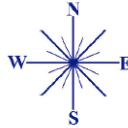


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PLANNING PROPOSAL FOR AMENDMENTS TO THE CENTRAL DARLING LOCAL ENVIRONMENTAL PLAN 2012

LOCAL GOVERNMENT AREA: THE CENTRAL DARLING SHIRE COUNCIL

Proposed amendments to the Central Darling Local Environmental Plan 2012 to amend the land use table



New Wilcannia park with heritage 1890 water supply tank

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Annexure B: Council Report and Minute (xxx 2020)

No	Author	Version
1	MB Town planning Pty Ltd	Version A – 20 November 2019
2	MB Town planning Pty Ltd	Version B – 20 December 2019
3	MB Town planning Pty Ltd	Version C – 20 March 2020
3	MB Town planning Pty Ltd	Version D – 9 June 2020

1. INTRODUCTION - OBJECTIVES AND INTENDED OUTCOMES

This is a planning proposal prepared by Central Darling Shire Council for submission to the NSW Department of Planning and Environment pursuant to Section 3.33 of the *NSW Environmental Planning and Assessment Act, 1979*.

Proposed amendments to The Central Darling Local Environmental Plan 2012 (Amendment No (#)).

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 subject land is located within Central Darling Shire Local Government area within the townships of Wilcannia, Menindee, Tilpa, Ivanhoe and White Cliffs.

1.0 DESCRIPTION OF THE SITE AND LOCALITY

The planning proposal applies to land within the towns of Wilcannia, Menindee, Tilpa, Ivanhoe and White Cliffs. This issue of prohibited land uses 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 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.

This planning proposal relates only to those matters to be amended in the Central Darling Local Environmental Plan 2012.

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.

1.1 STATUTORY AND STRATEGIC PLANNING CONTEXT

Central Darling Local Government Area

The location of the Central Darling Local Government Area (Central Darling LGA) is shown in Figure 4. It is in far-western NSW.

The Central Darling LGA is the largest local government area in NSW by spatial extent, comprising around 53,000 square kilometres, but with the smallest population, being 1,833 people according to the 2016 Australian Bureau of

Statistics Census. Its low population density reflects its semi-arid nature. The main town within the Central Darling LGA is Wilcannia (Figure 5), centrally located within the local government area and having a population of around 745 people.

The nearest substantial town to the Central Darling LGA is Broken Hill (Figure 5), a 198 kilometre (2 hours) road distance west of Wilcannia. Wilcannia is around 712 kilometres northeast of Adelaide and is around 950 kilometres west of Sydney, being connected to both cities by the Barrier Highway.

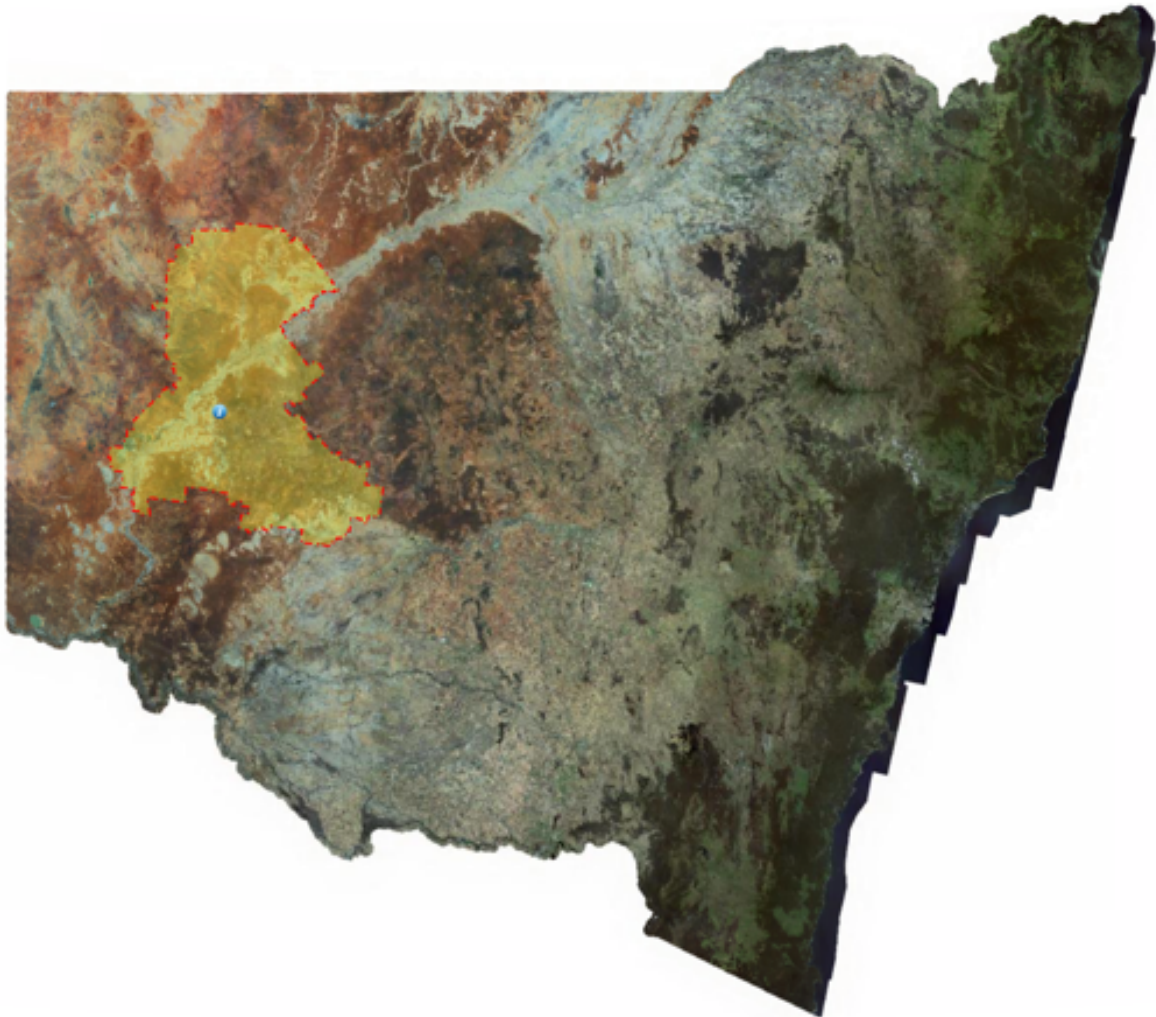


Figure 1: Location of the Central Darling LGA (highlighted in yellow) within NSW (Source: Six Maps)

The Central Darling LGA is traversed by the Darling River system, which helps support some horticultural uses around Menindee (where the Darling River forms an intermittent lake system). The Central Darling LGA is characterised by large sheep grazing properties, opal mining near to White Cliffs and seasonal tourism.

The Central Darling LGA is home to indigenous people including the Paakantji people and the Ngiyampaa people. Indigenous people are around 38 percent of the population.

The population of the Central Darling LGA has been declining with the current population of 1,833. The Central Darling LGA is affected by social and economic issues due to the remote location in far west NSW and the major issue of poor water security. Other issues are low employment levels and infrastructure maintenance challenges. However, the residents of the Central Darling LGA enjoy their remote location that provides a unique way of life.

Wilcannia is located on the north-western side of the Darling River. The Central Darling Shire is headquartered in Wilcannia. Wilcannia is a major service centre and resting place for travellers along the Barrier Highway.

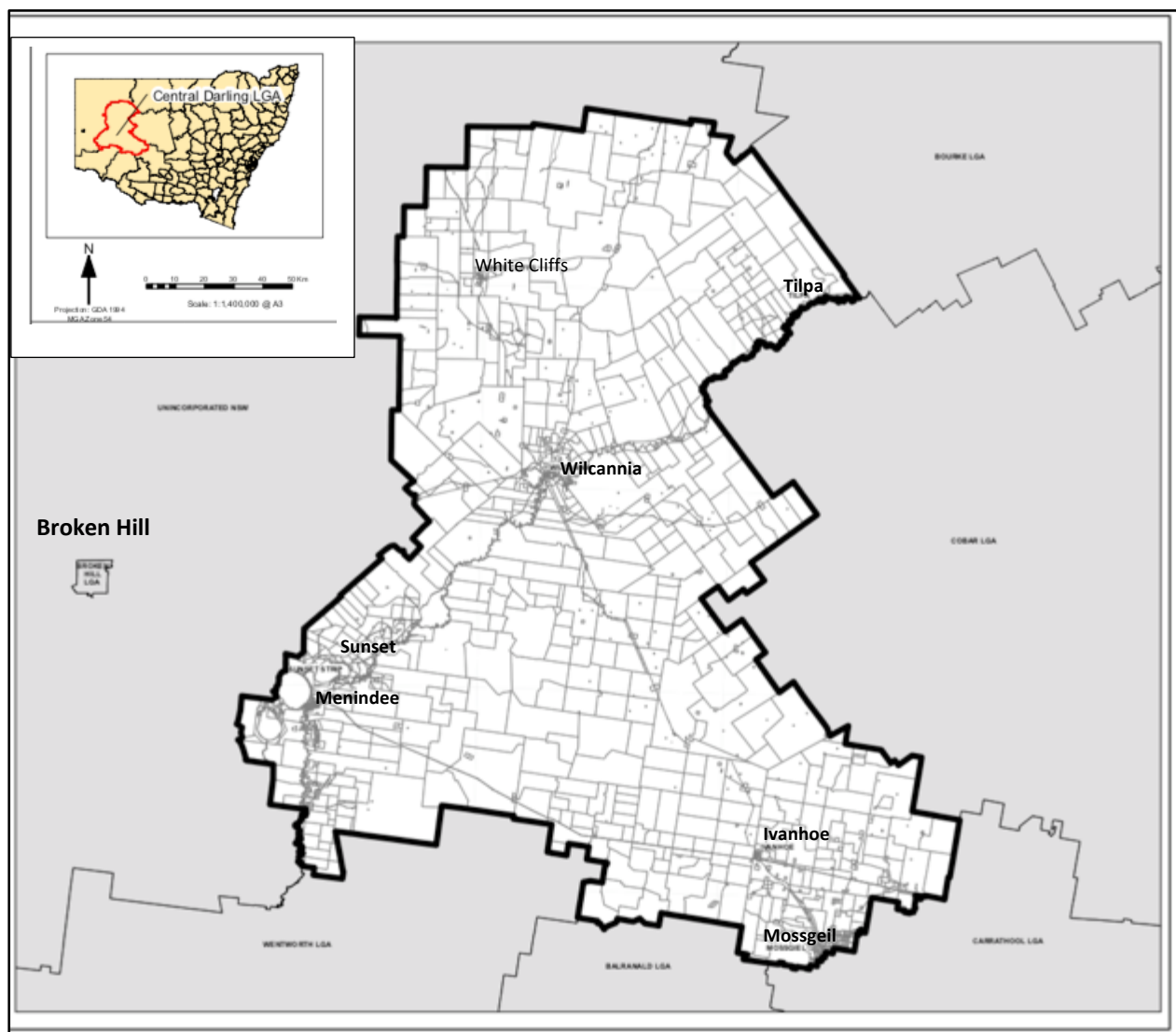


Figure 2: Location of Central Darling Shire Towns (source: NSW Legislation Website 2020)

1.2 Objectives and Intended outcomes

The objective and intended outcomes of this planning proposal is to amend the Central Darling Local Environmental Plan 2012 (CDLEP2012) to resolve an issue with various crown reserve lots and other lots across the Central Darling Shire Council area where the historic and current land use is a prohibited land use within the CDLEP 2012. This issue has been identified during the Crown Reserves Plan of Management Project directed by the Department of Primary Industries within the larger Department of Environment, Primary Industries and Environment.

The planning proposal seeks to clarify and correctly identify the land use within the current land use zone. This is deemed necessary by 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.

The intention of the planning proposal is to amend the Central Darling Local Environmental Plan 2012 land use table to regularise the current land uses and facilitate any future works to the Crown Land reserves (Rubbish / waste disposal facilities, Community Centres, Air transport facilities, car parks, public administration buildings, commercial premises etc). The amendment will enable a more efficient approval of works to council facilities and operational land where they are located on a crown reserve lot. 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.

The additional amendments to the Central Darling Local Environmental Plan 2012 (CDLEP2012) are to correct errors in the land use zones where the existing uses were omitted in the making of the CDLEP2012. This change is to facilitate the existing use of the buildings and the land, particularly in the Wilcannia town centre and its immediate surrounds.

The addition of Educational establishments and child care 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.

PART 2. EXPLANATION OF PROVISIONS FOR THE PROPOSED AMENDMENTS TO THE CENTRAL DARLING LOCAL ENVIRONMENTAL PLAN 2012

FOR THE PROPOSED AMENDMENTS TO THE CENTRAL DARLING LOCAL ENVIRONMENTAL PLAN 2012

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 CDLEP2012.

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.

2.0 Far West Regional Plan 2036

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 Far West Region is shown in Figure 4 and includes seven local government areas and the unincorporated area of far western NSW. The Central Darling LGA is centrally located within that region. It covers 323,477 square kilometres, which comprises 40 percent of NSW.

For the purposes of the FWRP2036, Wilcannia is identified as a “centre”, compared to Broken Hill which is a “strategic centre”. Wilcannia is the only “centre” identified within the Central Darling LGA.

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 amend the Central Darling Local Environmental Plan 2012 is supported by the first and aims to achieve the third goal.

In commentary about amending the land use table within the Central Darling Local Environmental Plan 2012 under the goal 1 - direction 5, Promote tourism opportunities the FWRP2036 recognises that

“Domestic visitors to outback NSW have increased in recent years, mainly due to an increase in popularity for camping/driving holidays in the more remote parts of Australia, the growing number of ‘grey nomads’, improved mobility and a general appreciation of the unique landscape.

Tourism opportunities that help to extend the length of time that visitors spend in the region need to be further explored. They could include a focus on the region’s organic and native produce, natural landscape and scientific and paleo-archaeological-focused tourism around the region’s Aboriginal heritage.

Tourism can generate employment and business growth that contributes to better economic outcomes for Aboriginal communities.

Heritage trails

Heritage trails can combine the attraction of significant heritage items with the remote outback experience. A Far West Sculpture Trail encompassing four major sites is being proposed to increase tourism to the Far West.¹⁵ Two of the sites, at Broken Hill and Mutawintji, are already in place, and planning is under way for a further two sites at White Cliffs and Wilcannia.”¹

One of the lots subject to the additional land use is the historic Wilcannia waste disposal facility (tip) this facility and the surrounding lots (subject to the planning proposal) have been used as a rubbish tip or land fill from the 1870s onwards. This rubbish tip attracts heritage bottle collectors and other archaeology tourist who are also attracted the heritage buildings within Wilcannia town centre.

In commentary about amending the land use table within the Central Darling Local Environmental Plan 2012 under the goal 1 - direction 10, Enhance the productivity of employment lands, the FWRP2036 recognises that:

“Councils have indicated there is a sufficient supply of employment and industrial land across the region to meet projected demand over the next 20 years.³² In some cases, however, this land may not be adequately located, zoned or serviced. Councils will need to provide a sufficient supply of this land, protect it from incompatible land uses, and identify infrastructure requirements in their planning strategies and local plans to support economic growth.

Clustering commercial activities in centres creates a more vibrant and sustainable main street and a focus for community activities. The NSW Government’s preference is to locate retail activity in existing centres to capitalise on infrastructure and strengthen the role and function of these areas. Strengthening commercial centres will:

- *attract retail and other supporting commercial infrastructure;*
- *strengthen the local economy;*

¹ Far West Regional Plan 2036 – Department of Planning and Environment. 2017. Accessed Website Department of Planning, Industry and Environment December 2019.

- *make the best use of existing infrastructure and services (including public transport and community facilities);*
- *facilitate tourism and visitors; and*
- *enhance the value of public space and consider net community benefit.*

Actions

10.6 Accommodate future commercial and retail activity in existing commercial centres, unless there is a demonstrated need and positive social and economic benefits for the community.

10.7 Require proposals for new retail developments to demonstrate how they:

- *respond to retail supply and demand needs;*
- *respond to innovation in the retail sector;*
- *maximise the use of existing infrastructure (including public transport and community facilities) commensurate with the scale of the proposal; and*
- *enhance the value of public places.”²*

Various lots within the immediate surrounds of the Wilcannia town centre are exiting commercial and even public administration buildings the use of these buildings as commercial retail, business or commercial offices is currently prohibited in the R1 Residential Zone. The lots where the additional uses to the R1 General Residential Zone is required is to enable the use of the current Car Parks, Commercial premises, function centres, public administration buildings, Registered clubs and water treatment facilities and tourist and visitor accommodation (to cover the various existing hotels/ motels in the R1 zone.

This addition above land uses to the permitted with consent in the General Residential R1 zone will assist in the further development of these properties in the immediate surrounds of the Wilcannia Town Centre by rectifying this error in the original Central Darling Local Environmental Plan 2012. This will change is to facilitate future growth in the Wilcannia commercial area and surrounds, which will also promote the economic growth of the area and create more jobs for the local and aboriginal community in Wilcannia. The pre-school in Burke park is a vitally important facility for the whole Wilcannia community.

The addition of Educational establishments and childcare facilities as a permitted use in the Public Recreation zone RE1, enables lawful work to the preschool where the use is a permitted use within the zone (this assists in future funding projects for the pre-school from the State Government).

In commentary about amendment to the land use zones under the goal 3 - direction 25 the FWRP2036 relates to Protect Cultural heritage, as follows:

The region’s rich Aboriginal and European cultural heritage is integral to the identity and character of the Far West. Aboriginal cultural heritage includes places and items that are of significance to Aboriginal people because of their traditions, observances, lore, customs, beliefs and history. It relates to the connection and sense of belonging that Aboriginal people have with the landscape and each other.

Many buildings from the early settlement of towns are heritage-listed and include religious buildings, institutional buildings and railway stations. The entire town of Broken Hill is on the National Heritage List for its significant role in Australia’s mining industry and national development, and the planning, design and landscaping of the town, as well as its iconic isolation in the desert.⁵²

Development can have a cumulative impact on both Aboriginal cultural heritage values and historic places. Protecting and preserving heritage at the strategic planning stage will provide greater certainty for all stakeholders in the development assessment process.

² Far West Regional Plan 2036 – Department of Planning and Environment. 2017. Accessed Website Department of Planning, Industry and Environment December 2019.

The additional land uses to be added to the General Residential R1 zone around the Wilcannia town centre contain various local heritage items and some proposed state heritage items and part of this area is proposed as the Wilcannia heritage conservation area (refer to the heritage conservation area planning proposal). The proposed amendment to legalise the historic and current use of the buildings on the various lots within the immediate surrounds of the Wilcannia town centre will enhance the heritage potential of the buildings and assist in the protection of Wilcannia historical past. This will promote pride in the community and facilitate heritage tourism which will assist all the people 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. The pre-school works in conjunction with the Wilcannia public school on the opposite side of Hood Street. The pre-school is vital for the town of Wilcannia, and the preschool is a historic and dedicated use of part of Burke Park.

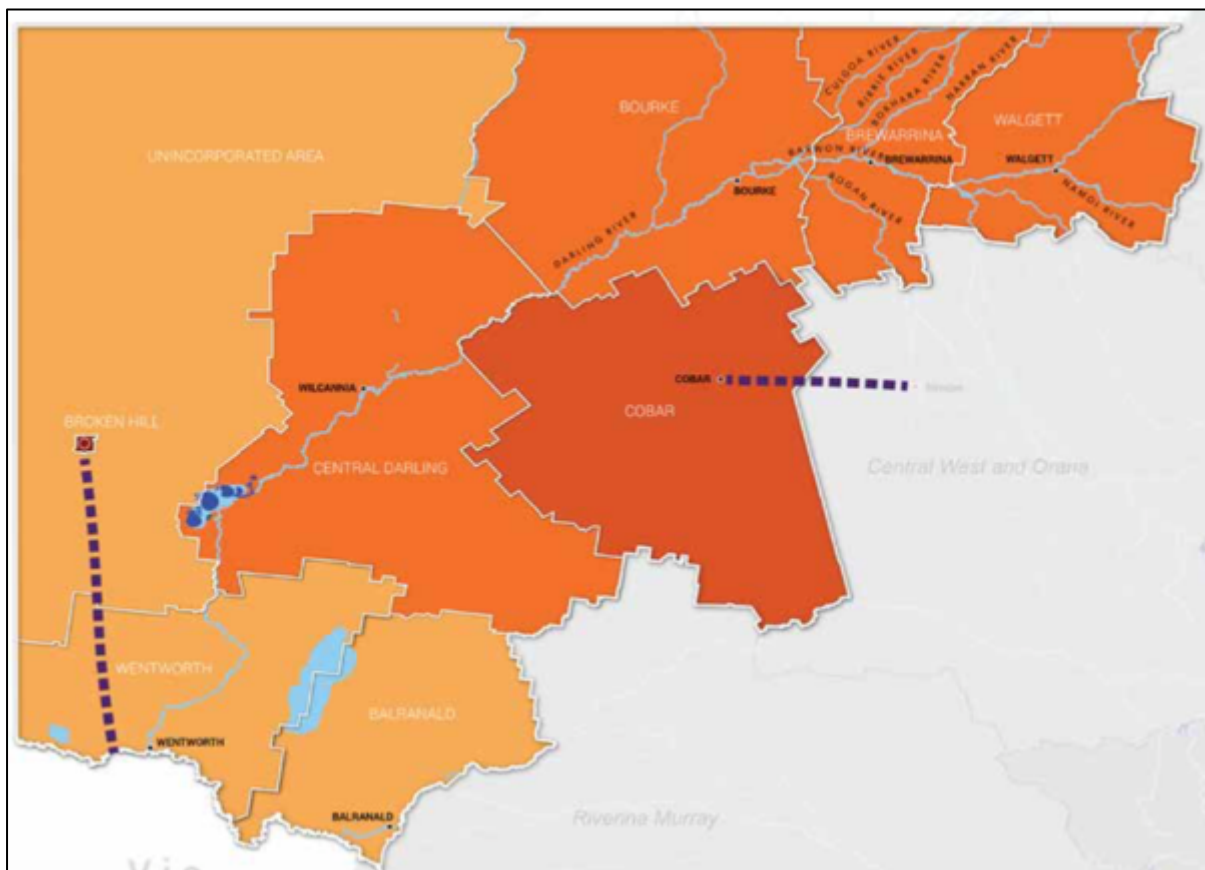


Figure 3: Far West Regional water resources Plan - Far West Regional Plan 2036 (source: New South Wales Department of Planning and Environment Website 2019)

2.1 Relevant 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.”³

“(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,
- (c) Zone E2 Environmental Conservation,
- (d) Zone W1 Natural Waterways.”⁴

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.

³ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP) – NSW Legislation Website 2019.

⁴ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP) – NSW Legislation Website 2019.

- *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 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:

- *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’).”⁵

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.

2.2 Ministerial directions

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.

⁵ LEP Practice Note (PN 10-002) Preparing LEPs using the Standard Instrument: standard zones – Department of Planning, Industry and Environment website – 2019.

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.* ⁶

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:

⁶ Ministerial Directions issued under Section 9.1 of the Act - Accessed Website Department of Planning, Industry and Environment December 2019.

- (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 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.

2.3 Central Darling Local Environmental Plan 2012

The proposal is considered consistent with the clause 1.2(2)(d) of the Central Darling Local Environmental Plan 2012 (CDLEP2012) which aims to “to minimise land use conflict.” This is because the existing use of the sites for the waste disposal facilities and other operational land uses currently conflicts with the permitted land use in the zone. As stated previously the current CDLEP 2012 prohibits the current / historic use of various crown reserve lots across the LGA and various existing lots adjacent to the Wilcannia town centre. The purpose of the planning proposal, therefore, is to regularise the land use within the relevant land use zones to ensure the current land use is not a prohibited use within the zone.

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 land use table of the Central Darling Local Environmental Plan 2012, are generally compatible with the 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 minimises 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 amount of available land for 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 use to the Public Recreation zone RE1 is to formalise the historic and dedicated use of part of Burke Park for a pre-school.

There are no further provisions of the CDLEP2012 of particular relevance to the planning proposal.

There is no Central Darling Development Control Plan and there is no other relevant Development Control Plan.

The two land use zones where the additional uses are to be added are RU1 Primary Production and RE1 Public Recreation Zone (extract from the Central Darling Local Environmental Plan 2012) are as follows:

Central Darling Local Environmental Plan 2012

[Land Use Table](#) Zone RU1

Zone RU1 Primary Production

1 Objectives of zone

- 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.

2 Permitted without consent

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

3 Permitted with consent

Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Community facilities; Correctional centres; Crematoria; Depots; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Freight transport facilities; Heavy industrial storage establishments; Heavy industries; Helipads; Home businesses; Home industries; Home occupations (sex services); Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Landscaping material supplies; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Roadside stalls; Rural industries; Rural workers' dwellings; Sewerage systems; Veterinary hospitals; Water recreation structures; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

Zone RE1 Public Recreation

1 Objectives of zone

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

2 Permitted without consent

Environmental protection works; Roads; Water reticulation systems

3 Permitted with consent

Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Community facilities; Environmental facilities; Flood mitigation works; Heliports; Information and education facilities; Jetties; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Water recreation structures; Water recycling facilities; Water storage facilities

4 Prohibited

Any development not specified in item 2 or 3

Central Darling Local Environmental Plan 2012

Land Use Table Zone RU5

Zone RU5 Village

1 Objectives of zone

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To retain and facilitate expansion and redevelopment of the existing central business districts of Menindee and Ivanhoe and to further strengthen the core commercial functions of those areas.
- To ensure that development retains and enhances the existing village character.

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; Cellar door premises; Electricity generating works; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Heavy industrial storage establishments; Heavy industries; Marinas; Mooring pens; Moorings; Open cut mining; Pond-based aquaculture; Roadside stalls; Rural workers' dwellings; Waste disposal facilities; Wharf or boating facilities

2.4 The Proposed Provisions

The proposed outcome will be achieved by the rezoning of the land, the affect Crown Reserve lots are listed in the tables below.

Reserve number	Dedicated Purpose / Land Use	Assigned Categorisation/ actual category Justification	Lot & DP	Current zoning
90899	Rubbish Depot/ Waste Disposal Facility. 16/9/1977	Justification for the Category - Community land / Rubbish Depot/ Waste Disposal Facility. Fenced waste disposal facility, this area has been used as a rubbish depot since 1880.	Lot 107 DP 820452	RU1 Primary Production Requires an addition of waste disposal facility added to the Central Darling Local Environmental Plan 2012 as a Waste Disposal facility is currently not a permitted use on the land.



Photo 1: Lot 107 DP 820452. Yellow area is lot in question other areas are part of regeneration lots and sanitary depot/ Septic tank pump. Fenced area of current waste disposal facility for Wilcannia – (6 maps).



Photo 2: Lot 107 DP 820452. Fenced area of current waste disposal facility for Wilcannia (Source MbTown planning 2019)

Reserve number	Dedicated Purpose / Land Use	Assigned Categorisation/ actual category Justification	Lot & DP	Current zoning
90900	Sanitary Depot Wilcannia Septic Tank Pump Out Reserve Trust 16/9/1977	<p><u>Category.</u> Justification for the Category - Community land / sanitary Depot.</p> <p>New use of area</p> <p><u>Category.</u> Community land/ waste disposal facility.</p> <p>Septic tank pumps out no longer required. This area is now absorbed into the waste disposal facility.</p> <p>Fenced waste disposal facility, this area has been used as a rubbish depot since 1880.</p>	<p>Lot 108 DP 820452</p> <p>Other lots included in the total area.</p>	<p>RU1 Primary Production</p> <p>Requires an addition of waste disposal facility added to LEP for a rubbish depot to be a permitted use on the land.</p>



Photo 3: Lot 108 DP 820452. Yellow area is lot in question (sanitary Depot) other areas are part of regeneration lots and rubbish depot. Fenced area of current waste disposal facility for Wilcannia – (6 maps).



Photo 4: Lot 108 DP 820452. Fenced area of current waste disposal facility for Wilcannia (Source MbTown planning 2019)

Reserve number	Dedicated Purpose / Land Use	Assigned Categorisation/ actual category Justification	Lot & DP	Current zoning
630016	Public Recreation 19/7/1881 Sturt Park	Justification for the Category - Community land / Public Recreation Current use Part of site is now in the Wilcannia Waste disposal facility Category – Community land/ regeneration natural site. Category 1- Community land/ Waste Disposal facility- Rubbish Depot.	Lot 83 DP 757463	RU1 Primary Production zone Waste Disposal facilities are not currently a permitted use on this land. Requires change to land use table in LEP.

		Undeveloped land next to tip/ Part of fenced tip area. Tip extension area.		
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Photo 5: Lot 83 DP 757463. Sturt park no longer park area now part of Wilcannia Waste Disposal facility (fenced rubbish depot area outlined in red line) – (6 maps).



Photo 6: Lot 83 DP 757463. Sturt park no longer park area now part of Wilcannia Waste Disposal facility (fenced rubbish depot area outlined in red line). Waste disposal facility / rubbish depot (Source MbTown planning 2019)

Reserve number	Dedicated Purpose / Land Use	Assigned Categorisation/ actual category Justification	Lot & DP	Current zoning
87409	Regeneration Area 26/9/1969	Justification for the Category - Community land / regeneration Area Current use - Community land/ Regeneration Area natural area. Issue that part of the regeneration land is now a fenced part of the Wilcannia Waste Disposal facility.	Lot 7316, DP 1181235	RU 1 Primary Production Subject to Planning proposal to enable waste disposal facility on RU1 Primary Production zoned lot.



Photo 7: Lot 7316, DP 1181235 - highlighted in yellow - Wilcannia Regeneration Area – current use of southern part of lot is fenced part of Wilcannia Waste disposal facility– (6 maps).



Photo 8: Lot 7305 DP 1179888,.– Wilcannia Regeneration Area current use of southern part of lot is fenced part of Wilcannia Waste disposal facility (Source MbTown planning 2019)

Reserve number	Dedicated Purpose / Land Use	Assigned Categorisation/ actual category Justification	Lot & DP	Current zoning
630012	Community Purposes; Public Park; Showground/ 6/5/1960 Burke Park	Justification for the Category - Community land / Community Purposes; Public Park; Showground In original dedication 6 May 1960 Part of the lot uses for Little Darlings Childcare Centre (Corner of Hood and Cleaton Streets Wilcannia. Part of lot building with Preschool.	Lot 90 DP 757463 Part Lot 90 (preschool)	RU1 Primary Production/ RE1 Public recreation. Education establishments is not a permitted use on RE1 land. This part of the site is subject to a planning proposal to allow the additional use in the RE1 zone.



Photo 9: Lot 90 DP 757463 Part Lot 90 (preschool). Red outlined area is for Burke Park - Community Purposes; Public Park; Showground and the small square is the Pre School – (6 maps).



Photo 10 & 11: Burke Park - Community Purposes; Public Park; Showground and the small square is the Pre School – (MB Town Planning 2019).



Photo 12: Burke Park - Community Purposes; Public Park; Showground and the small square is the Pre School – (MB Town Planning 2019).

Reserve number	Dedicated Purpose / Land Use	Assigned Categorisation/ actual category/ <u>Justification</u>	Lot & DP	Current zoning
88701	Public Recreation	<p>Justification - Original classification - Community land / a Park (public recreation) - Dedicated use – Community Hall Reserve</p> <p>Actual use - Community land/ a park and Community land/ general community uses.</p> <p>This additional classification is due to the additional uses on the land being a Community hall, Rural Fire Service Shed and equipment, Children's playground/ park.</p> <p>Royal Flying Doctor Service Administration and equipment building.</p>	Lots -6882 DP 48661 Tilpa Tonga Road	<p>RU1 Primary Production RU5 Village zone does not permit of Air transport facilities. Yes community hall and public recreation areas and Emergency services land - RFS building and water tanks.</p> <p>The additional building belongs to the Royal Flying Doctors Service and they are planning to put an additional building therefore we have to add an additional use to the RU5 Village zone of airport.</p>



Photo 13: Lots 6882 DP 48661 - Tilpa park – Tilpa Community Centre – community buildings with the Rural Fire Service shed and Royal Flying Doctor Service building. (Source – 6 maps 2019)



Photo 14: Lots 6881-6882 DP 48661. Tilpa park – Tilpa Community Centre – community buildings with the Rural Fire Service shed and Royal Flying Doctor Service building. (Source – 6 maps 2019)



Photo 15 & 16: Tilpa park – Tilpa Community Centre – community buildings with the Rural Fire Service shed and Royal Flying Doctor Service building.
(Source – MB Town Planning 2019)



Photo 17: Tilpa park – (Source – MB Townplanning 2019)

Tilpa Community Centre – community buildings with the Rural Fire Service shed and Royal Flying Doctor Service building.

Amendments to the Central Darling Local Environmental Plan to rectify administrative errors within the land use table.

The following changes to the Central Darling Local Environmental Plan 2012 are required.

The addition to “Permitted with Consent” in the R1 General Residential Zone – Car Parks, Commercial premises, function centres, public administration buildings, Registered clubs and water treatment facilities and tourist and visitor accommodation (to cover the various existing hotels/ motels in the R1 zone).

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

The justification for this amendment is that these uses are existing uses within the Wilcannia Township. This modification to the Local Environmental Plan establishes long term existing uses as permitted with consent as opposed to be prohibited in the zone.

This amendment to the Local Environmental Plan is to rectify errors in the initial Local Environmental Plan.

Other additions to 2. Permitted with consent in the R1 zone is:

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers’ accommodation,
 - (b) bed and breakfast accommodation,
 - (c) farm stay accommodation,
 - (d) hotel or motel accommodation,
 - (e) serviced apartments,
- but does not include:
- (f) camping grounds, or
 - (g) caravan parks, or
 - (h) eco-tourist facilities.

Central Darling Local Environmental Plan 2012

[Land Use Table Zone R1](#)

Zone R1 General Residential

1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To minimise land use conflict between land uses on land within the zone and land uses on land within adjoining zones.

2 Permitted without consent

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

3 Permitted with consent

Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Food and drink premises; Group homes; Hostels; Kiosks; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Residential flat buildings; Respite day care centres; Semi-detached dwellings; Seniors housing; Shop top housing; Tank-based aquaculture; Waste or resource transfer stations; Water recycling facilities; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; **Car parks**; Charter and tourism boating facilities; **Commercial premises**; Correctional centres; Crematoria; Depots; Electricity generating works; Entertainment facilities; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; **Function centres**; Heavy industrial storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; **Public administration buildings**; Recreation facilities (major); **Registered clubs**; Research stations; Restricted premises; Rural industries; Rural workers’ dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle

repair stations; Warehouse or distribution centres; Waste or resource management facilities; **Water treatment facilities**; Wharf or boating facilities; Wholesale supplies.

Central Darling Local Environmental Plan 2012

Land Use Table Zone RE1

Zone RE1 Public Recreation

1 Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Environmental protection works; Roads; Water reticulation systems

3 Permitted with consent

Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Community facilities; Environmental facilities; Flood mitigation works; Heliports; Information and education facilities; Jetties; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Water recreation structures; Water recycling facilities; Water storage facilities

4 Prohibited

Any development not specified in item 2 or 3

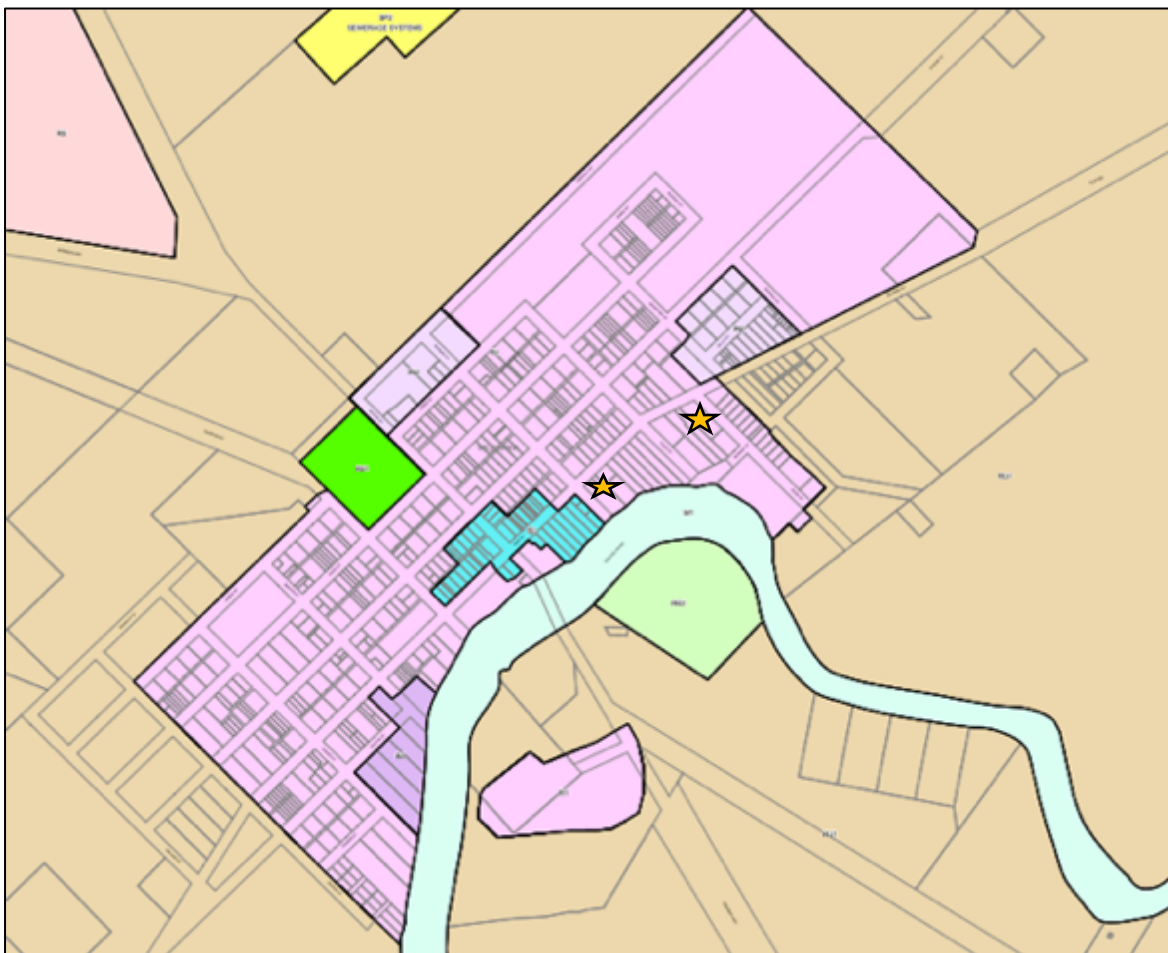


Figure 4: Land Zoning Map (Central Darling Local Environmental Plan 2012) Wilcannia Town Centre. Aqua blue zoning (B2) represents the Local town Centre, the predominant purple zoning (R1) represents General Residential zone and the dark purple and light purple zoning (IN1 & IN2) represents General and Light Industrial land. The dark and light green zoning (RE1 & RE2) represent public and private recreation. (Source: NSW Legislation website - Central Darling Local Environmental Plan 2012). The stars indicate the land use of the sites (Central Darling Shire Council and Wilcannia Golf Club Ltd.) that are the current and historical land use for the sites and are not currently a permitted use under the current zoning of the Central Darling Local Environmental Plan 2012.

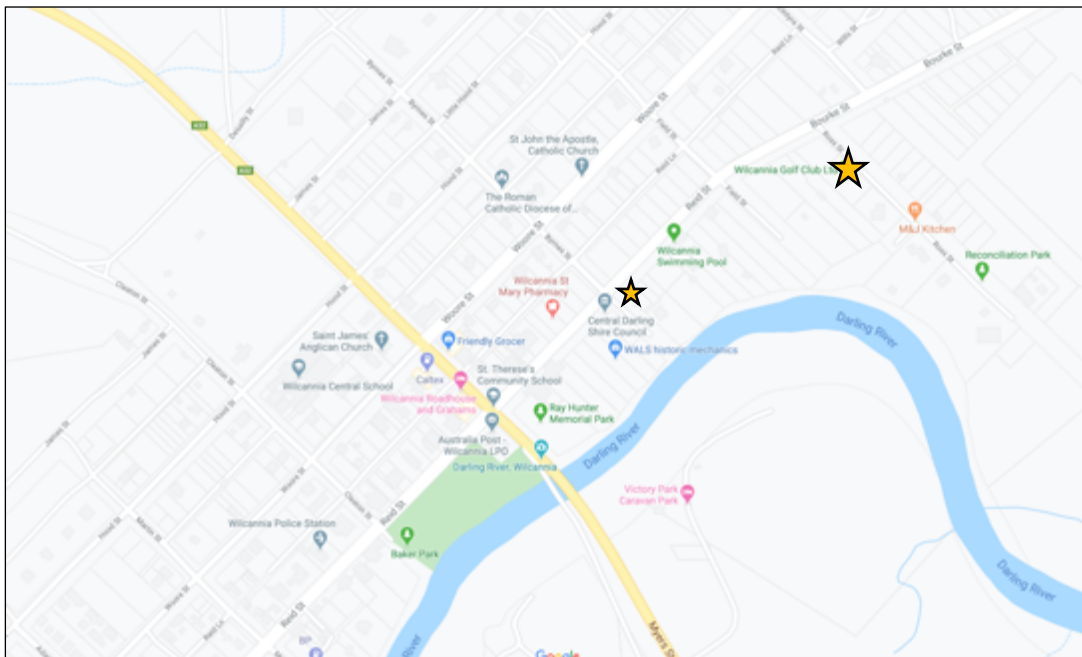


Figure 5: Wilcannia Town Centre Google Maps, the stars indicate the land use of the sites (Central Darling Shire Council and Wilcannia Golf Club Ltd) that are the current and historical land use for the sites and are not currently a permitted use under the current zoning of the *Central Darling Local Environmental Plan 2012*. (Source Google Maps 2020).

PART 3 - JUSTIFICATION FOR THE PROPOSED AMENDMENTS

3.0 – Demonstrate justification for the planning proposal

Justification for the proposal

- 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.

- 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.

3.1 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?
Yes.

Far West Regional Plan 2036

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.

Relevant State environmental planning policies

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 including Waste Disposal and Air transport facilities.

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 RU5 Village, R1 General Residential, RE1 Public Recreation and RU1 Primary Production Zones. These zones are the zones identified to have additional land uses added to the land use table to permit the current use of the land within these zones.

Ministerial directions

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).

Part 1 of the directions relates to employment and resources.

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.

Part 1.2 of the directions relates to rural zones. 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.

Part 1.3 of the directions relates to mining, petroleum production and extractive industries. 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. As the planning proposal adds an additional land use to cover the existing use of the land as Waste disposal facilities. Therefore, the planning proposal is consistent with the directions.

Part 2 of the directions relates to environment and heritage.

Part 2.1 of the direction relates to environment protection zones. 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. 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.

Part 3 relates to housing, infrastructure and urban development.

Part 3.1 relates to residential zones. The planning proposal enables the current long-established commercial buildings and businesses to be a permitted use in the residential zone. This proposal does not reduce the amount of residential land within Wilcannia.

Part 3.2 relates to caravan parks and manufactured home estates and does not affect the planning proposal.

Part 3.3 relates to home occupations. The planning proposal does not affect home occupation provisions and the direction is not relevant to the planning proposal.

Part 3.4 relates to integration of land use and transport. The planning proposal does not involve any significant inconsistency with that direction.

Part 3.5 relates to development near licensed aerodromes. The planning proposal does not involve any significant inconsistency with that direction.

Part 3.6 relates to shooting ranges. The planning proposal will not affect any shooting range.

Part 4 relates to hazard and risk.

Part 4.1 relates to acid sulfate soils. The planning proposal does not affect any classified acid sulfate soil land.

Part 4.3 relates to flood prone land and restricts specified rezoning within flood prone areas. The land is not flood prone land.

Part 4.4 relates to planning for bushfire protection. The direction does not affect the proposal because none of the affect land is within bushfire prone land.

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

Part 6 relates to 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 not involve development requiring concurrence nor designated development. 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.

Central Darling Local Environmental Plan 2012

The proposal is considered consistent with the clause 1.2(2)(d) of the Central Darling Local Environmental Plan 2012 (CDLEP2012) which aims to “to minimise land use conflict.”

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 site is already as waste disposal facilities and community area with Air transport facilities.

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 (Waste disposal facilities) is currently managed by council officers, with daily inspections of each site. The other land is a mix of public and private land and management of the land is not affected.

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

The clarification of the legal use of the subject sites will remove substantial red tape for future uses of the land by council. These sites have historic land use – waste disposal facility and community use, the addition to the land use tables establishes a clear legal use of the land.

Social Impact

The clarification of the legal use of the subject sites will remove the need for future objections for improvements to the site by council, particularly with regard to specific funding projects and justification.

Economic impacts

The clarification of the legal use of the subject sites will remove red tape for future uses of the land by council which results in less cost for council in the future use and any works to the sites.

SECTION D - STATE AND COMMONWEALTH INTERESTS

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

The proposed sites are currently used as waste disposal facilities and community facilities, there is no issue with public infrastructure with the planned changes to 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 in the planning proposal.

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

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

The planning proposal seeks to amend the written instrument LEP and includes amendments to the land use zone map of the Central Darling Local Environmental Plan.

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. To MB Town Planning's knowledge, there has been no consultation at this stage with State and Commonwealth public authorities.

SECTION D - STATE AND COMMONWEALTH INTERESTS

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

The Planning proposal is the result of the Crown Reserve Plan of Management Report project where certain Crown Reserve lots identifying lots where the current use was prohibited under the *Central Darling Local Environmental Plan 2012*. The planning proposal rectifies these errors and also amends the land use table enabling the current land use as being permitted on the land.

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*, 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.

No, the planning proposal does not extinguish any interests in the land.

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

The land owner for the Crown Reserves is the New South Wales State Government administered by the Department of Planning, Industry and Environment which has in certain cases requested the amendments and has been consulted regarding the imminent additions to the land use table.

PART 4. PROPOSED CHANGES TO THE CDLEP MAPPING

There is no proposed change to the Central Darling Local Environmental maps as the planning proposal adds additional land uses to the land use table and does not change the land use zones or boundaries.

PART 5. 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 6. PROJECT TIMELINE

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:	July 2020
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

PART 7. SUMMARY

This planning proposal demonstrates why it is appropriate to amend the *Central Darling Local Environmental Plan 2012* land use table to enable the current land uses to be permitted with consent.

Implementation of the planning proposal will achieve relevant goals of the Central Darling Shire Community Strategic Plan and of the Far West Regional Plan 2036. The proposal will make operations for Central Darling Shire Council more efficient with the Waste disposal facilities being permissible uses on the land. The other affected sites will benefit in that the current and, in most case, historic uses of the land will be permitted with consent which will facilitate further development and efficient use of the affected land as commercial and other uses.

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