

# ● Barlings Beach Aboriginal Place

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Barlings Beach Aboriginal - Plan of Management





Plan of Management No 47.

This Plan of Management “Barlings Beach Aboriginal Place” was prepared by Eurobodalla Shire Council, Susan Dale Donaldson (Environmental & Cultural Services) and Dual Design based on “Barlings Beach Aboriginal Place, Tomakin – Overview of research and community consultation to assist with the development of a Plan of Management” written by Sue Wesson for the Department of Environment and Climate Change – June 2006. Portions of text, images and maps have been directly transferred from Sue Wesson’s report to this Plan of Management.

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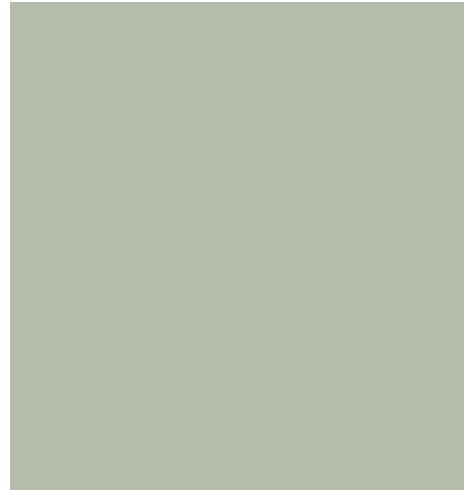
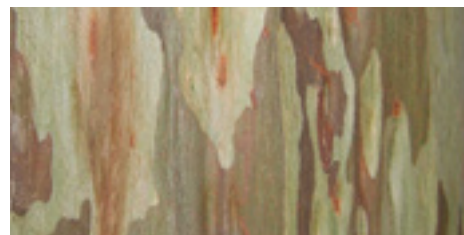
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# ● Introduction



## 1.0 Introduction - What is a Plan of Management

Plans of Management are planning documents that outline how Council intends to use, develop and manage Community Land. Community Land is typically recreational areas, natural areas and parks. It may also be land that accommodates public halls, preschools or other developments for general use by the community.

Council is required under the Local Government Act 1993 to prepare Plans of Management for all of its Community Land and the NSW Coastal Policy 1997 identifies Plans of Management for all coastal Community Land as a strategic action. Plans of Management may be for just one area, several areas, or generic plans that cover a large number of parcels of Community Land in a particular suburb or of a particular category.

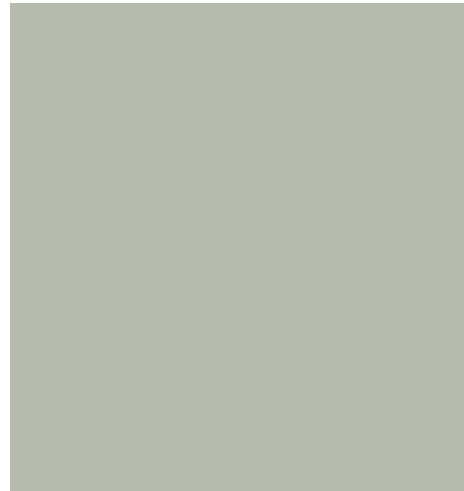
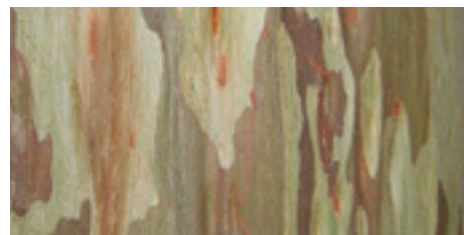
Plans of Management indicate what leases and licences or other interests may be granted on Community Land and determine the scale and intensity of the future use and development on the land. Community land must be managed in accordance with a Plan of Management.

As a planning tool Plans of Management provide objectives for the management of the land. This gives Council and the community goals to work towards in achieving desirable outcomes for the management of the land. A Plan of Management can be used to identify projects that could be achieved through community working groups as well as providing supporting documentation when applying for grant funding. Projects identified in Plans of Management may also be submitted to Council for funding during the annual review of its Management Plan. Often, having a project identified in an adopted Plan of Management is the first step in seeking funding for its implementation.

Community consultation is an important process in the development of Plans of Management. Draft Plans of Management must be publicly exhibited for a minimum of 28 days and submissions received for a further 14 days. Community input provides detailed local knowledge that informs and assists with the development of the Plan of Management.



# ● Executive Summary

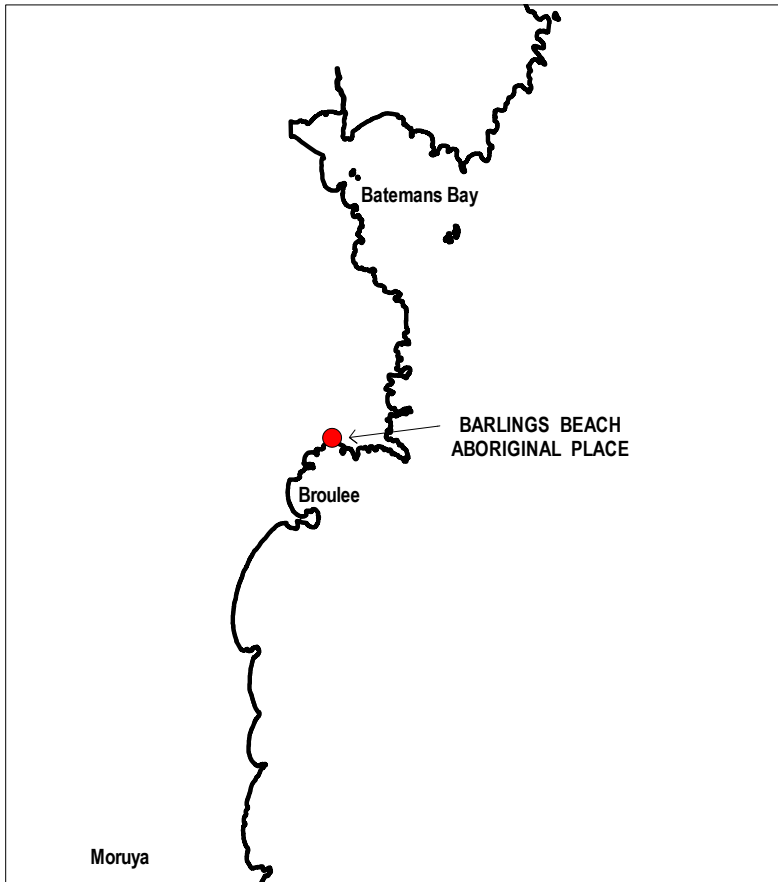


This Plan of Management provides Eurobodalla Shire Council and the community with a planning and management tool that will guide the sustainable development and ongoing management of Barlings Beach Aboriginal Place and also meet the requirements of the Local Government Act 1993.

The declaration of the Aboriginal Place in June 2000 generates fundamental requirements to provide for the conservation and protection of the physical and spiritual values of the area. A number of archaeological reports and anthropological resources identify a range of factors contributing to the significance of the area and recognise Aboriginal occupation and custodianship of the area in pre-contact and post contact times and the need for a continuation of the area as a natural ecosystem and open space.

The Barlings Beach area provides an important community resource for the Eurobodalla community, in particular the residents of Tomakin and the surrounding towns of Broulee, Mogo and Mossy Point and for longer distance visitors. This Plan of Management seeks to provide management direction to balance open space, educational and recreational needs with conservation of the inherent natural and cultural heritage qualities of the site.

This Plan of Management is based on the report "Barlings Beach Aboriginal Place, Tomakin - Overview of Research and Community Consultation to Assist with the Development of a Plan of Management". This document was commissioned by Department of Environment and Climate Change who engaged Environmental Scientist/Geographer Sue Wesson to undertake consultation and complete the report. The report was completed in June 2006 and has been instrumental in forming the basis for the management of Barlings Beach Aboriginal Place.



Map 1 – Barlings Beach Aboriginal Place Location



Figure 1: Barlings Beach existing open pasture



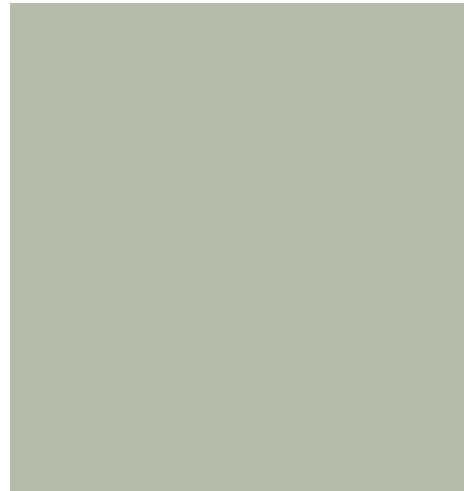
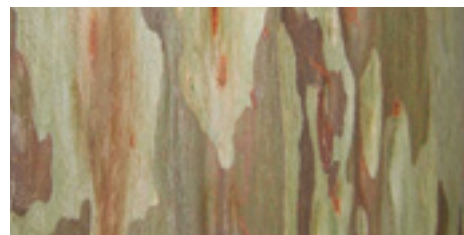
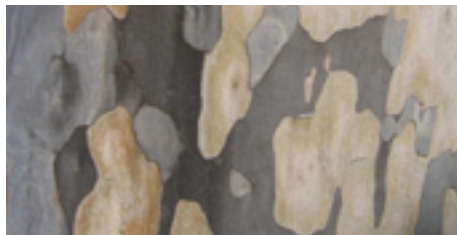
Figure 2: Barlings Beach Dunal System



Map 2: Barlings Beach Aboriginal Place – Detail Location Map



# ● Community Consultation



The development of this Plan of Management has incorporated several consultation components aimed at sourcing information to assist with the development of planning and management strategies, and to ensure that stakeholders were included in planning for the future of Barlings Beach Aboriginal Place.

Press releases and publicity containing information about Aboriginal community<sup>1</sup> consultation were distributed through all NSW Local Aboriginal Land Councils, local media and Aboriginal media (National Indigenous Times, Koori Mail). Direct contact was made with the Tomakin Residents Association, Coastwatchers Inc., Mogo Local Aboriginal Land Council, Cobowra Local Aboriginal Land Council and the Wreck Bay Community Council to inform them of upcoming consultation workshops.

<sup>1</sup>Reference to the Aboriginal community throughout this document includes the relevant Local Aboriginal Lands Council and any other organisation or individual within the Aboriginal community who may be considered a stakeholder of Barlings Beach Aboriginal Place.

### Summary of Community Meetings

Date of Meeting	Venue	Attendees
19 May 2006	Old Mogo Town	10
11 May 2006	Mossy Point	6
16 May 2006	Mogo	5
17 May 2006	Batehaven	2
29 May 2006	Jerrabombera	3
June 2006	Mogo LALC	10
29 April 2008	Mogo LALC	4
8 May 2008	Tomakin Community Hall	9

Refer also to Section 7.9 for information on compulsory community consultation required under Section 112 of the Local Government (General) Regulation 2005.

### 3.1 Issues and Opportunities

The following issues and opportunities were identified through the community consultation workshops and meetings.

Issues may include impacts on the land or environment and potential conflicts between users or usage and other qualities of the site. Opportunities are the qualities of the site which make it suitable for community or recreational uses or activities, and which may not be fully realised at present.

#### Heritage

- Historical significance of the Barlings Beach area occurs in three distinct periods:

- Pre contact Aboriginal use
- Post contact Aboriginal/European use
- Late 20th century modifications to the Tomakin area (Tomakin housing development, Barlings Beach Caravan Park, ESC Sewerage Treatment Works
- Recognise significance through interpretive boards associated with displays in Aboriginal Cultural Centre
- Potential integrated approach to all phases and layers of heritage significance

#### Natural Environment and Water

- The ecosystem is vulnerable to a range of pressures brought on by surrounding land uses including weeds, dumping of refuse and fire.
- Impact of exotic grass species on wetland and vegetation systems
- Rare and endangered species adjacent to the Barlings Beach Aboriginal Place require targeted management.
- Impact of illegal/uncontrolled vehicle access
- Potential impact of dumped garden refuse from adjacent proposed housing development
- Interpret the unique natural environment of highly calcareous sands (the only coastal sand plain of its kind in NSW)
- Community places high value on bushland areas including Casuarina glauca wetland, littoral rainforest and dune vegetation, retain and enhance
- Community places high value on resource use of the natural environment,

interpret and conserve

- Protect and enhance land as a valuable habitat to a wide range of native flora and fauna

### Social/Cultural

- Need for an organised process for focusing community inputs into management
- Place to tell the story of the occupation and/or use of Barlings Beach Aboriginal Place from 3,000 BP to 2,000 AD (radiocarbon dating showed that Aboriginal heritage items were estimated to be +/- 3,000 years old).
- Potential for enhancement of the community use of the site

### Recreation and Access

- Impacts of access through sensitive habitats (both natural and cultural)
- Obligation regarding equal access under Disability Discrimination Act
- Optimise interpretation and recreational value of heritage significance
- Potential for high quality picnic area to service district need
- Link Aboriginal Cultural Centre and Retail Facility with the Barlings Beach AP picnic areas and beach access

### Educational

- Potential for the interpretation of the history of the area (3,000 BP to 2,000 AD)

- Potential for the interpretation of the Aboriginal uses of resources in the Barlings Beach AP and surrounding environs
- Potential for Mogo LALC to train tour guides and conduct guided tours
- School groups could use interpretive elements

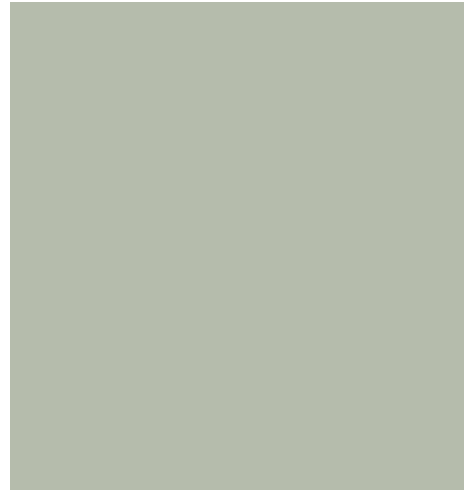
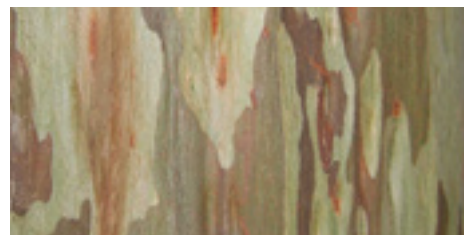
### Management and Maintenance

- Put infrastructure and practices in place that will reduce the degradation caused by weed and pest infestations





# ● Key Outcomes

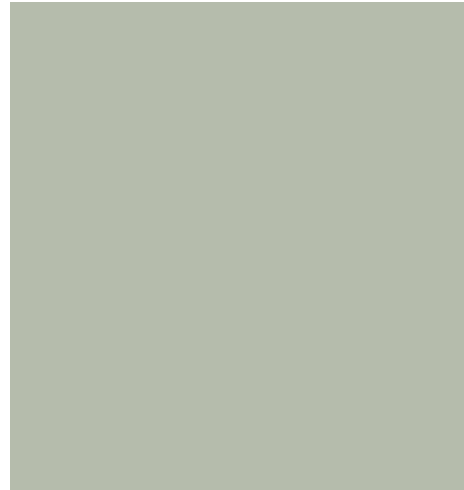
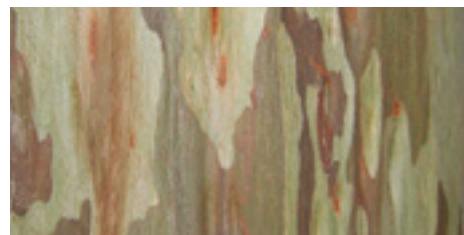
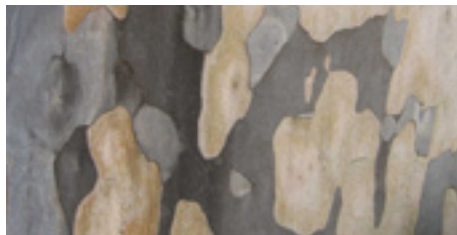


## The key outcomes of this plan are:

- To ensure that the use and management of Barlings Beach Aboriginal Place Community Land is in accordance with the Guiding Principles of Ecological Sustainable Development (refer to Appendix A).
- To ensure that the use and management of Community Land is in accordance with core objectives for the management of Community Land as per the Local Government Act 1993 1993.
- To establish what uses are permissible on Barlings Beach Aboriginal Place Community Land.
- To ascertain what improvements could be made to Barlings Beach Aboriginal Place Community Land.
- To respond to the community's values as expressed through the Barlings Beach Aboriginal Place Community Land public consultation and Sue Wesson's research.



# ● Guiding Principles



In response to the evaluation of historical and cultural values and their importance to the local Aboriginal and wider community the following principles have been used to guide the development of this Plan of Management.

## Educational

- Interpret the natural and cultural heritage of Barlings Beach using a series of interpretive boards explaining the Barlings Beach Aboriginal Place and its Aboriginal and European uses over time, developed in close consultation with the community. Include information about the history of the area (3,000 BP– 2,000 AD) and Aboriginal uses of natural resources on the Barlings Beach AP and surrounding area.
- Complement and connect the educational role of the Aboriginal Cultural Centre and Retail Facility with Barlings Beach Aboriginal Place.
- Increase community awareness of environmental and cultural issues (community groups, schools, TAFEs, Wollongong University)

- Opportunities for the Aboriginal community to provide guided tours of the Aboriginal Place in association/connection with the Aboriginal Cultural Centre and retail facility which is located adjacent to the Barlings Beach Aboriginal Place.

### Heritage

- Identify, protect and interpret features and areas of cultural significance including: (pre-contact) middens, artefact scatters, historical periods, burials and (post-contact) historic camp sites and fish lookouts.
- Interpret ecosystems and their Aboriginal uses.
- Protect middens by replanting with appropriate dune and coastal hinterland vegetation.
- Acknowledge Aboriginal connections through ongoing role in management.
- Ongoing role as meeting place and story telling place.

### Intrinsic and Visual

- Ensure that all future works on the site recognise and strengthen the cultural and natural landscape.
- Protect/interpret natural, cultural and historical resources as features of the site reinforcing its cultural identity
- Recognise and strengthen distinct character

### Management and Maintenance

- Define maintenance areas to prevent their encroachment on culturally and environmentally sensitive areas.
- Create and maintain slashed fire breaks around perimeters and strategically through the Barlings Beach Aboriginal Place where necessary to provide vehicle access for maintenance of picnic area and in case of fire. Fire management will be controlled by Eurobodalla Shire Council's Fire Mitigation Officer.
- Noxious weed and animal control to be part of a regular maintenance regime undertaken by Eurobodalla Shire Council.
- Provide for the community participation in land management and maintenance regimes. In particular the Aboriginal community and other interested stakeholders.
- Feral animal and weed control to be part of a regular maintenance regime undertaken by Eurobodalla Shire Council.

### Masterplanning Principles

- Based on previous studies, outcomes of the community workshops and input from stakeholders, the following general principles have been established to assist in the development of the Landscape Plan.
  - (i) Recognise Aboriginal significance through conservation and interpretive strategies based on archaeological surveys, anthropological resources and community consultation. Implement planning and management strategies that reflect and develop conservation objectives.

- (ii) Develop a minimum number of pathways (boardwalks), vehicle tracks (slashed track for maintenance and fire purposes only) and recreational facilities to enhance recreational and environmental experiences and facilitate natural and cultural heritage interpretation.
- (iii) Recognise the specific sense of place and intrinsic qualities of the Barlings Beach area (including landforms and natural and cultural heritage) in planning and management proposals.

### Natural Environment

- Consolidate and extend the natural vegetation communities to enhance natural values through selective planting.
- Manage weeds and pests, reduce fire hazards and manage visitor access.
- Identify and protect rare and endangered species of plants and animals and their habitat.
- Interpret the unique natural environment of high calcareous sands (the only coastal sand plain of its kind in NSW).
- Retain and enhance the high value community places on bushland areas including Casuarina glauca wetland, littoral rainforest and dune vegetation.
- Interpret and conserve the high value community places on resource use of the natural environment.
- Define extent of maintained grass areas.

- Restore natural landscape character to coastal plain landform.

### Recreation and Access

- Provide facilities to develop Barlings Beach Aboriginal Place as public open space; install boardwalks to minimise potential impact to cultural materials and a footbridge over wet areas to protect wetland ecosystems.
- Prohibit the walking of dogs in the Barlings Beach Aboriginal Place to protect fauna and educate the community about the importance of keeping domestic animals out of the area.
- Provide wheelchair access from the Aboriginal Cultural Centre (located adjacent to the Barlings Beach Aboriginal Place) with picnic facilities and beach access.
- Provide picnic tables, BBQs and water at two designated picnic areas behind the foredune supported by rubbish bins provided at the two pedestrian access entrances to the Barlings Beach Aboriginal Place. Public toilet facilities will be located within the Aboriginal Cultural Centre.
- As supported by Mogo LALC, fence the Barlings Beach Aboriginal Place perimeter adjacent to the proposed residential development, in order to guide direction of pedestrian access<sup>2</sup>.
- Slashed fire break of appropriate width along boundaries.
- Use appropriate landscaping on the perimeter with George Bass Drive to prevent vehicle access.
- Provide clearly named and defined entry points (revegetate redundant

<sup>2</sup> DIPNR determination of development application no. 77-3-2002 states that; 'The rear boundary of all residential allotments adjoining the Aboriginal Place is to be fenced to prevent pedestrian access from these allotments to the southern open space/conservation zone. Details of the fencing are to be designed in consultation with the Local Aboriginal Land Council and the Department of Environment and Climate Change and submitted to and approved by Council prior to issue of Construction Certificate' (Minister for Planning 2005).

vehicle tracks and beach access tracks)

- Mitigate impacts of access and usage (revegetation of redundant tracks, provide weed and pest control)

### Social/Cultural

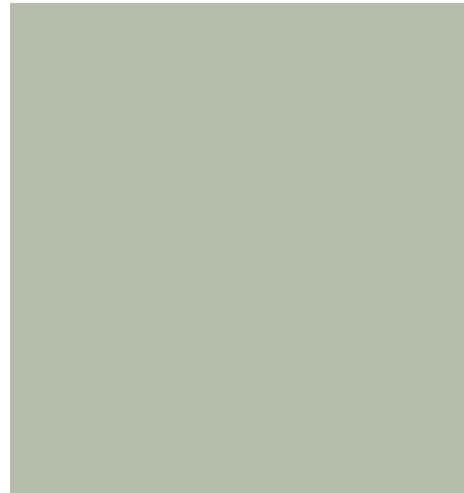
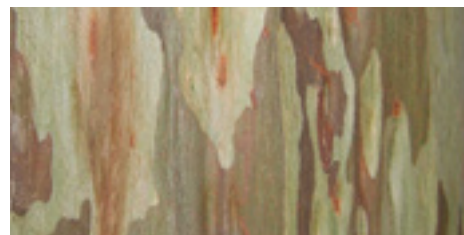
- Recognise the site's significance as a place of Aboriginal and European heritage.
- Ancestral remains must be managed in accordance with a Burial Protocol.
- Optimise community involvement in the ongoing management process including local conservation groups, the Aboriginal community and other stakeholders.

Maintain as a place to tell the story of the occupation and/or use of Barlings Beach Aboriginal Place from 3,000 BP to 2,000 AD (radiocarbon dating showed that Aboriginal heritage items were estimated to be +/- 3,000 years old).

### Water

- Effectively manage wetland systems and storm and flood waters including those emanating from the Burri (Bevian) Swamp and the adjacent housing development including the natural drainage system as a natural and cultural element.
- Conserve the natural condition of the wetland and enhance its role in the provision of educational and environmental experiences for users.

# Review Period

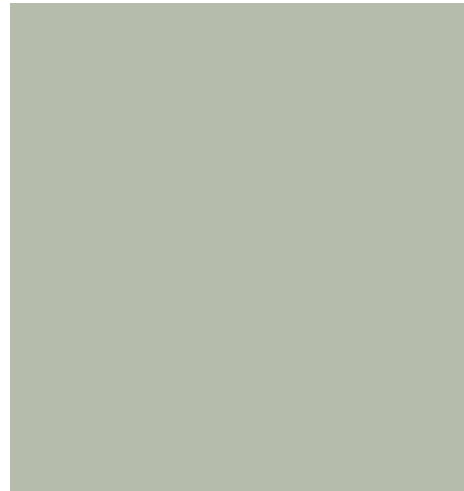
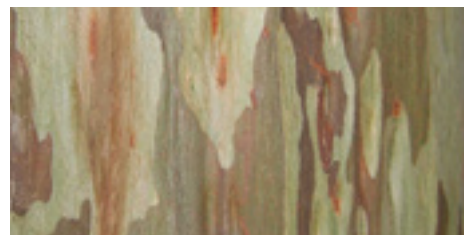


This document will be reviewed in the event of the requirement to expressly authorise any new lease, licence or other estate on the land not already authorised in this Plan of Management or to authorise a change in the nature and use of any of the Community Land included in this Plan. Refer to sections 35 and 47D of the Local Government Act 1993.





# ● Land Included



The land included in this Plan of Management is Lot 3 DP 1016146 - Barlings Beach Aboriginal Place. The total area included in the Aboriginal Place is 8.87 hectares.

## 7.1 Location

Barlings Beach Aboriginal is located in the coastal town of Tomakin on the south east coast of New South Wales. Tomakin is approximately 280km south of Sydney.

## 7.2 Land Ownership

All land included (Lot 3 DP 1016146) in this Plan of Management is owned by Eurobodalla Shire Council.

## 7.3 Aboriginal Place Declaration

Lot 3 DP 1016146 was declared an Aboriginal Place on 23 June 2000. This was publicly notified in New South Wales Government Gazette No 73.

## 7.4 Land Classification

All land vested in Council must be classified as either "Community Land" or "Operational Land" under the Local Government Act 1993. The purpose of classification is to identify clearly that land which should be



Figure 3: Barlings Beach Aboriginal Place adjacent land-use

kept for use by the general public (Community Land) and that land which need not (Operational Land).

Operational Land can be sold, where as Community Land can not. Community Land, however, can be re-classified as Operational Land in which case that land could then be sold. The re-classification of Community Land to Operational Land is done through an amendment to Council’s Local Environmental Plan, public notice must be given when Council proposes to re-classify Community Land to Operational Land and it will also require Ministerial consent.

As at 18 December 2007, all of the land included in this Plan of Management was classified as “Community Land”.

**7.5 Zoning of Barlings Beach Aboriginal Place**

As at 4 December 2007, Barlings Beach Aboriginal Place Land was zoned under Eurobodalla Shire Council’s Rural Local Environmental Plan (LEP) 1987 as part Urban Expansion 10 (orange hatch) and part 6a Public Open Space (green hatch). Refer to Figure 4 below for an illustration of the zoning of the land.

**7.6 Proposed Amendments to Land Zoning**

This Plan of Management recommends that all of the land included in this Plan of Management be zoned as 6a Public Open Space (green hatch). Refer to Figure 5 for an illustration of the zoning that is proposed to apply to the land.

**7.7 Zoning Objectives for 6a Public Open Space (Rural LEP)**

1. The objectives of this zone are:
  - (a) to identify land which is owned by Council or the Crown and which has been set aside for use by the public as open space or land in private



Figure 4: Zoning as at 4 December 2007

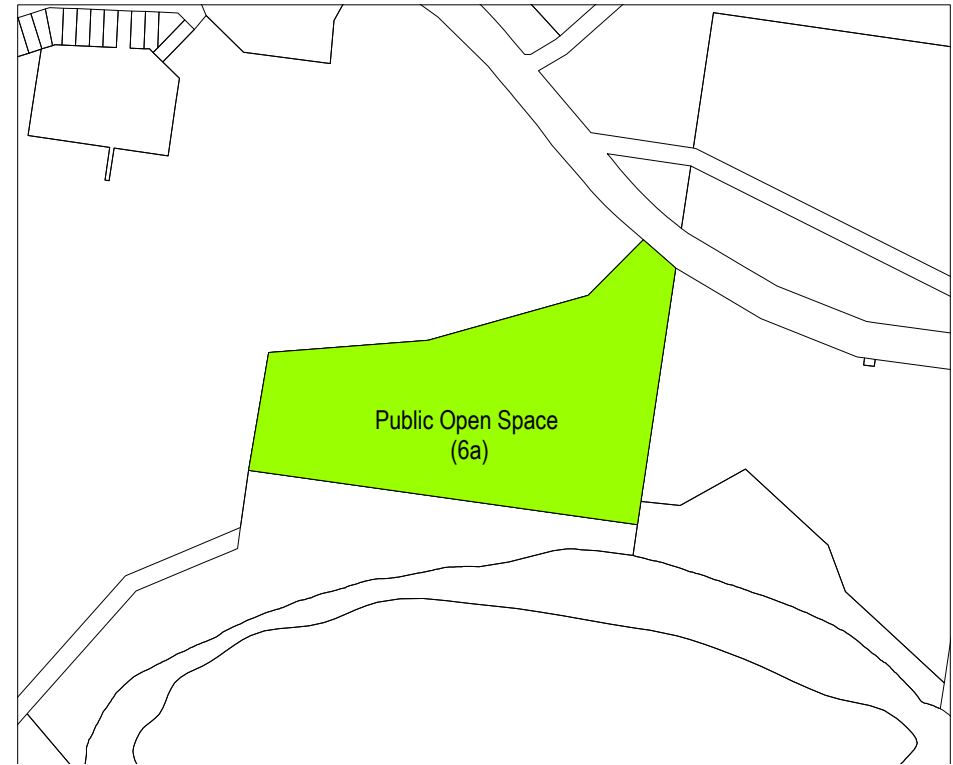


Figure 5: Proposed Zoning

- ownership which is to be acquired by Council for public open space;
  - (b) to permit a range of uses on land within this zone normally associated with public recreation; and
  - (c) to ensure that a range of recreational opportunities is provided that is compatible with the natural environment.
- 2. Without development consent**
- Maintenance works for the purpose of gardening, landscaping or bushfire hazard control.

- 3. Only with development consent**
- Buildings for the purposes of landscaping, gardening or bushfire hazard control; drainage; public utility undertakings; recreation areas; roads; telecommunications facilities.
- 4. Prohibited**
- Any purpose other than a purpose permitted without development consent or a purpose permitted only with development consent.

## 7.8 Categorisation of Community Land

The Local Government Act 1993 requires that community land be categorised as one or more of the following:

- General Community Use
- A Natural Area (further categorised as either bushland; wetland; escarpment; watercourse; foreshore or other category prescribed by the Regulation)
- A Sportsground
- A Park
- An Area of Cultural Significance

Some parcels of land may have more than one category applicable and not all categories need to be represented.

As at 4 December 2007 the land included in this Plan of Management was categorised as part Natural Area Bushland and part Natural Area Foreshore in the Natural Areas and Undeveloped Reserves Plan of Management (28 January 1997).

## 7.9 Proposed Amendment to Community Land Categorisation

This Plan of Management recommends that all of the land included in the plan be categorised as an “Area of Cultural Significance”. As per the requirements of Section 112 of the Local Government (General) Regulation 2005 consultation was undertaken with the following groups prior to adopting the draft Plan for public exhibition:

- (i) Mogo Local Aboriginal Land Council

- (ii) New South Wales Native Title Services Limited
- (iii) Office of the Registrar appointed under the Aboriginal Land Rights Act 1983
- (iv) Director-General of the Department of Aboriginal Affairs
- (v) Director-General of the Department of Environment and Climate Change

Further, as per the requirements of Section 112, an advertisement of the proposal was placed in the Koori Times on January 16, January 30 and February 13 and a public notice was placed on the land.

The above groups and any other person had until Friday February 15, 2008 (30 days) to make written comment. Two responses were received. One from the Department of Environment and Climate Change (DECC) dated 15 February 2008 and one from the Office of the Registrar – Aboriginal Land Rights Act 1983 dated 4 March 2008. The Office of the Registrar – Aboriginal Lands Rights Act 1983 also supported Council’s decision to categorise Barlings Beach Aboriginal Place as an Area of Aboriginal Cultural Significance. They also suggested that Council seek comment on the draft Plan of Management from the Biamanga and Gulaga National Parks Boards of Management. These organisations were sent copies of the draft plan during the exhibition period. No comments were provided from either Board of Management. DECC’s submission stated that they supported the decision of Eurobodalla Shire Council to categorise the Aboriginal Place land area as an Area of Aboriginal Cultural Significance under the provisions of the Local Government Act 1993”. Both submissions were considered and the draft Plan of Management that was exhibited for public comment was consistent with both DECC’s and Office of the Registrar – Aboriginal Land Rights Act 1983 comments.

## 7.10 Public Hearing

The Local Government Act 1993 requires that a Public Hearing be held when Community Land is re-categorised.

This Plan of Management recommends that the Community Land included in this plan be re-categorised from Natural Area Bushland and Natural Area Foreshore to “An Area of Cultural Significance”. A Public Hearing was held on 8 May 2008, as per the requirements of the Local Government Act 1993. There were no objections to the proposal to recategorise the Community Land included in this plan.

## 7.11 Core Objectives for the Management of Community Land

The Local Government Act 1993 specifies the Core Objectives for the management of each category of Community Land. Council must use and manage the land in accordance with these Core Objectives. Any lease, licence or other estate granted over the land must be consistent with the Core Objectives for the categorisation applicable to that land.

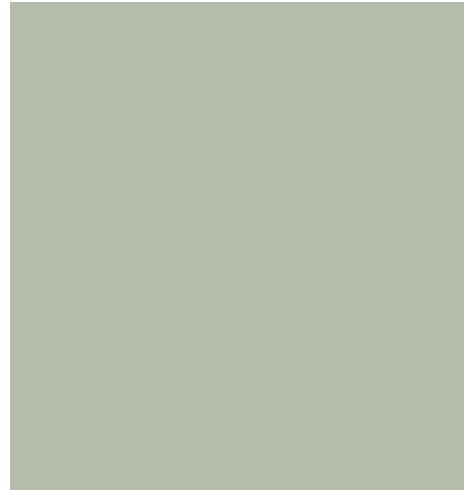
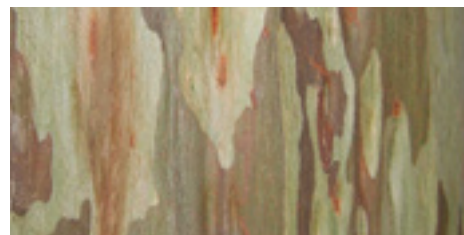
The Core Objectives are addressed in the Objectives and Performance Targets as defined the Operational Plan as a method to determine the management practices required on that land. Once the land included in this Plan of Management has been recategorised as an “Area of Cultural Significance” the Core Objectives for its management will be as follows:

### 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.



# ● Heritage Values



There are elements of Aboriginal and European significance associated with Barlings Beach Aboriginal Place Land.

The Australia ICOMOS Burra Charter (1999) defines cultural/heritage significance as:

“aesthetic, historic, scientific, social or spiritual value for past, present and future generations. Cultural significance is embodied in the place itself, its fabric, setting, use associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups”.

The assessment of Aboriginal archaeological sites is usually based on the following criteria:

- cultural/social significance to the Aboriginal community;
- scientific significance to archaeologists and other researchers;
- public education significance.

The assessment of European historical sites is usually based on the following criteria:

- an item is important in the course, or pattern, of NSW's cultural or natural history;
- an item has strong or special associations with the life or works of a person, or groups of person, of importance in NSW's cultural or natural history;
- an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW;
- an item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons;
- an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history;
- an item possesses uncommon, rare or endangered aspects of NSW cultural or natural history;
- an item is important in demonstrating the principal characteristics of its class of NSW's
  - cultural or natural places; or
  - cultural or natural environments.

Before any proposed works take place appropriate measures must be undertaken to prevent any damage to historical items.

### 8.1 Aboriginal Heritage Values

The assessment of heritage significance is based on the identification and articulation of heritage values. The following definitions of heritage values are drawn directly from the draft Guidelines for Aboriginal Heritage Impact Assessment (prepared by the NSW Department of Environment and Climate Change). Cultural significance comprises three components; social value, historic value and scientific value:

Social value (sometimes termed Aboriginal value) refers to the spiritual, traditional, historical or contemporary associations and attachments which the place or area has for the present day Aboriginal community. Places of social significance have associations with contemporary community identity. These places can have associations with tragic or warmly remembered experiences, periods or events. Communities can experience a sense of loss should a place of social significance be damaged or destroyed. These aspects of heritage significance can only be determined through consultative processes with one or more Aboriginal communities.

Historic value refers to the associations of a place with a person, event, phase or activity of importance to the history of an Aboriginal community. Historic places may or may not have physical evidence of their historical importance (such as structures, planted vegetation or landscape modifications). These places may have 'shared' historic values with other (non-Aboriginal) communities. Places of post-contact Aboriginal history have generally been poorly recognised in investigations of Aboriginal heritage, and the Aboriginal involvement and contribution to important regional historical themes is often missing from accepted historical narratives.

Scientific value (sometimes referred to as archaeological value) refers to the importance of a landscape, area, place or object because of its archaeological and/or other technical aspects. Assessment of scientific value is often based on the likely research potential of the area, place or object and will consider the importance of the data involved, its rarity, quality or representativeness, and the degree to which it may contribute further substantial information.

Sue Wesson was commissioned in 1996 by the NSW NPWS to undertake an anthropological investigation of the Barlings Beach area as part of an assessment



of the Aboriginal heritage values of a 42.42 hectare site proposed for housing development. Her investigation included the area that has now been declared an Aboriginal Place. Wesson undertook a review of written historical records and conducted interviews with ten Aboriginal people having connections to the Barlings Beach area, some of whom have since died. Wesson found that the Barlings Beach area possessed a range of values, that the site was significant to Aboriginal people and warranted declaration as an Aboriginal place. On the 23rd June 2000 8.87 hectares of Barlings Beach was declared an Aboriginal Place.

### 8.1.1 Archaeological Significance

Seven archaeological investigations have been conducted in the immediate vicinity of the Barlings Beach Aboriginal Place since 1981. Radio Carbon dating has confirmed the Aboriginal occupation of Barlings Beach sites to be at least 3000 years [Barber 2003]. Aboriginal sites found in the area include human and animal bones, flaked stone artefacts and shells from species found in the nearby beach, estuarine and rock platforms [Gollan 1981, Lance 1984, Winston-Gregson 1991, Pardoe 1991, Barber and Williams 1997, Jan Franke-International Mining Consultants 2002, Barber 2003]. The Barlings Beach area, including the land which now comprises the Aboriginal Place, has been subject to a range of past land uses that may have resulted in disturbance to Aboriginal cultural material at the site.

### 8.1.2 Social and Cultural Significance

The Tomakin area contains a number of important places for Aboriginal people; Barlings Beach, Barlings Island, Burri [Bevian] Swamp, Tomaga River and the surrounding bushland provide a resource rich, sheltered environment utilised by generations of Aboriginal families. The area continues to be utilised for family

celebrations and as a base for fishing trips. As with other high points along the coast, Barlings Beach features a 'lookout', used to spot fish entering the bay.

The Barlings Beach area was the country of the Dhurga speaking Kurregal (or Kurial) northern fisher people who typically utilised the coastal strip between Wagonga Inlet and Lake Conjola (Wesson 2000: 152-59). The Broulee group of the Kurregal numbered about 50 in 1832 (Morris 1832) and many of today's south coast Aboriginal families can trace their ancestry back to one woman among this group, Nimebur alias Jenny. By 1883 European surnames had been adopted by Aboriginal people. Broulee and Moruya families in one record for this time were Bolloway, Campbell, Chapman, Marshall and Piety. Smaller camping reserves in the Moruya area were gazetted between 1877 and 1880 for Merriman at Tarourga Lake, William Benson at Turlinjah, Neddy Walker near Borang Lake, Richard Bolloway at Tuross Inlet and Yarroro at Blackfellow's Point (Wesson 2002: 268). Many families used the Turlinjah reserve including Andy, Bolloway, Carter, Campbell, Chapman, Cross, Jabberah, Johnson, Mumbler, Stewart, Thomas, and Walker (ibid: 269). The Aboriginal population of south coast areas recorded by the Aborigines Protection Board between 1889 and 1915 shows a steady move onto staffed reserves at Brungle and Wallaga Lake as small reserves were cancelled and employment opportunities for unqualified Aboriginal workers in the region dwindled (Ibid: 280-81).

In 1884 the Tomakin Aboriginal Reserve<sup>3</sup> was noted to be occupied by Tommy Bollard, Tommy Tinboy and their wives Rosie and Charlotte, however by 1886 only Tommy and Rosie Bollard were living there (Leg. Ass. NSW 1885, NSW APB 1886 in Wesson 2000: 139-40). An 1890 inspection noted that the site was fully fenced with an acre under cultivation with maize and vegetables, a two

<sup>3</sup> Aboriginal Reserves were usually gazetted to serve the needs of a particular individual or family and less commonly to meet the needs of a large group such as the Wallaga Lake and Roseby Park Aboriginal Reserves. The smaller reserves were typically revoked at the death of the individual for whom it was created.

room weatherboard building with shingled roof and a small kitchen (Cameron 1987: 86). The Tomakin reserve land is primarily mangrove wetland and totally unsuitable for either cultivation or as a site for habitation. In 1975 title for this land was transferred to Mogo Local Aboriginal Lands Council.

In a 1979 interview George Gooramah Brown stated that Sunpatch (Tomakin) was the centre of his particular group before the arrival of Europeans (Nugent 1979: 11). Mr Brown also made reference to a battle between local Aboriginal people and the Ngunnawal from near Braidwood that resulted in many fatalities and that the dead were buried at Barlings Beach.

The Families that have historically continued to use the Barlings Beach area among many other customary fishing sites<sup>4</sup> are Brown, Butler, Campbell, Carpenter, Carriage, Chapman, Ellis, Johnson, Nye, Russell, Smith, Stewart and Walker.

Mrs Symalene Nye described living at Barlings Beach in the 1960s: '[We lived] in a tent, [I] cooked on an open fire and used a camp oven. Men carried [the] water and [I] did the wash for 11 as [we] had 9 children. [We] women would fish off the rocks with a line for leatherjackets and gropers. ... [We] also gathered cuttlefish to sell to people who came along to buy them and would get a feed from the 'conks' and 'periwinkles'. When the mullet and salmon were running it was a good time. Spring was perhaps the worst time of the year' (Egloff 1992: 23).

<sup>4</sup>These include Bull Pup (near Bawley Point), Candlegut (Candlagan Creek), Bawley Point, Bingi, Congo, Broulee, Durras, Red Head, Meroo Lake, Kioloa, Mystery Bay, Currarong, Nowra, Ulladulla, Long Beach, Pebbly Beach, Womboyn (south of Eden) and Chinaman's Point (Batemans Bay).

Andrew and Lillian Nye had an oyster lease on the Tomakin River. Mrs Lillian 'Nan' Nye supported her family after her husband had died by fish spotting, pea and bean picking and making shell work which she sold to tourists (Lillian Nye in Rose 1978: 30). Mrs Madeline Russell told Lyndon Rose why she couldn't live anywhere but the coast: 'Down here you've got all the sea, you've got beautiful scenery and the grass is real green. And you can really live down here, because there's a lot of stuff in the sea that we'll eat ... We get mutton fish – that's the abalone. There's lobsters and people cook cunjevoi up. My aunt used to roast it on the coals. And then there's periwinkles. Conks too ... Then you've got the bush. You've got your possums and the porcupine. I've eaten them and kangaroo. When we were down at Barlings ... we had a porcupine down there ... you dig a little hole in the earth and put a tin over it and make a fire and then put him in and bake him ... We have good old times down there swimming and mucking around. It's a wonderful place for the kids ... We used to walk into Moruya with shell-work to sell and buy a bit of food. We used to make aeroplanes, harbour bridge, the boomerangs, booties, vases, anything like that ... we used any shells that were on the beach ... shells with pretty colours in them' (Madeline Russell in Rose 1978: 52).

Leonard Nye, as well as his father and paternal grandfather used the high point in the sand dunes along Barlings Beach as a lookout, when spotting fish within Broulee Bay, between Melville Point and Barlings Island. A platform raised on a pole was once located at this high point to allow fishermen to watch for the fish in Broulee Bay. The job of the look out keeper was to hand signal those in a boat in the bay, informing them of which direction the fish are and where they are travelling. Old people taught Leonard Nye the sign language. Bream and whiting are harder to see, as they didn't school up like other fish. In the sand dunes at Barlings Beach, Leonard recalls collecting prickly pear, blackberries, red

gooseberries and pig face in the area for a snack [Leonard Nye 23.11.2005].

We had a pole and a ladder, as a look out in the middle of the beach, on a high point. From there we could see where the fish were [Keith Nye 1.3.2006].

The grassland behind Barlings Beach, between the Caravan Park and Red Hill Parade was also used as an airstrip. Leonard Nye recalls 'Arty Erne' landing his plane there. 'He would spot the fish for dad, sometimes he couldn't land, so he'd

drop a message inside a sunshine milk tin out the window of the plane to let dad know where the fish were. ...! In the late 1960s Leonard burnt the grassland in order to attract rabbits to the new growth. He had to wait until a northerly wind, so that the fire would burn towards the beach. At that time he and 6 other people, caught 156 pairs of rabbits and sold them to the CSIRO [Leonard Nye 13.11.2005].

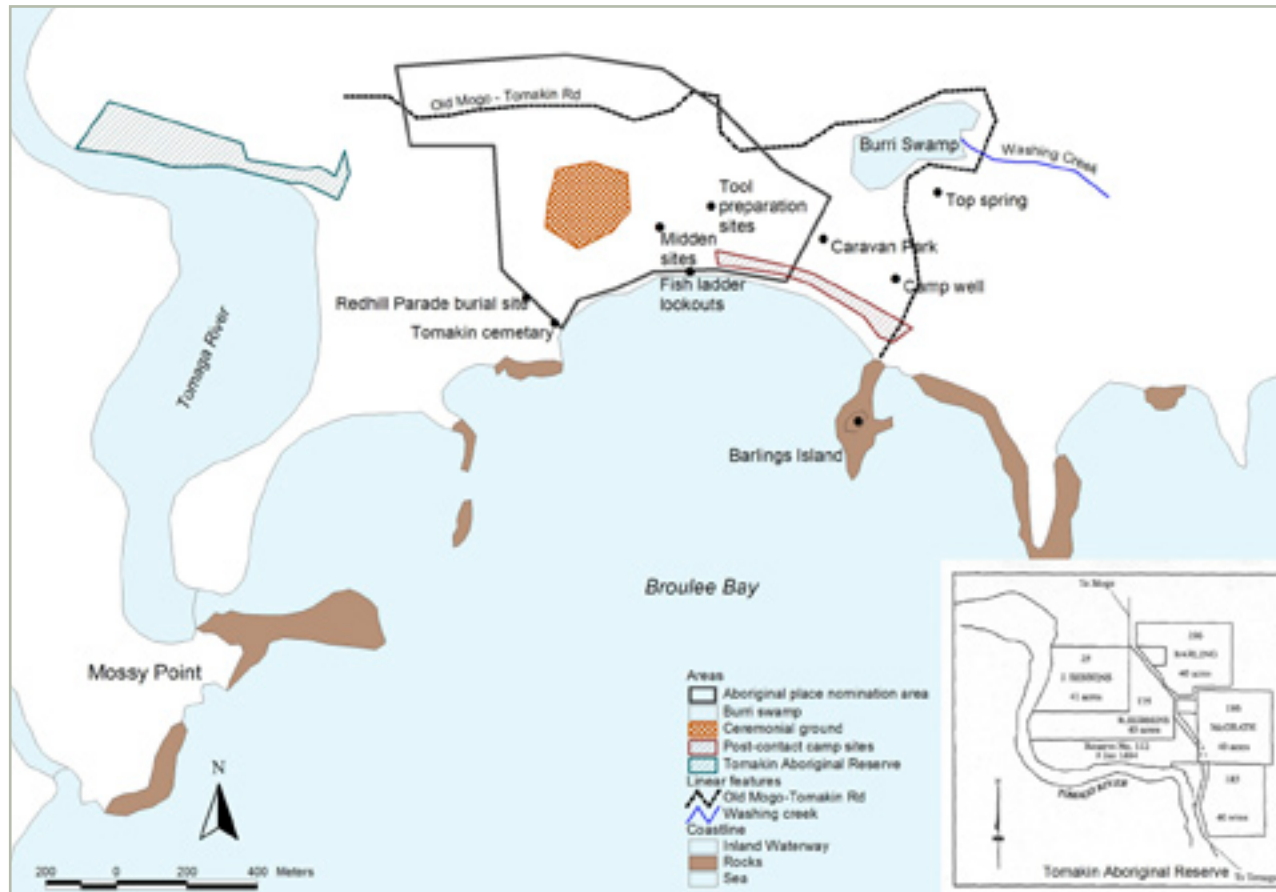


Figure 6: Sites of Aboriginal significance in the Barlings Beach area (Wesson 1996)

## 8.2 European Heritage Values

The first record of European settlement in the area now known as Barlings Beach was a land grant of 30 acres on the Tomaga River to Richard Barling in 1852. An 1863 plan of the site shows a building (hut), a road (from Batemans Bay to Mogo) and a cultivated paddock all located on the sandy flats. The Barling family grazed and cultivated the land here for many years.

Rabbits have caused significant disturbance to the sandy deposits. Aerial photographs from the early 1950s show an aircraft landing strip on the sand flats stretching some 500m in a north-easterly direction from near the intersection of Red Hill Parade and Ainslie Parade. It is possible that some of the earthworks and other disturbance suggested by the results of archaeological investigations and the observances of Aboriginal community representatives may have occurred during the construction of the landing strip.

In more recent times the area has sustained disturbance associated with recreational vehicle use including trail bikes and four wheel drive vehicles and the installation of utilities and services including sewerage and water mains and electricity and telecommunications cables (Barber and Williams 1997).

A village grew at the mouth of the Tomaga River to accommodate workers at a sawmill processing timber from the Mogo forest. This settlement had a small shipyard which built wooden ships (Warry 1991: 32). Shipping activity continued at Broulee and Tomakin<sup>5</sup> during the 1890s but by 1926 Broulee was a ghost town where the occasional visitor stayed in a tent. It was not until 1909 that the Barling family had freehold title completed for the Barlings Beach land (Winston-Gregson 1991: 18). The Barling family had one paddock under cultivation, a hut and presumably cattle on the other sections in 1863. In 1932

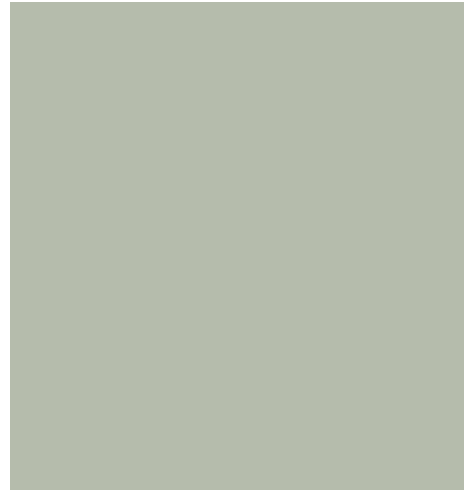
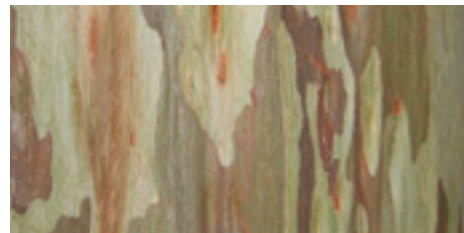
the subject land was bought by a Tomakin farmer, James Marshall, who had also bought 40 acres from G.A. Barling (jnr.) in 1919. Observers cited untrammelled development as the culprit when a pioneer ungazetted cemetery at Melville Point holding 28 recorded burials<sup>6</sup> (Moruya CPS Records) was bulldozed during the development of Sunpatch [Tomakin] to make way for a carpark leaving only one headstone standing (Ecos 10 1976: 9).

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<sup>5</sup> The name of the settlement was changed from Tomaga to Tomakin to avoid confusion with a town named Tomago near Newcastle.

<sup>6</sup> At least one unrecorded burial was placed in the Melville Point Cemetery (J. Stewart in Wesson 1996: 25).

# ● Vegetation Communities



Graham-Higgs (2002: 8) noted that 'All of the [Barlings Beach area] appears to have been either cleared of all trees or logged at one time, as few large old trees were seen anywhere. Even the extremely steep rocky escarpment at the northern edge of the [Barlings Beach area] carries mostly young mature trees, suggesting this area has also regenerated after some type of disturbance. Regeneration is oldest in the most sheltered areas on and above the steep escarpment, and in the wetter areas near the north-eastern corner of the site. The flatter and drier parts immediately south of these areas are in the process of regenerating to forest, but are currently dominated by small trees and shrubs.

'The [Barlings Beach area] carries six main vegetation types:

1. Open pasture, consisting predominantly of native grasses, but with some patches dominated by exotic grasses. This occupies most of the flat area on sand close to the sea.
2. Regenerating dune complex forest, which in most areas is dominated by coast Banksia, *Banksia integrifolia* and coast wattle *Acacia sophorae*. This community occupies a band of up to 100m width at the northern end of the flat area on sand,

along the foot of the steep escarpment and around the northern side of the drainage line which runs through the eastern end of the [area]. One small area of mature dune complex forest occurs close to George Bass Drive at the eastern end of the site, with bangalay *Eucalyptus botryoides* as the canopy species and coast banksia present as a tall sub-canopy layer. The remaining areas of regenerating banksia and coast wattle scrub would probably develop into this type of forest in time.

3. Moist sclerophyll forest with a eucalypt canopy, a variable understorey of mesophyll shrubs, young rainforest trees and vines, and a groundcover of ferns, located mainly on the steep escarpment. A small area of this type of forest also occurs along the western edge of the Coastal Swamp Forest in the north-eastern corner of the site.
4. A slightly drier sclerophyll forest with fewer vines and a higher proportion of sclerophyll shrubs such as *Daviesia ulicifolia*, and a grassy groundcover, located on a ridge near the north-eastern end of the site.
5. Coastal Swamp Forest with a canopy of *Casuarina glauca*, a subcanopy layer of swamp paperbark (*Melaleuca ericifolia*) and a patchy groundcover dominated by the large sedge, *Gahnia sieberiana*, located along a small drainage line in the north-eastern corner of the site.

Reedbeds in small areas of open water consisting of either cumbungi *Typha orientalis* or common reed *Phragmites australis*. A small patch is located on the drainage line within the Coastal Swamp Forest, and a larger area downstream from this forest, where east creek passes through open pasture.

'The site is generally dominated by native vegetation, except for some small areas, notably adjacent to roads and tracks, where there is frequent disturbance

by vehicles. Exotic grasses such as kikuyu, paspalum and cocksfoot can be locally dominant, especially within the pasture area and along track verges in the forest. Apart from these grasses, the fleshy fruited species tobacco bush and bitou bush are common. Blackberry occurs infrequently and prickly pear is scattered over the pasture area. There are occasional areas scattered along tracks in the banksia scrub where dumping of garden waste has produced small infestations of other weeds including wandering jew *Tradescantia fluminensis* and comfrey *Symphytum officinale*.

Graham-Higgs (2002: 16) considered that the swamp forest and wetlands were generally in good condition, and because 50% of this ecosystem has been cleared in NSW, the local site has high conservation significance. He found that the bangalay forest near the north-east corner of the proposed development site is of considerable conservation significance and that the dune scrub is important as it protects the coastline from erosion.

By extrapolation from Graham-Higgs survey, the Aboriginal Place contains reed beds, open/native pasture, banksia/wattle scrub and dune complex forest and dune scrub (Figure 7).

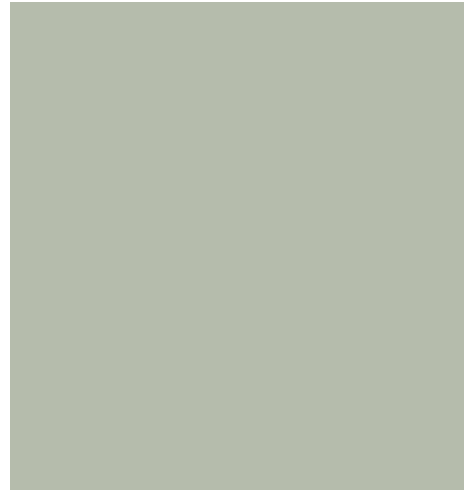
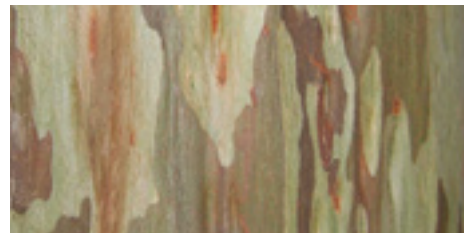


Figure 8: Barlings Beach Aboriginal Place Vegetation Map





# ● Community Land Values



Ascertaining the community values of land is identifying what the community finds important and special about it.

Land management issues change over time, depending on the needs of the community. However, communities change – what may be important in the present may be less important in the future. Values however, tend to transcend the everyday issues of land management and set a more strategic vision for the management of the land. Where singular issues may be really important in the short term, the overriding values attached to the land will tend to be relevant for a longer period. Whatever holds value and importance today, is likely to be similarly important in the future.

How can values be implemented in land management? Once values and their level of significance are determined, land maintenance and development practices that reflect these values may then be implemented.

Table of Values and level of Significance for Barlings Beach Aboriginal Place:

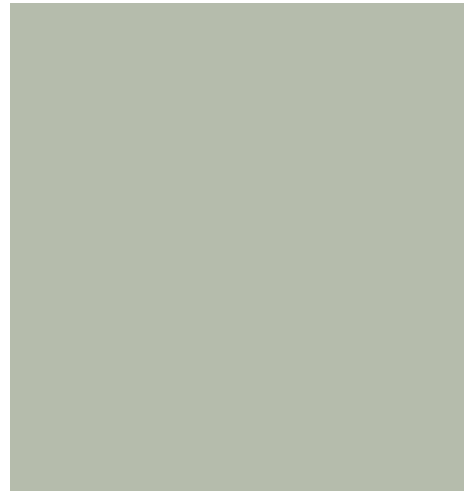
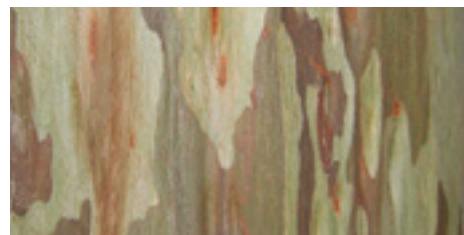
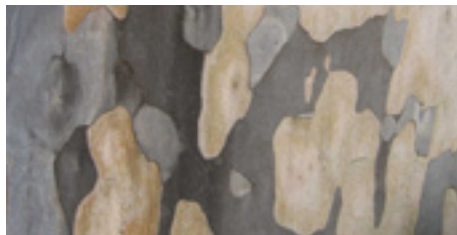
Value & description	Neighbourhood - Local	Suburb	District	Shire	Regional	State
Heritage – Aboriginal	✓	✓	✓	✓	✓	
Heritage – European	✓	✓	✓	✓		
Recreational	✓	✓	✓	✓	✓	
Education	✓	✓	✓	✓		
Social	✓	✓	✓	✓	✓	
The Natural Environment	✓	✓	✓	✓	✓	
Visual	✓	✓	✓	✓		

**Where:**

- Neighbourhood – Local: the street and surrounding streets
- Suburb: within the suburb area (ie. within Tomakin)
- District: the suburb area and adjacent suburbs (eg. Broulee, Mogo, Rosedale)
- Shire: within the Eurobodalla Shire Local Government Area
- Regional: within the south coast of NSW
- State: within the state of NSW

These values assist with the identification of the appropriate Categorisation for the land and provide a guide for identifying the objectives in the Operational Plan for the land.

# ● Legislation, Policies & Professional Advice



## 11.1 National Parks & Wildlife Act 1977

The National Parks and Wildlife Act 1974 (NPW Act) provides the primary basis for the legal protection and management of Aboriginal sites in NSW.

Under section 90(1) it is an offence to knowingly destroy, deface, damage or desecrate, or cause or permit the destruction, defacement, damage or desecration of, an Aboriginal object or Aboriginal place without first obtaining a Consent to Destroy from the Director-General.

Under section 87 it is an offence to disturb or excavate any land for the purpose of discovering an Aboriginal object, disturbing or removing an Aboriginal object, or taking possession of an Aboriginal object without a Permit from the Director-General.

“Aboriginal object” is defined as:

“any deposit, object or material evidence (not being a handcraft made for sale) relating to the Aboriginal habitation of the area that comprises NSW, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains” (s5(1)).

The Act defines all objects not in the custody or control of the Australian Museum Trust as the property of the Crown and provides measures for their protection, management and, if necessary, their disturbance or destruction.

Under section 84 the Minister may declare any land an Aboriginal place if the area 'is or was of special significance to Aboriginal culture'.

### 11.2 Local Government Act 1993

The requirements for the management of Community Land is covered in "Part 2 Public Land", Sections 25 – 54(a) of the Local Government Act 1993.

### 11.3 Local Government Act (General) Regulation 1999

Sections 9 – 26 of the Local Government Act (General) Regulation provides further provisions on the management of community land.

In particular it provides: guidelines for the categorisation of community land; specifies requirements for the preparation of Plans of Management; and, lists approved purposes and requirements for issuing leases and licences.

Refer to Section 7.9 for specific consultation requirements of the Local Government Act (General) Regulation 1999.

### 11.4 Coastal Policy 1997

The 1997 NSW Coastal Policy responds to the challenge to provide for population growth and economic development without putting the natural, cultural and heritage values of the coastal environment at risk. To achieve this, the Policy has a strong integrating philosophy based on the principles of ecologically sustainable development (ESD).

Barlings Beach Aboriginal Place Land is within the coastal zone as described by the Coastal Protection Act 1979 (s 4 (a) 3a). This is generally land up to one kilometre landward of the open coast high water mark and includes all lakes and estuaries. The nine goals of the Coastal Policy are:

Protecting, rehabilitating and improving the natural environment of the coastal zone.

- Recognising and accommodating the natural processes of the coastal zone.
- Protecting and enhancing the aesthetic qualities of the coastal zone.
- Protecting and conserving the cultural heritage of the coastal zone.
- Providing for ecologically sustainable development and use of resources.
- Providing for ecologically sustainable human settlement in the coastal zone.
- Providing for appropriate public access and use.
- Providing information to enable effective management of the coastal zone.
- Providing for integrated planning and management of the coastal zone.

The Coastal Policy details many key actions. The Key Action especially relevant to this Plan of Management is:

- Coastal lands and aquatic environments with conservation values will be assessed and appropriate tenures, reservations, zonings and/or regulations will be put in place to protect them, conserve biodiversity and to protect and ensure the recovery of threatened species.

## 11.5 Environmental Planning and Assessment Act 1979

The land included in this Plan of Management zoned under Council's Eurobodalla Local Environmental Plan (LEP) 1987. This LEP includes the following provisions that specifically apply to areas of Aboriginal heritage significance.

### Section 26: Protection of heritage items and heritage conservation areas

(1) When is consent required?

The following development may be carried out only with development consent:

- (a) demolishing or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
- (c) altering a heritage item by making structural changes to its interior,
- (d) disturbing or excavating a place of Aboriginal heritage significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) moving the whole or a part of a heritage item,
- (f) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.

(2) What exceptions are there?

Development consent is not required by this clause if:

- (a) in the opinion of the consent authority:
  - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or of a building, work, archaeological site, tree or place within a heritage conservation area, and
  - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area, and
- (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.
- (3) Development consent is not required by this clause for the following development in a cemetery or burial ground if there will be no disturbance to human remains, to relics in the form of grave goods or to a place of Aboriginal heritage significance:
  - (a) the creation of a new grave or monument, or
  - (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.

**Section 28A: Development affecting places or sites of known or potential Aboriginal heritage significance**

Before granting consent for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and
- (b) except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) and the Director-General of National Parks and Wildlife of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

**Section 28B: Development affecting known or potential archaeological sites of relics of non- Aboriginal heritage significance**

- (1) Before granting consent for development that will be carried out on an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority must:
  - (a) consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and

- (b) notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.
- (2) This clause does not apply if the proposed development:
  - (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or
  - (b) is integrated development.

**11.6 State Environmental Planning Policy No. 71 Coastal Protection**

State Environmental Planning Policy No. 71 (SEPP 71) – Coastal Protection is a key element of the NSW Government’s Coastal Protection Package to protect the State’s beaches, headlands and other coastal features for future generations. The NSW Minister for Planning determined that the protection of the NSW coast is a matter of environmental planning significance for the State under the Environmental Planning and Assessment Act 1979.

The policy has been made to ensure:

- development in the NSW coastal zone is appropriate and suitably located;
- there is a consistent and strategic approach to coastal planning and management; and,
- there is a clear development assessment framework for new development in the coastal zone.

The coastal zone is defined in section 4A of the Coastal Protection Act 1979 (as amended 2002). Generally it includes land that is one kilometre landward of the western boundary of the coastal waters of New South Wales, also, one kilometre landward around any bay, estuary, coastal lake or lagoon, also, follows the length of any coastal river inland generally at a distance of one kilometre from each bank of the river, also, to one kilometre beyond the limit of any recognised mangroves on or associated with the river, or, if there are no such recognised mangroves to one kilometre beyond the tidal limit of the river is shown to the nearest cadastral boundary or easily recognisable physical boundary.

All of the Community Land included in this Plan of Management is included in the coastal zone. In the case of certain development proposals on this land, the provisions of SEPP 71 would apply to all of this land.

### **11.7 Barlings Beach Aboriginal Place, Tomakin “Overview of Research and Community Consultation to Assist with the Development of a Plan of Management”**

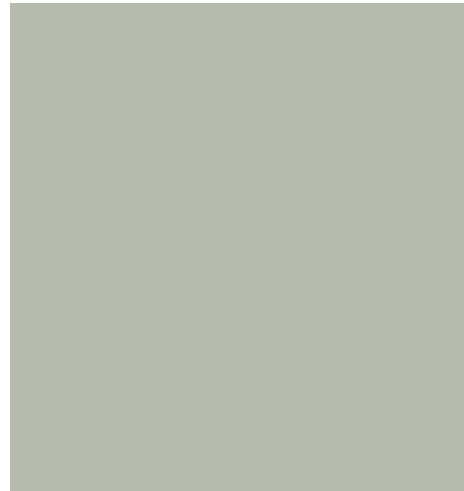
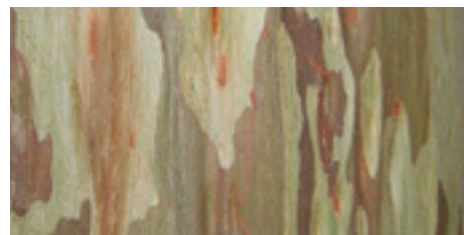
In June 2006 the Department of Environment and Climate Change commissioned Sue Wesson to provide a report on the Barlings Beach Aboriginal Place.

This document has been used as the basis for the development of this Plan of Management. Refer to Section 5.0 Guiding Principles & Desired Outcomes on Page 19.





# Leases, Licences and other Estates



Leases, licences and other estate may only be granted on Community Land in accordance with the provisions of the Local Government Act 1993 and Local Government Act 1993 Regulation. The Act requires that leases, licences and other estates be expressly authorised in a Plan of Management.

## 12.1 Existing Leases, Licences and other Estates<sup>7</sup>

There are no current leases, licences or other estates on Barlings Beach Aboriginal Place.

## 12.2 Authorised, Leases Licences and other Estates

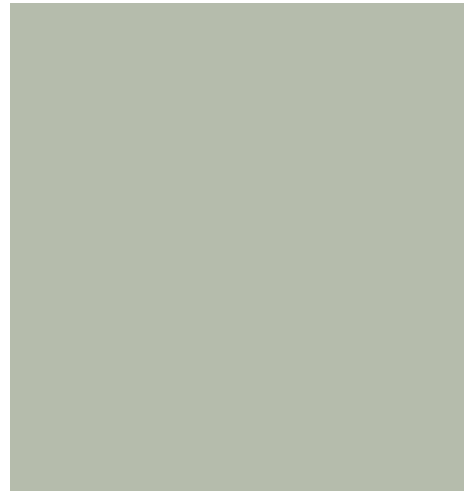
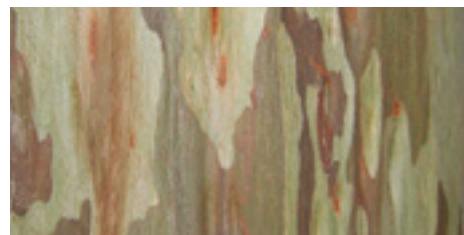
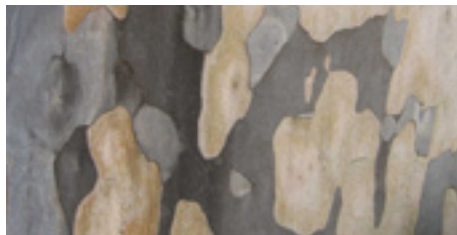
This Plan of Management authorises the granting of any lease, licence or other estate on Community Land included in this plan, only where the purpose for which it is granted is consistent with the core objectives for the categorisation of the land being "Area of Cultural Significance".

The purpose of any lease, licence or other estate must also meet the provisions of the Local Government Act 1993 and Local Government Act (General) Regulation 1999.

During consultation for this Plan of Management, the Aboriginal Community expressed interest in providing guided tours of the

Aboriginal Place. This Plan of Management authorises the granting of a licence for the purpose of providing tours of the Aboriginal Place. This is consistent with Core Objective (Section 36H (2) (d) Local Government Act 1993).

# ● Community Land Management



## 13.1 Operational Plan Overview

The Operational Plan identifies management issues for Barlings Beach Aboriginal Place and is presented as Table B: Operational Plan (page 12-17). The information is presented as required by the Local Government Act 1993 whereby:

- Objective: 'Objective' is an end towards which efforts are directed
- Performance Targets: 'Performance Target' is an objective or goal to be performed
- Means of Achievement: How Council or the community can achieve the objective and performance targets
- Manner of Assessment: How Council can assess the performance of the means of achievement
- Implementation Priority: Category 1: These actions are those that can be implemented immediately or very soon after the adoption of the Plan. They are policy or procedural matters and require minimal or no funding.

Category 2: These actions are those that require funding and are principally concerned with improving public safety, maintenance and improvement matters and protecting or conserving the values of the community land. The timing of their implementation would be dependent upon the availability of funds from Council.

Category 3: These actions are capital improvement items or items requiring a significant injection of funds. The timing of their implementation would be dependent upon the availability of funds from Council and other sources.

### 13.2 Landscape Plan

The Barlings Beach Aboriginal Place Landscape Plan (see page 34) provides an illustration of the kinds of activities that have been authorised for the future in the Operational Plan. It has been developed in consultation with stakeholders and reflects access, use, values and maintenance requirements.

Authorised projects will require further investigation, cost estimates and detailed designs to facilitate their construction.

A recommended Priority List for implementation of Landscape Plan is as follows:

1. Installation of perimeter fencing & gates
2. Rehabilitation of old access tracks
3. Installation of boardwalk, beach access tracks & management trail

4. Installation of picnic facilities & bins
5. Implementation of environmental rehabilitation projects
6. Installation of interpretive signage

### 13.3 Funding

As at the date of adoption of this Plan of Management there was no Council or other funding available to implement the recommendations of the plan.

Future additional funding may be available from the following:

- Council resolving to allocate funds for projects through the annual review of its Management Plan;
- Applications for grant funding of projects.

The costs associated with the projects identified in this Plan of Management will change over time. As applications are made for funding, cost estimates for the projects will be developed at that time to reflect the most up-to-date costs associated with implementing the project.

As such, there are no cost estimates provided in this Plan of Management as they will only be current as at the date of adoption of this plan. Projects may not be initiated for some time in the future at which point any cost estimates prepared at the date of adoption of this Plan of Management would be out of date.

**13.4 Operational Plan**

	<b>Core Objective (including reference to relevant Local Government Act 1993 provision)</b>	<b>Objective</b> Is an end towards which efforts are directed	<b>Performance Targets – Project</b> Is an objective or goal to be performed	<b>Means of Achievement</b> How Council or the community can achieve the objective and performance targets	<b>Manner of Assessment</b> How Council can assess the performance of the means of achievement	<b>Priority</b>
14.4.1	<p>Section 36H (1)</p> <p>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.</p>	<p>Conserve the Aboriginal cultural heritage values of Barlings Beach Aboriginal Place and ensure ongoing cultural connections are maintained.</p>	<p>Ensure that inappropriate activities do not take place.</p>	<p>All actions are subject to appropriate consultation with the Aboriginal community, Eurobodalla Shire Council and Department of Environment and Climate Change including:</p> <ul style="list-style-type: none"> <li>▪ Any form of digging;</li> <li>▪ Any use not clearly identified as acceptable in this document;</li> <li>▪ Any construction; and</li> <li>▪ Any relevant matter regarding the protection or conservation of the cultural significance that the Aboriginal community raises.</li> </ul>	<p>Aboriginal cultural Heritage values of Barlings Beach Aboriginal Place and ongoing cultural connections are maintained.</p>	1
		<p>Recognise heritage significance.</p>	<p>Reserve listed in LEP as a “Place of Aboriginal Heritage Significance” and be included on the LEP Heritage Map</p>	<p>Resolution of Council and approval from the Department of Planning.</p>	<p>Barlings Beach Aboriginal Place included in the Heritage Schedule and Heritage Map as a Place of Aboriginal Heritage Significance in the LEP.</p>	1
			<p>Undertake Cultural Heritage Mapping on an ongoing basis in consultation with the Aboriginal Community.</p>	<p>Seek granting funding and work in partnership with the Aboriginal Community to complete Cultural Heritage Mapping.</p>	<p>Cultural Heritage Mapping completed for Barlings Beach Aboriginal Place.</p>	3
		<p>Ensure the continuation of cultural connections to the Aboriginal Place.</p>	<p>Reserve continue to be used as a meeting place and story telling place for the Aboriginal community.</p>	<p>Informal ongoing access and use of the reserve for cultural practices.</p>	<p>Cultural connections to Barlings Beach maintained by the Aboriginal community.</p> <p>For example: The reserve being used for a meeting and story telling place.</p>	1

**13.4 Operational Plan**

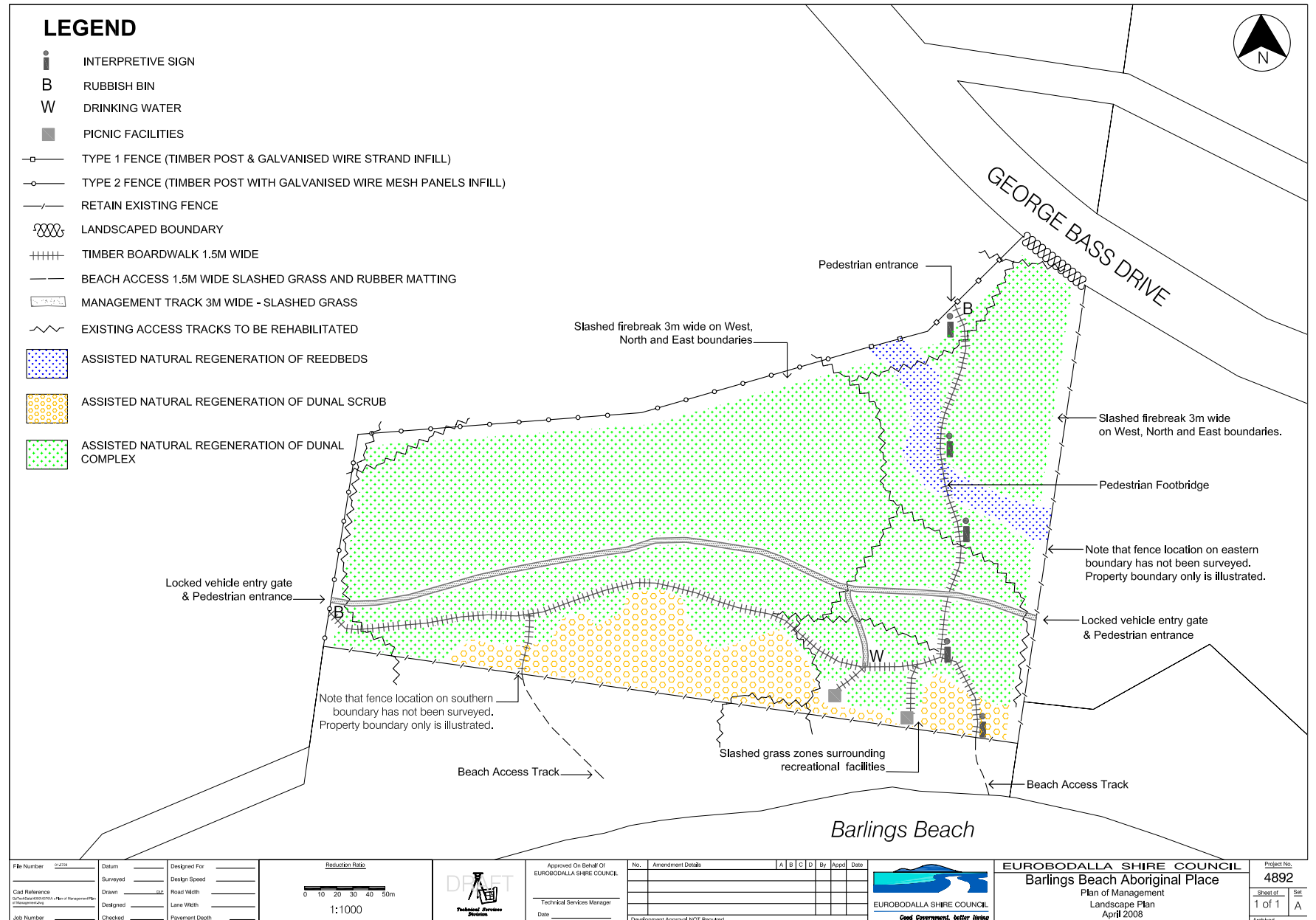
	<b>Core Objective (including reference to relevant Local Government Act 1993 provision)</b>	<b>Objective</b> Is an end towards which efforts are directed	<b>Performance Targets – Project</b> Is an objective or goal to be performed	<b>Means of Achievement</b> How Council or the community can achieve the objective and performance targets	<b>Manner of Assessment</b> How Council can assess the performance of the means of achievement	<b>Priority</b>
14.4.1 (cont)	Section 36H (1) - continued  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.	Acknowledge Aboriginal connections through ongoing role in management	Local Aboriginal people be involved to undertake reserve management and maintenance .	Where possible ESC Aboriginal staff be assigned to work on Barlings Beach Aboriginal Place.  Investigate the opportunity to employ and train members of the local Aboriginal community in landscape management and maintenance.  Engage the LALC to provide assistance.	Aboriginal people engaged in the management and ongoing maintenance of Barlings Beach Aboriginal Place.  For example: Aboriginal people involved in undertaking rehabilitation of midden sites, fence & walkway maintenance.	1
				Consult with the developer of the Barlings Beach residential development to consider employment opportunities to engage Aboriginal people in the development of capital projects on the Aboriginal Place.	Consultation between the Aboriginal community undertaken.	1
			Co-operative development of decision making between all stakeholders to ensure broad participation in the management of Barlings Beach Aboriginal Place and the enhancement of community understanding of the site's history.	Establish a working group including representatives from the Aboriginal Community, ESC, DECC and other relevant stakeholders.	Working group established and involved in decision making and better understanding and appreciation of the history of the area.	1
14.4.2	Section 36H(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,	Barlings Beach Aboriginal Place maintained to: <ul style="list-style-type: none"> <li>▪ Care for and maintain the land and its features; and</li> <li>▪ Facilitate ongoing use by the community.</li> </ul>	Assets maintained to Council's standards and reflecting community values.	Barlings Beach Aboriginal Place included in Council's maintenance regime.	Barlings Beach Aboriginal Place maintained for use by the community.  Designated facilities such as walking tracks, bins and picnic tables utilised by the community to look after the place.  Minimal complaints about maintenance standards.	1
			Prohibit the walking of dogs within the Aboriginal Place.	Resolution of Council.	No dogs being walked in Aboriginal Place.	1

<b>13.4 Operational Plan</b>						
	<b>Core Objective (including reference to relevant Local Government Act 1993 provision)</b>	<b>Objective</b> Is an end towards which efforts are directed	<b>Performance Targets – Project</b> Is an objective or goal to be performed	<b>Means of Achievement</b> How Council or the community can achieve the objective and performance targets	<b>Manner of Assessment</b> How Council can assess the performance of the means of achievement	<b>Priority</b>
14.4.3	Section 36H(2) Those conservation methods may include any or all of the following methods:  (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.	Not applicable – there are no accretions on Barlings Beach Aboriginal Place and conservation works will to require to require the introduction of new material (eg. plants, boardwalk construction).				
14.4.4	Section 36H(2) Those conservation methods may include any or all of the following methods:  (c) the reconstruction of the land, that is, the returning of the land as nearly as possible to a known earlier state.	Preserve and improve extent and quality of existing natural areas, enhance habitat value and manage pests and weeds.	Undertake appropriate revegetation, rehabilitation and development of the Aboriginal Place.	<ul style="list-style-type: none"> <li>▪ Landscape Plan used to guide the development, management and maintenance of the Aboriginal Place. Eg. Define extent of maintained grass areas.</li> <li>▪ Application for funding from Council and grant sources.</li> <li>▪ Involve Landcare, the Aboriginal community and other interest groups in assisting and participating in restoration/ revegetation projects.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Successful applications for funding.</li> <li>▪ Successful implementation of restoration, regeneration, management and maintenance projects.</li> <li>▪ Inspections of the land highlighting issues that to be resolved.</li> <li>▪ Noxious weed and feral animal control programs in place. A reduction in noxious weeds and feral animals.</li> </ul>	3
14.4.5	Section 36H(2) Those conservation methods may include any or all of the following methods:  (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).	Development of appropriate recreational and interpretive facilities.	Provide access for the elderly and less able.	Landscape Plan used to guide the development of the Aboriginal Place. Eg. Installation of equal access boardwalks, walking tracks.	Barlings Beach Aboriginal Place developed in accordance with the Landscape Plan.	3
			Provide access between the Aboriginal Place and the Aboriginal Cultural Centre, picnic areas and beach.	Landscape Plan used to guide the development of the Aboriginal Place. Eg. Installation of picnic facilities, walking tracks and definition of maintained grassed around recreational facilities.	Access for elderly and less abled people provided to key areas of the Aboriginal Place.	3
			Facilitate passive recreational opportunities.	Locate interpretive signage as per the Landscape Plan.	The Aboriginal Place being used by the community appropriately for recreational activities.	3
			Develop interpretive signage that reflects: <ul style="list-style-type: none"> <li>• different historical periods including Aboriginal and European histories and uses of the land.</li> <li>• Interrelationships between Aboriginal people and the ecosystem.</li> <li>• Natural features including flora, fauna, dunal morphology, catchment and wetland system.</li> </ul>	Refer to written and oral historical materials in consultation with the community to develop interpretive signage.	Interpretive signage installed	3

**13.4 Operational Plan**

	<b>Core Objective (including reference to relevant Local Government Act 1993 provision)</b>	<b>Objective</b> Is an end towards which efforts are directed	<b>Performance Targets – Project</b> Is an objective or goal to be performed	<b>Means of Achievement</b> How Council or the community can achieve the objective and performance targets	<b>Manner of Assessment</b> How Council can assess the performance of the means of achievement	<b>Priority</b>
14.4.6	Section 36H(2) Those conservation methods may include any or all of the following methods:  (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.	Identify and protect features and areas of cultural significance	Acknowledge that Aboriginal Heritage Values may exist in areas that have not been subject to assessment.	Consult with the Aboriginal Community to facilitate appropriate development with minimal impact on Aboriginal heritage.	The Aboriginal Community is informed of all projects within the Aboriginal Place and has been involved in heritage protection.	1
			Ensure legislative requirements are met to preserve and conserve natural and cultural heritage values.	Undertake legislative review to ensure all relevant legislation requirements are met. As at the date of adoption of this Plan of Management the relevant legislation included: 1. National Parks & Wildlife Act 1974 2. Local Government Act 1993 1993 3. Environmental Planning & Assessment Act 4. Heritage Act 1997 5. Native Title Act 1993 6. Threatened Species Conservation Act 1995.	All activities or actions on Barlings Beach Aboriginal Place are consistent with legislative requirements and due process is followed.  For example: Local Aboriginal Land Council/s may be engaged to provide a site assessment to identify and record any Aboriginal heritage in the vicinity of a proposed project.  For example: Rare and endangered species identified and protected as per legislative requirements.	1
			Appropriate protection of middens.	Revegetate midden areas with appropriate dunal and coastal hinterland species.	Middens protected by re-vegetation.	3
			Appropriate identification, protection and management of Aboriginal Ancestral remains.	Develop burial protocols as directed by the Aboriginal community.	Aboriginal Ancestral remains are identified, protected and managed appropriately	1
14.4.7	36H (3)  A reference in subsection (2) to land includes a reference to any buildings erected on the land.	Not applicable – there are no buildings proposed to be developed on Barlings Beach Aboriginal Place.				





## 14.0 References

*"Barlings Beach Aboriginal Place, Tomakin – Overview of research and community consultation to assist with the development of a Plan of Management"* written by Sue Wesson for the Department of Environment and Climate Change – June 2006.

Barlings Beach: *Cultural facilities Deed* – Mallesons Stephen Jaques July 2005.

Environmental Planning and Assessment Act 1979.

Kyla Park Community Land – *Areas of Cultural Significance* – Plan of Management No. 27 – 9-12-03 ESC.

Local Government Act 1993 1993 No.30 – Part 2 Public Land.

*State Environmental Planning Policy No. 71 Coastal Protection* - Explanatory notes. Available at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).

Donaldson S D 2006 "Eurobodalla Aboriginal Heritage Study: Stage Two – *Stories About the Eurobodalla by Aboriginal people*

## 15.0 Appendix A: The Guiding Principles Of Ecological Sustainable Development

Eurobodalla Shire Council has adopted a Sustainable Living Policy that addresses the seven principles of ecologically sustainable development. As part of its code of practice these guiding principles are considered in preparing all plans and strategies, and assessing the merit of public and private investment in built and social infrastructure. The seven principles and the extent to which they have been considered, have been met and applied in preparing this plan are detailed below.

### THE PRECAUTIONARY PRINCIPLE

The precautionary principle. - where there are threats of serious or irreversible damage to the community's ecological, social or economic systems, a lack of complete scientific evidence should not be used as a reason for postponing measures to prevent environmental degradation. In some circumstances this will mean actions will need to be taken to prevent damage even when it is not certain that damage will occur.

### THE PRINCIPLE OF INTERGENERATIONAL EQUITY

The principle of intergenerational equity. - the present generation should ensure that the health, integrity, ecological diversity, and productivity of the environment is at least maintained or preferably enhanced for the benefit of future generations.

### THE PRINCIPLE OF CONSERVING BIOLOGICAL DIVERSITY AND ECOLOGICAL INTEGRITY

The principle of conserving biological diversity and ecological integrity. - aims to protect, restore and conserve the native biological diversity and enhance or repair ecological processes and systems.

#### THE PRINCIPLE OF IMPROVING THE VALUATION AND PRICING OF SOCIAL AND ECOLOGICAL RESOURCES

The principle of improving the valuation and pricing of social and ecological resources. - the users of goods and services should pay prices based on the full life cycle costs (including the use of natural resources at their replacement value, the ultimate disposal of any wastes and the repair of any consequent damage).

#### THE PRINCIPLE OF ELIMINATING OR REDUCING TO HARMLESS LEVELS

The principle of eliminating or reducing to harmless levels - any discharge into the air, water or land of substances or other effects arising from human activities that are likely to cause harm to the environment.

#### THE PRINCIPLE OF ENCOURAGING A STRONG, GROWING AND DIVERSIFIED ECONOMY

The principle of encouraging a strong, growing and diversified economy - promotes local self reliance, and recognises and strengthens the local community and its social capital in ways that safeguard the quality of life of future generations.

#### THE PRINCIPLE OF PROVIDING CREDIBLE INFORMATION IN OPEN AND ACCOUNTABLE PROCESSES

The principle of providing credible information in open and accountable processes - encourages and assists the effective participation of local

communities in decision making.

### 16.0 Appendix B: Sections 46, 46A & 47 Local Government Act 1993

The following sections are reproduced from the Local Government Act 1993.

#### Section 46 Leases, licences and other estates in respect of community land—generally

- (1) A lease, licence or other estate in respect of community land:
  - (a) may be granted for the provision of public utilities and works associated with or ancillary to public utilities, or
  - (a1) may be granted for the purpose of providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider, or
  - (b) may be granted, in accordance with an express authorisation in the plan of management and such provisions of the plan of management as apply to the granting of the lease, licence or other estate:
    - (i) for a purpose prescribed by subsection (4), or for a purpose prescribed by any of sections 36E to 36N as a core objective of the categorisation of the land concerned, or
    - (ii) for a purpose prescribed by the regulations, if the plan of

management applies to several areas of community land, or

- (iii) for a short-term, casual purpose prescribed by the regulations, or
- (iv) for a residential purpose in relation to housing owned by the council, or
- (v) (repealed)

(c) may be granted in order to allow a filming project to be carried out, whether or not the project is in accordance with the plan of management or is consistent with the core objectives of the categorisation of the land concerned,

but may not otherwise be granted.

- (2) Despite subsection (1), a lease, licence or other estate in respect of community land may be granted for a purpose mentioned in subsection (1) (b) only if the purpose for which it is granted is consistent with the core objectives, as prescribed in this Part, of its categorisation.
- (3) A council must not grant a lease or licence for a period (including any period for which the lease or licence could be renewed by the exercise of an option) exceeding 21 years.
- (4) The following purposes are prescribed for the purposes of subsection (1) (b) (i):
  - (a) 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 any of the

following:

- (i) public recreation,
  - (ii) the physical, cultural, social and intellectual welfare or development of persons,
  - (b) the provision of public roads.
- (5) Purposes prescribed by subsection (4) in relation to the matters mentioned in subsection (4) (a) (ii) include, but are not limited to, maternity welfare centres, infant welfare centres, kindergartens, nurseries, child care centres, family day-care centres, surf life saving clubs, restaurants or refreshment kiosks.
  - (6) A plan of management is void to the extent that it purports to authorise the grant of a lease, licence or other estate in contravention of this section.

#### **Section 46A Means of granting leases, licences and other estates**

A plan of management is to specify, in relation to the community land to which it applies, any purposes for which a lease, licence or other estate may be granted only by tender in accordance with Division 1 of Part 3.

- (2) Nothing in this section precludes a council from applying a tender process in respect of the grant of any particular lease, licence or estate.
- (3) A lease or licence for a term exceeding 5 years may be granted only by tender in accordance with Division 1 of Part 3, unless it is granted to a non-profit organisation.

## Section 47 Leases, licences and other estates in respect of community land - terms greater than 5 years

- (1) If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:
- (a) give public notice of the proposal, and
  - (b) exhibit notice of the proposal on the land to which the proposal relates, and
  - (c) give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and
  - (d) give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.
- (2) A notice of the proposal must include:
- information sufficient to identify the community land concerned
  - the purpose for which the land will be used under the proposed lease, licence or other estate
  - the term of the proposed lease, licence or other estate (including particulars of any options for renewal)
  - the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)
- a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.
- (3) Any person may make a submission in writing to the council during the period specified for the purpose in the notice.
- (4) Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.
- (5) If a person makes a submission by way of objection to the proposal, the council must not grant the lease, licence or other estate except with the Minister's consent.
- (6) If the council applies for the Minister's consent, it must forward with its application:
- a copy of the plan of management for the land
  - details of all objections received and a statement setting out, for each objection, the council's decision and the reasons for its decision
  - a statement setting out all the facts concerning the proposal to grant the lease, licence or other estate
  - a copy of the newspaper notice of the proposal
  - a statement setting out the terms, conditions, restrictions and covenants proposed to be included in the lease, licence or other estate
  - a statement setting out the manner in which and the extent to which the public interest would, in the council's opinion, be affected by the granting of the proposed lease, licence or other estate, including the manner in which and the extent to which the needs of the area with respect to community land would, in the council's opinion, be adversely affected by the granting of the proposed lease, licence or other estate.

- (7) On receipt of the application, the Minister must request the Director of Planning to furnish a report concerning the application within such period as the Minister specifies.
- (8) After considering the application and any report of the Director of Planning, the Minister, if satisfied that:
- (a) subsections (1), (2) and (6) have been complied with, and
  - (b) such consent would not contravene section 46, and
  - (c) in all the circumstances, it is desirable to grant consent,
- may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.
- (8A) On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to consent to, the granting of a lease, licence or other estate in accordance with subsection (8).
- (9) The Minister's consent is conclusive evidence that the council has complied with subsections (1), (2) and (6).
- (10) For the purposes of this section, any provision made by a lease or licence, or by an instrument granting any other estate, in respect of community land, according to which the council:
- (a) would suffer a disadvantage or penalty if the same or a similar lease, licence or estate were not to be granted, for a further term, after the expiry of the current lease, licence or other estate, or
  - (b) would enjoy an advantage or benefit if the same or a similar lease, licence or estate were to be so granted, is taken to confer an option for renewal for a term equal to the further term.

