



IRF 25/136

Gateway determination report – PP-2024-2011

Rezoning of land at 7 & 15 Halfway Creek Rd
Bungendore

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	1
1.1	Overview	1
1.2	Objectives of planning proposal.....	1
1.3	Explanation of provisions.....	2
1.4	Site description and surrounding area	2
1.5	Mapping	3
2	Need for the planning proposal	4
3	Strategic assessment	5
3.1	Regional Plan	5
3.2	Local.....	6
3.3	Section 9.1 Ministerial Directions.....	7
3.4	State environmental planning policies (SEPPs)	10
4	Site-specific assessment	10
4.1	Environmental	10
4.2	Social and economic	10
4.3	Infrastructure	11
5	Consultation.....	11
5.1	Community	11
5.2	Agencies	11
6	Timeframe	11
7	Local plan-making authority	11
8	Assessment summary	12
9	Recommendation.....	12

1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

LGA	LGA name
PPA	Queanbeyan Palerang Regional Council
NAME	Rezone land at 7 & 15 Halfway Creek Road Bungendore
NUMBER	PP-2024-2411
LEP TO BE AMENDED	Queanbeyan Palerang LEP 2022
ADDRESS	7 and 15 Halfway Creek Rd, Bungendore
DESCRIPTION	Lot 2 DP548291 and Lot 1 DP1262898
RECEIVED	1/11/2024
FILE NO.	IRF25/136
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The 2 objectives of the planning proposal are to:

- Amend the Local Environmental Plan (LEP) maps and rezone the privately owned land at 7 Halfway Creek Road, Bungendore (Lot 2 DP 548291 and the 20m wide dissecting section of unformed public road) from RE1 Public Recreation to RU1 Primary Production. Consequently, it will also remove the land from the land reservation (LRA) map as it is no longer needed for the Bungendore Sports Hub.
- Amend the Local Environmental Plan (LEP) maps and rezone the Council-owned community land at 15 Halfway Creek Road, Bungendore (Lot 1 DP 1262898) from RU1 Primary Production to RE1 Public Recreation. This will recognise the recreational purpose of the land and enable a wider range of recreation development, such as Recreational facilities (indoor) which includes an indoor swimming pool (aquatic centre), to be permitted on the land. Currently under the RU1 Primary Production zoning, Recreational facilities (indoor) are prohibited.

The intended outcome is to have the LEP reflect the relocation of the Bungendore Sports Hub facility from its former anticipated location on Lot 2 DP 548291 – 7 Halfway Creek Road, Bungendore and the 20m wide section of unformed public road that dissects the southern part of

Lot 2 DP 548291, to its current location at Lot 1 DP 1262898 – 15 Halfway Creek Road, Bungendore.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Queanbeyan Palerang LEP 2022 as per the changes below:

In relation to Lot 2 DP 548291 – 7 Halfway Creek Road, Bungendore and the 20m wide section of unformed public road that dissects the southern part of the lot:

- Amend the Land Zoning Map (LZN) by rezoning the land from RE1 Public Recreation to RU1 Primary Production, to be consistent with the surrounding RU1 zone.
- Amend the Height of Building Map (HOB) to apply the 10m height of building control to be consistent with the surrounding RU1 zone.
- Amend the Lot Size Map (LSZ) to apply the 80 hectare minimum lot size control to be consistent with the surrounding RU1 zone.
- Amend the Minimum Lot Averaging Map (LAV) to apply the Lot Averaging A area to be consistent with the surrounding RU1 zone.
- Amend the Secondary Dwelling and Dual Occupancy Map (SDO) to apply the 20,000m² control to be consistent with the surrounding RU1 zone.
- Amend the Land Reservation Acquisition (LRA) to remove its application to the land.

In relation to Lot 1 DP 1262898 – 15 Halfway Creek Road, Bungendore. The amendments are:

- Amend the Land Zoning (LZN) Map from RU1 Primary Production to RE1 Public Recreation.
- Amend the Height of Building (HOB) Map to remove its application to the land.
- Amend the Lot Size Map (LSZ) Map to remove its application to the land.
- Amend the Lot Averaging (LAV) Map from Lot Averaging A to remove its application to the land.
- Amend the Secondary Dwelling and Dual Occupancy (SDO) Map from Dual Occupancy 20,000m² to remove its application to the land.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The planning proposal includes 2 separate sites (Figure 1).

- Lot 2 DP 548291 - 7 Halfway Creek Road, Bungendore and the 20m wide section of unformed public road that dissects the southern part of Lot 2 DP 548291. The site is approximately 26.49ha and is zoned RE1 Public Recreation. The land is privately owned, largely cleared, and used for primary production.
- Lot 1 DP 1262898 - 15 Halfway Creek Road, Bungendore. This site is 15.92ha and is currently zoned RU1 Primary Production. The land is Council owned community land featuring a number of sporting fields. Council also proposes an aquatic centre on the land.

Both sites are on the western boundary of the Bungendore township.



Figure 1 Subject site (source: planning proposal)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Zoning, Height of Building, Lot size, Lot averaging, Secondary dwelling and udal occupancy and the Land reservation acquisition maps in the LEP, which are suitable for community consultation.

Council will need to prepare the full LEP standard mapping as part of any subsequent LEP finalisation process.

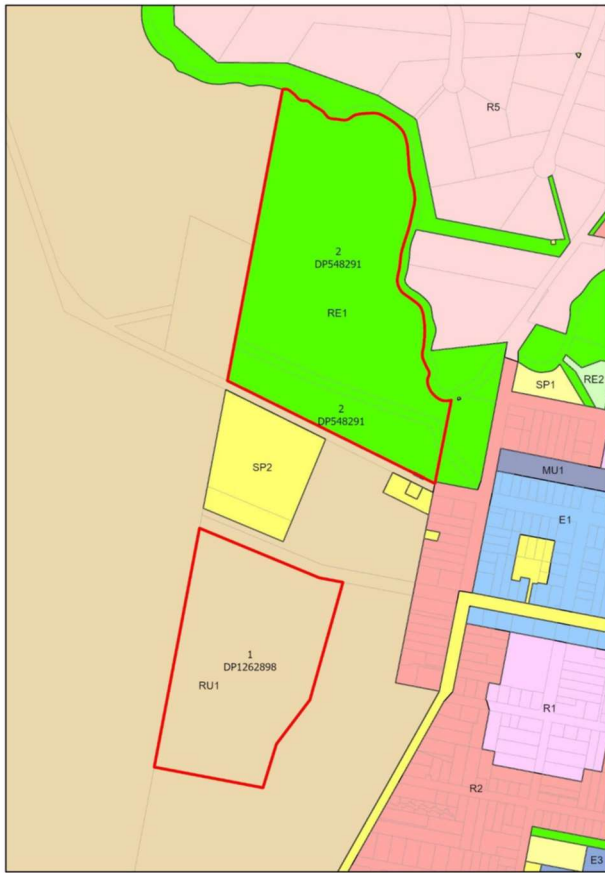


Figure 2 Current zoning map (Source: Planning Proposal)

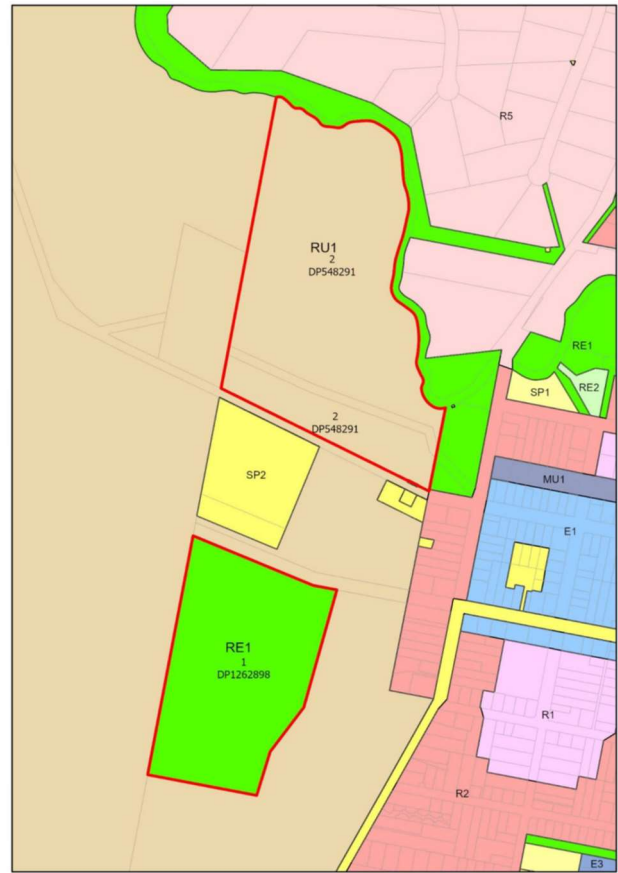


Figure 3 Proposed zoning map (Source: Planning Proposal)

2 Need for the planning proposal

At the Council meeting on 14 August 2024, Council approved relocating the aquatic centre to the northern side of the Sports Hub, adjacent to the netball courts. The southern location where it was intended to be situated is affected by overland flow from Halfway Creek and would require significant work to reduce flood risk if it were to be the site of the Aquatic Centre.

The Planning Proposal is required to ensure that the new aquatic centre will be a use that is permissible on the land.

The planning proposal considers that the proposed map-based amendments to the LEP are the best means of achieving the intended outcome. The former location for the Bungendore Sports Hub is no longer required and the new location requires a zoning with the range of land uses to be applied to reflect the recreational uses that the Bungendore Sports Hub will provide for the Bungendore community.

The proposal is supported by the Queanbeyan Palerang Sports Facilities Strategic Plan 2017. The objective is to return the zoning of land that is no longer required for the Bungendore Sports Hub to the surrounding rural zone and to appropriately zone the land of the new sports hub to reflect the recreation purpose and ensure that uses, such as an indoor swimming pool (Recreation Facility (indoor)) are permissible.

Council also considered the use Schedule 1 (Additional permitted uses), and an amendment of the permissible land uses for the RU1 zone to allow Recreational Facilities (indoor) however both of these options were considered to add more complication to the LEP and had other unintended consequences for land in the council area that is currently zoned RU1.

DPHI agrees that the proposed rezoning of the subject lands is the most appropriate way to facilitate the proposed development, and to support the ongoing rural use of primary production land.

3 Strategic assessment

3.1 Regional Plan

The planning proposal contains an assessment against relevant aspects of the South East and Tablelands Regional Plan 2036 and Draft South East and Tablelands Regional Plan 2041. The proposal states consistency with the following:

South East and Tablelands Regional Plan 2036

Goal 1: A connected and prosperous economy.

Direction 8: Promote important agricultural land.

This requires a critical mass of agricultural industries that can increase productivity, sustain employment and contribute to a secure, local fresh food supply.

Actions

8.2 *Protect identified important agricultural land from land use conflicts and fragmentation and manage the interface between important agricultural land and other land uses through environmental plans.*

Goal 3: Healthy and connected communities.

Direction 22: Build socially inclusive and healthy communities.

The design and location of recreation facilities, sporting infrastructure, parks and public buildings should encourage people to be physically active where they work and in their neighbourhood.

Actions

22.1 *Develop best practice guidelines for planning, design and development healthy built environments and use the Neighbourhood Planning Principles (Appendix A) in local environmental plans, development controls plans and strategies in the interim.*

Appendix A

Neighbourhood Planning Principles

- ☐ *A range of land uses to provide the right mix of houses, jobs, open space, recreational space and green space.*
- ☐ *Easy access to major town centres with a full range of shops, recreational facilities and services along with smaller village centres and neighbourhood shops.*
- ☐ *Conservation lands in and around the development sites, to help protect biodiversity and open space for recreation.*
- ☐ *Minimise the negative impacts on the natural water cycle and protect the health of aquatic systems, for example, through Water Sensitive Urban Design principles.*

Draft South East and Tablelands Regional Plan 2041

Theme 3: Leveraging diverse economic identities

Objective 13: *Promote innovation and sustainability in agriculture and aquaculture industries.*

Strategy 13.1 *Strategic planning and local plans are to:*

- ☐ *Protect identified state significant agricultural land and industries from incompatible or sensitive land uses, land use conflict and fragmentation.*
- ☐ *Identify opportunities for clustering of compatible land uses.*

Strategy 13.2 *Changes to rural zones and/or lot sizes are to be justified by rural lands strategy (or the like) endorsed by Council and the departments, which,*

- ☐ Sets a vision for rural land uses.
- ☐ Establishes strategic directions, outcomes or policies for the management and development of rural areas.

Objective 15: Promote business and employment opportunities in strategic locations. Expanding the 24-hour economy

- ☐ Review operating hours of public transport, shopping districts and community facilities.
- ☐ Extend hours of recreation, cultural and community facilities.

DPHI Regional Office generally agrees with Councils assessment, and no inconsistencies with either the existing or draft regional plans have been identified.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

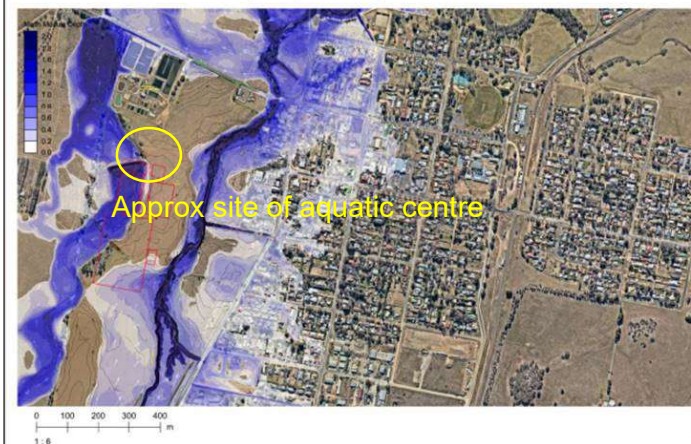
Local Strategies	Justification
QPRC Local Strategic Planning Statement	<p>Community – 4.7 Planning Priority 7 – We actively promote and implement sound resource conservation and good environmental practice.</p> <p>“The community applies good environment practice in their activities.”</p> <p>Outcomes</p> <ul style="list-style-type: none"> - Primary production and extractive industries are protected from land-use conflict. - Sustainable and diverse rural land uses are promoted. - Opportunities for farming and agricultural uses of land are supported. <p>Actions:</p> <p>4.7.1 – Protect primary production, and ground water and extractive industries, together with the other parts of the supply chains, including freight and logistics facilities, from surrounding land-use conflict.</p> <p>4.7.2 – Minimise fragmentation of rural land.</p> <p>4.7.3 – Ensure primary production and extractive industries are undertaken in a sustainable manner.</p> <p>4.7.6 – Protect important agricultural land and when available, review the important agricultural land mapping for inclusion in reviews of LEP and DCPs.</p> <p>Planning Actions for Bungendore - Community – 4.10 Planning Priority 10</p> <p>We Plan for and provide regional facilities which promote better social connection and access for the community.</p> <p>Outcomes:</p> <p>Identify and construct parks and recreation facilities that provide for the needs of the local and regional population.</p> <p>Actions:</p> <p>4.10.2 Zone land and construct new Sports Hub at Bungendore.</p> <p>DPHI notes the relevance of Planning priority 4.14 of the LSPS which seeks to increase resilience to natural hazards and climate change. The preparation of a FIRA in relation to flooding will assist to address the impacts of flooding on the development outcomes sought by the rezoning of land for this proposal.</p>

3.3 Section 9.1 Ministerial Directions

Council's planning proposal contains a brief statement of consistency with the section 9.1 Directions identified as applicable. The below table includes DPHI assessment of the applicable and relevant Directions below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plan	Yes	<p>The objective of this direction is to give effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The proposal seeks to apply an appropriate rural zoning to land currently used for primary production and therefore supporting Direction 8: (Protect Important Agricultural Land).</p> <p>DPHI Regional team considers the proposal to be consistent with this Direction.</p>
4.1 Flooding	Inconsistency to be further justified	<p>The objectives of this direction are to:</p> <p>(a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>The planning proposal states:</p> <p><i>"The subject land is identified as a flood-prone area in the Bungendore Floodplain Risk Management Plan adopted by the QPRC, which demonstrates the proposal is consistent with the provisions of this direction. Most of the privately owned land is within the Probable Maximum Flood (PMF) and Primary Production is not expected to cause impact on existing flood characteristics in the vicinity of the site. The indoor aquatic centre will be appropriately designed to protect the facility from flooding. While access to the site, across Halfway Creek will be closed before flood waters reach the sports hub, it is proposed that the floor level will be raised above the 1% flood level (i.e. one in 100-year flood), to ensure protection of the asset. It is considered that the development and availability of a safe evacuation route would satisfy the provisions of Section 9.1 (2) Local Planning Direction 4.1"</i></p> <p><i>"Further investigation and flood impact and risk assessment report will be required at the development assessment (DA) stage."</i></p> <p>Upon receipt of the proposal, DPHI referred the proposal to DCCEEW who raised concerns regarding flooding. Council provided additional information and upon review DCCEEW</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>confirmed that the proposal did not satisfy Direction 4.1 and advised that a site specific Flood Impact Risk Assessment (FIRA) would be required at PP stage in order to satisfy the Direction. The extent of the 1% AEP flood event is shown below as provided by Council in its additional information submitted and reviewed by DCCEEW. The PMF has not been mapped/modelled.</p> <p>Queanbeyan-Palerang Regional Council Flood Impact Assessment - Bungendore Sports Hub 20 November 2019 189120</p>  <p>Maximum Flood Depths During 1% AEP in Existing Condition</p> <p>Approx site of aquatic centre</p> <p>Figure 5. Maximum Flood Depth Results during 1% AEP in Existing Condition</p> <p>DPHI Regional team recommends a Gateway condition requiring the preparation of a FIRA that supports the proposal be completed and the planning proposal appropriately updated to address the Direction prior to the proposal proceeding to community/agency consultation.</p>
4.3 Planning for Bushfire Protection	Consistency to be achieved post Gateway determination in accordance with 4.3(1)	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) encourage sound management of bush fire prone areas. <p>The planning proposal notes that the subject land contains land identified as Vegetation Category 3 bushfire-prone land and proposes that, in accordance with the application of Direction 4.3 consultation with the NSW RFS will occur during Gateway implementation.</p> <p>DPHI Regional team agrees that consultation with the NSW RFS Commissioner and the taking into account and comments so made ahead of Community consultation will satisfy the planning Direction 4.3(1).</p> <p>Consultation with the NSW RFS is to be required as a condition of the Gateway determination.</p>
5.2 Reserving Land for Public Purposes	Consistent	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) facilitate the provision of public services and facilities by reserving land for public purposes, and (b) facilitate the removal of

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>reservations of land for public purposes where the land is no longer required for acquisition.</p> <p>The planning proposal states that it is consistent with the provisions of this direction in that the Proposal removes the reservation of land that is no longer required to be acquired for public purposes.</p> <p>DPHI Regional team agrees that the planning proposal seeks to formalise appropriate zonings to ensure permissibility of community facilities, and where land acquisition is no longer required, and is therefore consistent with this Direction.</p>
9.1 Rural Zones	Consistent	<p>The objective of this direction is to protect the agricultural production value of rural land.</p> <p>a) not rezone land from a rural zone to a residential, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone.</p> <p>DPHI Regional team notes that the proposal seeks to rezone rural land from RU1 to RE1 and is therefore not inconsistent with the Direction.</p>
9.2 Rural Lands	Inconsistency justified	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) protect the agricultural production value of rural land, (b) (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes, (c) (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State, (d) (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses, (e) (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land, (f) support the delivery of the actions outlined in the NSW Right to Farm Policy. <p>The planning proposal states that it is consistent with the provisions of this direction in that the privately owned subject land will protect the agricultural value of rural land. The planning proposal supports farmers in exercising their right to farm.</p> <p>DPHI regional team agrees that the rezoning will apply an appropriate zone to allow the ongoing use of land for primary production and is consistent with the Direction.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs. A number of SEPPs contain matters for consideration during any subsequent development application that may result from the proposed rezoning.

The outcomes of the proposal cannot be achieved under the provisions of a SEPP, and the planning proposal process is the appropriate mechanism to facilitate the outcomes sought by Council.

4 Site-specific assessment

4.1 Environmental

The planning proposal notes that it does not propose any changes that will change protection relating to terrestrial biodiversity, riparian lands and watercourses mapping in the Local Environmental Plan (LEP) that applies to the land. The current protection to critical habitat or threatened species, populations, ecological communities, or their habitats will remain unchanged.

The planning proposal identifies that the subject site is on the QPRLEP 2022 mapping as containing Terrestrial Biodiversity, which is predominately associated with the two watercourses that impact the site. Both these watercourses run north-south and generally parallel to Molonglo Street, Bungendore. The site is substantially affected by flooding up to the probable maximum flood (PMF) level and flood studies have been prepared. Council proposes that a Flood impact and risk assessment report will be provided at development assessment (DA) stage.

As noted earlier in this planning report, DPHI undertook pre-gateway consultation with DCCEEW in regard to flooding and biodiversity. In response to concerns raised by DCCEEW, Council provided additional information and upon review, DCCEEW confirmed that they were satisfied with the proposal in relation to biodiversity however, outstanding concerns remain around flooding. The proposal does not satisfy Direction 4.1 and a site-specific Flood Impact Risk Assessment (FIRA) is required in order to satisfy the Direction. A condition of any Gateway Determination will require a FIRA supporting the proposal be prepared ahead of any consultation.

The planning proposal also identifies that both lots are also located on bushfire-prone land. Under the certified Queanbeyan-Palerang Bush Fire Prone Land Map, provided by the NSW RFS Development Planning and Policy, both lots are within the Vegetation Category 3 area. It is anticipated that future development can demonstrate compliance with *Planning for Bush Fire Protection 2019*.

As identified in section 3.3 of this report, it is proposed that consultation with the NSW RFS Commissioner is required as a condition of the Gateway determination.

4.2 Social and economic

The planning proposal notes that The Bungendore Sports Hub provides facilities for several different sporting groups including netball, and the rezoning will allow for the addition of an indoor aquatic centre on the site.

Bungendore's existing outdoor 25-metre swimming pool facility with five lanes, a shaded toddler pool two change rooms, other shaded areas and a BBQ and kiosk are located on a site in Bungendore Park. The site has been acquired by the Department of Education for the construction of a new high school.

The Bungendore Sports Hub has adequate room for future growth in line with the town's growth and demands for recreation space.

4.3 Infrastructure

The planning proposal identifies that the subject land is located on the western outskirts of the Bungendore town area where the Bungendore Sports Hub is located.

Infrastructure has been made available for the sports hub as part of the development including a main pavilion building with changing rooms, a canteen, local amenities and meeting room facilities. The surrounding area contains four hardcourt netball courts and two grass playing fields, both with floodlights, and any additional services required for the future development may be subject to conditions during the development assessment (DA) stage.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms to the conditions of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- DCCEEW – Flooding
- NSW SES
- NSW RFS

6 Timeframe

Council proposes a 9 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

Acknowledging the requirements conditioned within the Gateway determination, the Department recommends an LEP completion date of 12 months from the date of the Gateway determination in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the planning proposal is consistent with both local and regional plans and seeks to apply land use zones that reflect the existing land uses present on the subject sites, and subject to compliance with the Gateway conditions, the matter is considered a local planning matter for which the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal seeks to appropriately zone land that aligns with its existing land uses
- The rezoning of land to RE1 Public Recreation will enable the ongoing development of the Bungendore Sports Hub including a new aquatic centre.

As discussed in the previous sections 4 and 5, the proposal should be updated to:

- Reflect any changes required following the preparation of a site-specific Flood Impact Risk Assessment (FIRA) required in order to satisfy Ministerial Direction 4.1 (Flooding)
- Consider any comments received following consultation with the NSW RFS Commissioner in relation to Ministerial Direction 4.4 (Planning for Bushfire Protection)

9 Recommendation

It is recommended the delegate of the Secretary:

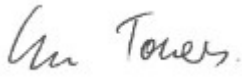
- Agree that any inconsistency with section 9.1 Directions 9.2 Rural Lands is justified in accordance with the terms of the Directions.
- Note that the consistency with section 9.1 Directions 4.1 Flooding and 4.3 Planning for Bushfire Protection remain unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation, the planning proposal is to be updated to;
 - Reflect any changes required following the preparation of a site-specific Flood Impact Risk Assessment (FIRA) required in order to satisfy Ministerial Direction 4.1 (Flooding).
 - Consider any comments received following consultation with the NSW RFS Commissioner in relation to Ministerial Direction 4.4 (Planning for Bushfire Protection).
2. Prior to community consultation, consultation is required with the following public authorities:
 - NSW RFS
3. Consultation is required with the following public authorities:
 - DCCEEW – Flooding
 - NSW SES
 - NSW RFS
4. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 12 months from the date of the gateway be included on the Gateway.



3/2/25

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