

## PLAN OF MANAGEMENT Myall Creek Memorial Site



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**“It was a memorable day when Des Blake, a descendant of one of the perpetrators, arrived at our meeting. We had not expected to hear from any of these descendants, but months later another descendant, Beulah Adams, came to a meeting. When she and Sue Blacklock hugged, we all felt we had really taken a step into the future.”**

*The words of Paulette Hayes, member of the original Myall Creek Memorial Committee, at the opening of the memorial site, 10 June 2000.*

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The Gwydir Shire Council acknowledges the strength, resilience and capacity of the Gomeroi people of this land.



## EXECUTIVE SUMMARY

A Plan of Management (POM) is required to be prepared for public land which is owned and/or managed by a Council and classified as *community land* under the *Local Government Act 1993*. A POM on community land is a document that provides for and directs the use and management of that land. It describes the current purposes and uses of the community lands and their values, assigns them to one or more categories and sets out objectives and performance targets for active land management and use.

The Myall Creek Memorial Site (MCMS) consists of Crown land which is owned by the State of New South Wales for the benefit of all persons. Local Government Authorities manage Crown land on behalf of the State, as Crown Land Managers, under Division 3.4 of the *Crown Land Management Act 2016* (CLM Act).

The MCMS is classified as *community land* under the *Local Government Act 1993* (LG Act).<sup>1</sup> Under a unique arrangement Gwydir Shire Council (Council) and The Friends of the Myall Creek Memorial (FMCM) are jointly appointed as the Crown land manager (CLM) of the MCMS. This joint management arrangement reflects the strong groundswell of support from the community, in particular the Aboriginal community, in seeking acknowledgement of the history of the site, and ultimately, the establishment of the memorial, which now provides a significant venue focussed on education and reconciliation.

*Community land* is categorised under the LG Act as either park, sportsground, general community use, natural area or area of cultural significance. The whole of the land at the MCMS has been categorised in this POM, as:

- Area of Cultural Significance

The intention of this POM is to provide the CLM with a framework that enables decisions in regard to the MCMS to be made on an informed, consistent and equitable basis. The POM meets all of the requirements of the LG Act.

A description of this land as it exists on the MCMS is provided. The current use, the built and natural assets and their condition, emerging trends, constraints and influences have been considered in this POM. Appropriate management objectives and actions, as well as an effective governance structure and acknowledged communication strategy, are key outcomes provided by and consolidated within the POM.

In terms of the MCMS' future development, this POM embraces the significant work already completed by the CLM including the Stage 1 and Stage 2 works and improvements (memorial walkway, parking area, amenities block and yarning circle). Stage 3 works (an Educational and Cultural Centre including caretakers' quarters) which have been proposed by the FMCM and conceptually endorsed by Council, are also embraced and enabled by this POM, subject to the required approval processes and available funding.

In addition to addressing the important historical and educational needs, the current level of development of the MCMS is already stimulating greater visitation to the district by interested people from other areas across the state and nation. The completion of all Stages, as described within this POM, will cater for this increasing utilisation, and facilitate greater awareness, learning, and acknowledgement on a broader scale.

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<sup>1</sup> On 20 September 2013, The NSW Minister for Regional Infrastructure and Services established the Myall Creek Memorial (R37818) Reserve Trust as CLM of the MCMS. Council and the FMCM were both appointed as the corporations to manage the affairs of the Myall Creek Memorial (R37818) Reserve Trust. Following the assent of the *Crown Land Management Act 2016* Council and FMCM are now Crown land manager of the land comprising the MCMS.

Information gathered on site during the compilation of the plan, and particularly during a communication process with the FMCM and Council, has enabled a solid understanding of the key issues at MCMS which are now included in this POM.

The POM is presented in two principal sections being:

- The site description (A) covering the physical attributes, the legal framework, and the constraints of the site.
- The fundamental components of the Plan (B) which describes what is planned for the site's future.

## PART A – THE SITE

### 1 INTRODUCTION

The Myall Creek Memorial Site (MCMS) occupies approximately 28 hectares and is located 23 kilometres north-east of Bingara at the junction of the Bingara-Delunga and Whitlow Roads, being part of Crown Land Travelling Stock Reserve 37818, Parish Durham, County of Murchison.



Figure 1 – Location in Region



## 1.1 Brief History of the Myall Creek Memorial Site

### The Wirrayaraay People

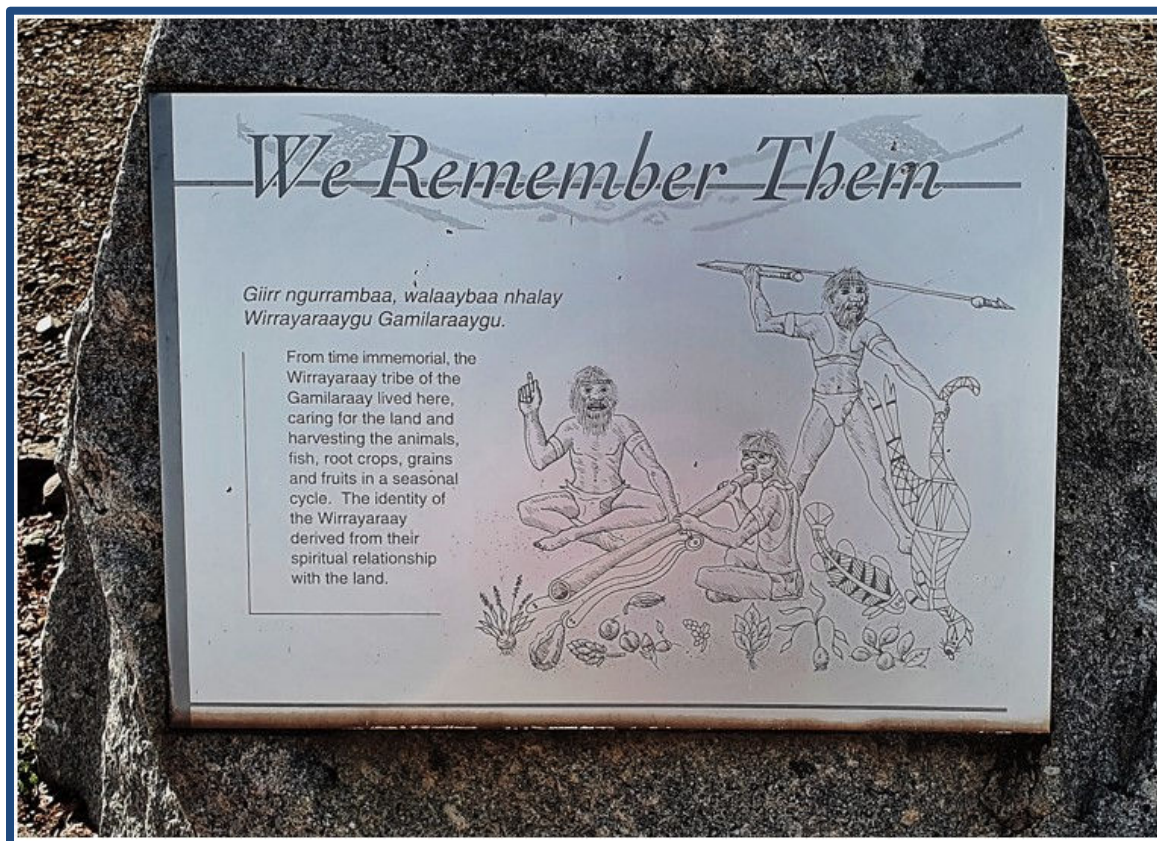


Figure 2 – Myall Creek Memorial Walk – Stage 1 Plaque

*From time immemorial, the Wirrayaraay tribe of the Gamilaraay lived here, caring for the land and harvesting the animals, fish, root crops, grains and fruits in a seasonal cycle. The identity of the Wirrayaraay derived from their spiritual relationship with the land.*

The Wirrayaraay<sup>2</sup> aboriginal people lived across the north-west slopes and plains, including the Myall Creek area, and occupying some 11,000 square kilometers.<sup>3</sup> This area extended on the northern side of the Gwydir River from Moree to Bingara, taking in Yallaroi and Gil Gil Creeks at the northern extension, through to Inverell and Wallangra on the Macintyre River. The western frontier approximated the current location of Garah.

Here, the Wirrayaraay people lived for thousands of years with the land and its bounty, within a rich culture which maintained spiritual linkages, song, dance, and tradition whilst respecting outer tribal boundaries with other tribal groups, including the Gamilaraay. The following firsthand descriptions of colourful dress and ceremonial traditions of the Wirrayaraay people, are provided in an early report by the Reverend Greenway.<sup>4</sup>

<sup>2</sup> Also known as *Wirraayaraay* and *Weraerai*.

<sup>3</sup> Tindale N.B (1974) *Aboriginal Tribes of Australia: Their Terrain, Environmental Controls, Distribution Limits and Proper Name* ANU Press ISBN 978-0-708-10741-6.

<sup>4</sup> [Wirraayaraay - Wikipedia](#).



*...Soon the leaders appeared by a long train of aborigines in single file. They were all painted in red, yellow, and white figures, the white prevailing in stripes down their arms and thighs: each was girded with a specially constructed belt or girdle of opossum known as a ghūtūr and fringed around by a sort of short kilt made of split opossum, native cat, and squirrel skins respectively, according to the totem to which they belonged. Their hair was dressed in various ways and well combed and greased, then frosted over with swan down or that of other birds, each had round their head under the hair, at the sides and back, a band netted closely and broad where it passed over the forehead. This is known as a ngooloomere (from the covering the forehead.) This was of a great variety of colour amongst them....*

*...The motions throughout were made with all the accuracy and precision of the most perfectly drilled troops or well taught dancers. When this function was completed and open space prepared there, they formed a square by regularly preserved ranks, and commenced a grand corroboree, moving in unbroken mass forward a space, then backward, then from left to right, then from right to left in one unbroken order, and with faultless precision as to time and manner, their voices and limbs.*

The peaceful existence of the Wirrayaraay people was significantly confronted by the arrival of the first Europeans.

## The Europeans

For half a century after the arrival of the First Fleet in 1788, a pattern of relations developed between aboriginal people and Europeans that lasted for the next century. While the British Colonial Office had instructed that aboriginal people should be treated with amity and kindness, there was a failure to address cultural differences, competition for resources and land during settlement which resulted in frontier violence and a lack of protection for aboriginal people.

European settlement arrived at Myall Creek, just north of the current township of Bingara on the Gwydir River, in 1837 when Henry Dangar established Myall Creek Station, as part of his growing pastoral empire. The encroachment of the Europeans to the area brought years of devastation to Aboriginal people who continued to suffer through conflict, deprivation and disease. During that first year, conflict was already rife downstream on the Gwydir River, for instance, at Waterloo Creek and Slaughterhouse Creek.

It seems that a group of about fifty aboriginal people of the Wirrayaraay had moved on to Myall Creek Station for fear of their safety elsewhere and were living there in relative harmony with the European station staff at the time. However, the relationships between the Wirrayaraay people and the new occupants at Myall Creek suffered a major disruption when on the 10th of June 1838, at least 28 Aboriginal people were massacred by European stockmen from the area.

The perpetrators of the massacre included eleven convicts and one freeman, John Fleming (who was never sentenced). The trial occurred after station manager William Hobbs reported the incident by letter to the local Police Magistrate (see original letter, Figure 3). Eleven of the group were arrested and tried before Chief Justice James Dowling but were found not guilty. In a second trial only seven were charged. On 30 November 1838 they were found guilty and hanged on 18 December 1838.

The application of British law under the reign of the newly appointed Governor Gipps was an opportunity to demonstrate that the law would indeed protect aboriginal people through equal application. However, it is equally significant that this was a last attempt by the colonial administration to use the law to control frontier conflict between settlers and aboriginal people. It hardened European settlers resolve to thereafter use whatever means were available to achieve the same objective of clearing aboriginal people off the land and the “great Australian silence” regarding aboriginal conflict issues ensued after the 1830s through to the 1950s.<sup>5</sup> The trials resulting from the Myall Creek Massacre are also significant since it is the only trial that has resulted in multiple executions.

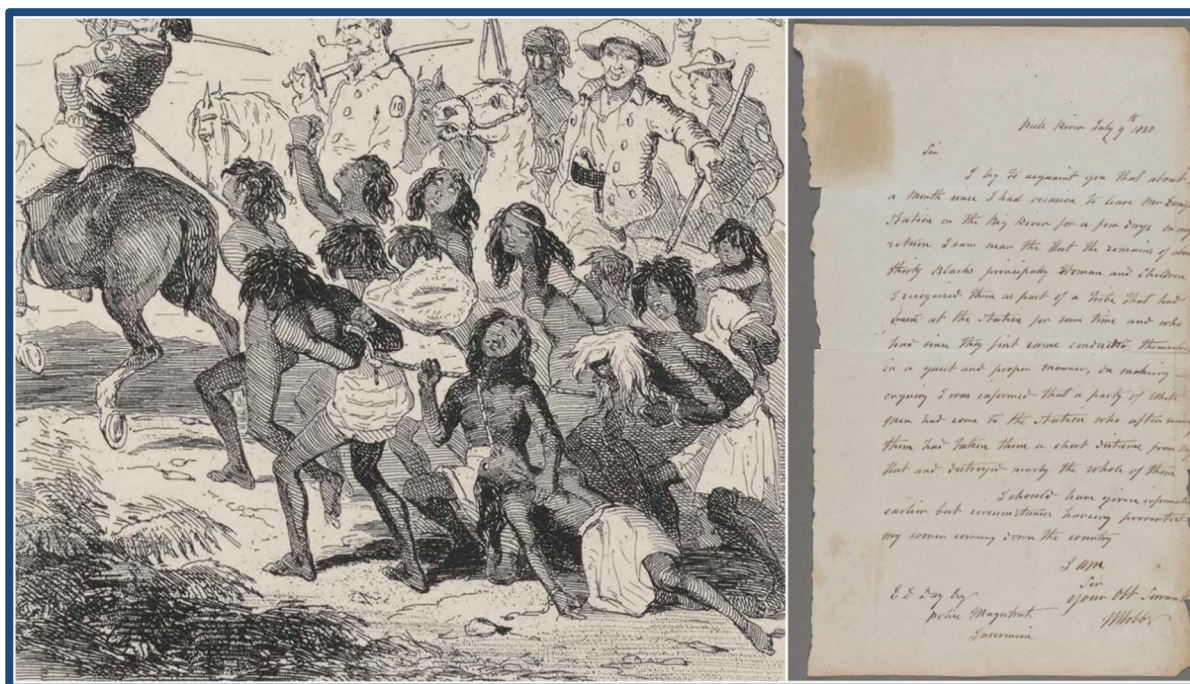


Figure 3 – The Myall Creek Massacre

On 9 July 1838, William Hobbs Station Manager reported a massacre at Myall Creek Station, to Police Magistrate at Invermain.

## Acknowledgements and Progress<sup>6</sup>

### 1965

Len Payne, Bingara resident, proposed the erection of a memorial in the memory of those who died. Some local opposition was expressed.

### 1976

The site was registered as an Aboriginal Site<sup>7</sup> by the NSW National Parks and Wildlife Service (NPWS).

<sup>5</sup> In National Heritage Listing submission for determination of the Myall Creek Massacre site, nominated 2005.

<sup>6</sup> The information in this section is reproduced or extracted from *Myall Creek – Massacre & Memorial – our shared history* – published by the Myall Creek Memorial Committee, Bingara 2008.

<sup>7</sup> A registration within the Aboriginal Heritage Information System data base (AHIMS), *National Parks and Wildlife Act 1974*, NSW Government.

## 1980

The site was nominated to the Register of the National Estate<sup>8</sup> by NPWS and listed in that year.

## 1980's

Len Payne continues to agitate and with others, laid a wreath at the site on 10 June each year, the anniversary of the massacre.

## 1998

In October, a conference on reconciliation was held, convened by the Uniting Church, on the invitation of Aunty Sue Blacklock, a descendant of those who survived the massacre. The gathering decided to erect a permanent memorial and the Myall Creek Memorial Committee was later formed.



*Figure 4 – Myall Creek Memorial Walk  
Commencement of the Memorial Walk, and accompanying plaque.*

## 1999

At a meeting on February 20, the terms for the operation of the Committee and erecting the memorial were established, emphasising reconciliation. On March 10, the descendants of those massacred at Myall Creek were unanimous in their support for a project involving both indigenous and non-indigenous people, which was to be reflected in the wording and artwork proposed at the site. The site for the memorial was decided. Funding was successfully sought.

## 2000

Building materials including a large granite rock were sourced and located on site. Construction of works commences to facilitate easy access and education. The Myall Creek Memorial was opened on

<sup>8</sup> The Register of the National Estate was a previous heritage register that listed significant natural and cultural places in Australia that closed in 2007.



10 June, with a speech by Committee member Paulette Hayes.

**“Participants remembered, acknowledged our shared history, grieved, and committed ourselves to reconciliation.”<sup>9</sup>**

At the conclusion of this phase, the works consisted of a track, the rock with plaque at the track’s end, and a series of educational signs and plaques along the walking track.

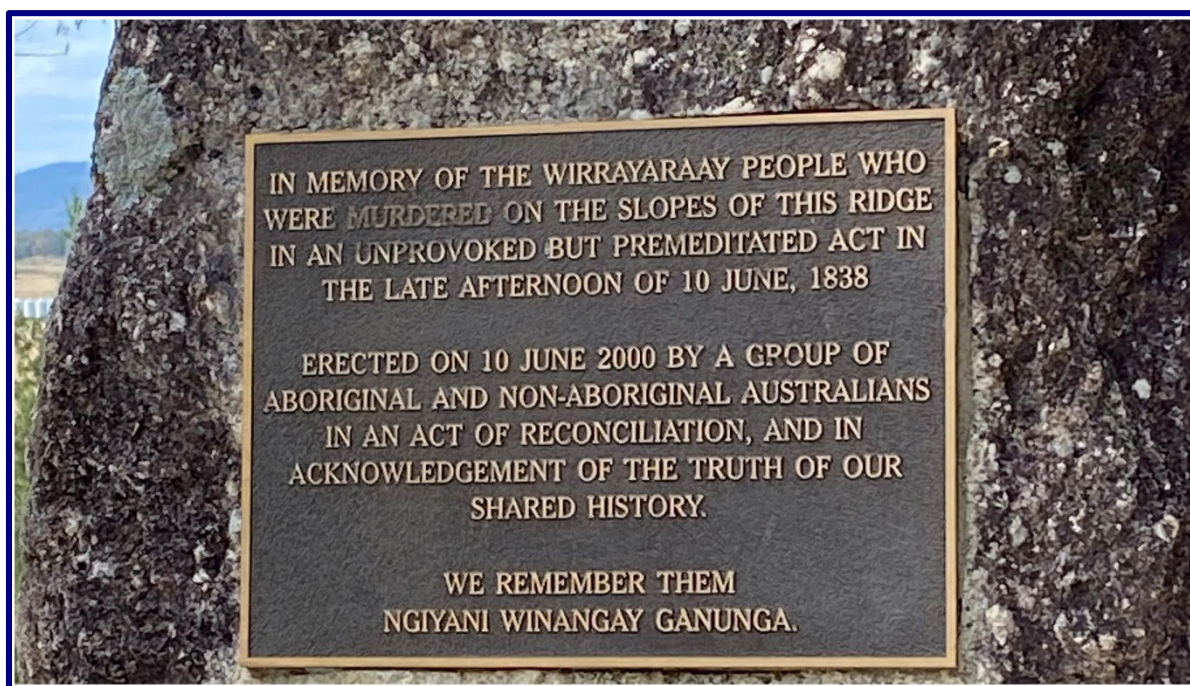
## **2005**

Site of the MCMS was nominated to the National Heritage List (NHL).<sup>10</sup>

## **2008**

On 14 June, the Commonwealth Heritage Minister announced the inclusion of the Myall Creek Massacre site on the National Heritage List.<sup>11</sup> Plans developed to install bronze plaque:

**“In memory of the Wirrayaraay people who were murdered on the slopes of this ridge in an unprovoked but premeditated act in the late afternoon of June 10, 1838. Erected on June 10, 2000, by a group of Aboriginal and non-Aboriginal Australians in an act of reconciliation, and in acknowledgement of the truth of our shared history.  
We remember them (*ngiyani winangay ganunga*).”**



*Figure 5 – Acknowledgement on bronze plaque at end of memorial walk*

<sup>9</sup> Myall Creek Massacre and Memorial - Our Shared History. Publication by *Myall Creek Memorial Committee, Bingara 2008*.

<sup>10</sup> A list of Australia’s natural, historic and indigenous places of outstanding significance to the nation - as determined by the Australian Government. Replaces the Register of the National estate.

<sup>11</sup> Listing occurred on 7 June 2008 under the Commonwealth of Australia Gazettal notice No. S116, 7 June 2008, pursuant to the *Environmental Protection and Biodiversity Act 1999*.



## 2010

MCMS is given the state of NSW's highest form of heritage protection and recognition. The announcement by the State Government's Minister for Planning to list the site on the State Heritage Register, coincided with a meeting of the Committee to discuss plans for a proposed new educational and cultural centre on-site.

## 2013

In the Government Gazette of 20 September, Council and the FMCM are appointed to jointly manage the affairs of the Myall Creek Memorial Reserve Trust, covering part of the Reserve Number 37818 (Public Purpose: Travelling stock, camping, heritage and community).

### 1.2 The Site

The MCMS is located on Crown land reserved for the purposes of travelling stock, camping, heritage and community use, on 25 June 1904. The site is located to the immediate east of the Bingara-Delunga Road, 23 kilometres from Bingara, on an elevated flat to rolling partially cleared to lightly timbered landscape, which drops to the Myall Creek providing a pleasant north-eastern aspect. Vehicular access is enabled off the sealed road and car parking space has been established to provide walking access to the main facilities, including the serpentine track and educational plaques which lead to the emplaced granite rock and its notification, overlooking the current Myall Creek station and its infrastructure to the north-east of the site.



*Figure 6 – Memorial walkway and monument*

*The granite boulder and engraving and its immediate surrounds, provides a place to quietly reflect, remember, and view the scenic slopes and flats of the Myall Creek valley to the north and north-east.*





*Figure 7 – The Northern Boundary featuring the Myall Creek*  
The Myall Creek forms the northern and north-eastern boundary of the Memorial Site which occupies the higher landscape above the right bank and beyond.



*Figure 8 – Works at the Myall Creek Memorial Site*

The MCMS offers a serene and thought-provoking ambience, away from noise and disruption – suitable for the purpose of acknowledgment, remembering, awareness and education, reflecting on the criteria on which the National Heritage Listing was considered and adopted:

**“The place has outstanding heritage value to the nation because of the place’s importance in the course or pattern, of Australia’s cultural history.”**

The works which existed at the site at the time of drafting this POM include Phase 1 (the ceremonial track monuments, educational plaques and car park) as well as Phase 2 (the yarning circle, shelter

sheds and tables, herbarium, amenities block and storage tanks).<sup>12</sup>

The implementation of these phases has meant the site has generated much interest. This is not only in terms of the venue of the annual memorial ceremony, casual visitations by aboriginal groups for spiritual healing purposes and the general community for education and awareness embracing reconciliation, but visitations by general tourists from outside the region has flourished in recent years.

Aboriginal elder Lyall Munro's words:

**"The site has grown in significance in the last ten years. It's now not only a memorial site, it's a big tourist attraction."**

Maintenance of the site including the land and the built infrastructure occurs through an agreement between the FMCM and Council. The North-West Local Land Services has responsibility for the management of the Travelling Stock Reserve (TSR) activity, however an agreement exists that no stock enter the memorial site section of the TSR. Fencing has been installed accordingly.

This POM has been prepared for the MCMS in order to achieve a balanced, responsible and ecologically sustainable use of the land and to ensure that it addresses the needs of aboriginal and local communities, the broader society and the environment. It has been prepared to meet the requirements of the LG Act and the CLM Act.

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<sup>12</sup> A plan to install Phase 3 – an educational centre, keeping place, native plantings demonstrating cultural and sustenance (food, medicine) values, and caretakers' cottage - has been considered by the Committee and Council and will be implemented subject to normal approvals and funding.

## 2 LEGAL FRAMEWORK

### 2.1 Public Land

The land at the MCMS is Crown land, owned by the State of New South Wales, managed by the CLM (Council and The Friends of the Myall Creek Memorial), for the benefit of all persons. The unique appointment is managed consistent with Division 3.4 of the CLM Act, which provides that a council should manage the land under the LG Act.

Under the LG Act, all public lands must be classified as either *Community* or *Operational* land. The MCMS has been classified *Community* land, with the initial categorisation being for Area of Cultural Significance.<sup>13</sup>

The purpose of the **classification** of public land is to clearly delineate which land should be kept for use by the general public (Community) and which land need not be kept for that purpose (Operational). The major consequence of the classification is that it determines the ease or difficulty by which the land may be alienated by sale, lease or other means. Community land would ordinarily comprise land such as a sportsground, hall, public park, memorial site etc.<sup>14</sup> Operational land would consist of land which facilitates carrying out of a public service, such as works depots, or land held as a temporary asset or investment.

Community land:

- cannot be sold.
- cannot be leased, licensed or any other estate granted over the land for more than 21 years.
- must have a POM prepared for it.

### 2.2 What is a Plan of Management?

The LG Act requires that in the development of a POM, a council consider the views of the community in identifying the important features of the land and determining how the land will be managed, used, or developed. Until a POM for Community Land is adopted, the nature and use of the land cannot be changed. Otherwise, the POM must be revised.

In its management of the Crown land of the MCMS, the CLM will also undertake the required process as per Section 36 of the LG Act and Section 3.23 of the CLM Act.

Specifically, the LG Act requires that a POM must identify the:

- category of the land.
- objectives and performance targets with respect to the land.

<sup>13</sup> Assigned by Council under Section 3.23(2) of the CLM Act.

<sup>14</sup> See the note to Chapter 6, Part 2 of the LG Act.



- means by which the council proposes to achieve the Plan's objectives and performance targets.
- manner in which the council proposes to assess the objectives and performance targets.
- condition of the land, and any buildings or other improvements on the land, as at the adoption of the Plan.
- use of the land and any such buildings or improvements as at adoption.
- purposes for which the land, and any such buildings or improvements, will be allowed to be used.
- purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise.
- scale and intensity of any such permitted use or development.

## **2.3 Types of Plans**

The LG Act allows a POM to cover one or multiple parcels of land.

Where multiple parcels of land are covered in one plan (Generic Plans), the LG Act specifically states what needs to be included. Where a POM covers one parcel or related parcels of land (Specific Plans), like this plan, there is greater detail on what has to be prescribed in the Plan. A Generic Plan sets the framework of how the land is to be managed. A Specific Plan clearly outlines precise management proposals.

POMs for community land are periodically reviewed to enable changing social, economic and ecological conditions to be taken into account and consequently amendments to the plan may occur. This will be the first POM for the MCMS.

## **2.4 Relationship with Other Plans**

The majority of Community land within the Gwydir Shire Local Government Area will be subject to the *Community Land Plan of Management* which provides an overarching strategy and consistent management approach for community land parcels.

This POM is one of a set of specific POMs for Council which will include:

- Bingara Riverside Plan of Management
- All Nations Hill Bingara Plan of Management.

## 2.5 Categorisation and Objectives

As required by legislation for the purposes of the POM, community land is categorised as one of the following:

- Natural Area
  - Bushland
  - Wetland
  - Watercourse
  - Escarpment
  - Foreshore
- Sportsground
- Park
- Area of Cultural Significance
- General Community Use.

Once categorised, community land is also subject to specified objectives which are outlined in the LG Act and in **Appendix 1**.

### 3 SITE DESCRIPTION

#### 3.1 Land Parcels

The Land, subject to this POM, is part of Crown Reserve 37818<sup>15</sup> at Myall Creek and is part Lot 7001 in DP 1057987. It is located the south-eastern side of the Delungra Road to the north of Bingara (see Figure 9).

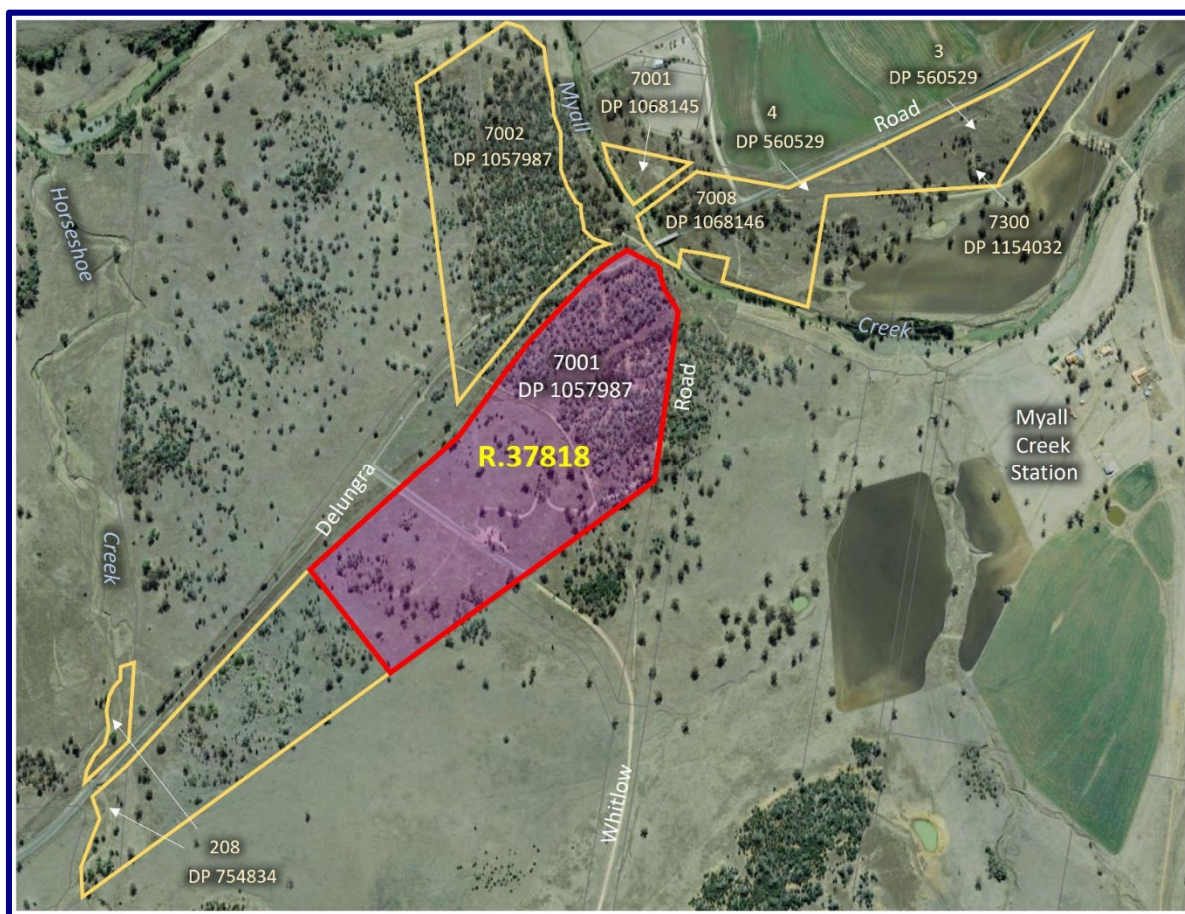


Figure 9 – Land subject to this Plan of Management

The land included in this Plan of Management is edged in red. The rest of the land bound in yellow also forms part of R.37818 (This part of R.37818 is managed by Local Lands Services).

It is bound in the north-east by the south bank of the Myall Creek, in the north-west by the south-east side of the Bingara-Delungra Road, in the south-west by the north-east side of Whitlow Road, and in the south-east by the eastern boundary of Myall Creek Station.

Reserve 37818 was reserved on June 25th, 1904, for the purposes of Travelling Stock and Camping.

<sup>15</sup> Crown Land Reserve Number 37818 at Myall Creek, is located each side of the Delungra Road to the north of Bingara, and consists of the following land:

- Parish Delungra County Murchison - Lots 3 and 4 in DP 560529, Lot 7001 in DP 1068145, Lot 7008 in 1068146 and Lot 7300 in DP1154032
- Parish Durham County Murchison - Lot 208 in DP 754834 and Lots 7001-7002 in DP 1057987.

This land was reserved on 25 June 1904, for the purposes of Travelling Stock and Camping. Refer to Figure 9 for lot locations of the wider Reserve 37818, and the section of Lot 7001 DP 1057987, the Myall Creek Memorial Site.

The significance of the Land, subject this POM, was acknowledged with the additional reservation purposes of Heritage Purposes and Community Purposes notified on 20 September 2013.

### 3.2 Ownership and Management

The MCMS is Crown land owned by the State of New South Wales.

The Myall Creek Memorial (R 37818) Reserve Trust was appointed to manage part of Reserve 37818, being the north-eastern section of Lot 7001 (28 hectares), under the *Crown Lands Act 1989* on 20 September 2013. Council and the FMCM<sup>16</sup> were appointed to manage the affairs of that reserve trust on the same day. Following the introduction of the CLM Act, Council and the FMCM are now joint Crown land manager of the MCMS.

All assets on the MCMS are owned by the State of New South Wales.

#### Native Title

Crown land in Australia is subject to Native title under the *Native Title Act 1993* (Commonwealth). On Crown land Native title rights and interests must be considered unless:

- Native title has been extinguished; or
- Native title has been surrendered; or
- Determined by a court to no longer exist.

Some examples of acts<sup>17</sup> which may affect Native title on Crown land or Crown reserves managed by the CLM include:

- the construction of new buildings and other facilities such as toilet blocks, walking tracks, tennis courts, grandstands and barbecues.
- the construction of extensions to existing buildings.
- the construction of new roads or tracks.
- installation of infrastructure such as powerlines, sewerage pipes, etc.
- the issue of a lease or licence.
- the undertaking of major earthworks.

When proposing any act that may affect Native title on Crown land or Crown reserves the act must

<sup>16</sup> The constitution of the FMCM can be found at: <https://myallcreek.org/constitution/>

<sup>17</sup> An *act* is defined in Section 226 of the *Native Title Act 1993* (Cwlth). An *act affecting native title* is defined in Section 227 of the *Native title Act 1993* (Cwlth).



be authorised through Part 2 Division 3 of the *Native Title Act 1993 (Cwlth)*.

The MCMS is subject to Native Title Claim (NSD 37/2019) filed by the Gomeroi People with the Federal Court of Australia on 20 December 2011.

#### Aboriginal Land Rights

The *Aboriginal Land Rights Act 1983* (ALRA) seeks to compensate Aboriginal peoples for past dispossession, dislocation and loss of land in NSW. The lodgment of an aboriginal land claim (ALC) under Section 36 of the ALRA, over Crown land creates an inchoate interest in the land for the claimant pending determination of the claim. The Department of Planning, Housing and Infrastructure – Crown lands advises that, if the land is subject to an undetermined ALC, any works, development or tenures authorised by the POM should not go ahead if:

- the proposed activity could prevent the land being transferred to an ALC claimant in the event that an undetermined claim is granted.
- the proposed activity could impact or change the physical/environmental condition of the land, unless:
  - the council manager has obtained written consent from the claimant Aboriginal Land Council to carry out the proposed work or activity, and/or
  - the council manager has obtained a written statement from the Aboriginal Land Council confirming that the subject land is withdrawn (in whole or partial) from the land claim.
- the proposed activity is a lease to be registered on title unless the council manager has obtained written consent from the claimant Aboriginal Land Council.

The MCMS is subject to ALC 48958, lodged by New South Wales Aboriginal Land Council in their own right.

## 4 PLANNING INSTRUMENTS AND POLICIES

### 4.1 Land Zoning

Under the *Gwydir Local Environmental Plan 2013*<sup>18</sup> (LEP), the whole of the MCMS is zoned RU1 – Primary Production.

All neighbouring land is also zoned RU1 – Primary Production under either the LEP or the *Inverell Local Environmental Plan 2012*.

The Objectives for RU1 land described within the LEP, are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

Activities permitted without consent for land zoned RU1 are shown as:

- |                                  |                               |
|----------------------------------|-------------------------------|
| • Building identification signs  | • Home-based child care       |
| • Environmental protection works | • Home occupations            |
| • Extensive agriculture          | • Intensive plant agriculture |
| • Farm buildings                 | • Roads.                      |
| • Forestry                       |                               |

Activities permitted with consent for land zoned RU1 are shown as:

- |                               |   |
|-------------------------------|---|
| • Aquaculture                 | • Intensive livestock agriculture                                   |
| • Cellar door premises        | • Offensive industries  |
| • Dual occupancies (attached) | • Open cut mining   |
| • Dwelling houses             | • Roadside stalls   |
| • Extractive industries       | • Rural workers' dwellings  |
| • Funeral homes               | • Any other development not specified in item 2 or 3. <sup>19</sup> |
| • Group homes                 |   |
| • Home industries             |   |

<sup>18</sup> *Gwydir Local Environmental Plan 2013* - NSW Legislation.

<sup>19</sup> Any other development not permitted with or without consent.

The following activities are prohibited:

- Advertising structures
- Amusement centres
- Boat building and repair facilities
- Car parks
- Charter and tourism boating facilities
- Centre-based child care facilities
- Commercial premises
- Correctional centres
- Educational establishments
- Entertainment facilities
- Exhibition homes
- Exhibition villages
- Health services facilities
- Highway service centres
- Home occupations (sex services)
- Hotel or motel accommodation
- Industrial retail outlets
- Industrial training facilities
- Industries
- Local distribution premises
- Marinas
- Mooring pens
- Moorings
- Passenger transport facilities
- Places of public worship
- Public administration buildings
- Recreation facilities (indoor)
- Registered clubs
- Residential accommodation
- Respite day care centres
- Restricted premises
- Service stations
- Serviced apartments
- Sex services premises
- Storage premises
- Vehicle body repair workshops
- Vehicle repair stations
- Warehouse or distribution centres
- Wharf or boating facilities
- Wholesale supplies
- Any developments other than those permitted with consent are prohibited on this land.

## 4.2 State Environmental Planning Policies

The MCMS is subject to the State Environmental Planning Policies. Important amongst these in the development of the MCMS is the *State Environmental Planning Policy (Transport and Infrastructure) 2021* or the T&I SEPP.

Section 2.74 of the T&I SEPP provides that development for any purpose may be carried out without consent on Crown managed land, by or on behalf of a Crown land manager of the land if the development is for the purposes of implementing a POM adopted for the land in accordance with the LG Act.

All other impacting State Environmental Planning Policies are listed below. Those that are considered more relevant to the future of the MCMS and this POM are underlined below and briefly described in **Appendix 2**:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*



- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Resources & Energy) 2021
- State Environmental Planning Policy (Primary Production) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development.

### 4.3 Council Policies

In addition to state planning policies and the directions of the LEP, Council has developed a number of plans and general policies which have either direct or indirect relevance to planning, management and maintenance of community land, more specifically, the MCMS. Of particular relevance are the:

- **Community Strategic Plan 2017-2027** – Spanning a period of ten years, the Community Strategic Plan is the highest level of plan prepared by Council and the community. As a living document and a roadmap to the future, it belongs to the community, and reflects the community's main priorities and future aspirations. As well as capturing Council's vision and mission, it also promotes the vision and goals created by the community through the consultation process. This strategy also summarises an evolving list of aspirations and achievements within the Shire.
- **Community Engagement Strategy 2015** – Any process that involves the community in problem solving or decision making, uses the community input to make better decisions. This strategy matches Council goals to capture input and provide information back to the community. It identifies all stakeholders including external partners and sets out the methods for engagement.
- **Long Term Financial Plan 2015/2016 – 2024-2025** – As a decision-making tool, this Financial Plan is an important part of council's strategic planning process. This is the point where long-term community aspirations and goals are tested against financial realities.
- **Workforce Management Plan 2017-2021** – Council workforce management plan is part of the planning and reporting framework for local government. It forms part of the Resourcing Strategy, which aims at meeting the priorities in the *Gwydir Shire Council Community Strategic Plan*. The plan enables the ongoing recruitment and retention of staff with the appropriate values, attitude and knowledge to support the changing work environment while strengthening relationships with businesses and other community partners to deliver services efficiently and to a high standard.
- **Asset Management Plan 2011** - The programs and services the Council selects must be

carefully designed and delivered to equitably and cost effectively advance the well-being of the Shire's people. This asset management plan covers the infrastructure assets that serve the Council Plant and Equipment needs via a comprehensive process to ensure delivery of services from infrastructure is provided in a financially sustainable manner.

Full details of Council's relevant policies and plans as listed above can be found at Council's website at [www.gwydir.nsw.gov.au](http://www.gwydir.nsw.gov.au).

#### 4.4 Friends of Myall Creek Memorial Principles and Objectives<sup>20</sup>

##### Guiding Principles

The Friends of Myall Creek Memorial are working towards constructive reconciliation through truth-telling with the guiding principles of justice, respect, honour, loyalty, inclusiveness, education and sustainability.

##### Objectives

1. to maintain and develop the memorial to the 28 or more Wirrayaraay people who were massacred by the son of a squatter and a group of eleven convicts and ex-convicts at Myall Creek Station on Saturday, 10 June 1838.
2. to memorialise and teach the truth of the shared history of Aboriginal and other Australians across the continent during the period of invasion/settlement with a view to contributing to a more just reconciliation between our peoples.
3. the design, construction, operation, administration and maintenance of an Educational and Cultural Centre including a keeping place for relevant Aboriginal and non-Aboriginal cultural objects and family history located at Myall Creek, Delungra Road, Myall Creek NSW 2403.

#### 4.5 Biodiversity

Under the LG Act, Council has obligations for conservation issues as determined by the *Biodiversity Conservation Act 2016*, and the *Fisheries Management Act 1994*. There are no areas of outstanding biodiversity value, biodiversity certified land or biobanking agreement land associated with the MCMS as per the *Biodiversity Conservation Act 2016*. The LEP does not contain any references to significant biodiversity issues present at the MCMS. This may be a consequence of a paucity of biodiversity investigation and knowledge rather than an absence of such features. However, it is noted that the riparian zone associated with the Myall Creek closest to (although outside) the northern boundary of the MCMS is recognised within the LEP's Biodiversity Values Map as of biodiversity significance.

Any proposed impacts to biodiversity values, including threatened species and ecological communities and their habitats requires proper consideration in accordance with the applying legislation.

<sup>20</sup> Extracted from the Constitution of the Friends of Myall Creek Memorial at <https://myallcreek.org/constitution/>.

## 4.6 Native Vegetation

Land zoned RU1 is covered by the State Government's native vegetation laws aimed at protecting the biodiversity values of trees and other vegetation in rural areas of NSW and is included within the *State Environmental Planning Policy (Biodiversity and Conservation) 2022* and considered within the *Biodiversity Conservation Act 2016* which binds the Crown. The regulation of native vegetation management under the *Local Land Service Act 2016* such as the clearing of native vegetation, requires consideration and possible authorisation under this legislation and policy. In this instance, North West Local Land Services should be first contacted for advice.

## 4.7 Aboriginal Significance

The MCMS is within the area of Aniwan Local Aboriginal Land Council.

The MCMS is of high significance to both Aboriginal and environmental heritage. Significance refers to not just what is present currently or its appearance. Rather, it incorporates all the elements that contribute to the meaning of the place, including its context, history, uses and its social and spiritual values. Understanding this significance will assist in the management of the MCMS.

A search of the NSW Government's Office of Environment and Heritage AHIMS Web Services provided that an Aboriginal site is recorded in or near the location of the MCMS. The 1974 report by the National Parks and Wildlife Service for the Myall Creek Massacre Site advises *the site of the massacre is not proved beyond all doubt but evidence has been produced by the chief European consultants in the investigation to support the location of the massacre ground 1km west of the (Myall Creek) station and approximately 600 metres south of the road bridge across Myall Creek.*

Any management and construction undertaken by the CLM will need to account for this place of Aboriginal significance and specified by the following Commonwealth and State legislation:

- *Environmental Protection and Biodiversity Conservation Act 1999*
- *Heritage Act 1977*
- *National Parks and Wildlife Act 1974*

For any proposed construction an investigation is required to determine:

- what Aboriginal cultural heritage is located there,
- why (or if) the Aboriginal cultural heritage located in the area is important,
- what the likely impacts of the proposed development on Aboriginal cultural heritage are; and
- how the impacts on Aboriginal cultural heritage can be avoided or minimised. In cases where Aboriginal cultural heritage will be damaged or destroyed, an Aboriginal Heritage Impact Permit is required.



Management of the MCMS will also need to account for the intent and objectives of the National Heritage Register (listed in 2008), and the State Heritage Register (listed in 2010).

The MCMS is subject to a Native Title Application under the Commonwealth *Native Title Act 1993* by the Gomeroi People. It is also subject to an Aboriginal Land Claim (ALC 48958) under the *Aboriginal Land Rights Act 1983* lodged by New South Wales Aboriginal Land Council in their own right (see Section 3.2).

#### **4.8 Heritage Significance – Local Environmental Plans**

The objectives of heritage conservation designations in the Local Environmental Plans of Gwydir Shire Council and Inverell Shire Council are:

- to conserve the environmental heritage of Gwydir.
- to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.
- to conserve archaeological sites.
- to conserve Aboriginal objects and Aboriginal places of heritage significance.

The LEP indicates that part of the MCMS is an area of heritage significant land (see Figure 10), being *Myall Creek Massacre and Memorial site* – National Significance (Item Number I026).

The LEP also indicates the MCMS neighbours a further area of heritage significant land, being *Area near Windsor, site of Myall Creek massacre* – State Significance (Item Number I003).

The *Inverell Local Environmental Plan 2012* indicates the MCMS also neighbours an area of heritage significant land, being *Myall Creek Station* – Local Significance (Item Number I035) (Figure 11).

Accordingly, any proposed developments within designated areas of heritage significance require consideration by the consent authority to ensure heritage objectives are considered.

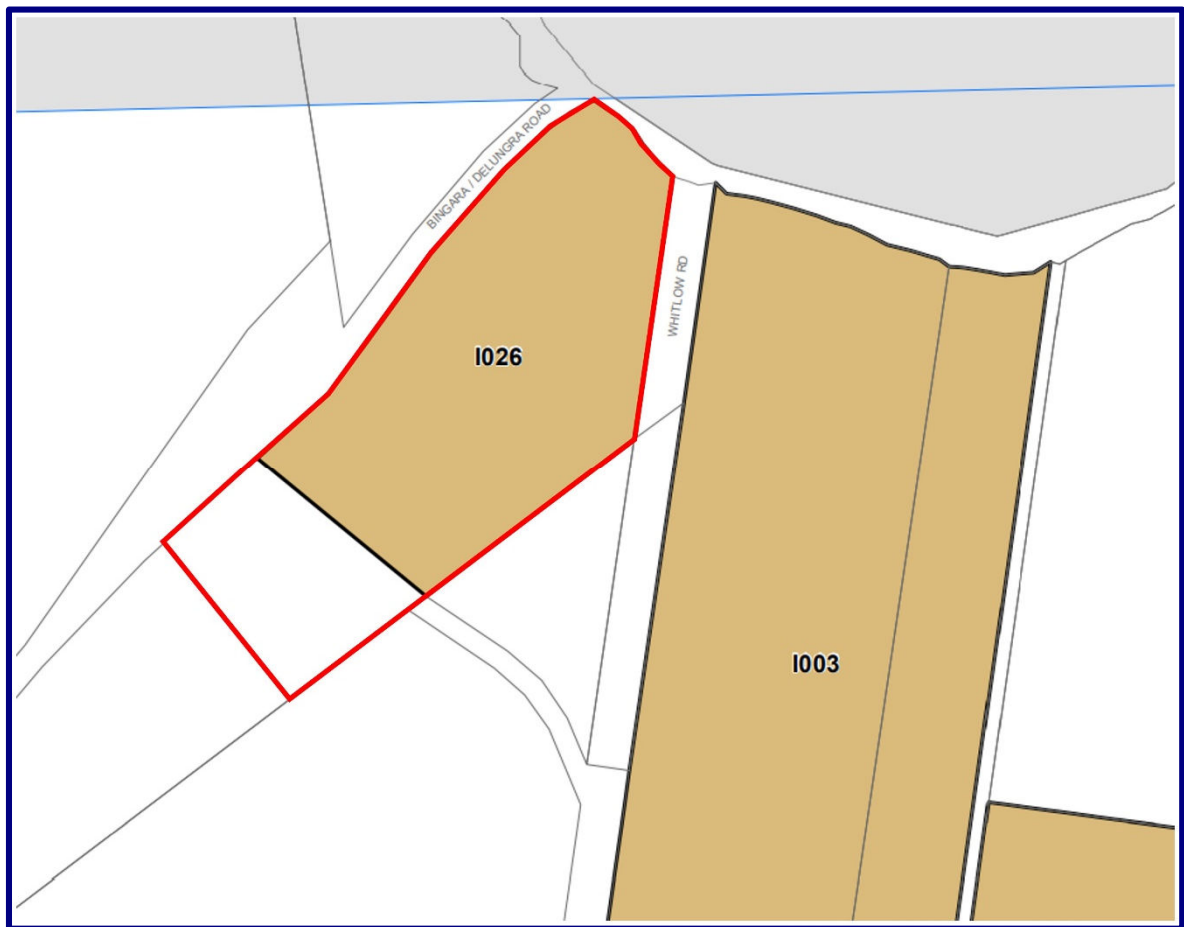


Figure 10 – Areas of Heritage Significance – Gwydir Shire

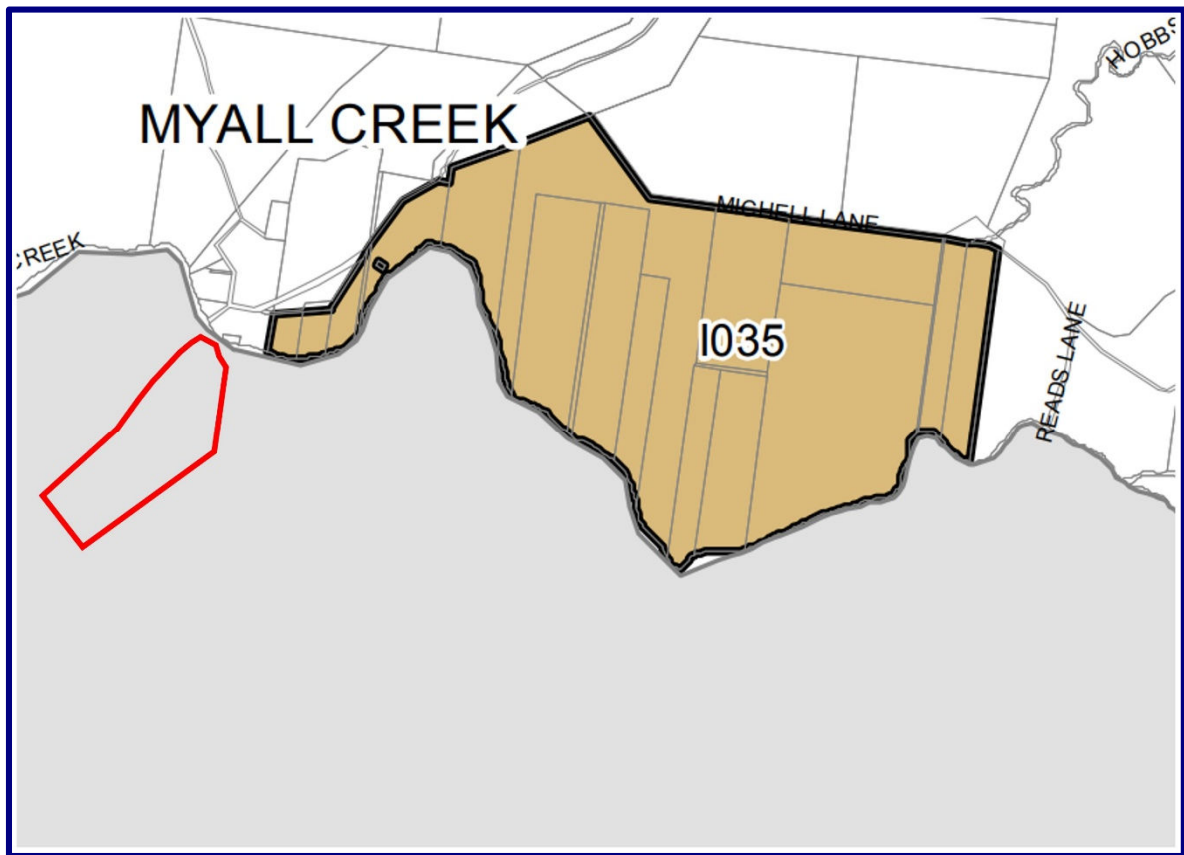


Figure 11 – Area of Heritage Significance – Inverell Shire

## 4.9 Bush Fire Planning

The MCMS has land which is designated Bushfire prone. Bushfire prone land is defined as an area of land that can support a bush fire or is likely to be subject to bush fire attack, as designated on a bush fire prone land map.<sup>21</sup>

The NSW Government's Planning portal<sup>22</sup> indicates a range of bushfire hazard rankings at the MCMS, as:

**Vegetation Category 1** - considered to be the highest risk for bush fire and will be given a 100m buffer. Category 1 has the highest combustibility and likelihood of forming fully developed fires including heavy ember production.<sup>23</sup> (Shown in red, this corresponds with the bulk of the currently uncleared area of the MCMS.)

**Vegetation Buffer** - considered to be a lower bush fire risk than Category 1 and applied as a 100m buffer (light orange), to each of the separate Category 1 polygons. This vegetation category has lower combustibility and/or limited potential fire size due to the vegetation area shape and size, land geography and management practices.

Note that Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out

<sup>21</sup> Guide for Bush Fire Prone Land Mapping Version 5b November 2015: *NSW Rural Fire Services*.

<sup>22</sup> [www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/lot](http://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/lot).

<sup>23</sup> Guide for Bush Fire Prone Land Mapping Version 5b November 2015: *NSW Rural Fire Services*.



on any land without development consent.

Bushfire prone land on the MCMS is shown in Figure 11.

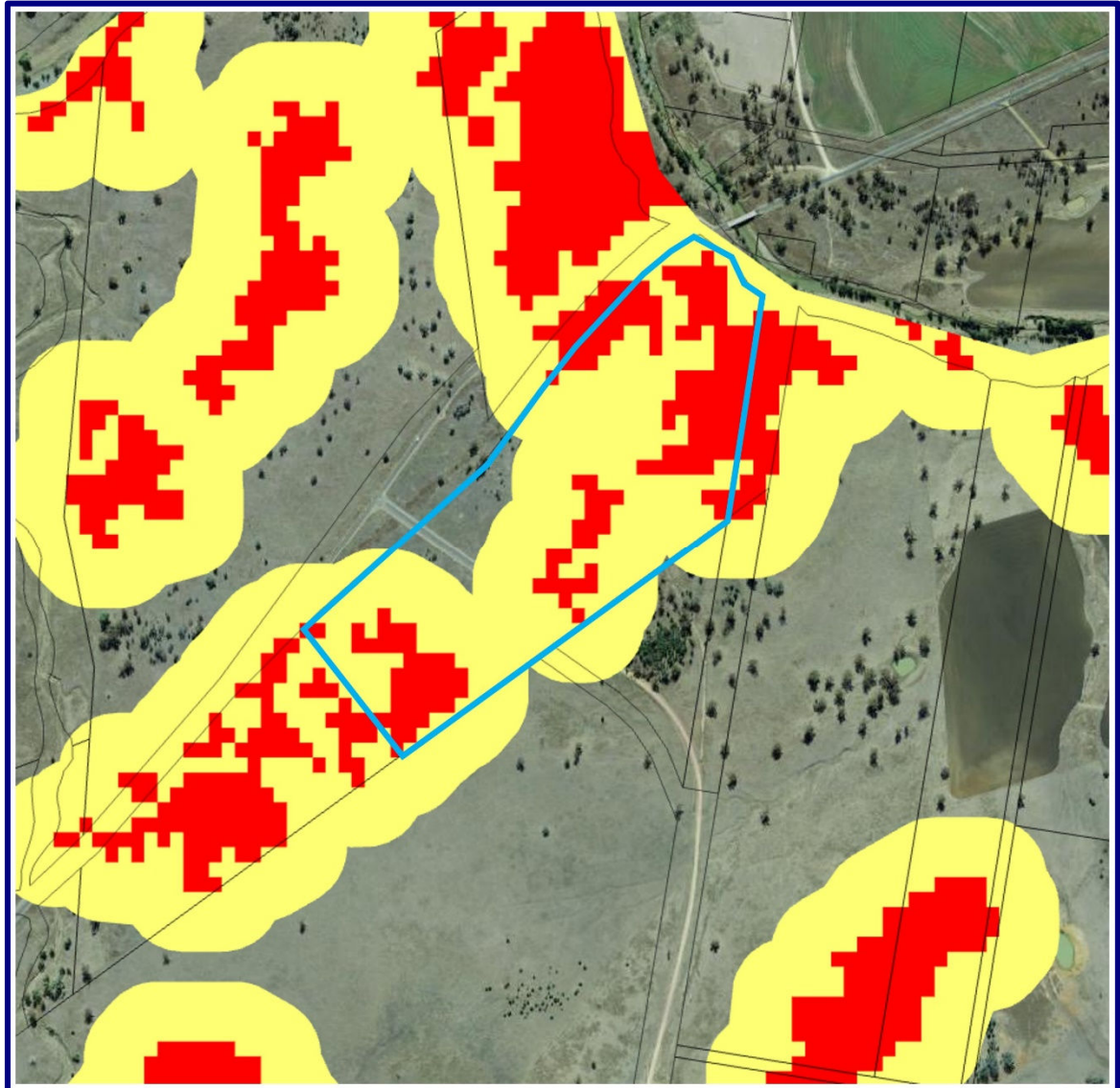


Figure 12 – Bushfire prone land  
Vegetation Category 1 (red); Vegetation Buffer (yellow).

#### **4.10 Operating Approvals**

The MCMS has no operating approvals issued under the LG Act.

## 5 THE PHYSICAL ENVIRONMENT

### 5.1 Topography, Hydrology, Geology and Soils.

The MCMS is contained within a gently rolling slope elevated topography at approximately 400m Above Sea Level (ASL). The area drains towards Myall Creek from its northern and north-western slopes, and towards Horse Gully Creek to the south and south-west. Via the two creeks, all drainage is eventually to the west and into the Gwydir River catchment.

Although much of the area around MCMS is impacted by rock types of basaltic geology (especially to its north), two different geologies exist at the MCMS. These are an array of exposed metamorphosed sedimentary rocks at the elevated northern section of the MCMS, merging towards the much younger basalt on the level to sloping sections in the center and to the south. On a subregional scale, both geologies produce an interesting tapestry of soils across the Myall Creek landscape which in turn produce an equally variable pattern of land use from cropping to grazing.

The sedimentary rocks at the MCMS produce a relatively shallow range of soils which are described as *Brown Chromosols*.<sup>24</sup> These are soils with a significant increase in clay content between topsoil and subsoil, are not strongly acidic or sodic and are generally associated with land of moderate to high limitations for high impact land uses.<sup>25</sup>

*Dermosols* occur on the MCMS beyond the drop off of the flattened hill towards the Myall Creek in the north and north-west. Related to the Chromosols in terms of geological origins and many physical features, these soils differ in being more gravelly and shallower, and do not exhibit a texture contrast between topsoil and subsoil, which are generally well structured. The Dermosols also have moderate to high agricultural capability limitations, and are mainly used for grazing in this vicinity (Figure 13).

*Vertosols* of basaltic origin, are dark self-mulching/cracking clays and occur at the MCMS as residual



Figure 13 - Soils of the MCMS Dermosol near the north-eastern boundary MCMS, showing well structured subsoil, in this case shallow and coarsely graded profile overlying a metasediment geology. Also note backdrop of woodland native vegetation (Cypress pine, white box, ironbark) with shrub understory and native grass groundcover.

<sup>24</sup> From the Australian Soil Classification System, Isbell R.

<sup>25</sup> eSPADE: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

shallow veneers interspersed especially with the Dermosols on the central flatter elevated terrains, dominating in presence and depth on transition past Whitlow Road to the southern sections of the MCMS. Although littered on the surface with basalt stones and rocks of various sizes, these soils have a higher agricultural capability and fertility than either the Dermosols or Chromosols present at MCMS.

The passive use of the land at MCMS, being pedestrian and controlled vehicular traffic, represents no major soil impact constraint where movements are controlled, and appropriate surface cover is maintained.

## 5.2 Native Vegetation, Clearing and Modification

The MCMS supports a woodland species such as White Box, Bimble Box, Blakely's Red Gum, Scribbly Gum, various Ironbark species, and Cypress Pine, with a light understory of shrubs and groundcover of native grasses.<sup>26</sup> Remaining woodland tree canopy exists mainly within the northern section of the MCMS (Figure 14), and a more open woodland and derived grassland occurs in the southern section from the memorial walk towards and beyond Whitlow Road (Figure 15).

One sole Myall tree exists on site, which may have been planted in recent decades as the more common landscape on which this tree species grows is the lower basaltic (cracking clay) areas across the Myall Creek to the north. The impact of the long drought (2017-2020) is evident through the process of death and thinning of juvenile and semi-mature tree species particularly where they grow in thicker stands in the northern sections towards Myall Creek.

Being a TSR, the original native vegetation across the MCMS has been variably altered from the actions of clearing, grazing, firewood collection and harvesting for posts etc., since 1838. However, the reservation has protected the MCMS from the full pressures of agricultural development. The (almost) closed tree canopy (woodland), understory shrubs and grasses contained within the northern section, is likely to generally reflect a pre-European distribution of native vegetation. Where alteration has more significantly occurred in the southern section, good recruitment of native trees has been encouraged in a number of tree clumps (mainly white box – see Figure 15). Interestingly, the CLM has recently initiated on-site propagation trials with a nursery of locally native species (trees shrubs and groundcover) which have aboriginal cultural, medicinal and food significance (Figure 16). This will inform future educational programs planned for the MCMS.

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<sup>26</sup> In a report by Stringybark Ecological (*Myall Creek Restoration Plan: Restoring Box Gum Grassy Woodland in a Cultural Context*), a definition is provided for the vegetation at the MCMS as belonging to the *White Box, White Cypress Pine, Silver Leaved Ironbark, Grassy Woodland* mainly of the Nandewar Bioregion – part of the *Critically Endangered Threatened Ecological Community White Box-Yellow Box -Blakely's Red Gum Grassy Woodland*.





*Figure 14 – Native vegetation*

*Viewed from beyond MCMS northern-north-eastern boundary from Myall Creek (left) and Bingara-Delungra Road. Note: die back of trees attributed to drought years (left); understory shrub layer and native groundcover (right).*





**Figure 15 – Native vegetation**

In the southern open section of MCMS, a derived woodland, showing clumps of white box and other species showing healthy growth. Note managed surface cover, rockeries/track markers, native plant nursery (left) and sole Myall tree (right).



**Figure 16 – Native vegetation nursery**

A nursery of native trees, shrubs and groundcover species has been established for educational purposes. Endemic species have been selected for aboriginal significance (food, medicinal, cultural).



## 6 CURRENT USES

The MCMS is primarily used for the additional Heritage Purposes and Community purposes notified in 2013 which facilitates its use as a memorial. As such, it acknowledges a most bitter component of the history of settlement of the land by Europeans.

The MCMS is important for reflection by both Aboriginal and non-Aboriginal Australians of a past from which a reconciled community can move forward in full acknowledgement of that past. As such, the educational values the site provides, are most important to all who visit, enabled by the implementation of the well-considered current and proposed developments.<sup>27</sup>

Aboriginal members of the FMCM and families, regularly visit the MCMS both for purposes of spiritual healing, and site maintenance and meetings, the culmination being the annual memorial service every June long weekend which receives significant publicity and attendance by all Australians (Figure 18).

The MCMS has been used effectively for music concerts featuring Aboriginal artists. It is also used as a focus for various historical dissertations by academics for the purposes of education and historical record on the events at Myall Creek and the social context of present and past.



*Figure 17 – The Yarning Circle Amphitheater*

*The Annual Friends of Myall Creek Memorial Service attracts people from all over the country and is held every June long weekend at the site – Aboriginal and non-indigenous people working together in an act of reconciliation.*

Council staff actively fulfill components of the agreed maintenance and improvement commitments, and a significant and accelerating trend of casual visitation of tourists from outside the region has been a major feature in recent times.

<sup>27</sup> Development of the MCMS is proposed over a number of stages, of which the first two have been completed. The three stages are; **Stage 1 – Memorial Story**; **Stage 2 – Cultural Space**; **Stage 3 – Educational and Cultural Story**.



*Figure 18 – The Annual Friends of Myall Creek Memorial Service  
(Courtesy Friends of Myall Creek).*

Parts of the MCMS are available for Travelling Stock, however, this use is increasingly only required during adverse climatic events such as drought.



## 7 RESERVE ASSESSMENT

### 7.1 Assessment of Infrastructure

The built assets and improvements at the MCMS now in place, are due to the initiatives and collaborations of the FMCM and its predecessor groups, with the support of Council and various funding streams. Figures 19-27 show many of these assets, being:

- Modern amenities block with rainwater storage and solar assisted power. This is a major investment constructed during Stage 2 of the works program at MCMS.
- Weather shed located near car park area catering for visitors to the MCMS, especially those inspecting or celebrating in the Yarning Circle adjacent (Stage 2).
- Sunken Yarning Circle with amphitheater sandstone seating which enables participation in meetings, educational activities, and celebrations (Stage 2).
- Additional water tanks, solar panels, landscaping (Stage 2).
- The educational memorial walking track leading towards the granite monument with plaque, overlooking Myall Creek and the massacre site (Stage 1).
- Main entrance gate and driveway from the Delungra-Bingara Road (Stage 2).
- Comprehensive educational and directional signage (Stages 1 and 2).



*Figure 19 – Myall Creek Memorial Site Assets – Amenities Block*  
*Amenities block. The recently constructed amenities facility with modern design, compatible with the surrounds, harvests rainwater and is solar powered with satellite dish.*



- Picnic shelter at start of memorial walkway, aligned with granite resting benches (Stage 1).
- Driveway and sealed parking area for cars and larger vehicles (Stage 2).
- Fencing.



*Figure 20 – Myall Creek Memorial Site Assets – Weather Shed*

*Weather shed adjacent to the Yarning Circle provides shelter to visitors. Sealed driveway access to car park in foreground.*



*Figure 21 – Myall Creek Memorial Site Assets – Yarning Circle*





*Figure 22 – Myall Creek Memorial Site Assets – Landscaping  
(left) Landscaping; (centre) Additional water tanks and solar panels; and (right) stock proof fencing constructed in consultation with North-West Local Land Services.*



*Figure 23 – Myall Creek Memorial Site Assets  
(left) Yarning Circle with shed and amenities block in landscaped setting (top right); carpark; and (bottom right) sealed main entrance driveway and steel gateway.*





*Figure 24 – Myall Creek Memorial Site Assets – Memorial walkway  
Graveled Memorial walkway, with resting benches and educational signage.*



*Figure 25 – Myall Creek Memorial Site Assets – Picnic shelter  
Picnic shelter at entrance of Memorial walk, with vehicular turning circle.*





Figure 26 – Myall Creek Memorial Site - Directional and instructional signage



Figure 27 – Myall Creek Memorial Site Assets - Educational signage

## 7.2 Assessment of Management Needs

Overall, the condition of the major asset items is very good, reflective of a well-considered development plan of the CLM which provides tastefully presented facilities and appropriate tools for education, learning and reflecting. Table 1 shows little major maintenance requirement of the site's current assets. The land management requirements including landscaping, slashing, bush fire prevention and general presentation will be an ongoing consideration for MCMS. Assets are currently listed on Council's Asset Register.

*Table 1 - Condition of Land and Assets at the Myall Creek Memorial Site*

Asset	Cond.	Asset	Cond.
Amenities block	1	Shelter shed	1
Yarning circle amphitheater	1	Sealed entrance and driveway	1
Fencing	2	Rainwater storages	1
Picnic shelter	3	Memorial walkway (surface)	2
Educational and directional signage	1	Bench seating	1

- 1. Very Good** - Excellent overall condition
- 2. Good** - Very good overall – early stages of deterioration – normal maintenance, minor repairs
- 3. Fair** - Condition deterioration obvious, serviceability affected, significant maintenance required
- 4. Poor** - Serviceability heavily impacted, maintenance cost high and significant renewal/major maintenance
- 5. Very Poor** - Severe serviceability problems, immediate rehabilitation, requires over 50% asset renewal

Routine management of the grounds at the MCMS involves the usual tasks of mowing, slashing, gardening, replanting, fence maintenance, track and road maintenance and the works associated with bushfire prevention. The CLM as part of its role has an initial responsibility for this work however a significant volunteer workforce has also been assisting with both the establishment and maintenance of infrastructure.

The continued development of the MCMS is also planned to meet the needs of escalating usage and visitation. New developments (Stage 3) will include and adhere to the requirements of this POM.

Subject to funding availability, Stage 3 developments are proposed (to be constructed to the south of the Yarning Circle precinct) being the Keeping Place and Cultural Centre with Caretakers Accommodation.

## 7.3 Community Consultation and Future Use Options

During the development of this POM, the principal user organisations were informed of its intent and discussions were held on-site, and in Inverell to seek views and considerations. Participants were in the main, Aboriginal and non-Aboriginal members of the FMCM. An additional meeting of FMCM members was held in Sydney. Council staff were also consulted.

## PART B – THE PLAN

### 8 A VISION FOR THE MCMS

In order to consider an appropriate vision statement for the MCMS site as managed Crown land, it is of value to initially consider the fundamental purpose for the creation of the site. The following is reproduced from the Reconciliation Opening Ceremony.

At the memorial participants remembered, acknowledged our shared history, grieved, and committed ourselves to reconciliation.

#### WE REMEMBER

"We are descendants of, and represent, all those who carried out murder and mayhem on the slopes below" - *Beulah Adams and Des Blake*

"We are descendants of those who survived the massacres" - *Sue Blacklock and Lyall Munro*

"We acknowledge this our shared history. We seek reconciliation between our peoples, and healing of the wounds of the past." – *All*

"This is the history of every one of us; we are all heirs and survivors, beneficiaries and victims of its injustices and misunderstandings. We too want reconciliation and healing" - *All participants, as the four embrace*

#### WE ACKNOWLEDGE

- that violence continued at places all over the country for 140 years
- that it was all part of the taking of the land without negotiation or payment
- that Aboriginal people rightly defended their land, families, culture and heritage
- that there was a war between laws, cultures and belief systems
- that this oppression continues into the present in the disrespect for Aboriginal culture
- that history is still largely told from the view of non-Aboriginal people

#### WE GRIEVE

- the lack of respect and negotiation in taking of the land
- the destruction of language and culture
- the breaking up of families and the forced separation of families

#### WE COMMIT OURSELVES

- to a just reconciliation
- to tell the truth to our children and grandchildren
- to search for more respectful, equitable and just ways of living together in the land, where a person's lot will no longer be determined on the basis of their ancestry or skin colour, where the history of 60,000 years is honoured together with the history of the last two centuries, where the glorious parts of that history are celebrated with pride, and the dishonourable parts are acknowledged with shame.

**Sue Blacklock and Beulah Adams dedicated the monument "to the telling of our shared history, and to the reconciliation of our peoples."**

The vision statement for the purpose and management of the community lands embraced by this POM, perhaps broader than the MCMS itself, reflects the monument dedication:

**“A place for the telling of our shared history, and the reconciliation of our peoples.”**

Council’s Mission is:

**“To ensure that the Council’s long-term role is viable and sustainable by meeting the needs of our residents in a responsible caring way, attract sustainable development while maintaining the traditional rural values, character and culture of our people”**

And from its Community Strategic Plan, Council’s vision for Gwydir Shire:

**“Many Hands Make a Community”**

Although these statements have broad implications, they indicate that the region and Council recognise several important values which reflect on the management of community lands, including the MCMS. These include strong and successful communities, viability and sustainability, delivering community needs in a responsible and caring way, character, culture, and people. These values in turn strongly embrace and support the vision of the MCMS.

The guiding principle of the FMCM in its constitution is:

**“The Friends of Myall Creek Memorial are working towards constructive reconciliation through truth-telling with the guiding principles of justice, respect, honour, loyalty, inclusiveness, education and sustainability.”**

“Many hands” will ensure the future of the MCMS and its ability to provide a venue for healing, remembering, cultural expression, and the sharing of history.



## 9 OBJECTIVES, CLASSIFICATION AND CATEGORY OF LAND

The MSMS is classified as Community Land under the LG Act as amended by the *Local Government Amendment (Community Land Management) Act 1998*.

Under Section 36(4), all Community Land must be categorised as one of the following categories:

- Natural Area - (further categorised as either Bushland, Wetland, Escarpment, Foreshore, Watercourse)
- Sportsground
- Park
- Area of Cultural Significance; or
- General Community Use.

The Core Objectives for all community land categories vary according to the categorisation of the land. All objectives are defined in Sections 36E to 36N of the LG Act and also appear in **Appendix 1**, of this POM.

In accordance with the guidelines set out in the *Local Government (General) Regulation 2021* and *Practice Note 1: Public Land Management* (Department of Local Government Amended 2000) and the derived management directions and planning principles presented above, land at the MCMS should be categorised as **Area of Cultural Significance**

### 9.1 Area of Cultural Significance

#### Description and Location

The Area of Cultural Significance category occupies the entire MCMS

#### Management Objective

The MCMS management objective for the future is to design, construct, operate, administrate and maintain an Educational and Cultural Centre including a Keeping Place for relevant Aboriginal and non-Aboriginal cultural objects, and family history. This will commit to an extension of the current works and improvements program (Stages 1 and 2) to include the Keeping Place and Cultural Centre (Stage 3). Ongoing maintenance to the existing developments and visitor facilities, grounds (mowing, slashing, bushfire management, weed control etc), road and track maintenance, fencing, waste management, will be an ongoing commitment.

## 10 DEVELOPMENT AND MANAGEMENT OF THE MCMS

### 10.1 MCMS Management

The CLM (Council and the FMCM) reserves the right to control the use of MCMS which is community land.

The MCMS will be managed by the CLM in accordance with a Myall Creek Memorial Site Management Agreement (MCMSMA) development and agreed to by Council and FMCM. The MCMSMA will consider:

- Meeting structures
- Management responsibilities for both parties
- Asset recognition
- Maintenance arrangements
- Funding mechanisms
- Decision making processes
- Representation
- Other

The CLM intends to:

- Manage the MCMS in accordance with the Vision Statement and the reserve purpose.
- Ensure any use of the MCMS is respectful of Aboriginal people associated with the site and mindful of the desire to build community reconciliation.
- Develop a facility aimed at educating the community in relation to the shared history.
- Create opportunities for community consultation and participation in the planning and development as required.
- Provide an efficient method and process for approval of all agreed improvements and developments which meet the needs of growing participation and visitations to the MCMS.
- Ensure any formal use of the MCMS is authorised through appropriate documentation.
- Allow casual informal use consistent with the CLM's policies and procedures.
- Consider how use of the site can provide funding for the maintenance of facilities for the MCMS.
- Recognise that the viability of the MCMS is dependent on the ongoing desire of people to visit, use and benefit from the MCMS, and that general site promotion and presentation of the site is in the interests of long-term success.
- Facilitate a system whereby enquiries and complaints from the public can be efficiently and promptly dealt with.<sup>28</sup>
- Implement a process to minimise vandalism of all improvements and react accordingly to such

<sup>28</sup> Complaints in relation to the MCMS will be addressed consistent with Council's established complaints management process .

issues.

The CLM will permit the issue of leases and licences as described in Section 10.3.

## 10.2 Communication in the Management of the MCMS

Communication within the CLM and between the CLM and reserve users and government agencies is important to the success of this POM. The CLM will establish and maintain clear lines of communication.

This will include:

- regular meetings of the CLM in accordance with the MCMSMA
- discussions with relevant agencies
- maintenance of the current and effective newsletter tool by the FMCMS.

## 10.3 Permitted Uses and Activities at the MCMS

Access by the public will be permitted and encouraged at the MCMS, subject to signage and usage protocols established by the CLM.

### Permissible Uses

Table 2 lists the permissible uses on the land contained within the MCMS, subject to Council assessment, approvals and booking/hire systems, with their scale and intensity.

*Table 2 - Permissible Uses*

Use	Scale	Intensity
Access roads	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week
Amenities	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week
Alternate energy technology	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Art, cultural classes dissertations, dance and events	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week subject to any Hire Agreement, Tenure and/or Development Application conditions for a specific event
Business Operations	Limited to the physical constraints of the facility	24 hours a day, 7 days a week subject to Tenure or Hire Agreement
Café, Canteen or Kiosk	Limited to the physical constraints of the facility	Operating hours of the establishment subject to Tenure or Hire agreement

Use	Scale	Intensity
Car parking	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week
Caretakers Facilities	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Children's programs and events	Limited to the physical constraints of the facility and/or to the requirements of the activity	8.00am – 10.00 pm, 7 days a week subject to Tenure or Hire Agreement
Community events (fundraising/charity and other special events)	Limited to the hours the facility is booked Agreement via tenure or hire agreement	7 days a week, 8.00am – 10.00pm
Community Services e.g., the annual memorial service	Limited to the physical constraints of the facility	24 hours a day, 7 days a week subject to any Hire Agreement, Tenure
Drainage and irrigation	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Education Services	Limited to the physical constraints of the facility	24 hours a day, 7 days a week subject to Tenure or Hire Agreement
Emergency use	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week
Filming and photography	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week subject to Tenure
Grazing	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Landscaping	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Maintenance buildings and infrastructure	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Mobile food vendors	Limited to the physical constraints of the facility	Operating hours subject to Tenure or Hire Agreement
Nursery	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Passive recreation	Limited to the physical constraints of the facility and/or to the requirements of the activity	7 days a week, sunrise – 10.00pm
Paths	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Playing of a musical instrument, or singing, for fee or reward	Limited to the physical constraints of the facility	Operating hours subject to Tenure or Hire Agreement
Public performance or education	Limited to the physical constraints of the facility and/or to the requirements of the activity	Operating hours subject to Tenure or Hire Agreement
Public utility infrastructure	Limited to the physical constraints of the facility	24 hours a day, 7 days a week
Remediation works	Subject to noise, workplace health and safety and relevant legislation	24 hours a day, 7 days a week
Shade structures	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week
Sponsorship signage (temporary)	As per section 11.12	24 hours a day, 7 days a week
Storage facilities	Limited to the physical constraints of the facility	24 hours a day, 7 days a week subject to Tenure or Hire Agreement
Temporary structures (i.e., marquees, tents, stages)	Limited to the physical constraints of the facility	Temporary structures (no pegs, weighted only)



Use	Scale	Intensity
Youth programs and events	Limited to the physical constraints of the facility and/or to the requirements of the activity	8.00am – 10.00 pm, 7 days a week subject to Tenure or Hire Agreement

It is an express provision of this POM that the CLM shall provide from time to time as circumstances may require the construction and maintenance of utility services, provision and maintenance of floodways, vehicular access ways and the granting of easements.

## 10.4 Leases, Licences and other Estates

For this section, please see the Explanation of Terms<sup>29</sup> set out below.

The CLM may allow use of community land by a casual user for any permissible use (see Section 10.3). However, CLM may require a form of authorisation for a permissible use to be undertaken by Council under the LG Act.

The authorisation in a POM gives ‘in principle’ support for activities, uses and developments consistent with the objectives for land categorisation to proceed to development assessment under the *Environmental Planning and Assessment Act 1979*, if required.

This POM does not in itself imply or grant consent for activities, uses or developments. Any proposed uses and developments which are consistent with this POM must still be referred for development consent and where required, be advertised widely for information and invitation to comment. Any subsequent application for development consent would be supported by and assessed against this POM.

The LG Act provides that tenures (leases, licences, or any other estates) or easements may be granted over all or part of community land.

Tenures may be held by:

- community/ government organisations, or
- by private/commercial organisations, or
- individuals providing facilities and/or services for public use.

### <sup>29</sup> Explanation of Terms

<b>Tenure</b>	A lease, licence or other estate issued by Council in accordance with Section 46 of the LG Act or Section 2.20 of the CLM Act.
<b>Hire Agreement</b>	An estate issued by Council.
<b>Holder</b>	The company, organisation, individual or group of individuals who have been issued with a Tenure.
<b>Hirer</b>	The company, organisation, individual or group of individuals who have been issued with a Hire Agreement.
<b>Regular hirer</b>	A hirer who regularly uses the MCMS through a Hire Agreement or has an ongoing Hire Agreement.
<b>Singular hirer</b>	A Hirer who has a Hire Agreement as a once off or irregularly.
<b>Casual user</b>	A person or group of people using the MCMS for passive recreation, non-commercial purposes without a Tenure or Hire Agreement.
<b>User</b>	The collective term for a holder, hirer and casual user.

The maximum period for leases and licences on community land allowable under the LG Act is 30 years (with the consent of the Minister for a period over 21 years) for purposes consistent with the categorisation and core objectives of the particular area of community land.

Community land may only be leased or licensed for periods of more than 5 years if public notice is given according to the requirements of Sections 47 and 47A of the LG Act.

### Leases

A lease will be generally required where exclusive use or control of all or part of community land is desirable for effective management. A lease may also be required when the scale of investment in facilities, necessity for security measures, or where the relationship between a holder and facilities on community land justifies such security of tenure.

Leases issued by Council will require:

- That subleases or any other supplementary tenures can only be issued by the Holders with the approval of Council, and consistent with Section 47C of the LG Act.
- Responsibilities for maintenance of the facility will be as indicated in the lease.
- All leases will be negotiated in a manner that provides quality outcomes to the community.

### Licences

Licences allow multiple and non-exclusive use of an area. A licence may be required where intermittent or short-term use or control of all or part of the community land is proposed. A number of licences for different holders can apply to the same area at the same time, provided there is no conflict of interest.

### Hire Agreements

An agreement for use of the land subject to this POM may be issued by Council for any purpose listed below, subject to the approval of Council. A hire agreement may be issued to a regular hirer or a singular hirer for formal use. Any legal requirements as determined by Council will include the requirement for adequate public liability insurance cover.

### Purposes for which Tenures may be issued

In accordance with Section 46A of the LG Act, a Plan of Management for community land is to specify and authorise any purpose for which a lease, licence or other estate may be granted over community land during the life of a POM.

This POM authorises a tenure to be issued:

- for any permissible use in Table 2.

- for purposes consistent with the MCMS's:
  - categorisation (see Section 10.1), and
  - zoning (see Section 4.1) under Section 46 of the LG Act, and
  - reserve purpose of Heritage Purposes and Community Purposes and Travelling Stock and Camping as required under the CLM Act.

However, the CLM Act allows that the CLM may also issue short term licences (for a period of less than one year) consistent with Section 2.20 of the CLM Act. This section provides that licences may be issued, inconsistent with the reservation purpose, for prescribed purposes currently being:<sup>30</sup>

- |   |   |
|---|---|
| a. access through a reserve                   | j. filming (as defined in the LG Act)             |
| b. advertising                                | k. functions                                      |
| c. camping using a tent, caravan or otherwise | l. grazing  |
| d. catering                                   | m. hiring of equipment                            |
| e. community, training or education           | n. markets  |
| f. emergency occupation                       | o. meetings                                       |
| g. entertainment                              | p. sales  |
| h. environmental protection                   | q. shows  |
| conservation or restoration or                | r. site investigations                            |
| environmental studies                         | s. sporting and organised recreational activities |
| i. exhibitions                                | t. storage.                                       |

This POM expressly authorises<sup>31</sup> the following tenures:

- a. the issuing of a tenure to a caretaker for management of the proposed educational facility

Council may grant a lease, licence or other estate in respect of Community Land for:

- A purpose prescribed by Section 36I as a core objective of the categorisation of the land and subject to being consistent with the MCMS purpose; or
- For the provision of goods, services and facilities, and the carrying out of activities, appropriate to the current and future needs within the local community and of the wider public in relation to Heritage Purposes and Community Purposes and Travelling Stock and Camping.

A tenure or hire agreement on Crown land may impact native title rights and interests. Apart from the tenure/hire agreements authorised above<sup>32</sup>, which are valid acts under Section 24JA of the *Native Title Act 1993*, any use agreement issued on Crown land must be issued in accordance with the future act provisions of the *Native Title Act 1993* and in accordance with Part 8 of the CLM Act unless native

<sup>30</sup> *Crown Land Management Regulation Section 31.*

<sup>31</sup> Express Authorisation in Section 46 (1)(b) of the LG Act permits tenures to be granted in accordance with and subject to such provisions of a Plan of Management.

<sup>32</sup> This does not include Business Operations, Commercial Premises, Advertising (Business) or Storage (Business).

title is extinguished. For Crown land which is not *excluded land* this will require written advice from one of Council's native title managers that it complies with any applicable provisions of the native title legislation.

The CLM at any time in the future, reserves the right to prohibit the taking or consumption of alcohol on the MCMS. This will be indicated by conspicuously displayed signs in accordance with Section 632 and Section 670 of the *Local Government Act, 1993* (as amended).

#### Direction of Funds

Income produced from the MCMS will be distributed to manage the MCMS.

### **10.5 Other Approvals**

An approval to occupy land or facilities for a specific purpose does not remove the need to obtain approval under other legislation as required.

### **10.6 Allocation**

The MCMS will continue to be used by a variety of user groups and individuals for purposes previously noted. The CLM will endeavor to generate greater utilisation of the MCMS for community purpose and other activities consistent with the MCMS purpose.

### **10.7 Fees**

The CLM applies fees for the use of the MCMS.

Where considered appropriate, the MCMS may be hired for a fee which will be set by the CLM.

### **10.8 Easements**

Council reserves the right to grant easements as required for utilities and access, bearing in mind the impact of such easements on the site.

The granting of easements over Crown land will be subject to the provisions of the Native Title Act 1993 and Division 8.7 of the *Crown Land Management Act 2016*.

### **10.9 Development at the MCMS**

Under this POM, the CLM reserves the right to control the use of all land categorised at the MCMS as Area of Cultural Significance.



The CLM approval is required prior to any development or improvement made to the MCMS.<sup>33</sup>

All major developments and improvements to be funded (solely or partially) by the Council will be subject to Council approval.<sup>34</sup>

To facilitate the establishment of the new and restored infrastructure, Council (on behalf of the CLM) may issue tenders to design and establish additional car parks, access roads, land development and landscaping, and installation of associated and required facilities at the MCMS. Note that existing conceptual plans for the proposed Stage 3 development will guide the CLM's determinations.

### Native Title

Where it is proposed to construct or establish a public work<sup>35</sup> on reserved or dedicated Crown land, where Native title is not extinguished, prior to approval the CLM will be required to meet the requirements of the *Native Title Act 1993*. For some works this will require the CLM to notify and give an opportunity for comment from any representative Aboriginal/Torres Strait Islander bodies, registered Native title bodies corporate and registered Native title claimants<sup>36</sup> in relation to the land or waters covered by the reservation or lease as required under the *Native Title Act 1993*. Other works may require negotiation with the native title claimants/holders.

Where a proposed update of an existing Master Plan, Capital Works Program, Facilities Asset Management Plan or any other plan is the approving documentation for a public work on Crown land, that approval will not be given unless the requirements of the *Native Title Act 1993* have been addressed including the notification and opportunity to comment noted above.

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<sup>33</sup> Section 2.74 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* provides that development for any purpose may be carried out without consent on Crown managed land, by or on behalf of a Crown land manager of the land if the development is for the purposes of implementing a plan of management adopted for the land in accordance with the *Local Government Act 1993* (see Appendix 2).

<sup>34</sup> The term approval refers to approval as Crown land manager of the land rather than consent under the *Environmental Planning and Assessment Act 1979*.

<sup>35</sup> A public work is defined as:

- (a) any of the following that is constructed or established by or on behalf of the Crown, or a local government body or other statutory authority of the Crown, in any of its capacities:
  - (i) a building, or other structure (including a memorial), that is a fixture; or
  - (ii) a road, railway or bridge; or
  - (iia) where the expression is used in or for the purposes of Division 2 or 2A of Part 2--a stock-route; or
  - (iii) a well, or bore, for obtaining water; or
  - (iv) any major earthworks; or
- (b) a building that is constructed with the authority of the Crown, other than on a lease.

Major earthworks are defined as:

earthworks (other than in the course of mining) whose construction causes major disturbance to the land, or to the bed or subsoil under waters.

<sup>36</sup> The MCMS is subject to Native Title Claim (NSD 37/2019) filed by the Gomeroi People with the Federal Court of Australia on 20 December 2011.

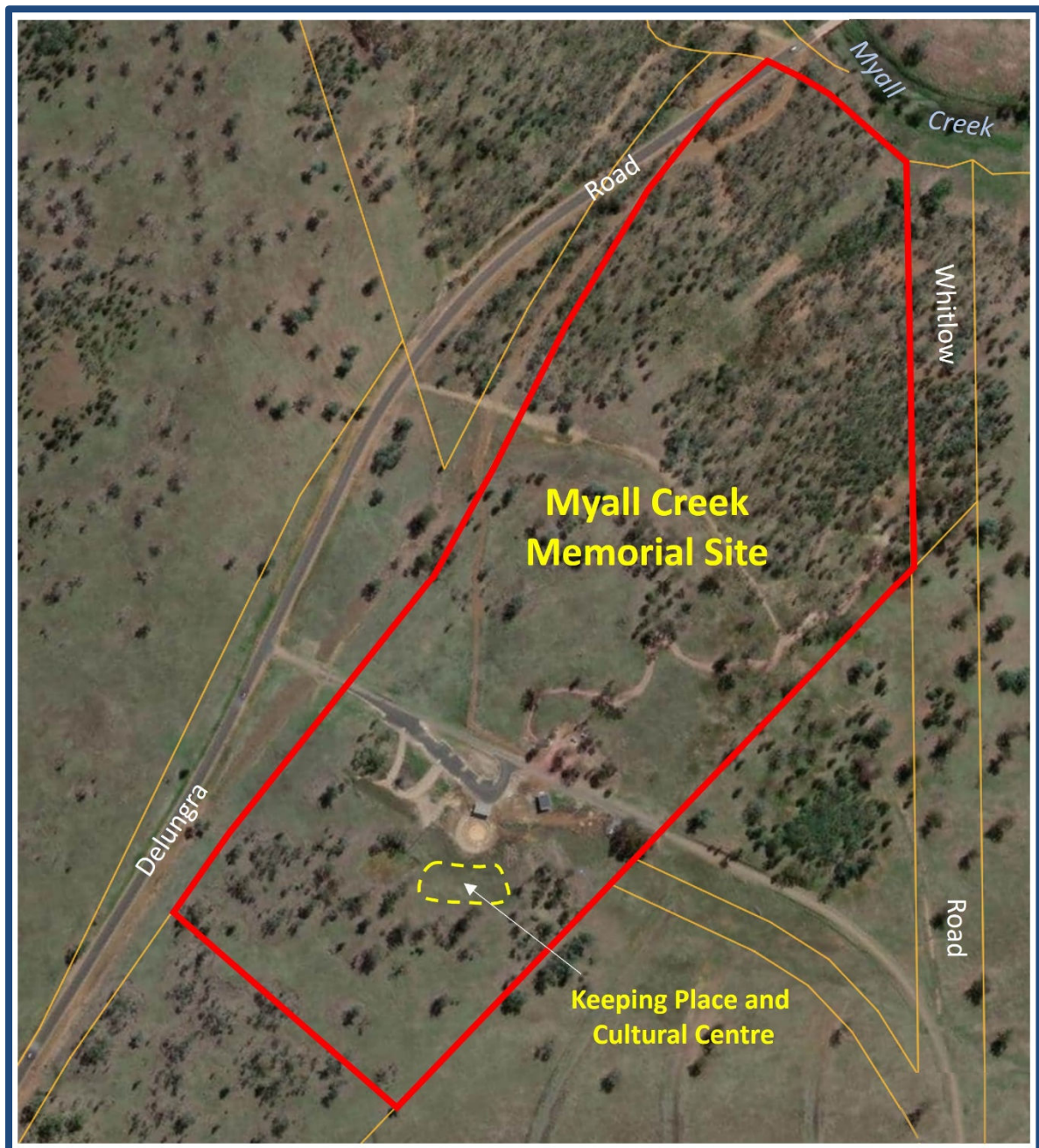


Figure 28 – New Works

## 10.10 Development of New and Improvement of Existing Facilities

Under this POM, it is proposed to continue development of MCMS including the proposed Stage 3 – Educational and Cultural Centre. This will involve installation of new and improved facilities (see Figure 29) including the following:

- Construct a Keeping Place and Cultural Centre, including Caretakers Accommodation.
- Construct additional native plant propagation beds with landscaping aimed at investigating the practical aspects of harvesting unique endemic plants for food, medicinal and cultural reasons, and conversion of the harvested products into their nominated purpose. This will provide an

educational opportunity and potentially, a commercial opportunity.

The design of Stage 3 is required to be finalised, agreed by Council and the FMCM, funding sourced and approved in accordance with State legislation.

All major developments and improvements to be funded (solely or partially) by Council will be subject to Council approval.

## 10.11 Maintenance of Lands and Facilities

In accordance with the maintenance schedule of its asset management plans, building management plans and grounds management plans, and to measured targets within available resources, the CLM will ensure the facilities on the MCMS are maintained to an appropriate standard.

The CLM will:

- conduct essential repairs and maintenance to all facilities.
- maintain the structures and open spaces on the MCMS.
- oversee lease maintenance responsibilities of tenure holders where they exist.
- monitor the condition of structures on the MCMS and ensure effective maintenance procedures are in place through tenure conditions.
- prepare a safety audit of the site and repair or replace any areas that may impact on public safety.
- complete the practical management actions described in Section 3.9 – Summary of relevant management actions of the *Myall Creek Restoration Plan* (see Appendix 3).<sup>37</sup>
- ensure the efficient and conservative use of water, pesticides, herbicides and fertilisers across the MCMS where required.
- ensure regular collection of rubbish and elevate compliance activities against illegal dumping of rubbish.
- council officers to continue monitoring for issues of compliance and general site amenity.
- maintain graveled and sealed road and path surfaces.
- complete landscaping associated with the new (Stage 3) works.

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<sup>37</sup> The *Myall Creek Restoration Plan* area – *Restoring Box Gum Grassy Woodland in a Cultural Context*, is inclusive of the area occupied by the MCMS and the associated initiatives and action concern management and restoration of the Box Gum Grassy Woodland, part of the *Silver Leaved Ironbark -White Version 2 Cyprus Pine Grassy Woodland of the Northern Nandewar Bioregion*.

## 10.12 Signage

The CLM uses signs to regulate the activities carried out on community land and to provide educational information so as to provide a safe and enjoyable place for passive and active educational pursuits.

Whilst signs are a crucial source of information, they have a significant impact on the aesthetics of a reserve such as the MCMS. All signs must:

- meet a design standard and be approved by Council.
- be sympathetic to their environment and the overall purpose of MCMS in their design, construction and location.
- be placed in accordance with *State Environmental Planning Policy (Industry and Employment) 2021* or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note that for issues of safety signage, Council uses the *Statewide Mutual Best Practice Manual – Signs as Remote Supervision*.

Where a sign requires development consent,<sup>38</sup> the CLM must approve as owner the lodging of a Development Application prior to assessment by Council in accordance with Schedule 5 Assessment Criteria of the I&E SEPP.

Where a sign does not require development consent, the CLM must approve the sign before erection.

All Council signs erected under Section 632 of the *Local Government Act*, plus reserve name signs and traffic and safety signs, are permissible.

### Proposed Signage

The CLM will ensure the following signage is on the MCMS:

- directional signage for the purposes of guiding the community to required infrastructure and services.
- signage for safety purposes including speed limitations and evacuation procedures.

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<sup>38</sup> Development consent is not required if the sign is to be erected for the purposes of implementing this POM.



## 11 FINANCIAL SUSTAINABILITY

Income may be sourced from the following:

- **Council's General Revenue Fund (in accordance with annual operational budgets):** Where the MCMS is being used for informal casual use, Council will contribute to the maintenance and development of Infrastructure.
- **Section 7.11 (Environmental Planning and Assessment Act 1979) contributions specifically collected for community land:** This component occurs as developer's contributions for the general use of community land for community well-being.
- **User pays for minor infrastructure works associated with nominated facilities:** This occurs through fund raising by the relevant body including entry fees and sales.
- **Community contributions by way of sponsorships and community group projects** (e.g., service clubs, Landcare, successful funding submissions and fund raising of the FMCM etc): This occurs through grants either sourced externally, and/or contributed locally by the FMCM (eg., for the purposes of environmental works, new works, shelters and seating etc., and other improvements).
- **Grant and loan funding from either Commonwealth or State Governments:** The implementation of the management structure will allow primary users to apply for funds from a number of government bodies with the concurrence of Council. Council may also apply for these funds. Funding opportunities exist from government programs including the Crown Reserves Improvement Fund managed by the Department of Planning, Housing and Infrastructure – Crown lands.
- **Income from commercial operations:** Where tenures are involved (e.g., the major user groups), ticket and product sales etc., income will arise as per details in the revenue-split in the corresponding agreement.

In order to address the outstanding and future maintenance requirements at the MCMS, and permit any required new developments as proposed in this POM, it is important that all income which is generated from the MCMS be returned to the MCMS, and that this should be clearly demonstrated in Council's financial statements. Ensuring appropriate rental and fees for formal use of the site will assist in the maintenance of specialised infrastructure.

## 12 IMPLEMENTATION PLAN

Table 3 sets out a number of actions which enable the identified Management Strategies and Performance Targets within the MCMS. These actions are the means of achieving the objectives of the POM. A clear indication of how the completion of the aims will be assessed is also provided in the table under Performance Evaluation.

Table 3 - Implementation Table

Management Objectives	Management Strategies	Actions (A) CLM (B) Council (C) Friends of Myall Creek	Performance Evaluation (how they will be assessed)
<b>CULTURAL SIGNIFICANCE</b>			
To retain and enhance the cultural significance of the area (including its historical, technical, research or social significance) for past, present or future generations by the active use of conservation methods.	<p>A. Implement the required continuous protective care and maintenance of the physical material of the land, or of the context and setting of the area of cultural significance.</p> <p>B. Complete the required restoration of the land, that is, the returning of the existing physical material of the land to a known earlier state.</p> <p>C. Complete required reconstruction of the land that is, the returning of the land as nearly as possible to a known earlier state.</p> <p>D. Implement adaptive reuse of the land, that is, the enhancement or reinforcement of the cultural significance of the land by the introduction of sympathetic alterations or additions to allow compatible</p>	<ul style="list-style-type: none"> <li>Develop, agree and execute the Myall Creek Memorial Site Management Agreement (MCMSMA) (A).</li> <li>Finalise and agree to the design construction of the Stage 3 improvements being a <i>Keeping Place</i> and (attached) caretakers dwelling (A).</li> <li>Seek funding and relevant approvals for the construction of Stage 3 (A).</li> <li>Obtain agreement from the native title claimants for the construction of Stage 3 (A).</li> <li>Construct the built elements of Stage 3 plan for MCMS.</li> <li>Continue to nurture the natural elements of the site, including the native vegetative species by replanting endemic woody species, and groundcover species, to be used as a basis for education and demonstration (A).</li> <li>Continue selection and propagation of woody and non woody plants which have known cultural, food and medicinal value to the Aboriginal people with the view of product harvest and potential sale in accordance with the MCMSMA (C).</li> <li>Ensure adequate fire management including required works and management of excess growth, is conducted sensitively to decrease the risk to the natural environment and built infrastructure, associated with bushfire. (Consult local Bushfire Management Plan and liaise with appropriate authority) (A).</li> </ul>	<ul style="list-style-type: none"> <li>Stage 3 improvement design agreed by the CLM.</li> <li>Stage 3 funding sourced</li> <li>Stage 3 approvals and agreements in place</li> <li>Stage 3 improvements are in place.</li> <li>All infrastructure, including Stage 3 improvements, are well presented, well maintained, and functional.</li> <li>The annual June memorial ceremony grows through increased attendances.</li> <li>There is growth and frequency in the way the MCMS is being used for organised functions and gatherings such as educational sessions (including school visits), musical performances, historical (and other) dissertations, and additional cultural events etc.</li> <li>Feedback to Trust on</li> </ul>

Management Objectives	Management Strategies	Actions (A) CLM (B) Council (C) Friends of Myall Creek	Performance Evaluation (how they will be assessed)
	<p>uses.</p> <p>E. Preserve the land, that is, the maintenance of the physical material of the land in its existing state and the retardation of deterioration of the land.</p> <p>NOTE: "land" includes a reference to any buildings erected on the land.</p>	<ul style="list-style-type: none"> <li>Continue to maintain current improvements created within Stages 1 and 2 and the proposed Stage 3 in accordance with the MCMSMA (A).</li> <li>Ensure assets are recognised in accordance with legislation and the MCMSMA (A).</li> <li>Ensure environmental weeds and other pests, are controlled (A).</li> <li>Ensure the efficient and conservative use of water, pesticides, herbicides and fertilisers across the MCMS, where required (B).</li> <li>Ensure regular collection of rubbish and elevate compliance activities against illegal dumping of rubbish (B).</li> <li>Install appropriate signage as required (A).</li> <li>Maintain vigilance against vandalism on any aspects of the MCMS, and take necessary action as required (A).</li> <li>Manage any tenures which may be issued on the MCMS ensuring that tenure holder has clear understanding of tenure agreement, and that occupation is in accordance with the tenure terms (B).</li> <li>Establish a mechanism to establish level of visitation to the MCMS (B).</li> <li>Establish a review and comments process for visitors to report on experiences when inspecting the MCMS (C).</li> <li>Ensure continuity of current means of communication regarding events and developments at the MCMS: Council papers, minutes and media (B) and FMCM Newsletter <i>About Friends of Myall Creek</i> - <i>Friends of Myall Creek</i> (C).</li> </ul>	<p>general/casual visitor experiences as recorded, demonstrates that the MCMS is making an impression through education, and that knowledge is enhanced.</p> <ul style="list-style-type: none"> <li>Visitations to MCMS have increased over the five years on completion of Stage 3 works.</li> <li>No bushfire damage as bushfire plan has been effectively implemented.</li> <li>All chemicals used for land management purposes have been applied responsibly.</li> </ul>

## 13 CONSULTATION DURING THE PREPARATION OF THIS PLAN

Community consultation is an important source of information necessary to provide an effective POM for Community Land and is a requirement under Section 38 of the LG Act. As such, Council is committed to the principles and activities within the participating community which guide Council's decision-making processes. Such participation creates the opportunity for interested parties to become actively involved in the development of a plan which reflects the needs, opinions and priorities of people using the MCMS.

Section 38 of the LG Act requires that:

- Council must give public notice of a draft POM.
- The period of public exhibition of the draft plan must be not less than 28 days.
- The public notice must also specify a period of not less than 42 days after the date on which the draft plan is placed on public exhibition during which submissions may be made to Council.
- Council must, in accordance with its notice, publicly exhibit the draft plan together with any other matter which it considers appropriate or necessary to better enable the draft plan and its implications to be understood.

During the development of this POM, consultation was held on-site with Council officers and nominated representatives within the FMCM. All views and suggestions were accounted for in the compilation of this POM. A current newsletter currently administered by the FMCM will continue to be an effective means of communication to members and the wider community.<sup>39</sup>

Discussions were held with officers from the Department of Planning, Housing and Infrastructure – Crown lands in relation to the appropriate legislative basis for this POM.

Notice was provided to the Minister for Lands and Water in accordance with Section 39 of the LG Act. The consent of the Minister for Lands and Water is required under clause 70B of the *Crown Land Management Regulation 2018*.

Prior to adoption notice was given to the Chief Executive of the Office of Environment and Heritage as required under Section 36D(3)(d) of the *Local Government Act 1993*.

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<sup>39</sup> See: [About Friends of Myall Creek - Friends of Myall Creek](#)



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## **14 APPENDICES**

1. Core Objectives for Categories of Community Land
2. Relevant State Environmental Planning Policies

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## 15 REFERENCES

AHIMS: A registration within the Aboriginal Heritage Information System database, *National Parks and Wildlife Act*, NSW government.

Carr D, and Garlick-Kelly N (2022): Myall Creek Restoration Plan: *Restoring Box Gum Grassy Woodland in a Cultural Context. Stringy Bark Ecological. Version 2.*

Commonwealth Government, Native title Act 1993,  
[www.legislation.gov.au/Browse/Results/ByTitle/Acts/InForce/Na/0/0/principal](http://www.legislation.gov.au/Browse/Results/ByTitle/Acts/InForce/Na/0/0/principal)

Community Strategic Plan 2017-2027: *Gwydir Shire Council pub.*

Crown Land Management Act 2016: [www.industry.nsw.gov.au/lands/what-we-do/legislation-policies/the-crown-land-management-act-2016](http://www.industry.nsw.gov.au/lands/what-we-do/legislation-policies/the-crown-land-management-act-2016)

*Crown Land Management Regulation S.31*: [www.legislation.nsw.gov.au/#/view/regulation/2018/88](http://www.legislation.nsw.gov.au/#/view/regulation/2018/88)

Department of Local Government (2000): Practice Note No.1, *Public Land Management, Amended May 2000.*

Environmental Protection and Biodiversity Conservation Act 1999.  
<https://www.dcceew.gov.au/environment/epbc>

eSPADE: [www.environment.nsw.gov.au/eSpade2WebApp](http://www.environment.nsw.gov.au/eSpade2WebApp)

Friends of Myall Creek Memorial Newsletter Pub. [Friends of Myall Creek Memorial constitution - Friends of Myall Creek](#)

Greenway C.C 1901: Science of Man and Journal of Anthropological Society of Australasia. Vol 4 No. 7 August 1901.

Guide for Bush Fire Prone Land Mapping Version 5b November 2015: NSW Rural Fire Services.

Gwydir Local Environmental Plan 2013: [legislation.nsw.gov.au/view/html/inforce/current/epi-2013-0507](http://legislation.nsw.gov.au/view/html/inforce/current/epi-2013-0507)

Isbell R.F (1996): Australian Soil Classification, Revised edition: CSIRO Pub.

Local Government Act, 1993: Amended by the Local Government (Community Land Amendment) Act 1998. NSW Government: [www.legislation.nsw.gov.au/](http://www.legislation.nsw.gov.au/)

Myall Creek Massacre and Memorial - Our Shared History. Publication by Myall Creek Memorial Committee, Bingara 2008.

National Heritage Listing: [www.dcceew.gov.au/parks-heritage/heritage/about/national](http://www.dcceew.gov.au/parks-heritage/heritage/about/national)

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New England North-West Regional Plan 2036: NSW Department of Planning:  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

Tindale N.B (1974) Aboriginal Tribes of Australia: Their Terrain, Environmental Controls,  
Distribution Limits and Proper Name ANU Press ISBN 978-0-708-10741-6

Weraeri (Wirraayaraay) People: <https://en.wikipedia.org/wiki/Wirraayaraay>



## Appendix 1

### CORE OBJECTIVES FOR CATEGORIES OF COMMUNITY LAND (*Local Government Act 1993*):

#### **36E Core objectives for management of community land categorised as a natural area**

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

- a. to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and
- b. to maintain the land, or that feature or habitat, in its natural state and setting, and
- c. to provide for the restoration and regeneration of the land, and
- d. to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and
- e. to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the *Biodiversity Conservation Act 2016* or the *Fisheries Management Act 1994*.

#### **36F Core objectives for management of community land categorised as a sportsground**

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

- 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.

#### **36G Core objectives for management of community land categorised as a park**

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.

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### **36H Core objectives for management of community land categorised as an area of cultural significance**

1. The core objectives for management of community land categorised as an area of cultural significance are to retain and enhance the cultural significance of the area (namely its Aboriginal, aesthetic, archaeological, historical, technical or research or social significance) for past, present or future generations by the active use of conservation methods.
2. Those conservation methods may include any or all of the following methods:
  - a. the continuous protective care and maintenance of the physical material of the land or of the context and setting of the area of cultural significance
  - b. the restoration of the land, that is, the returning of the existing physical material of the land to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material
  - c. the reconstruction of the land, that is, the returning of the land as nearly as possible to a known earlier state
  - d. the adaptive reuse of the land, that is, the enhancement or reinforcement of the cultural significance of the land by the introduction of sympathetic alterations or additions to allow compatible uses (that is, uses that involve no changes to the cultural significance of the physical material of the area, or uses that involve changes that are substantially reversible or changes that require a minimum impact)
  - e. the preservation of the land, that is, the maintenance of the physical material of the land in its existing state and the retardation of deterioration of the land.
3. A reference in subsection (2) to land includes a reference to any buildings erected on the land.

### **36I Core objectives for management of community land categorised as general community use**

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).

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### **36J Core objectives for management of community land categorised as bushland**

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

- a. to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and
- b. to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and
- c. to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and
- d. to restore degraded bushland, and
- e. to protect existing landforms such as natural drainage lines, watercourses and foreshores, and
- f. to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and
- g. to protect bushland as a natural stabiliser of the soil surface.

### **36K Core objectives for management of community land categorised as wetland**

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

- a. to protect the biodiversity and ecological values of wetlands, with particular reference to their hydrological environment (including water quality and water flow), and to the flora, fauna and habitat values of the wetlands, and
- b. to restore and regenerate degraded wetlands, and
- c. to facilitate community education in relation to wetlands, and the community use of wetlands, without compromising the ecological values of wetlands.

### **36L Core objectives for management of community land categorised as an escarpment**

The core objectives for management of community land categorised as an escarpment are:

- a. to protect any important geological, geomorphological or scenic features of the escarpment, and
- b. to facilitate safe community use and enjoyment of the escarpment.

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### **36M Core objectives for management of community land categorised as a watercourse**

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

- a. to manage watercourses so as to protect the biodiversity and ecological values of the instream environment, particularly in relation to water quality and water flows, and
- b. to manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability, and
- c. to restore degraded watercourses, and
- d. to promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category.

### **36N Core objectives for management of community land categorised as foreshore**

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

- a. to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and
- b. to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.



## Appendix 2

### STATE ENVIRONMENTAL PLANNING POLICIES WHICH ARE RELEVANT TO THE MCMS

#### State Environmental Planning Policy (Transport and Infrastructure) 2021

The *State Environmental Planning Policy (Transport and Infrastructure) 2021* (T&I SEPP) commenced in New South Wales on 1 March 2022 consolidating 4 earlier SEPPs focused on employment and advertising. The T&I SEPP focuses on:

- Infrastructure containing planning rules and controls for infrastructure in NSW, such as for hospitals, roads, railways, emergency services, water supply and electricity delivery.

The T&I SEPP provides that certain types of works do not require development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*.

Section 2.20 of the T&I SEPP provides that a range of works are “exempt development” when carried out for or on behalf of a public authority (including Gwydir Shire Council). These works are itemised in Schedule 1 of the SEPP and include paths and ramps for disabled access, fencing, firefighting emergency equipment, small decks, prefabricated sheds of up to 30m<sup>2</sup> in area, retaining walls up to 2m in height, landscaping including paving and access tracks, minor external and internal alterations to buildings, open car parks (size is not specified) and demolition of buildings covering an area of up to 100m<sup>2</sup>.

Section 2.74 of the T&I SEPP further provides that Development for any purpose may be carried out without consent on Crown managed land, by or on behalf of a Crown land manager of the land if the development is for the purposes of implementing a plan of management adopted for the land in accordance with the LG Act. Further, any of the following development may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council:

- a. development for any of the following purposes:
  - i. roads, pedestrian pathways, cycleways, single storey car parks, ticketing facilities, viewing platforms and pedestrian bridges
  - ii. recreation areas and recreation facilities (outdoor), but not including grandstands
  - iii. visitor information centres, information boards and other information facilities
  - iv. lighting, if light spill and artificial sky glow is minimised in accordance with the Lighting for Roads and Public Spaces Standard
  - v. landscaping, including landscape structures or features (such as artwork) and irrigation systems
  - vi. amenities for people using the reserve, including toilets and change rooms
  - vii. food preparation and related facilities for people using the reserve
  - viii. maintenance depot
  - ix. portable lifeguard towers.
- b. environmental management works

- c. demolition of buildings (other than any building that is, or is part of, a State or local heritage item or is within a heritage conservation area).
- Educational establishments and childcare facilities containing planning for child-care centres, schools, TAFEs and universities.
- Major infrastructure corridors containing planning controls and reserved land for the protection of the three North South Rail Lines, South West Rail Link extension and Western Sydney Freight Line corridors.
- Three Ports containing the land-use planning and assessment framework for Port Botany, Port Kembla and the Port of Newcastle.

### State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (SEPP Exempt) provides that certain types of works do not require development consent under Part 4 of the EP&A Act. The General Exempt Development Code is set out in Division 1 of the SEPP Exempt, providing the limitations and conditions of the exemptions. They include:

- |  |                                  |
|--|----------------------------------|
| • Access Ramps   | • Fences                         |
| • Advertising and signage                                    | • Flagpoles                      |
| • Aerials, antennae and communication dishes                 | • Footpaths, pathways and paving |
| • Air-conditioning units                                     | • Fowl and poultry houses        |
| • Animal shelters  | • Garbage bin storage enclosure  |
| • Aviaries   | • Hot water systems              |
| • Awnings, blinds and canopies                               | • Landscaping structures         |
| • Balconies, decks, patios, rotundas, terraces and verandahs | • Minor building alterations     |
| • Barbecues and other outdoor cooking structures             | • Mobile food and drink outlets  |
| • Bollards   | • Playground equipment           |
| • Charity bins and recycling bins                            | • Screen enclosures              |
| • Earthworks, retaining walls and structural support         | • Sculptures and artworks        |
|  | • Temporary uses and structures  |
|  | • Waste storage containers       |

Section 1-16 of Division 2 of the SEPP Exempt provides the General Requirements for exempt development.

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## State Environmental Planning Policy (Resilience and Hazards) 2021

The *State Environmental Planning Policy (Resilience and Hazards) 2021* (R&H SEPP) commenced in New South Wales on 1 March 2022 consolidating three earlier SEPPs focused on employment and advertising. The R&H SEPP focuses on:

- Coastal management for land use planning within the coastal zone consistent with the *Coastal Management Act 2016* and defines the coastal zone and establishes state-level planning priorities and development controls to guide decision-making for development within the coastal zone.

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area, by—

- a. managing development in the coastal zone and protecting the environmental assets of the coast, and
  - b. establishing a framework for land use planning to guide decision-making in the coastal zone, and
  - c. mapping the four coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the *Coastal Management Act 2016*.
- the management of Hazardous and offensive development.
  - the provision of a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.

## State Environmental Planning Policy (Industry and Employment) 2021

The *State Environmental Planning Policy (Industry and Employment) 2021* (I&E SEPP) commenced in New South Wales on 1 March 2022 consolidating two earlier SEPPs focused on employment and advertising. The I&E SEPP focuses on:

- Western Sydney employment area and contains planning rules and controls for the employment land within Western Sydney.
  - Advertising and signage ensuring that signage (including advertising):
    - (i) is compatible with the desired amenity and visual character of an area, and
    - (ii) provides effective communication in suitable locations, and
    - (iii) is of high-quality design and finish.
  - to regulate signage (but not content) under Part 4 of the Act, and
  - to provide time-limited consents for the display of certain advertisements, and
-

- to regulate the display of advertisements in transport corridors, and
- to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

### State Environmental Planning Policy (Biodiversity and Conservation) 2021

The *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (B&C SEPP) commenced in New South Wales on 1 March 2022 consolidating 11 earlier SEPPs focused on biodiversity and conservation. The B&C SEPP focuses on:

- Vegetation in non-rural areas containing planning rules and controls relating to the clearing of native vegetation in NSW on land zoned for urban and environmental purposes.
- Koala habitat protection:
  - across NSW core rural zones of RU1, RU2 and RU3 except within the Greater Sydney and Central Coast areas, and
  - within Metropolitan Sydney and the Central Coast and applies to all zones except RU1, RU2 and RU3.
- Environmental planning and assessment along the Murray River.
- Bushland in urban areas containing provisions to protect and preserve bushland within public open space zones and reservations.
- Prohibition of canal estate development.
- Water quality objectives in the Sydney drinking water catchment.
- Protect the environment of the Hawkesbury–Nepean River system.
- Management and improvement of environmental outcomes for Sydney Harbour and its tributaries.
- Management and promotion of integrated catchment management policies along the Georges River and its tributaries.
- Protection, conservation and management of the Willandra Lakes Region World Heritage Property.