

## DETERMINATION REPORTS

**8.7 Planning Proposals Relating to Bungendore and its Immediate Surrounds and the Review of the Structure Plan (Ref: C174986; Author: Carswell/Robb)**

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**Summary**

Currently there are three planning proposals with Council that seek to rezone land in Bungendore for residential purposes. These are:

- North Bungendore (Part Lot 1 DP 798111);
- Bungendore East (Lot 1 DP 747767 and others); and
- Lot 3 DP 1195030 Majara Street.

Additionally, a draft planning proposal has been provided to Council for discussion with a view to it being lodged for the rezoning of Lots 1 and 2 DP 1195030 King and Majara Streets from industrial (IN2 Light Industry) to residential land (R2 Low Density Residential). Council is also aware of several more propositions for the rezoning of land on the edges of Bungendore.

As outlined in the 19 May and 9 November 2016 strategic planning reports to Council, the Bungendore Structure Plan adopted by Council on 5 August 2010 is being reviewed and Council is undertaking work to determine whether additional groundwater for Bungendore's town water supply is available.

This report recommends that the work associated with increasing the town water supply and reviewing the Structure Plan continues and that no planning proposals except for Lot 3 DP 1195030 be referred to the Minister for Planning for a gateway determination until this work has been substantially progressed and discussed with government agencies and the community.

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**Recommendation**

1. That Council refer the planning proposal concerning the rezoning of Lot 3 DP 1195030 from IN2 Light Industrial to R2 Low Density Residential (Attachment 1) to the Minister for Planning for a Gateway determination in accordance with section 56 of the *NSW Environmental Planning and Assessment Act 1979* noting the following matters:
    - a) The need for an acoustic report to be undertaken to determine appropriate treatment measures for noise with mitigation measures to be funded by the proponent.
    - b) The need to correct minor amendments to the bushfire report concerning the implication that the planning proposal is integrated development prior to referral to the NSW Rural Fire Service.
    - c) A recommendation that the proposal be exhibited for 28 days.
    - d) The need for the proponent to work with Council's strategic planning staff prior to the planning proposal being lodged with the Minister for Planning to address the following matters:
      - i. Typographic errors.
      - ii. An error in relation to the light industrial precinct (p12).
      - iii. An error in relation to the permissibility of the concrete batching plant in IN2 (pp14 and 20).
      - iv. Comment on the industrial situation in Bungendore.
      - v. Any other matter that may arise.
  2. That work continues on the current groundwater investigations with a view to securing an increase in the Bungendore town water supply.
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3. That work continues on the review of the Bungendore Structure Plan.
  4. That work continues on the three planning proposals listed below:
    - a) Part Lot 1 DP 798111 (North Bungendore), has a Gateway determination
    - b) Lot 1 DP 747767 and others (Bungendore East), has been forwarded to the Minister.
    - c) Lot 5 DP 1204393, Malbon Street, has a Gateway determination.
  5. That Council not proceed to refer any new Planning Proposals for the Bungendore area to the Minister for Planning for a gateway determination until work on the groundwater and Structure Plan has been substantially completed and discussed with government agencies and the community. This includes Lot 1 and Lot 2 DP 1195030 Majara Street.
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**0 Background**

Over the last fifteen years Bungendore has experienced substantial residential development and resultant population growth. At the time of the of the 2001 census there were 1,685 people, in 2011 there were 2,754 and in November 2015 there were estimated to be 3,254 (based on the 2011 census plus the number of constructed dwellings (3 people/dwelling) following the census). The population would have increased again due to the large number of dwellings erected in south Bungendore since November 2015.

In 2010, the former Palerang Council adopted a Structure Plan for Bungendore which was subsequently endorsed by the Director-General of the NSW Department of Planning. The Structure Plan identified that the quantity of potable water available was an issue and limited development to within the existing town boundaries. However, areas for possible residential development outside of the town boundary were also identified if further groundwater could be sourced and any other constraints addressed.

Since the endorsement of the Structure Plan by the then Director-General of Planning, Council has received two major planning proposals for residential development. Both these planning proposals have been detailed in reports to Council (December 2014 and December 2015) and in reports providing an update on strategic planning projects (19 May and 9 November 2016). Both Council reports also outline the work being undertaken in relation to the preparation of a revised Structure Plan, Integrated Water Cycle Management Strategy (IWCM) and increasing the amount of groundwater available to the Bungendore town water supply.

In mid-2016, Council also received a planning proposal for the rezoning of Lot 3 DP 1195030 (Attachment 1) Majara Street from IN2 Light Industrial to R2 Low Density Residential. If successful, the rezoning and a subsequent subdivision would result in the creation of a maximum of ten residential lots. Additionally, a draft planning proposal has been provided to Council for discussion regarding the rezoning of Lots 1 and 2 DP 1195030 Majara Street from IN2 Light Industrial to R2 Low Density Residential (refer to attachment 2). The draft proposal suggests that potentially twenty-four lots could be created. An overview of these two proposals is provided below. Additionally, there is substantial interest from developers and property owners in rezoning land on the edges of Bungendore. The location of the above planning proposals is shown in (Attachment 2).

**10 The Rezoning process (Gateway process)**

To initiate the rezoning process, a planning proposal is prepared. A planning proposal is a document that explains the intended effect of the proposed local environmental plan or

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amendment (the rezoning mechanism) and provides the justification for making it and facilitates the process. The intention of the gateway process is to allow the proposal to be reviewed at an early stage so that a decision as to whether to proceed can be made; before significant resources are committed. The stages are outlined below:

- 1 Council determines whether it supports the planning proposal.
- 2 If the planning proposal is supported, it is forwarded to the Minister for Planning for a gateway determination
- 3 If the Gateway determination permits the planning proposal to proceed, any required assessments will need to be undertaken. The planning proposal is then sent to relevant government agencies for comment and following this, exhibited for the period stated on the gateway determination.
- 4 Submissions are considered by Council and if required a revised planning proposal is sent to the Minister for Planning.
- 5 If the proposal is supported by the Minister, the local environmental plan is amended.

Only the planning proposal and supporting documents are exhibited. The written legal instrument (draft amending local environmental plan) is prepared by the Parliamentary Counsel when the planning proposal is finalised, immediately before it is made by the Minister or his delegates. The local environmental plan takes effect when it is published (notified) on the NSW government legislation website.

Further information on the process can be found in the NSW Department of Planning and Environment documents "A guide to preparing local environmental plans" and "A guide to preparing planning proposals".

*Note* - the planning proposal and accompanying report are only discussing broad concepts, the layout of the lots and design of roads and associated infrastructure is undertaken as part of the subdivision application process once the land has been rezoned.

#### **Overview of Majara Street planning proposals**

During the development of the draft *Palerang Local Environmental Plan 2014*, Council received a submission requesting that the lots (Lot 11, 12 and 13 Section 12 DP 976608 at the time) be rezoned to R2 Low Density Residential (pp 47, 48 and 49, Extraordinary Council meeting No.2 27 February 2014). The staff comment in the Council report is provided below:

- "the current development control plan Yarrowlumla LEP 2002-2(v) Village Zone includes the lots in the industrial precinct of Bungendore. Whilst all development control plans are development guidelines, the precincts included in the above development control plan have been part of the Bungendore land use planning system for over ten years
- it is also suggested that until further strategic planning work is undertaken on Bungendore and its immediate surrounds (not part of the Rural Lands Study) that the draft local environmental plan land use zones are not amended. It is a significant decision to remove industrial/employment lands from Bungendore when detailed strategic planning work has not been undertaken, some of the land in the immediate surrounds of Bungendore is subject to flood and factors such as the road hierarchy require consideration. The section 117(2) Ministerial Direction 1.1 Business and Industrial Zones requires Council to retain the areas and locations of existing business and industrial zones unless there is substantial justification for removing it. In this instance, it is believed that the loss of land that has been identified as industrial land for some time for residential purposes is not appropriate. It is considered that no change is required."

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The minutes of the Council meeting show there was no recommendation or discussion in relation to the staff comment.

10 *Planning proposal for Lot 3 DP 1195030*

This planning proposal seeks to rezone Lot 3 DP 1195030 from IN2 Light Industrial to R2 Low Density Residential (refer to Attachment 1). If rezoned, the land would be subdivided to create ten residential lots. As the lot is within the existing urban land use zones, town water is available.

Road layout - Page 6 of the traffic study shows the proposed lot and road layout (shown below).

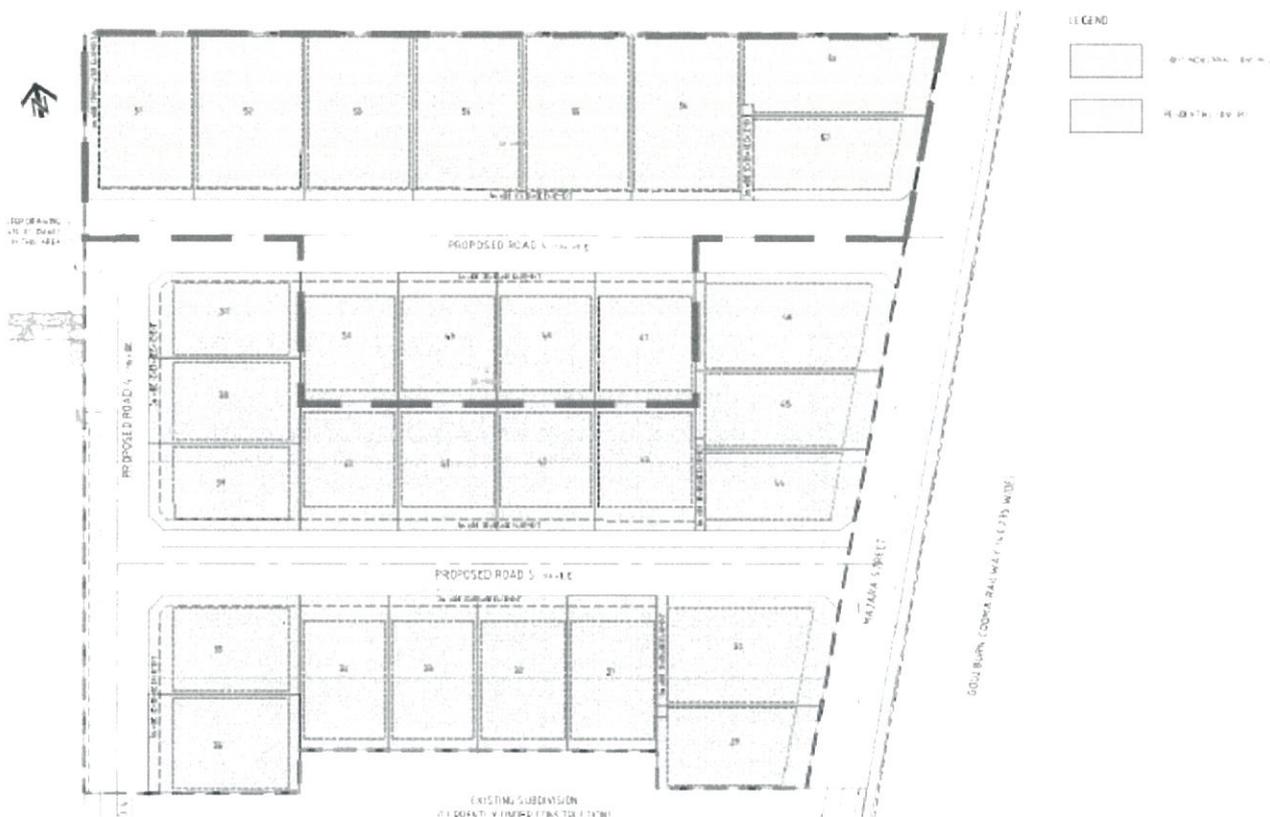


Figure 4: Majara St, Bungendore, Lots 3-4 Proposed Subdivision Layout

It is proposed that the road currently being constructed for the residential subdivision south of Lot 3 DP 1195030 will be used to access the lots to be created from Lot 3 DP 1195030 (shown in green). Additionally, the four lots included in the red area which are not part of the current subdivision will be included in the subdivision concerning Lot 3 DP 1195030. Whilst this approach is considered appropriate no final decision should be made until an acoustic report is received as a buffer area between the concrete batching plant and the proposed western residential lot may need to be included (see below re noise). Any measures required to mitigate noise issues will be constructed at the proponent's expense.

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Stormwater - The stormwater from the Lot 3 DP 1195030 is proposed to drain to an existing 3.0m wide easement across Lot 101 DP 835461. As part of the construction works for the residential lots immediately to the south of this planning proposal, stormwater infrastructure within the easement has been improved and additional capacity provided. The design of these works has included consideration of this planning proposal and it is not expected that further works would be required.

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Bushfire - It is recommended that prior to the planning proposal being referred for a Gateway determination that the reference in the bushfire report statement concerning the implication that the planning proposal is integrated development be corrected.

Noise - Page 20 of the planning proposal suggests several options for addressing potential noise from the concrete batching plant. These are:

- 1 An acoustic barrier.
- 2 A 10 metre buffer
- 3 A driveway on the western lot which would provide a 3-4 metre buffer.

It is suggested that it is appropriate to undertake an acoustic report if the planning proposal receives a Gateway determination to proceed to the assessment and consultation stage. This would enable treatment measures for noise to be considered.

#### *Planning proposal for Lot 1 and 2 DP 1195030*

A draft planning proposal has also been provided to Council for discussion concerning the rezoning of Lot 1 and 2 DP 1195030 from IN2 Light Industrial to R2 Low Density Residential (shown in Attachments 2 and 3). If rezoned, the land would be subdivided with a view to creating twenty-four residential lots. As with Lot 3 DP 1195030, town water is available.

Prior to the gazettal of the *Palerang Local Environmental Plan 2014*, the land was zoned No.2 (v) (Village) with a development control plan industrial precinct over it. The precinct was included in the Yarrowlumla Council Development Control Plan No. 1 November 1993, Yarrowlumla Development Control Plan – 2(V) Village Zone 2002 and the Palerang Development Control Plan – Yarrowlumla LEP 2002 2(v) Village Zone. During the period that these development control plans were in operation, it was common for rural councils to take this approach to the management of land uses in rural towns and villages.

The IN2 Light Industrial land use zone is the only industrial land use zone in Bungendore. The nearest industrial land use zones to Bungendore are Braidwood, Queanbeyan and the Australian Capital Territory (ACT).

The objectives of IN2 Light Industrial land use zone are:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To ensure that new development has regard to the character and amenity of the locality.

The *Palerang Local Environmental Plan 2014* permits light industry with consent in IN2 light industry zone however, it should be noted that the definition of light industry does not prohibit any industry - rather for the industry to be permissible it must meet the following definition:

**light industry** means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:

- (a) high technology industry,
- (b) home industry.

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It is suggested that industry for instance which involves the transportation of materials would be unlikely to be able to meet the definition.

Attachment 3 illustrates the current land uses in the area of the planning proposals. As seen from the map there is a concrete batching plant and furniture manufacturing business adjacent to the Lots 1 and 2. The concrete batching plant was approved by Council in 1994. In 2016, Council refused a development application for the production of jersey barriers in the southern part of the lot associated with the concrete batching plant on the grounds that it could not satisfy the definition of light industry.

The following are a list matters that require consideration in the rezoning of Lot 1, 2 or 3 DP 1195030.

1. Residential development in the vicinity of industrial land does make it difficult for light industry to operate due to noise, the movement of vehicles and other amenity issues. As seen in Attachment 3 there are several industrial businesses adjacent to the IN2 area that is the subject of the planning proposals. However, it should also be noted that residential development in the existing R2 land use zone surrounding the planning proposal areas is well established or continuing to occur. A development application for seniors housing has been submitted to Council on land to the north of Lots 1, 2 and 3 DP 1195030 and it is possible that this development (if it receives development approval) may wish to expand onto the adjacent IN2 land in the future. Vehicles leaving the industrial lots in the vicinity of the planning proposals need to pass through a residential area in any direction to access either the Kings Highway, Bungendore or Tarago roads. It is suggested that it would be preferable for a 'greenfields' industrial area to be established just outside Bungendore but at this time there are no firm commitments for this to occur. However this would be part of the review of the Structure Plan review.
2. The land zoned IN2 is in multiple ownerships and each of the owners is likely to have a different plan for the use of the land.
3. Council has for a long time viewed Bungendore as being a key location in the regional freight network. The requirement for freight vehicles to pass through a residential area limits the ability to develop this network. As with the residential situation (above), it would be preferable to have an industrial area outside of Bungendore.
4. As Bungendore is a now medium-sized town and infill commercial and residential development continues to occur, it is necessary to have some industrial land in Bungendore to service the town and to generate potential employment for Bungendore residents. There is a need for diversity of employment rather than there being a high reliance on government related employment in Queanbeyan and the Australian Capital Territory (ACT). For these reasons the industrial land in Queanbeyan and the ACT should be not be viewed as being able to address the industrial needs of Bungendore. In addition, Bungendore has a price advantage over both the ACT and Queanbeyan with larger tracts of potential industrial land available in these locations and is likely to have cheaper purchase prices.
5. As part of the review of the Bungendore Structure Plan it is intended that potential 'greenfield' areas for both IN1 General Industrial and IN2 Light Industrial land use zones are identified. The exhibition of the draft Structure Plan would provide Council with the opportunity to discuss the industrial needs of the town with existing and prospective industry businesses and developers.
6. The Ministerial Direction issued under section 117 of the NSW Environmental Planning and Assessment Act 1979 , 1.1 Business and Industrial Zones has as its objectives, the following:
  - encourage employment growth in suitable locations,
  - protect employment land in business and industrial zones, and

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- support the viability of identified strategic centres.

The Direction applies in this instance and requires that:

- The planning proposal gives effect to the objectives of the direction.
- Retain the areas and locations of existing business and industrial zones
- Not reduce the total potential floor space area for industrial uses in industrial zones

If a planning proposal is not consistent with this Direction then it is necessary to justify this inconsistency with a strategy, study or demonstrate that it is accordance with a strategy prepared by the Department of Planning and Environment or is of minor significance.

7. In relation to the management of amenity, particularly noise and the suggestions of an acoustic wall or buffer, it is suggested that an assessment should be undertaken by an acoustic consultant with experience in industrial areas for all lots. Further it is suggested that consultation is required with the adjoining industrial property owners. As stated above the exhibition of the draft Bungendore Structure Plan would provide the opportunity to do this.

It is concluded that the rezoning of Lot 3 DP 1195030 is of a minor nature as it is only one lot which is not directly adjacent to the furniture manufacturing business, noise impacts from the nearby batching plant can be dealt with by an acoustic review and the stormwater generated by ten residential lots can be accommodated within the existing system. As a result it is recommended that Council refer the planning proposal concerning the rezoning of Lot 3 DP 1195030 from IN2 Light Industrial to R2 Low Density Residential (Attachment 1) to the Minister for Planning for a Gateway determination in accordance with section 56 of the *NSW Environmental Planning and Assessment Act 1979* subject to clarifying the following matters with the proponent:

- Correction of typographic errors.
- An error in relation to the light industrial precinct (p12).
- An error in relation to the permissibility of the concrete batching plant in IN2 (p14 and 20).
- Comment on the industrial situation in Bungendore.
- Other matters that may arise.

In relation to the future planning proposal for Lots 1 and 2 1195030, it is noted that these properties are adjacent to the furniture manufacturing business and concrete batching plant and the rezoning of this land would substantially decrease the town's industrial land supply. Without there being a strategy which takes into account the increase in residential development in this area and an analysis of the industrial needs of Bungendore it is considered premature to rezone this land to residential. Any such planning proposal should only be considered in the context of the future review to establish a single LEP for the new local government area.

### ***Other strategic matters requiring attention in Bungendore***

In addition to the above planning proposals there are numerous matters that require attention in an integrated manner in relation to Bungendore. These are:

Water - Council is continuing the assessment of groundwater in the Bungendore area so that an increase in the Bungendore town water supply entitlement can be sought. The next stage in this process is the development of a number of prospective production bores, with the aim of securing a suitable additional town water supply entitlement issued by DPI Water. Two targets have been identified with the intention being to commence field works possibly as early as February 2017. This milestone will be critical both in terms of the quantity and quality of water available. It is felt that all potable water for Bungendore should be sourced, treated and supplied as part of a Council managed town water supply.

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Council should continue to work on the current groundwater investigations with a view to securing an increase in the Bungendore town water supply entitlement.

***Integrated Water Cycle Management (IWCM) Strategy***

The IWCM is a thirty year strategy which incorporates a total asset management plan and financial plan for Council's water and sewerage businesses. New government guidelines require this process to be reviewed on a four-yearly program with each second review to be a major IWCM review, and each alternate to be a more moderate review of the strategic business plan. The Strategy takes into account current and future land uses and available town water licenses. The background to this project was provided in the 9 November 2016 strategic planning report to Council (Item 9.1). A final draft of the first stage "Issues Paper" is currently being prepared by consultants and following this the Project Reference Group will meet to discuss the draft Strategy. The Reference Group will consist of community members, council and government agency staff and local business representatives.

***Bungendore Structure Plan***

Regardless of whether there is 'greenfield' residential development, there are numerous matters in Bungendore that require a holistic approach, some of these are; the management of the inner precincts of the town and their heritage attributes, the development of laneways and the land adjoining them, underutilised residential infill opportunities which may be sympathetic to the character of Bungendore (as described in the Palerang Development Control Plan), the road hierarchy and associated treatments, pedestrian and cycle routes, the location of industrial land, stormwater quality and quantity management, the long-term use of Bungendore Park and the provision of community facilities such as outdoor and indoor space for community events.

Currently, Council is preparing a revised Bungendore Structure Plan to ensure that the development of Bungendore occurs in a co-ordinated and efficient manner and in a direction that reflects the views of the community, government agencies and Council. The Structure Plan will be closely aligned with the IWCM Strategy and the ability to find a reliable groundwater supply. It is intended that the Structure Plan is reviewed and updated every four years over the life of the Plan, at the same time as the IWCM Strategy.

The Structure Plan will build on the *Bungendore Land Use Strategy and Structure Plan* which was adopted by Council on 5 August 2010 and endorsed by the Director-General of the NSW Department of Planning on 30 November 2011.

There is no single definition, either in NSW legislation or in the NSW planning community, of what constitutes a structure plan. It is suggested that a structure plan provides a framework for the co-ordinated provision and arrangement of future land use. It is a particularly important planning tool when land is held in multiple ownership, as in the instance of Bungendore. It links the provision of transport, public open space, utility and service networks, water management, social and other infrastructure such as roads. A structure plan is a medium to long term broad plan, an 'umbrella' plan. The strategies for achieving the plan are contained in the 'tools' associated with it. For example the local environmental plan, the development control plan, development contributions plans, Council designs for roads and traffic management features, the management of stormwater in the southern part of Bungendore asset plans and landscape plans. The detail of each location for example the central business district or a residential area can be planned using a master plan.

The benefits of the process of preparing a structure plan are:

1. An awareness of previous and current work for all involved and the community – often people are not aware that work in an area has been undertaken and an outcome has either been determined or achieved.

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2. The identification of the various perspectives of individuals and groups – when people are aware of previous and current work their perspective may alter and compromise or consensus may be reached on major issues.
3. The ability to discuss and make a decision about major issues – for example the identification and management of 'hot spot' and 'honey pot' areas, allowing a decision to be made and then the community can 'move on' from the issue(s).

The key benefits of having a structure plan for Bungendore are:

1. Infrastructure co-ordination (hard and soft) - structure plans identify sites for future infrastructure development, reduce land use conflicts and enable better staging of infrastructure provision to support land development
2. Land supply monitoring – structure plans enable the tracking of prospective amounts and yields (dwellings, employment etc.) of land to ensure the future supply and timely release of land for development.
3. Efficient subdivision and development approvals – structure plans address and resolve broader, more strategic planning issues ahead of detailed planning in respect to subdivision and development, allowing for more efficient assessment and approval processes.
4. Review and development of planning policy – structure plans can be used to measure the effectiveness of planning strategies and policies.
5. Guidance – structure plans can assist landowners and their representatives or decision making authorities to identify the specific issues and actions required to progress the land through the required planning and development processes.
6. Project co-ordination - non-government projects can be co-ordinated resulting in maximising opportunities for developers and the community.
7. A cohesive 'look' and 'feel' across developments in separate areas of Bungendore can be achieved.
8. There is a reduction in unintended consequences due to a lack of awareness of other projects or the 'direction/flavour' of an area.
9. An implementation plan can be prepared and over the life of a plan, the strategies are budgeted for and undertaken.

Currently, development is driven by developers and vacant land opportunities. There is limited ability for Council to co-ordinate infrastructure as the timing, funding and location of development is frequently unknown. Additionally, there are a large number of plans which either have no or limited links to each other.

Under the *NSW Environmental Planning and Assessment Act 1979*, a structure plan has no legal status. However, if a structure plan has been adopted by Council and is a major consideration in the management of development and infrastructure then it should be taken into account for infrastructure and land use decisions. Also it is likely that a revised structure plan will be submitted to the Secretary of the Department of Planning and Environment for endorsement.

Since the completion of the 2010 Structure Plan the following has occurred:

1. The current local environmental plan has been gazetted which has applied specific land use zones such as business, residential and industrial to areas of Bungendore moving away from a 'village' zoning with a wide range of permissible land uses across the entire town and land use precincts.

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2. A new development control plan (Palerang Development Control Plan 2015 has been approved which includes the identification and description of the character of Bungendore and the inner Bungendore precincts. These precincts include the civic and retail/tourist areas.
3. A flood study has been completed, a recreation strategy commenced and the potable water supply has been enhanced through a new bore (*Currandooley*, adjacent to Tarago Road).
4. The land in the Trucking Yard Lane area contains many new dwellings and the south Bungendore area is being subdivided for residential lots and numerous dwellings including townhouses have been erected. There are few vacant lots in the Elmslea area. At the time the Bungendore Land Use Strategy and Structure Plan was being prepared it was estimated that there were 913 existing dwellings (p20). The 2011 census found that there were 967 dwellings. The number of dwellings at the time of the 2016 census is likely to exceed 1000
5. The planning proposals outlined above have been received.
6. Residential development around the light industrial area has increased.
7. There is strong interest in 'greenfields' residential and industrial development on the edges of Bungendore.
8. An Aboriginal cultural heritage and revised native vegetation GIS (Geographic Information Systems) layer have been prepared. The native vegetation layer requires further work on the grassland areas surrounding Bungendore, however, it is expected that mapping work currently being undertaken by the NSW government will assist with this

The area to be considered in a review of the Bungendore Structure Plan should include:

- The existing urban area.
- The areas immediately around Bungendore.
- The gateway areas.
- The existing water and sewer treatment plants.

The suggested process and timeframes for preparing the reviewed Bungendore Structure Plan are:

<b>task</b>	<b>timeframe</b>
Preparation of draft Structure Plan	February 2017
Discussion with Council staff	March 2017
Discussion with government agencies	March 2017
Revised draft Structure Plan	April 2017
Council adopts plan for exhibition	end of April 2017
Exhibition for one month, workshops and comment from government agencies , displays at the markets, council foyer and community events)	May 2017
Collation of comments and submissions, preparation of report for council with a revised draft Structure Plan	June/July 2017
Adoption of the final structure Plan	August 2017

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From the above it is clear that both the water supply issue and the Structure Plan need to proceed in tandem and that until these matters are finalised the prospect of considering any new planning proposals in the Bungendore area will be highly constrained.

Given this Council should:

1. Continue its work on reviewing the Bungendore Structure Plan.
2. Continue to work on the three existing planning proposals presently before Council being:
  - Lot 3 DP 1195030 Majara Street
  - North Bungendore
  - Bungendore East

Noting that in the case of the two latter proposals the Department of Planning requires additional information relating to water supply and the progress of the Structure Plan.

3. Not proceed to refer any new Planning Proposals for the Bungendore area to the Minister for Planning for a gateway determination until work on the groundwater and Structure Plan has been substantially completed and discussed with government agencies and the community. This includes Lot 1 and Lot 2 DP 1195030 Majara Street.

Council would also be aware from previous reports that a non-residential planning proposal for land acquired by Council in Bungendore is also progressing. This relates to Lot 5 DP 1204393, Malbon Street, which seeks to rezone Commercial B2 land to Infrastructure (carpark). This proposal has already received a gateway determination and will be finalised in due course.

### Implications

#### *Legal*

While there is no provision in the *NSW Environmental Planning and Assessment Act 1979*, that prevents a planning proposal being lodged by an individual or organisation, two points should be taken into account:

- 1 Where a planning proposal is lodged, section 55 (1) of the Act states that the relevant planning authority (in most instances, Council) is to prepare the planning proposal. In many instances, the planning proposal is prepared by consultants but with Council 'having the final say' on its content, this enables Council to 'shape' the planning proposal.
- 2 There is a low risk that a planning proposal proponent may request a *rezoning review* (previously known as a pre-gateway review) if Council does not submit the planning proposal to the Minister under section 56 of the Act for a gateway determination. The review is undertaken by a planning panel and in accordance with the Department's document, *a guide to preparing local environmental plans* (prepared under section 55(3) of the Act). The panel applies a Strategic Merit Test when considering the planning proposal. The matters in the Test include whether the planning proposal being consistent with any strategies prepared by the Department of Planning and Environment and if the proposal is responding to a change in circumstances such as changing demography. Where a proposal seeks to amend controls (generally a local environmental plan) that are less than five years old (as is the case for *Palerang Local Environmental Plan 2014*), the proposal will only be considered where it clearly meets the Strategy Merit Test.

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***Policy***

There is no Council policy regarding the management of planning proposals in the former Palerang Local government area. The revised Structure Plan will be a policy document which will link directly to the Community Strategic Plan, IWCM, asset plans and the comprehensive local environmental plan. The effect of the adoption of the recommendations in this report will be to place constraints on any new planning proposals foreshadowed for the Bungendore area until such time as a Structure Plan is in place or the LEP is reviewed on a Council wide scale.

***Environmental***

Environmental matters have been considered in the planning proposal for Lot 3 DP 1195030. The revised Structure Plan, IWCM and assessment of groundwater availability will consider environmental matters. These will be detailed in future reports to Council.

***Asset***

Any future residential subdivision will be required to pay development contributions (section 94 and 64) to Council for the management of Bungendore assets in addition to providing the required hard infrastructure necessary for residential use.

***Social / Cultural***

If Lot 3 DP 1195030 is developed for residential use, there will be an increase of approximately thirty people. It is suggested that this is a minor impact and that there are sufficient existing services and infrastructure to accommodate this increase. Additionally, a proportion of section 94 contributions will be allocated to the provision of community infrastructure. The social environment will be a major consideration in the development of the revised Structure Plan.

***Economic***

It is suggested that the development of Lot 3 DP 1195030 for residential purposes and loss of one lot zoned industrial as a result, is not economically detrimental to Bungendore. However, it is important that the economic development of Bungendore is part of the revised Structure Plan. Council has commenced this with the engagement of a consultant economist to consider economic opportunities and to combine this with work being undertaken by Council staff on the types of land uses in the commercial and industrial areas of Bungendore and the amount of available land for these land uses.

***Strategic***

Whilst Council seeks to encourage the development of Bungendore, it is important that development occurs in a co-ordinated manner (refer to the above section on the Structure Plan) and that staff time is available to prepare a draft local environmental plan for the amalgamated Council within the next two years. Without this approach, the Queanbeyan-Palerang planning system will be operating on an 'ad-hoc' basis which will have expensive unwanted long term consequences for the whole of the local government area.

***Engagement***

There has been no community or government agency consultation on either the planning proposal for Lot 3 DP 1195030, the IWCM Strategy (apart from the DPIWater) or the Structure Plan. When Planning proposals are given a gateway determination the public exhibition period is generally 28 days. Agency consultation is also likely to be required.

**8.7 Planning Proposals Relating to Bungendore and its Immediate Surrounds and the Review of the Structure Plan (Ref: C174986; Author: Carswell/Robb) (Continued)**

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***Financial***

i0 Staff time and the cost of any studies associated with the planning proposal would be paid for by the developer, but co-ordinating the assessment and overview of the project involves considerable staff time. The preparation of the revised Structure Plan and IWCM Strategy are included in the 16/17 Operational Plan and budget and need to be the focus of where Council commits its strategic planning resources. Other than the three planning proposals recommended to progress in this report no additional resources are planned for any new planning proposals.

***Resources (including staff)***

The preparation of this report has involved considerable research primarily by two staff members as well as meetings and the like. Further work will be required if the report's recommendations are adopted.

**Conclusion**

i0 It is concluded that Bungendore continues to be subject to development pressures and that it is necessary to take a strategic approach to the growth of Bungendore as well as some of the current land use and infrastructure matters. The best approach to do this is to continue work on the Structure Plan, IWCM Strategy, groundwater and the draft local environmental plan, making this a priority over any planning proposals which seek to increase develop either residential, commercial or industrial land. However, as Lot 3 DP 1195030 is considered minor, Council should seek a Gateway determination for this to proceed.

**Attachments**

Attachment 1	Attachment 1 Planning Proposal - Majara Street - December 2016 Revision <i>(Under Separate Cover)</i>
Attachment 2	Attachment 2 Draft and current Planning Proposals <i>(Under Separate Cover)</i>
Attachment 3	Attachment 3 South Bungendore Landuses <i>(Under Separate Cover)</i>



**8.7 Planning Proposals Relating to Bungendore and its Immediate Surrounds and the Review of the Structure Plan**

010/17

**RESOLVED (Overall)**

The Administrator resolved:

1. That Council refer the planning proposal concerning the rezoning of Lot 3 DP 1195030 from IN2 Light Industrial to R2 Low Density Residential (Attachment 1) to the Minister for Planning for a Gateway determination in accordance with section 56 of the NSW Environmental Planning and Assessment Act 1979 noting the following matters:
  - a) The need for an acoustic report to be undertaken to determine appropriate treatment measures for noise with mitigation measures to be funded by the proponent.
  - b) The need to correct minor amendments to the bushfire report concerning the implication that the planning proposal is integrated development prior to referral to the NSW Rural Fire Service.
  - c) A recommendation that the proposal be exhibited for 28 days.
  - d) The need for the proponent to work with Council's strategic planning staff prior to the planning proposal being lodged with the Minister for Planning to address the following matters:
    - i. Typographic errors.
    - ii. An error in relation to the light industrial precinct (p12).
    - iii. An error in relation to the permissibility of the concrete batching plant in IN2 (pp14 and 20).
    - iv. Comment on the industrial situation in Bungendore.
    - v. Any other matter that may arise.
2. That work continues on the current groundwater investigations with a view to securing an increase in the Bungendore town water supply.
3. That work continues on the review of the Bungendore Structure Plan.
4. That work continues on the three planning proposals listed below:
  - a) Part Lot 1 DP 798111 (North Bungendore), has a Gateway determination
  - b) Lot 1 DP 747767 and others (Bungendore East), has been forwarded to the Minister.
  - c) Lot 5 DP 1204393, Malbon Street, has a Gateway determination.
5. That Council not proceed to refer any new Planning Proposals for the Bungendore area to the Minister for Planning for a gateway determination until work on the groundwater and Structure Plan has been substantially completed and discussed with government agencies and the community. This includes Lot 1 and Lot 2 DP 1195030 Majara Street.

