

Planning Proposal - Reclassification and rezoning of Land

Queanbeyan City Council

Section 55 *Environmental Planning and Assessment Act, 1979*

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Planning Proposal - Reclassification and rezoning of Land

Introduction

Queanbeyan City Council has prepared this planning proposal to reclassify 13 parcels of land from Community to Operational under the provisions of the Part 2 Chapter 6 of the *Local Government Act 1993* as well as to rezone these in accordance with the Standard Instrument. In accordance with the *Local Government Act 1993*, this has to be done by a LEP.

These lots are included in the following table:

Table 1 – Details of Lots proposed to be reclassified and rezoned

No.	Site Address	Lot number & Deposited Plan number	Area	Current Zone	Existing Adjoining Zone under the Queanbeyan Local Environmental Plan 1998	Proposed Zone (if rezoning occurs under the Standard Instrument)
1	130 Munro Road	LOT 248 DP 243990	511m ²	6(a)	2(b)	R3
2	97 Munro Road	LOT 171 DP 242656	465 m ²	6(a)	2(a)	R2
3	7 Kaye Place & 13 Beatty Crescent	LOT 57 DP 246824, LOT 20 DP 264522	1372.4 m ²	6(a)	2(a)	R2
4	9 Cantle Place	LOT 120 DP 710557	1372 m ²	6(a)	2(a)	R2
5	10 Aurora Place	LOT 29 DP 246601	7023 m ²	6(a)	4(a)	IN1
6	8 Hayley Crescent	LOT 130 DP 584332	542 m ²	6(a)	2(a)	R2
7	30a Candlebark Road	LOT 32 DP 576516	592 m ²	6(a)	2(a)	R2
8	42 Candlebark Road	LOT 293 DP 590747	1556 m ²	6(a)	2(a)	R2
9	6 Morrison Place	LOT 74 DP 786344	496 m ²	6(a)	2(a)	R2
10	29 Allumba Street	LOT 37 DP 857325	2700 m ²	6(a)	2(d)	R3
11	126a Morton Street	LOT 14 DP 216046	748 m ²	6(a)	2(b)	R3
12	46 Pindari Crescent	LOT 65 DP 242927	560m ²	6(a)	2(a)	R2
13	113 Canberra Avenue	LOT 1 DP 1027494	402m ²	2(a)	2(a)	R2

They are also shown in Maps 1 and 2 and Photographs 1 – 26 in **Attachment 1**.

All land is currently vacant although some contain basic play and other equipment. Twelve of the lots are proposed to be rezoned to a residential zoning consistent with the proposed zone applying to adjoining areas while one lot is proposed to be rezoned Industrial also consistent with the proposed zone applying to its adjoining lots (Table 1).

This document has been prepared with reference to the Guidelines to Preparing Planning Proposals, released mid 2009 by the Department of Planning.

It is noted that the Council is in the process of reviewing its three principle local environmental plans (LEPS) in accordance with the Standard Instrument and the schedule will be inserted in that document as appropriate. However, Council wishes to proceed with the reclassification separately and not as part of the new Comprehensive LEP as it anticipates that the proposal could delay finalisation of the Comprehensive LEP.

Part 1 - Objectives or Intended Outcomes

The objective or intended outcome of the planning proposal is:

- To enable the reclassification and rezoning of 13 parcels of land from community to operational within the local government area of Queanbeyan. It is then intended to dispose of these which will release resources that will enable Council to better manage the remaining open space areas.

Part 2 - Explanation of Provisions

It is intended to include the land identified in Appendix 1 as operational pursuant to clause 83 and Schedule 6 of *Queanbeyan Local Environmental Plan 1998* if the Comprehensive LEP is not gazetted beforehand.

In this case the amended Schedule 6 will be carried over into Schedule 4 of the new Comprehensive LEP when it is finalised.

The zoning provisions of the subject properties will be altered in all cases from their current Zone 6 (a) Open Space A under *Queanbeyan Local Environmental Plan 1998* to generally to match the zoning of the existing adjoining allotments or the proposed zone under the Comprehensive LEP and to enable these to be developed for similar land uses under the Standard Instrument.

The proposed provisions are consistent with all relevant section 117 Ministerial Directions.

Part 3 – Justification

The following sets out the justification for the planning proposal.

Section A - Need for the planning proposal

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

The planning proposal is the result of a needs analysis. This included consideration of the overall provision of open space including active and passive open space for the entire Queanbeyan LGA, the size and shape of particular sites, any evidence of community use, the provision of play equipment and other facilities and the quality of such, whether a site also had other uses such as also being a detention basin and the proximity of alternative sources of open space to particular sites and the characteristics and nature of any alternative sites.

Applying this approach has generally indicated that these sites have low community useage, are restricted in size mostly being pocket parks and so have low potential, are in close proximity to alternative sites and generally lack play and other equipment/facilities. In addition these sites have been the subject of a Council report, a Council workshop as well as a Council inspection.

Additionally a draft Strategic Land Use Plan has been prepared as part of Council's Comprehensive LEP. This includes a chapter on Open Space which notes amongst other things:

Open space in Queanbeyan is made up of relatively small isolated pockets of areas rather than constituting an integrated, connected network of areas. The historical development of open space in Queanbeyan has largely contributed to this ad hoc development.

....There has been a generally accepted standard of provision for open space of 2.83 hectares of open space per 1000 population.

....The Queanbeyan 1994 Structure Plan adopted a standard of 2.8 ha per 1000 people ... This was adopted from a Department of Planning practice in 1984.

Recent work on open space provision has indicated that:

- Queanbeyan LGA has about 522 ha of open space. Total active comprises about 109 ha and passive about 413 ha.
- On an estimated population of 38,976 in 2010 this amounts to about 13.39 ha per 1000.

The 13 lots proposed to be reclassified and rezoned have areas ranging from 402 m² to 7023 m² with a total area of 18,339.4 m² or 1.83 ha.

In terms of the areas above the reclassification and rezoning would reduce the area zoned Open Space by 18,339 m² or about 0.35 %. However *Queanbeyan Local Environmental Plan 2009 (Googong)* gazetted in December 2009 will bring on line an additional 150 ha of open space/environmental conservation, while the Poplars in South Jerrabomberra will bring on line about 127 ha of open space/environmental

conservation and other areas in South Jerrabomberra will bring along about 304 ha of open space/environmental conservation land.

The reclassification will release resources and allow the Council to properly manage its remaining assets.

The sites are currently zoned as Zone 6 (a) Open Space A under *Queanbeyan Local Environmental Plan 1998* (Table 1).

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 best means of achieving the objectives outlined in Part 1 above. As indicated above these sites are currently classified as Community land and therefore Council is not able to develop and sell, exchange, or dispose of Community land under the provisions of *the Local Government Act 1993*.

3. *Is there a net community benefit?*

Yes.

The community benefits include in the event that these sites are disposed of:

- Release of Council resources which enables Council to better manage the balance of the remaining open space.
- Provision of employment opportunities during the development phase.
- Provision of some opportunities for housing and industrial development in a situation where there has been little available land over the last 5 years.

As a result it is concluded that there is an overall net community benefit to the planning proposal proceeding.

Section B - Relationship to strategic planning framework

1. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes, the planning proposal's consistency with these strategies is outlined below:

Sydney – Canberra Regional Strategy 2006 – 2031

The Regional Strategy contains a number of actions relevant to this planning proposal which include:

Settlement and housing

- *Local environmental plans and other statutory planning controls will align with the Regional Strategy's settlement hierarchy (as shown on the Strategy Map) to contain the spread of urban development, efficiently utilise existing services and infrastructure, and protect areas of high conservation value.*

The lots proposed to be reclassified and rezoned are within existing urban areas and so comply with the above action.

- *Councils will plan for a range of housing types with appropriate densities and in appropriate locations that are capable of adapting to and responding to the ageing population and people with a disability.*

If it proceeds the planning proposal enables this action to be potentially achieved.

- *Local councils will consider a range of affordable housing strategies, including forms of low-cost housing, suitable zonings and development controls to improve housing choice. These strategies must be consistent with relevant state policies.*

If it proceeds the planning proposal increases housing stock and so enables improved housing choice.

Queanbeyan Residential and Economic Strategy 2031

The Queanbeyan Residential and Economic Strategy 2031 sought to facilitate housing choice and affordability through competition as well to provide additional employment land. The planning proposal is consistent with these principles as it seeks to reclassify and rezone one lot to industrial and the remaining 12 lots to residential consistent to the zone applying to adjoining land.

2. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Yes, the planning proposal's consistency with these strategies is outlined below:

Queanbeyan Tomorrow Community Vision 2021

There are a number of aims raised through the Queanbeyan Tomorrow Community Vision 2011 which the planning proposal is consistent with. This was partly funded from planning reform money and these include:

- *Promote high quality, affordable, diverse and accessible private and public housing to meet the different socio-economic demands*
- *Continue to minimise the impact of urban development on natural areas and ensure that these are sensitive to the natural topography (including scenic qualities).*

Again it achieves these as it proposes to use infill lots to increase the supply of housing.

Draft Strategic Land Use Plan

The Chapter on Housing Policy is a very broad chapter in terms of coverage in the draft Strategic Land Use Plan. It covers State and Local Planning Controls as well as local circumstances and it also contains a total of eight recommendations grouped into broad categories of Recommendations for Comprehensive LEP, Comprehensive LEP Review and Post Comprehensive Review.

This planning proposal is not inconsistent with any of the recommendations within these broad categories and is particularly consistent with the following recommendation under the category of Recommendations for Comprehensive LEP:

4. *Monitor take up rates for infill housing and if necessary identify areas where further infill may be available along with appropriate planning policies to achieve this.*
3. ***Is the planning proposal consistent with applicable state environmental planning policies?***

Generally the planning proposal is not inconsistent with the applicable state Environmental Planning Policies and so requires no further action. Attachment 2 identifies applicable State Environmental Planning Policies and comments on these.

4. ***Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?***

Attachment 3 identifies applicable Section 117 Directions and outlines the planning proposal's consistency with those directions.

Section C - Environmental, social and economic impact

1. ***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?***

Part of the background work for Council's Comprehensive LEP has involved the preparation of a Biodiversity Study in close association with the DECCW and its adoption by Council. The study contains a series of maps which amongst other things indicate High Conservation Value Vegetation, Relative quality of fauna habitat areas and Native Vegetation or over cleared Mitchell Landscape Areas. Considering all of these one of the lots proposed to be rezoned to industrial i.e. No 5 of Table 1 and Photographs 9-11, is likely to require an assessment of significance in accordance with section 5A of the *EP&A Act* and the "Threatened Species Assessment Guidelines" issued by the Department of Environment and Climate Change.

2. ***Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?***

A number of lots also fall within the current bushfire prone land map applicable to the existing urban areas of Queanbeyan. These include No 5 of Table 1.

Should these lots be rezoned and developed then they will have to comply with the requirements of Planning for Bushfire Protection 2006.

Other lots because of their topographic characteristics may require geotechnical studies prior to development if they are rezoned. Primarily this is likely to apply to Lot No 5 of Table 1.

3. ***How has the planning proposal adequately addressed any social and economic effects?***

The planning proposal proposes to increase the supply of potential housing and employment land stocks. This is consistent with the principles of the Queanbeyan Residential and Economic Strategy 2031 and will occur during a period when both types of land have been in very short supply for many years.

At the same time the reclassification and rezoning of this land will enable the reduction of 9 lots which are pocket parks usually associated with high maintenance costs. In addition the majority of these appear to have low community useage and adjoin and/or in close proximity to other open space areas in a local government area which enjoys about 13.9 ha of open space per 1000.

On the basis of available information there is no reason to believe that if the planning proposal proceeds it will adversely impact on items or places of European or aboriginal cultural heritage.

Section D - State and Commonwealth interests

1. Is there adequate public infrastructure for the planning proposal?

Yes on currently available information and given that what is proposed is relatively small involving the reclassification and rezoning of 13 lots spread throughout the existing City (Map 1 and Photograph 1).

2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Nil at this stage.

Part 4 – Community Consultation

The planning proposal will be exhibited in accordance with the NSW Department of Planning's LEP Practice Note PN09-003 Classification and reclassification of public land through a local environmental plan and a guide to preparing local environmental plans (July 2009).

The public exhibition period will be for a minimum of 28 days.

After the public exhibition period has closed, Council will hold a public hearing for the reclassification of land from Community land to Operational land in pursuant to the provisions of the *Local Government Act 1993*.

Conclusion

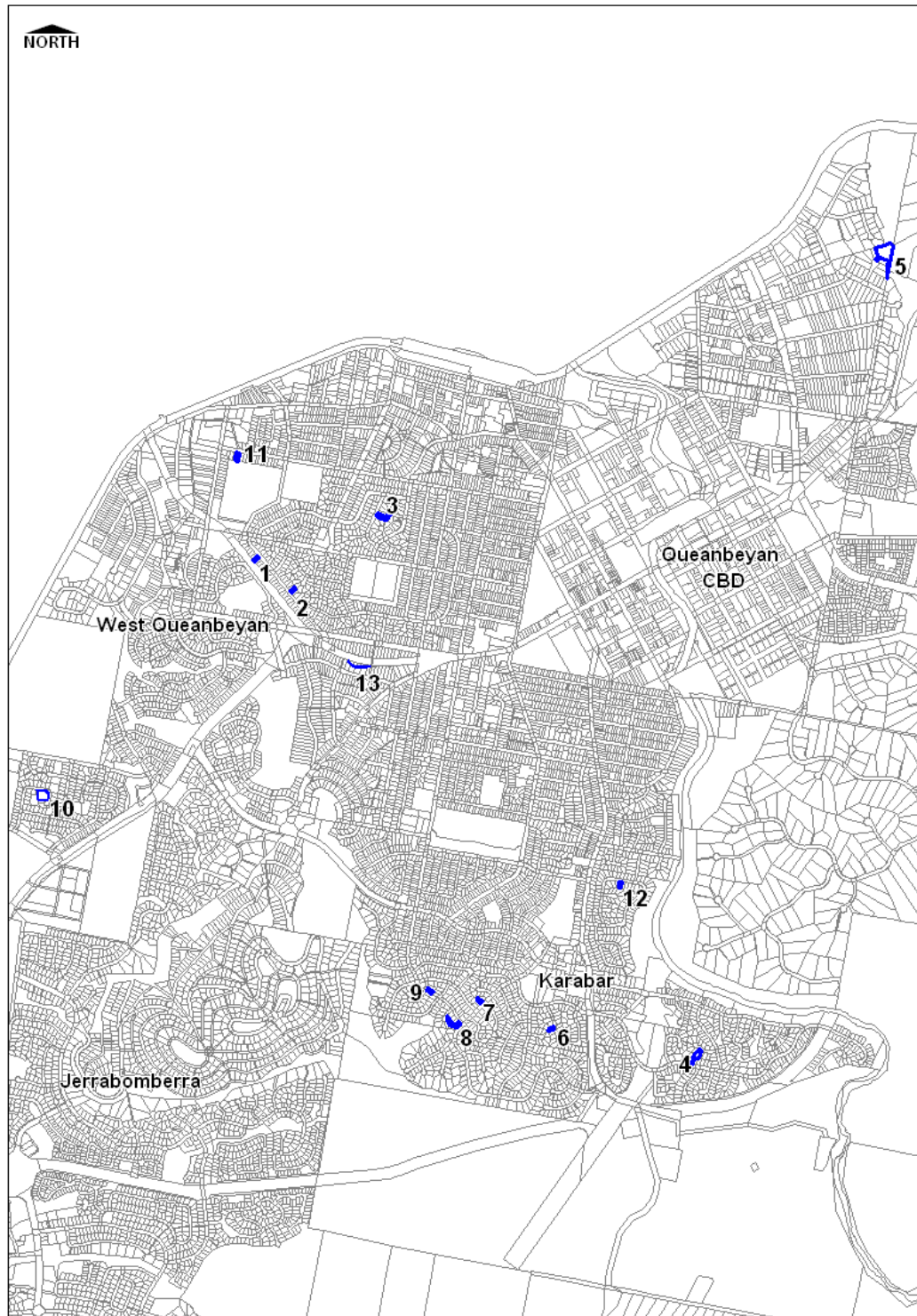
The planning proposal represents the reclassification and rezoning of relatively few lots currently zoned for open space purposes in a local government area which currently has approximately 13.9 ha per 1000 people. It will reduce a number of small pocket parks usually associated with high maintenance costs and which have little evidence of community usage.

However such a planning proposal because the land is proposed to be sold could prove controversial and could unduly delay the Comprehensive LEP if it were to be part of it. Given that the Comprehensive LEP is to be submitted by the end of the year it is concluded that this planning proposal should proceed independently of it.

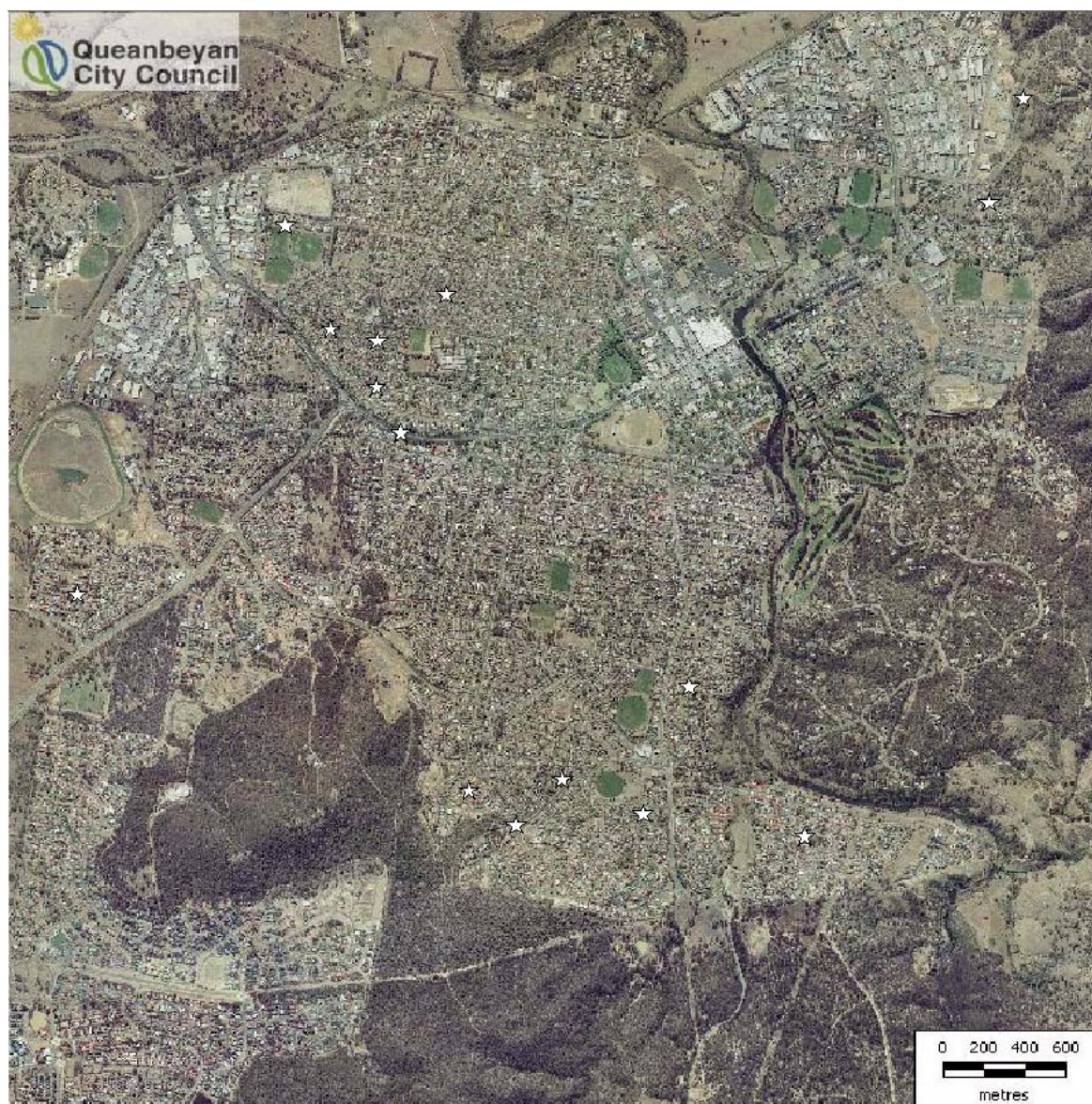
Attachments

Attachment 1: Map 1 and Photographs 1 - 26

Map 1 – Urban Area of Queanbeyan showing Open Space, the subject of this Planning Proposal



Photograph 1: Aerial of Urban Area showing general location of sites



Photograph 2 and 3: 130 Munro Road



Photograph 4 and 5: 97 Munro Road



Photograph 5 and 6: 7 Kaye / 13 Beatty



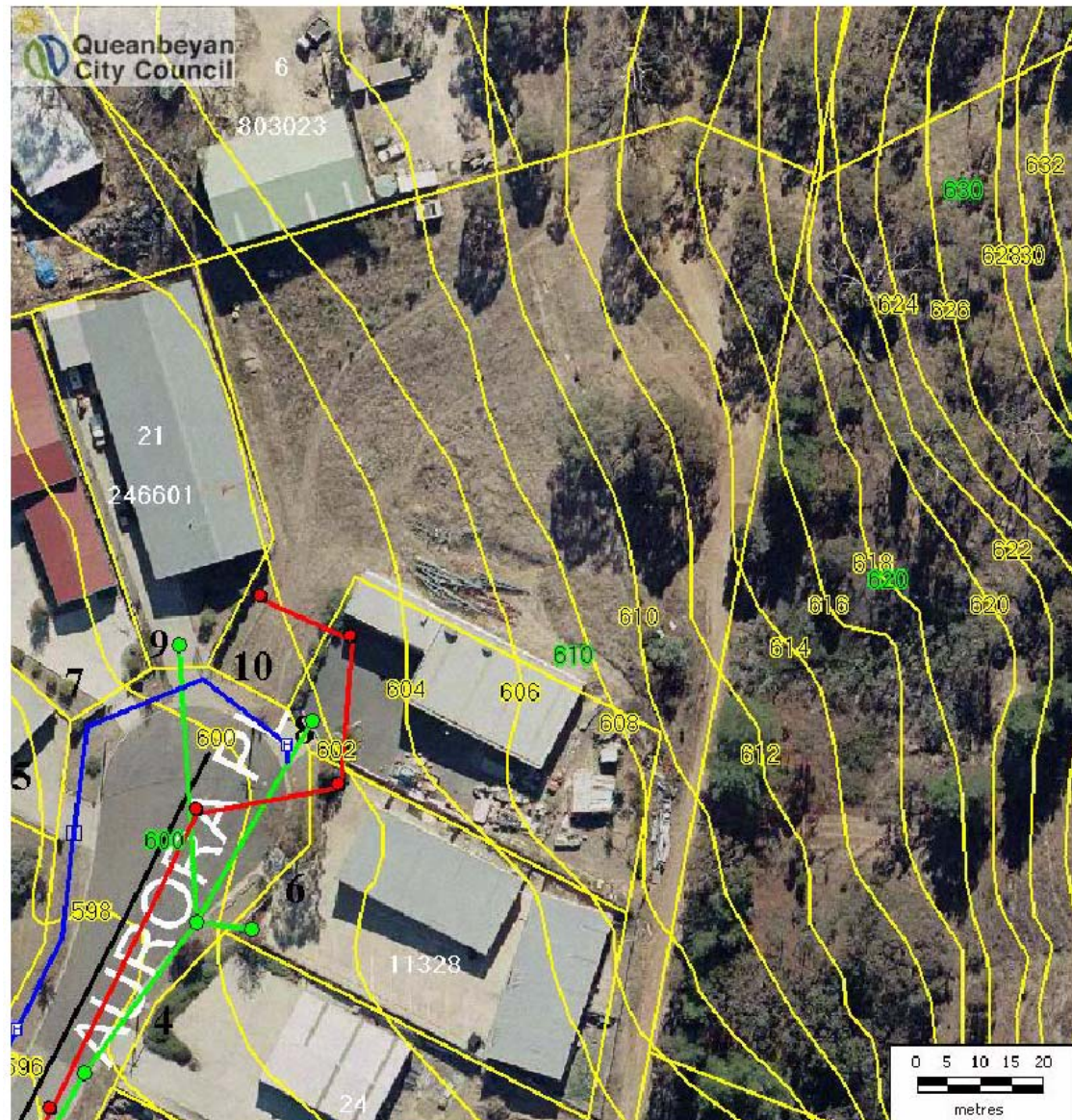
Photograph 7 and 8: 9 Cantle Place



Photograph 9 and 10: 10 Aurora Place



Photograph 11: 10 Aurora Place



Photograph 12 and 13: 8 Hayley Crescent



Photograph 14 and 15: 30a Candlebark Road



Photograph 16 and 17: 42 Candlebark Road



Photograph 18 and 19: 6 Morrison Place



Photograph 20 and 21: 29 Allumba Street



Photograph 22 and 23: 126a Morton Street



Photograph 24 and 25: 46 Pindari Crescent



Photograph 26: Behind Gilmore Road (113 Canberra Avenue)



Attachment 2: State Environmental Planning Policies

SEPP	Requirements	Comments
State Environmental Planning Policy No. 1 – Development Standards	SEPP 1 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.	No further action required for the planning proposal.
State Environmental Planning Policy No. 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	This Policy is designed to permit development for a purpose which is of minor environmental significance, development for certain purposes by public utility undertakings and development on certain land reserved or dedicated under the National Parks and Wildlife Act 1974 without the necessity for development consent being obtained subject to meeting certain criteria.	No further action required for the planning proposal.
State Environmental Planning Policy No. 6 – Number of Storeys in a Building	The aims, objectives, policies and strategies of this Policy are: (a) to remove any confusion arising from the interpretation of provisions in environmental planning instruments which control the height of buildings by reference to the number of storeys, floors or levels which the buildings contain, by specifying the manner in which that number is to be determined, (b) to facilitate the erection of buildings which conform to the topography of the land on which the buildings are erected, and (c) to modify the meaning of each of the words “storey”, “floor” and “level” used in an environmental planning instrument to which this Policy applies, but only: (i) for the purpose of the application of this Policy in relation to certain provisions of that instrument, and (ii) so as to exclude, for certain purposes, from the meaning of each of those words a roof (or part thereof) used as an uncovered garden, terrace or deck.	No further action required for the planning proposal.

State Environmental Planning Policy No. 21 – Caravan Parks	SEPP 21 provides that “movable dwellings” are permitted with consent where caravan parks or camping grounds are permitted under an environmental planning instrument. SEPP 21 also prescribes additional matters to be considered by the consent authority in determining a development application.	• No further action required for the planning proposal.
State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban Land)	This Policy aims: (a) to promote the orderly and economic use and development of land by enabling urban land which is no longer required for the purpose for which it is currently zoned or used to be redeveloped for multi-unit housing and related development, and (b) to implement a policy of urban consolidation which will promote the social and economic welfare of the State and a better environment by enabling: (i) the location of housing in areas where there are existing public infra-structure, transport and community facilities, and (ii) increased opportunities for people to live in a locality which is close to employment, leisure and other opportunities, and (iii) the reduction in the rate at which land is released for development on the fringe of existing urban areas.	• No further action required for the planning proposal.
State Environmental Planning Policy No. 33 – Hazardous and Offensive Development	SEPP 33 provides definitions for “hazardous industry”, “hazardous storage establishment”, “offensive industry” and “offensive storage establishment” to be incorporated into all environmental planning instruments. SEPP 33 prescribes additional matters to be considered by the consent authority in determining a development application.	• No further action required for the planning proposal.
State Environmental Planning Policy No. 36 – Manufactured Home Estates	SEPP 36 permits with consent, subject to certain exclusions for various categories of land, the development of manufactured homes estates on land for which development for the purposes of a caravan park may be carried out.	• No further action required for the planning proposal.

**State Environmental
Planning Policy No.
44 – Koala Habitat
Protection (SEPP 44)**

SEPP 44 applies to land within the former Yarrowlumla LGA but does not apply to land within the Queanbeyan LGA. Clause 16 of the SEPP requires the Director of Planning NSW to consider giving a direction to a Council to prepare an environmental study if, under a draft LEP, it is proposed to zone land that is a potential koala habitat or a core koala habitat otherwise than as environmental protection. “Core koala habitat” is defined as an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population. “Potential koala habitat” means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

- The lands are not affected by ‘Potential Koala Habitat’ or ‘Core Koala Habitat’ areas.

**State Environmental
Planning Policy No.
55 –
Remediation of Land**

Clause 6 of SEPP 55 prescribes requirements to consider the potential contamination of land in preparing a draft LEP to rezone the land. Subclause 6(2) of the SEPP requires that, before including land in a particular zone, a Council is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the Contaminated Land Planning Guidelines. The requirements of SEPP 55 are addressed in Section 6.4 to the LES Report.

Preliminary observation would suggest that this SEPP will not apply to any of the land including in the planning proposal. However if subsequent indicates that this is not the case then investigations will be required in accordance with:

- Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997 (June 2009).
- State Environmental Planning Policy No. 55 – Remediation of Land (where applicable).

To the extent that is relevant to particular sites, and the above assessment, responsibilities to report under Section 60 of the *Contaminated Land Management Act 1997* should be determined at numerous stages during the development assessment process.

**State Environmental
Planning Policy No.
60 –
Exempt and
Complying
Development**

The aims of this Policy are to provide for exempt development and complying development in certain local government areas that have not provided for those types of development through a local environmental plan, and to provide that development comprising the subdivision of land, the erection of a building or demolition, to the extent to which it does not already require development consent under another environmental planning instrument in order to be carried out, cannot be carried out except with development consent.

- The planning proposal is consistent.

**State Environmental
Planning Policy
(Housing for Seniors
or People with a
Disability) 2004**

SEPP – Seniors Living permits, with consent, certain forms of seniors housing for older people or people with a disability on land zoned primarily for urban purposes or that adjoins land zoned primarily for urban purposes, and where dwelling houses, residential flat buildings, hospitals or other special uses are permitted. The SEPP does not apply to environmentally sensitive land. The SEPP does not prescribe any specific requirements for draft LEPs but does contain additional matters to be considered by the consent authority in determining a development application.

- The planning proposal is consistent.

**State Environmental
Planning Policy
(Building
Sustainability Index:
BASIX) 2004**

SEPP – BASIX combines with the Environmental Planning and Assessment (Building Sustainability Index: BASIX) Regulation 2004 to require new residential development to demonstrate the achievement of water and energy saving targets.

- No further action required for the planning proposal.

**State Environmental
Planning Policy No.
64 – Advertising and
Signage**

This Policy aims to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish.

The policy also aims to regulate the display of advertisements in transport corridors, and to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

- No further action required for the planning proposal.

**State Environmental
Planning Policy No.
65 – Design Quality
of Residential Flat
Development**

This Policy aims to improve the design quality of residential flat development in New South Wales. The Policy recognises that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

- No further action required for the planning proposal.

**State Environmental
Planning Policy
(Exempt and
Complying
Development Codes)
2008**

This Policy aims to provide streamlined assessment processes for development that complies with specified development standards by:

- (a) providing exempt and complying development codes that have State-wide application, and
- (b) identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent, and
- (c) identifying, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate as defined in the [Environmental Planning and Assessment Act 1979](#), and
- (d) enabling the progressive extension of the types of development in this Policy, and
- (e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.

- No further action required for the planning proposal.

**State Environmental
Planning Policy
(Infrastructure) 2007**

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and
- (b) providing greater flexibility in the location of infrastructure and service facilities, and
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.

- No further action required for the planning proposal.

Attachment 3: Section 117 Directions

Number	Determination	Applicable YES/NO	Comments
1.	<u>Employment and Resources</u>		
1.1	<u>Business and Industrial Zones</u>	Yes	The planning proposal is consistent. This applies to one lot and result in a new employment area consistent with endorsed Queanbeyan Residential and Economic Strategy 2031.
3.	<u>Housing, Infrastructure and Urban Development</u>		
3.1	<u>Residential Zones</u>	Yes	The planning proposal is consistent.
3.2	<u>Caravan Parks and Manufactured Home Estates</u>	Yes	The planning proposal is consistent.
3.3	<u>Home Occupations</u>	Yes	The planning proposal is consistent.
3.4	<u>Integrating Land Use and Transport</u>	Yes	The planning proposal is consistent.
3.5	<u>Development Near Licensed Aerodromes</u>	Yes	The planning proposal is consistent.
4.	<u>Hazard and Risk</u>		
4.4	<u>Planning for Bushfire Protection</u>	Yes	- The planning proposal is consistent. - Future development will need to comply with the requirements of Planning for Bushfire Protection 2006.
5.	<u>Regional Planning</u>		
5.1	<u>Implementation of Regional Strategies</u>	Yes	The planning proposal is consistent with the Sydney - Canberra - Corridor Regional Strategy 2006 – 2031.
6.	<u>Local Plan Making</u>		
6.1	<u>Approval and Referral Requirements</u>	Yes	The planning proposal is consistent.

Number	Determination	Applicable YES/NO	Comments
6.2	<u>Reserving Land for Public Purposes</u>	Not this time	The planning proposal requires the approval of the Director - General of the Department of Planning.
6.3	<u>Site Specific Provisions</u>	Yes	The planning proposal is consistent.