



MINUTES OF THE PUBLIC FORUM

HELD ON 10 NOVEMBER 2021

1. Opening

The Public Forum commenced at 5.31pm.

2. Presentations relating to listed Items on the Council Agenda

The following presenter was heard via Zoom:

Name	Item no	Item description	For/Against
Nigel McAndrew	8.4	Bungendore East Planning Proposal - State Agency Consultation and Public Exhibition	For

The following presenters were heard:

Name	Item no	Item description	For/Against
Andrew Connor	8.1	Development Application - DA.2020.1481 - Adaptive Reuse of Benedict House as a Childcare Facility, Associated Additions, Demolition of an Outbuilding and Basement Carparking - 39 Isabella Street, Queanbeyan	For
Greg Simms	8.2	Development Application - DA.2021.1207 - Alterations and Additions to an Existing Commercial Premises (Bungendore Rural Services) - 114 Molonglo Street, Bungendore	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 3 November 2021 were provided and tabled at the meeting (see attached for responses):

Nos	Received from:	In relation to:
1-73	Save Bungendore Park	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 5.41pm.



ATTACHMENT TO MINUTES OF THE PUBLIC FORUM HELD ON 10 November 2021

‘Questions on Notice’ from the Public

Responses to the following ‘Questions on Notice’ received up to *Wednesday 3 November 2021* were provided and tabled at the meeting.

Questions submitted by: Save Bungendore Park Inc

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

The following are follow-up questions to responses provided on 22 September 2021.

1. 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?

Several potential sites for a high school (along with other public facilities) were considered by councillors during the drafting of the Bungendore Structure Plan, but ultimately not published in the final document. The Department of Education (DoE) were aware of those sites from the draft. Council was not invited to submit sites during the EOI process.

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

See response to 1

3. 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?

Yes, Council is aware several sites were examined as potential school sites during the EOI, but had no part in the assessment process.

4. **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]”?***

Council is not aware.

5. **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....*”?**

Council is not aware.

6. **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?**

The school proposal was workshopped with councillors prior to a report in closed session on 8 July 2020. Council resolved to: support in principle, for further consultation, the establishment of a Bungendore High School as proposed by the NSW Department of Education.

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

See response to 6a. Workshops are not decision making forums. Matters considered in closed session are confidential in accord with the relevant terms of s10A of the *Local Government Act*.

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

See response to 6a.

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

As a NSW Government project, no consultation was proposed or undertaken by Council. Further consultation by DoE with the community was requested to be undertaken as per response to 6a.

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

See response to 6a.

- (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 6b.

- (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. See response to 6a.

- 7. 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?**

SINSW advised Council that the proposed location for the school in the Majara St/Gibraltar St Precinct is the most suitable site.

- 8. 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?**

Since the Council resolution of 28 October 2020, DoE have advised on 22 October 2021 the relevant Council and Crown sites within the Majara St/Gibraltar St Precinct will be compulsorily acquired. The matter was reported in closed session to Council on 27 October 2021.

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

Council is not aware.

- 10. 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.

- 11. 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. Those sites were ultimately not published with the adopted Plan.

- 12. 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, from which formal resolutions were published. Workshops were held with councillors prior to those reports. See response to 6a.

- 13. 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 8 and 12.

14. 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.

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

A report was presented to Council in closed session on 28 October 2020 and 27 October 2021. A decisions have been published in the Council minutes. There has been no change to Council's intention to support Abbeyfield through the provision of a suitable site, demonstrated by the allocation of the northern section of closed Majara Street road reserve to Abbeyfield.

16. 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?

The State Significant Development Application (SSDA) was exhibited from 20 September 2021 to 18 October 2021. Council and community had the opportunity view the SSDA and make submissions.

Council considered its objections and submission to the SSDA at its meeting on 27 October 2021.

(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.

17. 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. In line with the advice DoE intend to compulsorily acquire relevant Council and Crown land as reported on 27 October 2021, further correspondence may also be legal in confidence as Council prepares claims for compensation.

18. 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 17

19. 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.

20. 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 in 2020. DoE subsequently proposed updated valuations in late 2021 by an independent third party from a valuer recommended by the API, later overturning that approach with a proposal to compulsorily acquire relevant Council and Crown land under the *Land Acquisition (Just Terms Compensation) Act 1991*, with valuations to be prepared by the NSW Valuer-General.

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

See 20b.

- (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?**

Not at that time. Council subsequently received copies in October 2021.

- (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?**

See 20b and 20d.

- (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?**

See 2b and 20d.

- (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?

See 20b.

- (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. Further enquiries of that process may be directed to DoE. Refer also to Council submission to SSDA, as reported 27 October.

- (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?

See 20b.

21. 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. as resolved on 27 October 2021, Council agreed to the conduct of site investigation and other works on Council and Crown land, identified in the SSDA (if approved).

22. 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 outlined by DoE in the Environmental Impact Statement for the SSDA. Questions regarding the process to assess and transfer crown lands are best directed to DoE, a matter identified in Council’s submission to the SSDA.

23. 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 22

24. 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?

The matter was further resolved at the 27 October 2021 meeting with Council agreeing to a joint-use licence agreement for part of Bungendore Park outlined in the report, noting any approval is subject to joint-use agreements being executed for Council/community use of Bungendore Primary School sports field and the proposed high school hall in Bungendore.

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

See response to 8.

26. 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 22 and 24.

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

Decisions on community consultation will be the responsibility of DoE, as the acquirer of the sites.

28. 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 22.

29. 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 22.

30. 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 22.

31. 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 22 and 34.

The following are questions lodged in October that were held over until the 10 November 2021 meeting.

In relation to lead contamination issues identified in the Majara/Gibraltar Precinct in Bungendore

32. Is Council aware that the NSW Government has identified serious issues with lead contamination in the Majara/Gibraltar Precinct in Bungendore?

We understand that the lead issues were identified within the rail corridor, and near the boundaries in some cases, not the entire Majara/Gibraltar Precinct. TfNSW has advised further testing within and around the rail corridor will be undertaken during the week of 15 November.

33. If so, when and how did Council become aware of this?

Council staff were first informed about the discovery of lead on Tuesday 28 September 2021 when invited to a briefing on Thursday 30 September 2021

34. What protocols does Council have in place regarding earthworks or construction in areas identified as subject to lead contamination?

Relevant advice is obtained from NSW Worksafe and EPA.

35. Is Council aware that heavy earthworks and construction in the Majara/Gibraltar Precinct may spread lead-contaminated soil and dust across Bungendore Public School, Bungendore Preschool and surrounding areas?

Council is aware that construction activity may have an impact on the spread of lead contamination. This is a matter for TfNSW and DoE to address appropriately.

36. Does Council consider heavy earthworks associated with school construction are appropriate in the Majara/Gibraltar Precinct, given that this area is identified as subject to lead contamination?

NSW Worksafe and EPA protocols guide earthworks activities by any party in areas identified as subject to contamination.

37. Is Council aware that the Environmental Impact Statement lodged in relation to the proposed Bungendore High School does not refer to potential lead contamination issues in the Majara/Gibraltar Precinct?

Yes. Lead contamination in the rail corridor had not been discovered at the time DoE prepared the EIS

- 38. Is Council satisfied that heavy earthworks and construction can be safely undertaken in the Majara/Gibraltar Precinct without risking further dispersal of contaminated dust and soil across Bungendore Public School, Bungendore Preschool and surrounding residential areas?**

The matter is best addressed to TfNSW and EPA.

- 39. Does Council believe it is appropriate to enter into a heads of agreement with the Department of Education to facilitate heavy earthworks and construction in the Majara/Gibraltar Precinct before it is satisfied that the risks to children attending Bungendore Preschool, Bungendore Public School and the proposed Bungendore High School have been fully investigated and understood?**

On 22 October, Council was advised that the Dept of Education intend to progress compulsory acquisition of land and facilities. Management of the earthworks activity and construction is a matter for the Dept of Education to address appropriately.

- 40. Will Council commit that it will not enter into any agreement with the Department of Education to progress development in the Majara/Gibraltar Precinct until it is satisfied that it understands the risks to children at Bungendore Public School, Bungendore Preschool and the proposed Bungendore High School from exposing them to the resulting lead contamination?**

See response to 39.

- 41. Does Council accept that it has a responsibility to satisfy itself in relation to these matters? Or will it simply refer to the state-significant development process?**

See response to 39.

In relation to potential compulsory acquisition of land in the Majara/Gibraltar Precinct in Bungendore

- 42. Is Council aware of any process proposed or being undertaken pursuant to the *Land Acquisition (Just Terms Compensation) Act* in relation to the proposed Bungendore High School? If so:**

- (i) what land is proposed to be acquired?
- (ii) from whom?
- (iii) why was such land unable to be acquired by agreement?

Further to the resolution of Council on 27 October 2021, Council has requested information from DoE on the next steps in relation to the compulsory acquisition of relevant Council and Crown lands.

In relation to comments made by Mr Tegart in *The Canberra Times* on 5 October 2021

43. Council's Chief Executive Officer, Mr Tegart, was quoted in *The Canberra Times* on 5 October as saying "the NSW government's prevailing policy has always been that it doesn't want a high school on the edge of town but located in a central place where it would share facilities". In relation to this:
- (i) when (and in what form) was Mr Tegart advised of this "prevailing policy"?
 - (ii) if Mr Tegart was not so advised, why did he make this statement?
 - (iii) the site selection criteria for the proposed Bungendore High School specify that any site must be within 2.5km of Bungendore Public School, and did not specify any requirement in relation to shared facilities. How are these facts consistent with Mr Tegart's statement?

Canberra Times were contacted and acknowledged the misstatement: Mr Tegart understands current Government policy to identify sites not constrained by flood or bushfire risk, servicing or distance from town facilities. Sharing of facilities is a preference.

44. Mr Tegart is quoted in *The Canberra Times* on 5 October as saying "*It has always been clear that the town would be fully compensated for any facilities that would be lost by this proposal and brand new facilities built, such as a new public library and a new eight-lane pool.*"
- (i) Can Council confirm that all new facilities (including a new swimming pool) proposed to be constructed as a consequence of the proposed Bungendore High School will be fully funded by (or from the proceeds of asset sales to) the State Government? Will Council have ongoing obligations to pay rent (other than nominal rent or material outgoings) in relation to "shared use" facilities to be provided by the State Government as part of this proposal?
 - (ii) If this is not the case, why did Mr Tegart state that the town would be "fully compensated"?

See response to 43. The October 2020 proposal reported to Council included the replacement of the community centre, library and customer centre in the school precinct, constructed by DoE, and the payment of market value by DoE to replace the office and a contribution to a new pool in Bungendore.

45. Will Council undertake not to enter into any agreement (or Heads of Terms) with the Department of Education unless all costs in relation to the provision of replacement facilities are fully funded by (or from the proceeds of asset sales to) the State Government, as suggested by Mr Tegart?

Council has been advised that DoE intend to progress compulsory acquisition of land and facilities, as reported in closed session on 27 October 2021.

46. The article reports Mr Tegart as saying that "*the proposal had been the subject of extensive community consultation including surveys, pop-ups and information sessions*". Does Council consider that this consultation has been (i) adequate, and (ii) demonstrates community support for the proposal? Please explain how Council has reached this conclusion.

Council had no role in the Dept of Education's consultation process, other than resolving in July 2020 to support in principle for further consultation by DoE the establishment of a Bungendore High School as proposed by the NSW Department of Education.

47. Given that:

- (i) many community members have complained to Save Bungendore Park Inc that repeated calls and letters to Council have gone unanswered;
- (ii) many community members have complained to Save Bungendore Park Inc that repeated calls and letters to the Member for Monaro have gone unanswered; and
- (iii) many community members have complained to Save Bungendore Park Inc that repeated calls and letters to the Minister for Education and the Department of Education have gone unanswered or have been met with form letters which repeat discredited claims, fail to address concerns or answer questions,

does Council stand by Mr Tegart's claim that *the proposal had been the subject of extensive community consultation including surveys, pop-ups and information sessions*? Does Council believe this consultation demonstrated support for the proposal? Or does Mr Tegart (or Council) wish to revisit his comments?

See response to 43

48. Given that:

- (i) the Department of Education's online survey – undertaken before much of the detail was settled – was called "Prioritising Design Principles", and its stated aim was only:
to gain insight from the local residents and school community (staff, parents, carers and students) on prioritising the design principles" [and the questions] "mainly focused on design principles for the proposed new high school in Bungendore" [in order to] enable SINSW to determine whether the design principles are aligned with community expectation and help develop an understanding of local residents' and school communities' views on the provision of amenities, cultural inclusion and school environment,

and the survey was never intended to find out whether people wanted to see a school built on their Park. It did not ask about this and did not invite long-form responses. The survey did not report on the location of respondents nor verify the integrity responses;

- (ii) the Department of Education's survey of visitors to the "Community Information Hub" at the Bungendore Public School in September 2020 had 90 registered attendees. Documents released under the GI(PA) Act show that 74 completed a survey. However, the "*Consultation Outcomes Report*" prepared by Urbis (App 23) reports 83 responses to the survey.

Documents released under the GI(PA) confirm that 54 respondents "felt it was an appropriate site" (of whom only 36 people "strongly agreed" that it was appropriate).

This means that both QPRC and the Minister for Education were briefed that there was "overwhelming" community support (presentation to Council ahead of the October Council Meeting) on the basis of 65% who thought it was appropriate, of whom 43% "strongly agreed";

does Council believe that the State Government has undertaken an open and transparent consultation process, and shared the results appropriately with Council?

See response to 43

49. Given that, in relation to the Department of Education’s community information “hub” in Bungendore on 11 May 2021:

- (a) attendees present for almost the entire duration of the session could identify very few attendees who was supportive of the high school proposal and an overwhelming majority who opposed it;**
- (b) attendees were intimidated and searched by armed police for “protest materials” before being allowed to enter the venue;**
- (c) the former Deputy Premier claimed in the *Regional Independent* newspaper that “I’ve received some really positive feedback from the local community following Tuesday’s information hub...” but following a request under the Government Information (Public Access) Act, his office had no record of receiving any feedback at all;**
- (d) following a request under the Government Information (Public Access) Act for any records:**

(A) setting out the number of individuals or groups anticipated to attend the Information Session, and the number who did attend (including any estimate if no count was undertaken);

(B) assessing the number or proportion of attendees who were supportive (or otherwise) of the Bungendore High School proposal (distinguishing, where possible, between those supportive of a high school in Bungendore, and those supportive of the specific proposal); and

(C) reporting or summarising the feedback from attendees to the Information Sessions, the questions asked and the remarks or concerns of the attendees, or the number of attendees,

the Department of Education stated that it held no records at all (even though the Urbis report suggested there were 80 attendees); and

- (e) following a request under the Government Information (Public Access) Act for any records setting out the results of the State Government’s consultation with “several stakeholders of Mick Sherd Oval” (as referred to in the Department of Education’s “Frequently Asked Questions” dated 18 September 2020), the Department advised that it held no records at all,**

does Council believe that this event was consistent with an open and transparent consultation process? Or would Mr Tegart (or Council) wish to revisit his comments?

See response to 43

50. Does Council believe it is appropriate that armed police officers questioned and searched attendees at a community information session in relation to the proposed Bungendore High School?

The information session was held at a time when COVID restrictions were in place. Given the police are the enforcement authority for compliance with COVID restrictions, their attendance would seem appropriate. In regard to the claim of questioning and searching of participants, that is a matter that should be addressed by the police.

51. Does Council believe that attendance by armed police, searching attendees at a community information session, is an appropriate part of an open and transparent community consultation process?

See response to 50

52. How many letters, calls, emails or other submissions (formal and informal) has Council received from the community in relation to the proposed Bungendore High School Site?

Council and councillors have received many emails from members of the community and submissions to Council reports on the matter.

53. If Council has not counted these, why have they not been counted?

See response to 52

54. Has Council reported these submissions to Councillors (aggregated if necessary)?

Council has reported to Councillors on the aspects of the Bungendore High School proposal including the potential closure of Majara Street and submission to the SSDA. Councillors have had workshop presentations from DoE on the results of its consultation on the high school proposal.

55. Do these reports, calls, emails or other submissions indicate, on balance, community support or community opposition to the proposed Bungendore High School Development? How did Council reach that conclusion?

Councillors consider the written and virtual submissions in relation to issues and projects such as the high school, and makes decisions on balance.

56. Does Council agree that the “Consultation Outcomes Report” prepared by Urbis (App 23) lodged by the Department of Education with the Development Application is based on deeply flawed and irrelevant information?

Council considered and lodged a submission to the SSDA (incl consultation and EIS) following a workshop and its meeting on 27 October. The objections and submission has been published.

In relation to the proposed closure of Majara Street, Bungendore

57. Council resolved on 28 April 2021 to close a section of Majara Street, Bungendore comprising the road reserve north of Turallo Terrace (the Northern Section) and the section between Gibraltar Street and Turallo Terrace (the Southern Section), and also resolved to sell the Southern Section.

(i) **Has Council undertaken (or does it propose to undertake) any market soundings to identify potential purchasers and the likely value of the Southern Section?**

(ii) **Does Council propose to commission (or has it commissioned) an independent valuation of the Southern Section, rather than relying on a valuation commissioned by a potentially conflicted third party?**

(iii) **Several local investors have expressed an interest in acquiring the Southern Section, noting its residential zoning. Does Council propose to re-zone this land prior to**

sale? Does Council propose to undertake any public tender or EOI process in relation to this land?

(iv) If the answer to any of the foregoing is “no”, why not? Is this consistent with Council policy in relation to asset sales?

See response to 39

58. In response to a Question on Notice recorded in the Attachment to Minutes of the Public Forum held on 12 May 2021, Council stated that (at 2):

It is Council's view that the closure of Majara Street will not significantly impact on the future traffic needs of Bungendore. Traffic modelling and assessment will be undertaken by Schools Infrastructure when the development application for the school is submitted. Council will provide it's [sic] comments to that study at that time,

And in response to a question on notice “[h]as Council undertaken (or is Council aware of) any study of current traffic volumes on the Relevant Section? If yes, what were the findings of that study? “, Council stated that (at 5):

Traffic modelling and assessment will be undertaken by Schools Infrastructure when the development application for the school is submitted. Council will provide it's [sic] comments to that study at that time.

In relation to this:

(i) Is Council aware that, when it gave this answer, School Infrastructure NSW had in fact already undertaken a study of traffic volumes on Majara Street (see page 105 of Appendix 6B to the development application)?

(ii) Had Council seen this? Was Council aware that it existed? If Council was aware that it existed but had not seen it, did Council request a copy of it?

(iii) Is Council aware that this study showed 228 vehicles entering or leaving Majara Street from the intersection of Majara Street and Turallo Terrace in the two, 1 hour periods from 8.30am – 9.30am and from 2.45pm – 3.45pm on 4 November 2020?

(iv) Does Council propose to revisit the answers given to these Questions on Notice?

(v) Does Council believe that the report attached as Appendix 6B to the Development Application adequately addresses any concerns Council may have (including in relation to future traffic volumes) in relation to the closure of Majara Street and the proposed Bungendore High School?

When considering the report on the road closure in April 2021, Council included terms such as: the safe and satisfactory resolution of issues related to the Traffic section of the report (including roundabout at Butmaroo / Gibraltar Streets; formalise bus parking and channelised pedestrian movement on Gibraltar Street; and formalise carparking on southern section of the train station and along Turallo Terrace / Butmaroo Street), as well as identifying traffic and parking issues in its objections to the SSDA on 27 October.

- 59. Is Council aware that traffic modelling undertaken by the Department of Education assumed that Majara Street would remain open, and did not include any assessment of the increased traffic on Butmaroo Street and other residential streets caused by the school and diversion of traffic from Majara Street onto surrounding residential streets?**

Council considered and lodged a submission to the SSDA (incl traffic and parking). The objections and submission has been published.

- 60. Is Council aware that the traffic modelling submitted by the Department of Education as part of the development application has not included any data collected on site since 4 November?**

See response to 59

- 61. Is Council aware that the circumstances relating to the selection of the Bungendore High School site and Council's role in it are under investigation by ICAC?**

No.

- 62. Does Council consider that an assessment conducted over two hours on a single day, including the evening "peak" of 2.45-3.45pm, well before the actual peak, in early November 2020 while traffic volumes were depressed by Covid, is an appropriate basis on which Council may conclude that the Southern Section is not reasonably required as a road for public use (whether for present or future needs)? On what basis has it reached this conclusion?**

See response to 59

- 63. Is Council aware that GHD identified "major limitations" in the dataset provided to it to undertake the transport and traffic modelling submitted with the development application for the proposed Bungendore High School? Is Council aware that GHD stated:**

"The catchment analysis comprised the locations of 147 high school student residences, based upon information provided ... by SINSW. It should be noted that the depersonalised data that was provided only captured students who attended public schools and who live within the Bungendore Town Centre and its surrounds. This is a major limitation to the assessment..." (see Appendix 6B to the Development Application)?

Given that this assessment is acknowledged by its authors to be deficient, and disregards the impact of children travelling to the proposed high school from anywhere outside the Bungendore town centre (such as Wamboin, Sutton, Bywong, Tarago, Hoskinstown, Captains Flat and any rural properties), is Council satisfied that it is an appropriate basis for assessment of (i) the development application, and (ii) the requirements of Section 38A of the Roads Act?

See response to 59

- 64. Council noted in its answers to questions on notice on 12 May that it will provide its comments on the traffic modelling and assessment undertaken by Schools Infrastructure when the development application was available. Now that Council has access to this report and is aware of its obvious deficiencies, does Council propose to comment? What comments does it propose to make?**

See response to 59

65. Now that Council has seen the traffic modelling and assessment undertaken by Schools Infrastructure NSW, does Council believe that this demonstrates that the Southern Section:

(i) is not reasonably required as a road for public use (whether for present or future needs);

(ii) is not required to provide continuity for an existing road network?

On what basis did it reach this conclusion?

See response to 59

66. To the extent that either the Southern Section or the Northern Section provides a means of vehicular access to particular land, does Council believe that there is another public road which provides lawful and reasonably practicable vehicular access to that land? If so, what public road provides such access?

It is understood DoE have made arrangements for access to private owners on the southern section of the closed Majara St. A site is to be established on the northern section for Abbeyfield, with drainage and access easements to be accommodated along the perimeter of that new site.

67. In relation to the Northern Section:

(i) does Council still propose to grant (by lease or otherwise) some or all of the Northern Section to Abbeyfield Australia?

(ii) if so, when does Council anticipate that this will occur?

Yes, a report regarding next steps on the matter was presented to Council on 27 October.

68. Is Council satisfied that Resolution 007/21 satisfied the requirements of Section 38A of the Roads Act at the time it was passed?

Yes

69. If the circumstances as of the date of such resolution change – for example if the closure would have been unlawful at the time the resolution was passed, but the circumstances giving rise to such unlawfulness change, will Council be required to pass a new resolution?

The matter has been overtaken by the proposed compulsory acquisition of relevant Council and Crown lands (incl road) by DoE.

70. Is Council aware that the Development Application lodged in relation to the proposed Bungendore High School proposes that the closure of the Southern Section will result in 16 Majara Street having no public road which provides lawful and reasonably practicable vehicular access to that land?

Yes. This matter was raised in Council's submission on the SSDA. Refer Q66.

71. Is Council aware that while the development application proposes an access easement to that property, this is not a public road and thus does not satisfy the requirements of Section 38A of the Roads Act?

See response to 70

72. Does Council propose to object to the development application in relation to the proposed Bungendore High School? On what basis has it reached that decision?

At its 27 October 2021 Council resolved to submit a number of objections to the SSDA. The list is available in the meeting business papers on the QPRC website.

73. Does Council propose to undertake any community consultation in relation to any proposed objection (or support) for the development application in relation to the proposed Bungendore High School? Is Council required to undertake any such consultation? What process does it propose to undertake?

No