



# **Planning and Strategy Committee of the Whole**

## **AGENDA**

**8 August 2018**

**Commencing at 5.30pm**

**Council Chambers  
253 Crawford St, Queanbeyan**



**On-site Inspection:**

DA 197-2017 and 302-2017 – Two New Dwellings

Date: Tuesday 7 August 2018

Time: 4:00pm

Place: Driveway – 13 Meredith Street, Queanbeyan

***Followed by Councillor briefing at 4.30pm – Queanbeyan Council Chambers***

Council at its meeting of 23 November 2016 resolved (M/N 295/16) as follows:

The Planning and Strategy Committee of the Whole be delegated authority in accordance with Section 377 of the *Local Government Act 1993* to determine matters pursuant to the:

- *Environmental Planning and Assessment Act 1979*
- *Local Government Act 1993*
- *Swimming Pools Act 1992*
- *Roads Act 1993*
- *Public Health Act 2010*
- *Heritage Act 1977*
- *Protection of the Environment Operations Act 1997*

**1 OPENING**

Acknowledgement of Country.

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**Confidential - Not for Publication**

**8 REPORTS FOR CLOSED SESSION**

- 8.1 Request for Right of Carriageway - DA 2014.210 - 267 Foxs Elbow Road,  
Warri

*Item 8.1 is confidential in accordance with s10(A) (g) of the Local Government Act 1993 because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.*

**LIST OF ATTACHMENTS –**

***(Copies available from CEO/General Manager's Office on request)***

**Open Attachments**

- Item 4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings
- Attachment 1 DA 197-2017 & 302-2017 - S4.15 Matters for Consideration - Lots 2 & 3 DP743011 13 Meredith Street (Under Separate Cover)*
- Attachment 5 DA 197-2017 & 302-2017 - Draft Conditions of Consent - Lots 2 & 3 DP743011 13 Meredith Street (Under Separate Cover)*
- Item 4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434 Majara Street, Bungendore
- Attachment 1 DA.2018.074 - Section 4.15 Report - Matters for Consideration - Subdivision - Lot 47 Majara Street, Bungendore (Under Separate Cover)*
- Attachment 2 DA.2018.074 - Subdivision Plans - Lot 47 Majara Street (Under Separate Cover)*
- Attachment 3 DA.2018.074 - SMEC Response - Subdivision - Lot 47 Majara Street, Bungendore (Under Separate Cover)*
- Attachment 6 DA.2018.074 - Section 4.15 Report - Draft Conditions of Consent - Subdivision - Lot 47 Majara Street, Bungendore (Under Separate Cover)*
- Item 4.3 Request to Amend Concept Plan for Future Street Layout - King Street to Trucking Yard Lane - 115-117 Ellendon Street, Bungendore
- Attachment 1 Request to Amend Concept Plan for Road Layout - 115-117 Ellendon Street, Bungendore (Under Separate Cover)*
- Attachment 2 Previous Council Report 7 June 2018 - Concept Plan for*

**QUEANBEYAN-PALERANG REGIONAL COUNCIL  
PLANNING AND STRATEGY COMMITTEE OF THE WHOLE**

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- Road Layout - 115-117 Ellendon Street, Bungendore (Under Separate Cover)*
- Item 4.5 Jumping Creek Planning Proposal
- Attachment 1 Planning Proposal Jumping Creek - 21 March 2018 (Under Separate Cover)*
- Attachment 2 Summary and Assessment of Submissions July 2018 (Under Separate Cover)*
- Item 4.6 Draft Planning Proposal South Jerrabomberra
- Attachment 1 Amended Draft Planning Proposal South Jerrabomberra 2018 (Under Separate Cover)*
- Item 4.7 Amendments to Queanbeyan Development Control Plan 2012
- Attachment 1 Queanbeyan DCP 2012 - Combined Table of Contents - Draft Version July 2018 (Under Separate Cover)*
- Attachment 2 Part 1 - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 3 Part 2 - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 4 Part 3A - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 5 Part 3B - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 6 Part 3C - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 7 Part 3D - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 8 Part 4 - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 9 Part 5 - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 10 Part 6 - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Attachment 11 Part 7 - Queanbeyan DCP 2012 - Draft Version 2018 (Under Separate Cover)*
- Item 4.8 Alcohol Prohibited Area for Ernie Beaver Park - 6 Gilmore Place, Queanbeyan West
- Attachment 1 Police Submission - Alcohol Prohibited Area - Ernie Beaver Park (Under Separate Cover)*
- Attachment 2 Community Survey Responses - Alcohol Prohibited Area - Ernie Beaver Park (Under Separate Cover)*
- Item 4.9 Onsite-Sewerage Management (OSSM) Policy
- Attachment 1 On-site Sewerage Management Policy (Under Separate Cover)*
- Attachment 2 Summary of Submissions During Exhibition of Draft Policy (Under Separate Cover)*
- Item 4.10 Road Naming Report - Unnamed Private Road - Reedy Creek Lane - Road 1031, Manar
- Attachment 1 Attachment 1 - Locality Map Showing Right of Carriageway Accessed from The Glen Road (Under Separate Cover)*
- Attachment 2 Attachment 2 - Written Submissions from Residents (Under Separate Cover)*

**Closed Attachments**

- Item 4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings
- Attachment 2 DA 197-2017 - Architectural Plans - Lot 2 (Under Separate Cover)*
- Attachment 3 DA 302-2017 - Architectural Plans - Lot 3 (Under Separate Cover)*
- Attachment 4 DA 197-2017 & 302-2017 - Submissions - Lots 2 & 3 DP743011 13 Meredith Street (Under Separate Cover)*
- Item 4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434 Majara Street, Bungendore
- Attachment 4 DA.2018.074- Submission 1 - Subdivision - Lot 47 Majara Street, Bungendore (Under Separate Cover)*
- Attachment 5 DA.2018.074 - Submission 2 - Subdivision - Lot 47 Majara Street, Bungendore (Under Separate Cover)*
- Item 4.4 Request for Early Lodgement of Development Applications - New Commercial Development - Botanical - Jerrabomberra
- Attachment 1 Botanical Purchasers Plan (Under Separate Cover)*
- Item 4.8 Alcohol Prohibited Area for Ernie Beaver Park - 6 Gilmore Place, Queanbeyan West
- Attachment 3 Business Submission - Licensee - Alcohol Prohibited Area - Ernie Beaver Park (Under Separate Cover)*
- Item 8.1 Request for Right of Carriageway - DA 2014.210 - 267 Foxs Elbow Road, Warri
- Attachment 1 Request for Right of Carriageway - 267 Foxs Elbow Road, Warri (Under Separate Cover)*
- Attachment 2 Adjoining Owner Consent for Right of Carriageway - 267 Foxs Elbow Road Warri (Under Separate Cover)*

**ITEM 3    DECLARATION OF CONFLICTS/PECUNIARY INTERESTS**

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The provisions of Chapter 14 of the *Local Government Act, 1993* regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest

**Recommendation**

**That Councillors and staff disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.**





4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon)

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**Summary**

***Reason for Referral to Council***

The consideration of these two applications has been referred to Council because:

- Written submissions have been made to Council resulting from the notification process and valid concerns have been raised which should be considered by Council.
- The applications involves a significant variation to a requirement in a development control plan (flooding).

Proposal:	Two Dwellings
Applicant/Owner:	Mrs V Trajanoska / Mr A Veljanovski
Subject Property:	Lot 2 and Lot 3 in DP 743011, No.13 Meredith Street, Queanbeyan
Zoning and Permissibility:	R2 Low Density Residential under Queanbeyan Local Environmental Plan 2012
Public Submissions:	1
Issues Discussed:	Planning Requirements Servicing Flooding Privacy
Disclosure of Political Donations and Gifts:	Applicant Declared no Donations or Gifts to any Councillor or Staff have been made

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**Recommendation**

**That:**

1. **Approval be granted to a variation to Part 2 of Queanbeyan Development Control Plan 2012 to allow access to the dwellings to be 1.1 to 2.2 metres below the flood planning level for the following reasons:**
    - **The subdivision was created prior to the present flood access requirements being in place. The current access point services an existing dwelling and the two lots on which the dwellings are proposed. If fill were to be added to raise the access, privacy and overshadowing impacts would be exacerbated, impacting on adjoining neighbours.**
    - **Additional fill in a flood prone area to provide flood free access has potential to cause upstream or downstream flood level/flow increases and is not supported.**
    - **Increasing the height of the natural ground level would have a negative impact on the heritage conservation area by making walls of the dwellings visible onto the streetscape.**
    - **The subject site is in an area which has not previously experienced high velocity flows. As such a path for access that is below 1:100 Flood level is acceptable in this case.**
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4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)

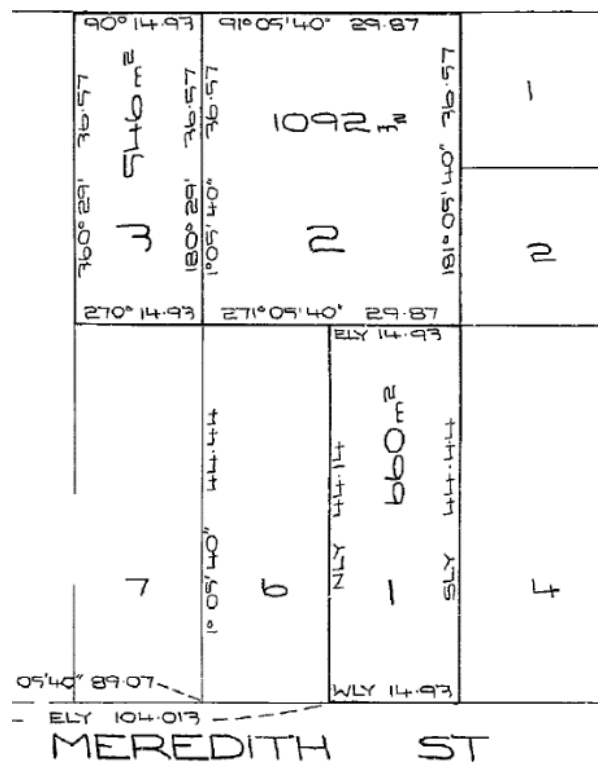
2. Development application 197-2017 and 302-2017 for dwelling houses on Lots 2 and 3 DP 743011, 13 Meredith Street, Queanbeyan be granted conditional approval.
3. Those persons who lodged a submission(s) on the application be advised in writing of the determination of the application.

**Background**

**Proposed Development**

The development applications are for two dwelling houses at 13 Meredith Street. Although each dwelling is the subject of a separate development application, the issues affecting both are such that it is appropriate to consider both applications as part of the same report.

The lots have been vacant for some time. Both dwellings are single storey in design but are raised 1.9 metres above the natural ground level to satisfy flood controls.



**Figure 1: Identification of Lots 2 and 3**

Lot 2 proposes a three bedroom dwelling with associated living, dining and kitchen areas. Two bathrooms, an alfresco area and an attached garage also form part of the proposal. The total floor area of the proposal is 264.540m<sup>2</sup> and the overall height is 7.525 metres.

4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)

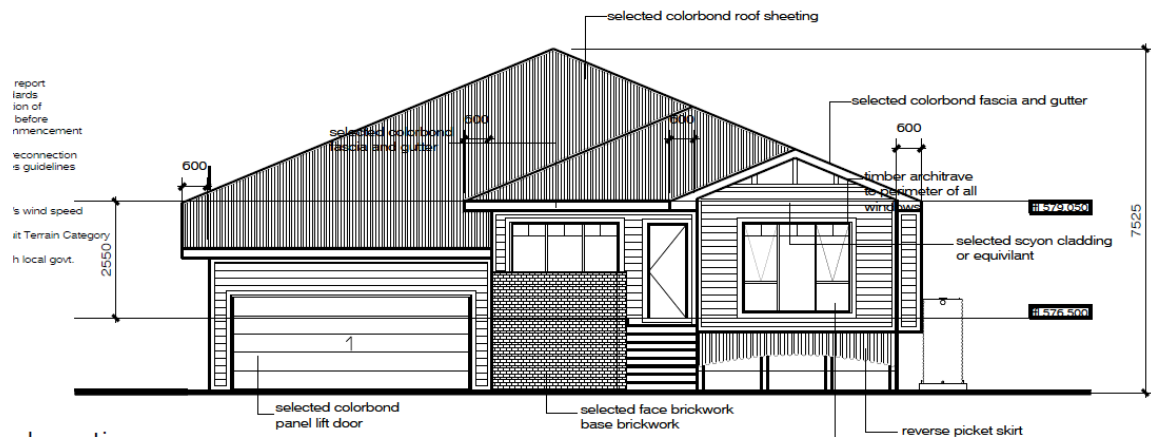


Figure 2: Lot 2 Dwelling

Lot 3 also proposes a three bedroom dwelling but is smaller in size and height than that of Lot 2 by having a floor area of 225.211m<sup>2</sup> and height of 6.807 metres.

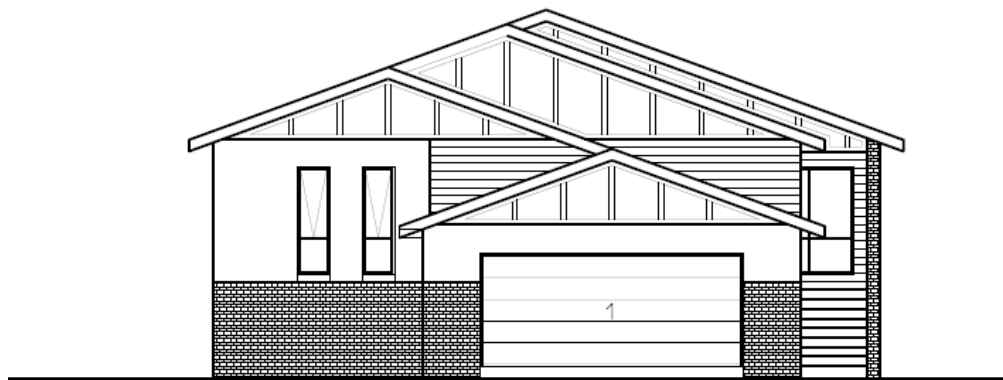


Figure 3: Lot 3 Dwelling

**Subject Property**

The subject site has been vacant for a number of years largely due to servicing issues. As part of the historic subdivision the lots were not serviced with stormwater and sewer. The applicant has designed and proposes a pump out system due to the slope of the site. The street has a higher elevation than the subject site meaning gravity cannot carry wastewater from the site to the mains as it would in a common situation. This is discussed in further detail in this report.

Historically, most proposals on this site have not considered privacy closely as approval could not be recommended. The design for these dwellings has carefully considered privacy ensuring the designs are respectful to neighbours. Height has also been an issue for the applicant due to flooding controls and heritage which are common conflicting constraints in

**4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)**

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this area. The design has been discussed closely with the applicant and Council's Heritage Advisor and the result is the current proposal which is supported by the Heritage Advisor.

***Planning Requirements***

Assessment of the application has been undertaken in accordance with Section 4.15 of the Environmental Planning and Assessment Act (EPAA) 1979, as amended. The matters that are of relevance under Section 4.15 are summarised in the attached *Section 4.15 Table – Matters for Consideration* (Attachment 1).

The following planning instruments have been considered in the planning assessment of the subject development application:

1. State Environmental Planning Policy No 55 Remediation of Land
2. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
3. State Environmental Planning Policy (Infrastructure) 2007)
4. Queanbeyan Local Environmental Plan 2012 (LEP).
5. Queanbeyan Development Control Plan 2012 (DCP)

The development generally satisfies the requirements and achieves the objectives of these planning instruments. The significant issues relating to the proposal for the Council's consideration are as follows.

***(a) Compliance with QLEP*****Clause 5.10 Heritage Conservation**

The applicant communicated with Council and Council's Heritage Advisor over a long period of time to achieve a design that satisfied heritage concerns and flooding controls. Council's Heritage Advisor has provided the following comments on the current designs:

*The revised plans are much better in terms of scale and appearance and are an acceptable solution given the challenges presented by the flood-clearance requirements.*

It is important to note that conflicting constraints being heritage and flooding create difficult circumstance for applicants to develop on sites such as this one. The height of the dwelling is acknowledged as being higher than normal for this area; however, through the implementation of heritage features and the fact that the site is a battle-axe block the most that will be viewed from the streetscape is partial walls and the ridgeline of the rooftops. It is highly unlikely that these dwellings will be presented as bulky or out of character with the heritage conservation area and as such are recommended to be supported in this instance.

**7.1 Flood Planning**

The subject site is identified as being within the flood planning level of the Queanbeyan River and is also recorded as being a high hazard site within the *Queanbeyan Development Control Plan 2012*. This fact is important to note as the adjoining Lot 1 in Meredith Street is located in the low hazard area.

The flood planning level is calculated to be 576.5 metres (AHD). The proposed dwelling has a finished floor level of 576.5 metres (AHD), meaning it is at the flood planning level. The proposed garage is at the existing natural ground level being 574.724 metres (AHD) but is acceptable as it is a non-habitable structure.

The subject site is also within a heritage conservation area. As previously mentioned, the two site constraints of heritage and flooding have historically proven to be conflicting in terms of

**4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)**

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building height, bulk and scale. The applicant has designed the dwelling to conform to both site constraints as best as possible.

It is recommended that the proposal be granted consent as it is generally compatible with the flood hazard of the land, due to the design, the base contains gaps and the floor level is raised which will allow any potential flood waters to pass through. It is not likely to adversely affect potential flood behaviour, or to significantly affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

**7.9 Essential Services**

Council's Development Engineer has assessed the proposed development and found that services are not currently provided to the site.

Adjoining Lot 1 in DP 743011 is burdened with a right of way (ROW) which benefits Lots 2 and 3 with both access and an easement for services which are available on Meredith Street. Access is proposed via an existing vehicle crossing and will require the ROW to be upgraded from an unsealed pavement to a sealed (concrete) pavement as it will be serving multiple lots. This will be imposed as a condition of consent. The access to the lots does not meet Council's requirements for access/egress in flood prone areas, which is discussed under flood management.

Individual water services and meters will be required for each lot and shall be installed to the front of the ROW/Service Easement. This will be imposed as a condition of consent. The applicant will be responsible for the installing individual water services for each lot from the front of the easement.

Electricity servicing is available on Meredith Street and arrangement with the electricity utility provider is to be sought and evidence of servicing will be required prior to occupation of the lots. This will be imposed as a condition of consent.

Sewage services are available on Meredith Street. Site levels and the existing sewer main level has been assessed to enable Council's servicing to be extended to the end of the ROW/Service easement. This will require the construction of a new sewer manhole over the existing main to create a branch off the main and a new sewer manhole at the end of the easement. Individual ties from the upper manhole will be provided to each lot. The sewer design and construction works shall be constructed by Council at no cost to Council and will be dedicated to Council. This will be imposed as a condition of consent.

The individual lots are likely to have internal sewer drainage at a lower level than the ties provided to the lots, thus will require private sewer pumps owned and maintained by each dwelling to allow effluent discharge to the manhole constructed at the end of the Service Easement. This will be imposed as a condition of consent. This not considered an ideal effluent disposal solution however given the site constraints due to the location and levels of existing services, flood planning and heritage constraints, individual effluent pumps are considered a satisfactory compromise to facilitate development of the lots.

As with sewer, stormwater disposal from the lots may only be facilitated via privately owned and maintained pumps. However, due to the relative level of stormwater servicing on Meredith Street, a gravity main cannot be constructed beyond approximately 10m within the ROW/Service Easement which is approximately 35m short of lots 2 and 3. Therefore, individual pumps will be required to discharge stormwater to Council's service on Meredith Street. This will be imposed as a condition of consent. Again, the use of pumps to discharge stormwater to the stormwater network is not considered an ideal stormwater disposal solution but due to the site constraints is considered a satisfactory compromise to facilitate

**4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)**

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development of the lots, particularly as stormwater pump outs become increasingly used and accepted. On site detention to limit post development flows from the site in accordance with the Queanbeyan Stormwater Design Specification D5 will be required and imposed as a condition of consent.

**(b) Compliance with DCP**

**1.8 Public Notification of a Development Application**

The development application was notified to adjoining owners and 1 submission was received. Refer to the community consultation section of the Staff Report for consideration of the relevant issues raised in the submissions.

**2.5 Flood Management**

The subject site is identified as being within the Designated Flood Area of the Queanbeyan River and has been identified as a high hazard area.

The access is proposed at 1.1 to 2.1 metres below the flood planning level which does not meet the requirements of this Clause. As such a variation has been applied for.

*Objective*

- 1) *To ensure development is compatible with the flood risk of the area*

The proposal generally satisfies this objective.

*Relevant Controls*

- c) *Residential including Motels*
  - ii) *Access - All residential units shall be provided with an access at a level no lower than 800mm below the flood planning level to firm ground at the same level at a place where rising ground access is available to flood free areas. In the event that a raised path is provided, a guide rail or handrail shall be provided thereto.*

*Variation Required*

The access is proposed to be below the flood planning level at the existing natural ground level which varies between 574.4 metres and 575.4 metres (AHD) and is therefore 1.1 metres to 2.1 metres below the flood level.

To comply with Clause ii) access would need to be provided to Lot 1 at a level of 575.7 metres (AHD) which is 800mm below the flood level. This would also mean providing pedestrian access which would vary in height from the existing natural ground level between 1.3 – 300mm from Lot 1 to Lots 2 and 3.

*Assessing Officer's Recommendation*

If access were to be provided at 575.7 metres fill would be required across the site of 1.3 metres. The proposal has varying concerns on privacy and overshadowing. If an additional amount of fill to this height were imposed the impact on privacy and overshadowing would be adverse as it would raise the dwellings to 577.8 metres which is approximately 3.8 metres higher than the finished floor level of the neighbouring lots.

This increase in height would also impact on the streetscape of the heritage conservation area. The current design will allow the gable rooftops to be seen from Meredith Street and part of the front entry of the proposed Lot 2 dwelling which conform to the characteristics of the area. However, if the height were to increase the dwellings would appear double storey which is not supported as per the development application 31-2018 which was refused at Council on the 9 May 2018 for its two storey design. This battle-axe was approved some time ago. The issue

**4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)**

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of access is existing and the modern controls applied to an older subdivision make it extremely difficult for the applicant to provide this higher form of access.

The applicant has designed the dwelling to provide sufficient safety measures that if a flood were to occur the dwelling would keep themselves safe and those surrounding. The site is within a heritage conservation area and with the flood constraints was proving difficult to 100% satisfy both flooding and heritage requirements, which is a common occurrence for this area.

The objective of this clause states that any new residential buildings are to be designed to meet the flood risk of the area. As the site is on the edge of the flood area it would be unlikely that flood waters of a high velocity would reach the area. In saying this, the applicant has still designed the dwelling for this scenario and therefore meets the objective of this clause.

It is recommended that the proposed access be allowed to be constructed at the existing natural ground level. The applicant has designed the dwelling as best as possible to satisfy flood and heritage constraints with an older subdivision block.

It is recommended that the variation be supported for the following reasons:

- The subject site is in an area which has not previously experienced high velocity flows. As such a floor level for access that is below 1:100 Flood level is acceptable in this case.
- The subdivision was created prior to the present flood access requirements being in place. The current access point services an existing dwelling and the two lots on which the dwellings are proposed. If fill were to be added to raise the access, privacy and overshadowing impacts would be exacerbated, impacting on adjoining neighbours.
- Additional fill in a flood prone area has potential to cause upstream or downstream flood level/flow increases and is not supported.
- Increasing the height of the natural ground level would have a negative impact on the heritage conservation area by making walls of the dwellings visible onto the streetscape.

**3.5 Consideration of views, shadowing and privacy***Objective*

- 1) *To ensure quality residential development by considering any impacts on views, shadowing and privacy of residents and neighbours.*

The proposal generally satisfies this objective.

*Controls for privacy and noise*

- a) *New dwellings should be designed to safeguard privacy and minimise the extent of impact on the outlook of existing or potential dwellings in the proximity.*
- b) *Direct overlooking of internal living areas of neighbouring dwellings is to be minimised by building layout, location and design of windows and balconies, provision of screening devices and landscaping.*
- c) *Two storey dwellings will include design features to minimise potential impacts on privacy and loss of natural light to existing adjoining development*
- e) *The proximity of dwellings to each other and the design of dwellings in terms of their layout, bulk, height and position of openings may have an impact on amenity. Privacy considerations are to be addressed through the careful layout of buildings and the activity which occurs in and around them, e.g. windows/decks to be elevated living areas may cause overlooking and be a source of noise nuisance.*
- f) *Where two storey development creates a privacy intrusion on adjoining single storey development, appropriate measures must be installed to minimise the impact. The measures can include obscured glazing or screening, but there are unlimited options.*

#### 4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)

This staff report addresses neighbouring properties that have had a privacy issue rectified by the proposal. For a full privacy assessment please see Clause 3.5 within the 4.15 assessment table.

##### *Impacts Resulting from Erection of the Dwelling on Lot 2*

Lot 2 adjoins nine existing dwellings being;

- 12-18 Albert Street to the rear
- 10-11 Lenane Street and 11 Meredith Street on the eastern boundary
- 11, 15 and 17 Meredith Street and Lot 1 (13 Meredith Street) on the southern boundary
- Lot 3 of 13 Meredith Street is assessed as part of this Clause for privacy.

Impacts on Lot 3 (13 Meredith Street) -The proposed dwelling has its garage and alfresco area adjoining lot 3. As the garage is a non-habitable structure it will not create privacy issues onto this future dwelling house. The alfresco is proposed to have a 1.5 metre high privacy screen which is considered to be satisfactory.

Impacts on 16 Albert Street - 16 Albert Street is located directly behind the proposed dwelling (Figure 4 below). The proposed dwelling house on this side has a living area window with obscure glazing up to height of 1.4 metres which is set high above the finished floor level and would therefore be unlikely to look directly into 16 Albert Street's private open space (POS).



**Figure 4: 16 Albert Street**

An alfresco area is also proposed on this side. Given the dwelling has had to be raised to 576.5 metres (AHD) due to flood, and given the neighbouring properties level is 574.6 metres (AHD) (1.9 metres above the neighbouring POS), privacy screening is required to a height of 1.5 metres to protect neighbouring privacy in addition to it being setback 9 metres.

##### *Impacts Resulting from Erection of the Dwelling on Lot 3*

The site adjoins seven existing dwellings being;

- 15-19 Meredith Street
- 18-20 Albert Street
- Lot 2 (13 Meredith Street)



4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)

Impacts on 18 Albert Street - There are two proposed windows for the living room and part of the alfresco area facing into the POS of 18 Albert Street (Figure 5 below).



**Figure 5: 18 Albert Street**

To address privacy impacts the applicant has proposed the alfresco area to have a 1.6 metre high privacy screen on this side. This is highly likely to reduce any overlooking into the POS of 18 Albert Street.

The plans provide for the two windows to be obscurely glazed to a height of 1.6 metres which would still allow approximately 600mm of clear glazing window into the living and dining area of lot 3. This has been done as these windows are north facing and will receive the most sunlight during the day to encourage passive design while still protecting the neighbouring privacy.

Impacts on 20 Albert Street - 20 Albert Street is offset from the proposed dwelling on the rear boundary (Figure 6 below).



**Figure 6: 20 Albert Street**

**4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)**

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The proposed alfresco and dining area face this side. However, due to the angle direct overlooking from Lot 3 is not possible. Additionally, privacy treatments to these features have been implemented due to the impacts onto 18 Albert Street and as such is it highly unlikely direct overlooking will occur.

Impacts on 19 Meredith Street – This property is directly to the west of Lot 3 (Figure 7 below).



**Figure 7: 19 Meredith Street**

The alfresco area and deck are raised on this side facing into the POS of 19 Meredith Street. As such a 1.7 metre high privacy screen is to be implemented on this side which is marked in red on the amended plans. Direct overlooking will therefore be ameliorated.

**(c) Other Matters**

The proposal has been assessed and is unlikely to have adverse impacts on the site, locality, natural and technological hazards, the economy and locality during construction.

**(d) Building Surveyor's Comments**

The proposed developments appear to comply with the requirements of the National Construction Code and there is no objection to it being approved.

**(e) Development Engineer's Comments**

Council's Development Engineer has assessed the proposal and comments can be found in Clause 7.9 of the QLEP2012 assessment. Recommended conditions have been imposed.

**(f) Heritage Advisor's Comments**

The revised plans are much better in terms of scale and appearance and are an acceptable solution given the challenges presented by the flood-clearance requirements.

**4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)**

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**(g) LIS Officer**

The 3 lots have been grouped together as one property for rating purposes. Lot 1 DP 743011 will be readdressed as 1/13 Meredith Street and will be listed as the primary address.

Lot 2 DP 743011 will be addressed as 2/13 Meredith Street and Lot 3 DP 743011 will be addressed as 3/13 Meredith Street.

**Financial Implications**

There is always the possibility that Council's determination may be appealed in the Land and Environment Court.

**Engagement**

The proposal required notification under Queanbeyan DCP 2012. One submission was received and is shown in Attachment 4. The relevant issues raised are as follows.

**Issue 1 - Privacy - Given the close proximity the proposal will impact our privacy and enjoyment and other homes in Albert Street.**

*Impacts from Lot 2* - The submitters lot is on an angle to the proposed dwelling on the rear boundary. A small portion of the dwelling will be aligned with the boundary. This portion of the building is the alfresco area and privacy screening to a height of 1.5 metres will be used to protect neighbouring POS. The alfresco area is also over 9 metres away from this lot and the Planning Principal of Mereton vs. Sydney City Council provides guidance that the minimum distance for direct overlooking is 9 metres. As such direct overlooking into this property from the dwelling on lot 2 will be ameliorated.

*Impacts from Lot 3* - There are two proposed windows and part of the alfresco area facing into the POS of the submitters lot. To address privacy impacts the applicant has proposed the alfresco area to have a 1.6 metre high privacy screen on this side. This is highly likely to ameliorate overlooking into the adjoining POS.

The plans provide for the two windows to be obscurely glazed to a height of 1.6 metres which would still allow approximately 600mm of clear glazing window into the living and dining area of lot 3. This has been done as these windows are north facing and will receive the most sunlight during the day to encourage passive design while still protecting the neighbouring privacy.

**Issue 2 - Contamination Concerns - Council records show that the proposed dwelling is to be constructed on landfill.**

*Comment* - Council's records do not show a record of this but the site did historically have a small creek flowing through it and a seedling house (nursery). A condition of consent will be imposed requiring the applicant to have the lot tested for geotechnical suitability before construction commences.

**Issue 3 - Previous Proposals - Historic proposals were rejected and the reasons for this should still apply as none of the past concerns have been addressed within this application, specifically privacy.**

*Comment* - The reasons for previous proposals not being supported by Council have been rectified with this development application. The applicant has demonstrated that the privacy of neighbouring lots will be protected through the use of screening and obscure glazing. Other

4.1 Development Applications 197-2017 (Lot 2) and 302-2017 (Lot 3) - 13 Meredith Street, QUEANBEYAN - Raised Dwellings (Ref: C1894585; Author: Harlor/Dixon) (Continued)

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concerns raised within previous applications have also been rectified including servicing to the lot.

### **Conclusion**

The submitted proposal for dwelling houses on Lots 2 and 3 DP 743011, 13 Meredith Street, Queanbeyan is supported by a Statement of Environmental Effects. The proposal was notified to adjoining owner/occupiers and one submission was received.

The proposal has been assessed under Section 4.15 *Environmental Planning & Assessment Act 1979* including the relevant provisions of *Queanbeyan Local Environmental Plan 2012* and *Queanbeyan Development Control Plan 2012*.

The development satisfies the requirements and achieves the objectives of these instruments with variations relating to the access from the site through flood affected areas.

The proposed development is considered suitable for the site, is compatible with the neighbourhood and can be conditioned to mitigate any potential impacts.

### **Attachments**

- |              |   |
|--------------|---|
| Attachment 1 | DA 197-2017 & 302-2017 - S4.15 Matters for Consideration - Lots 2 & 3 DP743011 13 Meredith Street ( <i>Under Separate Cover</i> )   |
| Attachment 2 | DA 197-2017 - Architectural Plans - Lot 2 ( <i>Under Separate Cover</i> ) - <b>CONFIDENTIAL</b>                                     |
| Attachment 3 | DA 302-2017 - Architectural Plans - Lot 3 ( <i>Under Separate Cover</i> ) - <b>CONFIDENTIAL</b>                                     |
| Attachment 4 | DA 197-2017 & 302-2017 - Submissions - Lots 2 & 3 DP743011 13 Meredith Street ( <i>Under Separate Cover</i> ) - <b>CONFIDENTIAL</b> |
| Attachment 5 | DA 197-2017 & 302-2017 - Draft Conditions of Consent - Lots 2 & 3 DP743011 13 Meredith Street ( <i>Under Separate Cover</i> )       |

4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
Majara Street, Bungendore (Ref: C1899632; Author: Harlor/Williams)

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**Summary**

***Reason for Referral to Council***

This application has been referred to Council as the application involves a significant variation to a previous Council resolution of 28 February 2018 (Minute 047/18).

Proposal:	15 Lot residential subdivision, extension of Hopkins Street as a public road and small electricity sub-station.
Applicant/Owner:	SMEC Australia/ Bungendore Land Pty Ltd
Subject Property:	Lot 47 DP 1229434 Majara Street, Bungendore
Zoning and Permissibility:	R2 Low Density Residential under Palerang LEP 2014.
Public Submissions:	Two
Issues Discussed:	<ul style="list-style-type: none"><li>• Submissions concerning potential noise and dust impacts on future residents from adjoining industrial activity and stormwater management.</li><li>• Variation to Council's resolution of 28 February 2018.</li></ul>
Disclosure of Political Donations and Gifts:	Applicant Declared no Donations or Gifts to any Councillor or Staff have been made.

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**Recommendation**

**That:**

- 1. Approval be granted to a variation to Council's resolution of 28 February 2018 by:**
    - a) Permitting the creation of 11 residential lots each of a minimum area of 1000m<sup>2</sup> along the northern boundary of the former Lot 3 DP 1195030 as the additional proposed lot (from 10 to 11 allotments along the northern boundary) is not expected to give rise to any potential adverse amenity issues occurring from the adjoining industrial activities on future residents as adequate mitigation conditions are recommended should consent be granted. These measures include requiring suitable building buffer setbacks, acoustic fencing, landscaping and a height restriction for the western most allotment being lot 51;**
    - b) Deleting the requirement for a 10m wide building buffer on the western boundary of lot 51, the area which was to be dedicated as a drainage reserve, as the 10m wide drainage reserve will be replaced with a 10m wide buffer building setback and a 3.5m wide drainage easement within this buffer along the western boundary of proposed lot 51 which adjoins industrial development; and**
    - c) Deleting the requirement prohibiting dual occupancy on the lots within the subdivision as the development proposal as submitted complies with the Palerang LEP 2014 and the previous requirement for prohibiting dual**
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**4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
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occupancy on the proposed lots is now irrelevant as the lots are less than the minimum lot size of 1500m<sup>2</sup> requirement of the Palerang LEP 2014 to enable dual occupancy development.

2. Development application DA.2018.074 for a 15 lot subdivision of Lot 47 DP1229434, Majara Street, Bungendore be granted conditional approval.
  3. Submitters be notified of Council's determination.
- 

**Background**

The site was the subject of a recent planning proposal to alter the zoning of the property under the Palerang Local Environmental Plan (PLEP) 2014 from Zone IN2 Light Industrial to Zone R2 Low Density Residential.

The Planning Proposal was endorsed by Council at its meeting on 28 February 2018 (Minute 047/18) subject to the following:

1. That Council advise the Minister for Planning under section 59 of the NSW Environmental Planning and Assessment Act 1979 that it wishes to progress the rezoning of the former Lot 3 DP 1195030 (now part of Lot 47, DP1229434) from IN2 Light Industry to R2 Low Density Residential.
2. That the Palerang Local Environmental Plan 2014 Lot Size map be amended to show a minimum lot size of 1,000 square metres for lots within former Lot 3 DP 1195030.
3. That the Palerang Local Environmental Plan 2014 Height of Buildings map be amended to show a building height of 8.5 metres for lots within the former Lot 3 DP 1195030.
4. That the rezoning of the former Lot 3 DP 1195030 (now part of Lot 47, DP1229434) from IN2 Light Industry to R2 Low Density Residential include provisions for the following:
  - a) There is a maximum of ten residential lots on the former Lot 3 DP 1195030 (now part of lot 47 DP 1229434).
  - b) There is a minimum 10 metre buffer on the western boundary and that this buffer is dedicated to Council as a drainage reserve (operational land).
  - c) There is a 10 metre buffer on the northern boundary of the former Lot 3 DP 1195030 (now part of lot 47 DP 1229434). This buffer shall be included within the residential lots with a covenant stating:
    - i. That the owners are to maintain the buffer and the adjacent fencing.
    - ii. That the buffer is included in property fencing.
    - iii. That there are to be no habitable structures within the buffer.
  - d) A covenant is placed on the western most lot restricting any future dwellings to one storey only and that a 2m high lapped and capped timber fence be erected along the western boundary of that allotment.
  - e) A covenant is placed on all future residential lots restricting the erection of dual occupancies.

The amended LEP was made on 22 June 2018 rezoning part of Lot 47 DP 1229434 (formerly Lot 3 DP 1195030), Majara Street, Bungendore from IN2 Light Industrial to R2 Low Density Residential.

4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
 Majara Street, Bungendore (Ref: C1899632; Author: Harlor/Williams) (Continued)

**Proposed Development**

The proposal seeks approval for a 15 lot residential subdivision and the extension of Hopkins Street as a public road reserve connecting to existing constructed public roads being Majara Street and Hopkins Street.

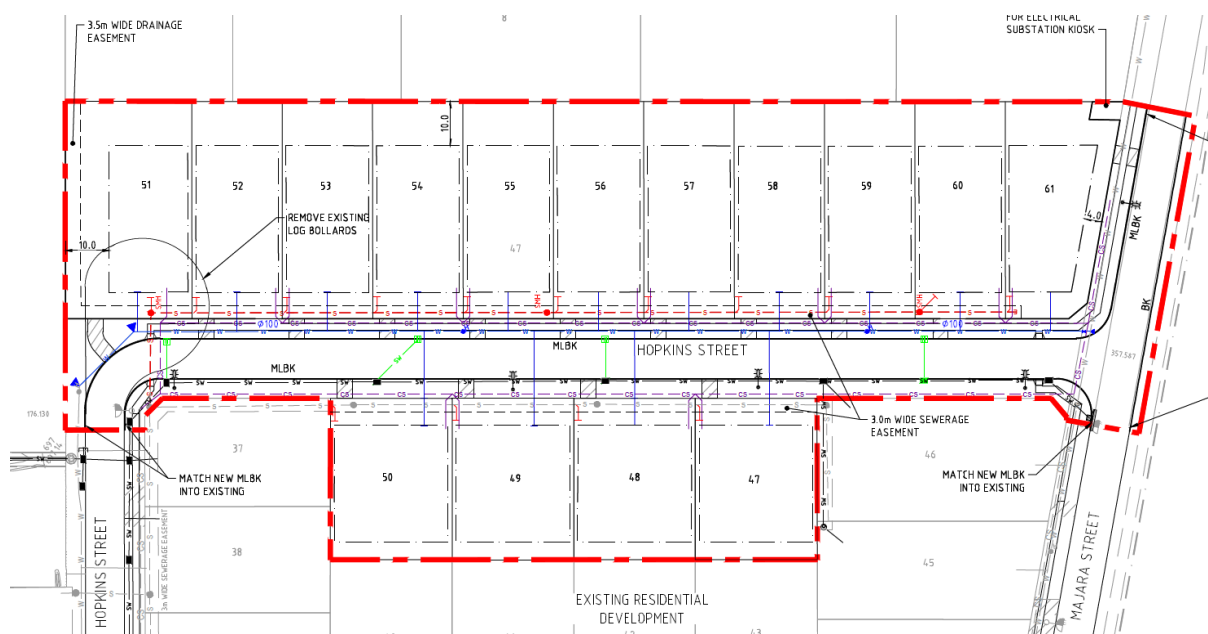
The lot sizes vary in size from 1005m<sup>2</sup> to 1410m<sup>2</sup> in area complying with the minimum lot size of 1000m<sup>2</sup> under the PLEP 2014.

Lot widths vary from 20.5m to 28.7m. Lot depths vary between 35.84m and 49.1m.

The proposed road reserve extension is 18m and carriageway width 9m between nominal kerb lines.

The installation of an electrical substation is also proposed.

The general arrangement of the subdivision is shown in Figure 1 below.



**Figure 1: Subdivision Design**

**Subject Property**

The site is identified as Lot 47 DP 1229434 and comprises a portion of land from the previously completed residential subdivision and creation of Jacobs Street/Hopkins Street under DA.2016.014. The location of the site is shown in Figure 2 below.

The subject site has an area of 21,075m<sup>2</sup> and is irregular in shape with a splayed frontage to Majara Street. The southern portion of the site (proposed Lots 47 to 50) will be bounded to the south, east and west by approved residential lots constructed under DA.2016.014. Vehicle access to these lots will be provided by extending Hopkins Street and connecting east west through to Majara Street.

The northern portion of the site (proposed Lots 51 to 61) is bounded to the north and west by IN2 Light Industrial zoned land. Directly west of the site is a concrete batching plant which operates under existing use rights (DA 40/94) approved on 3 May 1994. A furniture manufacturer occupies the IN2 zoned land north-west of the site whilst the lot to the north contains an approved (but not yet constructed) 14 lot light industrial subdivision.



**Figure 2: Locality Plan**

### **Planning Requirements**

The matters that are of relevance under Section 4.15 of the *Environmental Planning and Assessment Act (EPAA) 1979* have been taken into consideration and are summarised in the attached *Section 4.15 Report – Matters for Consideration* (Attachment 1).

The following planning instruments have been considered in the planning assessment of the subject development application:

1. State Environmental Planning Policy No 55 - Remediation of Land
2. State Environmental Planning Policy (Infrastructure) 2007
3. State Environmental Planning Policy (Vegetation in Non Rural areas) 2017
4. Palerang Local Environmental Plan 2013 (LEP).
5. Palerang Development Control Plan 2014 (DCP)

The development generally satisfies the requirements and achieves the objectives of these planning instruments. The significant issues relating to the proposal for the Council's consideration are as follows.



**4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
Majara Street, Bungendore (Ref: C1899632; Author: Harlor/Williams) (Continued)**

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**(a) Compliance with SEPP**

The proposed development generally satisfies the relevant provisions of the State Environmental Planning Policies as discussed in detail in the attached Section 4.15 Report.

**(b) Compliance with LEP**

The proposed development generally satisfies the relevant provisions of the Palerang Local Environmental Plan 2014 as discussed in detail in the attached Section 4.15 Report.

**(c) Compliance with DCP**

The development complies with the Palerang Development Control Plan 2012 as discussed in detail in the attached Section 4.15 Report.

**(d) Other Matters**

The proposed development generally satisfies the other relevant planning matters for consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979* as discussed in detail in the attached Section 4.15 Report.

**Internal Referrals****(a) Building Surveyor's Comments**

Council's Building Surveyor has assessed the proposed development and has raised no objections.

**(b) Development Engineer's Comments**

Council's development Engineer has raised no objection to the proposed development subject to subdivision engineering conditions and development contributions.

**(c) Natural Landscapes and Health comments**

Council staff addressed the potential impacts of the proposed rezoning on the existing adjoining industrial activities including the concrete batching plant. Potential impacts relating to noise and dust were identified. Environmental Health comments are as follows:

The Consultants noise assessment report submitted by the applicant recommends that:

- *Noise wall to be located on the common boundary of the concrete plant and the drainage reserve. The wall is to be constructed of any solid and continuous (no breaks), durable material with sufficient mass to prevent direct noise transmission at a height of up to 3m high.*
- *Double storey dwellings not to be located in the north western area of the site.*
- *Building design to consider orientation, location of windows and bedrooms away from the concrete plant facility and treatments to reduce noise in the north western area of the site.*
- *Trees to be planted in the drainage reserve along the fence line in the north western corner.*

*It is also recommended that the suggested 10m buffer on the western boundary be retained and used as a drainage reserve. This and the creation of a barrier will also help with dust control.*

There is no reason to doubt the validity of the modelling or the conclusions reached. Based on the report received the proposed noise impacts on the future residential development are acceptable with appropriate planning controls imposed.

**4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
Majara Street, Bungendore (Ref: C1899632; Author: Harlor/Williams) (Continued)**

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**External Referrals*****Rural Fire Service***

The development is identified as Integrated Development under Section 4.46 Environmental Planning and Assessment Act 1979. A conditional Bushfire Safety Authority was issued by NSW Rural Fire Service under Section 100B Rural Fires Act 1997 for the subdivision. The conditions of the authority will form part of any conditional consent granted by Council.

***John Holland***

John Holland (the company responsible for managing the Canberra to Goulburn railway) was contacted however offered no comment on the proposal.

The applicant makes the following comment:

*The eastern boundary of the site is located 20m from the rail reserve and is within the "direct line of sight" of the rail corridor for the purpose of the Development Near Rail Corridors and Busy Roads – Interim Guideline 2008. This railway corridor is a spur line extending to Canberra (Kingston) Station, which has three passenger services per day, and does not carry freight. Given the proximity of the site to Bungendore Railway Station, trains would not be travelling more than 80km per hour and a detailed noise assessment is not required (zone B).*

Planners comment - The document entitled *Development Near Rail Corridors and Busy Roads – Interim Guideline 2008* has been considered. Clauses 85, 86 & 87 of SEPP Infrastructure have been considered - refer to the attached Section 4.15 report for comment. No adverse impact on the rail corridor is considered likely from the development having regard to the SEPP considerations.

The development is unlikely to be impacted by:

- Noise and vibration from use of the rail line given its current usage.
- Air quality

Excavations associated with the proposed subdivision works will not impact on the rail line.

***Essential Energy***

Essential Energy made no comment as to potential safety risks arising from the proposed development. They made a number of general comments which will be included as an advisory note should approval be granted.

***Applicant's variation of subdivision design contrary to Council's resolution above.***

The applicant sought several variations to Council's resolution of 28 February 2018. The variations sought are discussed below. A copy of the applicant's request for variation is provided in the Attachment 3.

***Restriction to 10 Lots on Northern Side of Road and 10m Setback to Western Boundary***

The applicant proposes that Council is prevented from imposing such a restriction as it is contrary to the PLEP. The PLEP provides that lots of a minimum 1000m<sup>2</sup> size are permitted and that they have achieved that minimum lot size for all 11 lots proposed.

The intent of restricting the development to 10 lots on the northern side of the road was to ensure that a drainage reserve of 10m could provide a setback to the nearest house on the western boundary. However, in discussions with Council the developer has made amendments to their original proposal which show that 11 lots can be provided and that a building envelope on the western most lot can be provided which restricts development to 10m from the western boundary.

**4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
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Given the intent of achieving the 10m setback has been achieved there is no reasonable reason to persist with the requirement that only 10 lots be created.

In addition the removal of the drainage reserve means that Council is not burdened with the maintenance of a narrow block of land tucked away in the end of a subdivision. The 10m building envelope setback and 3.5m easement over the stormwater main will achieve the same aim.

As such the creation of 11 lots is supported with a 10m setback and creation of a 3.5m wide easement on the western boundary of the western most lot, is supported.

*10m Buffer along the Northern Boundary*

The applicant has achieved the required setback by imposing a building envelope which restricts the construction of buildings within 10m of the northern boundary adjoining the as yet unconstructed industrial subdivision. This required a slight redesign of the allotment layout which has now been included in the proposed plans. This building envelope will be included on the title of the property and effectively achieves the same aim as imposing a covenant.

As such Council's requirement to include a covenant for the 10m setback is no longer required.

*Restriction to Single Storey on Western Most Allotment*

The applicants considered such a restriction unreasonable. However, the acoustic report clearly indicates that the western most lot will be impacted by noise from the adjoining industrial uses under present operating conditions. Council does not support a requirement placed on the proprietors of the adjoining businesses to alter their present operating conditions or processes that have been in place for many years simply because a new residential subdivision is intended to be constructed next door. This matter has been raised in submissions and is a valid consideration in assessing this development application as it was during assessment of the planning proposal.

Further Council is not restricting the height of development on the site. The proposed covenant intends to restrict development to one storey and in doing so bring to the attention of any purchaser the potential noise impacts from the adjoining premises. The height restriction of 8.5m under the PLEP 2014 remains. Council confirms its intent that should the application be recommended for approval it will require a covenant to be placed on the western most lot that only single storey development is permitted.

*Prohibition on Dual Occupancies*

Council agrees that the imposition of this covenant is unnecessary. Existing controls in the *Palerang Local Environmental Plan 2014* restrict dual occupancies to development on allotments greater than 1500m<sup>2</sup> in areas zoned R2. As none of the proposed lots exceed this area the construction of dual occupancies on these allotments would not be permissible.

*Summary of Variations to Council's Requirements of 28 February 2018*

The changes to the subdivision plan as advised by the applicant meet with Council's intention to provide adequate residential building setbacks from adjoining existing industrial activities and any future industrial activities. The 4m building set-back to Majara Street is acceptable being a minor frontage of the proposed corner Lot 61. The amendments to the proposed subdivision plan submitted by the applicant are therefore supported by Council planning and engineering staff together with Council's other requirements of its resolution of 28 February 2018 in respect of the Planning Proposal for the site to rezone the land to R2 Low Density Residential.

**4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
Majara Street, Bungendore (Ref: C1899632; Author: Harlor/Williams) (Continued)****Consultation***Public Submissions:*

Two written submission were received. One from an adjoining owner and the second on behalf of an adjoining industrial property owner who operates a concrete batching plant. Copies of the submissions are provided in the Attachments 4 and 5. The major issues of concern raised are summarised as follows:

***Issue: There is no distance between the proposal and the adjoining concrete batching plant. Designated development is triggered under the Act where a plant is located within 250m of a dwelling or residential area. The proposed subdivision is located adjoining the existing plant.***

*Comment:* Council's strategic planning staff addressed the potential impacts from the adjoining industrial uses in consideration of the Planning Proposal to rezone the land for residential purposes. Potential impacts relating to noise and dust were identified during the rezoning process.

To address noise impacts Council requested an Acoustic Report from the applicant. The report recommended the following:

- *Noise wall to be located on the common boundary of the concrete plant and the drainage reserve. The wall is to be constructed of any solid and continuous (no breaks), durable material with sufficient mass to prevent direct noise transmission at a height of up to 3m high.*
- *Double storey dwellings not to be located in the north western area of the site.*
- *Building design to consider orientation, location of windows and bedrooms away from the concrete plant facility and treatments to reduce noise in the north western area of the site.*
- *Trees to be planted in the drainage reserve along the fence line in the north western corner.*

Council also required the following additional restrictions:

- *there is to be a minimum 10 metre buffer on the western boundary and that this buffer is dedicated to Council as a drainage reserve (operational land).*
- *there is a 10 metre buffer on the northern boundary of the former Lot 3 DP 1195030 (now part of lot 47 DP 1229434). This buffer shall be included within the residential lots with a covenant stating:
  - *That the owners are to maintain the buffer and the adjacent fencing.*
  - *That the buffer is included in property fencing.*
  - *That there are to be no habitable structures within in the buffer.**
- *a covenant is placed on the western most lot restricting any future dwellings to one storey only and that a 2m high lapped and capped timber fence be erected along the western boundary of that allotment.*

It is considered that the imposition of these restrictions, or restrictions which have a similar effect (as proposed in the supported variations discussed above), along with the appropriate conditions of consent will ensure that any future adverse potential impacts from the concrete batching plant will be minimised.

***Issue: The objector advises the adjoining existing concrete batching plant is an approved designated development under the EPA Act 1979. Such development requires a 250m buffer distance to surrounding residential dwellings.***

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Majara Street, Bungendore (Ref: C1899632; Author: Harlor/Williams) (Continued)**

*Comment:* The report to Council on 28 February 2018 in respect of the Planning Proposal advised:

*In addition to the noise associated with the concrete batching plant there may be other amenity issues such as dust and lights and the visual amenity associated with industrial structures. Although with the daylight operating hours of the concrete batching plant the disturbance from lights is likely to be low. Dust can generally be managed through suppression measures. It will be a challenge to create a high quality residential development within close proximity of an industrial land use.*

*It is the experience of Council staff that where residential land uses are in close proximity to industrial land uses, complaints about amenity, particularly noise are difficult to manage as the rectification of them is generally expensive. An acoustic consultant would need to be engaged by the proponent to assist with the design of the subdivision.*

An acoustic report was submitted by the applicants with mitigation measures to minimise impact referred to above.

There is no prohibition of the proposed subdivision due to it being located within a 250m buffer distance to the batching plant (the buffer distance is referred to in NSW planning legislation for designated development which requires that if a dwelling is located within this distance, a development application for a new concrete batching plant will require the preparation of an Environmental Impact Statement (EIS)).

Any existing buffer or vacant land surrounding the batching plant does not preclude other land use activities (where the zoning permits). However, Council must be fully aware that it is essential that the operators be allowed to continue to operate their business within the bounds of their consent. Therefore, Council in supporting the proposed development, must impose strict environmental controls as referred to above on any consent issued to ensure the future amenity of residents is protected and the present operating environment of the concrete batching plant continues unimpeded.

***Issue: Dust and noise nuisance/exposure to particulates.***

*Comment:* There are emissions naturally associated with concrete batching that may result in impacts on the surrounding community and natural environment if not correctly managed. These emissions include:

- release of dust and/or particulates into the air
- noise from handling, mixing and transport operations
- waste management and lighting

*Comments by Council's Natural Landscapes and Health Team on noise and dust – A submission has been made by Badgery & Rafferty Lawyers on behalf of Monaro Mix Specified Concrete in regard to proposed residential development immediately adjoining their property at 41 King Street Bungendore. The concrete batching plant was approved and has been operational since 1994. Concerns raised in the submission include the risk of amenity issues on the proposed residential development due to lack of buffer distance and likely impacts from noise, dust and emissions from the existing business.*

There is a need to recognise the importance of existing industrial land use and balance that with interface rezoning and social, economic and environmental considerations. In this respect, Council has a responsibility to protect future occupiers and ensure that the potential noise impacts from existing industrial developments are assessed and minimised where reasonable and feasible.

It is not reasonable to require the developer to reduce noise at source. Nor is it reasonable to require the existing business to make alterations to their business because a residential development is going in next door. Therefore Council can only recognise the conflict and set

**4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
Majara Street, Bungendore (Ref: C1899632; Author: Harlor/Williams) (Continued)**

conditions which reduce or mitigate the impact of the noise on the new development, as recommended in the "Environmental Noise Assessment" prepared by Renzo Tonin & Associates 29 January 2018.

It is considered that planning controls are required to ensure that acoustic measures are implemented, so that the development is more considered and made compatible with the neighbouring industrial activity.

It has been demonstrated that noise levels will affect the development to a certain degree. The character of the noise particularly the pneumatic valve on the silo which provides a pulse every 20 seconds during the day and clearly audible over the background noise must be considered as a future "Offensive Noise" source.

Sensitivity to noise is subjective and can make it difficult to manage disturbance during sleep or enjoyment of one's property. Once the development is built, if noise is a problem then resolving the issue is almost impossible.

The area has been identified as having high noise levels. This is as obvious conflict between an area of acceptable higher noise levels and those of the most stringent residential. Council must be proactive and impose performance criteria such as DCP controls which specify setbacks, location of windows, boundary walls and window glazing, orientation of the building, height of the building to ensure future residents are not affected by noise. Alternatively, restriction as to use could be placed on the Title.

If no controls are enforced then it is suggested that affected sites notify potential purchasers on a section 149 certificate. This way potential purchasers of affected property could be made aware of the situation by recording the relevant information on a certificate issued under s 149 (5) of the EP&A Act.

Council must endeavour to separate noise sensitive developments from major sources of noise. It is good practice to try and keep a suitable distance between noise sensitive development and noise sources.

The noise assessment report recommends that:

- *Noise wall to be located on the common boundary of the concrete plant and the drainage reserve. The wall is to be constructed of any solid and continuous (no breaks), durable material with sufficient mass to prevent direct noise transmission at a height of up to 3m high.*
- *Double storey dwellings not to be located in the north western area of the site.*
- *Building design to consider orientation, location of windows and bedrooms away from the concrete plant facility and treatments to reduce noise in the north western area of the site.*
- *Trees to be planted in the drainage reserve along the fence line in the north western corner.*

It is noted that Council's resolution at the time of accepting the planning proposal recommended that only a 2m noise wall be erected on the western most boundary. It is recommended that the recommendation of the acoustic report be adopted and that the fence along this boundary should be 3m. This will be included as a condition of consent.

It is also recommended that the suggested 10m buffer on the western boundary be retained. Whether used as a drainage reserve or a setback restriction the 10m setback should be retained. This and the creation of a barrier will also help with dust control.

There is no reason to doubt the validity of the modelling or the conclusions reached. Based on the report received the proposed noise impacts on the future residential development are acceptable with planning controls imposed.

**4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
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*Further planning comment* - Whilst the above restrictions are recommended to be imposed on any consent granted it is still the responsibility of the operator of the concrete batching plant to ensure their conditions of consent relating to their current use are strictly adhered to minimise impacts from the plant and surrounding precinct. In addition to these conditions, good on site management practices will ensure potential impacts identified above are minimised from the operating plant activities.

Subject to the restrictions imposed by Council on 28 February 2018 or restrictions to similar effect (as indicate din the supported variations above), together with the above restrictions referred to by *Natural Landscapes and Health* the potential impacts of noise, dust, lighting and other nuisances from the adjoining industrial activities on future residents within the subdivision should be acceptable.

**Issue: Objection to the proposed stormwater drainage works.**

*Comment* - Council's Development Engineering Team comments that the four 375mmØ RCP Class 4 pipes crossing Hopkins Street on SMEC drawing No 3002410-03-071 Rev 01, are included in the flood modelling as provided by SMECs initial assessment on 24 March 2016 for Stage 2 of the development under DA.2016.014.

The design is intended to limit post development flows to no more than pre-development flows, by detention within the proposed urban stormwater drainage network located within the development. Given the existing drainage infrastructure already installed and the modelling of flows in previous rezoning, the proposed stormwater network is required and is adequate for the proposal without additionally affecting adjoining lots.

**Conclusion**

The submitted integrated development application DA.2018.074 involves a 15 lot residential subdivision, extension of Hopkins Street as a public road and small electricity sub- station on Lot 47 DP 1229434, Majara Street, Bungendore.

The proposal was notified to adjoining owner/occupiers and two submissions were received. The amenity issues for future residents were raised by one submittor and it is considered that adequate mitigation measures can be imposed on any consent granted that will minimise potential adverse impacts. These incorporate adequate buffer/set back distances, noise fencing, height restrictions and landscaping. Another submittor raised concerns over the proposed stormwater drainage which has been properly considered in past studies of the planning proposal. It is considered that the proposed stormwater management is adequate for the proposed development and is supported by previous stormwater studies from the stage 2 release.

The proposal has been assessed under Section 4.15 of *Environmental Planning & Assessment Act 1979* including the relevant provisions of *Palerang Local Environmental Plan 2014* and *Palerang Development Control Plan 2015*. The proposal satisfies the provisions of these planning considerations.

Some variations to Council's original resolution when adopting the planning proposal have been proposed and the alternatives are supported given they achieve similar outcomes.







A bushfire safety authority has been granted for the subdivision by NSW Rural Fire Service under the Rural Fires Act 1997.

Conditional approval is recommended.

4.2 Development Application DA.2018.074 - 15 Lot Subdivision - Lot 47 DP 1229434  
 Majara Street, Bungendore (Ref: C1899632; Author: Harlor/Williams) (Continued)

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**Attachments**

- Attachment 1  DA.2018.074 - Section 4.15 Report - Matters for Consideration - Subdivision - Lot 47 Majara Street, Bungendore (*Under Separate Cover*)
- Attachment 2  DA.2018.074 - Subdivision Plans - Lot 47 Majara Street (*Under Separate Cover*)
- Attachment 3  DA.2018.074 - SMEC Response - Subdivision - Lot 47 Majara Street, Bungendore (*Under Separate Cover*)
- Attachment 4  DA.2018.074- Submission 1 - Subdivision - Lot 47 Majara Street, Bungendore (*Under Separate Cover*) - **CONFIDENTIAL**
- Attachment 5  DA.2018.074 - Submission 2 - Subdivision - Lot 47 Majara Street, Bungendore (*Under Separate Cover*) - **CONFIDENTIAL**
- Attachment 6  DA.2018.074 - Section 4.15 Report - Draft Conditions of Consent - Subdivision - Lot 47 Majara Street, Bungendore (*Under Separate Cover*)



**4.3 Request to Amend Concept Plan for Future Street Layout - King Street to Trucking Yard Lane - 115-117 Ellendon Street, Bungendore (Ref: C1899126; Author: Thompson/Perkins)**

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**Summary**

Council has received a request from the owners of 115-117 Ellendon Street, Bungendore (Lots 3 and 4, Section 11, DP 976608) to amend the concept plan for the future street layout in the area of South Bungendore between King Street and Trucking Yard Lane as was endorsed by Council at its meeting of 7 June 2012 (103/2012). A copy of the request is provided in Attachment 1.

The subject request seeks to either:

1. Delete the need for a north/south connection toward McKay Drive and incorporate a cul-de-sac in the proposed new subdivision; or
2. Relocate the northern portion of the proposed extension of McKay Drive to approximately 10m west of its proposed location (refer attachment 1). Such an amendment would relocate the road as to straddle the common boundary of Lots 3 & 4, DP976608 (115-117 Ellendon Street, Bungendore) and the adjoining Lot 14, DP976608 (114 Molonglo Street Bungendore) and Lot 1 DP 1051083 (112A Molonglo Street, Bungendore). The proposed amendment is intended to allow additional room for the creation of an additional allotment as part of a future development for the subdivision of 115-117 Ellendon Street, Bungendore.

The proposed amendment results in a broad number of implications to the overall delivery of the concept plan for the future street layout in the area of South Bungendore between King Street and Trucking Yard Lane and as such is not supported.

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**Recommendation**

**That Council not support the proposed amendments to the “Future street layout in the area of South Bungendore between King Street and Trucking Yard Lane” and that the applicant be advised that any proposed subdivision of Lots 3 & 4, Section 11, DP 976608 should be consistent with the road network to be created as part of future subdivisions as per Council’s previous resolution 103/2012.**

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**Background**

At its Extraordinary Meeting held on 24 November 2011 Council resolved (262/2011) that Council staff prepare for Council’s consideration, and then publically exhibit a discussion paper on future development in South Bungendore (the area between King Street and Trucking Yard Lane) indicating options available with the then Draft LEP for existing and future road connections and integration with possible future lot configuration.

Subsequently, a discussion paper including five (5) options was publically notified and a total of three (3) submissions received. A report including a final staff recommendation, including consideration of the matters raised within the submissions, was put to Council on 7 June 2012 (Attachment 2). This report recommended that Council adopt Option 4 (See Figure 1 below) subject to modification including the deletion of Road 12 and that Road 1 in Option 1 be created in lieu of Roads 9 and 10 should the light industrial area south of King Street be developed as such.

#### 4.3 Request to Amend Concept Plan for Future Street Layout - King Street to Trucking Yard Lane - 115-117 Ellendon Street, Bungendore (Ref: C1899126; Author: Thompson/Perkins) (Continued)

Council resolved as follows:

**103/2012 RESOLVED** that Council:

1. confirm its intentions to base the future street layout in the area of south Bungendore between King St and Trucking Yard Lane on Option 4 of the Discussion Paper, with the deletion of Road 12, and
2. aim to create the roads indicated as subdivisions are undertaken in the area, with the proviso that Road 1 of Option 1 be created in lieu of Roads 9 and 10 should the light industrial area south of King St be developed as such.

Crozier/Marjason



**Figure 1: Adopted Option 4 – Note Road 12 to be deleted. The subject site discussed in this report shown in yellow**

#### *Works to Date*

The southern portion of the road network from Trucking Yard Lane to the southern boundary of 123B Ellendon Street, now known as McKay Drive, was constructed as per Council's previous resolution under DA.2011.338 (shown green in Figure 1 above).

Road 1 in Option 1, to be known as Masters Close, is currently under construction under DA.2015.172 as per Council's previous resolution (shown blue in Figure 1 above).

#### *Development Coordination and Review Panel*

The owners of 115-117 Ellendon Street attended a meeting of Council's Development Coordination and Review (DCR) Panel on 5 April 2018. At this meeting it was established that the owner's preference was to provide a single internal road from Ellendon Street terminating in a cul-de-sac. This would allow the owner to achieve an increased lot yield for the site. See Figure 2 below.

4.3 Request to Amend Concept Plan for Future Street Layout - King Street to Trucking Yard Lane - 115-117 Ellendon Street, Bungendore (Ref: C1899126; Author: Thompson/Perkins) (Continued)

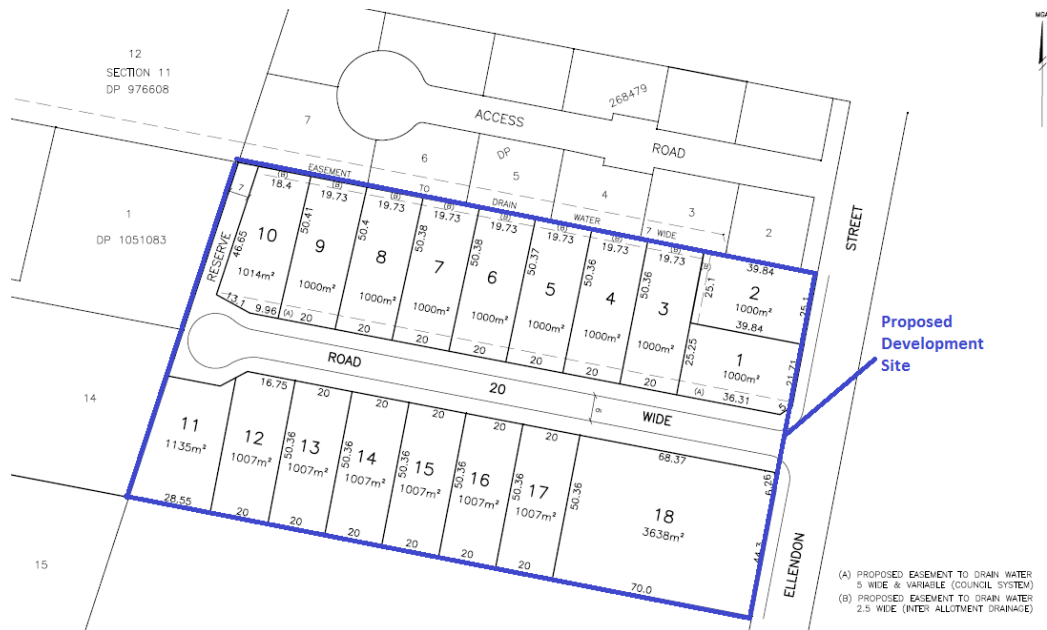


Figure 2 – Option for Subdivision with Cul-de-sac

Council staff advised that the design of any future subdivision of the site should reflect the road network configuration as previously adopted by Council. It was also discussed throughout the meeting that if yield is an issue consideration should be given to the redesign of the proposed lot containing the existing structures upon 117 Ellendon Street (proposed Lot 18) which exceeds the 1000m<sup>2</sup> minimum lot size applicable to the subject site under the Palerang Local Environmental Plan 2014 by over 2000m<sup>2</sup>. The subject amendment request before Council and shown in Figure 3 below seeks to resolve a number of matters raised by Council staff throughout the DCR meeting while allowing for an increased yield.



Figure 3 – Option for subdivision with future southward road extension partially relocated to adjoining properties

**4.3 Request to Amend Concept Plan for Future Street Layout - King Street to Trucking Yard Lane - 115-117 Ellendon Street, Bungendore (Ref: C1899126; Author: Thompson/Perkins) (Continued)**

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Effectively the above design relocates the extension of the road to the south from being wholly on Lots 3 & 4 (the owners land) to partially on the adjoining land. The result is that both owners would share part of the burden of losing land to the road extension.

***Strategic Implications***

The proposed amendment results in broader impacts upon the concept plan for the future street layout in the area of South Bungendore between King Street and Trucking Yard Lane as the proposed alignment would require further deviation of Road 7 to the west of its adopted alignment until such point that it connects with the constructed portion of McKay Drive. As such, it is likely that up to four (4) additional allotments will be impacted upon by the proposed realignment.

Further, the land owner has identified that the proposed amendment is intended to accommodate an additional allotment upon the subject site. While the subdivision of the site will form part of future development application, concern is raised that the proposed subdivision design unnecessarily fails to satisfy the 1000m<sup>2</sup> minimum lot size for the site under the Palerang Local Environmental Plan 2014 while providing another lot that is over triple the minimum lot size. As such, the grounds for the requested amendment are considered to be unwarranted.

***Summary of Issues***

Council effectively has three options before it

*Option 1 – The applicant’s proposal - Allow for the southward extension of the road but reduce the impact on the owner by partially relocating the proposed road corridor onto adjoining land (Figure 3 above)*

By fragmenting the width of the future road carriageway across multiple allotments the proposed amendment will result in a situation where Council will be burdened with these assets in the form of vacant land that will require ongoing maintenance until such time that the adjoining allotment is developed and the final carriageway formed. Concern is also raised as to how the final carriageway will be effectively delivered as it is not practical to construct and maintain only a portion of the width of a carriageway. The implications for the inclusion of additional allotments is that the delivery of Road 7 (McKay Drive extension) will rely upon the future subdivision of these allotment which may result in a haphazard delivery of the infrastructure.

Option 1 is not supported.

*Option 2 – Delete the southward extension and allow a cul-de-sac.*

This option would effectively replicate the situation of the existing subdivision to the north. A small section of Road 7 heading south would be deleted. However, the northward extension of McKay Drive from Trucking Yard Lane would have nowhere to go. As such Road 12 would have to be placed back in the design so that McKay Drive (Road 7) could link back Ellendon Street. See Figure 4 below.

4.3 Request to Amend Concept Plan for Future Street Layout - King Street to Trucking Yard Lane - 115-117 Ellendon Street, Bungendore (Ref: C1899126; Author: Thompson/Perkins) (Continued)

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**Figure 4 – Option 2 showing extent of southward road extension which would no longer be required if cul-de-sac was implemented and reinstatement of Road 12.**

As this option does not achieve the aims of Council's concept road layout for the area it is not supported. However, it is preferred over Option 1 as it removes the complication of creating road reserves over multiple lots in multiple ownership.

*Option 3 – Status Quo - Proceed with the concept plan as adopted by Council in resolution 103/2012.*

This concept has been in the public domain for a number of years and completed works to date have been carried out based on this concept plan. There appears to be no justification why this plan should not be followed, particularly where the applicants can increase the lot yield of the proposed subdivision of Lots 3 & 4 by revising the proposed lot layout and size.

Option 3 is recommended.

### **Engagement**

While no public notification of the proposed amendment has been undertaken to date, should Council be of a mind to support Option 1 or 2 it is recommended that the amendment be publically notified for a period of 30 days, as per the original discussion paper, to allow affected land owners opportunity to make comment. Pursuing Option 3 (the status quo) would not require further engagement other than notification through the DA process.

### **Conclusion**



The subject request to make an adhoc amendment to a portion of the future street layout in the area of South Bungendore between King Street and Trucking Yard Lane at 115-117 Ellendon, Bungendore is inconsistent with Council's adopted concept road layout for the area

**4.3 Request to Amend Concept Plan for Future Street Layout - King Street to Trucking Yard Lane - 115-117 Ellendon Street, Bungendore (Ref: C1899126; Author: Thompson/Perkins) (Continued)**

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and has a number of undesirable implications upon the delivery of the road network and as such is not supported.

**Attachments**

- |   |  |
|---|--|
| Attachment 1<br> | Request to Amend Concept Plan for Road Layout - 115-117 Ellendon Street, Bungendore ( <i>Under Separate Cover</i> )                      |
| Attachment 2<br> | Previous Council Report 7 June 2018 - Concept Plan for Road Layout - 115-117 Ellendon Street, Bungendore ( <i>Under Separate Cover</i> ) |

**4.4 Request for Early Lodgement of Development Applications - New Commercial Development - Botanical - Jerrabomberra (Ref: C1899112; Author: Thompson/Thompson)**

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**Summary**

A Subdivision Construction Certificate for the first stage of the new Botanical retail development at Jerrabomberra has recently been issued clearing the way for five new commercial lots to be constructed. There will be a period of 6-12 months before the allotments are registered with the Department of Lands and titles issued.

In this interim period the project manager acting for the developers have asked Council to consider accepting development applications (DAs) for the first five commercial developments in an endeavour to reduce delays in commencing work. This report considers that request.

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**Recommendation**

**That Council allow the early lodgement of development applications for commercial development on proposed Lots 1 to 5 in the Botanical retail precinct at Jerrabomberra (North Poplars) subject to the following conditions being met:**

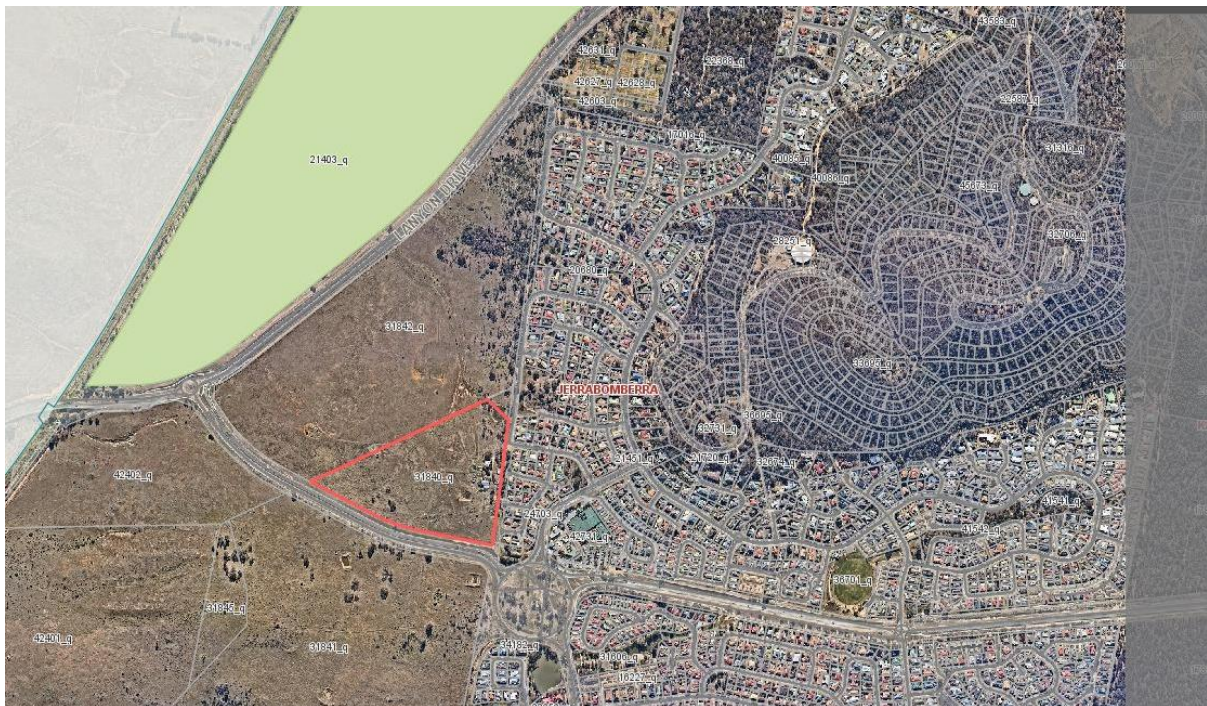
- **The allotments must have been created in Council's land information system before lodgement can occur;**
  - **The applicants must provide owners consent to the lodgement of development applications for the retail premises which are consistent with the South Jerrabomberra Development Control Plan;**
  - **Determination of development applications will not occur until such time as a subdivision certificate has been approved for the new allotments and the Deposited Plan has been formally registered;**
  - **Days between lodgement and the registration of the deposited plan will not be included in the formal calculation of approval times; and**
  - **That the applicants be advised that in lodging applications prior to registration of the subdivision they do so at their own risk, recognising that changes to subdivision designs can occur during the construction phase and that such changes may need to be reflected in development applications lodged.**
- 

**Background**

In June 2017 Council approved a subdivision to allow for the construction of a small commercial precinct at Jerrabomberra (North Poplars) comprising 5 new retail sites. The new commercial precinct has been called Botanical by the developers. Subsequently a Subdivision Construction Certificate was issued and work has commenced on the construction of the new subdivision including the completion of the remediation of contaminated sections of the site.

The location of the Botanical site is shown in Figure 1 below.

#### 4.4 Request for Early Lodgement of Development Applications - New Commercial Development - Botanical - Jerrabomberra (Ref: C1899112; Author: Thompson/Thompson) (Continued)



**Figure 1 – Location of Botanical subdivision shown outlined in red.**

Council has generally adhered to a policy of not allowing development applications (DAs) to be submitted to Council until the new allotments are formally registered and released by the Department of Lands. Council has approved exceptions in the past with the construction of dwellings and the Anglican School in Googong.

The project managers for the Botanical development have requested that Council allow early submission of DAs for five of the new allotments. At this stage the identity of the developers is commercially sensitive and as such information on who and where the proposed developments will take place is provided in the confidential attachment. However, as soon as development applications are lodged for each property the information will be in the public domain.

Essentially the project managers are requesting that Council accept the applications but not formally approve them until the registration of the land is finalised.

This has some advantages for Council in that these complex DAs are lodged over the longer interim period rather than receiving a large influx of applications immediately after the registration date. This helps to even out the workflow especially as the nature of the development requires considerably more assessment than a typical dwelling.

One impediment to this request is that the properties have to be created in Council's land information system before the DAs can be lodged otherwise there is no "property" on which to lodge the DA. However, given the small number of lots involved this work can be accommodated.

The disadvantage to Council accepting DAs at this early stage is that if there is some problem or delay with the construction of the subdivision or the subsequent registration and approval of the land it can result in changes to some of the DAs that may already have been lodged causing further delays to applicants. Council will be asking applicants to acknowledge such possibilities when lodging their applications.



#### 4.4 Request for Early Lodgement of Development Applications - New Commercial Development - Botanical - Jerrabomberra (Ref: C1899112; Author: Thompson/Thompson) (Continued)

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##### **Consultation**

No public consultation required in relation to this matter.

##### **Compliance or Policy Implications**

Subject to consents not being issued until after registration of the land formally occurs there appears to be no legal implications in allowing lodgement of the DAs as proposed.

##### **Conclusion**

Given all of the above it is considered satisfactory to accept development applications for commercial developments at Botanical prior to formal registration of plans with the Department of Lands subject to the following provisos:

- The allotments must have been created in Council's land information system before lodgement can occur;
- The applicants must provide owners consent to the lodgement of development applications for the retail premises which are consistent with the South Jerrabomberra Development Control Plan;
- Determination of development applications will not occur until such time as a subdivision certificate has been approved for the new allotments and the Deposited Plan has been formally registered;
- Days between lodgement and the registration of the deposited plan will not be included in the formal calculation of approval times; and
- That the applicants be advised that in lodging applications prior to registration of the subdivision they do so at their own risk, recognising that changes to subdivision designs can occur during the construction phase and that such changes may need to be reflected in development applications lodged.

##### **Attachments**

Attachment 1 Botanical Purchasers Plan (*Under Separate Cover*) - **CONFIDENTIAL**



4.5 Jumping Creek Planning Proposal (Ref: C1899069; Author: Carswell/Brown)

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**Summary**

The purpose of this report is to provide advice regarding the recent public exhibition of the planning proposal for Jumping Creek, and to recommend that Council now finalise the draft plan.

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**Recommendation**

**That Council:**

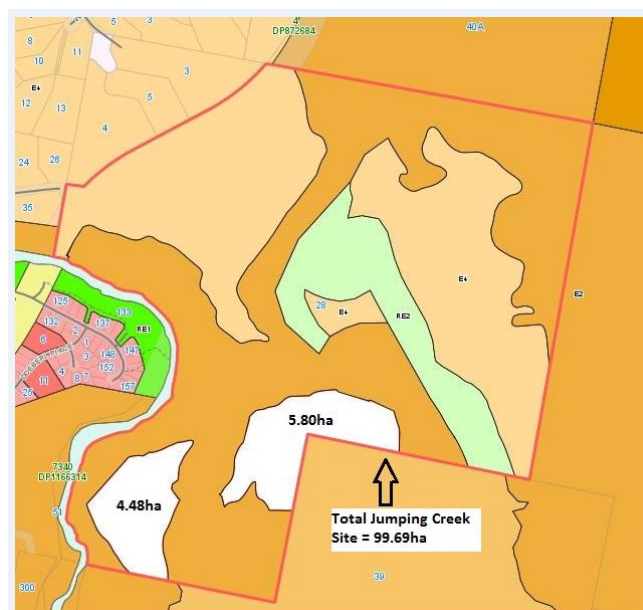
- 1. Note the outcomes of the recent public exhibition of the planning proposal for Jumping Creek, and**
  - 2. Make the draft plan as exhibited.**
- 

**Background**

Council has been progressing a planning proposal for two portions of the Jumping Creek site since November 2016. On 14 February 2018, Council resolved to proceed with an amended planning proposal for the area in order to zone two previously deferred areas of land at Jumping Creek to E2 Environmental Conservation. The amended proposal also makes changes to the existing Lot Size Maps to more accurately reflect the proposed zoning and future development for the site.

***History of Planning Proposal***

Jumping Creek was largely rezoned with the adoption of the *Queanbeyan Local Environmental Plan (LEP) 2012*. However, two smaller portions of land (shown white in Figure 1 over) were 'deferred' due to concerns about the suitability of the land for residential development. It was agreed at the time that further studies would be undertaken prior to making any final decision as to how those deferred lands would finally be zoned. Accordingly the 'deferred' lands currently remain zoned 1(A) Rural under *Queanbeyan Local Environmental Plan (LEP) 1991*.



**Figure 1 – Existing Jumping Creek Zoning**

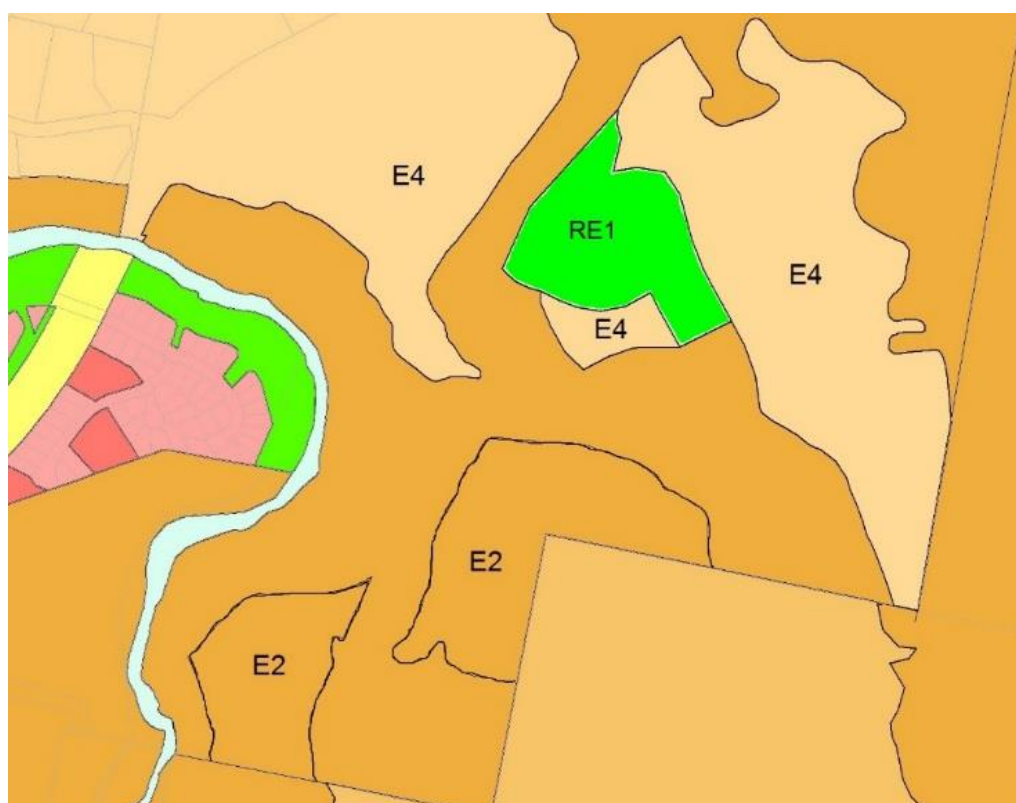
#### 4.5 Jumping Creek Planning Proposal (Ref: C1899069; Author: Carswell/Brown) (Continued)

A planning proposal for these 'deferred' areas was subsequently prepared in order to investigate the areas for additional residential development and it was proposed to zone both sites to E4 Environmental Living. However, during consultations with State agencies, the Rural Fire Service (RFS) raised a number of concerns in respect of the suitability of the areas in terms of potential bushfire risk. The key concern raised by the RFS was the proposal for a single road only to access the 'deferred' areas land from the rest of the Jumping Creek site, and that this presented a risk should the area need to be evacuated due to bushfire.

Council subsequently received formal advice from the proposed developers of the site (PEET) acknowledging the concerns of the RFS and confirming that they no longer wished to proceed with rezoning the 'deferred' areas to E4 Environmental Living. Subsequent discussions between the developers and Council staff confirmed the land was best suited to long-term protection of its environmental values and should instead be zoned E2 Environmental Conservation. Such a zoning precludes any further residential development.

It was also proposed to include an amendment to the existing RE2 Private Recreation zone, both to refine the existing boundaries of the zone to those areas best suited for any future recreational use, and to zone the land RE1 Public Recreation to provide a future public recreation use such as a park or similar.

The proposed zoning for Jumping Creek at this time and as exhibited is shown in Figure 2 below.



*Figure 2 – Proposed Jumping Creek Zoning*

The full suite of mapping changes are contained in the Planning Proposal (Attachment 1).

#### 4.5 Jumping Creek Planning Proposal (Ref: C1899069; Author: Carswell/Brown) (Continued)

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##### ***Details of Exhibition***

The draft planning proposal was exhibited from 30 May 2018 to 28 June 2018. Three (3) submissions were received from the community and two (2) submissions were received from public authorities.

A summary of the submissions received, and Council's response to these, are provided in Attachment 2. Issues raised included:

- ensuring the balance of the land contained an appropriate minimum lot size for permissible uses;
- a view that Council should be predominantly looking to urban infill to meet housing needs, rather than greenfield release areas; and
- comments suggesting individual councillors may have a financial interest in the proposal.

Representatives of the current owner of the land have also approached Council staff suggesting they would like to consider other potential uses for the deferred lands (including such uses as a retreat/function centre). Staff have considered this request and are of the view that any proposed uses requiring vehicular access are unlikely to be supported as the concerns in respect of bushfire risk previously expressed by the Rural Fire Service (RFS) are unlikely to be resolved. The RFS has confirmed that any development of the deferred land must have two access roads, however the topography of the land and the likely cost of any construction, would make this difficult to achieve.

Accordingly, no changes are proposed to the draft plan as exhibited.

##### ***Long Term Management of Balance of Jumping Creek Site***

The proposed zoning arrangement responds to the outcomes of numerous studies over time that have confirmed certain areas of the site as suitable for residential development, and that other areas be managed for their environmental values. The best long-term use of the balance of the site is considered to be environmental conservation and rehabilitation.

The developer has previously written to the Council seeking advice in respect of the land potentially being dedicated to Council for future ownership and control in the future. Council is generally reluctant to take over the management of residual land from development proposals due to the maintenance liability this can create. In this instance, whilst much of the land has significant environmental values, much of the land is also degraded as a consequence of previous uses of the site. In particular weed management, erosion, water quality and contamination all require significant investment if these problems are to adequately addressed on the site.

However, with appropriate improvements and works to manage the issues discussed above, there may be merit in considering the remaining site for future public ownership. The site has a frontage of approximately 1km to the Queanbeyan River and contains significant environmental, heritage and cultural values that could be of significant interest to the broader community. The potential area to be dedicated to Council could exceed 50ha. It would also give Council long-term ownership of the Jumping Creek tributary itself and the capacity to better manage existing sediment run-off into the Queanbeyan River. Low-impact recreational uses such as walking and cycling may also be appropriate for the site although this would need to be further investigated.

At this time, it is recommended Council staff continue to discuss future management arrangements with the developer with a view to determining what environmental improvements would need to be carried out on the site by the developer prior to Council agreeing to any future dedication of the land. Any final draft proposal for dedication of the

#### 4.5 Jumping Creek Planning Proposal (Ref: C1899069; Author: Carswell/Brown) (Continued)

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land by the developer will be put to the Council for information and determination prior to any final decisions being made.

#### **Implications**

##### ***Legal***

The planning proposal has been progressed consistent with the legislative requirements of the State Government in respect of making draft local environmental plans (LEPs).

##### ***Policy***

A draft plan (LEP) for the site will be requested from Parliamentary Counsel prior to it being made by the Minister's delegate. The current draft maps will also be finalised consistent with any requirements set out by the Department of Planning and Environment.

##### ***Environmental***

The draft plan, if made, will remove the potential for any further residential development of the deferred lands and would reduce any potential impacts on the environment.

Future ownership of the site by Council may represent a better long term environmental outcome for the site rather than being held in private ownership into the future.

##### ***Asset***

Further consideration will be given to the environmental, social and economic benefits of agreeing to the dedication of the remainder of the site to Council in the future.

##### ***Social / Cultural***

The draft plan in this instance significantly scales back the previous proposal and so any impacts on social/cultural values are likely to be lessened. There may be social/cultural benefits in respect of the Council agreeing to dedication of the site in the future however, this is yet to be determined.

##### ***Strategic***

The draft plan is not considered to be inconsistent with any strategic planning considerations of the Council.

##### ***Engagement***

The community was consulted for 28 days in respect of the draft plan. Relevant State agencies were also consulted as required by the Gateway determination. No objections were received from these agencies. Three (3) submissions were received from the community. The details of these submissions are attached.

##### ***Financial***

Future management of the land if dedicated may have a financial impact however, this is yet to be agreed or determined.

Finalisation of this draft plan is provided for under the relevant project budget.

##### ***Integrated Plan***

Processing this planning proposal assists with the achievement of Output No.26.11 for the Branch in the Operational Plan 2018-19.

**4.5 Jumping Creek Planning Proposal (Ref: C1899069; Author: Carswell/Brown)  
(Continued)**

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**Conclusion**

The draft plan for Jumping Creek is considered appropriate in the circumstances and consistent with good planning practice. The draft plan will facilitate a better planning outcome for the site than previously proposed.

Further discussions are required to determine the suitability of Council agreeing to dedication of the site in the future and these should continue.

It is recommended the draft plan be made.

**Attachments**

- |   |   |
|---|---|
| Attachment 1<br> | Planning Proposal Jumping Creek - 21 March 2018 ( <i>Under Separate Cover</i> ) |
| Attachment 2<br> | Summary and Assessment of Submissions July 2018 ( <i>Under Separate Cover</i> ) |





4.6 Draft Planning Proposal South Jerrabomberra (Ref: C1893678; Author: Carswell/Brown)

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**Summary**

To seek the endorsement of the Council to progress a revised draft planning proposal for the South Jerrabomberra urban release area.

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**Recommendation**

**That Council:**

1. **Forward the draft planning proposal to the NSW Department of Planning and Environment seeking a Gateway determination,**
  2. **Authorise staff to publicly exhibit the draft planning proposal, and**
  3. **Take all other necessary actions to progress the draft planning proposal.**
- 

**Background**

*Previous Planning Proposal*

A previous draft plan to finalise the zoning of the South Jerrabomberra urban release area was put to the former Queanbeyan City Council on 11 November 2015. Council resolved at that time to forward an exhibited plan to the Minister to be finalised with a number of further amendments (including reducing the proposed buffer to the Hume industrial area). This was done, however the Department of Planning and Environment (DPE) subsequently advised that it considered these changes to be significant changes to the exhibited plan, and accordingly, declined to progress the draft plan and also removed Council's delegations to make the plan.

Council staff have now prepared a revised planning proposal in consultation with DPE and the respective land owners, and are seeking Council's endorsement to now progress this updated plan.

*Current Planning Proposal*

Council staff have prepared a revised draft planning proposal in order to zone land at South Jerrabomberra for residential, commercial, open space and environmental conservation uses.

The additional lands to be zoned under this draft planning proposal are known as Forrest/Morrison and Tralee Station. Only part of Tralee Station is included in the proposal.

This will be done as an amendment to the existing *Queanbeyan Local Environmental Plan (LEP) (South Tralee) 2012*, which will also be subsequently renamed *Queanbeyan LEP (South Jerrabomberra) 2018* when the plan is made (notified). It is also intended to zone those lands under the *Queanbeyan LEP (South Tralee) 2012* that were previously 'deferred' by the Minister for Planning when that LEP was made in 2012.

The amendment seeks to finalise the zoning and development framework for the South Jerrabomberra urban release area in order to deliver a maximum of 1,500 new dwellings and 1,103 jobs. These figures have been determined collectively by Council, the Department of Planning and Environment (DPE), and, the NSW Roads and Maritime Services (RMS). This reflects the maximum capacity of the intersection planned for Lanyon/Tomsitt Drive that will service both the release area and the existing population at Jerrabomberra.

The planning proposal is also intended to zone existing and proposed residential lands at South Jerrabomberra to R2 Low Density Residential. This is being done to ensure the intended maximum number of proposed dwellings is not exceeded.

**4.6 Draft Planning Proposal South Jerrabomberra (Ref: C1893678; Author: Carswell/Brown) (Continued)**

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The planning proposal also confirms a buffer of 250m from the Hume Industrial area, similar to that previously imposed by the State Government when South Tralee was rezoned in 2012. This will still allow for the maximum capacity of 1,500 dwellings to be delivered across the area, representing:

- 750 dwellings for South Tralee,
- 500 dwellings for Forrest/Morrison, and
- 250 dwellings for Tralee Station.

This is also consistent with the numbers set out in the *South Jerrabomberra Local Infrastructure Contributions Plan 2018* endorsed by Council in April this year and the South Tralee Essential Infrastructure Agreement executed in June 2018.

**Implications*****Policy***

The planning proposal will implement the outcomes of the *Queanbeyan Residential and Economic Strategy 2031* by providing for significant urban development at South Jerrabomberra as set out in that strategy.

***Environmental***

The proposal provides for a range of urban uses, however it also zones additional land for Environmental Conservation as identified by the various studies undertaken for the site.

***Social / Cultural***

The *South Jerrabomberra Local Infrastructure Contributions Plan 2018* provides for a range of community facilities, open space and sports fields.

***Economic***

The planning proposal will provide for significant new jobs associated with construction in the area.

***Strategic***

The planning proposal is not considered to be inconsistent with any strategic lands adopted by Council. As noted there is a both a contributions plan and development control plan in place for this release area.

***Engagement***

It is intended to exhibit the draft planning proposal for a period of 28 days.

***Resources (including staff)***

The planning proposal has been prepared in house by staff, including significant consultations with the State Government and respective land owners.

**Conclusion**


The objective of the planning proposal is to provide for additional dwellings and other appropriate land uses in the South Jerrabomberra area to meet residential demand in accordance with Queanbeyan's *Residential and Economic Strategy 2031*. As noted, the amendment seeks to finalise the zoning and development framework for the South Jerrabomberra urban release area in order to deliver a maximum of 1,500 new dwellings.

**4.6 Draft Planning Proposal South Jerrabomberra (Ref: C1893678; Author: Carswell/Brown) (Continued)**

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It is recommended Council agree to staff taking all necessary actions to progress the draft planning proposal.

**Attachments**

Attachment 1  Amended Draft Planning Proposal South Jerrabomberra 2018 (*Under Separate Cover*)



4.7 Amendments to Queanbeyan Development Control Plan 2012 (Ref: C1893076;  
Author: Carswell/Brown)

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**Summary**

The purpose of this report is to seek the endorsement of Council to proceed with the public exhibition of a number of proposed amendments to *Queanbeyan Development Control Plan 2012*.

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**Recommendation**

**That Council agree to publicly exhibit the proposed amendments to the *Queanbeyan Development Control Plan 2012*.**

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**Background**

Staff undertake regular reviews of Council's various development control plans (DCPs) to ensure they remain accurate and current.

Staff have identified a number of updates that are required to the *Queanbeyan DCP 2012*. These updates are to:

1. Address a number of drafting errors and to update references to various legislation;
2. Improve the readability of the plan in various sections;
3. Remove unnecessary provisions where these are already covered by other legislation and policies;
4. Simplify provisions in respect of Safe Design as set out in Section 2.9 of the DCP;
5. Include new provisions in respect of the clearing of vegetation, to reflect the recent introduction of the *Biodiversity Conservation Act 2016* in NSW as set out in Section 2.12 of the DCP;
6. Redraft and clarify provisions relating to the fencing of multi-unit developments, including requirements for fences/walls constructed to enclose primary private open space within those developments;
7. Clarify provisions in respect of parking areas in front of dwellings as set out in Sections 3.5 and 3.6.11 of the DCP; and
8. Include additional provisions in respect of building and shed heights as set out in Sections 5.5 and 5.12 of the DCP.

The updated *Queanbeyan DCP 2012* is provided in the Attachments 1 to 11. All proposed drafting changes shown marked up in 'red' text.

**Implications**

***Environmental***

The *Queanbeyan DCP 2012* has also been amended to address recent changes to NSW legislation in respect of vegetation clearing, both in urban and rural areas. Clearing in all rural zones (RU1 to RU4) are now wholly managed under the *Biodiversity Conservation Act*. Clearing in all other zones (residential, business, recreation, industrial, special use and environmental zones) are regulated by *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* which is now wholly the responsibility of local councils to manage. Councils are required to include these vegetation clearing procedures in their respective development control plans.

**4.7 Amendments to Queanbeyan Development Control Plan 2012 (Ref: C1893076; Author: Carswell/Brown) (Continued)**

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Accordingly, the *Queanbeyan DCP 2012* has been amended to ensure Queanbeyan-Palerang Regional Council has suitable controls in respect of both:

1. vegetation removal in its 'urban' areas (i.e., where the key considerations are predominantly amenity impacts, health/safety of the tree and structural damage to property), and
2. vegetation removal in its 'environmental' areas (where the key considerations are predominantly impacts on biodiversity, threatened species, corridors, etc.). This includes all Environmental zones, the R5 Large Lot Residential zone and the RE2 Private Recreation zone.

Council's current DCP controls only address those matters set in in point 1 above at this time.

Council will now have two separate pathways to deal with tree clearing applications in the former QCC area, one for each of the circumstances set out above. The proposed processes would be:

1. vegetation removal in 'urban areas' will continue to be processed through the Urban Landscapes Team consistent with the approach taken in the past, and
2. vegetation removal in 'Environmental zones, R5 Large Lot Residential and RE2 Private Recreation' will now all be administered by the Natural Landscapes team.

Section 2.12 of the DCP contains flowchart of the proposed process, and also, the draft wording for the DCP. Staff have also sought to identify reasonable exemptions for vegetation clearing where appropriate.

Both South Jerrabomberra DCP and Googong DCP will also be amended in the near future to include similar vegetation removal provisions.

***Strategic***

The proposed changes refine previous wording and clauses in one of Council's key strategic planning documents (i.e. *Queanbeyan DCP 2012*). These changes are considered appropriate in the circumstances.

***Engagement***

Council staff intend to exhibit the draft changes for a period of 28 days.

***Resources (including staff)***

The changes have been prepared in-house by staff.

**Conclusion**











The updates and changes to the DCP are considered to be appropriate and necessary in the circumstances.

It is recommended the draft DCP now be publicly exhibited to allow submissions on the draft changes to be made by members of the public.

**4.7 Amendments to Queanbeyan Development Control Plan 2012 (Ref: C1893076;  
Author: Carswell/Brown) (Continued)**

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**Attachments**

Attachment 1	Queanbeyan DCP 2012 - Combined Table of Contents - Draft Version July 2018 <i>(Under Separate Cover)</i>
 Attachment 2	Part 1 - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 3	Part 2 - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 4	Part 3A - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 5	Part 3B - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 6	Part 3C - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 7	Part 3D - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 8	Part 4 - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 9	Part 5 - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 10	Part 6 - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>
 Attachment 11	Part 7 - Queanbeyan DCP 2012 - Draft Version 2018 <i>(Under Separate Cover)</i>





4.8 Alcohol Prohibited Area for Ernie Beaver Park - 6 Gilmore Place, Queanbeyan West (Ref: C1897383; Author: Thompson/Abbott)

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**Summary**

At its meeting of 23 May 2018, Council considered a report in support of establishing an “Alcohol Prohibited Area” (APA) in accordance with section 632A of the *Local Government Act 1993 (as amended)* within Ernie Beaver Park in Gilmore Place, Queanbeyan West.

Public consultation has now been undertaken, as well as seeking comment from the local Police Commander and local liquor licensees. The matter was also discussed at the Liquor Accord Meeting. A summary of comments has been provided.

Overall the responses have supported the establishment of an Alcohol Prohibited Area at Ernie Beaver Park.

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**Recommendation**

**That Council declare Ernie Beaver Park, 6 Gilmore Place, Queanbeyan West an Alcohol Prohibited Area for a period of 4 years and install the required signage.**

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**Background**

Ernie Beaver Park is a Council public reserve approximately 3800m<sup>2</sup> in size, located in Gilmore Place, Queanbeyan West. The Park includes a playground and covered picnic area with BBQ.



**Figure 1 – Ernie Beaver park shown outlined in Blue (Source: Nearmaps)**

**4.8 Alcohol Prohibited Area for Ernie Beaver Park - 6 Gilmore Place, Queanbeyan West (Ref: C1897383; Author: Thompson/Abbott) (Continued)**

The area is frequently utilised by a number of middle aged people during the morning and lunch time who gather around the table at the location and consume large amounts of alcohol. These adults are alleged to be urinating in the bush gardens of the Park. Their presence, combined with the alcohol consumption, is intimidating to families who wish to utilise the Park facilities and discourages those families and children from using the area.

Further information indicates that the area is being used later in the afternoon and at night by youth who consume alcohol and partake in illegal drug use at the location.

In the case of a public reserve section 632A of the *Local Government Act 1993* provides that a council may declare any public place (or any part of a public place) in the council's area to be an "alcohol prohibited area" for the purposes of this section. An alcohol prohibited area may be established for a maximum period of four years. Once established, it applies twenty-four hours per day.

Alcohol Prohibited Areas are enforced by the Police or by council enforcement officers where the Commissioner of Police gives written authorisation. Consistent with Alcohol-Free Zones, monetary penalties no longer apply in relation to the consumption of alcohol in an Alcohol Prohibited Area. Instead, any person observed to be drinking in an alcohol-free zone may have the alcohol in their possession immediately seized and tipped out or otherwise disposed of under section 632 of the *Local Government Act 1993*.

An alcohol prohibited area will not operate until 7 days after publication of the notice and until the roads, footpaths and public carparks affected are adequately signposted.

Council may pass a valid resolution to suspend or cancel a particular alcohol prohibited area. Such action may be taken as a result of a request received from any person or body, or at a council's own initiative. Liaison with the local police, before and after the council resolution, is essential to ensure that both groups are informed and action is coordinated. Council must publish notice of a suspension or cancellation as required under section 645(1) and (3). In the case of suspension of an alcohol prohibited area the signs should be removed for the duration of any suspension.

Police reports suggest there have been no alcohol related events recorded between 1 January 2018 and mid-June 2018 in the Park however, information suggests irresponsible behaviour arising from the consumption of alcohol has occurred within the zone. The Police feedback is provided in Attachment 1.

A survey was placed on "Your Voice" to gauge community reaction to the proposal. This closed on 12 July 2018. Of the 14 comments received from the community, 12 supported the proposal to declare the park an Alcohol Prohibited Area, several suggesting all parks should be alcohol free. A table summarising the comments made is provided in Attachment 2.

**Implications*****Engagement/Social***

*Public* - The public consultation has had varying responses with the majority suggesting that all parks should be alcohol free. However, in relation to Ernie Beaver Park there is strong support for the APA due to anti-social behaviour, broken bottles, and perceptions about poor safety for women and children.

The community survey suggests that some nearby residents would not take children to the Park while people are consuming alcohol. The purpose of the Park is to provide a safe place for social interaction, for parents to bond with children, and for children to make new friends in the neighbourhood.

#### 4.8 Alcohol Prohibited Area for Ernie Beaver Park - 6 Gilmore Place, Queanbeyan West (Ref: C1897383; Author: Thompson/Abbott) (Continued)

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One response from an adult who lives nearby says they enjoy sitting in the sun at the Park with a glass of wine, while another says that a family BBQ should be able to serve wine.

Several responses also mention that the Park is in need of extra facilities such as toilets and a water bubbler.

*Police* - The local Police have carried out an assessment of the need for an APA in this area and have concluded that they fully support the implementation of an APA for this location.

*Licensees* - A submission was also received from a nearby retail outlet which sells alcohol (Attachment 3). The submission does not support the APA, but suggests that if it is proceeded with Council could consider applying the APA during specific times.

*Site Inspection* - On 8 May 2018, the QPRC Community Development staff and Parks Coordinator from Urban Landscapes met with the Crime Prevention Officer from Monaro LAC at Ernie Beaver Park. This was to investigate potential concerns associated with adults consuming alcohol and defecating in the Park and youth abusing drugs in the Park.

On inspection, the landscaping in the Park was overgrown which was creating a private space for going to the toilet. The team saw this behaviour first hand. The Parks Coordinator committed to under pruning the bushes/trees so the gardens are less likely to be used in this way.

There was also a group of adults consuming alcohol in the Park, which the team spent some time talking too. The group was friendly and informed staff they use the park as a meeting place and insisted that they clean up after themselves. One of the males advised that he arrives at the Park very early (that day it was 5:00am) and the group has usually departed by midday at the latest.

One issue which arose from this inspection was a concern that an alcohol prohibition will simply move the group to another location. The nearest park to Ernie Beaver is Bicentennial Park which is a well-used family and recreation space including two playgrounds.



#### **Conclusion**

The evidence gained during the consultation period clearly indicates that the Park is regularly used for the consumption of alcohol. There was also a strong perception from the public and a belief from the Police that this consumption leads to anti-social behaviour, intimidation, litter and discouraging local families (for whom the Park is primarily provided) from utilising the Park.

There was only limited support for not proceeding with the APA. One submission suggests that perhaps restricted hours should be implemented. However, the suggested times align with when the main consumption takes place, which fails to address the issues the consumption of the alcohol causes.

Given all of the above there appears to be ample evidence and support for the implementation of an APA at Ernie Beaver Park.

#### **Attachments**

- |   |  |
|---|--|
| Attachment 1<br> | Police Submission - Alcohol Prohibited Area - Ernie Beaver Park ( <i>Under Separate Cover</i> )                                    |
| Attachment 2<br> | Community Survey Responses - Alcohol Prohibited Area - Ernie Beaver Park ( <i>Under Separate Cover</i> )                           |
| Attachment 3  | Business Submission - Licensee - Alcohol Prohibited Area - Ernie Beaver Park ( <i>Under Separate Cover</i> ) - <b>CONFIDENTIAL</b> |



**4.9 Onsite-Sewerage Management (OSSM) Policy (Ref: C1896829; Author:  
Thompson/Abbott)**

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**Summary**

At its meeting of 11 April 2018 Council resolved to place the Draft On-site System of Sewage Management (OSSM) Policy on public exhibition for 28 days.

The draft policy was promoted via Your Voice, Queanbeyan Age, Bungendore Weekly, Braidwood Times and Council's Facebook account. It was also sent to Water NSW for comment.

The document received 62 on-line visits with the draft policy having been downloaded 29 times. By the end of the exhibition period 3 submissions were received.

Following the receipt of comments the draft policy has been reviewed and relevant amendments made to the document. With these amendments the draft policy is recommended for adoption.

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**Recommendation**

**That Council:**

- 1. Note the feedback received and changes made to the document.**
  - 2. Adopt the QPRC On-site Sewerage Management Policy as attached.**
- 

**Background**

The document has been reviewed with the following changes:

- The Contents page and numbering have been updated.
- Objectives have been summarised.
- Definitions have been moved to the back and revised.
- The sequence of sections has been moved in some parts.
- A table of "Buffer" distances has been revised to include Sydney Catchment Authority references.
- A risk assessment matrix has been provided in Appendix 1.
- An inspection procedure flowchart has been provided in Appendix 2.
- A new clause that all commercial properties operating an OSSM will be classified as High Risk.

The compliance enforcement section has been strengthened by the inclusion of the following:

*Council's enforcement powers should only be utilised when other approaches have failed. Council's enforcement procedures are outlined within Council's Enforcement Policy and is aimed at giving the property owner/occupier every opportunity to comply with Council's requests prior to enforcement proceedings being instigated.*

*Areas for investigation include the following:*

- *Operating without prior Council Approval*
- *Operating otherwise than in Accordance with terms of Approval*
- *Dwellings with inadequate or failed systems*
- *Pollution Incidents*

**4.9 Onsite-Sewerage Management (OSSM) Policy (Ref: C1896829; Author: Thompson/Abbott) (Continued)**

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*Adequate powers exist under the provisions of the Local Government Act 1993 and the Protection of the Environment Operations Act 1997, to ensure compliance with this policy, to require OSSM owners to obtain approval to operate, and to require maintenance of systems to an acceptable standard.*

***Resources (including staff)***


Staff resources to undertake OSSM Inspections are financed by a specific charge included on rate notices. This is an essential environmental and public health service that has been prepaid by property owners.

Presently only one OSSM Officer is located at Braidwood with part time administrative assistance. It has been identified that backup and progression planning is required for this position. A proposal has been made to recruit a Trainee to assist in this role.

**Conclusion**

The majority of the feedback has been addressed within the content of the document and improvements made for easier locating of information.

**Attachments**

- |   |  |
|---|--|
| Attachment 1  | On-site Sewerage Management Policy ( <i>Under Separate Cover</i> )                       |
|  Attachment 2 | Summary of Submissions During Exhibition of Draft Policy ( <i>Under Separate Cover</i> ) |

**4.10 Road Naming Report - Unnamed Private Road - Reedy Creek Lane - Road 1031,  
Manar (Ref: C18100088; Author: Thompson/Bateman)**

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**Summary**

This report proposes adopting a road name for a currently unnamed Right of Carriageway (Road 1031) which services several properties in Manar. The proposed name is Reedy Creek Lane.

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**Recommendation**

**That Council:**

- 1. Adopt the name 'Reedy Creek Lane' for the Right of Carriageway accessed from The Glen Road, in the locality of Manar.**
  - 2. Publish a notice in the NSW Government Gazette to that effect.**
  - 3. Allocate addresses, install street name signage (including 'No Through Road' and 'Private Road' signage) and notify residents accordingly.**
- 

**Background**

Under the NSW Road Naming Policy, Council is the authority responsible for road naming. In general, unnamed roads are considered confusing and need to be formalised to ensure response times are minimised for emergency services and to ensure services can be readily provided to the area (such as mail delivery).

*NSW Road Naming Policy*

The NSW Road Naming Policy was adopted by the Geographic Names Board in 2013 and is the basis for standardised and unambiguous road naming procedures across NSW. The policy contains a number of guiding principles to ensure the policy is achieved when naming roads.

*Steps Undertaken to Date*

The following steps have been undertaken as part of the road naming process:

- Affected residents have been written too seeking comment regarding potential road names in accordance with the NSW Road Naming Policy
- Potential names submitted to the Geographic Names Board (GNB) to confirm compliance with the Policy. Concurrence from the GNB has been received.

*Proposed Name and Resident Submissions*

The Right of Carriageway to be named is accessed from The Glen Road and is a private road referred to as Road 1031. The location of Road 1031 is shown in Attachment 1 and is located in the locality of Manar.

Residents on Road 1031 were written to and asked for their views on naming the road and to suggest a potential name.

Three submissions were received and are shown in Attachment 2. All three submissions were in agreement that 'Reedy Creek' was a suitable name as this Creek runs parallel to the private road Council is seeking to name. The use of the road type 'Lane' was suggested to reinforce the localised nature of the road. It was also suggested that 'No Through Road' and 'Private Road' signage be erected.

**4.10 Road Naming Report - Unnamed Private Road - Reedy Creek Lane - Road 1031, Manar (Ref: C18100088; Author: Thompson/Bateman) (Continued)**

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As a result of the submissions received, it is recommended that Road 1031 be named 'Reedy Creek Lane'.

This name has already been submitted to the GNB for consideration and they have concurred. After submission and assessment, GNB forwards proposed road names to other relevant authorities such as emergency services and Australia Post. No objections from any consulted authority were been received.

**Next Steps**

- Letter to be sent to affected residents inviting them to attend Council Meeting to hear the resolution for the road name.
- If adopted, the new road name will go through to the GNB for gazettal.
- Once gazetted, new rural addresses are measured and allocated to properties and all signage is installed.
- Residents are sent a letter informing them what their new rural address is.

**Implications****Policy**

The suggested road name complies with the *NSW Road Naming Policy 2013*. The naming process is generally in line with the process detailed in *ECCRC Code of Practice for the Naming of Roads* (adopted 27 July 2004).

**Asset**

New signage will be required which will become Council assets. Renewal will be required from time to time, however on-going maintenance and renewal costs are minimal.

**Social / Cultural**

The road naming proposal will cause some disruption and inconvenience to local residents as they may have to change their addressing information with a variety of State, Federal and private bodies. The road naming proposal however, will have a strong positive impact for residents by clarifying their address and improving emergency response times.



**Financial**

Financial impact on the Council is minimal. Costs are associated with manufacture and installation of a new road name sign (expected to be in the order of \$500).

**Conclusion**

This report proposes adopting the name 'Reedy Creek Lane' for the unnamed Right of Carriageway off The Glen Road, Manar known as Road 1031 as shown in Attachment 1. The road name is supported by local residents and is recommended for adoption.

**Attachments**

- |   |  |
|---|--|
| Attachment 1<br> | Attachment 1 - Locality Map Showing Right of Carriageway Accessed from The Glen Road ( <i>Under Separate Cover</i> ) |
| Attachment 2<br> | Attachment 2 - Written Submissions from Residents ( <i>Under Separate Cover</i> )                                    |



5.1 Jerrabomberra Scout Hall - 7 Firethorn Place, Jerrabomberra (Ref: C1898848;  
Author: Neil/Warne)

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**Summary**

The 1st Jerrabomberra Scout Group has approached the Council to assist it in the development of the existing scout hall facility which is inadequate for its current needs. This paper explores the options and concludes that a long term licence agreement is the best means to provide security of tenure to the Scouts to enable it to pursue funding for urgent capital works at the existing site.

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**Recommendation**

**That Council progress a long term Licence Agreement with the Scout Association of Australia (New South Wales) for the current site at 7 Firethorn Place, Jerrabomberra in accordance with S 47 of the *Local Government Act 1993* and the 1st Jerrabomberra Scout Group be advised of this decision.**

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**Background**

Following representations from the Jerrabomberra Scouts a notice of motion regarding the future of the Jerrabomberra Scout hall was considered at the Council meeting in June 2018 and the following resolution was adopted:

*That Council receive a comprehensive report at the next Ordinary Council meeting re opportunities for gifting of land to the 1st Jerrabomberra Scout Group and the operational options for the management of any new buildings.*

The resolution was carried unanimously and I believe that there is genuine intent by the Council to assist the 1st Jerrabomberra Scout Group to provide new facilities at the site. It is understood there are over one hundred and twenty people from Jerrabomberra and surrounding communities that are part of the 1st Jerrabomberra Scout Group. It is an important community hub that brings young people together and provides them with activities that build skills, resilience and teamwork. Further with the demographics of the area indicate there should be growth opportunities for the Group into the future.

The existing Scout Hall was a former shop that has been “reused” for the purpose of a Scout Hall so it does have some limitations. It is understood that the scout activities have “outgrown” the current Scout Hall building and a new facility is needed.

It was suggested that the land could be gifted to the Scouts to use as collateral for government funding for new facilities and options and process will be covered in the report. The Group propose that they would rebuild on one half of the site whilst the other remains in operation, and then swap over. The hall would retain storage for the Scouts’ equipment.

The Scouts have advised that ownership of the land is not an essential requirement of government funding, but it would like long term tenure in order that it can provide assurance to funders that are prepared to commit resources to the needed capital works

5.1 Jerrabomberra Scout Hall - 7 Firethorn Place, Jerrabomberra (Ref: C1898848;  
Author: Neil/Warne) (Continued)

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### Implications

#### *Legal*

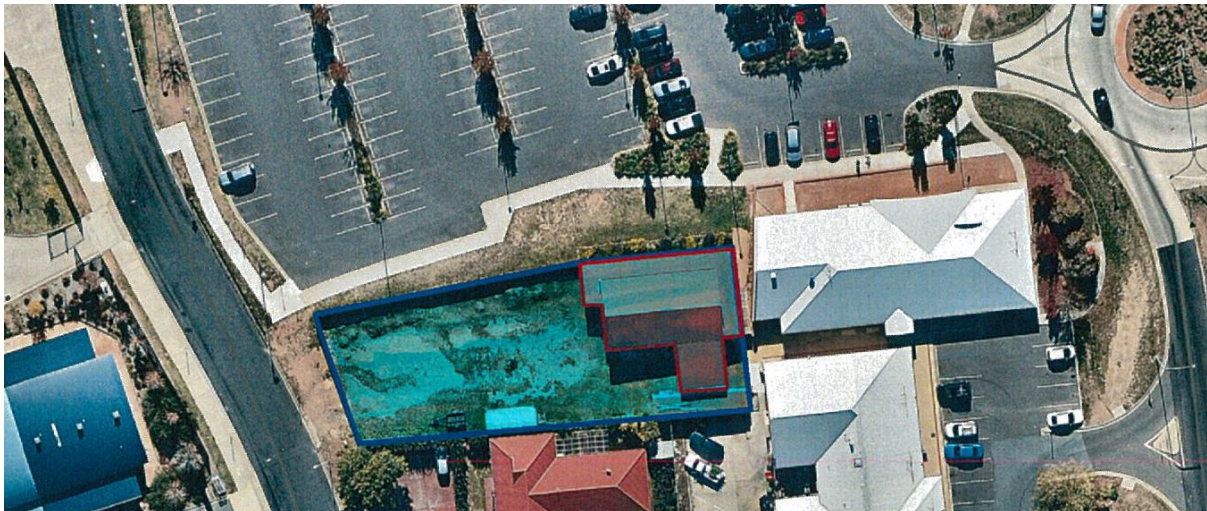
##### *Current Status*

The Scout Association of Australia (New South Wales) (*Scouts*) holds a five year Licence Agreement with the Council for the use of the site as a Scout Hall which expires on 24 August 2020. It has approximately 2 years to run. The rental is \$1 pa if and when demanded.

Whilst the Scout Association is the Licensee, the site is occupied by the 1<sup>st</sup> Jerrabomberra Scout Group under the auspices of the Scout Association. The management and operation of the site is the responsibility of the local Group and the State body does not provide funding for re-development at the local level.

Fund raising for site improvements is the responsibility of the local Group. For legal reasons, any Licence Agreement is with the State body.

The site "footprint" is as shown hereunder:



The area defined by the blue line is fenced and forms the site that is licensed to the Scouts. The site comprises part of lot 1 (principally the car park) and lot 2 (Scout Hall) DP1008497. In accordance with the *Local Government Act 1993* the land is classified as community land.

In discussions with the Scouts they do not want the footprint to change. Their prime purpose is to have long term tenure of the property to enable them to seek government funding for re-development.

##### *Gift of the Land*

As the land is classified as "community land" it must be managed in accordance with the *Local Government Act 1993* and land so classified must not be sold or gifted by the Council. In order to progress a transfer of ownership the land would need to be re-classified from "Community" to "Operational". Operational land can then be dealt with in a commercial fashion.

In order to sell or gift this land (*suggested sale price \$1 when and if demanded*) the Council would need to undertake a Planning Proposal in accordance with the *Environmental Planning and Assessment Act 1979* including the conduct of a public hearing regarding the proposal to reclassify the land. The proposal would need to be publicly advertised.

**5.1 Jerrabomberra Scout Hall - 7 Firethorn Place, Jerrabomberra (Ref: C1898848;  
Author: Neil/Warne) (Continued)**

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After the hearing the Council would need to consider the responses received and formally resolve that the proposal be forwarded to the Minister for Planning for consideration in accordance with the *Environmental Planning and Assessment Act 1979*. Any objections raised are also concerned as part of the process.

It usually takes between 12 -18 months to complete the reclassification process.

***Other Options***

The Scouts currently have a Licence Agreement with the Council that is valid for a further two years.

It has been the Council's practice to enter into Licence Agreements for a 5 year period as any objections can be considered by the Council on merit. Any tenure proposed beyond 5 years requires the application to be referred to the Minister if there are objections.

S47 of the *Local Government Act 1993* provides that the Council can execute a Licence Agreement for community land for a period up to 21 years. If objections are received the application must be referred to the Minister.

If a further period beyond 21 years is required then ministerial consent is needed even if no objections are received and consent cannot be granted beyond 30 years. Any application must be supported by a statement outlining the special circumstances that justify the period of the lease or licence exceeding 21 years. The OLG advise that this circumstance usually relates to a major capital expense by the Licensee and the extended period is suitable because of the capital investment.

If there is a complete rebuild of the Scout Hall and expanded facilities provided, it is considered a case can be put forward for a 30 year tenure period.

It would be a Licence condition that the existing Licence Agreement be revoked.

***Policy***

There is no Council policy in respect of these situations.

***Environmental***

The Land is zoned as *R3 Medium Density Residential* under the Queanbeyan LEP 2012. The Scout Hall would qualify as a "*Community Facility*" and is a permitted use within the zone. Any re-development of the site will require development approval to be obtained.

***Social / Cultural***

The Scout Hall and Scouting activities is an important part of the services provided to the Jerrabomberra community. The Group has a significant membership with a waiting list and with the demographics of Jerrabomberra and the growth of South Tralee it is expected that there will be demand for Scout membership for many years.

***Engagement***

There will be community consultation as part of the Licence Agreement process.

In 2015 when the current licence agreement was developed there was no adverse community input.

5.1 Jerrabomberra Scout Hall - 7 Firethorn Place, Jerrabomberra (Ref: C1898848;  
Author: Neil/Warne) (Continued)

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***Financial***

There will be no explicit Council cost in the development and progression of the Licence Agreement. The Licence drafting, other documentation and administrative tasks will be undertaken in house.

If the site was gifted to the Scouts there would be significant cost involved in progressing this option as estimated hereunder:

Planning Proposal	5,000
Valuation	3,000
Subdivision & lodgement	4,000
DA Fees	1,500
Legal costs	3,000
Contingency	2,000
<b>Total</b>	<b>\$18,500</b>

**Conclusion**

The matter is listed for consideration, but it is considered that a long term Licence Agreement for the site should meet the Scouts requirements and enable government funding to be sought for the redevelopment project.

**Attachments**

Nil

**6.1 Ellerton Drive Extension Addendum REF (Ref: C1899417); Author:  
Hansen/Ramsland**

**Report**

Construction of the Ellerton Drive Extension bridge across the Queanbeyan River has started. The Bridge will be incrementally launched from the northern side of the river to the southern side. This construction design and methodology will reduce impact on the environment and nearby residents during construction.

Roads and Maritime Services (RMS) are proposing to allow authorised construction workers and their private vehicles to access the bridge construction site via an existing gate at the end of Lonergan Drive, Greenleigh. This proposal is currently not covered by the determined Review of Environmental Factors (REF) and requires an addendum to the REF. The addendum REF will assess environmental impacts, including impacts to the community that may be generated as a result of this proposed use of the Lonergan Drive as an access point.

The proposal is for approximately 20 light vehicles accessing the project site via Lonergan Drive per day, mainly to get to work and to go home. This would lead to a minor increase in traffic along Severne Street and Lonergan Drive while this access point is being used. The purpose of providing the additional access point for bridge construction is to:

- 1) Provide a safer access route for workers to the bridge construction site and to minimise the risk of light vehicles and heavy construction vehicles coming into contact with one another.
- 2) Reduced disruption to construction activity as vehicles will no longer travel through the construction site to access the bridge site.

To ensure that potential traffic and transportation impacts are minimised, the following mitigation measures would be implemented:

- a) The use of the Lonergan Drive access route will be limited to authorised light vehicles only, such as cars and utes, or a minibus to take staff to the site. No heavy vehicles or delivery vehicles will use Lonergan Drive to access the project site.
- b) Access will only be given to selected staff working on the bridge construction. This will be controlled by only allowing authorised staff to access the site via this point.
- c) The use of the Lonergan Drive access point will be restricted to the following hours:
  - i. 6:30am to 6:30pm, Monday to Friday
  - ii. 7:30am to 1:30pm, Saturdays
- d) No access via Lonergan Drive will be permitted on Sundays or Public Holidays
- e) Signage will be provided on the gate/fence at the site entry point to ensure that people can identify the site as a construction site and will include the project contact details.
- f) Environmental controls will be implemented to minimise mud/dirt tracking from the project site onto Lonergan Drive and other public roads.
- g) A Traffic Control Plan will be developed for this access point. This will identify any additional traffic control requirements on Lonergan Drive to ensure the safety of the local community and that safe speeds are maintained.
- h) Vehicles would park inside the project site and will not be permitted to park on Lonergan Drive.

To ensure that the proposal can safely meet the needs of local residents and to further assess the impacts of this proposal, RMS will be seeking feedback from residents on Lonergan Drive, Severne Street and Atkinson Street who will be directly impacted by the additional traffic. Feedback received by these residents will be considered in the addendum REF.

Once finalised, the addendum REF will be submitted to Council for a determination.

**Recommendation**

That the report be received for information.

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**Attachments**

Nil

**6.2 Land-Use Assessment - E4 Zones - Bywong and Wamboin (Ref: C1892745);  
Author: Carswell/Robb**

**Report**

At the meeting of Council on 13 December 2017 (Item 12.5), Council considered a report concerning the review of the E4 Environmental Living landuse zone for the localities of Bywong and Wamboin. Council resolved that (Minute No. 411/17):

1. *Parts of Bywong and Wamboin be assessed for consideration to R5 and RU4 zones in the draft LEP.*
2. *Land currently zoned E4 Environmental Living outside of the localities of Bywong and Wamboin not have the land use assessment method applied to them.*
3. *The land currently zoned E4 Environmental Living outside of the localities of Bywong and Wamboin remain E4 Environmental Living in the draft Queanbeyan-Palerang Local Environmental Plan.*

The purpose of this report is to update Council on the progress of this matter.

Following the resolution, Council staff wrote to the NSW Department of Planning and Environment (DPE) advising of the Council resolution and asking for comment on the matters to be taken into account in relation to the review. The Department indicated that:

*Any study provided in support of the proposal should include sufficient information to justify the rezoning on a site-by-site basis. While I acknowledge that the material provided by Council with its letter seeking the Department's advice is comprehensive, I recommend Council revise this information to ensure it contains details relevant only to those sites where rezoning is proposed, and adequately demonstrates how the proposed rezoning addresses relevant planning considerations.*

The above requirements make the review process far more complex as one of the relevant "planning considerations" is Ministerial Direction 2.1 which requires councils to justify that a planning proposal will not reduce the environmental protection standards that apply to the land. This is a challenging task given the zoning is going from an environmental zone to a residential or rural zone and will require considerable work.

In addition to the above a meeting with the NSW Department of Environment and Heritage was also held. A draft approach was determined by staff based on the response from both departments.

Given the present workload of Council staff and the fact that the previous assessment did not recommend rezoning the most efficient approach to undertaking the review is for Council to engage an independent consultant planner and ecologist. A draft brief and list of potential consultants has been prepared. It is anticipated that the brief will be forwarded to the potential consultants on the list within the next two weeks. As it is estimated that the cost of the review could be up to \$150,000 it would be a 'simple' quotation and so it is only necessary under Council's procurement policy to obtain three formal written quotations. The brief includes a community consultation component.

As a result of the DPE's requirements and the consequent time to carry out the review work required it will not be possible to include the outcomes from review in the Comprehensive LEP process and a separate Planning Proposal would be required in the future should the review provide justification to rezone some of the nominated E4 areas to an R5 or RU4 Zone.

**Recommendation**

That the report be received for information.

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**Attachments**

Nil



**6.3 Annual Food Activity Report to NSW Food Authority (Ref: C1895514); Author: Abbott/Gault**

**Report**

As part of the Food Regulation Partnership between the NSW Food Authority and local councils, an annual enforcement activity report must be submitted to the NSW Food Authority each year. The information contained in the Report also provides a useful overview of Council's food safety and education activities.

This is the second full financial year of the new merged Council food activities and the report reflects inspections undertaken across the entire QPRC area. Council inspecting officers have observed significant food safety improvements in the majority of food businesses.

An annual report is required to be submitted to the NSW Food Authority. Reporting requires completion of a standard set of questions regarding enforcement activities undertaken by Council in the last financial year. The contents of the annual report have been compiled by our food compliance specialist and a summary of the QPRC Food Inspection Program for 2017/2018 is provided as follows:

***Food Business Profile***

Number of high risk food businesses	161
Number of medium risk food businesses	12
Number of low risk food businesses	61

- High Risk includes premises which handle open food that requires temperature control. This also includes activities including cooking and serving meals at premises such as restaurants, takeaways, cafes, clubs/pubs, bakeries and school canteens.
- Medium Risk includes premises which require food preparation but where temperature control is still important such as service stations and greengrocers.
- Low risk premises do not require inspection except in the case of complaint or incident. These include premises such as newsagents and chemists that generally sell only pre-packaged food which does not require temperature control.

Note that as of the start of the new 18/19 financial year the NSW Food Authority has passed responsibility of regulating all home food businesses to local councils. This will increase the number of food premises registered in the QPRC LGA but is not expected to greatly impact on the number of inspections required each year.

***Retail Sector Requirements***

Number of food businesses requiring a Food Safety Supervisor	144
Number of these businesses that have a current Food Safety Supervisor	88

The Food Act 2003 (NSW) requires certain food businesses in the NSW hospitality and retail food service sector to have at least one trained Food Safety Supervisor (FSS). The FSS needs to have gained specific units of competency under the national Vocational Education Training system.

The NSW Food Authority's FSS program was established to help reduce foodborne illness in the hospitality and retail food service sectors in NSW by improving food handler skills and knowledge.

**Resources Profile**

Number of authorised officers/contractors engaged in food regulatory work over the 12 month reporting period	3
Number of FTE authorised officers/contractors engaged in food regulatory work over the 12 month reporting period	0.8

**Regulation Inspection Profile of High and Medium Risk Businesses**

Number of primary inspections conducted for fixed food premises	175
Number of high and medium risk food premises inspected	169*
Number of fixed food premises requiring re-inspections	6
Number of these re-inspected premises that required additional re-inspections	0

\*4 food businesses were not inspected due to seasonal/intermittent operation.

Primary inspection means any planned, programmed or routine inspection but does not include re-inspection or complaint inspection. A satisfactory inspection is one where no re-inspection was warranted to close out any breaches and where no enforcement activity was undertaken. Possible outcomes of an inspection include: satisfactory letter, warning letter, improvement notice (fee), prohibition order, penalty notice (fine and 12 months public online notification), prosecution (possible fine and 12 months online notification).

**Food Business Inspection Scored Outcomes**

5 Star rating (0-3 points)	46
4 Star rating (4-8 points)	56
3 Star rating (9-15 points)	46
0 Star rating (16+ points)	21

As part of the NSW Food Authorities 'Scores on Doors' program each council must record a food safety rating score, regardless of participation in the program, dictated by the standardised Food Premises Assessment Report.

**Food complaint profile**

Hygiene and handling	8
Foreign matter	2
Food quality including deterioration	3
Labelling and advertising	0
Single-incident Food borne illness	10
Other	2
Total number of food complaints investigated	25

All food related complaints were investigated by Council officers and involved onsite inspections. All complaints were related to single events with no evidence found to substantiate further in-depth investigations.

**Enforcement action**

Number of Warnings issued	104
Number of Improvement Notices issued	14
Number of Penalty Notices issued	0
Number of Seizure Notices issued	0
Number of Prohibition Orders served	0
Number of Prosecutions determined relating to Food Act breaches	0

Enforcement action listed above is the accumulation of all inspections (primary and re-inspections) conducted during the 2016-17 financial year. Enforcement activity includes the issuing of warning letters, improvement notices, penalty notices, prohibition orders or prosecution.

**Value-added services**

Council has a maturing and improving relationship with food businesses in line with our Enforcement Strategy and continue to work with them to improve the food safety standard of the premises.

Participation in the 'Scores on Doors'	Yes
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The 'Scores on Doors' program is not being embraced by food business as they are influenced by what is occurring in Canberra (no scoring program). Most food businesses have stated that they will participate once Canberra food business utilise some form of scores on doors program. Food businesses in Bungendore and Braidwood are more willing to participate in the program as they are not as influenced by the Canberra food industry.

Technical advice provided to food businesses	Yes
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Free advice is provided to current food business owners and their staff whenever requested to encourage a positive food safety environment. Advice is also given during inspections to help improve food safety and prevent/rectify future breaches of the food standards code.

Information (factsheets, website, newsletter etc.) provided to food businesses	Yes
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Council offers a large selection of factsheets, website information, and sends out a quarterly newsletter to all food businesses containing helpful tips and advice.

Food handler training organised or facilitated	Yes
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Council utilises the "I'm Alert" online training and recommends that all food businesses have their food handlers complete the free training course.

Other services provided or participated in?	Yes
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Council participates in food related surveys when received. Council also participates in the Food Authority run workshops and in regional meetings of EHO's involved in the monitoring of food premises.

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**Recommendation**

**That the report be received for information.**

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**Attachments**

Nil

**7 NOTICE OF INTENTION TO DEAL WITH MATTERS IN CLOSED SESSION**

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It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the “confidential” business paper which has been circulated to Councillors.

The Local Government Act, 1993 requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential in terms of Section 10A of the Local Government Act, 1993.

**Recommendation**

**That pursuant to Section 10A of the Local Government Act, 1993 the following items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:**

**Item 8.1 Request for Right of Carriageway - DA 2014.210 - 267 Foxs Elbow Road, Warri**  
*Item 8.1 is confidential in accordance with s10(A) (g) of the Local Government Act 1993 because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.*