

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

Objection from Save Bungendore Park Inc.

No.	Reference in the EIS or other	Discussion
1.	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. In particular (and as further discussed below), it fails to consider:</p> <ul style="list-style-type: none"> • the proposed Abbeyfield development on land immediately adjacent to the site (see item 4); • the proposed East Bungendore, North Elmslea and Ashby developments; • the proposed further development of the site to accommodate school expansion (see eg items 26 and 32 (in relation to play areas) and 122 (in relation to trees)); and • the existing Bungendore Preschool and Bungendore Public School (see items 6 and 7). <p>Consequently, the EIS does not address this requirement of the SEARs.</p>
2.	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 do this. In particular:</p> <ul style="list-style-type: none"> • App 4 states that “The new high school will initially cater for approximately 450 students and 41 full time staff.” It does not support this statement. As noted at item 23, the Applicant has declined to release the basis for any modelling and what it has released shows that it expects 478 students by 2026 at the latest; • the EIS does not set out the need or justification for the development. It is understand that the Applicant’s “Service Needs Report - Queanbeyan Yass SCG Package” dated 14 November 2019 concluded that a high school was not needed in Bungendore. The Applicant has refused requests under the Government Information (Public Access) Act to release the business case or other records which would demonstrate the need for the development; and

		<ul style="list-style-type: none"> the EIS does not justify why construction on a public park is required when alternative, suitable sites were identified.
3.	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. 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 estimate staffing; Details of any proposed before/after school care services – this is not set out. Assessment must consider any relevant legislation, policies and guidelines – the EIS fails to consider (among other things: <ul style="list-style-type: none"> - the <i>Crown Land Management Act 2016</i>, as this relates to use of dedicated or reserved Crown Land; - State Strategic Plan for Crown Land, <i>Crown Land 2031</i> (June 2021) (discussed at item 59); - the <i>Educational Facilities Standards and Guidelines</i>, and in particular “DG03 - Site Selection”; - the <i>School Site Selection and Development</i> guidelines (October 2020); - the <i>Roads Act 1993</i>; - Auditor-General’s Report - Performance Audit, “<i>Improving Road Safety: School Zones</i>” (February 2010).
4.	Failure to consider proposed Abbeyfield development	<p>The development will include two currently vacant lots at 4-6 Majara Street. Prior to the announcement of the proposal, Council had agreed to grant this land to Abbeyfield Australia, a not-for-profit community housing provider for a peppercorn lease. Abbeyfield had proposed constructing seniors’ housing on this site.</p> <p>Abbeyfield had lodged a development application in anticipation of commencing construction at 4-6 Majara Street; this was to be considered at the August 2020 Council meeting (at which Council instead agreed in-principle support to the proposal). The development application was the culmination of years of work and pro-bono legal, architectural and planning advice. Approving the use of 4-6 Majara Street for the school will render this entirely wasted.</p> <p>When the development was announced, it was proposed Abbeyfield would instead be granted 2 Majara Street, currently occupied by the Bungendore Community Centre. It was later proposed that this site would also be required</p>


		<p>for school use. Council then resolved on 28 October 2020 (resolution 211/20) to grant part of the Majara Street road reserve, north of Turallo Terrace (currently occupied by the Scout carpark) to Abbeyfield (the New Abbeyfield Site). This was again referred to in the report presented at the 28 July 2021 Council Meeting (linked below), which noted that “Council has agreed to sell the land to the Abbeyfield development”.</p> <p>The EIS fails to take account of the Abbeyfield development on the New Abbeyfield Site. This was integral to Council agreeing to support the proposal, and must be taken into account. Failure to consider this is inconsistent with the SEARs requirement to consider proposed operations in the vicinity of the site.</p> <p>There is a critical shortage of appropriate seniors’ accommodation in Bungendore, meaning that residents no longer able to live in their own homes are required to move to Queanbeyan or Canberra. This causes enormous social dislocation. Abbeyfield will be required to start its design and planning process from scratch if it is allocated a different site. It has relied on pro-bono assistance, but this may not be available and it would face significant costs in doing so.</p> <p>In any event, the New Abbeyfield Site is situated on a natural drainage channel and a stormwater drain. Abbeyfield will face significant additional costs if it is required to proceed on this site, rather than the location originally agreed with Council.</p> <p>The EIS fails to take account of the social impact of the significant delay to Abbeyfield’s construction which will result from this proposal.</p>
5.	Construction of Abbeyfield and the “Ag Plot” will limit access to Bungendore Common	<p>The New Abbeyfield Site – currently an unconstructed road reserve – is used by the public to access Bungendore Common. This will not be possible following closure of the road reserve and construction of the Abbeyfield facility, requiring users coming from the west to walk around the Scout Hall.</p> <p>However, the proposed development will involve the “Ag Plot” being built on the Common, adjacent to the Scout Hall and along the road. This will require the public to walk further around the “Ag Plot” to access the common.</p> <p>The Applicant must be required to preserve public access between the Scout Hall and the Ag Plot, permitting the public to pass through this to access what will remain of the Common and the off-leash dog area.</p>
6.	Failure to consider proximity to Bungendore Preschool and the	<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>

	resulting traffic hazard	<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 EIS has failed to acknowledge or address any aspect of this.</p>
7.	Failure to consider proximity to Bungendore Public School	<p>The development is immediately adjacent to Bungendore Public School (located on the block immediately south of the proposed development).</p> <p>The primary school 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. The EIS has failed to address this.</p> <p>Further, the EIS has failed to consider how buses, pickup and drop-off arrangements will work between the primary and high schools. This is unacceptable, given the obvious potential for conflict. The transport and traffic assessments prepared by the Applicant fail to consider this or take an integrated approach to transport planning. They have been prepared without regard to needs of the neighbouring school. This is unacceptable. The EIS must address must this.</p>
8.	Failure to consider proximity to the railway line	<p>While the design notes that there will be high fencing adjacent to the railway line, the line is very easily accessible in large areas very close to the school.</p> <p>Many adolescents struggle with mental health issues. A study in the British Journal of Psychiatry looked into self-harm clusters among vulnerable people, noting that “railway tracks close to the facility might provide enough audiovisual stimuli to implant the idea of railway suicide in a patient’s mind, especially if the tracks are easy to access.” It noted that this hypothesis was supported by similar findings in Belgium and Australia.²</p>

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

² *Determinants of completed railway suicides by psychiatric in-patients: case-control study* - Cambridge University Press: 02 January 2018

		<p>There are recent incidents of self-harm on the railway lines around Bungendore.</p> <p>The EIS has failed to consider the danger and enormous social impact of any adverse event occurring on the railway lines.</p> <p>When the Department of Education hosted an “information hub” in Bungendore in September 2020, its staff were unaware of the proximity of the railway lines. This suggests that – contrary to the EIS – there was limited investigation undertaken prior to selection of this site.</p>
9.	Failure to consider local flooding and access issues	<p>Access to the school from Elmslea to the north will primarily be down McCusker Drive/Turallo Terrace. This road relies on a low-level crossing of Turallo Creek, which is frequently closed due to flooding, for periods of up to a week. This typically happens for up to three weeks per annum.</p> <p>The EIS fails to consider how this change in access arrangements will affect the development and its impact on local traffic arrangements.</p> <p>When the Department of Education hosted an “information hub” in Bungendore in September 2020, its staff were unaware of this issue. This suggests that – contrary to the EIS – there was limited investigation undertaken prior to selection of this site.</p>

		 <p><i>Photograph taken 14 October 2021, standing on the site of the “Ag Plot”, looking east along Turallo Terrace/McCusker Drive (the primary access to the school from Elmslea) following heavy rain. Flood marker shows 0.8m depth over the road. The road was closed for 3 days, having been closed for several days earlier in October and also in September.</i></p>
10.	Failure to consider impact on Bungendore Soldiers Memorial	<p>The proposed development will have an unacceptable impact on the Bungendore Soldiers Memorial. The EIS fails to address this properly and its conclusions cannot be sustained.</p> <p>The Memorial is located on the southern edge of Bungendore Park, adjacent to Gibraltar Street. It was dedicated in 1924 and is heritage listed under the Palerang Local Environmental Plan (PLEP). It is a particularly rare example of its architectural style. The Bungendore War Memorial Section 355 Committee has been working towards classification as state-significant and entry on the State Heritage Register – it is expected that this will occur in the near future.</p> <p>This submission refers to several specific aspects of the development applicant which will have a serious impact on the Memorial. Its prominence on the Park will be greatly diminished (see item 92). The bus interchange for both the primary and high school will be on the road next to it, meaning it will become a de facto bus shelter (see item 129).</p>

		<p>This reduces accessibility to the public, exposes it to the increased risk of graffiti or vandalism and diminishes it as a place for solemn reflection and memory.</p> <p>The proposed fence around Mick Sherd Oval will interfere with Anzac Day services at the site.</p> <p>It is grossly inappropriate for the Memorial to be diminished in this way.</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.³</i></p> <p>The proposed development will greatly detract from the values of the Memorial.</p> <p>The Statement of Heritage Impact is completely inadequate. It does not discuss the impact of the proposed development on the Memorial in any material way, other than to note that:</p> <p><i>The new buildings are located within the curtilage of the Soldier's Memorial... The heritage curtilage of the Soldier's Memorial should be reduced so that it does not include non-significant items... New buildings are not located directly adjacent to any heritage items... The character of the setting of the heritage items in the vicinity would remain unchanged. Significant fabric on the Soldier's Memorial will be preserved.</i></p> <p>This conclusion cannot be sustained. As discussed below:</p>
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³ <https://www.veterans.nsw.gov.au/assets/Community-War-Memorials-Fund/Caring-for-our-War-Memorials-NSW-Public-Works.PDF>

		<ul style="list-style-type: none"> the Soldiers Memorial will become a de facto bus shelter catering to hundreds of children every day, from both the proposed high school and the existing primary school; the character of the setting of the Memorial will change dramatically due to the loss of trees, greatly increased traffic, noise, activity and signage associated with Gibraltar Street becoming a bus interchange and the a primary access to both the proposed high school and the Bungendore Public School; its prominence and significance will be greatly diminished by the massive scale of surrounding construction.
11.	Removal of trees	<p>The proposal will require the removal of 76 trees, including 6 identified as “high value” and 42 of “medium value”. The EIS concluded that this was “considered acceptable”. This conclusion cannot be supported. Further, it is based on incorrectly counting trees on private property, outside the site boundary, as being retained on the site (as discussed in para 122 below).</p> <p>The trees to be removed include large, mature historic trees. The EIS failed to consider this.</p> <p>The arborist was unable to identify many of the deciduous trees, rendering the report premature and of little value. It is unacceptable to proceed on the basis of a study which fails to identify a large number of subject trees.</p> <p>The proposal requires the removal of 9 trees outside the site boundary. This appears excessive and impacts public amenity. The EIS fails to consider this adequately.</p> <p>Replacement trees will take decades to reach maturity. The EIS fails to consider the huge impact over the coming decades until these trees reach maturity.</p> <p>Finally, recent works on Bungendore Park (including the construction of an additional tennis court and a new playground) have required the removal of several very large, historic trees. This renders those remaining “high value” trees especially valuable.</p>
12.	Failure to consider the rural context	<p>The EIS and all appendices demonstrate a lack of understanding of the situation of Bungendore as a rural centre. A significant proportion of the school catchment will come from surrounding towns and rural properties. However, much of the assessment is based on the situation facing residents of Bungendore village only.</p> <p>Examples include the Social Impact Assessment – referring to “high school students in Bungendore” (p14), the suggestion on p144 of the EIS that the Applicant should “aim for the catchment area for the new school to encompass the entire suburb [sic] of Bungendore, including growth areas on the edges of the town”, or the student catchment data provided for traffic modelling, which included only students resident in Bungendore Village – recognised by the consultant as a “major limitation”.</p>

		<p>Further, it is not possible to extrapolate simply based on student data from Bungendore Public School, as the proposed high school catchment will take students from a large number of local primary schools (such as Sutton, Tarago and Captains Flat) which would otherwise feed students to Queanbeyan, Braidwood or Canberra.</p> <p>This failure is consistent through the EIS and undermines many aspect of the reports and assessments set out in it. The Applicant must be asked to revisit the EIS to confirm that the wide catchment and the needs (and impact) of students from outside Bungendore village have been appropriately considered.</p> <p>Finally, children from rural parts of the catchment will still be required to travel material distances to school, regardless of whether they attend the proposed school in Bungendore or continue using existing options in Queanbeyan, Braidwood, Canberra or Goulburn. Any benefit from the proposed development for a large proportion of the catchment is much lower than the Applicant suggests. Given that the Applicant has limited understanding of the school catchment area, it must be asked to reconsider the EIS on an appropriate basis.</p>
13.	Failure to consider the impact on Braidwood Central School	<p>Part of the catchment for the new school will include students currently attending Braidwood Central School (BCS). BCS has significant excess capacity and a very small HSC class. In response to requests from the author, the Applicant has confirmed that it has not made any assessment of the impact of the proposed Bungendore High School on BCS. It is possible that a diversion of students to Bungendore will lead to the closure of BCS or the cessation of HSC pathways at the school.</p> <p>This will have a significant social impact on Braidwood and surrounding areas, as well as materially increasing the student cohort attending the proposed Bungendore High School. The Applicant should be asked to address the possibility and impact if this occurs.</p>
14.	<p>Failure to undertake any meaningful community and stakeholder consultation.</p> <p>The community strongly opposes the proposed development.</p>	<p>The consultation process undertaken by the Applicant and set out in the EIS and the Consultation Outcomes Report (App 22) was deeply flawed. There was no genuine community consultation, and stakeholder consultation was undertaken with a limited range of stakeholder groups and not properly assessed or documented.</p> <p>The Applicant's consultation process was in fact a marketing process. It was condescending and insulting.</p> <p><i>Announcement of the Proposal</i></p> <p>There was no consultation prior to selection of the site. The Applicant has published misleading statements to the contrary.</p>

		<p>The proposed development was announced by the Member for Monaro and the Minister for Education on 13 August 2021 as a “done deal”. In announcing it, Mr Barilaro admitted “I appreciate that the location of this new school will come as a surprise to many...” According to press reports:</p> <p><i>“This is the site we’re picking,” said Mr Barilaro, who conceded a decision on the site was always going to be tricky, with the location kept under wraps until the announcement yesterday (14 August).⁴</i></p> <p>Clearly, the Applicant kept the site selection secret from the community. Mr Barilaro’s statement – “this is the site we’re picking” – as well as the pattern of behaviour from the Applicant following the announcement, demonstrate that it had no intention of considering community feedback in relation to the appropriateness of the site.</p> <p>The Applicant stated in its “FAQs” of 18 September 2020, in response to the question “what consultation did you undertake before choosing this location, that “consultation also occurred with QPRC [Queanbeyan-Palerang Regional Council] and several stakeholders of Mick Sherd Oval”⁵. This was not correct. In relation to this:</p> <ul style="list-style-type: none"> • The Applicant was unable to locate any records of consultation with “several stakeholders of Mick Sherd Oval” in response to a request under the Government Information (Public Access) Act (GI(PA) Act). Either this consultation did not occur, or no record was kept of what was discussed and who was consulted; • The Applicant advised the Department of Planning (which had undertaken the site selection process) on 15 June 2020 that it had selected the Bungendore Park site. However, in response to a Question on Notice, QPRC advised the author that Councillors did not become aware of the proposal until 8 July 2020.⁶ Clearly, no consultation was undertaken with Councillors before the site was selected. <p><i>The Online Survey – August-September 2020</i></p> <p>The Applicant refers to the “Community Engagement Survey” it undertook immediately following the announcement of the proposed site.</p> <p>This received several hundred responses, mostly supporting the idea of <u>a</u> high school in Bungendore. But the survey was never designed to ask whether the community supported this proposal. The survey report was called “<i>Prioritising</i></p>
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⁴ <https://aboutregional.com.au/bungendore-gets-its-high-school-but-not-everyones-happy-about-the-done-deal/>

⁵ https://www.schoolinfrastructure.nsw.gov.au/content/dam/infrastructure/projects/n/new-high-school-in-bungendore-/september-2020/Bungendore_High_School_FAQs_Digital_V6_FINAL_-_Alexandra_Bull.pdf

⁶ <https://www.qprc.nsw.gov.au/files/assets/public/2021-council-meeting-documents/2021-council-minutes/20210922-22-september-2021-public-forum-minutes-final.pdf>

- see Question 13.

		<p><i>Design Principles</i>”, and its stated aim (as set out in the report produced under the GI(PA) Act was only “to gain insight from the local residents and school community (staff, parents, carers and students) on prioritising the design principles.”</p> <p>According to the survey report, the questions “mainly focused on design principles for the proposed new high school in Bungendore.” The results were supposed to:</p> <p><i>“enable SINSW to determine whether the design principles are aligned with community expectation and help develop an understanding of local residents’ and school communities’ views on the provision of amenities, cultural inclusion and school environment.”</i></p> <p>It’s clear that the survey was never intended to find out whether people wanted to see a school built on their Park. It did not ask about this and did not invite any long-form responses. The survey did not report on the location of respondents or verifying the integrity of responses.</p> <p>Further, this survey was undertaken immediately following the announcement, before the community had an opportunity to consider the proposal in detail. The questions were superficial and it was a clear exercise in push-polling.</p> <p>It was also undertaken on the basis of misleading publicity by the Applicant, in relation to consultation and the lack of suitable alternatives (which has been shown to have been false, as described below).</p> <p>This survey was neither probative, nor was it a genuine exercise in consultation.</p> <p><i>The Information Hub</i></p> <p>The Applicant refers to “Community Engagement Hub Sessions” held at Bungendore Public School in late September 2020.</p> <p>This was a slick marketing effort, with 90 people registered to attend.⁷ Of the 90, 74 completed the survey. Of those 74 people, 74% “felt it was an appropriate site”. That’s 54.7 people. And of those 54, only 36 people “strongly agreed”.</p>
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⁷ The Consultation Outcomes Report states “approximately 120” people attended and 83 completed a survey. However according to the Applicant’s records released under the GI(PA) Act, only the 90 people who had registered to attend (excluding some additional “drop-ins”) were invited to complete the survey. Of these, 74 attendees completed the survey. It is not clear why the Consultation Outcomes Report quotes 83 responses. This is not consistent with the Applicant’s records.

		<p>Based on that, the Applicant briefed the Minister for Education on 21 October 2020 that there was “overwhelming support” for the project. It quoted the 74% figure, without telling the Minister that this represented only 54.7 people – of whom only 36 “strongly agreed”.</p> <p>This was a very small survey, which was heavily weighted towards one section of the community (parents with children attending the primary school). It was not representative and cannot be considered an appropriate basis for consultation.</p> <p>However, it demonstrated concerns even then around the lack of consultation, the lack of space and capacity for growth, traffic and whether the rural catchment had been appropriately considered. None of these issues has been addressed.</p> <p>Information Session – 11 May</p> <p>The Applicant arranged an information session over three hours at Bungendore Public School in the evening of 11 May 2021. An attendee told the author:</p> <p><i>We were there for nearly two hours. It really was quite pathetic. They had external consultants there who weren't prepared to say anything – several of the staff weren't even from the Department of Education. Virtually everyone who came through opposed it – we were only aware of one person who was supporting any aspect of the plan. There were plenty of people there we hadn't met before, and many others we knew from the public meeting.</i></p> <p><i>There were police and security in attendance, one armed with a taser! We were interrogated before entering in case we had any protest material, which we didn't. They didn't appreciate it when we asked why a peaceful protest would not be permitted. They had been advised that things got heated and someone was spat on last time. We'd never heard of that.</i></p> <p><i>While we were there, everyone we heard speaking opposed losing Bungendore Park. There was no opposition to a high school itself.</i></p> <p><i>They got a bit agitated when we pointed out that the sketch plan they showed was misleading. It showed the area of the school would be about half the size of the railway station carpark. No, they claimed it was accurate and done on the computer.</i></p> <p><i>They had no idea about ensuring adequate parking. What about when there are assemblies with parents attending? They had no answers. All of the illustrations showed no cars and no people.</i></p>
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		<p><i>The plans didn't show the roundabouts to be installed at the intersections of Gibraltar Street with Butmaroo and Majara Streets.</i></p> <p><i>It was an expensive exercise, but it didn't give us a voice at all. We were able to tell people what we thought, but nothing was recorded. It was purely about selling the project, rather than listening. They trotted out the same things we've heard over and over again, but now with a few more details.</i></p> <p><i>The staff told us that the high schoolers would only use the Oval for PE and official school activities, and not during recess and lunch. So what are the kids supposed to do at lunch time? And of course the public won't be allowed to use it at these times anyway.</i></p> <p><i>We asked why the school site was below the minimum size standards. They told us they had done their calculations and it would be adequate for 400-450 students. We asked, but they weren't aware that there are large developments in the pipeline which would add several hundred, if not thousands of houses to Bungendore.</i></p> <p><i>We asked why works are already taking place, ahead of any approvals – like surveys, the football field being moved and so on. They said this was part of the planning process needed to see whether the school could fit on the site at all.</i></p> <p><i>They told us that the off-leash dog area would be reduced to 40% of its current size. So we will be losing well over half of that space.</i></p> <p><i>We asked why they couldn't build next to the sports hub, which looks like a great site. They didn't know about that. We asked about Trucking Yard Lane. They told us their job didn't include knowing or thinking about any of the other sites. And yet they repeated the same old line about the long due diligence process and all the sites that were considered before choosing this one.</i></p> <p><i>They said "the number of people who want a high school far outweighs the number who are against it". But they weren't hearing anyone who said "we want a high school but we don't want it there." At that was virtually everyone we saw.</i></p> <p><i>The fact that we say we are in favour of a high school was all they wanted to hear.</i></p> <p>This session – at which attendees were intimidated by armed police, was indicative of the Applicant's approach to consultation. In response to a request under the GI(PA) Act for (among other things) any reports or feedback arising from the session, the Applicant advised that no such records had been kept.</p>
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		<p>Further, Mr Barilaro was quoted in the local press as saying he had received “really positive feedback” following this session. However, in response to a request under the GI(PA) Act to release records of such feedback, his office advised the author that no such records existed.</p> <p>So in short, there was no attempt to consult with the community, to listen to or record their concerns. This event was a farce.</p> <p><i>Applicant’s failure to respond to letters, calls and emails</i></p> <p>The Consultation Outcomes Report states that the Applicant “established a dedicated phone channel and email address to enable people to ask questions and/or provide feedback on the design.”</p> <p>The author has spoken to many community members, who between them sent a large number of letters and emails to the Applicant and the Minister for Education querying various aspects of the proposed development. The responses (to the extent they received a response) have been almost identical form letters which fail to answer any questions and repeat discredited assertions (such as the lack of alternative sites).</p> <p>The Applicant has not made any genuine effort to understand or address the Community’s concerns in relation to fundamental aspects of the proposal.</p> <p><i>Community and special interest groups</i></p> <p>The Consultation Outcomes Report states that the Applicant “consulted with various community groups throughout the EIS process.”</p> <p>At no stage did the Applicant speak to Save Bungendore Park Inc or any of its members, even though the Association has had a high profile and has made multiple attempts to engage with the Applicant. Further, the Consultation Outcomes Report does not set out the results of any consultation with the organisations listed; the author is aware (for example) that the Bungendore War Memorial Committee opposes the proposed development.</p> <p><i>Other</i></p> <p>It is noted that:</p> <ul style="list-style-type: none"> • Save Bungendore Park Inc. presented a petition with 350 original signatures to Parliament in October 2021, calling on the Minister for Education to reverse the damaging, last-minute decision to subdivide and develop Bungendore Park. These signatures were collected in hard copy in the local community in a short period of time since we learned that our electronic petition with hundreds more signatures was not in the correct form to be tabled; and
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		<ul style="list-style-type: none"> as noted at item 74, when the community was invited to make submissions to QPRC in relation to the proposed closure of Majara Street (as required for the proposed development), an overwhelming majority opposed the closure.
15.	Executive Summary – Project background and need (p13)	<p>The EIS states that:</p> <p><i>a public expression of interest was initiated seeking landowners and developers willing to offer land to the [Applicant] for the proposal; however no suitable site was identified through this process. Ultimately, the subject site was identified as the most suitable location for the proposed new high school in Bungendore given its central accessible location and relatively few site constraints.</i></p> <p>This is not true. According to the Applicant’s own records released pursuant to the Government Information (Public Access) Act (GI(PA) Act):</p> <ul style="list-style-type: none"> the Applicant received three responses to the EOI process. Two sites were dismissed for reasons which were flawed, and in March 2020, the Applicant recommended that a site on Tarago Road, at “Ashby Station” be selected. A further five privately owned sites were identified as potentially suitable if the selected site did not proceed; a survey of publicly-owned land undertaken at the same time concluded that Bungendore Park (the proposed site) was “not suitable” for various reasons, including “insufficient land area and student safety concerns”; two sites on Trucking Yard Lane were considered and dismissed for demonstrably incorrect reasons, such as having: <p><i>poor road infrastructure access and will require additional roads, are in areas with unknown infrastructure capacity (power, water, communications, and sewerage), and have poor pedestrian and cycling infrastructure⁸</i></p> <p>even though they are immediately adjacent to a new housing estate, with main road access to the Kings Highway, other roads to the north and south, and are very close to a cycle path which would join the site to Bungendore Public School. The same sites were also excluded because they would “would need to be re-zoned to permit a school...”, even though similar zoning issues affect the proposed development; and</p> there are significant legal, planning, safety and heritage constraints affecting the proposed site.

⁸ As per email from the Applicant to the office of David Shoebridge MLC

		It is clear that the Applicant's justification for site selection set out in the EIS cannot be supported.
16.	Executive Summary – Project background and need (p13)	<p>The EIS sets out false and irrelevant information – such as “It is further noted that a new pool (not part of this SSDA) is planned as part of the Bungendore Sports Hub, for which Council has secured funding.”</p> <p>Council has not secured funding for a new pool. This claim is false and should not form part of the EIS.</p> <p>In any event, this discussion is irrelevant and should not form part of the EIS.</p>
17.	Executive Summary – Consultation (p14)	<p>The EIS states that “pre-lodgement consultation was conducted with various stakeholders including ... the local community...”</p> <p>This is false. There has been no meaningful consultation with the local community. Letters and emails have gone unanswered, the opinion of interested stakeholders (such as Save Bungendore Park Inc.) has not been sought. This is discussed further below.</p>
18.	1.3 – Alternatives considered	<p>The Applicant fails to adequately address the SEARs requirement to set out adequately the alternatives considered. The Applicant's statements on pages 19-20 of the EIS are incomplete or demonstrably false. In relation to this:</p> <p>A – No action. Given that a large proportion of the catchment is from outlying towns and rural areas, “no action” would have minimal impact on these students, who may be required to travel some distance in any case. The EIS fails to note that alternative facilities also available in Braidwood and Goulburn (in addition to Queanbeyan and Canberra) which also serve the proposed catchment.</p> <p>B – New high school at alternative site. The EIS states that “no suitable site was identified through [the EOI] process.” As noted above, this is wrong – as demonstrated by records released by DPIE under the GI(PA) Act.</p> <p>The Applicant had in fact chosen a large, master-planned site at Ashby, in an area identified for future development. The Department of Planning (on its behalf) sent an Access and Works Licence to the landowner on 15 June 2020, allowing it to begin the detailed planning, due diligence and early works process for the school. DPIE told the landowner that “alternative locations” would only be considered “in the event that the Government is not able to proceed with your property.”</p> <p>While this was proceeding, Council approached the Applicant to propose sites (including Bungendore Park) that “were not identified during the EOI process.”</p> <p>On 15 June 2020, the very same day that the Department of Planning sent the Access Deed to start works on the Tarago Road property, the Applicant emailed the Department of Planning to say: “Hi... Just a short note to let you</p>

		<p>know we have confirmed our preferred site location for the new high school at Bungendore. The preferred site is the 'Mick Sherd Sports Oval' located adjacent to the existing Bungendore Primary School. Cheers..."</p> <p>On 26 June 2020, the Applicant again wrote to the Department of Planning, simply saying "the Bungendore project has taken a significant change in direction as discussed with [Department of Education staff]. The preferred site has swung towards the Mick Sherd oval and SINSW has and continues to engage with council and the Deputy Premier, both supporting the oval as the preferred site."</p> <p>The Applicant has never explained to the landowner of the Ashby site why the proposed acquisition for the school was abandoned. The site is degraded grazing land with no threatened ecological communities and is above the flood line. No issue has been identified which explains why it was considered unsuitable and Bungendore Park was chosen instead. No reason has been given other than the "significant change in direction".</p> <p>It is clear that a new high school at the Ashby site is an excellent alternative to the current proposal. The Applicant has already undertaken due diligence, the site offers very few challenges or complications, and the vendor remains willing.</p> <p>In addition, a site offered in East Bungendore remains available, as confirmed by the proponent's letter to the Applicant which is annexed as Annexure F.</p> <p>C – Development of new high school at the proposed site location. It is not correct to say that the site was chosen after in-depth investigations. It was in fact selected after extremely limited investigation and the proposed development was announced less than two months later. The Applicant's obvious unfamiliarity with the site and the town, its ignorance of the relevant legal overlays and planning complexities demonstrates the lack of any proper due diligence process before the site was selected.</p>
19.	Page 50 – HAZMAT survey	<p>The EIS fails to address the SEARs requirement to provide a hazardous materials survey of existing aboveground buildings that are proposed to be demolished or altered. The EIS states that "DoE does not have ownership of the site and therefore cannot vacate the buildings to perform a detailed HAZMAT survey at this stage."</p> <p>The Department of Education has entered into access early works arrangements with QPRC to permit investigations on the site. It is open to the Applicant to make arrangements with Council as owner of the relevant buildings (the Palerang Council Building, the Bungendore Community Centre and buildings associated with Bungendore Pool) which would allow it to undertake investigations. The Applicant's failure to comply with the SEARs is not justified.</p> <p>Further, compliance with this aspect is particularly important, given:</p> <ul style="list-style-type: none"> the recently identified issues relating to severe lead contamination in the adjacent Bungendore rail corridor;

		<ul style="list-style-type: none"> the possibility of asbestos contamination associated with rail use; and the age of construction of the Community Centre.
20.	Page 53 – Scout storage shed	The EIS is founded on the need for a school. Storage sheds for Scout troops are not state-significant developments. It is unclear why this forms part of the proposal. It should not form part of the approval or the SSDA.
21.	Page 53 – “low density response, in keeping with the town’s context”	The school includes 5 large 2-storey buildings, set on a compact, 29,000 sqm site. The EIS is materially misleading to state that this is a “low density” development.
22.	Page 54 – site plan	<p>The site plan is misleading. It fails to depict:</p> <ul style="list-style-type: none"> the Abbeyfield development to be situated east of the Scout hall; and the site immediately east of Building D&E is presented as open space, but according to plans prepared by the Department of Education, has been set aside for future school expansion. <p>An EIS cannot contain misleading information.</p>
23.	Page 55 – setbacks	The school buildings will be sited immediately adjacent to public roads and parklands. Their bulk will be overwhelming. It is misleading to suggest that minimal setbacks are an appropriate response to their inappropriate siting in a low-rise, historic village. In the case of buildings fronting Turallo Terrace, these setbacks are to allow parking which in turn is visually confronting on a residential street.
24.	3.4.3 – Density – forecasted growth	<p>The EIS claims that “the density of the development is driven by the requirement to cater for the predicated student numbers and forecasted growth of the town.”</p> <p>However, the EIS states that the school will have capacity for “up to” 450 students. The EIS does not demonstrate how this has been determined – or why the capacity is described as “up to”. Does this rely on specific assumptions regarding student or subject demands? Are there circumstances in which the school would not have capacity for 450 students?</p> <p>Records released by the Department of Education under the <i>Government Information (Public Access) Act</i> (extracted below) show that the school will already exceed capacity in 2026 (ie within 3 years of opening) and will be 25% over capacity by 2036.</p> <p>The EIS fails to consider how this growth will be accommodated, and its impact on the town.</p>

		<p>The EIS fails to consider the social impact of providing social infrastructure which will exceed design capacity within a maximum of 3 years of its construction.</p> <p>Table 3.3 – Adjusted demand projections and capacity</p> <table><tr><th rowspan="2">School</th><th colspan="2">Enrolments</th><th colspan="3">Projected Student Demand</th><th rowspan="2">Total Students</th></tr><tr><th>2020</th><th>2021</th><th>2026</th><th>2031</th><th>2036</th></tr><tr><td colspan="6">s74 - not relevant</td><td>s74 - not relevant</td></tr><tr><td>New High School in Bungendore</td><td>-</td><td>-</td><td>478</td><td>511</td><td>566</td><td>(566)</td></tr><tr><td colspan="6">s74 - not relevant</td><td>s74 - not relevant</td></tr></table> <p>Source: SINSW, Deloitte and Eagle Eye 30 June 2020</p>	School	Enrolments		Projected Student Demand			Total Students	2020	2021	2026	2031	2036	s74 - not relevant						s74 - not relevant	New High School in Bungendore	-	-	478	511	566	(566)	s74 - not relevant						s74 - not relevant
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s74 - not relevant						s74 - not relevant																													
25.	3.4.3 – Density – forecasted growth	<p>The Applicant has failed to support its enrolment or growth forecasts. It refused a further request under the GI(PA) Act to release the modelling and assumptions supporting the above forecasts. In discussions with community members, the Applicant’s staff seemed unaware of subdivisions at North Elmslea and East Bungendore which are currently under construction.</p> <p>Bungendore Public School currently has 500 pupils across K-6, drawn from a very localised catchment. It would be seriously flawed if the Applicant has used this as the basis for its projected student demand at the proposed high school. Children from outside the Bungendore village – but within the catchment for the proposed school – may also attend local primary schools in Sutton, Captains Flat, Tarago, Braidwood or Queanbeyan. A significant proportion of these children are likely to attend the proposed high school, greatly increasing numbers.</p>																																	

		<p>Further, the traffic assessment (Appendix 6A) notes that a further 800 homes are expected to be completed in North Elmslea and East Bungendore by 2033. This also fails to account for any development west of Tarago Road (which is also contemplated in the Bungendore Structure Plan). Australia Post data (sourced August 2021) indicates 1584 private addresses in Bungendore; just North Elmslea and East Bungendore will increase this by 50%. These subdivisions are particularly likely to appeal to families with school-age children.</p> <p>The Applicant's projected student numbers show that the proposed school will already be over capacity almost immediately upon opening, and 25% over capacity by 2036. However, given:</p> <ul style="list-style-type: none"> • the Applicant's refusal to release any information to support these assumptions; • its limited knowledge of proposed subdivisions in the area; and • its limited appreciation of the extensive rural catchment area for the school (noted in the transport assessment as a "major limitation" to the catchment data, and reflected in the suggestion at p 144 of the EIS that it should "aim for the catchment area for the new school to encompass the entire suburb of Bungendore, including growth areas on the edges of the town"), <p>it is likely that these are significant underestimates.</p>
26.	3.4.3 – site area	<p>The EIS notes that the site area is 29,205 sqm. The Department of Education's <i>Educational Facilities – Standards and Guidelines</i> specifies a minimum site area for a new high school of 40,000 sqm. The proposed site is less than three quarters of the State Government's minimum standards.</p> <p>The EIS fails to explain why this is appropriate or assess the social impact of providing substandard social infrastructure.</p>
27.	3.4.5 – Open spaces	<p>The EIS notes that the Mick Sherd Oval will not be available to pupils as a "general play space".</p> <p>Given the extremely limited site area, it appears pupils will have extremely limited opportunities for outdoor play. This will become particularly acute as the school population grows and the open space identified for future expansion (the site of the current Bungendore Community Centre and the school quadrangle) is repurposed for classrooms. The EIS fails to consider the impact of this.</p>
28.	3.4.6 – Building A	<p>The EIS states that "textured fibre cement cladding" responds to "the rusticated historic facades typical of the town".</p>

		<p>This is absurd. Historic buildings in the town are typically timber, with a limited number of brick or stone. Fibre cement cladding does not “respond” to this. This is patronising and suggests the applicants are not familiar with Bungendore.</p>
29.	3.4.6 – Building B	<p>The EIS refers to a “linear form”. This is inappropriate. Linear forms are not typical of the town and the EIS fails to explain how they are typical of the “region’s pastoral heritage.”</p> <p>This failure is made even clearer as the EIS acknowledges that the existing Council Chambers (Building C), with a peaked roof, “is a good example of contemporary architecture in keeping with the historical village character of the town.”</p> <p>It is absurd to suggest that Building B achieves this result.</p>
30.	3.4.6 – Building D+E	<p>The EIS notes that Building C contains facilities “to be shared with the community”. As yet, there are no agreed access arrangements and Councillors have not seen – let alone approved – any Heads of Agreement. There can be no assurance that any facilities will be shared with the community.</p> <p>Given the vagueness and uncertainty around this, it is inappropriate for the EIS to suggest that any weight should be given to this aspect of the proposal. No weight should be given to this aspect.</p> <p>Buildings D and E will dominate the view looking south and are inappropriate for the town.</p>
31.	3.4.6 – Building F	<p>The suggested style is not typical of local structures. It is misleading for the EIS to suggest it is. It is clear that the proponents are not familiar with the site.</p>
32.	3.5 – Landscaping	<p>The EIS states that “canopy coverage within the main school grounds” will nearly double. It does not set out the timeframe (will this take 10 years for the trees to mature? 30 years?). It is misleading to exclude the “Ag Plot” from this calculation. The Ag Plot is an integral part of the development.</p> <p>It is not clear whether “covered outdoor learning spaces” will be paved. The EIS fails to consider surface permeability and the heat island effect of large paved areas.</p> <p>The EIS notes refers to “spectators of sports games”. The very narrow run-off area between the eastern sideline of the football field and the school fencing and infrastructure means it will be almost impossible for spectators to be in this area. Further, the overshadowing report notes that this area will receive limited sunshine during the winter football season, offering the grass limited chance to recover. This will significantly reduce the availability of the space for school or public use. The EIS fails to address this.</p>

33.	Figure 3-13	<p>This map shows item 22 as “outdoor play space”. This is in fact a site identified in previous publications by the Applicant as available for future construction (which would typically be demountable classrooms – at least initially). Given that the school will exceed its initial capacity by 2026 (if not earlier – the Applicant has not released initial numbers), it is misleading for the EIS to present this as outdoor space. The DA should be considered on the basis that this site will be developed within a very short time after opening.</p>
34.	3.6 – Access and circulation	<p>The EIS refers to “an additional pedestrian access point provided on Turallo Terrace.”</p> <p>It is misleading to suggest that an access on Turallo Terrace will be secondary. Turallo Terrace is the closest point for car, bike and pedestrian traffic from Elmslea, the largest newbuild residential subdivision, which has a large concentration of families with school-age children. It is likely that <u>all</u> arrivals originating from anywhere north of Gibraltar Street (which will include Elmslea, the new North Elmslea subdivision, the proposed Ashby subdivision, Tarago and all rural areas accessing Bungendore from Tarago Road) will use this entry.</p> <p>It is misleading to suggest this is a secondary or “additional” access point. The EIS fails to address traffic and pedestrian flows at the Turallo Terrace entrance.</p>
35.	3.6 – Access and circulation – Pick-up/drop-off	<p>The EIS notes that there will be 3 spaces allocated to pick-up and drop-off (PUDO) on Turallo Terrace. As noted above, this access will see significant traffic volumes. It is likely that there will be heavy traffic using the dedicated PUDO parking, as well as using general parking for that purpose.</p> <p>The plan fails to allow adequate PUDO facilities on Turallo Terrace.</p> <p>The EIS fails to consider safety implications of vehicles reversing in and out of parking on Turallo Terrace, at peak time. This parking will be situated between the high school and the pre-school, resulting in significant traffic volumes, including very young preschool children who are at significant risk of harm with irregular traffic movements on a busy road.</p> <p>The approach to this area from Elmslea (a major population centre) is on a rising bend with limited visibility. A busy PUDO zone, with cars entering and reversing out of carparks, around large numbers of preschoolers and older children presents an unacceptable safety hazard.</p> <p>The EIS has failed to consider any impact of the proposed development on Bungendore Preschool. This is unacceptable.</p>
36.	3.7 – Car parking and servicing	<p>The EIS notes that 35 carparking spaces will be provided along Turallo Terrace.</p>

		Turallo Terrace is a busy road, and the approach from the east is on a rising bend. This limits visibility. Cars reversing out of these spaces presents a clear hazard. The EIS fails to address this.
37.	3.7 – Car parking and servicing	<p>At its July 2021 meeting, Council received a report on carparking in the area of the proposed development. This considered what would be required in connection with the proposed development.⁹ It noted:</p> <ul style="list-style-type: none"> the potential for significant parking on the northern side of Turallo Terrace with parking (in addition to parking outlined in the EIS on the southern side). This means cars would now be turning in and backing out on both sides of the street, against the greatly increased traffic flows on Turallo Terrace (up to 2,300 more cars, trucks and buses every day as we note elsewhere in this submission) caused by closing Majara Street; alternatively, the Scout Hall could be surrounded by parking on the eastern and northern sides, with access off Turallo Terrace to the east of the Scout Hall. This would mean siting the “ag plot” further towards Turallo Creek, taking up more of the Common and pushing school facilities further into an area subject to flooding and teeming with tiger snakes and mosquitos; and the entry to this new parking would be on a sharp, rising bend (adjacent to what the original school plans proposed would be the access road to the parking behind the Council Chambers (Building C). This is an accident blackspot waiting to happen. <p>This is exactly the opposite of sensible, long term planning in the best interest of the community. It's nothing but a series of second-rate compromises, all causing more problems and leaving the Applicant and Council scrambling to find third-rate solutions.</p> <p>The EIS failed to consider the recent Council report on carparking in the area or broader issues around ensuring adequate parking. This is particularly acute, given that the exiting Scout car park will be taken over for the Abbeyfield development.</p>
38.	3.7 – Car parking and servicing	Access to the staff carpark, rubbish collection, trades and deliveries, will be immediately adjacent to the main pedestrian access to the school, the main pick-up/drop-off area and across the road from the main entrance to Bungendore Public School, the main bus stop, the main access to Bungendore Railway Station, just past the Bungendore Post Office and access to the Stationmaster’s Cottage (16 Majara Street).

⁹ See https://drive.google.com/file/d/1rCyaGqoXB-PFXh2ki0Y_UqKIALVQe2bz/view?fbclid=IwAR2_mIWx0pUUCYyiBC28RrbtFfmS29j3blcMSqSLWl5qQUUMli1QQaeAIJY

		<p>There will be 42 staff vehicles, dozens of parents, buses, rubbish trucks and up to 400 children on foot and on bicycles using this space, all at the same time peak time. That's without considering parents and children accessing Bungendore Public School across the road (approx. 500 pupils) or travellers using the railway station.</p> <p>This presents an unacceptable safety risk. The EIS states that "a planter provides a safety barrier ... at the school entry." This is ludicrous. It is wholly inadequate. The entire area will be a chaotic mix of up to 1,000 children (including young primary schoolers), adult pedestrians, cars, large service vehicles such as rubbish trucks, commuters using the railway station and kids on bikes. It is extraordinarily dangerous.</p> <p>The EIS fails to consider this.</p>
39.	3.8 – Security and fencing	<p>Material published by the Department of Education claimed that the school would be unfenced, and that the oval would be unfenced. This was repeated at various feedback and "consultation" events and publications.</p> <p>The EIS now states that the site will be wholly fenced, including off school premises on the western side of Mick Sherd Oval. Fencing on Bungendore Park has been a major focus of community concerns – and now we learn from the EIS that previous assurances have been unfounded. This greatly undermines the limited consultation that has occurred.</p> <p>Fencing will further serve to alienate the community from what was once its Park and its Common, and the site of 160+ years of history and generations of family memories and celebrations. The social impact of this is profound. The EIS fails to consider this.</p> <p>2.1m fencing on Bungendore Common (the "Ag Plot") will be visually confronting and inconsistent with the heritage listing of the site. It will highlight the loss of public open space.</p> <p>The 2.1m fence line in the centre of the campus (between Buildings B, D&E) will dominate the views to the east from Bungendore Park. Again, this is visually confronting and highlights the loss of public open space. It is also contrary to the Department of Education's promises in relation to the site.</p> <p>Mick Sherd Oval is intended to remain a joint use facility, available to the community at limited times outside school hours. The Oval is an integral part of Bungendore Park (it should be noted that it was only named after the late Mick Sherd ca. 20 years ago – prior to that it was considered with Bungendore Park as a whole – simply "the Park"). Any fencing around the western side of Mick Sherd Oval will separate the oval further from the Park and its historical context. It is also contrary to the Department of Education's promises that the oval would not be fenced.</p> <p>The EIS fails to consider the impact of this fencing. The proposed fencing is also inconsistent with assurances from the Department of Education, undermining the community consultation process.</p>

		While a 2.4m fence is proposed along the railway corridor, it should be noted that the railway is very easily accessible in close proximity to the school. There have been recent incidents of self-harm on the railway lines in Bungendore, and construction of a school in this location presents an unacceptable risk of further incidents – especially given the availability of alternative sites.
40.	3.9 – Utilities	Bungendore relies on groundwater extraction for potable water. The EIS fails consider the impact and sustainability of a large, water-intensive facility on these resources.
41.	3.10 – Staging	<p>The EIS states that the Bungendore Community Centre will remain operational until Building E is completed, and that “there will be no period of time during which community centre facilities are unavailable for use.”</p> <p>This is not correct. Users of Bungendore Community Centre have been given notice to vacate by the end of 2021. The EIS is both misleading, and fails to consider the impact of this.</p>
42.	3.12 – Operational Details - General	<p>The EIS states that the school will have capacity for 450 students. As noted above, the Department of Education estimates that student numbers will reach 478 in 2026, 511 in 2031 and 566 in 2036. This means that the school will exceed its design capacity with 3 years (at the most) of opening.</p> <p>The site is already extremely constrained and any expansion will encroach further on open space.</p> <p>The EIS fails to address the impact of providing overcrowded facilities, or of further expansion across public open space.</p>
43.	3.12 – Operational Details - General	<p>The EIS notes that the school hours of operation will be Monday – Friday, 8am to 5pm.</p> <p>While it is stated that Mick Sherd Oval will be available for public use outside school hours, the school’s proposed hours of operation render use by the public in the afternoon impossible. For much of the year, the public will be completely excluded from the oval in daylight on any weekday.</p> <p>The EIS fails to consider the social impact of this. Further, the EIS is misleading in so far as it suggests the public will have any meaningful access to Mick Sherd Oval on weekdays.</p>
44.	3.12 – Operational details – Hall/gym	<p>The EIS states that “the application contemplates the use of the hall for community use ... subject to reaching a shared use agreement in future.”</p> <p>This is unacceptably vague. No shared use agreement has been reached and there can be no assurance that any agreement will be reached. No weight can be given to any such possibility, given the uncertainty.</p>

		<p>The EIS notes that events at the hall may occur as late as 10pm on weeknights and weekends. The proposed development is in a residential area, and the hall will be immediately adjacent to housing, in a quiet residential area. It is unacceptable for potentially large events to be held late at night. The EIS fails to consider the impact of this.</p>
45.	3.12 – Operational details – Community building	<p>The EIS refers to this as a “health hub” and community library.</p> <p>This will replace the existing Bungendore Community Centre and library. The Community Centre is far more than a “health hub” – it is also used for childcare, play group and social clubs. It is not clear from the EIS that this use will also be possible in the new development.</p> <p>The EIS is misleading to suggest that the current Bungendore Community Centre is only a “health hub”.</p> <p>The EIS fails to consider the social impact of the loss of Bungendore Community Centre for social, child care and play group activities.</p>
46.	3.12 – Operational details – Waste collection	<p>The EIS notes (7.15.2) that there will be 7 separate bins (4 of which will be 1100L skips). Each collection will require heavy vehicle movements through residential areas – likely to be at least weekly for each bin, in the early morning or evening.</p> <p>The bins will be located close to the Signalman’s Cottage, while garbage trucks will regularly pass residences on Gibraltar St and in close proximity to the Stationmaster’s Cottage in the early morning or evening. Rubbish disposal and collection will have a significant impact on residents. The EIS fails to consider this.</p>
47.	3.31 – Signage	<p>Large, illuminated signage is inappropriate in the historic centre of a small rural town.</p>
48.	Figure 3.17	<p>This describes “right of way easement in favour of 16 Majara Street”.</p> <p>Under Section 38A(c) of the Roads Act 1993, it is unlawful to close a road providing access to a property, unless another public road provides lawful and reasonable access to that property.</p> <p>A “right of way easement” is not a public road. A closure of Majara Street which removes a means of vehicular access to 16 Majara Street will be unlawful unless a public road offers alternative access.</p> <p>The EIS fails to address this.</p>
49.	3.14 – Joint use arrangements	<p>The EIS notes that no agreement has been reached in relation to this. There can be no assurance that any agreement will be reached.</p> <p>The consent authority must determine the application as if no agreement is reached, or delay any determination until it is satisfied with the relevant arrangements.</p>

		As it stands, the EIS is referring only to the <u>possibility</u> of such arrangements. This is irrelevant.
50.	3.15 – Off-site works	<p>The EIS notes “kiss-and-drop” areas on Gibraltar Street and Turallo Terrace. As noted above, these pose an unacceptable safety risk, given traffic, poor sight-lines (on Turallo Terrace), proximity to the preschool and primary school and heavy pedestrian flow.</p> <p>The EIS does not address this.</p>
51.	3.15 – Off-site works	<p>The EIS notes a new roundabout will be required at the intersection of Gibraltar and Butmaroo Streets. In this regard:</p> <ul style="list-style-type: none"> • Given the width of Gibraltar Street, this is likely to be very large and have significant visual impact. It is inconsistent with the historic grid pattern of Bungendore; • It is likely to impinge on the Osborne Memorial Fountain, which is heritage listed; • It will impact views to Bungendore Police Station and St Phillips Church, both of which are heritage listed. <p>The EIS fails to consider these issues.</p>
52.	3.15 – Off-site works	<p>The EIS notes that the primary school bus zone will be relocated to the southern side of Gibraltar Street. This will result in further chaos and congestion at the entrance to the High School, and presents an unacceptable danger.</p> <p>The Bungendore community was deeply affected several years ago by an incident involving a school bus and a young child in that area. The EIS fails to consider the impact of such serious safety concerns.</p>
53.	3.15 – Off-site works	<p>New shared path to the west of Mick Sherd Oval. This will result in a further loss of green space, and bisect Bungendore Park from north to south. It will separate the oval further from the Park and its historical context and compound the Community’s feeling of exclusion from the eastern two-thirds of Bungendore Park.</p> <p>The EIS fails to consider this.</p>
54.	4. Strategic context – Table 4-1 – State Infrastructure Strategy 2018-2038	<p>The EIS notes that this strategy contemplates a 25% increase in school enrolments over the next 20 years. In fact, the Department of Education forecasts set out above anticipate in excess of 25% increase at Bungendore High School by 2036 – within 13 years of opening.</p> <p>The EIS states that “the proposal is consistent with the Strategy’s relevant objecting in that it provides for important social infrastructure to support the states [sic] future population growth...”</p> <p>This is not correct. The school will have capacity for “up to” 450 pupils and will already materially exceed its capacity by 2026.</p>

		The EIS does not set out how additional capacity may be provided. It does not support population growth and is not consistent with the State Infrastructure Strategy.
55.	4. Strategic context – Table 4-1 – South East and Tablelands Regional Plan 2036	<p>The EIS notes that this plan sets out “healthy and connected communities” as a strategic goal. Construction and development over Bungendore’s main outdoor sporting and cultural area is not consistent with this goal.</p> <p>The EIS fails to address this.</p> <p>Further, the EIS also notes a significant increase in population of the LGA by 2036. However, the proposed development will significantly exceed capacity by 2026. The EIS fails to consider this against the strategic goal.</p>
56.	4. Strategic context – Table 4-1 – Queanbeyan-Palerang Local Strategic Planning Statement Towards 2040	<p>The EIS notes that the LSPS sets out a vision for Bungendore in 2040 as “a vibrant town with a historic village character that attracts visitors and residents alike.”</p> <p>The proposed development – a large, multistorey, prefabricated construction impinging on the heritage curtilage of the Bungendore Railway Precinct (listed as State-significant), Bungendore Park and the Bungendore Soldiers Memorial is inconsistent with this strategy.</p> <p>The train to Bungendore is a popular day trip for families from Canberra, Queanbeyan and as far away as Sydney. The attraction of arriving at the historic railway station, walking out into the Park and the historic surroundings of Gibraltar Street, is a large part of this.</p> <p>The proposed development will damage the “historic village character” and the attraction to both residents and visitors. The EIS fails to consider this.</p>
57.	4. Strategic context – Table 4-1 – Bungendore Structure Plan 2048	<p>As noted, the school fails to provide for anticipated population growth.</p> <p>Further, when the Department of Education hosted an “information hub” in Bungendore in May 2021, its staff were unaware of the proposed East Bungendore subdivision, which has received a gateway determination and is anticipated to accommodate up to 800 homes, with development starting in 2022. This suggests that – contrary to the EIS – there was limited investigation undertaken prior to selection of this site.</p>
58.	4. Strategic context – Table 4-1 – Better Placed: An integrated design policy for the built environment of New South Wales	<p>The EIS notes that this aims to achieve “better fit – contextual, local and of its place.”</p> <p>Siting a large, multistorey, prefabricated development on a historic Park in a small town is not “better fit”. It is absurd and patronising to suggest that the use of “textured fibre cement cladding” or corrugated roofing can achieve this.</p>

		<p>Similarly, the policy aims to achieve “inclusive, connected and divers [sic]”. A multistorey, prefabricated development with high fencing, excluding the Community from a Park to which it has had unrestricted access for 140+ years, alienates the community and severs the community’s relationship with this important social infrastructure.</p> <p>The proposed development is not consistent with this policy.</p>
59.	4. Strategic context – Table 4-1 – Draft Greener Places Design Guide	<p>The EIS claims that it “successfully integrates building form and green open space ... and incorporates the needs of various stakeholders including ... community.”</p> <p>This is wrong. The development will result in a dramatic reduction in green open space in the town centre. As noted elsewhere, both the planning process and the design serve to alienate and exclude the community.</p> <p>The proposed development is not consistent with this policy.</p>
60.	4. Strategic context – failure to consider the State Strategic Plan for Crown Land	<p>The SEARs required the EIS to address “relevant ... strategic planning objectives”.</p> <p>Bungendore Park and Bungendore Common are dedicated and reserved Crown Land. They should be managed in accordance with the State Strategic Plan for Crown Land, <i>Crown Land 2031</i> (June 2021). The EIS does not refer to this Strategic Plan.</p> <p>It appears that the Applicant is unaware of the existence of the State Strategic Plan for Crown Land.</p> <p>A proposal to compulsorily acquire reserved and dedicated Crown Land for development is not consistent with the objects of the Strategic Plan, which include:</p> <ul style="list-style-type: none"> • offering community users a stable base from which to grow and thrive; • encouragement of public use and enjoyment; • conservation of natural resources; and • cultural heritage and Aboriginal cultural heritage protection. <p>Compulsory acquisition and development of Crown Land, and its alienation from the Community which has used and loved it, developing a close cultural connection for over 140 years, is inconsistent with the Strategic Plan.</p> <p>The EIS fails to consider (and is inconsistent with) the State Strategic Plan for Crown Land.</p>
61.	5. Statutory context – permitted use under the Crown	<p>Parts of the site comprise Crown land which is dedicated (in the case of Bungendore Park) or reserved (in the case of Bungendore Common) for public recreation.</p>

	Land Management Act	<p>Pursuant to Section 2.12 of the Crown Land Management Act 2014 (CLMA), such land may only be used for the purposes for which it is dedicated or reserved, or for an incidental or ancillary purpose. The proposed use of the land is not permitted under the purpose for which it was dedicated (or reserved) and use as an educational facility is neither ancillary nor incidental to this. Therefore the proposed development would contravene Section 2.12 of the CLMA.</p> <p>Further, the CLMA is not an “environmental planning instrument”, meaning that Section 4.38(3) of the EP&A Act cannot be used to permit development consent.</p> <p>The EIS fails to consider this matter.</p>
62.	5.1 – Planning approval pathway – inclusion of non-State Significant Development	<p>The proposed development includes (i) a storage shed for the local scout troop, and (ii) council facilities. These are not educational facilities and should not be the subject of an SSDA. They are neither ancillary nor incidental to the proposed school (see also the discussion at item 96).</p> <p>These should be determined in accordance with the usual Council planning process. It is inappropriate to apply the same criteria and process to non-state-significant developments such as scout sheds and council facilities, as to the school.</p>
63.	5.1 – Planning approval pathway	<p>Notwithstanding the above, if the consent authority considers it appropriate to consider non-State Significant elements of the application, this application must also be determined on the assumption that (i) the Abbeyfield development will proceed on the Majara Road reserve – which was a condition of Council’s support for the proposal, and (ii) the various parking solutions identified in the Council report cited above proceed.</p> <p>It is inappropriate to determine this application without considering those matters. The EIS does not address those issues.</p>
64.	5.2 – Permissibility of the proposed development	<p>The Applicant notes that construction of an educational facility is prohibited on land zoned RE1 (such as Bungendore Park and Bungendore Common). The appears to suggest that because the RE1-zone land comprises only part of the development site, the development is only “partially [sic] prohibited” and consent may be granted pursuant to Section 4.38(3) of the EP&A Act.</p> <p>The Applicant has both misquoted and misunderstood the correct application of Section 4.38(3), which applies to a “partly prohibited” development. This is intended to permit consent to be granted – notwithstanding an environmental instrument – where components of the proposal are prohibited. It is not intended to apply where the entire development is prohibited under an environmental planning instrument but (as the Applicant appears to suggest), the development comprises multiple parcels land subject to different planning restrictions.</p>

		<p>The Land and Environment Court considered this in <i>Raphael Shin Enterprises Pty Ltd v Minister for Planning</i> [2018] NSWLEC 42, suggesting (at [59]) that where components of a Proposal which are fundamental to that proposal are prohibited, this an arguable basis for the whole Proposal being prohibited.</p> <p>Even if the Applicant's interpretation is correct, the vast majority of construction associated with the proposed development will occur on RE1-zoned land. It is misleading suggest that this is only "part" of the site.</p> <p>If the Applicant is proposing to use the site for a purpose which is prohibited under the existing zoning, it should apply for re-zoning in accordance with the established statutory process. Section 4.38(3) of the EP&A Act is not applicable in this case, and in any event should not be used to bypass the established statutory process.</p>
65.	5.3 – Site acquisition and community land classification	<p>The EIS notes that the Minister for Education "is in the process of acquiring the relevant land by agreement", but failing this may acquire the relevant sites under the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> (the Just Terms Act).</p> <p>The relevant sites are a mix of Crown Land and Council-owned land. The legislative and policy framework relating to both Crown and Council land sets out specific processes (including community consultation requirements and public interest tests) which must be followed before sale or development of such land may occur. There is no suggestion in the EIS or in any public statement for the Department of Education that it has made any attempt to demonstrate that the sale and development of the relevant sites is consistent with these requirements.</p> <p>While the Department of Education may have the power to acquire land under the Just Terms Act, it undermines the statutory framework applicable to this land if the Just Terms Act is used simply to bypass the requirements which would otherwise apply to sale or development.</p> <p>The Member for Monaro, Mr Barilaro, stated on ABC TV News Canberra on 22 June 2021, in response to community opposition to this plan, that "<i>I'm not holding back. I'll take whatever action I need ... including compulsory acquisition...</i>". He suggested it would be "<i>on their conscience</i>" if community opposition delayed this proposal.</p> <p>It is unacceptable to use the Just Terms Act to acquire Crown Land merely to circumvent the statutory decision-making process which would otherwise apply to the sale or development of such land.</p> <p>Mr Barilaro's TV appearance makes clear that this is the intention. The Just Terms Act is intended to address a situation in which an obstinate landowner is not prepared to entertain a reasonable offer to achieve a broader public purpose; it is not intended to permit one statutory authority to override the legislated decision-making process of another.</p>

		It causes an enormous social impact, including loss of faith in the planning process and government institutions, if the Just Terms Act is used to circumvent usual statutory requirements relating to Crown Land and Council land. The EIS fails to consider this.
66.	5.3 – Site acquisition and community land classification	<p>The EIS states that “Mick Sherd Oval” (presumably intending to refer to Bungendore Park) is “effectively classified as “community land””.</p> <p>This is incorrect. “Community land” is a designation applied to certain land owned by local governments. Councils have the power – under limited circumstances and after following a consultation process – to designate such land as “operational” and potentially available for sale.</p> <p>In this case:</p> <ul style="list-style-type: none"> • Bungendore Park is Crown Land and was “dedicated” for public recreation, in its current form, in 1884; and • Bungendore Common is even older. It was gazetted as a Common in the mid-19th century and in 1980 reverted to Crown Land, “reserved” for public recreation. <p>In each case, title is vested in the Crown and no dealings are permitted without the consent of the Minister for Crown Lands. There are specific requirements which must be followed before the Minister gives consent.</p> <p>The proposed development is not consistent with this; the development would require either (i) a removal of the dedication/reservation, or (ii) an additional purpose, such as “public education”.</p> <p>It appears that the Applicant has not sought proper advice on law relating to dedicated or reserved Crown Land.</p> <p>The CLMA sets out specific requirements which must be followed in order to remove or vary the dedication and reservation. Even if the school site (excluding Mick Sherd Oval) is acquired free of the dedication, providing sole use of the Oval during school hours is not consistent with the dedication for public recreation and thus not permitted under the CLMA. The EIS fails to address this.</p> <p>Finally - even if the land were “community land” managed by Council, Council has failed to undertake the required statutory process to permit its reclassification and sale.</p>
67.	5.3 – Site acquisition and community land classification	<p>Notwithstanding this, it would set an unacceptable precedent even if the applicant satisfies the statutory requirements to remove or vary the dedication and reservation to permit the proposed development.</p> <p>The CLMA is the direct successor to early Colonial legislation enacted by Governor Darling, to protect Crown Land from improper sale or exploitation by local officials. The use of the Just Terms Act to circumvent the requirements of</p>

		<p>the CLMA in order to permit development on a public park would be unprecedented in New South Wales. This would dramatically weaken public confidence in the legislative framework protecting Crown Land.</p> <p>The EIS does not address the impact of this.</p>
68.	5.3 – Site acquisition and community land classification	<p>The EIS refers to “vesting of the Oval ... in the Minister for Education”.</p> <p>All materials published by the Department of Education suggest that only the eastern and northern parts of Bungendore Park will be acquired by the Minister, and that the Oval would only be used pursuant to access arrangements to be agreed with Council.</p> <p>If the Oval itself is vested in the Minister, there can be no assurance that it will remain available for public use under any circumstances. Given that no agreement has been reached with Council, the application must be assessed on the basis that the public will be excluded entirely from the oval.</p> <p>Further, this is inconsistent with the public consultation. It is likely the public response would have been dramatically different if community ownership of the Oval were lost entirely. The EIS fails to consider the implications or the public response to this.</p>
69.	5.4 – Environmental Planning and Assessment Act 1979 – table 5-1 - Subheading (a) – promotion of social and economic welfare	<p>The EIS notes that “the proposal provides important social infrastructure to the Bungendore area...”</p> <p>The EIS fails to consider adequately that the proposal will destroy important social infrastructure and amenity. It relies on vague and non-binding proposals to replace infrastructure such as the pool and community facilities. There can be no assurance that this will in fact occur. Further, it is clear that the school will exceed its design capacity within 3 years of opening; it is highly likely that there will be significant pressure applied to surrender community facilities (such as the library, community “health hub” and Council “kiosk”) to allow for school expansion. The EIS does not address this.</p> <p>Further, the Applicant refers to a community “health hub” forming part of the development (see eg Appendix 4, page 9, 55). It states that this will “relocate facilities from the existing Bungendore Community Centre.” Bungendore Community Centre is much more than a “health hub” – it also offers space for community groups such as a playgroup, bridge club and childcare. The demolition of the Community Centre will remove these facilities; the proposed development refers only to provision of a “health hub” - it appears that this will not replace the facilities currently available at the Bungendore Community Centre.</p> <p>It is misleading for the EIS to suggest that the proposed development will replace existing community facilities.</p>

70.	5.4 – Environmental Planning and Assessment Act 1979 – table 5-1 - Subheading (c) – promotion of orderly and economic use and development of land	<p>The EIS states that the school will be placed on “relatively unconstrained land to cater for the future population increase”.</p> <p>This is absurd. It is also inconsistent with other sections of the EIS, such as 7.2.3 – which refers to “the limited size of the site” necessitating the removal of trees.</p> <p>Bungendore Park is extremely heavily used by the Community and various sporting clubs, for organised and informal activities. It is essential open space. The Bungendore Structure Plan 2016 (adopted in February 2020) identified the need for additional recreation areas “to relieve existing pressures” on Bungendore Park. The new Bungendore Sports Hub referred to in the EIS was described in the Plan as an alternative venue for organised sport, but the Plan states that it is not intended to replace the Park as the town’s primary sporting and recreation area.</p> <p>The proposed school site is 11,000 sqm smaller than the minimum requirement of 4ha for a new high school, which is set out in the NSW Government’s “<i>Educational Facilities Standards and Guidelines - DG03 - Site Selection</i>”. This 4ha minimum is itself a recent reduction from previous standards.</p> <p>The proposal has capacity for up to 450 students. The State Government estimates 478 students by 2026 (within 3 years of opening). The site is incredibly constrained.</p> <p>The EIS is grossly misleading. The proposal is inconsistent with this objective.</p>
71.	5.4 – Environmental Planning and Assessment Act 1979 – table 5-1 - Subheading (f) – promotion of sustainable management of built and cultural heritage	<p>The built and cultural heritage has not been appropriately considered, as to which we refer in particular to item 138 and onwards below discussing heritage concerns.</p> <p>The proposal is inconsistent with this objective.</p>
72.	5.4 – Environmental Planning and Assessment Act 1979 – table 5-1 - Subheading (i) –	<p>This proposal has completely railroaded the local Council. We have tried to engage with QPRC in relation to this proposal. The response from Council suggests that it is powerless to exercise any responsibility (contrary to the objects of the Act). We note the response from Cr Schweikert to concerns raised early in the process (dated 11 February 2021):</p>

	sharing of responsibility between different levels of government	<p><i>...Council is essentially a subordinate subsidiary of the NSW Govt. For example, for us to reclassify the road we need the relevant NSW Minister's approval. Likewise with the oval.</i></p> <p><i>Council's [sic] are governed by the state government. It funds us and can dismiss us without warning. All our rules, laws etc are actually approved by the NSW Govt and thus state laws. As one former GM of Palerang Council used to tell us 'Council is a rule taker, not a rule maker'.</i></p> <p><i>The War Memorial is not in scope and thus won't be affected by the changes so we are unable use that as justification for disagreement. As I mentioned previously, the park is already NSW Govt property in the form of crown land, as is the land the council chambers is on. We have negotiated compensation for its loss, not sold it.</i></p> <p><i>As mentioned I would prefer this be built somewhere else and have tried highlighting other alternative sites, but at the end of the day our role is to get the best for the community out of a bad situation we have no control over. Dare I say, it could be worse.</i></p> <p><i>Sorry I can't be more helpful.</i></p> <p>It is clear that Councillors felt excluded and disempowered from the decision-making process.</p> <p>Further, an internal email dated 26 June 2020 and released by the Department of Education under the GI(PA) Act noted that the Council was “supporting the oval as the preferred site”.</p> <p>However, when asked on notice when Councillors gave this support, Council stated that “This matter was reported to Council in closed session on 8 July 2020.” It is clear that “consultation” was undertaken without the knowledge of Councillors. Bypassing elected local Councillors is not consistent with the objects of the EP&A Act. It is misleading for the EIS to state that the proposal is consistent with this objective.</p>
73.	5.4 – Environmental Planning and Assessment Act 1979 – table 5-1 - Subheading (j) – community participation	<p>The community consultation process has been an absolute farce and completely discredited, as noted below.</p> <p>This section of the EIS is grossly misleading. This aspect of the proposal is not consistent with the objectives of the EP&A Act.</p>

74.	5.7 – Roads Act	<p>The proposal requires the closure of Majara Street. However, such closure would breach Section 38A of the Roads Act.</p> <p>Council resolved on 28 April 2021 to close Majara Street, both the built section between Turallo Terrace and Gibraltar Street, and the unbuilt road reservation north of Turallo Terrace. In doing so, it ignored overwhelming community opposition and refused to consider a proposal to defer the vote until a proper traffic study had been completed.¹⁰ Council received 160 community submissions in relation to the proposed closure; 88 strongly opposed closing Majara Street, for a variety of reasons - many setting out detailed responses, explaining their concerns.</p> <p>Some were neutral, but only 68 submissions supported closing the road – the vast majority being one-liners to the effect that any high school was worth it, at any price to the community.</p> <p>To close a road, Council must satisfy the requirements of s38A of the <i>Roads Act 1993</i>. This provides that a closure is only permitted if:</p> <ul style="list-style-type: none"> • the road isn't actually required, now or in the future; • the road doesn't provide continuity to an existing road network; and • closing it doesn't cut off access to any piece of land. <p>In relation to this:</p> <ul style="list-style-type: none"> • Council failed to notify the owners of adjoining land (Lots 8, 9 and 10 (DP 758183)), the trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn (the Trustees), at their correct postal address; • Closure of the road reservation will cut off access to Lot 10/758183, owned by the Trustees. There is no public road which provides an alternative access to this site. Consequently, closure in accordance with the Council resolution would be illegal. Council has stated in response to Questions on Notice that "separate discussions have commenced with [the owner of the preschool site] seeking to consolidate their lots 8-10 to enable legal access for all to Turallo Tce, or to enable access to the rear of Abbeyfield and the pre-school through the Scout carpark." The Trustees have advised that they have had no such discussions; • Closure of the road will cut of access to 4-6, 8 and 10 Majara Street. While these sites may be consolidated into the school site, it would be illegal to close Majara Street prior to any such consolidation occurring; and
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¹⁰ See the Council Minutes dated 28 April. The contrary motion from Cr Marshall – "that Council defer this item until a full traffic study of the proposed closure of Majara Street is undertaken" – was not passed. We discuss the results QPRC's community consultation process below.

		<ul style="list-style-type: none"> In response to a question on notice, Council advised that “traffic modelling and assessment will be undertaken by Schools Infrastructure when the development application for the school is submitted.” It confirmed that it had not undertaken any assessment of traffic use on Majara Street. The answers are recorded in Council’s Minutes.¹¹ <p>It is absurd to suggest that Majara Street does not provide continuity to an existing road network. It is an integral part of the town grid, connecting the significant population at Elmslea with the Kings Highway to Braidwood, Queanbeyan and Canberra.</p> <p>Neither Council, nor the Applicant, has satisfied the legal requirements to close Majara Street. Any closure would be illegal.</p> <p>The EIS fails to address this, simply noting “Council is continuing to progress the road closure”. As it stands, the 28 April resolution was passed notwithstanding overwhelming community opposition. It is invalid and there can be no assurance that Council will be able to satisfy the requirements of Section 38A of the Roads Act in relation to any future resolution.</p>
75.	5.8 – State Environmental Planning Policies – Table 5-2 – State Environmental Planning Policy (Infrastructure) 2007	<p>The level crossing assessment is extrapolated from a survey undertaken over a total of three hours (across the morning and the mid-afternoon) on a single day in November 2020, at nearby intersections. It is not probative.</p> <p>Further, it was undertaken while traffic volumes state-wide were significantly impact by Covid, and fails to consider traffic from the East Bungendore subdivision of 800 homes which is expected to be completed within 10 years.</p> <p>It cannot be accepted as an appropriate basis for assessment against this policy. A referral to the rail authority is essential.</p>
76.	5.8 – State Environmental Planning Policies – Table 5-2 – State Environmental Planning Policy (Educational Establishments and	<p>The EIS notes that the development is prohibited on RE1-zoned land, which is a large part of the site. The EIS fails to set out adequate justification to override these restrictions.</p> <p>The proposal fails to comply with the Department of Education’s <i>Educational Facilities – Standards and Guidelines</i> specifies a minimum site area for a new high school of 40,000 sqm. The proposed site is less than three quarters of the State Government’s minimum standards. The EIS fails to address this.</p> <p>The EIS notes that the development significantly exceeds height restrictions applicable under the Palerang Local Environmental Plan. The EIS fails to set out any justification to override these restrictions, as discussed in more detail below.</p>

¹¹ The Questions on Notice, together with our observations, are set out here: <https://tinyurl.com/qprctrtraffic>

	Child Care Facilities) 2017	The proposal will have a significant negative impact on Bungendore Preschool and Bungendore Public School. The EIS fails to consider this.
77.	5.8 – State Environmental Planning Policies – Table 5-2 – Draft State Environmental Planning Policy (Environment)	Bungendore Park and Bungendore Common are both reserved as public open space, with areas of extant and regenerating bushland. Under SEPP No. 19 (Bushland in Urban Areas), the consent authority must not consent to carrying out development which disturbs such land, unless it considers certain relevant matters. The EIS fails to address these issues.
78.	5.9 – Palerang Local Environmental Plan 2014 – 4.3 – Height of buildings	The proposal significantly exceeds the maximum height permitted under the PLEP. This is out of character with Bungendore as a small, rural, low-rise town. The EIS fails to justify or explain why this is acceptable. Although clause 42 of the Education SEPP permits consent to be granted notwithstanding this contravention, the applicant has failed to demonstrate why this is justified. It is not sufficient simply to state that the eaves are below the maximum permitted height.
79.	5.9 – Palerang Local Environmental Plan 2014 – 5.1 – Relevant acquisition authority	The relevance of this section is not clear. However, it should be noted that no dealing with Bungendore Park is permitted without the consent of the Minister for Crown Lands.
80.	Environmental Plan 2014 – 5.1 – Flood planning	The EIS has failed to consider the impact of regular flooding over the low-level crossing of Turallo Creek, which is frequently closed for periods of up to a week. This typically happens for up to three weeks per annum. This will significantly disrupt access to the school, with consequences for other areas of town and alternative routes. Further, the map on p87 of the EIS is grossly misleading and dramatically understates the area of the proposed development which is subject to flood risk. See item 139 below for a comparison of the area identified in the flood map, with the actual area included in the proposed development. The photograph in item 9, taken recently from the “ag plot” after one day of heavy rain, demonstrates that the flood assessment is flawed.

81.	Environmental Plan 2014 – 5.10 – Heritage conservation	The heritage assessment is demonstrably inadequate. This is discussed later.
82.	Environmental Plan 2014 – 6.3 – Terrestrial biodiversity	<p>Bungendore is referred to anecdotally as “the tiger snake capital of Australia”. The Bungendore vet surgery dispenses more tiger snake antivenin than any other vet in Australia. Tiger snakes (and other snakes) are particularly prevalent in the area around Bungendore Common identified for the “ag plot”. The EIS fails to consider the suitability of building educational facilities where young people will encounter such a high concentration of highly venomous snakes.</p> <p>Further, additional construction, sheds and outdoor infrastructure for the “ag plot” on Bungendore Common will provide shelter and habitat to further encourage the snake population, making the remaining area less attractive for recreation and as an off-leash dog area.</p>
83.	Environmental Plan 2014 – 6.5 – Riparian lands and watercourses	<p>The EIS has failed to note the natural drainage route following Majara Street north, including the Majara Street road reservation north of Turallo Terrace. This drains a large area into Turallo Creek and will be significantly disrupted and subject to additional pollution as a result of the proposal.</p> <p>The EIS fails to consider the impact on the Lake George catchment, as set out in the SEARs.</p> <p>This must be addressed before development consent may be granted.</p>
84.	5.9.1 – RE1 zone objectives	<p>It is unprecedented in NSW for RE1-zoned, dedicated Crown Land, to be acquired for development and construction for an unrelated purpose.</p> <p>Under the PLEP 2014, RE1-zoned land (such as Bungendore Park and Bungendore Common) is intended for “public open space or recreational purposes.”</p> <p>The proposal envisages construction of educational and council facilities on this land, to the complete or almost complete exclusion of the public. Although the EIS identifies other parkland, the objectives of the RE1 zone are absolute. They are not expressed as “subject to the availability of alternative facilities.” Development which is inconsistent with these objectives, on the relevant site, should not be permitted.</p> <p>The EIS sets out several suggested mitigants, but it does not “have regard to the objectives for development [in an RE1 zone] when determination a development application <u>in respect of land within that zone</u>” (our emphasis).</p>

		<p>Describing recreational facilities available in other areas does not address the requirements of Clause 2.3(2) of PLEP 2014. To do so is to suggest that the zone <u>of the subject land</u> may be disregarded.</p> <p>In any event – even if this interpretation is accepted (which it should not be), the alternative sites identified do not compensate for the loss of Bungendore Park and Bungendore Common.</p> <p><i>Warren Little Oval and surrounding parkland</i></p> <p>With regard to Warren Little Oval and park identified on Page 89 of the EIS, north of Turallo Creek, this:</p> <ul style="list-style-type: none"> • is much less accessible to residents in the centre and south of Bungendore; • is less safe, even and suitable for older residents or those with a disability or reduced mobility – as a local resident commented: <i>“What a shame. I always enjoy walking my dog around the oval it’s safe and flat ground for a pensioner. Now where do I go?”</i> • has an extremely high concentration of tiger snakes which deters many users (a failure to acknowledge this suggests that the applicant has limited understanding of local conditions and has not engaged with the local community); • is often used for cricket and soccer, excluding the general public; and • is particularly susceptible to flooding, mosquitos and often unattractive and unsuitable for recreation. The oval is completely unusable after rain (picture below on 30 September 2021 after moderate rain):- <div data-bbox="629 932 1955 1310">  </div>
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Bungendore Structure Plan and Bungendore Sports Hub

Further, the EIS fails to consider the Bungendore Structure Plan, which was adopted in February 2020 – prior to the selection of Bungendore Park for this development. The Plan noted the already significant pressure on public parkland in the centre of Bungendore and the need for additional recreation space – even before this proposed development was announced:

There are currently insufficient sporting and recreation facilities for Bungendore and surrounding areas. The lack of facilities is limiting recreational opportunities for residents and clubs they represent. The Plan detailed that at present Bungendore is serviced by Mick Sherd Oval and Warren Little Oval. While these two fields served the community well for many years, over use is becoming a significant issue. The central location, and desire for community events on Mick Sherd Oval, further exacerbates this over use. Projected population growth in Bungendore will require a minimum of five (5) sports fields, based on standard levels of provision, with potential for future growth beyond current planning proposals.¹²

The EIS notes that sporting facilities to be constructed at the proposed Bungendore Sports Hub. This “Sports Hub” has been planned since well before 2016, and the Bungendore Structure Plan described the Hub as an alternative venue for organised sport, but stated that it would not replace the Park as the town’s primary sporting and recreation area. The Hub was merely “to relieve existing pressures and cater for Bungendore’s future growth”.

¹² *Bungendore Structure Plan 2048*, p. 10. Available at <https://www.gprc.nsw.gov.au/files/assets/public/resources-amp-documents/plans-and-strategies/bungendore-structure-plan-2048-final-web.pdf>

		<p>The Proposal will result in the total loss of a significant part of Bungendore Park and Bungendore Common. No terms have yet been agreed which would permit community use of Mick Sherd Oval – and even if such terms are agreed, there will still be a dramatic reduction in public access. The EIS fails to address this.</p> <p>Further, while the Hub will provide facilities for organised sport, it is not intended to offer informal, public open space and is much less convenient to large parts of the town (including large new subdivisions planned to the north). It does not compensate for losing a large part of Bungendore Park, which the Structure Plan notes is centrally located and preferred for community events.</p> <p>Given that the shortage of recreation space in Bungendore was recognised years ago – even taking into account the unrestricted availability of Bungendore Park – the EIS cannot reasonably conclude that the loss of the Park can be accommodated in space already considered insufficient. The proposal will significantly worsen the lack of outdoor recreation spaces noted in the Structure Plan.</p>
85.	5.9.1 – RE1 zone objectives	<p>The discussion in 5.9.1 of the EIS does not refer at all to Bungendore Common. This includes the off-leash dog park, the cultural and social significance of which is discussed at the link below.¹³</p> <p>The EIS has failed to discuss the RE1 zoning of Bungendore Common and is incomplete.</p> <p>Bungendore Common has been open to the public even longer than Bungendore Park. It is heavily used, and is particularly popular as an off-leash dog park. It will be substantially taken over by the “ag plot”, surrounded by a 2.1m fence and further construction. This is not addressed in the EIS.</p> <p>The EIS twice refers to the “ag plot” as taking a “small portion” (p137) or “very small portion” (p139) of Bungendore Common. This is false. The “ag plot” will occupy a very large part of the largest open section of the Common. The description in the EIS of the proposal’s impact on Bungendore Common is misleading.</p>
86.	5.9.1 – RE1 zone objectives - <i>Objective: To enable land to be used for public open space or</i>	<p>Construction of school buildings, fenced and locked sporting facilities, and the exclusion of the public from Mick Sherd Oval during most daylight hours is not consistent with enabling land to be used for public open space or recreational purposes. To suggest otherwise is absurd.</p> <p>The EIS notes that “regular users of Mick Sherd Oval include local sporting teams” and that “access to these organisations [sic] will be maintained for weekend and after school use.” It states that “SINSW has consulted with these groups...” (p89).</p>

¹³ See <https://savebungendorepark.org/blog/dog-tails> Attached as Annexure E

	<p><i>recreational purposes</i></p> <p>Access to Bungendore Park, including Mick Sherd Oval</p>	<p>In response to a request under the GIPA Act for records of such consultations, the Department of Education advised that no records existed. Either the supposed consultation never occurred, or the views of those stakeholders were not recorded. It is grossly disingenuous for the applicant to imply that such organisations were supportive.</p> <p>It is not clear what the “changes to accommodate their needs” were. The Oval was already floodlit and has been for many years – it is misleading for the EIS to state that “installing flood lights” was in response to this.</p> <p>It is unsatisfactory to state merely that “access to these organisations will be maintained for weekend and after school use.” The EIS notes that school operating hours will extend to 5pm, meaning that “after school” will be in darkness for much of the year.</p> <p>The remnant Mick Sherd Oval will be dramatically diminished. School buildings and fencing will be hard against the sidelines, giving limited run-off space and no room for spectators. Match days (for the Bungendore Tigers Rugby League or the Bungendore Mudhooks Rugby Union clubs) involve large crowds of spectators, with tiered seating set back from the sidelines. The Applicant would have access to many press photographs demonstrating this. The proximity of fencing, school buildings and the new path will limit this.</p> <p>Currently, the community – including organised and informal groups – has unlimited access to the oval at any time, subject only to prior bookings. The proposal will result in a dramatic reduction in access and is inconsistent with the object of enabling “land to be used for public open space or recreational purposes.”</p>
87.	<p>5.9.1 – RE1 zone objectives - <i>Objective: To enable land to be used for public open space or recreational purposes</i></p> <p>Access to Bungendore Swimming Pool</p>	<p>The EIS notes that Bungendore Swimming Pool will be demolished and a replacement is proposed to be built as part of the Bungendore Sports Hub.</p> <p>It states that “Council has secured funding for the hub and, as of June 2021, is finalising the Request for Quotation for the design of the new pool.” This falsely suggests that Council has secured funding for a new pool – it has not. While it has been suggested that the Applicant will make a contribution to the cost of a new pool, this has not been agreed and the replacement pool is unfunded.</p> <p>Given that:</p> <ul style="list-style-type: none"> • no financing has been confirmed for a replacement pool; • no detailed design has been prepared in relation to any replacement swimming pool; • no development consent has been obtained (and any development application process may be delayed by the need to address the immediate proximity of Bungendore Sewage Treatment Plant on the same floodplain); and


	<ul style="list-style-type: none"> • Council is suffering a significant operating deficit and the anticipated cost – in excess of \$5m – is likely to exceed its capacity, <p>there can be no assurance that a replacement swimming pool will be constructed in the medium term, or at all. The EIS fails to address this uncertainty.</p> <p>The EIS states that “the new pool is expected to be operational by the 2022-2023 summer season...” This is pure speculation and given Council’s financial position, optimistic at best. Such speculation cannot form the basis for a development application. Further, the EIS notes that “the new pool is not proposed under this application.” This application must be determined on the basis of the facts available.</p> <p>Even if a replacement pool is constructed, this will be significantly less accessible for residents from Elmslea – a particular concentration of families and children who are likely to use the pool – and would require pedestrians to cross the Kings Highway. It is proposed to be sited on a flood plain in close proximity to the Bungendore Sewage Plant. It is rumoured that a pool will not be possible at this site due to health concerns.</p> <p>The nearest swimming pools are in Braidwood or Queanbeyan. In its initial promotional materials, the Department of Education had proposed arranging transport to these facilities over the summer season to compensate for the loss of the pool, however this has not been explored further and does not form part of this application.</p> <p>Further, Bungendore Pool has significant local cultural significance. It was funded and constructed by the local community, following a long community effort. The cultural significance is linked below.¹⁴</p> <p>The loss of the pool will have a significant impact on the town, and on the opportunities for local children to acquire essential swimming skills.</p> <p>The Applicant has dismissed the Pool as outdated and requiring maintenance, although Council has collected development contributions to fund required upgrades and maintenance over the long term, and there are no questions as to its viability.</p> <p>The Applicant has proposed using bricks from the existing facility for a “memorial wall” at the new pool, to acknowledge the community’s contribution to the pool. However, this is not part of the current development application and it is not within the Applicant’s control, so it must be assumed that this will not occur.</p>
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¹⁴ See <https://savebungendorepark.org/blog/the-bungendore-public-swimming-pool> – attached as Annexure C

		<p>The EIS fails to address the social and cultural impact of losing a public facility which has particular local significance – especially given that there can be no assurance that a replacement will be constructed. The EIS fails to give sufficient weight to the discussion of this in the Social Impact Statement.</p>
88.	<p>5.9.1 – RE1 zone objectives – <i>Objective: To enable land to be used for public open space or recreational purposes</i></p>	<p>The proposed development is wholly incompatible with this objective. It will involve construction over large areas of RE1-zoned land, and fencing and exclusion of the public from even larger areas. This land will not be able to be used for public open space or recreational purposes.</p> <p>The EIS states that “Overall, it is considered that the physical and operational changes to Mick Sherd Oval and the demolition of Bungendore Pool will have no unacceptable adverse impact on the community’s access to public open space...”</p> <p>This is not supported by the evidence. As noted above, there can be no assurance that the pool will be replaced; any replacement will be less accessible and will be subject to health concerns.</p> <p>The EIS continues to confuse “Mick Sherd Oval” – a part of Bungendore Park – with the Park itself. The Park is used extensively for informal recreation, family gatherings and celebrations. The availability of alternative venues for organised sport will not compensate for the loss of a large part of the Park.</p> <p>Further, the possibility of “joint use arrangements” – if these are indeed agreed – is inadequate. The Park will be reduced, and the school will have exclusive access to most of the Park during almost all daylight hours. This is inconsistent with the objectives of RE1 zoning.</p> <p>Bungendore Park has been central to the town’s social, cultural and sporting life for over 140 years. The loss of this will cause immense trauma to the town. The EIS fails to consider this.</p>
89.	<p>5.9.1 – RE1 zone objectives – <i>Objective: To enable land to be used for public open space or recreational purposes</i></p>	<p>The EIS states that “Students at Bungendore Public School are also unlikely to be impacted, with the school’s intermittent use of Mick Sherd Oval expected to be maintained under the proposed joint use arrangement.” This is misleading. The EIS fails to consider:</p> <ul style="list-style-type: none"> • joint use arrangements have not been agreed and it is possible that they will not be agreed and/or will heavily restrict existing access by primary school students to the Park; • school buildings will in any event reduce the amount of open space and the Park facilities available to students at Bungendore Public School; and

		<ul style="list-style-type: none"> access to Mick Sherd Oval is likely to be significantly or completely restricted for 1-2 years during construction. This will have a significant impact on Bungendore Public School, particularly if any remediation works are required in relation to lead contamination. <p>Further, the EIS states that “DoE will also be constructing a new playing field on the primary school site as part of a separate proposal to help improve recreation access for primary students.” This is not confirmed and there can be no assurance that it will occur. Further, following the identification of serious concerns relating to lead contamination across the proposed construction area and possibly Bungendore Public School, it is impossible to speculate what arrangements may be implemented to ensure primary students maintain safe access to outdoor spaces.</p>
90.	5.9.1 – RE1 zone objectives – <i>Objective: To provide a range of recreational settings and activities and compatible land uses</i>	<p>Land used as a multistorey school, behind a 2.1m chain-link fence, is clearly incompatible with public recreation. Locking the public out of a public park, for most daylight hours, most days, is clearly incompatible with public recreation.</p> <p>The conclusion stated in the EIS cannot rationally be sustained. It is absurd.</p>
91.	5.9.1 – RE1 zone objectives – <i>Objective: To protect and enhance the natural environment for recreational purposes</i>	<p>The proposal will involve the removal of 76 trees. This is effectively irreversible - it will be decades before tree coverage is restored. The conclusion in the EIS is irrational.</p> <p>The proposal will involve significant construction across RE1-zoned areas, to the exclusion of the general public. This is inconsistent with protecting and enhancing the natural environment for recreational purposes.</p> <p>The proposal will involve the fencing and exclusion of the general public from large RE1-zoned areas. This is inconsistent with protecting and enhancing the natural environment for recreational purposes.</p>
92.	5.9.1 – RE1 zone objectives – <i>Objective: To protect and enhance the environment generally and to ensure that areas of high ... cultural or aesthetic values are</i>	<p>The EIS states that “the proposal is designed to be sympathetic to, and embracing of, the existing cultural and aesthetic values of the site”.</p> <p>This is not supported by any aspect of the application.</p> <p>In relation to the cultural values: Bungendore Park and Bungendore Common are zoned RE1 and have been central to Bungendore’s cultural values since the mid-19th century. Press reports from this time show the centrality of the Park to the social and cultural life of the district, which continues to this day. Annual races were established on the Park in 1848. The cultural significance of the Common has been recognised and is subject to heritage protection</p>

	<i>protected, managed and restored</i>	<p>under the PLEP. The Park is equally deserving of heritage listing (as noted in various specialist assessments and discussed below). Large multistorey construction, high fencing and exclusion of the public is inconsistent with this.</p> <p>In relation to the aesthetic values: Gibraltar Hill (887m) is the primary local landmark in Bungendore. It is just outside the town centre, the east. The uninterrupted view across Bungendore Park to Gibraltar Hill is iconic and central to Bungendore’s history – serving as the hideout of notorious bushranger Jackey Jackey in 1840. The proposal envisages that the view to Gibraltar Hill will be interrupted by a series of large, multistorey buildings, far higher than is permitted under the PLEP. It is inconceivable that a properly-conducted visual impact assessment failed to acknowledge this. The EIS does not refer to this view, suggesting that the applicant is unfamiliar with the town. It is telling that the EIS included photographs sourced from Google Streetview, rather than a site inspection.</p> <p>Bungendore Park is an attractive public open space surrounded by mature trees. Much of the open space and many of the trees will be lost.</p> <p>The closure of Majara Street will be the first change to Bungendore’s original Georgian grid pattern laid out in 1837, since the railway line was built in the 1880s. This is part of the town’s character and identity as one of the only remaining, completely intact examples of early colonial town planning in the State. The EIS fails to consider this. It suggests that the existing Majara Street axis will be maintained, but this is false. Plans clearly show that Building A partially impinges, Building B significantly impinges and Buildings D&E entirely block the visual axis looking north along Majara Street. This aspect of the EIS is clearly wrong and must be discredited.</p> <p>The EIS states that “Eco Logical considers that the proposal is in keeping with the character of the town...” This is absurd. Bungendore is one of the oldest towns in Australia and was laid out in 1837. The town centre is low-rise and characterised by small-scale construction. Imposing 5 large, multistorey, prefabricated fibro cement buildings on the main town Park (which was laid out with the original town grid in 1837) is clearly out of character. Such development may be appropriate in newer subdivisions on the outside of town, but the conclusion reached by Eco Logical is irrational. Again, it suggests the applicant is unfamiliar with the town.</p> <p>Even more absurd is the conclusion that “no direct or indirect impacts will occur to heritage items on the site”. This report must be entirely discredited:</p> <ul style="list-style-type: none"> • The proposal envisages significant construction and fencing on Bungendore Common. The “common” aspect of this land is central to its heritage significance – it has been open to the entire community for over 150 years. The proposal envisages fencing, construction and exclusion of the public from a large part of this. The conclusion reached by Eco Logical cannot rationally be sustained. The report lacks credibility. • The development will be accompanied by the loss of 76 trees which will take decades to replace.
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		The proposed use is inconsistent with this objective of RE1-zoned land.
93.	<p>5.9.1 – RE1 zone objectives – <i>Objective: To protect and enhance the environment generally and to ensure that areas of high ... cultural or aesthetic values are protected, managed and restored</i></p> <p>Bungendore Soldiers' Memorial</p>	<p>The EIS states that:</p> <p><i>TKD considers there to be a sufficient distance between the proposed school buildings and the War Memorial. This retains the War Memorial as the prominent feature along Gibraltar Street and reduces the potential of the proposal to detract from its significance.</i></p> <p>This conclusion cannot be supported and suggests that no on-site inspection was undertaken. The Bungendore Soldiers' Memorial was completed in April 1924 with the intention that it would dominate the site, which it does – as shown in this photograph:</p>  <p>The proposal will grossly infringe on the prominence of the Soldiers' Memorial, with fencing to the north of it and large-scale construction dominating the sightlines to the north and east, diminishing the Memorial.</p> <p>Further, while the Department of Education claims to have consulted with various community organisation including the Bungendore War Memorial Committee, no records exist of this consultation. It is understood that the Committee proposes to oppose this application. Richard Gregory AFC, a retired RAAF officer and Vietnam veteran, is President of Save Bungendore Park Inc. Mr Gregory said "it is deeply distressing to me and other veterans of the district to see how this proposal diminishes what has been a dignified and prominent memorial to the sacrifices made by those who have served our country."</p>

		<p>In response to an application under the GI(PA) Act, the Applicant was unable to produce any records of consultation undertaken with the veterans' community in Bungendore or the Bungendore War Memorial Section 355 Committee.</p> <p>The conclusion reached by TKD is absurd. The EIS fails to consider the impact of the proposal on the Bungendore Soldiers' Memorial and the deep distress this causes to many in the community.</p>
94.	<p>5.9.1 – RE1 zone objectives – <i>Objective: To protect and enhance the environment generally and to ensure that areas of high ... cultural or aesthetic values are protected, managed and restored</i></p> <p>Bush Balladeers Place</p>	<p>The Applicant appears unfamiliar with both the name and the significance of the Bush Balladeers Place of Recognition. The Place both honours the Australian bush ballad tradition, and is a focus of the annual Bungendore Country Music Muster. As the Visit NSW website states:</p> <p><i>The Festival is the leading all Australian Country Music festival with an emphasis on Bush Ballads.</i></p> <p><i>The program [includes] the ever popular Stan Coster Bush Ballad Awards and concert, special guest artists, busking in the village pre-muster entertainment including walk ups and poet's breakfast (prize money and trophies) from Tuesday to Friday...</i></p> <p><i>The Festival is held in Bungendore a small historic town with numerous speciality and gift shops as well as historic stone, brick and timber buildings. It is located in a beautiful valley in the Southern Tablelands near Lake George and has become popular with tourists as a destination with quality eateries, wineries, and lots of opportunities for sightseeing and shopping.</i>¹⁵</p> <p>The significance of the site (and the Muster) is reflected in reports such as the one linked below.¹⁶</p> <p>The EIS states on page 91 that:</p> <p><i>The Balladeers Place Memorial (Poets Corner) [sic] and rotunda will be relocated to the south east of the site to retain this visual feature and social setting for the community. This relocation was supported by the Aboriginal Education Consultative Group (AECG).</i></p> <p>However, on page 49, the EIS states that:</p> <p><i>The Bush Balladeers Place and rotunda are currently situated on Mick Sherd Oval [sic]. These will be moved in their entirety (under a separate approval process) to Frogs Hollow, the reserve on Tarago Road.</i></p>

¹⁵ See <https://www.visitnsw.com/destinations/country-nsw/queanbeyan-area/bungendore/events/bungendore-country-music-muster>

¹⁶ See <https://www.couriermail.com.au/news/queensland/fraser-coast/community/hillbillies-are-honoured-as-pioneer-balladeers/news-story/6e4658ed15c86dcff2c8c029770f4d99>

		<p>Clearly, the Applicant is unfamiliar with the site. The Bush Balladeers Place is located on the southeast corner of Bungendore Park, nowhere near Mick Sherd Oval.</p> <p>There is no discussion of the impact of the proposal on events associated with the Bungendore Country Music Muster.</p> <p>While the Applicant appears confused as to the proposed location of the Place, we understand that it is proposed to be moved to Frogs Hollow. This is at present an undeveloped and unused site. While Council has long-term plans to develop Frogs Hollow as a recreation area, it is currently unsuitable for the purpose. It is notorious for snakes and unusable after rain. It is cut off from the centre of town and is inappropriate as a location for an important cultural object of significance to people from all over Australia.</p> <p>It is not clear why consultation with the AECG was relevant. While several Aboriginal musicians are recognised at the Place, it is not an educational institution and it is not dedicated specifically to Aboriginal musicians. Further, the Applicant did not consult with the organisers of the Bungendore Country Music Muster and there is no reference in the “Consultation Outcomes Report” to the Balladeers Place.</p> <p>The EIS fails to consider the impact of the proposal on the cultural values of the Balladeers Place and the Bungendore Country Music Muster, and suggests two contradictory outcomes for this important cultural location.</p>
95.	5.9.1 – RE1 zone objectives – <i>Objective: To protect and enhance the environment generally and to ensure that areas of high ... cultural or aesthetic values are protected, managed and restored</i>	<p>The EIS states on p91 that:</p> <p><i>The proposal has also been designed to integrate with the existing visual character of the area, aligned with the visual character principles of the Bungendore Structure Plan 2048. Materials have been selected to reflect the heritage character of the town, including the use of textured fibre cement and metal roofing. Extensive landscaping has been proposed throughout the site, including mature trees, grassed verges and planting.</i></p> <p>This is absurd. Bungendore is a low-rise, historic town. The proposed buildings are massive and grossly out of scale with the town. Most construction in the historic centre of town (where the proposed school will be built) is timber, with some brick or stone. The school will be directly adjacent to Bungendore Post Office (left, the oldest continuously operating post office in NSW) and Bungendore Police Station (right), both of which are heritage listed and sited on Gibraltar Street:</p>

		 <p>While there can be no expectation that a modern school development will be of timber or stone, the EIS must explain why the proposed development is appropriate, rather than making obviously absurd statements about large, prefabricated fibre-cement buildings integrating “with the existing visual character of the area.”</p>
96.	5.9.2 – Building height	<p>The proposed development will exceed the maximum height permitted under the PLEP by 2.8m, or 33%.</p> <p>This is not a trivial breach of the applicable planning requirements. It is a massive change to the development profile of the town. Further, it is not a small or isolated structure, but a large building which will dominate the area.</p> <p>The Applicant fails to justify this breach.</p> <p>The Applicant submits that cl 42 of the Education SEPP would permit consent to be granted notwithstanding this breach. However, it correctly accepts that the consent authority should still have regard to the requirements of clause 4.6 of the PLEP in determining this matter, stating that “justification structured generally in accordance with the requirements of clause 4.6 of PLEP 2014 and associated case law is provided below.”</p> <p>Cl 4.6 of the PLEP places the onus is on the Applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard and that compliance would be unreasonable and unnecessary according to applicable legal standards. The Applicant refers to the test in <i>Wehbe</i> but misunderstands how the test should be applied.</p> <p>In particular, as Pain J held in <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWLEC 90, merely showing that the development achieves the objectives of the development standard (which in this case it does not, as discussed below)</p>

		<p>will be insufficient to justify that compliance with a development standard is unreasonable or unnecessary. The law requires the Applicant to demonstrate that compliance is unnecessary or unreasonable in the particular circumstances of the development, as set out in <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWLEC 90. In this decision, Pain J upheld Commissioner Pearson’s decision that merely showing that the development achieves the objectives of the development standard will be insufficient to justify that a development standard is unreasonable or unnecessary. The Applicant must also demonstrate that environmental planning grounds existed “particular to the circumstances of this proposed development on the subject site” to justify contravening the development standard.</p> <p>The Application has failed to do this. This is a large, planned development. The contravention is in part of the site subject to a height restriction. Other areas of the site are not subject to a height restriction.¹⁷ If the Applicant requires facilities which exceed the maximum permissible height for R1-zoning, it may site these facilities on areas which are not subject to this restriction. The Applicant has not demonstrated that it would be unreasonable to do this.</p> <p>A height restriction of 8.5m under the PLEP still permits significant development; the Applicant has not demonstrated that it would be unreasonable to limit the height of the relevant building to 8.5m.</p> <p>Further, the EIS notes that the floor space ratio is low; there is obvious scope to increase density on other parts of the site if additional space is required. The Applicant does not explain why it would be unreasonable to do this.</p> <p>Further, cl 4.6(3)(b) of the PLEP requires the Applicant to justify that there are sufficient environmental planning grounds for the variation, identifying grounds particular to the circumstances of the proposed development (as opposed merely to grounds that would apply to any similar development on the site or in the vicinity). The Applicant has failed to do this.</p>
97.	5.9.2 – Building height	<p>The Applicant relies on the SEPP and the SSDA process to support the construction of Building D&E, notwithstanding that this breaches the height restriction under the PLEP.</p> <p>Building D&E will house the public library, “health hub” and Council offices. These are not educational facilities. They are entirely unrelated to the primary purpose of the proposal – being the construction of a secondary school. However, the EIS places considerable weight on the importance of these facilities. They are not incidental or ancillary to the development; they are a fundamental part of it and were essential to securing Council support for the proposal.</p>

¹⁷ Possibly because it was not considered necessary to impose height restrictions on RE1-zoned land, which is not expected to be subject to large-scale construction.

		The Applicant should not rely on approval pathways relevant to educational facilities and/or state-significant developments to support construction of council facilities which would be prohibited under the PLEP. This is inappropriate. The consent authority must apply usual planning standards to this aspect of the development.
98.	5.9.2 – Building height	<p>The Applicant has failed to demonstrate that the objectives of the height standard are achieved. In particular:</p> <p>(a) Objective (a): <i>“to enhance the natural character and landscape of Palerang”</i> – the Applicant refers to tree planting on parkland which it is proposing will be heavily developed. It refers to 146 new trees without noting 76 (including many high and medium-value) trees which will be cut down. As noted above, reference to “compatible with the local character” is laughable;</p> <p>(b) Objective (b): <i>“to protect residential amenity and solar access”</i> – the Applicant states that “the proposed buildings are low in scale”. That is clearly wrong. The Applicant refers only to privacy and overshadowing; it has failed to consider the obviously disproportionate scale of the construction. The buildings are massive scale, dominating the landscape, and 33% higher than the maximum permitted under the applicable zoning. This statement is absurd.</p> <p>Further, the construction will dominate the surrounding residential area. The Applicant has referred to “marginal overshadowing” of neighbouring buildings and Mick Sherd Oval – the EIS notes that in winter, there will be no sunshine on parts of the Oval until midday; Bungendore is at 700m and 35 degrees south – given the difficult sub-alpine growing conditions in the region, this will have a huge impact on the Oval and its utility for the school and community.</p> <p>(c) Objective (c): <i>“to manage the visual impact of development”</i> – as noted, the Applicant’s conclusions are demonstrably absurd. The construction is 33% higher than the maximum permitted under the PLEP 2014. It will dominate the town and obscure views up Majara Street and to Gibraltar Hill, as well as diminishing the Bungendore Soldiers’ Memorial.</p> <p>(d) Objective (d): <i>“to reflect the predominantly low-rise character of development in Palerang”</i> – the Applicant states that the proposal is “generally low-scale”. This is wrong. The proposal will involve the construction of multiple, extremely large buildings, the tallest being 33% higher than is permitted under the PLEP 2014. To describe this as “low-scale” is demonstrably absurd.</p> <p>Further, the Applicant states that the “two-storey scale [is consistent with] existing surrounding buildings including the existing Council building, former St Joseph’s Convent, neighbouring primary school and Scout Facility”. This is wrong:</p>

		<ul style="list-style-type: none"> - the existing Council building is single-storey; - the neighbouring primary school is single-storey; - the Scout Facility is single-storey; <p>- St Joseph's Convent is two-storey. It is the only two storey building in the vicinity and small in scale and height. It is heritage listed, older brick construction dating from 1891. It is deeply set back from the road and surrounded by mature trees. It is in no way consistent in scale or style with the proposed construction.</p> <p>It is clear that the Applicant and its advisors are completely unfamiliar with the town. The Applicant should be invited to visit Bungendore to familiarise itself with the town prior to re-submitting the EIS.</p> <p>The EIS states that "the height variation is relatively minor" – this is ridiculous. It will be 33% above the maximum permissible height. No buildings in the area are even close to the maximum permissible height, let alone exceed it by a third.</p> <p>The EIS states that "the additional height is not conspicuous" – this is ridiculous. The proposed development will be the tallest building in the town by a significant margin. And this is not a small building, or a decorative feature. It is of massive scale. It will dominate the town generally, particularly the approach from Elmslea – this will involve travelling uphill from the low-level Turallo Creek crossing to find Building D+E sited on the top of the hill. It is likely to be visible from some distance when approaching Bungendore from the east along the Kings Highway. It will be monumental.</p> <p>(e) the EIS states that "the proposal is in the public interest because it is consistent with the objectives of the height standard ... and the relevant zone objectives." This is incorrect. In particular:</p> <ul style="list-style-type: none"> - it is not open to the Consent Authority to find that the Applicant has adequately addressed the matters required in cl 4.6 of the PLEP; - the Applicant has failed to demonstrate that the proposal is consistent with enabling the land to be used for public open space or recreational purposes (as required by the zone objectives); - the Applicant has failed to demonstrate that the proposal is consistent with the height objectives (as noted above); and - cl 4.6(4)(a)(ii) of the PLEP also requires the Applicant to demonstrate that the development is consistent with the objectives for development within the zone. The Applicant has not addressed this.
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99.	5.9.2 – Building height	<p>The Applicant notes that there no height restriction on RE1-zoned land, which comprises a very large proportion of the site. However, this should not support a conclusion that the proposed development – including breach of the height restriction – is only “partly” prohibited.</p> <p>Given the very limited development permitted on RE1 land, it is likely the planners considered it was simply unnecessary to impose a height restriction; the zone objectives simply never contemplated construction of 11+m tall buildings. The proposed development is clearly inappropriate on RE1 land, even if there is no specific height restriction applicable to those parts of the site zoned RE1.</p>
100.	5.10 – Palerang Development Control Plan 2015 – Part B, B1	<p>The Applicant states that the analysis and site plan are “generally in accordance with the requirements of the DCP.” This is inconsistent with the SEARs. The Applicant should confirm that the analysis and site plan are actually in accordance with the DCP, otherwise it must identify and justify any divergence.</p>
101.	5.10 – Palerang Development Control Plan 2015 – Part B, B3 – Flora, fauna, soil and watercourses	<p>The impact and mitigation and management measures are insufficient. The Applicant has failed to consider the potential impact of stormwater runoff (with potential lead contamination, especially during construction) or agricultural runoff from the “ag plot” into Turallo Creek and Lake George – as required by the SEARs.</p>
102.	5.10 – Palerang Development Control Plan 2015 – Part B, B7 – Engineering requirements	<p>The Applicant has failed to consider appropriate carparking, as described below.</p> <p>Appendix 6b identifies residential streets, such as Butmaroo St, as appropriate parking locations during construction. The EIS has failed to consider the impact on these streets of being repurposed for parking.</p>
103.	5.10 – Palerang Development Control Plan 2015 – Part B, B8 – Erosion and sediment control	<p>The Applicant notes that the stormwater and utilities proposals “generally accord with” the relevant standards. The Applicant should confirm that these are actually in accordance with the DCP, otherwise it must identify and justify any divergence.</p> <p>The site contains areas of significant heavy metal contamination. The Applicant has failed to set out management plans for lead-contaminated soils, sediment and spoil. In particular, the site drains to Turallo Creek and Lake George. The EIS fails to consider the possibility of heavy metal contamination to these waterways.</p>

		Further, the site is adjacent to Bungendore Public School and Bungendore Preschool. The EIS fails to set out a management plan to prevent contaminated soil/dust from being dispersed across these two schools.
104.	5.10 – Palerang Development Control Plan 2015 – Part B, B10 Heritage – European (non-Indigenous), Aboriginal, (Indigenous), and Natural	<p>The EIS has failed to consider well-documented evidence of an indigenous grave on Bungendore Park (suggesting that this is merely “anecdotal”). Further, the Applicant has failed to investigate multiple recent discoveries of artefacts on and around the site (including a stone axe head in a back yard on Gibraltar Street).</p> <p>Significant archaeological sites were identified during the construction of HQJOC, in the same valley close to the site. It is highly likely that proper investigation will reveal records of significant Indigenous history and occupation of the site. It is inadequate simply to dismiss further investigation on the basis of the site’s long European history.</p>
105.	5.10 – Palerang Development Control Plan 2015 – Part B, B11 Social and economic impact assessment	This submission has identified why the social impact assessment is deficient. In any event, it is damning that this – which was full of factual errors and misconceptions – concluded that the proposal had only a “low positive” impact.
106.	5.10 – Palerang Development Control Plan 2015 – Part B, B14 Potentially contaminated land	The Applicant is aware significant issues associated with lead contamination arising from the transport and loading of uncovered ore wagons from the Captains Flat mine. This is not addressed in the EIS.
107.	5.10 – Palerang Development Control Plan 2015 – Part C, C17 Lighting	<p>This is completely inadequate.</p> <p>The report is so poorly prepared that the table of contents notes “ERROR! BOOKMARK NOT DEFINED”. It is clear that the Applicant cannot have properly considered this.</p> <p>The report does not address the SEARs. In particular, there is no proper assessment of amenity impacts on the surrounding locality including solar access, visual privacy, visual amenity, overshadowing, wind impacts and acoustic</p>

		<p>impacts. The Applicant fails to demonstrate a high level of environmental amenity for any surrounding residential land use.</p> <p>Appendix 24 refers to irrelevant matters such as a “cohesive connection” with Bungendore Public School. The report must not set out irrelevant matters.</p> <p>The substance of the report is set out on Page 6. It sets out no detail. It refers to the standard, but does not set out what is planned or how the Applicant will ensure that this complies with the standard. It is a disgrace.</p>
108.	5.10 – Palerang Development Control Plan 2015 – Part C, C19 Directional Signage	<p>The Applicant notes that directional signage “is generally consistent with” the relevant standards. The Applicant should confirm that these are actually in accordance with the standards, otherwise it must identify and justify any divergence.</p>
109.	5.10 – Palerang Development Control Plan 2015 – Part C, C23 Demolition of Buildings or Structures	<p>The EIS notes that no HAZMAT assessment has been conducted because it has not had access to the relevant sites. Given that the Applicant has worked closely with the Council and has entered into an early works access deed, this is ridiculous (see item 18).</p> <p>Further, the NSW Department of Transport has identified significant issues with heavy metal contamination across the site, particularly at Boreholes 9 and 14. This must be properly addressed in the EIS. It is not.</p>
110.	5.10 – Palerang Development Control Plan 2015 – Part D, D1 Bungendore	<p>The EIS states that:</p> <p><i>The proposal provides for a low scale design which is consistent with the surrounding town and rural landscape.</i></p> <p>The proposal involves the construction of large, multistorey buildings greatly exceeding local height limits, across a public Park.</p> <p>The Applicant’s suggestion is utterly absurd. It is like comedy, but without a punch line.</p> <p>The EIS refers to landscaping “consistent with the desired future characteristics of Bungendore”. The applicant has not identified these desired future characteristics. It is not clear what they are.</p> <p>The EIS states that:</p>

		<p><i>The proposal has been designed to respect the heritage significance of local heritage items and is sympathetic to the form and external materials reflected in the town.</i></p> <p>As noted, the proposal is grossly damaging to heritage items. It does not any way reflect the significance of local heritage items. The Applicant has not supported this assertion. It lists local heritage items but does not say how their significant will be reflected.</p> <p>As noted, prefabricated fibre cement construction is not “sympathetic” to the overwhelming prevalence of timber, stone or brick construction in the historic centre of town. It is clear that the Applicant is not familiar with Bungendore and has not taken the time to consider the aesthetic of the town.</p>
111.	5.11 – Development contribution plans	<p>It is noted that development contributions will not usually be collected from a Crown authority in these circumstances. However, given the greatly increased demands on local infrastructure, and the hugely damaging impact of the proposed development, it is inappropriate not to collect development contributions. Further, the EIS fails to address the specific requirements set out in item 12 of the SEARs.</p>
112.	5.12 – Additional approvals required – Crown Land	<p>The proposal will involve the use of Crown land which is dedicated (in the case of the Park) or reserved (in the case of the Common) for public recreation, for a purpose which is inconsistent with this dedication reservation. These restrictions apply notwithstanding any process under the <i>Land Acquisition (Just Terms Compensation) Act</i>.</p> <p>The proposed purpose is inconsistent with the existing dedication and reservation.</p> <p>Consequently, the Applicant requires the consent of the Minister for Crown Lands, pursuant to Division 2.4 of the Crown Land Management Act 2014. The EIS has not address how or when this approval will be obtained.</p>
113.	5.12 – Additional approvals required – Roads Act 1993	<p>Further, the proposal will require the closure of Majara Street pursuant to Section 38A of the <i>Roads Act 1993</i>. The EIS does not address how this may be undertaken.</p> <p>Council has resolved to close this road (including the road reservation north of Turallo Terrace). However, the resolution is invalid because Council has not satisfied the requirements of Section 38A, and has not given notice as required pursuant to Section 38B. The law says:</p> <ul style="list-style-type: none"> • first, it needs to be sure that the road isn’t actually required, now or in the future (s38A(a)); • second, it needs to be sure that the road doesn’t provide continuity to an existing road network (s38A(b)); and

		<ul style="list-style-type: none"> • closing it doesn't cut off access to any piece of land (s38A(c)). <p>The Council resolution to close Majara Street was unlawful because it cuts off access to the lot situated at 64 Turallo Terrace (the rear of Bungendore Preschool). There is no other public road which provides access to this site.</p> <p>Further, Council failed to notify the T landowner of the proposed closure, as required by law.</p> <p>Council must still satisfy the other criteria. It failed to consider these. The answers are recorded in Council's Minutes, which we've linked to below.¹⁸</p>
114.	6.2.1 – Government Architect NSW, and Appendix 4	<p>The proposed development fails to address concerns raised during consultation with the Government Architect NSW (GANSW).</p> <p>The EIS notes that the GANSW concluded that the project's opportunity to contribute to the future development of the town was "not fully realised". The GANSW raised concerns about the how the project responds to "unique qualities" of the town, and in relation to the project's scale and bulk.</p> <p>The summary set out in the EIS is highly selective and fails to acknowledge the breadth of concerns raised by GANSW, as set out in Appendix 4.</p> <p>The responses set out in Appendix 4 are inadequate and do not address the substance of the GANSW's concerns – for example, concerns regarding volume and massing, preservation of the Majara Street alignment, response to local character, reduction in mass of built form, have not been addressed.</p> <p>In response to GANSW's concerns regarding "mass and built form", the Applicant refers to standard grid dimensions required under its "Design for Manufacturer [sic] and Assembly Guidelines" and states that "[t]he bulk and scale is therefore typical of a state school of its size, designed to accommodate the required facilities for projected enrolments." This demonstrates that the Applicant is not just unwilling – but is unable to address local conditions or requirements.</p> <p>Further, it is misleading to state that the proposed development is designed to accommodate projected enrolments. As noted, it will exceed its design capacity of 450 by no later than 2026 (the earliest date for which estimates are available). By 2036 (the latest date for which estimates are available), the proposed development will be 25% over capacity.</p>

¹⁸ The Questions on Notice, together with observations, are set out here: <https://tinyurl.com/qprctrffic>

115.	Appendix 4, page 81 – Alignment of Majara Street.	<p>GANSW recommended that Applicant “Reinstate the alignment of Majara Street to ensure that the existing street grid is retained” (Appendix 4, page 81). The Applicant’s response was “The location of the new buildings have been reviewed in response to the GANSW comments. The buildings are proposed to be retained in their current position...” It stated that the alignment “generally follows” the existing grid; this is wrong. The proposed alignment of the central plaza is significantly to the east, with large buildings impinging on the existing alignment and obscuring sight lines. The Applicant has failed to adequately consider this issue or justify its response.</p> <p>Further, the EIS appears to be materially misleading in this respect. Having noted GANSW’s concerns and stated that it did not propose to address them, the Applicant makes various statements in the EIS that the proposed development preserves the Majara Street alignment.</p>
116.	Appendix 4 – C – Site analysis (p 11)	<p>The Site Analysis sets out “Queanbeyan Context” and notes commuting patterns from Queanbeyan. It is irrelevant to any assessment of Bungendore. Its inclusion suggests the author is not familiar with the area.</p> <p>The Site Analysis states, in relation to Bungendore, that “there is a shortage of community meeting facilities or internal spaces large enough for large community functions, performances or sports practice.” This statement is not supported and is not clear why this is relevant. However, if it is intended to support any aspect of the proposed development, it should be noted that:</p> <ul style="list-style-type: none"> • Bungendore War Memorial Hall offers a large indoor function and performance space available to the general public; • Bungendore Community Centre offers a range of spaces available to the public and community organisations; • Bungendore Public School Hall is available to the public, subject to existing joint use arrangements agreed with the former Yarrowlumla Shire Council; • Bungendore Park and the proposed Bungendore Sports Hub provide space for organised and informal sport. <p>Given that the author appeared unfamiliar with these facilities, it appears it did not properly investigate the circumstances of the town.</p>

		While proposed development may offer occasional access to an additional school hall (subject to joint use arrangements which may never be agreed), it will otherwise result in a net reduction in community facilities as Bungendore Park is greatly reduced and access to Mick Sherd Oval is severely limited during daylight hours.
117.	Appendix 4 – C – Site analysis (p 12) – 5. Immediate Site Context	<p>The author repeatedly refers to the site as “Mick Sherd Oval”. This demonstrates a lack of understanding of the site context. Mick Sherd Oval is part of Bungendore Park, a large public recreation area with multiple facilities in the middle of the town.</p> <p>The proposed development will occupy a large part of Bungendore Park and restrict public access to a majority of the remaining areas. It will not actually occupy any part of Mick Sherd Oval. The Applicant’s failure to understand this demonstrates a failure to understand and adequately address the site context.</p>
118.	6.2.7 – Project Reference Group	<p>The EIS notes that “a community representative” forms part of the Project Reference Group. It is not clear who this person is or how they were appointed.</p> <p>At no time were members of the public invited to express any interest in contributing to the Project Reference Group and there has been no reporting or engagement with the community from this group. The Applicant has failed to ensure any community participation in this group. Consequently, there was no adequate opportunity for the community to provide feedback in the design process.</p>
119.	7.1.3 – Relationship to surrounding development, topography and streetscape	<p>The Applicant states that “the proposal has been designed to achieve a strong relationship to the adjoining primary school to the south”. This is incorrect and is not supported by any matter set out in the EIS. In particular:</p> <ul style="list-style-type: none"> • the EIS erroneously states that the primary school is two-storey; • the EIS fails to consider how a reduction in access to Bungendore Park and Mick Sherd Oval – both during construction and operation – will affect Bungendore Public School; • the EIS fails to consider the architectural consistency with the neighbouring school, noting that the Gibraltar Street entrance to Bungendore Public School is dominated by the original Schoolmaster’s Cottage (approximately 140 years old); and • the EIS does not set out any integrated transport or traffic analysis which considers the needs of Bungendore Public School.
120.	7.1.3 – Relationship to surrounding development,	The Applicant states that “The proposal has been designed to connect to the future shared use playing field to the north, with a north-south pedestrian connection between Burroway Road and the playing field.”

	topography and streetscape	It is not clear what this is referring to. There is no Burroway Road in Bungendore. It appears that the Applicant has cut and pasted from the EIS prepared in relation to another project. This suggests that the Applicant is using a generic template and has not actually considered the specifics of the “surrounding development” in Bungendore.
121.	7.1.3 – Relationship to surrounding development, topography and streetscape – Relationship to streetscape	<p>The Applicant states that “[b]uildings have been sited to respond to the town’s urban grid”. This is not correct, as the Applicant acknowledges in Appendix 4, when it dismisses the GANSW’s recommendations that the Majara Street grid be preserved.</p> <p>The EIS is misleading in this respect. The proposed development will dominate and alter the streetscape.</p>
122.	7.1.6 – Education SEPP design quality principles	<p>The proposed development fails to comply with the requirements of the SEPP.</p> <p>(a) Principle 1 – Context, Built Form and Landscape. This states, among other things, that “<i>Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage</i>”. It should “<i>contribute to the streetscape</i>”. As noted, the proposed development:</p> <ul style="list-style-type: none"> • far exceeds the maximum height permitted under the PLEP; • is designed in accordance with the limitations applicable to DfMA principles, which do not permit an appropriate response to the surrounding natural and built environment; • will greatly reduce public access to, and amenity of, Bungendore Park; • will obscure sight lines to Gibraltar Hill, a major local landmark; • diminishes heritage assets, including Bungendore Soldiers Memorial, the Bungendore Railway Precinct and Bungendore Common; and • is inconsistent with the appearance and scale of the surrounding heritage precinct. <p>Consequently, it is not consistent with Principle 1.</p> <p>(b) Principle 2 – Sustainable, Efficient and Durable and Principle 6 – Whole of Life, Flexibility and Adaptation. These refer to the importance of “<i>positive environmental, social and economic outcomes</i>”, and state that “<i>schools should be durable, resilient and adaptable ... to meet future requirements</i>” (Principle 2), and must “<i>consider future needs</i>”. The proposed development:</p>

		<ul style="list-style-type: none"> • will result in a significant reduction in public open space in Bungendore, with negative environmental and social consequences. The Social Impact Assessment notes the significant adverse impact of this; • damages the attraction of Bungendore to tourists and visitors,¹⁹ having a negative economic outcome on business and employment. While there will be employment opportunities at the school, these would also be realised if the school were built on a more appropriate site (such as the site originally selected by the Applicant prior to June 2020); • does not consider future needs. School enrolments will significantly exceed its design capacity by no later than 2026 (the earliest date for which estimates are available) and will be far in excess by 2036. Further, this may be an underestimate – the Applicant has refused to release any assumptions on which projected enrolment numbers were based. Community members report that the Applicant’s staff were unaware of large proposed residential developments around Bungendore when asked about this at various information sessions. This not sustainable, resilient or adaptable to meet future requirements; • The EIS notes (p108) that part of the site is “earmarked to accommodate additional learning spaces”. This is identified in the Architectural Design Report (p69) as the area between Building B and Building D. Part 3.4.5 of the EIS notes the critical importance of the area between Building B and Building D as the main play space for the school. A school which will exceed design capacity immediately after opening, and which relies on construction on the school’s main play space to accommodate short-term needs is not sustainable, adaptable or resilient. It does not consider future needs (unless those future needs do not include any outdoor play area); • Alternatively, previous publications from the Applicant have identified the site on the north-eastern corner of the main campus (currently occupied by the Community Centre) as the site for future development. Construction on this site (if it occurs) would materially diminish the already small amount of green play space available for children and further increase the visual impact of the proposed development on Bungendore. <p>(c) Principle 5 – Amenity. This notes that “Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight...”. The proposed development:</p> <ul style="list-style-type: none"> • includes extremely limited outdoor play areas (noting that Mick Sherd Oval will not be available outside of formal curriculum activities);
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¹⁹ See eg <https://savebungendorepark.org/blog/the-railway-station-that-represents-all-we-have-to-lose>, describing the importance of the railway station in its heritage context for attracting visitors to the town. The heritage context of the railway station will be greatly diminished by the proposed development. Attached as Annexure B.

		<ul style="list-style-type: none"> • will exceed capacity almost immediately upon opening, and will require a further reduction in outdoor play areas to accommodate required expansion; and • comprises a site area of 29,205 sqm. The Department of Education’s <i>Educational Facilities – Standards and Guidelines</i> and <i>Draft Guidelines for School Site Selection – October 2020</i> specify a minimum site area for a new high school of 40,000 sqm. The proposed site is less than three quarters of the State Government’s minimum standards, clearly failing to provide adequate space; <p>(d) Principle 7 – Aesthetics. This states that <i>“The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.”</i> The proposed development fails to do this, and the discussion set out in Appendix 4 (from p71) is demonstrably inadequate:</p> <ul style="list-style-type: none"> • It notes that “Bungendore has a strong 19th Century character and scale...” It states that the proposed development has been “designed to be respectful of the context while providing ... facilities which accommodate educational needs for present and future demand.” As noted, the proposed facilities are neither sympathetic to the historic context, nor are they adequate for projected demand. They are projected to exceed capacity virtually immediately after opening; • Appendix 4 (p71) notes that the building eves are “typically compliant” with the height restriction under the PLEP. This is grossly disingenuous. It ignores the fact that the buildings will exceed the maximum permitted height under the PLEP by almost one third; • The Applicant states that “The elevation treatment of each building across the campus carefully considers the issues of bulk and scale.” This is clearly wrong. The proposed development will dominate many aspects of the town. The GANSW recommended the bulk and scale be reduced; the Applicant declined to do this; • By contrast, the Applicant notes that “the existing Council Chambers building, Building C is ... a good example of contemporary architecture in keeping with the historical village character of Bungendore.” The proposed development is completely inconsistent with the style, materials or scale of this building, which the Applicant identified as an example of appropriate modern construction. This highlights the failure of the proposed development to the existing context and the surrounding neighbourhood; • The Applicant has referred in several places to the use of setbacks to reduce visual impact. These are minimal and (especially in the case of construction adjacent to Turallo Terrace) have been necessitated by
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		<p>the need to provide nose-to-kerb parking. This will result in increased visual impact with additional bitumen and masses of parked cars;</p> <ul style="list-style-type: none"> Finally, appendix 4 notes generally that the proposal is designed pursuant to DfMA requirements and has limited scope to respond to the existing context of the site.
123.	7.2 – Tree removal	<p>As noted above, the proposed development will have an unacceptable impact on trees. The EIS refers to an Arboricultural Impact Assessment attached at Appendix 10. Presumably this should refer to Appendix 11.</p> <p>The Arborist’s Report states that: “the majority of the site’s high retention value trees, located in the north-eastern corner of the site... have been retained.” In fact, the trees mapped in the north-eastern corner of the site are primarily situated on neighbouring private property which will be unaffected by the proposed development. This distorts the impact assessment and the conclusions reached. It suggests that the Arborist was given misleading or incomplete instructions.</p> <p>The Arborist identified 19 high value trees on the site, of which it stated that 9 would be retained (see pp9-10). Of these:</p> <ul style="list-style-type: none"> trees 137 and 138 are on land identified for future school expansion and will be removed as part of this expansion; and trees 141, 144, 149 and 152 are on private property (the Signelman’s Cottage) and not on the site. It is not clear why the Arborist included these in the assessment; tree 181 is on Bungendore Park, south of Mick Sherd Oval and not on the site. <p>Consequently, the proposal will require the removal of all except for 2 high value trees on the site, both of which are sited on land identified for future expansion (which is likely to be required in the short term, given that the school will exceed design capacity immediately after opening).</p> <p>The Arborist identified 110 medium value trees on the site, of which only 28 would be retained (a further 40 had “potential to be retained”). Of these:</p> <ul style="list-style-type: none"> trees 90 and 92 are outside the site boundaries to the west, while trees 230-232 are outside the site boundaries to the south; trees 121 and 123 are on land identified for future school expansion and will be removed as part of this expansion; and

		<ul style="list-style-type: none"> trees 142, 145, 146, 147, 148, 150 and 151 are on private property (the Signalmans Cottage) and not on the site. <p>Consequently, the proposal will require the removal of all except 16 of the medium value trees actually on site, of which 2 are likely to be removed in the short term to facilitate further construction.</p> <p>Finally, any assessment of the impact of the proposed development on site canopy cover which includes trees located outside the site on private property is obviously deficient and must be disregarded.</p>
124.	7.3.1 - Overshadowing	<p>The proposed development will result in overshadowing of run-off and spectator areas of Mick Sherd Oval during winter months.</p> <p>Bungendore is in a high-altitude, cold climate with difficult growing conditions in winter.</p> <p>The Bungendore Structure Plan states that Bungendore Park is intended to remain the town's premier sporting and recreation area, and the home ground of the Bungendore Tigers Rugby League and Bungendore Mudchooks Rugby Union clubs. It is very heavily utilised, and this will increase with school use. Overshadowing of any part of the Park will dramatically reduce the opportunity for the affected area to recover and remain suitable for public use during the winter football season.</p> <p>This will reduce the availability and amenity of the site to both school and community users. The EIS fails to consider this properly.</p>
125.	7.3.3 – View impacts	<p>The EIS is clearly deficient. It fails to consider:</p> <ul style="list-style-type: none"> views to Gibraltar Hill (887m), which is the primary local landmark in Bungendore, just outside the town centre, the east. The proposed development will obscure the uninterrupted view across Bungendore Park to Gibraltar Hill. It is inconceivable that a properly-conducted visual impact assessment failed to acknowledge this; views of and from the Bungendore Railway Station, which is a state-significant heritage item; and views of and from other heritage-listed sites around Bungendore Park, including the Bungendore Soldiers Memorial. <p>The Applicant has relied on Google Streetview images, suggesting that no on-site assessment was conducted. The Applicant should be required to conduct and consider an on-site assessment.</p>

126.	7.3.4 – Lighting	The deficiencies in the lighting assessment are noted above at item 106. The Applicant has failed to undertake any proper assessment.
127.	7.4 – Transport and accessibility	<p>The Transport Assessment is deficient. In particular:</p> <ul style="list-style-type: none"> the assessment of existing traffic conditions was conducted over three hours on a single day, in early November 2020 while traffic volumes were depressed by Covid. It is not representative of typical conditions; the assessment of the evening “peak” was taken between 2.30-4.00pm, well before the actual peak. It is not clear why the dataset was limited to this time, given that the proposed development will involve the permanent closure of a major road. The Applicant has failed to consider the impact of the development at the evening peak; it included an analysis of two intersections (Majara St/Turallo Terrace and Majara St/Gibraltar St) which will cease to exist if the proposed development proceeds; it assessed the service level of the relevant intersections <u>only</u> during “peak periods of school activity.” The proposed development will involve the permanent closure of Majara Street – a major non-residential thoroughfare – and the consequent diversion of traffic onto surrounding residential streets. Consequently, the Applicant must assess traffic volumes across a wider period (in particular, the true evening peak); the description of “existing public transport” demonstrates a lack of understanding of the locality. The Applicant refers to “Wamboim [sic – presumably Wamboin], Tarago, Hoskintown [sic – presumably Hoskinstown] and Butmaroo.” While “Butmaroo” is the name of a nearby creek, street and sheep station, it is not a town. It is not a “population centre” or even a district. The Applicant clearly has a limited understanding of the local area and could not be bothered to gain any understanding. Its conclusions are questionable; initial proposals from the Applicant suggested that Bungendore Railway Station carpark would be used a bus interchange and pick-up/drop-off point. This is not described in the EIS. The Applicant has not explained why this proposed aspect has changed. It may be that Railtrack/John Holland Rail rejected this proposal, or that dangerous levels of lead contamination identified in the railway station carpark have excluded this possibility. In any event, it is inevitable that the railway station carpark (already described by Transport NSW as an “informal” carpark for Bungendore Public School) will be used for this purpose. The EIS must consider the impact of this. Relying on limited drop-off bays and turning opportunities will be unmanageable given likely traffic volumes; the traffic report considers background traffic growth. It does not assess how this may impact on enrolment growth at the school – in fact there is no discussion of student numbers beyond the assumption that the school will have capacity for 450. The assessment does not acknowledge that this is forecast to reach 566 by 2036 (with

		<p>similar growth affecting Bungendore Public School). Further, this refers to background traffic generated by proposed developments at North Elmslea and East Bungendore, but does not consider major developments on Tarago Road (such as at “Ashby”), which are contemplated in the Bungendore Structure Plan. It does not assess how this may correlate to any change in student numbers;</p> <ul style="list-style-type: none"> the catchment analysis set out in the transport assessment is clearly deficient. It is based on extremely limited data which the consulting engineer stated (at 2.2) was a “major limitation” in its assessment. This is because the data includes only “students who attended public schools and who live within the Bungendore Town Centre and its surrounds.” Given the rural nature of the catchment, this excludes both all students living in the surrounding rural areas (likely to be a significant part of the catchment); it does not address the impact of the diversion of traffic from Majara Street onto surrounding residential streets. The assessment conducted in early November 2020 identified 228 vehicles entering or leaving Majara Street from the intersection of Majara Street and Turallo Terrace in the in very limited, 3 hour window that did not include the evening peak. All of these vehicles will be diverted onto residential streets – especially Turallo Terrace, Butmaroo and Ellenden Street. These are residential streets with no kerbing. Butmaroo Street in particular is heavily used by cyclists, children and dog walkers. Materially increased traffic volumes on these roads are unsafe. <p>Given the deficiencies in the traffic assessment, Save Bungendore Park Inc undertook its own assessment, which is attached as Annexure A.</p>
128.	7.4.4 – Access arrangements - Pedestrian	<p>The EIS refers to “an additional access point” for pedestrians on Turallo Terrace. Given the significant population of families with school-age children living in Elmslea and other areas likely to access the site from the north, this will in fact be a significant pedestrian, cyclist and pick-up/drop-off (PUDO) point for the school and must be assessed as such.</p>
129.	7.4.4 – Access arrangements – Bus zone, Pick-up/drop off	<p>The EIS notes that “high school students will share the primary school bus zone”. There may be up to 1,000 children – from ages 5 to 18, crowded in to this area. It will accommodate hundreds of vehicles for PUDO, arrivals and departures from the staff carpark, as well as senior students - inexperienced drivers in their own cars.</p> <p>This is utter madness. It is insane. It is incredibly dangerous.</p> <p>The EIS fails to consider the overwhelming numbers using this confined space, the traffic volume and the clear danger to very young and vulnerable children, including primary school pupils. It is inconceivable that a properly considered plan would concentrate this volume of traffic in a confined area with such a large number of children.</p>

		<p>The Applicant has clearly never observed the chaos around PUDO at Bungendore Public School – with half the number of children, full access to the Railway Station carpark (which is not part of this application and which is now closed due to dangerous levels of lead contamination).</p> <p>The Auditor-General of NSW has recommended that “<i>all organisations, Government and non-Government, private and public, should cooperate to ensure that new schools are built on roads where the risk of conflict with motor vehicles is minimal...</i>”.²⁰ The proposed school is clearly contrary to the Auditor-General’s recommendations. The Auditor General cited Staysafe’s 1998 report <i>Pedestrian Safety</i> and emphasised the hazard represented by parked vehicles, noting that 30-50 per cent. of child pedestrian crashes involved visual obstacles, usually parked cars.</p>
130.	7.4.4 – Access arrangements – Bus zone, Pick-up/drop off – Bungendore Soldiers Memorial	<p>The area immediately adjacent to Bungendore Soldiers Memorial will be used as a bus stop. The Applicant has estimated 4-5 large buses at the morning and evening peaks to serve the high school, but also notes that the bus stops for Bungendore Public School will be moved to this location. It is likely that a much larger number of buses will be required to serve both schools. There is a narrow footpath and no suitable waiting area on the southern side of Gibraltar Street, so the area around the Soldiers Memorial on the northern side will become a de facto bus interchange. The Memorial itself is likely to become a bus shelter. It will become noisy, chaotic and heavily trafficked and will be vulnerable to graffiti and damage. This greatly diminishes the Memorial, its heritage values and the opportunity for quiet reflection.</p> <p>The EIS fails to consider this.</p>
131.	7.4.4 – Access arrangements – Pick-up/drop-off	<p>The assessment of the PUDO requirements is based on an “agreed mode share target” of only 18% of the student population travelling by car. It should be noted that:</p> <ul style="list-style-type: none"> • The EIS does not set out how this “agreed mode share target” was determined. Is this an aspirational target or a genuine estimate of likely and achievable travel patterns? • By contrast, section 4.2 of the Transport Assessment assumes that the school will generate 0.7 trips per student in the morning peak, and 0.6 trips per student in the evening peak, meaning that based on initial numbers of 450 (which is already an underestimate) – far in excess of the “agreed mode share target”. Assuming a student population of up to 450 students (in order to provide a conservative assessment), this equates to 315 round trips

²⁰ Auditor-General’s Report - Performance Audit, “*Improving Road Safety: School Zones*” (February 2010).

		<p>in the AM, and 270 in the PM. The Transport Assessment assumes multiple occupancy of 1.4 children per vehicle, but fails to support this. This assumption must be disregarded.</p> <p>The proposed development sets aside 15 spaces for PUDO in Gibraltar Street, and a further 3 on Turallo Terrace. Given that the Applicant has failed to consider that the major population centre at Elmslea will overwhelmingly use of the Turallo Terrace entrance, the allowance of 3 spaces for PUDO is completely inadequate.</p> <p>Even then – the Applicant states that the proposed development has capacity for 270 vehicles for PUDO. The morning peak will significantly exceed this capacity, while it will be at 100% of capacity in the afternoon upon opening. This fails to account for <u>any</u> projected growth. Growth is likely to be accommodated through:</p> <ul style="list-style-type: none"> - additional chaos in this area; - use of the Bungendore Railway Station carpark – as originally proposed. However, this is not part of the current plan. The Applicant must explain why its original plan has changed; or - further incursion into Bungendore Park through the establishment of alternative bus/PUDO sites. <ul style="list-style-type: none"> • Further, the Applicant’s assumptions relating to mode share are grossly inconsistent. The EIS (at 7.4.4) assumes 18% travelling by car, based on an “agreed mode share target”. It is contradicted by the Transport Assessment, which assumes 0.6-0.7 trips per student (= 65%). It is possible that the 18% assumption based on the “agreed mode share target” used the same data which the Transport Assessment acknowledged was subject to a “major limitation” – namely that it did not consider any students from outside Bungendore Village. <p>Given the long distances, limited availability of bus transport and unsafe cycling conditions for the very large proportion of students travelling surrounding rural areas, the number of car trips set out in 7.4.4 is dramatically understated. The Applicant has failed to consider this. The Applicant’s submissions around transport and accessibility must be dismissed.</p>
132.	7.4.5 – Parking	<p>The proposed development fails to address the SEARs requirements and fails to allow sufficient parking. It does not address the adequacy of car and motorcycle parking and bicycle parking provisions when assessed against the relevant car / bicycle parking codes and standards. Further, the EIS notes that the proposal will:</p> <ul style="list-style-type: none"> • result in the loss of 60 parking spaces, with 40 new spaces to be built on Turallo Terrace (reducing the Park, the amenity of residents and the safety of the preschool); and • provide staff parking in the Palerang Council Building carpark sufficient for the initial expected staff requirements. <p>The EIS fails to address:</p>

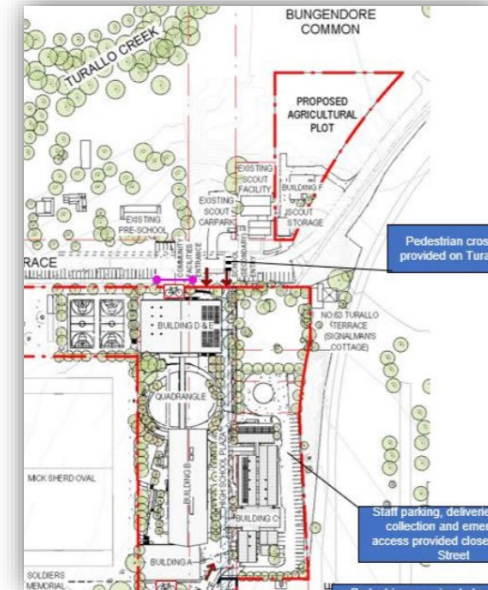
		<ul style="list-style-type: none"> the safety impact, and the impact on Bungendore Preschool and residents of Turallo Terrace of significant parking being constructed on that street; parking for Bungendore Post Office; parking for Bungendore School of Art; parking for staff and visitors to the proposed community library, “health hub” or Council kiosk; parking for parents, staff and visitors to Bungendore Public School (who rely on the Gibraltar St parking); parking for parents and visitors to the proposed high school; parking for any increased staff numbers required to accommodate any future growth; the critical shortage identified in the recent Council report referred to at item 36 above; parking for visitors to Bungendore Preschool and the Bungendore Scout Hall (which is rumoured to be used for play group and day care following the demolition of Bungendore Community Centre), given that the proposed current Scout Hall parking is proposed to be allocated to Abbeyfield Australia to replace their site which is now planned to form part of the proposed development; and parking for students driving to school. The plan does include any dedicated student parking. The EIS notes (Table 7-2) that 23 students will drive to school. This is based on initial estimates of “up to” 450 students, which will be rapidly exceeded. The Applicant has not supported this estimate and it is likely to be a significant underestimate, given that the Applicant has failed to appreciate the rural nature of the location in all aspects of planning. <p>Children in rural areas typically learn to drive as soon as they are allowed; given the long distances, limited availability of bus transport and unsafe cycling conditions for students travelling surrounding rural areas, many Year 11 and 12 students will drive themselves.</p> <p>Of a school population of 450, 150 may be in Year 11 or 12. If only one quarter drive to school, almost 40 parking spaces will be required. This rises to almost 50 in 2036 based on the Applicant’s estimate of 566 pupils. The demand is even greater if (as is suggested at para 24 above) the Applicant’s estimates fail to consider anticipated growth. There is no provision for this.</p>
133.	7.4.5 – Parking	The proposed development will provide 80 bicycle parking spaces (76 for students and 4 for staff). Table 7-2 shows that (i) the staff spaces will be immediately at full capacity, and (ii) the student spaces will be almost at capacity on

		opening. In each case there is no margin for error and limited or no scope for growth. The proposed development must provide more cycling capacity.
134.	7.4.6 – Upgrades to active transport network	<p>The EIS states that there will be a “link to shared path on Turallo Terrace (east of Butmaroo Street) to the shared path on Turallo Terrace to the south-west of Turallo Creek. This is not described in the EIS and was never the subject of consultation. It is not clear what is intended here. There is an existing link between the footpath on the northern side of Bungendore Park and the footpath on the Butmaroo St road reserve (north of Turallo Terrace) to Turallo Creek.</p> <p>The Applicant must provide sufficient detail to enable this aspect of the proposal to be properly considered.</p> <p>Further, the “new shared path to the west of Mick Sherd Oval” will result in an additional loss of parkland. It will impinge on spectator and team areas between the oval and the change rooms. It will bring cycling and pedestrian traffic through this area, which is very crowded on match days. The EIS fails to consider this.</p>
135.	7.4.7 – School Transport Plan	<p>This is deficient. It fails to recognise that a very large proportion of the catchment travels from surrounding rural areas and small towns. Active transport is not viable that these areas are unserved or poorly served by buses.</p> <p>The School Transport Plan (Appendix 6A (2.3.1.3)) states that the bus zone will be “relocated to the southern side of Gibraltar Street”, across a 100m section. This will infringe on the Bungendore Soldiers Memorial, which will become a de facto bus stop and bus shelter. This is a gross desecration of a deeply significant site.</p> <p>Again, there is a complete failure to consider the impact of the adjoining Bungendore Public School. The School Transport Plan suggests that there will be four to five buses required to accommodate high school students. However, student numbers at Bungendore Public School are already well in excess of those projected to attend the high school – sufficient provision must be made for adequate bus facilities for primary school students.</p>
136.	7.4.8 – Construction traffic management – Construction Parking	<p>The EIS suggests that “approximately 50 vehicles” will be required to find alternative parking during construction, and proposes “informal” parking on Turallo Terrace and Butmaroo Street.</p> <p>Butmaroo Street is a residential street, with no kerbing. It is heavily used by cyclists, children and dog walkers. It is inappropriate for this street to be used for construction parking.</p>
137.	7.5.1 – Principles of ESD – Intergenerational equity	<p>The proposed development is inconsistent with the principle of intergenerational equity.</p> <p>Bungendore Park has been open to the public every single day for over 140 years (its by-laws adopted last century prohibited any material restrictions on public access). It provides irreplaceable green recreation space for the whole community and for the environment. Its heritage context and value are irreplaceable.</p>

		It is unfair on future generations that it should be developed, and access restricted for the proposed development, particularly given that the legacy will be a facility which is inadequate to satisfy even short-term demand.
138.	7.5.1 – Principles of ESD – Improved valuation, pricing and incentive mechanisms	<p>The proposed development fails to consider the environmental and social value of green open space and amenity in the centre of town. The Applicant’s comment in relation to this principle demonstrates a failure to balance these costs.</p> <p>The proposed development fails to consider the cost and environmental impact of replacing facilities which will be destroyed or repurposed. For example, Queanbeyan-Palerang Regional Council will be required to construct a new Bungendore office; a new swimming pool will be required; community facilities will need replacement.</p> <p>As discussed in 160 below, State Government guidelines encourage school construction on sites which can offer facilities to the community; the site originally selected for the proposed school (at “Ashby” on Tarago Road) presented the opportunity to provide community facilities to a new housing subdivision; instead, this proposal will result in the loss of community facilities.</p>
139.	7.7 – Heritage and archaeology	<p>The Statement of Heritage Impact (SoHI) was inadequate and fails to address the SEARs. The SEARs requires that the report addresses “all heritage items within the vicinity of the proposal including built heritage, landscapes and archaeology...” and to consider the impacts of the development on heritage items(s), heritage significance or cultural heritage values of the site, including visual impacts...”</p> <p>The SoHI fails to do this. In particular:</p> <ul style="list-style-type: none"> • The report states (p14) that “No works will be undertaken within the State heritage listed curtilage of the Bungendore Train Station (SHR 01105).” This is incorrect. The proposal will involve construction of a roundabout at the intersection of Majara and Gibraltar Streets and construction of access to the Stationmaster’s cottage through the heritage curtilage. • The report states that “the study area has little heritage significance”. This is not correct. David Scobie prepared the first proper assessment of the area in 1982 for the former Yarrowlumla Shire Council, noting that Bungendore Park is “traditional town park”, a “significant precinct” and a “major area of visual importance”. He saw the need to “maintain the town park character with its formal setting opposite the major town institutional buildings.” Scobie also recognised the consistency of the buildings in the town centre, the importance of the open backdrop along Gibraltar Street to the hills beyond and stressed the need to preserve this.²¹

²¹ See “Bungendore Conservation Planning Study”, available at <https://yourvoice.qprc.nsw.gov.au/41216/widgets/223635/documents/92062>

		<ul style="list-style-type: none"> The report states “there are no significant views or vistas associated with the study area” (p13) and “no significant views are noted in any of the heritage studies of Bungendore” (3.2.4). This is incorrect. The views to Gibraltar Hill, Bungendore Railway Station and the Stationmaster’s Cottage will be obscured from many angles. Views to (and the prominence of) the Bungendore Soldiers’ Memorial will be detrimentally affected. As noted above, Scobie described the area in his heritage study as a “major area of visual importance”.
140.	7.7 – Heritage and archaeology – Impact on Bungendore Common	<p>The northern campus of the school (comprising the “ag plot” and associated buildings) will be constructed on Bungendore Common. The EIS (on p139) refers to this as a “very small portion”. In fact, this is a very large part of a heavily used section of the Common. Figure 7-14 of the EIS and figures 25 and 26 on page 22 of the SoHI grossly understate the proportion of Bungendore Common which will form part of the development and are obviously misleading. The Heritage Advisor appears to have been given inaccurate instructions and any conclusion it reaches in relation to this aspect cannot be supported:</p>



Comparison of the part of Bungendore Common identified in the Statement of Heritage Impact which is subject to development for the “ag plot” (left, marked in red on site 1243), compared to the area that is actually subject to development (right). This shows that heritage advisor’s understanding is flawed.

SoHI completely fails to consider the heritage significance of Bungendore Common, which is listed under the PLEP for its historic and cultural importance. The SoHI’s research is poor and its conclusions are inaccurate. For example, it refers to the Common as being “set aside for public use early in the 20th century”. In fact the Common is much older – it was gazetted in the 1840s, very shortly after the town was established. Prior to this time it was known as Shepherd’s Flat. A quick search on Google finds a reference to the Common in the Queanbeyan Age of 22 May 1873.

A report presented to Council notes that the heritage listing of Bungendore Common requires the area to be “maintained as open space and in accordance with the Bungendore Heritage Conservation Strategy to reinforce the semi-rural character and function of the reserve, providing a green edge to the village.”²² The heritage significance of the Common is based – to a large extent – on its “common” nature.

		<p>When the Trustees felt unable to maintain it as a Common (in the legal sense) in late 1970s, it was entrusted to Council as recorded in the Minutes of the former Yarrowlumla Shire Council 1979:</p> <p>337. <u>TRUSTEES BUNGENDORE COMMON (Pl/1) (No. 19 on Precis):</u> Advising that they have found that with rising costs and falling returns they are no longer able to administer the Common in the manner required to keep it at a standard considered by them to be desirable and they believe that the best course of action to safeguard the long term viability of the Town Common as a recreational asset to be used by the people of the town and district would be for the Council to administer it as a Recreational Reserve.</p> <p>It was resolved that the Trustees of the Bungendore Common and the Department of Lands be advised that Council would be prepared to take over the care, control and management of the area as a Recreational Reserve and at the same time protect the levee bank along the creek which was built by Council some years ago.</p> <p>The proposed development will result in construction, high fencing and the public being excluded from a very large part of the Common, which is still heavily used by the public (most notably as a dog park – see the link below²³). The SoHI fails to address this.</p> <p>The Author of the SoHI did not review the Statement of Significance relating to this site. The SoHI refers to the importance of the site in the early social history of Bungendore, as a Common and as public space.</p> <p>Having made no effort to understand the history of the Common, the basis for its listing and after being presented with a plan which (by accident or by design) grossly understates the area of the Common which will be subject to development, the SoHI cannot reach any valid conclusion on the impact on this heritage site.</p>
141.	7.7 – Heritage and archaeology – Impact on Bungendore Park – Failure to understand the basis	<p>All of Bungendore Park is heritage listed under the PLEP, which applies to Lot 701, DP1027107. However, the SoHI simply dismisses this as “curtilage”. This fails to consider that not just the Memorial, but its context in the Park and the Park itself have significant heritage value for the town. The Statement of Significance highlights the importance of the Memorial’s context and clearly indicates that the heritage significance applies to the Park generally: “In its <u>location</u> and design <u>it is important in demonstrating the principal characteristics of the siting of war memorials.</u>” (our emphasis).</p>

²² Queanbeyan-Palerang Regional Council - Council Meeting Attachment 27 March 2019 - *Item 13.4 - Detailed Design of Bungendore Floodplain Risk Management Implementation*

²³ See <https://savebungendorepark.org/blog/dog-tails> – attached as Annexure E

	of the heritage listing under the PLEP.	<p>The SoHI states “the listing only includes the Memorial”. Given the specific reference to the location and siting of the Memorial, it appears that the author has failed to read the Statement of Significance attached to this heritage item.</p> <p>Following the ANZAC Day Dawn Service, residents walk across the otherwise open Bungendore Park in the early dawn to attend a Gunfire Breakfast at the Scout Hall. This shows the continuing importance of the Memorial in its setting, which was recognised in the Statement of Significance.</p> <p>The SoHI cannot simply dismiss this as “curtilage”, given that the prominent siting of the Memorial is specifically referred to in the Statement of Significance.</p>
142.	7.7 – Heritage and archaeology – failure to undertake proper assessment of non-built heritage	<p>The SoHI makes the irrelevant and misleading observation at 3.2.1 and 3.2.2 that the draft Bungendore Heritage Study 2018 does not include the park or the common as a heritage item. This implies that the authors did not consider that these items had heritage value.</p> <p>This is misleading; in fact, the authors were instructed not to assess non-built heritage. In light of this, the report contains a specific recommendation to Council that it “undertake a follow up study of non-building heritage items such as the War Memorial, trees, parks, public urban spaces etc.”</p> <p>In correspondence earlier this year with Council, the author was advised that no such study has been undertaken. In response to a question on notice, Council advised on 10 March 2021 that:</p> <p><i>At this stage, no funding has been allocated to completing this heritage study. As such the study will not be completed before the School project commences. It is estimated that this study would cost approximately \$15,000 and would be seeking assistance with funding from NSW Heritage. It should also be noted that the heritage impact of this School project will be required to be considered as part of the development application process that is being conducted by School Infrastructure and that this will be available for comment by Council and the community during the exhibition period for the project.</i>²⁴</p> <p>Notwithstanding Council’s assurance, the SoHI again fails to consider non-building heritage. A proper study must be undertaken before the proposed development can proceed.</p> <p>Bungendore Park and Bungendore Common have been at the centre of Bungendore’s cultural, social and sporting history for over 150 years. This is extensively recorded in historic press reports of events and sporting matches. Similarly, both Bungendore Pool and Bungendore Community Centre are significant parts of Bungendore’s more</p>

²⁴ <https://www.qprc.nsw.gov.au/files/assets/public/council/public-forum/public-forum-minutes-10-march-2021.pdf>

		<p>recent social history and sporting heritage, as examples of community engagement and resourcefulness as the town developed in the 1970s and 1980s.²⁵ These two important locations will be destroyed; the SoHI fails to consider this.</p> <p>In spite of expert recommendations over the years, Bungendore's non-building heritage has never been the subject of a proper heritage study and the SoHI's failure to consider any aspect of this is inexcusable. Instead, the author of the SoHI considers only those items which are listed (3.2.4). The SEARs did not limit the scope of the SoHI by reference to existing listings. Therefore the SoHI does not comply with the SEARs requirements.</p>
143.	7.7 – Heritage and archaeology – inappropriate development in the heritage precinct	<p>The Palerang Development Control Plan 2015 notes that “there is a clear delineation between the historic nineteenth century village and the late twentieth and twenty first century residential areas.”</p> <p>The proposed development is in the historic nineteenth century village centre. It is inappropriate and will confuse this delineation.</p>
144.	7.7 – Heritage and archaeology – Failure to consider the recommendations of the Palerang Heritage Advisory Committee	<p>The SoHI fails to consider the Conservation Planning Strategy prepared in 2010 by Palerang Council's Heritage Advisory Committee.²⁶ The Committee noted the importance of Bungendore as an intact, early 19th century town.</p> <p>It found that: <i>“the relative intactness of its early buildings and layout allows Bungendore to demonstrate the typical attributes of a late 19th century service village with representative examples of residential, commercial, retail, rural, educational, and religious buildings, parks and reserves.”</i></p> <p>The Committee recommended establishing a heritage conservation area which would include much of the town centre, Bungendore Park and Bungendore Common. It noted the importance of preserving the town park character with its formal setting, and pointed out how the town satisfies multiple criteria to warrant heritage protection.</p> <p>This has not yet occurred. It is inappropriate to proceed with large-scale development without considering the roader heritage context. Again, the SoHI considers only listed heritage objects and the author seems unaware of the broader context and the repeated recommendations from heritage experts for proper assessment and protection of Bungendore Park.</p>

²⁵ See <https://savebungendorepark.org/blog/the-bungendore-public-swimming-pool> and <https://savebungendorepark.org/blog/community-centre> (attached as Annexures C and D)

²⁶ https://www.qprc.nsw.gov.au/files/assets/public/building-and-development/planning-docs/planning-studies-and-strategies/heritage-studies/bungendore_heritage_strategy.pdf

145.	7.7.4 – Heritage Impact Assessment	The EIS states (on p140) that the proposed development will be “complimenting [sic] the low scale and character of the surrounding town.” This is nonsense. It will involve the construction of 5 massive buildings which far exceed the height limit under the PLEP.
146.	7.7.5 – Mitigation measures	<p>It should be noted that early plans envisaged using the Railway station carpark as a bus interchange. Given the pressures on Gibraltar Street, it is inevitable that this will be considered again. The Applicant must address the likelihood of this and the impact on the State-significant railway precinct.</p> <p>The EIS states that “the Memorial has significance for the local population, but this significance does not extend to the entire park.” As noted above:</p> <ul style="list-style-type: none"> • the Park has been central to Bungendore’s social, sporting and cultural life since it was laid out in 1837 and formally gazetted in 1884. The Applicant’s statement is unsupported and the SoHI did not include any proper study which would allow it to reach this conclusion; and • the Applicant has either not read, or failed to understand, the Statement of Significance relating to the Memorial. Its location and prominence are central to its importance. The Park is much more than mere “curtilage.” The proposed development will significantly affect this. The SoHI demonstrates a failure to understand this and to properly assess the impact.
147.	7.8.2 – Social Baseline	<p>The Applicant states that, by 2036, the population aged 0 – 19 years is expected to fall by 7.6%. It is not stated but this appears to refer to Bungendore only (again failing to consider outlying rural areas). The Applicant has not provided any source and this does not appear to be sourced from the Social Impact Assessment.</p> <p>This appears questionable, given the strong growth forecast in Bungendore over the same period, and noting that large new subdivisions to the north and east of the town are likely to attract young couples and families with children in particular.</p> <p>It is also inconstant with the Applicant’s estimates of enrolments at the proposed high school, which are estimated to grown by ca. 25% by 2036.</p> <p>The Applicant should confirm that this is correct – and if not, should revise any aspects of the EIS that rely on this assumption.</p>
148.	7.8.3 – Engagement	The engagement process was deeply flawed. There was no genuine engagement or consultation with the Bungendore community. As noted, no records exist of any feedback from community groups.

149.	7.8.4 – Social impact assessment	<p>The Social Impact Assessment concludes that the proposed development will create a “low positive impact on the community”. This is astounding.</p> <p>It is to be expected that a consultant retained by the Applicant will prepare a supportive report, particularly given that the consultant relied on information provided by the Applicant – some of which this submission has demonstrated to be incorrect.</p> <p>It is also to be expected that significant new social infrastructure such as a school will be strongly beneficial to the community.</p> <p>For Urbis to conclude that the proposed development has only a “low positive” impact is very telling. In actual fact, the social impact of the proposed development will be negative, given:</p> <ul style="list-style-type: none"> • the loss of public space and public facilities; • irreversible damage to the heritage character of the town; • the poor quality and lack of capacity of the design; • the difficult and dangerous traffic situation being created, particularly on Gibraltar Street; • the failure to take an integrated approach and to consider the impact on Bungendore Preschool, Bungendore Public School and Abbeyfield Australia; and • the lack of transparency in the planning process and failure to engage in any genuine community consultation, resulting in massive public opposition to the proposal. <p>The mitigation measures proposed will not have any material effect in mitigating this harm to the community.</p>
150.	7.9.5 – Mitigation measures	There will be no way to enforce the proposed mitigation measures on an ongoing basis. It will be impossible for residents affected by noise to, for example, ensure that windows to music practice rooms are kept closed.
151.	7.11 – Stormwater drainage	The EIS fails to consider the impact on Turallo Creek. This will receive run-off from site (including of potentially lead-contaminated soils during construction) and agricultural run-off from the “Ag Plot”.
152.	7.13 – Flooding	Bungendore Common floods regularly. The EIS fails to consider the impact of regular flooding on the “Ag Plot”.
153.	7.14 – Soil and water	The EIS fails to consider the impact of construction works disturbing areas of heavy lead contamination on the site.

154.	7.15 and 7.16 – Waste and Contamination	The EIS fails to consider disposal of lead-contaminated soil.
155.	7.15.2 – Operational waste	The EIS fails to consider the impact of the waste storage area being situated in the immediate vicinity of residential property (the Signalman’s Cottage) and rubbish trucks accessing this space (which is planned to occur in the early morning or evening).
156.	7.15.3 – Hazardous materials survey	<p>Existing users of the Community Centre have already been given notice to vacate by the end of 2021. As discussed at item 18, the Applicant will have unrestricted access to this site once this occurs. In any case, the Applicant has in-principle agreement with Council (as owner of the site) to sell; it is completely open to the Applicant to arrange access in order to complete any necessary assessment. This must be completed before development consent may be granted.</p> <p>The EIS refers to a “new community centre” being constructed on p163. However, the Applicant otherwise refers to this as a “health hub”, suggesting other community users (such as child care, bridge club, play group etc) will not be included in the new facility. This must be clarified.</p>
157.	7.16.4 – Mitigation measures	The EIS must set out how the Applicant proposes to manage lead-contaminated soil.
158.	9 – Environment risk assessment	<p>This is flawed. In particular:</p> <ul style="list-style-type: none"> • potential for conflict with vehicles/pedestrians is high, noting the heavy traffic volumes, the preschool and primary school adjoining in the site; • the heritage impact is high. The Statement of Heritage Impact is poorly researched and inconsistent and fails to address the SEARs; • the contamination risk is high, given the known issue of significant lead contamination in the Bungendore rail corridor; and • the social impacts are high, the loss of heritage, the loss of amenity and the loss of centrally located, and publicly accessible green space cannot be mitigated. The assessment set out in the EIS is deeply flawed.
159.	11 – Conclusion and justification	These conclusions are not supported.

		<p>The EIS does not address the SEARs and does not set out how impacts may be managed (and fails to note that many are incapable of mitigation).</p> <p>Various justifications are not supported. For example:</p> <ul style="list-style-type: none"> • There is an existing public library. A new public library brings no material benefit; • There will be a net loss of community facilities (the pool, the downgrade of the Community Centre to a “health hub”, reduced parkland, reduced access to Mick Sherd Oval); • There has been no meaningful consultation. The process has been conducted in secret, community concerns have been ignored, requests for information or documentation have been refused; • If the proposal is not approved, the Applicant can proceed with its original plan to acquire a site on Tarago Road for the proposed high school. The Applicant has never presented any explanation for the last-minute decision to abandon this plan in favour of the current proposal. It remains open to the Applicant to build on the original site, which can be achieved quickly and lacks many of the complex legal, heritage and planning overlays affecting the current proposal; • Alternatively, a site offered at East Bungendore, in the centre of a major new subdivision, remains available; • The site is not suitable for the proposal. It fails to satisfy the majority of the Applicant’s own selection criteria set out in item 159 below. Documents released under the GI(PA) Act show that it was originally ruled out as unsuitable during the initial assessment process; • The Applicant states that “If the proposal is not approved ... many current and future high school students in the area will have to travel unreasonable distances to attend school”. In relation to this: <ul style="list-style-type: none"> - much better alternative sites are available which allow a much simpler planning process. If the proposal is not approved, the Applicant could simply proceed with the site originally chosen at Ashby (which remains available); - in any event, no student likely to attend the school is currently required to travel “unreasonable” distances. There are high schools in Queanbeyan (26km), Braidwood (48km), Canberra (38km) or Goulburn (69km). Given that many students will come from outlying rural areas, many of these alternatives will be much closer. • The proposal is not in the public interest. It is damaging to physical and social infrastructure of Bungendore. This is clear from the Social Impact Report, which could say nothing more than a “low” positive impact. Construction
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		of the school, if required, should proceed on an appropriate site. Bungendore is a small town in a rural area, surrounded by open grazing land. There many alternative and more suitable sites.
160.	<i>NSW Department of Education – School Site Selection and Development – Guidelines October 2020</i>	<p>The Applicant’s <i>School Site Selection and Development</i> guidelines (October 2020)²⁷ are “intended for use by a range of stakeholders including internal SINSW teams, urban planners and designers, developers, other government agencies and local councils.” The Applicant has not assessed the proposed development against these Guidelines.</p> <p>The proposed development is inconsistent with these Guidelines, because the Guidelines specify that a site:</p> <ul style="list-style-type: none"> • for a high school in a regional or rural area should be a minimum of 4ha. The site for the proposed development is 2.9ha; • shall be a single lot, or a consolidated group of lots. The site currently comprises approximately 7 lots. It is anticipated that it will be consolidated into two lots, separated by a busy road; • shall be substantially regular in shape, that is, likely square/rectangular. The site for the proposed development is highly irregular, including a separate, irregular shaped campus to the north; • shall be located where there is greatest opportunity to benefit the community who may use school facilities (p4). The proposed development is located in an area which already has significant public and recreational infrastructure, and in fact it will require the demolition of many such facilities and restricted public access to others. <p>Future development in Bungendore is proposed to be concentrated in the north and east; these areas lack community facilities – siting a school adjacent to future growth (rather than detracting from existing facilities in an established area) would achieve the aims set out in the Guidelines, rather than requiring the demolition of existing facilities;</p> <ul style="list-style-type: none"> • should be appropriately zoned for school development, in-line with the “prescribed zones”. The proposed site includes land which is zoned RE1. Development of educational facilities is prohibited on RE1-zoned land. RE1-zoned land is not a “prescribed zone”; • shall not adjoin any land which is developed, or proposed to be developed, for use which is incompatible with a school. The proposed development is immediately adjacent to a railway line with dangerously elevated levels of lead contamination. This is incompatible with a school;

²⁷ https://efsg-dec-prod.s3.amazonaws.com/tab_a_draft_guidelines_for_school_site_selection.pdf

		<ul style="list-style-type: none"> • will be located within a well-structured movement network that provides appropriate road infrastructure, as well as safe pedestrian pathways. Access to the proposed school will be primarily from Gibraltar Street. This will conflict with arrivals and departures to the adjacent Bungendore Public School. The other entrance is adjacent to Bungendore Preschool, again conflicting with arrivals and departures (in this case of very young children). The proposed development does not provide a well-structured and safe movement network; • should be free of any Aboriginal Land Claims or Native Title Claims. The proposed site is subject to an unresolved Aboriginal land claim; • should be free of environmental constraints including ... flood [and] contamination. The proposed “Ag Plot” is subject to regular flooding. The site adjoins the Bungendore rail corridor, which has recently been confirmed to have extremely elevated levels of lead contamination (in excess of the maximum safe level for an industrial area, and many multiples of the safe levels for school development); • shall be free of easements and /or buffer zones that may impact development or use of the land as a school. There is a water main and electricity easement running down Majara Street which will run through the centre of the school grounds. This will also limit the potential for any future expansion; • should consider high-level design principles, including promoting the heritage significance of the site. The proposed site will diminish important heritage assets including the Bungendore Soldiers Memorial and the Bungendore Railway Precinct. <p>The Applicant should be asked to assess the proposal against these criteria, and justify any divergence.</p>
161.	Appendix 4 – Context, Built Form and Landscape - 1.1 – Site Context + Built Form	<p>Appendix 4 states (p33) that:</p> <p><i>The new high school site was selected for it’s [sic] close proximity to the existing public school and preschool, enabling the creation of an education precinct within the town of Bungendore; it’s [sic] location within the town, maximising the opportunity for the new school to consider shared use facilities with the community; and the opportunity for shared use of the Mick Sherd Oval for school sporting curriculum activities.</i></p> <p>This is not correct. The site selection criteria applied by the Applicant did not specify any requirement for shared facilities, and required the proposed school to be within 2.5km of Bungendore Public School. The Applicant had selected and was in the process of acquiring a much larger and more appropriate site close by, before selecting the proposed site only 6 weeks prior to the public announcement on 13 August 2020. It is clear that this 6 week timeframe presented inadequate opportunity for detailed consideration or consultation.</p>

162.	Appendix 4 - 1.6 – Bulk and Scale	<p>The GANSW recognised that the proposed development was inappropriate in bulk and scale for the town. The Applicant fails to address this. Instead, the Applicant states that the proposed development is “generally isolated from the town and neighbouring buildings”.</p> <p>This is absurd and inconsistent. The Applicant has made frequent public statements (including in the EIS and p33 of Appendix 4) highlighting the central location of the development. Indeed, in 5.1 (page 13) of Appendix 4, the Applicant notes that “the site is in a relatively central location to the town area and located on the eastern edge of the historic portion of the town.” Similarly, in 7.3.3 of the EIS, the Applicant states that “the site is situated in a relatively central location of Bungendore” with the surrounding area “generally characterised by low density residential uses, civic and public buildings, and recreational open space.” It is in fact in the absolute geographic centre of Bungendore, as shown below.</p> <p>The development will dominate the approach to the centre of Bungendore along McCusker Drive (a major thoroughfare from the Elmslea subdivision), where it will be directly in front of pedestrians and motorists who will approach from below, on a rising, right-hand bend.</p> <p>The scale is such that it is likely to dominate the view to Bungendore approaching the town from the east on the Kings Highway.</p>
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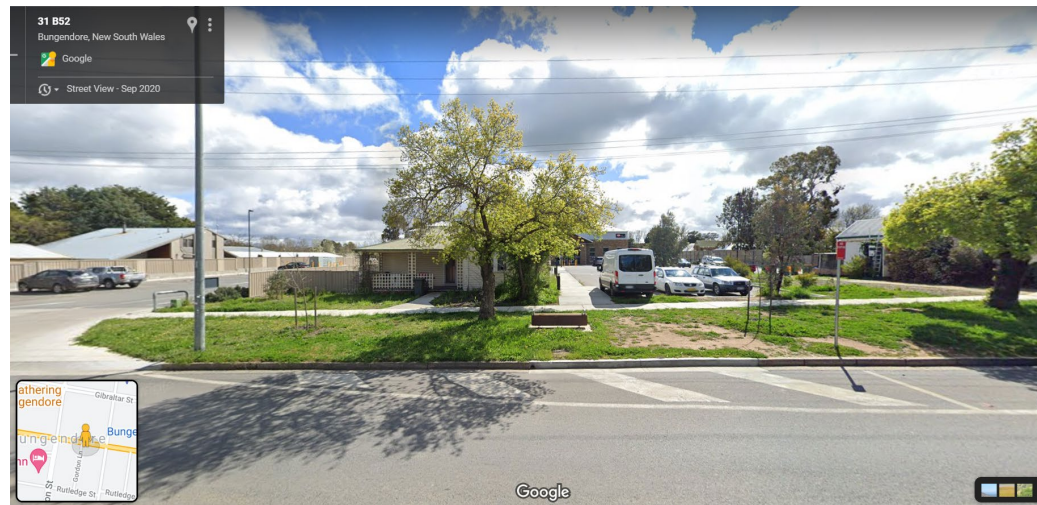
**Location of
proposed
development**

The Applicant has chosen to use misleading perspectives of the Bungendore IGA Supermarket and Bungendore Scout Hall to suggest that the proposed development is consistent with the town's character. This is incorrect. In particular:

- The IGA is **not** in the immediate vicinity. Further, it is a very recent building. It is also inconsistent with the architecture of the town. However, it is significantly set back from the road and largely concealed behind period buildings, as the photographs below demonstrate;
- The Scout Hall has been photographed from an angle which accentuates its prominence. It is in fact set down below the prevailing terrain and is much less prominent than the Applicant's photograph suggests. The photograph below is a better illustration.



Bungendore IGA, as viewed from the main entrance on Malbon St.



Bungendore IGA, as viewed from directly in front.



Scout Hall – photographed on 14 October 2021 from the main road frontage on Turallo Terrace