

## 9.5 Cudgegong Waters Park Plan of Management - Adoption

REPORT BY THE MANAGER PROPERTY AND REVENUE  
TO 15 MARCH 2023 ORDINARY MEETING  
GOV400103, COU500102, P2044711

### RECOMMENDATION

#### That Council:

1. **receive the report by the Manager Property and Revenue on the Cudgegong Waters Park Plan of Management - Adoption;**
2. **note the changes advocated by Crown in Attachment 2 to this Report and accept the recommendations proposed by staff; and**
3. **note that no submissions were received during the exhibition period; and**
4. **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 Cudgegong Waters Park, Crown Reserve 190025, Lots 1-3 DP737266; and**
5. **adopt the Cudgegong Waters Park 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; and**
6. **authorise the General Manager to make minor editorial modifications in the finalisation of the Cudgegong Waters Park Plan of Management if necessary; and**
7. **forward the adopted Cudgegong Waters Park Plan of Management to the NSW Department of Planning and Environment – NSW Crown Lands for information.**

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### Executive summary

At the Meeting of Council held on 20 April 2022, Council was presented with the Draft Cudgegong Waters Park Plan of Management (PoM).

Council resolved via Minute 117/22 to refer the draft PoM to the Minister (Crown) administering the Crown Land Management 2016 (CLMA), place the draft PoM on public exhibition 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 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 117/22 of 20 April 2022 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 9 May 2022.

Council received initial feedback from Crown on 30 May 2022. Council’s responses of 12 September 2022 were prepared by the managers of the Cudgegong Waters Park in conjunction with advice from the consultant who was appointed to draft the PoM. Crown’s queries and Council’s responses are appended to this Report as Attachment 2.

The PoM was amended to reflect the relevant changes. Crown confirmed that the PoM satisfied the requirements under s3.23(6) CLMA and approval was given on 11 October 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 21 October 2022 to 18 November 2022 with submissions accepted until 2 December 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 9 November 2022.

No submissions were received.

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 20 April 2022 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 on 21 April 2022. No comment was received from NTSCorp.

The Native Title Managers’ Advice presented to Council on 20 April 2022 has been reviewed in light of the amendments brought forward by Crown in May 2022 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

<b>Theme</b>	<b>Good Government</b>
Goal	An effective and efficient organisation

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Strategy     Prudently manage risks association with all Council activities

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## 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 and additional community consultation in the form of a walk-in information session.

DIANE SAWYERS  
MANAGER PROPERTY AND REVENUE

LEONIE JOHNSON  
CHIEF FINANCIAL OFFICER

20 February 2023

- Attachments:*
1. Minute 117/22 of 20 April 2022. (separately attached)
  2. Queries from Crown May 22 & Council's responses Sept 22. (separately attached)
  3. Native Title Manager's Advice 28/2/2023. (separately attached)
  4. Cudgegong Waters Park PoM V2.5. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER