

## **Heads of Agreement**

### **1. Purpose**

- 1.1 Following the purchase of an alternative site for the construction of the Bungendore High School by the Minister for Education and Early Learning (**Minister**), the Minister no longer requires the following land at Bungendore NSW for the public purpose for which the land was compulsorily acquired:
- (a) 2, 4, 6 and 10 Majara Street, being lots 12, 13 and 14 of DP 1139067, and lot 3 of DP 8380878, and part of the Majara Street Road Reserve, being lot 1 of DP 1276279 (**Council Land**); and
  - (b) Part of Bungendore Park also known as Mick Sherd Oval (including part of a public swimming pool) being lot 1 of DP 1276279, and part of Turallo Terrace Reserve being lot 1 of DP 1276285 (**Crown Land**)
- 1.2 Pursuant to section 71A of the *Land Acquisition (Just Terms Compensation) Act (JTA)*, the Minister seeks to first offer the Council Land for sale to the former owner being Queanbeyan-Palerang Regional Council (**Council**).
- 1.3 The Minister also seeks to return the Crown Land to the Crown, being the former owner of the Crown Land and will request that the Minister administering the *Crown Land Management Act* reinstate the Council as the Crown Land Manager of that land.
- 1.4 Pursuant to section 70 of the JTA, if an acquisition notice is rescinded (in whole or in part), a person in whom the land is revested on that rescission is entitled to be compensated by the authority of the State for any financial costs or any damage actually incurred or suffered by that person as a direct consequence of the compulsory acquisition and its rescission. Upon such rescission, the Council Land will be revested in the Council. For the purpose of negotiations between the parties regarding the Crown Land, the Minister is willing to proceed on the understanding that the Council is the appropriate person in whom the interest of Crown Land Manager will be revested.
- 1.5 This Heads of Agreement (**Agreement**) shows the parties commitment to enter into negotiations to prepare and finalise a deed (**Deed**) to give effect to:
- (a) the process outlined in section 71A of the JTA in respect of the Council Land;
  - (b) the payment of compensation to the Council as a consequence of the compulsory acquisition and subsequent revesting of the Crown Land and Council Land to the former owners of that land; and
  - (c) the adjournment of, and ultimately the discontinuance of, the Land and Environment Court Class 3 proceedings No. 2022/00377095 and 2022/00377152 (**the Court Proceedings**) commenced by the Council in respect of the compensation to be paid for the compulsory acquisition of the Council and Crown Land.

### **2. Adjournment of the proceedings**

- 2.1 Whilst the parties are negotiating the Deed, the Minister will seek, and the Council will support, any necessary adjournments to the Court Proceedings reasonably necessary to facilitate the continued negotiation and finalisation of the Deed.

### **3. Discontinuance of proceedings**

- 3.1 Upon execution of the Deed, the Council will discontinue the Court Proceedings as soon as practicable.

#### **4. Return of the Council Land**

- 4.1 Subject to a resolution of the Council and a suitable Deed being negotiated, the parties intend to exchange a Contract of sale for the Council Land as follows:
- (a) Transfer of 2 Majara Street, Bungendore and the Majara Road Reserve as soon as practicable; and
  - (b) Transfer of 4 Majara Street, 6 Majara Street and 10 Majara Street, Bungendore at the beginning of 2027, with a contingency of 12 months (staged sunset period).

#### **5. Compensation**

- 5.1 Since the acquisition of the Council Land and Crown Land, the Department of Education, on behalf of the Minister, has made an advance payment to the Council in the amount of \$9,727,359.12 being 90% of the compensation offered and as required by section 68(2)(a) of the JTA.
- 5.2 Since payment of the compensation, the Council has undertaken work and purchased the following properties (the **Purchased Land**) for the construction and relocation of the Council administration building:
- (a) 19 – 21 Gibraltar Street, Bungendore;
  - (b) 13 Gibraltar Street, Bungendore; and
  - (c) Part 17 Gibraltar Street, Bungendore
6. In relation to the Purchased Land, the parties agree that:
- (a) On behalf of the Minister, the Department of Education has paid \$9,727,359.12 to the Council;
  - (b) The Council has incurred costs as a result of the compulsory acquisition;
  - (c) The Council is likely to incur further costs as a result of the proposed transfer of the Council Land back to the Council; and
  - (d) The Council will no longer require the Purchased Land for the purpose it was acquired for and will seek to sell the majority of the Purchased Land, noting:
    - (i) 13 Gibraltar Street, Bungendore was purchased by the Council without using funding from the advance payment of compensation.
    - (ii) The Council wishes to retain part of 17 Gibraltar Street for other purposes and does not intend to sell this land.

#### **7. Compensation Categories**

- 7.1 The parties intend that the Deed will set out the categories for which compensation is payable to the Council, the method to be used to determine the value of the compensation to be paid to the Council and time intervals at which payment is to be made.
- 7.2 The parties agree that the Council should not be liable for any financial loss or damage it has incurred or will incur as a result of the compulsory acquisition or the subsequent return of the Council Land and the Crown Land to the former owners, and the compensation to be paid to the Council under the terms of the Deed is to reflect this.

7.3 For clarity, the parties acknowledge that negotiations will be held on the following potential items of compensation arising from the compulsory acquisition of the Council Land and Crown Land:

Costs incurred to date:

- (a) All legal and expert fees;
- (b) Costs associated with the acquisition of the Purchased Land, temporary relocation, and preparation for reinstatement at the Purchased Land; and
- (c) Costs associated with the removal of the additional permitted use at 4-6 Majara Street and the additional permitted use at Turallo Terrace (the Planning Proposal).

Prospective Costs:

- (d) All legal and expert fees;
- (e) Ongoing costs associated with the use of and administration of temporary facilities at the Purchased Land and the transaction costs associated with the disposal of that land;
- (f) Costs associated with relocation to, fitout and re-occupation of the Council Land;
- (g) Costs associated with restoring additional permitted use at 4-6 Majara Street;
- (h) Costs associated with relocation of the Council library currently occupying space at Bungendore Primary School; and
- (i) Costs associated with reopening of Majara Street as a public road.

In respect of former Crown Land:

- (j) All legal and expert costs
- (k) Costs associated with the planning for new pool facilities; and
- (l) Costs associated with reinstatement of Council's role as Crown Land Manager.

## **8. Timeframes**

- 8.1 The parties will commence negotiations for the Deed immediately upon acceptance of the Agreement.
- 8.2 The Agreement is to be considered at the Council meeting on 27 November 2024 or at an extraordinary Council meeting prior to 16 December 2024.
- 8.3 The Deed is to be considered at the Council meeting of 29 January 2025.
- 8.4 The parties agree to seek an adjournment of the Court Proceedings to 17 February 2025.

## **9. Media and communication**

- 9.1 The parties agree that this Agreement may be made public.

## **10. Ancillary matters**

- 10.1 The Minister agrees to provide owner's consent to:
  - (a) The Council for any planning proposal seeking to amend *Queanbeyan-Palerang Regional Local Environmental Plan 2022 (QPLEP 2022)* to allow for seniors housing as a permissible use at 4-6 Majara Street Bungendore.

- (b) For any development application for the construction and operation of seniors housing at 4-6 Majara Street, Bungendore.

These matters will be reflected in the Deed.

## **11. Acknowledgements**

- 11.1 It is acknowledged that the following works previously committed for the Crown Land at Bungendore Park and Mick Sherd Oval will no longer be required (and no costs should be incurred) as a result of a Deed being entered between the parties:
  - (a) Relocation of Bush Balladeer's Place of Recognition.
  - (b) Upgrades to, including:
    - (i) Supply and installation of two (2) additional mobile seating stands.
    - (ii) Design and construction of a shelter structure over the existing spectator stand.
    - (iii) Design and construction of a weatherproof structure connecting the dressing shed and canteen.
    - (iv) Upgrading the northern 'in-goal' area of the playing field, because of relocating the playing field.
  - (c) Storage facilities for the Scout Hall.
  - (d) A Public Address system for the War Memorial within Mick Sherd Oval.
  - (e) Relocation of irrigation main, sports field floodlight pole and new footpath infrastructure .
- 11.2 Procedures and mechanisms will be established within the Deed for the payment of the compensation agreed between the parties.
- 11.3 The parties acknowledge that the Department will be utilising 4-6 Majara Street, Bungendore as a temporary high school for 2026, with an option to extend for 2027 if required. The parties acknowledge that structures of 10 Majara Street extend into Majara Street road reserve (Lot 1 of DP 1276279) and that the land between the road carriageway and 4, 6 and 10 Majara Street may be required for operational purposes of the temporary high school.
- 11.4 This Agreement is not legally binding on the parties.
- 11.5 The Deed once executed will become enforceable by both parties.
- 11.6 The negotiations are not to prejudice the Council in the proceedings.