

REPORTS TO COUNCIL - ITEMS FOR DETERMINATION

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell)

File Reference: PJ0060-02-02, 26.1.98-02

Recommendation

That Council:

- 1. Note that the current water supply for Bungendore is conditionally adequate for:**
 - a. the approved subdivisions within Bungendore, and**
 - b. infill subdivisions on land in Bungendore currently zoned for residential uses where the Development Application demonstrates compliance with the existing minimum lot size under the Palerang Local Environmental Plan 2014.**
 - 2. Review the supply source of potable water situation for the future residential growth of areas identified in the Bungendore Structure Plan 2048 every 6 months and report to Council with the first due by April 2023.**
 - 3. Agree not to progress Scoping Proposals or Planning Proposals for rezoning of land for residential purposes located in the area covered by the Bungendore Structure Plan 2048 until a supplementary source of potable water for Bungendore has been adequately arranged.**
 - 4. Review the Bungendore Structure Plan 2048 upon the release of the findings of a reviewed Queanbeyan-Palerang Regional Council Integrated Water Cycle Management Strategy – Palerang Communities 2018.**
 - 5. Request the advocacy and support of the NSW Government to provide a supplementary source of potable water for Bungendore noting that this has been identified as a priority action in the draft South East and Tablelands Regional Plan 2041 and in the NSW State Infrastructure Strategy 2022 where the implementation of the regional water strategies to improve water security are to be done in earnest before the next drought occurs.**
 - 6. Receive a further report in relation to the refunding or otherwise of fees for Scoping and Planning Proposals already received by Council for proposals in Bungendore that now cannot progress.**
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Summary

As highlighted in the previous report, Bungendore Water Security - Integrated Water Cycle Management Plan, the implications from a land-use planning perspective is significant for Council and the community.

The gravity of this is further added to following the receipt of recent correspondence from the Department of Planning and Environment stating “...*If it is confirmed that access to a secure water supply cannot be realised in the short-medium term, DPE will not support any planning proposals to rezone the land identified in the Bungendore Structure Plan for future residential use, including the Bungendore East planning proposal.*”

The purpose of this report is to ensure Council is suitably informed of the current demands for housing growth and the ramifications an unsecured town water supply has on current and future Planning Proposals.

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell) (Continued)

Background

The forward planning for the growth and land use zone changes in Bungendore has been guided by Land Use and Water Strategies as well as Land-Use Structure Plans. The most recent being the *Bungendore Structure Plan 2048* which reviewed and replaced the *Bungendore Land use Strategy & Structure Plan* adopted by Council on 5 August 2010. This Structure Plan has also been referenced and incorporated into the Bungendore section of the *Queanbeyan Palerang Local Strategic Planning Statement* which sets the land use planning direction for the local government area for the next 20 years.

The *Bungendore Structure Plan 2048* was prepared on the information available at the time and was adopted by Council in February 2020 (Attachment 2 – Minute No. 041/20). Endorsement by the NSW Department of Planning, Industry and Environment then occurred in September 2020. Bungendore was identified to grow within the capacity of the town's water allocation which was increased by the NSW Government.

This Structure Plan identified residential growth areas for Bungendore for the following years to 2048. The growth areas were identified with a short/medium term and a long term timing sequence to allow for the orderly development and expansion of servicing (Attachment 1 – Figure 1L). As such, the Plan (and its predecessor) provides the strategic justification to consider rezonings for additional housing that are consistent with the Plan.

Report

Current Rezoning Activity in Bungendore

The term Planning Proposal is the name given to rezoning applications and Local Environmental Plan amendments under the *Environmental Planning and Assessment Act 1979*. Planning Proposals for rezoning land for residential purposes have been considered by Council (Attachment 2) and include the area north of Elmslea at 176 Tarago Road (now known as Elm Grove Stage 1 and 2) and the area at 4610 Kings Highway known as Bungendore East. The Elm Grove rezoning was finalised in May 2020 and the land rezoned from RU1 Primary Production to R2 Low Density Residential.

Following the finalisation of the *Bungendore Structure Plan 2048*, a request was submitted for rezoning of land at 175 and 217 Tarago Road known as Ashby (125 dwellings approximately). This was considered at Council's Planning and Strategy meeting of 14 October and wasn't supported at that time (Attachment 2 - PLA 149/20).

The Planning Proposals for the short/medium term options are the North Elmslea (Elm Grove Estate Stages 1 and 2) (351 dwellings) and Bungendore East Planning Proposals (592 dwellings) and are labelled on the Structure Plan Map in Attachment 1.

Bungendore East Planning Proposal

The Bungendore East rezoning had been lodged in 2015 with the former Palerang Council and held in abeyance until the completion of the *Bungendore Structure Plan 2048* and the confirmation of water supply for the growth area. Upon the issue of the Water Access Licence (WAL) by the NSW government, this was provided to the NSW Department of Planning, Industry and Environment who advised that it satisfied their preconditions to authorise the consideration of the rezoning of land at Bungendore East (4610 Kings Highway). This authorisation is called a Gateway Determination and it specifies consultation, conditions and timeframe for the rezoning (which are called Planning Proposals) to be completed.

The Bungendore East Planning Proposal is nearing the completion of the Agency Consultation stage and is yet to reach the Public Consultation stage of the process. The Department's timeframe in the Gateway Determination specified 21 July 2022 for the completion of the process and they have yet to advise of any extension to this timeframe.

Scoping Proposals

To date, Council has received three Scoping Proposals for residential rezonings in Bungendore. One was for that part of 176 Tarago Road located between the 250m and 500m radius of the Bungendore Waste Transfer Facility and referred to as Elm Grove Stage 3. This was supported by Council at its meeting 23 February 2022 (Attachment 2 – Minute No. 079/22). The second Scoping Proposal is for 175 Tarago Road known as Ashby and is still being reviewed by staff. The third proposal is at 174 Tarago Road, only recently submitted that is referred to as Elm Grove Stage 4 which proposes 789 lots.

Bungendore Structure Plan 2018-2048

SCOPING PROPOSAL Ashby
Status: lodged

SCOPING PROPOSAL Elm Grove Stage 3
Status: lodged

PLANNING PROPOSAL Bungendore East
Status: Agency consultation

Figure 2L - Current rezoning proposals (Scoping and Planning Proposals) September 2022

In addition to the Planning Proposal and Scoping Proposals, two enquiries to pursue future Scoping Proposals have been submitted for rezonings for residential purposes. One is on land identified within the *Bungendore Structure Plan 2048* as a long-term growth area and the other is outside the area identified for growth. In the normal course of events, the consideration and advice to proponents would be that long term options identified in the Structure Plan would not be supported until the completion of the Short / Medium term area (namely Bungendore East). This is consistent with Council's resolution on 14 October 2020 (Attachment 2 – PLA 149/20) as previously discussed.

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell) (Continued)

The advice given for the rezonings on land not identified for residential growth in the Structure Plan has been to not support as there is no strategic justification. Council's policy for growth in Bungendore is set by the *Bungendore Structure Plan 2048*.

At this point in time additional advice for both enquiries is that the issue of a supplementary source of potable water for Bungendore is required to be addressed and arranged prior to accepting any future Scoping Proposals or Planning Proposals.

Development Applications and existing zoned residential land

In terms of residential subdivisions occurring on land that is currently zoned to support residential development, the *Bungendore Structure Plan 2048* anticipated up to 460 lots/dwellings over the life of the plan (i.e. to 2048). From 2017 when the infill development research was conducted, there have been 192 new residential lots created (refer to Figure 3L).

In addition, the land rezoned in 2020 for the Elm Grove Stages 1 and 2 residential development, there have been two Development Applications for subdivision into 91 lots and 260 lots respectively (refer to Figure 4L). Both applications have been approved with the Stage 1 subdivision being registered and the separate titles created for the lots. Council has been advised that it is expected that dwelling construction on Stage 1 will begin to occur later this year. Stage 2 of the Elm Grove development is at the subdivision construction stage.

In assessing Development Applications for development including subdivision, the *Palerang Local Environmental Plan 2014* requires Council to be satisfied that the supply of water is available. This clause (Clause 6.11) is reproduced below.

6.11 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

The supply of water is essential for any residential subdivision of land. The existing water supply capacity for Bungendore is adequate for the approved Elm Grove Stages 1, and 2 subdivisions and for the infill subdivisions anticipated by the *Bungendore Structure Plan 2048*.

These developments and the subsequent construction of dwellings on the new lots created can occur without exceeding the 50th percentile normal to dry year differential capacity of the water supply capacity.

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell) (Continued)

Figure 3L - Bungendore Infill Residential Subdivisions since 2017

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell) (Continued)

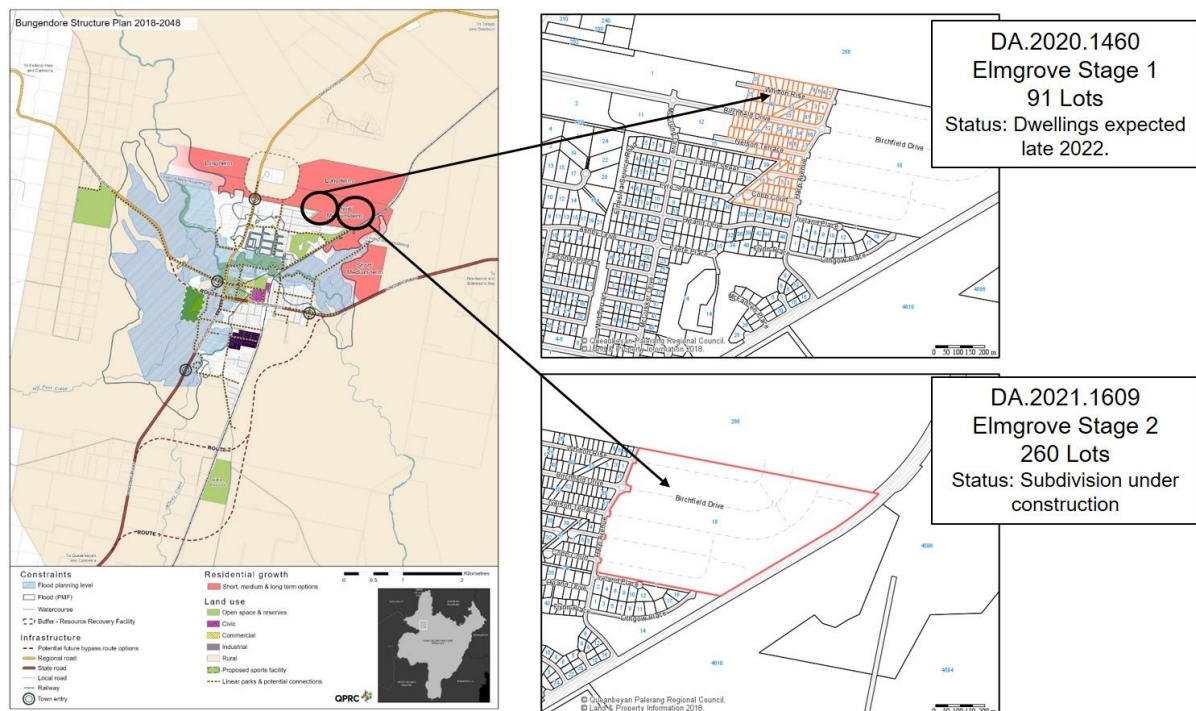


Figure 4L - Development Applications for Residential Subdivision Approved for Elm Grove

Risk/Policy/Legislation Considerations

During the preparation of the *Bungendore Structure Plan 2048* staff have acted on the best available information as well as in accordance with Council policy and the requirements of the *Environmental Planning and Assessment Act 1979* and its Regulations. Nevertheless, it is considered that there is some potential for reputational risk. In addition, it is likely that the achievement of Palerang Communities IWCM Strategy Option 3 – 2019 (Queanbeyan to Bungendore bulk water supply trunk main) will take considerable time to gain approval and to build. This provides the opportunity for housing in Bungendore to become unaffordable.

Land Use Planning Policy and Legislation

Forward planning for future land use and growth is covered in Part 3 of the *Environmental Planning and Assessment Act 1979*. The Act requires Council to prepare and review a Local Strategic Planning Statement (LSPS) every 7 years. The Queanbeyan Palerang LSPS was prepared and adopted by Council in June 2020 (Attachment 2 - Minute No. 154/20) and published on the NSW Planning portal as required. This LSPS incorporated the findings of the *Bungendore Structure Plan 2048*. Both documents set the strategic policy direction for land use and rezonings (Planning Proposals) for Bungendore.

Planning proposals are required to be prepared in accordance with the *Environmental Planning and Assessment Act 1979* and the Department of Planning and Environment Guidelines for Preparing Local Environmental Plans.

Planning proposals must have a strategic justification (in this case, consistency with the *Queanbeyan-Palerang Local Strategic Planning Statement*, and the *Bungendore Structure Plan 2048*) and be reviewed against the relevant *State Environmental Planning Policies* (SEPP's) and Ministerial Directions. To progress, Planning proposals must be supported by Council and receive a Gateway Determination from the NSW Department of Planning. The Gateway Determination will then specify the consultation required and timeframe for completion. Where a Gateway Determination timeframe cannot be met, Council may request an extension.

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell) (Continued)

The Gateway Determination for Bungendore East (PP-2021-916) was issued on 21 January 2021. The time frame for completion of the process was 21 July 2022 (this included an extension of 6 months). Council's further request for an extension has yet to be determined. In light of the water security concern Council received the following advice from DPE 6 September 2022:

"...If it is confirmed that access to a secure water supply cannot be realised in the short-medium term, DPE will not support any planning proposals to rezone the land identified in the Bungendore Structure Plan for future residential use, including the Bungendore East planning proposal."

This means that any proposals for the rezoning of land for residential purposes within the *Bungendore Structure Plan 2048* area cannot be supported or progressed now. Further work is now required to secure a supplementary source of potable water for additional residential zonings. Until that work is complete, current, and future Scoping Proposals should not be accepted

Development Applications Policy and Legislation Considerations

Development applications for land uses requiring the supply of water continue to be assessed under clause 6.11 Essential Services of the *Palerang Local Environmental Plan 2014*. As detailed in the Palerang Communities IWCM, development applications for infill development within the existing urban zoned areas of Bungendore are within the capacity of the 50th percentile differential between a normal and dry year. This means that at full development of Elm Grove Stages 1 and 2 as well as the anticipated infill, Council's entitlement in a repeat of a 2019/2020 year would probably be exceeded by up to 48ML (or by 10%). If there are development applications for a high-water consumption uses within Bungendore, they will need to be reviewed carefully and a determination made as to the availability within the existing water supply to service them.

Financial, Budget and Resource Implications

Planning proposals and Scoping Proposals are subject to the payment of fees. The uncertainty of securing a supplementary source of potable water supply for the future rezonings for Bungendore mean that the current Scoping Proposals and Planning Proposals cannot be progressed. This raises the issue of payment and reimbursement of fees.

Planning Proposal fees

The Bungendore East Planning Proposal fees were confirmed at Council's Planning and Strategy Meeting on 10 June 2020 (Attachment 2 – PLA070/20) where Council resolved that:

"...f. The applicant pays the fees for the processing of the planning proposal that would have applied under the former Palerang Council Fees and Charges, indexed to the current financial year."

Initial fees were paid, and the next fees are due at the Public Exhibition milestone. These fees are based on the hours worked and currently amount to 169 hours equating to \$46,767. In light of the uncertainty of the progression of the Planning Proposal, the response from the Department, and the potential for the Gateway timeframe not being extended with the risk of the applicant being required to recommence the process, Council has the following options:

1. to charge the fee to date (\$46,767)
2. forgo the fees accumulated to date
3. charge the fees as per Council's 2022/23 Operational Fees and Charges (\$47,244 plus \$178 per hour after 280 hours) when the Planning Proposal process recommences. This option assumes the Department of Planning and Environment decline to issue a further Gateway extension of time.

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell) (Continued)

Scoping Proposals

Currently there are three scoping proposals lodged with Council. One where fees have been paid and two where the invoice for payment is yet to be issued. As both cannot progress at present, the following options are available to Council:

1. continue to invoice and charge as normal
2. cease accepting Scoping Proposals for residential purposes for Bungendore until a supplementary source of potable water for Bungendore is arranged
3. reimburse charges/and or provide credits (where payment has been made) for current scoping proposals for residential purposes for Bungendore once they can resume the process.

Links to QPRC/Regional Strategic Plans

The relevant land use Strategic Plans are the *Queanbeyan-Palerang Local Strategic Planning Statement*, the South East and Tablelands Regional Plan 2036, the draft South East and Tablelands Regional Plan 2041 (on exhibition until 23 September 2022) and the State Infrastructure Strategy 2022-2042.

The *Queanbeyan-Palerang Local Strategic Planning Statement* and the South East and Tablelands Regional Plans both anticipate growth for Bungendore and link that growth to a secure water supply.

The current the South East and Tablelands Regional Plan 2036 states that:

An acceptable reticulated water supply is required for any new land release or an increase in housing densities in existing areas. The provision of potable water must conform to the following water planning principles:

- *a reliable supply to provide certainty for consumers (both residential and other);*
- *an affordable water supply in terms of both capital and recurring costs; and*
- *a quality of supply that meets relevant health standards.*

The draft South East and Tablelands Regional Plan 2041 goes further and identifies on pages 25 and 62 that:

Resolution of infrastructure deficiencies and water security will be a key focus [for the Capital Subregions which includes QPRC].

The State Infrastructure Strategy 2022-2042 identifies the need to improve water security and quality in regional NSW...

However, the current local water utility entitlements, particularly surrounding the ACT, are not sufficient to meet future demand from the potential population growth. Establishing close, inter-jurisdictional planning for infrastructure delivery and service provision will address the barriers for water security in areas such as Yass, Murrumbateman and Bungendore.

The draft South East and Tablelands Regional Plan also then puts forward the following priority action:

Action 10.1 (Priority)

Explore the development and implementation of a sub-regional water strategy for the Capital subregion that addresses water security, infrastructure provision and allocation.

Stakeholders

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell) (Continued)

- *Department of Regional NSW, NSW Office of the Cross-Border Commissioner, Water NSW, Department of Premier and Cabinet and other NSW Government agencies where relevant*
- *Yass Valley, Queanbeyan - Palerang and Goulburn - Mulwaree Councils*
- *ACT Government.*

This action is supported, and the urgency should be conveyed to the NSW Government to ensure that the housing supply anticipated and planned for in good faith in the *Bungendore Structure Plan 2048* can be realised as planned. To this end it is recommended that Council formally request advocacy and support from the NSW Government. This is particularly relevant as the State Infrastructure Strategy 2022-2042 also affirms the importance and priority of secure water supplies including in regional areas.

The State Infrastructure Strategy 2022-2042 states:

Completing strategic planning for each catchment across the State should remain an important priority of the NSW Government. The Government should also begin to plan in earnest for each new infrastructure project it identifies. It is essential that the Government progresses implementation of the State, metropolitan and regional water strategies to improve water security before the next drought occurs.

...

It is critical that water resources are shared equitably and responsibly to ensure economic growth in regions without compromising the health and resilience of natural water systems.

...

The NSW Government has also implemented the Safe and Secure Water Program which is investing in upgrades to infrastructure (such as bores, pipelines and treatment plants) that will assist LWUs with the provision of safe and reliable water for regional communities. In certain cases, this work is supported by the Public Works Advisory to ensure community needs and public health are protected.

The Safe and Secure Water Program is a source of funding for Council to pursue and support and advocacy from the NSW Department of Planning and Environment should be requested to emphasise Council's case for Bungendore, especially as it endorsed the growth planned for Bungendore by endorsing the *Bungendore Structure Plan 2048*.

Conclusion

Currently the residential growth for Bungendore that was identified by Council's adopted *Bungendore Structure Plan 2048* in February 2020 and then endorsed by the Department of Planning, Industry and Environment in September 2020, cannot be realised due to the limited future Water Allocation.

Licences issued by the NSW Government are not being able to be implemented in the subsequent Works Approvals. This means that the current Bungendore East Planning Proposal Council has been progressing through the agency consultation stage, cannot proceed. Advice to that effect has been received from the Department of Planning and Environment. It also means that the Scoping Proposals for residential purposes in Bungendore are also unable to be progressed.

Land already zoned for residential purposes and the infill residential subdivision that can occur on them under the current *Palerang Local Environmental Plan 2014*, may still be considered for development consent where a development application is lodged as the current water supply for Bungendore has conditional capacity for the existing zoned land.

9.4 Bungendore Water Security - Structure Plan/Current Planning Proposals and Scoping Proposals (Ref: ; Author: Hansen/Carswell) (Continued)

In the interim until a supplementary source of potable water is secured for the growth of Bungendore, no further Scoping Proposals, Planning Proposals or rezoning enquiries should be supported or encouraged. Proposals currently lodged with Council should not progress.

Council should receive a further report in relation to the refunding or otherwise of fees for Scoping and Planning Proposals already received by Council for proposals in Bungendore that now cannot progress.

Attachments

Attachment 1 Bungendore Structure Plan 2048 (*Under Separate Cover*)



Attachment 2 Relevant Resolutions (*Under Separate Cover*)

