

# **PLAN OF MANAGEMENT**

## **McLEAN BEACH RESERVE**

### **RESERVE No. 80265**

**PLAN OF MANAGEMENT DOCUMENT CONTROL**

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<b>Reviewed By</b>				
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## 1 KEY INFORMATION

The McLean Beach Reserve Plan of Management (Plan of Management) has been prepared by Edward River Council (Council) to provide direction regarding the use and management of the McLean Beach – Crown Reserve 80265. 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

Edward River Council was proclaimed on 12 May 2016, following the amalgamation of the former Conargo Shire Council and Deniliquin Council into one strong, cohesive and dynamic organisation. Deniliquin is located approximately 725km south west of Sydney and 285km north east of Melbourne. The Council is situated within the Murray region of New South Wales and close to the Victorian border. It shares borders with Hay Shire to the north, Murrumbidgee Council to the east, Murray River Council to the south-west and Berrigan Council to south-east.

The Council provides services and support to a community of approximately 9,000 permanent residents across a region covering 8,881 square kilometres, including the town of Deniliquin and the six rural villages of Blighty, Boorooban, Conargo, Mayrung, Pretty Pine and Wanganella. A map of the local government area is shown below in **Figure 1**.



**Figure 1** - Edward River Council Local Government Area

Edward River 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

Edward River Council has set out several strategic objectives in the Community Strategic Plan, as shown below in **Figure 2**:



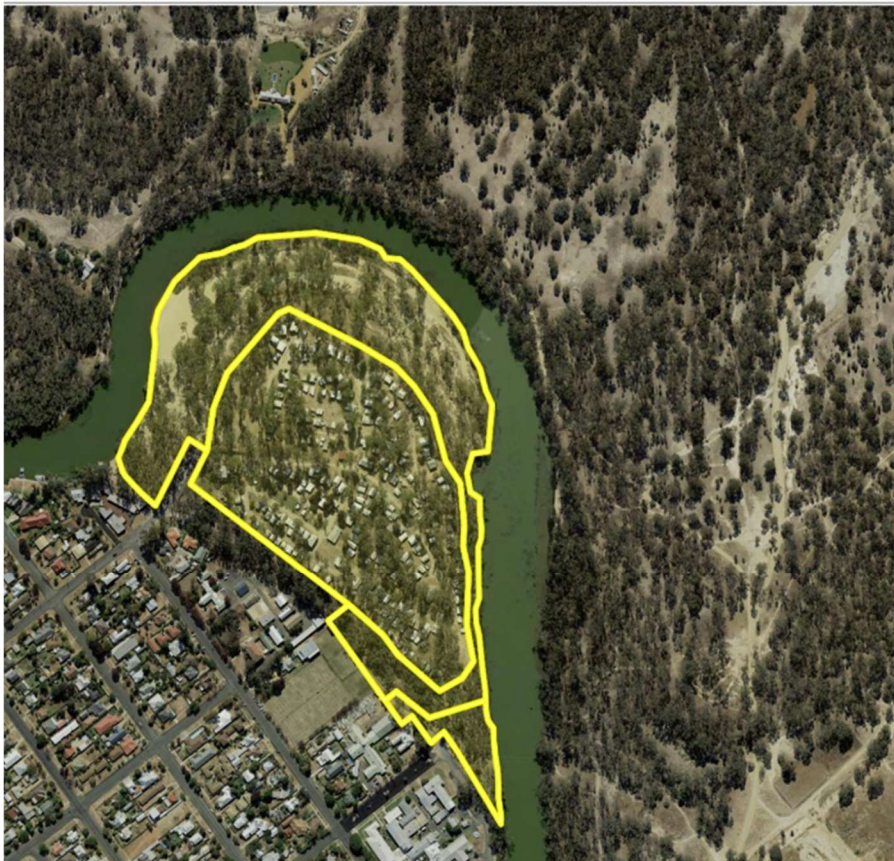
**Figure 2** – Edward River Council’s Strategic Objectives from the Community Strategic Plan

## 2.3 Land to Which this Plan Applies

The land to which this plan applies is Crown Reserve 80265 and includes Lot 7014 DP 1023778 and Lots 1 and 2 DP 1132408, Parish South Deniliquin County Townsend. The reserve is located along the Edward River on the eastern side of the reserve and properties fronting Charlotte Street on the western side. The area of the reserve is 1.96 hectares. The McLean Beach Holiday park is located within the reserve. There are a number of permanent residents within McLean Beach Holiday Park Lot 1 DP1132408 (**Figure 3**). It has been determined that caravan park sites with permanent resident sites contained within Lot 1 can be effectively managed as community land with the categorisation of General Community Use. Lot 2 and Lot 7014 are categorised as Park Therefore, permanent resident sites are classed as community land.

The McLean Beach Reserve was gazetted on 03 January 1958 and was set aside for public recreation. An aerial photograph, outlining the extent of the reserve, is shown below in **Figure 3a,b**. **Figure 3c** shows the different Lots and DP numbers contained within the reserve.





**R80265**

**Legend**



Aboriginal Land Claim Boundary	Non Crown Land
Licence (Structure Point)	Crown Land - Undefined Status
Licence (Structure Line)	Crown Road
Licence (Structure Polygon)	Shared Crown / Council Road
Licence (Land Area)	Crown Road - Undefined Status
Crown Lease	Crown Waterway
Enclosure Permit	All Crown (Land, Road & Water)
Crown Reserve	Local Government Area
Crown Land (Other)	Suburb
Crown Land	National Parks Reserve
Crown Land - Status Unknown	State Forest

**Crown Account Details**

Account: 80265 Reserve (TN5110495)  
 Gazetted: 03 Jan 1958 ; Status: Current  
 Management: Edward River Council (01 Jul 2019)  
 Purpose: Public Recreation

Parish: SOUTH DENILIQUIN  
 County: TOWNSEND  
 LGA: EDWARD RIVER  
 Suburb: DENILIQUIN

Author: DP\machip01  
 Map Created: 8/03/2023 2:22:29 PM

0 92 183 275 367 m

Scale 1: 9026

a



b



**Figure 3a,b** – Aerial Photograph of McLean Beach Reserve (Reserve No. 80265). 3b. Red boxes mark the permanent resident sites within the McLean Beach Holiday Park Lot 1 DP1132408. These permanent resident sites are classed as Community Land.



**Figure 3c.** Lot and DP number boundaries highlighted to show position within the entire reserve.

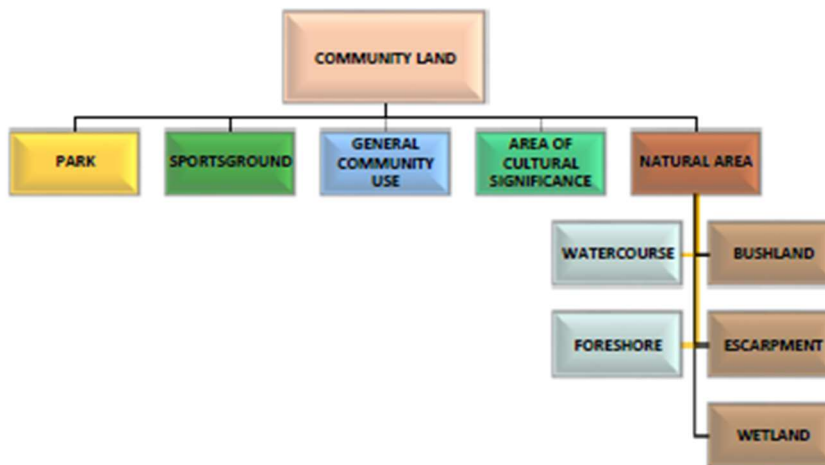
McLean Beach Reserve is a popular beach area with locals and tourist using the beach for recreational activities mainly relating to the Edward River. The McLean Beach Holiday Park is situated within the reserve and popular with tourists during the summer. The use of part of the reserve by the McLean beach Holiday Park is detailed in **Section 5.9** of this Plan of Management.

## 2.4 Land Ownership

McLean Beach Reserve 80265 is owned by the Crown and is managed by Edward River 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 4** – 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 McLean Beach, Council has requested and obtained initial categorisation of:

- **Lot 1 – General Community Use** with the purpose of **Private Recreation**, and
- **Lot 2, Lot 7014 – Park** with the purpose of **Public Recreation**
- Permanent Resident sites are to be classed as Community land until end of residency

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 purposes 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) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
- b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

The core objectives for management of community land categorised as a park are:

- a) to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and
- b) to provide for passive recreational activities or pastimes and for the casual playing of games, and
- c) to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

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. Clause 101(2) of the *Local Government General Regulation 2021* requires Council to have regard to the guidelines for categorisation of community land set out in Clauses 102 to 111 of that regulation.

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**

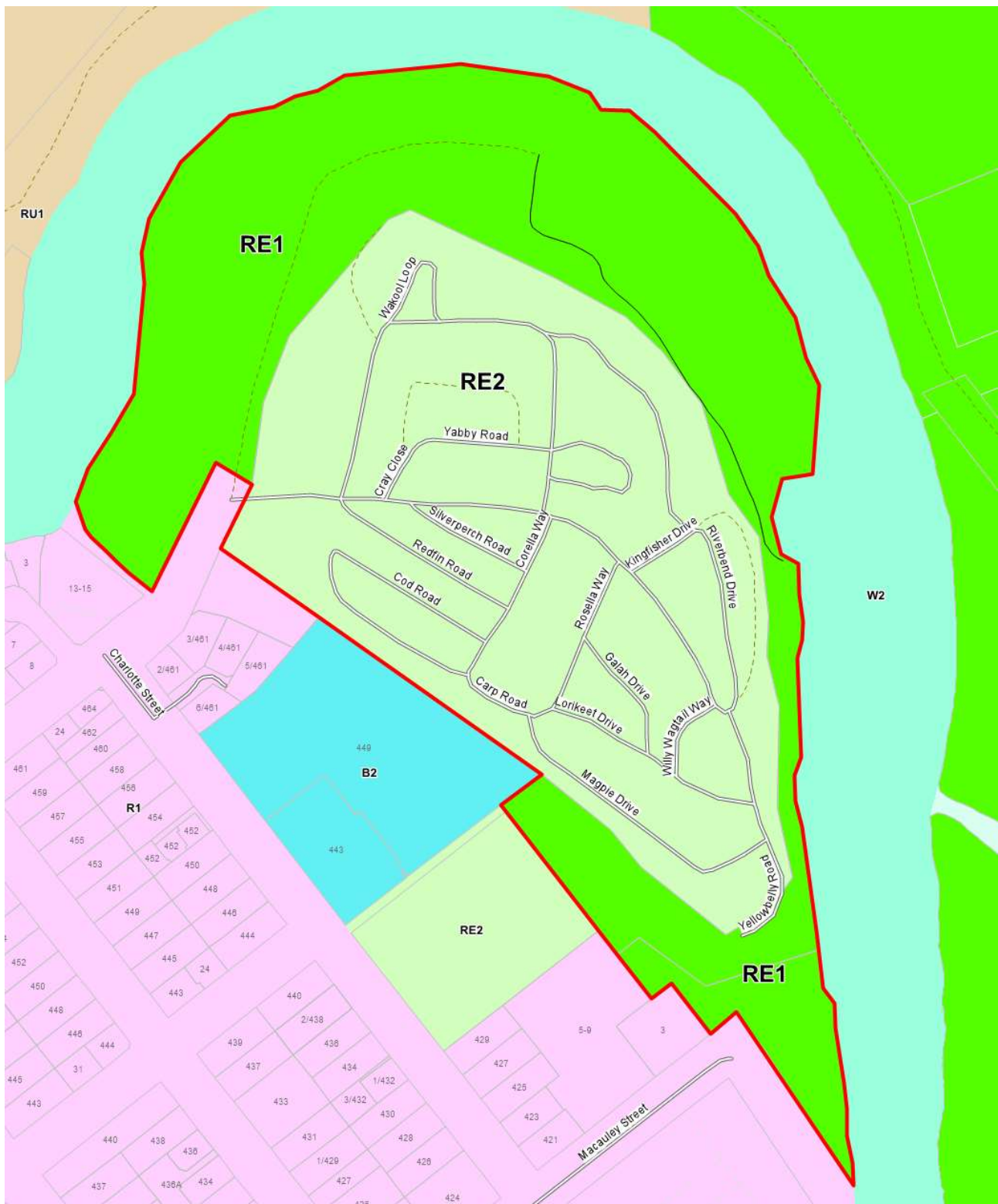
The land is zoned as follows under the Deniliquin Local Environmental Plan 2013 (LEP):

- RE1 Public Recreation (Lot 2, Lot 7014); and





- RE 2 Private Recreation.



**Figure 5** – Land Use Zones for Reserve No. 80265. Lot 1 is zoned RE 2 Private Recreation (General Community Use), and Lot 2 and Lot 7014 RE 1 Public Recreation (Park)

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

**Table 1** – Objectives of Land Use Zones for Reserve No. 80265

<b>Land Use Zone</b>	<b>Objectives</b>	<b>Part of Reserve</b>
RE1 – Public Recreation	<ul style="list-style-type: none"> <li>• To enable land to be used for public open space or recreational purposes.</li> <li>• To provide a range of recreational settings and activities and compatible land uses.</li> <li>• To protect and enhance the natural environment for recreational purposes.</li> </ul>	McLean Beach and boat ramp facility
RE2 – Private Recreation	<ul style="list-style-type: none"> <li>• To enable land to be used for private open space or recreational purposes.</li> <li>• To provide a range of recreational settings and activities and compatible land uses.</li> <li>• To protect and enhance the natural environment for recreational purposes.</li> </ul>	McLean Beach Holiday Park

Details regarding permitted developments in these land use zones is included in the Deniliquin LEP 2013.

In addition to the Deniliquin LEP, the Deniliquin Development Control Plan was developed with the general aims to:

- (a) Promote growth and development to support and enhance the vitality of the Central Business District.
- (b) Encourage development that responds to the needs of the community.
- (c) Encourage residential development of a high standard to improve the quality of the urban environment.
- (d) Encourage development that respects and minimises the impacts on surrounding land and the wider environment.
- (e) Encourage new development that will enhance streetscapes and vistas.
- (f) Ensure that development incorporates safe, effective and convenient pedestrian, bicycle and vehicle access, movement and parking areas.
- (g) Encourage energy efficiency in building design.



- (h) Provide for effective and well-utilised open space with security and access for the community.
- (i) Control and minimise the impact of stormwater run-off.
- (j) Ensure that new development is fully integrated into Council's sewerage system wherever possible.
- (k) Promote the orderly and efficient development of land to ensure that provision of services to that land is adequate.

### **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 McLean Beach 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 Planning & Environment, 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*

Deniliquin is in the country of the Wamba Wamba Perrepa Perrepa nation and members of the community are closely connected to the town and surrounding lands. The Wamba Wamba and Perrepa Perrepa people of this region developed a way of life over many generations which was in harmony with the land and its natural rhythms. They developed a sophisticated farming system based on the indigenous vegetation communities which supported large family groups. In Deniliquin a comparatively high number of people identified themselves as Aboriginal and / or Torres Strait Islanders (4.6%) compared to the average for NSW (2.9%).

The Deniliquin Local Environmental Plan 2013 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.

McLean Beach Reserve 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 reserve for McLean Beach was gazetted on 03 January 1958 and was set aside for public recreation. The area of McLean Beach was known in the early days as the gravel pits. In 1866 a brewery was built near by and it became known as Brewery Bend. In 1972 the area was renamed McLean Beach in honour of the former Deputy Mayor of Deniliquin, Alderman Archibald Hector McLean, who came to Deniliquin in 1921 and devoted many years to teaching the young people of Deniliquin to swim by conducting learn to swim campaigns. McLean Beach Reserve remains an important area for the entire Deniliquin community, providing an open public space that holds uses from picnics, walking, running and other fitness activities to other recreational activities such as bird watching and fishing in the Edward River. The McLean Beach Holiday Park provides an area for tourists to reside while they visit Deniliquin with ideal access to the McLean Beach and boat Ramp, and the Deniliquin township.

## 5 DEVELOPMENT AND USE

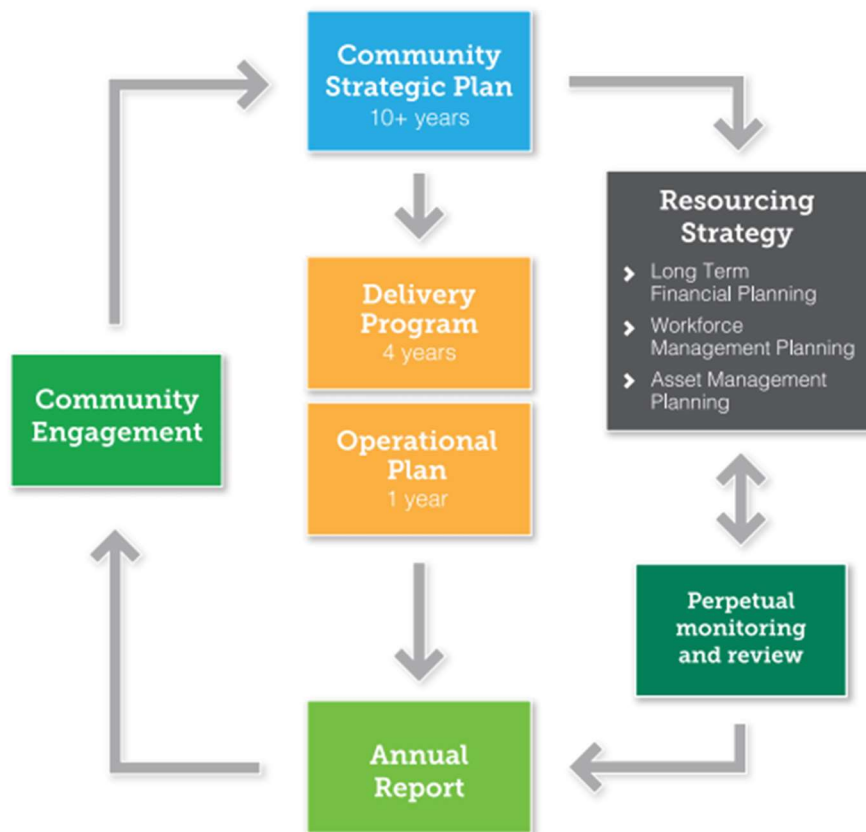
### 5.1 Overview

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 Edward River Council's corporate objectives as detailed in the following strategic documents:

- Edward River Council 2030 Community Strategic Plan - <https://www.edwardriver.nsw.gov.au/Council/Integrated-Planning-and-Reporting/Community-Strategic-Plan>
- Edward River Council Combined Delivery Program 2018-21 and Operational Plan 2019-20 - <https://www.edwardriver.nsw.gov.au/Council/Integrated-Planning-and-Reporting/Delivery-Program-and-Operational-Plan>
- Edward River Council Resource Strategy - <https://www.edwardriver.nsw.gov.au/Council/Integrated-Planning-and-Reporting/Resourcing-Strategy>
- Edward River Open Space Strategy - <https://www.edwardriver.nsw.gov.au/Council/Council-Information/Corporate-Plans-and-Strategies>
- Deniliquin Public Space Strategy – <https://www.edwardriver.nsw.gov.au/Council/Council-Information/Corporate-Plans-and-Strategies>
- Deniliquin Masterplan - <https://www.edwardriver.nsw.gov.au/Council/Council-Information/Corporate-Plans-and-Strategies>

### 5.2 Community Strategic Plan

The Edward River 2030 Community Strategic Plan is the highest-level plan that Council prepares in accordance with the Integrated Planning and Reporting Framework. The purpose of the Community Strategic Plan is to identify the community's main priorities and aspirations for the future and to plan strategies for achieving these goals. In doing this, the planning process considers the issues and pressures that may impact the community and the level of resources that will realistically be available to achieve its aspirations. At an operational level, the Community Strategic Plan is implemented through Council's Four Yearly Delivery Program and annual Operational Plans, which outline the activities and actions that are the responsibility of Council in achieving our shared vision. The relationship between these planning documents is shown below in **Figure 6**.



**Figure 6 – Integrated Planning and Reporting Framework**

### 5.3 Open Space and Public Space Strategies

In addition to the Community Strategic Plan, the Edward River Open Space Strategy was developed as a forward-looking plan that provides direction to the provision and management of open space across the local government area. Open space, for the purposes of the Edward River Open Space Strategy, is defined as the range of public and private spaces that provide landscape and/or urban design features and are generally for rest, relaxation, recreation and sport activity, and for the preservation of the environment.

For the Edward River Open Space Strategy, areas such as recreation and formal parkland, conservation reserves, linkages, sporting reserves (public and private), public land set aside for specific recreation or sport purposes of a specialised nature and amenity parklands are relevant. This Strategy examines Edward River councils current and future demand for open space areas; improvements to existing parks and walkways, while being cognisant of Council’s vision to have a high-quality open space system.

The Deniliquin Public Space Strategy focusses specifically on open and public spaces in Deniliquin, and was developed in response to community requests to improve the appearance of the town, particularly the main Central Business District (CBD) streets, the town entries and the riverfront. The Deniliquin Masterplan was developed in response to the Deniliquin Public Space Strategy and provide an integrated masterplan, through a series of detailed landscape plans to allow project implementation and construction ready documentation for high priority elements.

Several objectives have been identified for the project including:

- Provide a structural change to the physical appearance of Deniliquin with a focus on the CBD, Riverfront, Lagoon networks and town entrances
- Improve the liveability, functionality and access to the CBD, Riverfront and Lagoon networks
- Consider both short term and long-term actions, along with ongoing Council asset management and servicing requirements – Consider ongoing ability to fund and implement works
- Consider the impacts of planning issues
- Maximise the Riverfront and its proximity, accessibility and links with the CBD
- Consider the needs of all stakeholders with focus on creating new private sector development opportunities where appropriate and supporting existing business

#### 5.4 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 McLean Beach Reserve upon recent inspection is shown below in **Table 2**.

**Table 2** – Condition of Council Assets Located on at McLean Beach Reserve

<b>BUILDING DESCRIPTION</b>	<b>CATEGORY</b>	<b>CONDITION RATING</b>  1 – Good  5 - Unserviceable
Access Roads	Park	3 - 4
Walking Track	Park	2
Board walk and viewing area	Park	3
Signage	Park	2
Fitness Equipment	Park	1
Car Parks	Park	2
Toilet facilities	Park	2
Boat ramp and wharf	Park	2
Levee bank (earth and concrete)	Park	3
Seating	Park	2



<b>BUILDING DESCRIPTION</b>	<b>CATEGORY</b>	<b>CONDITION RATING</b>  <b>1 – Good</b>  <b>5 - Unserviceable</b>
Fencing	Park	3
Barbecue and shelters	Park	3
Holiday park facilities	Park	2
Water infrastructure	Park	3
Power	Park	4
Sewer infrastructure	Park	3 - 4
Sheds	Park	4

McLean Beach Reserve is currently functioning appropriately for the purposes of the area.



**Figure 7** – Photographs of McLean Beach Reserve showing the shared beach to beach walkway and the entrance to McLean Beach Holiday Park

Assets on permanent resident sites (**Figure 3**) are owned and maintained by the owner occupier.

### **5.5 Use of the Land and Structures at the Date of Adoption of the Plan of Management**

Existing use of the reserve includes:

- McLean Beach Holiday Park, as per an existing agreement with Crown lands;
- McLean Beach recreation area;
- McLean Beach boat ramp;
- Beach to Beach walkway
- Outdoor gymnasium; and
- Passive recreation.

## 5.6 Permitted Use Strategic Objectives

As previously noted, the classification of McLean Beach is Park with the intended purpose of recreation. 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.

In addition to the purpose of Public and Private Recreation, the McLean Beach Holiday Park Lot 1 DP1132408 has a number of permanent private sites which are still classed Community Land under this Plan of Management (**Figure 3b**).

## 5.7 Further Development

Whilst maintenance of existing infrastructure is a priority there is scope to improve the park 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*.

A comprehensive site development plan and a landscape management plan is recommended for larger projects to ensure a strategic approach to development.

## 5.8 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 (General) Regulation 2021* 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 LG Act.



This Plan of Management expressly authorises the issue of leases, licences and other estates over McLean Beach, 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 (General) Regulation 2021*;
- 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 (General) Regulation 2021*;
- 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.

#### **5.9 Lease of Area for the McLean Beach Holiday Park**

Part of the McLean Beach Reserve, being Lot 1 DP1132408, is leased for the McLean Beach Holiday Park. The current lease expires in February 2022.

The use of Lot 1 DP1132408 for a holiday park is consistent with the following:

- the purpose of the reserve, as detailed in **Section 2.5** of this Plan of Management;
- the objectives of the RE2 – Private Recreation land use zone as detailed in the *Deniliquin Local Environmental Plan 2013*; and
- Development with consent as detailed in the relevant land use table in the *Deniliquin Local Environmental Plan 2013*.

Based on the above information, the parcel of land known as Lot 1 DP1132408 is approved under this Plan of Management to be leased for the purpose of a caravan or holiday park. The area of land to be leased is 10.31 hectares.

#### **5.10 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 5.8**.

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

	<b>Plan of Management Objectives</b>
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

<b>OBJECTIVES AND PERFORMANCE TARGETS OF THE PLAN IN RESPECT TO THE LAND</b>	<b>MEANS BY WHICH THE COUNCIL PROPOSES TO ACHIEVE THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS</b>	<b>MANNER IN WHICH COUNCIL PROPOSES TO ASSESS ITS PERFORMANCE WITH RESPECT TO THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS</b>
To ensure that relevant legislation is complied with in relation to preparation of Plans of Management.	The Plan is prepared in accordance with the Act. Native Title Manager advice is sought during the preparation of the Plan.	The Plan is reviewed by Council's Native Title Manager and Department of Planning & Environment 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 Planning & Environment Crown Lands.
To inform Council staff and the community of the way the land will be managed.	The Plan is exhibited in accordance with the Local Government Act.	The Plan is exhibited and adopted by Council.
To implement the specific policies, guidelines and works identified in the plan of management.	Ensure that the Plan is referenced to identify specific policies, guidelines and works.	All works are carried out in accordance with the Plan.
To progressively improve the values of the land to minimise the long term cost of maintenance to the Council.	Carry out all works identified in Council's long term plan.	All works are completed and minimal maintenance of the improvements is required.

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

## **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 Edward River 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 Authorities***

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
- Edward River 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 programme 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**

The infrequent sale of alcohol by a sporting committee, club or user group requires the approval of the NSW Office of Liquor Gaming and Racing through the issue of a Limited Licence. The Licence should be provided to Council in each instance. When making application for the use of a passive recreational area, if the sale of alcohol is intended, applicants are required to comply with any requirements of both the Office of Liquor Gaming and Racing and Council.

### **7.18 Companion Animals**

Domestic pets may use McLean Beach where authorised by signage provided that they are under the control of a responsible person at all times and do not cause loss of amenity to other users of the land.

Dogs are not permitted to be walked off leash unless they are within Council's designated off leash exercise areas. Dog clubs are required to seek Council permission to conduct dog obedience and training activities on all community land.

### **7.19 Parking**

Parking is available at McLean Beach Reserve in designated parking areas. 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 endeavour 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. It is a requirement for Council's Native Title Manager, to provide written advice for any activities identified in the development of a Plan of Management in order to ensure those activities comply with the *Native Title Act 1993* (Future Acts Provisions).

#### 1. The Land to which this report applies

The land to which the Plan of Management applies is Crown Reserve 80265 and is contained in in Lot 7014 DP 1023778, Lots 1-2 DP 1132408, Parish of South Deniliquin, County of Townsend. The land is known as the McLean Beach. The Crown is the owner of the land.

Reserve 80265 was reserved from sale for the public purpose of Public Recreation and in the Government Gazette on 03 January 1958.

Edward River Council is the Crown Land Manager of the Land. The management and use of the and is subject to the provisions contained in the Crown Land Management Act 2016.

#### 2. Details of activity on Crown Land

The McLean Beach Plan of Management has been prepared by Council and provides direction as to the use and management of McLean Beach – Reserve 80265.

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 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 to 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 Deniliquin 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 80265 was reserved from sale or lease for purpose of Public recreation and notified in the Government Gazette of 03 January 1958.

**s.24JA(1)(b)** is satisfied as the Reserve was notified in the Government Gazette of 03 January 1958.

**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 Public Recreation.

**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.