

Request for Initial Gateway Determination

Instructions to Users

1. When forwarding a planning proposal to the Minister under section 56(1), the relevant planning authority must provide the information specified in this form.
2. Please send this completed form and one (1) electronic copy and two (2) hard copies of the completed Planning Proposal and other information as applicable, to your local Regional Office.
3. This document is a locked word document, please check boxes and type directly into the hi-lighted grey areas of this form.

Relevant Planning Authority Details

Name of Relevant Planning Authority: Central Darling Shire Council

Contact Person: Geoff Laan

Contact Phone and Email: 08 8083 8900 laang@centraldarling.nsw.gov.au

Planning Proposal Details - Attachments

1. **LAND INVOLVED** [
 ATTACHMENT A - List attached of relevant properties.
 ☐
 Attached Completed
2. **MAPS – ATTACHMENT B**
 ☐ Location map showing the land affected by the proposed draft plan in the context of the LGA
 ☐ Existing zoning map showing the existing zoning of the site and surrounding land.
3. **PHOTOS and other visual material**
 ☐ Aerial photos of land affected by the Planning Proposal are located within the planning proposal.
 ☐ Photos of land involved and surrounding land uses are located within the planning proposal.
4. **COMPLETE PLANNING PROPOSAL** [provide 1 electronic and 2 hard copies]
 ☐ Council has provided an electronic copy of the planning proposal prior to sending it to the Department of Planning, Industry and Environment.
5. **PLANNING PROPOSAL HAS BEEN SUPPORTED BY COUNCIL**
 ☐ Council has considered the written planning proposal prior to sending it to the Department of Planning
 ☐ Council has resolved to send the written planning proposal to the Department of Planning [attach Council's resolution]

Geoff Laan **Signed for and on behalf of the Relevant Planning Authority**

DATE 9 June 2020

Planning Proposal for amendments to the *Central Darling Local Environmental Plan 2012* – land use table.

Part 1 - Objectives or Intended Outcomes

The Planning Proposal is to amend the Central Darling Local Environmental Plan 2012 (CDLEP2012) to clarify permitted land uses for various Crown Reserves within the Central Darling Local Government area, and to rectify administrative errors within the Local Environmental Plan permitted land uses within certain land use zones.

The issue to be resolved under the planning proposal relates to the existing land uses on a number of lots where the use is currently prohibited within the land use zone. This issue of prohibited land uses has been identified for various crown reserve lots and other lots across the Central Darling Shire Local Government Area. The prohibited land use issue has been identified and a direction given to resolve the land use problems, during the Crown Reserves Plan of Management Project. The direction to resolve the land use prohibitions was from the Department of Primary Industries within the larger Department of Environment, Primary Industries and Environment.

The planning proposal directly seeks to clarify and correctly identify the land use within the current land use zone. This is deemed necessary by Central Darling Shire Council due to any works on these sites currently requiring justification by the use of existing use rights and in certain cases using the State Environmental Planning Policy (Infrastructure), to support development to these affected lots.

The planning proposal to amend the Central Darling Local Environmental Plan 2012 land use table is viewed as the most efficient way to regularise the current land use and facilitate any future works to the subject sites (Rubbish / waste disposal facilities, Community Centres, Air transport facilities, car parks, public administration buildings, commercial premises etc).

This planning proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 (the Act), the Standard Instrument – Principal Local Environmental Plan (Standard Instrument) and guidelines published by the Department of Planning and Environment (DP&E), including A guide to preparing planning proposals and A guide to preparing local environmental plans.

The objective and intended outcome is to legalise the current land use and enable any future development on the affected lots, to be permitted with consent under the Central Darling Local Environmental Plan 2012 land use table.

Part 2 - Explanation of Provisions

Part 3 of the Environmental Planning & Assessment Act facilitates the making and amendments to Local planning instruments.

Section 3, Division 3.1 of the Act relates to strategic planning. Section 3.8(2) provides that, in preparing a planning proposal, the planning proposal authority is to give effect to any district strategic plan applying to the local government area to which the planning proposal relates or, if there is no district strategic plan, to any regional strategic plan applying to the region of which the local government area is part. In that regard, there is no district strategic plan for the Central Darling Local Government Area and the relevant regional strategic plan is the *Far West Regional Plan 2036* (FWRP2036). There is now a draft Local Strategic Planning Statement for the Central Darling Shire Council. The way in which the planning proposal gives effect to FWRP2036 is set out further below.

Section 3.13 of the Act allows the making of an environmental planning instrument for the purposes of achieving the objects of the Act. That can include an instrument that amends an existing instrument, such as the existing Central Darling Local Environmental Plan 2012 (DCLEP 2012).

The objects of the Act are set out in Section 1.3 and include, amongst other things:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and the amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of responsibility for environmental planning and assessment between different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The planning proposal directly achieves object (a) and (c) to social and economic welfare of the community and a better environment by the proper management, development and conservation of the New South Wales natural and other resources and to promote the orderly and economic use and development of the land.

The proposed change to the land use table promotes a better social and economic benefit for the community as legalising the subject sites both historic and current use enables better management of the land. Currently the use of the subject Crown Reserve lots and other lots are prohibited under the Central Darling Local Environmental Plan 2012, the proposed amendment corrects this error and reduces the time taken to approve any development on the affected lots by making the current use of the lots permissible in the land use zone.

Section 3.14 relates to the contents of environmental planning instruments and allows an environmental planning instrument to (amongst other things) make provision for:

- (a) protecting, improving or utilising, to the best advantage, the environment*
- (b) controlling (whether by the imposing of development standards or otherwise) development*

The planning proposal to amend the land use table is consistent with Section 3.14 clauses (a) and (b).

Section 3.20 relates to the standardisation of environmental planning instruments and provides for a process whereby the *Standard Instrument – Principal Local Environmental Plan* (the Standard Instrument) is to be used. CDLEP2012 is in the form of the Standard Instrument.

Section 3.20(6) provides that the instrument may be amended by another amending instrument. This is deemed necessary by Central Darling Shire Council due to any works on these sites currently requiring development assessment by the use of existing use rights and in certain cases using the State Environmental Planning Policy (Infrastructure), to support proposed development to these affected lots.

Part 3, Division 3.4 of the Act relates to local environmental plans, which are a type of environmental planning instrument. Under Section 3.31, a “local plan making authority” may make a local environmental plan for its local government area. That “local plan making authority” in this instance is Central Darling Shire Council. Under section 3.34, Central Darling Shire Council is also a “planning proposal authority”.

Under Section 3.33, before making a local environmental plan, the planning proposal authority is required to prepare “a document that explains the intended effect of the proposed instrument and sets out the justification for the making of the proposed instrument”, being the planning proposal. It must include:

- (a) a statement of the objectives or the intended outcomes of the proposed instrument,*
- (b) an explanation of the provisions that are to be included in the proposed instrument,*
- (c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1),*
- (d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,*
- (e) details of the community consultation that is to occur before the making of the proposed instrument.*

The Planning Secretary may issue requirements in respect to the preparation of a planning proposal. No such requirements have been issued at this time. Central Darling Shire Council does not have a strategic planning statement at this time.

The above Items are addressed in further parts of this planning proposal.

Part 3 - Justification

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

Yes, the Crown Reserves Plan of Management Project directed and funded by the New South Wales Department of Primary Industry, which is the Government Department responsible for Crown Reserve land in New South Wales.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes; or is there a better way?

The planning proposal is the best means of achieving the objective, as the subject sites are in current use as Waste Disposal facilities, Air transport facilities, Community facilities and a childcare centre; the planning proposal formalises the historic and current use of these sites and will facilitate future expansion of the uses if required. The current prohibition of the existing and historic use of the sites was an oversight or lapse made when the Central Darling Local Environmental Plan 2012 was gazetted in 2012.

The addition of more land uses into the RU1 Primary Production zone, the RE1 Public Recreation zone, the RU5 Village zone, and the R1 General Residential zone is the most efficient and time efficient method for legalising the current use of the relevant sites around the towns in the Central Darling Shire Council LGA.

The changing of the actual zone would create the requirement for many lots/sites to be spot rezoned, this may not be of benefit at this time (due to additional research and investigation plus the change in councils mapping).

The most efficient planning method is through this planning proposal which adds additional land uses to the R1 General Residential zone, RU1 Primary production, RE1 Public recreation and RU5 Village zones. This does change the current land use zoning, or the Local Environmental Planning maps; this is the preferred outcome for the community of each town within the Central Darling Shire Council.

It is therefore considered that the planning proposal is worthy of support.

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable **regional or sub-regional strategy** (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Far West Regional Plan 2036 is the relevant strategic plan for the Central Darling LGA. The purpose of Central Darling Local Environmental Plan 2012 and amending instruments such as presently proposed is to give effect to Far West Regional Plan 2036.

The NSW Government's vision for the Far West Region is to create "...a diverse economy, supported by the right infrastructure, an exceptional natural environment and resilient communities."

There are goals arising from that vision, being:

- Goal 1 - A diverse economy with efficient transport and infrastructure networks
- Goal 2 - Exceptional semi-arid rangelands traversed by the Barwon-Darling River
- Goal 3 - Strong and connected communities

The planning proposal to add additional uses to RU5 Village, R1 General Residential, RE1 Public Recreation and RU1 Primary Production Zones is viewed as the most effective way of regularising the current land use and to facilitate future use of the sites.

4. Is the planning proposal consistent with the local council's **Community Strategic Plan**, or other **local strategic plan**?

The Local Strategic plan is in draft form, however the planning proposal is in line with the objectives and is consistent with the Draft Local Strategic Plan and the Community Strategic Plan for the Central Darling Shire Council.

5. Is the planning proposal consistent with applicable state **environmental planning policies**?

The planning proposal is consistent with the following State Environmental Planning Policies.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) was introduced to facilitate the delivery of infrastructure across NSW by improving regulatory certainty and efficiency. The

Infrastructure SEPP has specific planning provisions and development controls for different types of infrastructure.

Part 3, Division 10A of the Infrastructure SEPP relates to Operational land (this is dependent on the Crown Lands Plan of Management approval of certain Crown Reserve Lots becoming Operational land, Division 14 Public administration buildings and buildings of the Crown (this covers the Government buildings that are using existing use rights for use and any changes to the heritage building), and Division 23 Waste or resource management facilities. The Infrastructure SEPP is currently enabling the use of the all the Central Darling Shire Waste Disposal facilities as their current use is prohibited in the RU1 Primary Production land that they are located upon. The addition of waste disposal facility to the RU1 zone will enable the guaranteed use and upgrades of these facilities by council without the reliance on the Infrastructure SEPP.

waste disposal facility means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP) was introduced to facilitate the delivery of schools and childcare facilities in one document, across NSW by improving regulatory certainty and efficiency. The Education SEPP has specific planning provisions and development controls for different types of Educational establishments and childcare facilities under different planning approval pathways under the NSW Planning system.

Part 3 Early education and care facilities – specific development controls provide development standard for the construction and operation of childcare facilities.

The addition of educational establishments and childcare facilities to be permissible with consent on RE1 Public recreation land, removes the restriction placed on the development from the following clauses for the Education SEPP.

“16 Additional uses of certain State land permitted

(1) In this clause, **prescribed State land** means State land that is—

- (a) not zoned for conservation purposes under an environmental planning instrument, and
- (b) not a forestry area within the meaning of the [Forestry Act 2012](#), and
- (c) not reserved under the [National Parks and Wildlife Act 1974](#), and

(d) not reserved under the [Crown Lands Act 1989](#) for a public purpose that, in the opinion of the relevant planning panel, is an environmental protection or nature conservation purpose.”¹

“(7) In this clause, a reference to land **zoned for conservation purposes** means land in any of the following land use zones—

- (a) Zone RE1 Public Recreation,**
- (b) Zone E1 National Parks and Nature Reserves,**

¹ *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP) – NSW Legislation Website 2019.*

- (c) Zone E2 Environmental Conservation,
- (d) Zone W1 Natural Waterways.”²

Standard Instrument – Principal Local Environmental Plan

The Standard Instrument - Principal Local Environmental Plan (Standard Instrument) sets out thirty-five standard zones for councils to use when preparing local environmental plans (LEPs) for their local government area.

This includes Zone RU1 Primary Production, with the following zone objectives:

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

LEP practice note PN 11-002 provides an overview of the general purpose of each zone. It states that that the general purpose of the RU1 Primary Production zone is for the following:

This zone covers land used for most kinds of commercial primary industry production, including extensive agriculture, intensive livestock and intensive plant agriculture, aquaculture, forestry, mining and extractive industries. The zone is aimed at utilising the natural resource base in a sustainable manner. The zone is not a default zone for non-urban land. The zone is allocated to land where the principal function is primary production.

However, the zoning of all non-urban land surrounding the Wilcannia town centre is all zoned RU1 Primary Production regarding the historical or current use of the land. To minimise changes to Central Darling Local Environmental Plan 2012 mapping the addition of land uses to the RU1 Primary Production and R1 General Residential Zone is seen as the most efficient way to legalise the current use of various affected lots across the Central Darling Local Government Area.

The addition of Educational establishments and childcare facilities to the be a permitted land use to the Public Recreation zone RE1 is to formalise the historic and dedicated use of part of Burke Park for a pre-school.

LEP Practice Note (PN 10-002) Preparing LEPs using the Standard Instrument: standard zones

The purpose of this practice note is to provide guidance to councils on zoning in standard instrument local environmental plans.

The practice note specifies that zones for the new LEPs should:

“The core zone objectives are used to clarify the role and function of the zone. There are one or more core objectives for development in each zone.

The Land Use Table in the Standard Instrument mandates certain permitted and prohibited land uses in certain zones. For each zone, mandated uses may be set out under:

² State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP) – NSW Legislation Website 2019.

- Item 2 (Permitted without consent)
- Item 3 (Permitted with consent)
- Item 4 (Prohibited).

An **open zone** is one where a broad variety of land use can be considered. When developing the Land Use Table for an open zone, councils should:

- specifically list any mandated or other uses that may be undertaken without consent under Item 2;
- specifically list any mandated or other land uses as prohibited under Item 4 'Prohibited'; and
- specifically list any mandated or other uses in Item 3 to achieve the zone objectives. In addition, insert the words 'Any development not specified in Item 2 or 4.'

This 'open' approach allows greater flexibility. For example, the High-Density Residential zone and some Business zones could be considered 'open' providing for a mix of commercial, residential, tourist and visitor and recreational activities.

The open approach minimises the need to undertake 'spot rezoning's' or other ad hoc LEP amendments to permit additional acceptable uses that were not anticipated during the initial LEP preparation. In addition, councils can maximise the flexibility in nominating permissible land uses by using 'group' terms rather than listing only some of the development types from within that group (e.g. 'commercial premises,' 'residential accommodation,' 'tourist and visitor accommodation')."³

From the above "open approach" the addition of Car Parks, Commercial premises, function centres, public administration buildings, Registered clubs and water treatment facilities and tourist and visitor accommodation within the R1 General Residential Zone will cover the existing uses within the surrounding area of the Wilcannia Town Centre and encourage future redevelopment opportunities within the town.

The addition of the waste disposal facility to the RU1 zone is to enable the rubbish tip in each of the main towns of the Central Darling Council to operate in a legal manner.

The additions to the Central Darling Local Environmental Plan 2012 though not completely in keeping with the general objectives of the RU1 Primary Production and R1 General Residential zones the addition to the RU1 zone of the Waste disposal facility aligns with the fourth objective of the zone "To minimise conflict between land uses within this zone and land uses within adjoining zones" as the change legalises a historic and important use of the land in each of the towns.

The additions to the R1 General Residential zone also minimise conflict of land uses, by legalising the historic use of the land which in turn will provide future benefits to the town by expanding the commercial uses in the township, therefore potential job opportunities for the residents of Wilcannia.

The addition of Educational establishments and childcare facilities to the be a permitted land use to the Public Recreation zone RE1 is to formalise the historic and dedicated use of part of Burke Park for a pre-school.

6. Is the planning proposal consistent with applicable **Ministerial Directions** (s.117 directions)?

³ LEP Practice Note (PN 10-002) Preparing LEPs using the Standard Instrument: standard zones – Department of Planning, Industry and Environment website – 2019.

Ministerial directions are issued under Section 9.1 of the Environmental Planning and Assessment Act (formerly Section 117 Directions). Local councils must follow these Directions when preparing planning proposals for new LEPS. The Directions cover the following broad categories:

- employment and resources
- environment and heritage
- housing, infrastructure and urban development
- hazard and risk
- regional planning
- local plan making.
- Metropolitan planning

This planning proposal must address whether the implementation of the planning proposal will comply with Ministerial Directions issued under Section 9.1 of the Act, or under the equivalent former provisions (formerly Section 117 Directions).

This planning proposal must address whether the implementation of the planning proposal will comply with ministerial directions issued under Section 9.1 of the Act, or under the equivalent former provisions (formerly Section 117 Directions).

Part 1 of the directions relates to employment and resources.

Part 1.1 of the directions relates to business and industrial zones. It applies where a planning proposal will affect any existing business or industrial zone. The planning proposal does not affect any business or industrial zones. The proposed amendments will however expand the commercial properties available within Wilcannia which will assist in the promotion of employment. The proposal will not affect properties within any other business or industrial zones.

For the properties affected by Part 1.1 (the properties that are currently commercial businesses will now be permissible uses in the residential zone where they are located). the planning proposal must (a) give effect to the objectives of the direction; (b) retain the areas of existing business or industrial zones; (c) not reduce the total potential floor space area for employment uses and related public services in business zones; (d) ...; and (e) ensure that proposed new employment areas.

The planning proposal does not alter the area of business zones, however, the addition of commercial uses as being permissible in the R1 general residential zone in Wilcannia expands the available gross floor area for commercial businesses.

The objectives are (in summary) (a) encourage employment growth; (b) protect employment land; and (c) support the viability of identified centres. The proposal gives effect to those objectives by increasing the amount of land that permits commercial business on the perimeter of the town centre. The proposal will therefore comply with the directions in Part 1.1.

Part 1.2 of the directions relates to rural zones. It applies where a planning proposal will affect land in an existing or proposed rural zone.

The direction is applicable to the planning proposal because the planning proposal affects the following sites:

- Wilcannia, Ivanhoe, Menindee, Sunset, White Cliffs and Tilpa Waste disposal facilities, which are currently non permitted uses within the RU1 Primary Production.

The planning proposal legitimises the current and historical use of these sites for waste disposal facilities, this land has never been used for primary production purposes. Therefore, the planning proposal complies with the Ministerial directions.

The relevant direction is that the planning proposal must not rezone the land to business, residential, industrial or other specified uses. The planning proposal complies with that direction.

Part 1.3 of the directions relates to mining, petroleum production and extractive industries. It seeks to ensure that land is not rezoned in a way that will compromise the potential extraction of minerals and the like. The direction applies where a planning proposal would prohibit the extraction of minerals or the like or restrict such activities by permitting a form of development that would be incompatible with those activities. The direction is not applicable because the planning proposal would not permit any different land use to the land uses that are already permitted.

Part 1.4 of the directions relates to rural lands. It applies to any planning proposal that seeks to change zone boundaries for rural or environment protection zone lands or to change the minimum lot size for such lands. The direction does not apply to the planning proposal.

“1.5 Rural Lands Objective

(1) The objectives of this direction are to:

- (a) protect the agricultural production value of rural land,*
- (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,*
- (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,*
- (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land*
- (f) support the delivery of the actions outlined in the New South Wales Right to Farm Policy.*

What a relevant planning authority must do if this direction applies

(4) A planning proposal to which clauses 3(a) or 3(b) apply must:

- (a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement*
- (b) consider the significance of agriculture and primary production to the State and rural communities*
- (c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources*
- (d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions*
- (e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities*
- (f) support farmers in exercising their right to farm*
- (g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses*
- (h) consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land*
- (i) consider the social, economic and environmental interests of the community.*

(5) A planning proposal to which clause 3(b) applies must demonstrate that it:

is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains where it is for rural residential purposes:

i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres

ii. is necessary taking account of existing and future demand and supply of rural residential land.

Note: *where a planning authority seeks to vary an existing minimum lot size within a rural or environment protection zone, it must also do so in accordance with the Rural Subdivision Principles in clause 5.16 of the relevant Local Environmental Plan.* ⁴

The addition of the waste disposal facility to the RU1 zone is to enable the rubbish tip in each of the main towns of the Central Darling Council to operate in a legal manner. Furthermore, the additions to the RU1 Primary Production of the Waste disposal facility aligns with objective 4(g) the zone to minimise fragmentation of rural land and reduce risk of land use conflict between residential uses and other rural land use as the sites are currently used as waste disposal facilities, they are on the edge of the residential areas and don't affect the surrounding RU1 agricultural use of the land.

Part 2 of the directions relates to environment and heritage.

Part 2.1 of the direction relates to environment protection zones. It provides that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas and must not reduce the extent of existing environment protection zones. The direction does not have to be complied with for matters of minor significance. In that regard, the proposal does not affect existing environment protection zones and is of minor significance. The direction therefore does not apply to the planning proposal.

Part 2.2 of the direction relates to coastal management and is not applicable.

Part 2.3 relates to heritage conservation. Its objective is to conserve items, areas and places of environmental heritage significance and indigenous heritage significance. The direction is that a planning proposal must contain provisions that facilitate the conservation of:

- (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- (b) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act, 1974*, and
- (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

The direction further provides that a planning proposal may be inconsistent with the direction if the relevant planning authority can satisfy the Director-General or relevant officer that (a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation or regulations that apply to

⁴ Ministerial Directions issued under Section 9.1 of the Act - Accessed Website Department of Planning, Industry and Environment December 2019.

the land or the provisions of the planning proposal that are inconsistent are of minor significance.

The planning proposal does not affect any land that is of environmental or indigenous heritage significance of an item, and area, object or a place conserved by a environmental planning instrument, legislation or regulations. The planning proposal only makes the current use permissible on the land.

The planning proposal complies with and achieves the objectives of the direction.

Part 2.4 relates to recreation vehicle areas and is not relevant to the planning proposal.

Part 2.5 relates to a different area and is not applicable.

Housing, infrastructure and urban development:

Part 3.1 relates to residential zones. This direction applies when a planning authority prepares a planning proposal that will affect land within an existing or proposed residential zone. The planning proposal will affect land zoned R1 General Residential and it therefore relevant to the planning proposal. However, the direction is not applicable where the provisions that are inconsistent are of minor significance. In that regard, the planning proposal will not significantly affect housing outcomes as the subject sites are currently used for the purpose (ie car park, commercial premises, public administration building and *tourist and visitor accommodation*, *therefor there will be no impact on the housing for Wilcannia town centre*. The planning proposal is not removing land from the CDLEP2012 that would otherwise be available for housing.

The addition of Educational establishments and childcare facilities to the be a permitted land use to the Public Recreation zone RE1 is to formalise the historic and dedicated use of part of Burke Park for a pre-school.

Hazard and risk:

Part 4.1 relates to acid sulfate soils.

The planning proposal does not affect any classified acid sulfate soil land.

Part 4.2 relates to mine subsidence and unstable land.

The subject sites are not affected by mine instability or subsidence.

Part 4.3 relates to flood prone land and restricts specified rezoning's within flood prone areas.

The subject sites are not affected by flood prone land.

Part 4.4 relates to planning for bushfire protection.

The subject sites are not bushfire prone land.

Part 5 relates to regional plan for specified areas and does not affect the planning proposal.

Local plan making:

Part 6.1 relates to approval and referral requirements and provides that a planning proposal must minimise the reliance upon concurrence authorities and restricts the use of designated development categories.

The planning proposal does involve development – listed as designated Development under the Environmental Planning and Assessment Regulation 2000, in Schedule 3 item 32 - Waste management facilities or works. However, this use (Waste disposal facility – Rubbish Tip) is an

historic and existing use for the land in question in the Central Darling Shire Local Government area. The Waste disposal facilities have historic use of the subject land for the towns of Wilcannia, Menindee, White Cliffs and Ivanhoe. As these facilities are on Crown Reserve Lots and have historic and dedicated uses for this purpose, it is considered unnecessary to seek concurrence on the crown reserve lots historically dedicated for this use as a waste disposal facility. The planning proposal is therefore consistent with that direction.

Part 6.2 relates to the reservation of land for public purposes and is not applicable.

Part 6.3 relates to site specific provisions. The planning proposal does not include such provisions.

Part 7 relates to metropolitan planning and is not relevant to the planning proposal.

Section C - Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The planning proposal is unlikely to adversely impact on any critical habitat, threatened species, population or ecological communities or their habitats as the proposed changes to the land use table affected land is either within the established Wilcannia town centre, or are Crown Reserve lots classified as either operational land or Community land for community use.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No, The land is within the established Wilcannia town centre, the land is a mix of private and public owned land. The public land is currently managed by council officers, with daily inspections of each site.

9. How has the planning proposal adequately addressed any social and economic effects?

The legalisation of the land current land uses on the land will clarify how future development will occur and what is required on the affected land. This provides a more efficient method of clarification of land use and reduces the amount of red tape for future use of the affected land.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The land is within the established Wilcannia town centre, the land is a mix of private and public owned land. The public land is currently managed by council. There is no impact on public infrastructure with the planned changes to the land use table within the Central Darling Local Environmental Plan.

11. How many lots or hectares of residential or employment land are proposed?

There is no residential or employment land proposed the amendments are to add additional land uses to the land use table to legalise the current land use as requested by Crown Lands.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination, and have they resulted in any variation to the planning proposal?

Any Gateway Determination issued will specify relevant agencies to be consulted.

It is considered appropriate that any Gateway Determination issued requiring public exhibition of the Planning Proposal for a minimum of 28 days, in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000.

The Central Darling Shire Council has engaged MB Town Planning to prepare the draft planning proposal for the gateway determination. The required public exhibition of the Planning proposal for a minimum of 28 days in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000* will be undertaken by Central Darling Shire Council.

Section E – Reclassification of Public Land

13. Is the planning proposal a result of any strategic study or report?

The planning proposal applies to land within the towns of Wilcannia, Menindee, Tilpa, Ivanhoe and White Cliffs. This issue of prohibited land uses on particularly Crown Reserve Lots, has been identified during the Crown Reserves Plan of Management Project. The direction to resolve the prohibited land uses is from the Department of Primary Industries within the larger Department of Environment, Primary Industries and Environment.

The problem to be resolved under the planning proposal relates to the existing land uses on a number of lots being prohibited within the land use zone, this applies to various crown reserve lots and other lots across the Central Darling Shire Local Government Area. The planning proposal directly seeks to clarify and correctly identify the land use within the current land use zone. This is deemed necessary by Central Darling Shire Council due to any works on these sites currently requiring justification by the use of existing use rights and in certain cases using the State Environmental Planning Policy (Infrastructure), to support development to these affected lots. The current prohibition of the current land uses also affects funding to the these projects.

The planning proposal to amend the Central Darling Local Environmental Plan 2012 land use table is viewed as the most efficient way to regularise the current land use and facilitate any future works to the subject sites (Rubbish / waste disposal facilities, Community Centres, Air transport facilities, car parks, public administration buildings, commercial premises etc).

14. Is the planning proposal consistent with the local council's community plan, or other local strategic plan?

The planning proposal to amend the *Central Darling Local Environmental Plan 2012*, by the amending the Land use table with additional land uses. This amendment is to make minor corrections to the land use table. The amendments area is consistent with the Central Darling Community Plan and the Draft Central Darling Local Strategic Plan.

15. If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished.

The planning proposal adds additional land uses ot the existing land use table. There is no extinguishment of any interests in the land. All land owners will be consulted with the proposed amendments to the Central Darling Local Environmental Plan 2012 and what implications this has on the owners rights regarding further development to the properties. The planning proposal is considered important make the current land uses within the Wilcannia town centre lawful uses of the land. This also reduces future red tape for any development that may occur on the relevant land.

16. The concurrence of the landowner, where the land is not owned by the relevant planning authority.

The planning proposal adds additional land uses of the existing land use table. All land owners will be consulted with the proposed amendments to the Central Darling Local Environmental Plan 2012 and what implications this has on the owners rights regarding further development to the properties.

Part 4 - Community Consultation

It is intended for the planning proposal to be notified by letter to the owners of all properties that are affected by the change to the land use table of the Central Darling Local Environmental Plan. (except where that owner is Council). One of the main landowners is the New South Wales State Government and is managed through the Crown Reserve Management Unit (Department of Planning, Industry and Environment) which is being consulted with during the Crown Reserve Plan of Management project.

Individualised letters are to be sent to each affected property to explain how the changes to the Central Darling Local Environmental Plan 2012, by the additional land uses added to the land use table, will make the current uses of the land permitted with consent.

There will also be advertisements digitally in the Barrier Daily Truth, in the Wilcannia News, and in the relevant Council branches in Menindee and Ivanhoe. Due to Covid 19 and the demise of the paper copies of the local newspapers (now digital format only) additional information may have to be distributed to residents in the form of a brochure or letter and other information sent in hard copy. This is due to the low rate of computer and smart phone use in the Central Darling Shire Council area (also lack of mobile and data coverage due to the far western NSW location).

Public notices will be placed on regularly used noticeboards across the Central Darling Local Government Area, (Menindee, Wilcannia, Ivanhoe, White Cliffs, Tilpa). The planning proposal will also be explained prominently on Council's website and Facebook page. It is intended that the notification provided a 28-day period for submissions to be received. A public community consultation meeting will be held within the first week of the exhibition period in Wilcannia.

The material available for inspection in person or on Council's website will include this planning proposal and also a summary document intended for public viewing with a clear summary (in plain English) of each of the proposed amendments.

During the notification period, the relevant Council representative will be available to take enquiries and their telephone number, and a dedicated email address will be provided.

Submissions received will be collated and assessed at the completion of the notification period and will be taken into consideration. Amendments will be made to the Planning proposal if required.

Part 5 – Risks to the Planning Proposal

Possible risks to the Planning Proposal are as follows:

1. State or Commonwealth public authority
 - The only issue in regard to the planning proposal is the additional land use of the Air Transport facilities also allows a project to commence for new Royal Flying Doctor Service administration and storage buildings to be constructed at Tilpa. This is a State Government funded projects and requires the new RFDS building to be permissible with a development application through council.
2. Community objection to the LEP.
 - The additions to the land use table will be advertised (regional papers are now only digital, this may require paper brochures to be produced and distributed to those residents without access to computers or smart phones) and notified by council for the required 28 days, the amendments legalises the current land use of the Crown Reserve lots and the land uses within Wilcannia Town Centre, objections to the changes are not anticipated as there is no reduction in the permissible land uses on the subject land or Wilcannia Town Centre.
3. Time required to resolve public and or community objections
 - The public exhibition period will be for the mandated 28 days, there is no issue with the time period for exhibition. Please note the normal electronic and digital notification may need to be accompanied by a paper mail out to residents due to the low use of computers and smart phones in the Central Darling Shire area (poor data and phone transmission coverage by Telstra). Furthermore, the current covid 19 isolation requirement may hinder the notification to the local aboriginal population. The proposed solution is to provide additional exhibition materials sent to each household. This will need to be investigated further prior to the exhibition period. Objections will be dealt with by council and amendments if required will be made to the planning proposal in agreement with the Department of Planning, Industry and Environment and NSW Heritage.
4. Requirement to exhibit.
 - If required re-exhibition will be arranged by council for another 28 days.
5. Requirement for a public hearing.
 - If required a public hearing can be carried out by council for the interested parties in each of the Central Darling Shire Council areas (Wilcannia, Menindee, White Cliffs and Ivanhoe).
6. Missing Council meetings.
 - Central Darling Shire Council has ensured and will present to Council Meetings all issues and information relating to the Planning Proposal. Council will meet the legal requirements for planning proposal process and ensure total transparency in the progress of the planning proposal.
7. Delay in finalising the associated development control plan.
 - This is not applicable as the Central Darling Shire Council does not have a Development Control Plan.
8. Department of Planning, Industry and Environment delay in resolving or changing the Standard Instrument policy and practice.
 - The planning proposal has addressed all current controls and policies relating to the Standard Instrument, this issue is not viewed as an issue for the current planning proposal.
9. Council staff taking leave or resigning
 - The Central Darling Shire Council is a small Far Western NSW Council, Council Staffing levels are controlled. The Council has engaged a private consultant to undertake the Strategic Planning for the current Planning Proposal.
10. Council lack of resources.

- Central Darling Shire Council does lack resources of many of New South Wales Councils, however, the council is endeavouring to meet the documentation requirements for the progress of the planning proposal including mapping.
- Due to low levels of council staff and financial resources certain areas within the planning proposal could not be provided, including assessment of Threatened Species information and other scientific technical information. Council does not believe the above issues should impact on the making of the planning proposal as these issues do not apply to the proposed Crown Reserve Lots (currently waste disposal facilities, community centres) nor do they apply to the affected land (lots) within the Wilcannia Town Centre.
- There has been a delay in the confirmation of land affected by native title land claims, this will be resolved by Central Darling Council prior to the making of the amendments to *Central Darling Local Environmental Plan 2012*.
- Council does not believe the above issues should impact on the making of the planning proposal as Council will continue to address any outstanding issues prior to making of the amendment to the *Central Darling Local Environmental Plan 2012*.

Part 6 – Benchmark Timeframes for making the Plan

1. The plan will be made within 3 months (Dependant on the current Covid 19 issues) of the Gateway Determination date.
2. The Planning Proposal will aim to be exhibited within the timeframe specified in the Gateway Determination.
3. Community Consultation will be completed 28 from the last day the Planning Proposal must be exhibited. Please note the normal electronic and digital notification may need to be accompanied by a paper mail out to residents due to the low use of computers and smart phones in the Central Darling Shire area (poor data and phone transmission coverage by Telstra).
4. Public Authority Consultation will be completed within 35 days of the Gateway Determination date.
5. Council's request for the Department to draft and finalise the LEP should be made in 6 weeks prior to the projected publication date, as specified in point 1 above.

Timeframes

To be determined following the assessment of the planning proposal by council and the determination of the gateway process.

The anticipated project timeline is as follows, whilst noting that it is only an estimate and depends on factors outside of the control of the proponent:

Report to Council:	February 2020
Request gateway determination:	June 2020
Receive gateway determination:	July2020
Public exhibition:	August/ September 2020
Consider submissions and make final report:	September/ October 2020
Submission to Planning NSW for Parliamentary Counsel:	October 2020
Planning proposal is made:	October 2020