

# Community Land Management Plan

Part 1 Introduction

Part 2 General Provisions

## **Acknowledgement of Country**

We acknowledge the Kurna, Ngadjuri and Peramangk Peoples as the Traditional Owners of the country that makes up the Light Regional Council. We respect their spiritual relationship to their country and acknowledge that as Traditional Custodians, their cultural heritage and beliefs are still as important today.

# Community Land Management Plan

Part One		Introduction
This part provides an introduction and information on the applicable legislation, policies and By-Laws that apply to the document.		
Part Two		General Provisions
This part of the Plan applies to all areas of land regardless of the category. This is to ensure consistency of common information that is not repeated in each of the documents that gories.		
Part Three		Categories
This part of the plan will identify individual sites or a number of sites collectively as they fit within the categories identified. Plans will be updated periodically as required.		
Category		Description of Category
1	<b>Recreation</b>	Sporting or recreational activities including active and passive recreation and organised sport. Often large complexes involving indoor and outdoor facilities, ovals, courts and clubrooms with a lease to incorporated associations to manage on Councils behalf.
2	<b>Community</b>	Recreational or cultural activities including community group activities or provision of community services. Usually a town hall or institute type building where community activities may take place or hired on an ad-hoc or regular basis. Includes facilities provided for the community such as public toilets. May be leased to incorporated associations.
3	<b>Parks &amp; Gardens</b>	Generally landscaped and irrigated open spaces with garden beds, lawn and park furniture. May include playgrounds.
4	<b>Natural Reserves</b>	Includes land that may be provided as levy banks, former stone quarries, adjacent water courses, road reserves, screening reserves or historical surplus land.
5	<b>Cemetery</b>	Areas set aside for the burial and remembrance of deceased persons with memorials, plaques and headstones.
6	<b>Operational</b>	Land that is required for Council's operations including its offices, for emergency services or for stormwater drainage, recycled water, Community Wastewater Management Scheme (CWMS) or other water management purposes.

## **Part One – Introduction**

### **Local Government Act 1999, Chapter 11 – Land**

Subject to the Local Government Act 1999 (the Act), Councils must review public land and clarify if it is community land to be held and managed by Council for community use.

The land may be owned by the Council in fee simple or it may be land in the care, control and management of the Council, owned by another party such as the Crown.

Section 193 of the Act states that all land owned by a Council or under a Council's care control and management, other than roads, is classified as community land unless the council has resolved to exclude it from community land.

Some operational land owned by Council, such as depots and offices, has been excluded from community land given they are sites generally for business purposes.

#### **Register of Community Land**

A Council is required by the Act to keep a register of all community land in its area. The register identifies the land including the legal description, common name, owner of the land and details regarding any lease or license that may be applicable.

While all community land must be included in the register, some does not need to be covered in a community land management plan.

The Light Regional Council has a register of all its land, including land which has not be classified as community land. The Register is a separate document.

#### **Community Land Management Plan**

Land that has been designated as community land must have a community land management plan where the land is to be occupied under a lease or license; or where the land is specifically modified or adapted for the benefit or enjoyment of the community. A single management plan may cover multiple separate parcels of community land when similar management regimes and performance measures are applicable.

If the land is not designated as community land, a community land management plan is not required.

Community land management plans enable Council to audit land and property stocks and to formalise the use of all community land parcels. The plans also assist the Leasing, Licensing and Permit process.

### Relevant Policies and Strategies for Community Land

Council's community land management plans do not exist in isolation. They are underpinned by a wide range of legislation, by-laws, policies, strategies and plans.

A reference to legislation includes all amending or consolidating legislation and any replacing legislation. It also includes any regulations and codes or standards adopted under the legislation. A reference to a by-law, policy or strategy includes all amended versions or replacement by-laws, policies and strategies.

### Legislation

*Local Government Act 1999*

*Planning, Development and Infrastructure Act 2016*

*Development Act 1993*

*Disability Discrimination Act 1992*

*Liquor Licensing Act 1997.*

*Native Title Act 1993 (Cth)*

*Native Title Act (South Australia) Act 1994*

*Aboriginal Heritage Act 1988*

*Heritage Places Act 1993*

*Native Vegetation Act 1991*

*Natural Resources Management Act 2004*

*Landscape South Australia Act 2019*

*Environment Protection Act 1993*

*National Parks and Wildlife Act 1972*

*Local Nuisance and Litter Control Act 2016*

*Dog and Cat Management Act 1995*

*South Australian Public Health Act 2011*

*Graffiti Control Act 2001*

*Crown Land Management Act 2009*

*The Local Government (Mobile Food Vendors) Amendment Act 2017*

*Planning Development and Infrastructure Act 2016*

*The Mining Act 1971*

***Council By-Laws***

- By-Law 1 - Permits and Penalties
- By-Law 2 - Moveable Signs
- By-Law 3 - Roads
- By-Law 4 - Local Government Land
- By-Law 5 - Dogs
- By-Law 6 - Cats
- By-Law 7 - Nuisances Caused by Building Sites

***Council Policies***

- Community Recreation Facilities Management Policy
- Event Management Policy
- Grant Funding Policy
- Public Art Policy
- Volunteer Management Policy
- Environmental Sustainability Policy
- Mobile Food Vendor - Location Rules Policy
- Cemetery Interment Rights Policy
- Cemetery Memorials Policy
- Road and Public Places Naming Policy
- Tree Management Policy
- Risk Management Policy

***Council Plans and Strategies***

- Annual Business Plan, Budget and Long Term Financial Plan
- Cemetery Management Plan
- Strategic Plan
- Community Engagement Strategy
- Infrastructure & Asset Management Plan
- Regional Public Health & Wellbeing Plan
- Barossa Light and Lower North Region Open Space, Recreation and Public Realm Strategy
- Dog and Cat Management Plan
- Development Plan
- Tourism Plan
- Conservation Management Plan – Mine Site 2008
- Tourism Development Plan – Mine Site specific 2010?
- Economic Development Plan (draft) 2019

In the event of an inconsistency between the provisions of an official strategy, plan or policy and the provisions of a community land management plan under the Local Government Act, the provisions of

the official plan or policy under another Act prevail to the extent of the inconsistency. S196(6) Local Government Act 1993.

### Closed Roads

Roads and road reserves do not hold certificates of titles, are not classified as land and therefore not able to be considered as community land. A Council must maintain a register of roads in addition to a register of community land.

Where a road has been closed, the road shall remain as a closed road on the roads register, until a Certificate of Title has been issued at which time it will be transferred to the Community Land Register if applicable.

*Definitions extract from the Surveyor-General's 'Guidelines – Roads (Opening & Closing) Act 1991*

**Road (closed)** - *An interim stage between the raising of the Road Process Order and the issue of Certificates of Title. Prior to the Roads (Opening and Closing) Act 1991, it was common for Certificates of Title not to be issued unless requested. The current act requires Certificates of Title to issue after the deposit of the road plan. If dealing with a road closed under the prior Act and it is apparent that no Certificate of Title exists, then the original Road Process Order must be viewed to determine what instructions were granted for disposal of the Closed Road.*

*Common scenarios included;*

- *Reserved or Retained – meaning the Council for the area is entitled to apply to the Surveyor-General for a Certificate of Title in their name*
- *Sold – to be sold by public auction or tender*
- *Transferred – Transferred to adjoining private owners (referred to in the Order)*
- *Exchanged – Closed road being exchanged for new road being opened*

**Road (unmade)** - *A public road that has never been formed on the ground as a road and is often being occupied by adjoining land owners, even though they are not legally entitled to it.*

**Road (Reserve)** - *An area of public road on the property cadastre that does not include the actual formed road on the ground, such as the road verge that includes the footpath or other areas not being used as a road.*

### Crown Land

There are instances where the owner of the land is not the Council. Crown land may be vested in the Council's care and control. If the land has been vested to Council it will be included within the Community Land Register, however there are parcels of land that may be government land but owned by or in the care of the Minister or relevant State Government Department. In this instance, the land is not included within Council's Community Land Register.

### Purpose of Ownership

The Light Regional Council currently owns, or has in its care and control, approximately 260 parcels of land. Of those parcels, approximately 200 are classified as Community Land.

Land is held for various purposes in order to meet the requirements of Section 7 of the Act, and this is reflected in the categories into which Council's community land is grouped. Council's community land is grouped into categories with similar characteristics, and each category has its own community land management plan which functions in conjunction with the General requirements of community land.

Section 7 of the Act identifies that Council is required to;

*"... provide services and facilities that benefit its area, its ratepayers and residents, and visitors to its area,.... and (provide) cultural or recreational services or facilities....manage, develop, protect, restore, enhance and conserve the environment .....manage and, if appropriate, develop, public areas vested in, or occupied by, the council...."*

This requirement is translated to the provision of 6 keys areas within Councils land ownership that are categorised accordingly.

### Community Land not Requiring a Community Land Management Plan

Council owns around 20 parcels of land that have not been excluded from community land but for which no community land management plan is required. This land has not been modified for a public purpose and is not subject to a lease or licence. This includes small parcels of land with no legal access, sections of closed roads and other small parcels of land not managed by Council but not excluded from community land. This land should be assessed for suitability for exclusion from community land for possible disposal in most cases.

To change the status of community land and exclude it from the provisions of community land, Council must follow the process identified by the Local Government Act 1999 pursuant to Section 201. The process includes public notification and allows for comment by the community.

## **Part Two – General Provisions**

### **Community Land Management Plan**

With each of the categories and management plans provided for community land, these general provisions shall apply and be read in conjunction with each plan.

#### **Disclaimer**

Light Regional Council has made every reasonable attempt to ensure the accuracy of the information presented in the Community Land Register. However, it does not guarantee the information is complete, correct or up to date and the information may be subject to change without notice.

In no event shall Light Regional Council be liable to any third party who obtains access to the information contained in the Register under any law for any loss or damage (including, but not limited to, direct, indirect, economic and consequential damage) in respect of any matter whatsoever related to any information contained in the Register.

All information within the community land management plans is in addition to Council By-law No 3 - Local Government Land and does not replace the By-law. All provisions of Council By-law No 3 - Local Government Land continue to have force on land subject to a community land management plan.

In any community land management plan of Light Regional Council, any reference to a decision of Council or an authorised act by Council includes any decision or action by any employee of Light Regional Council with a relevant delegated authority and is not to be limited in meaning to a resolution of the elected members of Light Regional Council unless explicitly described as such.

### The Register

The Register lists and provides the required information for every parcel of community land owned by Council or under Council's care, control and management to the extent that this is practicable. It also lists land which has been identified as not having a title but which is owned by Council. This is largely portions of roads that were closed prior to 1991 and for which titles were never issued. As this land had not been identified at the time of the introduction of the Act it was not excluded from community land. It is likely that there is other land that has resulted from road closures prior to 1991 that is owned by Council but which has not yet been identified as such. Although any such land is community land of Council, it is not currently entered on the Register.

### Identification of Land

The legal descriptions of the land and parcel identifiers enable the physical location of any land parcel to be identified. A change in the details of either or both does not constitute a change in the community land management plan for that land.

### Performance Targets

The performance targets for community land management plans define desirable outcomes for the land. The ability to meet those targets may be affected by budgetary pressures, the availability of resources, practicability or circumstances beyond the control of Light Regional Council, such as changes in legislation and the wider economic environment. A plan is not invalidated because of an inability to meet performance targets.

### Objectives of Community Land Management Plans

The order in which objectives are listed in any community land management plan is for convenience only and is not to be interpreted as an order of priority.

### Leases, Licences and Permits on Community Land

Leases, licences and permits are permitted on some categories of community land. Where the community land management plan for a category does not authorise the issuing of a lease, licence or permit, an application for a lease, licence or permit will generally not be accepted.

A lease, licence or permit for land in a category of land for which lease, licences and permits may be issued must be conditional on the activity or occupation being leased, licenced or permitted being compatible with the community land management plan for that category of land. All leases must be consistent with section 202 of the Act

If a lease, licence or permit is granted, it must:

- Be compatible with the use and objectives of the community land category to which the land belongs
- Be compatible with the performance targets of the community land category to which it belongs
- In the case of dedicated Crown land, the lease must be consistent with the dedicated purpose
- Be for activities that are consistent with the current and future needs of the community
- Not result in damage to the values of the category of land to which the subject land belongs
- Not create significant disturbance or nuisance to surrounding property owners
- Be compatible with the needs of the wider community
- Be subject to suitable insurance by the lessee, licensee or permit holder.

A change in the name or legal entity of a Lessor will not constitute a change in a community land management plan unless it will have a deleterious effect on the ability to meet the objectives or performance targets of the relevant land.

### **Improvements on Community Land**

The improvements listed as envisaged and being compatible with each category of land are representative. An improvement that is listed as compatible with a category of community land may still require Development Approval or other legislative approval, with any development on any community land that is dedicated Crown land to require the consent of the Minister for Environment and Water or their delegate before any development can occur.

### **Dogs on Community Land**

Dogs are permitted on many, but not all, Council reserves with or without restrictions. The Dog and Cat Management Plan provides comprehensive information on the access to reserves by dogs accompanied by humans. Dogs are permitted on a lead on all community land not specifically identified in the Dog and Cat Management Plan. The management of dogs on all community land is as specified in the Dog and Cat Management Plan, any amended version or versions of that plan, or its successors.

An assistance dog, while accompanying and under the control of the person it assists, has the same access rights as the person, regardless of any restrictions that may apply to other dogs.

### **Closure of Community Land because of High Fire Risk**

Light Regional Council is within an area that can experience catastrophic fire conditions. Notwithstanding the rights of the community to access community land, Light Regional Council may declare any parcel of community land to be closed to the public on any day when fire conditions are

forecast to be or actually become Severe, Extreme or Catastrophic, with the exception of any land that may be designated by the South Australian Country Fire Service as a Bushfire Safer Place or a Last Resort Refuge site.

### Easements

The granting of an easement over community land will only constitute a change of a Community Land Management Plan for that land if the easement would have a deleterious effect on the ability to achieve the objectives for the land or to meet the performance targets for the land.

### Telecommunications infrastructure on Community Land

The placement of telecommunications infrastructure on a building on community land will not constitute a change in a community land management plan. The placement of telecommunications infrastructure directly on community land will constitute a change of a community land management plan if the placement of the infrastructure would have a deleterious effect on the ability to achieve the objectives for the land or to meet the performance targets for the land.

### Significance to Traditional Custodians

The Light Regional Council area is comprised of land that is part of traditional Kurna, Ngadjuri and Peramangk country, respectively. The Kurna, Ngadjuri and Peramangk people have a deep connection with this land established over thousands of generations, which is acknowledged and respected.

Community land retains heightened significance to these peoples, containing as it does, some of the few areas of their traditional lands that remain publicly accessible.

At the time of the adoption of this plan, a native title claim made by the Kurna Peoples had been determined and settlement reached. A separate claim has been made by Ngadjuri peoples which remains active. Whilst native title has not been determined over any community land of Light Regional Council, Council acknowledges that its community land retains significance to Kurna, Ngadjuri and Peramangk peoples as traditional custodians, regardless of the native title status of the land.

Whilst the heritage status of this land is subject to the South Australian *Aboriginal Heritage Act 1988* as administered by the South Australian Government, we recognise that, as a living culture; heritage and cultural history is often passed as oral history through generations and local knowledge may not always be gleaned through standard research methods. Council values the role of traditional custodians in contributing to heritage knowledge in managing this land.

### Commercial Activities on Community Land

Community land is held for the benefit of the whole community. While it is appropriate for not for profit organisations to operate on some community land, it is generally not appropriate for community land to be used by 'for profit' entities. If any community land is subject to commercial activities, full commercial rental will be applied to the area occupied. Commercial 'for profit' activities on Crown land under the care, control and management of Council will not be permitted without the approval of the owner of the land.

### Disability and Mobility Impaired Access to Community Land

Light Regional Council aims to be inclusive for the whole community. In acknowledging this, not all community land can be accessible to everyone. The geography of the Light Regional Council area means that some of the land can contain steep terrain or have dense vegetation. This will limit the accessibility of land with these attributes. In particular, some tracks and trails may only be suitable for reasonably fit persons with no mobility limitations.

### Encroachments on Community Land

An encroachment on community land is not compatible with a community land management plan as it prevents the land from being used for its designated purpose. An encroachment cannot be compatible with the objectives of a community land management plan. An encroachment on community land constitutes an unauthorised occupation and encroaching fences or structures will be required to be removed from community land.

### Vehicle Access Over Community Land

Some community land, has formed driveways and car parking areas. On land that does not have formed driveways or car parking areas, access by non-Council vehicles is limited to the following circumstances:

- Vehicles of contractors and event personnel that have been authorised to enter the land by Light Regional Council
- Vehicles of statutory authorities that have a legal right of access
- Emergency services vehicles in the performance of duties
- Access to an adjoining property across a legal right of way that exists at the time of the adoption of this plan
- Temporary access, authorised by licence or permit, to access the rear of an adjoining property for construction purposes, but only if there is no alternative access and the vehicle access across the community land will not cause damage to the land, such as the removal of vegetation, or create a risk to other users of the land.

## PART 3 – CATEGORIES

This part of the plan will identify individual sites or a number of sites collectively as they fit within the categories identified. Plans will be updated periodically as required.

CATEGORIES		
Category		Description of Category
1	<b>Recreation</b>	Sporting or recreational activities including active and passive recreation and organised sport. Often large complexes involving indoor and outdoor facilities, ovals, courts and clubrooms with a lease to incorporated associations to manage on Councils behalf.
2	<b>Community</b>	Recreational or cultural activities including community group activities or provision of community services. Usually a town hall or institute type building where community activities may take place or hired on an ad-hoc or regular basis. Includes facilities provided for the community such as public toilets. May be leased to incorporated associations.
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Refer separate document(s) for details of the plan that are specific to particular sites and categories.