

DPE question: Is the land currently a public reserve as defined by the Local Government Act 1993?

Answer

public reserve (under the Local Government Act 1993) means:

(a) a public park, or	The Local Govt Act 1993 defines park as <i>"park, in relation to land, means an area of open space used for recreation, not being bushland"</i> . Although this land was purchased to be used for public recreation it has never been used for this purpose. It is fully fenced and has been used for the agistment of cattle by neighbouring land owners. It is not accessed regularly by the public. On balance it is not a public park.
(b) any land conveyed or transferred to the council under section 340A of the Local Government Act 1919, or	This land was not conveyed to Council as a garden or recreation space as part of a subdivision pursuant to this part of the Local Government Act 1919.
(c) any land dedicated or taken to be dedicated as a public reserve under section 340C or 340D of the Local Government Act 1919, or	This land was not dedicated to Council as a public reserve or drainage reserve pursuant to this part of the Local Government Act 1919.
(d) any land dedicated or taken to be dedicated under section 49 or 50, or	This land was not registered as part of a plan on which land is marked with the words "public reserve" (Section 49). The lot was created in 2004 and so Section 50 does not apply (applies to land created as a reserve prior to 1964).
(e) any land vested in the council, and declared to be a public reserve, under section 37AAA of the Crown Lands Consolidation Act 1913, or	This lot was created after this Act had been repealed.
(f) any land vested in the council, and declared to be a public reserve, under section 76 of the Crown Lands Act 1989, or	This land was not vested in Council by the Minister via notification in the Gazette pursuant to this part of the Crown Lands Act 1989.
(g) a Crown reserve that is dedicated or reserved:	This land is not Crown land or a Crown Reserve. It was acquired in fee simple.
(i) for public recreation or for a public cemetery, or	This land is not a Crown reserve dedicated for public recreation or a cemetery.

(ii) for a purpose that is declared to be a purpose that falls within the scope of this definition by means of an order published in the Gazette by the Minister administering the Crown Lands Act 1989, being a Crown reserve in respect of which a council has been appointed as manager of a reserve trust for the reserve or for which no reserve trust has been established, or	This land is not subject to an order published in the Gazette by the Minister in relation to a Crown reserve or reserve trust.
(h) land declared to be a public reserve and placed under the control of a council under section 52 of the State Roads Act 1986, or	This land was not declared to be a public reserve pursuant to the State Roads Act 1986.
(i) land dedicated as a public reserve and placed under the control of a council under section 159 of the Roads Act 1993,	This land has not been placed under Council control (from RMS) by order published in the Gazette pursuant to the Roads Act 1993.
and includes a public reserve of which a council has the control under section 344 of the Local Government Act 1919 or section 48, but does not include a common.	This land did not exist as a separate lot until 2004 and was not part of a public reserve pursuant to the Local Government Act 1919. This Act was substantially repealed in 1993.