

*Attachment 1. Planning Proposal***Amendment No.1 *Palerang Local Environmental Plan 2014*, amendment of schedule 1
Additional permitted uses - to permit 'self-storage units' with development consent on Lot 4
DP 841326, Bombay Road, Braidwood***Background*

The planning proposal concerns Lot 4 DP 841326, Bombay Road, Braidwood. Lot 4 DP 841326, Bombay Road, Braidwood currently contains a self-storage facility fronting Bombay Road which are leased for the storage of personal items. An additional 19 self-storage units were approved in 2013, but construction has not commenced.

The land is currently zoned *E4 Environmental Living* under the *Palerang Local Environmental Plan 2014*. Self-storage units are prohibited in the E4 zone, as they were under the previous zoning of 1(c) Rural Small Holdings under the *Tallaganda LEP 1991*. The following section outlines the background to this situation:

In 1989, an application was lodged for a water bottling plant on Portion 201, Bombay Road, Parish of Boyle. At that time the land was zoned non-urban 1(a) under the *Tallaganda Interim Development Order No. 1*, which was the planning instrument which covered the site. The proposal was classified as light industrial and was approved. The approval involved the construction of a light industrial building, which was then used to bottle water which had been extracted from a site at Monga. Consent was issued for this activity on 23 June 1989.

On 22 November 1991 the *Tallaganda Local Environmental Plan 1991* came into effect, zoning the land 1(c) Rural Small Holdings.

In 1994, an application was received over the land for a four lot subdivision under the provisions of the *Tallaganda Local Environmental Plan 1991* 1991 (TSC/012/1994/DA). This application was approved and the plan registered on the 12 July 1994.

In 1997, Council received an application for a vermiculture farm on one of the lots created in the 1994 subdivision, Lot 4 DP841326. The application proposed to utilise the existing shed on the site by placing 13 bins inside the building for use as worm farms, for the production of worms, collection of solid worm castings and liquid worm fertilizer. Consent was issued for this activity on 18 August 1997.

In 2003, Tallaganda Council received a development application to develop a self-storage business on Lot 4 DP841326 (TSC/216/2003/DA). The proposal involved the use of the existing building, as well as an extension to create additional storage units. In the assessment of the application the staff took the view that the vermiculture use was a 'commercial use' and therefore a prohibited use under the *Tallaganda Local Environmental Plan 1991* that had enjoyed existing use rights since the coming into effect of the *Tallaganda Local Environmental Plan 1991*.

Following on from this, the application was considered to be a change of use from one prohibited commercial use to another, and therefore permissible under section 107 of the *Environmental Planning and Assessment Act 1979* – Continuance of and Limitations on Existing Use. Note that in 2004 clause 41 of the *Environmental Planning and Assessment*

Regulation 2000 allowed an existing use to be changed to another use that would otherwise be prohibited. The Act was amended in February 2007 and today an existing use can only be changed to another use if that use is permissible.

The attribution of existing use rights was in error since when the vermiculture farm was approved it was in fact approved as a "rural industry", not as commercial premises. Rural industries were permissible in the relevant zone under the *Tallaganda Local Environmental Plan 1991* and as a consequence existing use rights did not and do not apply.

Consent was granted to the application on 9 March 2004. A subsequent modification application was lodged on 17 December 2007 to amend the proposed shed additions. This modification was determined and approved on 30 May 2008.

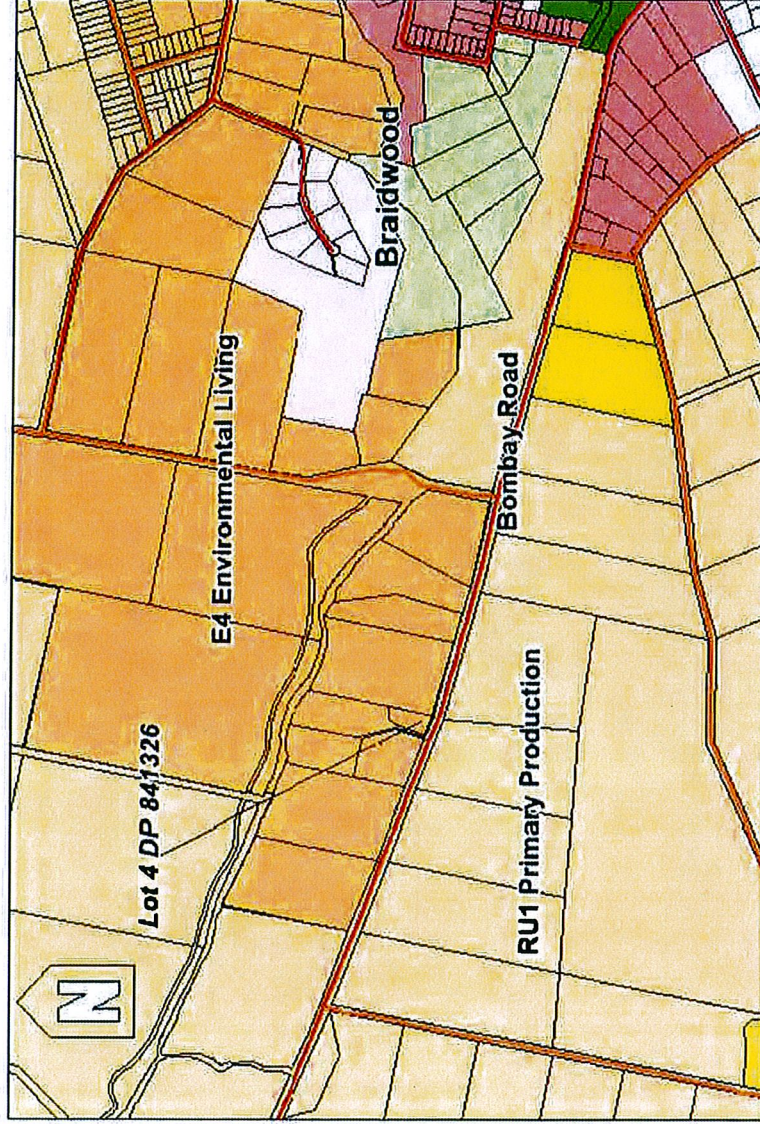
In 2013 Council received an application for the expansion of self-storage units on Lot 4 DP841326. As required under Council's Notification Policy, adjoining owner notification was undertaken, and two submissions were received. Consent was issued for this application on 29 August 2013.

A subsequent review of the files by Council staff found that Council erred in 2004 in granting consent to the self-storage facility which, as 'commercial premises' was prohibited development in the TLEP 1991 1(c) zone. Council thus did not have power to approve the use of the land for a 'self-storage facility' because this land use was prohibited.

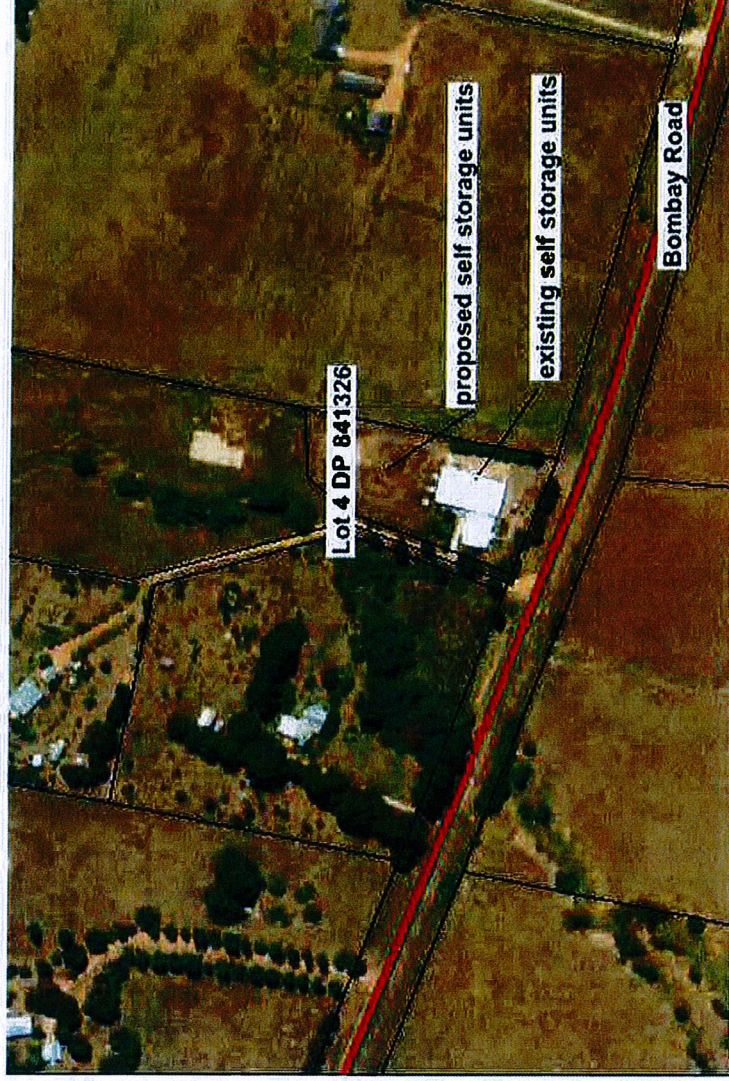
The existing 'self-storage facility' has been operating on Lot 4 DP 841326 since consent was given in 2004 without complaint. It is proposed to amend the *Palerang Local Environmental Plan 2014* to make the continued operation of the 'self-storage facility' on Lot 4 DP 841326 permissible with development consent. If the proposed PLEP amendment is made, a new development application for a 'self-storage facility' on Lot 4 DP 841326 will be required.

To amend the local environmental plan it is necessary to prepare and publicly exhibit a planning proposal, consider any submissions received, and following this for the Minister for Planning to agree to the amendment.

The map and photograph below illustrate the location of the lot, the site of the current self-storage units and the area where the additional approved self-storage units would be erected.



Map 1 Land use zoning (Palerang Local Environmental Plan 2014) of Lot 4 DP 841326, Bombay Road, Braidwood



Photograph 1 Existing self-storage sheds and site of approved additional units, Lot 4 DP 841326, Bombay Road, Braidwood

Part 1 Intended outcome

The intended outcome of the planning proposal is that 'self-storage units' will be permissible with development consent on Lot 4 DP 841326, Bombay Road, Braidwood.

Part 2 Explanation of provisions

'Self-storage units' are prohibited in the E4 Environmental Living land use zone. The inclusion of self-storage units on Lot 4 DP 841326 in Schedule 1 of the *Palerang Local Environmental Plan 2014* will enable the development to be permissible with consent.

Part 3 Justification

Section A Need for the planning proposal

Question 1 Is the planning proposal a result of any strategic study or report

The planning proposal is not part of a strategic study or a report.

Question 2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way

The planning proposal is the only means of achieving the intended outcome.

Section B Relationship to strategic planning framework

Question 3 Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy

The planning proposal is site specific and not of a regional nature.

Question 4(a) Is the planning proposal consistent with a council's local strategy or other local strategic plan

Palerang Council does not have a local strategy or strategic plan.

Question 4(b) Is the planning proposal consistent with the local council's community plan, or other local strategic direction

The planning proposal is consistent with the *Palerang Community Strategic Plan 2013-32* outcome "Our economy is strong and sustainable, providing diverse local employment opportunities and ease of access to goods and services."

Question 4(c) If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided

There are no interests to be extinguished.

Question 4(d) the concurrence of the landowner, where the land is not owned by the relevant planning authority

The planning proposal has been prepared with the consent of both property owners.

Question 5 Is the planning proposal consistent with the applicable State Environmental Planning Policies

There are no applicable State Environmental Planning Policies

Question 6 Is the planning proposal consistent with applicable Ministerial Directions

	<i>Name of direction</i>	<i>Consistent with the direction</i>
1.5	Rural Lands	Consistent – the planning proposal is consistent with the Rural Planning Principles of the <i>State Environmental Planning Policy (Rural Lands) 2008</i>
2.1	Environmental Protection Zones	Inconsistent – The planning proposal does not include provisions that facilitate the protection and conservation of environmentally sensitive areas. However, the site is not an environmentally sensitive area, the existing environmental protection standards of the <i>Palerang Local Environmental Plan 2014</i> will continue to apply and the inconsistency is of minor significance.
2.3	Heritage Conservation	Inconsistent – The planning proposal does not contain specific conservation provisions. However, there are no known heritage items in the vicinity of or affected by the proposal and any that exist would be protected by existing planning instruments. The inconsistency is of minor significance.
2.4	Recreation vehicle areas	Consistent – The planning proposal will not enable the land to be developed for the purpose of a recreation vehicle area
4.4	Planning for Bushfire Protection	The land is shown on Council's bushfire map as bushfire prone land
5.1	Implementation of Regional Strategies	Consistent – The Sydney-Canberra Corridor Regional Strategy deals with issues at a regional scale that is not relevant to this site specific planning proposal. Any inconsistency with the strategy would be of minor significance due to the minor nature of the proposal
5.2	Sydney Drinking Water Catchments	Consistent – The proposal is consistent with the <i>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</i>

6.1	Approval and Referral Requirements	Consistent – The planning proposal does not contain concurrence, consultant or referral provisions
6.2	Reserving Land for Public Purposes	Consistent – The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes
6.3	Site Specific Provisions	Consistent – The planning proposal does not impose additional development standards or requirements

Section C Environmental, social and economic impact

Question 7 Is there any likelihood that critical habitat or threatened species populations or ecological communities or their habitats will be adversely affected as a result of the proposal

No, the lot has been used for self-storage units for ten years and the site proposed for further self-storage units has been substantially disturbed. Given this it is highly unlikely to contain threatened species or ecological communities.

There is no critical habitat in the Palerang local government area.

Question 8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed

No

Aboriginal heritage – the site has been disturbed as a result of previous development. A check of the Aboriginal Heritage Information Management System (AHIMS) database did not find any listed artefacts or places of significance.

Question 9 Has the planning proposal adequately addressed any social and economic effects

The existing self-storage sheds have been operating for ten years without negative social or economic effects.

Section D State and Commonwealth interests

Question 10 Is there adequate public infrastructure for the planning proposal

Bombay Road is sealed and there is existing direct access from the land to Bombay Road. Electricity to the land is currently available. There is no further public infrastructure required.

Question 11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination

The NSW or Commonwealth public authorities have not been consulted. It is unlikely that the relevant authorities will have any concerns due to the minor nature of the proposal. The planning proposal will be referred to the NSW Rural Fire Service.

Part 4 Mapping

There will be no mapping required.

Part 5 Community consultation

The Planning Proposal will be exhibited for 28 days due to the self-storage units being a prohibited land use under the *Palerang Local Environmental Plan 2014* and inconsistent with the surrounding land uses.

A public hearing is not considered necessary.

Part 6 Project timeline

<i>stage</i>	<i>anticipated completion date</i>
Anticipated commencement date (date of gateway determination)	December 2014
Anticipated timeframe for government agency consultation	February 2015
Anticipated commencement and completion dates for public exhibition period	April 2015
Anticipated timeframe for consideration of submissions	May 2015
Anticipated date of report to Council	June 2015
Anticipated date of submissions, Council report and recommendation to the NSW Department of Planning and Environment and to finalise the draft local environmental plan	July 2015
Anticipated date local environmental plan will be amended	August 2015