



Queanbeyan-Palerang Regional Council

Extraordinary Meeting of Council

SUPPLEMENTARY

AGENDA

15 June 2016

Commencing at 5.30pm

**Council Chambers
253 Crawford St, Queanbeyan**

****On-site Inspections****

List any inspections or indicate “Nil”

4 GENERAL MANAGER’S REPORTS

- 4.2 Appointment of Panel - Consideration of EDE Determination 3

LIST OF ATTACHMENTS –

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

Open Attachments

Nil

Closed Attachments

Nil

4.2 Appointment of Advisory Committee – Consideration of EDE Determination (Ref: C1686144; Author: Gibson/Warne)

Summary

The Ellerton Drive Extension (EDE) is the largest infrastructure project proposed to be undertaken by the Council and the processes involved in considering the determination of the project have almost been completed.

To ensure rigour and transparency in the process to determine the project under Part 5 of the Environmental Planning and Assessment Act 1979 (EP&A), the Administrator has suggested that a panel of Local Government Administrators be established to make that determination.

The Panel would consider the Determination Report independently prepared by consultants and considered by the NSW Office of Environment and Heritage (OEH) together with all the supporting reports, including the Review of Environment Factors (REF), the Species Impact Statement and addendum (SIS), the Social Impact Assessment (SIA), the concurrence of the Chief Executive of the Office of Environment and Heritage, the submissions report, objections and associated material that has been prepared and received in respect of the Ellerton Drive Extension project.

Together with the independent peer reviews of the traffic modelling, governance and stakeholder engagement related to the project, these reports would be published on Council's website for public information from 17 June 2016.

The panel would then make a determination about whether the Council will proceed with the EDE project. In essence, the panel role would be similar to an Independent Hearing and Assessment Panel (IHAP) but would not be established or structured as such a body (*refer Environmental section*).

It is proposed that the meeting of the Panel would be well advertised and open to the public. At the meeting, members of the public would be invited to make oral presentations. After consideration of the officer's reports and public presentations, the Panel should be in a position to make a determination. Once the determination has occurred, a report and minutes would be submitted to the Council.

Recommendation

- 1. That the report be received and noted.**
 - 2. That the Council establish a Panel for the purpose of considering the Determination Report for the Ellerton Drive Extension, the associated material and the concurrence of the Chief Executive of the Office of Environment and Heritage, and delegate authority to the panel to make a determination on the matter.**
 - 3. The Panel comprise the QPRC Administrator, Tim Overall, and two other NSW Local Government Administrators appointed by the Administrator, being (insert names).**
 - 4. That at the meeting of the Panel, members of the public be provided with the opportunity to make a 5 minute oral submission to the Panel in support of their submission or position in respect of the Ellerton Drive Extension project, such forum to be independently facilitated.**
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4.2 Appointment of Advisory Committee – Consideration of EDE Determination (Ref: C1686144; Author: Gibson/Warne)

Background

The EDE is a major project that will link the existing section of Ellerton Drive in East Queanbeyan with Karabar at the intersection of Old Cooma Road and the Edwin Land Parkway. The proposed road is jointly funded by the State and Federal Governments and the Queanbeyan-Palerang Regional Council. The road will provide many traffic benefits, will ease congestion through to the CBD, provide alternate routes to and around the CBD, provide flood-free access and will increase the capacity of the road network in Queanbeyan.

As part of the approval process for the project the Council must determine a position in respect of the preliminary design and Review of Environmental Factors (REF) for the proposed road and community comment had been invited. The REF contains specialist studies and investigations including biodiversity, noise and vibration, visual impact, Aboriginal heritage and non-Aboriginal heritage. It also considers the social and community impacts, the benefits of the construction and operation of the EDE. Further, the REF and preliminary design have been the subject of community feedback received during the consultation period. Final designs have been drafted using the feedback and information from the REF, SIS and SIA. Separate engagements with property owners were arranged to discuss mitigation of potential noise impacts at sites along the route identified through modelling.

All design documentation is now complete and comment from the NSW Office of Environment and Heritage has been received on the determination report and REF enabling the project to be considered by the Council to determine a position.

The former Queanbeyan Council was well briefed and informed of the processes associated with the development of the REF and the role of the Council in making a determination for the project. With the recent proclamation of Queanbeyan-Palerang Regional Council and the appointment of a single administrator, it is now considered that there would be more rigour, transparency and probity utilising a Panel comprising the Administrator and two specialist Local Government Administrators to complete the assessment and determination process.

Such appointees have been recognised by the NSW Government for their experience in Local Government matters, are not involved in any local issues in the Council area and would bring a level of knowledge, experience, independence and understanding to the Panel's deliberations.

Panel Process

It is proposed the Panel will be convened for the purpose of considering the determination report prepared by the independent consultants and assessed by OEH, and considering public presentations. Consultants and statutory authorities that have assisted with the reports will be in attendance to take questions from Panel members if needed. The Panel may seek additional information if it considers it is required to complete the task. It is proposed that the Panel meeting will be held at 5.30pm on Thursday 30 June 2016.

The meeting will open with a facilitated public forum to enable public and other parties to make presentations to the Panel, then time for the Panel to ask questions of the consultants or state agencies in attendance. An overview of the history, purpose and progress of the EDE project will be made to the Panel.

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It is expected that the Agenda and associated reports for the Panel meeting will be available on Council's website from Friday 17 June 2016.

As the Panel members will be making the decision on the EDE Determination Report, they will not be individually available to the public to discuss the proposed Extension prior to the meeting. This is the same process that would have been applied should the matter be considered by an IHAP or JRPP.

Once the Panel has made its determination, a report and minutes will be presented to next available ordinary Council meeting for confirmation and notation. It is also expected that an Extraordinary meeting will be held on the same night in order to consider further officers' reports in respect of the financing and works progression of the EDE if the REF determination is granted.

An Extraordinary meeting of Council will follow the Panel meeting to consider staff reports on the financing and tendering for the project, should it be approved by the Panel. Papers for that meeting will be published in the week prior to the meeting.

The following timeframe provides some guidance in regard to the above. It is anticipated that the Determination Panel meeting would take approx. two hours but depending upon the presentations and deliberations the Panel may take longer. If needed, the meeting will be adjourned to enable commencement of the Extraordinary Meeting at 7:30pm, which would then be adjourned to enable completion of the Determination Panel meeting.

The meeting features and considerations (italic) are merely for guidance purposes:

Event	Timeframe
Adoption of Determination Panel report	15 June 2106
Release of Agenda for Determination Panel meeting	17 June 2016
Determination Panel meeting	30 June 2016 commencing at 5:30pm
<i>Oral Submissions by the public – 5 minutes per presentation</i>	<i>Allow one hour or as needed</i>
<i>Questions by Panel members to consultants and statutory authorities</i>	<i>Allow 45 minutes or as needed</i>
<i>Determination of Panel decision</i>	<i>As needed</i>

4.2 Appointment of Advisory Committee – Consideration of EDE Determination (Ref: C1686144; Author: Gibson/Warne)

Event	Timetable
Extraordinary Council meeting to consider Officer reports regarding EDE financing and works progression if Panel Determination favourable.	30 June 2016 commencing at 7:30pm
<i>(Please note that if the Panel Meeting is not concluded by 7:30pm, the meeting would be adjourned and the Extraordinary meeting commenced and then adjourned, to enable the Panel meeting to be concluded.)</i>	
<i>Consideration of Officer reports</i>	<i>As needed</i>

Implications

Legal

The Panel will comprise the Administrator and two other specialist Local Government Administrators. The persons making up the Panel will be delegated the function of reviewing the available background material and making the decisions required under Part 5 of the Environmental Planning and Assessment Act 1979 in relation to the environmental assessment of the EDE project and ultimately whether the Council will carry out the project.

Section 377 of the *Local Government Act 1993* enables the Council to delegate any of its functions (*other than those excluded by s.377 (1) (a) to (u) (inclusive) – the “excluded functions”*) to the general manager, or any other person or body. The reference to person includes the plural, persons: *Interpretation Act 1987*, s.8(c). The Council can therefore delegate its functions (*other than the excluded functions*) to the persons comprising the Panel. The functions to be delegated to the members of the panel under Part 5 of the EP&A Act are not excluded functions.

The delegation can be to either the members of the Panel, by name, or by reference to the title to the office they will occupy, eg a member of the Panel.

The Panel is to take into consideration the following matters:

- a) Those matters required under Part 5 of Environmental Planning and Assessment Act 1979 and the Regulations
- b) Whether, having regard to the SIS, the EDE is likely to significantly affect the environment (including critical habitat) or threatened species, populations or ecological communities;

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- c) If so, whether the EDE is not likely to significantly affect the environment except because it is on land that is, or is part of, critical habitat or is likely to significantly affect threatened species, populations or ecological communities, or their habitats;
- d) Whether, having regard to the assessment material, the Council should:
 - i. Modify the EDE project so as to eliminate or reduce the detrimental effect of the EDE project on the environment (including critical habitat or threatened species, populations or ecological communities, or their habitats), or
 - ii. refrain from undertaking the EDE project.
- e) Whether, having regard to the above considerations, the Council should proceed to carry out the EDE project.

Environmental

Environmental assessments have been undertaken by independent consultants and incorporated into the SIS and addendum, and REF. Exhibition of potential impacts under the EPBC Act has been undertaken and is under consideration of the federal government.

The NSW OEH has considered those impacts and issued its concurrence with conditions. The conditions identified from the REF and OEH assessment will inform the final design of EDE.

Asset

The EDE will become a substantial Council infrastructure asset if it proceeds.

Social / Cultural

A social impact assessment has been undertaken to be considered as part of the determination process.

Strategic

The EDE has been a strategic project identified for decades in Queanbeyan City planning instruments and the corridor has been acquired.

Consultation

A community consultation process has been undertaken as part of the REF, SIS and SIA. A submissions report has been prepared for consideration with the determination report.

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As previously outlined the role of the Proposed Panel would be similar to an Independent Hearing and Assessment Panel (IHAP) but would not be established or structured as such a body. An IHAP is established specifically by a Council in accordance the *Local Government Act 1993* for the purpose of determining DA applications and in this instance the Panel charter does not relate to the DA process.

The functions of an IHAP are usually to provide an independent and open forum for interested persons and groups to hear and make submissions about development; provide increased transparency of process and expert assessment of development proposals; and achieve development outcomes consistent with the relevant legislation and the Council LEP and DCP planning controls.

Financial

It is not proposed that the financing of the EDE or the program of works if supported will be dealt with by the Panel. These will be matters that are the subject of separate reports to the Extraordinary meeting of Council if the project is approved.

Integrated Plan

The EDE has been included in the former Queanbeyan City Council's adopted Strategic Plan and Delivery Program.

Conclusion

The Panel's establishment and proposed program for determination will provide a greater level of probity, transparency and accountability in the Council's consideration of the REF.

Attachments

Nil