and phrases may or may not be capitalised.

Land Related Matters means a matter arising in connection with:

- (a) a legal or equitable interest in the land; or
- (b) an easement, rights, charge, power or privilege over, or in connection with, the land

Background

Rous County Council’s specialised service functions of bulk water supply, flood mitigation and weed biosecurity are operational in nature and all land owned is classified as operational land (not community land) in accordance with section 26 of the *Local Government Act 1993 (NSW)* ‘the Act’¹. This means Rous is not required to provide public spaces or public amenities, acquire or manage land for community purposes.

- **Firm policy position**

- 1. **Classification of Land**

All Council land is and will be classified as Operational Land in accordance with the requirements of the Act.

All land acquired by Council following the amalgamation on 1 July 2016 has been acquired for operational purposes and is classified as Operational Land to ensure Council can fulfil its functions and provide a safe working environment.

- **Guiding principles to decision making**

- 2. **Respect and stewardship**

Council will be guided by the values and objectives set out in Council's Statement of Commitment and Reconciliation Action Plan in land related decision-making processes and activities undertaken by Council.

Council recognises its activities and infrastructure network may be located where:

- cultural artifacts, items or places of significance occur, or
- legal protection exists.

Council is committed to treating all cultural and heritage sites with respect and consulting with traditional custodian knowledge holders to make informed decisions respectful of the deep cultural connection that exists to the land and water which may be impacted by Council's activities and/or infrastructure network.

Council will ensure that third parties with whom we propose to do business on land related matters are adequately educated, aware and held to account against agreed standards of performance.

- 3. **Sustainability and balance**

Council will be guided by and have regard to the principles of Ecologically Sustainable Development in all decision-making processes and activities.

Council is committed to protecting the environment now and into the future by giving consideration to the principles of Ecologically Sustainable Development ('ESD') summarised below and as defined in legislation:²

- **Conservation of Biological Diversity and Ecological Integrity**
Maintain or enhance the environments of the floodplain and estuary regions.
- **Precautionary Principle**
Minimise the chance of serious environmental problems even if we are not sure that these problems will occur.

¹ In 2016 Far North Coast County Council and Richmond River County Council were dissolved and their functions, operations, assets (including real property), rights and liabilities transferred by Proclamation to Rous County Council ('Council') - NSW Government Gazette No 52 of 22 June 2016. Real property transferred was and is classified as Operational Land.

² See *Protection of the Environment Administration Act 1991 (NSW)* and *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

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- **Inter-generational and Intra-generational Equity**
Reduce the impacts of activities on the environment that the community, now and in the future, relies on to meet its needs and expectations.
 - **Improved Valuation and Pricing of Environmental Resources**
Improve the way we determine the value of environmental costs and benefits and use this information when making decisions.

4. Transparent and accountable

Council will proactively release information to support open, accountable, effective and fair government for land related decision making consistent with the objectives of the *Government Information (Public Access) Act 2009*.

Council recognises that its core functions are inherently related to the use of land and are of particular interest to the public. Council will seek to proactively share with the public information as authorised under the *Government Information (Public Access) Act 2009* (NSW) and the *Local Government Act 1993* (NSW) whilst endeavoring to deliver that information in a user-friendly, interactive and freely accessible way.

Council will be open and accountable in all decision-making processes and actions taken by Council in acquiring and disposing of land or Council's interest in land for best value.

In acquiring or disposing of land Council will have regard to all the principles set out in this policy and in determining whether to acquire land Council must also:

- Consider the purpose for which the land needs to be acquired,
- Consider the strategic objectives the acquisition would achieve,
- Identify and consider the value that such land has to the community,
- Demonstrate the land is necessary to support or facilitate the delivery of a service to the community.

5. Secure and preserve

Council will secure its rights over its infrastructure to ensure we can continue to perform our core services now and into the future.

Council will adopt the position of the NSW Office of Local Government in securing access rights to its assets and water supply infrastructure over land, and private land in particular, by means of registered easement, licence agreement or other agreement between Council and the landholder(s) in order that the rights of entry under the Act are only utilised as a last resort.

Council will require the grant and registration of an easement over its infrastructure which contains the right to enter the burdened land at any time without notice for the purpose of construction, extending, maintaining, controlling, inspecting, replacing, and managing the work on the Council owned infrastructure.

Where Council has an unregistered interest in land, that is brought to their attention, Council will take the opportunity to register the interest by way of easement or other appropriate instrument.

Council commits to preserving its infrastructure through routine maintenance³, environmental management works, and construction works. In doing so, Council adopts the definition of routine maintenance works as set out in the SEPP⁴ in relation to all council owned infrastructure.

³ “The following works or activities are (subject to and without limiting that provision) taken to be routine maintenance works if they are carried out for that purpose-

- (a) Routine repairs to or replacement of equipment or assets,
- (b) Temporary construction yards,

6. Public use, health and safety

Council will ensure that any Operational Land we invite the public to access is safe for users whilst prioritising the health of the community by preserving water quality within the catchment area.

Council’s overriding objective is the protection of raw water quality throughout our catchment area. Protection of water sources and treatment are of paramount importance and must never be compromised (ADWG, 2011). Managing risks from human and livestock influences, significantly reduces the potable water risk profile of Council.

However, Council will at its discretion and where possible take steps to allow, in consultation with external stakeholders including the National Parks and Wildlife Service (Office of Environment and Heritage), the use of its land for private recreation, community events and commercial activities which pose minimal risk to the quality of the catchment area water supply.

Council maintains the right to charge a fee for a commercial entity to hold an annual permit where it is clear the entity is utilising operational land for a commercial benefit on a regular basis.

Council may close, refuse the use of or entry onto Council owned land by the public to maintain public safety, water quality and/or for operational reasons from time-to-time without notice.

7. Responsible land management

Council is focused on good land management through responsible practices and natural resource management relating only to the environmental consequence resulting from the operation of our infrastructure on the environment.

Council is focused on the prevention, elimination, minimisation and management of the biosecurity risk posed or likely to be posed by weeds on our own lands and will discharge our responsibilities as a landowner under the Biosecurity Act 2015.

Council will prioritise weed management programs utilising a consistent, robust and systematic process to achieve the greatest benefit in risk management.

Council is responsible for the construction, replacement, routine maintenance and operation of various flood mitigation infrastructure. This includes floodgates, levees and some rural drains and canals that serve a flood mitigation function.

Council adopts the definition of Flood Mitigation Work⁵ as set out in part 3, Division 7, section 49 of the State Environmental Planning Policy (Infrastructure) 2007.

(c) Clearing of vegetation (including any necessary cutting, pruning, ringbarking or removal of trees) and associated rectification and landscaping.”

⁴ See Part 1, section 5(4) of the State Environmental Planning Policy (Infrastructure) 2007.

⁵ “Flood mitigation works means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts”.

Related documents

Policy

Policy Statement	Related Procedure	Related Policy	Related Standard Operating Procedures (SOP) and Management Plans
Policy Statement 1			
Policy Statement 2	<ul style="list-style-type: none"> Environmental Aspect Procedure Environment Procedure Ecologically Sustainable Development Procedure 		
Policy Statement 3			<ul style="list-style-type: none"> Rous County Council Land Register SOP
Policy Statement 4			
Policy Statement 5			
Policy Statement 6	<ul style="list-style-type: none"> Private Recreation, Community Events and Commercial Uses on Rous Controlled Land Commercial Activities on Rous Water Operational Land 		<ul style="list-style-type: none"> Rocky Creek Dam Multi Year Master Plan (including Whian Whian Falls) Visitor Risk Management Plans
Policy Statement 7			
Policy Statement 8			

Legislation

- *Local Government Act 1993 (NSW)*
- *Real Property Act 1900 (NSW)*
- *Conveyancing Act 1919 (NSW)*
- *Government Information (Public Access) Act 2009*
- *Land Acquisition (Just Terms Compensation) Act 1991*
- *Native Title Act 1993 (Cth)*
- *Biosecurity Act 2015 (Cth)*
- *Environmental Planning and Assessment Act 1979 (NSW)*

Other

NSW Local Government Filming Protocol