

9.6 Draft Plan of Management for Cudgegong Waters Park

REPORT BY THE MANAGER PROPERTY AND REVENUE
TO 20 APRIL 2022 ORDINARY MEETING
GOV400098, cou5000102, 20447

RECOMMENDATION

That Council:

1. receive the report by the Manager Property and Revenue on the Draft Plan of Management for Cudgegong Waters Park ;
2. endorse the draft Plan of Management for Cudgegong Waters Park as appended as Attachment 1 to this Report ;
3. note that Native Title advice has been received for the draft Plan of Management for Cudgegong Waters Park as appended as Attachment 1 to this Report ;
4. refer the draft for Cudgegong Waters Park as appended as Attachment 1 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 Plan 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 by the Minister administering the Crown Land Management Act 2016 ;
6. upon written consent of the draft Plan from the Minister administering the Crown Land Management Act 2016, place the draft Plan on public exhibition, as per s38 of the Local Government Act 1993 ;
7. receive a further report at the conclusion of the public exhibition to consider any submissions received or if substantial changes are recommended for any reason:
 - 7.1 seek the Minister administering the Crown Land Management Act 2016 further consent if necessary, to adopt the draft Plan ; or
 - 7.2 recommend that Council adopt the draft Plan of Management for Cudgegong Waters Park as appended as Attachment 1 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.
8. authorise Lands Advisory Services P/L to:
 - 8.1 act on Council's behalf to provide written advice in accordance with s39 Local Government Act 1993 to the Minister administering the Crown Land Management Act 2016, in relation to the draft Plan of Management for Cudgegong Waters Park ; and
 - 8.2 receive queries and information directly from and to send information and queries to the Minister administering the Crown Land Management Act 2016, during the course of the Minister's deliberation and assessment of the draft Plan of Management.

Executive summary

The purpose of this Report is to seek Council's endorsement of the draft Plan of Management for Cudgegong Waters Park (CWP PoM) and its subsequent referral to the NSW Department of Planning, Industry & Environment – Crown Lands (Crown) as the landowner of the Crown Reserve (the Reserve) for consideration and consent.

Council's endorsement is also sought to place the Draft CWP PoM on public exhibition after Crown's approval has been received.

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 Local Government Act (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 Plan of Management (POM).

As part of the change-over process, Council was required to classify 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 as in the case of the CWP PoM but, 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.

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 CWP PoM complies 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 2 to this Report.

Notification and Exhibition

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

Council is required to resolve to refer the draft CWP PoM to the Minister administering the CLM Act for consideration and consent. Upon approval of the Minister, the CWP 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 significant amendments are made to a draft PoM in relation to a reserve, 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.

Draft Plan of Management for Endorsement

Cudgegong Waters Park is held under Reserve 190025 for *Public Recreation* and comprises 3 allotments:

- Lot 1 DP 737266 (41.79 ha) – Part Lot 1 is used for Holiday/Caravan Park recreational purposes and the remainder of Lot 1 is open recreational area not utilised by the Holiday Park;
- Lot 2 DP 737266 (0.3313 ha) – used in conjunction with Lot 1, as above;
- Lot 3 DP 737266 (12.94 ha) - recreational area for day camping and private camping and access to Windamere Dam for boating and fishing. The Rylstone Kandos Anglers Club currently oversees day to day activity on this site.

The Reserve was dedicated for the purpose of *Public Recreation* in 1987. It has been classified under the LGA as *Community Land* and the Crown has confirmed its categorisation to be that of *General Community Use*.

It is, however, considered that a more appropriate categorisation for the Reserve would be that of *General Community Use* and *Natural Area – Bushland*. In concurrence with Crown, it is proposed to amend the category from solely that of *General Community Use* to also include *Natural Area – Bushland* within some of the allotments.

A description of each category of land and a plan showing the proposed categories in relation to the 3 allotments, is provided in the CWP PoM.

The current use patterns, built and natural assets and their condition, emerging trends, constraints and influences have been considered within this PoM.

The development of the all PoMs for Crown Land Reserves under Council's management 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, the CWP PoM. Public consultation has involved current licensees, site holders of the Holiday Park and users of the Anglers Club camping area.

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 CWP PoM will provide strategic direction for Community Land and Crown Land and is consistent with Council's responsibilities under the LGA and the CLMA. The CWP PoM identifies the permissible uses and development for the land parcels cited in the PoM.

Council may not undertake any activities, uses or developments which are not provided for in the CWP PoM.

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

The CWP PoM will not have an immediate financial impact. Any future priorities identified as part of the CWP PoM 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 CWP PoM will be funded from this resource.

Associated Risks

The CWP PoM addresses Council's various public land management obligations under the LGA and CLMA and clearly sets out these requirements.

One of the key aims of a PoM is to ensure that management of Crown Reserves is conducted 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 the CWP site due to the lengthy process if an amendment is required to the CWP PoM.

DIANE SAWYERS
MANAGER PROPERTY AND REVENUE

NEIL BUNGATE
ACTING CHIEF FINANCIAL OFFICER

25 March 2022

Attachments: 1. Draft Cudgegong Waters Park Plan of Management. (separately attached)
2. Native Title Managers Advice. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER