

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSWES-136
<b>DA Number</b>	D02/2022
<b>LGA</b>	Central Darling Shire Council
<b>Proposed Development</b>	Proposed site works including demolition and construction of a new cultural centre and associated works to the existing shed with landscaping, boundary fencing and a new awning.
<b>Street Address</b>	42 & 44 Reid Street, Wilcannia
<b>Applicant</b>	Department of Regional NSW
<b>Owner</b>	Central Darling Shire Council
<b>Date of DA lodgement</b>	20 April 2022
<b>Number of Submissions</b>	One (1) submission received in support.
<b>Recommendation</b>	Approval
<b>Regional Development Criteria - Schedule 6 of SEPP (Planning Systems) 2021</b>	The capital investment value exceeds \$5 million for Crown development. CIV: \$5,576,000.00
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979;</li> <li>• State Environmental Planning Policy (Planning Systems) 2021;</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land;</li> <li>• Central Darling Local Environmental Plan 2012 (CDLEP 2012).</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<b>Attachment 1:</b> Conditions of Consent <b>Attachment 2:</b> Plans
<b>Clause 4.6 requests</b>	N/A
<b>Summary of the key issues</b>	<ul style="list-style-type: none"> <li>• Land contamination &amp; remediation.</li> <li>• Heritage impact.</li> <li>• Removal of Jacaranda.</li> </ul>

<b>Report prepared by</b>	Oliver King, Assessment Officer (City of Ryde Council) on behalf of Central Darling Shire Council
<b>Report date</b>	15 August 2022

<b>Summary of Section 4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>N/A</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.24)?	<b>No</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>Yes – applicant has agreed to conditions</b>

## 1. EXECUTIVE SUMMARY

This report considers an assessment of a development application (D02/2022) (Panel Reference PPSWES-136) lodged 20 April 2022 for the construction of the new Baaka Cultural Community Centre on land at 42-44 Reid Street, Wilcannia. The applicant is the Department of Regional NSW and the proposal is located within the Central Darling Shire Council local government area.

The proposal seeks approval for the construction of a new single storey (with basement) community cultural centre, with a renovated outbuilding, associated landscaping, new boundary fencing and a new awning. The development also comprises civil works to provide car parking and vehicle access throughout the site, with five (5) car parking spaces adjacent to Reid Lane.

The proposal has a capital investment value of \$5,576,000.00 and is accordingly considered Regionally Significant Development in accordance with Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 (as it is Council related development with a CIV of greater than \$5 million). The application was publicly exhibited for a period of 42 days between 21 April 2022 and 2 June 2022. As a result, one (1) submission was received in support of the development.

The proposal is situated on a site containing a heritage item, of local significance, known as the 'Knox and Downs Store'. The site is also located within the Wilcannia Conservation Area as described in greater detail throughout this report.

Council's assessment concludes that the built form of the development is acceptable within the Wilcannia Conservation Area and the proposed works will result in a positive impact to the Knox & Downs Store heritage item. The development will simultaneously enhance and distinguish the site from the surrounding heritage items via its mix of contemporary design and retained heritage features.

The application has demonstrated that the site can be appropriately remediated and made suitable for the proposed use under State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land. Appropriate conditions are included on the draft consent (see **Attachment 1**).

The proposal will not result in any adverse environmental or amenity impact to the nearby residential dwellings, or the wider Wilcannia locality. The traffic and parking generation of the site can be accommodated within the local road network and the development will not unduly impact the adjacent classified road of the Barrier Highway. Any noise impact resulting from the use of the cultural centre will be appropriately managed through recommended conditions of consent.

Council considers the proposal would provide significant public benefits to the Wilcannia community, by providing an information and educational facility that would attract visitors from beyond the local government area. It would also provide the constitutes of Wilcannia with cultural continuity via the teaching of the local Aboriginal dialect, music, dance, art and ceremony. The development will also provide economic incentives via employment during the construction of the centre and throughout its operation.

Council concludes that the impact of the development is acceptable and can be appropriately mitigated through the recommended conditions of consent and approved

supplementary documentation. The development is not contrary to the public interest and should be approved, subject to conditions included in **Attachment 1**.

## 1. APPLICATION DETAILS

**Applicant:** Department of Regional NSW  
**Owner:** Central Darling Shire Council  
**Capital Investment Value:** \$5,576,000.00  
**Disclosures:** No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by any persons.

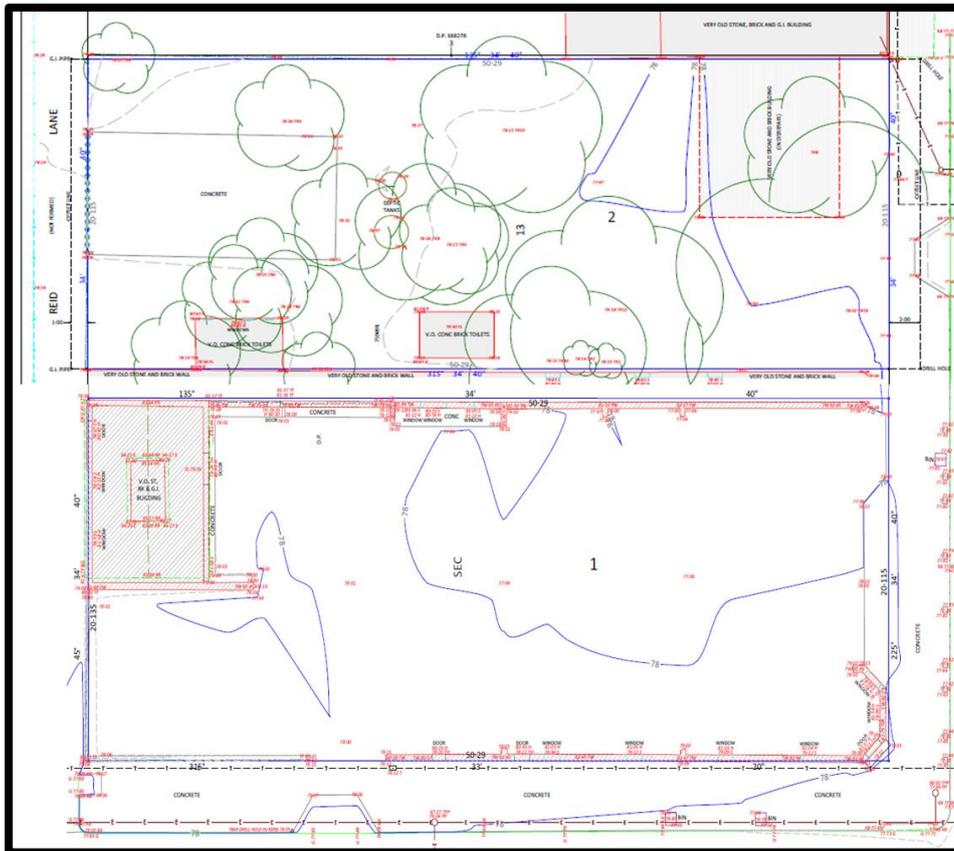
## 2. SITE DESCRIPTION

The site is legally described as Lot 1 & 2 Section 13 within DP759091 and is known as Nos. 42-44 Reid Street, Wilcannia. The site is located at the corner of Reid Street and the Barrier Highway (Myer Street) with a rear boundary adjoining Reid Lane as shown in **Figure 1** below. The lots within the site have a combined area of approximately 2,157m<sup>2</sup>.

The site is zoned as B2 'Local Centre', with the surrounding locality comprising a mixture of B2 'Local Centre' and R1 'General Residential' zoning and features a mixture of low-scale residential housing and commercial premises with some local heritage significance.



**Figure 1.** Aerial view of combined allotments (No. 42 & 44 Reid Street).



**Figure 2.** Site survey for both No. 42 & 44 Reid Street.

**Please Note:** Several trees on Lot 2 have been removed as of the date of this report.

42 Reid Street (Lot 2) is currently occupied by three (3) structures; one (1) is a large outbuilding shed and two (2) are concrete brick toilets. The site has been cleared of vegetation except for one (1) *Phoenix canariensis* (Canary Island Date Palm) and one (1) *Jacaranda mimosifolia* (Jacaranda).

44 Reid Street (Lot 1) is occupied by the former Knox and Downs Store. Lot 1 is a corner lot and adjoins Reid Street to the south-east, the Barrier Highway (Myers Street) to the south-west and Reid Lane to the north-west, as shown in **Figure 1** above.

The Knox and Downs Store is listed in Schedule 5 of the Central Darling Shire Local Environment Plan 2012 (CDLEP 2012) as an item of local heritage significance. The building was dated from the 1890s but was severely damaged in a fire in 2002 which destroyed most of the structure, leaving the verandah, front parapet and western side walls.

The site is located within the Wilcannia Conservation Area, with similar colonial era heritage items located nearby the premises, such as the Wilcannia Post Office & Residence (45 Reid Street), the Wilcannia Club Hotel (46 Reid Street) and the Butcher Shop (50 Reid Street).

The site is generally level with a slight decline from the rear north-west corner (intersection of Reid Lane & Barrier Highway) and descending marginally towards the north-east corner (intersection of Reid Street and adjoining site at 40c Reid Street). This difference represents a decline of approximately 190mm over a site length of 40.23m.

Photographs of the site(s) are included in **Figures 3 - 7** below.



**Figure 3.** No 44 Reid Street with retained shed, as viewed from Reid Lane (dated 9 May 2022).



**Figure 4.** No 44 Reid Street interior view, facing south-east towards Reid Street (dated 9 May 2022).



**Figure 5.** No 44 Reid Street retained shed interior view, facing north-west towards Reid Lane (dated 9 May 2022).



**Figure 6.** No 42 Reid Street interior view, facing south-east towards Reid Street (dated 9 May 2022).



**Figure 7.** No 42 Reid Street interior view of structures, facing south-west towards No. 44 Reid Street (dated 9 May 2022).

### 3. SITE CONTEXT

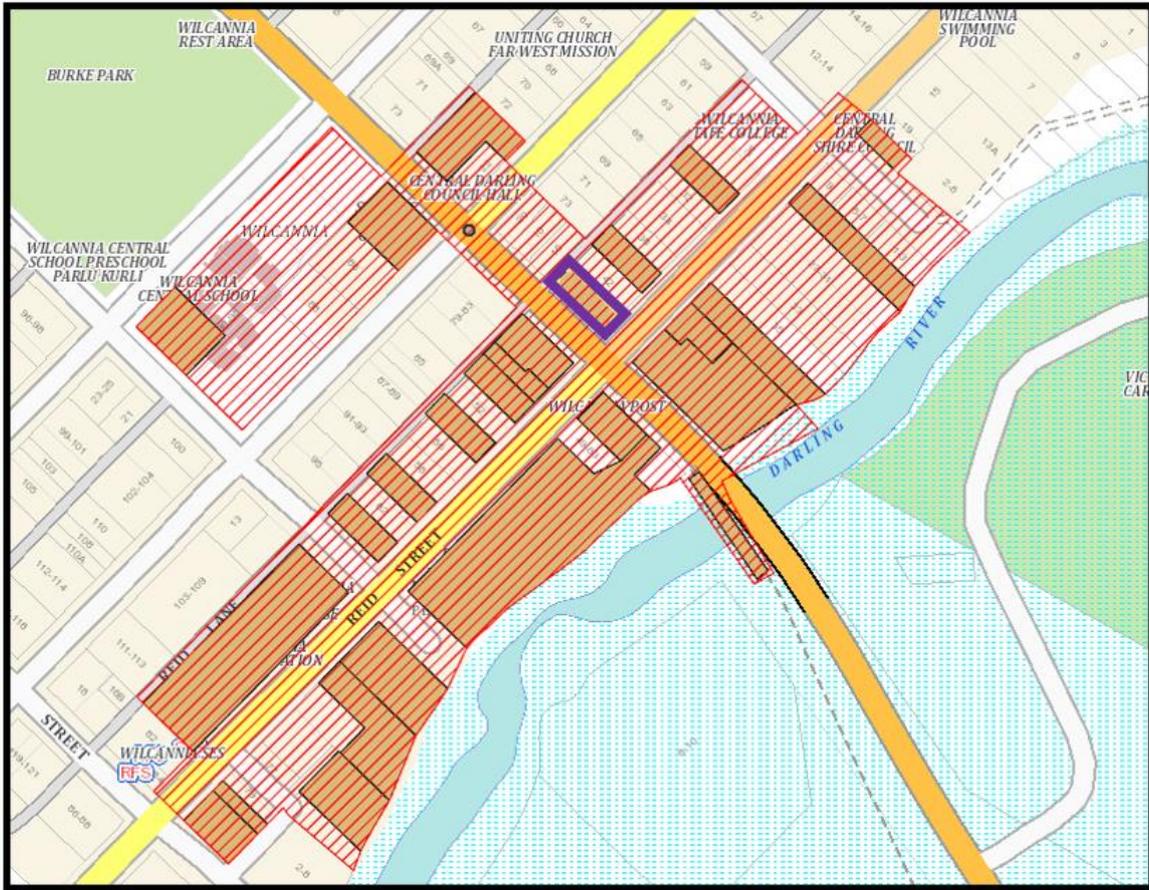
The site is located within the Wilcannia town centre and is setback approximately 160.69m from the Darling River to the south-east. The Burke Park and Wilcannia Central School is located approximately 310m to the north-west of the site, with the site adjoining the classified road of the Barrier Highway (Myers Street) directly to the south.

The site is located within the B2 'Local Centre' zone under the CDLEP 2012. The nearby Darling River is zoned W1 'Natural Waterways' with R1 'General Residential' zoning surrounding the area. Further afield to the north and particularly south beyond the Darling River, the vast majority of the Wilcannia area is zoned RU1 'Primary Production'.

The collective existence of individual heritage items, trees, open spaces, views and local landmarks all contribute to the Wilcannia Conservation area. The typical style of buildings in this area implements light-coloured sandstone brick with metal sheet roofing and sandstone kerbing and gutters. Corrugated iron is a common fixture of the locality, with timber framed buildings mostly decayed due to termite infestation.

The site is located within the Wilcannia Conservation Area, with similar colonial era heritage items located nearby the premises, such as the Wilcannia Post Office & Residence (45 Reid Street), the Wilcannia Club Hotel (46 Reid Street) and the Butcher Shop (50 Reid Street). A locality plan showing the site within the Wilcannia Conservation Area is included in **Figure 8** below.

Heritage listed buildings in the immediate vicinity of the subject site are included in the below **Figures 9 – 13**.



**Figure 8.** Locality plan showing Wilcannia Conservation Area as lined in red and the Knox and Downs heritage item as shown with purple boundary.



**Figure 9.** 37 Reid Street (Museum/Wilcannia Athenæum – Local Significance).



Figure 10. 45 Reid Street (Post Office residence – Local Significance).



Figure 11. 64 Reid Street (Old Queens Head Hotel – Local Significance).



**Figure 12.** 66-68 Reid Street (Wilcannia Court House – Local Significance).



**Figure 13.** 1 – 7 Ross Street (Hospital – Local Significance).

#### 4. THE PROPOSAL (AS AMENDED)

The proposal is for the construction of a new information and education facility, known as the Baaka Cultural Centre at 42-44 Reid Street, Wilcannia. The development for 'information and education facility' is permissible with consent.

The application is referred to the Western Regional Planning Panel as required under the Environmental Planning and Assessment Act 1979 for determination as the capital investment value totals \$5 million for Council related development. The proposed works include:

##### Demolition works:

- Partial demolition and partial retention of existing sandstone wall on south-east elevation (formally Knox and Downs building);
- Removal of One (1) *Jacaranda mimosifolia* (Jacaranda).

##### Basement level:

- Excavation for new basement area;
- Two (2) display rooms for examining artefacts & cultural items;
- One (1) storage room for art & artefacts.
- Multipurpose oval-shaped 'Keeping Place' for exhibiting artefacts, audio & visual displays, seminars and performances;
- Stairs connecting basement with ground floor with wheelchair platform lift.

##### Ground level:

- Entry foyer into visitor information area;
- Multipurpose exhibition area with performance space and conference area;
- 'Language Nest' – small library area providing information and educational services;
- Café area with seating;
- One (1) administration office;
- One (1) Commercial kitchen;
- One (1) meeting room;
- Male toilet with one (1) cubicle and one (1) urinal;
- Female toilet with two (2) cubicles;
- One (1) disabled/baby changing room;
- Male and female changing rooms;
- One (1) plant room.

##### External Works

- External veranda overhanging Barrier Highway (Myers Street) and Reid Street) walkways;
- Modwood decking and associated covered veranda within site;
- Sand performance area;

- Story tree area;
- Retained shed to be used as a studio/workshop;
- Five (5) car parking spaces including one (1) disabled car space;
- Associated landscaping works including the planting of sixteen (16) new trees.

The facility is expected to have one to two full-time employees with a maximum fifty (50) visitors in one day.

The information and education facility will provide a variety of services and activities that cater to the local Aboriginal community and outside visitors. Some of the services that the community centre will offer are as follows:

- The community centre will absorb the existing language hub responsibilities from Wilcannia Central School. Currently the language hub resources are located at the school and the intent of the new language hub is to provide the service at the community centre for those community members that are not students of the school;
- The development will operate as a meeting place for the local Aboriginal community and serve to provide the community with verbal announcements.
- The provision of training and tutoring for local artists & conduction of language and artistry classes;
- Catering potential with a semi commercial kitchen included in the project. Semi-commercial catering presents opportunities for commercial enterprise not only to cater externally but to host and cater potentially for art exhibitions, displays, performances etc;
- The Wilcannia elders have expressed interest in other commercial enterprises including the teaching of bush tucker identification and cooking skills using bush tucker ingredients;
- This centre is intended to partner with “Visit NSW” tourist information and provide travelling public with information on local guides and places of interest.

There is no expected access requirement for large vehicles, with light deliveries of food goods delivered on occasion.

It is noted that there is no proposed signage as a part of this application and any future signage would be subject to a new application.

**Table 1** below provides a numeric overview of the proposed building.

<b><i>Component</i></b>	<b><i>Proposed</i></b>
Height	9.62m (Single storey with basement).
Gross Floor Area	759m <sup>2</sup> (35.2% of site).
Parking	Five (5) car parking spaces provided.

**Table 1:** Numeric overview of building.

The proposal will collect rainwater from the roofing and disperse via downpipes and outlet pits to an absorption trench located beneath the sand performance area.

**Figures 14 - 18** below demonstrate the proposed architectural (as amended) for the new Baaka Cultural Centre.

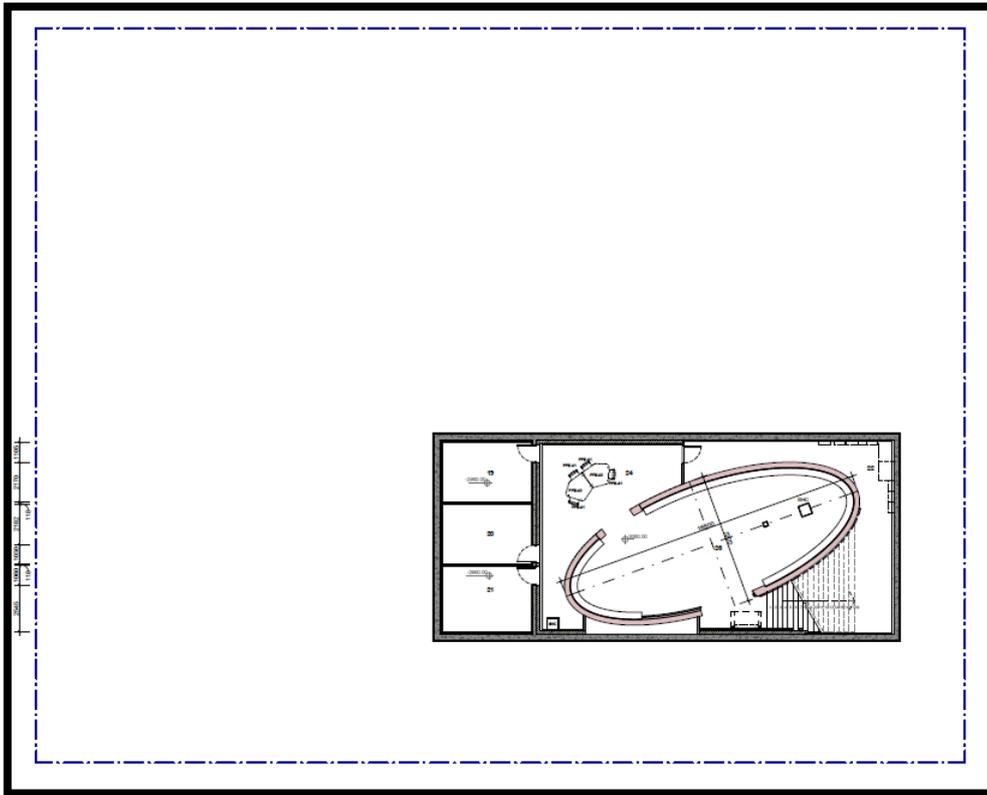


Figure 14. Proposed basement level in relation to broader site(s).

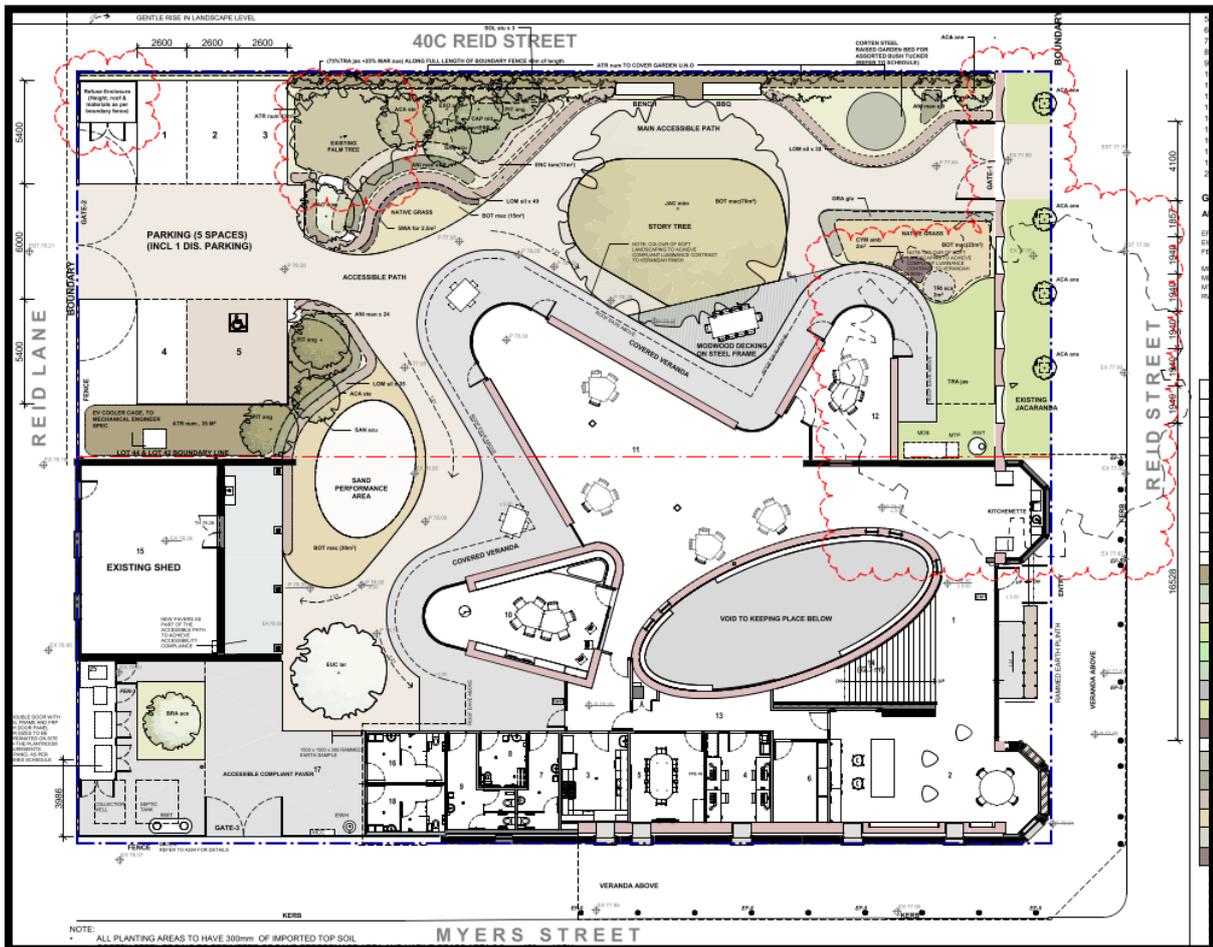


Figure 15. Proposed ground floor level plan.

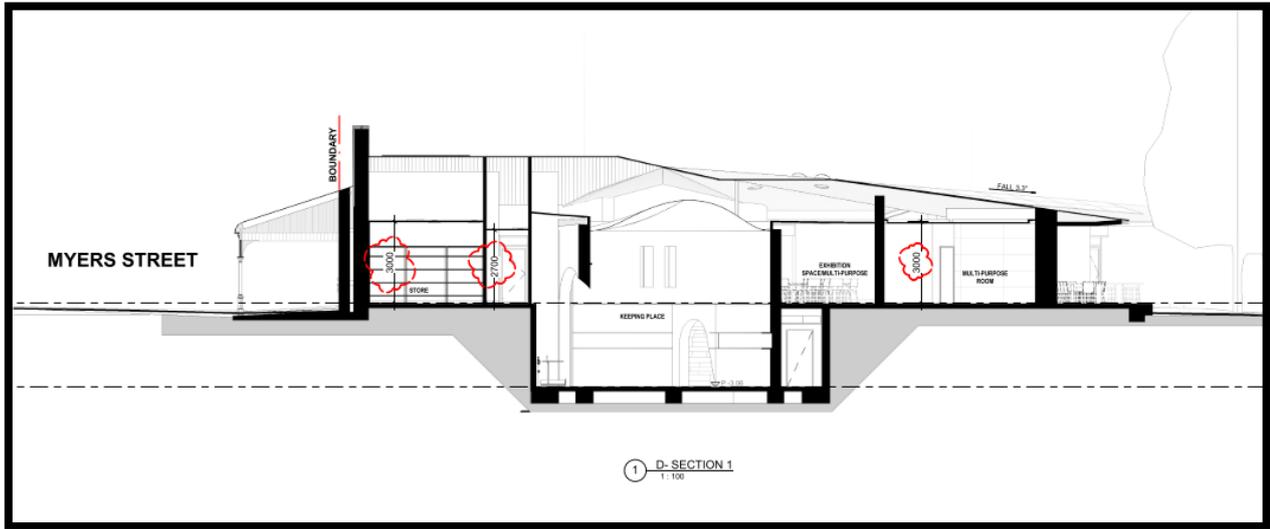


Figure 16. Proposed Section 1 plan.

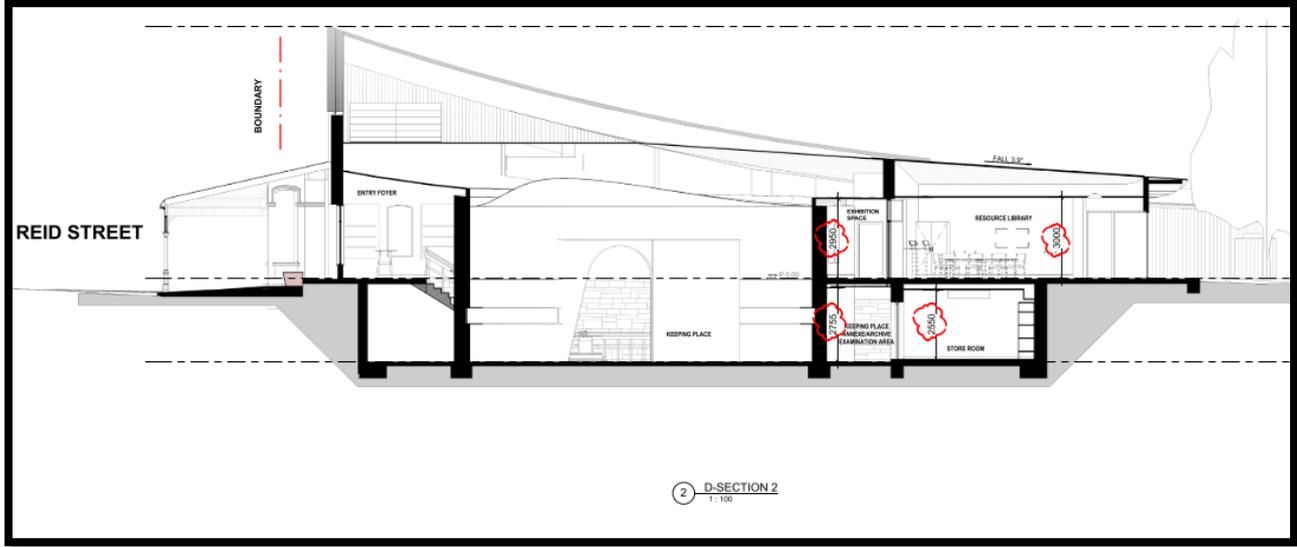


Figure 17. Proposed Section 2 plan.



Figure 18. Artist impression of development as viewed from the corner of Barrier Highway and Reid Street.

## 5. PLANNING HISTORY

### Prior to Lodgement

The Knox and Downs building was built in 1890 and was a large corner store with brick-edged walls and cast iron columns, supporting a bullhouse verandah which reflected the high point of Wilcannia's river port status in the late 1800s.

The structure suffered severe damage by a fire in 2002. The fire destroyed most structures on-site, with the verandah, front parapet and western side walls left standing with severe structural damage. Gradually the verandah and large portions of the western side wall structure collapsed. The parapet was later demolished by Council in 2006 due to its unstable condition, with the existing large cellar filled in with soil so as to prevent pedestrian injury should someone access the site.

The site has henceforth been derelict with overgrown shrubs and structural decay as demonstrated in **Figures 19 – 23** below.



**Figure 19.** Knox & Downs building on site prior to 2002 fire (date unknown).



**Figure 20.** Condition of the remaining structures following the 2002 fire (dated 2002).



**Figure 21.** Deteriorated condition of the site following structural collapse (dated December 2019).



**Figure 22.** Deteriorated condition of the site (dated 9 May 2022).



**Figure 23.** Internal view of the condition of the site, looking north-east towards No. 42 Reid Street (dated 9 May 2022).

### History of the Subject Application

A brief history of the progress of this application is provided in the below:

<b><i>Relevant Date</i></b>	<b><i>History</i></b>
20 April 2022	The current DA was lodged.
9-10 May 2022	Site inspection undertaken by City of Ryde Council's Assessment Officer & Development Engineer.
27 May 2022	Request for additional information requested from applicant. Information required is as follows: <ul style="list-style-type: none"> <li>• Amended Arborist Report assessing the impact of the development on Trees 1 &amp; 2 to be retained.</li> <li>• Amended Landscaping Plan addressing the correct location of various on-site trees, the encroachment into the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of Tree 1 and minor planting schedule issues.</li> <li>• Request for stormwater management details regarding the highest recorded flood level to determine appropriate freeboard level.</li> <li>• Minor architectural details regarding RL's (to AHD).</li> <li>• The location of the intended waste storage area was requested to be shown on the amended architectural plans.</li> </ul>

	<ul style="list-style-type: none"> <li>Further information regarding the intended use of a 'snack/beverage bar' was requested to determine the range of use of the premises.</li> </ul>
16 June 2022	Amended Arboricultural Impact Assessment prepared by Urban Tree Management received. Council's Landscape Architect raised no objection subject to conditions of consent.
29 June 2022	Second request for additional information requested from applicant. Information required is as follows: <ul style="list-style-type: none"> <li>Additional details on extent of excavation &amp; impact on potential archaeological resources;</li> <li>Additional details as to how the retained structures will be safeguarded during construction &amp; demolition works;</li> <li>Copy of the Conservation Management Plan (CMP).</li> </ul>
19 July 2022	Briefing meeting held with Western Regional Panel members. After meeting, recommendation for amended site contamination report(s) were requested from the applicant.
5 August 2022	Conservation Management Plan (CMP) received from applicant's heritage consultant.
12 August 2022	Applicant submits an amended site contamination report and heritage impact information.

## 7. PLANNING ASSESSMENT

The following legislation, policies and controls are of relevance to the development:

- Environmental Planning and Assessment Act 1979;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas;
- State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land;
- Central Darling Local Environmental Plan 2012 (CDLEP 2012).

### 7.1 Environmental Planning and Assessment Act 1979

Under Section 4.15 of the Environmental Planning & Assessment Act 1979, the consent authority is required to take into consideration any environmental planning instrument, planning agreement, the Regulation and development control plan that is of relevance to the development application. The objects of the Act and Council's consideration against those objects is demonstrated in the following **Table 2**:

Object	Consideration
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and</i>	The proposal promotes the social and economic welfare of the Wilcannia township by the proper management and development of a vacant site into an information and education facility.

<i>conservation of the State's natural and other resources.</i>	
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision making about environmental planning and assessment.</i>	The development will not compromise the principles of ecologically sustainable development at any stage of the proposal.
<i>(c) to promote the orderly and economic use and development of land.</i>	The development will promote the orderly & economic use of the site by redeveloping a currently vacant and dilapidated site. The development will meet the objectives of the zone by enabling a land use that provides services to meet the needs of the residents and minimise land use conflict within the subject & adjoining zones.
<i>(d) to promote the delivery and maintenance of affordable housing.</i>	The provision of housing is not relevant to this development application.
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.</i>	The proposal will not result in the loss of any threatened or vulnerable species, populations, communities or significant habitats.
<i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).</i>	<p>The proposed development is not anticipated to result in any impacts upon built and cultural heritage, including Aboriginal heritage. The development is expected to enhance and contribute to the Wilcannia Conservation Area and emphasise the remaining structures of the Knox &amp; Downs heritage site.</p> <p>A condition of consent has been included requiring works to cease in the event of an unexpected heritage find.</p>
<i>(g) to promote good design and amenity of the built environment.</i>	Council considers the design of the proposal promotes a good design and amenity of the site, as well as being of a scale and bulk that will not detract from the nearby items of local heritage or the Wilcannia Conservation Area.
<i>(h) to promote the proper construction and maintenance of buildings, including the protection</i>	The buildings will need to be constructed in accordance with the requirements of the Building Code of Australia.

<i>of the health and safety of their occupants.</i>	
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.</i>	Assessment of the application is being undertaken by Council whilst the determining authority is the independent Western Regional Planning Panel.
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i>	Community participation via the notification period was undertaken.

**Table 2.** Objects & considerations of the Environmental Planning & Assessment Act 1979.

## **7.2 State Environmental Planning Policy (Planning Systems) 2021**

The proposal is a Council related development and has a capital investment value of \$5,576,000.00. Accordingly, it is Regionally Significant Development under Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 (as it has a CIV of greater than \$5 million). For that reason, the development application is required to be determined by the Western Regional Planning Panel.

## **7.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas**

The above SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

The development has been accompanied by an Arboricultural Impact Assessment prepared by Urban Tree Management, which has been reviewed by Council’s Landscape Architect. Several issues were identified by Council’s Landscape Architect, namely the proposed planting schedule and the configuration of the building footprint and impact on Tree 1 (*Jacaranda mimosifolia*).

Due to the location of the proposed south-eastern façade wall (Elevation D) of the community centre, the building will encroach into the tree protection zone (TPZ) of the *Jacaranda mimosifolia* (Jacaranda) as shown in the below **Figure 24**.

Given that this tree (Tree 1) has been significantly damaged as a result of the 2002 fire, as well as past pruning efforts and lack of a working irrigation system, removal of this tree is considered to be acceptable. **Figure 25** below shows the current visual appearance and state of health of Tree 1.

Further to the above, the proposal includes four (4) River Red Gums shown to be planted along the boundary to Reid Street, as shown below in **Figure 26**. Given that these large trees will be located 1.8m from the proposed façade along Reid Street, these plantings are considered too close to the proposed façade and too large of a species for the proposed location, which will result in future damage to the building façade and adjoining footpath. As such, the four (4) River Red Gums are to be deleted from the landscaping plan.

Compensatory plantings for the four (4) River Red Gums and one (1) Jacaranda will be provided in accordance with Central Darling Council's Streetscape Improvement Project (Wilcannia Town Centre) as included in the conditions of consent.

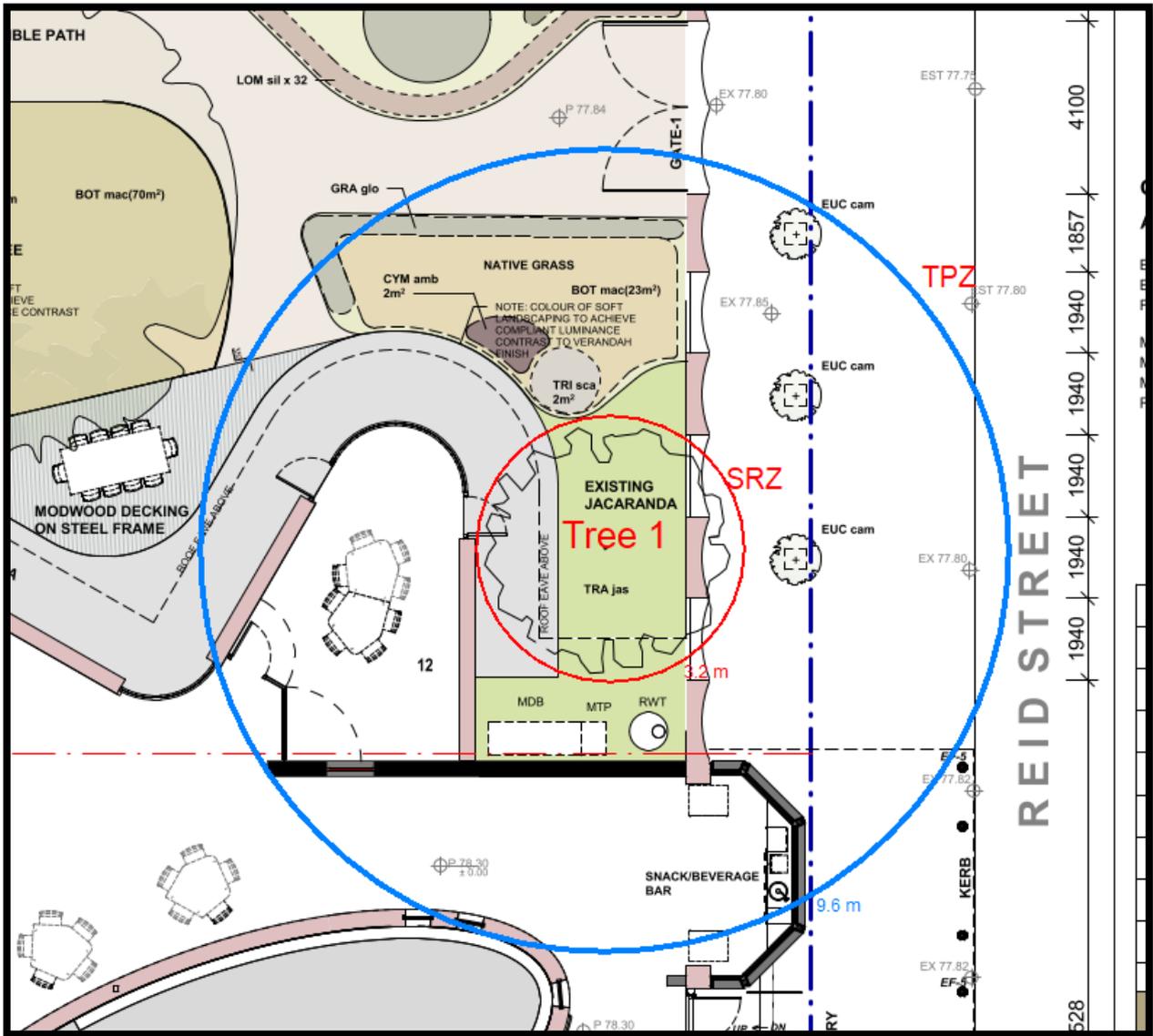
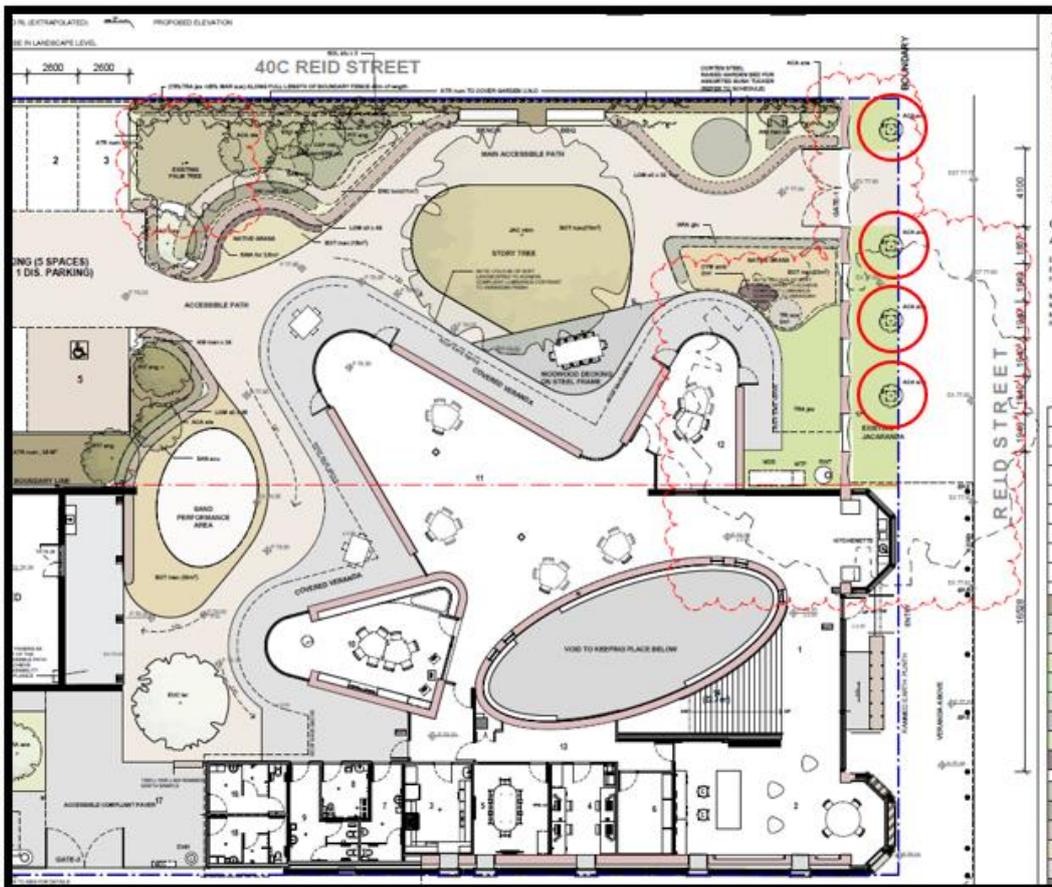


Figure 24. Proposed decking and façade wall encroachment into the TPZ & SRZ of Tree 1.



**Figure 25.** Tree 1 as viewed from Reid Street (dated 9 May 2022).



**Figure 26.** Location of four (4) Red River Gum tree plantings between south-east façade wall and Reid Street (as shown in red circles).

As such, the development is consistent with the requirements and objectives of the SEPP, subject to the recommended conditions of consent.

## **7.5 State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land**

In accordance with Clause 4.6 of the SEPP, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Both No. 42 & 44 Reid Street displays some evidence of asbestos as a result of damaged and deteriorated historical structures, as well as equipment and vehicle storage that may have imposed localised contamination from fuels and other contaminants such as lead. A preliminary site investigation was submitted for No. 44 Reid Street.

In the Preliminary Site Investigation for No. 44 Reid Street, it was concluded that the proposed development would not be currently suitable, and an unacceptable risk was posed to human health and the environment. This is due to the presence of asbestos containing material throughout the soil, as well as elevated levels of zinc and lead detected.

The Preliminary Site Investigation recommends that a suitably qualified contractor disposes of any hazardous material or waste at No. 44 Reid Street. It is also recommended that a suitably qualified contractor manages and carries out the demolition of any buildings or structures to be removed at the site before any further works are completed. The submitted contamination report has recommended this occur due to the identification of elevated levels of asbestos containing materials, zinc and lead in the site's soil.

A request for a revised contamination report for both No. 42 & 44 Reid Street was requested on the 19 July 2022 after discussion at the panel briefing. The applicant provided amended information in the form of work cover clearance certificates and waste-tip receipts confirming the removal of asbestos from No. 42 & 44 Reid Street on the 19 July 2022, however no holistic amended site contamination report was received.

On the 19 August 2022, an amended site contamination report was received by Council. The report stated the following:

*“It is therefore recommended that, in accordance with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards, 2021), the following steps are required to ensure the site is suitable for the proposed development:*

- *A detailed investigation of the site that has been cleared of all scrap, demolition waste and structures*
- *A remedial action plan for any remaining contamination identified through the detailed investigation,*
- *If no further contamination is discovered through the detailed investigation, or following any remediation recommended through the remediation action plan, a validation assessment be undertaken of the site to confirm that the site is suitable for the proposed development.”*

No objection has been raised by Council's Environmental Health Officer (EHO) subject to conditions of consent. As such, the site is considered suitable for the proposal subject to conditions of consent (see deferred commencement conditions).

## 7.6 Central Darling Local Environmental Plan 2012 (CDLEP 2012)

The following is an assessment of the relevant provisions of the CDLEP 2012:

### Clause 1.2 Aims of Plan

The particular aims of the CDLEP 2012 is as follows:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to encourage the proper management of the natural and human-made resources of Central Darling by protecting, enhancing or conserving-*
  - (i) *productive agricultural land, and*
  - (ii) *timber, minerals, soil, water and other natural resources, and*
  - (iii) *areas of significance for nature conservation, and*
  - (iv) *areas of high scenic or recreational value, and*
  - (v) *places and buildings of archaeological or heritage significance,*
- (b) *to promote ecologically sustainable urban and rural development,*
- (c) *to provide a secure future for agriculture by expanding Central Darling's economic base and minimising the loss or fragmentation of productive agricultural land,*
- (d) *to minimise land use conflict,*
- (e) *to ensure that development has regard to the capability of the land,*
- (f) *to provide a choice of living opportunities and types of settlement within Central Darling,*
- (g) *to ensure that the efficiency of arterial roads is not adversely affected by development on adjacent land.*

The aims of the CDLEP 2012 and consideration against those aims is demonstrated in the following **Table 3**:

Aims	Comment
<i>(aa) to protect and promote the use and development of land for cultural activity, including music and other performative arts.</i>	The design of the proposal with packed earth walls complementing the previous Knox & Downs building reflects the mixed historical and cultural ambience of the Wilcannia township. The use of the premises as an information and education facility will provide the community with the teaching of aboriginal language, music and performative arts and meets the above aim.
<i>(a) to encourage the proper management of the natural and human-made resources of Central Darling by protecting, enhancing or conserving – (v) places and buildings of archaeological or heritage significance.</i>	The proposed development will not compromise the heritage significance of the Knox & Downs site, or the wider Wilcannia Conservation Area.  Due to the history of the site, the proposed works are unlikely to reveal substantial new information pertaining to aboriginal artefacts or relics. However, a precautionary condition relating to 'unexpected finds protocols' shall be imposed on the development consent, in which works would be required to cease and further investigation be

	undertaken in the event of the discovery of potential archaeological relics.
<i>(b) to promote ecologically sustainable urban and rural development.</i>	The proposal is not inconsistent with this aim.
<i>(c) to provide a secure future for agriculture by expanding Central Darling's economic base and minimising the loss or fragmentation of productive agricultural land.</i>	The proposal is located within the Wilcannia township in a B2 'Local Centre' zone which has historically operated as a commercial use. As such, the proposal will not fragment or reduce the Central Darling's productive agricultural land.
<i>(d) to minimise land use conflict.</i>	The development is a permitted form of development in the B2 zoning area. The use of the site for a non-residential purpose is unlikely to unreasonably affect the amenity of the nearby R1 'General Residential' area, noting that other non-residential land uses are also located in the vicinity of the site and within the Wilcannia Conservation Area. The nature of the proposed use and sufficient management safeguards should ensure that there will be minimal land use conflict.
<i>(e) to ensure that development has regard to the capability of the land.</i>	The proposal promotes the efficient use of the B2 zoned land, does not prevent its orderly development, provides an attractive and modern frontage to both Reid Street & the Barrier Highway and is of a scale and bulk within the environmental capability of the site. As such it is considered that the proposal meets the objectives of the LEP and the B2 zone within which it is located.
<i>(f) to provide a choice of living opportunities and types of settlement within Central Darling.</i>	The development is not applicable to this aim.
<i>(g) to ensure that the efficiency of arterial roads is not adversely affected by development on adjacent land.</i>	The proposal will not unduly impact upon the flow of traffic from the adjoining classified road of the Barrier Highway. The proposal will provide car parking and vehicle access from the secondary road of Reid Lane and there are no concerns raised in regard to on-site & off-site car parking that may obstruct the Barrier Highway. As such, the proposal is considered to meet the above aim in that it will not adversely affect the efficiency of the adjoining arterial road.

**Table 3.** Aims and proposal assessment of the Central Darling Local Environmental Plan 2012.

## Clause 2.2 Zoning

The site is located within the *B2 'Local Centre'* zone under the CDLEP 2012. Development for information and education facilities are permissible in this zone.

As part of the Department of Planning and Environment employment zones reform of the Business and Industrial zones, the site will be rezoned from B2 to RU5 Village zone. This new zone will be in place within the LEP by 1 December 2022. The objectives of the RU5 Village zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To retain and facilitate expansion and redevelopment of the existing centres 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.*

Information and education facilities are also a permitted use in the RU5 zoning. The development is consistent with the objectives of the RU5 zoning.

## Clause 2.3 – Zone Objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives for the B2 'Local Centre' zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To encourage infrastructure that supports the viability of business centre precincts.*
- *To enable business development to occur while retaining the existing character of the local centre.*

The proposed development complies with the relevant objectives of the B2 zone. The proposed development is defined as an 'information and education facility', which is defined as:

*“a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.”*

The development complies with the above objectives and will be consistent with the State and local strategic intent by introducing a new educational development that is coherent with the site's surrounding context and does not adversely impact any surrounding land uses, particularly the R1 'General Residential' dwellings.

As such, the proposal will provide informational and educational services to the Wilcannia community that will generate employment opportunities for the LGA and provide locals and visitors alike with an informative experience to the history of the Wilcannia township and

Aboriginal community.

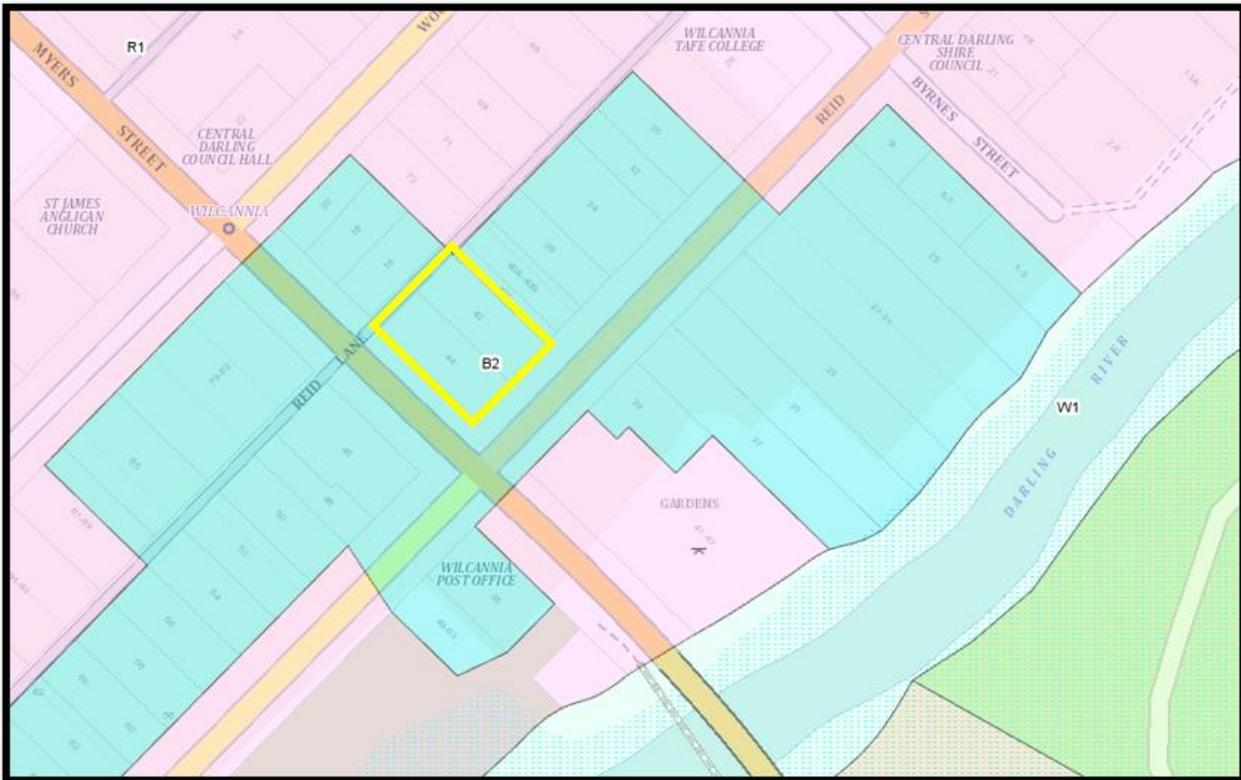


Figure 27. Site zoning, site outlined in highlighted yellow.

### Clause 4.3 – Height of Buildings

No building height controls are applicable to the site.

### Clause 4.4 – Floor space Ratio

No floor space ratio controls are applicable to the site.

### Clause 5.10 Heritage conservation

The relevant clauses applicable to this development include:

(1) *Objectives* The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Central Darling,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance

(4) *Effect of proposed development on heritage significance* The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

- (5) *Heritage assessment* The consent authority may, before granting consent to any development—
- (a) *on land on which a heritage item is located, or*
  - (b) *on land that is within a heritage conservation area, or*
  - (c) *on land that is within the vicinity of land referred to in paragraph (a) or (b),*

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

Whilst the subject site at No. 44 Reid Street is identified as an item of Local Heritage significance, the 2002 fire substantially destroyed most of the original heritage fabric and façade of the Knox and Downs building. Further demolition works undertaken in 2006 by Central Darling Council further resulted in essentially two opposing walls and a detached structure as the remaining structures of the original Knox and Downs building. As a consequence of the above circumstances, it is not possible to retain the heritage building.

The proposal seeks to incorporate the external portions of the heritage item (detached outbuilding and remaining walls) into the new contemporary development which will facilitate the adaptive re-use of the site as an Aboriginal Cultural Centre. Given that reconstruction of the Knox and Downs building would lack authenticity and be of little heritage value, the incorporation of the remaining structures into the new design is the most viable approach to retaining the surviving elements with meaningful interpretation to the site's heritage and historical significance.

The reuse of the surviving elements of the main building is acceptable and will positively enhance the vibrancy of the heritage item and associated Wilcannia Conservation Heritage Area. Retaining the expression of the original building and keeping elements will mean that the new building will become visually distinguished within the streetscape and broader township, whilst simultaneously preserving as much heritage value as can be retained.

The scale and form, palette of materials and finishes (notably the use of rammed earth for external walls) will positively relate to the established character of the street and heritage conservation area, as well as respecting other heritage items in the vicinity.

It is noted that the property is located within the Wilcannia Conservation Heritage Area. The objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Central Darling,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The proposal meets the above objectives by retention of the detached outbuilding and external walls and re-purpose of the previous cellar by incorporating the original sandstone into the new basement level 'keeping place'.

Council's Heritage Advisor requested additional information on the 29 June 2022, pertaining to the extent of excavation within the basement footprint and what impact such works will have on the potential archaeological resources of the site, as well as structural details as to how the retained fabric will be safeguarded during demolition and construction works. This

information was submitted on 12 August 2022. A copy of the Conservation Management Plan was also requested and received from the applicant on the 5 August 2022.

Given the dereliction of the site and the destruction of previous structures, the design has implemented an encompassing design to preserve the colonial-era fabric of the site and add Aboriginal features to the building in terms of building materials, roof form and landscaping and is a benefit to the Wilcannia Conservation Area. Council's Heritage Advisor has considered the proposal beneficial to both the heritage site and wider conservation locality and has raised no objection to the application subject to conditions of consent.

### **Clause 6.1 – Earthworks**

(1) *The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

(2) *Development consent is required for earthworks unless—*

*(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*

*(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*

(3) *Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

*(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

*(b) the effect of the development on the likely future use or redevelopment of the land,*

*(c) the quality of the fill or the soil to be excavated, or both,*

*(d) the effect of the development on the existing and likely amenity of adjoining properties,*

*(e) the source of any fill material and the destination of any excavated material,*

*(f) the likelihood of disturbing relics,*

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

**Note—** *The National Parks & Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.*

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposed development will require earthworks to be undertaken upon the site with particularly deep excavation within the proposed basement zone. Erosion and sediment control measures are required before any earthworks commence in which a condition to this effect will be placed on the consent.

Precautionary heritage conditions are included in the event of any historical find of Aboriginal or European significance or importance.

#### **Clause 6.4 Essential Services**

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

Wilcannia is serviced by a reticulated water supply scheme delivering both potable and raw water. Bore water cannot be used as the sole source of supply as the bore yields are not sufficient to supply the potable and non-potable water demands for the town.

Electricity can be made available to the site, with telegraph and electricity infrastructure adjoining the side on both Reid Street & the Barrier Highway.

Vehicular access will be provided via the rear Reid Lane which will utilise an existing vehicle crossover into the site. Five (5) car parking spaces including one (1) disabled car parking space will be provided.

Stormwater management on-site will be collected via roofing downpipes and disperse via a 2500L rainwater tank and absorption trench. The stormwater will then be drained off-site into Council's collection system in Reid Street & the Barrier Highway.

As such, Council has considered the application in regard to the above clause and consider the proposal acceptable with the requirements of Clause 6.4.

#### **7.7 Any relevant Development Control Plans.**

Central Darling Council does not have a DCP. As such, Council has no specific site controls to assess against. However, Council has considered the proposed use, design, size and bulk, setbacks, landscaping, stormwater management, vehicle access and community impact and consider that the development is appropriate for the site.

#### **7.8 Planning Agreements OR Draft Planning Agreements**

There are no voluntary or draft planning agreements that apply to this application.

### **8 KEY IMPACTS OF THE DEVELOPMENT**

Most of the impacts associated with the proposed development have already been addressed in the report. The additional impacts associated with the development or those requiring further consideration are discussed below.

#### **Streetscape & Appearance**

The proposal will result in a highly articulated structure that, given the sites geographical location within Wilcannia, will provide focal attention to visitors entering the town. The site is currently vacant and derelict and the new proposal will enhance the vibrancy of the townscape.

The retention of the surviving elements relate to the established streetscape character, whilst the contemporary form of the new structures will mean that the new building will become visually distinguished within the Wilcannia Conservation Area and broader township. Ultimately, the language, scale and form, together with the palette of materials and finishes, will positively relate to the established character of the site within the context of the surrounding area.

### Overshadowing.

In terms of overshadowing, this is not considered to be a concern. The buildings are located exclusively to the southern portion of the site, distanced sufficiently from the nearest residential dwelling. Overshadowing at critical times of the day (9.00am – 3.00pm) and year (Winter Solstice) will fall largely across the site itself and the adjoining roads of Reid Street and the Barrier Highway.

### Access Transport and Traffic

Vehicular access to the site is gained from the rear secondary street of Reid Lane, with the development providing five (5) car parking spaces. It is considered that the existing arrangements are generally sufficient as traffic generated by the development shall be minimal. Given the plentiful on-street parking within the Wilcannia township area, the proposed vehicle crossover and car-parking supply is considered satisfactory.

### Landscaping

The proposal will result in an additional thirteen (13) new trees of varying size and species both on the subject site(s) and adjoining road reserve. Further to this, approximately 303m<sup>2</sup> of the site will be covered with shrubs and grass plantings which will greatly harmonise and soften the interior of the site with sufficient landscaping. Given the above, it is considered the proposed landscaping schedule, subject to conditions of consent, will greatly improve the site from its existing state and is considered satisfactory.

### Stormwater Management

The proposed stormwater system has been designed in accordance with the relevant requirements. Stormwater runoff from majority of the site would be captured via a 2500L rainwater tank, with nearby multiple outlet pits and absorption trench. The stormwater will then disperse to the existing stormwater connection system in both Reid Street & the Barrier Highway (Myers Street).

### Waste Management

The proposal is unlikely to produce a significant amount of waste. The location of the refuse enclosure within the car parking area is adequate and sufficiently distanced from the main structures. Asbestos waste disposal pre-construction and during construction works is to be

implemented as per the Central Darling Shire Asbestos Policy 2013 and disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority.

### Crime Prevention through Environmental Design

The 4 principles of assessing crime minimisation are:

- Surveillance
- Access control
- Territorial enforcement
- Space management

The proposal is considered to satisfy the above principles in so far as the design provides the following:

- Landscaping has been carefully considered to avoid potential entrapment areas.
- Pedestrian entries are clearly visible to visitors.
- All boundaries are fenced and walled to prevent unwanted, out-of-hours access.
- Communal areas are highly visible and private/public spaces will be made clear to visitors.
- A condition has been placed on the consent pertaining to external lighting to ensure no damage or graffiti occurs when the centre is not in operation.
- The proposal will provide a community facility and will provide a sense of ownership for the local community.

As such Council does not consider that approval of this development application will create or exacerbate crime risk to the site.

### Social and Economic Impact

The provision of information and educational services and provision of local employment for the Wilcannia community is considered a positive social and economic impact.

## **9 SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

The site is zoned for commercial purposes and is located within the B2 'Local Centre' zoning which is designated for business related enterprises. The proposed development will facilitate the use of a derelict site with a new community centre, which will provide educational and community facilities to the Wilcannia township. The development would generate employment during both its construction and operation phase. The proximity of the site to public transport and residential areas would make the subject site ideal for commercial purposes, including the attraction of outside visitors to the new cultural centre.

The site is suitable for the development and is consistent with the aims and objectives of the B2 zone by providing employment and educational services to visitors and the local community, in a highly accessible location without impacting negatively upon the Wilcannia Conservation Area.

## **10 THE PUBLIC INTEREST**

The proposed development would not be contrary to the public interest in the following manner:

- it supports the use of the site as a commercial development within a well-established commercial area and is consistent with the objectives of the B2 zone.
- it would not create any significant adverse environmental or amenity impact on surrounding sites or on the public domain.
- Results in jobs creation and an overall positive impact for the Central Darling Local Government Area and specific Wilcannia township.

## **11 REFERRALS**

The following section outlines the response and conditions recommended from each of the internal and external referrals in relation to the subject application:

### ***Internal Referral Comments***

#### Landscape Architect

Council's Landscape Architect has raised no objection to the proposal subject to conditions of consent (See Conditions 34-37, 61, 62 and 69).

#### Consultant Heritage Advisor

Council's Consultant Heritage Advisor raises no objection to the proposal subject to conditions of consent. (See Conditions 17, 18, 43-46, 58, 59, 60, 68 and 73-82).

#### Environmental Health Officer

Council's Environmental Health Officer has raised no objection to the proposal subject to conditions of consent. (See Deferred commencement conditions 1, 2 and 3 and Conditions 14, 15, 16, 21-30 and 73-82).

#### Development Engineer

Council's Senior Development Engineer raises no objection to the proposal subject to conditions of consent. (See Conditions 38-42, 65, 66 and 67).

### ***External Agency Referrals***

#### Rural Fire Service (RFS)

A formal referral was not sought from the RFS. However, after the Western Regional Planning Panel briefing on 19 July 2022, RFS advice was sought from Central Darling Council confirming hydraulic fire safety & smoke hazard systems could operate sufficiently within the proposal.

The RFS raised no issues to the proposal subject to three (3) recommendations.

## **12. PUBLIC NOTIFICATION & SUBMISSIONS**

The application was notified and advertised for a period of 42 days between 21 April 2022 and 2 June 2022. As a result of the notification period, one submission was received in support of the development.

### 13. CONCLUSION

The proposal seeks approval for the construction of a new single storey (with basement) cultural centre at 42-44 Reid Street, Wilcannia. The development also includes associated works to the existing shed with landscaping throughout the site, new boundary fencing and a new awning.

Council has reviewed the documentation submitted by the applicant and responded to advice from the Western Regional Planning Panel.

Council recommends that the conditions and implementation of recommendations as detailed in the Aborigicultural Impact Assessment and Site Contamination Reports will adequately mitigate any potential environmental impact of the proposal. Council is also of the view that the amended documentation submitted addresses issues previously raised in the early assessment of the proposal.

On this basis, Council considers the site to be suitable for the proposed development and that the proposed cultural centre will be in the public interest given the significant social, educational, cultural and economic benefits associated with the information and educational facility, in particular for the Aboriginal community of Wilcannia and its surrounds.

Accordingly, the development application is recommended for approval, subject to conditions at **Attachment 1**. As the development is a Crown development, the applicant has agreed to all of the conditions in **Attachment 1**.

### 14. RECOMMENDATION

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979 the following is recommended:

- A. That the Western Regional Planning Panel grant consent to development application D02/2022 for construction of a new cultural centre and associated works at 42-44 Reid Street, Wilcannia, subject to the conditions of consent in **Attachment 1** of this report.
- B. That those persons who provided a submission be notified of the decision.

### ATTACHMENTS

Attachment 1 – Conditions of consent

#### Report prepared by:

Oliver King - Development Assessment Officer (City of Ryde Council)

#### Report approved by:

Madeline Thomas - Senior Coordinator – Development Assessment (City of Ryde Council)

Sandra Bailey - Manager - Development Assessment (City of Ryde Council)

Liz Coad - Director - City Planning and Environment (City of Ryde Council)