



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

## **AGENDA**

**8 May 2019**

**Commencing at 5.30pm**

**Council Chambers  
253 Crawford St, Queanbeyan**



On-site Inspections - Nil

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.

**2 DISCLOSURES OF INTERESTS .....1**

**3 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS**

**4 ADJOURNMENT FOR PUBLIC FORUM**

**STAFF REPORTS**

**5 REPORT TO COUNCIL - ENVIRONMENT, PLANNING AND DEVELOPMENT**

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**9 CONCLUSION OF MEETING**

## **LIST OF ATTACHMENTS –**

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

### **Open Attachments**

- Item 5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang
- Attachment 1 DA.2018.192 - 2155 Collector Road, Currawang - 4.15 Assessment Report (Under Separate Cover)*
- Attachment 2 DA.2018.192 - 2155 Collector Road, Currawang - Plans (Under Separate Cover)*
- Attachment 4 DA.2018.192 - 2155 Collector Road, Currawang - Draft Conditions (Under Separate Cover)*
- Item 5.2 Planning Proposal - West Jerrabomberra
- Attachment 1 Planning Proposal for West Jerrabomberra - Amended November 2018 for Exhibition (Under Separate Cover)*
- Attachment 2 Summary and Assessment of Submissions (Under Separate Cover)*
- Attachment 3 Report re Stone-faced Brick Building at North Tralee (Under Separate Cover)*
- Attachment 4 Nth Tralee Contamination Study August 2018 (Under Separate Cover)*
- Item 5.3 Planning Proposal - Exempt and Complying Development in the Landuse Zones E4 Environmental Living, RU5 Village and RU1 Primary Production
- Attachment 1 Report and Planning Proposal - 10 March 2015 (Under Separate Cover)*
- Attachment 2 Gateway Determination - 4 May 2015 (Under Separate Cover)*
- Attachment 3 Letter to Department of Planning and Environment - 9 September 2015 (Under Separate Cover)*
- Attachment 4 Gateway Determination - Extension - 7 March 2016 (Under Separate Cover)*
- Attachment 5 Gateway Determination - Extension - 1 May 2017 (Under Separate Cover)*
- Item 5.4 Draft Voluntary Planning Agreement - 18 Mecca Lane, Bungendore
- Attachment 1 Excerpt from Council Report - Voluntary Planning Agreement - 18 Mecca Lane - 26 March 2016 (Under Separate Cover)*
- Attachment 2 Draft Voluntary Planning Agreement - 18 Mecca Lane, Bungendore - 12 April 2019 (Under Separate Cover)*
- Item 6.1 ALGA Election Advocacy
- Attachment 1 ALGA - Resolution to Support Campaign (Under Separate Cover)*
- Attachment 2 ALGA 12 Key Federal Election Initiatives (Under Separate Cover)*

### **Closed Attachments**

- Item 5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang
- Attachment 3 DA.2018.192 - 2155 Collector Road, Currawang - Submissions (Under Separate Cover)*

**ITEM 2 DISCLOSURES OF 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.**



**ITEM 4    ADJOURNMENT FOR PUBLIC FORUM**

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As per clause 8.2 of Council's Code of Meeting Practice, the Chair will now move to adjourn the meeting to commence the Public Forum.

**Recommendation**

**That this meeting is adjourned for the commencement of Public Forum and upon its completion the meeting will reconvene.**





5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang (Ref: C1960282; Author: Thompson/Perkins)

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**Summary**

Council previously considered this development application at its meeting of 13 March 2019. At that meeting it was resolved that consideration of the application be deferred to hold a workshop where further information could be provided to Councillors. Items for discussion at the workshop were prefaced by councillors, with some drawn from issues raised by presenters at the public forum at the March meeting. The workshop was held on 17 April 2019 and included a presentation and questions of an independent acoustic consultant. The matter is now placed back before Council for determination.

***Workshop Summary***

The workshop provided an opportunity to have any queries posed by Councillors to be answered and discussed. A brief summary of the major issues discussed included:

*How this application related to the potential for future intensification of the use of the site under Division 18A of the Infrastructure SEPP (ISEPP)?*

Through the submissions from the applicant and supporters of the proposal, it is apparent that there is an intended future use of the site for a more sophisticated use as a military/security style gun range and training facility. Councillors sought clarification as to whether this should be taken into account when assessing the application presently before Council.

In summary, approving the recreational gun range would allow the NSW Police (or a person acting on their behalf) to utilise the facility as an emergency services facility without requiring any additional assessment or approvals from Council. This would include security type training. However, the activity would be restricted to the area approved in this DA including the range danger area. The activity being carried out 'by or on behalf of the NSW Police Force' requires more than that the NSW Police Force use from time to time as a firing range which is developed and operated by someone else. The development must in fact be 'carried out' by or on behalf of the NSW Police Force.

Any other NSW emergency services organisation could only utilise the facility if a further development application was submitted for their proposed use. The impacts of that development would be assessed at that time

The ISEPP does not facilitate the use of the land as a non-recreational firearms training facility by public or private security entities which fall outside the definition of 'emergency services organisation'. Accordingly, individuals or corporations and Commonwealth bodies (such as the AFP and Army) would not be able to use the facility for non-recreational purposes unless the ISEPP is amended to allow for this to happen.

*Can the approval restrict the activity to certain sections of the site?*

Yes. The information submitted with the DA only related to the impacts on flora and fauna in the south eastern portion of the site where the rifle range and building is proposed to be located. Consequently this was the only area assessed in terms of environmental impacts and is the area where the activity should be restricted to. The approval will therefore restrict the location of the activity to the rifle range and range danger area. It was noted that this restriction was not supported by the applicant who sought approval for use of the whole site.

**5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang (Ref: C1960282; Author: Thompson/Perkins) (Continued)**

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*Which roads will require upgrading and what is the likely cost?*

Both Lake George Road and Point Ondyong Road will require upgrading. The upgrade of these roads has been reviewed as follows.

The Lake George Road would require a 1m widening to a 6.2m wide pavement for the full 5.2km for an estimated cost of approximately \$140,400. The road standard requested is 3m less in width than specified in QPRC AUSSPEC#1 D1 Geometric Road Design for the Minor Local Road (unsealed) which has a width of 9.2m.

Point Ondyong Road is a crown road which is in poor condition consisting of a 4m wide gravel pavement for a distance of 1.6km from the termination of the public road (Lake George Road). The Point Ondyong Road would require full construction to a minimum width of 6.2m for the full 1.6km length for an estimated cost of approximately \$267,840. This road standard is 3m less in width than specified in QPRC AUSSPEC#1 D1 Geometric Road Design for the Minor Local Road (unsealed) which has a width of 9.2m.

*Noise Impacts*

Discussion was held on various aspects of the noise reports and modelling. Essentially Council has taken a conservative approach in accepting the noise report modelling which is based on testing conducted to the north of the site. The limitation of the range area under Condition 2 and the additional noise requirements in Condition 10) including the implementation of an ongoing testing and validation process prior to and throughout the operation of the range), reflect this conservative approach.

*Involvement of Firearms Registry*

Clause.92 of the *Firearms Regulation 2017* provides that the Commissioner must not grant an approval unless the shooting range has been approved by the local consent authority. Clause 93 of the *Firearms Regulation 2017* allows the Commissioner to impose such conditions on an approval as the Commissioner thinks fit. If consent is granted the Council should also communicate with the Commissioner to ensure that any range approval under the *Firearms Regulation* aligns with the scope and conditions of the consent. The need to obtain approval from the Firearms Registry is an accepted fact and will ensure the facility is operated safely.

The remainder of this report is reproduced from the report presented to Council on 13 March 2019. The only changes made have been the addition of draft Condition 11B which has been added to correct an omission from the previous report.

**11B Recreational Use**

*The use of the range is to be limited to recreational purposes and is not to be used in the course of, or for the furtherance of, employment.*

*Reason: To ensure that the ongoing use of the site is consistent with that for which consent was sought.*

**5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang (Ref: C1960282; Author: Thompson/Perkins) (Continued)**

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***Report***

This application has been referred to Council as more than six submissions have been received.

Proposal:	Recreation Facility (Outdoor)
Applicant/Owner:	F.Burns / Burns Property Company Pty Ltd
Subject Property:	Lot 114 and 200 DP750008 and Lot 149 DP750013, 2155 Collector Road, Currawang
Zoning and Permissibility:	RU1 Primary Production Zone under Palerang Local Environmental Plan 2014
Public Submissions:	Fifty (50)
Issues Discussed:	Planning Requirements Noise Impacts Flora and Fauna
Disclosure of Political Donations and Gifts:	Applicant Declared no Donations or Gifts to any Councillor or Staff have been made. <i>(Note: error present on initial application form that was subsequently corrected by Applicant)</i>

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**Recommendation**

**That:**

- 1. Development application DA.2018.192 for a Recreation Facility (Outdoor) on Lot 114 and 200 DP750008 and Lot 149 DP750013, 2155 Collector Road, Currawang be granted conditional approval subject to a reduced development footprint.**
  - 2. Those persons who lodged a submission(s) on the application be advised in writing of the determination of the application.**
  - 3. The Department of Industry (Crown Lands) be forwarded a copy of Council's Notice of Determination.**
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**Background**

***Previous Applications***

DA.2017.289 - was lodged by ATS Group and sought development consent for the use of the subject site for the purposes of a shooting range under the provisions of *State Environmental Planning Policy (Infrastructure) 2007*. DA.2017.289 was withdrawn by the applicant prior to determination.

***Proposed Development***

The subject development application seeks consent for the use of the land as a recreation facility (outdoor).

The specific elements of the proposal are as follows:

- Use of the entire site as a recreational facility (outdoor) – rifle range comprising:

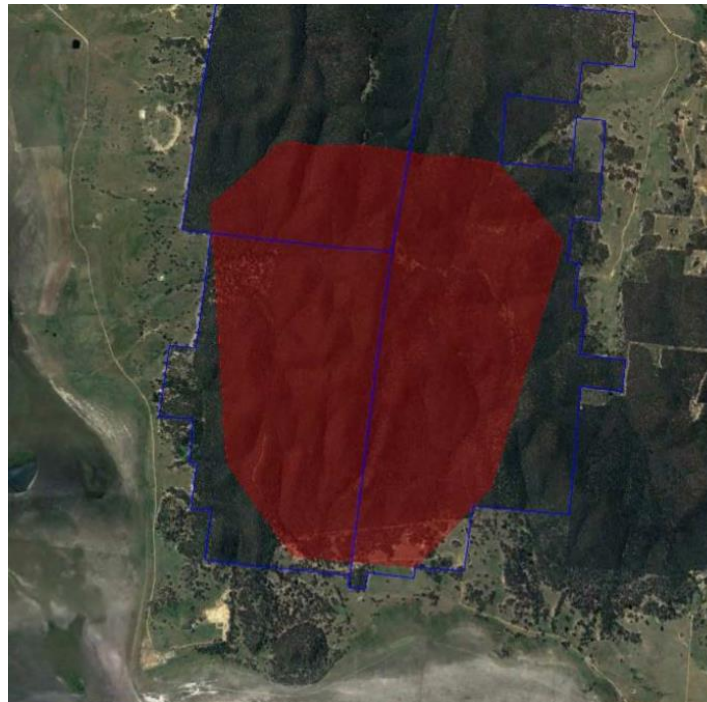
**5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang (Ref: C1960282; Author: Thompson/Perkins) (Continued)**

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- Operation from 10:00am to 5:00pm 7 days
- Operation from 5:00pm to 10:00pm up to 3 nights per week
- Maximum of 35 users at any one time
- Construction of firing lines and target area including bullet catchers.
- Implementation of associated range danger area (see Figure 1 below).
- Construction of an ancillary shed structure comprised of:
  - Office Area
  - Toilet and Shower
  - Kitchenette
  - Vehicle parking bays
  - Storage area
  - Covered Outdoor Area
- The use of the site for storage and use of a mobile (Live Fire Range in a Box) (LFRiB)

The applicant proposes the development be undertaken in 5 stages being as follows:

- Stage 1: Earthworks for firing lines and target areas;
- Stage 2: Earthworks for hangar and access upgrades;
- Stage 3: Erection of Section 2 of hangar (main storage area, amenities and office);
- Stage 4: Erection of Section 3 (covered outdoor area) of hangar; and
- Stage 5: Erection of Section 1 (vehicle parking area) of hangar.



**Figure 1 - Indicative Range Safety Template**

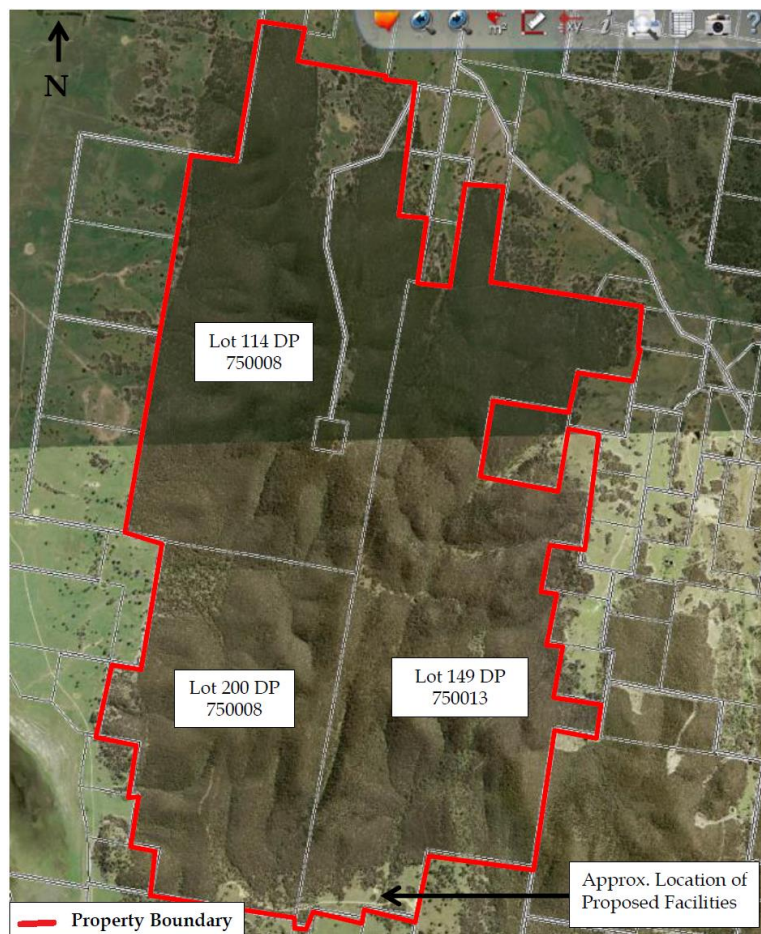
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***Subject Property***

The subject site is legally described as Lot 114 and 200 DP750008 and Lot 149 DP750013, and is commonly known as 2155 Collector Road, Currawang. The site is located at the northern end of Lake George east of Collector Road and has an area of 1,932.1ha (See Figure 2 below).

Vehicular access to the site is provided to the south from Lake George Road via a crown road colloquially known as Point Ondyong Road and to the north from Collector road via a right of carriageway over Lot 2 DP1072611 and Lot 149 DP750013 and a crown road. A central fire trail traverses north-south linking the two access point.

The vast majority of the subject site consists of grassy woodland vegetation though several distinct clear areas exist in the far north and far south portions of the site.



**Figure 2 - Site Plan**

***Planning Requirements***

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

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

- Palerang Local Environmental Plan 2014 (LEP).
- Palerang Development Control Plan 2015 (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:

**(a) Compliance with LEP**

The subject site is zoned RU1 Primary Production zone under the PLEP 2014. Development for the purposes of Recreation facilities (outdoor) are permissible with consent within the zone. The proposed development is considered to be generally consistent with the objectives of the zone and satisfies the relevant development standards (Refer Attachment 1 for detailed assessment).

**(b) Compliance with DCP**

While the Palerang Development Control Plan (PDCP) 2015 applies to the subject application the PDCP contains no specific controls for development for the purposes of an outdoor recreation facility. Nonetheless, the proposed development is consistent with the general provisions of the PDCP 2015 (Refer Attachment 1 for detailed assessment).

**(c) Other Matters**

**Noise**

In recognition of the noise generating nature of the proposed development the subject application was accompanied by a Noise Impact Assessment and Addendum prepared by Harwoods Acoustics.

This assessment finds the proposed development as satisfying the NSW EPA's publication "*Target Shooting Ranges: Application Note for Assessing Compliance*" at the southern end of the site for use 7 days per week (10:00am to 5:00pm) and 3 nights per week (5:00pm to 10:00pm).

While this report makes comments in relation to potential use of the remainder of the site at a reduced capacity, the subject application, seeking approval for the use of the entire site as a range yet locating targets only within the south-eastern corner of the site, is ambiguous in relation to the intended use of the remainder of the site and as such it is difficult for Council to give appropriate consideration to the impacts of such uses.

Therefore, it is considered appropriate to take a conservative approach and as such it is recommended that the range approval be limited to the project area upon Lot 149 DP750013 identified within Figure 1.2 of the Terrestrial Flora and Fauna Assessment Report prepared by Umwelt (Australia) Pty Limited (See Figure 3 below) with the range danger area extending onto Lots 114 DP750008 and Lot 200 DP750008 as shown in Figure 1 above.

It is important to note that the applicable noise criteria established by the EPA does not mean that noise generated by the development will not be audible at surrounding receivers, rather that the noise satisfies what is deemed as an acceptable level.

With this in mind, while the acoustic modelling accompanying the subject application has established the maximum possible operation of the development being 7 days per

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week (10:00am to 5:00pm) and 3 nights per week (5:00pm to 10:00pm), it should be noted that this does not limit Council's ability to further restrict the development.

In considering the ancillary residential uses of surrounding properties it is considered appropriate that a level of respite be provided to residents, and as such a condition of consent is recommended limiting operation to 5 days per week (10:00am to 5:00pm) and 3 nights per week (5:00pm to 8:30pm).

Council has also sought comment from an independent acoustic consultant who has made the following recommendations in relation to the use of the site for the purposes of a rifle range to ensure ongoing accountability throughout the operation of the site:

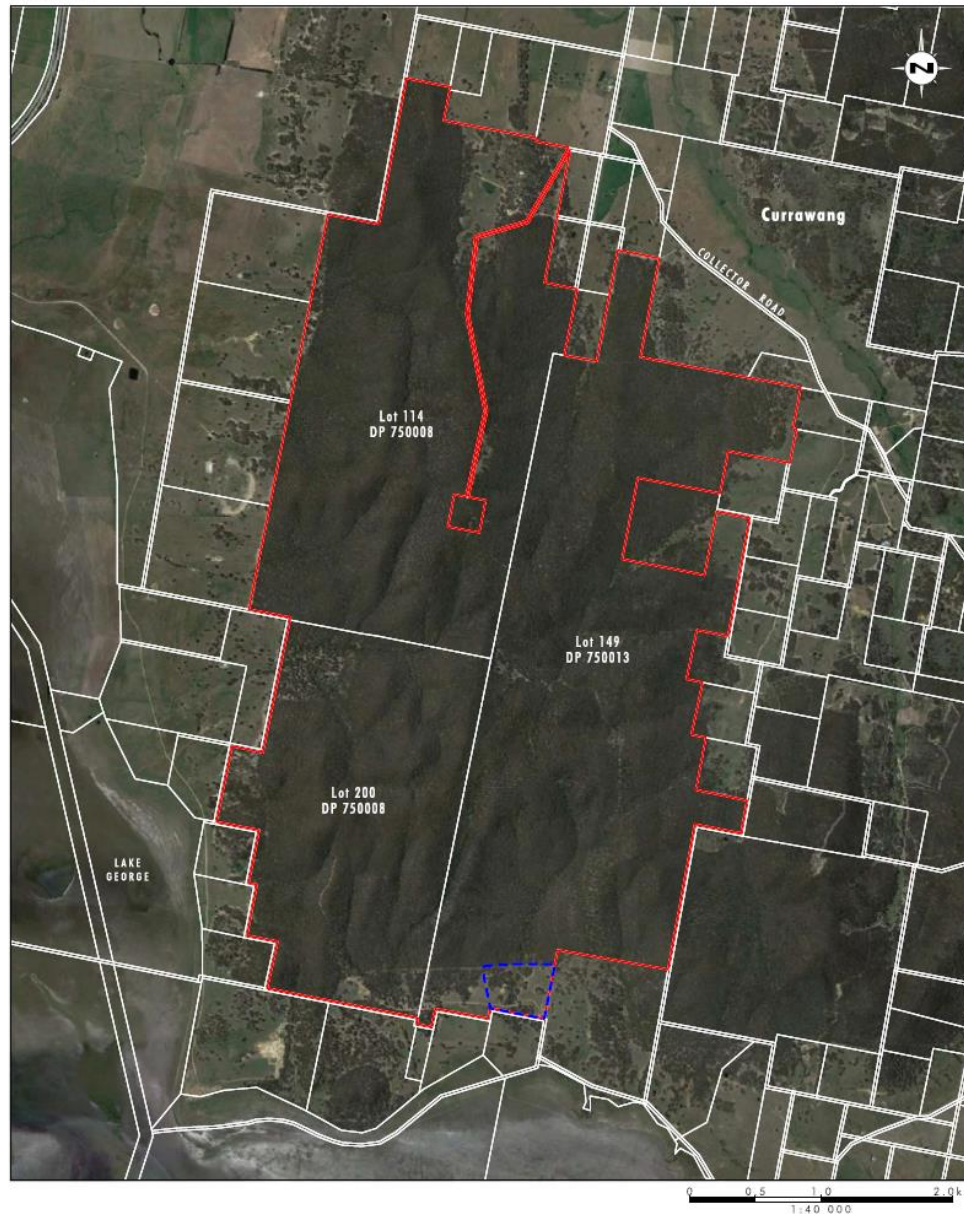
**Note:** these measures are included in the recommended conditions of consent.

- *Attended noise monitoring must be undertaken at the first practical instance at each of the three nearest receivers, to confirm noise levels from firearms comply with appropriate limits. The monitoring must include a full standalone assessment of the known noisiest firearm being used at the locations closest to each of the three nearest receivers and be undertaken in accordance with the EPA's Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015).*
- *Attended noise monitoring must thereafter be undertaken at 6 months and at 12 months from the commencement of operations. The monitoring must include a full standalone assessment of the known noisiest firearm being used at the locations closest to each of the three nearest receivers and be undertaken in accordance with the EPA's Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015).*
- *After one year, attended noise monitoring must thereafter be undertaken annually. The monitoring must include a full standalone assessment of the known noisiest firearm being used at the locations closest to each of the three nearest receivers and be undertaken in accordance with the EPA's Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015).*
- *The proponent must keep records of any occasion where attended noise monitoring could not be carried out due to adverse weather conditions (e.g. high wind speeds) or high levels of background noise. This information must be presented to Council upon request.*
- *Prior to the first use of the site the proponent is to establish a publically accessible website for the ongoing reporting of noise monitoring results. Details of the website are to be forwarded to surrounding residences.*
- *Copies of the following information is to be publically available on the website:*
  - i. *All current statutory approvals for the project;*
  - ii. *All approved strategies, plans and programs required under conditions of approval;*
  - iii. *A comprehensive summary of the monitoring results of the project, reported in accordance with the specifications in any conditions of consent, or any approved plans and programs;*
  - iv. *A complaints register updated on a monthly basis;*
  - v. *A 24-hours telephone number on which complaints can be registered;*
  - vi. *A postal address to which complaints may be sent;*
  - vii. *An email address to which complaints may be sent;*
  - viii. *A calendar of what days the facility will be used; and*
  - ix. *Any independent environmental audit of the project and the proposed response to the recommendations in any audit*
- *Attended noise monitoring results must be posted within seven days on the*

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proponent's website and submitted to council to allow for public access to this information.

- All compliance reports should include all details requested in section 6 of the EPA's Target Shooting Ranges: Application Note for Assessing Noise Compliance (2015).
- Maintain a record of all complaints for at least four (4) years after the complaint was made.



Legend  
 Study Area  
 Project Area

FIGURE 1.2  
 Study Area

File Name [A4]: R02/4199\_001.dgn  
 20180831 11.03

Figure 3: Site plan – restricted range area shown in blue



**5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang (Ref: C1960282; Author: Thompson/Perkins) (Continued)**

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***Flora and Fauna***

The subject application was accompanied by a Terrestrial Flora and Fauna Assessment Report prepared by Umwelt (Australia) Pty Limited giving consideration to the impacts of the development upon threatened flora and fauna species upon the site and within the locality. This report identifies the subject site as containing areas of dry grassy woodland, dry forest, derived native grassland and exotic pasture. The proposed development was found to require the removal of 620m<sup>2</sup> of dry grassy woodland and 40m<sup>2</sup> of derived native grassland.

The proposed development involves no works in mapped vegetation areas and was found to be unlikely to result in any significant impacts upon any threatened flora or fauna species or its habitat. . As such, the proposed development does not trigger the thresholds of the Biodiversity Offsets Scheme under the Biodiversity Conservation Act 2016.

***Bushfire***

Bushfire 4.14 of the *Environmental Planning and Assessment Act 1979* requires that for development on bushfire prone land such as the proposed development, consideration be given to the compliance of the development with the requirements of the NSW Rural Fire Services publication *Planning for Bushfire Protection 2006*.

The proposed development is considered to satisfy the requirements of the *Planning for Bushfire Protection 2006* subject to conditions of consent requiring no shooting take place during extreme or catastrophic fire weather conditions, the preparation and implementation of an Emergency and Evacuation Plan prepared in accordance with the NSW RFS' *Development Planning – A Guide to Developing a Bushfire Emergency Management and Evacuation Plan*.

***Contamination***

The proposed development involves the use of lead based bullets upon the subject site and has the potential to result in the contamination of the site. The applicant proposes the use of bullet traps and lead free ammunition where possible to minimise the potential for contamination.

While the applicant has acknowledge the potential for contamination it is considered appropriate that suitable measures including ongoing monitoring, mitigation and remediation be put in place prior to the commencement of the use of the site as to minimise impacts.

The Victorian Environment Protection Authority has prepared a guide for the management of contamination at shooting ranges that establishes a number of best practice measures for the monitoring and mitigation of potential contamination as a result of the operation of shooting ranges. A condition of consent is recommended requiring the preparation of a plan of management in accordance with the guideline that is to be implemented throughout the ongoing operation of the site. Further, a condition of consent is recommended requiring that should at any point the use of the site as a recreation facility (outdoor) - rifle range cease for a period of more than 12 months or the use be abandoned, the site is to be remediated in accordance with a Remediation Action Plan prepared by a suitably qualified professional.

***Surrounding Land uses***

Surrounding properties are primarily utilised for broad scale agricultural grazing practices with ancillary dwellings including a number of home based occupations. In

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considering the compatibility of the development with surrounding land uses it is important to give consideration to the overall scale of the development. The subject application seeks consent for the use of the site for the purposes of a recreational shooting facility for use by a maximum of 35 people at a time 7 days per week and 3 nights per week. In recognition of the recommended conditions of consent previously discussed throughout this report limiting the range area to within the project area identified within Figure 1.2 of the Terrestrial Flora and Fauna Assessment Report prepared by Umwelt (Australia) Pty Limited (See Figure 3 above) and limiting operation to 5 days and 3 nights per week and requiring ongoing acoustic audits the proposed development is considered to be of a scale and intensity that is compatible with surrounding land uses.

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

Council's Development Engineering section raised no objection to the proposed development subject to imposition of the recommended conditions of consent including a condition that the required road upgrade works be undertaken as part of Stage 1 of the development prior to any use of the site commencing so as to ensure for the provision of suitable access to the site.

Council's Engineer noted that as the proposed development is being limited to the southern portion of the site required road upgrade works are limited to the crown roads between Lake George Road and the subject site as the existing northern entry road is suitable in its current state for emergency access purposes. Should any future development be undertaken upon the northern portion of the site, further upgrade works will be required.

**(b) Environmental Health Comments**

No objection was raised to the proposed development subject to conditions of consent.

**(c) NSW Department of Lands Comments**

The proposed development seeks to utilise Crown Roads to access the subject site. As such, the subject application was referred to the NSW Department of Lands for comment as the roads authority. NSW Department of Lands raised no objection to the proposed development subject to the transfer of the affected Crown Roads to Council ownership. Council's Development Engineer raised no objection to this transfer subject to the upgrade of the road structure to Council's standard at no cost to Council.

**Engagement**

The proposal required notification under Part E of the Palerang Development Control Plan 2015 from 17 October 2018 to 15 November 2018. 50 submissions were received. The relevant issues raised are as follows:

***Issue: Permissibility***

Concern was raised over the permissibility of the proposed development under the Palerang Local Environmental Plan 2014

*Comment:* Development for the purposes of Recreation Facilities (Outdoors) are permissible with consent upon the subject site.

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***Issue: Impact upon neighbouring properties – residences, uses and livestock***

Concern was raised over the potential impacts of the development upon neighbouring properties and their existing or potential future land uses.

*Comment:* Consideration has been given throughout this assessment to the potential impacts of the proposed development upon the existing surrounding uses consisting predominantly of broad scale agricultural grazing, associated rural dwellings and a number of home businesses/occupancies. It has been determined that with the imposition of certain conditions of consent relating to range areas, hours of operation and user numbers the proposed development is considered unlikely to result in any significant impacts upon surrounding uses. It should be noted that Council is unable to give consideration to potential future uses of surrounding lots. Such future uses would at the time require consideration with surrounding existing uses, including the subject development should it be approved.

***Issue: Political donations declaration***

Concern was raised over an inconsistency between the initial Development Application form and Political Donations form submitted by the Applicant.

*Comment:* The Development Application form accompanying the subject application erroneously identified the applicant as having made a political donation. This matter was subsequently clarified with the applicant and an updated form submitted noting that no reportable political donation had been made.

***Issue: Potential further development***

Concern was raised over potential future development of the site.

*Comment:* In considering the subject application Council as the consent authority is required to view the subject application as a standalone proposal and cannot speculate about potential further development of the site.

***Issue: Owner/ Applicant***

Concern was expressed regarding who the owner of the site and applicant of the subject application and their relationships with certain companies.

*Comment:* Council is unable to give any weighting to identity of the applicant or owner throughout the assessment of any development application.

***Issue: Availability of existing ranges***

Concern was raised over the need for the proposed development in recognition of the availability of other ranges in the region.

*Comment:* The availability of other such ranges has no weighting in Council's assessment of the subject application as the financial viability of any proposed development is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

***Issue: Contamination***

Concern was raised over potential lead contamination as a result of the proposed development.

*Comment:* This matter has been discussed in the under the *Other Impacts* section of this report.

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***Issue: Compatibility with Council's strategic plans***

Concern was raised that the proposed development was inconsistent with Council's strategic plans (QPRC Tourism Plan, QPRC Regional Economic Development Strategy and QPRC ICT Strategic Plan).

*Comment:* The proposed development is not considered to limit the ongoing implementation of Council strategic plans and policies throughout the local government area.

***Issue: Previous DA***

Concern was raised over the relationship of the subject application with a previous development application upon the site.

*Comment:* The subject application is a standalone development application and is required to be assessed accordingly. While the subject application seeks to rely upon acoustic modelling undertaken to support the previous application this information has been relied upon as fit for purpose data for the purposes of the subject application.

***Issue: Maximum Occupancy***

Concern was raised in relation to the maximum number of occupants upon the site including comments in relation to events.

*Comment:* Conditions of consent are recommended limiting maximum occupant numbers to 35 people at any one time and requiring further development consent be obtained for the purposes of events.

***Issue: Property values/ insurance***

Concern was raised over potential impacts of the development upon surrounding property values.

*Comment:* Impacts of development upon property prices is not a matter for consideration under the heads of consideration under Clause 4.15 of the Environmental Planning and Assessment Act 1979.

***Issue: Burden on Council resources – enforcement***

Concern was raised over potential demand upon Council resources as a result of ongoing compliance action.

*Comment:* Council is unable to give consideration to potential non-compliance in throughout the development assessment process.

***Issue: LFRIB***

*Concern was raised over the potentially commercial use of the LFRIB and its compatibility as part of the proposed outdoor recreation facility.*

*Comment:* Conditions of consent are recommended requiring that the use of the range be for recreational purposes only and not training activities. It is also noted that a condition of consent is recommended requiring the LFRIB be relocated to within project area to the south of the site.

***Issue: Medical Conditions***

Concern was raised by several submitters regarding potential impacts of the development upon medical conditions from which they suffer.

**5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang (Ref: C1960282; Author: Thompson/Perkins) (Continued)**

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*Comment:* While Council accepts that some individuals may be impacted by certain types of development more than others, personal circumstances are not a ground able to be taken into consideration under the heads of consideration of Clause 4.15 of the Environmental Planning and Assessment Act 1979.

***Issue: Collector Road Load Limit***

Concern was raised over the potential use of semi-trailers in recognition of the 10 tonnes load limit applicable to the portion of Collector Road from Collector.

*Comment:* Use of Collector Road by over mass vehicles would be controlled by the National Heavy Vehicle Regulator under the over size, over mass permit process.

***Issue: Noise – Hours of operation***

Concern was raised over potential noise impacts of the development including the suitability of the proposed hours of operation.

*Comment:* This matter has been discussed in detail throughout this report and conditions of consent are recommended limiting the range area, days of operation and hours of operation and requiring ongoing acoustic audits as to ensure that the proposed development is of a scale and intensity that is compatible with surrounding land uses.

***Issue: Bushfire risk***

Concern was raised over potential increased bushfire risk as a result of the proposed development.

*Comment:* This matter has been addressed previously throughout this report and suitable conditions of consent are recommended to ensure compatibility of the development with the bushfire risk present upon the site.

***Issue: Proposed Events***

Concern was raised over a lack of information regarding proposed events.

*Comment:* In recognition of the lack of detail relating to proposed events a conditions of consent is recommended requiring further development approval for such activities.

***Issue: Weapons and Ammunition***

Concern was raised over the presence of additional volumes of weapons and ammunition within the locality as a result of the development.

*Comment:* The lawful handling and storage of weapons and ammunition if controlled by the NSW Police as is not a matter for consideration under the subject application. Nonetheless, no long term storage of weapons or ammunition is proposed upon the subject site.

***Issue: Helicopters***

Concern was raised over potential use of the site by helicopters.

*Comment:* While no such use is directly proposed a condition of consent prohibiting the use of aircraft upon the site is recommended.

**5.1 Development Application - DA.2018.192 - Recreation Facility (Outdoor) Rifle Range - 2155 Collector Road, Currawang (Ref: C1960282; Author: Thompson/Perkins) (Continued)**

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***Issue: Access to the site***

Concern was raised over ability of surrounding residents to retain access to the subject site that was provided by historical land owners.

*Comment:* This a matter between private parties and is not relevant to the subject application.

**Conclusion**

The subject application seeks consent for the purposes of a Recreation Facility (Outdoor) upon, Lot 149 DP750013, Lot 200 DP750008 114 DP750008, 2155 Collector Road.




The proposal was notified to adjoining owner/occupiers and 50 submissions were received.

The proposal has been assessed under Section 4.15 *Environmental Planning & Assessment Act 1979* and found to satisfy the relevant provisions of *Palerang Local Environmental Plan 2014* and *Palerang Development Control Plan 2015*.

Subject to restriction of the development by way of conditions of consent limiting the range area, days of operation and hours of operation and requiring ongoing acoustic audits as to ensure that the proposed development is of a scale and intensity that is compatible with surrounding land uses and is considered unlikely to result in any significant impacts; and subject to the imposition of the recommended conditions of consent, there are insufficient planning reasons to warrant refusal of this application.

As such, it is recommended that DA.2018.192 be granted conditional approval.

**Attachments**

- Attachment 1  DA.2018.192 - 2155 Collector Road, Currawang - 4.15 Assessment Report (*Under Separate Cover*)
- Attachment 2  DA.2018.192 - 2155 Collector Road, Currawang - Plans (*Under Separate Cover*)
- Attachment 3 DA.2018.192 - 2155 Collector Road, Currawang - Submissions (*Under Separate Cover*) - **CONFIDENTIAL**
- Attachment 4  DA.2018.192 - 2155 Collector Road, Currawang - Draft Conditions (*Under Separate Cover*)

5.2 Planning Proposal - West Jerrabomberra (Ref: C1956976; Author:  
Thompson/Brown)

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**Summary**

The purpose of this report is to advise Council of the outcomes of the recent exhibition of the planning proposal for West Jerrabomberra and to recommend that Council now forward the draft plan to the NSW Department of Planning and Industry requesting it be made by the Minister (or delegate) incorporating the additional changes as outlined in this report.

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**Recommendation**

**That Council:**

1. **Note the outcomes of the public exhibition process.**
  2. **Agree to the changes to the draft plan for West Jerrabomberra as outlined in this report.**
  3. **Forward the planning proposal to the Department of Planning and Industry requesting the Minister (or delegate) make the draft plan as amended.**
  4. **Commit to revisiting the proposed additional uses raised in submissions to determine the suitability of including these in a planning proposal at a later date.**
- 

**Background**

Council has been progressing a number of draft planning proposals in recent years with the general aim of finalising the agreed planning framework for the broader South Jerrabomberra urban release area. This includes progressing a draft plan for land known as North Tralee which has been identified for employment related uses under the *Queanbeyan Residential and Economic Strategy*.

In addition to finalising the rezoning of employment lands at North Tralee, Council is also seeking to rezone additional lands at the Poplars to the north. Whilst the original Poplars LEP was gazetted in 2013, the draft LEP for North Tralee has never been finalised. In 2017 the Department of Planning requested that Council prepare a new single planning proposal that covers both parcels of land. This combined area is known as West Jerrabomberra.

**5.2 Planning Proposal - West Jerrabomberra (Ref: C1956976; Author: Thompson/Brown) (Continued)**

The area covered by the Planning proposal is shown outlined in red in Figure 1 below.



**Figure 1 – Area covered by West Jerrabomberra Planning Proposal**

Council resolved to exhibit a draft plan for West Jerrabomberra at its Planning and Strategy Meeting on 10 October 2018. The draft plan was subsequently placed on public exhibition from 19 February 2019 to 26 March 2019. A copy of the exhibited Plan is shown in Attachment 1. A total of sixteen (16) submissions were received during that period. One of the submitters also provided an additional late submission on 16 April 2019 which has also been considered.

A summary of submissions received and Council's response to those submissions is shown at Attachment 2.

The submissions received both supported and objected to certain elements of the planning proposal.

Others requested changes to proposed zones and/or permissible land uses within those zones. Some of these fall outside the category of "minor" changes and is likely to require a new planning proposal, Gateway determination and re-exhibition.

The key matters in the submissions are addressed in the Summary of Submissions at Attachment 2 and in further detail below.



**5.2 Planning Proposal - West Jerrabomberra (Ref: C1956976; Author: Thompson/Brown) (Continued)*****Flood Planning***

In respect of submissions from public authorities, most were generally supportive of the draft plan with the exception of the Office of Environment & Heritage's Flood Team. Whilst not expressly objecting to the draft plan, the OEH Flood Team have argued a Floodplain Risk Management Plan should be prepared for the land prior to it being rezoned for the intended uses.

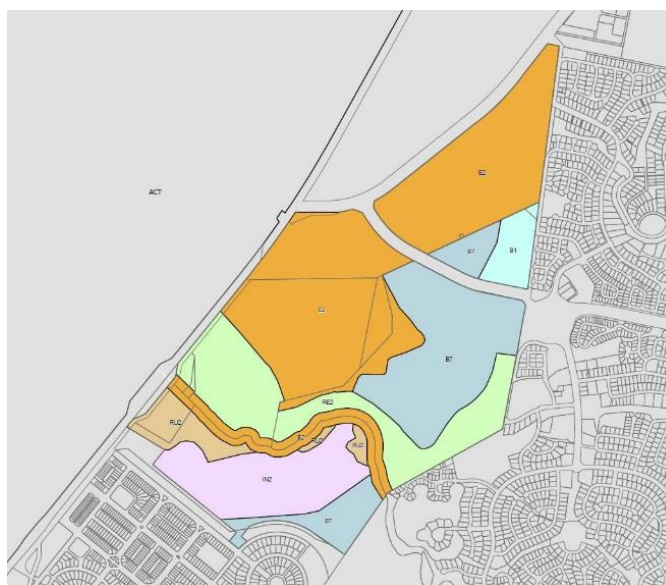
Council's planning approach to the issue of flooding has been to ensure all proposed development of the site is carried out above Council's standard Flood Planning Level, defined as the 1:100 ARI plus 0.5 metre freeboard. This level generally applies to residential development only, however has also been applied to this land to ensure a conservative position is established in respect of potential flood impacts for future sports, business and light industrial uses proposed for the land. No residential uses are proposed on the subject land.

There is no requirement under the respective NSW planning direction (ie 4.3 - *Flood Prone Land*) that a Floodplain Risk Management Plan be prepared for all land prior to any land within a catchment being rezoned. The relevant planning guideline (*Guideline on Development Controls on Low Flood Risk Areas*) notes that unless there are exceptional circumstances, councils should adopt the 100 year flood as the relevant flood planning level.

Further comments in response to this submission are provided in the summary of submissions at Attachment 2. Council is of the view the proposed flood levels are accurate, based on independently reviewed information, consistent with relevant State policy and are a suitable basis to inform the future development of the site.

***Proposed IN2 Light Industrial Zone***

Council received submissions both supporting and opposing the proposed IN2 Light Industrial zone in the planning proposal. Those supporting the proposed zone noted there is a genuine demand throughout Queanbeyan and the broader region for light industrial land. This is supported by Council's *Queanbeyan Residential and Economic Strategy* which identifies a need for this type of employment land. The planning proposal identifies 14.25ha of IN2 Light Industrial land at North Tralee (not including the proposed Regional Sports Facility site) and is shown pink in the proposed zoning map in Figure 2 below. The demand and need for suitable light industry land is acknowledged.



**Figure 2 – Proposed Zoning Map**

**5.2 Planning Proposal - West Jerrabomberra (Ref: C1956976; Author: Thompson/Brown) (Continued)**

Those opposing the proposed IN2 Light Industrial zone are primarily concerned about the consistency of the zone with other current and proposed land uses in the area (particularly residential) and a concern such development would impact on the amenity of these other land uses. Submitters have suggested the land should instead be zoned B7 Business Park similar to other employment lands proposed under the draft plan.

As shown in the planning proposal, the proposed IN2 Light Industry land will be separated from any existing residential land at Jerrabomberra by both the proposed B7 Business Park zoned land and the Northern Entry Road. It is estimated the proposed IN2 land will be located at least 200m from any existing residential land at Jerrabomberra. As a comparison, much of the existing IN2 Light Industrial lands in other parts of Queanbeyan are located closer than this distance to residential zoned land. The buffer distance for proposed residential development at South Jerrabomberra from 'general industry' at Hume in the ACT is 250m.

'Light industry' is defined as: *'means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following: 'high technology industry', 'home industry', 'artisan food and drink industry'.*

Accordingly, 'light industries' cannot by their definition create noise or air emissions that impact on the amenity of other nearby uses, including residential. Potential visual impacts can also be managed through suitable design requirements in planning controls. Prior to any development of this land, current controls require an applicant to prepare a master plan, as approved by Council, to be included in the respective development control plan and prior to any development application being lodged. This represents an additional opportunity to ensure any subsequent development is of a high quality and consistent with the visual amenity expectations for the area. Council's experience is that more recent developments on IN2 Light Industry zoned land are of a relatively high urban design (such as Lorn Rd), and unlikely to contribute to poor visual amenity in the neighbourhood. This example is also sited close to residential areas.

Notwithstanding the above it should also be noted that 'light industries' are also a mandated permissible use in the B7 Business Park zone under the Standard Instrument, so cannot be removed from that zone as requested by some submitters. So even if the zoning was changed to B7, light industries would still be permitted.

Further, the proposed Regional Sports Facility (RSF) is not permissible on land zoned B7 Business Park (i.e. 'recreation area (outdoor)') at this time. As a consequence, changing the zone at this time would introduce uncertainty in respect of the permissibility of the RSF on the site in the future.

Council previously engaged acoustic consultants (Renzo Tonin) to undertake an assessment of any potential noise impacts on the existing residential areas of Jerrabomberra. The findings of this report were subsequently included in the local environmental study prepared for the North Tralee site. It recommended that:

1. an acoustic buffer mound be constructed between the proposed employment lands and existing residential development at Jerrabomberra as part of any future development, and
2. that future developments provide detailed acoustic advice to demonstrate noise levels will not exceed those set out by the NSW Environmental Protection Authority's 'Industrial Noise Policy', and
3. that future design and landscaping of the area be undertaken in a manner that reduces the potential for noise impacts on residential areas.

**5.2 Planning Proposal - West Jerrabomberra (Ref: C1956976; Author: Thompson/Brown) (Continued)**

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Accordingly these actions will be considered as part of any development applications for any future subdivision of the land.

Initial discussions with the Department of Planning and Industry have also confirmed that any changes to the draft zones outlined in the current planning proposal at this time are likely to require a new planning proposal to be drafted, a new Gateway determination issued and re-exhibition of the draft plan.

It is recommended that Council proceed with the proposed IN2 Light Industry zone under the draft plan for the following reasons:

- IN2 Light Industry by its definition cannot impact on the amenity of other land uses in the neighbourhood. There will be no excessive noise or emissions associated with any development on the land and the site can be master planned to ensure any subsequent development is of a high urban design and does not detract from the visual qualities of the broader Jerrabomberra area.
- Providing IN2 Light Industry land is consistent with Council's *Residential and Economic Strategy*.
- The IN2 zone will ensure a wider range of services are provided in the local area to service the existing and future residents of Jerrabomberra.
- The IN2 zone will create certainty in respect of the permissibility of the RSF on the land.
- 'Light industries' are a mandated permissible use in B7 Business Park zones and so replacing the IN2 Light Industry zone with the B7 zone does not remove the potential for light industries to be developed on the land.
- Any changes to the proposed zones are likely to require a new planning proposal be prepared and resubmitted to the Department of Planning. This would delay any new rezonings on North Poplars, South Poplars and North Tralee for 12 months.
- A masterplan would be requested for the design of the IN2 estate

***Amend the Zoning of Proposed B7 Business Park Land at North Poplars to B6 Enterprise Corridor and Allow Additional Permitted Uses***

B6 Enterprise Corridor is a zone which is used to promote businesses along main roads and encourage a mix of compatible uses, including retail. This zone (as proposed) is not considered appropriate in this locality at this time.

Probably the most significant concern is allowing 'shops' as a permissible use in the zone. There is a genuine risk that a proliferation of such developments would likely undermine the capacity of the surrounding network to accommodate the high traffic movements that are associated with such uses. There is also a concern that allowing a significant increase in floor space for such uses may undermine the viability of the existing CBD in Queanbeyan where there are currently significant vacancies. In addition, Council does not have any land currently zoned B6 and this would introduce an entirely new zone under Council's respective planning controls.

Some of the proposed additional uses may have merit such as 'registered clubs', 'markets' and 'food and drink premises'. However, including those uses at this time is seen as a significant change to the plan. These proposed land uses should be revisited during preparation of the new comprehensive LEP to determine if they are appropriate to include more broadly in the B7 zone.

***Ensure Permissibility of School Site***

The comments in respect of ensuring the permissibility of the proposed high school site are supported. However, rather than adding 'educational establishments' as a permitted use

**5.2 Planning Proposal - West Jerrabomberra (Ref: C1956976; Author: Thompson/Brown) (Continued)**

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generally in the RE2 zone, it is recommended this be done via a site specific addition under Schedule 1 of the proposed LEP. This is to ensure 'educational establishments' are not generally permissible more broadly in the RE2 Private Recreation zone.

***Permissibility of Places of Public Worship***

A late submission was received on 16 April 2019 which is requesting that 'place of public worship' be added as permitted with consent in the land use tables of both the B7 Business Park and RE2 Private Recreation zones. Justification for this are given as follows:

- The wider locality will comprise residential and employment lands uses and providing a Place of Worship for the catchment area is desirable.
- The land use is considered consistent with both zone objectives.
- Place of Worship is permitted in several land use zones under the *Queanbeyan LEP 2012*.
- The inclusion would only be a minor amendment to the Planning Proposal.

Whilst these uses are potentially suitable at West Jerrabomberra, it is not considered appropriate to provide for 'places of public worship' in the RE2 zone as this zone also applies more broadly throughout the Queanbeyan-Palerang area. Accordingly the implications of this use being permissible in the zone needs to be further considered. However, as the B7 zone will only apply at West Jerrabomberra, it is considered an acceptable additional use in that zone.

***Impacts on Existing Residential and Environmental Zoned land***

Some submitters raised concerns about impacts of the proposed zones on existing residential and environmentally zoned land. Issues raised included ensuring there were adequate buffers between uses to minimise environmental impacts.

As noted, developers are required to provide masterplans for any proposed developments and these will need to demonstrate there are no inappropriate impacts on adjoining or nearby lands. Riparian land is proposed to be zoned E2 Environmental Conservation consistent with its values.

***Zone Regional Sports Facility: RE1 Public Recreation***

A number of submitters suggested the proposed Regional Sports Field (RSF) site should be zoned RE1 Public Recreation rather than IN2 Light Industry.

Given the final boundaries of the RSF are still to be determined, it is considered appropriate to continue with the proposed IN2 Light Industry zone for the site as 'Recreation facilities (outdoor)' are permissible in this zone. Once the final boundaries of the RSF have been resolved, Council will zone the land to a more appropriate zone in the future.

***Other matters***

*Heritage* - Council has undertaken further background studies on the former Fraser Park canteen site and has subsequently determined it should also be listed as a local heritage item under the draft plan. The feature was constructed by the same stonemason and at the same time as the monuments on the adjacent Envirova property. A copy of this background work is shown at Attachment 3.

*Contamination* - The landowner has prepared a report in respect of potential contamination associated with the land (see Attachment 4). That report notes some material containing waste (including asbestos) will need to be stockpiled and removed from the site prior to any development occurring. Council will ensure these works are undertaken as part of any future development consent.

**5.2 Planning Proposal - West Jerrabomberra (Ref: C1956976; Author: Thompson/Brown) (Continued)**

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**Implications*****Environmental***

Areas of the Poplars site have previously been zoned for environmental conservation purposes. Riparian lands under this draft plan are proposed to also be zoned E2 Environmental Conservation.

***Asset***

Council intends to acquire part of the North Tralee site for the purposes of the Regional Sports Facility.

***Social / Cultural***

The draft plan will provide for the permissibility of a high school site at West Jerrabomberra as required under the relevant State planning agreement.

The draft plan will also provide for a significant recreational facility to service Queanbeyan and the broader community.

***Economic***

Both the initial development and ongoing uses of West Jerrabomberra as employment lands will generate significant economic benefits to the community and Region over many years. The zoning also provides for significant local employment options for residents of Queanbeyan and the broader region.

***Strategic***

The draft plan is considered to be consistent with the Queanbeyan Residential and Economic Strategy and provides for significant local employment options to complement the proposed residential development at South Jerrabomberra.

***Engagement***

The draft plan has been the subject of public consultation as required under the Environmental Planning & Assessment Act, 1979. A Summary of Submissions received is shown at Attachment 2.

***Financial***

The costs of this planning proposal have included administrative and advertising costs which have been met from the relevant Branch budgets as provided by the Operational Plans.

***Resources (including staff)***

The draft plan has been progressed in-house by Council staff.

**Conclusion**

Council has received a wide range of comments on the draft Planning Proposal for West Jerrabomberra. A number of comments have requested substantial changes to zones or land uses proposed under the draft plan.

As noted, initial discussions with the Department of Planning and Industry have confirmed that any significant changes to the draft plan at this time, are likely to require a new draft plan be prepared and re-exhibited which would likely take a further 12 months. There is also no certainty that an amended draft plan would be made at that time.

**5.2 Planning Proposal - West Jerrabomberra (Ref: C1956976; Author: Thompson/Brown) (Continued)**

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The following matters are considered minor and appropriate to include as part of this planning proposal:

- Including 'educational establishments' as an additional permitted uses on the land under Schedule 1 of the LEP.
- Adding 'places of public worship' as a use permitted with consent in the B7 Business Park zone.

Matters considered more appropriate to address at a later date (and subject to more detailed planning studies) are:

- Including 'registered clubs', 'markets' and 'food and drink premises' to the B7 Business Park zone.
- Allowing 'places of public worship' in the RE2 Private Recreation zone.





It is noted that the landowner (Village Building Company) supports the proposed zoning of the relevant land to IN2 Light Industry zone. The Jerrabomberra Resident's Association and some landowners do not support this view, although their proposed alternative to rezone the land B7 does not resolve these concerns as light industrial uses are permitted within the B7 zone in any case.

The benefits in Council supporting the draft plan at this time would primarily be:

- providing for an additional 14.25ha of Light Industrial land and 16.20ha of B7 Business Park land consistent with Council's *Residential and Economic Strategy*;
- providing for a broader range of local employment opportunities and associated services for the Jerrabomberra community;
- providing certainty in respect of the proposed permissibility of the Regional Sports Field (RSF);
- providing certainty in respect of the permissibility of the proposed high school site;
- providing certainty for Council staff in respect of the preparation of local contribution plans, traffic studies and other strategic work intended to support the proposed land release;
- wholly repealing *Queanbeyan LEP 1991* and thus simplifying the number of planning instruments currently in operation throughout the Council area.

It is recommended Council endorse the draft plan for West Jerrabomberra, including those changes outlined in this report.

**Attachments**

- Attachment 1  Planning Proposal for West Jerrabomberra - Amended November 2018 for Exhibition (*Under Separate Cover*)
- Attachment 2  Summary and Assessment of Submissions (*Under Separate Cover*)
- Attachment 3  Report re Stone-faced Brick Building at North Tralee (*Under Separate Cover*)
- Attachment 4  Nth Tralee Contamination Study August 2018 (*Under Separate Cover*)

5.3 Planning Proposal - Exempt and Complying Development in the Landuse Zones E4 Environmental Living, RU5 Village and RU1 Primary Production (Ref: C1950902; Author: Thompson/Carswell)

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**Summary**

In 2015 Council prepared a planning proposal to increase the exempt and complying provisions in the E4 Environmental Living, RU5 Village and RU1 Primary Production zones. A Gateway Determination was issued by the NSW Department of Planning and Environment reflecting the proposed provisions.

However, the planning proposal has not proceeded to consultation with government agencies or the community as the mechanics of the proposed exempt and complying provisions could not be determined by the Department. As Council is preparing a draft comprehensive local environmental plan (LEP), any additional provisions sought by Council could be considered as part of this work. As this makes the planning proposal redundant, it is recommended that Council make a request to the Minister to discontinue the planning proposal.

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**Recommendation**

**That pursuant to Section 3.35(4) of the *NSW Environmental Planning and Assessment Act 1979*, Council request that the Minister no longer proceed with Planning Proposal PP\_2015\_PALER\_002\_00 exempt and complying development in the land use zoned E4 Environmental Living, RU5 Village and RU1 Primary Production.**

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**Background**

Following the gazettal of the *Palerang Local Environmental Plan 2014* (PLEP), the Council reviewed the provisions relating to exempt and complying development. A report and planning proposal (Attachment 1) to expand the opportunity for exempt and complying development in the Zones E4 Environmental Living, RU5 Village and RU1 Primary Production was considered by Council on 5 March 2015.

To increase the opportunities for exempt and complying development it was necessary to either amend the PLEP through a planning proposal or lobby for changes to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP).

The NSW Department of Planning and Environment issued a Gateway determination on 4 May 2015 (Attachment 2). As seen in the Department's letter attached to the determination, Council was required to update the planning proposal prior to community consultation to reflect the legal mechanism it was intending to use to enable the increase in exempt and complying development opportunities. Additionally, the Department advised that it was not possible for Council to amend the provisions of the Codes SEPP.

Subsequently, Council staff reviewed the provisions requested in the planning proposal and wrote to the Department with the suggested amendments (Attachment 3). The proposed provisions continued to be discussed between the Department and Council. On 7 March 2016, the Department extended the date for the completion of the planning proposal (Attachment 4) whilst these discussions occurred and this was further extended on 1 May 2017 (Attachment 5).

On 31 March 2016, the NSW Department of Planning and Environment wrote to Council stating that it had *been attempting to identify the most appropriate course of action to progress this matter* and that the Department was reviewing the Codes SEPP. The

**5.3 Planning Proposal - Exempt and Complying Development in the Landuse Zones E4 Environmental Living, RU5 Village and RU1 Primary Production (Ref: C1950902; Author: Thompson/Carswell) (Continued)**

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Department attached the E4 Environmental Living complying development provisions in relation to dwellings implemented by Sutherland Shire Council as it was thought these may assist Council.

The Gateway determination timeframe will expire shortly and the Department of Planning and Industry has advised that a Council resolution should be obtained to discontinue this planning proposal given that Council, as a merged entity, would require a new comprehensive local environmental plan which would allow the exempt and complying provisions to be considered as part of the preparation of that plan should Council wish to do so.

As seen in Attachment 3, Council's letter to the NSW Department of Planning and Environment sought to allow a range of minor land uses associated with rural residential living to be exempt development and for the erection of dwellings to be complying development within the E4 Environmental Living zone, where there is a building envelope created under section 88B of the *Conveyancing Act 1919 (NSW)*.

Over the last four years there has been a substantial review of the Codes SEPP. The Inland Code has been introduced which will eventually replace the Rural Code. However, this Code does not apply to the E4 Environmental Living zone. Also there have been some minor changes to the Codes SEPP which allow for the exempt provisions sought by Council.

In relation to exempt fencing in the RU5 Village landuse zone this appears to be largely addressed in the Codes SEPP Subdivision 17. Under the Inland Code, complying development for dwellings can only be undertaken on lots that meet the minimum lot size.

It is over four years since the gazettal of the PLEP and within this time there have been very few comments from the community relating to problems experienced by limitations on exempt development or not having complying development in the E4 Environmental Living zone. It is acknowledged that it is likely that many of the minor landuses are undertaken without regard for the Codes SEPP.

Given the above, it is suggested that there are several options for Council:

1. Discontinue the planning proposal and consider including any desired provisions in the comprehensive local environmental plan. It should be noted that consideration would need to be given to applying these provisions across the E4 Environmental Living zone for the whole local government area; or
2. Discontinue the planning proposal and not pursue seeking any increase in exempt and complying development provisions; or
3. Seek an extension of time on the planning proposal, noting that it only applies to the former Palerang local government area. The Department of Planning and Industry may not want to continue the planning proposal as it has been some time since it commenced and the review of exempt and complying provisions in the E4 Environmental Living zone has been completed.

Considering all of the above matters it is recommended that Option 2 be pursued.

### **Implications**

#### ***Legal***

Under Section 3.35(4) of the *Environmental Planning and Assessment Act 1979*, the planning proposal authority may also, at any time, request the Minister to determine that the matter not proceed.



### 5.3 Planning Proposal - Exempt and Complying Development in the Landuse Zones E4 Environmental Living, RU5 Village and RU1 Primary Production (Ref: C1950902; Author: Thompson/Carswell) (Continued)

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Should Council resolve not to proceed with the planning proposal, the Department of Planning and Industry will be advised of Council's resolution and a request made to discontinue the process.

#### ***Policy***

Council does not have a policy which specifically seeks to reduce the need for land use planning provisions.

#### ***Environmental/Social/Economic***

Whilst it is beneficial for the economy to have efficient landuse planning provisions, it is suggested that the Council effort that has been expended on this planning proposal and would be required in the future is not of enormous benefit to the economy. In most instances the development is minor so a development application is relatively straightforward. In relation to a complying development provision for the erection of dwellings on RU1 Primary Production lots that are below the minimum lot size, it is suggested that the fees and effort for a development application for this type of development are similar to the use of a complying development approach.

#### ***Engagement***

Aside from the report to Council on 5 March 2015, there has been no community consultation. The Department of Planning and Industry is the only government agency that has been consulted by Council.






#### ***Financial***

The cost of Council staff time allocated to this planning proposal has been provided for in Council's Operational Plans. At this time the only costs expended have been administration costs.

#### **Conclusion**

If required there is an opportunity to further consider these matters as part of the comprehensive local environmental plan. However, at the same time there appears to be little demand for an increase in exempt and complying provisions in the E4 Environmental Living, RU5 Village and RU1 Primary Production zones. Consequently it is recommended that the planning proposal be discontinued and the Department of Planning and Industry be notified of this.

#### **Attachments**

- Attachment 1  Report and Planning Proposal - 10 March 2015 (*Under Separate Cover*)
- Attachment 2  Gateway Determination - 4 May 2015 (*Under Separate Cover*)
- Attachment 3  Letter to Department of Planning and Environment - 9 September 2015 (*Under Separate Cover*)
- Attachment 4  Gateway Determination - Extension - 7 March 2016 (*Under Separate Cover*)
- Attachment 5  Gateway Determination - Extension - 1 May 2017 (*Under Separate Cover*)



5.4 Draft Voluntary Planning Agreement - 18 Mecca Lane, Bungendore (Ref: C1942791; Author: Thompson/Carswell)

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**Summary**

Development approval for a dwelling and garage on Lot 2 DP 1079627, 18 Mecca Lane, Bungendore was granted by Council on 30 March 2016 (DA 2015.182). A condition of consent (Condition No.85) required that a Voluntary Planning Agreement (VPA) be entered into between the owners of Lot 2 DP 1079627 and Council for the payment of water and sewer headworks. Preparation of the VPA has now reached the stage where it can be exhibited. Accordingly this report recommends that the draft VPA between Paul Gerard Niven and Alice Elizabeth Niven and Queanbeyan-Palerang Regional Council applying to 18 Mecca Lane, Bungendore be exhibited in accordance with section 7.5 of the *Environmental Planning and Assessment Act 1979*.

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**Recommendation**

**That Council:**

1. Exhibit the draft Voluntary Planning Agreement in accordance with section 7.5 of the *Environmental Planning and Assessment Act 1979* for a minimum of 28 days.
  2. Following the exhibition of the draft Voluntary Planning Agreement, consider a report on the results of the exhibition.
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**Background**

Development approval was given for the erection of a dwelling and garage on Lot 2 DP 1079627, 18 Mecca Lane, Bungendore on 30 March 2016 (DA 2015.182). Figure 1 on the following page shows the location of Lot 2.

A condition of consent (see below) required that a Voluntary Planning Agreement (VPA) under section 7.4 of the *Environmental Planning and Assessment Act 1979* be entered into between the owners of Lot 2 and Council for the payment of water and sewer headworks. The condition of consent arises from the proposed dwelling (now constructed) being connected to Council's reticulated water and sewer system and the lot on which the dwelling is sited (Lot 2 DP 1079627) not being within the area covered by the water and sewer contributions plans.

A report to the meeting of Council on 24 March 2016 (Attachment 1) states '*The site is not within the area covered by Council's s.64 Development Servicing Plans and in any event because the development does not involve subdivision, section 64 contributions cannot be charged*'. The Council report (Attachment 1) discusses this situation as well as proposing Condition No.85 to deal with this and the need for the planning agreement to be voluntary.

5.4 Draft Voluntary Planning Agreement - 18 Mecca Lane, Bungendore (Ref: C1942791; Author: Thompson/Carswell) (Continued)



Figure 1 Lot 2 DP 1079627, 18 Mecca Lane

**5.4 Draft Voluntary Planning Agreement - 18 Mecca Lane, Bungendore (Ref: C1942791; Author: Thompson/Carswell) (Continued)**

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The condition relating to the VPA is shown below:

*Condition No. 85 Voluntary Planning Agreement*

*The applicant must, prior to the issue of a construction certificate, enter into a planning agreement with the Council in accordance with section 93F of the Act in the terms of the offer by the applicant to the Council dated 19 March 2016 under which the applicant agrees to pay a voluntary contribution to the Council for water supply headworks in the sum of \$9,676.50 and sewerage headworks in the sum of \$11,612.50, both amounts to be indexed in accordance with changes in the Consumer Price Index between the date of this consent and the date of payment.*

*Reason: To provide for appropriate provision and upgrade of reticulated water supply and sewerage.*

As seen in the above condition of consent, the planning agreement was intended to be entered into prior to the issue of a construction certificate. However, the construction certificate for the erection of the dwelling and garage and engineering works have been issued and the VPA has not been progressed. Whilst a final inspection of the dwelling and garage has not been undertaken, it is understood that all the conditions of consent are likely to have been met except for Condition No.85 (being the VPA and the payment of the water and sewer monies). The property owners are seeking a final certificate and wanting to make the water and sewer payments. In order to issue the final certificate, the following needs to occur:

1. Condition No.85 of DA.2015.182 needs to be modified to:
  - replace 'construction' certificate with 'occupation' certificate.
  - insert the fixed amounts of \$10,324.60 for water and \$12,390.30 for sewer headworks (see below for an explanation).
2. A VPA be entered into between the owners of Lot 2 DP 1079627 and Council and the water and sewer headworks monies being paid.

The owners of Lot 2 DP 1079627 have submitted a request for the modification of Condition No.85 of DA.2015.182 and this is being processed by Council.

In relation to the VPA the process under the *NSW Environmental Planning and Assessment Act 1979* must be followed. The process has commenced with the owners of Lot 2 providing Council with a draft VPA. Council staff have considered the draft VPA and are satisfied that the next step can occur being the exhibition of the VPA for a minimum of 28 days under section 7.5 of the *Environmental Planning and Assessment Act 1979*. Once the exhibition has concluded a report for Council will be prepared which considers any submissions and recommends whether Council should enter into the VPA. If the VPA is signed by Council and the owners of Lot 2 agree, a copy must be provided to the Minister. Once the VPA has been finalised, the water and sewer headworks monies can be paid.

***Draft Voluntary Planning Agreement***

The draft VPA (Attachment 2) includes an amendment in relation to the amounts payable. The fixed amounts of \$10,324.60 for water and \$12,390.30 for sewer have replaced the amounts (including indexation) in Condition No.85. This arrangement has been agreed to with the property owners as a compromise as Council has taken some time to manage its responsibilities in regard to the processing of the draft VPA. The fixed amounts have been determined by indexing the amounts included in Condition No.85 to December 2018. It is estimated that from the time of Council considering this report to the completion of the VPA process will be approximately four months.

**5.4 Draft Voluntary Planning Agreement - 18 Mecca Lane, Bungendore (Ref: C1942791; Author: Thompson/Carswell) (Continued)**

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This report recommends that the draft VPA between Paul Gerard Niven and Alice Elizabeth Niven and Queanbeyan-Palerang Regional Council (Attachment 2) be exhibited in accordance with section 7.5 of the *Environmental Planning and Assessment Act 1979*.

**Implications*****Legal***

Voluntary Planning Agreements are instituted under section 7.4 of the *Environmental Planning and Assessment Act 1979*. The draft VPA complies with the requirements of the Act.

***Policy***

As stated above, the report to the meeting of Council on 24 March 2016 stated that it was not possible under Council's water and sewer contributions policy to levy section 64 contributions. The VPA provides a mechanism for Council to collect water and sewer headworks monies.

***Engagement***

Should Council agree to the recommendations of this report, the draft VPA will be exhibited for a minimum period of 28 days.



***Financial***

The owners of Lot 2 DP 1079627 have paid for the first draft of the VPA. Council has paid for further amendments to progress the finalisation of the VPA.

**Conclusion**

Whilst the use of a VPA for the collection of water and sewer headworks monies for a single dwelling is unusual, in this instance it was viewed as the only reasonable option which would allow Council to collect headworks monies and for the dwelling connected to reticulated water and sewer services. It is recommended that the draft VPA between Paul Gerard Niven and Alice Elizabeth Niven and Queanbeyan-Palerang Regional Council (Attachment 2) be exhibited in accordance with section 7.5 of the *NSW Environmental Planning and Assessment Act 1979*.

**Attachments**

- Attachment 1  Excerpt from Council Report - Voluntary Planning Agreement - 18 Mecca Lane - 26 March 2016 (*Under Separate Cover*)
- Attachment 2  Draft Voluntary Planning Agreement - 18 Mecca Lane, Bungendore - 12 April 2019 (*Under Separate Cover*)

6.1 ALGA Election Advocacy (Ref: C1957875; Author: Tegart/Tegart)

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**Report**

The Australian Local Government Association (ALGA) has launched an advocacy campaign during the Federal elections to increase the Financial Assistance Grants (FAGs) councils receive, from 0.55 percent of total Commonwealth revenue to one percent.

Councils must manage 33% of the nation's infrastructure with just 3% of total public sector tax receipts.

The value of the FAGs has been declining for more than 20 years (now \$2.4 billion). In 1996 the level of funding for the FAGs was equal to around 1% of Commonwealth Taxation Revenue but this has steadily fallen since 1996 under successive Federal Governments until it has reached a level now less than 0.55% of Commonwealth Taxation revenue. This decline was exacerbated by a three-year freeze on the indexation of FAGs from 2014-15 to 2016-17 which has cost local government an estimated \$925m in foregone FAGs funding.

FAGs are essential for many councils, particularly those in regional and remote areas of Australia which have very limited access to alternative revenue sources such as rates. These councils are dependent on the FAGs for the provision of infrastructure and services for their communities.

At the national level there has been an increasing level of demand from the community for local services and a growing expectation for a higher standard of services. This comes at the same time as cost shifting by state and territory governments onto local government continues to be a problem and state and territory governments in several states impose revenue restrictions on councils through rate capping.

The Australian Local Government Association has made the restoration of the FAGs and the provision of a Fairer Share for local communities a key election initiative and ALGA and the state and territory local government associations are seeking the support of Council for the campaign and asking Council to engage directly with local candidates in the Federal Election to seek their support for a Fairer Share of Federal funding.

The campaign, A Fairer Share, includes an Advocacy Kit with materials for councils to use. LGNSW strongly supports this campaign.

ALGA are asking for Councils to pass a resolution to support this campaign (Attachment 1). Councils are also asked to move to endorse ALGA's 12 Key Federal Election asks, including better support for infrastructure, communities, recycling, indigenous communities, climate change and more (Attachment 2).


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**Recommendation**

**That the report be received for information, and Council consider the recommended ALGA resolution.**

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**Attachments**

- Attachment 1  ALGA - Resolution to Support Campaign (*Under Separate Cover*)  
Attachment 2  ALGA 12 Key Federal Election Initiatives (*Under Separate Cover*)





**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*.