

9.4 Mudgee Showground Plan of Management - Adoption

REPORT BY THE MANAGER PROPERTY AND REVENUE
TO 15 MARCH 2023 ORDINARY MEETING
GOV400103, COU500102, P0210911

RECOMMENDATION

That Council:

1. **receive the report by the Manager Property and Revenue on the Mudgee Showground Plan of Management - Adoption;**
2. **note the changes advocated by Crown in Table 1 of this Report and the submissions received during the exhibition period as cited in Attachment 2 to this Report and accept the recommendations proposed by staff;**
3. **note that further Native Title Manager advice as cited in Attachment 3 to this Report has been considered in relation to the Plan of Management for the Mudgee Showground, Crown Reserves 520010, 1001140 and 1000252;**
4. **adopt the Mudgee Showground Plan of Management as cited in Attachment 4 to this Report, in accordance with Section 40 of the Local Government Act 1993 and in accordance with Section 3.23(6) of the Crown Land Management Act 2016;**
5. **authorise the General Manager to make minor editorial modifications in the finalisation of the Mudgee Showground Plan of Management if necessary; and**
6. **forward the adopted Mudgee Showground Plan of Management to the NSW Department of Planning and Environment – NSW Crown Lands for information.**

Executive summary

At the Meeting of Council held on 3 November 2021, Council was presented with the Draft Mudgee Showground Plan of Management (PoM).

Council resolved via Minute 336-21 to refer the draft PoM to the Minister (Crown) administering the Crown Land Management 2016 (CLMA), conduct a public hearing in accordance with s40A Local Government Act 1993 (Act) and receive a further report at the conclusion of the public exhibition period to consider any submissions received.

Following the enactment of these resolutions, this report now seeks Council's consideration of the submissions received and a resolution to finalise and adopt the PoM in accordance with s40 of the Act and s3.23(6) of the CLMA.

Disclosure of Interest

Nil

Detailed report

Council Minute 336-21 of 3 November 2021 is appended to this Report as Attachment 1.

The outcomes of the enactment of the resolutions are as follows –

Referral of the draft PoM to Crown & Crown’s consent

The PoM was referred to Crown seeking landowners consent in accordance with section 39 of the Act on 16 November 2021.

Council received initial feedback from Crown on 18 February 2022 requesting a response to the following 2 queries. Council’s responses were prepared by the managers of the Mudgee Showground in conjunction with advice from the consultant who was appointed to draft the PoM.

TABLE 1

Crown’s Queries	Council’s Response & Changes made after 3 November 2021 before PoM placed on exhibition
Pg. 5 - I’m not sure that reference to the <i>LG Amendment (Community Land Management) Act 1998</i> will be meaningful to the general public.	Reference removed.
At 11.3 - More detail should be provided in relation to existing tenures, including expiration dates and/or term of the tenure.	Detail was added to the current tenure at the Showground.

The PoM was amended to reflect these changes. Crown confirmed that the PoM satisfied the requirements under s3.23(6) CLMA and approval was given on 24 June 2022 to exhibit the amended draft PoM in accordance with s38 of the Act. Consent was also given for Council to adopt the PoM following public exhibition under clause 70B of the Crown Land Management Regulation 2018, provided it was not altered significantly from the exhibited draft PoM.

Public Exhibition in accordance with s38 of the Act

The draft PoM was publically exhibited from 26 August 2022 to 23 September 2022 with submissions accepted until 7 October 2022.

The draft PoM was available for viewing on Council’s website with hard copies available at Council’s Administration Services Centres. A walk-in information session was also conducted on 5 September 2022.

Submissions were received from 5 parties. Attachment 2 to this Report contains a summary of the discussions and issues raised along with Council manager recommendations to address the issues and where considered necessary or plausible, amend the draft PoM.

S40(2)(b) of the Act states that a council, if it is of the opinion that the amendments are not substantial, can adopt an amended draft plan of management without further public exhibition. It is considered that the proposed amendments to the PoM are not substantial and do not require re-exhibition of the PoM. The Crown also confirmed the minor nature of the proposed amendments and has given approval for Council to proceed with its adoption.

Public Hearing in accordance with s40A the Act

Council was not required to hold a public hearing.

Native Title Managers’ Advice

Plans of Management for Crown reserves must be compliant with the statutory requirements of the Commonwealth Native Title Act 1993 (NTA). Council cannot adopt a plan of management until it

has obtained written advice from a Native Title Manager that a plan of management complies with the applicable provisions of the NTA legislation.

The Native Title Managers' Advice presented to Council on 3 November 2021 indicated that the draft PoM complied with the applicable provisions of the NTA, in this case being valid future acts under s24JA.

Council advised and gave the opportunity to comment to NTSCorp Limited as the representative aboriginal body for New South Wales, under s24JB(6) of the NTA. No comment was received from NTSCorp.

The Native Title Managers' Advice presented to Council on 3 November 2021 has been reviewed in light of the proposed amendments to the PoM. It is considered that the proposed revised PoM still complies with the applicable provisions of the NTA being valid future acts under s24JA. The reviewed advice is appended as Attachment 3 to this Report.

Recommendation

It is recommended that the PoM as appended as Attachment 4 to this Report be adopted by Council.

Community Plan implications

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

Strategic implications

Council Strategies

The PoM will provide strategic direction for Community classified Crown Land and is consistent with Council's responsibilities under the LGA and the CLMA. The PoM identifies the permissible uses and potential development for the land parcel cited. Council may not undertake any activities, uses or developments which are not provided for in the PoM.

Council Policies

Not Applicable

Legislation

Crown Land Management Act 2016

Division 3.4 – Crown Land managed by Councils

Division 3.6 – Plans of Management and other plans

Section 8.7 – When advice of Native Title Manager is required

Crown Land Management Regulation 2018

Local Government Act 1993

Part 2 Division 2 – Use and Management of Community Land

Local Government (General) Regulation 2005

Part 4 Community land, Division 1 – Guidelines for the categorisation of Community Land

Native Title Act 1993 (Commonwealth)

Section 233 – Future Act

Section 24JA – Reservations, leases etc.

NSW Aboriginal Land Rights Act 1983

Financial implications

The adoption of the PoM will not have an immediate financial impact. Any future works priorities identified as part of the PoM will be considered through the normal operational planning and budget processes.

Council received funding from the NSW Government through the *Plans of Management Funding Support Program* to develop compliant plans of management under the LGA for all Council managed Crown reserves. The cost of preparing the PoM has been funded from this resource.

Associated Risks

It is a requirement under the LGA and CLMA for Council to produce compliant plans of management for all Council managed Crown reserves. One of the key aims of a plan of management is to ensure that management of Crown Reserves is conducted in accordance with requirements of the *NSW Aboriginal Land Rights Act 1983* and *Native Title Act 1993*, reducing the potential for Council to be in breach of either piece of legislation. The PoM addresses all requirements and clearly sets out the obligations.

The risk of producing a plan of management which did not align with the community's vision for the reserve was mitigated by public consultation facilitated by the exhibition of the draft PoM, additional community consultation in the form of a walk-in information session and due consideration of submissions received.

DIANE SAWYERS
MANAGER PROPERTY AND REVENUE

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

31 January 2023

Attachments:

1. Minute 336-21 3 November 2021. (separately attached)
2. Summary of submissions and recommendations. (separately attached)
3. Native Title Manager's Advice 28-2-2023. (separately attached)
4. Mudgee Showground PoM V3.6. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER