



Plan of Management

Old Power House Reserve Crown Street, Tenterfield

Version 1.0 – September 2022



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Table of Contents

Executive Summary	5
Part 1: General Information	6
1. Introduction	6
1.1. What is a Plan of Management for Community Land	6
1.2. Corporate objectives	6
1.3. Review of this plan	7
1.4. Community consultation	7
2. Land Description	8
2.1. Land to which this Plan applies	8
2.2. Owner of the land	9
2.3. Categorisation of the reserve	9
2.4. Zoning of the reserve	10
2.5. Land comprising the habitat of endangered or threatened species	11
2.6. Land containing significant natural features	11
2.7. Culturally significant land	12
3. Development and Use	12
3.1. Overview	12
3.2. Condition of the land and structures on adoption of the Plan	12
3.3. Use of the land and structures as at the date of adoption of the Plan	13
3.4. Permitted use	13
3.5. Further development	13
3.6. Scale and intensity	13
3.7. Leases, Licences & other Estates	13
3.8. Short term Casual Purposes	14
3.9. Signs	14
3.10. Easements	14
3.11. Alcohol	14



3.12. Management actions.....	15
3.13. Fees and charges	15
4. Additional matters	16
4.1. Definitions	16
4.2. Native Title Assessment	16
4.3. Community assistance.....	16
Part 2: Detailed Information Regarding Categories of Land	17
5. Category: Park	17
5.1. Introduction	17
5.2. Key issues	17
5.3. Development and use	17
5.4. Express authorisation of leases, licences, and other estates – Park.....	18
5.5. Management framework for land categorised as Park	19
6. Category: Natural Area – Watercourse.....	20
6.1. Introduction	20
6.2. Key issues	20
6.3. Development and use	21
6.4. Express authorisation of leases, licences, and other estates – Natural Area – Watercourse.....	21
6.5. Management framework for land categorised as Natural Area – Watercourse	22
Appendix A: Plan of Management Legislative Framework.....	24
Appendix B: Concept Design – Youth Precinct & Mountain Bike Trail Head	31
Appendix C: Existing Leases & Licences on the site	32
Appendix D: Aboriginal Interests in Crown Lands	33



Executive Summary

This Plan of Management, adopted on **28th September 2022** by Tenterfield Shire Council, applies to Crown Reserve R22044, Crown Street, Tenterfield. The Crown reserve will be referred to as Old Power House Reserve in this Plan.

The purpose of this Plan is to provide Council with a framework that enables decisions regarding Old Power House Reserve, to be made on a consistent and equitable basis. The Plan meets all the requirements of the Crown Land Management Act 2016 (CLM Act) and the Local Government Act 1993 (LG Act) as amended and Local Government (General) Regulation 2021.

Old Power House Reserve is owned by the NSW State Government (the Crown) and is managed by Tenterfield Shire Council as Crown Land Manager, under the CLM Act. This Plan replaces the existing plan of management, previously adopted by Council for the land. It should be read in conjunction with any plan of management that applies to the remainder of Old Power House Reserve.

Acknowledgement of Country

Tenterfield Shire Council would like to acknowledge the traditional custodians of this land and would also like to pay respect to the elders past, present and emerging of the Jukembal, Kamilaroi and Bundjalung nations and extend that respect to other aboriginal people.

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Part 1: General Information

1. Introduction

The *Crown Land Management Act 2016* (CLM Act) commenced on 1 July 2018, introducing legislation to govern the management of Crown land in NSW. Councils will now manage their Crown reserved land as if it were public land under the *Local Government Act 1993* (LG Act).

Most of this land is expected to be 'community land' under the LG Act, meaning that Councils will be required to have plans of management in place for the land. Old Power House Reserve is a Crown reserve and is classified as community land under the LG Act. Therefore, this Plan of Management (the Plan) has been prepared to comply with the legislation.

1.1. What is a Plan of Management for Community Land

A Plan of Management (PoM) is a document that guides the management of a particular category, or specific areas, of community land that are directly owned by Council, or under the care and management of Council.

Plans of Management may take either of two forms:

1. GENERIC – covering a number of sites where attributes remain the same; or,
2. SPECIFIC – covering a unique site where management issues are more complex and may require site specific planning targets.

This Plan is a SPECIFIC PLAN covering the Old Power House Reserve site under the community land category of PARK and NATURAL AREA – WATERCOURSE.

This Plan has a role in assisting the community to gain a better understanding of the complex day-to-day management Council undertakes for its public lands, which can take the form of routine management and maintenance; design and construction of new facilities; and the management of sensitive areas.

1.2. Corporate objectives

The purpose of this Plan is to provide Council with a framework that enables decisions, with regards to Old Power House Reserve, to be made in a consistent and equitable basis. The Plan meets all the requirements of the CLM Act and LG Act, as amended.

Council's vision for Old Power House Reserve recognises the long-term use of the site, as socially, culturally, and physically enhancing the community. The site will be managed and maintained according to the categorisation of Park as detailed in this Plan.

The Plan is influenced by the core management objectives within the Tenterfield *Parks and Sportsgrounds Plan of Management*. These are:

1. To encourage, promote and facilitate recreational, cultural, social, and educational pastimes and activities; and,
2. To provide for passive recreational activities or pastimes and for the casual playing of games; and,
3. To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.



The Plan is also written to reflect each of Council's core values: Integrity – Community focus – Accountability – Respect – Excellence. Further information about the legislative context of Crown Reserve Plans of Management can be found in Appendix A of this document.

1.3. Review of this plan

Council reviews plans of management as required. Reviewing the Plan is the only way to change the land category, nature, and use of the land.

1.4. Community consultation

Tenterfield Shire Council recognises community participation is an integral aspect of planning and is committed to providing opportunities for the community to be involved in the planning system.

This Plan is required to be placed on public exhibition for a period of 28 days in accordance with the LG Act. The public exhibition will provide opportunity for the community to provide feedback via submissions.

Community consultation has already been undertaken for the proposed development (Appendix B). Three (3) onsite meetings were held with school groups, key stakeholders, and the indigenous community. School students also participated in a survey to identify what features they would like to see in the Youth Precinct.

2. Land Description

2.1. Land to which this Plan applies

This Plan applies to part of Old Power House Reserve situated on Crown reserve R22044, Crown Street, Tenterfield. The reserve information is detailed below in Table 1.

Table 1: Reserve information

Reserve number	R22044
Gazetted date	19 May 1972
Reserve purpose	Public Recreation
Land parcel/s	Lot 12 Sec. 22 DP 758959 Lot 701 DP 1059521 Lot 7029 DP 1112788
Area (sqm)	19,608
LEP 2013 zoning	RU5 – Village
Assigned category/categories	Park Natural Area – Watercourse

See Figure 1 below for land to which this Plan applies.



Figure 1: Land to which this Plan applies (Old Power House Reserve)



2.2. Owner of the land

Old Power House Reserve is owned by the NSW State Government (the Crown) and is managed by Tenterfield Shire Council as Crown Land Manager, under the CLM Act. There are restrictions on transfer and management of Crown land under section 2.12 and 3.22 of the CLM Act.

2.3. Categorisation of the reserve

Under section 3.23 of the CLM Act, Crown land reserves managed by Council are required to be categorised into one or more of the following categories according to their purpose:

- Park,
- Sportsground,
- General Community Use,
- Area of Cultural Significance,
- Natural Area – Bushland,
- Natural Area – Wetland,
- Natural Area – Escarpment,
- Natural Area – Watercourse,
- Natural Area – Foreshore.

In accordance with advice from the Department of Planning, Industry and Environment – Crown Lands, the guidelines set out in the *Local Government (General) Regulation 2021*, and Practice Note 1: Public Land Management (Department of Local Government Amended 2000) Old Power House Reserve is categorised as:

- Park
- Natural Area – Watercourse

Council currently manages and will continue to manage the reserve in a way that allows the public to utilise the site as for the purpose which is outlined in the core objectives of Park and Natural Area – Watercourse. See Figure 2 for categorisation of the Reserve.



Figure 2: Categorisation of the Reserve

2.4. Zoning of the reserve

Old Power House Reserve is zoned as Public Recreation under the *Tenterfield Local Environmental Plan 2013* (LEP). The reserve adjoins other lands zoned RU5 Village. Land zones are shown in Figure 3 below.



Figure 3: Land Zones

The objectives of the RU5 - Village zone in the LEP include:

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To enable development of a scale that is compatible with the general residential character of village areas and that will not prejudice the viability of established shopping and commercial centres.

Refer to the LEP for permissible uses in the RU5 - Village zone and other attributes present on the site.

2.5. Land comprising the habitat of endangered or threatened species

A SEED search (www.geo.seed.nsw.gov.au) and an eSPADE search (www.environment.nsw.gov.au/eSpade2Webapp) were conducted on 24/08/2022. Under the *Biodiversity Conservation Act 2016* (BC Act) no known records of endangered ecological communities on the site were identified.

Threatened species identified under the BC Act in the reserve include (see Figure 4):

- Eel Tailed Catfish – Tenterfield Creek
- Southern Purple Spotted Gudgeon – Tenterfield Creek

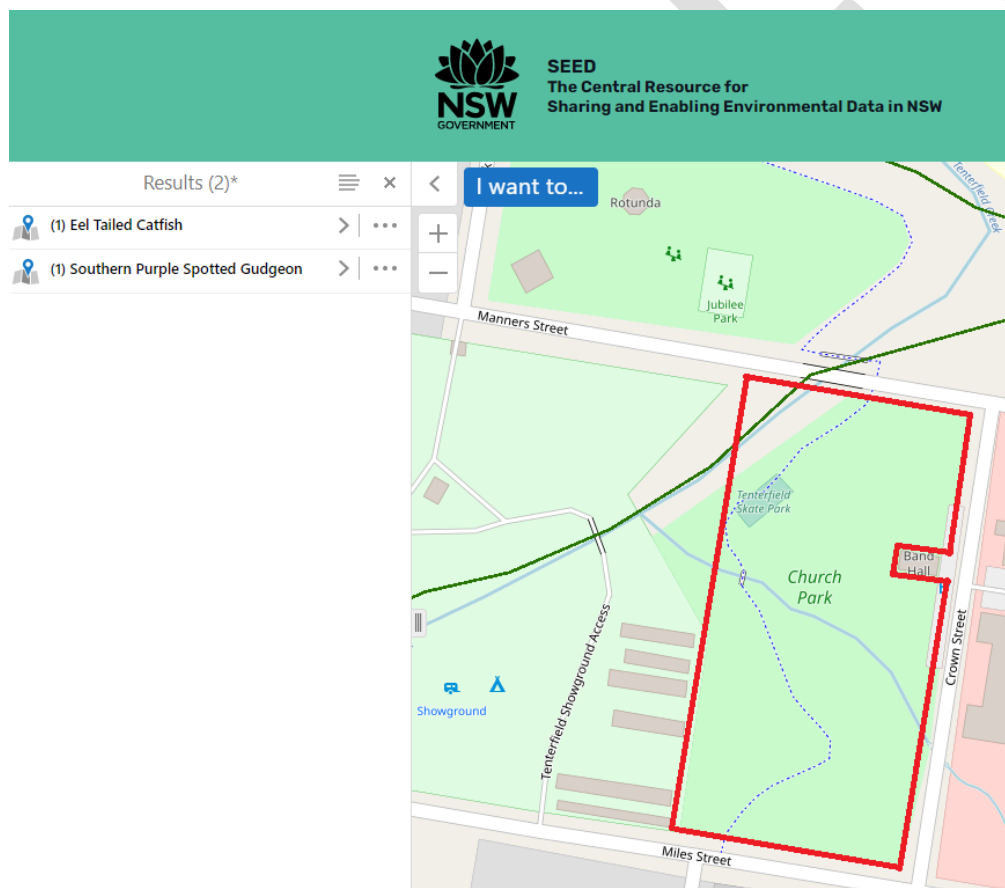


Figure 4: Identified threatened species (search conducted 24/08/2022)

2.6. Land containing significant natural features

The site has not been identified under Section 36C of the LG Act, with regards to significant natural features.



2.7. Culturally significant land

Under Section 36D of the LG Act, the reserve has not been identified as an Area of Cultural Significance.

Aboriginal Significance

At the time the plan was made, no identified items of cultural heritage significance, known Aboriginal archaeological sites, or places of specific Aboriginal heritage significance were located within the reserve. Nevertheless, any works proposed should ensure consistency with the *Tenterfield LGA Aboriginal Heritage Study (2013)*.

It is noted that Crown Lands have advised Council of an Aboriginal Land Claim (31658). That was lodged on 13 October 2010 for Lot 12 Section 22 DP 758959 on behalf of the Moombahlene Local Aboriginal Land Council. No works can be conducted on Lot 12 until such time as advice is received regarding the claim.

Non-Aboriginal Significance

Old Power House Reserve is not identified as a significant item of Environmental Heritage under *Tenterfield Local Environmental Plan 2013 (LEP)*.

3. Development and Use

3.1. Overview

Council's Resourcing Strategy ensures sufficient financial and human resources exist to provide services and infrastructure assets expected by the community. The Long-Term Financial Plan, Asset Management Strategy, and Workforce Management Plan contained within the strategy address strategies and actions contained within the Community Plan. These strategies and actions are then implemented through the Delivery Program and Operational Plan. The Resourcing Strategy ensures Council has an ongoing commitment to the maintenance of this reserve.

3.2. Condition of the land and structures on adoption of the Plan

Council's Asset Management Plan reports on the current state of Council assets. Asset conditions are assessed as part of comprehensive network inspections. These assessments are undertaken in accordance with the Institute of Public Works Engineering Australasia Practice Notes.

At the date of adoption of this Plan, assets identified on the site and their current condition include:

- Footpath – varying condition
- Signs – good condition
- Fencing – fair condition
- Skate Park – fair condition
- Basketball Court – fair condition

Vegetation consists of mowed exotic parkland grasses and is in good condition.



3.3. Use of the land and structures as at the date of adoption of the Plan

Old Power House Reserve's current use is Park and Natural Area – Watercourse, shared-use pathway, skate park and basketball court used by pedestrians and cyclists.

See Appendix C for current leases and licences on the site.

3.4. Permitted use

The purpose of Old Power House Reserve is for public recreation, the assigned category is Park and Natural Area – Watercourse. This purpose and category align with the reserve's past and current use and corporate objectives. Refer to the LEP for permissible uses in the RU5 – Village zone and other attributes present on the site. At the time of this report no permitted use were identified; however, contractors should exercise due diligence before commencing any development works.

3.5. Further development

Further development may be considered along with maintenance of existing infrastructure if it is consistent with the categories and purpose for the reserve and relevant legislation such as the LG Act, *Native Title Act 1993*, and the CLM Act.

The general types of uses which may occur on community land categorised as Park and Natural Area – Watercourse, and the forms of development generally associated with those uses, are set out in tables in Sections 5 & 6 of this Plan.

Currently there is a concept design for a Youth Precinct & Mountain Bike Trail Head in the Reserve (Appendix B). This concept design will be updated once final design plans are received.

3.6. Scale and intensity

Old Power House Reserve's current use is Park and Natural Area – Watercourse, shared-use pathway, skate park and basketball court used by pedestrians and cyclists. The intensity with which this reserve is used is dependent on varying factors such as weather, day of the week and holidays. The reserve will be used in future for public recreation, with public right of access to all outdoor areas.

3.7. Leases, Licences & other Estates

This Plan expressly authorises leasing, licensing, or granting of any other estate over this reserve for any community purpose as determined by Council. Any agreement which may be entered into will be in accordance with relevant section of the LG Act (s. 46 and 47) and in consideration of native title implications for Crown land.

This Plan expressly authorises the issue of leases, licences, and other estates over the reserve, provided that:

- The purpose is consistent with the reserve purpose of the land.
- The purpose is consistent with the core objectives for the category of the land.
- The lease, licence or other estate is for a permitted purpose listed in the LG Act or the *Local Government (General) Regulation 2021*.



- The issue of the lease, licence or other estate and the provisions of the lease, licence or other estate for Crown land can be validated by the provisions of the *Native Title Act 1993*.
- Where the land is subject to a claim under the *Aboriginal Land Rights Act 1983* the issue of any lease, licence or other estate will not prevent the land from being transferred in the event the claim is granted.
- The lease, licence or other estate is granted and notified in accordance with the provisions of the LG Act or the *Local Government (General) Regulation 2021*.
- The issue of the lease, licence or other estate will not materially harm the use of the land for any of the purposes for which it was dedicated or reserved.
- Council Crown Land Managers have obtained written advice from a qualified Native Title Manager that any proposed lease or licence arrangements comply with any applicable provisions of the *Native Title Act 1993* for Crown land.

Tables in the relevant category sections of this Plan further identify the purposes for which leases and licences may be issued over the reserve.

3.8. Short term Casual Purposes

Subject to Council approval, the following short term casual purposes may be allowed if considered appropriate:

- a) the playing of a musical instrument, or singing, for fee or reward,
- b) engaging in a trade or business,
- c) the playing of a lawful game or sport,
- d) the delivery of a public address,
- e) commercial photographic sessions,
- f) picnics and private celebrations such as weddings and family gatherings,
- g) filming sessions.

3.9. Signs

Council uses signs to regulate the activities carried out on community land and to provide educational information. All Council signs erected under Part 9 of the CLM Act, plus reserve name signs and traffic and safety signs, are permissible. Council must approve all other signs, including design before erection. All signs must be sympathetic to their environment in their design, construction, and location.

3.10. Easements

Council reserves the right to grant easements as required for utilities and access.

3.11. Alcohol

Council can declare the area an alcohol-free zone under Chapter 16, Part 4 – Street Drinking (s.642-648) of the LG Act.



3.12. Management actions

Management actions must be consistent with those outlined in this Plan. Council shall provide (when required) the construction and maintenance of utility services, provision and maintenance of wetlands, flood ways, cycle ways, vehicular access ways and the granting of easements.

3.13. Fees and charges

Council fees and charges may apply for specific uses of the reserve, these are outlined in Council's Fees and Charges Schedule. Applications must be lodged with Council for reserve hire.

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4. Additional matters

4.1. Definitions

The terms used within this Plan are to be understood as they are presented in the LG Act. For terms which require further definition, please see the *Interpretations Act 1987*.

4.2. Native Title Assessment

The CLM Act provides new direction for the management of Crown Land and Council is now responsible for compliance with Native Title legislation for the Crown land that it manages.

Council is required to undertake steps to identify if any activities that they do, or do not allow on Crown land, will have native title implications, what provisions of the *Native Title Act 1993* will validate the activity and what procedures should be taken in relation to a particular activity prior to its commencement.

Council must receive written advice from its Native Title Manager in relation to certain activities and acts it intends to carry out on Crown land.

Where a plan of management covers both Crown and Council owned land, native title assessment and advice for any activity is only required for the Crown land portion of the reserve.

See Appendix D for more information regarding Aboriginal Interests in Crown Land.

4.3. Community assistance

Council will encourage, where appropriate, community assistance in the development of new facilities as well as maintenance of existing facilities through the co-operation and assistance of local groups.

Part 2: Detailed Information Regarding Categories of Land

5. Category: Park

5.1. Introduction

Part of Lot 7029 & Lot 701 and all of Lot 12 of Old Power House Reserve are categorised as Park.

The guidelines for categorisation of land as Park under clause 104 of the *Local Government (General) Regulation 2021* are if the land:

Is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational, and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.

This reserve contains a shared-use pathway and mowed grass. It is therefore categorised as Park.

The core objectives for the management of land categorised as Park are:

- To encourage, promote and facilitate recreational, cultural, social, and educational pastimes and activities, and
- To provide for passive recreational activities or pastimes and for the casual playing of games, and
- To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

5.2. Key issues

The key issues associated with the land categorised as Park within Old Power House Reserve include but are not limited to:

Linkages to Other Land

The Crown reserve incorporates sections of the shared use pathway linking through to the potentially Heritage listed band hall (further investigation required) from Jubilee Park. There is also a sewer line that runs through the Crown reserve.

Threatened Fauna

Ensure threatened fauna are protected and mitigate impact by the community.

Threatened species identified on the site include:

- Eel Tailed Catfish – Tenterfield Creek
- Southern Purple Spotted Gudgeon – Tenterfield Creek

5.3. Development and use

The current use of the land categorised as Park within Old Power House Reserve is public recreation, with pedestrian access and cyclists utilising the shared-use pathway, skate park and basketball court.

Developments and uses on the reserve must be consistent and permissible under the LEP and State Environmental Planning Policies (SEPPs) applicable to this site. These activities or developments must also be consistent with the land categorisation.

Council approval may be required prior to any development or improvement made to Community Land.

All major developments and improvements to be funded (solely or partially) by Council will be subject to Council approval.

The general types of uses which may occur on community land categorised as Park, the forms of development which generally associate with those uses, as set out in detail in Table 2. The facilities on community land may change over time, reflecting the needs of the community. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Table 2: Possible permissible use and development of community land categorised as Park

Purpose/use	Examples of development to facilitate uses
<p>Active and passive recreation including children's play and cycling</p> <ul style="list-style-type: none"> Group recreational use, such as picnics and private celebrations Eating and drinking in a relaxed setting Publicly accessible ancillary areas, such as toilets Festivals, parades, markets, fairs, exhibitions and similar events and gatherings Low intensity commercial activities (e.g. recreational equipment hire) Filming and photographic projects Busking Public address (speeches) Community gardening <p>NB: Some of the uses listed above require a permit from the council.</p>	<p>Development for the purposes of improving access, amenity and the visual character of the park, e.g. paths, public art, pergolas</p> <ul style="list-style-type: none"> Development for the purposes of active recreation such as play equipment, exercise equipment, bike racks, half-court basketball courts, bocce courts Amenities to facilitate the safe use and enjoyment of the park e.g. picnic tables, BBQs, sheltered seating areas Kiosk or refreshment areas including external seating Lighting, seating, toilet facilities, courts, paved areas Hard and soft landscaped areas Storage sheds Car parking and loading areas Commercial development which is sympathetic to and supports use in the area, e.g. hire of recreation equipment Community gardens Heritage and cultural interpretation, e.g. signs Advertising structures and signage (such as A frames and banners) that: <ul style="list-style-type: none"> relate to approved uses/activities are discreet and temporary are approved by the council Bio-banking and carbon sequestration initiatives Water saving initiatives such as stormwater harvesting, rain gardens and swales Energy saving initiatives such as solar lights and solar panels Locational, directional and regulatory signage

5.4. Express authorisation of leases, licences, and other estates – Park

This plan of management expressly authorises the issue of leases licences and other estates over the land categorised as Park. Table 3 provides some possible types of purposes for which tenure may be granted. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.



Table 3: Leases, licences and other estates and purposes for which they may be granted for community land categorised as Park

Type of tenure arrangement	Maximum term	Examples of purposes for which tenure may be granted
Lease	As per statutory requirements	<ul style="list-style-type: none"> Kiosk areas, including seating and tables Management of court facilities Hire or sale of recreational equipment
Licence	As per statutory requirements	<ul style="list-style-type: none"> Outdoor kiosk seating and tables Management of court or similar facilities Hire or sale of recreational equipment
Short-term licence	As per statutory requirements	<ul style="list-style-type: none"> The playing of a musical instrument, or singing, for fee or reward Engaging in a trade or business, such as community events, festivals, fairs, markets, auctions, and similar activities The playing of a lawful game or sport The delivery of a public address, public performances Commercial photographic sessions Picnics and private celebrations such as weddings and family gatherings Filming sessions
Other estates		This PoM allows the council to grant 'an estate' over community land for the provision of public utilities and works associated with or ancillary to public utilities and provision of services, or connections for premises adjoining the community land to a facility of the council or public utility provider on the community land in accordance with the LG Act.

5.5. Management framework for land categorised as Park

The Action Plan (Table 4) is prepared in accordance with Section 36 of the LG Act and identifies the:

- Broad management issues,
- Objectives and performance targets of the Plan with respect to the land,
- Means by which Council proposes to achieve the Plan's objectives and performance targets; and
- The manner in which Council proposes to assess its performance with respect to the Plan's objectives and performance targets.

Table 4: Action plan for land categorised as Park

Management Issues	s.36(3)(b) objectives and performance targets	s.36(3)(c) means of achievement of objectives	s.36(3)(d) manner of assessment of performance
Encourage use of the reserve	To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities.	Ensure pedestrians can access the open space unimpeded.	Park is well used by a range of user groups
Facilities on the reserve	To provide for passive and active recreational activities or pastimes and for the casual playing of games.	Maintain pathway to an appropriate standard for use.	Facilities maintained as required. No negative reports from park users.
Improvements and maintenance to the reserve	To improve the land in such a way as to promote and	By generally maintaining the area in a neat, tidy and safe	Park is well maintained, neat, tidy and safe.

Management Issues	s.36(3)(b) objectives and performance targets	s.36(3)(c) means of achievement of objectives	s.36(3)(d) manner of assessment of performance
	facilitate its use to achieve the other core objectives for its management.	condition in accordance with Council's Service Level Agreement (SLA). Undertake appropriate maintenance to facilities.	The reserve is maintained in accordance with Council's SLA for the site. Park is well used by a range of user groups. Inspections are made by appropriate Council staff when required.

6. Category: Natural Area – Watercourse

6.1. Introduction

Part of Lot 7029 and Part of Lot 701 on Old Power House Reserve are categorised as Natural Area – Watercourse.

Watercourses are defined in LG Regulation 110 as any stream of water, perennial or intermittent, in a natural or artificial channel, and associated riparian land or vegetation.

The core objectives for watercourses, as outlined in Section 36M of the LG Act, are to:

- manage watercourses so as to protect the biodiversity and ecological values of the instream environment, particularly in relation to water quality and water flows
- manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability
- restore degraded watercourses
- promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category.

6.2. Key issues

The key issues associated with the land categorised as Natural Area - Watercourse within Old Power House Reserve include but are not limited to:

Linkages to Other Land

The Crown reserve incorporates sections of the shared use pathway linking through to the potentially Heritage listed band hall (further investigation required) from Jubilee Park. There is also a sewer line that runs through the Crown reserve.

Threatened Fauna

Ensure threatened fauna are protected and mitigate impact by the community.

Threatened species identified on the site include:

- Eel Tailed Catfish – Tenterfield Creek

- Southern Purple Spotted Gudgeon – Tenterfield Creek

6.3. Development and use

The current use of the land categorised as Natural Area – Watercourse within Old Power House Reserve is used for public recreation.

Developments and uses on the reserve must be consistent and permissible under the LEP and State Environmental Planning Policies (SEPPs) applicable to this site. These activities or developments must also be consistent with the land categorisation.

Council approval may be required prior to any development or improvement made to Community Land.

All major developments and improvements to be funded (solely or partially) by Council will be subject to Council approval.

The general types of uses which may occur on community land categorised as Natural Area – Watercourse, the forms of development which generally associate with those uses, as set out in detail in Table 5. The facilities on community land may change over time, reflecting the needs of the community. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Table 5: Possible permissible use and development of community land categorised as Natural Area – Watercourse

Purpose/use	Examples of development to facilitate uses
<ul style="list-style-type: none"> • Preservation of the council's natural heritage including the identified endangered ecological communities • Preservation of biological diversity and habitat • Providing a location for relaxation and passive, informal, water-based recreation, unless prohibited. • Approved bush care projects requiring ecological restoration activities associated with the protection and conservation of flora and fauna • Restoration works associated with the protection of the biodiversity and ecological values of the in-stream environment. 	<ul style="list-style-type: none"> • Visitor facilities: toilets, picnic tables, BBQs, sheltered seating areas, lighting, low-impact carparks, refreshment kiosks (but not restaurants) • Low-impact walking trails • Interpretive signage, information kiosks • Water-saving initiatives such as rain gardens, swales and sediment traps • Bridges, observation platforms • Work sheds or storage sheds required in connection with the maintenance of the land • Bicycle/boat hire or similar • Temporary erection or use of any building or structure necessary to enable a filming project to be carried out • Locational, directional and regulatory signage • Flood mitigation works, such as detention basins, realignment of water flows and banks, installation of pipes, culverts and other structures to assist in control of flood waters.

6.4. Express authorisation of leases, licences, and other estates – Natural Area – Watercourse

This plan of management expressly authorises the issue of leases licences and other estates over the land categorised as Natural Area – Watercourse. Table 6 provides some possible types of purposes for which tenure may be granted. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Table 6: Leases, licences and other estates and purposes for which they may be granted for community land categorised as Natural Area – Watercourse

Type of tenure arrangement	Maximum term	Examples of purposes for which tenure may be granted
Lease	As per statutory requirements	<ul style="list-style-type: none"> Walkways, pathways, bridges, causeways Observation platforms, signs Information kiosk Kiosk selling light refreshments (but not restaurants) Bicycle/boat hire or similar Work sheds or storage sheds required in connection with the maintenance of the land Toilets Temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Licence	As per statutory requirements	<ul style="list-style-type: none"> Walkways, pathways, bridges, causeways Observation platforms, signs Information kiosk Kiosk selling light refreshments (but not restaurants) Bicycle/boat hire or similar Work sheds or storage sheds required in connection with the maintenance of the land Toilets Temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Short-term licence	As per statutory requirements	<ul style="list-style-type: none"> Scientific studies and surveys or similar Bicycle/boat hire or similar Temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Other estates		This PoM allows the council to grant 'an estate' over community land for the provision of public utilities and works associated with or ancillary to public utilities and provision of services, or connections for premises adjoining the community land to a facility of the council or public utility provider on the community land in accordance with the LG Act.

6.5. Management framework for land categorised as Natural Area – Watercourse

The Action Plan (Table 7) is prepared in accordance with Section 36 of the LG Act and identifies the:

- Broad management issues,
- Objectives and performance targets of the Plan with respect to the land,
- Means by which Council proposes to achieve the Plan's objectives and performance targets; and
- The manner in which Council proposes to assess its performance with respect to the Plan's objectives and performance targets.

*Table 7: Action plan for land categorised as Natural Area – Watercourse*

Management Issues	s.36(3)(b) objectives and performance targets	s.36(3)(c) means of achievement of objectives	s.36(3)(d) manner of assessment of performance
Encourage use of the reserve	To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities.	Ensure pedestrians can access the open space unimpeded.	Park is well used by a range of user groups
Facilities on the reserve	To provide for passive recreational activities or pastimes and for the casual playing of games.	Maintain Tenterfield Creek environment to an appropriate standard for use.	Facilities maintained as required. No negative reports from park users.
Improvements and maintenance to the reserve	To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.	By generally maintaining the area in a neat, tidy and safe condition in accordance with Council's Service Level Agreement (SLA). Undertake appropriate maintenance to facilities.	Park is well maintained, neat, tidy and safe. The reserve is maintained in accordance with Council's SLA for the site. Park is well used by a range of user groups. Inspections are made by appropriate Council staff when required.

Appendix A: Plan of Management Legislative Framework

The primary legislation that impacts on how community land is managed or used is briefly described below. You can find further information regarding these acts at www.legislation.nsw.gov.au.

Local Government Act 1993 and Local Government (General) Regulation 2021

Section 35 of the Local Government Act 1993 (LG Act) provides that community land can only be **used** in accordance with:

- the plan of management applying to that area of community land, and
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land, and
- the provisions of Division 2 of Chapter 6 of the Act.

Section 36 of the Act provides that a plan of management for community land must identify the following:

- a) the category of the land,
- b) the objectives and performance targets of the plan with respect to the land,
- c) the means by which the council proposes to achieve the plan's objectives and performance targets,
- d) the manner in which the council proposes to assess its performance with respect to the plan's objectives and performance targets,

and may require the prior approval of the council to the carrying out of any specified activity on the land.

A plan of management that applies to just one area of community land:

- A. must include a description of:
 - i. the condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and
 - ii. the use of the land and any such buildings or improvements as at that date, and
- B. must:
 - i. specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and
 - ii. specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and
 - iii. describe the scale and intensity of any such permitted use or development.

Land is to be categorised as one or more of the following:

- a) a natural area
- b) a sportsground
- c) a park
- d) an area of cultural significance
- e) general community use.

Land that is categorised as a natural area is to be further categorised as one or more of the following:

- a) bushland
- b) wetland
- c) escarpment



- d) watercourse
- e) foreshore
- f) a category prescribed by the regulations.

Additionally, under section 36 of the LG Act, a site-specific PoM must be made for land declared:

- as critical habitat, or directly affected by a threat abatement plan or a recovery plan under threatened species laws (sections 36(2) and 36B(3))
- by council to contain significant natural features (section 36C(2))
- by council to be of cultural significance (section 36D(2)).

Classification of public land

The LG Act requires classification of public land into either 'community' or 'operational' land (section 26). The classification is generally made for council-owned public land by the council's Local Environmental Plan (LEP) or in some circumstances by a resolution of the council (section 27).

Crown reserves managed by council as Crown land manager have been classified as community land upon commencement of the Crown Land Management Act 2016 (CLM Act). Councils may manage these Crown reserves as operational land if written consent is obtained from the minister administering the CLM Act.

Classification of land has a direct effect on the council's ability to dispose of or alienate land by sale, leasing, licensing or some other means. Under the LG Act, community land must not be sold (except for scheduled purposes), exchanged or otherwise disposed of by the council, and the land must be used and managed in accordance with an adopted PoM. In addition, community land is subject to strict controls relating to leases and licences (sections 45 and 46) of the LG Act.

By comparison, no such restrictions apply to operational land that is owned by councils. For example, operational land can be sold, disposed, exchanged or leased including exclusive use over the land, unencumbered by the requirements which control the use and management of community land. Crown reserves managed by council as operational land may generally be dealt with as other operational land but may not be sold or otherwise disposed of without the written consent of the minister administering the CLM Act.

Operational land would usually include land held as a temporary asset or an investment, land which facilitates the council carrying out its functions or land which may not be open to the general public (for example, a works depot).

The classification or reclassification of council-owned public land will generally be achieved by a Local Environmental Plan (LEP) or by a resolution of council in accordance with sections 31, 32 and 33 of the LG Act. If land is not classified by resolution within a three-month period from acquisition it automatically becomes community land, regardless of whether it satisfies the objectives for community land as outlined in the LG Act.

For Crown land, Council cannot reclassify community land as operational land without consent of the minister administering the CLM Act.

Crown Land Management Act 2016

Crown reserves are land set aside on behalf of the community for a wide range of public purposes, including environmental and heritage protection, recreation and sport, open space, community halls, special events and government services.



Crown land is governed by the CLM Act, which provides a framework for the state government, local councils and members of the community to work together to provide care, control and management of Crown reserves.

Under the CLM Act, as Council Crown land managers, councils manage Crown land as if it were public land under the LG Act. However, it must still be managed in accordance with the purpose of the land and cannot be used for an activity incompatible with its purpose – for example, Crown land assigned the purpose of 'environmental protection' cannot be used in a way that compromises its environmental integrity.

Councils must also manage Crown land in accordance with the objects and principles of Crown land management outlined in the CLM Act. The objects and principles are the key values that guide Crown land management to benefit the community and to ensure that Crown land is managed for sustainable, multiple uses.

Principles of Crown land management

- Environmental protection principles are to be observed in the management and administration of Crown land.
- The natural resources of Crown land (including water, soil, flora, fauna and scenic quality) will be conserved wherever possible.
- Public use and enjoyment of appropriate Crown land are to be encouraged.
- Where appropriate, multiple uses of Crown land should be encouraged.
- Where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained.
- Crown land is to be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the state of NSW, consistent with the above principles.

Crown land management compliance

In addition to management and use of Crown reserves that is aligned with the reserve purpose(s), there are other influences over council management of Crown reserves. For example, Crown land managers may have conditions attached to any appointment instruments, or councils may have to comply with specific or general Crown land management rules that may be published in the NSW Government Gazette. Councils must also comply with any Crown land regulations that may be made.

Native Title Act 1993

The Commonwealth Native Title Act 1993 (NT Act) recognises and protects native title rights and interests. The objects of the NT Act are to:

- provide for the recognition and protection of native title
- establish ways in which future dealings affecting native title may proceed and to set standards for those dealings
- establish a mechanism for determining claims to native title
- provide for, or permit, the validation of past acts invalidated because of the existence of native title.

The NT Act may affect use of Crown land, particularly development and granting of tenure. Specifically, the CLM Act makes it mandatory for council to engage or employ a native title manager. This role provides advice to council as to how the council's dealings and activities on Crown land can be valid or not valid in accordance with the NT Act.



Council must obtain the written advice from an accredited native title manager that Council complies with any applicable provisions of the native title legislation when:

- a) granting leases, licences, permits, forestry rights, easements or rights of way over the land
- b) mortgaging the land or allowing it to be mortgaged
- c) imposing, requiring or agreeing to covenants, conditions or other restrictions on use (or removing or releasing, or agreeing to remove or release, covenants, conditions or other restrictions on use) in connection with dealings involving the land
- d) approving (or submitting for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in (a), (b) or (c).

Council plans and policies relating to this plan of management

Council has developed plans and policies that are concerned to some extent with the management of community land. These documents have been considered when preparing this PoM.

The following is a list of documents that have a direct association with this PoM:

Tenterfield Local Environmental Plan 2013 (LEP)

Tenterfield Local Environmental Plan 2013 guides planning decisions for the city through zoning and development controls, which provide a framework for the way land can be used.

Tenterfield Local Strategic Planning Statement 2040

The Tenterfield Local Strategic Planning Statement (LSPS) is a long-term land use strategy for the Local Government Area (LGA) to 2040 that identifies how development will be managed into the future. The LSPS identifies a land use planning vision, supported by planning priorities and actions which inform Council planning, decisions and management of the future growth of the LGA based on economic, social and environmental needs.

Planning Priority 2 of the LSPS 'Nature-based, heritage and cultural tourism' and Planning Priority 7 'Protecting our environment and resources' requires Council to continue to review and update plans of management for Community land.

Tenterfield Parks and Sportsgrounds Plan of Management

Council's Parks and Sportsgrounds Plan of Management guides how Council will plan, implement and manage current and future open spaces and sport and recreation facilities across the Tenterfield Local Government Area. This PoM provides a hierarchy of parks which assists with decision making and planning.

Other state and Commonwealth legislation

NSW state legislation

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the framework for planning and development across NSW and guides environmental planning instruments which provide a basis for development control.

The EP&A Act ensures that effects on the natural environment, along with social and economic factors, are considered by the council when granting approval for or undertaking works, developments or activities.



This Act is also the enabling legislation for planning policies which may have a direct influence on open space management. On a state-wide level there are State Environmental Planning Policies (SEPPs). On a regional level there are Regional Environmental Plans (REPs). On a local level there are Local Environmental Plans (LEPs) as well as Development Control Plans (DCPs).

Aboriginal Land Rights Act 1983

The *Aboriginal Land Rights Act 1983* (ALR Act) is important legislation that recognises the rights of Aboriginal peoples in NSW. It recognises the need of Aboriginal peoples for land and acknowledges that land for Aboriginal people in the past was progressively reduced without compensation. Crown land meeting certain criteria may be granted to an Aboriginal Land Council. This Act may affect dealings with Crown land that is potentially claimable.

National Parks and Wildlife Act 1974

Statutory responsibilities on the council arising from this Act specifically relate to the protection of sites of pre- and post-European contact archaeological significance. This Act may affect community land categorised as cultural significance, natural area or park.

Biodiversity Conservation Act 2016

Note: This Act repealed several pieces of legislation including the *Native Vegetation Act 2003*, *Threatened Species Conservation Act 1995*, the *Nature Conservation Trust Act 2001*, and the animal and plant provisions of the *National Parks and Wildlife Act 1974*.

This Act covers conservation of threatened species, populations and ecological communities, the protection of native flora and fauna. This Act primarily relates to community land categorised as natural area. However, other categories may also be affected.

The *Threatened Species Conservation Act 1995* has been repealed and superseded by the [Biodiversity Conservation Act 2016](#). However, references to the former legislation remain in the LG Act and are therefore retained in this guideline.

DPIE's Energy, Environment and Science division advises that recovery plans and threat abatement plans made under the *Threatened Species Conservation Act 1995* were repealed on the commencement of the *Biodiversity Conservation Act* in 2017. These plans have not been preserved by any savings and transitional arrangement under the Biodiversity Conservation Act or LG Act, meaning pre-existing plans have no legal effect.

For this reason, requirements relating to recovery plans and threat abatement plans for local councils preparing plans of management under section 36B of the LG Act are now redundant. Councils will be advised if future amendments are made to the LG Act to enable these mechanisms.

Certain weeds are also declared noxious under this Act, which prescribes categories to which the weeds are assigned, and these control categories identify the course of action which needs to be carried out on the weeds. A weed may be declared noxious in part or all of the state.

Fisheries Management Act 1994

The *Fisheries Management Act 1994* (FM Act) includes provisions for the management of state fisheries, including the conservation of fish habitats, threatened species, populations and ecological communities of fish and marine vegetation and management of the riparian zone, waterways and threatened marine/freshwater aquatic species. This relates to community land categorised as natural area (foreshore, watercourse or wetland).

Where an area of community land is declared to be critical habitat, or if that area is affected by a recovery plan or threat abatement plan under Part 7A of the FM Act, a site-specific plan of management will need to be undertaken.



Rural Fires Act 1997

This Act contains provisions for bushfire risk management and the establishment of a Bushfire Management Committee. It also includes direction on development in bushfire prone lands.

Water Management Act 2000

This Act is based on the concept of ecologically sustainable development, and its objective is to provide for the sustainable and integrated management of the water sources of the state for the benefit of both present and future generations. The Act recognises:

- the fundamental health of our rivers and groundwater systems and associated wetlands, floodplains, estuaries has to be protected
- the management of water must be integrated with other natural resources such as vegetation, native fauna, soils and land
- to be properly effective, water management must be a shared responsibility between the government and the community
- water management decisions must involve consideration of environmental, social, economic, cultural and heritage aspects
- social and economic benefits to the state will result from the sustainable and efficient use of water.

Heritage Act 1977

This Act contains provisions for the conservation of items of heritage and may relate to community land categorised as cultural significance or natural area.

Crown land 2031: State Strategic Plan for Crown land

The State Strategic Plan for Crown land sets the vision, priorities and overarching strategy for the management of Crown land and outlines timeframes and outcomes.

Commonwealth legislation

Environmental Protection and Biodiversity Conservation Management Act 1999

This Act enables the Australian Government to join with the states and territories in providing a national scheme of environment and heritage protection and biodiversity conservation. It incorporates threatened species on a national level and with relevance to Matters of National Environmental Significance.

Telecommunications Act 1997

This Act provides for telecommunication facilities being permitted on community land without authorisation in a PoM.

State Environmental Planning Policies

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter—2 - Vegetation in Non-Rural Areas

This policy deals with clearing of native vegetation in urban areas and land zoned for environmental protection.

Chapter—8 - Sydney Drinking Water Catchment

This policy aims to protect quality of surface water and the ecosystems that depend on it and requires that any development would have a neutral or beneficial effect on water quality.



State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 -Infrastructure

This planning policy lists development allowed with consent or without consent on community land.

Other relevant legislation, policies and plans

Biosecurity Act 2015

Catchment Management Authorities Act 2003

Companion Animals Act 1998

Council plans, strategies, policies, procedures and guidelines, generally as amended

Disability Discrimination Act 1992

Environmental Protection and Biodiversity Conservation Management Act 1999 (Cth)

Local Land Services Act 2013

Operations Act 1997

Pesticides Act 1999

Protection of the Environment Operations Act 1997

Protection of the Environment Operations (Noise Control) Regulation 2008

Public Works Act 1912 (as amended)

Retail Leases Act 1994

Rural Fire Regulation 2002

Tenterfield Development Control Plan

Tenterfield Asset Management Plan

Soil Conservation Act 1938

Telecommunications Act 1997 (Cth)

NSW Invasive Species Plan 2008-2015

National Local Government Biodiversity Strategy

NSW Biodiversity Strategy

The list above is not exhaustive. Depending on the nature of the land subject to a plan of management, there may be other relevant legislation, policies and procedures that need to be considered. Further advice on this can be sought by contacting Council.

Appendix B: Concept Design – Youth Precinct & Mountain Bike Trail Head



CROWN STREET MASTER PLAN

Tenterfield Youth Precinct & Mountain Bike Trail Head



Appendix C: Existing Leases & Licences on the site

Group/organisation	Type of tenure	Term
Nil		

(Current as at the date of adoption of the Plan)

DRAFT



Appendix D: Aboriginal Interests in Crown Lands

Crown land has significant spiritual, social, cultural and economic importance to the Aboriginal peoples of NSW. The CLM Act recognises and supports Aboriginal rights, interests and involvement in Crown land.

The management of Crown land can be impacted by the Native Title Act 1993 (Cth) and the Aboriginal Land Rights Act 1983 (NSW).

Native Title

Native title describes the rights and interests that Aboriginal and Torres Strait Islander people have in land and waters according to their traditional law and customs. Native title is governed by the Commonwealth Native Title Act 1993 (NT Act).

Native title does not transfer the land to the native title holder, but recognises the right to land and water, by providing access to the land and if applicable, compensation for any loss, diminution, impairment or other effect of the act on their native title rights and interests.

All Crown land in NSW can be subject to a native title claim under the NT Act. A native title claim does not generally affect Crown land where native title has been extinguished or it is considered excluded land.

When preparing a PoM, Council is required to employ or engage a qualified native title manager to provide advice and validate acts (developments and tenures) over the reserve, in line with the NT Act. The most effective way to validate acts under the NT Act is to ensure all activities align with the reserve purpose.

If native title rights are found to exist on Crown land, council Crown land managers may be liable to pay compensation for acts that impact on native title rights and interests. This compensation liability arises for local councils whether or not the act was validated under the NT Act.

A search of the National Native Title Tribunal (NNTT) register indicates that there are no native title claims or determinations that include the land contained in Crown Reserve R22044 at the time of preparation of the Plan of Management.

For further information about native title and the future acts framework see the [Crown lands website](#).

Aboriginal Land Rights

The *Aboriginal Land Rights Act 1983* (ALR Act) seeks to compensate Aboriginal peoples for past dispossession, dislocation and removal of land in NSW (who may or may not also be native title holders).

Aboriginal land claims may be placed on any Crown land in NSW. The Department of Planning, Industry and Environment is responsible for investigating claims as defined in the ALR Act. If a claim is established, the land is transferred to the Aboriginal Land Council as freehold land.

At the time of preparing this plan of management, Crown Lands have advised Council of an Aboriginal Land Claim (31658). That was lodged on 13 October 2010 for Lot 12 Section 22 DP 758959 (Crown Reserve R22044) on behalf of the Moombahlene Local Aboriginal Land Council. No works can be conducted on Lot 12 until such time as advice is received regarding the claim.