



STEP Inc,  
PO Box 5136,  
Turrumurra, NSW 2074  
[www.step.org.au](http://www.step.org.au)



FRIENDS OF  
KU-RING-GAI  
ENVIRONMENT INC.  
FOKE Inc,  
PO Box 403, Killara,  
NSW 2071  
[www.foke.org.au](http://www.foke.org.au)

20<sup>th</sup> September 2021

The Honourable Melinda Pavey,  
Minister for Water, Property and Housing – Crown Lands

Dear Minister,

**RE: St Ives Showground and Precinct Lands Draft Plan of Management (PoM)**

**INTRODUCTION**

STEP is a community-based environmental organisation with over 500 members from Ku-ring-gai, Hornsby, and surrounding suburbs. Its focus over 40 years has been conservation and management of bushland in northern Sydney.

Friends of Ku-ring-gai Environment (FOKE) is a community-based group founded in 1994 to promote, protect and enhance the environment and heritage of Ku-ring-gai.

Community groups STEP and FOKE wish to raise their concerns about the St Ives Showground and Precinct Lands Draft Plan of Management (PoM) currently submitted to your department by Ku-ring-gai Council for approval.

A letter dated 28/05/2021 from the Crown Lands confirmed that the draft PoM submitted in April 2021 satisfied the requirements under Section 3.23 of the Crown Land Management Act 2016 and could progress to public exhibition. The draft PoM was put on public exhibition for 42 days to August 6<sup>th</sup> 2021. The Plan of Management for St Ives Showground & Precinct Lands 2021 was approved at the Ku-ring-gai Council meeting of 17<sup>th</sup> August 2021 is currently before the Minister for approval.

The new plan of management must meet both the requirements of the *Crown Land Management Act 2016* and the *Local Government Act 1993*.

We believe that Ku-ring-gai Council has not met its obligations of due process, nor has it been transparent or genuine in the public exhibition process. The entire process of developing the new PoM and the public exhibition was designed to deliver in haste an outcome predetermined by staff and councillors while breaching requirements under the *Crown Land Management Act 2016*, the *Local Government Act 1993*, *Ku-ring-gai Council's Community Engagement Policy*.

We request your department investigate these issues and demand council address and rectify where necessary.

## **SUMMARY**

Council complied with the statutory requirement to exhibit the plan for 28 days and allow submissions to be made to council at least 42 days after the date on which the draft plan was placed on public exhibition (Plan of Management for community under the Local Government Act 1993). Our concerns are:

- A. Council exhibited the draft Plan of Management (PoM) on its website as required however it finalised its assessment report and published the report prior to the close of the submission period.
- B. Council had committed to a number of projects before putting the PoM on exhibition and approved the projects before the final PoM was approved by the Minister or her delegate.
- C. Council failed to make available and inform the community of the approved projects which were matters critical in understanding their implications in the draft plan.
- D. In preparing the draft PoM Council only consulted with hirers of the Showground and did not involve other community groups or the wider public that use the Showground.
- E. Council has breached requirements of the Local Government Act 1993 by neglecting to act on a 2009 resolution of Council to heritage list items in St Ives Showground.
- F. Council has not complied with the requirements of Division 2 of Part 2 Chapter 6 of the LG Act 1993 **40 Adoption of plans of management (2A)** *If a council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.*  
<https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030#sec.38>

## **DETAILS**

- A. Council exhibited the draft Plan of Management (PoM) on its website however it finalised its assessment report and published its recommendations prior to the close of the submission period.**

The assessment report and staff recommendations for the PoM were written and published in the agenda two weeks before the council meeting 17<sup>th</sup> August 2021, therefore at least a week prior to the close of submissions at 5.00pm on 6<sup>th</sup> August.

Council's report GB 12. OMC 17<sup>th</sup> August 2021 states *"As this report is being written prior to the Public exhibition closing date (6 August), should any further submissions be received then they will be included as an annexure to this Council report."*

The 15 detailed submissions from residents and community groups lodged before close of submissions but after printing of the staff report were included as Supplementary Information to the councillors and put on council's website only 4 days before the Council meeting.

- i) Clearly the decision to write an assessment report with recommendations before close of submissions indicates a predetermined outcome with no intention for significant amendments. Further, it means the annexure with responses to submissions would not be exhibited for 14 days before the meeting nor give

much time for councillors & residents to consider and respond to the contents of the Supplementary report.

- ii) Complaints about the breach of procedure were made to the General Manager. STEP received the following response from the Director of Strategy; *“For operational reasons, it has been desirable that this matter be the subject of a decision by Council at its meeting in August. In particular, Council is mindful that it is unable to finally consider the CEEC proposal, which is widely supported by the community, until a new plan of management is in place. Council is also mindful of the number of plans of management being submitted for review and approval by the Minister from all Council’s across the State. Having previously advised the Crown Lands Office of DPIE that this PoM was a priority for this Council, leaving the matter till the October OCM was not considered desirable.”*

Publishing an assessment report with recommendation before the end of a public exhibition period and consideration of all submissions is contemptuous of the process. It is unacceptable that due process has not been followed to suit an ‘operational requirement’ of Council. Further, no information was disclosed about the resolution to progress the (Community Environmental and Education Centre) CEEC or that it was already designed and costed to go ahead.

**B. Council had committed to a number of projects before putting the PoM on exhibition and approved the projects before the final PoM was approved.**

1. The Cultural & Environmental Education Centre (CEEC) at the Showground is a completely new concept introduced into the current PoM. There is no information available in the draft PoM about the centre.

Further investigation reveals that at the OMC 28 May 2019 Council had resolved where the CEEC would be located and resolved that a concept design plan and cost estimate would be developed and reported back to Council.

The concept design and cost estimate for the new facility were presented to Councillors in August 2020 and subsequently approved to proceed to a Review of Environmental Factors (REF) which is the pathway to gain development consent. The REF documentation was completed and lodged with Council in December 2020.

At the OMC 15<sup>th</sup> June 2021 Council resolved to progress to a detailed design process in readiness to tender. According to Council agenda report only internal consultations were undertaken plus a presentation to councillors.

The council report states:

*The REF has been reviewed by Council’s Environment and Sustainability team and deemed suitable for approval but is subject to final approval of the draft St Ives Showground Plan of Management (PoM) which was lodged with Crown Lands in April 2021. At that time the PoM was also endorsed by Council for public exhibition following Crown Lands’ review. The CEEC is now incorporated in the PoM as it was not previously acknowledged. There are no concerns that the CEEC will not be allowed as it is a ‘permissible use’ within the current and proposed zoning.*

At the meeting of 17<sup>th</sup> August 2021 GB 12. Council resolved to accept quotations for the construction of the CEEC despite the PoM being item GB17 on the agenda of the same meeting and having not been approved.

[https://eservices.kmc.nsw.gov.au/Infocouncil.Web/Open/2021/08/OMC\\_17082021\\_AGN\\_AT\\_WEB.htm](https://eservices.kmc.nsw.gov.au/Infocouncil.Web/Open/2021/08/OMC_17082021_AGN_AT_WEB.htm)

2. On 8<sup>th</sup> September 2021, 3 weeks after approval by Council of the PoM, a message on Council website announced an agreement with Tree Tops Adventure Holdings to start construction that week of over one kilometre of cables spanning the designed area.

<https://www.krg.nsw.gov.au/Council/News-and-media/Latest-news/High-ropes-adventure-coming-to-St-Ives-Showground>

A potential area for high ropes was indicated on the exhibited draft PoM, however no information or details were given of an agreement for the High Ropes or its design despite clear implications of the project in the PoM. There is no information confirming that an environmental assessment has been completed despite the indicated site being mapped endangered Duffy's Forest vegetation.

These facts and the comment of the General Manager in A. ii) confirm that council was ticking a box the exhibition process was not genuine or honest.

**C. Council failed to make available and inform the community of a number of matters critical in understanding the draft plan. This includes the CEEC and High Ropes Course designs that would have implications in the PoM.**

As described in B. the CEEC had advanced to adopted location, design and costing with a resolution of Council at the OMC 17<sup>th</sup> August GB12. to accept a quote for its construction. This resolution was made before consideration of GB.17 the approval of the draft St Ives & Precincts PoM. Information relating to the centre and any resolutions of Council were omitted from the draft PoM.

Similarly for the High Ropes Course, where an agreement for the location and start of construction of the course was publicly announced three weeks after approval of the PoM.

**D. In preparing the draft PoM, Council only consulted with hirers of the Showground and did not involve other community groups or the wider public that use the Showground.**

Council claims to have conducted extensive community consultation. To our knowledge this is misleading as only the 'key users' or 'hirers' of the Showground were consulted via webinar in October 2020 with a follow up survey later.

We understand this to include clubs that lease premises or community groups that use specific premises. A GIPA request for a list of people consulted has remained unanswered. However, for the general public who frequents the Showground and Precincts, the only opportunity available to consider Council's plans was during the 42-day exhibition of the PoM before the Council meeting of 17<sup>th</sup> August 2021.

**E. Council has breached requirements of the Local Government Act 1993 by neglecting to act on a resolution of Council to heritage list items in St Ives Showground.**

The **Phillips Marler heritage report 2006** recommended heritage listing 18 items associated with the original 1926 St Ives Shows and WW2 buildings from the presence of the Ku-ring-ai 18<sup>th</sup> battalion training camp.

On 1 December 2009 council resolved to "seek recognition of the State Heritage Register or local listing in Schedule 7 of the KPSO and those buildings or built elements and curtilage assessed as having potential state or local cultural significance in St Ives Showground and Ku-ring-gai Wildflower Garden.

*Council commissioned curtilage identification for these items and also a statement of significance for the Ku-ring-gai Wildflower Pavilion. This was undertaken and the heritage report by Philips Marler (2011) has been used as the basis for recommendations in this dPoM. The report will also be used to list items on the State Heritage Register or locally in Schedule 7 of the KPSO and subsequent Ku-ring-gai LEP, currently with the Minister (November 2014). The Heritage listing will assist interpretation, conservation and funding from the Capital Works Program and potential grants. The adopted options paper (master plan) has identified the conservation and re-use of the buildings."*

(Ku-ring-gai Council St Ives Showground and Precinct Lands Plan of Management 2015, p48/224).

None of the items in the Showground were listed in the KPSO and none are listed in the LEP 2015. It is a breach of obligations under the LGA 1993 for the staff to not act on a legal resolution of Council and tantamount to deceit to mislead the public that heritage listing is underway since first identified in 2006.

Council has breached its obligations under the Heritage Act 1977 (NSW) and to manage these items as outlined in the 'Burra Charter'.

In complete contempt of obligations, in the draft PoM staff proposed 'ongoing' action of the nomination in the draft PoM. A last-minute amendment put to Council by a Councillor and approved, should assure immediate action unless staff chose again to ignore the resolution.

**F. Council has not complied with the requirements of Division 2 of Part 2 Chapter 6 of the LG Act 1993 40 Adoption of plans of management (2A) If a council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.**

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030#sec.38>

The adopted PoM included staff suggested amendments including suggestions from submissions included in the Supplementary report to Council on 17<sup>th</sup> August. The General Manager was authorized to make the amendments and submit the corrected PoM to the Minister for Crown Lands for final approval.

However public notice of the final PoM adopted by Council has not yet been made. STEP has been informed that the final plan would not be available for months. Despite the final PoM not being available, Council is progressing implementing the projects planned before exhibition of the draft PoM. This we believe is inconsistent with the requirements of the Local Government At 1993.

## **CONCLUSION**

Council breached due process by rushing the finalisation of the 2021 PoM to suit operational requirements.

Plans of management adopted under the previous *Crown Lands Act 1989* remain valid under the new *Crown Land Management Act 2016* via transitional provisions under the Act until otherwise revoked by the minister. <https://www.industry.nsw.gov.au/lands/public/plans-of-management/adopted-plans-management> .

To our knowledge the PoM 2015 remains valid and it does not include the CEEC therefore Council has approved the project on the St Ives Showground before approval of a PoM and this breaches the Crown Lands Management Act 2016.

- Council has not provided the necessary information about projects that have major implications on the Showground but were approved before exhibition of the PoM.
- Council has breached its obligations to nominate for potential state or local heritage items in the Showground for heritage listing.
- Council has failed to meet its obligations for genuine or meaningful consultation breaching the Ku-ring-gai Council Community Engagement Policy.
- The elected Council is responsible for giving consideration to community feedback on matters that impact them but given the flawed process this has not happened.

In our view the Council's process has been highly irregular and disingenuous. They should be made accountable.

### **We request that:**

-The final adopted Plan of Management should not be approved, and council should be made to re-exhibit following due process and compliance with the *Crown Land Management Act 2016* and the *Local Government Act 1993*.

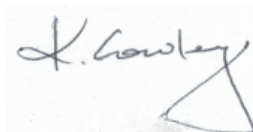
- Council must provide a time frame to prepare a Conservation Management Plan and apply for heritage listing of the items identified in the 1 December 2009 resolution in compliance with its obligations under the *Local Government Act 1993* and the Heritage Act NSW (1979).

Thank you for consideration of the issues raised. We look forward to your response.

Yours faithfully,



**Jill Green**  
President  
STEP



**Kathy Cowley**  
President  
FOKE

CC:

The Hon. Shelley Hancock MP Minister for Local Government

The Hon. Jonathon O'Dea MP Member for Davidson

Ms Liz Moore Director Strategy Department of Planning, Industry & Environment -Crown Land c/- Jess Heien [jess.heien@crowmland.nsw.gov.au](mailto:jess.heien@crowmland.nsw.gov.au)

Council Crown Land Management Team [council.clm@crowmland.nsw.com.au](mailto:council.clm@crowmland.nsw.com.au)