



**MINUTES OF THE PUBLIC FORUM  
HELD ON 22 SEPTEMBER 2021**

**1. Opening**

The Public Forum commenced at 5.32pm.

**2. Presentations relating to listed Items on the Council Agenda**

The following written submissions were received:

<b>Name</b>	<b>Item no</b>	<b>Item description</b>	<b>For/Against</b>
Ms Judith Lawson	16.7	Complaint about Signage re Clarke Gang	Against
Mr Malcolm Leslie	9.7	Proposed Exhibition of Intersection Layout - Bunyip Drive/Old Cooma Road, Googong	Against

The following presenters were heard via Zoom:

<b>Name</b>	<b>Item no</b>	<b>Item description</b>	<b>For/Against</b>
Mr Malcolm Leslie	9.7	Proposed Exhibition of Intersection Layout - Bunyip Drive/Old Cooma Road, Googong	Against
Mr John Woodman	9.6	Development Application DA.2019.1170 - Commercial Premises (Bakery) - 87-91 Lascelles Street, Braidwood	For
Mr Stuart Gregory	12.1	Poll on Election Day	For

**3. Petitions**

There were no petitions submitted.

**4. 'Questions on Notice' from the Public**

Responses to the following 'Questions on Notice' received up to Wednesday 15 September 2021 were provided and tabled at the meeting (see attached for responses):

<b>No</b>	<b>Received from</b>	<b>In relation to:</b>
1-7	Mr John Tuckwell	Palerang Water Fund
8-38	Save Bungendore Park Inc	Bungendore Education Precinct

**5. Presentations by Invitation from the CEO/General Manager**

There were no presentations.

**6. Closure**

As there were no further matters, the Public Forum closed at 5.50pm.



## ATTACHMENT TO MINUTES OF THE PUBLIC FORUM HELD ON 22 September 2021

### **'Questions on Notice' from the Public**

Responses to the following 'Questions on Notice' received up to *Wednesday 15 September 2021* were provided and tabled at the meeting.

### **Questions submitted by: John Tuckwell**

1. The Palarang Water Fund estimates for 2021-22 gives:
  - Rates, Levies & Annual Charge income: \$1,372,715
  - User Charges & Fees income: \$1,046,264

In the 2021-22 QPRC revenue document it states that for Palarang the revenue raised for water charges are estimated to be:

- Annual Charge: \$1,625,882
- Water usage: \$1,860,000

**Can QPRC staff please explain why the estimated revenue for water charges in Palarang Water Fund is 44% below what the revenue document suggests the revenue should be when one would have thought that the agreed revenue adopted by Council would be the basis of the latest estimates (I note that actual annual charge is already in excess of the estimated)?**

#### **Response: Organisation Capability**

The correct income estimate is that contained in report item 9.4 to Council's ordinary meeting of 28 April 2021 where the modelled Estimated Annual Total Revenue is shown at \$3,487,048. Accordingly, the figures shown in the QPRC revenue document are correct. The former Palarang Water Fund estimates will be corrected and aligned as part of the first quarter budget review process.

2. **Materials & Contracts costs under the Palarang Water Fund for 2020-21 totalled \$1,111,697 while the estimate for 2021-22 is only \$531,682. Can Council staff please explain the reason for this 52% reduction in this item.**

#### **Response: Community Connection**

The figures quoted are operational only and ignore a shift to a substantial capital works program as part of the 2021-2022 financial year. The full comparison across both operational and capital works for the 2020-2021 & 2021-2022 financial years is \$2,264,099 & \$9,535,586 respectively. This is consistent with the long-term capital works plan presented to Council as part of the April 2021 Tariff report and the earlier Development Servicing Plan report

3. I appreciate QPRC has some unusual accounting practices (eg income is negative and costs are positive), but under the Palerang Water Fund Reserve Movements it states “Transfers to Developer Contributions” Can Council staff please explain why funds are transferred out of the Water Fund to Developer Contributions and not the other way round as would be expected?

**Response: Organisation Capability**

Projects funded from the Palerang Water Fund Developer Contributions are shown as a Transfer from Developer Contribution. Income received from new development charges, where a portion applies to water, is shown as a Transfer to Developer Contribution.

4. Can Council staff please explain what the “Transfers to other External Reserves” and “Transfers from other External Reserves” are for and why?

**Response: Organisation Capability**

Similar to the response to question 3, projects funded from reserves of Palerang Water Fund is shown as a Transfer from other External Reserves and operational surplus is shown as a Transfer to Other External Reserves.

5. Table XX: QPRC - Palerang Community Water Supply Capital Works Program provided as part of the new model for setting Palerang Water charges (submitted with questions). Can QPRC staff please explain why for year 10 there is a Council's Capital Proj Mgmt Charge for new works – growth of \$419,000 (2019/20 prices) projected when the total of the capital works expected in that year for that category is only \$73,000 (If the management charge is 4% then it should be \$3k as in the preceding 2 years)?

**Response: Community Connection**

The capital works plan was principally developed for the calculation of the Development Servicing Plans (DSPs). The Capital Works Plan spans 30 years although the DSP calculations usually only take into account works planned within the first 10 years. The exception to this rule is for *staged* works that commence within the first 10-year period. For the *greenfield growth* case the second stage of water treatment plant works in years 16 and 17 have also been included as well as its associated capital project management charge. With an expected capital investment of around \$9m the \$419k brought forward amount consists of the major share of this 4%. There is a \$61k calculation error in this figure however since the formula inadvertently includes ineligible other recurrent capital works as well. This does not affect the TRB and possibly affects the DSP charges to the order of \$4 or \$5 in light of the 30-year planning timeframe. The effect is therefore considered negligible.

6. The Summary of Financial Modelling for Water Supply – 2019/20 Program provided as part of the new model for setting Palerang Water charges (submitted with questions) says it is a 6 page document, but only 3 pages are provided. Can the full summary document please be provided?

**Response: Community Connection**

The other three pages relate to the sewerage fund. The full 6-page document can be provided.

- 7. Can the full report from which the Summary of Financial Modelling for Water Supply – 2019/20 Program was based please be provided? If not, can a full explanation please be provided why this cannot be a public document?**

**Response: Community Connection**

There are only two documents relating to the tariff modelling for the Palerang Communities Water and Sewerage Schemes. The first is the six-page document referenced above. The other is a four-page dot point discussion paper provided by the modelling consultant NSW Public Works Advisory (PWA). The latter document formed the basis of the report to Council of 28 April 2021. Whilst the Council report and the PWA report more or less present the same information, both are available to the public if required.

## Questions submitted by: Save Bungendore Park Inc

All following questions are responded to by the Office of the Chief Executive Officer

8. Emails obtained from the Department of Planning state that QPRC proposed two sites for the Bungendore High School in approximately March 2020, which were “*not identified during the EOI process*”:

- (a) What sites were these?
- (b) Why were they proposed?
- (c) Why did Council not participate in the Department’s EOI process?
- (d) Why were these sites proposed outside EOI process?
- (e) Was this action authorised by a resolution of Council?
- (f) Was this action undertaken with the knowledge and support of Councillors?

Council is not in a position to respond to these questions without an opportunity to view the emails in question.

9. When did Councillors become aware that these two sites had been proposed?

See response to 8

10. Is Council aware that the Department of Planning had undertaken a comprehensive site selection process and identified and selected a suitable site on Tarago Road as the location for the proposed Bungendore High School?

School Infrastructure NSW (SINSW) have advised that the proposed location in the Majara St/Gibraltar St Precinct is considered to be the most suitable site.

11. Is Council aware that this plan was being finalised on 15 June 2020, when an email from the Department of Education to the Department of Planning, ordered it to be abandoned, simply stating that “*The preferred site is the “Mick Sherd Sports Oval” [sic]*”?

Questions about emails allegedly sent by the Department of Education (DoE) should be directed to DoE or SINSW.

12. Is Council aware that the Department of Education did not give either the proponent of the Tarago Road site, or the Department of Planning any reason for this change – other than mention in an email of 26 June to the Department of Planning (the 26 June Email), that “*the Bungendore project has taken a significant change in direction ... the preferred site has swung towards the Mick Sherd oval....*”?

See response to 11

**13. Given that the 26 June Email goes on to say “...SINSW has and continues to engage with council and the Deputy Premier, both supporting the oval as the preferred site.”, was the Department’s claim that Council supported the oval “as the preferred site” as at that date correct? If so:**

**(a) when did Council give this support?**

This matter was reported to Council in closed session on 8 July 2020.

**(b) why did Council offer its support?**

See response to 13a.

**(c) in what format or words were used to give it?**

See response to 13a.

**(d) what community engagement did Council undertake before supporting this proposal? What was the result of this engagement?**

As a NSW Government project, Council sought further consultation by DoE.

**(e) was this “preferred site” authorised by a resolution of Council?**

See response to 13a.

**(f) if not, how were Councillors advised re this “significant change in direction” and how did Council gain their support for the proposal?**

See response to 13a.

**(g) what are the details of any other matters concerning the High School proposal that have been agreed to, and/or given informal support with no input by Councillors at a Council meeting?**

Reports were presented to Council in closed session 8 July 2020 and 28 October 2020.

**14. In the “New High School in Bungendore – Proposal to Queanbeyan-Palerang Regional Council” dated 23 October 2020, the Department of Education stated that alternatives sites examined for the proposed Bungendore High School “were .... not found to be suitable for this project.” Is Council aware that this statement was false?**

As per response to question 10, SINSW have advised that the proposed location in the Majara St/Gibraltar St Precinct is considered to be the most suitable site.

**15. Given that Council has been substantially misled by the Department of Education into believing that there were no suitable sites other than Bungendore Park, and it is now documented that there is a suitable site available on Tarago Road with a willing vendor, will Council now withdraw its in principle support for the construction of the high school on the Bungendore Park site?**

The Council resolution of 28 October 2020 remains in place.

**16. Does Council know the actual reason why the Department subsequently selected the Bungendore Park site, and if so what is the explanation?**

See response to 11.

**17. Did the Member for Monaro (or any of his staff) approach any member of Council staff to propose a site for Bungendore High School? If so, what site was proposed?**

No.

**18. Was any member of Council staff in discussions with the Member for Monaro (or any of his staff) at any time between 1 January 2020 and 30 June 2020 in relation to the proposed site for the Bungendore High School? What was the substance of these discussions?**

Yes, discussions were in regard to sites previously identified with the draft Bungendore Structure Plan.

**19. When did Councillors first become aware that the Department of Education had selected “the Mick Sherd Sports Oval [sic]” (ie Bungendore Park) as the site for the Bungendore High School?**

Reports were presented to Council in closed session on 8 July and 28 October 2020.

**20. When did Councillors then become aware that this Department of Education proposal would require Council to (i) sell the Palerang Council Building to the Department of Education, and (ii) close Majara Street between Turallo Terrace and Gibraltar Street, and (iii) sell that roadway to the Department of Education?**

See response to 19.

**21. When were Councillors advised that the long-agreed lease of nos 4 and 6 Majara St to Abbeyfield would not be granted?**

A report was presented to Council in closed session on 28 October 2020.

**22. When, if ever, was this decision approved by Council resolution?**

A report was presented to Council in closed session on 28 October 2020.

**23. We understand that a development application has now been lodged for the proposed Bungendore High School:**

**(a) Has Council seen the development application, including all attached drawings?**

It is understood that the State Significant Development Application (SSDA) will be exhibited from 20 September 2021 to 18 October 2021. Council and community have the opportunity view the SSDA and make submissions.

**(b) Did Council consent to the submission of the application? If so:**

**(i) when did it give its consent?**

**(ii) under what authority did it give this consent? Was this supported by a resolution of Council?**

**(iii) in respect of which parcel(s) of land did it give this consent?**

**(iv) what community engagement did Council undertake prior to giving its consent? What was the result of this engagement?**

Council plays no part in SSDA consents. The *Environmental Planning and Assessment Act 1979* outlines necessary consents on Crown developments.



24. Council has previously refused a request under the *Government Information (Public Access) Act* to release the following: -

*All correspondence or notes of meetings or telephone calls between the Department [of Education] and Queanbeyan-Palerang Regional Council (the Council) created prior to 13 August 2020, proposing any site (or setting out an invitation to propose a site) for BHS, together with any report or briefing assessing any such proposal.*

On appeal, the Information and Privacy Commissioner was “not satisfied” that Council’s reasons to withhold information were justified and directed Council to re-assess the application. However, as the quote below shows, Council has again refused, claiming that to release this information is not in the public interest:

*After weighing the relevant considerations, I have decided that the balance of public interest lies in nondisclosure. This is because at present no Development Application has been lodged and there is no formal agreement between the NSW Department of Education and Council.*

Given that a development application has now been lodged, when will Council release this information?

Council has not executed a financial arrangement with Department of Education, hence all matters remain commercial in confidence.

25. The above quote implies that lodgement of a DA is linked to the existence of a “*formal agreement between the NSW Department of Education and Council*” – when was such Agreement signed and what, in full, are its terms?

See response to 24

26. In Resolution 211/20 (28 October 2020), Council resolved to exhibit certain matters for community feedback and report back to Council. Did this occur? What efforts were made to publicise these matters? What feedback was reported to Council?

Part 4e involved exhibition of amendments to the Operational Plan, which were undertaken and reported to Council on 30 June 2021.

27. The Department of Planning has released the following valuations of Council owned or managed property:

- (i) 4-6 Majara St, prepared by Opteon and dated 21 July 2020: \$203/sqm = \$350,000.
- (ii) “Desktop Assessment – Part, Crown Land, McCusker Drive, Bungendore”, relating a section of the “off-leash” park on Bungendore Common: \$250-400,000;
- (iii) “Valuation Report – 2 Majara Street”, prepared by Opteon, dated 21 July 2020: \$1.025m;
- (iv) “Valuation Report – 10 Majara Street”, prepared by Opteon, dated 21 July 2020: \$2.755m;
- (v) “Valuation Report – Roadway, Majara Street” prepared by Opteon, dated 21 July 2020: \$450,000;
- (vi) “Desktop Assessment, Park, Mick Sherd Oval, Bungendore”, relating to a 9,100sqm section of Bungendore Park: \$630-820,000.

In relation to these:

(a) Has Council seen these valuations?

Yes.

(b) Does Council believe these valuations are fair and accurate (and remain so – given they are now over a year old)?

Valuations were conducted by an appropriately qualified valuer and are considered to be reflective of market value as at the date of valuations.

(c) Is Council aware of any alternative or updated valuations of these properties? If so, can these be made public?

No.

(d) Is Council aware that the Department of Planning also approached Charter Keck Cramer on 2 October to prepare valuations for these sites? Does Council know if CKC ultimately prepared any valuations?

No.

(e) It appears that the “Desktop Assessments” for Bungendore Park and Bungendore Common were prepared internally by the Department of Planning’s staff. Has Council obtained (or does it propose to obtain) an independent valuations of these sites?

Not at this stage.

(f) 4-6 Majara Street is on two titles. Is Council satisfied that valuing the properties in one line is appropriate? Would a higher valuation be realised if the properties were sold separately?

Council relies on the advice of the independent valuer.

(g) The “Desktop Assessment” for Bungendore Park assumed current (RE1) zoning. The valuer notes that there is limited demand for RE1 zoning, and given the limited uses permissible on RE1 zoned land:

*there is limited comparable transactions in the market. It is likely that any sale of part of the land will incur an extended marketing campaign with limited vendors [sic] in the market. As such, we believe the site may face vacancy issues.*

Is this an appropriate valuation basis for the land, given that it will rezoned to permit the proposed Bungendore High School development? Why was the valuer not instructed to assume a change in zoning?

Council staff are not qualified valuation experts and rely on the advice of independent valuers.

(h) What steps has Council taken to act on the words of warning which end the Opteon valuation re “part Mick Sherd Oval”, this being a proviso which points to Crown Land legalities that must be considered (emphasis added):

*“We assume that Crown Lands are able and willing sellers of the land, and that all necessary consents have been achieved to enable the sale.”*

The valuation was conducted on the assumption that DoE seeks all necessary consents to transact the land. Necessary consents are a matter for DoE.

(i) The valuer noted that Majara Street was zoned R2 (low-density residential). This site is 6,025sqm, which would permit subdivision into multiple residential blocks which in the centre of Bungendore may be worth several million dollars. However, the valuation was prepared on the assumption that it was zoned SP2. Is this appropriate, given that SP2-zoned land is heavily restricted and a significantly higher value might be achieved based on the present zoning?

As per response to 27g, Council staff are not qualified valuation experts and rely on the advice of independent valuers.

**28. We understand that Council has entered into an access licence, permitting the State to undertake certain investigative works in relation to a large section of Bungendore Park and Bungendore Common (the Works). Bungendore Park is subject to a Crown Land dedication for public recreation.**

(a) Did Council undertake any community engagement before permitting the Works?

No

(b) Are the Works permitted under the *Crown Lands Management Act 2016*?

Yes

(c) Is any development consent or approval required before such works or investigations can be undertaken?

No

**29. Council would be aware that Bungendore Park is subject to a Crown Land dedication for “the public purpose of public recreation”, and that Bungendore Common (ie Turallo Creek Reserve) is subject to a reservation for the same purpose. As Crown Land Manager of these two sites, what provision has Council put in place in regard to any development application (including a state-significant development application) to ensure that its management of these properties will comply with the requirements of the *Crown Lands Management Act 2016*?**

This issue is addressed by DoE in the Environmental Impact Statement for the SSDA which is currently on exhibition for comment.

**30. Is Council aware that the Crown Lands Management Act 2016 is not an “environmental instrument” and thus cannot be overridden by the SSDA process?**

See response to 29

**31. What community consultation does Council propose to undertake before entering into any Heads of Agreement with the Department of Education in relation to the proposed subdivision of Bungendore Park and Turallo Creek Reserve as part of the Bungendore High School development?**

See response to 29.

**32. When does Council expect any such Head of Agreement to be ready for formal approval by Councillors at a Council meeting?**

Council is awaiting further advice from DoE.

**33. Is Council aware that dealings with Crown Land (including its actions as Crown Land Manager in relation to Bungendore Park and Turallo Creek Reserve) are subject to mandatory community engagement requirements, and that failure to comply with these will render any relevant dealing liable to legal challenge?**

See response to 29.

**34. Is Council aware that its community engagement obligations cannot be discharged merely by referring to the state-significant development process?**

See response to 29.

**35. Is Council aware that s29(2) of the *Land Acquisition (Just Terms Compensation) Act 1991* provides that:**

***“if Crown land is subject to a dedication or reservation that (by virtue of any Act) cannot be removed except by an Act, that land may not be compulsorily acquired”?***

Council is aware of s29(2) of the *Land Acquisition (Just Terms Compensation) Act 1991*, and of its contents. Refer to response to 29

**36. Is Council aware that, notwithstanding public statements by the Deputy Premier, Bungendore Park and Turallo Creek Reserve could not be subject to any compulsory acquisition process except in accordance with the provisions of the *Crown Lands Management Act 2016*?**

Council is aware of the provisions of the *Crown Lands Management Act 2016*. Refer to response to 29.

**37. What procedures has the Department of Education advised Council (as the Crown Land Manager responsible for the subject sites) that it intends to use in achieving (i) the subdivision of a dedicated reserve to grant the Department an interest in a 9100 sqm portion and (ii) subdivision of a heritage “common” reservation to grant the Department an interest in at least 4000 sqm of it?**

See response to 29.

**38. What advice has Council given to Councillors in relation to its management of Crown land sites in accordance with the *Crown Lands Management Act 2016*? Are Councillors aware that, in regard to Ministerial powers, s5.3(5) of the Act says unequivocally: “this section does not authorise the sale of Crown land that is dedicated or reserved for a public purpose”?**

See response to 29.