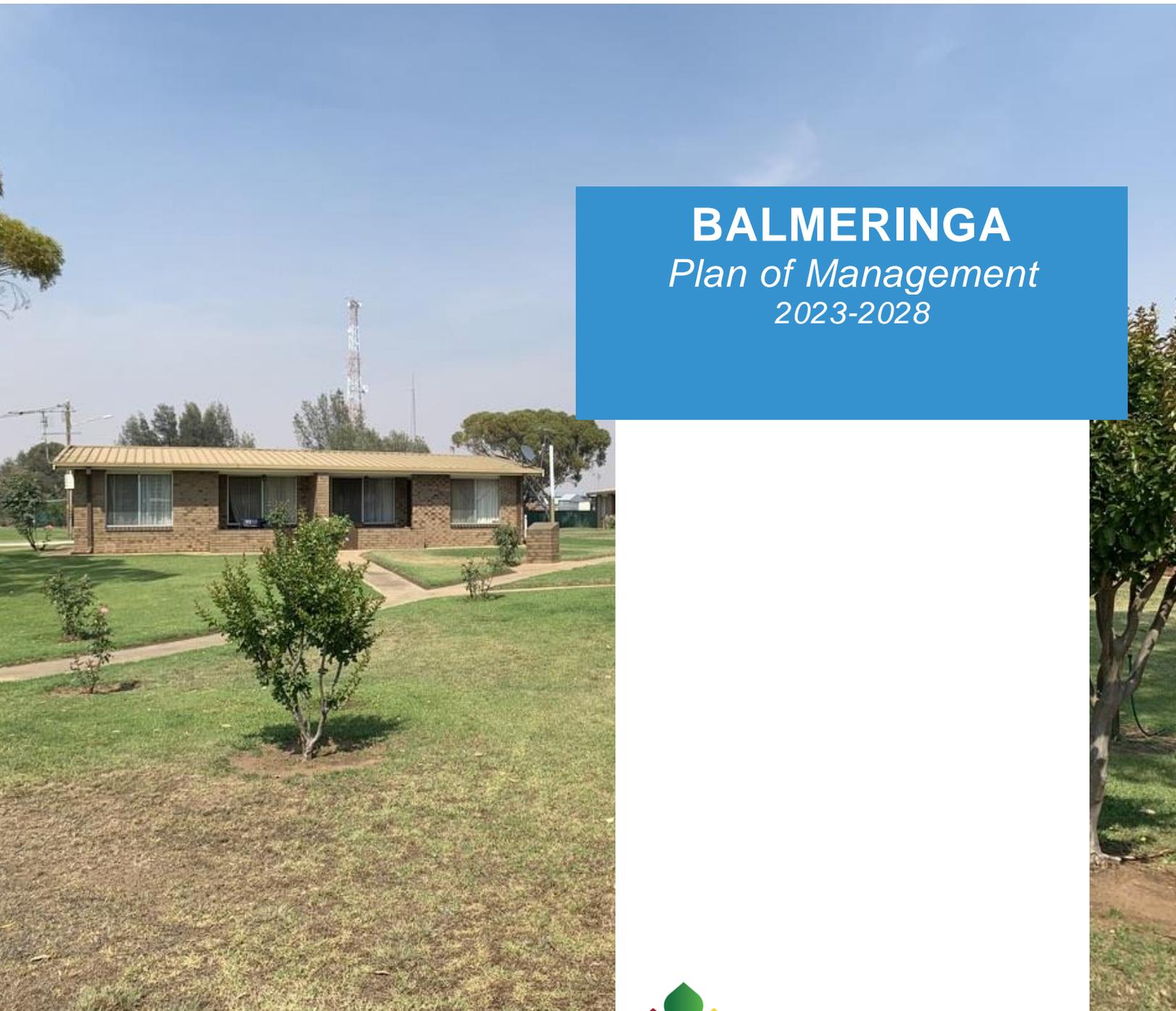


# BALMERINGA

*Plan of Management*  
2023-2028



**Murrumbidgee**  
COUNCIL

**OCTOBER 2023**

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**November 2020**

Plan of Management prepared for **Murrumbidgee Council**

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## EXECUTIVE SUMMARY

Balmeringa is a small residential complex in the village of Jerilderie. The reserve has significant value to the local community as it has, since 1977, providing social housing for the aged.

Balmeringa is a Crown reserve (R90713) and owned by the State Government that is managed as community land by Murrumbidgee Council for the benefit of the local community.

The intention of this plan of management is to provide Council with a framework that enables decisions in regard to Balmeringa to be made on an informed, consistent and equitable basis. The plan of management satisfies the requirements of the Local Government Act 1993 as amended by the Local Government Amendment (Community Land Management) Act 1998.

The land is categorised in this plan of management, as:

- General community use

The current use patterns; condition of the existing built and natural assets; emerging needs, constraints and opportunities, have been considered in this plan of management. The plan of management identifies appropriate objectives and actions, as well as measures that enable the successful implementation of key outcomes provided by the plan and a means for the effective ongoing management of the reserve to meet the needs of the Jerilderie community.

The plan of management has been prepared with due regard to *Developing Plans of Management for Community Land Crown Reserves—Guideline for Council Crown Land Managers* issued in September 2021 and the sample for a site-specific Crown reserve plan of management outline, in order to achieve a balanced, responsible and ecologically sustainable use of the land and to ensure that it addresses the needs of the local neighbourhood, the broader community, and the environment. It has been prepared to meet the requirements of the Local Government Act, 1993 (LG Act), as amended by the Local Government Amendment (Community Land Management) Act 1998.

## PART 1: INTRODUCTION AND GENERAL INFORMATION

### 1. KEY INFORMATION

- This Plan of Management Plan is for the whole of Lot 215 DP 756426, being Crown Land Reserve No. 90713 and known as Balmeringa, Jerilderie.
- Murrumbidgee Council is the Crown Land Manager pursuant to the relevant provisions of the Crown Land Management Act 2016 and has the responsibility for the ongoing management and care of Balmeringa.
- The Plan of Management for Balmeringa was adopted on **24 October 2023 (minute 183/10/23)**.

Terms that are *italicised* throughout the document are terms defined by legislation. Where relevant these definitions are included in Appendix A.

### 2. ABOUT PLANS OF MANAGEMENT

A *plan of management* provides information about public land and its user groups stating what, why, how and by whom the integrity of any particular parcel of community land is to be managed. It establishes the values, uses, management practices and broad intent for the public purpose for which the land has been reserved or dedicated.

All plans of management are prepared in accordance with the provisions of the Crown Land Management Act 2016 for Ministerial approval. A plan of management provides a framework for the future management, use and development of reserved Crown land and should be consistent with the public purpose for the reserve and the principles of Crown land management, as well as other guidelines, policies, and any other legal requirements that may apply to the reserve.

The Crown land covered under this plan of management is a community resource that provides a direction that will enable ongoing use of the reserve for residential purposes, targeting housing for elders of the Jerilderie community.

#### 2.1 Why is Murrumbidgee Council preparing a Plan of Management?

Murrumbidgee Council was established on 12 May 2016 following the merger of Murrumbidgee Shire Council and Jerilderie Shire Council and under the provisions of the Crown Land Management Act, 2016 has been identified as a Crown Land Manager. Under the provisions of the aforementioned Act, the responsibilities that fall upon a Crown Land Manager is to ensure that land resources are to be shared equitably in accordance with the principles of environmental protection, conservation and ecological sustainability, public use and enjoyment as well as encouraging multiple use of the land. As

Crown Land Manager, Murrumbidgee Council is required to prepare a plan of management for over 30 parcels of Crown land it is responsible for, including Balmeringa.

A plan of management can fulfil many purposes and a Crown Land Manager may, for example, use a plan of management to:

- Provide a single document that collates information held by Council to enable a single point of reference;
- Expand upon the Council's corporate objectives and direction set out in its Community Strategic Plan;
- Provide an outline the day-to-day use and management of community land;
- Ensure that the environment is properly managed in accordance with the principles of sustainable development;
- Incorporate a masterplan that provides directions for future development, including landscaping and the provision of infrastructure;
- Identify risks associated with the use of the land and incorporate mitigation measures including emergency response actions;
- Explain how the provisions of a local environmental plan or development control plan are to be applied to the particular reserve and if required provide additional guidelines;
- Provide for an additional purpose for a reserve; and
- Create a concept design for future developments;

It is not intended that the Plan of Management for Balmeringa will cover all of the items listed above.

## **2.1 Corporate objectives of Murrumbidgee Council**

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The management actions in this Plan of Management have been formulated so that they align with Murrumbidgee Council's Community Strategic Plan (CSP) that was adopted in 2019, which has been adopted on two guiding tenants, one being the principle of social justice and the other being sustainability.

Social justice principles underpinned the Murrumbidgee Council CSP are:

**Equity** – there should be fairness in decision making, prioritizing and allocation of resources, particularly for those in need. Everyone should have a fair opportunity to participate in the future of the community. The planning process should take particular care to involve and protect the interests of people in vulnerable circumstances.

**Access** – all people should have fair access to services, resources and opportunities to improve their quality of life.

**Participation** – everyone should have the maximum opportunity to genuinely participate in decisions which affect their lives

**Rights** – equal rights should be established and promoted, with opportunities provided for people from diverse linguistic, cultural and religious backgrounds to participate in community life.

## 2.2 Land to which this plan applies

This Plan of Management Plan covers one of the many Crown reserves categorised as a *general community use* which Murrumbidgee Council is the Crown Manager. Land covered by the plan of management is listed in Table 1:

**Table 1: Land covered by this plan of management**

Land	Real property description	Land owner
R90713 Balmeringa Jerilderie	Lot 215 DP 756426	Crown land managed by Murrumbidgee Council.

Balmeringa, highlighted in the aerial image (contained in Figure 1 on page 8), is within Jerilderie approximately 600m from the central business district. It has an area of 5,285.4m<sup>2</sup> and has a frontage of Southey St (part of the A39).

*Figure 1 – Location of Balmeringa<sup>1</sup>*



Balmeringa comprises of five single storey, self-contained villas and a detached carport within well maintained landscaped gardens.

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<sup>1</sup> NSW Department of Planning, Industry and Environment, SixMaps

## 2.3 Owner of the land

For the purpose of Section 37 of the Local Government Act, 1993 it must be identified that Balmeringa is owned by the Crown and that Murrumbidgee Council has been appointed as Crown Land Manager under the provisions of Division 3.2 of the Crown Land Management Act, 2016.

The subject land is not subject to any trust, estate, interest, dedication, condition, restriction or covenant referred to in clause 37(b) of the Local Government Act, 1993. Further there is no condition or restriction imposed by the owner in respect to the use of management of the land as referenced in clause 37(c) of the Act.

## 2.4 Categorisation of the reserve

The land covered by this plan of management is public land and for the purpose of clause 26 of the Local Government Act, 1993 is classified as community land. Table 3 identifies the purpose of the reserve and the categorization of the land as confirmed by the Department of Planning, Industry and Environment – Crown Lands.

**Table 2: Land categorization and gazettal date**

Land	Purpose(s) & gazettal date	Categorisation
R90713 Balmeringa Jerilderie	Homes for the aged 18 February 1977	<i>General community use</i>

## 3. Relevant legislation, policies and procedures

The statutory framework for the preparation and operation of the Plan of Management for Balmeringa (BPoM) is primarily guided by:

- Local Government Act, 1993
- Crown Land Management Act, 2016
- Crown Land Management Regulation, 2018

Other legislation, regulations and environmental planning instruments that may be of relevance to the BPoM include:

- Environmental Planning and Assessment Act, 1979;
- Environmental Planning and Assessment Regulation, 2021;
- State Environmental Planning Policy (Housing) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- Jerilderie Local Environmental Plan, 2012;
- Murrumbidgee Local Environmental Plan, 2013;
- Companion Animals Act, 1998;
- Disability Discrimination Act, 1992.

### 3.1 Local Government Act 1993

Section 3.23(6) of the Crown Land Management Act, 2016 requires Murrumbidgee Council to adopt a Plan of Management for any Crown reserve for which it is the appointed Crown Land Manager, and that is classified as community land under the Local Government Act 1993 (LG Act). These PoMs must be prepared and adopted in accordance with the provisions of Division 2 of Part 2 of Chapter 6 of the LG Act. The core objectives for the management of community land categorized as *general community use* is set out in Clause 36l of the Act, and clause 106 of the Regulation which are set out in Table 3 below.

**Table 3: Core objectives**

Land	Guidelines <sup>2</sup>	Core Objectives <sup>3</sup>
<i>General community use</i>	Land that may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public.	<p>The core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:</p> <ul style="list-style-type: none"> <li>a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and</li> <li>b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities)</li> </ul>

While the Local Government Act 1993 (LG Act) contains many provisions that have an impact on the management of the Reserve there is one aspect of particular importance: the approval requirements

<sup>2</sup> NSW Local Government (General) Regulation 2021, Part 4 Division 1, Guidelines for the categorisation of community land.

<sup>3</sup> NSW Local Government Act 1993, Part 2 Division 2, Use and management of community land.

certain activities specified in the Table from Section 68 of the Act, in particular those listed under Part D Community land.

Section 68 of the Act requires a person, wanting to carry out an activity specified in the Table D, to obtain approval from Council to undertake in any of the following activities:

- 1 Engage in a trade or business
- 2 Direct or procure a theatrical, musical or other entertainment for the public
- 3 Construct a temporary enclosure for the purpose of entertainment
- 4 For fee or reward, play a musical instrument or sing
- 5 Set up, operate or use a loudspeaker or sound amplifying device
- 6 Deliver a public address or hold a religious service or public meeting

The Crown Land Management Act 2016 specifies that approvals of activities under the Local Government Act 1993 must comply with plans of management and that a local council cannot grant an approval for an activity on dedicated or reserved Crown land under Part 1 of Chapter 7 (including Section 68) of the Local Government Act 1993 that contravenes a plan of management for the land.

It is considered, that while the activities listed above may be permitted on community land and consistent with the general community use categorization of the land, they would be inconsistent with the purpose of the reserve, that being homes for the aged. In this regard, the activities listed in Table D of Section 68 of the Local Government Act, 1993 are not supported by the BPoM.

### **3.2 Crown Land Management Act 2016**

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

The objects and principles of Crown Land Management are listed in Sections 1.3 and 1.4 of the CLM Act 2016 provide a legislative starting point for preparation of a plan of management. The principles of Crown Land Management are:

- (a) *that environmental protection principles be observed in relation to the management and administration of Crown land, and*

- (b) that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible, and*
- (c) that public use and enjoyment of appropriate Crown land be encouraged, and*
- (d) that, where appropriate, multiple use of Crown land be encouraged, and*
- (e) that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and*
- (f) that Crown land be occupied, used, sold, leased, licensed or otherwise dealt within the best interests of the State consistent with the above principles.*

Crown Land Managers have a statutory responsibility for the care, control and management of the Crown Land for the purposes for which the land is reserved or dedicated or other purposes as authorised by the Act. In this instance the statutory responsibilities assigned to Murrumbidgee Council, as Crown Land Manager, are drawn from Division 3.4 of CLM Act. In this regard Murrumbidgee Council is authorised to:

- Classify and manage its dedicated or reserved Crown land as if it were public land within the meaning of the Local Government Act 1993, subject to this Division (see section 3.21(1)).
- To manage its dedicated or reserved Crown land as if it were community land or operational land, but only as permitted or required by this Division including those functions ascribed to it pursuant to section 3.22 of the CLM Act.
- Assign an initial category or categories to the Crown Land in accordance with sections 3.23(2) & (3) of the CLM Act that Council considers to most closely relate to the purpose for which the land is dedicated or reserved.
- Prepare the first plan of management applicable to the land, either by amending an existing plan of management that applies to the land or adopt a new plan of management in accordance with sections 3.23 (6) & (7) of the CLM Act

On 25 February 2020 Murrumbidgee Council resolved to provide written notice to the Minister of the initial categorisation of the Crown Land pursuant to section 3.23(4) Murrumbidgee Council. The copy of the initial categorisation of Balmeringa and other land managed by Murrumbidgee Council was sent to the Department of Planning, Industry & Environment (Crown Lands) on 4 March 2020. Their response is confirmed the initial categorisation proposed.

This Plan of Management for Balmeringa, being a new plan of management for Crown Land Reserve No. 90713, is based on the initial for categorisation of the reserve as general community use, which was approved by Minister on 25 May 2020.

### **3.3 Other relevant legislation and statutory controls**

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The following is an overview of any other relevant legislation and statutory controls including the provision of relevant factors listed in an environmental planning instrument, including the provisions of the Native Title Act, 1993 (Commonwealth), Aboriginal Land Rights Act, 1983, Jerilderie Local Environmental Plan 2012 and in other council plans, strategies, policies and procedures.

#### **3.3.1 Native Title Act, 1993**

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

The native title process must be considered for each activity on the land and a native title assessment must be undertaken. Almost all activities and public works carried out on the land will affect native title and require validation of the future act procedures in Division 3 of the Native Title Act, 1993 by Council's Native Title Manager.

#### **3.3.2 Aboriginal Land Rights Act, 1983**

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In New South Wales, Aboriginal Land Rights sits alongside native title and allows Aboriginal Land Councils to claim certain Crown Land. Generally the Aboriginal Land Rights Act, 1983 is directed at allowing local Aboriginal Land Council's to claim Crown land that is unlawfully used or occupied. If a claim is successful, the freehold estate of the land is transferred to the Land Council.

Strategies which allow Council to validly carry out a project or activity under the Native Title Act may not deal with project risks arising in relation to the Aboriginal Land Rights Act, 1983. Council should be mindful that any activity on Crown land is lawful in relation to the reserve purpose of the land, Council should ensure that Crown land under its control is at all times lawfully used and occupied.

When planning an activity on the land such as the issue of a lease or license or any public works, Council should request a search to determine whether an Aboriginal Land Rights claim has been made in relation to the land. If a claim is registered the activity must be postponed until the claim is resolved.

The authorisation should ensure the proper management and maintenance of the land and the interests of Council and the public are protected.

### ***3.3.3 Environmental planning & assessment act, 1979***

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The Environmental Planning and Assessment Act, 1979 (EP&A Act) provides the fundamental framework for which planning and development in NSW takes place, with Part 3 of the Act providing the mechanism for how environmental planning instruments are made; Part 4 relating to development assessment and consent; and Part 5 address infrastructure and environmental assessment.

#### ***3.3.3.1 State environmental planning policies***

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A state environmental planning policy is an environmental planning instrument made under Part 3 of the EP&A Act that guides development and land use within NSW. There are presently 38 State environmental planning policies in force, not all of which apply to the local government area of Murrumbidgee Council. Those applying to Murrumbidgee Council are:

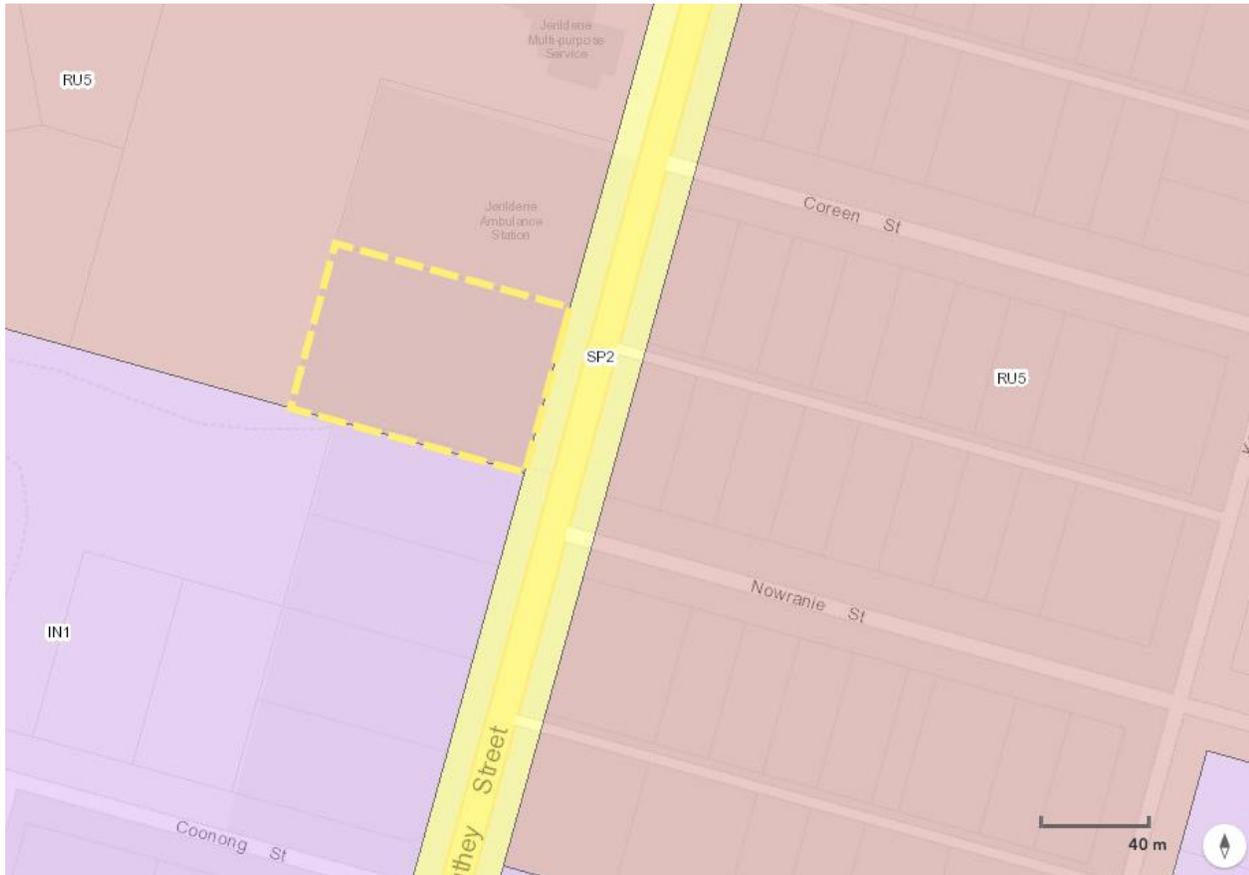
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Primary Production) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Resources and Energy) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy No 65—Design Quality of Residential Apartments

It should be noted that not all these would be applied to the development within Balmeringa, as many relate to development that is inconsistent with the categorisation of the land and this plan of management. State Environmental Planning Policy (Transport and Infrastructure) 2021, State and Environmental Planning Policy (Housing) 2021 are two which most likely would require consideration when evaluating a development on the land.

### 3.3.3.2 Jerilderie local environmental plan 2012

Jerilderie Local Environmental Plan 2012 (JLEP) is an environmental planning instrument made under Part 3 of the EP&A Act that guides development and land use within part of the Murrumbidgee Council local government area.

**Figure 2 - Zoning Map**



**Table 4: Land zoning**

Land	Local environmental plan	Zoning of land
R90713 Balmeringa Jerilderie	Jerilderie Local Environmental Plan 2012	RU5 Village

The RU5 zone is considered to be an open zone, that is one where a broad range of land uses and typically lists any number of uses, including any other development not specified in item 2 of 4, where item 2 refers to development permitted without consent and item 4 identifies development that is prohibited. Specifically, the Land Use Table in JLEP 2012 states:

## **2 Permitted without consent**

*Environmental protection works; Home-based childcare; Home occupations; Roads; Water reticulation systems*

## **3 Permitted with consent**

*Centre-based childcare facilities; Community facilities; Dwelling houses; Liquid fuel depots; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Schools; Tank-based aquaculture; Any other development not specified in item 2 or 4*

## **4 Prohibited**

*Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Electricity generating works; Farm buildings; Farm stay accommodation; Forestry; Heavy industrial storage establishments; Heavy industries; Jetties; Marinas; Mooring pens; Moorings; Pond-based aquaculture Rural industries; Rural workers' dwellings; Sex services premises; Waste or resource management facilities; Wharf or boating facilities*

Under JLEP 2012 seniors housing and dwelling houses are permitted at Balmeringa.

### **3.3.1.3 Development Control Plan**

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A development control plan provides detailed planning and design guidelines to support the planning controls in a local environmental plan. Development control plans are prepared in accordance with Section 3.43 of the Environmental Planning and Assessment Act, 1979.

Murrumbidgee Council has two (2) development control plans in force, with the Jerilderie Development Control Plan 2012 (DCP) being relevant to Balmeringa. This document is published on the NSW Planning Portal and on Council's website.

## **3.4 Review of this plan**

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This Plan of Management has been prepared pursuant to the provisions of the Crown Land Management Act 2016 to provide an appropriate statutory basis for the continuing improvement and function of Balmeringa.

This Plan provides a medium-term strategy for the management and improvement of the Balmeringa. It is anticipated most of the works described will be implemented over a five to ten-year period. Priorities for works and funding are to be addressed on an annual basis to meet development priorities and community needs.

This Plan is to be reviewed approximately every five years or as required to ensure it continues to be relevant to and consistent with government legislation and policy and community expectation.

### **3.5 Community consultation**

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Murrumbidgee Council acknowledges that community participation is essential and how Council engages the community in terms of its legislative requirements and has adopted a Community Participation Plan (CPP) and a Communication Strategy. Both documents have been designed to provide the community an understanding of how to participate in planning and other matters, including the management of community land.

The level and extent of community participation will vary depending on the community, the nature of the proposal under consideration and potential impacts of the decision. As a minimum, the CPP and Communication Strategy demand that its statutory obligations are properly met. In this respect Section 38 of the LG Act requires:

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

In accordance with section 39 of the LG Act Council must, before giving public notice of the draft plan of management forward a copy of the draft to the Crown, as Council is not the owner of the land.

With regard to the provisions of sections 38 and 39 of the LG Act, Council resolved on 22 August 2023 to adopt the draft plan of management and to:

- Provide the landowner with a copy of the draft PoM.
- Place the draft PoM on public exhibition for 28 days. The exhibition date commenced on 24 August 2023 and ended on 22 September 2023. The public notice advised that submissions would be received up until 6 October 2023 which is 42 days after the commencement of the public exhibition period.

The exhibition included advertisement in local newspapers, on Council's website and documents being made available at its administration buildings in Coleambally, Darlington Point and Jerilderie.

Following consideration of submissions, Council resolved on **24 October 2023 (minute 183/10/23)** to adopt the Plan of Management for Balmeringa.

#### **4. Land comprising the habitat of endangered species or threatened species**

*The provisions of sections 36A and 36B of the Local Government Act, 1993 do not apply to Balmeringa for the following reasons:*

- that no part of the reserve has been declared to be an area critical habitat under the Threatened Species Conservation Act, 1995, and
- that no part of the reserve has been declared to be an area of critical habitat under Part 7A of the Fisheries Management Act, 1994, and
- the reserve is not affected by a recovery plan for the purpose of Part 4 of the Threatened Species Conservation Act, 1995 or Division 5 of Part 7A of the Fisheries Management Act, 1994, and
- the reserve is not affected by a threat abatement plan for the purpose of Part 5 of the Threatened Species Conservation Act, 1995 or Division 5 of Part 7A of the Fisheries Management Act, 1994, and

#### **5. Land containing significant natural features**

*The provisions of section 36C of the Local Government Act, 1993 does not apply to Balmeringa as the land is not subject to a resolution of Murrumbidgee Council that declared the land, being a site of:*

- a known natural, geological, geomorphological, scenic or other feature that is considered by the council to warrant protection or special management considerations, or
- a wildlife corridor.

#### **6. Culturally significant land**

The provisions of section 36D of the Local Government Act, 1993 does not apply to Balmeringa as the land is not subject to a resolution of Murrumbidgee Council declaring the land, because of the presence on the land of any item the Council considers to be of Aboriginal, historical or cultural significance.

A search of the NSW Environment & Heritage Aboriginal Heritage Management Information System on 9 November 2020 indicates that:

- no Aboriginal sites are recorded in or near<sup>4</sup> the above location; and

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<sup>4</sup> The search parameter applied was within 200m of Lot 1 DP 395229

- no Aboriginal places have been declared in or near the above location.

A copy of the AHIMS report is set out in Appendix C.

## **PART 2: DETAILED INFORMATION REGARDING CATEGORIES OF LAND**

This Plan of Management applies to Crown Land Reserve listed in Table 5 below is owned by the state of New South Wales and Murrumbidgee Council has been appointed the Crown Land Manager. Part 2 provides detailed information regarding the general community use categorisation of the land, Murrumbidgee Council’s vision for the reserve, existing site conditions and current use of the land, identification of appropriate development within the reserves and directions of how the land will be managed for and on behalf of the community.

**Table 5: Reserve purpose and gazette date**

<b>Land</b>	<b>Purpose &amp; Gazette date</b>	<b>Categorisation</b>
<i>R90713 Balmeringa Jerilderie</i>	Homes for the aged  18 February 1977	General community use

### **7. Vision for Balmeringa**

The vision for the use of Balmeringa is best described as:

**“Providing residential accommodation and facilities for the elderly members of the community.”**

The vision for Balmeringa aligns with Murrumbidgee Council’s Statement of Vision & Priorities – Three Towns One Community that seeks to promote *“community built by an innovative mindset delivering appropriate and reliable services”*.

### **8. Management directions**

Murrumbidgee Council acknowledges that Balmeringa provides the local community with housing opportunities for the elderly, and help maintain a connection with Jerilderie. Currently the reserve provides residential housing for the aged, and there is scope for further housing to be provided on the Crown Land and on adjoining land owned by Murrumbidgee Council. In this regard the current use of the land provides significant social benefit to the community and is in keeping with Murrumbidgee Council’s vision for the land.

This section aims to provide an overview of Murrumbidgee Council's broad development and management strategies for Balmeringa. It will identify the existing condition of the land and structures on the adoption of the plan, identify existing uses of the land as well as additional matters dealing with the day-to-day management and maintenance of the reserve.

In order to realise the potential of the land and provide a greater benefit for the local community the following directions for the management of the reserve are proposed:

- To continue the current use of the land for residential purposes, one that incorporates *seniors housing*.
- To enable future development for residential development that specifically provides housing for seniors and also those with a disability.

### **8.1 Statutory guidelines for development of Balmeringa**

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The provisions of section 36(3A)(b) of the Local Government Act that apply to site specific plan of management have been considered, and are as follows:

- (i) *specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used*
- (ii) *specify the purposes for which any further development of the land will be permitted, whether under lease or license or otherwise*
- (iii) *describe the scale and intensity of any such permitted use or development.*

Balmeringa is a well maintained facility that provides the locality a venue for housing for seniors. In terms of a land use under the provision of the environmental planning instrument may fall within the broad definition as a community facility.

The provisions of both State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and (Transport and Infrastructure) 2021 (SEPP) identifies certain development that is exempt or may be carried out without consent. All other development is legislated in the relevant local environmental planning instrument as being permissible without consent, permitted with consent or otherwise is prohibited. With regard to clause 65(1)(d)(ii) of the SEPP, development for any purpose may be carried out without consent on Crown managed land by or on behalf of the Crown land manager of the land if the development is for the purposes of implementing a plan of management adopted under the Local Government Act 1993 in relation to Crown managed land managed by a Council. Irrespective of the categorisation of the land, the provisions of clause 65(3)(a) and 66(1) allows certain development that may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council.

Table 6 identifies the zoning of the land under Jerilderie Local Environmental Plan 2012 of the reserve.

The RU5 Village zone that apply provide a range of permissible land uses, however not all are consistent with the categorization of the land. Table 6 below identifies the uses that are exempt development, permitted with or without the consent in an environmental planning instrument and Council's plan of management of Balmeringa in terms of what it will permit.

The allowed uses are consistent with the purpose of the reserve, being homes for the aged.

**Table 6 - Preferred uses of land categorised as general community use**

<b>Land Use</b>	<b>Provisions of an environmental planning instrument</b>	<b>Allowed under Balmeringa Plan of Management</b>	<b>Reason</b>
<b><i>Centre-based childcare facilities</i></b>	Permitted with consent under JLEP 2012.	Not allowed.	<i>Centre-based childcare facilities</i> are inconsistent with the purpose of the reserve as homes for the aged.
<b><i>Community facilities</i></b>	Permitted with consent under JLEP 2012.	Allowed only if in conjunction with the current use of the land.	Community facilities are consistent with the general community use category and if used in conjunction with the current purpose, homes for the aged, would be consistent with that purpose
<b><i>Dwelling house</i></b>	Permitted with consent under JLEP 2012.	Allowed, with the restriction that any dwelling house is used for providing accommodation for the aged.	A dwelling house is consistent with categorisation of the reserve. A dwelling house specific to providing residential accommodation for the aged is consistent with the purpose of the reserve.
<b><i>Environmental protection works</i></b>	Permitted without consent under JLEP 2012.	Allowed.	Environmental protection works are in keeping with the categorisation and purpose of the reserve.
<b><i>Home-based childcare</i></b>	Permitted without consent under JLEP 2012.	Allowed.	Home-based childcare is only permitted in conjunction with a dwelling house. On the basis that a dwelling house is consistent with the categorisation and purpose of the reserve so too is home-based childcare.

<b>Land Use</b>	<b>Provisions of an environmental planning instrument</b>	<b>Allowed under Balmeringa Plan of Management</b>	<b>Reason</b>
<b>Home occupations</b>	Permitted without consent under JLEP 2012.	Allowed.	Home occupations are only permitted in conjunction with a dwelling house. On the basis that a dwelling house is consistent with categorisation and purpose of the reserve so too are home occupations.
<b>Neighbourhood Shops</b>	Permitted with consent under JLEP 2012.	Not allowed.	Neighbourhood shops are inconsistent with the categorisation of the reserve.
<b>Oyster aquaculture</b>	Permitted with consent under JLEP 2012.	Not allowed.	Oyster aquaculture is inconsistent with the categorisation of the reserve.
<b>Places of public worship</b>	Permitted with consent under JLEP 2012.	Not allowed.	The use of the reserve as place of public worship is considered inconsistent with the categorisation and purpose of the reserve.
<b>Respite day care centres</b>	Permitted with consent under JLEP 2012.	Not allowed	The use as a respite day care centre would be consistent with the general community use category, however is inconsistent with the purpose of the reserve.
<b>Roads</b>	Permitted without consent under JLEP 2012.	Not allowed.  In the event that road widening is required Council would be required to acquire the land.	The use would be inconsistent with the general community use categorization of the reserve and its purpose for public recreation.
<b>SEPP Transport &amp; Infrastructure</b>	Exempt development or permitted without consent.	Allowed, subject to satisfying the requirements of clause 65 & 66 of SEPP (Infrastructure).	Identified in SEPP (Infrastructure) 2007 as exempt development or development permitted without consent.
<b>Schools</b>	Permitted with consent under JLEP 2012.	Not allowed.	The use of the land as school is <i>inconsistent purpose</i> of the reserve.
<b>Tank-based aquaculture</b>	Permitted with consent under JLEP 2012.	Not allowed	Tank based aquaculture is inconsistent with the <i>purpose and categorization</i> of the reserve.
<b>Water reticulation systems</b>	Permitted without consent under JLEP 2012.	Allowed.	Water reticulation systems are consistent with the categorisation of the reserve.

Land Use	Provisions of an environmental planning instrument	Allowed under Balmeringa Plan of Management	Reason
<b>Any other development</b>	Permitted with consent under JLEP 2012.	Not allowed, except for development permitted under SEPP (Housing) 2021 providing that the purpose of the reserve is met.	The open zone of the RU5 provides an opportunity for a wide range of land uses some of which may or may not be compatible with the categorisation of the land for general community uses and the purpose of the reserve for homes for the aged. Should a use be proposed that is consistent with the objectives of general community use and purpose of the reserve, then Council will consider a development application.

## 8.2 Use of the land and structures at the date of adoption of the plan

As this plan of management applies only to Balmeringa, the plan of management must, in accordance with section 36(3A)(a) of the LG Act include a brief outline of the current usage is reserve, including any details of current leases/licenses or other arrangements for the use of the land.

Table 7 identifies the current use of the land and existing structures that have been erected.

**Table 7: Existing use of reserve and structures**

Land	Current use	Existing structures
R90713 Balmeringa Jerilderie	Community facility	<ul style="list-style-type: none"> <li>▪ Six (6) x 2 bedroom villas</li> <li>▪ Carport</li> <li>▪ Clothes lines</li> <li>▪ Mailbox</li> <li>▪ Footpaths</li> <li>▪ Driveway</li> </ul>

The buildings and the associated equipment are consistent with development that falls under the definition of seniors housing and the land is being used for its gazetted reserve purpose. There are no current leases/licenses or other arrangements for the use of the land.

## 8.3 Condition of the land and structures on adoption of the plan

The provisions of Section 36(3A)(a) of the LG Act requires a plan of management to include a description of the condition of the land and structures on adoption of the plan.

At the date of adoption of the Plan of Management for Balmeringa, the existing villas and carport appeared to be structurally sound and outwardly well maintained and in good condition. Footpaths, and garden areas were very well maintained and in excellent appearance, contributing to a positive visual effect on the streetscape.

**Figure 4 – Entrance to Balmeringa**



**Figure 5 – Existing villa**



**Figure 6 – Existing villas**



**Figure 7 – Mailboxes**



### **8.3 Permitted use and future use**

Section 36(3A)(b) of the Local Government Act requires that any site-specific plan of management must:

- (i) specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used
- (ii) specify the purposes for which any further development of the land will be permitted, whether under lease or license or otherwise
- (iii) describe the scale and intensity of any such permitted use or development.

Balmeringa will continue to be used in accordance with their categorization and reserve purpose and future improvements will include regular maintenance and subject to considered design the potential for additional residential accommodation in accordance with State Environmental Planning Policy (Housing) 2021.

While the future improvements may involve permanent structures being erected, there is no perceived harm as ultimately can be reversed.

The reserve is not prone to natural hazards such as tidal inundation, subsidence, slip, mass movement, flooding or bushfires.

**Table 8 – Permissible uses and activities for land categorized as general community use**

<b>General Community Use</b>	
<b>Purpose or use as...</b>	<b>Development to facilitate</b>
<p>The following purpose or uses are permitted by this Plan of Management on land categorized as a general community use.</p> <p>a) Land that is suitable for</p> <p>i. Providing affordable residential accommodation for:</p> <ul style="list-style-type: none"> <li>▪ Seniors</li> <li>▪ Persons with a disability</li> </ul> <p>b) Environmental protection works including tree planting and erosion control measures and landscaping commensurate to the reserve.</p>	<p>The Plan of Management will allow and facilitate development for the purposes that would benefit the social, community, and cultural welfare of the community, including:</p> <ul style="list-style-type: none"> <li>▪ Development for the purposes of housing for seniors and persons with a disability</li> <li>▪ Water saving initiatives such as stormwater harvesting, rain gardens and swales.</li> <li>▪ Energy saving initiatives such as solar lights and solar panels</li> <li>▪ Locational, directional and regulatory signage</li> </ul>

### 8.3.2 Balmeringa as general community use

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The purpose of this section is to provide an understanding of the core objectives for community land as a general community use, identify the legislative requirements concerning the development of the land and otherwise identify key matters that set out the strategy for managing Balmeringa.

The core objectives for management of community land categorized as general community use set down in section 36I of the LG Act are as follows:

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

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

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

### 8.4 Leases, licences and other estates

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Leases, licenses and other estates formalise the use of community land by groups and individuals providing facilities and services for public use. Activities should be compatible with the zoning and reservation purpose of the land and provide benefits and services for facilities to the users of the land.

Occupation of the land other than by lease or license or other estate or for a permitted purpose listed in the Local Government (General) Regulation 2021 is prohibited.

The terms of the authorisation for a lease license or other estate should include Native Title assessment and validation under the Native Title Act 1993 and should include advice that the land is not subject to a claim under the Aboriginal Land Rights Act 1983. The authorisation should ensure the proper management and maintenance of the land and the interests of Council and the public are protected. A lease is normally issued where exclusive control of all or part of an area by a user is proposed. In all other instances a license or short term license or hire agreement will be issued.

This Plan of Management expressly authorises the issue of leases, licenses and other estates over the reserves covered by this Plan of Management, provided that:

- the purpose is consistent with the core objectives for the category of the land.
- the lease, license or other estate is for a permitted purpose listed in the Local Government Act 1993 or the Local Government (General) Regulation 2021.
- the issue of the lease, license or other estate and the provisions of the lease, license or other estate can be validated by the provisions of the Native Title Act 1993.
- the land is not subject to a claim under the Aboriginal Land Rights Act 1983.
- the lease, license or other estate is granted and notified in accordance with the provisions of the Local Government Act 1993 or the Local Government (General) Regulation 2021.
- the issue of the lease, license or other estate will not materially harm the use of the land for any of the purposes for which it was dedicated or reserved.
- the Plan of Management expressly authorises the issue of leases/licences and other estates provided that the purpose is consistent with the purpose for which it was dedicated or reserved.

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

### **9. Administration of Plan and Performance Targets**

Section 36(3) of the LG Act requires, as a minimum, for all plans of management, include the following:

- (a) category of the land
- (b) objectives and performance targets of the plan with respect to the land
- (c) means by which the council proposes to achieve the plan's objectives and performance targets
- (d) manner in which the council proposes to assess its performance with respect to the plan's objectives and performance targets.

The land has been categorised as general community use. The following table identifies the management issues; objectives and performance targets; the means in which Council will achieve the stated objectives and the manner in how the performance target is assessed.

**Table 9 - Objectives and performance targets**

<b>Management Issues</b>	<b>s.36(3)(b) Objectives and Performance Targets</b>	<b>s.36(3)(c) Means of achievement of objectives</b>	<b>s.36(3)(d) Manner of assessment of performance</b>
<b>Access</b>	Provide defined paths for pedestrian access, including where practical assess and facilities for people with disabilities, to and within reserve.	Appropriate design and construction for pavements, facilities and other structures to comply with relevant Australian Standards.	Assess useability of Balmeringa by wheelchair users through surveys and observation.  Record and review all accidents and near misses as a result of inappropriate use.
<b>Buildings</b>	Maintain existing buildings to a healthy and safe standard.  Allow new buildings, ancillary to the use of the park, are to complement to the design of the Balmeringa.	Undertake regular cleaning and maintenance of the buildings within Balmeringa.  Assess and determine any development application in accordance with the provisions of the Environmental Planning & Assessment Act, 1979.	Undertake regular maintenance of any other Council asset within the reserve
Irrigation Systems	Allow watering systems to optimise water usage, minimise maintenance and enable appropriate vegetative growth.	Design, install and operate the system.	Number of incidents of failure of the irrigation system.

Management Issues	s.36(3)(b) Objectives and Performance Targets	s.36(3)(c) Means of achievement of objectives	s.36(3)(d) Manner of assessment of performance
Landscaping	<p>Allow use of suitable species and use of landscape materials, including mulching and edge treatments, to achieve the desired landscape character and complement the character of existing plantings.</p> <p>Allow minor earthworks to provide mounding for aesthetic appeal, space definition and visual barriers.</p>	<p>Augment existing indigenous planting. Use exotic species in suitable locations.</p> <p>Application of correct horticultural and tree surgery techniques.</p> <p>Minimise rubbish dumping within the local area via community education.</p>	<p>Number of comments about public acceptance and level of park usage.</p> <p>Degree of turf encroachment into planted areas.</p> <p>Number of reported incidents of infestation of exotic plant species.</p> <p>Number of comments about quality of vegetation.</p> <p>Number of reported incidents of sick trees.</p>
Site Utility Services	<p>Allow for the installation of all services as required by site usage.</p>	<p>Approval by the appropriate Statutory Authorities.</p> <p>Construction and installation of all necessary services.</p> <p>Registration of appropriate easements.</p>	<p>All facilities are adequately serviced, identified and located.</p> <p>Number of objections received from service authorities about the location and quality of services.</p> <p>Number of site utility service installations constructed.</p>

## APPENDICIES

### APPENDIX A - Definitions

<b>Term</b>	<b>Legislative definition</b>
<b>community facility</b>	<p>means a building or place—</p> <ul style="list-style-type: none"><li>(a) owned or controlled by a public authority or non-profit community organisation, and</li><li>(b) used for the physical, social, cultural or intellectual development or welfare of the community,</li></ul> <p>but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.</p>
<b>community land</b>	<p>means –</p> <p>land that is classified as community land under Division 1 of Part 2 of Chapter 6. (Local Government Act, 1993)</p>
<b>community participation plan</b>	<p>means –</p> <p>a community participation plan prepared and published under Division 2.6. (Environmental Planning and Assessment Act, 1979)</p>
<b>environmental planning instrument</b>	<p>means –</p> <p>an environmental planning instrument (including a SEPP or LEP but not including a DCP) made, or taken to have been made, under Part 3 and in force. (Environmental Planning and Assessment Act, 1979)</p> <p>Note. SEPP is an acronym for State Environmental Planning Policy, a LEP is a Local Environmental Plan, and a DCP is a Development Control Plan.</p>
<b>plan of management</b>	<p>means –</p> <p>a plan of management adopted by a council under Division 2 of Part 2 of Chapter 6 and in force in relation to an area of public land. (Local Government Act, 1993)</p>
<b>public reserve</b>	<p>means –</p> <ul style="list-style-type: none"><li>(a) a public park, or</li><li>(b) any land conveyed or transferred to the council under section 340A of the <a href="#">Local Government Act 1919</a>, or</li><li>(c) any land dedicated or taken to be dedicated as a public reserve under section 340C or 340D of the <a href="#">Local Government Act 1919</a>, or</li></ul>

- (d) any land dedicated or taken to be dedicated under section 49 or 50, or
- (e) any land vested in the council, and declared to be a public reserve, under section 37AAA of the [Crown Lands Consolidation Act 1913](#), or
- (f) any land vested in the council, and declared to be a public reserve, under section 76 of the [Crown Lands Act 1989](#), or
- (g) Crown managed land that is dedicated or reserved—
  - (i) for public recreation or for a public cemetery, or
  - (ii) for a purpose that is declared to be a purpose that falls within the scope of this definition by means of an order published in the Gazette by the Minister administering the [Crown Land Management Act 2016](#),

- being Crown managed land in respect of which a council has been appointed as its Crown land manager under that Act or for which no Crown land manager has been appointed, or
- (h) land declared to be a public reserve and placed under the control of a council under section 52 of the [State Roads Act 1986](#), or
- (i) land dedicated as a public reserve and placed under the control of a council under section 159 of the [Roads Act 1993](#),

and includes a public reserve of which a council has the control under section 344 of the [Local Government Act 1919](#) or section 48, but does not include a common.

**Seniors housing**

means a building or place that is—

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),

and that is, or is intended to be, used permanently for—

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,

but does not include a hospital.



## Property Report

29 SOUTHEY STREET JERILDERIE 2716



### Property Details

### Summary of planning controls

2

### Detailed planning information

#### State Environmental Planning Policies which apply to this property

This report provides general information only and does not replace a Section 10.7 Certificate (formerly Section 149)

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**AHIMS Web Services (AWS)  
Search Result**

Purchase Order/Reference : 20-C01-MC Balmeringa

Client Service ID : 548424

Steven Parisotto  
63 Hillam Dr  
Griffith New South Wales 2680  
Attention: Steven Parisotto  
Email: parisplan@icloud.com

Date: 09 November 2020

Dear Sir or Madam:

**AHIMS Web Service search for the following area at Lot : 215, DP:DP756426 with a Buffer of 200 meters, conducted by Steven Parisotto on 09 November 2020.**

**The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.**



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	<b>Aboriginal sites are recorded in or near the above location.</b>
0	<b>Aboriginal places have been declared in or near the above location. *</b>