



Planning and Strategy Committee of the Whole

AGENDA

14 April 2021

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	
2	ACKNOWLEDGEMENT OF COUNTRY	
3	APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS	
4	DISCLOSURES OF INTERESTS	1
5	ADJOURNMENT FOR PUBLIC FORUM	
6	MAYORAL MINUTE	
7	NOTICES OF MOTIONS OF RESCISSION	
8	REPORTS TO COUNCIL - ITEMS FOR DETERMINATION	
8.1	DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore	3
8.2	Street Naming Proposals - Scribbly Gum Road and Rosella Place	17
8.3	Proposed Boundary Adjustment to the Localities (Suburbs) of Tralee and Enviroa.....	21
8.4	Secondary Dwellings in Rural Zones.....	25
9	REPORTS TO COUNCIL - ITEMS FOR INFORMATION	
9.1	DA.2020.1146 - Extractive Industry - 587-589 Tarago Road, Lake George	29
9.2	Unauthorised Use of Land for Disposal of Fill Material - Outcome of Compliance Action in Land and Environment Court.....	35
9.3	Submission on NSW Government Planning Amendments for Agritourism and Small Scale Agriculture Development.....	39
9.4	Funding Agreement - Braidwood Heritage Centre	43
10	REPORTS OF COMMITTEES	
10.1	Minutes of the QPRC Heritage Advisory Committee Meeting held 18 March 2021	45

11 NOTICES OF MOTIONS

- 11.1 Backup Electricity for Telecommunication Facilities and Emergency Services
Facilities47
- 11.2 Membership of the Bungendore Town Centre and Environs Committee.....49

12 NOTICE OF INTENTION TO DEAL WITH MATTERS IN CLOSED SESSION 51

13 REPORTS FOR CLOSED SESSION

14 CONCLUSION OF THE MEETING

LIST OF ATTACHMENTS –

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

Open Attachments

- Item 8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision
Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore
- Attachment 1 DA.2020.1469 - Section 4.15 Assessment Report - North
Elmslea Stage 1 (Under Separate Cover)
- Attachment 2 DA.2020.1469 - Plans - North Elmslea Stage 1 (Under
Separate Cover)
- Attachment 3 DA.2020.1469 - Statement of Environmental Effects - North
Elmslea Stage 1 (Under Separate Cover)
- Attachment 4 DA.2020.1469 - Submission - North Elmslea Stage 1 (Under
Separate Cover)
- Attachment 5 DA.2020.1469 - Draft Conditions of Consent - North Elmslea
Stage 1 (Under Separate Cover)
- Item 8.2 Street Naming Proposals - Scribbly Gum Road and Rosella Place
- Attachment 1 Location of Proposed Scribbly Gum Road (Under Separate
Cover)
- Attachment 2 Location of Proposed Rosella Place (Under Separate
Cover)
- Item 8.3 Proposed Boundary Adjustment to the Localities (Suburbs) of Tralee and Environs
- Attachment 1 Proposed Locality Amendment Report - Village Building
Company (Under Separate Cover)
- Item 8.4 Secondary Dwellings in Rural Zones
- Attachment 1 Optional Clause 5.5 Controls Relating to Secondary
Dwellings on Land in a Rural Zone (Under Separate Cover)
- Item 9.1 DA.2020.1146 - Extractive Industry - 587-589 Tarago Road, Lake George
- Attachment 1 DA.2020.1146 - 4.15 Assessment Report (Under Separate
Cover)
- Attachment 2 DA.2020.1146 - Determination and Statement of Reasons
(Under Separate Cover)
- Attachment 3 DA.2020.1146 - Notice of Determination (Under Separate
Cover)

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

BUSINESS PAPER AGENDA – 14 April 2021 Page iii

- Item 9.2 Unauthorised Use of Land for Disposal of Fill Material - Outcome of Compliance Action in Land and Environment Court
 Attachment 1 Court Orders - 143 Birchmans Grove (Under Separate Cover)
- Item 9.4 Funding Agreement - Braidwood Heritage Centre
 Attachment 1 Braidwood Heritage Centre Master Plan (Under Separate Cover)
- Item 10.1 Minutes of the QPRC Heritage Advisory Committee Meeting held 18 March 2021
 Attachment 1 Minutes of the QPRC Heritage Advisory Committee Meeting Held 18 March 2021 (Under Separate Cover)

Closed Attachments

Nil

ITEM 4 DECLARATION OF CONFLICTS/PECUNIARY INTERESTS

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.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis)

File Reference: DA.2020.1469

Summary

Reason for Referral to Council

This application has been referred to Council because it is for a major subdivision exceeding 50 or more lots.

Proposal:	91 Lot Torrens Title Subdivision, Roads, and Associated Subdivision Construction Works (North Elmslea - Stage 1).
Applicant/Owner:	Elmslea Land Developments Pty Ltd. / Elmslea Land Developments Pty Ltd.
Subject Property:	Lot 1 DP 798111, No. 174 Tarago Road, Bungendore, NSW.
Zoning and Permissibility:	R2 Low Density Residential and RU1 Primary Production under the <i>Palerang Local Environmental Plan 2014</i> .
Public Submissions:	One (1)
Issues Discussed:	Planning Requirements Deed of Agreement Regarding Water Supply Residue RU1 Zoned Land (Former Crown Road Portion)
Disclosure of Political Donations and Gifts:	Applicant Declared no Donations or Gifts to any Councillor or Staff have been made.

Recommendation

That:

- 1. Development Application DA.2020.1469 for a 91 lot Torrens title subdivision for residential purposes, roads, and associated subdivision construction works on Lot 1 DP 798111, No. 174 Tarago Road, Bungendore be granted conditional approval.**
 - 2. Those persons who lodged a submission on the application be advised in writing of the determination of the application.**
 - 3. All relevant State Government concurrence and integrated referral authorities be forwarded a copy of Council's Notice of Determination.**
-

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)

Background

Planning Proposal

In 2014 Council received a draft Planning Proposal to rezone part of Lot 1 DP 798111 on the northern edge of Bungendore, from RU1 Primary Production to R2 Low Density Residential.

The Planning Proposal included the following amendments to the *Palerang Local Environmental Plan 2014* (PLEP 2014):

- Amending the minimum lot size from 80ha to 850m².
- Amending the maximum height of buildings from 10m to 8.5m, and;
- The removal of the lot averaging provision.

The Planning Proposal (*Palerang Local Environmental Plan 2014* (Amendment 9)) was gazetted on the 15 of May 2020, allowing the development application for North Elmslea - Stage 1 to be lodged with Council for development approval.

Subject Site

The subject site is known as Lot 1 DP 79811 and is commonly referred to as 174 Tarago Road, Bungendore.

The site is located on the northern side of the Bungendore village area, and adjacent to the existing Elmslea development to the south. It is boarded by Tarago Road to the west and land set aside to the east for future stages of the North Elmslea Estate. The area set aside for future development to the east subsequently borders the Sydney to Canberra Railway Line.

The subject site has an undulating topography with slopes varying from 10% to 15% at the highest point. The subject site contains the presence of heavily modified vegetation, consisting of exotic pasture, which has been impacted and altered by previous agricultural use of the land. There are no significant trees located on the site. There are however, two existing dams, and drainage lines present on the site.

The site does not contain any existing development. Access to the development site will be constructed from Tarago Road, which is a Classified Regional Road.

Existing development within the locality consists of a mixture of land uses. The most predominant land use includes low density residential development to the south (the existing Elmslea Estate). The Bungendore Waste Transfer Facility is located to the north-west. The remainder of adjoining land is predominantly zoned RU1 Primary Production with a mixture of rural residential living and agricultural uses present within the locality.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)



Figure 1 – Site Plan and Locality

Proposed Development

The proposal seeks development approval for the subdivision of land for residential purposes and includes:

- Subdivision to create 91 Torrens title lots,
- Subdivision construction works,
- Construction of associated roads and
- Construction of walkways, open space, and landscaping.

The proposed development forms Stage 1 of the North Elmslea Estate, which is shown red in Figure 2 below. Future stages of the North Elmslea development are shown in yellow and are located to the east of Stage 1, but do not form a part of this application.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)

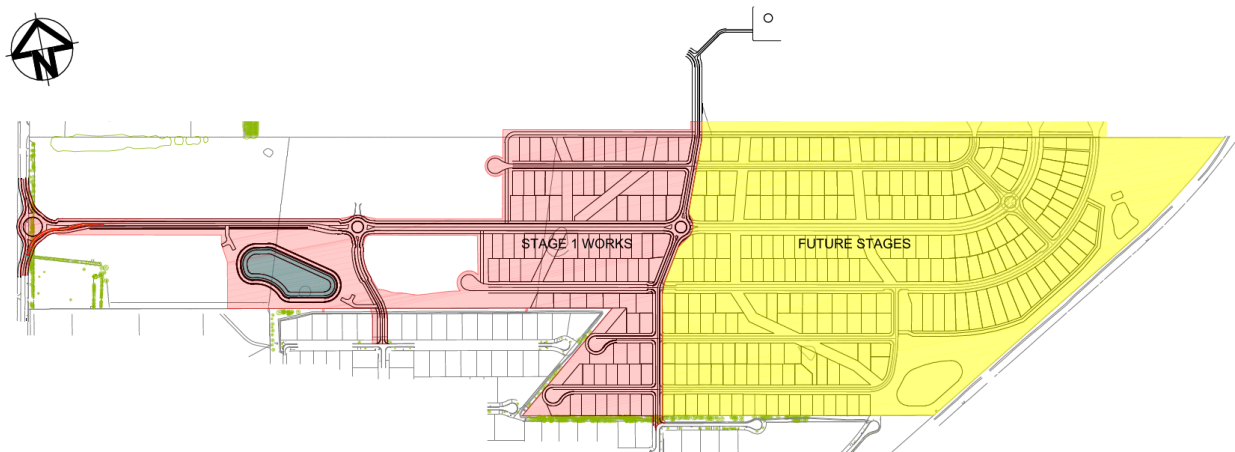


Figure 2 – Staging Plan

The configuration of the proposed development results in lot sizes ranging from 850m² to 1470m². Proposed lots are generally rectangular in shape with some lots having varying geometry due to the provision of reserves for drainage flows, open space, and walking tracks. All lots have a north to south orientation, as shown below in Figure 3 'Lot Size Plan'.

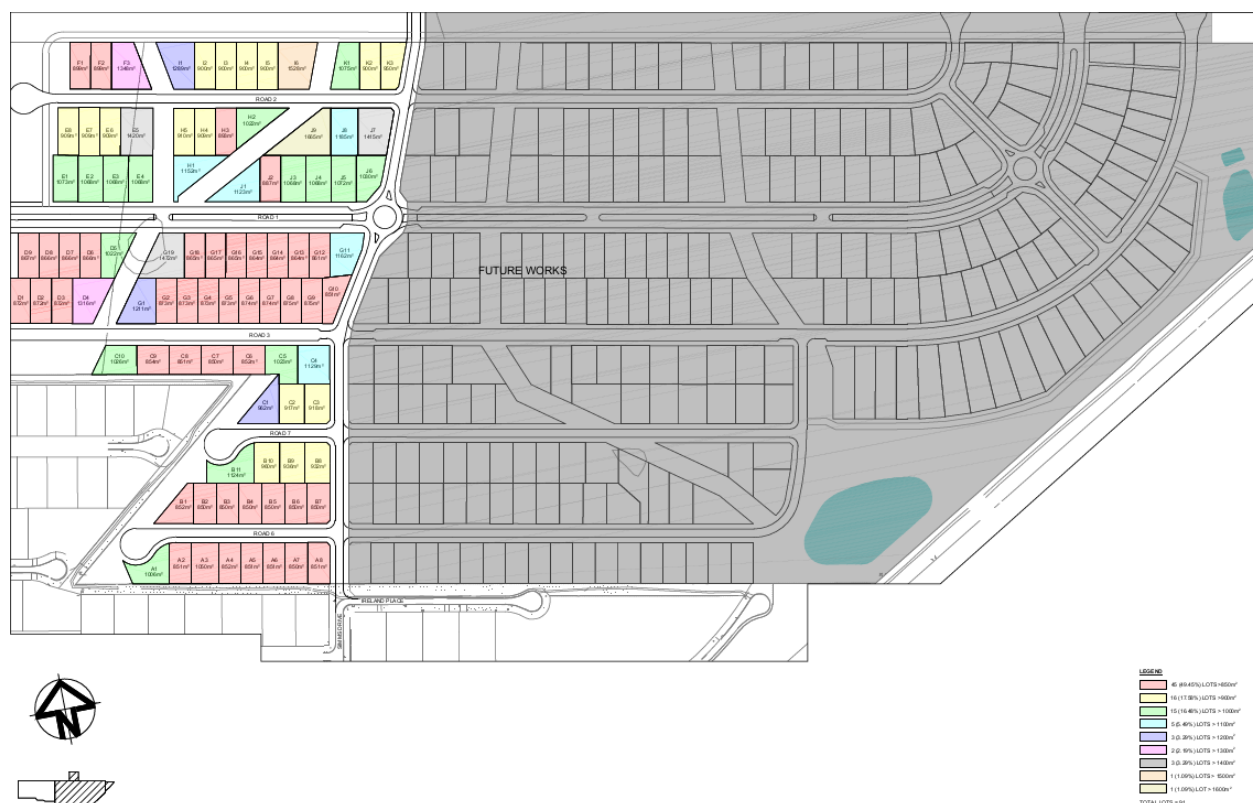


Figure 3 – Lot Size Plan

The proposed road network includes a mixture of sub-arterial, collector, access, and local roads. The primary access to Stage 1 of North Elmslea will be constructed from Tarago Road (marked as a local sub-arterial in Figure 4 below). Two other secondary access points to the south are also available through McCusker Drive and Hyland Drive via Simms Drive. A path network plan has also been submitted showing proposed footpaths (as depicted in Figure 5).

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)

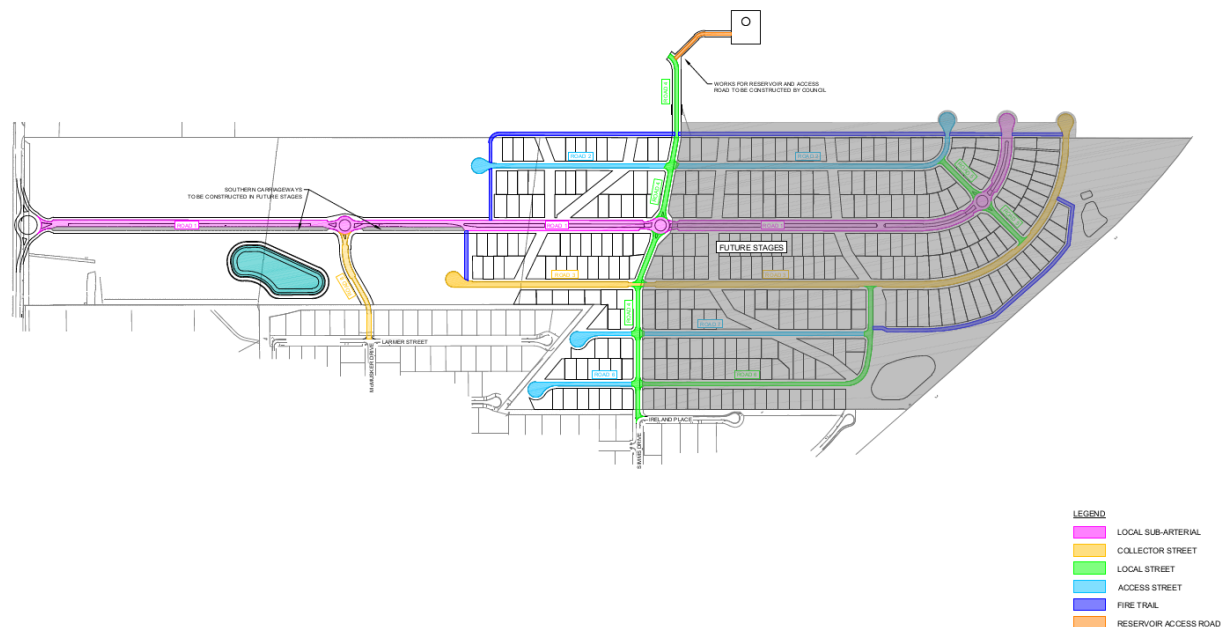


Figure 4 – Street Hierarchy

The path network provides connection from roads through to walkways in public open spaces.

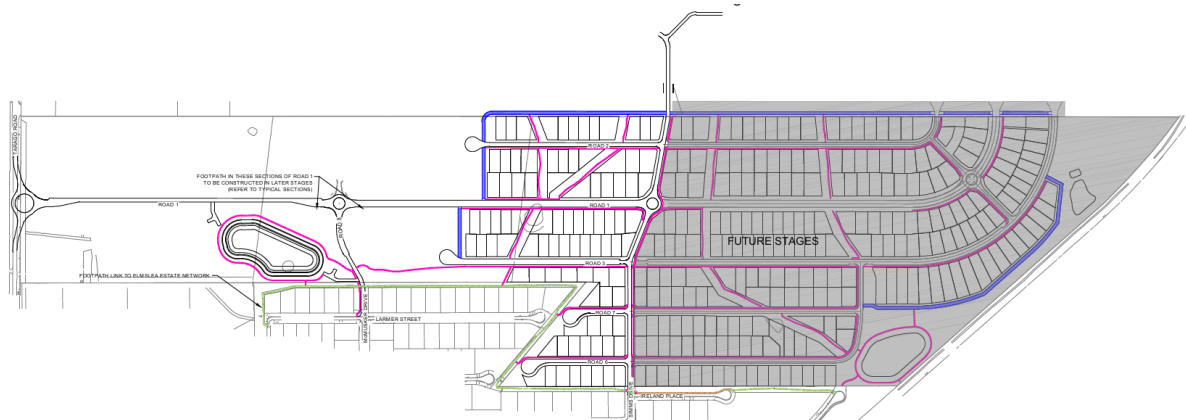


Figure 5 – Footpath Network Plan

The proposal also includes a pond and landscaped area, which includes community facilities such as outdoor gym equipment and BBQ area. These facilities and areas are intended to be dedicated to Council (as depicted within Figure 6).

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)



Figure 6: Landscape Plan Showing Pond and Open Space Embellishment

Deed of Agreement (Water Supply)

A Deed of Agreement between the Developer and Council regarding water supply development works has been drafted. Council has provided in principal support for the draft Deed of Agreement.

In this instance, the release of a Subdivision Works Certificate by Council will be subject to the Deed of Agreement being formally executed. This will be enforced by a condition of consent if the development is approved.

Planning Requirements

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

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

1. *State Environmental Planning Policy No.55 – Remediation of Land*
2. *State Environmental Planning Policy (Infrastructure) 2007*
3. *Palerang Local Environmental Plan 2014 (PLEP 2014)*
4. *Palerang Development Control Plan 2015 (PDCP 2015)*

The development generally satisfies the requirements and achieves the objectives of these planning instruments.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)

Integrated Development

The following integrated development approvals were required as part of this development.

Act	Provision	Approval	Consent Authority
Rural Fires Act 1997	s100B	Authorisation under Section 100B in respect of bushfire safety of subdivision of land that could lawfully be used for residential purposes or development of land for special fire protection purposes.	NSW Rural Fire Service
National Parks and Wildlife Act 1974	s90	Grant of Aboriginal Heritage Impact Permit (AHIP).	Heritage NSW – Department of Premier and Cabinet

General Terms of Approval (GTAs) were issued by each applicable agency listed in the table above. GTAs are provided within appendices of the attached Section 4.15 Assessment Report. GTAs will also form conditions of consent, if the development is approved.

External Referrals

In addition to the above the proposal was also referred to the following external agencies.

- Transport for NSW
- Essential Energy
- NSW Police

Comments from each agency are provided within appendices of the attached Section 4.15 Assessment Report. There were no direct objections to the development from each referral agency. Transport for NSW in this instance did not recommend the imposition of any restrictions for new buildings within proximity to the rail line. This was due to the distance of Stage 1 to the Sydney to Canberra Railway Line.

NSW Police and Essential Energy provided general comments which will be dispensed as advisory notes on the consent subject to development approval being granted.

State Environmental Planning Policy No.55 – Remediation of Land

A Preliminary Site Investigation was undertaken by Douglas Partners (dated September 2017). The report identifies that the land was previously used as arable farmland with the intent to convert it to low density residential use. The investigation area covered 82 hectares of land, which includes the Stage 1 development area as well as future development areas.

Council's Environmental Health Officer provided the following comments.

This preliminary site investigation complies with the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites and was limited to a desktop review of documents and information, as well as a site walkover.

Douglas Partners recommended that additional intrusive assessment was required for the site to be deemed suitable for residential use. It also recommended on-going monitoring of the Bungendore Landfill facility to confirm that the landfill is not impacting the site beyond the recommended 250m buffer.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)

Addendum to Preliminary Site Investigation by Douglas Partners, dated September 2017 (ref. LR.001.Rev1).

Following the recommendations made by Douglas Partners in 2016, intrusive sampling of 40 test pits across the site was carried out in mid-2017.

Results of subsurface investigation found no significant contamination, so Douglas Partners concluded that based on these results the risk to human health and the environment is low. An unexpected finds protocol should be implemented for future development.

The report did not discount the potential risk from contaminated leachate in ground water and landfill gas from the adjacent unlined landfill. It was stated that a no-build zone could be appropriate if testing was unable to confirm off-site contamination from the landfill.

The report concluded that the site is suitable for low density residential subject to an unexpected find protocol that addresses potential contamination from bonded ACM.

It is still recommended that there is ongoing monitoring of the Bungendore Landfill Site to determine that the 250m no-build buffer is appropriate. This buffer is achieved through the recent planning proposal that limits residential development to the eastern portion of the site.

There is a recreational area planned around the sediment detention basin, but this also falls outside the 250m buffer zone.

The report also recommended validation from the removal of the disused toilet. The toilet is not located within the development area for DA.2020.1469.

State Environmental Planning Policy (Infrastructure) 2007

The proposed development is located within proximity to the Sydney to Canberra Railway Line. It was referred to Transport for NSW (TfNSW) for comment pursuant to clause 85 'development adjacent to rail corridors' of *SEPP (Infrastructure) 2007*. TfNSW have not requested that any restrictions be placed on the proposed lots for future development regarding rail noise in relation specifically to Stage 1 of North Elmslea. The distance between Stage 1 and the railway line was sufficient that no requirements were necessary.

(a) Compliance with LEP***Palerang Local Environmental Plan 2014******Zoning and Permissibility***

The subject site is Zoned R2 Low Density Residential and RU1 Primary Production under the *Palerang Local Environmental Plan 2014*.

Subdivision is permissible under the *PLEP 2014* pursuant to Clause 2.6. The purpose of the subdivision is to accommodate for future residential land use, with dwelling houses being a permitted use in the R2 Zone.

The subject site also includes a small portion of RU1 – Primary Production zoned land at the interface of the R2 zoned land between the existing Elmslea Estate and Stage 1 of North Elmslea.

This area of the development area is a portion of a former Crown road. It is currently subject to an Adverse Possession Claim by the Developer. Council has given in principal support for the Claim, which is not currently finalised. The land may be subject to a Planning Proposal in the future which would result in it being rezoned from RU1 – Primary Production to R2 Low Density Residential and subject to a future Development Application for subdivision.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)



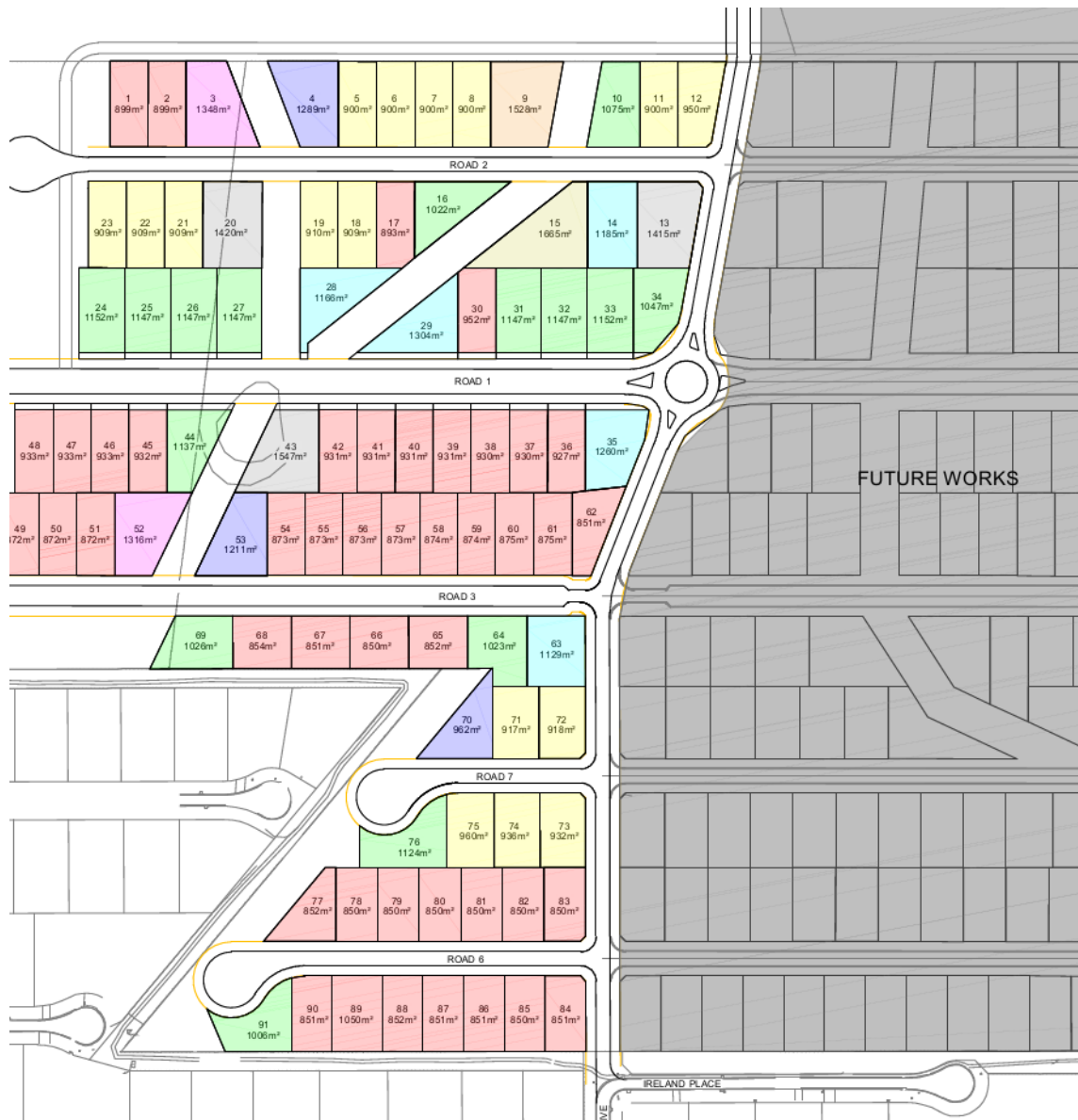
Figure 7: Zoning Map Depicting RU1 Strip of Land

The proposed development is considered consistent with the objectives of the R2 Low Density Residential Zone. Specifically, it presents a low-density residential environment, which will provide additional housing to the Queanbeyan-Palerang Local Government Area (LGA). The scale and density of anticipated future development is considered consistent with the objectives of the zone.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)

Minimum Lot Size

The minimum lot size relevant to the subject land is 850m². Pursuant to clause 4.1 of the PLEP 2014. There are no lots under 850m² proposed as a part of the development.



LEGEND

	45 (49.45%) LOTS >850m ²
	16 (17.58%) LOTS >900m ²
	15 (16.48%) LOTS > 1000m ²
	5 (5.49%) LOTS > 1100m ²
	3 (3.29%) LOTS > 1200m ²
	2 (2.19%) LOTS > 1300m ²
	3 (3.29%) LOTS > 1400m ²
	1 (1.09%) LOTS > 1500m ²
	1 (1.09%) LOT > 1600m ²

TOTAL LOTS = 91

Figure 8: Lot Size Plan

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)

(b) Compliance with DCP

Palerang Development Control Plan 2015

The proposed development is generally consistent with the requirements of the PDCP 2015 . The applicable sections of the PDCP 2015 have been assessed in detail within the attached Section 4.15 Assessment Report. These include the relevant sections and controls of Part B – General Provisions and Part C – Development Specific Provisions (C1 Subdivision).

(a) Development Engineer's Comments

Council's Development Engineer has provided comments regarding the following items:

- Water
- Sewer & Stormwater
- Erosion & Sediment Control
- Roads & Traffic
- Footpaths
- Utilities & Servicing
- Flooding

The detailed contents of the Development Engineer's referral are provided within the attached Section 4.15 Assessment Report. No objection was offered subject to the imposition of the recommended conditions of consent.

(b) Environmental Health Comments

Council's Environmental Health Team has offered no objection to the proposed development subject to the recommended conditions of consent being imposed including sediment and erosion controls, submission of a Construction Management Plan, and requirements regarding any potential contamination of land.

(c) Road Safety Officer's Comments

No objection to the proposed development was received. It was noted that should an accident occur between vehicles driving west on Larmer Street through the roundabout or north on McCusker Drive and those turning left, the configuration of the roundabout on McCusker Drive and Larmer Drive could impact pedestrians. The design of the footpath in this section of the street should give consideration to the impacts of the roundabout configuration.

(d) Parks and Utilities

No objection to the proposed development was received, subject to the imposition of the recommended conditions of consent. Council's Utilities Branch have provided in principal support for the Deed of Agreement regarding Water Supply Development Works.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)

Financial Implications

Section 64 and Section 7.11 Contribution charges are applicable to the proposed development.

Section 64s - The water and sewer headworks contributions for 91 ETs on a greenfield site are calculated as follows:

- Bungendore (Greenfield) Water Headworks ($\$18,840 \times 91$) = \$1,714,440.
- Bungendore (Greenfield) Sewer Headworks ($\$10,650 \times 91$) = \$969,150.

Section 7.11s - As the land parcel was rezoned from RU1 Primary Production to R2 Low Density Residential, a credit is not applicable in this instance. The following contributions for 91 new Torrens title lots on a greenfield site are calculated as follows:

- Yarrawumla Plan No.1 – Bungendore Public Services and Amenities = \$312,949
- Palerang Plan No.7 – Bungendore Recreation Facilities = \$279,552
- Bungendore Plan No.8 – Bungendore Pathway Network = \$115,388
- Bungendore Plan No.9 – Bungendore Street Upgrading = \$318,318

Community Engagement

The application was notified in accordance with the Queanbeyan-Palerang Regional Council Community Engagement and Participation Plan from the 28/09/2020 to the 28/10/2020. One (1) submission was received during the notification period. The relevant issues raised are as follows:

I support the development however I believe considering the size of the development that the developer should have to mimic the Googong style of development and have part of the development as green space with a large playground and play area. If it is proposed to put 91 additional lots in, that is a lot of families that will then have to utilise the existing town amenities i.e. playground, oval etc. Also I don't believe the development should be able to join onto any existing streets. There is already enough traffic on Simms Drive and McCusker.

The access should only be from Tarago Road... just like Hope Drive and McDonnell Drive estates. It is unfair and unreasonable to allow the subdivision to join the existing streets as it will become an unnecessary thoroughfare for the new estate. There should be one entry and one exit point only for the road.

Assessing Officer's Comments - The proposal incorporates several areas designated for walkways and open space. As well as an area that provides outdoor exercise equipment and a BBQ area. The scale of the development does not warrant the level of public amenities and community facilities currently being built or proposed for Googong which were provided under a Local Planning Agreement (LPA). Appropriate contributions will be made to Council's open space and amenities programs through section 7.11 contributions.

Additionally, it is considered poor design that the development does not incorporate more connections to the existing road network. Reliance solely on a single road for access for future residential development is likely to result in worse traffic congestion for existing and future residents. Despite this, there is potential for future road connections to be developed.

8.1 DA.2020.1469 - 91 Lot Torrens Title Subdivision, Roads, & Associated Subdivision Construction Works - North Elmslea - Stage 1 - 174 Tarago Road, Bungendore (Ref: ; Author: Thompson/Glouftsis) (Continued)






Conclusion

The submitted proposal for a 91 lot Torrens title subdivision for residential purposes, associated roads, and subdivision construction works on Lot 1 DP 798111, No. 174 Tarago Road, Bungendore was considered a local development and is supported by a Statement of Environmental Effects (SEE). The proposal was notified to adjoining owner/occupiers and one (1) submission was received during the notification period, with items raised in the submission addressed within the assessment report.

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

The development generally satisfies the requirements and achieves the objectives of these instruments and is recommended for approval.

Attachments

Attachment 1 	DA.2020.1469 - Section 4.15 Assessment Report - North Elmslea Stage 1 (<i>Under Separate Cover</i>)
Attachment 2 	DA.2020.1469 - Plans - North Elmslea Stage 1 (<i>Under Separate Cover</i>)
Attachment 3 	DA.2020.1469 - Statement of Environmental Effects - North Elmslea Stage 1 (<i>Under Separate Cover</i>)
Attachment 4 	DA.2020.1469 - Submission - North Elmslea Stage 1 (<i>Under Separate Cover</i>)
Attachment 5 	DA.2020.1469 - Draft Conditions of Consent - North Elmslea Stage 1 (<i>Under Separate Cover</i>)

8.2 Street Naming Proposals - Scribbly Gum Road and Rosella Place (Ref: ;
Author: Thompson/Knight)

File Reference: 26.4.1-04

Summary

Council has received two requests to name streets within the local government area:

1. A request from the proponents of the South Jerrabomberra Urban Release Area to name an additional street in Stage 1 as a result of changes to the proposed road layout. The proposed road name is "Scribbly Gum Road".
2. A new 17 lot subdivision of 115 Ellendon Street, Bungendore has created a new cul-de-sac which requires naming.

This report considers the names proposed and recommends endorsement for public exhibition.

Recommendation

That Council:

1. **Adopt in principle "Scribbly Gum Road" as the name for the new road created within Stage 1 of the South Jerrabomberra Urban Release Area.**
 2. **Adopt in principle "Rosella Place" as the name for the new road created by DA.2018.210 off Ellendon Street, Bungendore.**
 3. **Advertise the names for public comment for 28 days.**
 4. **Publish a notice in the NSW Government Gazette if no objections are received.**
-

Background

Council has received requests to name two new roads within the local government area. The proposals are as follows:

1. *Scribbly Gum Road*

The South Jerrabomberra Urban Release Area (formerly South Tralee) was approved by the Joint Regional Planning Panel under DA 395-2017 in August 2018. Construction of the first stage of the subdivision is well underway and road names have been approved and gazetted.

Due to realignment of the road and lot layout an additional road has been added to Stage 1 which requires naming. The new road is shown in Attachment 1.

Council has previously worked with the applicant's consultant and the Geographical Names Board (GNB) to generate a pre-approved list of names for this development which differ from those elsewhere in the local government area and meet the criteria for road naming set down by the GNB.

The developer has chosen "Scribbly Gum Road" from this list of pre-approved road names as the name for this new road.

The scribbly gum (*Eucalyptus haemastoma*) is a native Australian eucalyptus tree which is easy to spot because of the distinctive markings along its smooth yellow-grey trunk.

8.2 Street Naming Proposals - Scribbly Gum Road and Rosella Place (Ref: ; Author: Thompson/Knight) (Continued)

These zig-zag tracks or 'scribbles' are made by a moth larva as it tunnels between the old and new bark. Every year when the tree sheds the old bark, new markings are revealed.

The name is generally unambiguous and is easy to spell and pronounce. As such there is no objection to the proposed name and it is recommended for public exhibition.

2. Rosella Place

A new 17 lot subdivision was approved under DA.2018.210 of 115 Ellendon Street, Bungendore. Construction of the subdivision is nearing completion. The new road is shown in Attachment 2.

Council has previously worked with the Geographical Names Board (GNB) to generate a pre-approved list of names for one off street names which differ from those elsewhere in the local government area and meet the criteria for road naming set down by the GNB.

Council has selected Rosella Place from this list of pre-approved road names as the name for this new road.

The Rosella is a native Australian parrot of the *Platycercus* species. There are a number of varieties most of which are vibrantly coloured with combinations of blue, green, red and yellow plumage. Rosellas often perch on rooftops, in trees and on fences. They are known by their distinctive calls and colourful feathers. Generally, Rosellas are not afraid of people and are a common sight in Australian suburbs.

The name is generally unambiguous and is easy to spell and pronounce. As such there is no objection to the proposed name and it is recommended for public exhibition.

Implications***Policy***

The Code of Practice for addressing premises requires the recommended road name be reported to Council and then advertised for public comment. If supported by Council and the Geographical Names Board and there are no objections received from notifications, then the notice will be published in the NSW Government Gazette. If any objections are received, then a further report will be put to Council.

Consultation

The proposed name will be exhibited for 28 days for public comment.

Financial

All costs associated with advertising of the road name and supply of road name plates are to be borne by the applicant in accordance with Council's adopted fees and charges and the conditions of the development consent issued for the subdivision.

Conclusion

The names chosen are unique and interesting names. The names have been selected in accordance with Council's Code of Practice for the Naming of Roads and the Geographical Names Board guidelines for the naming of roads. It is recommended that the names "Scribbly Gum Road" and "Rosella Place" be endorsed for public exhibition.

Attachments

Attachment 1 Location of Proposed Scribbly Gum Road (*Under Separate Cover*)



8.2 Street Naming Proposals - Scribbly Gum Road and Rosella Place (Ref: ; Author: Thompson/Knight) (Continued)

Attachment 2 Location of Proposed Rosella Place (*Under Separate Cover*)



8.3 Proposed Boundary Adjustment to the Localities (Suburbs) of Tralee and Environa (Ref: ; Author: Thompson/Knight)

File Reference: 26.4.1-01

Summary

The Village Building Company (VBC) is applying for an amendment to the suburb boundary of Tralee to encompass a small area of the Environa suburb, the majority of which is in the ownership of Village Building Company. The extension of the locality name reflects the site's identification with the residential development of the Village Building Company's estate. Without the change a small section at the northern end of the new residential development will be in one suburb (Environa) while the majority will be in a different suburb (Tralee). This is not a desirable outcome for future residents and should be avoided from an addressing perspective. The proposed change will ensure that all residential development in the South Jerrabomberra Urban Release area is located in the single suburb of Tralee.

This report considers the locality boundary amendment proposal and recommends endorsement for submission to the Geographic Names Board for assessment and approval.

Recommendation

That Council endorse the submission of the locality (suburb) boundary amendment proposal to the Geographic Names Board for assessment and approval as set out in Attachment 1.

Background

The South Jerrabomberra Urban Release Area comprises land that will ultimately deliver 1500 new dwellings with a new community of around 4275 people. The new development will also generate approximately 1204 local jobs in the employment lands contained within the Release Area.

The proposal involves an extension of the Tralee suburb name to incorporate 38.7ha of land currently within the locality or suburb of Environa. This will ensure that the future residents embrace the new suburb name helping to create a sense of place and pride amongst the community. It also avoids confusion among residents and visitors created by a small number of houses that will have a different suburb name.

The existing suburb boundaries are shown in Figure 1 below.

The proposed new suburb boundary is shown in Figure 2 below.

The additional 38.7ha of land takes the suburb of Tralee to 1347ha and Environa 860ha. Both suburbs are of an extent that meets the size requirements of the Geographical Names Board (GNB) guidelines to be named as suburbs.

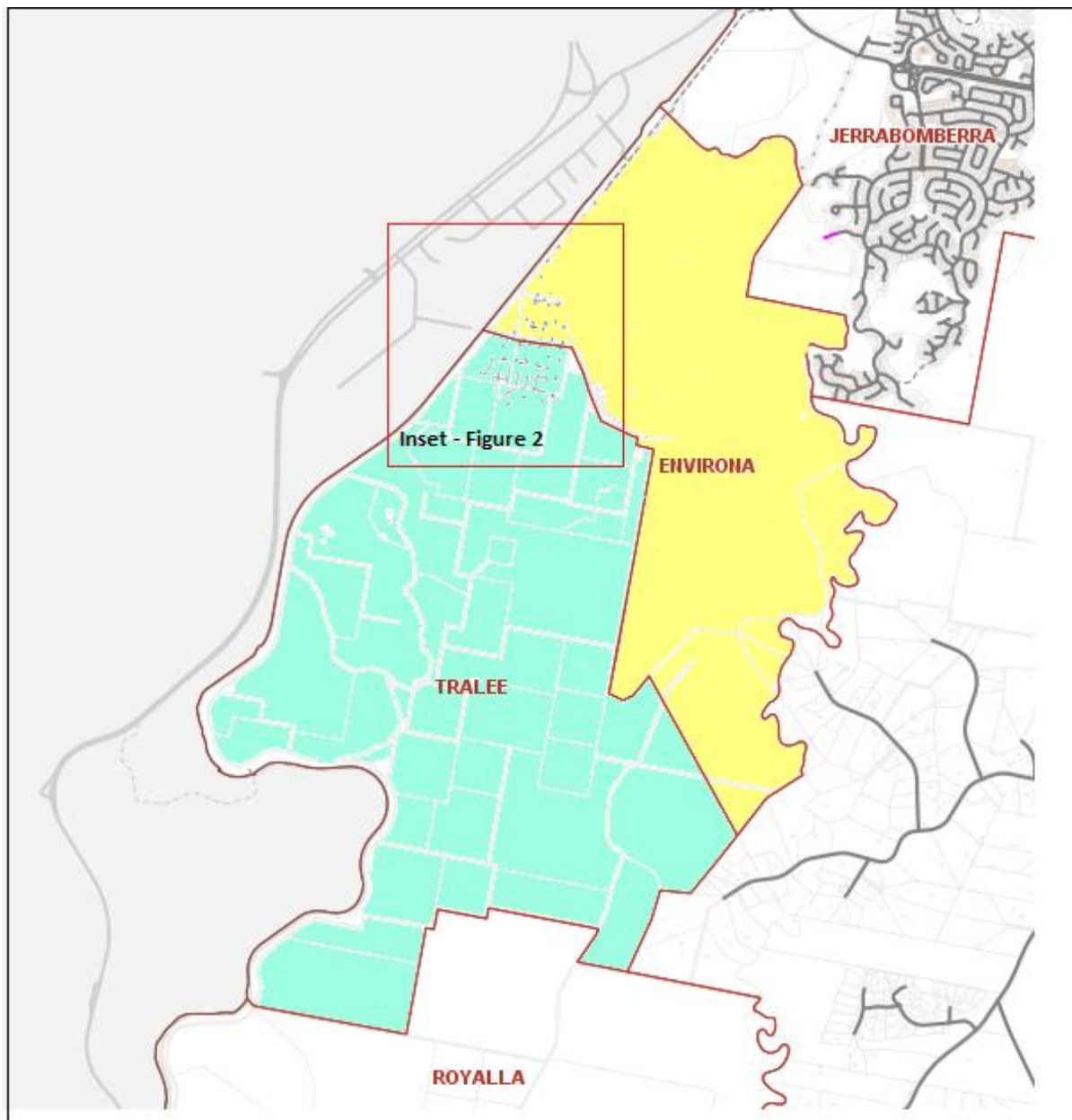
8.3 Proposed Boundary Adjustment to the Localities (Suburbs) of Tralee and Enviroña (Ref: ; Author: Thompson/Knight) (Continued)

Figure1 – Existing Suburb Boundaries of Tralee and Enviroña

8.3 Proposed Boundary Adjustment to the Localities (Suburbs) of Tralee and Enviroña (Ref: ; Author: Thompson/Knight) (Continued)

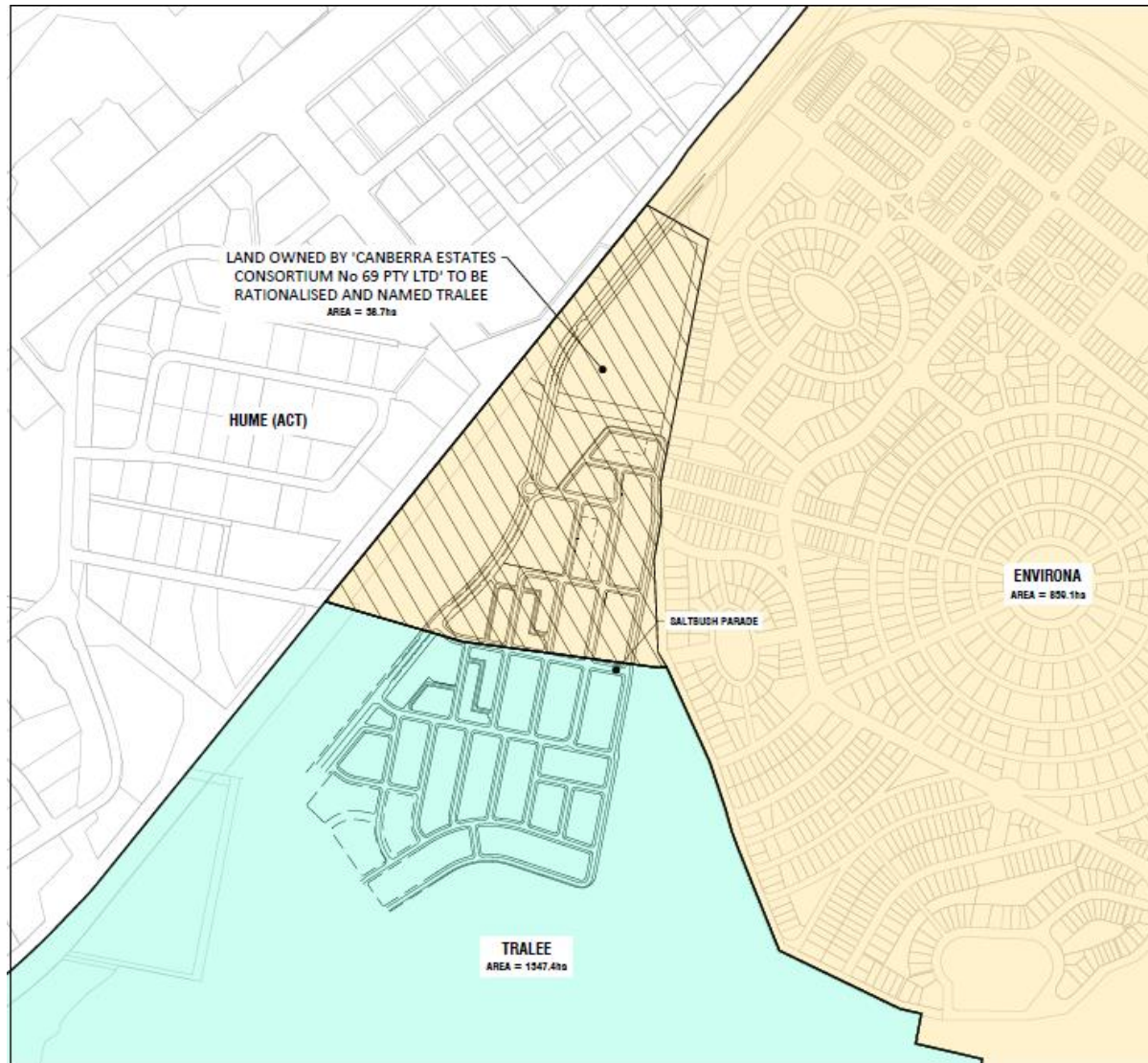


Figure 2 – Area of Enviroña to be “Transferred” to Tralee

Implications

Legal

Under the provisions of the *Geographical Names Act 1966*, the GNB is responsible for address locality names and boundary determination.

Policy

Under Section 2 and Section 5 of the *Geographic Names Act 1966*, the Geographic Names Board have responsibility for assigning names to address localities, determining their extent, and publishing their details on the Gazetteer of Place Names.

Council is required to submit any locality amendment proposal to the Geographic Names Board for assessment and approval.

8.3 Proposed Boundary Adjustment to the Localities (Suburbs) of Tralee and Environa (Ref: ; Author: Thompson/Knight) (Continued)

Engagement

Section 7.1.3 of the *NSW Address Policy and User Manual* outlines the consultation requirements for boundary adjustment proposals.

It states that 'Where a boundary amendment proposal will affect less than 10 parcels or owners/occupiers, no advertising is required (but can be undertaken) ...'

John Holland Rail, who act on behalf of the State Rail Authority NSW and Transport for NSW, has given their consent to Council to submit the locality boundary adjustment proposal to the GNB.

Although the boundary adjustment does not directly affect any other landowners, staff have had discussions with, and received verbal agreement to the proposal from the sole adjoining landowner in Environa.

Financial

Council is not responsible for any costs associated with the boundary amendment.

Section 8 of the *Geographic Names Act 1966* states that 'Whenever the board proposes to assign a geographical name to any place or to alter a recorded name or a geographical name it shall cause to be published in the Gazette and in a newspaper circulating in the neighbourhood of such place a notice of the proposal specifying the proposed name or alteration.' The GNB is responsible for placing these advertisements and gazette notices.

Conclusion

Council is required to submit any locality amendment proposal to the Geographic Names Board for assessment and approval. The proposal must have full support of the property owners affected by the proposal and Council.

The proposed boundary adjustment will make certain all the land within the South Jerrabomberra Urban Release Area is located within the one locality and ensures that the future residents embrace the new suburb name helping to create a sense of place and pride amongst the community.

It is recommended that a proposal to amend the locality boundary between Environa and Tralee be supported by Council and for it to be submitted to the GNB for assessment and approval.

Attachments

Attachment 1



Proposed Locality Amendment Report - Village Building Company (*Under Separate Cover*)

8.4 Secondary Dwellings in Rural Zones (Ref: ; Author: Thompson/Meyer)

File Reference: 26.1.41

Summary

The purpose of this report is to provide Council with advice in respect of a proposed amendment to the Standard Instrument Local Environmental Plan (LEP) template to insert new controls for secondary dwellings, and to seek Council's endorsement to adopt the draft clause with the accompanying standards recommended in this report.

Recommendation

That Council:

- 1. Adopt proposed clause 5.5 of the Standard Instrument LEP, with the accompanying controls nominated in this report.**
 - 2. Advise the Department of Planning, Industry and Environment (DPIE) of its resolution by 30 May 2021.**
-

Background

Council may recall previous workshops with staff where the issue of the suitability of secondary dwellings and dual occupancies in rural areas was discussed, predominantly in the context of the new draft Comprehensive LEP. Since those workshops occurred, a few changes have been made to the Standard Instrument LEP by the Department of Planning, Industry and Environment (DPIE), including the removal of any size controls for secondary dwellings in rural areas. Accordingly, since 1 February 2021, there have been no controls regulating the size of secondary dwellings in rural zones under Council's respective LEPs.

The DPIE has now contacted Council advising it has received representations from local councils raising concerns about the lack of controls for secondary dwellings in rural areas, and confirming it now intends to incorporate a new optional provision into the Standard Instrument LEP to allow local councils to include controls for secondary dwellings in rural zones if they so choose.

The new Standard Instrument provision – optional clause 5.5 – has been introduced to allow local councils the discretion to set both a maximum size for secondary dwellings on land in rural zones, and, a maximum separation distance that a secondary dwelling can be located from the principal dwelling in a rural zone.

Ordinarily to adopt the new optional provision, local councils would have to prepare a formal Planning Proposal. However, in this instance, the DPIE has temporarily removed the requirement to prepare a Planning Proposal to expedite the changes and to minimise demands on local councils' resources. Instead, the DPIE is proposing to update the provisions automatically when the new *State Environmental Planning Policy Housing* ('Housing SEPP') is finalised in the middle of this year. As such, it has asked local councils wanting to avoid having to prepare a Planning Proposal to nominate their preferred size and maximum distance for secondary dwellings on rural land, via a Council resolution, by 30 May 2021.

DPIE has advised that if it does not receive a response by 30 May 2021, Councils wishing to adopt clause 5.5 will instead have to prepare a Planning Proposal to do so.

8.4 Secondary Dwellings in Rural Zones (Ref: ; Author: Thompson/Meyer)
(Continued)***QPRC's Recommended Position***

To ensure Council can control residential development on land in rural zones as effectively as possible, it is recommended clause 5.5 of the Standard Instrument be adopted (Attachment 1).

It is also recommended that should Council resolve to adopt the new clause and that the DPIE be informed of that resolution by the nominated deadline (30 May 2021) so as to take advantage of not having to pursue the Planning Proposal process in adopting the new clause.

As noted, the proposed new clause allows local councils to nominate both a maximum size for secondary dwellings on land in rural zones, and a maximum separation distance a secondary dwelling can be located from the principal dwelling in a rural zone.

The maximum area controls recommended (i.e., 60sqm, or, 33% of area of the principle dwelling) replicate the controls that were contained within the draft Comprehensive LEP at clause 5.4(9) and applicable to land in a rural zone prior to the amendment of the Standard Instrument LEP. Given the extensive community consultation undertaken in preparing the new Comprehensive LEP, the controls reflected the result of that consultation and, consequently, their replication is considered the most appropriate option.

It is not recommended that Council adopt the second element of the new clause – a control relating to the maximum distance between a secondary dwelling and the principal dwelling (Attachment 1). That control was not adopted in the draft Comprehensive LEP and has not been used in Council's existing LEPs previously. Adoption of the control is not considered necessary given the location of secondary dwellings on land in a rural zone, including distance from the primary dwelling, is the subject of a range of standards contained within Council's DCPs. The controls in the DCPs provide Council with an appropriate degree of flexibility in assessing applications for secondary dwellings and it is recommended that such flexibility be maintained.

Accordingly, it is recommended Council adopt the new optional clause into its respective LEPs (or the draft Comprehensive LEP subject to timing of implementation), in the manner set out below:

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—

(a) 60 square metres,

(b) 33% of the total floor area of the principal dwelling.

Implications***Legal***

The new optional clause is an important statutory tool for Council's use in controlling residential development on rural land. Adoption of it is considered appropriate. This is because the amendment to the Standard Instrument last December has resulted in there currently being no controls within the LEP relating to secondary dwellings on land within a rural zone.

8.4 Secondary Dwellings in Rural Zones (Ref: ; Author: Thompson/Meyer)
(Continued)

Policy

Adopting the new Standard Instrument LEP optional clause would ensure that Council has statutory controls for secondary dwellings on land within rural zones. It would also ensure Council's housing-related controls are aligned with proposed State housing policy.

Strategic

The proposed changes would update Council's existing Standard Instruments LEPs or the draft Comprehensive LEP (subject to the timing of implementation). It would also ensure Council has an appropriate degree of control over residential development on rural-zoned land.

Engagement

As indicated above, the maximum area controls recommended replicate the controls that were adopted for the draft Comprehensive LEP at clause 5.4(9) and applicable to land in a rural zone prior to the amendment of the Standard Instrument LEP. Given the extensive community consultation undertaken in the preparation of the new Comprehensive LEP, the controls reflected the result of that consultation and, consequently, their replication is considered the most appropriate option. Further engagement is not considered necessary.

Financial

Given the limited-time option to adopt the new Standard Instrument clause without the need to prepare a Planning Proposal, doing so would not have any other financial implication other than the small amount of time spent by some staff in reporting to Council and advising DPIE of Council's resolution should it resolve to adopt the new Clause.

Resources (including staff)

The option offered by DPIE for Council to adopt the new Standard Instrument clause without the need to prepare a Planning Proposal would save considerable resources for Council.

Conclusion

Adoption of the new clause 5.5 of the Standard Instrument LEP for insertion into Council's respective planning instruments with the nominated maximum area controls is considered appropriate and necessary. It would assist Council in controlling residential development on land within rural zones as effectively as possible without changing the 'status quo' and without affecting the flexibility provided by the standards relating to secondary dwellings contained within Council's DCPs.

Attachments

Attachment 1  Optional Clause 5.5 Controls Relating to Secondary Dwellings on Land in a Rural Zone (*Under Separate Cover*)

9.1 DA.2020.1146 - Extractive Industry - 587-589 Tarago Road, Lake George (Ref: ;
Author: Thompson/Perkins)

File Reference: DA.2020.1146

Report

Executive Summary

DA.2020.1146 was lodged by Grantham Park Holdings Pty Ltd on 20 April 2020 in relation to 587-589 Tarago Road, Lake George (Lot 31, DP 634213, Lots 1 & 2 DP 1167699) for the purposes of an extractive industry. Specifically, the proposal sought consent to expand an existing sand quarry currently operating upon the site. The development is designated development, integrated development and regional development. The Southern Regional Planning Panel is the consent authority for the proposal. The application was approved by the Southern Regional Planning Panel on 9 March 2021. The following report provides an overview of the development, the assessment pathway, and the reasons for approval.

Description of the Proposed Development

The specific elements of the proposal are:

Proposed Activities:

- Extraction of sand and limited volumes of overburden and interburden (clay and silt) within the remainder of the existing extraction area and a 77ha proposed extraction area, producing up to 400,000t of sand products per year for a period of 20 years;
- On-site screening, classifying and stockpiling of extracted material to produce a range of sand products using the existing Sand Classification Plant;
- Transportation of sand products to the Operator's customers using a combination of rigid vehicles and truck and dog combinations and existing Quarry Access Road and public transportation routes;
- Management and settlement of fines and process water using the existing and proposed Fines Settling Cells and Process Water Ponds;
- Establishment of ancillary infrastructure, including bunds and water management structures; and
- Construction and rehabilitation of a final landform that would be safe, stable, non-polluting, and suitable for a future land use of nature conservation and agriculture.

Site Infrastructure/ Configuration:

- Existing extraction area;
- Proposed extraction area, including proposed fines settling cells and wetlands to be constructed following the completion of extraction operations;
- Existing sand classifying plant;
- Existing fines management area;
- A series of existing process water ponds;
- Existing quarry access road (intersection upgrade works proposed);
- A number of wetlands either under construction or proposed to be constructed;
- Ancillary infrastructure, including a site office, workshop, weighbridge, car parking areas and hardstands.

9.1 DA.2020.1146 - Extractive Industry - 587-589 Tarago Road, Lake George (Ref: ; Author: Thompson/Perkins) (Continued)

Hours of Operation

The following hours of operation are proposed for various activities to be carried out upon the site:

Activity	Monday to Friday	Saturday	Sunday
Extraction	6:00am – 5:00pm	6:00am – 2:00pm	-
Processing	6:00am – 5:00pm	6:00am – 2:00pm	-
Loading and Transportation	6:00am – 5:00pm	6:00am – 2:00pm	-
Rehabilitation	6:00am – 5:00pm	6:00am – 2:00pm	7:00am – 6:00pm
Maintenance	6:00am – 5:00pm	6:00am – 2:00pm	7:00am – 6:00pm

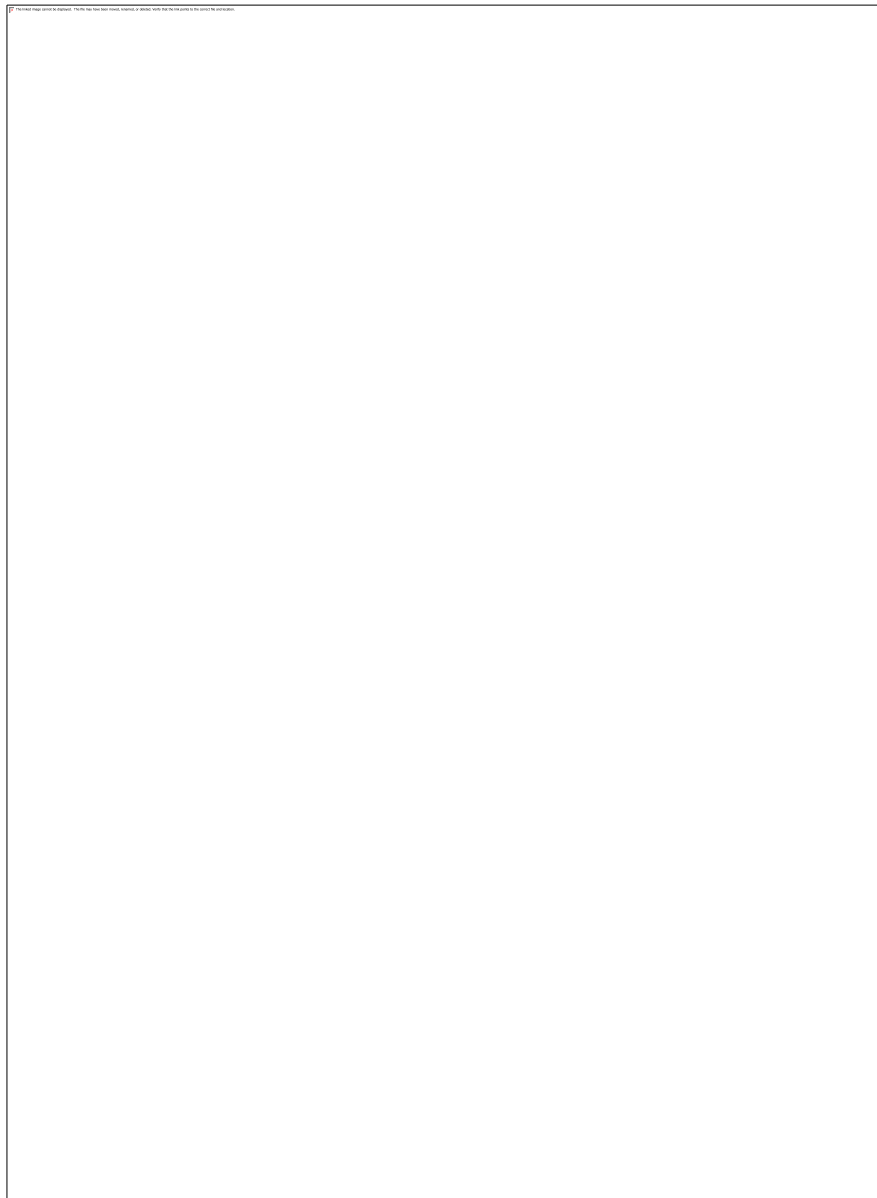


Figure 1: Proposed Site Configuration

9.1 DA.2020.1146 - Extractive Industry - 587-589 Tarago Road, Lake George (Ref: ; Author: Thompson/Perkins) (Continued)

Description of the Site and Locality

The subject site is legally described as Lot 31 DP 634213, Lot 1 DP 1167699 and Lot 2 DP 1167699 and is commonly known as 587-589 Tarago Road, Lake George. The site is located on the north-western side of Tarago Road and has an area of 315.4ha.

Existing development on the site comprises of an extractive industry operation (sand quarry) comprising the following elements:

- An Extraction area;
- Sand classifying plant;
- Fines management area;
- A series of process water ponds;
- A quarry access road;
- A number of wetlands currently under construction; and
- Ancillary infrastructure, including a site office, workshop, weighbridge, car parking areas and hardstands.

Vehicular access to the site is provided to the site via an existing haulage road from Tarago Road.

Existing development within the locality consists of several similar extractive industry operations, while a number of surrounding properties are utilised for broad scale agriculture with ancillary dwelling houses. Council's water treatment plant is located adjacent to the site's vehicular access point on Tarago Road. Council is also currently considering a development application for a composting facility upon the adjoining property to the east of the site (Lot 1 DP 1154765).



Figure 2: Locality plan

9.1 DA.2020.1146 - Extractive Industry - 587-589 Tarago Road, Lake George (Ref: ; Author: Thompson/Perkins) (Continued)

Previous Approvals

The subject site, or part thereof, has operated as a sand quarry since approximately 1969 under a number of often overlapping development consents. Several of these consents have subsequently lapsed. The subject application is intended to provide a single standalone development consent to capture current and future operations upon the site including the end of life remediation of the development.

Assessment and Determination

The application was publicly notified for a period of 30 days and no submissions were received. Council has received external referrals and General Terms of Approval from Transport for NSW, NSW Rural Fire Service, Biodiversity Conservation Division, HeritageNSW, NSW Fisheries, NSW Environment Protection Authority and WaterNSW raising no objection to the proposal.

Council staff subsequently undertook an assessment of the application and submitted a report for consideration by the Southern Regional Planning Panel recommending approval of the application (See Attached Assessment Report). As no submissions were received, the matter was considered electronically by the Southern Regional Planning Panel on 9 March 2021. The Panel resolved to support the Council staff's recommendation and determined to approve the application for the following reasons (a Copy of the Determination and Statement of Reasons is attached to this report):

The panel determined to approve the application for the reasons outlined in the Council assessment report and the following:

- *The proposed development is permissible with consent within the RU1 Primary Production zone under the Palerang Local Environmental Plan 2014 and Clause 7(3)(a) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 for proposed works within the E3 Environmental Management zoned portion of the site.*
- *The granting of consent will provide for the operations of the site with a contemporary approval framework in terms of on-going management of operations and rehabilitation of the site,*
- *Subject to the conditions of consent, the proposed development can be operated to comply with relevant environmental criteria. In this regard the panel notes the Environment Protection Authority has provided General Terms of Approval,*
- *The Panel was satisfied that the visual impact of the development, particularly when viewed from nearby dwelling is ameliorated by the topography of the site,*
- *The Panel was satisfied that traffic impact and road safety can be appropriately managed provided the overall limit on heavy vehicle movements is capped at 140 vehicles per day. The Panel has included an amended condition of consent to enforce this.*

Recommendation

That the report be received for information.

Attachments

Attachment 1 DA.2020.1146 - 4.15 Assessment Report (*Under Separate Cover*)



Attachment 2 DA.2020.1146 - Determination and Statement of Reasons (*Under Separate Cover*)



9.1 DA.2020.1146 - Extractive Industry - 587-589 Tarago Road, Lake George (Ref: ;
Author: Thompson/Perkins) (Continued)

Attachment 3 DA.2020.1146 - Notice of Determination (*Under Separate Cover*)



9.2 **Unauthorised Use of Land for Disposal of Fill Material - Outcome of Compliance Action in Land and Environment Court (Ref: ; Author: Thompson/Harlor)**

File Reference: Property Number 352078, L&E Court File Number

Report

Background

Since April 2015, Council Officers have undertaken numerous inspections of 143 Birchmans Grove, Wamboin and observed during the ensuing years, significant earthworks and the importation of soil and building/demolition waste. The demolition waste contains bricks, concrete, plastics, rocks, metal, vegetation, asphalt, fibrous sheet fragments and builder's waste in general.



Council issued Stop Work Orders under the *Environmental Planning and Assessment Act* to cease the unauthorised filling of the land and Prevention Notices under the *Protection of the Environment Operations Act* to remove the unauthorised fill and remediate the disturbed land. The owner of the property failed to comply with terms of the Orders issued by Council despite numerous extensions of time and requests to comply.

The matter was escalated to the Land and Environment Court in an attempt to get Court Orders issued requiring the remediation works to be carried out. The hearing was conducted on 3 and 23 December 2020.

**9.2 Unauthorised Use of Land for Disposal of Fill Material - Outcome of Compliance Action in Land and Environment Court (Ref: ; Author: Thompson/Harlor)
(Continued)**

Result of Proceedings

The Court's judgment in the proceedings was handed down on the 11 March 2021 (Copy attached).

The Court found that:

1. The breaches of both the POEO Act and the EPA Act are clearly made out on the evidence.
2. The sheer volume and extent of the importation and deposition of materials (some 3,500m³ at April 2019) and the earthworks undertaken on the land, without any opportunity at all for appropriate consideration, assessment or regulation by a consent authority, is significant.
3. The owner has been on notice of the breaches and Council's ongoing concern regarding the conduct on the land since 11 November 2015 and appears to have blatantly disregarded all attempts by Council to regularise his conduct.
4. The Prevention Notice issued under s96 of the POEO Act and the Stop Use Order issued under s9.34 of the EPA Act to the Owner were both served on the Owner. He was, and has remained, aware of Council's concerns raised in both the Prevention Notice and Stop Use Order, and also as a result of the detailed intercourse with Council officers and legal representatives.
5. The seriousness of the non-compliance with the Prevention Notice and Stop Use Order is augmented because of the further importation and deposition of the materials, and the continued use of the land despite being aware of the need for, and absence of, development consent; and
6. The making of declarations marks the disapproval of the Court of conduct that Parliament has proscribed and serves to discourage others from acting in a similar way.

The Court also found that the owner was aware of the proceedings and deliberately chose not to attend the hearing and contest Council's case. As a result, any prejudice that he might suffer as a result of the hearing being conducted in his absence is self-inflicted.

The Court noted that there had been some delay between Council initially becoming aware of the conduct on the land and enforcing compliance, but acknowledged that the delay is explained by Council's various attempts to engage with the owner both by conversation and correspondence, to inform him of its concerns and, indeed, the issuance of orders to the owner such that the delay did not give rise to any disentitling conduct.

**9.2 Unauthorised Use of Land for Disposal of Fill Material - Outcome of Compliance Action in Land and Environment Court (Ref: ; Author: Thompson/Harlor)
(Continued)**

The Orders, now in effect, are summarised in the below table:

Order No	Description (abridged)	Date
5	Cease using the Land as a waste facility and/or a waste disposal facility and/or for the disposal of waste and/or for the disposal of Materials.	Immediately
7	Within 28 days install and maintain erosion and sediment controls to contain the movement of sediment off the Land as shown on the plans at Attachment A to the orders and detailed in Attachment B.	Thursday 8 April 2021
8	Within four months, remove all Materials and other waste from the Land.	Monday 12 July 2021
9	Within one year of the date of these orders, restore the Land as near as possible to the condition it was at the importation and placement of the materials thereon.	Friday 11 March 2022

Failure to comply with the Orders will see the owner in contempt of Court with all the remedies available to the Court for enforcement, including imprisonment.

Further to the above, the owner has been ordered to pay Council's costs incurred.

Conclusion

Council's Solicitors will send a copy of the judgment to the owner and arrange for a penal notice and sealed copy of the orders to be served in case it is necessary to proceed with contempt proceedings.

The Court's decision is detailed and can be used as a precedent for education purposes and to increase community awareness about the unauthorised dumping of fill to hopefully discourage similar activity. It will also support the issue of prevention notices and stop work orders by the Council in similar circumstances where fill and/or waste is dumped on land without consent, which is a common issue in the LGA.

Recommendation

That the report be received for information.

Attachments

Attachment 1 Court Orders - 143 Birchmans Grove (*Under Separate Cover*)



9.3 Submission on NSW Government Planning Amendments for Agritourism and Small Scale Agriculture Development (Ref: ; Author: Thompson/Blacklock)

File Reference: 26.1.4 Advice to Council on Planning Matters

Report

The Department of Planning, Industry and Environment is proposing to simplify the planning process and approval pathways for those who wish to do small business activities, such as agritourism, and low-impact agricultural development on NSW farms.

The changes seek to respond to natural disasters such as droughts and bushfires, as well as impacts from COVID-19.

Agritourism is a tourism-related experience or product that connects agricultural products, people or places with visitors on a farm or rural land for enjoyment, education, or to participate in activities and events.

The proposed changes will amend:

- Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument LEP Order),
- State Environmental Planning Policy (Primary Production and Rural Development) 2019 (PPRD SEPP), and
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).

Several of these changes are consistent with changes proposed by Council in a previous submission on the draft Primary Production and Rural Development State Environmental Planning Policy which was reported to Council's meeting of 13 December 2017 (Item No. 12.7).

The Department believes the proposed amendments will make it easier for farmers to establish new complementary businesses on their land, including:

- supporting more farm stays by:
 - amending the existing definition of 'farm stay accommodation' in the Standard Instrument LEP Order, and
 - introducing an optional clause that councils can choose to adopt in their local plans to manage any impacts
- enabling events on farms by introducing a new definition for 'farm events'
- facilitating farm gate businesses by introducing:
 - a new definition for 'farm gate activities', and
 - an optional clause that councils can choose to adopt in their local plans
- introducing fast-track approval pathways, known as exempt and complying development, for these types of agritourism, provided certain development standards are met
- allowing other low impact agricultural activities as exempt or complying development, such as small processing plants where certain development standards are met
- making minor changes to existing planning controls to make them more effective, such as increasing the separation required for rural dwellings from intensive livestock agriculture, if carried out as complying development.

The NSW Department of Primary Industries and the NSW Small Business Commission have been part of the process to develop these amendments.

Feedback on the amendments is due by 19 April 2021.

9.3 Submission on NSW Government Planning Amendments for Agritourism and Small Scale Agriculture Development (Ref: ; Author: Thompson/Blacklock) (Continued)

A submission has been prepared and is based on the review of the Explanation of Intended Effect (EIE) document. The following areas are identified to be included in the submission to the Department of Planning, Industry and Environment.

The principle of the amendments to have no or low environmental impact is supported, however there are aspects of the proposed amendments that appear to conflict with this principle. To achieve this principle, the following suggestions and comments are provided:

General Comments

- The proposed amendments and concept does not show a clear consideration of the Important Agricultural Land mapping identification and protecting the future of such land from land use conflict and fragmentation especially around the fringes of urban areas. This has been a key project that has been identified in the South East and Tablelands Regional Plan and remains outstanding.
- Future use of such agricultural land with emerging technology and markets may be stymied due to the location of the proposed accommodation uses.
- Cumulative impact of exempt development on rural land does not appear to have been considered. Proposed amendments create the potential for 120 people visiting a site under exempt development on the same day:
 - 20 people camping, plus
 - 50 people at farm gate activity, plus
 - 50 people at a farm event.
- Setback controls relate to established and proposed agricultural uses (feedlots intensive agriculture and other uses), however fail to provide clarification on what would constitute “proposed”.
- Setback distances to nature reserves and Environmental zones should be covered.

Farm Stay Accommodation

- This needs details of how dwelling entitlements will not be created from farm stay accommodation.
- More clarity is required on controls for exempt and complying development in relation to waste management.
- There is a false expectation set up for exempt farm stay accommodation when it is excluded on bushfire prone land which covers most rural land particularly with recent changes by Rural Fire Services which include grasslands as bushfire prone land.

Farm Gate Activities

This definition needs to be clarified with reference to “*industrial retail outlet*” definition and “*artisan food and drink industry*” definition. There is overlap and potential for confusion.

Farm gate activities include roadside stalls and it is proposed to allow roadside stalls on rural land as exempt development subject to certain development standards relating to building use, location and size, site access and parking and waste management. These include allowing parking on the road verge although the development must not be located adjacent to a classified road. For this type of development, it is considered that any car parking should be provided outside of the road verge and that there should be development standards which relate to signage i.e. the number and size of any signs as well as the type of goods sold being limited to produce grown and harvested on site or sourced from nearby farms.

**9.3 Submission on NSW Government Planning Amendments for Agritourism and Small Scale Agriculture Development (Ref: ; Author: Thompson/Blacklock)
(Continued)**

Farm Events

The proposed land use term of farm events in the Standard Instrument LEP Order is intended to permit events, tours, functions, conferences, fruit picking, horse riding and other similar experiences on land for which the principal use of the land is the production of agricultural goods for commercial purposes. It too is proposed to have a number of approval pathways including an exempt pathway which requires compliance with a number of prescribed development standards. In addition to those proposed i.e. development standards in relation to operational requirements, setbacks and waste management, consideration should also be given to circumstances where the farm event will involve amplified music or other potential noise disturbing activities.

Agritourism Definition

This new definition is very open ended and could potentially include any activity that brings visitors to rural land. This is at odds with most other land-use definitions in the standard instrument.

Small Scale Processing Plants

The introduction of these developments as complying development is concerning given that the private certification industry has not inspired confidence in the certification of residential development. This proposal may cause more issues for compliance follow ups by councils particularly in relation to numbers of animals slaughtered per annum. Further detail on the proposed conditions to ensure suitable pollution control and animal welfare should be provided.

Stock Containment Areas and Rebuilding of Farm Infrastructure

The rebuilding of farm infrastructure and simplification of controls for stock containment areas are supported.

Farm Dams

The creation of consistency for farm dam controls is supported.

Rural Dwelling setbacks from Intensive Livestock Agriculture

An increase in setbacks is supported as there are many local factors that affect the shape of suitable buffer areas around these uses.

Recommendation

That the report be received for information.

Attachments

Nil

9.4 Funding Agreement - Braidwood Heritage Centre (Ref: ; Author:
Thompson/Carswell)

File Reference: 26.5.1-16

Report

In November 2020 the Government announced that a proposal by the Braidwood and District Historical Society to develop the Braidwood Museum into a Heritage Centre had received funding of \$2.5 million under the Bushfire Local Economic Recovery Fund funded by the NSW Government and the Federal Government.

The project involves alterations to the Museum building as well as additions and alterations to existing buildings together with the building of motel units/caretaker's residence. Other than the Museum and motel units, proposed uses on site include a dairy and artisan workshops. Attachment 1 shows the general masterplan for the proposal.

The project is managed by the NSW Government's Public Works Advisory (PWA) team with assistance of a Project Control Group (PCG). The PCG has been formed and includes members of the Historical Society, Council staff and PWA representatives. Several meetings have been held.

As part of this project Council has been requested to enter into an Agreement to facilitate the financial management of the project, notwithstanding that Council is not the applicant or the owner of the land. Entering into this Agreement is necessary for the funds to become available i.e. \$2.5M and for the project to proceed.

There are several concerns with the Agreement arising primarily from it being a standard funding agreement for a non-standard project (i.e. Council is not the applicant or owner or responsible for maintenance and operation of the facility). However, Council has been assured by the Department of Regional NSW that the Agreement can be altered to overcome these concerns.

The draft Agreement also has two Schedules i.e. Schedule A – Activities and Schedule D – PWA's Services and Activities and an Attachment – Project Plan and Budgets which are to be finalised. Once these concerns are resolved and the missing information inserted, it is the Chief Executive Officer's intention to sign the Agreement with Council essentially the processor of the grant funds.

Council will also have a role in assessing the development application to progress the project.

Recommendation

That the report be received for information.

Attachments

Attachment 1 Braidwood Heritage Centre Master Plan (*Under Separate Cover*)



10.1 Minutes of the QPRC Heritage Advisory Committee Meeting held 18 March 2021 (Ref: ; Author: Thompson/McCauley)

File Reference: 26.5.1-08

Summary:

The Minutes of the QPRC Heritage Advisory Committee meeting of 18 March 2021 are presented to Council for consideration.

Recommendation

That Council note the Minutes of QPRC Heritage Advisory Committee held on 18 March 2021.

Attachments

Attachment 1	Minutes of the QPRC Heritage Advisory Committee Meeting Held 18 March 2021 (<i>Under Separate Cover</i>)
--------------	--



11.1 Backup Electricity for Telecommunication Facilities and Emergency Services Facilities (Ref: ; Author: Marshall/Marshall)

File Reference: 14 April 2021 motions

Notice

Councillor Peter Marshall will move the following motion:

Motion

That Council receive a report on the effectiveness of backup electricity for telecommunications facilities and emergency services facilities in the QPRC area.

Background

Council recently commenced rebroadcasting ABC Canberra radio to the communities around Braidwood and Captains Flat, due to the lack of radio coverage. This fills a gap in public communications in emergency situations.

However, there remain other significant deficits in telecommunications in emergency situations, primarily in the case of power outages. The following are some examples, with varying levels of importance, but the list is not exhaustive and the report to Council should aim to be complete:

- NBN wireless towers
- Mobile phone towers – Telstra, Optus, Vodafone
- Landline telephone exchanges
- Television repeater towers
- Public broadcast radio repeaters

Each of these services has a varying degree of backup power (varying from none upwards). Communities only find out the duration of backup power when there is a power outage (sometimes planned outages, sometimes unplanned, but usually not in an emergency situation; however, the lack of backup power inhibits responses to incidents during those power outages).

[As an example, in Captains Flat the landline telephone exchange and the Telstra mobile service seem to have no functioning backup power; the Optus mobile service has several hours of backup, but even that may be insufficient in an emergency situation. The writer has been unable to test the NBN and television repeaters' backup power.]

Council is in a position, from the perspective of community resilience to emergencies, to lobby the various providers to report on, and then to maximise, the duration of backup power to their facilities.

In addition, backup power is not always available to Rural Fire Service station and State Emergency Service facilities. This also creates problems in emergency situations and/or when there is a non-emergency power outage.

11.1 Backup Electricity for Telecommunication Facilities and Emergency Services Facilities (Ref: ; Author: Marshall/Marshall) (Continued)

Note from Staff

To address issues with poor reception of the ABC signal, Council has recently installed retransmission infrastructure in Braidwood and Captains Flat. Both sites are connected to mains power, however neither have a back-up option. Staff have obtained a quote to install an uninterrupted power supply (UPS) system that can carry the FM radio system for a maximum of five hours in the event of a mains outage. The period of five hours was chosen based on a recent outage for this period of time at Braidwood last month. This UPS system would interface with the contractor's telemetry system so that they are aware of its status, and also when it has been operating.

The proposed unit carries out a double conversion. The mains voltage travels into the unit where it is rectified to DC and this charges the battery bank. The output of the battery bank is then fed to an inverter that provides the AC power that is fed to the transmitter system.

If Council wished to extend the outage period that the system can cover, then the increased battery capacity comes at a cost, noting it is possible to extend the coverage period after installation, by increasing batteries and reprogramming the system. The same applies if for example the load is increased by adding another FM transmitter.

The quote to install the UPS system at one site is \$13,438 (ex GST) and travel costs, being around \$27k for both sites.

Telstra recently presented to councils the approach to maintaining communications in natural disasters and extended blackouts utilising mobile transmission equipment such as 'communications on wheels – 'CoW'.

Attachments

Nil

**11.2 Membership of the Bungendore Town Centre and Environs Committee (Ref: ;
Author: Marshall/Marshall)**

File Reference: 14 April 2021 motions

Notice

Councillor Peter Marshall will move the following motion:

Motion

Council increase the membership of the Bungendore Town Centre and Environs Committee to eight members from the Bungendore community, and increase the quorum to five.

Background

At the Council Meeting of 16 December 2020, Council was asked to consider new draft Terms of Reference for this Committee. It was also suggested the committee might be disbanded, though this was removed from the staff recommendation.

Council was not aware of what had prompted this item on the Business Paper.

In late 2020 the Bungendore Town Centre and Environs Committee was the subject of a complaint that members had conflicts of interest in relation to items the committee was discussing and making recommendations about to Council.

The writer understands that the complaint was upheld. While committee members have from time to time declared such conflicts of interest, and these were noted in the Minutes submitted to Council, the Minutes did not record how the conflicts of interest were managed. Had they been managed appropriately, it seems likely the Committee would not have had a quorum when it came to discussing some of those items.

Unfortunately this means that the committee's advice to Council on a number of issues may be undermined by declared, undeclared, and unmanaged conflicts of interest. Council may wish to review its position on some items in the light of this knowledge.

Under the newly adopted Terms of Reference the committee's membership from the Bungendore community is five. Two of those members are nominated by the Bungendore Chamber of Commerce and Industry. A larger number of members (eight is recommended by this Motion) would allow membership to be drawn from a broader range of the community. It also would reduce the likelihood of one or two members having a conflict of interest in relation to a particular topic rendering the meeting without a quorum.

The Terms of Reference do not specify that members should be from the Bungendore community. While this might seem obvious, it perhaps should be clarified as being resident in or operating a business in Bungendore or environs.

The quorum would need to be adjusted – it is suggested as five, allowing for five community members out of eight to be present, or four plus the councillor representative. Council may wish to consider this item in Closed Session to allow unrestricted discussion of some of the background issues.

**11.2 Membership of the Bungendore Town Centre and Environs Committee (Ref: ;
Author: Marshall/Marshall) (Continued)**

Staff Comment

The Committee role was clarified as 'advisory' not 'management', but remains an important group for engagement and advice on town centre economic, infrastructure and strategy matters.

Committee membership and terms of reference are reviewed following Council elections.

Attachments

Nil

12 NOTICE OF INTENTION TO DEAL WITH MATTERS IN CLOSED SESSION

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*.