



## MEDIA STATEMENT

Follow up statement from 13 September 2024:

[Blayney Shire Council seeks amendment to section 10 declaration](#)

**19 November 2024**

### **Blayney Shire Council still in limbo regarding Dungeon Road and section 10 declaration.**

The Australian Government has been urged to provide immediate clarity on the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 declaration* (the s10 declaration) which directly impacts part of the Blayney Shire Council road network.

This simple amendment proposed by Council would have resolved the uncertainty surrounding the current declaration by making it clear the s10 declaration does not apply to Dungeon Road.

On 23 October 2024, Council's legal advisor received a very brief and general response from the law firm Clayton Utz, on behalf of the Minister.

Following receipt of this response, Council is still in limbo and has no certainty it can carry out its functions as the Roads Authority, in accordance with New South Wales *Roads Act 1993*.

Council has been advised that the Minister *"is preparing guidance material"* which will assist Council and other interested parties *"in understanding the scope and impact of the declaration"*.

Whilst Council notes guidance material in any matter is beneficial, legislation is legislation and unless the current s10 declaration is amended, through the addition of 3 words *"excluding Dungeon Road"*, Council remains at a very high risk of contravening the s10 declaration (now and at any time into the future).

Council shouldn't be placed into a situation where it is at risk of contravening a federal declaration, which could result in potential prosecution (and \$156k penalty) for merely undertaking its statutory obligations as the Roads Authority, on a long-standing public road.

On 31 October 2024, Council via email sought indication when the Ministers 'guidance material' would likely be ready. No response to that email has been received.

Council shouldn't have to continue spending significant amounts of money on lawyers playing tennis back and forth, to remove uncertainty in a federal declaration, which was not Councils doing and we are now collateral damage, noting the matter can be clarified through a very minor 3-word amendment.

Council calls on Minister Plibersek to urgently amend the s10 declaration, noting Council had planned to undertake maintenance works on Dungeon Road in November 2024.

Dungeon Road currently remains open; however, this position will constantly be reviewed and is solely contingent on Council being able to undertake its functions as the Roads Authority, in accordance with the New South Wales *Roads Act* 1993 and without any risk of breaching the s10 declaration.

### **Please contact**

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