



Balranald
Shire
COUNCIL

PLAN OF MANAGEMENT

BALRANALD PRESCHOOL RESERVE

RESERVE No. 89742

Plan of Management

Balranald Preschool Reserve
Reserve No. 89742

PLAN OF MANAGEMENT DOCUMENT CONTROL

Responsible Officer				
Reviewed By				
Date Adopted				
Council Resolution				
Review Due Date				
Current Version				
Version	Description of Amendments	Author	Review	Council Minute No. (If Relevant)

Contents

1	KEY INFORMATION	1
2	INTRODUCTION	2
2.1	Background.....	2
2.2	Strategic and Corporate Objectives.....	3
2.3	Land to Which this Plan Applies	5
2.4	Land Ownership.....	5
2.5	Categorisation of the Reserve	6
3	RELEVANT LEGISLATION, POLICIES AND PROCEDURES	7
3.1	Local Government Act 1993 and Local Government (General) Regulations 2005.....	7
3.2	Crown Land Management Act 2016.....	8
3.3	Native Title Act 1993 (Federal).....	8
3.4	Aboriginal Land Rights Act 1983.....	8
3.5	Biodiversity Conservation Act 2016.....	9
3.6	Environmental Planning and Assessment Act 1979	9
3.7	Council Plans, Strategies, Policies and Procedures	10
3.8	Legislation and Statutory Control.....	10
3.9	Reclassification of Reserves.....	11
3.10	Review of this Plan	11
3.11	Community Consultation.....	11
4	CULTURALLY SIGNIFICANT LAND	11
4.1	Aboriginal Significance.....	11
4.2	Non-indigenous Significance	12
5	DEVELOPMENT AND USE.....	12
5.1	Overview.....	12
5.2	Balranald Shire Community Strategic Plan 2027	12
5.3	Condition of the Land and Structures on Adoption of the Plan of Management	14
5.4	Use of the Land and Structures at the Date of Adoption of the Plan of Management.....	15
5.5	Permitted Use Strategic Objectives.....	15
5.6	Further Development	15
5.7	Leases, Licences and other Estates.....	15
5.8	Native Title Assessment.....	16
6	PLAN OF MANAGEMENT - OBJECTIVES AND ACTIONS.....	16

6.1	Plan of Management Objectives	16
6.2	Action Plan.....	17
7	PLAN OF MANAGEMENT – MANAGEMENT AND ADMINISTRATION OF THE LAND.....	19
7.1	Management Authority	19
7.2	Management Issues.....	19
7.3	Staff Resources	19
7.4	Environmental Assessment of Activities	20
7.5	Role of Other Activities.....	20
7.6	Activities Carried Out by Other Authorities.....	20
7.7	Principles for the Development of Adjoining Land.....	20
7.8	Community Involvement in Management	20
7.9	Contract and Volunteer Labour	20
7.10	Existing Assets	20
7.11	Public Liability Insurance	20
7.12	Commercial Activities	21
7.13	Emergencies	21
7.14	Land Proposed for Future Development	21
7.15	Undeveloped Land.....	21
7.16	Information Monitoring and Research.....	21
7.17	Alcohol.....	21
7.18	Companion Animals.....	21
7.19	Parking.....	21
7.20	Buildings and Amenities	21
7.21	Infrastructure.....	22
7.22	General Maintenance	22
7.23	Development Activities	22
7.24	Pollution Control.....	22
7.25	Public Safety	22
7.26	Neighbours	22
7.27	Trees, Vegetation and Landscape.....	22
7.28	Weed Control	23

Appendices

Appendix A Native Title Assessment

Figures

Figure 1	Balranald Council Local Government Area.....	2
Figure 2	Aerial Photograph of Balranald Preschool Reserve (Reserve No. 89742.....	5
Figure 3	Categories of Community Land referred to in Section 36 of the Local Government Act 1993.....	6
Figure 4	Land Use Zones for Reserve No. 89742	9
Figure 5	Flowchart for Consultation and Approval of an Initial Plan of Management	12
Figure 6	Integrated Planning and Reporting Framework.....	14
Figure 7	A summary of the IP&R Framework.....	15

Tables

Table 1	Objectives of Land Use Zones for Reserve No. 89742	10
Table 2	Condition of Council Assets Located in Reserve No. 89742.....	15
Table 3	Plan of Management Objectives	18
Table 4	Indicators and Targets for Plan of Management Objectives	19

1 KEY INFORMATION

The Balranald Preschool Reserve Plan of Management (Plan of Management) has been prepared by Balranald Council (Council) to provide direction regarding the use and management of Balranald Preschool– Crown Reserve 89742. This Plan of Management is required in accordance with Section 3.23 of the *Crown Land Management Act 2016* and Section 36 of the *Local Government Act 1993*.

The Plan of Management outlines the way the reserve will be used and provides the framework for Council to follow in relation to the Leasing, Licensing and Permit processes for the land. The Plan may be used to determine the allocation of resources and funds.

2 INTRODUCTION

2.1 Background

The name Balranald originates from Scotland and dates back to 1837. Balranald developed as a thriving inland port and was proclaimed a municipality in 1882, becoming the Shire of Balranald in 1956. Balranald is located approximately 850km south west of Sydney and 450km north of Melbourne. The Council is situated within the Western Riverina region of New South Wales. It shares borders with Hay Shire and Murray River Council to the east, Carrathool and Central Darling to the north and Wentworth to west.

The Council provides services and support to a community of approximately 2500 permanent residents across a region covering 20000 square kilometres, including the town of Balranald and the Euston rural villages of Kyalite and Oxley. A map of the local government area is shown below in **Figure 1**.

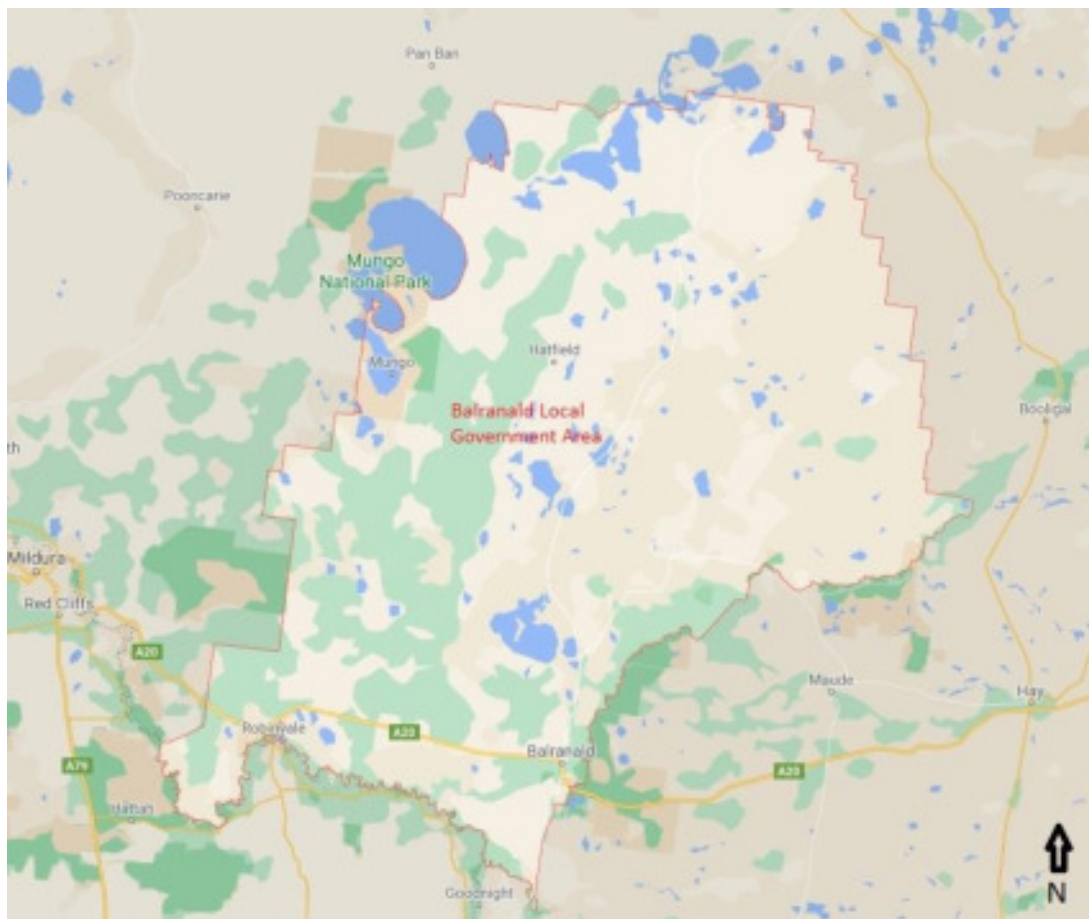


Figure 1 - Balranald Council Local Government Area

Balranald Council is responsible for care and control of many community land parcels. With the introduction of the Crown Land Management Act 2016, Council has been appointed the Crown Land Manager for all Crown reserves within its jurisdiction under the provisions of the *Local Government Act 1993*.

2.2 Strategic and Corporate Objectives

Balranald Council has set out several strategic objectives in the Council's Community Development Plan. The statement below is the intended outcome for the Balranald Shire through the implementation of the Balranald Shire 2022, the Shire's community strategic plan:–

“To create a better, more vibrant, more resilient and more engaged community, by capitalising upon its human, cultural, environmental and business assets and encouraging a strong sense of civic participation and pride”.

The Community Vision Statement is based upon what the six community Pillars of Well Being that Balranald Shire 2022 identified as central to achieving the Shire's potential and designed state, namely –

1. A community that is proactive, engaged, inclusive and connected.
2. A liveable and thriving community that maintains lifestyle opportunities and addresses levels of hardship and disadvantage experienced by some residents.
3. A community that ensures a strong and resilient economy.
4. A community that respects and celebrates its diverse cultures, heritage and arts.
5. A community that maintains and strengthens its natural and built environment.
6. A community that values and fosters leadership, lifelong learning, innovation and good governance.

These Pillars of Well Being also are the source for the Shire's 18 Strategic Objectives, namely –

OUR PEOPLE

A community that is proactive, engaged, inclusive and connected.

- Create more opportunities for community members to socialise and connect in our community.
- Create and promote opportunities for greater community awareness and participation in the life of our community.
- Involve, support and prepare our young people.

OUR PLACE

A liveable and thriving community that maintains lifestyle opportunities and addresses levels of hardship and disadvantage experienced by some residents.

- Promote our community as a lifestyle, work and business destination.
- Create opportunities to assist community members who are disadvantaged or at risk.
- Provide a wide range of passive and active recreation and sports events, clubs, facilities and opportunities.

OUR ECONOMY

A community ensures a strong and resilient economy.

- Strengthen the capacity and opportunities for our local business communities.
- Develop and promote our community as a desirable place to stop, stay and experience the Outback and river environments of Southern NSW.
- Increase the net number, quality and variety of employment and training opportunities for our community members.

OUR CULTURE

A community that respects and celebrates its diverse cultures, heritage and arts.

- Promote opportunities to acknowledge and celebrate our diverse cultures and faiths.

OUR INFRASTRUCTURE

- A community that maintains and strengthens its natural and built environment.
- To preserve and enhance our natural environments ensuring they remain sustainable, healthy and clean.
- Promote key communications and infrastructure improvements.
- Undertake key transport and energy infrastructure improvements.

OUR LEADERSHIP

A community that values and fosters leadership, lifelong learning, innovation and good governance.

- Enhance our community capacity through building the local leadership base of the community.
- Maintain a lifelong learning focus in our Shire by providing an ever growing range of skill development, education and training opportunities and facilities.
- Strengthen interagency collaboration and partnerships and facilitate synergistic actions.
- Continually identify and service the necessary financial and technical support to achieve our community aspirations.
- Operate an effective and efficiently managed Council that provides strong civic leadership, sound governance and facilitates community participation and decision making.

The following Community Guiding Principles derived from Balranald Shire 2022 provide the context for the Community Plans. They are a product of the extensive community consultation process undertaken as part of the preparation of Balranald Shire 2022.

Any proposed community action should be measured against these ten guiding principles, namely –

- **Social inclusiveness** – valuing and respecting the contribution of all community members, regardless of age, gender, ability, ethnicity, cultural background or length of residency.
- Partnership and collaboration – all organisations committing to cooperate, collaborate and network to ensure maximum positive outcomes for the residents of the Shire.
- **Sense of community** – retaining the unique sense of village, country feel, heritage, safety, freedom and family/community connection.
- **Positive mindset** – fostering community attitudes that embrace change, proactive ‘can do’ behaviours, optimism, hopefulness, and the belief in the community being architects and builders of their social and economic future.
- **Access and equity** – providing all residents with adequate health, educational, learning, housing and recreational opportunities, facilities and programs.
- **Asset and Opportunity Focus** – building upon local assets, capacities, creativity, diversity and existing initiatives; and facilitating opportunities and experiences that enable all residents to see and experience their communities as places of potential and opportunity.
- **Respect for the environment and sustainable practices** – respecting the natural environment, cultures and heritage and ensuring that the needs of the present are met without compromising the ability of future generations to meet their needs.
- **Celebration** – encouraging pride and times of celebration relating to the community’s heritage, uniqueness, cultures and achievements.
- **Transparency and Accountability** – ensuring all initiatives, programs and services have transparent performance monitoring, review and evaluation.
- **Business Excellence** – encouraging a strong, innovative, customer-focused, profitable and collaborative business environment.

2.3 Land to Which this Plan Applies

The land to which this plan applies is Crown Reserve 89742 and includes Lots 17-19 Section 88 DP 758048 Parish Balranald County Caira. The area of the reserve is 2,423.52 m². The Balranald Preschool is located within the reserve (**Figure 2**).

The Balranald Preschool Reserve was gazetted on 27 February 1976 and was set aside for the purpose of Kindergarten. An aerial photograph, outlining the extent of the reserve, is shown below in **Figure 2**.



Figure 2 – Aerial Photograph of Balranald Preschool Reserve (Reserve No. 89742).

The Balranald Preschool Reserve contains the Balranald Preschool. Balranald Preschool is located on Curla lane and Harben street. The school is a highly valued asset of the Balranald community. The use of the reserve as Balranald Preschool is detailed in **Section 5.9** of this Plan of Management.

2.4 Land Ownership

Balranald Preschool Reserve 89742 is owned by the Crown and is managed by Balranald Council as Crown Land Manager under the Land Management Act 2016.

2.5 Categorisation of the Reserve

Under Section 3.23(2) of the Crown Land management Act 2016, Council Crown Land managers must assign to all Crown Land under their management one or more initial categories of community land referred to in section 36 of the Local Government Act 1993 (**Figure 3**).

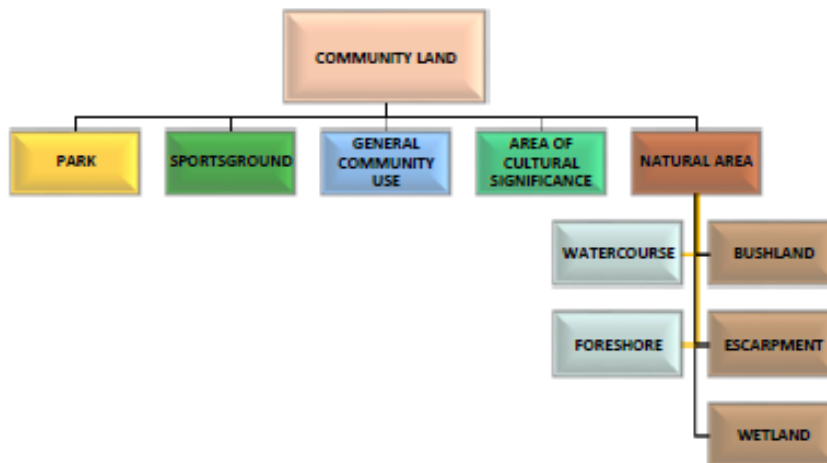


Figure 3 – Categories of Community Land referred to in Section 36 of the *Local Government Act 1993*

Council must assign a category that they consider to be most closely related to the purpose(s) that the land is dedicated or reserved. Multiple categories are assigned to Crown land where the Crown land is subject to multiple reservations and/or dedications.

The degree to which the reserve purpose relates to the assigned category of the land is important for ongoing management of the land. This is because Council must obtain Native Title Manager advice as to the validity of the activities that they wish to undertake on the land prior to dealing with it.

Both the Aboriginal Land Rights Act and the Native Title Act recognise the intent of the original reserve purpose of the land so that complying activities can be considered lawful or validated, particularly under Section J of the *Native Title Act 1993*.

In the case of Balranald Preschool, Council has requested and obtained initial categorisation of:

- **General Community Use** for the purpose of **Kindergarten**

The category was approved by the minister administering the *Crown Land Management Act 2016* in relation to the reserve. Council does not propose to alter the initial categories assigned by the Minister by this Plan of Management because the assigned categories most closely align with the reserved purpose of the of the land and its usage.

The core objectives for management of community land categorised as General Community Use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

- a) to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and
- b) to ensure that such activities are managed having regard to any adverse impact on nearby residences.

Activities of the land will reflect the intent of the public purpose and will be assessed for compliance with relevant Local Government and Crown Lands legislation. This includes assessment of that activity under the *Native Title Act 1996* and registered claims under the *Aboriginal Land Rights Act 1983*.

Use of the land for any activity is subject to the application and approval. Assessment will consider compliance with the objectives and relationship to that impact on the public purpose for the which the land was set aside. Other uses that do not comply with this Plan of Management or zoning of the land under Council's Local Environmental Plan will not be considered.

3 RELEVANT LEGISLATION, POLICIES AND PROCEDURES

3.1 *Local Government Act 1993 and Local Government (General) Regulations 2021*

Under section 36(1) of the *Local Government Act 1993*, Plans of Management must be prepared for all community land. Community land is land which is kept for use of the general public. The *Local Government (General) Regulation 2021* requires Council to have regard to the guidelines for categorisation of community land set out in *Division 1 Guidelines for the categorisation of community land* (clauses 101 - 111).

This Plan of Management has been prepared in accordance with the *Local Government Act 1993* using the land categories approved by the Minister administering the *Crown Land Management Act 2016*. The minimum requirements for a Plan of Management are set out under section 36(3) of the *Local Government Act 1993*.

A Plan of Management must identify

- the category of the land
- the objective and performance targets of the plan with respect to the land
- the means by which Council proposes to assess its performance with respect to the plans objectives and performance targets

These conditions may require the approval of Council for the carrying out of any specified activity on the land.

Section 36 (3A) specifies that for Plans of Management that are specific to one area of land, must also describe

- the condition of the land as at the adoption of the plan
- the buildings on the land as at adoption, and
- the use of the buildings and the land as at adoption

Additionally, the Plan must also state the purposes for which the land will be allowed to be used and the scale and intensity of that use.

Sections 36E – 36N of the *Local Government Act 1993* specifies the core objectives for the management of each category of community land.

3.2 Crown Land Management Act 2016 and Crown Land Management Regulation 2021

Division 3.6 of the *Crown Lands Management Act 2016* deals with the requirements that Council must meet in relation to Plans of Management and other Plans.

Section 3.23(6) of the *Crown Land Management Act 2016* requires Council to adopt a Plan of Management for any Crown reserve for which it is appointed Crown Land Manager, and that is classified as community land under the *Local Government Act 1993*.

The Crown Land Management Regulation 2021 removes the deadline for councils managing Crown land (Council Crown land managers) to adopt plans of management for that land by 30 June 2021. A Council Crown land manager no longer must comply with s3.23(7) of the Crown Land Management Act in preparing and adopting the first Plan of Management for Crown land under the Local Government Act. A council will still have to adopt a Plan of Management in accordance with the Local Government Act however, it will not be required to hold a public hearing for the adoption of the Plan of Management where that Plan of Management proposes to alter the categorisation of the land. A Council Crown land manager will be required to obtain the Minister's consent before adopting a Plan of Management.

3.3 Native Title Act 1993 (Federal)

All activities on the land must address the issue of native title. Whilst a successful claim for native title will lead to official recognition of native title rights, native title rights are considered to pre-date such recognition. Native title can therefore be relevant to activities carried out on the land even if no native title claim has been made or registered.

3.4 Aboriginal Land Rights Act 1983

The native title process must be considered for each activity on the land and a native title assessment must be undertaken. Almost all activities and public works carried out on the land will affect native title and require validation of the future act procedures in Division 3 of the *Native Title Act* by Council's Native Title Manager.

In New South Wales, Aboriginal Land Rights sits alongside native title and allows Aboriginal Land Council's to claim 'claimable' Crown land.

Generally, the *Aboriginal Land Rights Act* is directed at allowing Council's to claim Crown land that is unlawfully used or occupied. If a claim is successful, the freehold estate of the land is transferred to the Land Council.

Council is mindful that any activity on Crown land is lawful in relation to the reserve purpose of the land and that it ensures that Crown land under its control is always lawfully used and occupied.

When planning an activity of the land such as the issue of a lease or licence or any public works, Council is expected to search to determine whether an Aboriginal Land Rights claim has been made

in relation to the land. If a claim is registered, the activity must be postponed until the claim is resolved.

Strategies which allow Council to validly carry out a project or activity under the *Native Title Act* may not deal with project risks arising in relation to the *Aboriginal Land Rights Act*.

3.5 Biodiversity Conservation Act 2016

Council has legislative responsibility under this Act to appropriately manage Threatened Species Populations and Vulnerable or Endangered Ecological Communities and their habitats wherever they occur despite the categorisation of the land.

Where identified Council is bound by the Act to take any appropriate action necessary to implement measures and must not make decisions that are inconsistent with the provisions of any Threat Abatement or Recovery Plan.

3.6 Environmental Planning and Assessment Act 1979

The land is zoned as RU5 Village under the Balranald Shire Council Local Environmental Plan 2010 (LEP).

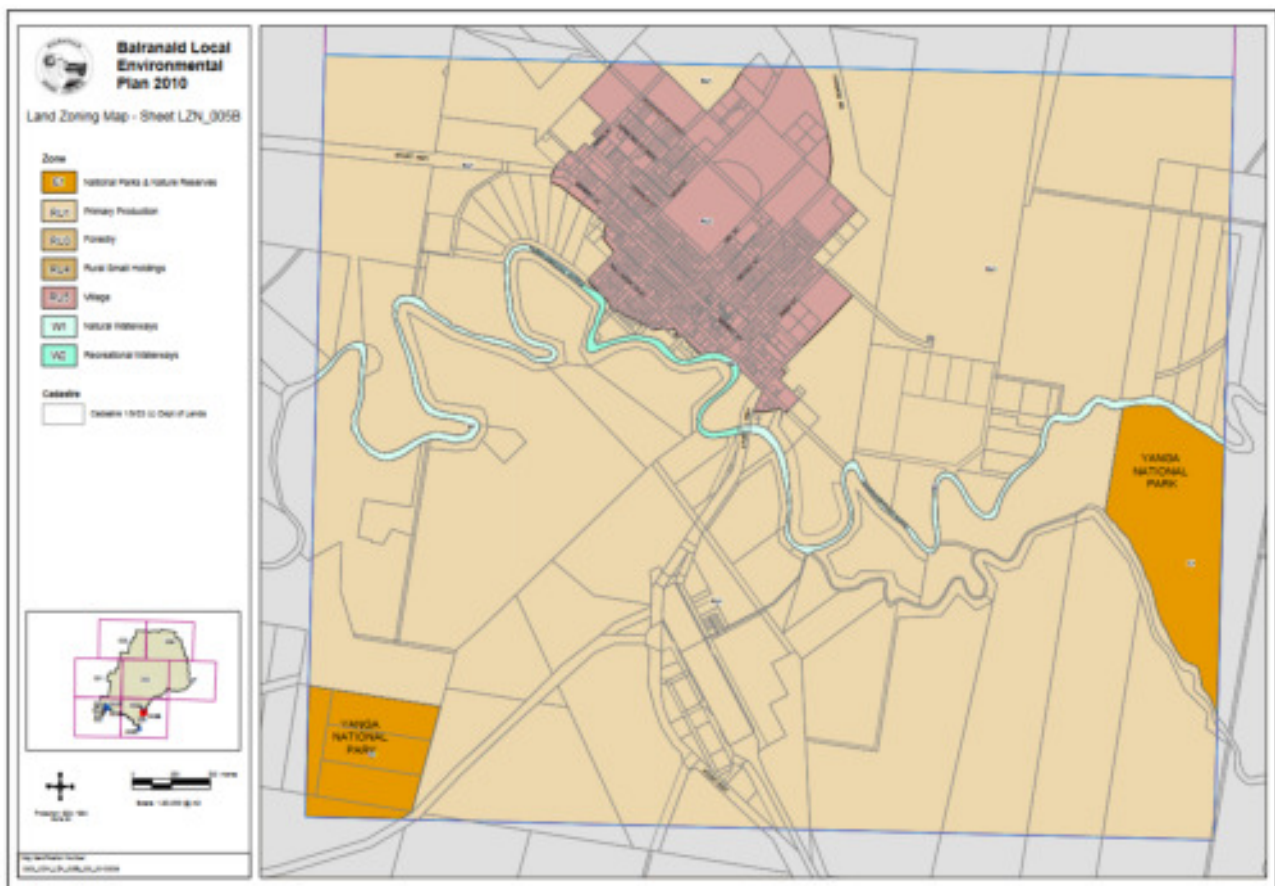


Figure 4 – Land Use Zone for Reserve No. 89742

The objectives of the land use zones are noted below in **Table 1**.

Table 1 – Objectives of Land Use Zones for Reserve No. 89742

Land Use Zone	Objectives
RU 5 Village	<ul style="list-style-type: none">• To provide for a range of land uses, services and facilities that are associated with a rural village.• To define the town boundaries of Balranald, Euston and Kyalite.• To encourage and provide opportunities for population and local employment growth.• To ensure development maintains and contributes to the character of the zone.• To protect the amenity of residents.• To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services.• To retain and facilitate expansion and redevelopment of the existing central business districts of the townships of Balranald and Euston and to further strengthen the core retail functions of those areas.

Details regarding permitted developments in these land use zones is included in the Balranald Shire Council LEP 2010.

3.7 Council Plans, Strategies, Policies and Procedures

This Plan of Management is to be used in conjunction with the appropriate Council plans, policies and procedures that govern the use and management of community land and any facilities located on the land.

Additional Council policies, plans and strategies adopted after the date of this plan that have relevance to the planning, use and management of community land will apply as though they were in force at the date of adoption of the Plan of Management.

3.8 Legislation and Statutory Control

This Plan of Management does not overrule existing legislation that also applies to the management of community land.

Other legislation and policies to be considered in the management process include, but are not limited to:

- *Public Works Act 1912* (as amended);
- *Local Land Services Act 2013*;
- *Biodiversity Conservation Act 2016*;
- *Water Management Act 2000*;
- *Companion Animals Act 1998*;
- *Rural Fires Act 1997*;
- *Rural Fires and Environmental Assessment Legislation Amendment Act 2002*;
- *Biosecurity Act 2015*;
- *Pesticides Act 1999*;

- *State Environmental Planning Policies;*
- *Balranald Local Environmental Plan 2010;*
- *Guidelines supporting development control plans; and*
- *Council plans, strategies, policies, procedures and guidelines, generally, as amended.*

3.9 Reclassification of Reserves

From time to time certain parcels of Community land may be identified as surplus to the existing and future needs of the community. Section 3.21 of the *Crown Land Management Act 2016* outlines provisions of Management of dedicated or reserved Crown land within meaning of the *Local Government Act 1993*. Section 3.21 (2) advises that a Council manager is authorised to manage its dedicated or reserved Crown land as if it were community land or operational land but only as permitted or required by Division 3.4 of the *Crown Land Management Act 2016*.

3.10 Review of this Plan

The use and management of Balranald Preschool is regulated by this Plan of Management. Whilst the guidelines and principles outlined in the plan may be suitable at present, the Plan should be reviewed from time to time, to confirm its relevance.

The review of this Plan of Management will take place within five (5) years of adoption of this plan.

3.11 Community Consultation

Consultation with the community is an important part of the preparation of this Plan of Management. Consultation gives Council a better understanding of the range of local issues affecting the use and enjoyment of the land to which this Plan of Management applies and gives all sectors of the community the chance to have an input into the direction of policy development being undertaken by Council.

All stakeholders are given the opportunity to express their opinions and provide relevant information in relation to the planned management of the land, however, as the land is Crown land final approval for the Plan of Management rests with the Minister administering the *Crown Lands Act 2016* as owner of the land.

Council is required to submit the draft Plan of Management to NSW Department of Industry, as representative of the owner of the land under section 39 of the *Local Government Act*. Section 3.23(7)(d) of the CLM Act states that, if the draft first Plan of Management alters the initial categories assigned, the council must obtain the Minister's consent if the re- categorisation would require an addition to the purposes for which the land is dedicated or reserved, but it will not be required to hold a public hearing. The Minister cannot give consent under section 3.23(7)(d) if it is considered that the alteration is likely to materially harm the use of the land for its reserve purpose.

4 CULTURALLY SIGNIFICANT LAND

4.1 Aboriginal Significance

Balranald is in the country of Muthi Muthi and Watti Watti Nations and members of the community are closely connected to the town and surrounding lands. The Muthi Muthi and Watti Watti people of this region developed a way of life over many generations. Approximately 6.8 per cent of the Shire's population is indigenous.

The Balranald Local Environmental Plan 2010 describes places of Aboriginal Heritage significance as an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is:

- the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

In addition, an Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Reserve No. 89742 is not identified as having Aboriginal significance and is not declared under section 84 of the *National Park and Wildlife Act 1974*, however, any areas of Aboriginal significance that may be discovered are covered by this Plan of Management.

4.2 Non-indigenous Significance

The Balranald Preschool reserve was gazetted on 27 February 1976 and was set aside for Kindergarten. The local school provides educational services to the wider community within and around Balranald.

5 DEVELOPMENT AND USE

5.1 Overview

One of the primary responsibilities of Local Government is to provide an acceptable level of service for public assets to its community within budgetary constraints. Council's ongoing commitment to the development and maintenance of these areas depend on financial resources and forward planning. The implementation of actions identified in this Plan of Management are consistent with Balranald Council's corporate objectives as detailed in the following strategic documents:

- Balranald Community Strategic Plan 2027
- Local Strategic Planning Statement
- Balranald – Community Engagement Report
- Balranald Economic Development Strategy
- Balranald Investment Attraction Plan
- Balranald Local Environmental Plan 2010

5.2 Balranald Shire Community Strategic Plan 2027

All New South Wales local councils are required by the Local Government Act 1993 to develop a Community Strategic Plan. The CSP essentially addresses four key questions for the community:

1. Where are we now?
2. Where do we want to be in 10 years time?
3. How will we get there? And,
4. How will we know when we have arrived?

Balranald Shire 2027 was developed as part of the Integrated Planning and Reporting Framework (IP&R) and is the overarching document that will be supported and integrated into all of Council's other planning documentation. The planning framework is shown in **Figure 5**.



Figure 5 – Integrated Planning and Reporting (IP&R) Framework

The IP&R framework recognises that communities share similar aspirations, a safe, healthy, and pleasant place to live, a sustainable environment, opportunities for education and employment, and reliable infrastructure. The difference is how each community responds to these needs.

This framework allows Balranald Shire to draw their various plans including state and federal plans together, understand how they interact so that the community can get the maximum benefits from their efforts by planning holistically and sustainably for the future. A Summary of the IP&R framework is given in **Figure 6**.

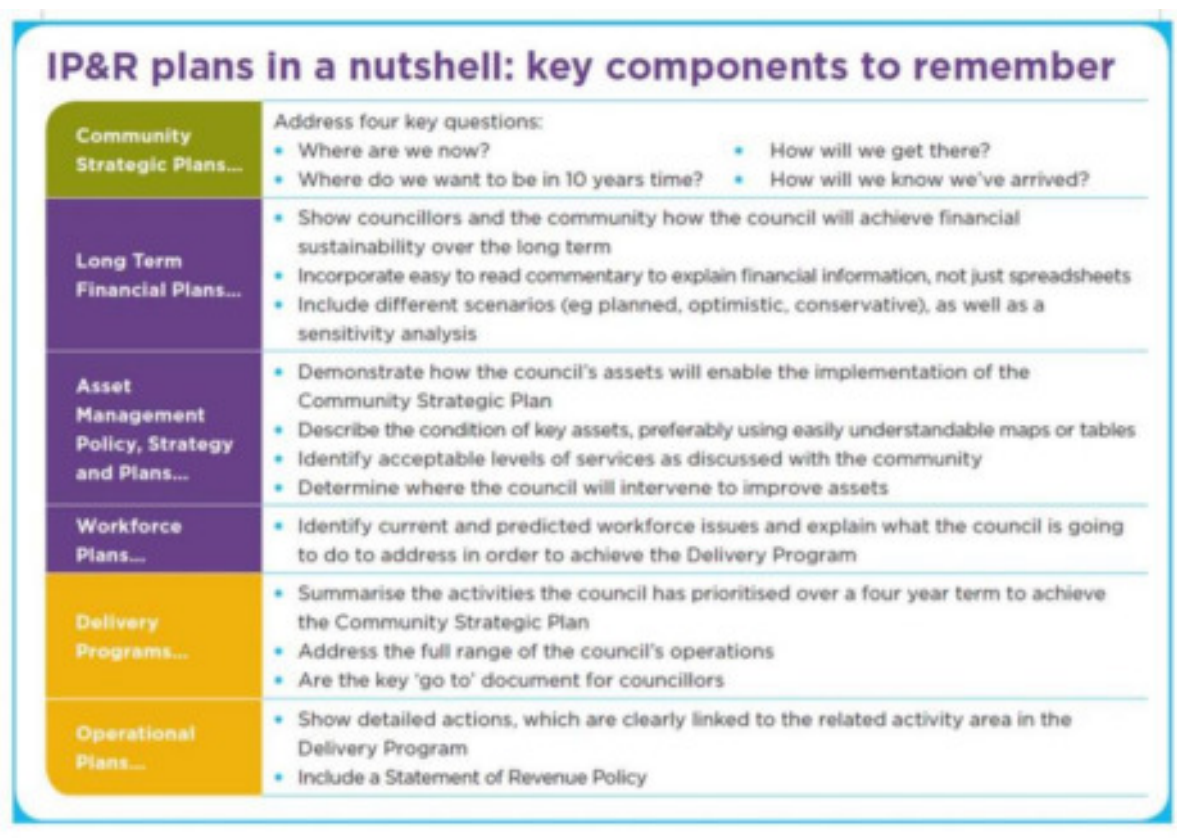


Figure 6. A summary of the IP&R Framework.

5.3 Condition of the Land and Structures on Adoption of the Plan of Management

Section 36(3A)(a) of the *Local Government Act* requires the plan to include a description of the condition of the land and structures on adoption of the plan. The condition of the infrastructure on Balranald Preschool Reserve upon recent inspection is shown below in **Table 2**.

Table 2 – Condition of Council Assets Located on at Balranald Preschool Reserve

BUILDING DESCRIPTION	CATEGORY	CONDITION RATING 1 – Good 5 - Unserviceable
Building	General Community Use	3
Signage	General Community Use	3
Grounds	General Community Use	3
Toilet facilities	General Community Use	3
Fencing	General Community Use	3

BUILDING DESCRIPTION	CATEGORY	CONDITION RATING 1 – Good 5 - Unserviceable
Power	General Community Use	3
Sewer infrastructure	General Community Use	3

Balranald Preschool Reserve is currently functioning appropriately for the purposes of the area.

5.4 Use of the Land and Structures at the Date of Adoption of the Plan of Management

Existing use of the reserve includes:

- Preschool

Council is willing to work with existing and potential users to expand the usage of Balranald Preschool and this Plan of Management will provide an operational and strategic framework to effectively take advantage of those opportunities.

5.5 Permitted Use Strategic Objectives

As previously noted, the classification of Balranald Preschool is General Community use with the intended purpose of Kindergarten. This purpose aligns with the reserve's past and current use and the values identified in this plan.

Projects proposed by community groups and other users of the reserve must be in line with Council strategic plans and must align with the reserve purpose and core objectives for the Reserve.

Depending on the scope of the project Council may request a written proposal outlining the project and proposed location, estimated costs, scaled plans, justification for proposed works and future maintenance requirements.

5.6 Further Development

Whilst maintenance of existing infrastructure is a priority there is scope to improve Balranald Preschool if the development is in line with the purposes for the reserve and relevant legislation such as the *Local Government Act 1993*, *Crown Land Management Act 2016*, *Aboriginal Land Rights Act 1983* and the *Native Title Act 1993*. Any review of development would also be in conjunction with the Balranald redevelopment strategy. A comprehensive site development plan and a landscape management plan is recommended for larger projects to ensure a strategic approach to development.

5.7 Leases, Licences and other Estates

Leases, licences and other estates formalise the use of community land by groups such as sporting clubs and non-profit organisations, or by commercial organisations and individuals providing facilities

and services for public use. Activities should be compatible with the zoning and reservation purpose of the land and provide benefits and services for facilities to the users of the land.

Occupation of the land other than by lease or licence or other estate or for a permitted purpose listed in the *Local Government Regulations 2005* is prohibited.

The terms of the authorisation for a lease licence or other estate should include Native Title assessment and validation under the Native Title Act 1993. The authorisation should ensure the proper management and maintenance of the land and the interests of Council and the public are protected. A lease is normally issued where exclusive control of all or part of an area by a user is proposed. In all other instances a licence or short term licence or hire agreement will be issued.

The Plan of Management reflects the requirements for compliance with sections 46, 46A, 47 and 47A, 47B and 47C of the Local Government Act and the requirement for Minister for Local Government's approval for a lease licence or estate over five years, where an objection is received, and for any lease or licence for a term in excess of 21 years (up to the maximum term of 30 years) in accordance with sections 47(5) and 47(8AA) of the Local Government Act.

This Plan of Management expressly authorises the issue of leases, licences and other estates over Balranald Caravan Park, provided that:

- 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 *Local Government Act 1993* or the *Local Government Regulations 2005*;
- the issue of the lease, licence or other estate and the provisions of the lease, licence or other estate can be validated by the provisions of the *Native Title Act 1993*;
- the land is not subject to a claim under the *Aboriginal Land Rights Act 1983*;
- the lease, licence or other estate is granted and notified in accordance with the provisions of the Local Government Act 1993 or the Local Government Regulations 2005;
- 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.

Areas held under lease, licence or regular occupancy shall be maintained by the user. The user will be responsible for maintenance and outgoings as defined in the lease or licence or agreement for use.

5.8 Native Title Assessment

The *Crown Land Management Act 2016* – Section 8.7 (1) (d) requires that Council, as Crown Land Manager, obtains the written advice of its Native Title Manager prior to its approval or submission for approval of a plan of management for the land that authorises or permits any kinds of dealings referred to in **Section 5.7**.

A copy of the Native Title Assessment for this reserve is included in **Appendix A**.

6 PLAN OF MANAGEMENT - OBJECTIVES AND ACTIONS

6.1 Plan of Management Objectives

The general objectives of this Plan of Management are shown below in **Table 3**.

Table 3 – Plan of Management Objectives

	Plan of Management Objectives
1.	To ensure that relevant legislation is complied with in relation to the land.
2.	To inform Council staff and the community of the way the land will be managed.
3.	To implement specific policies, guidelines and works identified in the plan of management.
4.	To progressively improve the values of the land and to minimize the long-term cost of maintenance to the Council
5.	To make provisions for appropriate leases, licences and agreements in respect to the land.
6.	To identify and recognise existing uses and improvements on the land.
7.	To set in place and administrative structure to ensure the achievement of land management objectives.
8.	To ensure that the management of the land is not likely to materially harm the use of the land for any of the purposes for which it is dedicated or reserved.

6.2 *Action Plan*

The Plan of Management specifies performance targets and priorities for actions to be taken in relation to the land to which the plan applies.

Assessment of achievement of the objectives of the plan is to be undertaken. A summary of indicators and targets for major objectives is outlined in the **Table 4** below.

Table 4 – Indicators and Targets for Plan of Management Objectives

OBJECTIVES AND PERFORMANCE TARGETS OF THE PLAN IN RESPECT TO THE LAND	MEANS BY WHICH THE COUNCIL PROPOSES TO ACHIEVE THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS	MANNER IN WHICH COUNCIL PROPOSES TO ASSESS ITS PERFORMANCE WITH RESPECT TO THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS
<p>To ensure that relevant legislation is complied with in relation to preparation of Plans of Management.</p>	<p>The Plan is prepared in accordance with the Act. Native Title Manager advice is sought during the preparation of the Plan.</p>	<p>The Plan is reviewed by Council's Native Title Manager and Department of Industry Crown Lands then exhibited and adopted by Council if there are no changes to the approved plan. If changes are made following exhibition the plan must again be approved by Department of Industry Crown Lands.</p>
<p>To inform Council staff and the community of the way the land will be managed.</p>	<p>The Plan is exhibited in accordance with the Local Government Act.</p>	<p>The Plan is exhibited and adopted by Council.</p>
<p>To implement the specific policies, guidelines and works identified in the plan of management.</p>	<p>Ensure that the Plan is referenced to identify specific policies, guidelines and works.</p>	<p>All works are carried out in accordance with the Plan.</p>
<p>To progressively improve the values of the land to minimise the long term cost of maintenance to the Council.</p>	<p>Carry out all works identified in Council's long term plan.</p>	<p>All works are completed and minimal maintenance of the improvements is required.</p>
<p>To make provision for leases, licences and agreements in respect of the land.</p>	<p>The Plan of Management expressly authorises the provision of leases, licences and agreements where appropriate.</p>	<p>Any leases are prepared, exhibited and adopted in accordance with the provisions of the Local <i>Government Act 1993</i> and the <i>Crown Land Management Act 2016</i>. Native Title Manager advice and a check for a claim under the Aboriginal Land Rights Act is received for all proposed leases and licences.</p>
<p>To identify and recognise existing uses and improvements on the land.</p>	<p>Physical inspection.</p>	<p>The Plan is exhibited and adopted by Council.</p>

OBJECTIVES AND PERFORMANCE TARGETS OF THE PLAN IN RESPECT TO THE LAND	MEANS BY WHICH THE COUNCIL PROPOSES TO ACHIEVE THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS	MANNER IN WHICH COUNCIL PROPOSES TO ASSESS ITS PERFORMANCE WITH RESPECT TO THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS
To provide a reference and data bank in relation to information relevant to present and future management of the land.	Physical inspection and file research.	The Plan is exhibited and adopted by Council.
To set in place an administrative structure to ensure the achievement of land management objectives.	Ensure that all sections of Council are aware of the contents of the Plan.	All future works are carried out in accordance with the Plan.
To identify the major management issues applying to the land.	Consultation and staff discussions.	The Plan is exhibited and adopted by Council.
To simplify the process of management as far as possible.	Preparation of the Plan in accordance with the Act.	The Plan is exhibited and adopted by Council.

7 PLAN OF MANAGEMENT – MANAGEMENT AND ADMINISTRATION OF THE LAND

7.1 Management Authority

For the purposes of this plan, the management authority for the reserve is Balranald Council, in accordance with the provisions of the *Crown Land Management Act 2016* and the *Local Government Act 1993*. Where Council's responsibilities have been delegated, the provisions of this management plan continue to apply.

7.2 Management Issues

The management of the land must consider the reserve purpose(s) of the land and the purpose for which the land is classified and categorised.

7.3 Staff Resources

Council shall provide adequate staff resources for the management of the land in accordance with this Plan of Management. Staff shall have appropriate qualifications and/or experience.

7.4 Environmental Assessment of Activities

The environmental impact of activities carried out on the land will be assessed having regard to the requirements under the Environmental Planning and Assessment Act.

7.5 Role of Other Activities

Other government authorities may have responsibilities or involvement in the management of the land or of immediately adjacent land. This will be considered and, where appropriate, consultation will take place with relevant authorities.

7.6 Activities Carried Out by Other Authorities

Where activities are carried out on the land by other authorities, Council will make the authorities aware of the provisions of this Plan of Management and will seek to ensure that any activities are compatible with the objectives and guidelines of this Plan of Management, and in accordance with the provisions of the Crown Land Management Act 2016 and the Local Government Act 1993.

7.7 Principles for the Development of Adjoining Land

Council's development control practices recognise and endeavor to minimize the impacts upon adjoining land parcels. Council will consider the impacts of activities carried out on the reserve on adjoining land.

7.8 Community Involvement in Management

Where appropriate, Council will undertake community consultation subsequent to the making of this Plan of Management and may give community groups a role in management.

7.9 Contract and Volunteer Labour

In managing the land Council may use contract and volunteer labour but shall ensure that supervisors and staff have appropriate qualifications and/or experience and are made aware of the requirements of this plan.

7.10 Existing Assets

Existing assets on the land shall be identified and measures taken to maintain them in a satisfactory manner. Council may make arrangement for community groups and users to undertake maintenance for specific facilities on Council's behalf.

7.11 Public Liability Insurance

All users of the land, including lease and licence holders, must have public liability insurance coverage, incorporating the following:

- At least \$20M coverage for any one instance; and
- Balranald Council named in the policy as an interested party; and

A copy of the cover note for the insurance is to be provided to Council prior to use of the reserve. Where the use of the reserve is for longer than one year, as may be the case for leases and licences, up to date copies of the cover note shall be provided.

7.12 Commercial Activities

Commercial activities may be carried out on the land, provided that the activity is consistent with the purpose of the land or for a purpose authorised under this Plan of Management. Any commercial activity is subject to Council approval prior to the commencement of the activity.

7.13 Emergencies

This Plan of Management authorises necessary activities to be carried out during declared emergencies as may be decided by the General Manager or delegate. Following carrying out of any activities, periodic monitoring will be undertaken, and rehabilitation works undertaken if necessary.

7.14 Land Proposed for Future Development

Land proposed in any of Council's plans for future development for a specific purpose may be utilized for other purposes on an interim basis until required for that purpose.

7.15 Undeveloped Land

Land to which this Plan of Management applies that is undeveloped and unused for the purpose of the land may upon assessment, be used for any activity that does not prevent or inhibit future use for the purpose of the land, including tree planting and mowing.

7.16 Information Monitoring and Research

Monitoring and collection of information relating to the land to which the Plan of Management applies are important to enable good management. Where a demonstrated need has been identified, an educational program shall be developed to encourage use appropriate to the purpose to all or part of the land to which this Plan of Management applies.

Management arrangements shall be implemented to regularly monitor the use of the land, environmental conditions and facilities. Surveys of visitation and/or satisfaction with the facilities may be undertaken to facilitate the management and use of the land.

7.17 Alcohol

Alcohol is not permitted on the reserve.

7.18 Companion Animals

Pets of patrons are permitted within the Preschool and subject to management discretion and strict compliance with the reserve rules.

7.19 Parking

Parking is available along the street adjacent to the reserve. All parking is regulated and monitored for compliance within the council designated parking areas.

7.20 Buildings and Amenities

Buildings and amenities may be provided where consistent with the need to facilitate the purpose of the land, provided that a Native Title assessment has been carried out by Council's Native Title

Manager, the land is not subject to a claim under the *Aboriginal Land Rights Act 1983* and the provisions of the *Local Government Act 1993* and the *Crown Land Management Act 2016* have been complied with. Buildings and amenities are to be maintained in a safe condition for users and the public.

7.21 Infrastructure

Any necessary infrastructure to service the purpose of the land may be constructed provided that a Native Title assessment has been carried out by Council's Native Title Manager, the land is not subject to a claim under the *Aboriginal Land Rights Act 1983*, and the provisions of the *Local Government Act 1993* and the *Crown Land Management Act 2016* have been complied with.

7.22 General Maintenance

General maintenance will match the level and type of use and wherever possible users will be encouraged to help. Areas held under lease, licence or regular occupancy shall be maintained by the user where appropriate.

Existing assets on the land shall be identified and measures taken to maintain them in a satisfactory manner. The Council may decide for community groups to undertake maintenance for specific facilities on Council's behalf.

7.23 Development Activities

Development activities shall be undertaken in a way that minimizes the area, degree and duration of disturbance, and areas are to be restored to the greatest extent practicable.

7.24 Pollution Control

Management should seek to ensure that no pollution is generated on the land, and that adequate measures are taken to prevent adverse impacts from adjoining land.

7.25 Public Safety

Reasonable measures will be taken by Council to ensure and maintain the public safety of persons using the land.

7.26 Neighbours

Council shall endeavor to be a good neighbor and as far as possible shall consult with adjoining owners in respect of management and other activities which may affect them.

7.27 Trees, Vegetation and Landscape

Proper management of landscaping measures, trees and vegetation is important to provide a high degree of amenity on the land. Trees will be maintained, as will maintenance of appropriate growing conditions involving management of soil compaction and other encroachments, in accordance with Council's Tree Management Policy.

7.28 Weed Control

Weed control shall be by both taking preventative measures and active control measures. Prevention of weed infestation shall be by minimising actions that disturb the ground surface and discouraging the conditions that encourage weeds.

Measures shall be taken to prevent the dispersion of weeds by fill or the transport of seeds on machinery. Control measures which are acceptable include physical removal or slashing, accepted biological control techniques, bush regeneration, or chemical spraying where Council is satisfied that there will be no adverse residual effects and no adverse effect on human health.

APPENDIX A NATIVE TITLE ASSESSMENT

The Crown Land Management Act 2016 – Section 8.7 (1) (d) requires that Council as Crown Land Manager obtains the written advice of its Native Title Manager prior to its approval or submission for approval of a plan of management for the land that authorises or permits any kinds of dealings referred to in Section 8.7.

1. The Land to which this report applies

The land to which the Plan of Management applies is Crown Reserve 89742 and is contained in Lots 17-19 Section 88 DP 758048 Parish Balranald County Cairn. The land is known as the Balranald Preschool. The Crown is the owner of the land.

Balranald Preschool Reserve was reserved from sale for the public purpose of Kindergarten; and in the Government Gazette on 27 February 1976. Balranald Council is the Crown Land Manager of the Land. The management and use of the land is subject to the provisions contained in the Crown Land Management Act 2016.

2. Details of activity on Crown Land

The Balranald Preschool Plan of Management has been prepared by Council and provides direction as to the use and management of Balranald Preschool– Reserve 89742.

The Plan of Management is required in accordance with Section 3.23 of the Crown Lands Management Act 2016 and Section 36 of the Local Government Act 1993.

The Plan of Management outlines the way the reserve will be used and provides the framework for Council to follow in relation to the Leasing, Licencing and Permit processes for the land.

The Plan of Management also provides for the granting of easements over the land and the further development of the land, buildings and infrastructure on the land.

The Plan of Management provides strict guidelines such that each activity requires a Native Title Assessment and validation under the Native Title Act 1993 to be carried out by Council's Native Title Manager prior to the commencement or approval of that activity.

The Plan of Management is clear that the management of those activities that could be considered to be a future act must take into account the reserve purpose for the land.

Accordingly, the activities authorised under the Plan of Management could be validated under Subdivision J of the Native Title Act 1993.

2a. Is the activity a future act?

The Plan of Management provides authorisation for granting of leases, licences and other Estates over the land and the granting of easements and further development of the land, buildings and infrastructure on the land. These activities could be considered to be a future act within the meaning of Section 233 of the Native Title Act 1993.

2b. If it is, why? if it is not, why not?

The activities authorised under the Plan of Management could be considered to be a future act within the meaning of Section 233 of the Native Title Act 1993.

3. If the activity is a future act, which of the following subdivisions of the future act regime under the Native Title Act 1993 validate it?

The authorisation of the activities that could be considered a future act within the Plan of Management provides for the activity to be carried out in accordance with the reserve purpose of the land.

The Plan of Management does not provide authorisation for any activity that is not in accordance with the reserve purpose of the land.

Accordingly, the activities could be validated under Subdivision J of the Native Title Act 1993.

4. Requirements to notify any representative body.

The Plan of Management provides strict guidelines such that each activity requires a Native Title assessment and validation under the Native Title Act 1993 to be carried out by Council's Native Title Manager prior to the commencement or approval of that activity.

Notification will be assessed on a case by case basis and parties will be notified when an activity is assessed.

As the Plan of Management authorises activities that could be considered to be future acts within the meaning of Section 233 of the Native Title Act 1993. Council will notify NTSCorp and the Balranald Aboriginal Land Council prior to adoption of the plan.

Requirement	Section 24JA	Requirement satisfied
The reservation was created on or before 23 December 1996; and	s.24JA(1)(a)	Yes
The reservation was valid; and	s.24JA(1)(b)	Yes
The creation of the reservation was done by the Crown (the Commonwealth or State); and	s.24JA(1)(c)	Yes
The whole or part of any land or waters under the reservation was to be used for a particular purpose; and	s.24JA(1)(d)	Yes
The issue of the licence is done in good faith under or in accordance with the reservation, or	s.24JA(1)(e) (i)	Yes
In the area covered by the reservation, so long as the act's impact on Native Title is no longer greater than the impact that any act that could have been done under or in accordance with the reservation would have had	s.24JA(1)(e) (ii)	Yes

Summary:

The Plan of Management authorises activities that could be considered as future acts within the meaning of Section 233 of the Native Title Act 1993.

The Plan of Management guidelines provide that those activities are only to be authorised if they are in accordance with the reserve purpose of the land.

Those activities that are consistent with the reserve purpose of the land may be validated under Subdivision J if the land was subject to a reservation created prior to 23 December 1996 and the reservation was done by the Crown.

Therefore requirements of S24JA(1) (a)-(e) are met.

s.24JA(1)(a) is satisfied as the relevant land was subject to reservation created before 23 December 1996. Reserve 89742 was reserved from sale or lease for purpose of Kindergarten; notified in the Government Gazette of 27 February 1976.

s.24JA(1)(b) is satisfied as the Reserve was notified in the Government Gazette of 27 February 1976 .

s.24JA(1)(c) is satisfied as the reservation was carried out by the Crown under the provision of the Crown Lands Consolidation Act, such reservation has been carried out by a statutory power, exercised by the minister on behalf of the Crown.

s.24JA(1)(d) is satisfied as the land was to be used for a specific purpose being a reservation under the Crown Lands Consolidation Act which reserved the land from sale for the purpose of Kindergarten.

s.24JA(1)(e) (ii) is satisfied as the adoption of a Plan of Management that authorises activities to be done in accordance with the reservation purpose in the area covered by the reservation, so long as the act's impact on native title is no longer greater than the impact that any act that could have been done under or in accordance with the reservation would have had.
