

9.7 Draft Plans of Management

REPORT BY THE MANAGER PROPERTY AND REVENUE
TO 03 NOVEMBER 2021 ORDINARY MEETING
GOV400088, COU500102, 11146, 10249, 2109

RECOMMENDATION

That Council:

1. receive the report by the Manager Property and Revenue on the Draft Plans of Management;
2. endorse the draft Plans of Management appended as Attachment 1, 2 and 3 to this Report;
3. note that Native Title advice has been received for the draft Plans of Management appended as Attachment 1, 2 and 3 to this Report;
4. refer the draft Plans of Management appended as Attachment 1, 2 and 3 to this Report to the Minister administering the Crown Land Management Act 2016 for consideration in accordance with s39 Local Government Act 1993 to seek written consent to adopt the draft Plans in accordance with s3.23(6) Crown Land Management Act 2016;
5. require a further report for consideration if any significant changes are made to a draft Plan/s by the Minister administering the Crown Land Management Act 2016;
6. upon written consent of the draft Plans from the Minister administering the Crown Land Management Act 2016, place the draft Plans on public exhibition, as per s38 of the Local Government Act 1993 and conduct a public hearing, if required, in accordance with s40A Local Government Act 1993; and
7. receive a further report at the conclusion of the public exhibition and public hearing period to consider any submissions received or if substantial changes are recommended for any reason to:
 - 7.1 seek the Minister administering the Crown Land Management Act 2016 further consent if necessary, to adopt the draft Plan/s; or
 - 7.2 recommend that Council adopt the draft Plans of Management appended as Attachment 1, 2 and 3 to this Report pursuant to s40 Local Government Act 1993 in accordance with s3.23(6) Crown Land Management Act 2016, if there are no submissions or substantial changes.

Executive summary

The purpose of this Report is to seek Council's endorsement of 3 draft Plans of Management (PoM) being for *Community Land, Mudgee Showground and Red Hill Reserve, Gulgong* (the Draft PoMs) and their subsequent referral to the NSW Department of Planning, Industry & Environment – Crown Lands (Crown) as the landowner of the Crown Reserves (the Reserves) for consideration and consent. Council's endorsement is also sought to place the Draft PoMs on public exhibition and undertake a public hearing, where necessary, after Crown's approval has been received.

The Draft PoMs have been prepared to comply with the requirements of the Local Government Act 1993 (the LGA) and the Crown Land Management Act 2016 (the CLMA).

Versions of the Draft PoMs are appended as attachments 1, 2 and 3 to this Report.

Disclosure of Interest

Nil.

Detailed report

The commencement of the CLMA in 2018 required councils across NSW to manage Crown land under their control under the established Public Land Management requirements of the LGA. Prior to the land management changes introduced in the CLMA there were two distinct legislative systems for the management of Council-owned *Community* lands and Council-managed Crown lands.

In many locations in the Mid-Western Regional Council area, there are contiguous areas comprising Council-owned and Crown-owned reserves that previously had quite variable management and administrative requirements. The changes introduced in the CLMA aid Council and the community in streamlining and clarifying the management of public lands.

The key requirement of the changes to the CLMA is the need to incorporate all Crown land for which Council is the appointed Crown Lands Manager in a PoM.

Prior to embarking on the development of its PoMs, Council classified all Crown land under its control as either *Operational* land or *Community* land, with the *Community* land then categorised as either Park, Sportsground, Natural Area, Area of Cultural Significance or General Community Use.

Council endorsed the nominated proposed classification and categorisation for each of the Crown land parcels it manages on 15 April 2020 after receiving concurrence from Crown (Council Minute 127-20).

Requirements of a Plan of Management

Section 36 of the LGA sets out the requirements.

A PoM provides strategic planning and governance for the management and use of the land. It establishes directions for planning, resource management and maintenance of the land, categorises land, authorise leases, licenses, or granting of any other estate and determines what development can take place. It also outlines the manner in which a council proposes to assess its performance with respect to the PoMs objectives and performance targets.

The inclusion of these sections provides clarity for internal stakeholders and the wider community and should result in a streamlined development, public land use and land management administrative decision-making process.

The LGA allows a PoM to cover one or multiple parcels of land. Where multiple parcels of land are covered in one plan (Generic Plan), the LGA specifically states what needs to be included. Where a PoM covers one area of land or a contiguous site (Specific Plan), there is greater detail on what has to be prescribed in the plan. A Generic Plan sets the framework of how the land is to be managed. A Specific Plan clearly outlines very precise management proposals.

A PoM provides higher order management principles and policy requirements. It is not designed to provide detailed capital work or maintenance programs.

PoMs for community land are periodically reviewed to enable changing social, economic and ecological conditions to be taken into account and consequent amendments to the PoMs may occur.

The preparation of Council's PoMs for the Reserves also included the review and allocation of Council owned *Community* classified land into the required categories. This requirement had not previously been executed and PoMs for these lands are not currently in place. Accordingly, these land parcels have now been incorporated along with the Reserves, in various draft PoMs being developed.

Native Title Manager's Advice

All PoMs for Crown Reserves must be compliant with the statutory requirements of the Native Title Act 1993 (NTA) prescribed by both the CLM Act and the LGA. The Crown will not process a draft PoM unless Council attests that it has considered Native Title Manager advice.

Written Native Title advice has been obtained indicating that the Draft PoMs comply with applicable provisions of the NTA, being in this case, valid future acts under Section 24JA.

Native Title Manager's advice is appended as attachment 4, 5, 6 and 7 to this Report.

Notification and Exhibition

Sections 38, 39, 40A LGA and section 3.23 CLMA set out the requirements.

In relation to Crown reserves, Council is required to resolve to refer the draft PoMs to the Minister administering the CLM Act for consideration and consent. Upon approval of the Minister, the PoM will be placed on public exhibition for a period of 28 days, allowing not less than 42 days after the date on which the draft plan is placed on exhibition, to receive submissions.

If there are Council owned *Community* classified land parcels included in a PoM, a public hearing is to be conducted concurrently with the public exhibition period and all submissions received during this period are to be considered by Council thereafter.

If significant amendments are made to a draft PoM in relation to a Reserve/s, the PoM must be referred back to the Crown with further public exhibition if required. If proposed changes are not substantial, a draft PoM may be adopted without further Crown referral or public exhibition/hearing.

Draft Plans of Management for Endorsement

The development of the Draft PoMs has been underway since April 2020. A consultant was contracted to produce these. Consultation has been undertaken with Council's Executive and Directorate Managers on the approach to, and the content of, each of the Draft PoMs. Public workshops were also conducted to seek input into the *Red Hill Reserve*, *Gulgong* and *Mudgee Showground* draft PoMs.

The Draft PoMs appended to this Report comprise:-

Community Land PoM – this is a Generic Plan for the majority of Council owned *Community* classified lands and Reserves.

Red Hill Reserve, Gulgong PoM – this is a Specific Plan for this site and comprises Reserves and one Council owned *Community* classified land parcel, being the Red Hill Cottage.

Mudgee Showground PoM – this is a Specific Plan for this site and comprises Reserves only.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

The Draft PoMs will provide strategic direction for *Community Land* and *Crown Land* and are consistent with Council's responsibilities under the LGA and the CLMA. The Draft PoMs identify the permissible uses and development for the land parcels cited in these PoM.

Council may not undertake any activities, uses or developments which are not provided for in these Draft PoMs.

Council Policies

Not Applicable.

Legislation

Crown Land Management Act 2016

Division 3.4 – Crown Land managed by Councils.

Division 3.6 – Plans of Management and other plans.

Section 8.7 - When advice of Native Title Manager is required.

Local Government Act 1993

Part 2 Division 2 – Use and Management of Community Land

Native Title Act 1993 (Commonwealth)

Section 233 – Future Act.

Financial implications

These Draft PoMs will not have an immediate financial impact. Any future priorities identified as part of the Draft PoMs will be considered through the normal operational planning and budget processes.

Council received funding from the NSW Government through the *Plans of Management Funding Support Program* of \$94,087 to develop compliant PoMs under the LGA for all Council managed Crown reserves. The costs of preparing the Draft PoMs will be funded from this resource.

Associated Risks

The Draft PoMs address Council's various public land management obligations under the LGA and CLMA and clearly set out these requirements.

One of the key aims of a PoM is to ensure that management of Crown Reserves is done in accordance with requirements of the NSW *Aboriginal Land Rights Act 1983* and *Native Title Act 1993* reducing the potential for Council to be in breach of either piece of legislation.

There is a risk of delay for the use or development of a site due to the lengthy process if an amendment is required to a Draft PoM.

DIANE SAWYERS
MANAGER PROPERTY AND REVENUE

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

9 September 2021

- Attachments:*
1. Community Land PoM (Generic Plan) - Draft Version. (separately attached)
 2. Red Hill PoM (Specific Plan) - Draft Version. (separately attached)
 3. Mudgee Showground (Specific Plan) - Draft Version. (separately attached)
 4. Native Title Managers Advice - Community Land PoM. (separately attached)
 5. Native Title Managers Advice - Community Land PoM - Schedule of lands. (separately attached)
 6. Native Title Managers Advice - Red Hill Reserve PoM. (separately attached)
 7. Native Title Managers Advice - Mudgee Showground PoM. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER