

Ordinary Council Meeting

Late Items of Business

Maclean - 25 October 2022 - 2:00pm



AGENDA

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10. LATE ITEMS OF BUSINESS AND MATTERS ARISING

ITEM 10.22.004 CLARENCE VALLEY COMMUNITY LAND, CROWN RESERVES AND OTHER PUBLIC PLACES PLAN OF MANAGEMENT (DRAFT)

Meeting	Council	25 October 2022
Directorate	Environment & Planning	
Prepared by	Senior Strategic Planner (Public Land/Native Title), Dr Danny Parkin	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Notice of Plan(s) of Management for Crown reserve(s) (Separate Cover) B. (draft) Clarence Valley Community Land, Crown Reserves and other Public Places Plan of Management (Separate Cover)	

SUMMARY

This draft generic plan of management (PoM) updates the draft generic PoM presented to Council at its 20 April 2021 (Item 6b.21.017) Ordinary meeting. The preparation of a PoM is a statutory requirement for land classified as 'community' under the *Local Government Act 1993* and for community Crown land under the *Crown Land Management Act 2016*.

OFFICER RECOMMENDATION

That Council:

1. Note the preparation of a revised (draft) *Clarence Valley Community Land, Crown Reserves and other Public Places Plan of Management* (generic PoM) for all Council-owned land and Crown land managed by Council set aside and/or embellished as public open space or developed for a specific community purpose not covered by a site-specific PoM.
2. Authorise the General Manager to refer the draft generic PoM; including the submission of the *Notice of Plan(s) of Management for Crown reserve(s)* form to the NSW Department of Planning and Environment (DPE) Crown Lands Division as owner of the Crown land included in the draft generic PoM for approval to place on public exhibition.
3. Place the draft generic PoM on public exhibition (after it has been returned by DPE and any corrections regarding the Crown land under the PoM are made) for a period not less than 28 days as required under the *Local Government Act 1993*.
4. Conduct at least two (2) public hearings (one in Maclean and one in Grafton) regarding the proposed additional categorisation of Council-owned 'community' and the categorisation of recently acquired Council-owned 'community' land by the PoM (detailed in Schedules 1AA and 1AB of the draft generic PoM).
5. Accept submissions on the draft generic PoM for a period not less than 42 days from the date the plan is placed on public exhibition as required under the *Local Government Act 1993*.
6. Report any submissions received and the draft generic PoM back to Council after the submission period has closed, for consideration of its adoption (or re-exhibition) as per the requirements of section 40 of the *Local Government Act 1993*.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have an effective and efficient organisation

KEY ISSUES**Requirement to submit a new Form**

Council's submission of its draft generic PoM and *Form B (Notice of plan of management for Crown reserve—Alteration of categorisation or additional/new categorisation)* in May 2021 was consistent with the requirements set out by the former *NSW Department of Planning, Industry and Environment (DPIE) Crown Lands Division* at the time. The requisite Form B only required Council to list the Crown reserves where a change to the pre-assigned category was required. Nine (9) Crown reserves (out of a total of 123 community Crown reserves) were listed on this form.

The subsequent legislative change brought about by the enactment of the *Crown Land Management Amendment (Plan of Management) Regulation 2021* on the 4 June 2021 has retrospectively changed the process to submit draft plans of management to DPE also explicitly changed the process required to submit draft plans of management for Ministerial consent prior to placing on public exhibition. The new form - *Notice of Plan(s) of Management for Crown reserve(s)* – requires details of the 123 community Crown reserves listed under Schedules 2A and 2AA of the draft generic PoM to be included on the form.

As the Form also acts as an application *seeking Minister's consent to adopt the draft Plan(s) of Management under Clause 70B of the Crown Land Management Regulation 2018*, this form needs to be brought before Council under s377(1)(s) of the *Local Government Act 1993* for a resolution.

The *Notice of Plan(s) of Management for Crown reserve(s)* is included as **Attachment A**. Refer to Background (below) regarding the delays awaiting advice from the Department (Crown Lands).

Changes made to the previously presented draft generic PoM

Crown Lands as part of their preliminary review of the draft generic PoM has requested the following changes prior to its resubmission for a more formal consideration prior to granting of Ministerial consent to publicly exhibit:

- Updating references to Departmental names and legislation that had been amended during the interim
- Amending Schedule 2A, 2AA and 2B to identify the owner of the reserves as the State of NSW
- Including a schedule of all current leases, licences and estates over the crown reserves in the draft PoM.

These amendments have been made. In addition, changes made by the report author include:

- Insertion of a User Guide to the draft generic PoM (recommendation made by Councillors at the 20 April 2021 business meeting)
- Update to specific Council policies mentioned in the draft generic PoM
- Revision of the section regarding native title
- Addition of seven new parks/reserves to *Schedule 1AB: Council-owned community land to be categorised for the first time by this draft generic PoM*
- Minor grammatical changes/corrections as required.

The revised (draft) *Clarence Valley Community Land, Crown Reserves and other Public Places Plan of Management* is included as **Attachment B**.

Requirement to hold a public hearing

Section 40A of the *Local Government Act 1993* requires a council to hold a public hearing in respect of a proposed PoM (including a PoM that amends another PoM) if the proposed PoM would have the effect of categorising, or altering the categorisation of, community land under section 36(4).

The draft generic PoM includes two parks/reserves (Schedule 1AA) requiring additional categories and 27 parks/reserves (Schedule 1AB) that will be categorised for the first time by a PoM. Consequently, a public hearing will be required as part of the public exhibition/submission process to seek public comment on Council's proposal to categorise the land detailed at Schedule 1AA and 1AB of the generic PoM.

Eighteen park/reserves are based around the Grafton area, while the remainder are based around the Maclean area. Two public hearings, one in Grafton and one in Maclean are proposed.

BACKGROUND

Council submitted the previous draft generic PoM to the former NSW Department of Planning, Industry and Environment (DPIE) Crown Lands Division as owner of the Crown land covered by the draft generic PoM on the 10 May 2021 for comment, and for Ministerial consent to alter some categories pre-assigned prior to placing the draft plan on public exhibition (refer Item 6b.21.017, 20 April 2021).

After no less than six (6) enquiries over the approximate 12 month period as to the progress of the Department's review of the draft generic PoM Council was advised as follows:

- 5 May 2022 – that Council would be required to submit a new Form due to legislation changes that were enacted on the 4 June 2021
- 8 June 2022 – the changes required to the draft generic PoM in regards to the Crown reserves listed under the plan.

Since being informed of the requirement to make certain changes to the draft generic PoM Council staff have also undertaken a review of the draft plan and have updated it with matters that have evolved over the past 12 months or so while awaiting advice from the Department.

The revised draft generic PoM now provides management direction and use of 382 parks and reserves consisting of:

- Council-owned land that includes:

Type of public land	Number (individual parks, reserves & public places)	Approx. Land Area (Ha)
Community land	183	181.77
Operational land	17	28.60
Road Reserves	37	13.19
Total	237	223.56 Ha

- Council-managed Crown land that includes:

Council as -	Number of Crown reserves	Number (individual parks, reserves)	Approx. Land Area (Ha)
Crown Land Manager	123	136	770.29
Devolved Manager	8	8	6.57
Trustee	1	1	9.34
Total	132	145	786.20 Ha

Council-owned operational land and road reserves, and Council managed Devolved Crown land and Trustee land is not required to be included under a PoM. However, are so to provide consistency in the management and use of all land managed by Council embellished as open space and available for the public to use for passive and active recreation opportunities.

COUNCIL IMPLICATIONS

Budget/Financial

The revised draft generic PoM has been prepared in-house using the resources of Council. The public exhibition of the draft generic PoM will be coordinated through Council's 'On Exhibition' webpage and 'Noticeboard' publication.

A cost will be associated with the requirement to hold a public hearing in accordance with s40A of the LG Act. The public hearing must be facilitated by an independent chair. It is likely that a public hearing would need to be conducted in both Grafton and Maclean due to the locations of the parks and reserves to be categorised for the first time or to have an existing category amended by the addition of a new category, and to give the community appropriate opportunity to be involved. A report outlining the hearing and any recommendations made need to be considered as part of the submission process. An approximate amount of \$5,000 is required for a consultant to facilitate the two hearings and produce a report of the hearings, which will be sourced from the existing Strategic Planning budget.

Asset Management

Council as owner of land and road reserves; and as Crown land manager or devolved of the Crown land covered by this draft generic PoM has the care, control and/or management of the land and assets there upon.

Policy and Regulation

Crown Land Management Act 2016

Local Government Act 1993

Native Title Act 1993 (Cth)

Roads Act 1993

Consultation

Council's Open Spaces Coordinator was advised of the requested changes to be made to the draft generic PoM.

The public exhibition submission period and the public hearing will provide a platform for the general community to comment on the intent and management direction of the draft generic PoM and the category(s) assigned, and/or altered by the proposed new generic PoM.

Legal and Risk Management

A PoM is a statutory document that aims to satisfy the requirements of both the *Local Government Act 1993* and the *Local Government Amendment (Community Land Management) Act 1998* and the requirement under the *Crown Land Management Act 2016* to manage certain community Crown reserves as if the land was classified as 'community' under the *Local Government Act 1993*.

The draft generic PoM details how Council will manage the land, and in particular indicates how the land may be used and further developed, including the issuing of tenures over the land and facilities.

Council's principal Native Title Manager has been involved in the development of this draft generic PoM and is satisfied that it complies with the applicable provisions of the native title legislation. The majority of the Crown reserves included under the draft generic PoM will have native title considerations as part of the use and management of these reserves.

Climate Change

Climate change is considered as part of the management issues section of the draft generic PoM – refer section 6.2.2. Management actions in regard to addressing the impact of climate change are included in section 7, Table 7.5 of the draft generic PoM.