

9.6 Draft Plan of Management Community Land - Post Crown Review

REPORT BY THE MANAGER PROPERTY AND REVENUE
TO 13 DECEMBER 2023 ORDINARY MEETING
GOV400103, COU500102

RECOMMENDATION

That Council:

1. receive the report by the Manager Property and Revenue on the Draft Plan of Management Community Land - Post Crown Review;
2. note and adopt the changes advocated by Department Planning & Environment – Crown Lands as indicated in this Report;
3. note that written consent of the draft v2.0 Plan of Management Community Land as amended by Department Planning & Environment – Crown Lands has been received and endorsed to proceed to public exhibition;
4. place the amended draft v2.0 Plan of Management Community Land on public exhibition, as per s38 of the Local Government Act 1993 and conduct a public hearing, as required, in accordance with s40A Local Government Act 1993; and
5. receive a further report at the conclusion of the public exhibition period and public hearing period to consider any submissions received or if substantial changes are recommended for any reason to:
 - 5.1 seek the Minister administering the Crown Land Management Act 2016 further consent if necessary, to adopt the draft Plan; or
 - 5.2 recommend that Council adopt the Draft Plan of Management Community Land 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 proposed changes.

Executive summary

The purpose of this report is for Council to consider the proposed changes advocated by Department Planning & Environment – Crown Lands & Public (Crown) in relation to draft v2.0 Plan of Management Community Land (the PoM) and; for Council to resolve to place the amended draft PoM on public exhibition as per s38 of the Local Government Act 1993 (the Act), if the proposed Crown changes are adopted.

Draft v2.0 of the PoM is appended as Attachment 1 to this report.

Disclosure of Interest

Nil

Detailed report

At the Meeting of Council held on 3 November 2021, Council was presented with the draft v1.2 PoM.

Council resolved, via Minute 336-21, to refer this version to Crown for consideration in accordance with s39 of the Act to seek written consent to firstly exhibit and then adopt this draft in accordance with s3.23(6) Crown Land Management Act 2016 (CLMA) and the LGA.

The preparation of the PoM for the Crown Reserves also included the review and allocation of Council owned Community classified land into the required categories. This requirement of the Act had not previously been executed and Plans of Management for these lands are not currently in place. Accordingly, these land parcels have now been incorporated, along with the Reserves, in this PoM to comply with the Act.

Crown has subsequently reviewed this version in relation to the Crown Reserves and has approved the exhibition of the PoM subject to consideration and adoption of the minor amendments as cited in Crown's Approval to Exhibit.

The Approval is appended as Attachment 2 to this report.

In addition to these amendments, other changes have been made to the initial categorisation of some of the Reserves. Categorisations were considered and allocated by Crown on or after July 2018 and forwarded to Council for deliberation. In the majority of instances these categorisations were accepted and endorsed by Council. However, as these were approved by Crown some time ago, Crown's recent considerations have since changed. Crown would not come to the same decision if the categorisations were to be considered and assessed now. Accordingly, under the direction of Crown, categorisation changes were made to a number of Reserves amending the initial categorisation to that of Natural Area Bushland.

The Reserves that were changed to the category of Natural Area Bushland are cited in Appendix 7 of the PoM in Attachment 1 to this report.

Notification and Exhibition

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

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. A public hearing will also be conducted during this period to receive submissions in relation to the Council owned community land parcels subject to the PoM

If significant amendments are made to the 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, the PoM may be referred to Council for consideration to adopt without further Crown referral or public exhibition.

Native Title Manager's Advice

All Plans of Management for Crown Reserves must be compliant with the statutory requirements of the Native Title Act 1993 prescribed by both the CLM Act and the LGA.

Native Title Manager's Advice in relation to v1.2 of the PoM was provided to Council on 3 November 2021. Further Native Title Manager's Advice will be provided when the PoM is presented again for consideration of any submissions and endorsement.

Community Plan implications

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

Strategic implications

Council Strategies

The PoM will provide strategic direction for Community Land and Crown Land and is consistent with Council's responsibilities under the Act and the CLMA. The PoM identifies the permissible uses and possible development for the land parcels cited. Identified possible development may be considered through the normal operational planning and budget processes and constraints.

Council may not undertake any activities, uses or developments which are not provided for in the 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 PoM will not have an immediate financial impact. Any future priorities identified as part of the PoM will be considered through the normal operational planning and budget processes.

Associated Risks

The PoM was prepared by a consultant in consultation with Council's management and Crown. It addresses Council's various public land management obligations under the Act and the 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.

DIANE SAWYERS
MANAGER PROPERTY AND REVENUE

LEONIE VAN OOSTERUM
DIRECTOR CORPORATE SERVICES

22 November 2023

- Attachments:*
1. Draft v2 Plan of Management Community Land. (separately attached)
 2. Approval from Crown to exhibit draft Plan of Management Community Land. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER