



**CENTRAL DARLING  
SHIRE COUNCIL**

# **PUBLIC HEARING REPORT**

## **PLAN OF MANAGEMENT FOR NEW CATEGORY AND NEW USE FOR COMMUNITY LAND**

**DATE: 22 June 2021**



## **DESCRIPTION: Report on Public Hearing**

This report has been prepared on behalf of Jessica McFarlane.

<b>Version</b>	<b>Date</b>	<b>Description</b>
1.0	08/06/2021	Draft
2.0	23/06/2021	Approved

This document has been authorised by:

Jessica McFarlane  
Date: 23 June 2021



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## 1. Introduction

Jessica McFarlane was invited by Central Darling Shire Council to independently chair a public hearing and prepare a public hearing report for the Plan of Management and a new lease for Council owned 'Community' land. The Plan of Management is for a new land category, and new purpose/ land use, for land at Lot 1 Section 13 DP759091 44 Reid Street Wilcannia.

The Plan of Management and lease was publicly exhibited from 21 May 2021 to 19 June 2021. There was one written submission received on the Plan of Management and lease, by 22 June 2021.

There was one written submission, and no verbal submissions received during the public hearing held on 22 June 2021.

This public hearing report has been prepared in accordance with Section 29 of the *Local Government Act 1993*.

## 2. Statutory Context

Public land is defined in the *Local Government Act 1993* as any land (including a public reserve) vested in Council, or under Council control. Public land is managed by Council under the *Local Government Act 1993* based on its classification.

Council is obligated under the *Local Government Act 1993* to classify land as either community land or operational land.

Community land is land that Council makes available for use by the general public, for example: a natural area, regeneration area, general community use land, parks, vacant land reserves or sportsground. This land cannot be sold, exchanged or disposed of by Council. It can be leased/ licenced, under certain conditions.

The *Local Government Act 1993* (the Act) requires a Plan of Management to be prepared for all public land that is classified as 'community' land under that Act.

This Plan of Management (PoM) prepared by Central Darling Shire Council defines the value, use, management practices and intent for the broad public purpose, for which this land has been reserved or dedicated.

A Plan of Management is a management tool, developed by council in consultation with the community, outlining the land's features, and clarifies how Council will manage, use or develop the land in the future. The Plan of Management provides a clear process for public land management.

Community land may include a wide variety of properties, ranging from general community use land for example : health clinic, community buildings, small recreation reserves, parks, and sportsgrounds.

The *Local Government Act 1993* requires that community land be categorised within one of the following categories - a natural area, a park, a sportsground, an area of cultural significance, or for a general community use. A Plan of Management (PoM) can be prepared for more than one parcel of land (generic or geographic) or for a single property significant or specific.

The Management Plan is required in accordance with Section 36 of the *Local Government Act 1993*. The Plan of Management is to be consistent with the intended public purpose and management of the land.

- The Plan of Management must comply with other guidelines, policies, and legal requirements which may apply to the land and provisions of environmental planning instruments for example a Local Environmental Plan (LEP) and development control plans (DCPs) made under the *Environmental Planning and Assessment Act 1979* and threatened species or native vegetation controls.

- Plans of management provide information about the land and its users, and state what, why, how and by whom the values of a reserve are being managed.

The *Local Government Act 1993* (the 'Act') requires all Council-owned land to be classified as either 'Community' land or 'Operational' land. Land classified as 'Community' land is to be managed and used in accordance with an adopted Plan of Management.

The purpose of this Plan of Management is to ensure Central Darling Shire Councils strategic goals and vision as set out in the draft Central Darling Shire Community Strategic Plan 2020 and compliance with the *Local Government Act 1993* are met. The Plan of Management is to provide clear future development goals for the use and management of the community land.

The land covered in this Plan and lease is Lot 1 Section 13 DP759091 44 Reid Street Wilcannia and is located within the Central Darling Shire Local Government area within the township of Wilcannia.

## **Public exhibition and public hearing for a Plan of Management and lease**

Before Council can adopt a Plan of Management and the new lease, the documents must be placed on public exhibition for at least 28 days.

The period in which written submissions can be received is not less than 42 days from the first day of public exhibition. In addition, a public hearing must be held, in accordance with the requirements of Sections 40A and 47G of the Act if community land is intended to be either categorised or re - categorised.

This Plan of Management provides a new category for the land, to the category of *general community use* of the land, therefore a public hearing is required.

### **47G Public hearings**

- (1) *In this section, public hearing means any public hearing required to be arranged under this Part.*
- (2) *The person presiding at a public hearing must not be:*
  - (a) *a councillor or employee of the council holding the public hearing, or*
  - (b) *a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.*
- (3) *Not later than 4 days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the council must make a copy of the report available for inspection by the public at a location within the area of the council.*

For the purposes of Section 47G of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*, Jessica McFarlane has not been an employee of Central Darling Shire Council within the last 5 years.

Further, Jessica McFarlane has never been a Councillor at Central Darling Shire Council.

## **3 Subject Land (Lots 1 Section 13, DP 759091, 44 Reid Street Wilcannia)**

Council has prepared a draft Plan of Management and lease, for the Baaka Cultural Centre upon the land at Lot 1 Section 13 DP759091, 44 Reid Street Wilcannia.

This Draft Plan of Management and lease is to enable the use of the "Community land" to be used as a "Community Cultural Centre". The proposed lessee of the land is the Baaka Cultural Centre Wilcannia Aboriginal Corporation.

## 4. Ownership and Land Use

The land at Lot 1 Section 13 DP759091 44 Reid Street Wilcannia, the current land owner is Central Darling Shire Council. The proposed category for the council owned land is “general community use”, the new purpose/ land use is for a “community cultural centre”.

The proposed lease is between the owner of the land “Central Darling Shire Council” and the Baaka Cultural Centre Wilcannia Aboriginal Corporation.

## 5. Project Overview

The Central Darling Shire Council Plan of Management for community land being Lot 1 Section 13 DP759091 44 Reid Street Wilcannia, has been prepared in accordance with the provisions of the *Local Government Act 1993*.

The Plan of Management is consistent with the public purpose for the land and the principles of the *Local Government Act 1993*. The Plan of Management also complies with various other guidelines, policies, and legal requirements which may apply to the community land.

Plans of Management are to be prepared in accordance with the *Local Government Act 1993* and adopted by the Council.

### Subject land of Plan of Management:

Lot 1 Section 13 DP759091, 44 Reid Street Wilcannia.

## 6. Public Exhibition and Public Hearing

### 6.1 Public Exhibition

The Plan of Management for the new land category of general community use and the new land use of a community cultural centre for the council owned land at Lot 1 Section 13 DP759091 44 Reid Street Wilcannia.

The Plan of Management and lease was publicly exhibited from 21 May 2021 to 18 June 2021. There was one written submission received, and no verbal submissions received, on the Plan of Management and lease.

Council has advised that the advertising and notification of the Plan of Management and the new lease was undertaken in accordance with the relevant legislative requirements under the *Local Government Act 1993*.

Interested parties were notified of the exhibition via:

- A notice posted on Council’s website
- Local newspaper
- Exhibited in Central Darling Shire Council offices.

There was one written submission received from the community during the exhibition notification period in relation to this particular Plan of Management and lease.

## 6.2 Public Hearing

Council arranged a public hearing for the proposed Plan of Management and new lease on 22 June 2021 at 5:30 pm Central Darling Shire Council Chambers, 21 Reid Street Wilcannia.

Council placed the information on the proposed public hearing upon the “on exhibition page” of the Central Darling Shire Council website, Central Darling Shire Council e-newsletter and Council’s Facebook account.

Council confirmed that an advertisement was placed in the Broken Hill newspaper – Barrier Daily Truth and the Wilcannia newspaper for the Central Darling Shire Local Government Area advising of the public hearing in accordance with the relevant legislation.

The public hearing was conducted in accordance with Clause 29 of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

### Baaka Cultural Centre

At Council's meeting of 20 May 2021, it was resolved to put the DRAFT Plan of Management and DRAFT Lease on public exhibition.

Comment on the draft Plan and draft Lease can be made until 4pm Friday, 18 June 2021 and should be sent in writing to

The General Manager  
Central Darling Shire Council  
PO Box 165  
WILCANNIA NSW 2836  
email [council@centraldarling.nsw.gov.au](mailto:council@centraldarling.nsw.gov.au)

[DRAFT Plan of Management](#)  
[DRAFT Lease](#)

*Excerpt from Central Darling Shire Council website – exhibition page. 21 June 2021*

### Welcome to The Central Darling Shire



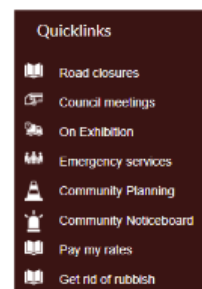
Central Darling Shire is the largest Shire in NSW and yet has the smallest population. It covers an area about the size of the main island of Tasmania and yet has a population of less than 2,000 people. The Shire is extremely diverse with four main communities that are all different in their commerce, geography and cultures.

Wilcannia, the administration centre of the Shire has a fascinating history of river heritage having once been the prime port for the shipping of wool for the entire western district of NSW. It has a large number of sandstone buildings and a rich indigenous culture.

A public hearing on the Plan of Management and Lease for 44 Reid Street Wilcannia, to be used as the Baaka Cultural Centre will be held on Tuesday 22 June 2021 at 5.30pm in the Central Darling Shire Council Chambers 21 Reid Street Wilcannia. Documents are available [here](#)

[Click here for current job Opportunities](#)  
[Click here for changes to planning requirements](#)

[Enter our photo competition - My Shire In My Eyes](#)  
[Search our cemetery records](#)



*Excerpt from Central Darling Shire Council website – exhibition page. June 2021*

The public hearing was chaired by Jessica McFarlane.

The following Council staff attended:

- Mr Bob Stewart – Administrator
- Greg Hill
- Geoff Laan
- Glenda Dunn

No members of the community attended the public hearing.

The public hearing followed the ensuing protocol:

- Welcome and introduction to the public hearing by the chairperson
- Brief overview of the project
- Plan of Management– a general overview
- Consultation requirements
- Overview of the site proposed for new land category (general community use) and a new land use of “community cultural centre”.
- Concluding remarks and comments on next steps from chairperson
- The public hearing concluded at 6.00pm.

## 7. Community Public Hearing Submissions

The public hearing was attended by no community members. One member of the community sent a written submission and apologies for not attending the public hearing.

No member gave a public verbal submission on the Plan of Management or lease.

A community member sent a written submission to be read out at the Public Hearing by the General Manager.

A copy of the minutes of the public hearing forms **Attachment 1**.

## 8 Conclusion and Recommendations

In conclusion, I have carefully considered the issues surrounding the Plan of Management and new lease for Council owned land “Community’ land”, at Lot 1 Section 13 DP759091 44 Reid Street Wilcannia

Having regard to the issues raised by the community member who sent a written submission to be read out at the public hearing, it is my considered opinion that the Draft Plan of Management and the lease for the land is **unopposed**.

**Note:** A copy of this report be made available to the public within four (4) business days in accordance with Section 47(G)(3) of the *Local Government Act 1993*.



## ATTACHMENT 1:

### **PUBLIC HEARING – Plan of Management and lease for the land at 44 Reid Street, Wilcannia**

**HEARING – 22 June 2021 5:30 – 6:30PM  
COUNCIL CHAMBERS WILCANNIA**

#### **Minutes of Public Hearing 22 June 2021.**

Hearing commenced at 5:35pm.

#### **1. HEARING ATTENDEES COUNCIL**

Ms Jessica McFarlane  
Mr Bob Stewart - Administrator  
Mr Greg Hill – General Manager Central Darling Shire Council  
Mr Geoff Laan – Environmental Services  
Ms Glenda Dunn – Senior Town Planner

#### **COMMUNITY MEETING ATTENDEES ATTENDEES**

##### **APOLOGIES**

Bob Constantine – Written submission

#### **2. MEETING OPENED AND CHAIRED BY Ms Jessica McFarlane**

Ms Jessica McFarlane opened the meeting, and gave a brief overview of the Plan of Management for land at 44 Reid Street Wilcannia.

#### **QUESTIONS AND SUBMISSIONS FROM THE COMMUNITY**

Jessica McFarlane opened the meeting to public comment and questions.  
There were no community attendees at the meeting. One written submission was received on 21 June 2021.

The written submission is summarised below:

<b>Name</b>	<b>Submission/ Comment</b>
Submission received Bob Constantine. Read by Greg Hill General Manager emailed 21 06 2021	Not a member of Baaka Corporation. A member of the community. The Plan of Management. Reference to original lease Table letter to public hearing. Q1. Upon what ground does the Council rely to propose amendments to



	<p>an authentic Lease?</p> <p>Q2. The markups apply to Clauses 12, 13, 14 and 16.1. On the face of it, the amendments appear to condense to a determination of Council at 'cost shifting'. If not, what is the rationale for the proposed alterations?</p> <p>Q3. In the absence of any indication as to the quantum of the rates, other charges and services, will Council please let me have an estimate of a typical expense?</p> <p>Q4. Clause 16.1 addresses a bundle of fees and charges and examinations (16.1.(a) to [h]) which would unreasonably be dumped upon the Lessee. What objective in Councils strategic Plan of Management brings on these suggested amendments?</p> <p>Q5. Does the Council recognise that Baaka Corporation is unlikely to create a revenue stream until late 2025 at least?</p> <p>Q6. On this premise, how does Council expect the corporation to have sufficient funds to pay these fees and charges?</p> <p>Q7. Is Council aware the audited Financial Report tabled at the Nov '20 AGM showed Baaka Corporation had c.a. \$740 in its trading account Unless the current board of management initiates fund raising activity, settlement of even minor fees and charges will render the corporation insolvent This is unconscionable and must be considered by Council? The majority of Baaka funds at the time of the November'20 AGM were in the Gift account. Misuse of those monies poses a real threat of deregistration of the corporation's valuable Charity Status with ACNC?</p> <p>Q8. From recent visits to Wilcannia it seems to me that a number of entities see the glimmer of gold through the Special Purpose Establishment Fund provided through the Executive Director, Regional Programs NSW. Should this be in the mind of Council, my recall suggests these proposed fees and charges would be classified as 'operational' rather than 'establishment' and not be available in this instance. Does the Council agree?</p> <p>Q9. This seems an unnecessary question, but can Council confirm the proposed amendments to the Baaka lease have been discussed and accepted by the Baaka Corporation's Board of Management?</p> <p>I am advised that as an "Interested member of the public {though one with some knowledge of the corporation's affairs prior to 19 Nov 2021) it is reasonable to ask and receive responses to the above eight questions as the hearing will discuss. (the Baaka) Lease to be used as the Baaka Cultural Centre."</p> <p>Please accept that nothing in this letter is intended as vexatious. I simply wish to understand the issue of proposed amendments to the Baaka lease and the potential impact on the corporation's future.</p>
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Meeting finished at 6:00pm