



**Premise**

# **Amendment to the Bourke Local Environmental Plan 2012**

**PLANNING PROPOSAL**

Report No: P002566




Rev: 002A

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## 1. BACKGROUND

### 1.1 Introduction

Premise Australia Pty Ltd has been commissioned by Bourke Shire Council (Council) to prepare a planning proposal to amend the *Bourke Local Environmental Plan 2012* (BLEP) by introducing an Additional Permitted Use at 9A Gorrell Avenue, Bourke being Lot 3 DP 1136910 (the 'site'). The site is zoned RE1 Public Recreation.

The site has total area of approximately 42 hectares (ha). The site currently features the Darling River Bourke Golf Club, Bourke and District Children's Services (Preschool and Childcare) and Old Bourke Railway Station.

Bourke has some of the highest gaps in childcare services statewide. The lack of availability impacts local children and creates barriers to parents returning to work and prevents skilled workers with young families moving to the area.

The NSW Government Department of Education have announced funding \$1.85 million through the *Minns Government Regional Development Trust Fund's Western NSW Workforce Activation Package* to expand Bourke & District Children's Services at the site to create 20 additional childcare places for children aged 0-3 and create 4 full time jobs.

Currently Bourke & District Children's Services operates at the site under the classification of *community facilities* which is permitted with consent. The expansion of the facility will change the use to *centre-based child care facility*, which is currently prohibited in the zone.

To enable the expansion of the facility, this Planning Proposal seeks to amend *Schedule 1 additional permitted uses* of BLEP to include *centre-based child care facility* at the site.

It is requested that the DPIE support the subject Planning Proposal and issue Council with a Gateway Determination to proceed to public exhibition.

### 1.2 Scope of the report

This planning proposal has been prepared in accordance with the NSW Department of Planning's advisory documents '*A Guide to Preparing Local Environmental Plans*' and '*A Guide to Preparing Planning Proposals*'. The latter document requires the planning proposal to be provided in five (5) parts, those being:

- Part 1 – A statement of the objectives or intended outcomes of the proposed LEP;
- Part 2 – An explanation of the provisions that are to be included in the proposed LEP;
- Part 3 – The justification for those objectives, outcomes, and provisions and the process for their implementation;
- Part 4 – Mapping; and
- Part 5 – Details of the community consultation that is to be undertaken on the Planning Proposal.

It is noted that updated mapping would be supplied under separate cover.

### 1.3 Structure of the report

This planning proposal is provided in the following structure;

- **Section 2** provides an overview of the subject site; the development intent and development constraints;
- **Section 3** provides a statement of the objective and explanation of provisions of the planning proposal;

- **Section 4** provides justification regarding the need for the planning proposal; outlines its relationship to strategic planning strategies; and overviews the environmental, economic, and social impacts of the proposal;
- **Section 5** details how community consultation is to be undertaken with respect to the planning proposal.

## **2. OVERVIEW**

### **2.1 The site impacted by the Planning Proposal**

The Planning Proposal relates to the additional permitted use, *centre-based child care facility*, at 9A Gorrell Avenue, Bourke being Lot 3 DP 1136910 and is depicted in

Figure 1, and the existing land use zoning is provided for further reference in

Figure 2.

Established in the early 20th century, the golf club has undergone several transformations. In the 1950s, the club was an active hub for golf enthusiasts. For instance, in May 1953, professional golfer Bert Hinton conducted a demonstration and exhibition round, highlighting the club's vibrant golfing community.

However, financial challenges led to the clubs' administration entering into receivership. Subsequently, Council assumed control of the golf course and the club's facilities. During this transitional period, the Darling River Golf Club occupied the premises, contributing to the maintenance and upkeep of the course.

In 2012, a fire damaged the building previously occupied by Bourke and District Children's Services (BDCS). This incident prompted BDCS to seek temporary accommodation within the former golf club building. This arrangement led to the development of a purpose-built facility adjacent to the existing structure, consolidating

BDCS's services as a *community facility* (

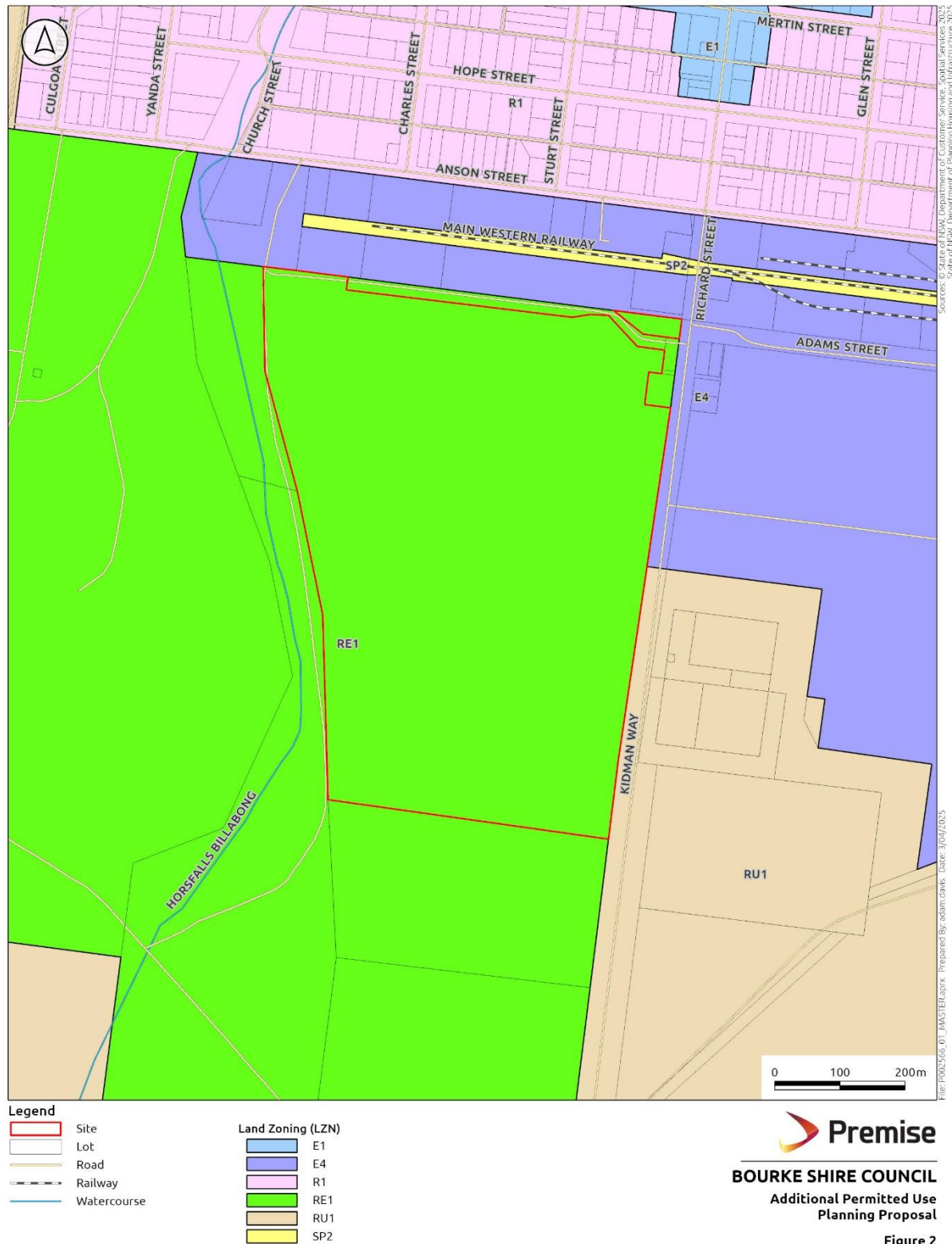




Figure 3).

Given the historic use of the site is working well with no current land use conflicts, it is considered to be an appropriate site to formalise the use of the land as *centre-based child care facility*.

Figure 1 – The site

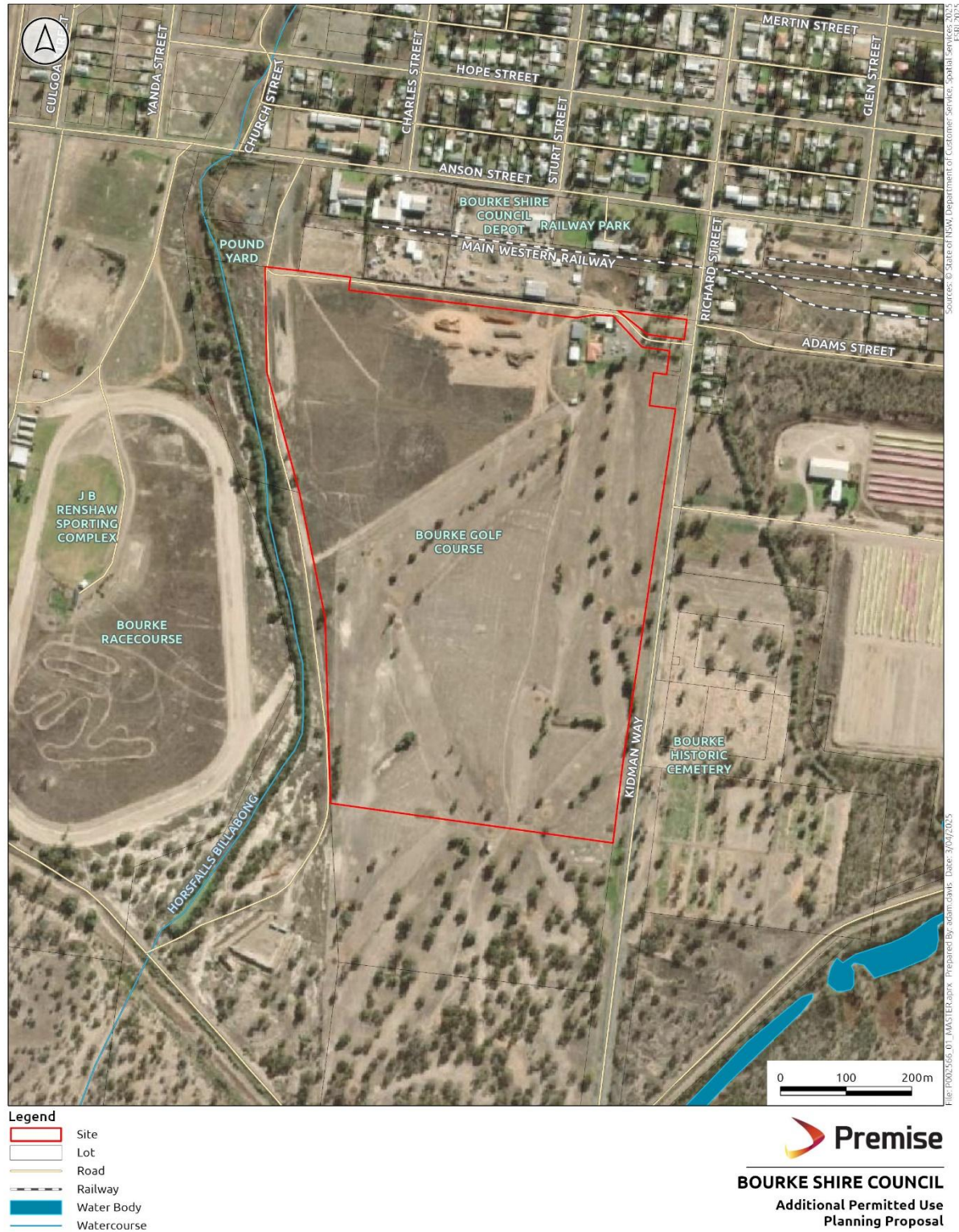


Figure 2 – Existing land use zoning

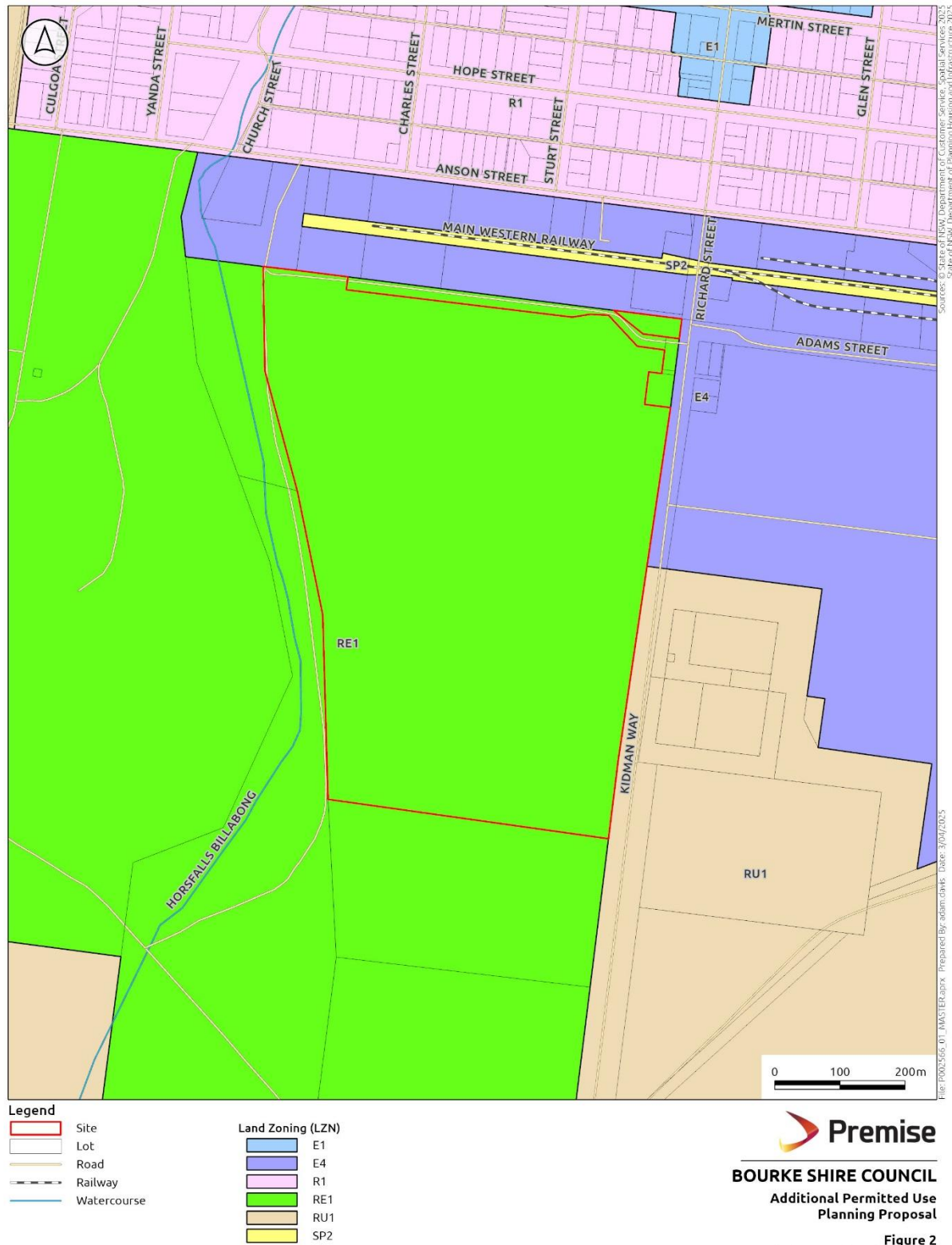
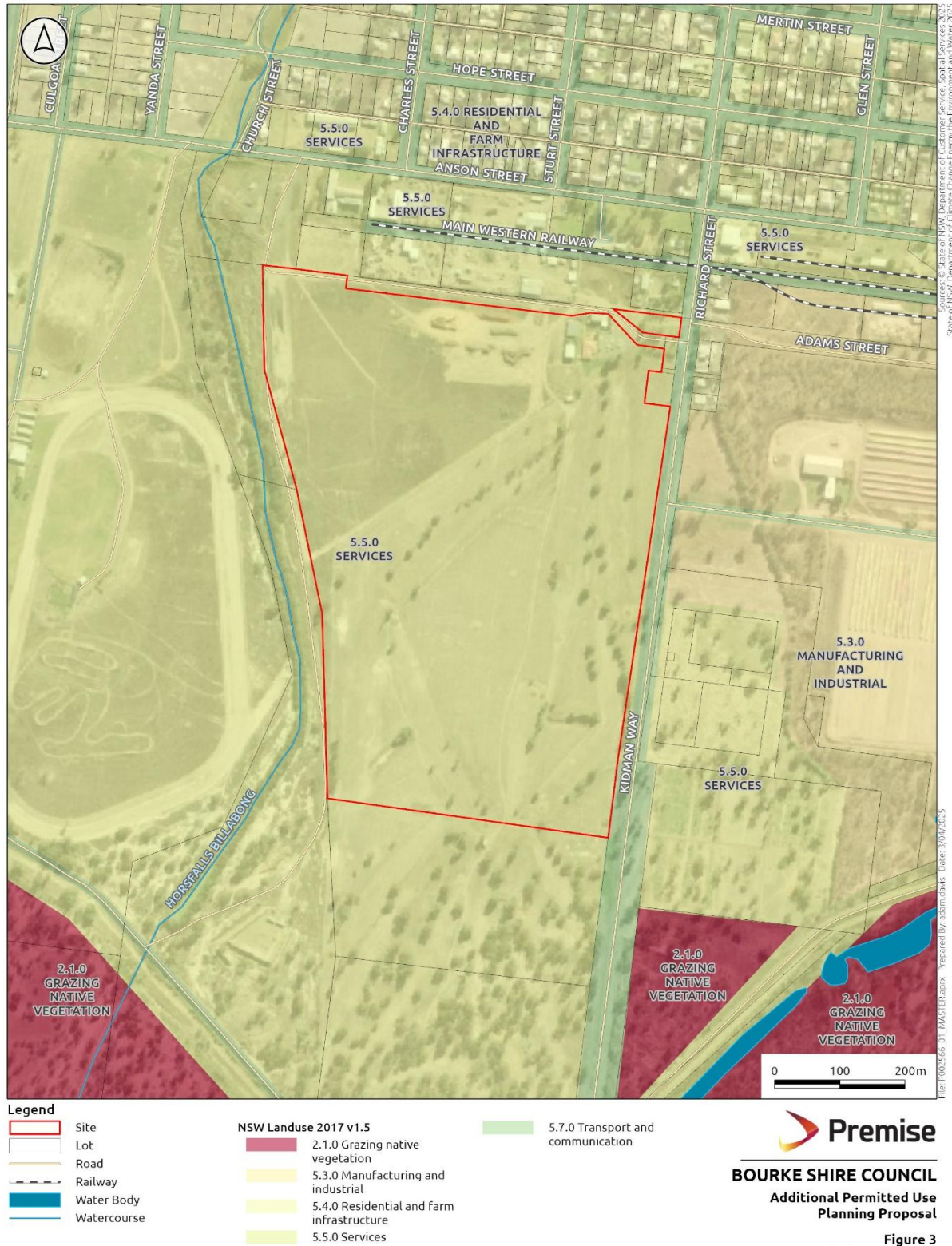




Figure 3 - Existing land uses



### 3. INTENT AND PROVISIONS

#### 3.1 Objective

To amend BLEP Schedule 1 to include *centre-based child care facility* as an additional permitted use at 9A Gorrell Avenue, Bourke being Lot 3 DP 1136910.

#### 3.2 Explanation of provisions

The objective of this Planning Proposal is to permit development for the purposes of *centre-based child care facility*, subject to development consent, at the site.

It is anticipated that the additional permitted use would result in an Amendment to Schedule 1 of *Bourke Local Environmental Plan 2012* and creation of Land Zoning Map Sheet Additional Permitted Uses Map – Sheet APU\_008B.

For reference, the LEP definitions for business premises and office premises are as follows:

***centre-based child care facility means—***

*(a) a building or place used for the education and care of children that provides any one or more of the following—*

*(i) long day care,*

*(ii) occasional child care,*

*(iii) out-of-school-hours care (including vacation care),*

*(iv) preschool care, or*

*(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),*

*Note—*

*An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.*

*but does not include—*

*(c) a building or place used for home-based child care or school-based child care, or*

*(d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or*

*(e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*

*(f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*

*(g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*

*(h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.*

*Note—*

*Centre-based child care facilities are a type of early education and care facility—see the definition of that term in this Dictionary.*

The proposed outcome will be achieved by including new local provisions under Schedule 1 that:

1. Use of certain land at 9A Gorrell Avenue, Bourke;
  - a. This clause applies to Lot 3 DP 1136910, identified on the Additional Permitted Uses Map.
  - b. Development for the purposes of centre-based child care facility is permitted with development consent.

Given this is to enable a future expansion of an existing centre and therefore minimise any potential impacts, it is considered that the proposed additional permitted use is not antipathetic to the objectives of the sites' RE1 Public Recreation 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.

Figure 4 – Proposed LEP Map Sheet 1150\_COM\_APU\_008B

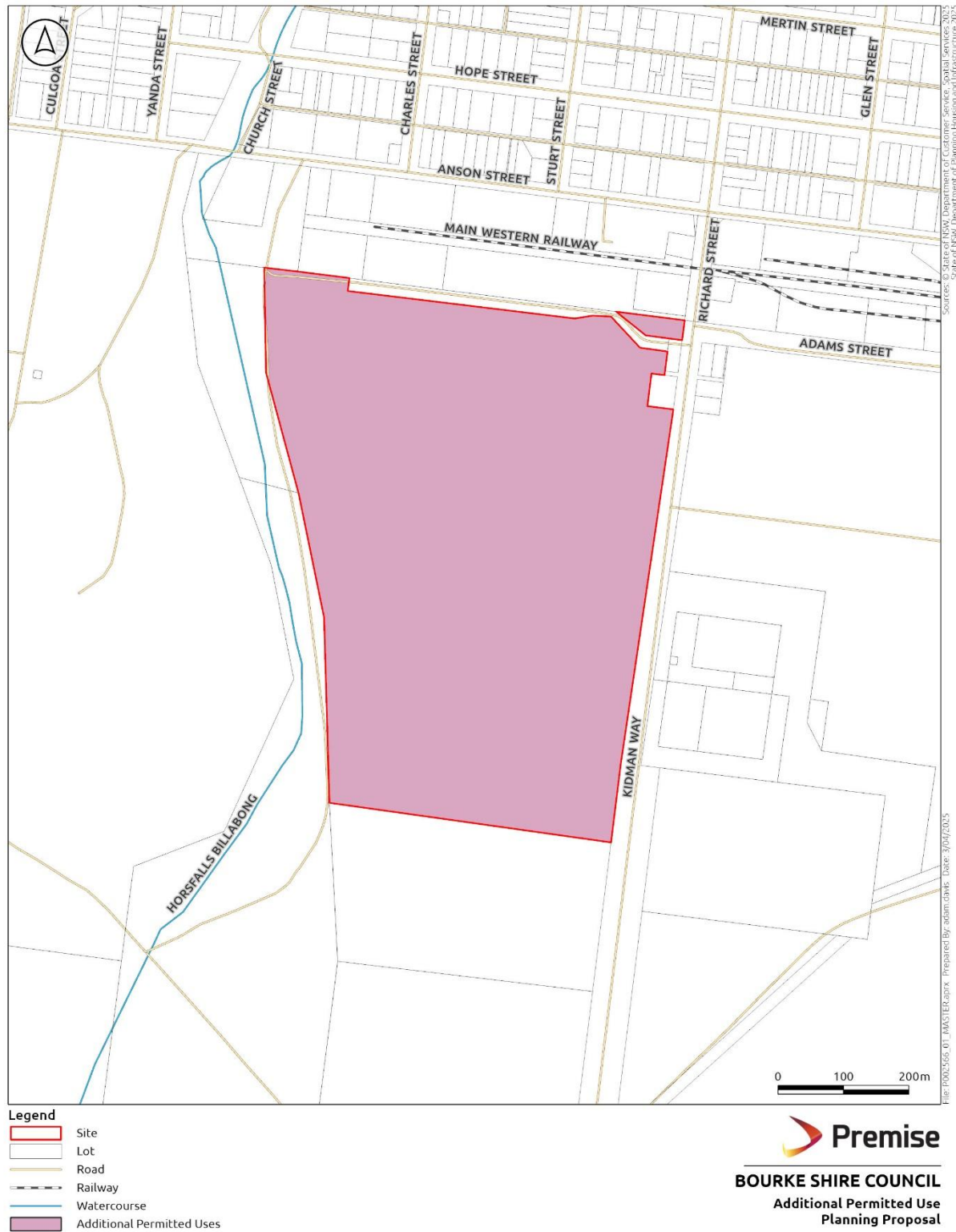


Figure 4  
Proposed Additional Permitted Uses



## 4. JUSTIFICATION

### 4.1 Introduction

The overarching principles that guide the preparation of planning proposals are:

- The level of justification should be proportionate to the impact the planning proposal would have;
- It is not necessary to address a question if it is not considered relevant to the planning proposal; and
- The level of justification should be sufficient to allow a Gateway determination to be made with confidence that the LEP can be finalised within the timeframe proposed.

The following justification addresses each relevant question applicable to the planning proposal to ensure confidence can be given to the Gateway determination.

### 4.2 Need for the planning proposal

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

A planning proposal is required as an amendment to the BLEP is proposed.

To amend BLEP Schedule 1 to include *centre-based child care facility* as an additional permitted use at 9A Gorrell Avenue, Bourke being Lot 3 DP 1136910.

The proposal is not specifically addressed via a strategic study or report.

***Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

The proposed approach is considered the best means of achieving the objective.

Other alternatives considered include:

- Rezoning the site to an existing zone that already includes the use as permitted with consent, being:
  - R1 – General Residential;
  - RU5 – Village;
  - E1 – Local Centre; or
  - SP3 – Tourist.

Given the sites existing mixed use, rezoning to R1 General Residential or E1 Local Centre would prohibit the existing use of the Golf Club as defined in the BLEP *recreational facilities (outdoor)* which is not intended to cease operation.

Rezoning of the site to RU5 Village or SP3 Tourist would permit both the *centre-based child care facility* and *recreational facilities (outdoor)*, allowing the existing operation of the site to remain, but would also permit further development types that are not considered to be appropriate for the site, such as *liquid fuel depots, airstrips, animal boarding or training establishments*, given the existing use of adjoining land being the Bourke racecourse located immediately to the west and the E4 General Industrial zoned land to the north and east of the site, rezoning the site may lead to increased land use conflicts.

Given the existing mixed use of the site, amending Schedule 1 to include the additional permitted use achieves the objective without any unintended consequences from rezoning the site, and is considered the most appropriate approach to achieve the intended outcome of making *centre-based child care facility* a permissible use and allow for a future development application to expand Bourke & District Children's Services at the site



to create 20 additional childcare places for children aged 0-3 and create 4 full time jobs and to expend funding under the *Minns Government Regional Development Trust Fund's Western NSW Workforce Activation Package*.

## 4.3 Relationship to strategic planning framework

### ***Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?***

The Far West Regional Plan 2036 (Plan) is the NSW Government's strategy for guiding land use planning decisions for the Far West Region for the next 20 years.

By 2036, the Far West region enjoys a higher standard of living driven by stronger partnerships, having led to improved infrastructure, making freight more competitive and boosting local job creation. The Far West attracts global tourists, while enhanced transport options, accessible housing, and a growing workforce support thriving, interconnected communities.

Goals of the Plan include:

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

This is discussed further in relation to Ministerial Direction 9.1.

The proposal is considered to be generally consistent with the objectives and actions of the Plan.

### ***Is the planning proposal consistent with Council's local strategy or other local strategic plan?***

The Bourke Community Strategic Plan 2022 embodies the long-term vision for the community developed by the community, highlighting community outcomes:

1. Environmental Sustainability;
2. Vibrant and liveable community;
3. Economic Prosperity;
4. Governance and organisational performance; and
5. Infrastructure.

Specifically, the proposal is consistent with community objective 2 and 3.

The additional permitted use will help address key community challenges by supporting community growth by assisting in attracting new residents and businesses to the region, promoting Bourke as a regional centre.

By expanding childcare services at the centre, making it easier for parents to work, fostering local industry development and supporting population growth. It also enhances the town's appeal to new residents by offering a key service, while promoting business opportunities and attracting potential employers.

Additionally, the centre aligns with goals to improve community infrastructure, fostering active, family friendly area that encourage both business and population growth.

The planning proposal's consistency with the existing land use demonstrates the minor nature of the proposal.

### ***Is the planning proposal consistent with applicable State Environmental Planning Policies?***

The planning proposal is broadly compliant with all relevant State Environmental Planning Policies (SEPPs). The following specific comments are made in relation to applicable SEPPs.

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

Chapter 3 of the Transport and Infrastructure SEPP aims to:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and*
- (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and*
- (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and*
- (d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and*
- (e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and*
- (g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and*
- (h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.*

This policy applies to the whole of the State, including the Bourke LGA.

Given the current use of the land, and the continuation of this use as envisaged by this planning proposal, the land is considered suitable for the intended purpose.

Specifically, the proposal is consistent with SEPP's aims **b**, **d** and **g**.

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

The aims of the SEPP:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and*
- (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and*
- (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and*

*(d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and*

*(e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*

*(f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and*

*(g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and*

*(h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.*

This policy applies to the whole of the State, including the Bourke LGA.

Given the current use of the land, and the continuation of this use as envisaged by this planning proposal, the land is considered suitable for the intended purpose.

The proposal is not considered to be antipathetic to the SEPP's aims and is specifically consistent with aims **b**, **d** and **g**.

***Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?***

Focus area 1: Planning Systems

**Direction 1.1 Implementation of Regional Plans**

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. The Far West Regional Plan (Plan) has been approved and applies to the Bourke LGA.

The Vision of the Plan is:

*A unique part of Western NSW with a diverse economy, supported by the right infrastructure, an exceptional natural environment and resilient communities.*

The Vision of the Regional Plan is delivered by three key goals and 30 specific directions. Relevant to this planning proposal are a number of goals and directions, outlined and discussed below:

**Goal 3: Strong and connected communities**

Direction 20: Manage change in settlements

Direction 24: Enhance access to education and training

The planning proposal is of minor significance in that it relates to the additional permitted use of land to enable the expansion of the current use of the land to support families and attract skilled workers to the region. The planning proposal, whilst minor in nature, is important in supporting the delivery of the above goals and

directions. The planning proposal is considered to be consistent with the intent and vision of the Regional Plan. The planning proposal is therefore consistent with Direction 9.1.

### **Direction 1.3 Approval and Referral Requirements**

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans and is applicable to all relevant planning authorities when preparing a planning proposal, specifically:

*(1) A planning proposal to which this direction applies must:*

*(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*

*(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*

*i. the appropriate Minister or public authority, and*

*ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act, and*

*(c) not identify development as designated development unless the relevant planning authority:*

*i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and*

*ii. has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.*

The proposal is consistent with the above directions.

### **Direction 1.4 Site Specific Provisions**

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls and is applicable where a planning proposal that will allow a particular development to be carried out, specifically:

*(1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:*

*(a) allow that land use to be carried out in the zone the land is situated on, or*

*(b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*

*(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

*(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.*

The proposal is consistent with direction (1)(c).

#### 4.4 Environmental, social and economic impacts

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

No. The affected land features an existing community facility and recreational facility (outdoor) have been developed for many years and no change to this arrangement is proposed as a result of this planning proposal.

Future development of the *community facility* to expand into *centre-based child care facilities* would be the subject of future development application for specific proposed land use. The ongoing use of the land is consistent with the current use of the land, confirming that the land is suitable for development for this purpose.

The site does not contain any features or habitat and the proposed activity does not involve any activities that are likely to significantly affect threatened species or ecological communities or their habitats (**Figure 5**). The site is not part of any biodiversity offsets scheme and is not located in an area of outstanding biodiversity value. A search of the Biodiversity Values Map and Threshold Tool showed no presence of Areas of Environmental Significance on the development site.



**Figure 5 – Critical habitat or threatened species**



**Figure 5  
Critical Habitat or Threatened Species**

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

Environmental effects associated with the use of the land for *centre-based child care facilities* are consistent with the current use of the land.

As identified in **Figure 6**, the site is not bushfire prone land; however, is included within the Bourke Floodplain Risk Management Study and Plan (**Figure 7**). However, the site has been protected from being inundated by flood waters since the realignment of the levee prior to the 1976 flood (**Figure 7**).

Any future development of the land to expend the funding under the *Minns Government Regional Development Trust Fund's Western NSW Workforce Activation Package* would be the subject of detailed design including considering known site environmental constraints and the need to provide appropriate environmental controls and mitigation measures.

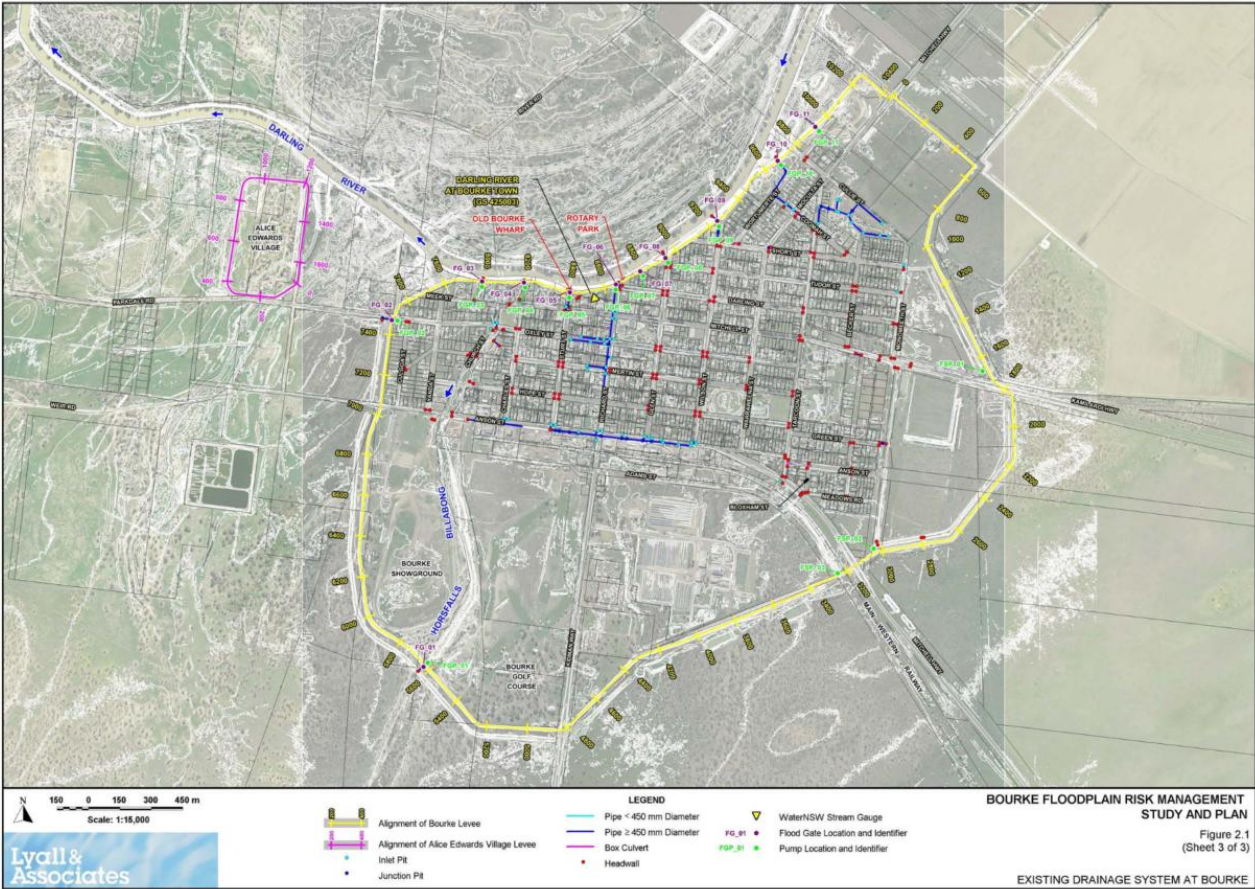


**Figure 6 – Bush Fire**





Figure 7 - Bourke Floodplain Management and Study Plan



***Has the planning proposal adequately addressed any social and economic effects?***

The development is considered to result in social and economic benefits to the locality, through providing increased capacity for child-care services enabling parents returning to work and supporting skilled workers with young families moving to the area, giving effect to the goals within The Far West Regional Plan 2036.

The site has been highly disturbed from previous development and is anticipated to unlikely to result in adverse effects on items or places of European or Aboriginal cultural heritage. Future development applications will of the *community facility* to expand into *centre-based child care facilities* will assess likely impacts on items or places of European or Aboriginal cultural heritage.

A AHIMS search conducted on 29 November 2024 identified no aboriginal sites or places near the site, see **Figure 8**.



Figure 8 - AHIMS Search



## 4.5 State and commonwealth interests

It is not considered that the minor change proposed via this planning proposal would conflict with any State or Commonwealth interests. The formal views of State and commonwealth public authorities would be ascertained following the Gateway Determination.

## 5. COMMUNITY CONSULTATION

### 5.1 Type of community consultation required

*Local Environmental Plan Making Guideline* identifies four different exhibition periods for community consultation;

- Basic - 10 working days
- Standard - 20 working days
- Complex - 30 working days
- Principal - 20 working days

Notification of the planning proposal at the public exhibition stage will occur:

- On Council's website;
- On the Planning Portal; and
- In writing to affected and adjoining landowners as part of the Gateway determination.

These notices will describe:

- The intended outcomes of the planning proposal;
- The land affected by the planning proposal;
- Where people can view the proposal;
- Contact details for submissions; and
- Whether Council is the designated local plan making authority.

The planning proposal's consistency with the existing land use demonstrates the minor nature of the proposal. It is anticipated that the community consultation period of 10 working days is justified.



# **APPENDIX A**

## **CONSULTATION CORRESPONDENCE**



# **APPENDIX B**

## **GATEWAY APPROVAL**



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