



# USE OF KARRATHA CITY CENTRE RESERVED LAND

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## 1. OBJECTIVES

- a) To provide clear concise guidelines for the consistent application of procedures and principles in dealing with use and development and proposals that impact Karratha City Centre reserved land, including road reserves.
- b) To promote cost effectiveness, efficiency and transparent accountability in assessing proposals that impact the use of Karratha City Centre reserved land, including road reserves.
- c) To ensure any use, and licencing or leasing of reserved land for specific purposes enhances public benefits of the Reserve.

## 2. PRINCIPLES

### 2.1 Public Amenity

Use of public land should be in the public interest and should preserve the intrinsic community value associated with the land. The Council encourages, and is supportive of, businesses and other parties that contribute positively to City Centre amenity through development and maintenance of landscaping over public land in the City Centre, where such uses have been approved. Use of public land for commercial purposes is generally not supported, however, the Council is supportive of alfresco dining on City-managed reserves.

### 2.2 Use of Reserved Land

As a general principle and as much as possible, private development must be accommodated within the subject property, including parking, drainage and infrastructure. The use of public land to support an adjoining private development may be considered if the public interest and community benefit is preserved and the development and management of that public land is consistent with the purpose of the reserve and enhances the area in accordance with the intent of the Karratha City of the North City Centre Masterplan. Use of City managed reserves requires City authorisation. The use of reserved land is limited to the designated purpose of the reserve and purposes ancillary and beneficial to that purpose. A change to a use inconsistent with the designated purpose, including any ancillary uses, may invoke a change in reserve purpose.

### 2.3 Uses in Road Reserves

The use of public road reserves must not impede the continued use as a public thoroughfare – vehicle or pedestrian. Where it is considered that a proposal will impede use of a road reserve as a public thoroughfare but the proposal is supported, consideration will need to be given to closure or partial closure of the road. Where it is intended by an adjoining property owner to provide parking bays on road verges, these parking bays should be designed and constructed to an acceptable standard, leased or licenced depending on access arrangements, and remain publicly accessible. The Council is supportive of landscaping and alfresco dining in the road verge where it does not impede public thoroughfare use and complies with relevant standards.

## 2.4 Lease or Licence

Where use or proposed use of City Centre reserved land is considered appropriate by Council, the following approaches can be used:

City Centre Reserve Type	Example Uses	Preferred Approach
Road Verge	Alfresco dining Car parking	Planning approval + licence
	Landscaping Public art	Planning approval + maintenance agreement
	Public infrastructure	Consult City
Other Reserves	Public car park	Reserve for parking
	Car parking	Planning approval + lease
	Landscaping Public art	Planning approval + maintenance agreement
	Public infrastructure	Consult City

## 2.5 Other Considerations

- When assessing proposals for the use of public land in the City Centre, consideration should be given to the impact of the proposed use on existing infrastructure and future requirements.
- When considering closure or partial closure of roads to facilitate a development, consideration should be given to the resultant functionality of that road reserve, including matters of drainage and accessibility.
- Drainage reserves play a critical role in accommodating stormwater drainage. Where other uses are proposed in drainage reserves in the City Centre, it needs to be demonstrated that the drainage function of the drainage reserve will not be compromised.
- Where modifications are proposed within a reserve to accommodate another use, including any infrastructure located within the reserve, consideration should be given to ongoing maintenance.
- Appropriate indemnities and protections against damages or injuries arising from private use of public reserves should be provided for the City in any leasing or licensing documents.
- Where loss in use of public land is likely to result from a proposed private use that is supported, it is expected that this loss will be offset by adequate funding, contribution or compensation for public benefit.

## 3. CONSEQUENCES

This policy represents the formal policy and expected standards of the Council. Appropriate approvals need to be obtained prior to any deviation from the policy. Disregard for the policy could result in community concerns and compliance and enforcement action.

## 4. ROLES AND RESPONSIBILITIES

Proposals impacting the use of Public lands are to be assessed and decided in accordance with the relevant delegations provided for Crown land matters in the Delegations Register.

### Reserves

Section 46 of the *Land Administration Act 1997* provides that a Local Government may grant a lease, sublease or licence over all or part of reserved land held under a Management Order by that Local Government for the purpose of the reserve or purposes ancillary and beneficial to that purpose, and where the Management Order specifically grants the Local Government with power to lease or licence.

Any proposal to change the 'purpose' of a Reserve must be made to the Department of Lands by the management authority responsible for the reserve.

It is the Council's view that proceeds from lease of any reserved land in the City Centre should be directed towards improving other public land in the City Centre.

Any lease or licence proposed over a Crown Reserve must be submitted to the Department of Lands in draft form for 'in principle' agreement and the fully executed original Deed then submitted to the Department of Lands for final approval and stamping, pursuant to Section 18 of the *Land Administration Act 1997*. Sections 47 and 48 of the *Land Administration Act 1997* allow only the Minister for Lands to lease or licence unmanaged reserves.

#### Road Reserves

Section 57 of the *Land Administration Act 1997* allows only the Minister for Lands to lease road reserves.

The Local Government may grant licences in respect to road reserves in accordance with Local Laws and Section 3.58 of the *Local Government Act 1995*.

Where a transaction involves the transfer of control of Council assets to a third party, the City is obliged to dispose of property under section 3.58 of the *Local Government Act 1995*.

#### Sale in Freehold

Sale of Reserved land and road reserve is only available through Department of Lands after a reserve is cancelled or a road is closed in accordance with the *Land Administration Act 1997*. Any such sale will be at current market value as determined by the Valuer General. Inclusion of Option to Purchase is not available in any lease or licence agreement granted by the City over reserved land or public road.

While it would be desirable for proceeds from sale of any reserved land in the City Centre to be directed towards improving other public land in the City Centre, proceeds from the sale of Crown land are transferred into Consolidated Revenue so it is not possible reallocate such revenue at a local level.

## **5. POLICY PRINCIPLES**

This policy applies to the Karratha City Centre however, may also be used as a guide in other City of Karratha town centres.

It is recommended that proponents contact the City of Karratha before commencing any use or development over a City Centre reserve to determine whether it requires planning approval or is exempt and whether the proposal requires an agreement to be entered between the City and the proponent.

The following principles will apply when considering an application or proposal:

- As much as possible, private development must be accommodated within the subject property, including parking, drainage and infrastructure.
- There is a general presumption against private commercial uses in public reserves in the City Centre.
- Alfresco dining in the City Centre that complies with acceptable development standards for that use shall be supported.
- Use of public reserves in the City Centre that is considered to enhance and contribute to the amenity of the City Centre may be supported.
- Any use of public reserves must not compromise use of that land as a public thoroughfare, for infrastructure provision or drainage.
- Offsets for the loss of public enjoyment resulting from a proposed use of a City Centre reserve can be considered.
- Businesses and other parties are encouraged to contribute positively to City Centre amenity through development and maintenance of landscaping over adjoining public land in the City Centre. Such uses need to be approved by Council.
- The City should be consulted regarding any public infrastructure proposed in City Centre reserves that is exempt from the requirement to obtain planning approval.
- Proposals to use and develop public reserves in the City Centre may need to include appropriate indemnities and insurances.

## 6. APPLICATION REQUIREMENTS

Anyone seeking to construct any building/structure or development (e.g public art, landscaping features, parking etc...) on road reserve/reserved land is to apply for planning approval unless exempt under Section 4.1.3 of TPS8 or relevant legislation. Should the proposal be exempt from planning approval, the City (or other management authority) shall be consulted and an appropriate agreement in the form of either a lease or licence is to be prepared and authorised where required.

Proponents should be aware that when entering into lease agreements or licences and/or seeking planning approvals, the City will require, as a minimum, details to be submitted relating to:

- Public liability arrangements to protect the City and the Crown from any risk associated with proposals in the public domain, including indemnity against any claims for damage, injury or death arising from the development.
- Proposed maintenance responsibilities of the proponent for any works or structures proposed in the public domain, including any relocation costs and mitigation arrangements resulting from any relocation of services.
- Plans and written submission clearly depicting and outlining the proposal.

Any proposals to modify an existing drainage reserve managed by the City must be accompanied by a professional engineering investigation/study to determine any impacts of the modification and any mitigation or improvement measures that would be required to accommodate the modification. A similar investigation/study may be required should any proposal seek to erect/install any structure, building or infrastructure.

## 7. REFERENCES TO RELATED DOCUMENTS

- Karratha City of the North Plan,
- Karratha City Centre Master Plan,
- Strategic Community Plan 2012-2022 and Corporate Business Plan 2012-2016.
- Karratha City Centre Road Layout implications of the proposed use of Balmoral Road Reserves
- the Karratha City Centre Infrastructure Works Project
- DP 18 City Centre Car Parking Policy (draft)
- The Karratha Open Space Strategy Draft 2008
- City of Karratha Risk Management Strategy

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*This Policy takes effect from the date of adoption by Council and shall remain valid until it is amended or deleted.*