



Save Bungendore Park

OUR PARK IS NOT FOR SALE

Save Bungendore Park Inc.

Bungendore NSW 2621

NEW HIGH SCHOOL IN BUNGENDORE - APPLICATION NO. SSD-14394209

June 2024 – Further Objection from Save Bungendore Park Inc. following Amended Development Application

No.	Issue	Comment
1.	Introduction	<p>Save Bungendore Park Inc. (SBP) is a grass-roots, volunteer-led community organisation which was incorporated in 2021 with the objective of preserving Bungendore Park in accordance with the original 1884 dedication.</p> <p>SBP has over 100 members and hundreds more heavily engaged supporters, representing a large and diverse cross-section of the Bungendore and regional community.</p> <p>We have advocated not just for preservation of Bungendore Park, but for the establishment of a high-quality, fit-for-purpose school on a properly-chosen site with room to accommodate the needs of a growing region.</p> <p>We have established, through multiple applications under the Government Information (Public Access) Act 2009 – usually resisted and always successfully appealed to the Information and Privacy Commissioner, as well as an order under Parliamentary Standing Order 52 and successful legal proceedings in <i>Save Bungendore Park Inc v Minister for Education and Early Learning</i> [2023] NSWLEC 140, that the proposed development is the result of a shoddy and rushed planning process, a poor understanding of the dynamics and needs of Bungendore and the region, falsified or misrepresented community consultation and a planning process which has intentionally misrepresented the nature of the development, both to the community and to the Department of Planning, Housing and Infrastructure.</p> <p>SBP has previously lodged multiple objections to the Applicant’s various proposals. The overwhelming majority of matters raised in those objections have not been addressed. Those objections form part of this document and should be taken to be incorporated by reference.</p> <p>We understand this project better than anyone.</p>

		<p>We have been through thousands of pages of records released under the GIPA Act (after multiple appeals!) and under Parliamentary Standing Order 52. We've researched the history, we've spoken to hundreds, if not thousands of people in the community. We've done the work that the Applicant and its consultants were too lazy to do, or preferred not to do.</p> <p>We've scrutinised the reports and documents prepared as part of the DA and were shocked at the poor quality of the analysis. Many of these reports make basic errors, reach illogical conclusions or simply ignore relevant facts. We have local knowledge and understand the social context far better than DoE staff from Sydney ever can.</p> <p>All of this has reinforced our conclusion that the proposed development is ill-conceived, damaging and against the public interest.</p> <p>The amended SSDA currently on exhibition is a fraud on the Bungendore community and a clear attempt to subvert due process. The Applicant continues to refuse to disclose clear catchment data, up-to-date traffic and parking data, properly-prepared social impact or heritage assessments or even comply with the basic requirements set out in the SEARs dated 11 March 2021.</p> <p>The volume of overlapping and often obsolete material submitted by the Applicant, along with the uncertainty around what is actually being developed and what works are contemplated in future and/or off-site make it impossible for the community to have any proper understanding of this proposal.</p> <p>This is a proposal for part of a school, with no clarity as to when, where, how or under what planning pathways the remainder may be built. There is no rational basis on which this development application may be approved.</p> <p>The proposed development is contrary to law and the public interest and consent must be refused.</p>
2.	Our motivation	<p>Our organisation, and our members and supporters, have been falsely represented on social media and in publications from the Member for Monaro as being opposed to a high school for Bungendore.</p> <p>This is not true.</p> <p>Following a meeting with him in early May 2024, we wrote to Mr Whan stating that:</p> <p style="padding-left: 40px;">We would also like to reiterate strongly that none of us are objecting to having a high school in Bungendore - this has been needed for a long time, and we appreciate your ongoing support for building one. We were just as disappointed as you were to hear you say that you've heard community members object to teenagers in the village. That is certainly not something we have heard from any of our hundreds of members and supporters. But we want that school to be the best one we can make it, because the young people of our beautiful village deserve the best - and</p>

		<p>they also deserve to be able to continue living in our rural environment with green spaces where the village setting retains a country heritage feel.</p> <p>We maintain this position. SBP is an apolitical organisation, with a very diverse group of members and supporters from across the political and social spectrum. Our campaign has never been about politics. It has always been about ensuring the best long-term outcome from Bungendore.</p>
3.	Commentary from the Member for Monaro	<p>It was particularly distressing that Mr Whan circulated a letter to Bungendore and the wider area in late June 2024, lamenting the “cumbersome planning process” and describing SBP and our members and supporters of “opponents of the high school” and suggesting that the Government might desire to “short circuit” the proper planning process, inferring that the Government regretted it could not require “the withdrawal of the threat of legal action”.</p> <p>Mr Whan is a Cabinet Minister and it is concerning that his criticism might be confused as an attempt to influence the process or its outcome.</p> <p>It would be deeply improper if a Member of Parliament is perceived to be attempting to influence a planning assessment being undertaken by the Department of Planning. The Applicant must confirm that the views of Mr Whan and his apparent desire to short-circuit a proper planning process will not influence any matter in relation to this application.</p> <p>We would also ask for confirmation from the Department of Planning that its assessment process will not be influenced by the public statements of Mr Whan or any other senior Minister.</p>
4.	SEARs – General Requirements – related developments	<p>The SEARs state that the EIS must include a complete description including “likely interactions between the development and existing, approved and proposed operations in the vicinity of the site.”</p> <p>The EIS does not do this.</p> <p>The revised development application does not include a school hall, canteen, gymnasium or ancillary works which are apparently proposed to be undertaken on Crown land. It is impossible to gain a proper understanding of the development in light of those omissions.</p> <p>Further, it fails to consider considered the proposed expansion of Bungendore Preschool, announced by the Member for Monaro in September 2022. This must be considered.</p>

5.	SEARS – General Requirements – justification, description of proposed operations including student numbers	<p>The SEARs state that the EIS must include a complete description including the need and justification for the development, as well as a description of proposed operations including staff and student numbers.</p> <p>The EIS does not justify why construction on a public park is required when alternative, more suitable sites were identified.</p> <p>The Amendment Report notes that the proposed development will have capacity for 450 students and 41 staff. The Amendment Report does not include any assessment of whether this is adequate to accommodate current or future demand. The Applicant has stated that the proposal has been designed with facilities “aimed to future proof demand forecast to 2036”. The Applicant has not provided any assessment of anticipated future demand. It has not explained how future demand may be accommodated.</p> <p>The comparison of the current proposal set out at Table 3 (p16) suggest student and staff capacity remain unchanged while the site area, total open space and gross floor area have been reduced significantly as the proposal has evolved. The Applicant has not explained how it has been able to achieve this.</p>
6.	Other SEARs requirements	<p>The Applicant has failed to address many of the SEARs requirements, including:</p> <ul style="list-style-type: none"> • Details of construction, decommissioning, timing - The Applicant fails to address the SEARs requirement to set out details of construction and decommissioning including timing. There is no clear indication of timing of the proposal. The revised application contemplates additional parallel planning processes. It is not clear when these might be completed. • Estimate of the retained and new jobs ... along with details of the methodology – this is not set out in the EIS. There is no methodology set out in relation to estimated staffing; • Details of any proposed before/after school care services – this is not set out. • Assessment must consider any relevant legislation, policies and guidelines. SBP has raised on previous occasions the Applicant’s failure to consider the State Strategic Plan for Crown Land, <i>Crown Land 2031</i> (June 2021). Why has this not been addressed? Clearly, given the difficult history of this project and its continued reliance on works being carried out on Crown land, the State Strategic Plan for Crown Land is highly relevant to the development. The Applicant has failed to refer to this plan. In addition, the following still have not been addressed: <ul style="list-style-type: none"> • Relevant aspects of the QPRC Towards 2040 Local Strategic Planning Statement (as it relates to a proposed aged care facility, green spaces, town character and heritage); • The Bungendore Park Master Plan adopted by Palerang Shire Council in March 2014; • The Crown Land Management Act 2016.

7.	Failure to comply with Educational Facilities Standards and Guidelines	<p>The Architectural Design Report states that “The school facilities are required to be developed in accordance with the Department of Education’s (DoE), Education Facilities Standards and Guidelines (EFSG).”</p> <p>The EFSG sets out a “Schedule of Accommodation” for an “extra small” new secondary school. This specifies a gymnasium of 540sqm, a canteen and a “games field”, being “an active open-air sports field and recreational space accommodating competition sized sports fields”.</p> <p>The proposed design does not include any of these facilities. It does not comply with the EFSG requirements for a secondary school of any capacity.</p> <p>The Revised Application has failed to consider the updated “Design Framework: Site selection and development” (Version 1.0, June 2023), which forms part of the EFSG and is available on the Applicant’s website. This includes a checklist which specifies that a new secondary school in a rural/regional area requires a minimum site area of 4ha. The proposed site area is 2.54ha.</p> <p>Members of the community have queried this discrepancy; in response the applicant has referred to a different standard set out in the EFSG, of 2.5ha for suburban low-medium density areas. This is disingenuous as the standard for suburban areas contemplates construction of up to 4 storeys high.</p>
8.	Inconsistency between the Architectural Design Report and the Amendment Report	<p>The Architectural Design Report states on p2 that “The proposal will include ... the construction of new school buildings for learning spaces; a gymnasium and canteen”.</p> <p>In contrast, the Amendment Report notes that the gymnasium, school hall and canteen have been removed from the proposal, stating that they are “not essential to the function of the school” and their removal will not affect “the overarching description of the proposal.”</p> <p>This is nonsense. A school which lacks a canteen, gymnasium, school hall and appropriate amenities blocks and does not comply with EFSG requirements cannot be described as “a high-quality development” as the Applicant claims on p5.</p> <p>If in fact the Applicant proposes to construct a canteen, school hall or gymnasium, these should be described in the development application so that the community can understand what is proposed.</p>
9.	Lack of school canteen, hall and gymnasium	<p>The proposed development does not include a canteen, school hall or gymnasium. It is impossible to understand how the Applicant proposes to deliver a quality 21st century learning experience without those facilities.</p> <p>There are vague references to potential future planning and development processes but no indication of how or when these might be achieved, and no consideration of the project as an integrated proposal. Why are these facilities not being proposed as part of the current development?</p> <p>It is impossible for the community to understand the nature of the proposal given the vague and inconsistent statements made in the various planning documents.</p>

10.	Lack of a school oval	<p>As noted, the EFSG requires at least one “games field” for a new secondary school.</p> <p>While the original proposal stated that “[Mick Sherd] Oval will be used exclusively by the school during school hours for delivery of the school curriculum”, the Amendment Report states that “the amended proposal does not include any proposed shared use agreement over Mick Sherd Oval”, stating that resident access “will be maintained” although shared use arrangements “may occur in the future”.</p> <p>The Amendment Report is contradictory. It is unclear what use (if any) the proposed school will make of Mick Sherd Oval, although it notes that access to the oval for sporting teams “will be maintained for weekend and after school use.”</p> <p>The Applicant has no tenure or legal rights in respect of any part of Bungendore Park outside the area compulsorily acquired. If resident access is to be maintained, and there are to be no joint use arrangements, how is it able to make any observation in relation to oval access for sporting clubs? Why would it imply that such access would only be maintained “for weekend and after school use”? Is the Applicant implying that it will in fact require access to Mick Sherd Oval during school hours? If so, why is this not set out in the revised development application?</p> <p>Given the difficult history of this proposal and the issues arising under the Crown Land Management Act 2016 it is obvious that the Applicant has sought to conceal its intentions in relation to Mick Sherd Oval. The Applicant must be transparent in relation to its intentions.</p>
11.	Potential use of Mick Sherd Oval	<p>It would be unlawful for the Applicant to use Mick Sherd Oval for the purpose of delivering the school curriculum.</p> <p>Section 1.15(1) of the Crown Land Management Act 2016 provides that:</p> <p><i>Crown land must not be occupied, used, sold, leased, licensed, dedicated, reserved or dealt with in any other way unless it is authorised by this Act.</i></p> <p>Further, Section 2.12 of the CLMA provides that dedicated or reserved Crown land may only be used for the purpose for which it is dedicated or reserved, or for incidental or ancillary purposes. As noted, all of those parts of Bungendore Park which remain Crown land are dedicated for public recreation. “Public recreation” does not include public education, nor would it be lawful for the Applicant and QPRC to agree any arrangement which would deny the public access to Mick Sherd Oval, whether during or outside of school hours.</p> <p>The proposed development would not be feasible unless the Applicant is able to access Mick Sherd Oval. Such access would be unlawful. Consent must be refused on that basis alone. Alternatively, specific undertakings could be considered:</p> <p><i>Suggested conditions of consent:</i></p>

		<ol style="list-style-type: none"> 1. Applicant not to use any part of Bungendore Park for the purpose of delivering the school curriculum, or for any other purpose which would be a breach of the Crown Land Management Act. 2. Adequate outdoor playspace to be delivered by the Applicant within the proposed school grounds, at least in satisfaction of the Applicant's minimum requirements. 3. Applicant not to seek or enter into any arrangement with QPRC to use or restrict public access to Mick Sherd Oval for any purpose which is not permitted under the Crown Land Management Act.
12.	Lack of Crown land consent, proposed "dual-track" pathway	<p>In a Request for Information issued by the Department of Planning and Environment on 10 January 2024, the Department requested evidence of Crown Land owners' consent as required under Section 2.23(5) of the Crown Land Management Act 2016 (CLMA).</p> <p>The Minister for Lands and Property confirmed to the Solicitors for Save Bungendore Park Inc. in a letter dated 16 February 2024 that NSW Crown Lands received the Applicant's request for consent on 29 December 2023 and that such application would be "assessed on its merits" under the CLMA and other relevant legislation, with a decision expected at the end of February 2024.</p> <p>It is obvious that the Minister's consent was subsequently refused. There is no other logical explanation for the removal of Crown land works from the current application and the Applicant's failure to respond to that Request for Information.</p> <p>The Amendment Report suggests that the Applicant will "progress the proposal for the remainder of high school works [including works situated on Crown land] in the separate planning pathway application with a view to minimise any gap between delivery of the two proposals..."</p> <p>It is not clear what this "separate planning pathway" will involve, who will be the consent authority, what works are contemplated, who will undertake those works and when, or the basis on which those works may be permitted.</p> <p>It is not clear how the Applicant would have standing to make any development application required for works to be undertaken outside the school site. For the public to properly understand the proposed development, the Applicant should lodge a single, integrated application rather than a confusing, piecemeal series of applications for different aspects of the proposal.</p> <p>The proposed "dual-track" approval process has been conceived in an effort to circumvent the Crown Land Management Act (CLMA), potentially by securing approval from QPRC to undertake works which the Minister for Lands and Property has already concluded cannot lawfully be undertaken on Crown land.</p>

		<p>The Community cannot support the use of a convoluted and opaque planning pathway to undermine legislation which Her Honour Justice Pritchard described in <i>Save Bungendore Park Inc. v Minister for Education and Early Learning</i> as “a constitutional principle for New South Wales”.</p> <p>The Applicant must provide complete transparency in relation to this process. It is essential that a single, integrated development application is lodged so that the Community can properly understand what is proposed and the legality of any such proposal.</p>
13.	Obfuscation in relation to Crown land consent	<p>Similar to the above, the Applicant has not provided any information in relation to the consent of the Minister for Lands and Property.</p> <p>If the Minister did in fact refuse consent (which appears highly likely), why has this not been disclosed in the Amendment Report? A major change to a proposed development arising because of the refusal of consent from a relevant Minister must be disclosed if stakeholders are to be able to understand the nature of the development application.</p> <p>Why has the Applicant not disclosed the response from the Minister for Lands and Water and the basis for that response? It is essential that such information is disclosed.</p> <p>Members of SBP had a meeting with Monaro MP Steve Whan on 10 May 2024, in which Mr Whan stated that the Minister’s consent had not been granted “because it was never sought”. This statement is inconsistent with correspondence sent from the Minister to SBP on 16 February 2024 (discussed above) which confirms that consent was in fact sought.</p> <p>It appears that the Applicant has misrepresented the circumstances of the current application to Mr Whan. It is deeply concerning that an applicant in a planning matter might seek to mislead a local Member of Parliament in relation to the nature of that application.</p>
14.	Illegality of works on Crown land	<p>The Amendment Report’s reference to “the remainder of the high school works” being approved under a separate pathway makes it absolutely clear than any ancillary works proposed to be undertaken on Council or Crown land are for the purpose of the proposed development.</p> <p>“High school works” are not works undertaken for the purpose of public recreation and no person may lawfully undertake such works on Crown land which is dedicated or reserved for public recreation except in accordance with the CLMA.</p>

15.	Breach of Section 2.23(5) of the Crown Land Management Act	<p>The decision of the Land and Environment Court in <i>Save Bungendore Park Inc. v Minister for Education and Early Learning</i> confirms that the consent of the Minister administering the CLMA was required prior to determination of the original development application (the CLMA Consent).</p> <p>Following the Minister’s refusal to consent, the Applicant has amended to the application to, as it says, remove any part of the development from Crown land. Unfortunately, the current application is tainted by the original unlawfulness and this cannot be cured by any change to the application which might “revalidate” the existing exhibition and assessment process.</p> <p>This is because, on a proper construction of the CLMA, the CLMA Consent was a prerequisite to undertaking any statutory process relevant to this application, in accordance with the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The Applicant may seek to draw an analogy between the requirement for owner’s consent to “make” a development application under Reg 23 of the Environmental Protection and Assessment Regulations 2021 (and similar provisions in earlier legislation), and the requirement for Minister’s consent to “lodge” a development application under Section 2.23 of the CLMA.</p> <p>As you would be aware, the Courts have held in cases such as <i>Botany Bay City Council v Remath Investments No 6 Pty Limited</i> [2000] NSWCA 364 that owner’s consent to “make” a development application may be provided at any time prior to determination of that application.</p> <p>We agree that it may be appropriate to draw an analogy between Reg 23 (and equivalent prior provisions) and Section 2.23, but this must be considered properly in its context. The requirements of those provisions are different: Section 2.23 relates to “lodgment” of a development application, while Reg 23 refers to who may “make” such an application.</p> <p>The differing language is highly significant. The Court of Appeal in <i>Botany Bay City Council</i> was careful to distinguish between “lodging” and “making” a development application. In doing so, it rejected the Respondent’s submission that an application was “made” at the time it was lodged.</p> <p>Crucially, the Court found instead that the while the application may have been “lodged” at a particular time, it was not “made” until such time as the applicant complied with the relevant statutory requirements.</p> <p>While there is no caselaw specifically considering the meaning of “lodgment” as used in Section 2.23 of the CLMA, we submit that the requirements in relation to “lodgment” should be interpreted consistently with <i>Botany Bay City Council</i>; namely that an application is not “lodged” until such time as the applicant complies with the relevant statutory requirements.</p> <p>Consequently, and just as the Courts have found that a decision-maker has no jurisdiction to determine a development application which has not been “made”, any statutory assessment process such as public exhibition cannot be properly undertaken in respect of a development application which, at the time it was lodged, was not lodged in compliance with the relevant legislation.</p>
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16.	Failure to allow an appropriate opportunity to comment; misleading information	<p>We are aware that the Department of Planning’s Major Projects website displayed misleading information on the exhibition period to some members of the community. Specifically, the “Submissions closing in [X] days”, which was displayed prominently at the top of the website, failed to update for some users and displayed incorrect information.</p> <p>Consequently, those users are likely to have been misled as to the time remaining for them to plan and lodge their submissions and many are likely to have missed the 22 July 2024 deadline.</p> <p>A member of SBP drew this to the attention of senior Department staff on 17 July 2024 and provided screenshots to illustrate the issue, asking that the deadline be extended to ensure members of the community who had been misled were not prevented from lodging submissions. Department staff declined to do this.</p> <p>Given the strong likelihood that community members who relied on misleading information appearing on the Major Projects website were denied the opportunity to review and comment on the current SSDA, it is essential that the amended application is again placed on public exhibition for an appropriate period.</p>
17.	Unlawful conduct by the Applicant - lack of jurisdiction to determine development application	<p>SBP is in possession of evidence, including briefings prepared by senior staff of the Applicant to the former Minister for Education and correspondence between the Applicant and QPRC which demonstrate that at the time this development application was originally lodged, the Applicant had already decided (and agreed with QPRC) that community facilities described in the application as forming part of the proposed development would not in fact be part of the development.</p> <p>However, the information submitted to the Department of Planning with the original development application stated that those facilities would form part of the proposed development. The Applicant produced extensive publicity materials highlighting the inclusion of community facilities as a major benefit of the proposed development.</p> <p>This was untrue. The Applicant already knew at the time that the information was materially false or misleading.</p>

		<p>Given that this information was:</p> <ul style="list-style-type: none"> provided in connection with a planning matter when the Applicant knew, or ought reasonably to have known, that it was false or misleading in a material particular, in contravention of Section 10.6 of the <i>Environmental Planning and Assessment Act 1979</i>; given to a public authority, namely the Department of Planning, in compliance or purported compliance with the <i>Environmental Planning and Assessment Act 1979</i>, when the Applicant knew that such information was false or misleading and/or omitted certain matters or things without which the information was misleading, in each case in breach of Section 307B of the <i>Crimes Act 1900</i>; and delivered by a public official in a manner that constituted or involved a dishonest exercise of an official function and/or constituted a breach of public trust, in each case in the course of commission of a criminal offence, thereby constituting “corrupt conduct” as defined in Section 8 of the <i>Independent Commission Against Corruption Act 1988</i>, <p>the consent authority does not have the power or jurisdiction to determine a development application which has been made in contravention of the EP&A Act, the Crimes Act and which constituted corrupt conduct under the ICAC Act.</p> <p>Given the nature of the matters raised, we do not propose to include further specific details in information which will appear on the public record. We ask the Department of Planning to contact us if it wishes to view the material we have collated.</p>
18.	Demonstrated lack of Capacity	<p>Background</p> <p>The Applicant has consistently refused to provide clear information to the community or the Department of Planning in relation to the proposed school catchment size and projected demand. This has made it impossible to make any proper assessment of the suitability and impact of the proposed development or the adequacy of parking and transport infrastructure.</p> <p>In response to an application under the GIPA Act in early 2021, the Applicant prepared a report estimating that student numbers would reach 478 in 2026, climbing to 566 in 2036. This was prior to the approval of several large new subdivisions in the school catchment. The Applicant declined to release the basis for the relevant modelling.</p> <p>Similarly, a Ministerial Briefing prepared in early 2021 for the former Minister for Education (New High School in Bungendore - Final Business Case submitted to Treasury – Ref DGS21/97) stated that there was “immediate demand” for “almost 480 places.”</p>

	<p>In its "Key Issues Letter" of 26 October 2022, the Department of Planning asked for details of the "current need for the development, including the number of students in the new school catchment, breakdown of the number of students currently attending private and public schools and the current travel modes and trip times."</p> <p>In response, the Applicant's consultant Urbis claimed that: "The Department of Education cannot release 2021 – 2036 Enrolment Projections for NSW Government Schools as it is Cabinet Information. This information has been sought through a GIPA request and the decision that this data is Cabinet Information has been upheld. The SIA is therefore unable to include any further enrolment or catchment data."</p> <p><u>It is incredible that the Applicant has refused outright to comply with a request to provide information requested by the Department of Planning.</u> This calls into question the Applicant's bona fides. Given the information set out in the updated Transport Assessment (discussed below), this appears to be a deliberate attempt to conceal information.</p> <p>The Updated Transport Assessment</p> <p>As noted in prior submissions, the original Transport Assessment acknowledged "major limitations" in the data used to estimate traffic volumes and transport modality. The updated Transport Assessment now purports to be based on "excellent" sample data about the number and distribution of future BHS students throughout the school catchment.</p> <p>According to this report, there are currently 342 Year 6 students living in the catchment area for the proposed Bungendore High School and attending NSW public schools in the district. Those children are all zoned to start Year 7 at Bungendore High School in 2025. This number does not include any children living in the catchment but attending schools in Queanbeyan or Canberra.</p> <p>The overwhelming majority of those students (209) live more than 1.2km away from the planned school site, while 169 live further than 3.6km away.</p> <p>A Year 6 cohort of 342 currently attending NSW state schools implies a potential Year 7-12 cohort of 2052 – with the overwhelming majority travelling from outside Bungendore by private car or bus.</p> <p>This information, which the Applicant had previously sought to conceal, has major implications for the feasibility and impact of the proposed development which have not been addressed.</p>
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19.	Inappropriate basis for traffic mode-share estimates	<p>Even assuming only half the potential catchment chooses to attend Bungendore High School, the Transport Assessment demonstrates that most of those 1000+ students will be travelling every day from outside Bungendore. Many will be driving themselves, on residential streets and looking for non-existent parking.</p> <p>The Applicant has not explained how this significant additional strain on local infrastructure can be managed. The traffic, parking, open space and gross floor area analysis set out in the Amendment Report have been modelled on a maximum enrolment of 450 students and 41 teachers. This grossly misrepresents likely enrolments.</p> <p>How is it credible that the Transport Assessment uses “excellent” catchment data to estimate the likely distances to be travelled by students attending the proposed school, but then uses an artificial cap of 450 students to consider the likely traffic generation?</p> <p>Further, the Applicant bases mode share estimates on the cities of Cessnock (population 67,500, part of Greater Newcastle), Kiama (population 23,000, part of Greater Wollongong) and Springwood (population 8,500, part of Greater Sydney). Despite almost three years passing since the original DA, it has failed to identify more appropriate comparison for Bungendore (population 5,000 and rural).</p> <p>Using those inappropriate comparisons, the Applicant still found that 40% of students attending high school in those cities travel by private car. However, it has based mode share estimates on an entirely unsupported assumption that a transport “encouragement program” and an “action plan” will reduce to 18% the number of students travelling by private car.</p> <p>The Transport Assessment is wishful thinking trying to pass for proper analysis. It is a joke.</p>
20.	Lack of capacity acknowledged by the Member for Monaro	<p>In a meeting with members of SBP on 10 May 2024, the Member for Monaro, Mr Whan, acknowledged that that the proposed school site, even when extended to maximum capacity, will be unable to accommodate demand past 2036. Mr Whan openly admitted that a new or additional school campus would be required.</p> <p>Prior to his election in March 2023, Mr Whan highlighted the importance of long-term planning over short-term politics. We support that commitment. It is puzzling that the Applicant has proposed a deeply damaging development, with such a short design life. This is clearly extremely short-term and inconsistent with proper long-term planning. Such wasteful demolition and construction is inconsistent with the State Government’s Net Zero strategy.</p>
21.	RE1 Zone Objectives	<p>The Amendment Report notes that the proposed development is prohibited in the RE1 zone. This covers a large part of the proposed development site. It notes that, notwithstanding such prohibition, consent can be granted to the proposal as</p>

	<p>partially prohibited development under clause 4.38(3) the EP&A Act 1979, but that the consent authority is nonetheless required to take into consideration any environmental planning instrument.</p> <p>The Amendment Report sets out a list of fanciful matters which purport to address this requirement.</p> <p>Inexplicably, this assessment is framed entirely in the context of Mick Sherd Oval and other Crown land sites which are not owned by the Applicant or under its power or control, or even – by the Applicant’s own admission – relevant to the proposed development.</p> <p>This is a development application in respect of land which has been compulsorily acquired by the Applicant for the purpose of school development. It will be fenced off, to the exclusion of the public, and used exclusively by the Applicant for a purpose which is prohibited in land which is zoned RE1. The Amendment Report expressly excludes any community use in the short term.</p> <p>Further, the amended application expressly excludes any land outside the area compulsorily acquired by the Applicant. The Applicant states that any works outside the site acquired by the Department of Education do not form part of the proposed development.</p> <p>It states that no joint use of Mick Sherd Oval is proposed as part of the application, and that the removal of facilities which might have required works on RE1-zoned land which was not acquired by the Applicant – such as construction of a school gym, hall, amenities block, canteen or even an oval – were not part of the development.</p> <p>The Applicant is proposing to use RE1-zoned land for school construction, including fencing this land off the community. It will not be available for any purpose for which RE1-zoned land may lawfully be used.</p> <p>So why does the Applicant refer to “Mick Sherd Oval and other nearby recreational uses” in seeking to justify use of RE1 zone land compulsorily acquired from the Crown for a prohibited purpose?</p> <p>The Applicant’s assessment is absurd. If it proposes to use RE1-zoned land for a prohibited purpose, it must frame its application by reference to the actual use of that land, and not by reference to adjoining land which, according to the Amendment Report, does not form part of the current proposal and which is outside its power or control.</p> <p>If in fact the Applicant proposes to use Mick Sherd Oval as part of the current proposal (and to include that land to suggest that any otherwise prohibited use should be permitted under Section 4.38(3) of the EP&A Act), it should make that intention clear.</p>
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22.	Lack of funding for replacement facilities	<p>The Applicant has suggested that compensation paid to QPRC for compulsory acquisition of community facilities on Crown land can be applied towards replacement facilities.</p> <p>However, s3.16(2) of the CLMA provides that proceeds received by a Crown land manager from compulsory acquisition of Crown land – such as Bungendore Park and Bungendore Common – must only be applied “for a permitted purpose for that land” or other dedicated or reserved Crown land managed by Council.</p> <p>The new Bungendore Sport Hub and proposed swimming pool, as well as the proposed new community centre, are on Council-owned land. This means that the compulsory acquisition proceeds paid by the Applicant for Bungendore Park and Bungendore Common cannot lawfully be used towards those facilities.</p> <p>Given that there is limited scope to sensibly apply compensation proceeds to the residual areas of dedicated or reserved Crown land in and around Bungendore, it seems inevitable that compensation for the loss of our pool will be spent outside the district.</p> <p>That directly contradicts assurances given by the Applicant and by Peter Tegart (former QPRC GM) in response to Questions on Notice (Q5, 10 May 2021) that “all proceeds from the sale of assets in Bungendore, relating to the Bungendore High School proposal will be spent in Bungendore.”</p>
23.	The proposed amendments are beyond the “tipping point”. A new development application is required.	<p>The Applicant seeks to amend the development application under Reg 37 of the <i>Environmental Planning and Assessment Regulation 2021</i>. However, the proposed amendments push the development past the “tipping point” into being a new application:</p> <p>The revised development application describes a fundamentally different proposal to that originally contemplated in the original development application lodged in 2021. For example, the revised proposal:</p> <ul style="list-style-type: none"> • does not include the community centre, public library and council shopfront originally proposed; • specifically excludes proposed joint-use arrangements for Mick Sherd Oval or school facilities; • relates to significantly altered site boundaries, site area and gross floor area; • does not include a school hall, canteen or gymnasium; • includes major changes to the design and layout of school buildings; • excises any works on Crown land; • contemplates a “dual track” development where consent for certain works is sought under a separate planning process; • follows the compulsory acquisition of Crown land and a public road, rather than a consensual sale process and a Council-led road closure under Section 38A of the Roads Act 1993.

		<p>Together, these changes mean that the current proposal is a fundamentally different development to that proposed in 2021 or even in 2022. Considering the cumulative effect of the amendments as a whole, the revised plan can no longer answer the overall description and essence of the development as originally proposed: <i>Orico Properties Pty Ltd v Inner West Council</i> [2017] NSWLEC 90 at [10].</p> <p>Consequently, they are past the “tipping point” and cannot be a valid exercise of the power to amend under Reg 37: <i>Goldcoral Pty Ltd v Richmond Valley Council</i> [2023] NSWLEC 1540 and <i>Reid v Woollahra Municipal Council</i> [2023] NSWLEC 1611. The Applicant must submit a new development application.</p>
24.	Question for the Applicant	<p>Is this the same development which is tainted by the unlawful conduct of the Applicant described above? Or has it changed so radically that it has now passed the “tipping point” referred to above and must be considered as a new DA?</p> <p>The Applicant cannot present this as an “amendment” to the unlawful 2021 version of the application. It has been changed fundamentally from the original proposal. If the Applicant considers this to be merely an amendment to the application lodged in 2021, it must explain how a valid development consent may be granted notwithstanding the allegations of criminal conduct set out above.</p>
25.	Complexity denies community a reasonable opportunity to comment	<p>The information on the SSD-14394209 project page on the Major Projects website is voluminous and contradictory.</p> <p>The assessment information provided by the applicant in relation to the project (before the consent was declared invalid) and posted on the Major Projects website comprises approximately 70 separate documents (totalling 1000s of pages), including multiple amendment reports and sets of architectural drawings for fundamentally different proposals (Existing EIA Documents).</p> <p>Given all of the documents are framed in terms of how they compare to a previous (now abandoned proposal) and/or rely on components of the prior assessment packages, it is necessary to have regard to the entire portfolio of Existing EIA Documents to understand what is proposed.</p> <p>The Amended SSD Application continues this trend, making it impossible for the public to understand the proposal, its impacts and provide meaningful submissions.</p> <p>Additionally, it is unclear what documents should be referenced in any conditions of consent (having regard to the need for conditions to be “valid, easy to implement, enforceable and easy to understand” - DPE Guide to writing conditions of consent August 2022, p5).</p>

		The applicant should be required to make a fresh free-standing application for consent. If it fails to do this, the public will likely be deprived of a reasonable opportunity to comment on the application for the benefit of the decision maker thereby potentially invalidating any approval: <i>Scurr v Brisbane City Council</i> (1973) 133 CLR 242.
26.	There is a high risk that the impacts of the project will be incorrectly identified or assessed	<p>Due to the numerous physical works undertaken by or on behalf of the Department of Education at this site since the application for a High School in Bungendore was first made in September 2021, the Amended SSD Application will not comprehensively assess impacts of the proposed development. Further, it may rely on adverse impacts created by SINSW to justify the project.</p> <p>An applicant cannot seek to take advantage from having established unlawful works or an unlawful use. Similarly, it would be inappropriate for an applicant to assert that the project should be approved in order to undo the many adverse impacts on the community the applicant has created in its attempts to pursue the project prior to its approval.</p>
27.	Failure to comply with EP&A Regs	The Applicant has not included the declaration required under clause 190 of the Environmental Planning and Assessment Regulation 2021.
28.	Failure to consider alternative sites	<p>The assessment of alternative sites contained in section 1.3 of the EIS does not reflect the assessment of alternative sites actually undertaken by Property Development NSW (which was retained by the Applicant to identify and assess suitable sites for the proposed development).</p> <p>This has not been addressed in the Amendment Report. Statements made by the Applicant in relation to potential alternative sites are irrational and/or contradictory. For example, in relation to a potential alternative site on Trucking Yard Lane:</p> <ul style="list-style-type: none"> • in late 2020 following enquiries from then MLC David Shoebridge, the Department of Education falsely claimed a lack of road frontage and infrastructure – when the site has multiple road frontages and is adjacent to a new housing estate – as well as flooding and biodiversity constraints when no such issues existed; • in early 2022, the former Member for Monaro, Mrs Overall, is recorded as having sent a text message instructing the Department to come up with “reasons why [Trucking Yard Lane] is not a valid site” – resulting in a report citing such absurd reasons as its proximity to a paddock and repeating claims which are not supported by local flood planning maps; and

		<ul style="list-style-type: none"> shortly after the State Election in 2023, the Applicant prepared a purported timeline for the planning and construction pathway for that site which was so obviously wrong and manipulated as to call into question the competence and integrity of the infrastructure planning professionals in the Department. <p>More recently, the farcical Leeson Review, cited in the revised social impact assessment was based solely on interviews conducted with Monaro MP Steve Whan, the former CEO of School Infrastructure NSW Mr Manning and Project Director Mr Bellinato as well as a carefully curated selection of documents provided by Applicant. This review purported to reach conclusions which were unsupported by evidence or directly contradicted by information on the public record. Ms Leeson was instructed not to consider any sites proposed or matters coming to public attention (such as lead contamination or Crown land law) since the original announcement in August 2020. Curiously, the Department of Education continues to oppose our GIPA application to obtain the terms of reference for that review.</p>
29.	Traffic impact under the EP&A Regs	<p>The Applicant has failed to consider the traffic and other impacts of the closure of Majara Street (a critical component of the development, given that the school is proposed to be constructed on what was a public road). We note the amendments effected by the <i>Environmental Planning and Assessment Amendment (Schools) Regulation 2024</i> and likelihood that any “certificate relating to traffic impacts” would need to have regard to the impact of the closure of a public road made for the purposes of the development.</p>
30.	Failure to comply with agreed pathway to close Majara Street	<p>Records produced to Parliament under Standing Order 52 reveal correspondence between the Department of Planning and the Applicant, in which the Department of Planning stated that as a condition to accepting the Application, it would require to QPRC to effect the closure of Majara Street in accordance with the <i>Roads Act 1993</i>. This was to ensure that such closure satisfied the requirements of Section 38A of that Act.</p> <p>While Council passed a resolution in relation to the closure (Resolution 007/21), such resolution was subject to conditions which were not satisfied. No closure was ever gazetted, and any attempt to do so would have been unlawful under Section 38A of the Roads Act. Closure was rescinded by a resolution of Council on 27 January 2022.</p> <p>In any event, that road could not lawfully be closed under Section 38A of the Act, because it:</p> <ul style="list-style-type: none"> is required as a road for public use, for present and future needs; and provides continuity for an existing road network. <p>Instead, the Applicant effected the closure by operation of law under Section 41 of the Roads Act, by compulsory acquisition. This allowed it to bypass any proper assessment process and contravened the pathway agreed with the Department of</p>

		<p>Planning as pre-condition to the purported lodgement of the Application. Consequently, the local impact of the road closure was never assessed.</p> <p>The Applicant must be required to undertake a proper assessment of the closure of Majara Street. Its closure was effected for the purpose of the current development; any assessment must assume that the road will be re-opened if development consent is refused.</p>
31.	Lack of relevant traffic assessments	<p>The Transport Assessment, including assessment of parking requirements and impact on neighbouring streets, is based on traffic counts undertaken on six relevant intersections on a so-called “typical” Thursday on 5 November 2020 (intersections 1-6) and on a <u>different</u> six intersections on a so-called “typical” Thursday on 15 November 2022.</p> <p>In both cases, these assessments were undertaken over short timeframes in the morning and early afternoon which the Applicant states would capture “typical” activity at Bungendore Public School (ie the existing primary school).</p> <p>These surveys are of no probative value. They are irrelevant to any proper assessment of the impact of the current proposal for various reasons such as:</p> <ul style="list-style-type: none"> • These studies are close to four and two years old, respectively. They predate the opening of the temporary high school, the closure of Majara Street or the construction of a major new subdivision in Elmslea. They are matters of historical record and are irrelevant to the current situation in Bungendore. • The study of intersections 1-6 was undertaken in November 2020, during a period of significantly reduced activity due to Covid lockdowns. It is absurd to describe this time as “typical”. Nothing that happened in 2020 was “typical”. No updated assessment has been made since then. • The closure of Majara Street affects traffic flows at all times of the day and night. It is unclear why the Applicant limited its survey to a short period in the morning and the early afternoon. It is unclear why the timing of “typical” activity at a local primary school was considered relevant to assessing the impact of permanently closing a major road and constructing a high school. • The supposed afternoon “peak” reported in the Transport Assessment (from 3pm to 4pm) is much earlier than the actual observed peak of road users in the local area. <p>The consent authority must consider all relevant matters, and must not consider irrelevant matters, in determining the development application. These historic traffic surveys are clearly irrelevant. The Applicant now has access to real-world</p>

		<p>data assessing the impact of closing Majara Street, as well as limited data (given the initial limited cohort) of the impact of opening the Bungendore High School.</p> <p>The traffic and parking situation around Bungendore Public School has become extremely difficult following the closure of Majara Street and the opening of the temporary high school. This development is already have a significant negative impact on the local area.</p> <p>The Applicant must be required to obtain updated traffic assessments which take into account the facts on the ground today, rather than historical curiosity.</p>
32.	Lack of parking, impact on railway users	<p>Significant changes were made to the parking arrangements for the proposed school during the course of the previous assessment processes.</p> <p>Plans for on-street parking surrounding Bungendore Park were opposed by residents and Council. These would have posed an unacceptable loss of amenity and risk to safety. The Applicant failed to produce a coherent parking strategy, ultimately suggesting it would rely on the Bungendore Railway Station carpark as school parking.</p> <p>The Applicant has not reached any agreement with Transport for NSW, which controls the site, to allow the railway station to be dedicated for school parking. Even so, following the commencement of early works on the site and opening of the temporary Bungendore High School, the carpark has become a de facto school carpark, to the extent that railway users are often unable to park there or even access on-street parking within a reasonable distance of the station.</p> <p>There is now direct evidence of the impact of the temporary Bungendore High School on the parking situation in the local area and on railway passengers. This is a relevant matter which must be considered as part of a revised assessment process.</p> <p>Given that the overwhelming majority of the potential cohort of over 2000 students will travel from rural areas outside Bungendore village with poor or non-existent public transport, and 40% of students attending the supposed comparable schools in Kiama, Cessnock and Springwood travel by car, the proposed development offers woefully inadequate parking and pick-up/drop-off spaces.</p> <p>Many senior students travelling from outlying rural areas will drive themselves and will require on-site parking. The Applicant has made no realistic attempt to assess this. Of a likely cohort of 300+ senior students in Years 11 and 12, provision of 23 parking spaces is obviously inadequate.</p> <p>The Amendment Report notes that parking is proposed to be provided on both sides of Turallo Terrace. This land is outside the Applicant's control. QPRC has consistently the construction of parking on Turallo Terrace, noting the significant impact on residents and Bungendore Preschool. It is unclear how or why the Applicant considers that this may now be achievable or acceptable.</p> <p>Previous parking proposals are now irrelevant and cannot be considered as part of any revised assessment process.</p>

33.	Lack of vehicle access to the agriculture plot	<p>The Amendment Report states that “Vehicle access is not proposed to the agricultural plot as no structures or parking is proposed.”</p> <p>Unless the Applicant is proposing to instruct students in 19th century horse-drawn agriculture, this is absurd and cannot be taken credibly.</p> <p>It is obvious that the Applicant has made this ludicrous claim in the belief that the Department of Planning will turn a blind eye to construction of access to the agriculture plot which either unlawfully traverses Crown land, or which does not offer safe vehicle access on the rising bend where that access would intersect with McCusker Avenue/Turallo Terrace.</p> <p>The Applicant must be reminded of the implications of s10.6 of the <i>Environmental Planning and Assessment Act 1979</i> and s307B of the <i>Crimes Act 1900</i> if it chooses to lodge a development application which it knows to be materially false or misleading.</p>
34.	Absence of amenities on the agriculture plot	<p>Again, the Applicant presents a demonstrably inadequate proposal, having apparently removed facilities in order to comply with the CLMA. It makes the vague suggestion that facilities will be delivered under a separate approval pathway, but there is no clarity as to when and how these might lawfully be delivered.</p> <p>In the meantime, children using the agriculture plot will be expected to cross a busy road, on a dangerous rising bend, to move equipment to and from the agriculture plot or take toilet breaks. The Applicant has not considered how this might work or how to mitigate the risk to students and road users.</p>
35.	Illegality of McCusker Drive	<p>The proposed development relies on a section of McCusker Drive to provide road access to the “ag plot”, as well providing access to the main school campus for residents of the Elmslea subdivision to the north. However, this section of McCusker Drive is not a public road. It is not shown on plans maintained by the Land Registry and in fact was not shown on survey plans lodged as part of the Application.</p> <p>It is constructed on Crown land reserved for public recreation. Its construction (approximately 15 years ago) and ongoing use as a public thoroughfare have not been authorised under any appropriate consent process and are an unlawful use of Crown land.</p> <p>QPRC has confirmed this in answers to Questions on Notice dated 8 March 2023, stating that this section of roadway “appears to be situation on Crown Land” and “does not appear to be a public road”.</p> <p>The legality of the proposed access arrangements from McCusker Drive are a relevant matter which must be considered as part of the assessment process.</p> <p>The Consent Authority must not approve a development which lacks legal access and should not sanction any plans rely on the ongoing use of a roadway which was unlawfully constructed across Crown land. Any assessment process must assume</p>

		that those sections of McCusker Drive which have been constructed on Crown land are closed, and the implications of this for traffic, parking and school access must be comprehensively addressed.
36.	Failure to consider social impact	<p>We have obtained a copy of the review commissioned by the Department of Planning in October 2022 of the Department of Education’s “Social Impact Assessment” (SIA) for the Bungendore High School project. The Applicant used all tactics available to it to delay the release of that report, demonstrating it was aware that the report was a devastating critique of the BHS project. It identifies major issues with the project and in the assessment undertaken by the Applicant.</p> <p>It found that the DoE failed to consult with the community to examine the social impact of the DoE’s plans, that the conclusion in relation to the overall impact of the project reached by the Department of Education’s consultants was “not required or appropriate”, and that various promises by the DoE were “not genuine commitments to the community”.</p> <p>The report raises concerns around “people’s ability to meaningfully participate in decisions that affect them”.</p> <p>The authors found that the DoE’s assessment:</p> <ul style="list-style-type: none"> • contained “inadequate information to properly understand the extent and intensity of the impact of the closure and interim relocation of the community centre, library and council service centre and closure of the pool”; • lacked “serious consideration” of alternative sites as required for such a report, and DoE should undertake “further impartial assessment” of alternatives; • made unsupported assumptions in relation to replacement facilities, and these did “not constitute genuine commitments to the community”; • failed to include impartial assessment of the supposed benefits of the development and failed to “demonstrate the likely catchment of the school and its capacity to meet future demand”; • did “not qualify or quantify the social context relevant to understand the most important social impacts, both positive and negative”; • was confused about the social locality – this is consistent with what we have said all along about the DoE’s process completely failing to consider Bungendore’s rural context; and • failed to evaluate the various impacts of the proposal on different sections of the community, concluding that “the significance of individual social impacts should be evaluated individually rather than combined with other impacts and assessed as an overall significance of an impact category”. This was not “required or appropriate.” In other words,

		<p>impact of the project should not be assessed on the basis that the benefits to one part of the community justify the harm caused to the rest of the community.</p> <p>The quality of the SIA lodged by the Applicant was clearly so poor that it cannot be relevant to a proper assessment of the social impact of the proposal. Furthermore, the assumptions on which it was prepared have now been shown to have been incorrect. The updated social impact assessment, discussed below, has not addressed these shortcomings.</p>
37.	Supposed “community consultation” is irrelevant	<p>The “community consultation” undertaken and documented the revised social impact assessment is irrelevant and misleading:</p> <ul style="list-style-type: none"> • the revised assessment did not ask if a different location was preferred; and • the focus on the proposed sports hub and pool is irrelevant and misleading. This project is unrelated to the current proposal and delivery of the pool is uncertain. <p>If the Applicant’s intention is to gift the community of Bungendore a new heated 50m pool, this could have been done directly rather than at the same time removing essential Council and community health and afterschool care facilities and providing funds that are tied so that they cannot be used for the pool.</p>
38.	Failure to comply with SEPP	<p>The school proposal is fundamentally non-compliant with the design requirements in schedule 8 of the SEPP:</p> <ul style="list-style-type: none"> • it provides no community infrastructure (but has removed infrastructure); • the design is not that which was commented on by the design panel; • it has removed parking used by the primary school and a road; and • it has no arrangements for outdoor recreational space.
39.	Contamination assessment	<p>The contamination assessment does not confirm that the agricultural plot (downstream in a flood basin from heavy metals that migrate in water) is suitable for a children to garden in. This must be addressed.</p>
40.	Extraordinary cost	<p>According to the most recent NSW Budget, the estimated total cost of this proposal is \$72,000,000.</p> <p>That is an extraordinary sum for a very small school, with limited capacity and negligible capacity for expansion, in a regional area. The Applicant has failed to explain how this project represents value for money for the NSW Government or is otherwise in the public interest. A better, larger school could be constructed for lower cost on a more suitable site. This development is not in the public interest.</p>

41.	Failure to consider proximity to Bungendore Preschool and the resulting traffic hazard	<p>The development is immediately adjacent to Bungendore Preschool (located at 64 Turallo Terrace). It appears that the applicant is unaware of the preschool's location.</p> <p>The preschool will be significantly impacted by noise, road closures, parking difficulties, irregular traffic flows and loss of access to the Park, arising out of construction and operation of the high school.</p> <p>Construction of additional parking on Turallo Terrace, along with the closure of Majara Street, will raise massive safety concerns for the preschool, particularly around pick-up and drop-off. Currently, many parents use the carpark adjacent to the Scout Hall; this will no longer be available, given that the Abbeyfield development will move to this site if development consent is granted for the high school. The NSW Auditor General has noted that "unsafe parking may also contribute to the hazards around schools, and illegal and unsafe parking can be routinely observed in many school zones."¹</p> <p>The proposed parking arrangements present a clear hazard; and even if appropriate signage and restrictions are in place, it is inevitable that there may not be full compliance. The Auditor General noted that one of the two child pedestrian fatalities in school zones in the decade preceding his report "was at least partly due to unsafe parking practices." He cited research which emphasised the hazard which parked vehicles represented, noting that 30-50 per cent. of child pedestrian crashes involved visual obstacles, usually parked cars.</p> <p>The revised development application has failed to acknowledge or address any aspect of this.</p>
42.	Inadequate heritage impact assessment – Bungendore War Memorial	<p>The updated heritage impact assessment is inadequate and the authors have failed to undertake the most basic research. For example, the Bungendore Soldiers' Memorial is listed under the relevant LEP.</p> <p>It is a particularly rare example of its architectural style. The Bungendore War Memorial Section 355 Committee proposed its inclusion on the State Heritage Register in 2021. SBP discussed this application with the State Heritage Committee which advised that the nomination was declined on the basis that the Memorial was already protected under the LEP and was not under threat. The Committee confirmed at the time that it was not aware of the Bungendore High School proposal.</p> <p>The Statement of Significance supporting the heritage listing highlights the importance of the Memorial's context and clearly indicates that the heritage significance applies to Bungendore Park generally:</p> <p style="padding-left: 40px;">"In its location and design it is important in demonstrating the principal characteristics of the siting of war memorials."</p> <p>Location, siting, prominence. A monumental design, constructed at huge expense by the residents of what was in 1924 a very small town. The design and prominence demonstrates the unique basis for its listing. However, the Applicant's consultant</p>

¹ Auditor-General's Report - Performance Audit, "Improving Road Safety: School Zones" (February 2010).

		<p>does not appear to have read or understood the Statement of Significance. If they had, they would have understood that construction of multistorey prefabricated development, and adjoining bus interchange, would diminish the heritage value of the Memorial.</p> <p>The Applicant must be required to undertake a proper heritage assessment.</p> <p>The NSW Office for Veterans Affairs notes that:</p> <p><i>Every one of the state's war memorials is unique; together they represent a hugely significant heritage resource of national importance and a public collection of memorial art that binds together millions of Australians through ties of remembrance...</i></p> <p><i>Their inscriptions and insignia are a source of information for historians. Their beauty and symbolism make our war memorials an essential part of the Australian landscape. Many of our public parks and squares display war memorials in groups, often with First World War and Second World War and later memorials or plaques and commemorative features clustered together as focal points of collective memory and expression, particularly on ANZAC Day...</i></p> <p><i>The essence of good care in managing cultural heritage places is to adopt a 'cautious' approach... Looking after the immediate surroundings of war memorials (paths, steps, gates, railings, trees, plantings, associated commemorative objects, flagstaffs, lighting, etc.) is part of the process of conserving war memorials... We should consider what the impact will be of any changes we make to the site and setting. New works ... should be sympathetic and compatible in design, materials and scale. They should not detract from the values of the memorial itself.²</i></p> <p>The proposed development will greatly detract from the values of the Memorial.</p>
43.	Inadequate heritage impact assessment – Bungendore Common	<p>It is unbelievable that after four years and despite multiple submissions from SBP drawing its attention this, the Applicant's heritage consultant still has not properly researched the history of Bungendore Common. The conclusion reached in the Statement of Heritage Impact has no credibility. The sole historical record cited appears to be a newspaper report from 1901.</p> <p>The Common was established very shortly after the town itself was proclaimed in 1838. It is listed because of its historical significance as a Common – which was a particular form of landholding which allowed all members of the community to access and use the land. The Applicant now proposes to acquire and exclude the public from a large part of this land.</p> <p>The Applicant must be asked to submit a revised Statement of Heritage Impact which demonstrates that it has understood the basis for the heritage listing of Bungendore Common. After four years it is not good enough to say “we can't be bothered doing the research”.</p>

² <https://www.veterans.nsw.gov.au/assets/Community-War-Memorials-Fund/Caring-for-our-War-Memorials-NSW-Public-Works.PDF>

44.	Deficient social impact assessment	<p>SBP has sought the views of Dr Alison Ziller, Lecturer in Social Impact Assessment at Macquarie University, in relation to the revised Social Impact Assessment. Dr Ziller has commented that:</p> <p>“1. The process of choosing the proposed site has been reviewed by Dianne Leeson. According to Claire Fenwicke writing for Riotact in January 2024:</p> <p>The review noted an initial search of the NSW Government’s property register had failed to turn up any potential government or council-owned sites that “adequately” met School Infrastructure’s 22 criteria for a site.</p> <p>This suggests that an important motive for choosing a site was that it would already be in public ownership. This in turn would have significantly reduced site options, potentially excluding better ones. The review does not appear to have considered this issue. If it did the reviewer did not make this clear.³</p> <p>2. When a project is split into two parts there is a risk that the second part doesn’t proceed, or proceeds differently, or in an unanticipated form, or in a manner which would invalidate or undermine the basis on which the first part of the project is proposed to be approved. This is a common feature of sequential projects. It appears this risk is not being taken into account.</p> <p>3. The Crown Lands part of this project provides the agricultural practice component of this proposed high school, so the risk is that an essential component of the proposed school is either lost or relatively inadequate when it does eventuate. This seems to be a particular risk since permitted use of Crown Lands is limited to recreation rather than agricultural education.⁴</p> <p>4. The proposed school is apparently still not going to accommodate anticipated pupil numbers.</p> <p>5. The project proposes to achieve one piece of social infrastructure (the school) at the cost of loss of several other important pieces of social infrastructure (the community centre, pre-school, library etc and part of the Mick Sherd playing field). This issue was avoided in early proposals which asserted that the school would only be built after a new community centre/library and pool had been constructed and that the new school would accommodate some community uses. As these assertions were abandoned (except regarding the pool), two assumptions emerged:</p>
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³ SBP Note - Ms Leeson’s review has been entirely discredited. She did not visit Bungendore, she was given the very limited terms of reference (including not considering any matter which arose after August 2020), she made irrational and inconsistent findings and was provided with a very limited scope of materials to review. The Member for Monaro has recently announced a further review, which appears to suggest that the NSW Government also has no confidence in the conclusions reached.

⁴ SBP Note – it is unclear why access and amenities have been removed from the proposed “ag plot”. This appears to be because of a need to avoid any requirement to obtain the consent of the Minister for Lands to lodgement of the revised development application.

		<p>Assumption 1: a concept design and an allocation in the council budget is the same as replacement of the lost facilities. For example, Urbis SIA, dated 13 June 2024, states at p 61 that the proposed replacement community centre is at concept design stage and at p18 that:</p> <p style="padding-left: 40px;">This will be the main workspace for Council staff in Bungendore and will also incorporate community rooms, multi-purpose spaces and customer service facilities</p> <p>The SIA does not assess whether the proposed facility will fully or adequately replace the facilities lost, that is, whether it will provide the floor space, range of services and activities lost or whether it will cater for only some of these, and in this case, which services or activities and how much floor space area will not be replaced.</p> <p>This is a key social impact issue which the SIA bypasses by treating the primary impact as emotional loss, p 53, and by saying, p 54, that replacement is the council's responsibility. The need for replacement is a direct consequence of the proposal and therefore, assessment of its size, nature and impact belongs in the SIA. It is not the role of social impact assessment to provide vague assurances or to conflate emotional loss with material loss.</p> <p>The council has previously advised that the proposed financial compensation for these losses is insufficient. A partly funded building replacing some portion of the facilities &/or services lost is not the same as a fully funded and actually constructed replacement building(s) delivering the lost services. The fact that the current buildings are dilapidated is not grounds for their non-replacement.</p> <p>This assumption is the basis for assumption 2.</p> <p>Assumption 2: construction of the proposed school will constitute a net social benefit. This assumption is implicit in the 2024 SIA where the proposed school is treated as a public benefit against which social costs are proposed to be mitigated. But an assumption that a high school, (that is possibly too small &/or does not include sections proposed for Crown Lands), has greater social value than the several facilities lost has not been demonstrated in the SIA and, as a result, the idea that it is a net social benefit is unsubstantiated.</p> <p>Without a comprehensive list of what is to be/has been lost, detailed plan(s) and adequate compensation to fully and urgently replace all the key items of social infrastructure, their removal amounts collectively to a major social cost and raises the question whether the proposed project may result in net social disbenefit.</p> <p>6 The SIAs prepared for this proposal fall short of best practice in their omission of the above considerations.</p> <p><u>Suggested condition of consent:</u> A complete description of the social infrastructure lost to be provided (facility type, floor space and previous uses); the cost of replacement to be itemised for each facility; these costs to be treated as financial costs of the project; a hypothecated bond to cover these costs plus a 20% contingency cost overrun to be paid to the local council prior to project commencement."</p>
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		SBP endorses Dr Ziller’s assessment. Dr Ziller is a recognised expert in the field and the Applicant must address these issues.
45.	Community opposition to the DoE’s plans has been steadfast and consistent, but has always been ignored.	<p>Save Bungendore Park Inc. is a genuine, grass-roots community organisation. We represent a diverse group of over 100 paid-up members and over 500 active supporters. We are a major community organisation. We don’t just speak of our own experience, but channel the experience and feedback we have received from members and supporters, many of whom feel ignored, disparaged, disrespected and disenfranchised through this process.</p> <p>As early as April 2021, a very well-attended community meeting resolved to establish Save Bungendore Park Inc as an incorporated association and to commence legal action if necessary to fight the Department of Education’s development plans. If the State Government had the courtesy to listen to the resolutions passed at that meeting, the last 3 years of pain might have been avoided and Bungendore would already have a great school.</p> <p>Attached is a report published in the Regional Independent of that meeting. The objection lodged by Save Bungendore Park Inc to the SSDA analyses DoE records and debunks DoE claims of community support for its plans.</p>
46.	It is contrived to separate the SSDA and the Crown land assessment.	<p>The development must be considered as a whole. We’ve already lost faith in the process and this is clear evidence of dodgy trickery being undertaken to try and get around the law. It is all part of a single project. The DPIE’s Guidelines state that an SIA should “identify, predict and evaluate likely social impacts arising from a project”. Not just part of a project which happens to have been split off in order to get around Crown land law. A project, not two separate DAs that just happen to be for a single project.</p> <p>The revised SIA has failed to do this. The Applicant must be required to undertake a further assessment.</p>
47.	Assessment must be “integrated”	<p>The DPIE Social Impact Assessment Guidelines (the Guidelines) require an assessment to be <u>integrated</u>.</p> <p>The consent authority can’t consider this separately to the DA for the Crown land area, even if the Applicant thinks that’s a neat trick to let them break the law. You can’t say “we won’t comment on the traffic or parking situation because there will be other reports on that”. The assessment needs to consider the totality of the impact, including on the Crown land areas and the traffic and parking chaos.</p> <p>The revised SIA has failed to do this. The Applicant must be required to undertake a further assessment.</p>

48.	The Social Baseline must be considered without the project	<p>This is specified under the DPIE Social Impact Assessment Guidelines. We have already seen impact from the Project, so the April 2024 situation cannot be the baseline. That said, there are multiple, more suitable alternative sites and, if development consent is refused, the most likely outcome will be to preserve the Community amenity of Bungendore Park and surrounds, and achieve a better school on a site that is actually suitable. A school could already have been built and be operating now if they had chosen a suitable site. This was never considered by the Applicant or is social impact consultant.</p> <p>The Applicant must be required to undertake a further assessment.</p>
49.	Any new assessment must be based on the pre-2022 situation	<p>This must assume a status quo ante when the Community centre and the Council chambers were operating normally, the pool was operating normally, access to Majara Street, the Park and the Common was unrestricted. Similarly, it must be assumed that if the proposed school is relocated, these facilities will be able to re-open. Council has advised it is willing to accept a return of the land and all facilities.</p> <p>The revised SIA has failed to do this. The Applicant must be required to undertake a further assessment.</p>
50.	Misleading claims by the Applicant in relation to Community perceptions	<p>The Guidelines confirm that community “perceptions” and community cohesion are part of the social impact. The overwhelming hostility to this project must be considered as part of any proper SIA. There is limited support for the current plan and the Department of Education has sought to marginalise a very large proportion of the Bungendore and district community who strongly oppose it. It has printed and widely circulated demonstrably false and misleading information brochures in support of this, such as claiming “overwhelming” support for the proposal on the basis of 38 self-selected respondents to a small survey.</p> <p>The revised SIA has failed to do this. The Applicant must be required to undertake a further assessment.</p>
51.	Community impact	<p>The impact on community cohesion has been horrific. As noted in a letter sent by a community member to the local MP, Steve Whan shortly after the election in 2023:</p> <p><i>“People are guarded, no one dares to speak openly and voices are silenced. If you don’t agree with the DoEducation’s plan there is outright intimidation, bullying and harassment.</i></p> <p><i>Parents fear for the safety of their children in the playground. The school gate is described as “vicious” and parents feel victimised for simply wanting a better outcome for their children and the community as a whole. It is nothing less than government sanctioned bullying.”</i></p> <p>This will only get worse if the Applicant attempts to proceed with the current plan.</p>

		<p>There is a bipartisan political commitment to a high school in Bungendore. There are multiple alternative sites which would be much more suitable than the Bungendore Park site. If the proposed development does not proceed on the Bungendore Park site, we can be confident that it will proceed on an alternative site, most likely achieving a better school in a shorter timeframe. Assertions made the Applicant about the absence of suitable alternatives are demonstrably false (for example, they claimed that Trucking Yard Lane lacked water, road and cycle infrastructure. In fact, it has dual road frontage, is on a cycle path and is across the road from a major new housing estate).</p>
52.	Sense of “place”	<p>The Guidelines refer to peoples’ “sense of place”. Large numbers of community members will be alienated and dislocated from places that are important to them, their families and their communities (and in many cases have been for generations). It is ludicrous to suggest such a controversial project – so strongly opposed by such a large proportion of the community – could contribute to a stronger sense of place or community cohesion. Many community members have deep connections to the Park, the Common and the surrounding social infrastructure. Their sense of loss is already palpable. This will be resented by the Community for generations.</p> <p>Attached are several “Stories from the Park”, prepared by a local author resident in Bungendore. These give some context to the Park, the social locality, its history and its importance to the community’s sense of place. The Department must read these if it wishes to gain any proper understanding of the importance of these places to the identity and culture of the town, the social locality and the social impact of the Department of Education’s plans.</p> <p>This will affect everyone. Young mums with little kids playing. Random guys doing sprint training at 1pm on a Thursday. Old ladies walking around the Oval because it’s safe and flat. Residents of nearby streets now facing noisy and at times dangerous traffic. Users of the community centre. Swimmers. Kids being denied the opportunity to attend the best high school possible. Railway passengers who can’t find parking when they catch the train to Sydney.</p>
53.	Sense of culture	<p>The DPIE’s Social Impact Guidelines refer to the importance of culture. The Park, the Common, the Pool and the Community Centre are highly significant to the shared history and culture of the Bungendore community. Most residents of Bungendore and district can talk of their (or their families’) experiences of using the Park for sport, picnics, shows, and of working together to secure the Pool and the Community Centre. They will feel an acute sense of loss if this is taken away from them. The amended development application fails to address this.</p> <p>Several members and supporters of Save Bungendore Park Inc. were among the Trustees of Bungendore Common who made the difficult decision in the early 1980s to entrust the Common to Council to maintain in perpetuity. They would not have done so if they thought it could lead to the Common being subdivided. Many were involved in fundraising and construction of the pool and community centre, or with greening the Park.</p>

		<p>Bungendore is a self-reliant, rural community. This is central to our identity. The “Stories from the Park” attached illustrate this. We do not ask for bureaucrats from Sydney to tell us what’s good for us.</p> <p>Bungendore’s culture (very early white settlement, split between Irish Catholic workers/ Anglican “squattocracy” landholders, agricultural service town, now fast-growing and partly suburban) has deep historical significance. DoE has never respected or tried to understand the complexity of this culture. They ignore the effort that the community put into acquiring the pool and the community centre and the library. That effort caused a strong bonding between residents and their hard-won assets. That’s part of our culture: getting it done by ourselves because state and local government were never going to do anything for us. No wonder we don’t want to lose them! Bureaucrats coming from Sydney, treating us like idiots, disparaging our pool as “not fit for purpose” and telling obvious lies are just an insult.</p> <p>Pride in our history is central to the culture of this town and we see it being ignored. For example, the Common is heritage listed on the Local Environment Plan due to its social significance as a common, dating back to the founding of the town – but the heritage assessment lodged as part of the DA got the history of the site wrong (claiming it was established in the early 20th century, rather than the early 19th), and didn’t bother to read the Statement of Significance to understand why it was heritage listed. Insultingly, the heritage assessment concluded that “Bungendore Common is simply unutilised open space. There are no significant trees, views, archaeology or features in either heritage item or within the entirety of the study area.” If the authors had bothered to read the basis for the heritage listing, they might have reached a different conclusion. Again, the quality of the assessment undertaken by DoE is shockingly poor.</p>
54.	The Indigenous heritage of the site has never been properly assessed	<p>There is photographic evidence dating from the 1930s of a grave on the site, believed to be an Indigenous stockman, which the DoE has never properly investigated. The district has a very rich pre-colonial heritage, evidenced by the large number of artifacts discovered during the construction of HQJOC nearby, as well as the recent discovery an axe head in a garden on Gibraltar Street.</p> <p>Bungendore Common was the subject to two claims under the Aboriginal Land Rights Act. It is concerning that the claimants were required relinquish those claims in order to facilitate the DoE’s compulsory acquisition of the site. The impact of this on the local Indigenous community has never been considered.</p>
55.	How come they’ve ignored Balladeers’ Place?	<p>We had a long call around two years ago with the Department of Education to explain the significance of this, which extends way beyond Bungendore. It is a hugely significant cultural site. DoE has had 4 years to reach agreement with Council on relocating it, but nothing has happened. It is essential that it has a prominent position – not at the Showgrounds or Frogs Hollow, where it will not be seen and appreciated. If nothing has happened after 4 years, how can we be confident they will find a new location for it now?</p>

		Attached is a brief outline of the cultural and social significance of Balladeers' Place. This has not been addressed in the updated SIA.
56.	DPIE Guidelines refer to "Distributive Equity"	<p>Vulnerable and marginalised groups will be particularly harmed by the loss of easily-accessible recreational and community facilities which foster their health, wellbeing and sense of social inclusion. It is unfair to future generations to destroy the legacy we've inherited, for our short-term convenience. We know of at least one community member recently who almost died as a result of lack of local nursing care, and another who had to spend 6 weeks as an inpatient in Canberra Hospital solely because district nursing care is no longer available in Bungendore.</p> <p>This has not been addressed in the updated SIA.</p>
57.	Regional equity	<p>Bungendore Public School performs below average in NAPLAN results across multiple subject areas. How is it fair to take a student cohort which is already facing challenges, and short-change it with a too-small school that can't offer the best opportunities? This is just another example of regional kids being screwed over, yet again.</p> <p>This has not been addressed in the updated SIA.</p>
58.	The DPIE Guidelines highlight the importance of "life-cycle focus".	<p>With a planned life-cycle of 10 years, how can this development be justified?</p> <p>The Applicant has stated that the site (even following expansion) can only accommodate projected demand through to 2036, meaning the school will be open for a maximum of 10 years before it is either forced to move or restrict enrolments. Given the social dislocation caused by this project and the enormous environmental impact (including embedded carbon emissions) of construction, this is contrary to any modern ideas of sustainability. How is this fair to future generations? Information set out in the updated Transport Assessment, noting a potential student cohort of 342 in Year 7, 2025 alone, confirms this.</p> <p>This has not been addressed in the updated SIA.</p>
59.	Failure to observe the precautionary principle	<p>The DPIE Guidelines require a precautionary approach where there is a risk of serious or irreversible harm. The damage to be caused by this project is immense. The impact on neighbouring residents and the impact on the broader community are immense. So far, the DoE has relied upon expert reports that are nothing better than guesswork (and often poor-quality guesswork). We now have some limited real-world data which illustrates the harmful impact. Furthermore, the lead and asbestos contamination is a big risk. That should be enough to stop the whole development.</p>

		This has not been addressed in the updated SIA.
60.	Division and social exclusion	<p>The Applicant has weaponised division and social exclusion. This has not been addressed in the updated SIA.</p> <p>The prevailing narrative from the Applicant and the current and former Members for Monaro has been along the lines of “no one else matters because we have to do this as quickly as possible for the kids”. This project will adversely impact community members across all ages and personal circumstances. Older residents who feel a deep cultural connection and value safe, convenient recreational and social facilities will be disproportionately impacted. They are being told they don’t matter. They’ve been open derided as “fossils”. Some have received death threats or faced physical violence. The attached letter sent recently to the Member for Monaro, Mr Whan, illustrates this.</p> <p>Save Bungendore Park’s members and supporters include a very diverse group of residents of Bungendore and district. Many feel marginalised because the message from DoE has been “the only thing that matters is building a school ASAP. If you don’t have school-age children, you don’t count. And if you do have school-aged children, you must support this plan or you will never have a school. If you think the only way to do this right is another site, you don’t count.”</p> <p>Many of our members have young families but oppose this project because they see how their children will be disadvantaged by such a poorly-planned school, or value the history and culture of the town which the DoE is now threatening. Many have moved from Canberra or Queanbeyan to give their kids space in a country environment, and are now facing dense, infill development and a toxic community environment.</p>
61.	Intergenerational equity	<p>The consent authority must consider intergenerational equity.</p> <p>The current generation has benefited from the foresight of those who set this land aside in perpetuity, 180 years ago. Why lose it for future generations, for the sake of something that will be outgrown within 10 years? Why does the Applicant not undertake a transparent assessment of how to accommodate the long-term needs of the region and provide local children with the best possible educational outcomes?</p> <p>As noted by Dr Ziller, the Applicant cannot simply assume that construction of any school is beneficial, regardless of quality or broader impact. SBP has always supported construction of a high-quality school on a properly-chosen site. A poor quality school, such as one which lacks a gym, hall, canteen and oval, is unlikely to deliver a positive social impact, especially given the likely overcrowding and consequent infrastructure challenges.</p> <p>This is intergenerational theft. It will be a disgraceful stain on our town for generations to come if it proceeds.</p>

62.	Applicant has already determined that the site is “unworkable”	<p>The site is “unworkable”, unsafe and “not suitable” according to internal Department of Education records obtained under GIPA or SO52. It was described in internal planning documents of the Department of Education and the Department of Planning in 2020 as “not suitable due to insufficient land area and student safety concerns”, and by the Department of Education’s Expert Review Group as “unworkable” due to traffic and access issues, according to records released under Standing Order 52.</p> <p>The Applicant must explain how it has now concluded that the site is in fact workable, safe and suitable – contrary to its own assessment and obvious shortcomings.</p>
63.	Contamination	<p>The Applicant has sought to downplay widespread concerns around contamination on the site.</p> <p>The proposed development requires excavation works and a future school use (including agricultural use) of land that adjoins and is down wind and downgradient of land significantly contaminated with lead, a “toxic, persistent and bio accumulative” contaminant, in circumstances where the EPA has concluded that “there is potential for contaminants to have migrated or are likely to migrate from and by way of airborne dust or mobilisation of sediment in surface runoff”. Contamination reports lodged with the revised SSDA also demonstrate a need for significant remediation works due to asbestos contamination.</p> <p>The revised application notes dangerous asbestos contamination affecting large parts of the site, requiring further investigation and remediation. Due to lead toxicity, soil removed in the course of asbestos remediation must be treated as “restricted waste”.</p> <p>How on earth is this a suitable site for children to run, play and learn?</p> <p>The EPA explicitly warned that use of the proposed site for a school may increase the risk of harm arising from this contamination. Documents released under Standing Order 52 indicated that it may be years before the contamination is fully assessed.</p>
64.	Complete loss of faith in government integrity and decision-making systems	<p>DPIE’s Guidelines refer to considering the “decision-making systems, including the extent to which people can have a say in decisions that affect their lives, and have access to complaint, remedy and grievance mechanisms.” How can the Applicant ignore:</p> <ul style="list-style-type: none"> i) multiple petitions to Parliament and Council opposing the project, which received hundreds of signatures – including hard-copy signatures collected in the middle of lockdown; ii) outright lies in relation to community consultation ahead of the initial proposal (the DoE claimed to have consulted with “stakeholders of Mick Sherd Oval [sic]” but was unable to provide any evidence that these consultations actually occurred, in response to a GIPA request;

		<p>iii) 382 detailed, written objections lodged to date;</p> <p>iv) Council elections which saw the newly-elected Council withdraw support, as well as Council's ongoing objection;</p> <p>v) the release of thousands of documents demonstrating not just that much of the Government spin has been untrue, but that the Department of Education lodged a DA which it knew to be materially false and misleading, and in doing so committed a serious indictable offence;</p> <p>vi) the release of raw data from DoE surveys which demonstrated that the conclusions had been manipulated and the supposed community support for the plan was in fact based on speaking to 38 people;</p> <p>vii) release of catchment data, which the Applicant had sought to conceal, demonstrating that the Applicant has dramatically misrepresented the number and distribution of students living in the proposed Bungendore High School catchment as well as their likely travel modalities;</p> <p>viii) hundreds of letters and emails to the DoE, the Minister for Education and the local MP – which have almost always received the same, irrelevant form-letter response;</p> <p>ix) losing a Court case, which saw the DA declared invalid – which the Applicant claimed in publicity materials was an “administrative error” and would be easily remedied – when in fact it had knowingly breached what the Judge described as a “constitutional principle for New South Wales” and then sought to downplay this as a minor technicality;</p> <p>x) around two dozen FOI requests which have been delayed and frustrated, and almost all of which resulted in refusals which were successfully appealed;</p> <p>xi) the Minister for Crown Lands refusing retrospective consent to the DA because it would have been illegal – hence the new process.</p> <p>There is palpable distress in the local community as a result of the Applicant's dishonest bullying. The only way to resolve this is for consent to be refused for the current application and the Applicant to identify and develop a different and more suitable site.</p>
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65.	Dishonest conduct by the Applicant	<p>We've caught the Applicant lying over and over again. Its claims about due diligence, consultation or the lack of alternative sites are demonstrably false.</p> <p>We've found internal documents which directly contradict public statements.</p> <p>The Member for Monaro, Mr Whan MP, described the Applicant's conduct as "appalling" and "a late frenzy ... a secretive process that has served to create division in the community... Frankly [the proposed school] looks small and I fully understand the concerns many have about using a long standing public park.... [it is] a second-best option".</p> <p>Mr Whan stated that "in the more than 2 decades I have spent involved in this area this is the most poorly handled and secretive Government project I have seen."</p> <p>How can we have any faith in a project when even the local MP has been so critical?</p> <p>The Applicant must address Mr Whan's concerns. Is the proposed development in fact poorly handled and small? Was the Applicant's conduct "appalling"? Was the planning process "secretive" and a "late frenzy"?</p> <p>It is essential, in order to restore public confidence in this project, that those concerns are addressed.</p>
66.	Basic principles of stakeholder engagement have been ignored	<p>Attached is a letter sent by a member of the community to Steve Whan MP, shortly after he was elected in March 2023. This illustrates the distress caused by the Department of Education's actions. We understand that Mr Whan never responded to this letter.</p> <p>The Applicant must address the matters raised in this letter.</p>
67.	Negative impact	<p>This project has left an entire town feeling gaslighted, disempowered and disillusioned. Such is the loss of faith in the DoE and in Government integrity that nothing can recover the community's confidence in this project unless the site is changed. The project and the DoE staff behind it are completely discredited.</p>
68.	Unrealistic mitigants	<p>The updated SIA discusses mitigants. Mitigants must be realistic and achievable by the applicant. This is an established principle of social impact assessment and was highlighted in Dr Ziller's report submitted in response to the previous exhibition process.</p> <p>The Applicant has no control over replacement facilities. No replacement facilities have been built. It gave up that control when it stripped them out of its original plan, even as it represented otherwise to the Department of Planning and the</p>

		<p>Bungendore community. It's been almost 5 years and we're still supposed to imagine that all these replacements will be built. Council has no money to do this, and Crown land compensation proceeds can't legally be spent on any of it. The impact of this proposal cannot realistically be mitigated.</p> <p>The only way to mitigate this effect is to find another location. There can be no mitigation of the negative social effects if the development goes ahead on that site. The site is the problem. Suggestions in the updated SIA that mitigation is possible are laughable.</p>
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Save Bungendore Park Inc.

22 July 2024

Appendices:

- 1) Letter to Mr Whan MP, 3 July 2024
- 2) Stories from the Park – Bungendore Pool
- 3) Stories from the Park – Trees on the Park
- 4) Stories from the Park – Bungendore Railway Station
- 5) Stories from the Park – The Community Centre
- 6) Stories from the Park – Bungendore Common
- 7) Letter from Community Member to Steve Whan MP – March 2023
- 8) Report in the “Regional Independent” Newspaper, May 2021
- 9) Balladeers’ Place



Save Bungendore Park

OUR PARK IS NOT FOR SALE

APPENDIX 1 – LETTER TO STEVE WHAN MP

Hon Steve Whan MP

Member for Monaro

Parliament House

Sydney NSW 2000

By email: monaro@parliament.nsw.gov.au

3 July 2024

Dear Mr Whan

PROPOSED BUNGENDORE HIGH SCHOOL

We refer to your announcement last week, along with the Minister for Education, that the Government was considering “alternative site locations” for the proposed Bungendore High School. We also refer to your circular letter sent in recent days to some members of the Bungendore community.

The Circular Letter

We were deeply disappointed to read some of the statements made in your letter, which stated that last year’s Court case was a ruling in favour of “opponents of the school” and was “based on an administrative error”. This suggests there may still be some confusion as to the motives of the Bungendore community, and the basis on which the legal case was brought.

First, to describe Save Bungendore Park Inc and our supporters as “opponents of the school” is not correct. We oppose the Department of Education’s proposed location, but we have always and consistently supported a high quality, fit for purpose high school for Bungendore, on a properly-chosen site. We are not aware of anyone among our hundreds of members and supporters in Bungendore and the region who opposes a high school for Bungendore. Our position has always been absolutely unequivocal, right from our initial slogan - “high school yes, location no!”.

Your letter expressed concern about the anger and division this project has caused in the Community. In light of this, it is essential that the views of stakeholders, such as our organisation and our large number of members and supporters, are accurately represented if we are to avoid adding to that anger and division. While the Department of Education might have misrepresented our campaign to you, we hoped we had clarified any misapprehension in our meeting with you in early May. We would welcome the opportunity to discuss this again if our position is still not clear.

Second, to describe the Court ruling as being “based on an administrative error”, as well as your observation that the Court did not rule on the merits of the application, suggest that the Department of Education still has not properly explained the nature of the proceedings or the basis of the Court’s decision.

You may be aware that judicial review applications, such as the proceedings in *Save Bungendore Park Inc v Minister for Education and Early Learning*, only consider matters of law. The Court was not asked to make any findings as to the merits (or otherwise) of the site. It was disingenuous of the Department of Education to imply otherwise, yet again misrepresenting the Court process to you and – by extension – to the Bungendore community.

Further, the supposed “administrative error” was in fact a deliberate decision by the Department of Education to disregard the clear language of Section 2.23(5) of the *Crown Land Management Act 2016*. Contrary to your comments to us in our recent meeting, the Court’s finding was entirely predictable and consistent with existing precedent. The relevant section is unambiguous, stating that:

“To avoid doubt, the Minister’s consent on behalf of the Crown (as the owner of dedicated or reserved Crown land) to lodgment of a development application in respect of that land is required for the carrying out of any development...”

It is hard to understand how the Department of Education’s decision to ignore the clear words of an Act of Parliament could be described as an “administrative error”, or that the Court’s finding could have been a surprise to anyone. It is even harder to understand how the Department could describe as an “administrative error” its decision to mount a legal argument which was so obviously absurd that Her Honour, during the course of the Court hearing, told our Counsel that it wasn’t necessary for him to respond. If this was merely an “administrative error”, why didn’t the Department admit its error and take steps to fix it before the development consent was set aside?

This rule is not some inconvenient triviality. As Her Honour noted in her written judgment:

“... it is a constitutional principle for New South Wales that all dealings in Crown land are subject to Crown land legislation and must be made in accordance with statutory authority.”

The current, bizarre “half a school with no oval” split development application process is only being pursued because the Department of Education was unable to obtain the consent of Minister Kamper to its proposed development. It is pleasing that Mr Kamper felt bound to observe these “constitutional principles”, even if the Department of Education did not. It is surprising that the Department has represented these principles to you – and by extension, the Bungendore community – as if they were some minor administrative inconvenience.

Further, the “cumbersome planning process” you refer to arises because the Department of Education’s chosen site is neither practically feasible nor legally possible. It is deeply concerning to hear you express a desire to “short circuit” this process and infer – even indirectly – that the Government might wish it could require “the withdrawal of the threat of legal action”.

The threat of legal action arises because the Department of Education broke – and continues to break – the law. We seek your assurance that the Minns Government will never prioritise political expediency or administrative convenience over respect for the rule of law.

The Department’s current planning process for half a school with no oval, is novel and likely to face a very difficult journey through the Courts. The application itself is irreparably tainted by the unlawful conduct of Departmental officers. In our view it cannot form the basis for the Minister for Planning to grant a valid development consent. It is inevitable – and in the public interest given the importance of respecting the rule of law – that any purported consent will be set aside.

The Media Release

We welcome your announcement, made in your joint media release with the Minister for Education, that the Government was considering “alternative site locations” for the proposed Bungendore High School.

However, our long and difficult experience with this deeply troubled project demonstrates the need for careful scrutiny of any actions or investigations undertaken by the Department of Education.

The Department – and individuals associated with the project – are deeply invested in the current proposal. The failures to date have been a source of considerable professional embarrassment to those involved, and – naturally – those staff will be anxious to ensure that any review justifies the Department’s conduct so far. The Department and its officers have a clear conflict of interest. In effect, you are asking them to mark their own homework.

We’ve seen how this conflict of interest has played out on multiple occasions so far, such as on at least three separate occasions in relation to the Trucking Yard Lane site:

- in late 2020 following enquiries from then MLC David Shoebridge, the Department of Education falsely claimed a lack of road frontage and infrastructure – when the site has multiple road frontages and is adjacent to a new housing estate – as well as flooding and biodiversity constraints when no such issues existed;
- in early 2022, the former Member for Monaro, Mrs Overall, is recorded as having sent a text message instructing the Department to come up with “reasons why [Trucking Yard Lane] is not a valid site” – resulting in a report citing such absurd reasons as its proximity to a paddock and repeating claims which are not supported by local flood planning maps; and
- shortly after your own election in 2023, when the Department prepared a purported timeline for the planning and construction pathway for that site which, as you are aware, was so obviously wrong and manipulated as to call into question the competence and integrity of the infrastructure planning professionals in the Department.

More recently, the farcical Leeson Review – based solely on interviews conducted with you, Mr Manning and Mr Bellinato as well as a carefully curated selection of documents provided by Mr Bellinato – purported to reach conclusions which were unsupported by evidence or directly contradicted by information on the public record. Ms Leeson was instructed not to consider any sites proposed or matters coming to public attention (such as lead contamination or Crown land law) since the original announcement in August 2020. Curiously, the Department of Education continues to fight our GIPA application to obtain the terms of reference for that review.

Equally concerning was the advice – which you criticised in hindsight as “overly optimistic” – which the Department gave to you in relation to its prospects in the legal case last year. Its inexplicable decision to fight the case, on the basis of such an ill-conceived legal argument, demonstrated the lack of objectivity of DoE staff. Its subsequent claims that this was a mere administrative error, to be quickly and easily remedied, demonstrate a lack of candour and integrity.

Similarly, the unlawful conduct of Department officers, currently under investigation by the Department of Planning, is likely to render invalid any consent founded on the current development application.

Given this difficult history, you can understand our grave concerns that any review must be completely independent of the Department of Education and its staff. Consequently, we would be grateful if you could address the following queries and concerns:

1. Do you guarantee that this review will be open and transparent?
2. Will the terms of reference, the review and its methodology be made public?
3. We are concerned by the choice of language in your announcement. In suggesting that the review would be undertaken to "validate" the current site, are you pre-empting the outcome? Are you instructing the Department – as Mrs Overall did – as to the conclusions it should reach? We certainly hope that's not the case, and assume that this was just an unfortunate choice of words.
4. Do you commit to the review being undertaken by an independent expert body - such as Development and Transactions within the Department of Planning (which undertook the initial site selection before it was overruled by Barilaro)?
5. Do you guarantee that none of those DoE staff who have a vested interest in defending the current proposal will participate in the review? It would of course be deeply inappropriate for staff with a clear conflict of interest to participate in a review which, if undertaken properly, might cause professional embarrassment to them.
6. Does this review demonstrate that the Government now accepts that the Leeson review had no credibility? Do you agree that the Leeson review is not relevant to proper decision-making in 2024?
7. Will you commit to seeking genuine input from community stakeholders?
8. Given that this is a transformative, generational project, why does the Government appear to prioritise the "fastest" build, over actually getting the best school on the right location? We reiterate our view – expressed consistently since August 2020 and now borne out by the facts on the ground – that proceeding with the current site can only result in delay and uncertainty. Any assessment of comparative construction timelines would need to account for the inevitable legal challenges; even putting that aside, we don't understand how a perception that the Bungendore Park site may offer a quicker build could justify an otherwise deeply unsatisfactory and damaging plan.
9. Will you guarantee that any Bungendore High School site is genuinely capable of meeting long-term student demand without restricting the catchment or requiring further encroachment on Bungendore Park or construction of any new campus?
10. The supposed "master plan" for further expansion has never been publicised and the description of it in the development application is contradictory. Can you guarantee that the Department of Education's minimum open play space requirements will be satisfied as the school expands, without including (as the current plan already does) pathways, thoroughfares and architectural features?

11. Will you support a proper investigation and appropriate disciplinary and/or criminal sanction against any Department of Education staff found to have acted contrary to section 10.6 of the Environmental Planning and Assessment Act 1979 and section 307B of the Crimes Act 1900?
12. You will appreciate that it was Barilaro's decision to prioritise speed that got us into this mess. He confirmed that was the priority when he announced the site in August 2020. In contrast, we welcomed your commitment prior to your election to prioritise long-term investment over short-term politics. Do you stand by that commitment in relation to the Bungendore High School project?

Conclusion

The Bungendore community aspires to something so much better than the second-rate offering proposed by the Department of Education. Kids in regional NSW deserve the same opportunities as their cousins in Sydney, Newcastle and Wollongong. Our town should not be asked to sacrifice our amenity and history for something designed for John Barilaro's political convenience, rather than the best interests of our kids and our town.

Your letter notes that "we must work with what we have, not what we wish we had." We have a clear choice now. We can use this opportunity to put the last four years of chaos and division behind us and start afresh, working towards a school the whole community can be proud of. Or we can double down on Barilaro's legacy where the only guarantees are disappointment and delay.

We hope you will support our community in working together to achieve the best possible school. We would be grateful for your response as soon as possible.

Yours faithfully,

Save Bungendore Park Inc.

APPENDIX 2 - STORIES FROM THE PARK – BUNGENDORE POOL

In 1978 the Bungendore community started raising funds to build a swimming pool. Before that very few children in Bungendore could swim. Now we face the demolition of the community swimming pool in Bungendore Park at the corner of Turallo Terrace and Majara Street to make way for the proposed new High School...

The Pool Committee was making plans to celebrate its 30th Birthday in November, 2021, but COVID put a stop to that. Instead there was a celebration on Sunday, 6th February, 2022, to mark thirty years of the Swimming Club, and honour the individuals and the community who made this happen.

"I remember the day when the local school was invited to take part in East Queanbeyan's Swimming Carnival long before we had our pool here. There was great excitement. Children were asked if anyone could swim and a sea of hands shot up. On the day they lined up on the blocks shivering with excitement, and at the signal jumped in.....and sank! Teachers came from everywhere and dived in for a mass rescue. Shortly after the pool was finally opened, and Rhonda-Jane Foulds had taught all our children to swim, Bungendore primary school was winning the local District Carnival. Rhonda-Jane has taught generations of children in this town to swim...and no doubt young lives have been saved."

Back in the late 70s we held a New Years Eve Street party in front of the Royal Hotel in Gibraltar Street. The whole street was closed off and an entry fee was charged. Bush bands on the back of a flat tray semi trailer and the famous animal imitation competition brought plenty of laughs, good will and dancing amongst the crowd. It was always a memorable night and a great way to farewell the old year and welcome the new. Bungendore locals enjoyed nothing better than a big community party. The seed was sown for raising funds for a pool for the community.

A committee was formed and ideas were floated as how best to raise funds. On Good Fridays we ran a bucket coin collection at the railway crossing. Coins intended for the plate at Good Friday church services probably ended up in the "pool bucket". Luckily bank interest rates on savings were 18% at the time and the money we collected made more money!

By the late 1980s we began seeking grants and after much lobbying we got a grant to build the amenities block at the pool site. If you have ever looked closely you will notice that the bricks used are different from the bricks of today. They are in fact bricks made in Queanbeyan in the 1800s and come from a number of very old houses that were eventually demolished in Queanbeyan. The bricks were stacked in our backyard until with the grant, three local tradesmen, Danny Clancy, David Daniels and Paul Fox used them to build the amenities block. A little history and recycling at its best.

Finally, with money raised from community pockets over twelve long years, a State Government grant and extra funds from the Council, the pool was opened on a very hot afternoon in November, 1991. Our young daughter, Kate Fox, cut the ribbon at the official opening with local Labor member, Jim Snow. All this was achieved by the efforts of volunteers working together with the community for the benefit of everyone living in the area. It was an enormous achievement and took a great deal of energy, stamina, perseverance and generosity from all.

*Recollections by Jill Fox
teacher and community worker*

The swimming pool is a great social meeting place for children in a town that has few opportunities for teenagers. Many of the children who have grown up here over the last thirty years have special memories of hours spent with friends...and enjoyed healthy outdoor exercise as well.

I fear we will not get a replacement, but if by chance we do, the site proposed for the “new sports hub” will not have an indoor pool as many imagine as Council only portrays it as “covered”. The site would involve children crossing the very busy and dangerous Molonglo/Tarago Road and young children will not be able to walk by themselves to the new site as they do to our current pool. Furthermore, the Primary School won’t have the easy access to a pool as it does now because it will be too far away.

This is a community pool and was run as such for its first years managed by volunteers from the community. No consultation was carried out with members of the Swimming Club or other “stakeholders” who use Bungendore Park, nor the wider community before the “powers that be” announced that this community asset, “no longer fit for purpose”, would be demolished, an asset that was initiated and largely paid for out of community pockets!!

**Let’s celebrate its 30th Birthday.
“No longer fit for purpose”... Rubbish!**

APPENDIX 3 - STORIES FROM THE PARK – TREES ON THE PARK

“Flat, Dry, Dusty, Windy and almost Treeless”

A windswept landscape, dry, dusty and almost treeless. That was what greeted John and Elizabeth Walter on New Years Day, 1979, when they moved into their timber cottage on Molonglo Street across from Frogs Hollow. It was the beginning of yet another drought. Their timber cottage, built in the 1880s, had weathered droughts before, and it survived this one and two others yet to come. Today the cottage is invisible from the road; you cannot see the house for the trees, testimony to John Walter’s passion and celebrated green thumb. “John always had a pocket full of acorns when he went for a walk.”

He was born in Kent, brought his heritage with him but became a true son of his adopted land. He embraced the trees, the bush, and the creatures that depended on it. Around the district he saw a ravaged and degraded landscape in need of nurturing and re wilding; a landscape that had been cleared for agriculture when the new settlers were only just beginning to learn about and understand the vagaries of their antipodean environment.

Moving from the city and suburbia to the magnificent tree scape of Bungendore today, it is difficult to picture what it had been like forty years ago. Fortunately, John found that he was not alone. There were kindred spirits in the small community, individuals with the advantage of hindsight and a vision for change who had energy, a sense of community and a “can do” attitude. There was no point complaining, waiting for Council to fix things. “It was better to do things yourself rather than ask Council.” And they did.

Vegetation was planted to provide windbreaks, shade, microclimates, counter soil erosion and slow down the flow of water to rehydrate the soil. The Common along Turallo creek was transformed from an open paddock to a well treed space for recreation. Around the school grounds and the old streets of Gibraltar, Malbon and Ellendon, volunteers, individuals and Land Care groups planted the variety of beautiful mature deciduous trees we enjoy today; crab apples, claret ash, gleditsias/honey locusts, hawthorns, and prunus, a far cry from the single species tree plantings by current Councils.

Let’s take a walk around the Village, starting at Frogs Hollow, once a wild, untouched space but sadly tamed in recent years. Ten years ago, however, after passionate letters to the Council, trees were provided to community groups to take the first steps towards rewilding this area.

Just before the Tarago Bridge cross Molonglo St and head east along Turallo Creek Reserve, the first area to be settled by Irish immigrants prior to 1837, and known in the early days of “Bungendow” as Shepherds Flat. A magnificent cover of oaks, planted by John on each side of the path beside the creek becomes, after rain, a “secret passage” as the new leaves filter the light and drip onto a cushion of old damp leaves. Enchanted, you may overlook the Community gardens on your right, started in 2009 by a small group from the fledgling Bungendore Landcare, and last year handed over to Rotary.

The trees planted on the Reserve, which is part of the Common, are a mix of deciduous and natives. As you cross the pedestrian and cycle path that links Elmslea over the foot bridge to Butmaroo St and the Village, the trees there have their own story to tell. They were planted as

part of a community campaign to stop Council extending Butmaroo St for vehicle traffic across the Common. It was a hard won victory for community activism. Planting sessions of exotics and natives, strategically placed, became a weekend social event during good weather; “half the P&C and kids from the school and their dogs joined the local volunteers,” and there were picnics, morning teas and barbecues at different times to feed the workers and sustain the community spirit! Many of those volunteers are still active in the community today.

You may decide to follow the levee and track behind the houses and preschool to the off leash dog area, part of the Common, especially if you have a hound pulling on the end of a leash, or you may have crossed the bridge to The Ponds. If you cross to The Ponds, take note of the forest of trees on your left and the silver birch before you look up towards the hill, covered in green and masses of golden wattle in spring. Old timers might refer to it as Days Hill or Dwyers Hill but to the kids it’s always been Spooks Hill. The mix of wattles, pines and oaks didn’t get there by accident. They were planted within the last 40 years, many of them by the chap who always carried acorns in his pocket, just in case.

Once you’ve left the hill behind, follow the path across the low level crossing, with the creek rushing under the railway bridge, past the dogs and their owners on the Common and up the rise to Bungendore Park, a place of peace and remembrance at the replica Menin Gate war memorial, or of fierce competition over a ball on the oval or tennis courts, or of wild, happy laughter in the pool; a haven for family picnics and barbecues, an adventure playground and a welcome comfort stop for tourists either going or returning from the coast. This beautiful park, between the heritage Railway Station and the commercial centre of town, was dedicated for public use and recreation in 1887. But the Park hasn’t always looked like this, and neither has the original School building and School of Arts and the old Post Office.

When the State Government closed the station building and it was reduced to a platform for travellers, volunteers with a passion for trains and history took over its maintenance, and a local nurseryman and his wife planted trees, and created and tended the beautiful rose garden at the front of the building. Community members planted trees to shelter and provide shade for the community built swimming pool, and utilise the water run off from the pool. They protested and saved some of the beautiful old pines from destruction when the car park was sealed, and planted trees to replace those they knew would soon be lost.

As protection from the strong winds from the east and west, and to provide much needed shade, a variety of native trees and shrubs were planted around the tennis courts. Today, Butmaroo Street between Gibraltar and Turallo Streets comes alive with golden wattles in spring. We’re all indebted to those generous people who turned a once dry and dusty treeless landscape into a beautiful green space to be enjoyed by all. And thankfully public recognition is in the pipeline.

After years of community campaigning, Council has finally approved a statue of John Walter, to be created by a local Sculptor and active member of the tennis club, in a piece of the landscape that reflects John Walter’s foresight and the power of community action; individuals and groups selflessly taking the initiative for the benefit of all.

Today when I chat to tourists, people passing through and newcomers to this area, they always comment on the beautiful trees of Bungendore. They assume it was the work of the first European settlers. Some of it may have been, but in the main we must thank those visionaries who first started planting trees forty years ago, and with growing support from Council, now, are still watching out for all of us and our planet, today.

Protect the trees we have..... and plant more. Please don't destroy 74 flourishing trees to build a high school on the Park with just the suggestion that "they'll be replaced"we haven't 40 years to wait.

APPENDIX 4 - STORIES FROM THE PARK – BUNGENDORE RAILWAY STATION

I sent some photos taken around Bungendore Park to a friend who's never been here, and she replied
"What's that beautiful old red building...a school?"

It was a cold grey day, too cold to take old bones into the garden and so we decided on a trip to Bungendore to have lunch at the George and warm ourselves by the open fire. To our surprise it seemed as if everyone else had the same idea. There were couples and family groups, and on one of the long wooden tables there were four couples with several young children scattered around, all having fun; it looked like a mini UN gathering. We got talking. Why had they decided to lunch in Bungendore? Here's their story.

They'd been cooped up all week in small apartments in Canberra. It was miserably cold and wet and the kids were driving them up the wall. Saturday dawned, the sun peeped through the clouds and they decided to all go on a train ride. They parked at Kingston Station and hopped on the Sydney train. Excitement! A few more people got on at Queanbeyan Station and then the train climbed the hill through the picturesque Molonglo Gorge and there was a scramble for a window to see the river far below. A bridge over the river, some cattle in a paddock, then suddenly everything went black as they disappeared into the tunnel; terror and thrill in turmoil. By the time they stepped down onto Bungendore platform they were ready for the next adventure. The kids raced across the wet grass to the playground, turned themselves inside out and were dragged away for a short walk down Gibraltar Street, past the old PO, the old Courthouse, a glimpse of the very old Cobb and Co stables in Butmaroo Street, past St Phillips Church where the market was wrapping up under the magnificent English elms and when they arrived at the George everyone was ready for lunch. Lunch over, it would be a walk back to the "beautiful old red building" to get the train returning from Sydney...perfect timing, and sleepy heads might not even register the black tunnel or the rushing water in the Gorge before the train was at Kingston.

We have had similar excursions on the train from that beautiful old red building, Bungendore Railway Station, to Tarago Station, for lunch at the Loaded Dog. Before we moved into town we'd park the car at the station for day trips to the Southern Highlands or weekends in Sydney. The convenience of the train is one of the reasons older people move here, but it is an asset for young and old. It has sustained Bungendore for many years. Older residents today still talk about catching the train to school in Queanbeyan and Canberra. It was a great social event, the highlight of their day, and there were many stops along the way.

The Railway Station, on Majara Street, with its two railway cottages adjoining the Park, was finally opened in 1885 with great fanfare, having been delayed by flooding in the area. The railway line heralded great prosperity for the town and while the tracks were being built "there wasn't an unoccupied house and several banks opened their doors". There was hope that it would become a tourist destination as Lake George had been slowly refilling over the years. The Carrington was built to provide accommodation for tourists arriving by train, a boarding

house was built on the Lake shores and a ferry service was established. But as the construction of the railway line progressed towards Queanbeyan and the workers and their families moved with it, coupled with the devastating drought of the late 1880s and the general collapse of the Banks, Bungendore, like the rest of Eastern Australia went into depression.

“The railway precinct, the town park, community and commercial buildings along Gibraltar, Malbon and Molonglo Streets and the open space along Turallo Creek are major contributors to the distinctive character of the village. There is consistency of building form and building materials....”

“Bungendore village was a simple grid plan constrained by creeks and flood plains to the west, north and east. A large extension to the south in the 1880s left the original village largely unaltered, and more recent development has been across Turallo Creek to the north, again leaving the original village largely unaltered.” (Palerang Council Heritage Advisory Committee March 2009)

Imagine three prefabricated structures up to 12m high built across Majara Street, a large part of the Bungendore Park and a slice of Mick Sherd Oval surrounded by a 2.1 metre metal fence and closed to the public between school hours, 7.30am to 6pm.

Imagine a high school built for 450 students in an area of rapid housing developments to the north, east and south, confined to such a limited space for expansion. There goes the rest of the Park!

Imagine tourists from afar flocking to historic Bungendore but stepping off the train to be confronted by modern prefabs, dumped in the middle of a once intact piece of Colonial history.

They might as well stay where they are. They certainly won't be bringing their children to Bungendore on the train for a special treat, with lunch at the George.

APPENDIX 5 - STORIES FROM THE PARK – THE COMMUNITY CENTRE

The Community Centre is to be demolished to make way for the proposed new High School....and the only reason that Bungendore has a Community Centre is due to the foresight and hard work of local residents over the past 45 years.

Recollections by Jill Fox and Lauren Woods, weeding in Jill's beautiful garden one sunny morning.

In 1976, Peter Brown, the local Anglican Minister and his wife Miriam saw that although Bungendore had a wonderful community, it had no community facilities save the churches and pubs. With minimal public transport it was difficult for many people to even get to Queanbeyan. The community nurse had to operate from her car, hardly a hospitable place in the depths of winter or under a scorching summer sun. The residents rallied. They formed the Bungendore Community Aid group, known as the BCA, and over the years it grew with the demands of a growing population. It still serves the community today.

The BCA was run totally by volunteers and operated from the building in Gibraltar Street where the Gathering is now located. These premises were procured from the Public Trustees at a peppercorn rent. They provided facilities for the Community Nurse, the Commonwealth Employment Centre, and meeting rooms for the Senior Citizens and other community groups. A community library was established with a donation from Elma Broadbent.

In the early 1980s the BCA lost the use of these rooms when the Public Trustees finally settled the matters of a Will. Pressure was then put on the Yarrawlumla Council to provide new facilities to house the community groups. The BCA, a grass roots initiative, had operated successfully for many years on a voluntary basis with not a penny from Council. Council responded to community pressure with the offer of two rooms at the School of Arts, next to the Primary school, with the third room to be used by the Scouts and Playgroup.

Some time later the BCA was informed that the historic School of Arts was to be demolished by Council to make way for a new, long overdue purpose built community centre. The BCA informed them that although Council managed the School of Arts building, they did not own it or the Crown Land on which it was built. This they disputed, but the BCA provided the hard evidence! It wasn't difficult.

Little seems to have changed since the Yarrawlumla Council morphed into the Palerang Council, or with the more recent amalgamation, QPRC.

The new Community Centre was built on its current central site on the corner of Turallo Terrace and Majara Street in 1986. It has been well used over the intervening years by many community groups including the Weavers, Play Group and Senior Citizens. It has housed the Baby Health Centre, the Library for many years, and provided a facility for the Community Nurse and After School Care. The BCA stores the medical equipment, which is loaned to local residents, free of charge. Many people, grateful for the service, have made donations that allow the BCA to purchase more equipment over the years. Medical equipment is expensive. At least 100 people benefit from this service each year, once again run by volunteers. The central location of the Community Centre is ideal, easily accessible to both local residents and those from outlying areas.

Two years ago the NSW Department of Education provided an artist's impression of the proposed new High School on part of Bungendore Park and Majara Road. There was no Community Centre on the plan. One could only assume at the time that it was to be demolished along with the pool complex. There was no consultation with the stakeholders nor advice from the DoEducation or Council. The only response was that the Community Centre, like the pool complex, was time expired and "no longer fit for purpose". The BCA was left in limbo.

Unfortunately, the After School Care program was one of the first to go. Now the BCA has been given its marching orders and has until 23 June to vacate the premises. What is to become of this vital service, and the medical equipment which is the result of the generosity and "can do" spirit of the volunteers, community donations and fund raising over the past 40 years. Council claims it has no facilities to store the equipment. BCA will be left without an accessible base and the capacity to store this valuable equipment.

In 1976, this small town was acknowledged as having "a wonderful community". It's a much bigger town now, but it is still a wonderful community, and this, with its hard won community facilities must not be simply swept away without any consideration for the loss to the entire community, and without any alternatives.

APPENDIX 6 - STORIES FROM THE PARK – THE COMMON

Crown Land reserved for public recreation

The designated off-leash dog area is on “the common”, Crown Land set aside for public recreation in the 1850s. It is next to the low level crossing over Turallo creek between Turallo Terrace and Elmslea. If you arrive in Bungendore, alone and friendless, get a dog, put it on a leash and head there as the shadows are lengthening. Your dog, once off its leash, will find best friends in no time, and equally importantly you will meet other dog owners; don’t expect to remember their names or they to remember yours but you’ll certainly get to know the names of their dogs!

With the proposed new High School taking over not just a large section of Bungendore Park and Majara Street, our dogs (and we) will lose a large part of this community recreational space as well, to provide an agriculture plot and a parking lot! I can’t think of this without Joni Mitchell’s song of the late 60s running through my head...

“Don’t it always seem to go. That you don’t know what you’ve got till it’s gone. They paved paradise, put up a parking lot.”

Just think of poor Rip, Max, Hilda, Greta, Dotty, Maggie, George and Johnny and their many friends. At their playground they are free to cavort and socialise while their parents and grandparents are distracted. The occasional ball is thrown nonchalantly from a \$2.98 plastic “woomera” from Bunnings without much thought or direction. There is a scramble. Some have learned to share and “play nicely” but there are a couple who are yet to understand doggy rules, and our Maggie is one of them. “You can take a cattle dog out of Queensland but you can’t take Queensland out of the girl.” I apologise on her behalf!

There are no sexist (re)barks; they are all desexed. And no colour bars or class barriers. Pedigreed dogs and “bitsas”, black, brown, white, off white and spotted play on the same team. Some would blush if they’d known their fathers! They slosh through the puddles, roll in the mud and drop their balls in the creek, bewildered as the current picks them up and spirits them away. Then they’re off in all directions to sniff out the latest doggy news or check their wee-mail. Meanwhile, once total strangers now sharing common ground swap dog stories and community news in an easy going manner. Not only are their names forgotten, but out of dog walking clobber, wrapped up like “Michelin man” in beanies, coats and scarves, you’d never recognise them in the pub or IGA. There is a real feeling of camaraderie on the common as the evening chill seeps in along the creek, the western sky fills with a blaze of colour and we turn to head home at the end of play. A short, twenty minute walk organised by your dog has stretched to an enjoyable hour.

The off leash area is just another reason why Bungendore is a special place; a place to immerse yourself in a beautiful environment and meet beautiful dogs and their beautiful people, whether it’s early morning, noon or at sunset.

For Maggie it’s an evening ritual that she has been dreaming of since breakfast. Save her from the nightmare of losing it for a “paved parking lot”.

There are far better sites for a High School with land available for parking spaces and agricultural plots that don't require the need to take a slice of Dog Paradise. Our common is land reserved for community recreation, an area that has belonged to us for this purpose for a century and a half... and in Bungendore dogs are as much a part of the community as people.

APPENDIX 7- LETTER FROM COMMUNITY MEMBER TO STEVE WHAN

[redacted]

19 May 2023

Mr Steve Whan MLA
Member for Monaro

Dear Mr Whan,

I am writing to you in the hope that you will at least listen to my very real concerns for our community in Bungendore and surrounding areas.

I am not opposed to a new HS being built in Bungendore but I am opposed to the proposed site for many reasons for which you must be aware.

However, my greatest concerns have been the negative social impact and the destruction of the social fabric within our community as a result of John Barillaro's sudden announcement in August 2020, in the middle of the COVID pandemic, of the selected site. Three years later the HS site remains the elephant in the room. People are guarded, no one dares to speak openly and voices are silenced. If you don't agree with the DoEducation's plan there is outright intimidation, bullying and harassment. Parents fear for the safety of their children in the playground. The school gate is described as "vicious" and parents feel victimised for simply wanting a better outcome for their children and the community as a whole. It is nothing less than government sanctioned bullying.

The whole process has been mis managed and a disaster; a perfect example of what not to do under the IPA2.

Community engagement and consultation with stakeholders has been a farce or didn't even happen.

"The quality of community engagement processes is to promote and advance public participation and community engagement and promote core values, involve those affected by or interested in a decision and recognise and communicate the needs and interests of all participants including decision makers." IPA2

The DoEducation's Hubs and questionnaires were skewed, results misreported, and an insult. A police presence at one Hub, fences, and a night security guard for several months at the HS demountables were an affront to law abiding citizens. Our former member "refused to speak about the HS" to anyone who raised the issue or disagreed with the government plan.

Letters and phone calls were ignored. There were outright lies, mistruths, and opponents of the DoE plans were labelled trouble makers who contributed to delays. Our local newspaper was just a mouthpiece for government PR releases. Any opposing views were rejected.

This has all contributed to the toxic undercurrent in our community today. Something that should have had a lasting positive social impact on the population as a whole has fractured a wonderful community. We are just a small regional community far from the centre of power....but we don't deserve to be dismissed.

Yours sincerely, [redacted]

APPENDIX 8 - REPORT IN THE “REGIONAL INDEPENDENT” NEWSPAPER MAY 2021

Bungendore High School Community Meeting

On Wednesday, 28 April, one hundred and eleven people filled the Bungendore Memorial Hall supporting, in principle, a high school for Bungendore, but fiercely opposed to the proposed site, Bungendore Park, a heritage area in the centre of the old town.

The central Bungendore Park location for the school was announced by Deputy Premier John Barilaro in August 2020. But this site is a heritage area in the centre of the old town. It is a flawed and limited site for a high school in a rapidly growing district and comes at the cost of heritage, community amenities, roads and facilities.

Five speakers outlined issues arising from the necessary resumption of Crown Lands, the anticipated problems of traffic congestion, parking availability and safety with the closure of Majara Street, a major thoroughfare from the Elmslea Estate to the heritage Railway Station and Kings Highway. They described the impacts of the planned demolition of the community built swimming pool and the removal of the community centre, the disrespect of heritage, both colonial and pre colonial sites, and the lack of open and honest consultation with the community at both local and state government levels.

The selection of this site and the planned high school development has been hastily put together, clouded in secrecy and half truths, and subject to change with little apparent awareness of the local area, its topography, history and needs. Community consultation has simply been a PR exercise assuming a “done deal”. It is an insult.

After many questions and comments from the floor, the Meeting resolved to:

- condemn Queanbeyan Palerang Regional Council’s (QPRC) decision, to close Majara Street, its failure to discharge its own planning responsibilities and to recognise community opposition to the road closure;
- call upon the Department of Education to re open its site selection process and assess sites against accurate information and realistic criteria;
- support all continued efforts to oppose construction of the high school on Bungendore Park;
- support any steps taken by those present to incorporate the Bungendore Park Action Group under the Associations Incorporation Act, to undertake any fundraising activity and to commence any legal proceedings if necessary.

The Bungendore Park Action Group is not aligned with any political party, nor does it receive funds from outside sources. It is a group of passionate people determined to achieve the best outcome for a high school which will meet the long term needs of Bungendore and the surrounding areas whilst preserving a precious heritage for generations to come.

APPENDIX 9 - BALLADEERS' PLACE

Balladeers' Place, formally "Bush Balladeers Place and Maureen Gordon Wall of Recognition" – is on Bungendore Park. It's a national institution and serves as a centrepiece of the Bungendore Country Music festival. It now faces demolition, with no suitable site or plan for its relocation.

Many people don't realise Bush Ballads, Balladeers and Bards have always been part of their lives. "Waltzing Matilda", "Click Go the Shears" and "Pub with no Beer" are Bush Ballads.

Bush Ballads were studied in school by bards like Henry Lawson, Banjo Patterson and Dorothea Mackellar, whilst others such as Slim Dusty, John Williamson and John Schumann have shaped Australian music with Bush Ballads we all know and love.

Jeff Brown, nominated for a Golden Guitar Award in the Bush Ballad of the Year Category, said it was

"....important to keep the old yarns alive through country music ballads. It's our heritage really and it needs to be kept alive and the old bush ballads are the way to do it."

It's testament to many years of hard work by the Bungendore Country Music Muster Committee and our community, and to the importance of the Bungendore Country Music Muster, that the Australian Bush Balladeer Association chose our town over Tamworth for this important national icon. Our heritage town Park is a fitting home to recognise a major part of Australia's heritage and to recognise Bungendore as a major supporter of Australian Country Music.

The wall is in the form of a 'clef'. It is made from local stone, by local craftsmen – and recognises bush balladeers from all over Australia. It's not just a gazebo on the Park with walls to sit on, but a Place for the whole community to use and enjoy while recognising and learning about Australian heritage in a heritage park setting. It is a living part of our town - and just last Saturday [in early 2022], Dianne Lindsay travelled to Bungendore to unveil her plaque on the wall.

But the DoE dismissed the Place with a few lines Development Application, having spoken to a group that has nothing to do with it.

We're not sure why DoE didn't bother to speak to the Country Music Muster Committee. The Committee was horrified to hear such an important place would be lost. And while the Department was "confused" about the Place (to put it kindly), the Committee was even more horrified to learn that it was supposed to be rebuilt at Frogs Hollow, in a paddock where it would be subject to flooding, full of snakes and cut off from the town.

The Place of Recognition needs to be in a prominent spot within the town:

- to be acknowledged and not forgotten;
- to remain as an important community asset and tourist attraction;
- to promote our heritage; and
- to recognise the contribution the Balladeers make to the Australian Country Music Industry.

The current High School proposal is in such deep trouble that there's a good chance it won't go ahead. But if it does, the Department of Education must urgently work with the Committee to develop a proper plan to move the Place to a suitable location – somewhere prominent and central.

The Department of Planning has already flagged this as one of the many issues that the DoE needs to address before the development application can move forward. And it's just another headache for DoE.

If Department of Education had done any due diligence before stitching up the dodgy deal to steal our Park, it might have consulted with the Bungendore Country Music Muster Committee two years ago to understand the significance of the Place. And then maybe it wouldn't be scrambling to fix this now.

But then again, if it had done any due diligence it would have realised what a terrible idea this proposal is, for all sorts of reasons. We'd already be on our way to a better school, on a better site. And we wouldn't be seeing the horribly delayed, over-budget, second-rate slow-motion car crash we're seeing now.