

CENTRAL DARLING SHIRE COUNCIL

Plan of Management Crown Reserve – Wilcannia Public Recreation – Union Bend Reserve – 85567



Darling River at the Union bend reserve May 2021

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KEY INFORMATION

This is a Plan of Management for the community land and Crown Reserve – 85567 which is for the purpose of “Public Recreation”. The name of the reserve is the WILCANNIA PUBLIC RECREATION (UNION BEND) RESERVE 85567.

This Plan of Management (PoM) has been prepared by Central Darling Shire Council and provides direction as to the use and management of this Council-managed Crown reserve classified as ‘community land’ in the Central Darling Shire Council area. The PoM is required in accordance with Section 3.23 of the *Crown Land Management Act 2016* and Section 36 of the *Local Government Act 1993*.

This PoM specifically addresses the management of Wilcannia Public Recreation – Union Bend Reserve – 85567. The PoM outlines the way the land will be used and provides the framework for Council to follow in relation to the express authorisation of leases and licences on the land.

INTRODUCTION

The location of the Central Darling Local Government Area (Central Darling LGA) is shown in Figure 1. It is in far-western NSW.

Central Darling Shire encompasses an area of over 53,000 square kilometres and is the largest Local Government Area (LGA) in New South Wales. Despite this vast land area, the shire’s population is only around 2,000 people, one of the lowest of any local government area in Australia. Aboriginal people comprise around 50 percent of the Central Darling population.

There are four main communities within the shire being Wilcannia, Menindee, Ivanhoe and WhiteCliffs. In addition, there are several smaller rural localities which include Darnick, Mossgiel, Sunset Strip and Tilpa. All these communities differ greatly in their demographics, local economies, and Aboriginal and European cultures.

The shire is bisected by the Baaka (Darling) River and important wetlands encompassing the Menindee Lakes system. The local economy is based on a mixture of pastoral, horticultural, agricultural, mining and tourism activities. Rural grazing properties represent the largest land use within the shire, accounting for 97% of the entire area. The Council shares its borders with neighbouring shires including Bourke, Cobar, Carrathool, Balranald, Wentworth, and the Unincorporated Area. Broken Hill City Council is its nearest neighbouring council and regional centre.

The Aboriginal people have a unique place in our Australian society. The Central Darling area around Wilcannia was held by the Barkindji tribe (from barka meaning a river). Many of the Aboriginal people living in Wilcannia today belong to the Barkindji tribe.

Central Darling Shire Council’s objectives for management of Crown Reserves used for community uses are:

- Effective leadership in the community land uses; land management.
- Community development through involvement, participation, partnership, ownership, and collaborative approach to assist in effecting management of the community land uses land.
- Facilitation of maintenance services for the community land uses land.

- Community ownership of community land uses' land to encourage use and maintenance of the land.
- Delivery of consistent, affordable, and achievable maintenance services and maintained community facilities.

The Central Darling Shire Council recognises the importance of services to its communities in relation to its social and cultural development and general well-being.'

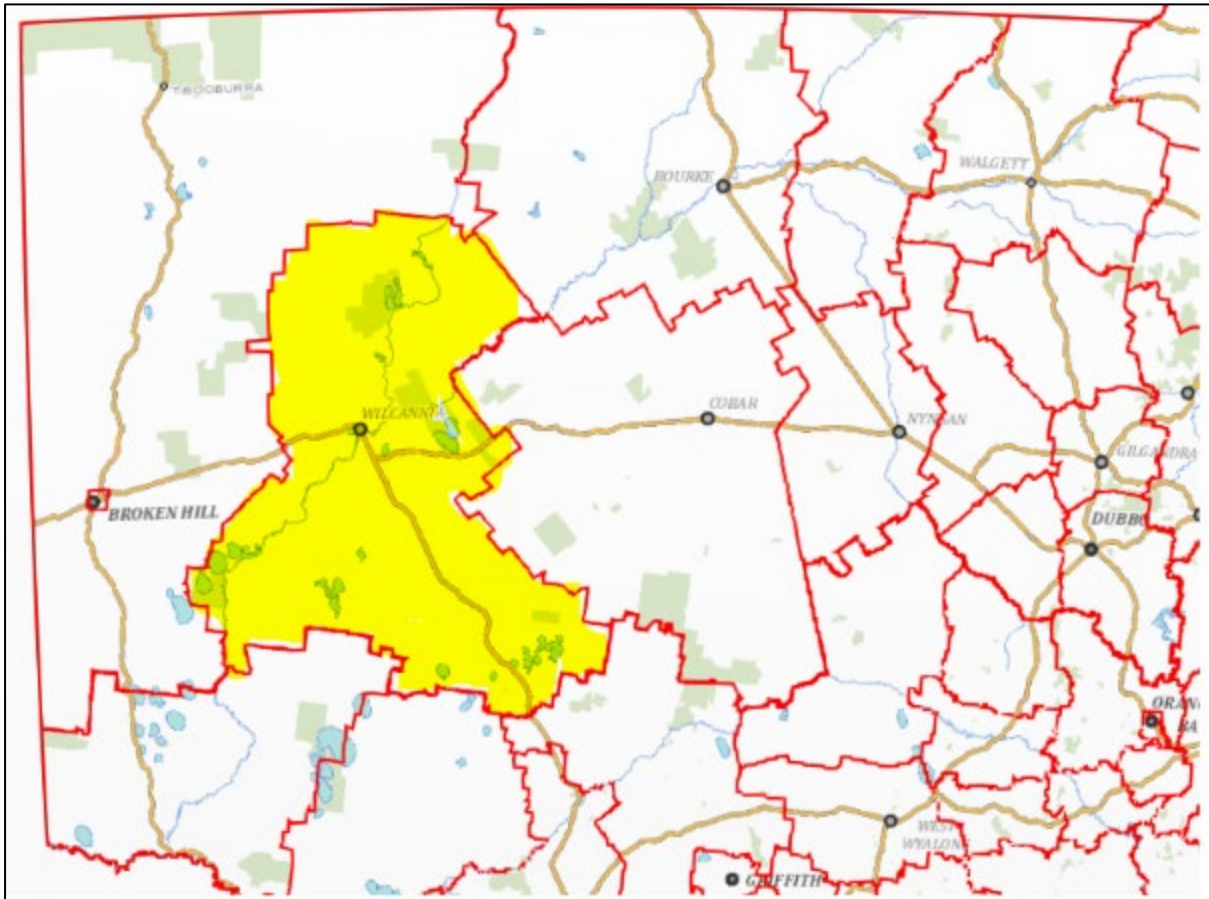


Figure 1: Location of the Central Darling LGA (highlighted in yellow) within NSW (Source: Six Maps)

Council's corporate objectives as stated in the Central Darling Community Strategic Plan under "community priority – local sport and recreation" also applies to the use of the Union Bend Crown Reserve for increasing areas for the community to use and enjoy for recreational activities. This will be facilitated by providing an all-weather access road to the Union Bend Reserve which will encourage the use of the river for sporting activities and other recreational uses.

COMMUNITY PRIORITY — THE BAAKA / DARLING RIVER, MENINDEE LAKES AND WILLANDRA CREEK

Our long-term goals for the Baaka / Darling River:

The Baaka / Darling River, Menindee Lakes and Willandra Creek have an adequate flow of water to ensure they are clean, well-stocked with a range of fish species and are safe and attractive locations for cultural and recreational activities.

STRATEGIES TO ACHIEVE OUR GOAL	AFFECTED COMMUNITIES	RESPONSIBLE AGENCIES
<p>Central Darling Shire Council advocates for the water needs and rights of shire communities through membership of agencies and associations including the Murray Darling Basin Authority, the Menindee SDL Working Party, the Murray Darling Association, the Australian Floodplain Association, and the Barwon Darling consumer Action Group.</p> <p>Maintain environmental flows to ensure that Aboriginal communities have permanent access to cultural water.</p> <p>Ensure there is a minimum of two years water supply for all towns within the shire.</p> <p>Ensure the Menindee Lakes system is subject to effective governance and water is maintained in all lakes in perpetuity.</p> <p>Maintain regular flows of water to ensure all weir pools are permanently filled.</p> <p>Increase the capacity of existing bores to ensure secure water supplies for all towns within the shire.</p> <p>Create protection zones along the river to preserve the riverside environment and Aboriginal cultural heritage near Wilcannia and Menindee.</p>	<p>Wilcannia Menindee Ivanhoe White Cliffs Tilpa</p>	<p>Water NSW NSW Department of Planning, Industry and Environment Essential Water Murray Darling Basin Authority NSW Department of Primary Industries Central Darling Shire Council Murray Darling Association Australian Floodplain Association Barkindji Native Title Group Aboriginal Corporation</p>

Table 1: CDSC Community Strategies.



Figure 2: Location of Wilcannia, within the Central Darling LGA (source: Google 2022)

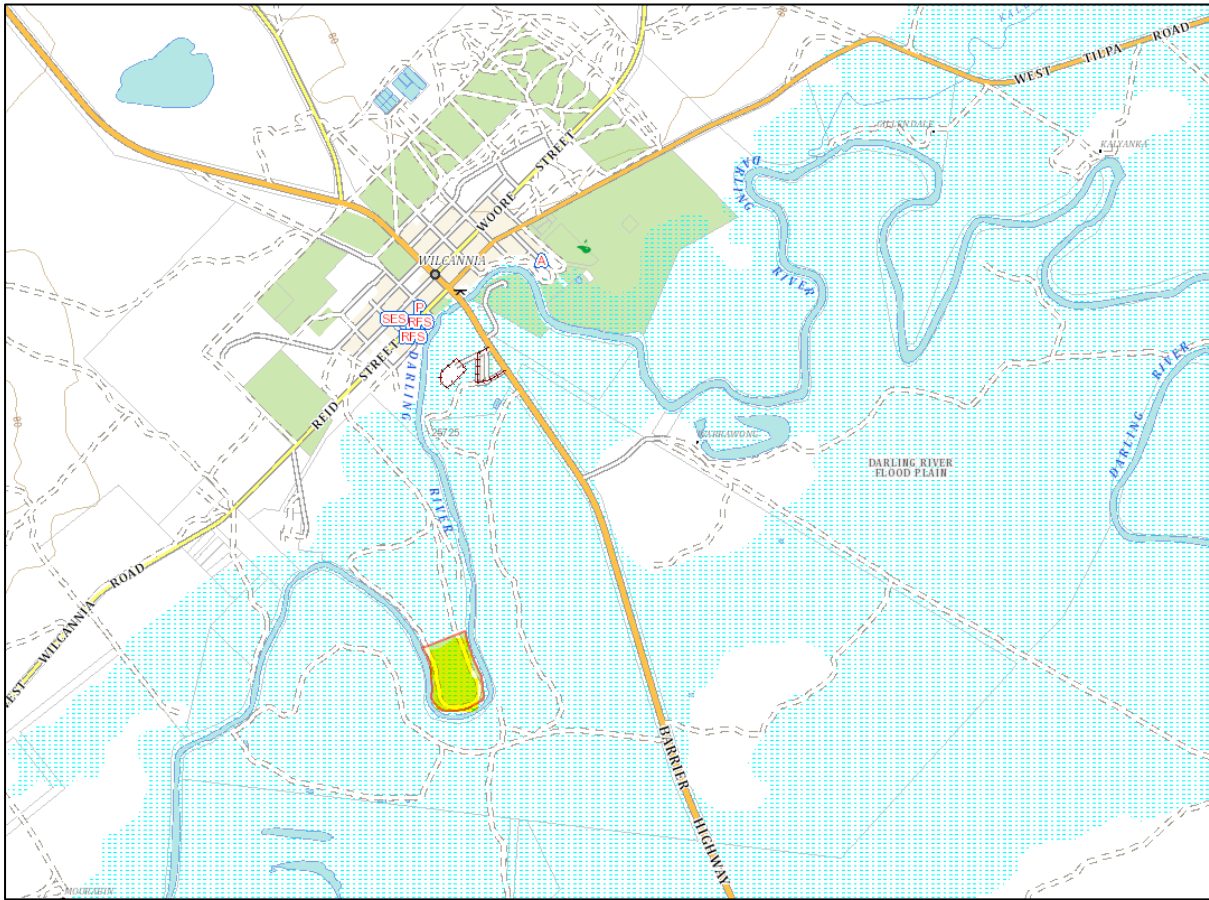


Figure 3: Location of the Union Bend Reserve in relation to Wilcannia, (source: Six maps 2022)

Purpose of the plan of management

The *Local Government Act 1993* (LG Act) requires a plan of management (PoM) to be prepared for all public land that is classified as ‘community land’ under that Act.

The *Crown Land Management Act 2016* (the CLM Act) authorises local councils (council managers) appointed to manage dedicated or reserved Crown land to manage that land as if it were public land under the *Local Government Act 1993* (LG Act). Therefore, all Crown land reserves managed by council are also required to have a PoM under the LG Act.

The purpose of this PoM is to:

- contribute to the Council’s broader strategic goals and vision as set out in the Central Darling Shire – Community Strategic Plan 2022 – 2032.
- ensure compliance with the *Local Government Act 1993* and the *Crown Land Management Act 2016*
- provide clarity in the future development, use and management of the community land
- ensure consistent management that supports a unified approach to meeting the varied needs of the community.

Further information about the legislative context of Crown Reserve PoMs can be found in Appendix A1 of this document.

Process of preparing this plan of management

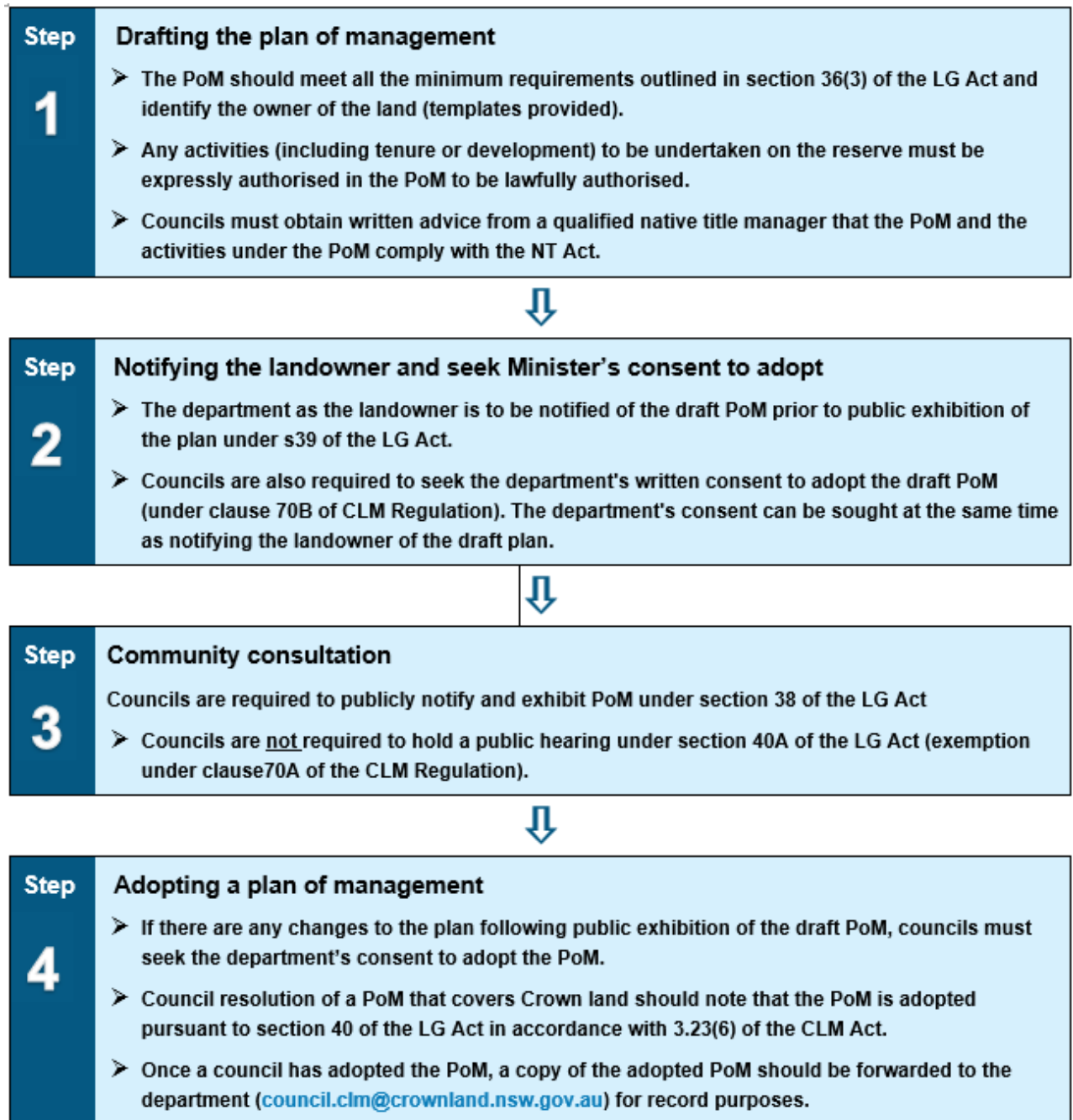


Table 2: Plan of Management process chart..

Change and review of plan of management

This PoM will require regular review to align with community values and changing community needs, and to reflect changes in Council priorities. Council has determined that it will review the PoM within 5 years of its adoption. However, the performance of this PoM will be reviewed on an annual basis to ensure that the Reserve is being managed in accordance with the PoM, is well maintained and provides a safe environment for public enjoyment.

The community will have an opportunity to participate in reviews of this PoM.

Community consultation

This PoM was placed on public exhibition from **13 June 2023 to 28 July 2023** in accordance with the requirements of section 38 of the *Local Government Act 1993*. A total of **xx** submissions were received. Council considered these submissions before adopting the PoM.

In accordance with section 39 of the *Local Government Act 1993*, prior to being placed on public exhibition and for comment for a minimum of 42 days, The draft PoM was referred to the Department Industry– Crown Lands, as representative of the State of NSW, which is the owner of the Reserve. Council has included in the PoM any provisions that have been required by the Department of Planning, Industry and Environment – Crown Lands.

The PoM contains an Area of Cultural Significance for Aboriginal Communities, therefore consultation with *the Barkandji Registered Native Title Body Corporate or Barkanjudi PBC* is required in relation to clause 112 of the Local Government (General) Regulation 2021 and is to be undertaken by council.

This Plan of Management was sent to the *the Barkandji Registered Native Title Body Corporate or Barkanjudi PBC and the Local Aboriginal Land Council* for review and comment in, **February 2022**.

DRAFT

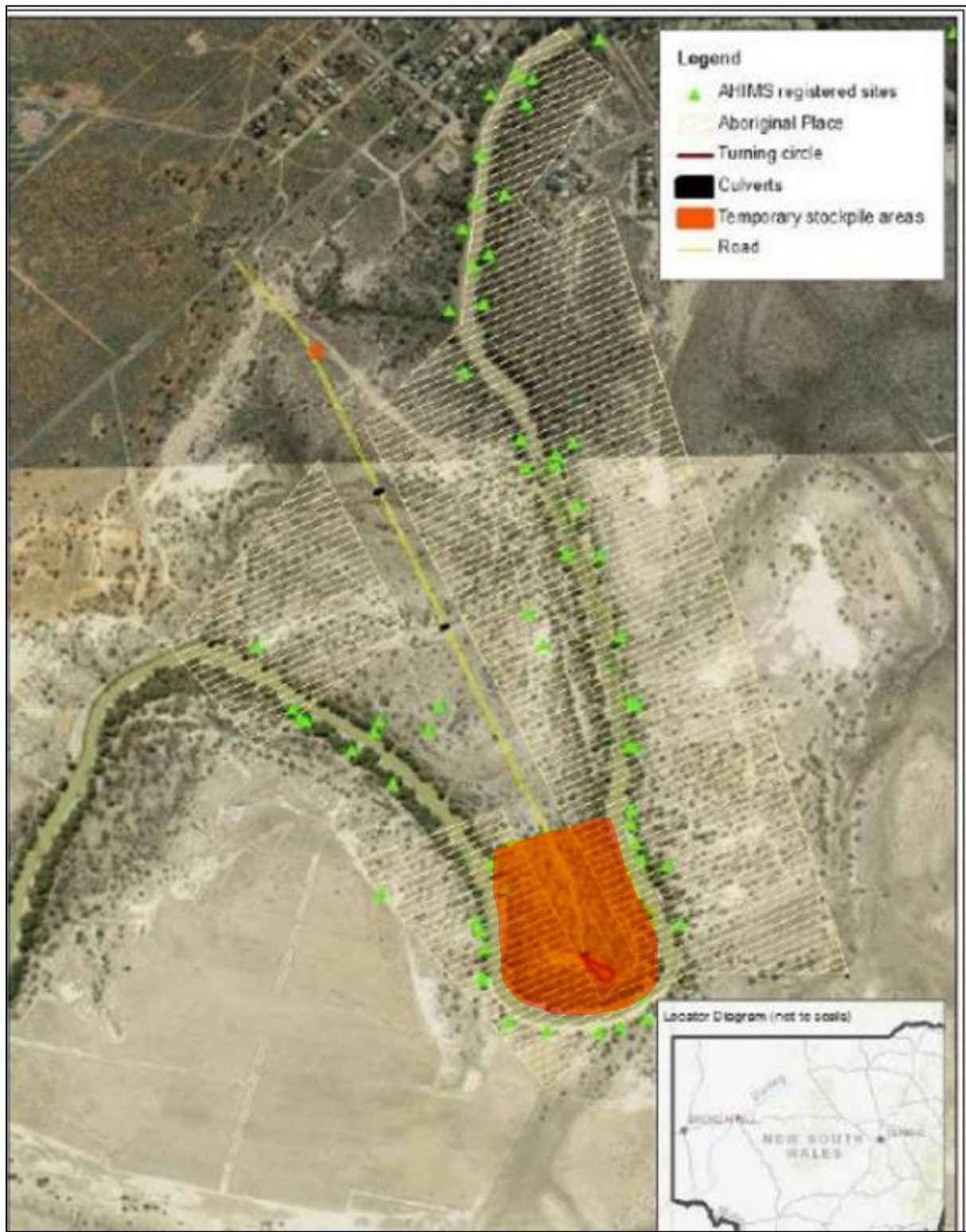


Figure 4: Union Bend Reserve highlighted in orange - AHIMS registered sites – site survey undertaken by Dr Sarah Martin OEH 2021 (Source: REF for Wilcannia Weir Roads project 2021 DPIE)



Photo 1: Darling River at the Union bend reserve May 2021 (Source: CDSC 2021)



Figure 5: Aerial photo Union Bend Crown Reserve (highlighted in green) – Lot 7315, DP 1181235 (Source six maps 2022)

LAND DESCRIPTION

This PoM covers one Council managed reserve being the Wilcannia Public Recreation – Union Bend Reserve – 85567. The reserve information is detailed in [Table 1]. The land is owned by the Crown and is managed by Council as Crown land manager under the *Crown Land Management Act 2016*.

The Union Bend Crown Reserve 85567 is located at lot 7315 DP 1181235. The Crown Reserve is community land and is reserved for public recreation. The Crown Reserve lot is located approximately 3.370km southwest from the centre of the town of Wilcannia and is located on a distinctive bend in the Darling River/ Baaka River.

The Union Bend Reserve is used by the local Aboriginal Community and other residents of Wilcannia as a recreational area for fishing, swimming and other recreational uses of the Baaka River.

The Union Bend Crown Reserve is classified as community land under the Local Government Act 1993.



Figure 6: Aerial photo Union bend and Wilcannia (highlighted in yellow) (Source Six maps 2021)

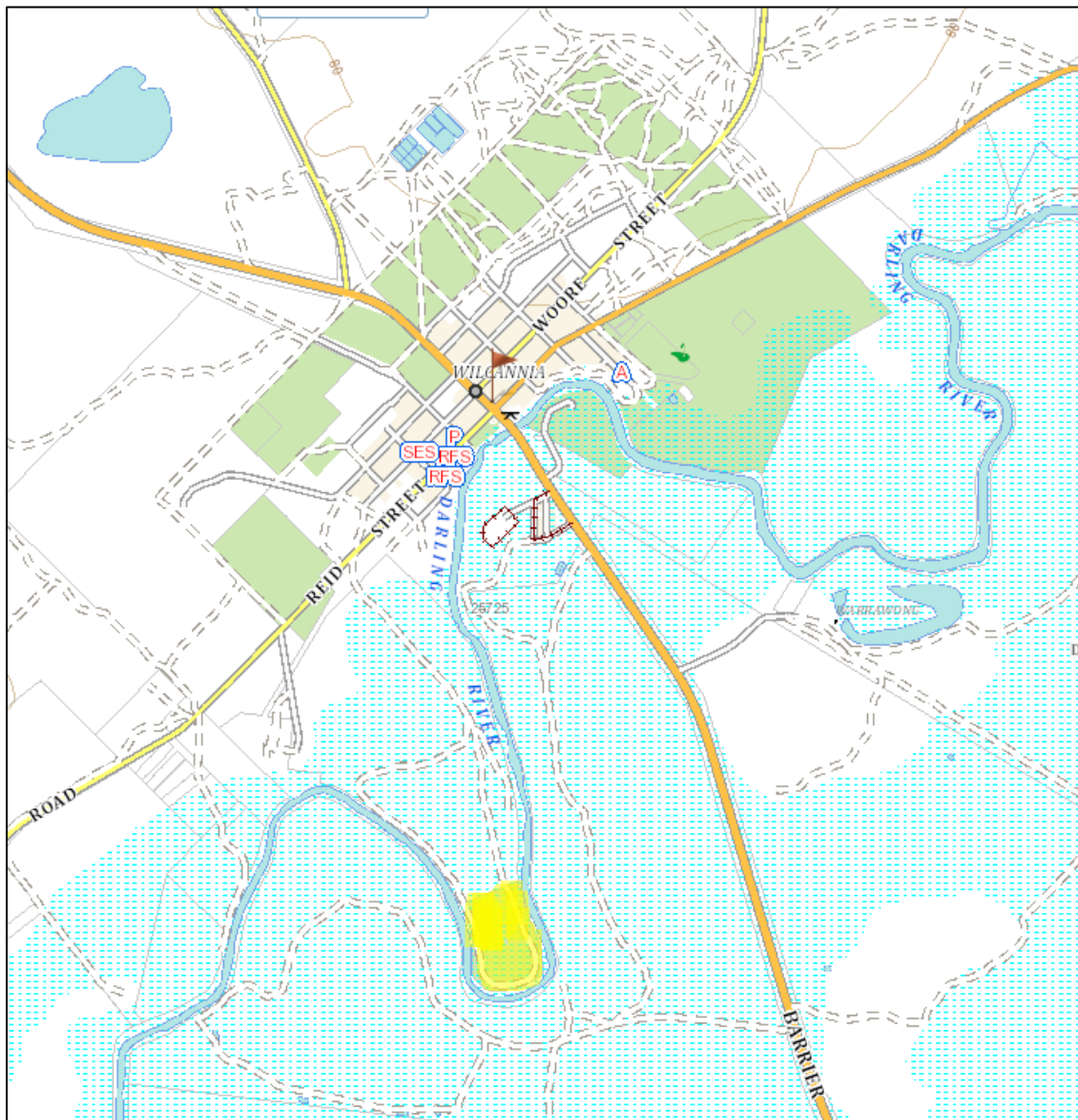


Figure 7: Six maps of Wilcannia and extending to the Crown Reserve at Union Bend (highlighted in yellow) (Source Six maps 2021)

Excerpt from the draft Aboriginal Cultural Heritage relevant to the Crown Reserve is as per below:

Key features of the existing environment

The Crown Reserve at Union Bend is located within the Darling Riverine Plains Bioregion (DRPB). This DRPB bioregion lies in the semi-arid climatic zone which is hot and persistently dry. The present-day climate is likely to be broadly similar to the climate in the pre-European contact period. The town of Wilcannia town and surrounding area also semi-arid.

Within the Wilcannia Plains sub region, the geology consists of extensive plains on overlapping low angle alluvial fans of several rivers. Sandy soils are found in linear belts along the older stream channels. The Crown Reserve Union bend is located in a natural bend on the banks of the Darling (Baaka) River. The soil is made up of alluvially deposited quaternary sediments, with some sediments forming low aeolian dunes on top of old floodplain deposits.

The major watercourse in the region, which runs adjacent to the Crown Reserve at Union Bend, is the Darling (Baaka) River. This major river flows through a deep incised channel, with ephemeral flood-runners, lakes, and oxbow lakes bordering it. The river and its associated alluvial features have been a long term focal point for Aboriginal occupation.

The Aboriginal cultural place is located adjacent to the riverbank extending from the township of Wilcannia (area adjacent to the Wilcannia golf course along the riverbank in Wilcannia and extending to the proposed location of the new Wilcannia weir - 800metres further into the Wilcannia Common) northwest from the Union Bend Crown Reserve.

The Union Bend Ngatji site, has high Aboriginal cultural significance, and is located within the Aboriginal Place.



Photo 2: Darling River at the Union Bend Reserve (Source: CDSC May 2021)

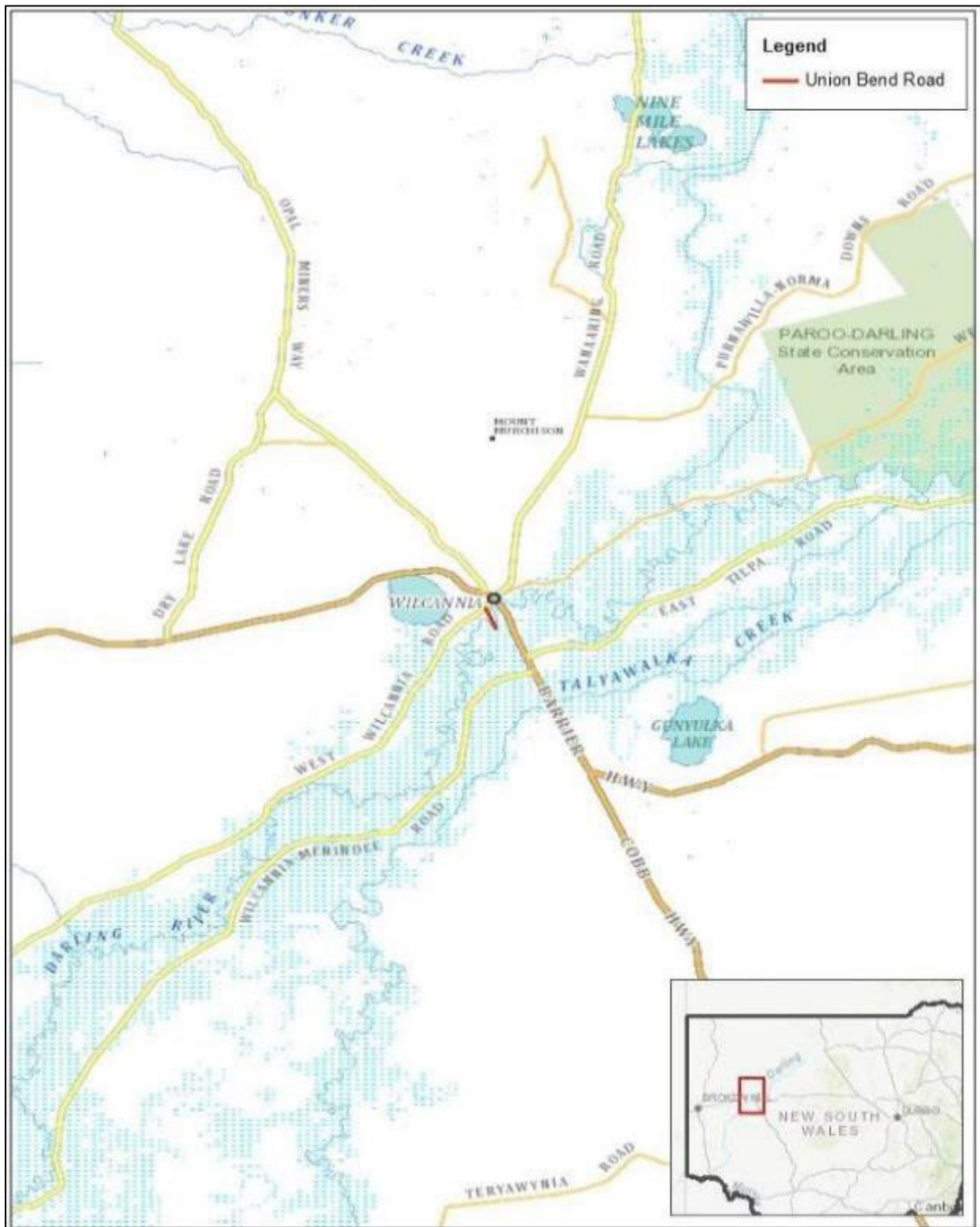


Figure 8: Union Bend Reserve – new access road plan (Source: Water NSW REF 2021)

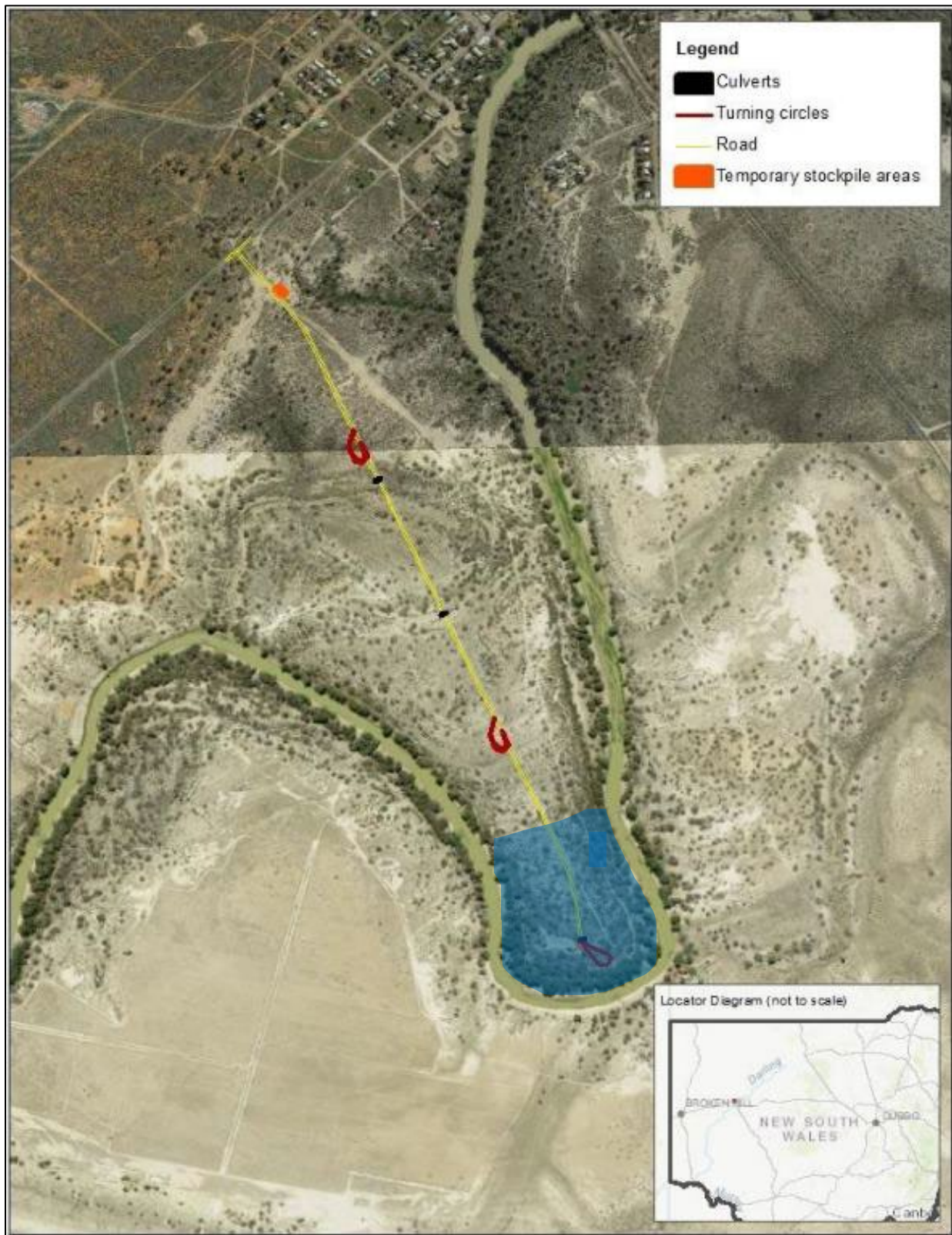


Figure 9: Union Bend Reserve – new access road plan (Union Bend Reserve highlighted in blue) (Source: Water NSW REF 2021)

Information about the reserve covered by this plan of management.

Reserve Number	Crown Reserve 85567
Gazette date	3 December 1965
Reserve Name	Wilcannia Public Recreation (Union Bend)
Reserve purpose	Public Recreation
Land parcel/s	Lot 7315 DP 1181235, Parish Wilcannia, County Young
Area (Ha)	17.367ha
LEP zoning	RU1 Primary Production zone
Assigned category/categories	Park

Table 3: Reserve Information.

Land Systems

The Union Bend Crown Reserve is located within the Darling Riverine Plains Bioregion and Wilcannia Plains sub-region. The Union Bend **Road** Crown Reserve is within the Western NSW Land System. The Union Bend **Road** Crown Reserve contains two Mitchell Landscapes

Reserve	Land System	Range Type	Geomorphology	Summary
Union Bend Crown Reserve	Denian	Undulating sandplains with bluebush	Alluvial plains	Slightly undulating plains with bluebush and dunes, adjacent to lower Darling floodplain
	Mid Darling	Floodplains with coolibah	Alluvial plains	Darling-Barwon River and fringing river red gum forests
	Nelyambo	Floodplains with coolibah	Alluvial plains	Floodplain of the Darling River

Table 4: Land systems and geomorphology (source: Union Bend Road Upgrade – Review of Environmental Effects Factors November 2021 – DPIE Water Infrastructure).

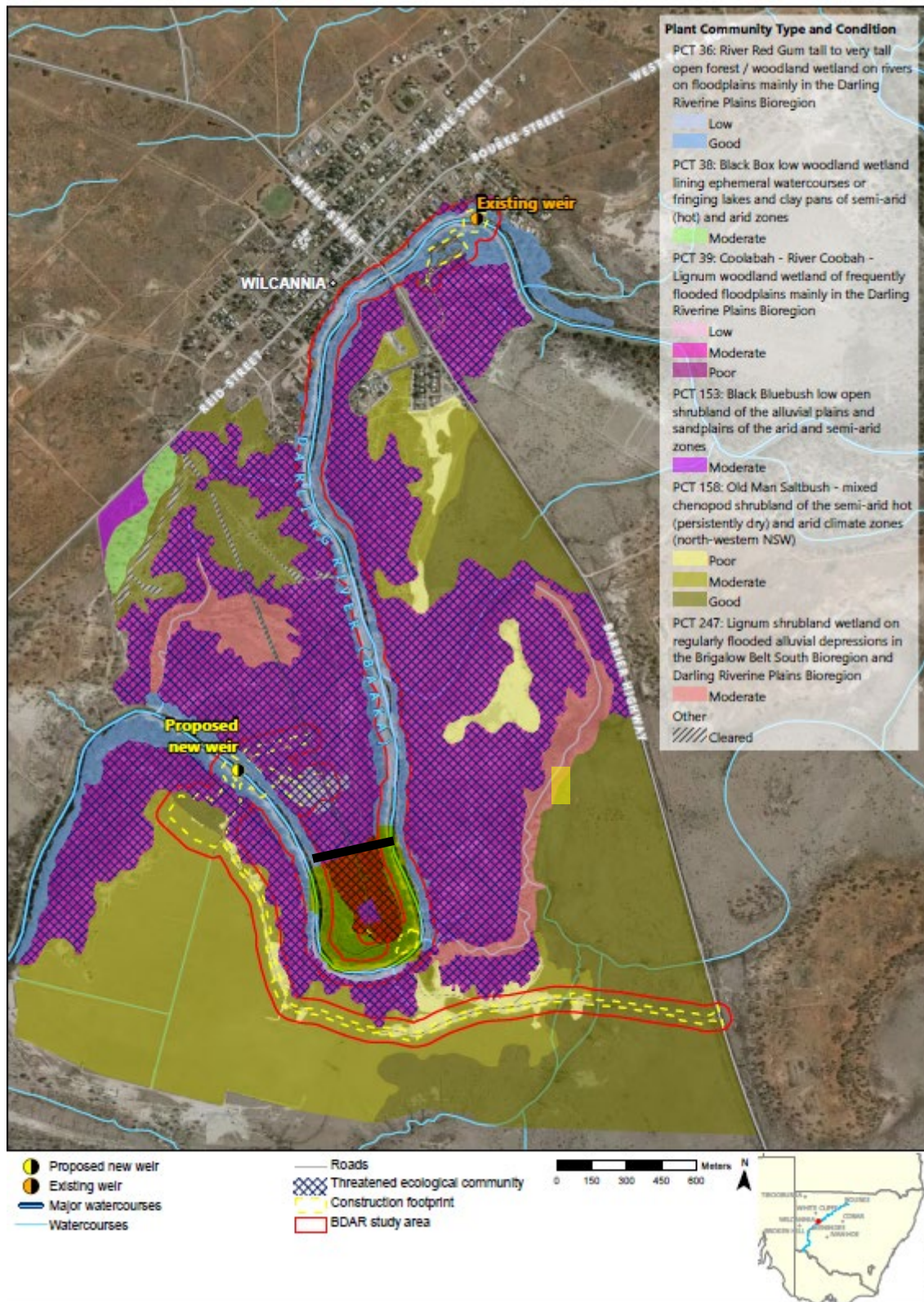


Figure 10: Vegetation type for the Crown Reserve at Union Bend (highlighted in yellow), the adjoining Wilcannia Common area and the surrounding environment. (source: Review of Environmental Effects Factors November 2021 – DPIE Water Infrastructure).



Photo 3: Darling River at the Union Bend Reserve May 2021 (Source CDSC 2021)

Natural features

The Union Bend Crown Reserve is located within the Darling Riverine Plains – Wilcannia Plains sub-region. The topography of the reserve is the Darling River channel, and the surrounding area contains floodplain features. There are several streams that may feed the river at rain events. The areas beside Union Bend Crown Reserve and on the other side of the Darling / Baaka river topography contains areas of dunes and alluvial sandplains.

The soil type is grey clays from the Darling Baaka River channel. There are also red soils and patch sands that represent alluvial terraces created from historic flood events.



Photo 4: Darling River at the Union Bend Reserve May 2021 (source: CDSC 2021)

Cultural significance through the archaeological survey

36D Community land comprising area of cultural significance

(1)...Community land that is the subject of a resolution by the council that declares that, because of the presence on the land of any item that the council considers to be of Aboriginal, historical or cultural significance, the land is an area of cultural significance for the purposes of this Part.

The Crown Reserve at Union Bend is not an area of cultural significance by resolution by Council.

An archaeological survey was undertaken on the Crown Reserve Union Bend and the adjacent Wilcannia Common up to the site of the proposed new Wilcannia weir. The survey looked at the archaeological potential and lie within the investigation study area. The survey did not extend outside the investigation study area. The survey was undertaken by Jacobs archaeologists and representatives from the Registered Aboriginal Parties (RAPs).

The archaeological survey recorded an extensive and diverse site complex consisting of large numbers of stone artefacts, hearths of varying size and purpose and culturally modified trees. These newly recorded sites complement those sites recorded previously in the local area, which include an additional number of similar sites, but also human burials, ethnographic/mythological sites, fish traps, an Aboriginal mound, and locations of historic importance to the local Aboriginal community.

Collectively, these sites and objects provide a picture of a vibrant, extensive cultural landscape well connected to the Barkindji people of Wilcannia. The archaeological places and objects recorded during this and prior surveys are evidence of the unbroken connection of Barkindji people to this place. In the most prominent example, this short stretch of river exhibits examples of canoe scars ranging from the last few months, through to hundreds of years ago, following the life cycles of ancient river red gums. Numerous canoe scars remain that are associated with the people who made them, notably a canoe cut ~100 years ago by 'Granny Moysey' (d.1976), an important Barkindji Elder.

Aboriginal cultural significance was assessed from consultation with the Wilcannia Aboriginal community. It should be noted that Aboriginal significance assessed in this manner may not reflect the views of all members of the community.

Upon examination Union Bend contains a suite of sites with significant Aboriginal sites. In a relatively short length of river there exists a site complex of remarkable diversity with considerable potential to contribute knowledge to our understanding of both pre-contact Australia and of Aboriginal society during the post-contact period. Union Bend Reserve contains several sites that have considerable educational value.

The sites at Union Bend and close by on the Wilcannia Common makes this area of high significance regarding depth of connection to place, of high significance to the local Aboriginal community and of considerable archaeological and anthropological research value.

The Crown Reserve contains two Aboriginal sites, a scar tree, and an emu oven.



Photo 5: Darling River at the Union Bend Reserve (Source :May 2021)

Cultural heritage

Aboriginal cultural heritage.

The Darling (Baaka) River holds considerable cultural value to the Barkandji people. The river has been a focal point of Aboriginal occupation, orally recorded by the Barkandji people and noted since European contact.

The river and its adjacent riverbank and land area around the riverbanks contains a large variety of plant and animal species that are typical to this riverine environment which is surrounded by arid and semi-arid environments.

The riverine environment offered Aboriginal people an environment with plant and animal resources to sustain the local community. The Barkandji people lived in large family groups and carried out community activities such as corroborees, trading, and marriages.

The Baaka river influenced the local Aboriginal life with the Barkandji language speakers' clans and community groups stretching from Bourke in mid north NSW to Wentworth in southern NSW.

The river created a corridor in which Aboriginal groups traversed to meet up with the connected family groups.

The name 'Barkandji' derives from the name of the river (the Baaka/Barka) and means people belonging to the Baaka.

The European explorers and settlers wrote about the Aboriginal interaction with the river and utilisation of its resources. The local Aboriginal people were seen to use the river for fishing and hunting waterbirds by using nets and spears from the bank or from canoes in the water. (Kreft 1865; Mitchell 1839; Morey n.d.; Tindale 1930-52).

The Barkandji people were known for the making of nets from fibres extracted from river plants such as rushes (Brock. 1844; Morey n.d.). River plants also provided food – rushes, which were pounded and ground up to make into cakes (Sturt 1849) (Jacobs 2021).

The Barkandji people have been observed to live adjacent to the Baaka river since European contact, and the oral history of the community focuses on the people's connection to and relationship with the river in the past.

Aboriginal camps are commonly built on or near the bank of the river. The stories and memories recorded in the Wilcannia Aboriginal Community Heritage Study (Central Darling Shire Council and Wilcannia LALC 2018) frequently focused on people's use of the river: swimming, fishing, catching prawns and yabbies, and procuring resources such as tree bark and birds' eggs from the riverbanks.

BASIS OF MANAGEMENT

Central Darling Shire Council intends to manage its community land to meet:

- assigned categorisation of community land
- the LG Act guidelines and core objectives for community land
- restrictions on management of Crown land community land.
- the Council's strategic objectives and priorities
- development and use of the land outlined in s 47E of the LG Act.

Categorisation of the land

All community land is required to be categorised as one or more of five categories. Where the land is owned by the Crown, the category assigned should align with the purpose for which the land is dedicated or reserved.

The LG Act defines five categories of community land:

- **Park** – for areas primarily used for passive recreation.
- **Sportsground** – for areas where the primary use is for active recreation involving organised sports or the playing of outdoor games.
- **General community use** – for all areas where the primary purpose relates to public recreation and the physical, cultural, social, and intellectual welfare or development of members of the public. This includes venues such as community halls, scout and guide halls, and libraries.
- **Cultural significance** – for areas with Aboriginal, aesthetic, archaeological, historical, technical, research or social significance.
- **Natural area** – for all areas that play an important role in the area's ecology. This category is further subdivided into bushland, escarpment, foreshore, watercourse, and wetland categories.

The categorisation of the Crown Reserve at Union Bend as a park is identified in Appendix A1, as well as shown by maps in Appendix A1.

Guidelines and core objectives for management of community land

The management of community land is governed by the categorisation of the land, its purpose, and the core objectives of the relevant category of community land. Council may then apply more specific management objectives to community land, though these must be compatible with the core objectives for the land.

The guidelines for categorisation of community land are set out in the Local Government (General) Regulation 2021. The core objectives for each category are set out in the LG Act.

Community land is valued for its important role in the social, intellectual, spiritual, and physical enrichment of residents, workers, and visitors to the Central Darling Shire Council area.

The intrinsic value of community land is also recognised, as is the important role this land plays in biodiversity conservation and ecosystem function.

Central Darling Shire Council encourages a wide range of uses of community land and intends to facilitate uses which increase the activation of its land, where appropriate. Within buildings, swimming pools, and recreational and sporting facilities, Central Darling Shire Council intends to permit and encourage a broad range of appropriate activities.

Restrictions on management of Crown land

Council is the Crown land manager of the Crown reserve described in this PoM in accordance with the legislation and conditions imposed by the Minister administering the *Crown Land Management Act 2016*. The use of the land described in this PoM must:

- be consistent with the purpose for which the land was dedicated or reserved
- consider native title rights and interests and be consistent with the provisions of the Commonwealth *Native Title Act 1993*
- consider the inchoate interests of Aboriginal people where an undetermined Aboriginal Land Claim exists
- consider and not conflict with any interests and rights granted under the *Crown Land Management Act 2016*
- consider any interests held on title.

The purpose of the land is for public recreation and the category of the Union Bend Crown Reserve is currently for a park. The area of the Crown Reserve at Union Bend is 17.3679ha.

There is a successful Native Title land claim, and it applies to the Crown Reserve 85567 at Union Bend.

Councils' strategic objectives and priorities

Central Darling Shire Council, in consultation with the community, has developed the following strategies and plans to identify the priorities and aspirations of the community and the delivery of a vision for the future. They have a direct influence on the objectives, uses and management approach covered by PoMs.

The purpose of the Central Darling Shire Community Strategic Plan is to describe the community's vision and long-term goals for the future of their local area and region and identify strategies to achieve them.

Communities of the shire own the plan and partner with State and Federal agencies and non-government organisations, Council and community groups are responsible for delivering the long-term goals identified in the plan.

The Community Strategic Plan must observe the four social justice principles as determined by the NSW Government's social justice strategy:

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

ACCESS — All people should have fair access to services, resources, and opportunities to improve their quality of life.

PARTICIPATION — Everyone should have the maximum opportunity to genuinely participate in decisions which affect their lives.

RIGHTS — Equal rights should be established and promoted, with opportunities provided for people from diverse linguistic, cultural, and religious backgrounds to participate in community life.

DEVELOPMENT AND USE

The current use of the land is for recreational purposes for the local Wilcannia community. It is used for fishing and entry into the Darling / Baaka River.

The infrastructure for Central Darling Shire Council water supply is also located upon the Crown Reserve at Union Bend, along with the associated power supply.

There is an existing unsurfaced track in use for access to the Union Bend area at the bend in the river, which has area for car parking.

Current use of the land

This section of the PoM contains information about the existing use of the land (for primarily recreation), including condition of the land and structures, use of the land and structures, and current leases and licences on the land.

The current use of the land is for recreational purposes for the local Wilcannia community. It is used for fishing and entry into the Darling/ Baaka River. The Central Darling Shire Council water supply and electricity infrastructure is located within the Wilcannia Common and the Crown Reserve at Union Bend.

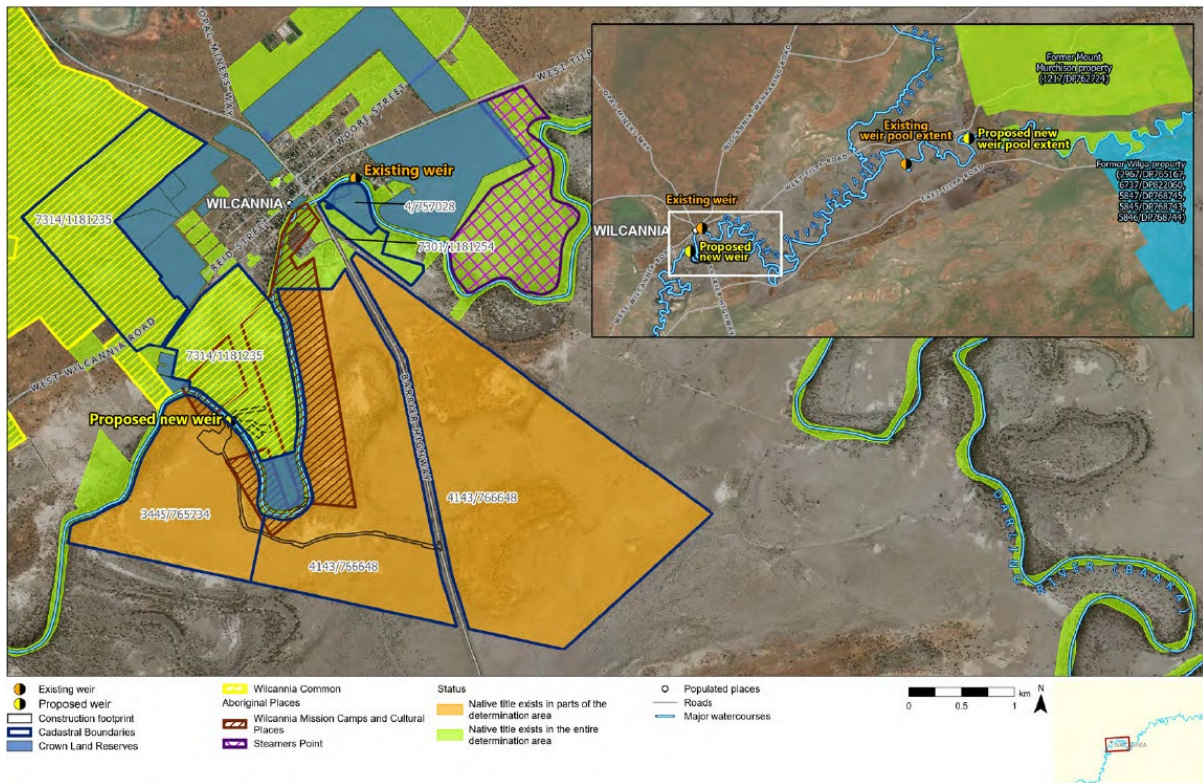


Figure 11: Land use and land interests near the Crown Reserve at Union Bend. (source: Review of Environmental Effects Factors November 2021 – DPIE Water Infrastructure).

Permissible uses / future uses

Community land is valued for its important role in the social, intellectual, spiritual, and physical enrichment of residents, workers, and visitors to the Central Darling Shire Council area.

The intrinsic value of community land is also recognised, as is the important role this land plays in biodiversity conservation and ecosystem function.

Central Darling Shire Council encourages a wide range of uses of community land and intends to facilitate uses which increase the activation of the land, where appropriate.

The use of community land is often supported by appropriate ancillary developments such as playground equipment, amenities blocks or food kiosks.

Table 6 lists the uses of the Crown Reserve at Union Bend that is a park.

The proposed future use of the land at the Crown Reserve at Union Bend is for a viewing area for the new Wilcannia weir and for recreational activities including:

- Seating / viewing area,
- Walking track / heritage walk (along river edge viewing the scar trees),
- Parking area
- Future Boat ramp.
- An all-surface road to the end of Union Bend servicing the recreational area and for service access to the new Wilcannia Weir.
- Central Darling Shire Council water and power infrastructure services pipes and bores.

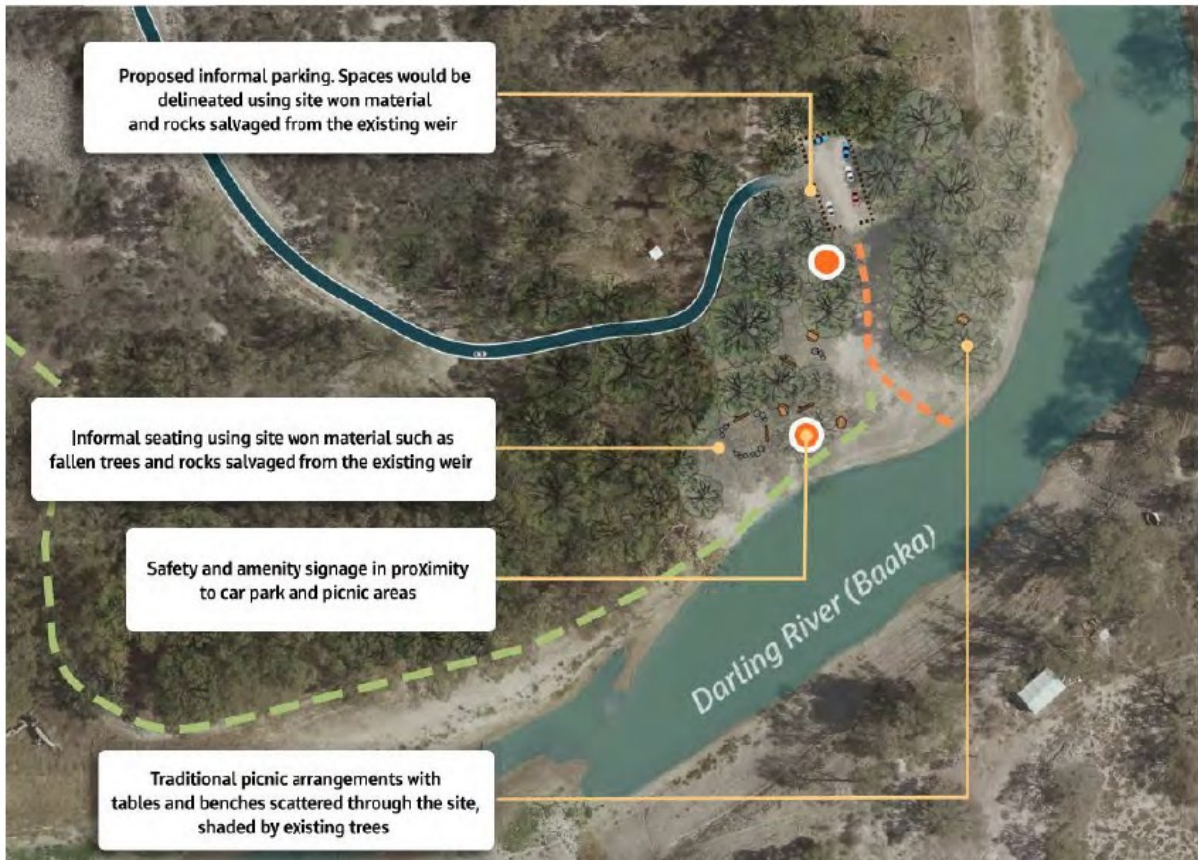


Figure 12 : Concept landscape plan for the community river place (Source: Wilcannia Weir Replacement Environmental Impact Statement 2022 DPE)



Photo ;6 (Concept design photo image for the new Wilcannia Weir (Source: Wilcannia Weir Replacement Environmental Impact Statement 2022 DPE)

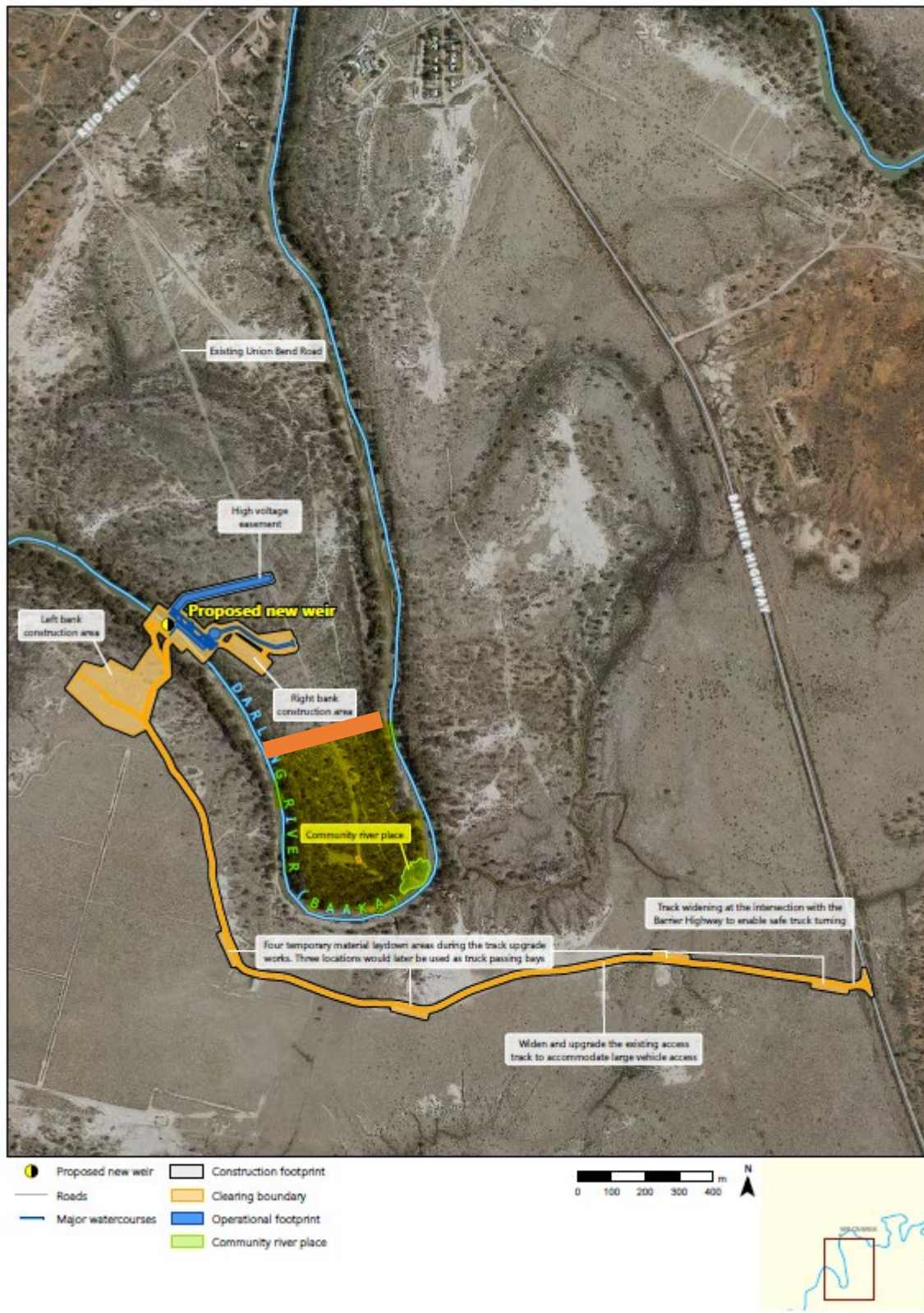


Figure 13 : Key design features of the Wilcannia Weir project showing the proposed community river place within the Union Bend Crown Reserve (highlighted in yellow) (Source: Wilcannia Weir Replacement Environmental Impact Statement 2022 DPE)

A possible future use is for the installation of a shared walkway/cycle way that commences at Wilcannia hospital and travels around to the Crown Reserve at Union Bend.

List of Category sections

- Park

Express authorisation of leases and licences and other estates

Under section 46(1)(b) of the LG Act, leases, licences, and other estates formalise the use of community land. A lease, licence or other estate may be granted to organisations and persons, community groups, sports clubs and associations, non-government organisations, charities, community welfare services, non-profit organisations, and government authorities.

The lease or licence must be for uses consistent with the reserve purpose(s), the assigned categorisation and zoning of the land, be in the best interests of the community as a whole, and enable, wherever possible, shared use of community land.

Any lease or licence proposal will be individually assessed and considered, including the community benefit, compatibility with this PoM and the capacity of the community land itself and the local area to support the activity.

A lease is normally issued where exclusive control of all or part of an area by a user is proposed. In all other instances a licence or short-term licence or hire agreement will be issued.

Leases and licences authorised by the plan of management

This PoM **expressly authorises** the issue of leases, licences and other estates over the land covered by the PoM provided that:

- the purpose is consistent with the purpose for which it was dedicated or reserved
- the purpose is consistent with the core objectives for the category of the land
- the lease, licence or other estate is for a permitted purpose listed in the *Local Government Act 1993* or the Local Government (General) Regulation 2021
- the issue of the lease, licence or other estate and the provisions of the lease, licence or other estate can be validated by the provisions of the *Native Title Act 1993* (Cth)
- where the land is subject to a claim under the *Aboriginal Land Rights Act 1983* the issue of any lease, licence or other estate will not prevent the land from being transferred in the event the claim is granted
- the lease, licence or other estate is granted and notified in accordance with the provisions of the *Local Government Act 1993* or the Local Government (General) Regulation 2021
- the issue of the lease, licence or other estate will not materially harm the use of the land for any of the purposes for which it was dedicated or reserved.

Tables in the relevant category sections of this PoM further identify the purposes for which leases and licences may be issued over the reserves identified in this PoM.

Lease

There is currently no lease required for the use of the Union Bend Crown Reserve

Native title and Aboriginal land rights considerations in relation to leases, licences and other estates

A search request by DPIE was made for the proposed road works to the Union Bend and Wilcannia Common site (Lot 7315 DP 1181235 and Lot 7314 DP 1181235) was sent to the National Native Title Tribunal on 26 October 2021 to determine whether any Native Title, Indigenous Land Use Agreements or Future Act submissions/ determinations existed within the proposed works area.

The response received from the National Native Title Tribunal on 27 October 2021 shows that the proposed works area is located within the Barkandji Native Title Consent Determination area.

The proposed works also sit within an area covered by the Barkandji Interim Licences Indigenous Land Use Agreement (ILUA).

Geospatial Searches- National Native Title Tribunal - Search Results

The results provided are based on the information on the described lots and are derived from a search of the following Tribunal databases:

- Schedule of Native Title Determination Applications
- Register of Native Title Claims
- Native Title Determinations
- Indigenous Land Use Agreements (Registered and notified)

Please note: There may be a delay between a native title determination application being lodged in the Federal Court and its transfer to the Tribunal. As a result, some native title determination applications recently filed with the Federal Court may not appear on the Tribunal's databases.

The search results are based on analysis against external boundaries of applications only. Native title applications commonly contain exclusion clauses which remove areas from within the external boundary. To determine whether the areas described are in fact subject to claim, you need to refer to the "Area covered by claim" section of the relevant Register Extract or Schedule Extract and any maps attached.

Feature ID	Tenure	As at	Feature area Sqkm	Overlapping Native Title feature				
				NNTT File Number	Name	Category	Overlap Area SqKm	% Selected Feature
7314//DP1181235	CROWN	11/10/2021	3.0783	NP2020/001	Barkandji Malyangapa People	Applications (Schedule)	3.0783	100.00%
				NCD2015/001	Barkandji Traditional Owners #8 (Part A)	Determinations	3.0783	100.00%
				NI2018/007	Barkandji Interim Licences ILUA	ILUAs	3.0783	100.00%
7315//DP1181235	CROWN	11/10/2021	0.1739	NNTT File Number	Name	Category	Overlap Area SqKm	% Selected Feature
				NP2020/001	Barkandji Malyangapa People	Applications (Schedule)	0.1739	100.00%

			NCD2015/001	Barkandji Traditional Owners #8 (Part A)	Determinations	0.1739	100.00%
			NI2018/07	Barkandji Interim Licences ILUA	ILUAs	0.1739	100.00%

Table 5: Information on native title claims and freehold land can also be found on the Tribunal’s website here: [Native title claims and freehold land](#) .

When planning to grant a lease or licence on Crown reserves, the council must comply with the requirements of the Commonwealth *Native Title Act 1993* (NT Act) and have regard for any existing claims made on the land under the NSW *Aboriginal Land Rights Act 1983*.

It is the role of the councils engaged or employed native title manager to provide written advice in certain circumstances to advise if the proposed activities and dealings are valid under the NT Act

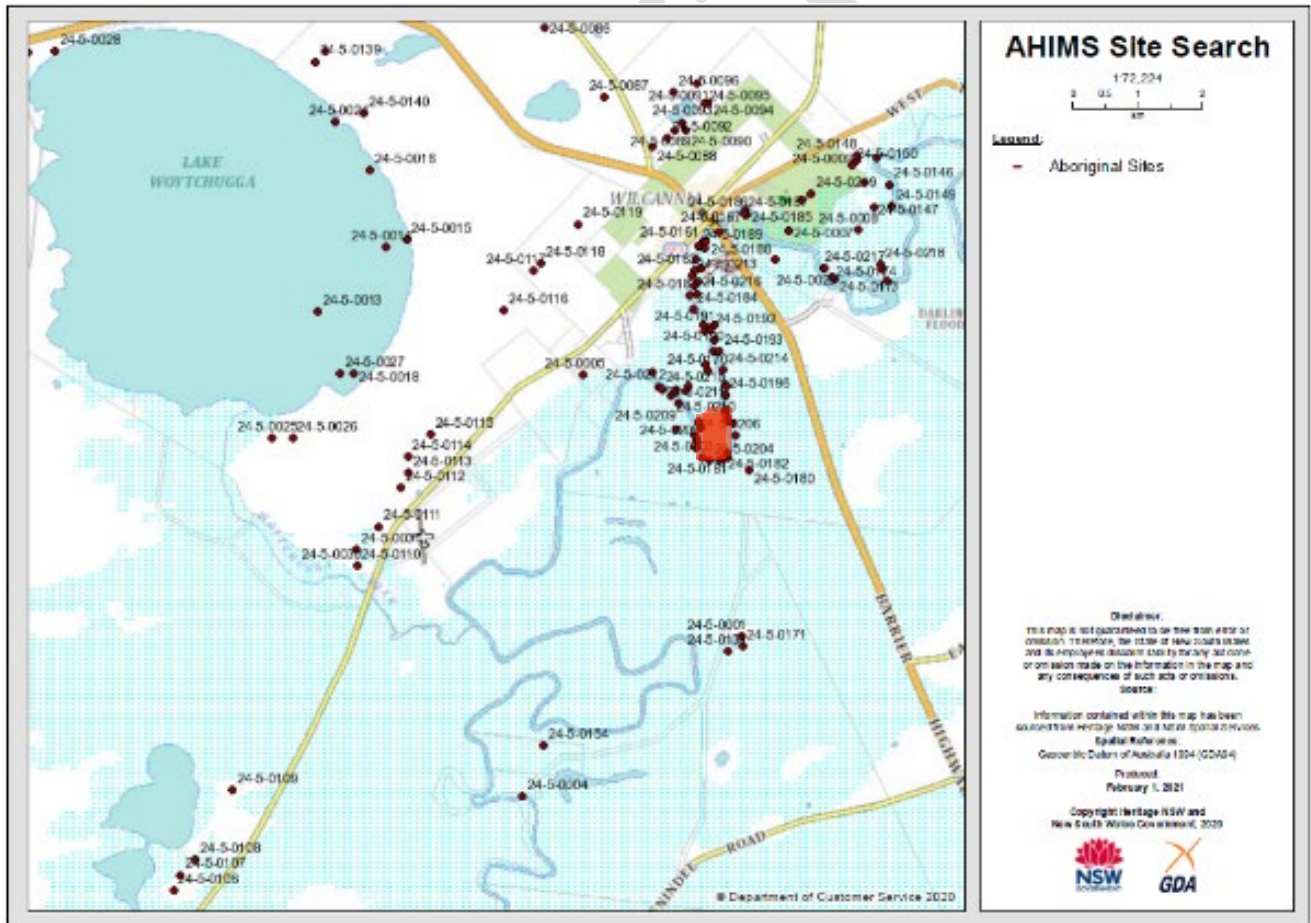


Figure 14: Native Title mapping of Union Bend Crown Reserve (highlighted in red) and Wilcannia Common.

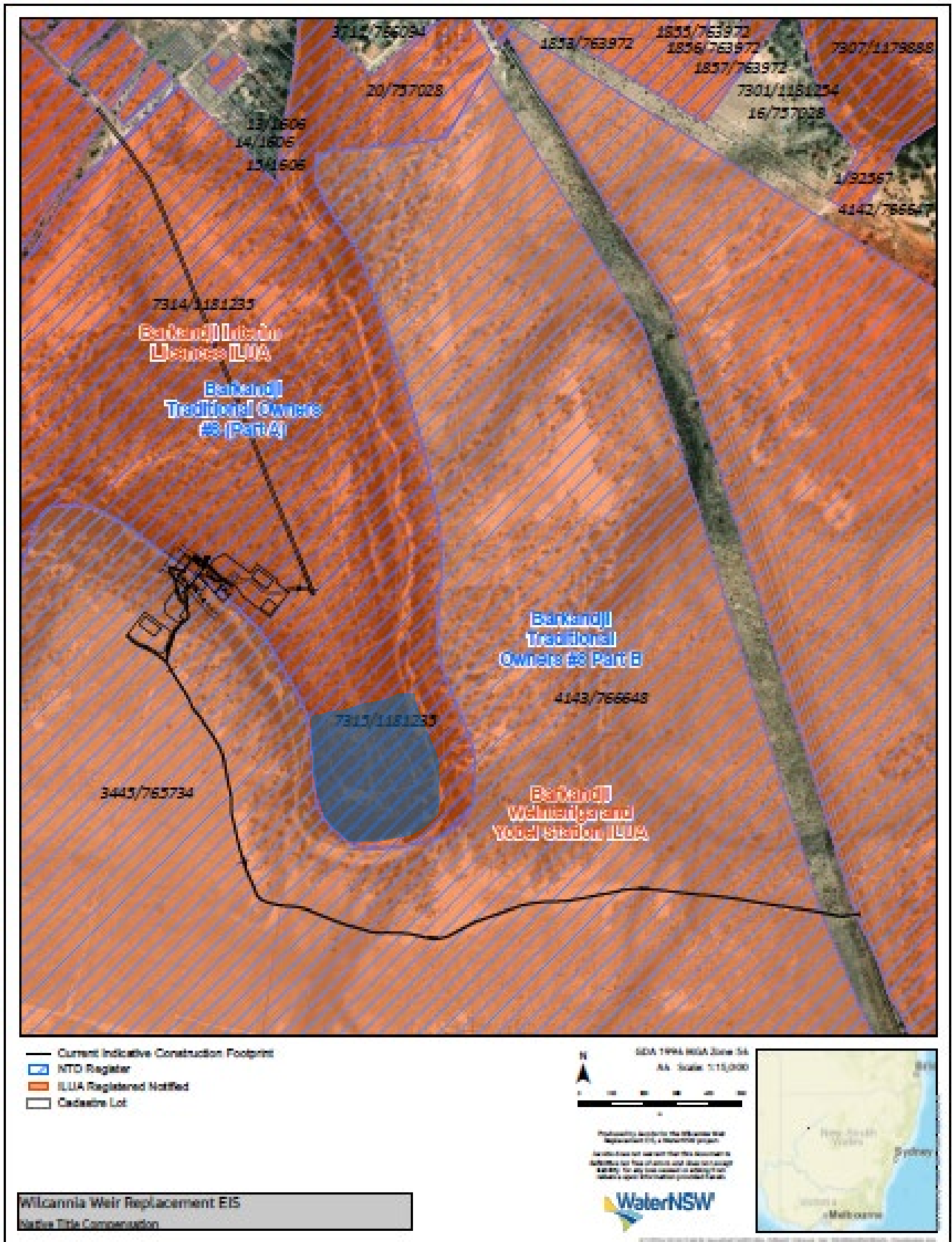


Figure 15: Native Title land map Union Bend Reserve highlighted in blue.(Source Water NSW REF report November 2021)

MANAGEMENT OF LAND BY CATEGORY

Park

The Union Bend Crown Reserve Park

The Union Bend Crown Reserve Park is located within the Darling Riverine Plains – Wilcannia Plains sub-region. The topography of the reserve is the Darling River channel, and the surrounding area contains floodplain features. There are several streams that may feed the river at rain events. The areas beside Union Bend Crown Reserve and on the other side of the Darling / Baaka river topography contains areas of dunes and alluvial sandplains.

The Crown Reserve is subject to extensive flooding with two thirds of the reserve/ park flooded and not accessible by road when the Darling/ Baaka river is in flood. (noted : May, June, July August and September 2022 reserve not accessible due to flood waters).

This PoM covers one Council managed Crown Reserve – Wilcannia Public Recreation – Union Bend – 85567. The reserve information is detailed in [Table 1]. The land is owned by the Crown and is managed by Central Darling Shire Council as Crown and manager under the *Crown Land Management Act 2016*.

The Union Bend Crown Reserve 85567 is located at lot 7315 DP 1181235. The Crown Reserve is community land and is reserved for “Public Recreation”. The crown reserve lot is located approximately 3.37km southwest from the centre of the town of Wilcannia and is located on a distinctive bend in the Darling River/ Baaka River.

The Union Bend Reserve is used by the local Aboriginal Community and other residents of Wilcannia as a recreational area for fishing, swimming and other recreational uses of the Darling/ Baaka River.

The Union Bend Crown Reserve is classified as community land under the *Local Government Act 1993*.

Guidelines and core objectives

Parks are defined in clause 104 of the LG (General) Regulation 2021 as land which is improved by landscaping, gardens or the provision of non-sporting equipment and facilities, and for uses which are mainly passive or active recreational, social, educational, and cultural pursuits that do not intrude on the peaceful enjoyment of the land by others.

The core objectives for parks, as outlined in Section 36G of the LG Act, are to:

- encourage, promote, and facilitate recreational, cultural, social, and educational pastimes and activities
- provide for passive recreational activities or pastimes and for the casual playing of games
- improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

Key issues

The Crown Reserve Union Bend Park is located at a bend in the Darling/ Baaka River just outside the town of Wilcannia. The current use of the area is for recreation, this park crown Reserve has strong Aboriginal cultural significance and is used by the local community for fishing and river side uses.

The Crown Reserve at Union Bend is located adjacent to the Wilcannia Common that is also crown land and is under the management of Crown Lands.

The Crown Reserve at Union Bend and the Wilcannia common contain the Central Darling Shire Council water infrastructure for the main water supply to the town of Wilcannia. This infrastructure is water pipes and bores. There is also accompanying electrical supply and access road.

The proposed future use of the Crown Reserve at Union Bend is for an access road and viewing area for the new Wilcannia Weir. This will also involve a seating area and car parking area. The future use also proposes a heritage walk between the union bend point and the location of the new Wilcannia Weir. This will include heritage signs to identify culturally significant scar trees.

The new access road for access to the new Wilcannia Weir is acceptable under the NSW Water Act 1912 and does not require additional land use agreements.

The Central Darling Shire Council water infrastructure requires an Indigenous Land Use Agreement and a lease between Council and the native title land holders.

The use of the Crown Reserve Union Bend for a viewing area with seating and a heritage walk is acceptable under the use for public recreation.

Management framework for reserves categorised as Park

The management of the Crown Reserve at Union Bend will be by the Central Darling Shire Council environmental services section.

The upkeep and maintenance of the reserve will be covered by the Council's annual budget.

There will be no fees and charges to use this Aboriginal culturally significant area.

Development and use

Current Use of the Crown Reserve Union Bend

The Crown Reserve at Union Bend currently contains the Central Darling Shire Council water infrastructure pipes and bores (including power supply), to pipe the water from the Darling / Baaka River to the Wilcannia water treatment plant (located in the residential area of Wilcannia).

Proposed future use of the Crown Reserve Union Bend

The new Wilcannia Weir project proposed future use for the Crown Reserve at Union bend, is to construct an access road and a car parking area at the bend in the river. This area is also proposed to have a river viewing area with seating.

A possible future use may involve a boat ramp.

The viewing area will be linked to the new Wilcannia Weir by an Aboriginal cultural walk with signage for the scar trees and other Aboriginal cultural heritage items.

The proposed future use of the Crown Reserve at Union Bend may include a walkway and cycleway that will extend from the Wilcannia hospital around the banks of the Darling / Baaka River through to the Wilcannia Common and to the point at Union Bend.

The Crown Reserve at Union Bend should be an alcohol free area, due to the proximity of the Darling/ Baaka River, where intoxicated reserve users may risk their life if they fall into the river.

Domestic animals are allowed on the Crown Reserve if they are on a leash.

Current use of the land

Condition of the land and structures

The Crown Reserve at Union Bend contains the Central Darling Shire Council water infrastructure pipes and bores (including power supply), and an access road. There is currently no other formal infrastructure or recreational structures on the Union Bend reserve.



Photo 7: Photo from the Crown Reserve Union Bend point of the river and car parking area looking southwest towards where the new Wilcannia Weir is to be located. (Source: CDSC 2021)



Photo 8: Photo from the Crown Reserve Union Bend point of the river and car parking area looking northwest towards Wilcannia. (Source: CDSC 2021)



Photo 9: Photo from the Crown Reserve Union Bend point of the river showing the proposed area for viewing seating and the car park area looking southwest towards where the new Wilcannia Weir is to be located. (Source: CDSC 2021)

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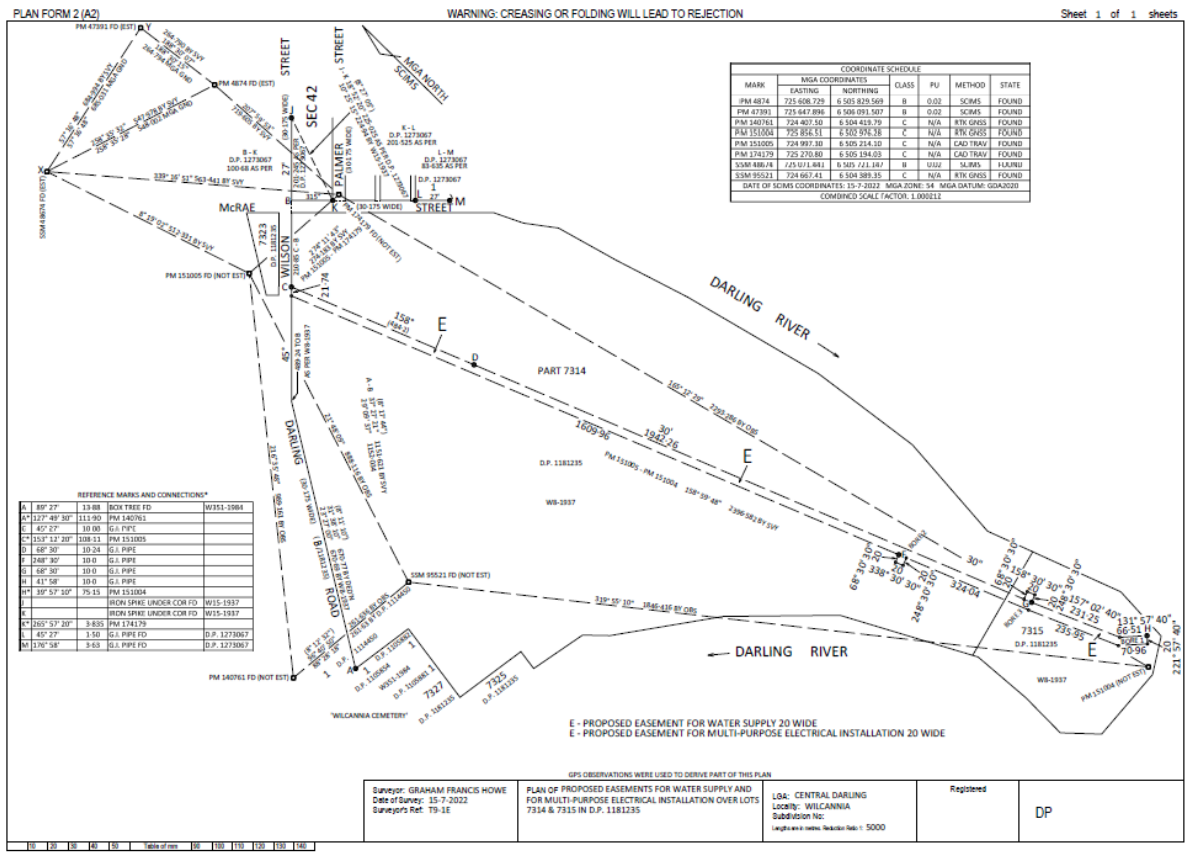


Figure 16: Survey Drawing of CDSC infrastructure pipes and bores (including power supply) (Source: Survey drawing Graham Howe Registered land surveyor 2022).

Use of the land and structures

The use of the Crown Reserve at Union Bend for the Central Darling Shire Council water supply infrastructure will require an Indigenous Land Use Agreement due to the Native Land Title claim on the reserve and the adjacent Wilcannia Common.

Current leases and licences

A lease is not required between the Central Darling Shire Council and the Indigenous landowners. Council does not have at present any tenure issues on the Crown Reserve. However, either a lease or licence may be required for the proposed works by Water NSW for the Community Place on Union Bend Park.

Permissible uses / future uses

The general types of uses which may occur on community land categorised as Park and the forms of development generally associated with those uses, are set out in detail in Table 4. The facilities on community land may change over time, reflecting the needs of the community.

Purpose/Use, such as...	Development to facilitate uses
<ul style="list-style-type: none"> Active and passive recreation including walkway, heritage path and cycleway Group recreational use, such as picnics and private celebrations 	<ul style="list-style-type: none"> Development for the purposes of improving access, amenity, and the visual character of the park, for example paths, cycleway.

Purpose/Use, such as...	Development to facilitate uses
<ul style="list-style-type: none"> Eating and drinking in a relaxed setting 	<ul style="list-style-type: none"> Development for the purposes of active recreation such as, bike racks Amenities to facilitate the safe use and enjoyment of the park, for example picnic tables, seating areas Lighting, seating, paved areas Car parking Heritage and cultural interpretation, for example signs Energy-saving initiatives such as solar lights and solar panels Locational, directional, and regulatory signage

Table 6- Permissible use and development of community land categorised as Park by Council or the community.

Express authorisation of leases, licences, and other estates - Park

This plan of management may be used to **expressly authorise** the issue of leases, licences and other estates over the land categorised as Park, however no lease or licence is currently required for the use of the land for recreation. An Indigenous land use agreement may be entered into between Central Darling Shire Council and the Native Title land holders for the use of the Wilcannia Common and the Union Bend Crown Reserve for Council infrastructure.

Action plan

Section 36 of the LG Act requires that a PoM for community land details:

- objectives and performance targets for the land
- the means by which the council proposes to achieve these objectives and performance targets
- the manner in which the council proposes to assess its performance in achieving the objectives and performance targets.

Management Issues	s.36(3)(b) Objectives and Performance Targets	s.36(3)(c) Means of achievement of objectives	s.36(3)(d) Manner of assessment of performance
<p>Broad issues</p> <ol style="list-style-type: none"> 1. traffic management/ road repair and maintenance. 2. Management and maintenance of car parking area. 3. Maintenance of signage, 4. Maintenance and cleaning of viewing seating area. 5. Ensuring native title landowners have full use of the land and the available facilities for ceremonial and private recreation use, that is for picnics and for fishing. 	<p>Objectives that apply to the land.</p> <p>Objectives must be consistent with core objectives under the LG Act.</p> <ol style="list-style-type: none"> 1.Ensure access to and within parks to people with disabilities, 2. Ensure the Crown Reserve at Union Bend is kept clean and the seating viewing area and car parking plus signage area is not damaged. 3. Ensure local native title landowners have equitable and unobstructed use and access to the Crown Reserve for use as ceremonial areas, picnics and for fishing. 	<p>Actions to be taken to achieve the objectives.</p> <ol style="list-style-type: none"> 1.When the walkway/ cycle way is constructed, and the viewing area is designed ensure that the design includes wheelchair friendly paths. 2. Consult with Native Title landowners on the ongoing maintenance and cleaning of the Crown Reserve at Union Bend. This will endeavour to protect the roadway, Council infrastructure, the seating viewing area, car parking area and the signage from damage. 3. Consult with Native Title landowners on the access and use of the Crown Reserve particularly if the area needs to be restricted in use at certain times. 	<p>Measures of assessment.</p> <ol style="list-style-type: none"> 1. Assess useability of park by wheelchair users through surveys and observation. 2. Employ Native Title landowners to be park rangers and to check on the reserve daily. 3. Maybe instigate a booking system to cover the Crown Reserve when the Native Title landowners would like to restrict access.
<p>Use and recreation</p>	<p>To enhance opportunities for a balanced organised and unstructured recreational use of parks.</p> <p>To optimise public access to all areas of parks.</p> <p>Provide opportunities for all kinds of activity in open space for</p>	<p>Maintain and increment the range of organised and informal/unstructured activities in parks.</p> <p>Provide improved facilities for event usage so that these functions may be accommodated without adversely affecting the values</p>	<p>Increased local use of parks measured by survey and observation.</p> <p>Number of people attending workshops and environmental events organised by the Council.</p>



Management Issues	s.36(3)(b) Objectives and Performance Targets	s.36(3)(c) Means of achievement of objectives	s.36(3)(d) Manner of assessment of performance
	<p>people of all ages, abilities, and cultural backgrounds.</p> <p>To increase community participation in natural area conservation and restoration.</p>	<p>and character of individual parks.</p> <p>Provide amenities to increase use and enjoyment of parks.</p> <p>Undertake accessibility audit of facilities to identify compliance.</p> <p>Provide well-managed off-leash areas for social use with signage and fencing if appropriate.</p>	

Table 7. Objectives and performance target, means of achieving them and assessing achievement for community land categorised as Park

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APPENDICE

Appendix A1 – Maps

The Local Government (General) Regulation 2021 (Clause 113) requires that a draft plan of management that categorises an area of community land, or parts of an area of community land, in more than one category must clearly identify the land or parts of the land and the separate categories (by a map or otherwise).

In addition, a map of the reserve allows the reader to clearly understand the land use and context of the land in the surrounding area.

The maps should clearly identify:

- The owner of the land, where the PoM covers both land owned by council and Crown land
- The community land categories applied to the land, whether one category is assigned or multiple categories
- Any areas of the reserve which are to be managed as operational land (if applicable)
- Key features of the land
- Zoning of the land under the LEP – RU1

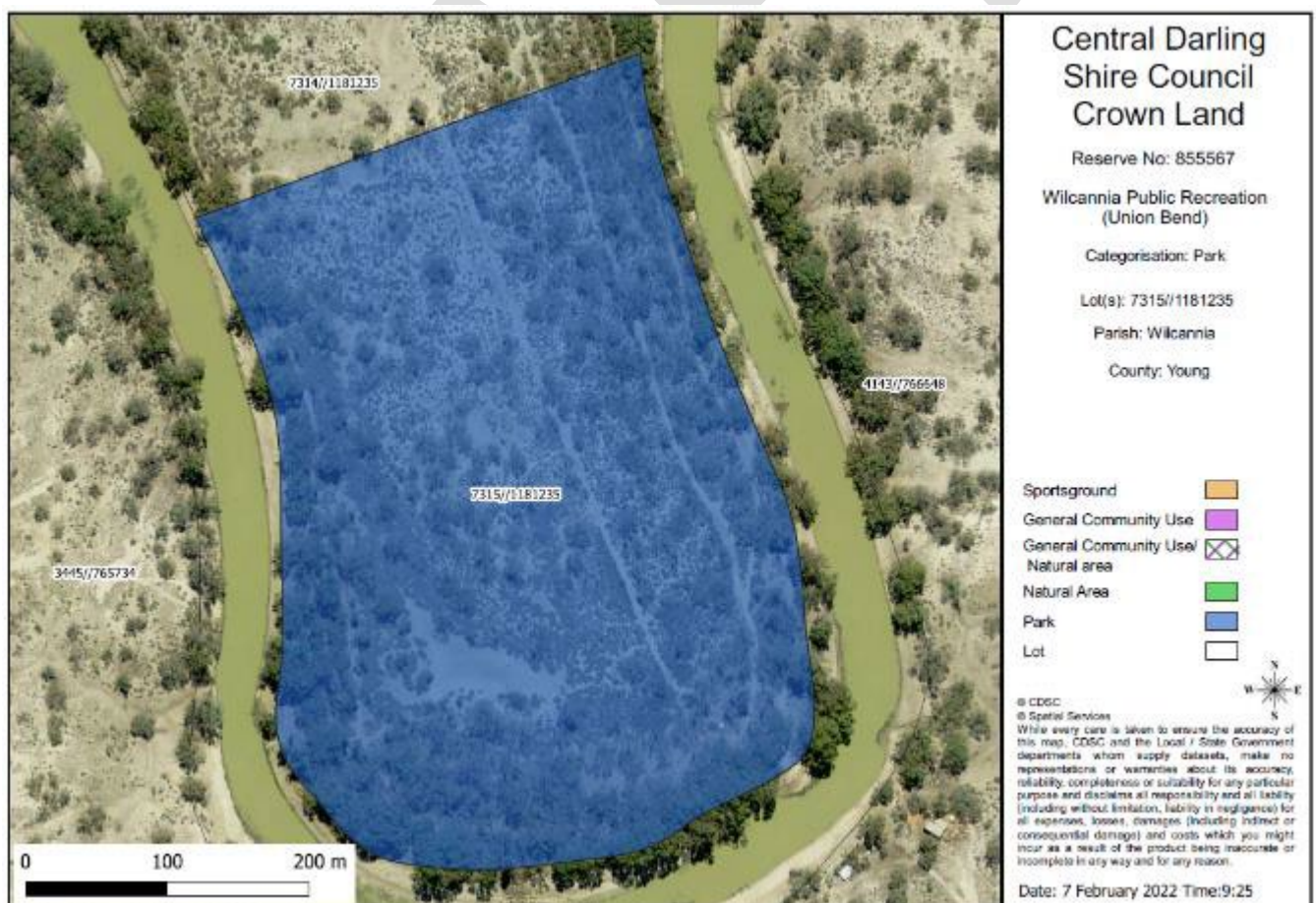


Figure 17: Union Bend Crown Reserve – Category - Park map. (Source: CDSC council 2022)

Appendix A2 – Plan of Management Legislative Framework

The primary legislation that impacts on how community land is managed or used is briefly described below. You can find further information regarding these acts at www.legislation.nsw.gov.au.

Local Government Act 1993

Section 35 of the *Local Government Act 1993* (LG Act) provides that community land can only be **used** in accordance with:

- the plan of management applying to that area of community land, and
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land, and
- the provisions of Division 2 of Chapter 6 of the Act.

Section 36 of the Act provides that a plan of management for community land must identify the following:

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

and may require the prior approval of the council to the carrying out of any specified activity on the land.

A plan of management that applies to just one area of community land:

- a) must include a description of:
 - (i) the condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and
 - (ii) the use of the land and any such buildings or improvements as at that date, and
- b) must:
 - (i) specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and
 - (ii) specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and
 - (iii) describe the scale and intensity of any such permitted use or development.

Land is to be categorised as one or more of the following:

- a) a natural area
- b) a sportsground
- c) a park
- d) an area of cultural significance
- e) general community use.

Land that is categorised as a natural area is to be further categorised as one or more of the following:

- a) bushland
- b) escarpment
- c) watercourse
- d) foreshore
- e) a category prescribed by the regulations.

Additionally, under section 36 of the LG Act, a site-specific PoM must be made for land declared:

- as critical habitat, or directly affected by a threat abatement plan or a recovery plan under threatened species laws (sections 36A(2) and 36B(3))
- by council to contain significant natural features (section 36C(2))
- by council to be of cultural significance (section 36D(2)).

Classification of public land

The LG Act requires classification of public land into either 'community' or 'operational' land (Section 26). The classification is generally made for council-owned public land by the council's Local Environmental Plan (LEP) or in some circumstances by a resolution of the council (Section 27).

Crown reserves managed by council as Crown land manager have been classified as community land upon commencement of the *Crown Land Management Act 2016* (CLM Act). Councils may manage these Crown reserves as operational land if written consent is obtained from the Minister administering the CLM Act.

Classification of land has a direct effect on the council's ability to dispose of or alienate land by sale, leasing, licensing, or some other means. Under the LG Act, community land must not be sold (except for scheduled purposes), exchanged or otherwise disposed of by the council, and the land must be used and managed in accordance with an adopted PoM. In addition, community land is subject to strict controls relating to leases and licences (sections 45 and 46) of the LG Act.

By comparison, no such restrictions apply to operational land that is owned by councils. For example, operational land can be sold, disposed, exchanged, or leased including exclusive use over the land, unencumbered by the requirements which control the use and management of community land. Crown reserves managed by council as operational land may generally be dealt with as other operational land but may not be sold or otherwise disposed of without the written consent of the minister administering the CLM Act.

Operational land would usually include land held as a temporary asset or an investment, land which facilitates the council carrying out its functions or land which may not be open to the general public (for example, a works depot).

The classification or reclassification of council-owned public land will generally be achieved by a Local Environmental Plan (LEP) or by a resolution of council in accordance with sections 31, 32 and 33 of the LG Act. If land is not classified by resolution within a three-month period from acquisition it automatically becomes community land, regardless of whether it satisfies the objectives for community land as outlined in the LG Act.

For Crown land, Council cannot reclassify community land as operational land without consent of the Minister administering the CLM Act.

Crown Land Management Act 2016

Crown reserves are land set aside on behalf of the community for a wide range of public purposes, including environmental and heritage protection, recreation and sport, open space, community halls, special events and government services.

Crown land is governed by the CLM Act, which provides a framework for the state government, local councils, and members of the community to work together to provide care, control, and management of Crown reserves.

Under the CLM Act, as Council Crown land managers, councils manage Crown land as if it were public land under the LG Act. However, it must still be managed in accordance with the purpose of the land and cannot be used for an activity incompatible with its purpose – for example, Crown land assigned the purpose of ‘environmental protection’ cannot be used in a way that compromises its environmental integrity.

Councils must also manage Crown land in accordance with the objects and principles of Crown land management outlined in the CLM Act. The objects and principles are the key values that guide Crown land management to benefit the community and to ensure that Crown land is managed for sustainable, multiple uses.

Principles of Crown land management

- Environmental protection principles are to be observed in the management and administration of Crown land.
- The natural resources of Crown land (including water, soil, flora, fauna, and scenic quality) will be conserved wherever possible.
- Public use and enjoyment of appropriate Crown land are to be encouraged.
- Where appropriate, multiple uses of Crown land should be encouraged.
- Where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained.
- Crown land is to be occupied, used, sold, leased, licensed, or otherwise dealt with in the best interests of the state of NSW, consistent with the above principles.

Crown land management compliance

In addition to management and use of Crown reserves that is aligned with the reserve purpose(s), there are other influences over council management of Crown reserves. For example, Crown land managers may have conditions attached to any appointment instruments, or councils may have to comply with specific or general Crown land management rules that may be published in the NSW Government Gazette. Councils must also comply with any Crown land regulations that may be made.

Native Title Act 1993

The Commonwealth *Native Title Act 1993* (NT Act) recognises and protects native title rights and interests. The objects of the NT Act are to:

- provide for the recognition and protection of native title
- establish ways in which future dealings affecting native title may proceed and to set standards for those dealings
- establish a mechanism for determining claims to native title
- provide for, or permit, the validation of past acts invalidated because of the existence of native title.

The NT Act may affect use of Crown land, particularly development and granting of tenure.

Specifically, the CLM Act makes it mandatory for council to engage or employ a Native Title manager. This role provides advice to council as to how the council’s dealings and activities on Crown land can be valid or not valid in accordance with the NT Act.

Council must obtain the written advice from an accredited Native Title manager that Council complies with any applicable provisions of the native title legislation when:

- a) granting leases, licences, permits, forestry rights, easements, or rights of way over the land
- b) mortgaging the land or allowing it to be mortgaged
- c) imposing, requiring, or agreeing to covenants, conditions or other restrictions on use (or removing or releasing, or agreeing to remove or release, covenants, conditions, or other restrictions on use) in connection with dealings involving the land
- d) approving (or submitting for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in (a), (b) or (c).

Council plans and policies relating to this plan of management

Council has developed plans and policies that are concerned to some extent with the management of community land. These documents have been considered when preparing this PoM.

The following is a list of documents that have a direct association with this PoM:

Central Darling Local Environmental Plan 2012

Other state and Commonwealth legislation

NSW state legislation

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the framework for planning and development across NSW and guides environmental planning instruments which provide a basis for development control.

The EP&A Act ensures that effects on the natural environment, along with social and economic factors, are considered by the council when granting approval for or undertaking works, developments, or activities.

This Act is also the enabling legislation for planning policies which may have a direct influence on open space management. On a state-wide level there are State Environmental Planning Policies (SEPPs). On a regional level there are Regional Environmental Plans (REPs). On a local level there are Local Environmental Plans (LEPs) as well as Development Control Plans (DCPs).

Aboriginal Land Rights Act 1983

The *Aboriginal Land Rights Act 1983* (ALR Act) is important legislation that recognises the rights of Aboriginal peoples in NSW. It recognises the need of Aboriginal peoples for land and acknowledges that land for Aboriginal people in the past was progressively reduced without compensation. Crown land meeting certain criteria may be granted to an Aboriginal Land Council. This Act may affect dealings with Crown land that is potentially claimable.

National Parks and Wildlife Act 1974

Statutory responsibilities on the council arising from this Act specifically relate to the protection of sites of pre- and post-European contact archaeological significance. This Act may affect community land categorised as cultural significance, natural area, or park.

Biodiversity Conservation Act 2016

Note: This Act repealed several pieces of legislation including the *Native Vegetation Act 2003*, *Threatened Species Conservation Act 1995*, the *Nature Conservation Trust Act 2001*, and the animal and plant provisions of the *National Parks and Wildlife Act 1974*.

This Act covers conservation of threatened species, populations and ecological communities, the protection of native flora and fauna. This Act primarily relates to community land categorised as natural area. However, other categories may also be affected.

The *Threatened Species Conservation Act 1995* has been repealed and superseded by the *Biodiversity Conservation Act 2016*. However, references to the former legislation remain in the LG Act and are therefore retained in this guideline.

DPIE's Energy, Environment and Science division advises that recovery plans and threat abatement plans made under the *Threatened Species Conservation Act 1995* were repealed on the commencement of the *Biodiversity Conservation Act* in 2017. These plans have not been preserved by any savings and transitional arrangement under the Biodiversity Conservation Act or LG Act, meaning pre-existing plans have no legal effect.

For this reason, requirements relating to recovery plans and threat abatement plans for local councils preparing plans of management under section 36B of the LG Act are now redundant. Councils will be advised if future amendments are made to the LG Act to enable these mechanisms.

Certain weeds are also declared noxious under this Act, which prescribes categories to which the weeds are assigned, and these control categories identify the course of action which needs to be carried out on the weeds. A weed may be declared noxious in part or all the state.

Fisheries Management Act 1994

The *Fisheries Management Act 1994* (FM Act) includes provisions for the management of state fisheries, including the conservation of fish habitats, threatened species, populations and ecological communities of fish and marine vegetation and management of the riparian zone, waterways and threatened marine/freshwater aquatic species. This relates to community land categorised as natural area (foreshore, watercourse, or wetland).

Where an area of community land is declared to be critical habitat, or if that area is affected by a recovery plan or threat abatement plan under Part 7A of the FM Act, a site-specific plan of management will need to be undertaken.

Rural Fires Act 1997

This Act contains provisions for bushfire risk management and the establishment of a Bushfire Management Committee. It also includes direction on development in bushfire prone lands.

Water Management Act 2000

This Act is based on the concept of ecologically sustainable development, and its objective is to provide for the sustainable and integrated management of the water sources of the state for the benefit of both present and future generations. The Act recognises:

- the fundamental health of our rivers and groundwater systems and associated wetlands, floodplains, estuaries must be protected
- the management of water must be integrated with other natural resources such as vegetation, native fauna, soils, and land

- to be properly effective, water management must be a shared responsibility between the government and the community
- water management decisions must involve consideration of environmental, social, economic, cultural and heritage aspects
- social and economic benefits to the state will result from the sustainable and efficient use of water.

Heritage Act 1977

This Act contains provisions for the conservation of items of heritage and may relate to community land categorised as cultural significance or natural area.

Commonwealth legislation

Environmental Protection and Biodiversity Conservation Management Act 1999

This Act enables the Australian Government to join with the states and territories in providing a national scheme of environment and heritage protection and biodiversity conservation. It incorporates threatened species on a national level and with relevance to Matters of National Environmental Significance.

Telecommunications Act 1997

This Act provides for telecommunication facilities being permitted on community land without authorisation in a PoM.

State Environmental Planning Policies

State Environmental Planning Policy no. 19 – Bushland in urban areas

This planning policy deals with bushland in urban areas, so is applicable to PoMs for community land categorised as Natural Area – Bushland.

State Environmental Planning Policy (Infrastructure) 2007

This planning policy lists development allowed with consent or without consent on community land.

Other relevant legislation, policies, and plans

Aboriginal Land Rights Act 1983

Biodiversity Conservation Act 2016

Biosecurity Act 2015

Disability Discrimination Act 1992

Environmental Planning and Assessment Act 1979

Environmental Protection and Biodiversity Conservation Management Act 1999 (Cth)

Fisheries Management Act 1994

Heritage Act 1977

Local Land Services Act 2013

Operations Act 1997

Pesticides Act 1999

Protection of the Environment Operations Act 1997

Rural Fires Act 1997

Soil Conservation Act 1938

Telecommunications Act 1997 (Cth)

Water Management Act 2000

NSW Invasive Species Plan 2008-2015

National Local Government Biodiversity Strategy

NSW Biodiversity Strategy

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Appendix A3 – Aboriginal interests in Crown land

Crown land has significant spiritual, social, cultural, and economic importance to the Aboriginal peoples of NSW. The CLM Act recognises and supports Aboriginal rights, interests, and involvement in Crown land.

The management of Crown land can be impacted by the *Native Title Act 1993* (Cth) and the *Aboriginal Land Rights Act 1983* (NSW).

Native Title

Native title describes the rights and interests that Aboriginal and Torres Strait Islander people have in land and waters according to their traditional law and customs. Native title is governed by the Commonwealth *Native Title Act 1993* (NT Act).

Native title does not transfer the land to the native title holder, but recognises the right to land and water, by providing access to the land and if applicable, compensation for any loss, diminution, impairment, or other effect of the act on their native title rights and interests.

All Crown land in NSW can be subject to a native title claim under the NT Act. A native title claim does not generally affect Crown land where native title has been extinguished or it is considered excluded land.

When preparing a PoM, Council is required to employ or engage a qualified native title manager to provide advice and validate acts (developments and tenures) over the reserve, in line with the NT Act. The most effective way to validate acts under the NT Act is to ensure all activities align with the reserve purpose.

If native title rights are found to exist on Crown land, council Crown land managers may be liable to pay compensation for acts that impact on native title rights and interests. This compensation liability arises for local councils whether the act was validated under the NT Act.

For further information about native title and the future acts framework see the [Crown lands website](#).

Aboriginal Land Rights

The *Aboriginal Land Rights Act 1983* (ALR Act) seeks to compensate Aboriginal peoples for past dispossession, dislocation, and removal of land in NSW (who may or may not also be native title holders).

Aboriginal land claims may be placed on any Crown land in NSW. The Department of Planning, Industry and Environment is responsible for investigating claims as defined in the ALR Act. If a claim is established, the land is transferred to the Aboriginal Land Council as freehold land.

At the time of preparing this plan of management, all the crown reserves are affected by an Aboriginal land claim. Council has considered the claim(s) in development of this plan of management.