

# PLANNING PROPOSAL

## DRAFT LITHGOW CITY LOCAL ENVIRONMENTAL PLAN 2013

### PART 1

#### OBJECTIVES OR INTENDED OUTCOMES

To implement a Standard Instrument LEP (SI LEP) across the Lithgow Local Government Area (LGA) that will repeal and replace the two environmental planning instruments that apply to the area: *Lithgow Local Environmental Plan 1994* and *Rylstone Local Environmental Plan 1996*.

This Draft LEP seeks to implement Council's key strategic directions arising from the Lithgow Land Use Strategy 2010-2030 (LUS) adopted by Council on 31 October 2011 and formally endorsed by the Director General of NSW Department of Planning and Infrastructure on 24 May 2012. More specifically the Draft LEP will:

- Provide a suite of land use zones to accord with the Standard Instrument LEP and support the strategic directions of the LUS;
- Provide 50 ha of new industrial land at Marrangaroo and 104ha of heavy industrial land at the Minerals Processing Site, Wallerawang;
- Identify a 310ha urban release area at Marrangaroo to provide for future growth in residential and allied urban land use and to ensure potential further growth is not compromised in the short term;
- Provide a suite of land use zones to replace the Village Zone in the towns of Portland and Wallerawang;
- Consolidate the commercial centre of Lithgow and differentiate the role of the commercial core and out of centre commercial areas;
- Modify the zoning of land in the villages of Capertee, Rydal, Tarana and Lidsdale to consolidate village zoned lands and provide for large lot residential growth to support each village commensurate with its role in the settlement hierarchy;
- Retain existing provisions in relation to rural minimum lot size and the erection of dwellings in the rural areas;
- Retain existing areas available for unsewered large lot residential land use with the exception of the area to the northeast of Lidsdale;
- Provide for serviced large lot residential areas at Lidsdale and on the southern urban fringe of Lithgow;
- Contain provisions to protect the natural environment;
- Contain provisions to align development growth with the provision of essential infrastructure;
- Provide for the protection and conservation of items and areas of environmental heritage;
- Classify or reclassify a number of public lands to accord with the provisions of the Local Government Act, 1993.

## PART 2

### EXPLANATION OF PROVISIONS

#### Land Use Zones

The Draft Lithgow City LEP 2013 proposes to adopt twenty one (21) of the land use zones from the Standard Instrument. In general terms the proposed zone origin/ conversion from both the Lithgow City Council LEP 1994 and Rylstone LEP 1996 is indicated in the table 1 below:

Table 1 Land Use Zones

Draft LEP 2013	Existing LEP Zones to be altered
<b>Rural Zones</b>	
RU1 Primary Production	Zone 1(a) Rural (General) Zone 1(e) Outer Rural Zone 1(d) Rural (Future Urban)
RU2 Rural Landscape	Zone 1(a) Rural (General)
RU3 Forestry	Zone 1(f) Rural (Forestry)
RU5 Village	Zone 2(v) Village
<b>Residential Zones</b>	
R1 General Residential	Zone 2(a) Residential Zone 2(v) Village – Portland and Wallerawang
R2 Low Density Residential	Zone 2(a) Residential Zone 2(v) Village – Portland and Wallerawang Zone 1(d) Rural (Future Urban)
R5 Large Lot Residential	Zone 1(c) Rural (Small Holdings) Zone 2(v) Village
<b>Business Zones</b>	
B1 Neighbourhood Zone	Zone 3 Business Zone 2(a) Residential
B2 Local Centre	Zone 3 Business Zone 2(v) Village – Portland and Wallerawang
B4 Mixed Use	Zone 3 Business Zone 2(v) Village – Portland Zone 4 Industrial Zone 2(a) Residential
B6 Enterprise Corridor	Zone 1(a) Rural (General)
B7 Business Park	Zone 4 Industrial
<b>Industrial Zones</b>	
IN1 General Industrial	Zone 1(a) Rural (General)
IN2 Light Industrial	Zone 4 Industrial Zone 2(v) Village Zone 1(a) Rural (General)
IN3 Heavy Industrial	Zone 1(a) Rural (General)
<b>Special Purpose Zones</b>	
SP2 Infrastructure	Zone 1(a) Rural (General) Zone 4 Industrial Zone 2(a) Residential

Draft LEP 2013	Existing LEP Zones to be altered
	Zone 1(c) Rural (Small Holdings) Classified Roads Railways
<b>Recreation Zones</b>	
RE1 Public Recreation	Zone 6 Open Space Zone 2(v) Village
RE2 Private Recreation	Zone 6 Open Space Zone 2(a) Residential Zone 2(v) Village
<b>Environment Protection Zones</b>	
E1 National Parks and Nature Reserves	Zone 8 National Parks and Nature Reserves Zone 1(a) Rural (General)
E3 Environmental Management	Zone 1(a) Rural (General) Zone 6 Open Space Zone 2(a) Residential Zone 2(v) Village
E4 Environmental Living	Zone 1(a) Rural (General) Zone 1(d) Rural (Future Urban) Zone 2 (a) Residential

## INCLUSION OF LOCAL PROVISIONS

The Draft Lithgow City LEP 2013 includes a number of the standard optional clauses, model clauses and additional local provision clauses as outlined in the Table 2 below.

Table 2 Local Provision Clauses

Draft LEP 2013 Clause	Standard Instrument Reference/Clause Name	Clause Type
	<b>PART 1 PRELIMINARY</b>	
1.8A	Savings provision relating to development applications	Model Local Clause
1.9A	Suspension of covenants, agreements and instruments	Model Local Clause
	<b>PART 2 PERMITTED OR PROHIBITED DEVELOPMENT</b>	
2.8	Temporary Use of Land	Standard Optional Clause
	<b>PART 4 PRINCIPAL DEVELOPMENT STANDARDS</b>	
4.1	Minimum subdivision size	Std Optional Clause adopted with minor variation.
4.1AA	Minimum subdivision size for community title schemes	Std Optional Clause
4.1B	Minimum lot sizes for dual occupancies, multi dwelling housings and residential flat building in certain zones	Model Local Clause
4.2	Rural subdivision	Std Optional Clause
4.2A	Erection of dwelling houses, dual occupancies and secondary dwellings on land in certain rural and environmental zones	Model Local Clause with minor variation.
4.2B	Erection of dwelling houses, dual occupancies and secondary dwellings on land within certain village and lot residential zones	Local Clause
5.4 (7)	Neighbourhood shops	Standard Clause with additional local provision for neighbourhood shops in the B1 Neighbourhood Centre zone.
	<b>PART 6 URBAN RELEASE AREAS</b>	
6.1	Arrangements for designated State public infrastructure	Model Local Clause

Draft LEP 2013 Clause	Standard Instrument Reference/Clause Name	Clause Type
6.2	Public utility infrastructure	Model Local Clause
6.3	Development Control Plan	Model Local Clause
<b>PART 7 ADDITIONAL LOCAL PROVISIONS</b>		
7.1	Flood Planning	Model Local Clause
7.2	Stormwater Management	Local Clause ( Also used Blayney and Orange LEPs)
7.3	Earthworks	Local Clause (Also used in MWRC and Orange LEPs)
7.4	Riparian Lands and Waterways	Local Clause as adapted from ESA practice notes and Blayney/Orange LEPs
7.5	Groundwater Vulnerability	Local Clause as adapted from ESA practice notes and Blayney/Orange /MWRC LEPs
7.6	Terrestrial Biodiversity	Local Clause as adapted from ESA practice notes and Blayney/Orange /MWRC LEPs
7.7	Sensitive Lands	Local Clause as adapted from ESA practice notes
7.8	Essential Services	Local Clause(also used in MWRC and Blayney LEPs)
7.9	Active Street Frontage	Model Local Clause
7.10	Location of Sex Service Premises	Model Local Clause
7.11	Development Pottery Estate	Local Clause
7.12	Existing dwellings on unsubdivided land	Local Clause
7.13	Lithgow Drinking Water Catchment	Local Clause (also used in Blayney and Orange LEPs)
7.14	Development within a designated buffer area	Local Clause (also used in Blayney LEP)
<b>SCHEDULES</b>		
	Schedule 1 Additional Permitted Uses	Not Adopted
	Schedule 2 Exempt Development	Nil
	Schedule 3 Complying Development	Nil
	Schedule 4 Classification and Reclassification of public land	Std Schedule Form in three parts: Part 1 Land Classified, or reclassified as operational land – no interests changed Part 2 Land classified, or reclassified, as operational – interests changed Part 3 Land classified, or reclassified, as community land
	Schedule 5 Environmental Heritage	Std Schedule in three parts: Part 1 Heritage Items Part 2 Heritage Conservation Areas Part 3 Archaeological Sites
<b>LOCAL MAPS (in addition to Defined Standard Maps)</b>		
4.2A	Former LEP Boundaries Map	Local Map
7.1	Flood Planning Map	Local Map
7.4	Environmentally Sensitive Areas – Water Overlay Map	Local Map
7.5		

Draft LEP 2013 Clause	Standard Instrument Reference/Clause Name	Clause Type
7.6	Environmentally Sensitive Areas - Biodiversity Overlay Map	Local Map
7.7	Environmentally Sensitive Areas - Land Overlay Map	Local Map
7.9	Active Street Frontages Map	Local Map
7.11	Pottery Estate Development Map	Local Map
7.13	Lithgow Drinking Water Map	Local Map
7.14	Sewage Treatment Plant, Waste Disposal Facility and Water Treatment Facilities Map	Local Map

## EXPLANATION OF THE OPTIONAL LOCAL CLAUSES AND THEIR RELATIONSHIP TO EXISTING LEPs.

Table 3 Model Clause Explanation

Clause	Relationship to Existing LEPs	Comment			
<b>PART 1 PRELIMINARY</b>					
1.8A	Nil	Required to allow for the continued processing of undetermined development applications at the time of gazettal of the LEP.			
1.9A	Clause 4A of LCC LEP 1994	Retains the current provision			
<b>PART 2 PERMITTED OR PROHIBITED DEVELOPMENT</b>					
2.8	Clause 32 of LCC LEP 1994 (maximum period of 28 days)	Retains the current provision with an increased maximum period of 52 days.			
<b>PART4 DEVELOPMENT STANDARDS</b>					
4.1	Clause 12 , 12A , 14 and 16 LCC LEP 1994 Clause 13 Rylstone LEP 1996	<b>Lithgow City Council LEP 1994/Rylstone LEP 1996</b>	<b>Draft LEP 2013</b>		
		<b>Land Use Zone</b>	<b>Minimum Lot Size</b>	<b>New Related Land Use Zone</b>	<b>Proposed Minimum Lot Size</b>
		1(a) Rural (General)	40ha with general restriction on subdivision of consolidated lands created under Clause 12(1)	RU1 RU2 E3 E4	40ha with general restriction on subdivision of consolidated lands created under Clause 12(1) as identified as Area 2 on Lot Size Map
		1(e) Outer Rural	100ha	RU1	100ha
		1(a) General Rural (Rylstone)	40ha with prohibition on further subdivision of lands comprising of prime, crop	RU1 RU2	40ha with prohibition on further subdivision of prime, crop and pasture land as identified as

Clause	Relationship to Existing LEPs	Comment			
			and pasture land		Area1 on Lot Size Map
		<b>Land Use Zone</b>	<b>Minimum Lot Size</b>	<b>New Related Land Use Zone</b>	<b>Proposed Minimum Lot Size</b>
		1(c) Rural Small Holdings	1ha with an average of 2ha created from an existing holding	R5	Varying  2ha  4000m <sup>2</sup> in some areas surrounding the village and towns
		<b>Land Use Zone</b>	<b>Minimum Lot Size</b>	<b>New Related Land Use Zone</b>	<b>Proposed Minimum Lot Size</b>
		2(v) Village	2000m <sup>2</sup>	RU5	4000m <sup>2</sup>
4.1	No Clause – Lithgow City LEP silent.	Introduces minimum lot sizes for Zone R1 ranging from 300 <sup>2</sup> to 800m <sup>2</sup> as identified on the Lot Size Map Introduces minimum lot sizes for Zone R2 ranging from 800 <sup>2</sup> to 2000 <sup>2</sup> as identified on the Lot Size Map			
4.1A	No Clause	Adopted to prevent further fragmentation of land in the rural and environmental zones from other forms of subdivision not addressed in Clause 4.1.			
4.1AA	No Clause	Adopted to prevent further fragmentation of land in the rural and environmental zones from other forms of subdivision not addressed in Clause 4.1.			
4.1B	Clause 19	Minimum lot sizes for the erection of a dwelling are shown on the Lot Size Map. The purpose of this clause is to achieve a certain density of development of lands within RU5, R1 and R2 for the purposes of dual occupancy, multi dwelling housing and residential flat buildings where permitted under the land use zone.			
4.2A	Clause 17	While the Draft LEP 2013 proposes to adopt the model local clause for dwelling entitlements in the Rural and Environmental Zones, the wording of the clause requires some variation to take account of local circumstances arising from the need to introduce an absolute minimum lot size of 4000 m <sup>2</sup> in relation to unsewered lands for existing holdings and to address existing holding definitions arising from current and past planning instruments. This clause is supported by a map showing the Former LEP Boundaries to assist definition of relevant dates for existing holdings.			
4.2B	Clause 18	This additional clause is necessary for the RU5 and R5 zones to protect the entitlement for the erection of a dwelling for those allotments created and /or approved by subdivision under the current planning instrument where the new minimum lot size has increased under Draft LEP 2013.			
<b>PART 6 URBAN RELEASE AREAS</b>					

Clause	Relationship to Existing LEPS	Comment
6.1 6.2 6.3	No Clause	The Draft LEP 2013 adopts the model local clauses to identify an area at Marrangaroo as an Urban Release Area to provide for residential and employment land opportunities. The site has an area of approx 342ha and a potential residential lot yield of approximately 1700 lots.
<b>PART 7 ADDITIONAL LOCAL PROVISIONS</b>		
7.1	Clause 29	<p>The Draft LEP 2013 adopts the model local clause for flood planning.</p> <p>Council has not developed a Floodplain Risk Management Plan in accordance with the 2005 Floodplain Development Manual.</p> <p>The flood planning area on the Flood Planning Map is the 1 in 100 year flood level taken from the 1991 Kinhill Floodplain Management Study, within the current LEP.</p> <p>This clause provides greater direction regarding Council's consideration of development of land identified at or below the flood planning level.</p> <p>Council is currently commissioning a Flood Study Review and it is expected that work can commence on a Flood Plain Risk Management Plan in 2014. Once completed Council will seek review of this Clause and mapping in future years.</p>
7.2	No Clause	Clause required to ensure the consideration of stormwater management and water sensitive urban design in the development assessment process and is given determinative weight.
7.3	No Clause	Clause required to ensure the consideration of the impacts of earthworks as a result of development is given determinative weight.
7.4	No Clause	Clause required to implement the State Government Agency ESA mapping and model NRM clauses and to trigger a higher level of assessment in relation to identified Sensitive Riparian Lands and Waterways.
7.5	No Clause	Clause required to implement the State Government Agency ESA mapping and model NRM clauses and to trigger a higher level of assessment in relation to identified areas of groundwater vulnerability.
7.6	Clause 28	Clause required to implement the State Government Agency ESA mapping and model NRM clauses and to trigger a higher level of assessment in relation to identified areas of biodiversity.
7.7	Clause 28	Clause required to implement the State Government Agency ESA mapping and model NRM clauses and to trigger a higher level of assessment in relation to identified sensitive lands.
7.8	No Clause	Clause required to ensure that development is provided with essential services
7.9	Clause 22	Replaces existing clause to ensure that the central core of Lithgow Main St business precinct retains its business and retail function and concentrates the areas of high pedestrian traffic.
7.10	Clause 44	Adopts the model local clause to provide additional considerations for the location and impacts of sex services premises.
7.11	No Clause	Local clause required to ensure that the Pottery Estate area as identified on the "Pottery Estate Development Map" is planned and

Clause	Relationship to Existing LEPs	Comment
		developed in an orderly and environmentally responsible manner.
7.12	Clause 34	Local clause to retain exceptions to development standards for particular lands to enable existing dwellings built under historic joint tenure to have separate Torrens title.
7.13	No Clause	Clause required to ensure that the impacts of development upon the Lithgow Drinking Water Catchment is considered in the development process and is given determinative weight. This clause is supported by a local map.
7.14	No Clause	Clause is required to ensure that additional matters are considered in the assessment of development in the vicinity of local infrastructure. This clause is supported by the local map titled "Sewage Treatment Plant, Waste Disposal Facility and Water Treatment Facilities Map."

SCHEDULES		
Schedule 4	Nil	The Draft LEP 2013 proposes to appropriately reclassify a number of public land parcels to meet governance and operational requirements as a consequence of a comprehensive review of Council's public land register. Many of the items to be reclassified to operational land are required as a consequence of administrative oversight whereby land devolved to community classification when not classified within the legislated timeframe of the LG Act.
Schedule 5	Schedule 1 Lithgow City LEP 1994 Schedule 1 Rylstone LEP 1996	The Draft LEP 2013 proposes to transfer all items listed in Schedule 1 of the Lithgow City LEP 1994 as well as items listed in Schedule 1 of the Rylstone LEP 1996 that are now within the Lithgow City Council Local Government Area. In addition it is proposed to list additional heritage items identified in both the Lithgow and Rylstone Heritage Studies that have sufficient information to inform their listing as well as listing 13 new Heritage Conservation Areas.

This Planning Proposal provides an overview of the intent of the instrument, however, for a full disclosure of the proposal please refer to the attached Draft LEP 2013 and associated mapping and the completed LEP Matrix for ease of understanding and quick reference included as Attachments 1 and 2 respectively.



## PART 3

### JUSTIFICATION

#### Section A      Need for Planning Proposal

##### *Is the planning proposal a result of any strategic study or report?*

The *Standard Instrument (Local Environmental Plans) Order 2006* requires all Councils across NSW to prepare a new LEP to accord with the Standard Instrument LEP.

This Order initiated the development of a local land use strategy and the development of a new Principal Lithgow City Council LEP.

This Planning Proposal is required to implement the recommendations of the Lithgow City Council Land Use Strategy 2010-2030 (LUS) that was adopted by Lithgow City Council on 31 October, 2011 and endorsed by the Director General of NSW Department of Planning and Infrastructure on 24 May 2012.

The LUS was informed, but not limited to, the 2007 Local Profile, the Community Strategic Plan 2025 and other strategic documents and studies such as the 2010 Business and Retail Strategy, Economic Development Strategy 2010-2014, Lithgow Ageing Strategy, Lithgow Open Space and Recreational Needs Study, 2011, Lithgow Heritage Study 2000 as reviewed by the Heritage DCP Study 2010, Marrangaroo Local Environmental Study and Structure Plan 2006, Cultural Plan 2008-2013 and the Cultural Precinct Study.

A copy of the Lithgow City Council Land Use Strategy 2010-2030 is available on Councils' website at <http://www.lithgow.nsw.gov.au/landuse/index.html>.

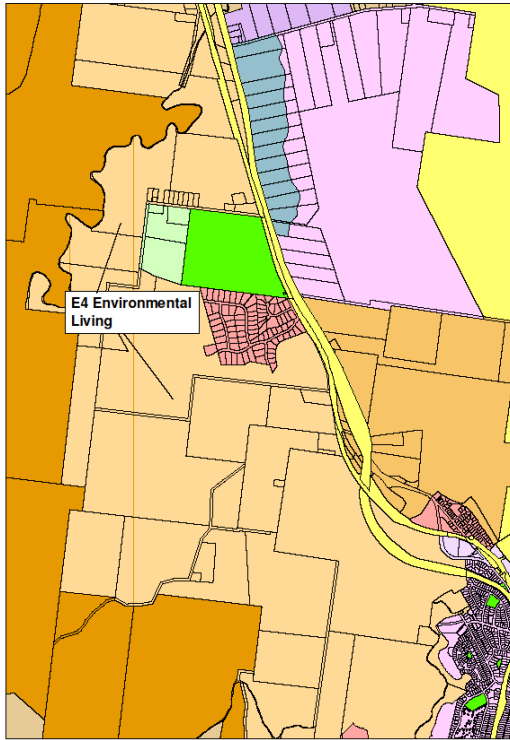
The key outcomes from the LUS to be implemented through the planning proposal are outlined in Part 1 of this proposal.

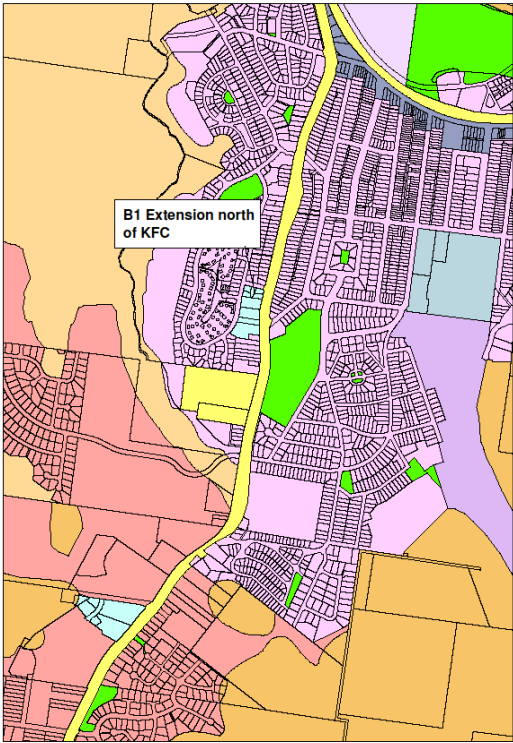
The planning proposal includes the following minor inconsistencies with the adopted LUS implementation framework that have arisen as a result of preparing the detail necessary for the Draft LEP in the standard format and to include minor adjustments as considered by the newly elected Lithgow City Council:

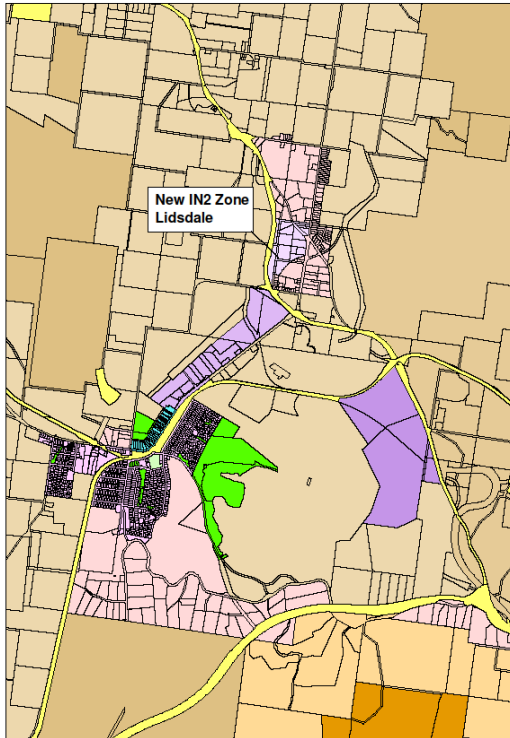
**Table 4 Minor inconsistencies with adopted LUS**

<b>Relevant LUS Action</b>	<b>Variation Sought</b>
<b>Residential Land Action 11.2</b>  Identify the Marrangaroo Study Area as the LGA's next urban release area and defer zoning until at least the 2016 LEP review. Development of this area to occur generally in accordance with the adopted Structure Plan	Marrangaroo Study Area included in Draft LEP 2013 as Urban Release Area to bring forward detailed concept and infrastructure planning through the implementation of Part 6 provisions of the Draft LEP 2013.

<p>(Figure 12 Chapter 11). This area to be retained in a rural zone in the Lithgow City 2012 LEP as a holding mechanism for future urban land use as indicated in Figure 5 of Chapter 14.</p>	
<p><b>Residential Land Action 11.3</b> Determine appropriate minimum lot sizes to be applied to each new serviced residential land use designation to be applied in the Lithgow City 2012 LEP generally as follows:</p> <ul style="list-style-type: none"> <li>▪ General Residential 600m<sup>2</sup></li> <li>▪ Medium Density Residential 400m<sup>2</sup></li> <li>▪ Low Density Residential 800m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Draft LEP 2013 has not included a medium density zone, opting for R1, R2 and R5 with varying minimum lot sizes within each zone area.</li> <li>• R1 General Residential Zone contains areas of 300m<sup>2</sup>, 400m<sup>2</sup> and 600m<sup>2</sup> minimum lot sizes.</li> <li>• R2 Low Density Residential Zone contains areas of 600m<sup>2</sup>, 800m<sup>2</sup> and 2000m<sup>2</sup> minimum lot sizes.</li> <li>• Land to the north of Oakey Forest Road currently zoned Residential 2(a) to be rezoned to Environmental Living as a holding mechanism for future urban land use beyond the 2013 LEP as indicated in the map below.</li> </ul>
<p><b>Residential Land Action 11.6</b> Back zone the existing Rural (Future Urban) 1(d) zones surrounding Lithgow, Wallerawang and Portland to an appropriate rural zone as a holding mechanism for future urban land use beyond the 2012 LEP as indicated in the LEP direction figures in Chapter 14.</p>	<p>Variation to the proposed zoning (RU1 Primary Production and E3 Environmental Management) of land at West Bowenfels/Marrangaroo. Draft LEP 2013 proposes to zone land within the current 1(d) Future Urban Zone and surrounding General Rural 1(a) land as E4 Environmental Living Zone with a 40 hectare minimum lot size as a holding mechanism for future urban land use beyond the 2013 LEP as indicated in the map below. This land has varying urban capability and contributes significantly to the visual amenity of the urban fringe.</p>

	
<p><b>Employment Lands – Commercial Action 12.14</b></p> <p>Implement the recommendations of the Lithgow Business and Retail Strategy in the Lithgow City 2012 LEP as follows:</p> <ul style="list-style-type: none"> <li>▪ Retain and consolidate the principal commercial centre of Lithgow by rezoning surplus commercial lands as indicated in Figure 3 of Chapter 14.</li> <li>▪ Apply a different commercial zone to the Lithgow Valley Plaza, Pottery Plaza and adjacent lands as indicated in Figure 3 of Chapter 14 to enable differentiation of prohibited land uses within this area and the Main St commercial precinct.</li> <li>▪ Introduce floor space ratios in the LEP to limit the potential for expansion of the Valley</li> </ul>	<ul style="list-style-type: none"> <li>• Variation to the proposed zoning of land along Main St Lithgow between Hassans Walls Road and the GWH and along Railway Parade between Tank St and Sandford Avenue and a section of James St as B4 Mixed use. This maintains the commercial character of these strips to support the Main St precinct and will ensure the unhindered continued operation of existing uses.</li> </ul> <p>The proposed zone objective of the B4 Mixed Use zone with robust development assessment should achieve similar outcomes as the strategy to consolidate the commercial centre through back zoning of these commercial lands.</p> <ul style="list-style-type: none"> <li>• Variation to the proposed zoning of the site on the corner of GWH and Caroline Ave to retain residential zoning as R1 General Residential.</li> <li>• Variation to the proposed neighbourhood centre zone at Col Drewe Drive Lithgow to extend the zoned area in a westerly direction to provide a larger greenfield site within the zone to facilitate the development of a neighbourhood shopping complex.</li> <li>• Floor space ratios have not been adopted as a development standard within the Draft LEP 2013. Further strategic work is required to inform the development and outcomes sought from the standard. Given the level of development demand, similar and more flexible outcomes can be achieved through a robust development assessment process on a case by case basis.</li> </ul>

<p>and Pottery Plazas out –of centre sites.</p> <ul style="list-style-type: none"> <li>▪ Identify and appropriately zone the commercial centre of Wallerawang as identified in Figure 13 of Chapter 14.</li> <li>▪ Identify and appropriately zone the commercial centre of Portland as identified in Figure 19 of Chapter 14.</li> </ul>	
<p><b>Amendments requested by Council Resolution of 15 April 2013</b></p>	
<p>No LUS action</p>	<p>Proposed B1 Neighbourhood Centre zone on the Great Western Highway be extended to include the allotments bounded by GWH, Purcell St and Landa Street and the northern boundary of Lithgow KFC as indicated below:</p> <div data-bbox="730 869 1244 1608" style="text-align: center;">  </div>

No LUS action	<p>New IN2 Light Industrial zone be created at Lidsdale surrounding the existing A C Whalan and Co rural, mining and industrial supplies business as indicated below:</p> 

*Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The Planning Proposal is the only means of achieving the intended outcomes as Council is unable to move outside the legislative framework determined by the Environmental Planning and Assessment Act, 1979.

Council resolved to prepare the Principal Local Environmental Plan at its Ordinary Meeting of 5 March 2012 and as such moved into the new Part 3 “gateway” plan making process.

**Section B Relationship to strategic planning framework**

*Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including Sydney Metropolitan Strategy and exhibited draft strategies)?*

There are no regional or sub-regional strategies applicable to the Lithgow Local Government Area.

*Is the planning proposal consistent with applicable State Environmental Planning Policies?*

## State Environmental Planning Policies (“SEPPs”)

SEPPs are a set of State level policies that are included within the term “environmental planning instruments”. SEPPs are generally limited to state or regional wide issues and can also set the framework for local policies, instruments and controls.

An analysis of the application and consistency of the Draft LEP 2013 with all SEPPs has been undertaken and is included in Appendix 1.

Generally the Draft LEP 2013 is consistent with applicable SEPPs.

### *Is the planning proposal consistent with applicable Ministerial Directions (S.117 directions)?*

#### Section 117 Ministerial Directions

Appendix 5 sets out the Directions issued to Councils under Section 117(2) of the EP&A Act (as of late 2009) that are relevant to the development of the Principal LEP. These directions guide the outcomes in environmental planning instruments as well as the strategies that support these instruments. They are mandatory (not optional).

An analysis of the application and consistency of the Draft LEP 2013 with all applicable S117 (2) Directions has been undertaken and is included in Appendix 2

This planning proposal identifies minor inconsistencies with the following Section 117(2) Directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.3 Flood Prone Land

Council will seek the Director-Generals opinion that the inconsistencies are minor and local in nature and are justified in each instance.

#### Section C Environmental, social and economic impact

##### *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The Draft LEP 2013 does not seek to rezone any land that would require environmental studies to be undertaken.

##### *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

There are no other known or likely environmental effects that have been identified in the drafting of the Draft LEP 2013 into the standard format.

The Draft LEP 2013 also proposes to include new natural resource management provisions through additional local clauses and new mapping that will require greater consideration of environmental issues across the local government area.

The proposed RU2 Rural Landscape zone has identified areas of high environmental sensitivity and biodiversity connectivity. Additional local objectives have been added to this zone to properly consider the type and intensity of local development within this zone.

In addition, all relevant natural resource management agencies have been and will continue to be consulted and involved in the plan making process and they can raise any outstanding issues of concern as part of that further consultation.

### ***Has the planning proposal adequately addressed any social and economic effects?***

The Draft LEP 2013 in the Standard Instrument format will enable Council to use the same planning languages as other councils across NSW, making it easier for the community, developers and other stakeholders to understand the LEP provisions which apply in the LGA.

The new LEP will also consolidate the two existing environmental planning instruments that apply in the LGA thereby alleviating confusion in the application of provisions.

The Draft LEP 2013 implements the Lithgow Land Use Strategy 2010-2030 that is premised on the adoption of a set of growth management and sustainability principles and an adopted settlement hierarchy (Refer to Chapter 4 of the LUS) to guide future land use development and balance the competing social and economic impacts of land use planning.

The Draft LEP 2013 adopts a more structured (closed) form of land use zoning, replacing the current LEP flexible model, in order to be more transparent and specific about the roles and functions of land use zones, protect amenity and to provide more surety for investment decisions.

Key social and economic effects of the Draft LEP 2013 are outlined below:

- Provision of new greenfield employment lands to encourage employment self containment and diversification in order to redress the social and economic impacts and vagaries associated with the coal mining industry;
- Identification of a new urban release area to provide for future growth;
- Introduction of more residential zones to appropriately manage land use density and housing choice;
- Replacing the broader village zoning in the townships of Portland and Wallerawang with the suite of land use zones to guide orderly planning and better identify intended character and amenity;
- Protection and conservation of the LGA's vast heritage through local listing and the introduction of heritage conservation areas.

The range and intensity of development permitted under the new Draft LEP 2013 is not likely to require significant additional social infrastructure such as education, health and emergency services.

## Section D State and Commonwealth interests

### *Is there adequate public infrastructure for the planning proposal?*

Draft LEP 2013 does not propose the zoning of urban land that cannot be adequately serviced with essential public infrastructure.

The staging and appropriate funding mechanisms for required local infrastructure will be determined through the preparation of Development Servicing Plans and the available development contributions frameworks.

The Draft LEP 2013 includes the model local provision clauses as they relate to Urban Release Areas as Part 6 of the Draft Plan. These model clauses require satisfactory arrangements for state and public utility infrastructure to be satisfied before land in an urban release area can be subdivided and developed for its intended purpose.

The Draft LEP 2013 also elevates this consideration by introducing Clause 7.8 that also requires essential infrastructure be provided to all development when required.

In addition, all relevant key public infrastructure providers have been and will continue to be consulted and involved in the plan making process and they can raise any outstanding issues of concern as part of that further consultation.

### *What were the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?*

A Gateway determination has not been issued at this stage of the process.

Council undertook extensive public agency consultation when preparing the Draft Lithgow Land Use Strategy 2010-2030 to over 50 recognised public agency offices. A government authority forum was also held with 13 attendees.

The following government authority bodies have formerly commented upon the Draft Lithgow LUS:

- Department of Planning and Infrastructure
- Sydney Catchment Authority
- Office of Environment and Heritage
- Department of Trade and Investment Regional Infrastructure and Services including:
  - Trade and Investment
  - Agriculture
  - Fisheries
  - Minerals
  - Forests NSW
- Housing NSW
- Land and Property Management Authority (Crown Lands)
- State Emergency Services
- Transport Roads and Traffic Authority
- Mine Subsidence Board
- Rural Fires Service
- Education and Communities



- Department of Defence
- Transgrid

Comments received were considered and reflected in finalising the LUS, however it must be noted that Council's resolution in relation to rural planning was not consistent with recommendations of the relevant authorities in that regard.

Each authority was also advised of Council's resolution in relation to the Draft LUS in October 2011 and was provided a link to the final adopted version.

Further consultation will be required as part of the Draft LEP 2013 public exhibition process.

## PART 4

### MAPPING

Council has prepared a series of mapping layers using the Map Info Program. Layers have been prepared having regard to the "Standard Technical Requirements for preparing LEP Maps". These will be placed into the templated format by the GIS division of the Department of Planning and Infrastructure prior to public exhibition.

The Draft LEP 2013 is supported by the following mandated and local maps:

Table 5 LEP Maps

Map Title	Relevant Clause of Draft LEP 2013	Mandated/Local
Land Application Map	1.3	Mandated
Land Zoning Map	2.2	Mandated
Lot Size Map	4.1	Mandated
Former LEP Boundaries Map	4.2A	Local
Heritage Map	5.10 and Schedule 5	Mandated
Urban Release Area Map	6.1- 6.3	Local
Flood Planning Map	7.1	Local
Environmentally Sensitive Areas – Water Overlay Map	7.4 and 7.5	Local
Environmentally Sensitive Areas – Biodiversity Overlay Map	7.6	Local
Environmentally Sensitive Areas – Land Overlay Map	7.7	Local
Active Street Frontages Map	7.9	Local
Pottery Estate Development Map	7.11	Local
Lithgow Drinking Water Catchment	7.13	Local
Sewage Treatment, Waste Disposal and Water Treatment Facilities Map	7.14	Local

To assist understanding of the Planning Proposal several thematic maps (png format) have been prepared to demonstrate the spatial extent of each of the mapping layers. These maps are provided in Attachment 2. Please note some of the layers have been combined onto one map to avoid excessive map production and printing prior to the final Draft LEP maps being made available.

## PART 5

### COMMUNITY CONSULTATION

Extensive community consultation and engagement was undertaken as part of the development of the Lithgow Land Use Strategy 2010-2030 and its informing strategies as well as the Community Strategic Plan 2025. The development of the Draft LEP 2013 has been informed from the outcomes of this consultation.

In particular the aims of the Draft LEP 2013 have been drawn from the overarching strategic directions developed by the community as reflected in both the LUS and Community Strategic Plan.

Community consultation for the Draft LEP 2013 will be conducted in accordance with Section 5.5.2 Community Consultation of the DOP & I publication "*A guide to preparing local environmental plans*". Being a Principal LEP the planning proposal is not considered a "low impact" planning proposal and therefore requires a public exhibition period of at least 28 days.

Council will be preparing a full consultation strategy for the public exhibition phase including the following forms of public notification and engagement techniques:

- Notification in newspapers circulating in the LGA;
- Notification on Councils website and social media site;
- Print and Radio Media Notifications and Releases;
- Notification to all persons who have previously registered an interest or made a submission in relation to the LUS and LEP making process;
- Notification to all known community groups operating in the LGA;
- Notification and consultation with all relevant government authorities and agencies
- Development and dissemination of a number of plain english fact sheets.

Given that the Planning Proposal is a Principal LEP applying to the whole LGA; it is considered impractical to notify each landowner in writing.

Due to the anticipated level of public interest in this project, **Council requests a public exhibition period of 50 plus days is considered for this planning proposal to ensure the concerns and interests of the community are properly identified.**

## PART 6

### PROJECT TIMELINE

The Minister for Planning and Infrastructure, Hon Brad Hazzard MP, has strongly encouraged Council to finalise its standard instrument LEP by 30<sup>th</sup> June 2013 or as soon as possible thereafter. The June 30 deadline is not possible to achieve.

Given the current status of the project the following target timeline outlining the milestone steps in the LEP Plan Making Process is proposed;

#### Draft LEP 2013 Project Timeline

Table 6 Project timeline

KEY STEP	RESPONSIBILITY	TARGET MILESTONE DATE
Council resolution to prepare SI LEP	Council	March 2012
Director General endorsement of LUS	Director General DOP & I	May 2012
Preparation of Planning Proposal and resolution of Council to forward for Gateway Determination	Council/ Western Region office of DOP & I	Mid April 2013
Gateway Determination	DOP & I	May 2013
Compliance with Gateway Determination if required and preparation of final Planning Proposal	Council	June 2013
Director General Approval to Exhibit	Director-General	June 2013
Public Exhibition	Council	July 2013 – August 2013
Consideration of submissions	Council	September - October 2013
Public hearing required for classification of Public Lands	Council	October 2013
Consideration of submissions from Public Hearing		October 2013
Final Draft LEP adopted by Council and referred to Director General for drafting and making of the Plan	Council/Director -General	November 2013

#### Identified Potential Risks to Target Timeline

- Time for Gateway Determination and compliance with conditions if any
- Council requirement for extended public exhibition period
- Number and nature of public/government authority submissions Scope of Public Hearing and consideration of submissions
- Potential that a substantially revised Planning Proposal may be required leading back to a new Gateway Determination and further public exhibition period
- Final Draft LEP not adopted by Council.

## APPENDICES

Appendix 1 Analysis of relevant State Environmental Planning Policies

Appendix 2 Analysis of relevant Section 117 (2) Directions

## ATTACHMENTS

Attachment 1 Draft Lithgow City Council LEP 2013 and associated mapping

Attachment 2 Draft Lithgow City Council LEP 2013 Land Use Matrix

Attachment 3 Copy of SCA response to Draft Lithgow Land Use Strategy 2010-2030 (Reference S.117(2) 5.2)

## TABLE OF AMENDMENTS

VERSION	DATE OF AMENDMENT	NATURE OF REVISION
Draft Version	15 April 2013	No previous version
Adopted Version	22 April 2013	<p>The following amendments were made to the Planning Proposal to enact Councils resolution Min No 13-116 15/4/13</p> <ul style="list-style-type: none"> <li>• Pg 3 Insertion of Clause 5.4(7) to add local provision to enable neighbourhood shops in B1 Zone to have a higher retail floor area of 300m<sup>2</sup>.</li> <li>• Pg 12/13 Insertion of the following zone amendments requested by Council resolution <ul style="list-style-type: none"> <li>○ Additional B1 Zone Bowenfels</li> <li>○ Additional IN2 Zone Lidsdale</li> </ul> </li> <li>• Pg 28 Additional comment on consistency with Section 117(2) – Direction 1.1 to address proposed new B1 and IN2 areas.</li> <li>• Pg 31 Additional comment on consistency with Section 117(2) – Direction 1.2 to address proposed new IN2 zone at Lidsdale.</li> </ul> <p>The following amendments were made to Draft LEP 2013 to enact Council resolution 13-116 of 15/4/13</p> <ul style="list-style-type: none"> <li>• Addition to Clause 5.4(7) to now read as follows: If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 120 square metres, except for a neighbourhood shop within the South Bowenfels and Bowenfels B1 Neighbourhood centre zones where the retail floor area must not exceed 300 square metres.</li> <li>• Amendment to the R5 Land Use Table to include Extensive agriculture and Intensive plant agriculture as permissible with consent.</li> </ul>

## APPENDIX 1: ANALYSIS OF RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES

Name	Relevance for Lithgow City Council Draft LEP 2013	Consistent/Inconsistent
Standard Instrument (LEP) Order 2006	<p>This SEPP provides the template for the all new Local Environmental Plans in NSW and forms the template basis for the development of the Draft Local Environmental Plan.</p> <p>The Draft LEP 2013 is the template format.</p>	Consistent
SEPP (Sydney Drinking Water Catchments 2011)	<p>This plan aims to provide for health water catchments that will deliver high quality water while permitting development that is compatible with that goal; to provide that development must not be granted consent unless the consent authority is satisfied that the development will have a neutral or beneficial effect on water quality; and to support maintenance or achievement of water quality objectives for the Sydney Drinking Water Catchment.</p> <p>This Policy applies to 18.44 % of the LGA within the Sydney Drinking Water Catchment.</p> <p>The planning proposal has been prepared having regard to this Policy and to the consideration of the Strategic Land and Water Capability Assessments (SLAWCA) prepared by the Sydney Catchment Authority.</p> <p>In preparing Draft LEP 2013 Council has considered the SLAWCA prepared by the Sydney Catchment Authority as a primary constraint in analysing land supply and areas proposed for land use change as well as determining the appropriate land use zones, local zone objectives and the range of permissible uses.</p>	Consistent
SEPP No 15 – Rural Land-Sharing Communities	<p>This Policy makes rural land-sharing communities permissible within rural and non-urban zones. With Council consent, people can collectively own and manage a single lot of land and use it as their principal residence. Development must be environmentally sensitive and sustainable. The provisions of Draft LEP 2013 are not inconsistent with this Policy.</p>	Consistent
SEPP No 21 – Caravan Parks	<p>This SEPP provides for the orderly and economic development of land to be used for caravan parks for both short and longer term residents; the proper management and development of caravan parks to ensure the social and economic welfare of the community and to protect the environment of land used for caravan parks.</p>	Consistent

Name	Relevance for Lithgow City Council Draft LEP 2013	Consistent/Inconsistent
	<p>The Draft LEP 2013 requires development consent for caravan parks and limits the zones where caravan parks are permissible to ensure adequate provision of service and facilities to support their proper development and management.</p>	
<p><b>SEPP No 22 – Shops and Commercial Premises</b></p>	<p>This SEPP allows the change in use of specified commercial/retail uses to other prohibited commercial/retail with development consent in business zones.</p> <p>This SEPP was considered in determining the appropriate location of the business zones.</p>	<p><b>Consistent</b></p>
<p><b>SEPP No 30 – Intensive Agriculture</b></p>	<p>The Policy requires development consent for cattle feedlots of 50 or more head of cattle and piggeries with 200 or more pigs or 20 or more breeding sows; requires that applications for cattle feedlots and piggeries provide information on measures to prevent water and air pollution, soil degradation and ensure animal welfare; requires that application for cattle feedlots and piggeries are advertised to allow public participation.</p> <p>This SEPP was considered in determining the appropriate location of zones where intensive agriculture is permitted. Intensive livestock agriculture of any scale will be prohibited in all zones other than the RU1 Primary Production Zone.</p>	<p><b>Consistent</b></p>
<p><b>SEPP No 32 – Urban Consolidation</b></p>	<p>This SEPP applies to urban land only and seeks to promote the principles of urban consolidation and integration of land uses to reduce use of land at the fringe of urban development. In particular, this Strategy seeks to avoid unnecessary expansion of urban boundaries unless supported by strong growth/demand and limited supply.</p> <p>The Draft LEP 2013 introduces provisions to increase housing density in the town of Lithgow being the primary urban centre. The Marrangaroo Urban Release Area will only come on line when supported by strong growth demand.</p>	<p><b>Consistent</b></p>
<p><b>SEPP No 33 – Hazardous and Offensive Development</b></p>	<p>This SEPP defines hazardous and offensive industries and determines some aspects of how and when these land uses can be approved.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	<p><b>Consistent</b></p>
<p><b>SEPP No 36 – Manufactured</b></p>	<p>This SEPP applies to manufactured home estates and provides additional criteria where these can be located in zones where</p>	<p><b>Consistent</b></p>



Name	Relevance for Lithgow City Council Draft LEP 2013	Consistent/Inconsistent
Home Estates (MHEs)	<p>caravan parks are permitted.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	
SEPP No 44 – Koala Habitat Protection	<p>This SEPP applies to development sites in the Lithgow LGA greater than 1 ha in area where there is potential koala habitat and requires plans of management before development of these lands can proceed. Council must assess whether the land is a core koala habitat. As many of the area of the LGA are covered by significant native or remnant vegetation this SEPP will have widespread application for assessment.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	Consistent
SEPP No 55 – Remediation of Land	<p>This SEPP sets out the policy and guidelines to be applied to land that may be contaminated and the process for remediation to be considered for any rezoning or further development.</p> <p>The Draft LEP 2013 has considered the potential of land contamination in sites proposed to be rezoned and applied appropriate zones and/or local provisions over land where land contamination is suspected but not yet confirmed.</p>	Consistent
SEPP No 60 – Exempt and Complying Development	<p>Specifies development that is exempt from consent and development that can be considered as complying development to which a more streamlined development approval process applies.</p> <p>This SEPP currently operates in the Lithgow Local Government Area and will be obsolete and replaced completely by the Exempt and Complying Development Codes SEPP 2008.</p>	Consistent
SEPP No 64 – Advertising and Signage	<p>This SEPP applies to all public signage that is not exempt and sets controls to minimise impacts and regulate the type, size and design of signage. This will be relevant to most signage in Lithgow LGA, particularly in urban areas.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	Consistent
SEPP No 65 – Design Quality of Residential Flat Development	<p>This SEPP sets out a range of development principles (supported by the Residential Design Code) for residential flat buildings.</p> <p>Whilst these buildings may currently be rare in Lithgow LGA there may be increased use of higher density housing in the future, particularly in the Town of Lithgow. The Draft LEP 2013 seeks to encourage diversification of housing choice.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	Consistent

Name	Relevance for Lithgow City Council Draft LEP 2013	Consistent/Inconsistent
SEPP (Building Sustainability Index: BASIX) 2004	<p>This SEPP applies to all new applications and major alterations and additions to dwellings in the State and seeks to ensure dwellings are designed to reduce water and energy usage and promote sustainable development. Council requires BASIX to be addressed as part of all relevant development applications and the proposed LEP/DCP cannot be inconsistent with this SEPP or make higher standards of water and/or energy efficiency mandatory. However, Council may consider creating advisory controls to improve water and energy efficiency.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP</p>	Consistent
SEPP (Exempt and Complying Development Codes) 2008	<p>This SEPP applies to all development in Lithgow LGA that is defined in the supporting codes as either exempt (not requiring approval) or complying (requiring a simpler approval process) development.</p> <p>The Draft LEP 2013 will adopt this Code.</p>	Consistent
SEPP (Housing for Seniors or People with a Disability) 2004	<p>This SEPP permits development for housing for seniors or people with a disability (even in zones where a local plan prohibits this development) as long as it conforms to the controls in the SEPP.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	Consistent
SEPP (Infrastructure) 2007	<p>This SEPP applies to infrastructure and provision of service facilities; disposal of surplus government lands; site compatibility certificates; consultation processes; and traffic generating development. It also has impacts on the appropriate zones to be applied to infrastructure and community land under the proposed new LEP. The SEPP overrides the Standard Instrument and makes certain land uses permissible in a wide range of zones without inclusion in the proposed new LEP zoning tables. The Strategy and proposed zones/structure plans have taken into account the operation of this SEPP and land use permissibility.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	Consistent
SEPP (Major Projects) 2005	<p>This SEPP defines certain development as State Significant Sites and provides planning provisions for these sites.</p> <p>No sites within the Lithgow LGA are currently listed in the Schedule to this SEPP.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	Consistent
SEPP (Mining, Petroleum)	<p>This SEPP overrules planning controls in LEPs for mining, petroleum production and extractive industries and determines</p>	Consistent

Name	Relevance for Lithgow City Council Draft LEP 2013	Consistent/Inconsistent
Production and Extractive Industries) 2007	<p>exempt and complying development. This is particularly relevant to mining activities in the Lithgow Local Government Area.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	
SEPP (Rural Lands) 2008	<p>This SEPP aims to facilitate the orderly and economic use and development of rural lands for rural and related purposes; it identifies Rural Planning Principles and Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State; implements measures designed to reduce land use conflicts; to identify state significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land having regard to sustainability considerations; amends provisions of LEPs relating to concessional lots in rural subdivisions.</p> <p>The Draft LEP 2013 is consistent with Clauses 7 and 8 of the SEPP only by virtue of Councils resolution and subsequent endorsement of that decision by the Director General of Planning, to retain the existing rural minimum lot size of the existing LEPs.</p> <p>The Draft LEP 2013 will not affect the operation Clauses 9, 10 and 11 of this SEPP.</p> <p>The Draft LEP 2013 changes the MLS for minor areas of rural lands surrounding some of the rural villages. These areas are to provide for rural living opportunities to encourage the future sustainability of these villages commensurate with their place in the adopted settlement hierarchy. These areas due to their location and the existing surrounding development pattern are consistent with the rural planning or rural subdivision principles of the SEPP.</p>	Consistent
SEPP (Temporary Structures and Places of Public Entertainment) 2007	<p>This SEPP states that certain temporary structures and places of public entertainment can be considered exempt and/or complying development and sets out additional controls for these structures/places.</p> <p>The Draft LEP 2013 will not affect the operation of this SEPP.</p>	Consistent
SEPP (Affordable Rental Housing) 2009	<p>This SEPP is designed to increase the amount and diversity of affordable housing in NSW. The policy aims to better encourage home owners, social housing providers and developers to invest and create new affordable rental housing to meet the needs of our growing population and existing residents. The new policy:</p> <ul style="list-style-type: none"> <li>Encourages partnerships between private and not-for-profit</li> </ul>	Consistent

Name	Relevance for Lithgow City Council Draft LEP 2013	Consistent/Inconsistent
	<p>housing providers.</p> <ul style="list-style-type: none"> <li>• Assists in the provision of housing closer to major employment areas.</li> <li>• Mitigates against the loss of any existing affordable housing.</li> <li>• Supports innovative affordable housing styles, including granny flats and new style boarding houses.</li> <li>• Seeks to deliver good urban design outcomes.</li> </ul> <p>For example, Secondary Dwellings (commonly known as “granny flats”) will be permissible under all residential zones of the new LEP (with a focus on the Town of Lithgow). The provision of affordable housing is an important issue to the Lithgow LGA and this will generally be provided in settlements.</p> <p>. The Draft LEP 2013 will not affect the operation of this SEPP.</p>	

## APPENDIX 2 ANALYSIS OF RELEVANT SECTION 117 (2) DIRECTIONS

Section 117 Direction	Draft LEP 2013 Consistency
<p><u>1.1 Business and Industrial Zones (Issued 1 July 2009)</u></p> <p>Objectives</p> <ul style="list-style-type: none"> <li>• Encourage employment growth in suitable locations</li> <li>• Protect employment land in business and industrial zones, and'</li> <li>• Support the viability of identified strategic centres</li> </ul> <p>Section 4 states that: A planning proposal shall:</p> <ol style="list-style-type: none"> <li>a) Give effect to the objectives of this direction.</li> <li>b) Retain the areas and locations of existing business and industrial zones.</li> <li>c) Not reduce the total potential floor space area for employment uses and related public services in business zones.</li> <li>d) Not reduce the total potential floor space area for industrial uses in industrial zones; and</li> <li>e) Ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.</li> </ol>	<p>The Draft LEP 2013 proposes:</p> <ul style="list-style-type: none"> <li>• minor changes to the business and industrial zones within Lithgow;</li> <li>• the creation of new business and industrial zones in the town centre of Wallerawang and Portland;</li> <li>• the creation of new industrial zones at Marrangaroo, Minerals Processing Park, Wallerawang and Lidsdale.</li> </ul> <p>The minor changes to the areas and locations of existing business and industrial zones are justified in order to maintain the viability of the town centres Main St CBD's and to provide opportunity for re-development of areas consistent with their location and development capacity.</p> <p>The new Greenfield industrial sites are required to provide opportunities for industrial growth and diversification and improve the LGA's employment self containment.</p> <p>There will be a net positive growth in employment lands for the LGA.</p> <p>These zoning changes are consistent with the Director Generals endorsed local Lithgow Land Use Strategy 2010-2030 except for two proposed sites required to effect the Council resolution of 15 April 2013 as follows:</p> <ol style="list-style-type: none"> <li>1. A new IN2 Light Industrial zone be created at Lidsdale bounded by the new Castlereagh Highway, Ian Holt Drive and Wolgan Road, surrounding the existing A C Whalan and Co rural, mining and industrial supplies business; and</li> <li>2. Proposed B1 Neighbourhood Centre zone on the Great Western Highway be extended to include the allotments bounded by GWH, Purcell St and Landa Street and the northern boundary of Lithgow KFC.</li> </ol> <p>In relation to site 1 it is proposed to create a new employment area in this location through an IN2 light industrial zone. This zone will</p>

Section 117 Direction	Draft LEP 2013 Consistency
	<p>have an area of approximately 19.08ha.</p> <p>Lithgow has a shortage of shovel ready light industrial zoned land. Remaining suitably zoned land within Lithgow and Wallerawang is fragmented, generally small in scale, constrained by access or environmental factors or not available within the market place.</p> <p>Council has addressed this issue for the longer term by actively pursuing the development of the Wallerawang Minerals Processing Park including the recent submission to Resources for Regions seeking development grant funding as well as the identification of industrial lands at Marrangaroo within the draft LEP. However both these sites are considered to have longer lead times before land becomes available in the market place given the complexity of land ownerships, servicing and other delivery factors.</p> <p>There is therefore an imperative to provide land for the market place for light industrial and business purposes within the shorter term.</p> <p>The development of land for this purpose in this location is considered to have the following economic merit:</p> <ul style="list-style-type: none"> <li>• consolidation of an existing cluster of power and mining related service activities within Lidsdale</li> <li>• opportunities to attract new investment and employment for Lithgow in the short term within an attractive purpose designed subdivision</li> <li>• the physical characteristics of the site provides an opportunity to buffer the light industrial and business uses from residential development elsewhere in Lidsdale</li> <li>• the site is fully serviced and can offer excellent heavy vehicle access to road infrastructure in particular the Castlereagh Highway.</li> </ul> <p>The provision of land for light industrial/business purposes in this location may negate the need to provide for similar activities within the Wallerawang Minerals Processing Park. This will allow the Wallerawang site to become an attractor for heavy industries within the Lithgow LGA.</p> <p>In relation to site 2, it is proposed to create further employment lands through the extension of the proposed B1 Neighbourhood Centre zone to encompass a further 3,193.3m<sup>2</sup>.</p> <p>Over recent times Council has received several enquiries from</p>

Section 117 Direction	Draft LEP 2013 Consistency
	<p>investors seeking land with frontage to the Great Western Highway within the Bowenfels area. These enquiries relate to the opportunity to develop a small cluster of neighbourhood scale shops including a mini mart or similar style of convenience store.</p> <p>This investor interest is likely to have been sparked by the degree of residential development occurring within the South Bowenfels area, the absence of a dedicated neighbourhood scale retail centre and the relative distance to such facilities within the Lithgow town centre requiring a heavy reliance on private car ownership.</p> <p>In principle, Councils adopted Lithgow Retail and Business Strategy seeks to ensure the ongoing economic viability of the town centre is a key priority and that retail development out of the town centre should be limited in scale.</p> <p>Currently there are 2 locations that are zoned or proposed to be zoned to enable a neighbourhood scale retail activity in the Bowenfels area. The area at Col Drewe drive behind the postal centre is a good location but does not have highway frontage. The site on the southern side of KFC is undeveloped which is currently not available in the market place.</p> <p>It is considered that the limited northward expansion of the business zoning at the KFC location would facilitate this type of development without compromising the economic viability of the town centre provided it is limited in scale through appropriate development control measures. A local objective has also been added to this zone to ensure development is of a scale consistent with the needs of the local community and will not detract from the role of the Lithgow core business areas as the primary centre for the City.</p> <p><b>Council seeks the Director-Generals opinion that the minor changes to existing business and industrial zones and the creation of new employment areas are of local significance and are justifiably inconsistent with this direction.</b></p>
<p><u>1.2 Rural Zones (Issued 1 July 2009)</u></p> <p><u>Objective</u></p> <p>To protect agricultural production value of rural land.</p> <p>Section 4 states that: A planning proposal shall:</p>	<p>The Draft LEP 2013 does recommend land use changes to lands that are currently zoned Rural, generally on the urban fringe of villages and towns to a residential zone.</p> <p><b>The Planning Proposal is therefore inconsistent with Section 4(a) of this Direction.</b></p> <p>No rural lands proposed for land use change are identified as</p>

Section 117 Direction	Draft LEP 2013 Consistency
<p>a) Not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>b) (N/A)</p> <p>Section 5 states that a Draft LEP may be inconsistent with this direction only if it satisfies the Director-General that the inconsistencies are justified by a strategy or study or is in accordance with a regional strategy or of minor significance.</p>	<p>having high agricultural or economic resource value.</p> <p>Justification for each land use change is provided in the Director Generals endorsed local Lithgow Land Use Strategy 2010-2030 with the exception of one site at Lidsdale proposed to be rezoned to IN2 Light Industrial that has been considered by Council post LUS.</p> <p>The endorsed LUS had proposed to rezone the subject rural lands to the R5 zone.</p> <p>This site is currently partly zoned 1(a) Rural (General) and part Zone 2(v) Village. The part of the site zoned Rural (approx 9.1ha) has been primarily alienated from contiguous rural land by the deviation of the Castlereagh Highway which significantly limits the ability of this land to support any form of agricultural production.</p> <p><b>Council seeks the Director Generals view that this inconsistency is justifiable and of minor significance.</b></p>
<p><u>1.3 Mining, Petroleum Production and Extractive Industries (Issued 1 July 2009)</u></p> <p><u>Objective</u></p> <p>To ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive minerals are not compromised by inappropriate development.</p> <p>Section 4 states that in the preparation of a planning proposal affected by this direction, the Council shall:</p> <p>Consult the Director-General of the Department of Primary Industries (DPI) to identify any:</p> <ul style="list-style-type: none"> <li>(i) Resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance; and</li> <li>(ii) Existing mines, petroleum production operations or extractive industries occurring in the area subject to the Draft LEP; and</li> </ul> <p>a) Seek advice from the Director-General of DPI on the development potential of resources</p>	<p>The Draft LEP 2013 has had regard to the Draft Mineral Resource Audit provided to Council by NSW Department Of Industry and Investment (Primary Industries) (DII) and the information currently available in relation to coal and petroleum resources.</p> <p>The land use changes proposed by Draft LEP 2013 will generally have a neutral impact on these resources.</p> <p><b>The recommendations of the Draft LEP 2013 are consistent with the objectives and provisions of this Direction.</b></p>



Section 117 Direction	Draft LEP 2013 Consistency
<p>identified under (4)(a)(i), and</p> <p><b>b)</b> Identify and take into consideration issues likely to lead to land use conflict between other land uses; and</p> <p><b>(i)</b> Development of resources identified under (4)(a)(i), or</p> <p><b>(ii)</b> Existing development identified under (4)(a)(ii).</p>	
<p><u>1.5 Rural Lands (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>To protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.</p> <p>Sections 4 and 5 state that:</p> <p>(4) A planning proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands 2008)</p> <p>(5) A planning proposal must be consistent with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands 2008).</p>	<p>In developing the Lithgow Land Use Strategy 2010-2030 Council resolved to review the planning approach for rural lands and in particular the minimum lot size for the erection of a dwelling against the Rural Planning Principles and Rural Subdivision Principles of SEPP (Rural Lands 2008). Refer to Chapter 9 OF the LUS.</p> <p>Following an extensive review including community consultation, Council resolved to retain the "status quo" in relation to rural minimum lot sizes and provisions for the erection of a dwelling in the rural areas thereby sterilizing any opportunity to review rural planning through consideration of the principles of the SEPP (rural lands).</p> <p>This decision through the adopted Lithgow Land Use Strategy 2010-2030 was endorsed by the Director-General.</p> <p>The Draft LEP 2013 converts the majority of rural lands in the LGA to the new SI zone RUI Primary Production retaining the existing 40ha and 100ha MLS that are currently in force.</p> <p>The SI zone RU2 Rural Landscape has been applied to those rural lands of high environmental sensitivity and bio-connectivity, and retain the existing 40 ha MLS. These lands generally have very low capability for intensive agricultural purposes and play a significant role in the visual amenity of the LGA.</p> <p>The Draft LEP 2013 will contain local clauses to give effect to Councils resolution to retain provisions that are currently in force in relation to rural lands.</p> <p>In particular rural lands currently afforded protection from further fragmentation through subdivision for the purposes of a dwelling such as areas of prime, crop and pasture land in the former Rylstone Shire and those residue lands consolidated following</p>

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	<p>previous concessional allotment subdivisions, will retain that protection in the Draft LEP 2013 (Clause 4.1(5)).</p> <p>In effect the Draft LEP 2013 will have a neutral effect on rural lands when considered against existing planning controls and consideration of the Rural Planning Principles and Rural Subdivision Principles will now need to be undertaken on a site by site basis through the development assessment process.</p> <p><b>The Draft LEP 2013 is consistent with this Direction as a result of being able to retain in force minimum lot sizes.</b></p>
<p><u>2.1 Environmental Protection Zones (Issued 1 July 2009)</u></p> <p><u>Objective</u></p> <p>To conserve and protect and conserve environmentally sensitive areas.</p> <p>Sections 4 states that:</p> <p>(4) A planning proposal shall include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in LEP shall not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".</p>	<p>The Draft LEP 2013 has had regard due regard to areas identified as environmentally sensitive areas.</p> <p>The Draft LEP 2013 proposes to include new natural resource management provisions through additional local clauses and new mapping that will require greater consideration of environmental issues across the local government area.</p> <p>The proposed RU2 Rural Landscape zone has identified areas of high environmental sensitivity and biodiversity connectivity. Additional local objectives have been added to this zone to properly consider the type and intensity of local development within this zone.</p> <p>No environmental protection standards have been modified or reduced by the Draft LEP.</p> <p><b>The Draft LEP 2013 is consistent with this Direction.</b></p>

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<p><u>2.3 Heritage Conservation (Issued 1 July 2009)</u></p> <p><u>Objective</u></p> <p>To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>Section 4 states that:</p> <p>(4) A planning proposal shall contain provisions that facilitate the conservation of:</p> <p>a) Items, places, building works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area.</p> <p>b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>c) Aboriginal areas, Aboriginal objects, Aboriginal place or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the council, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	<p>The Draft LEP 2013 includes Clause 5.10 of the Standard Instrument and identified European heritage items and heritage conservation areas through Schedule 5 and the Heritage Map Layer.</p> <p>The items listed contain all items listed in the current LEPs as well as items with sufficient information available identified within the 2000 Lithgow Heritage Study and the Rylstone Heritage Study as modified by the 2010 Heritage DCP Study.</p> <p>The Draft is therefore consistent with 4(a) of this Direction.</p> <p>The Draft is inconsistent with 4(b) and 4(c) of this Direction as Council has not completed a comprehensive Aboriginal Cultural Heritage Study. This was identified as a data gap in the adopted and endorsed Lithgow Land Use Strategy 2010-2030.</p> <p>Council continues to rely on the provisions of the <i>National Parks and Wildlife Act 1974</i> to protect Aboriginal objects and places.</p> <p>Site specific studies included with future Planning Proposals and Development Applications will inform the development outcome of the site, including future zoning of the land.</p> <p>It is considered that at the local level dual protection of areas of high biodiversity and national parks indirectly protects the majority of significant places or objects of Aboriginal Cultural Heritage.</p> <p>Council has placed the preparation of an Aboriginal Cultural Heritage Study into its forward planning program and it is anticipated that such will be completed prior to the first major review of the LEP.</p> <p><b>Council seeks the Director Generals view that this inconsistency is justifiable and of minor significance.</b></p>
<p><u>2.4 Recreation Vehicle Areas</u></p>	<p>There are no designated recreation vehicle areas in the Lithgow LGA and the LEP does not propose to identify lands for this purpose.</p>

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<p><u>Objective</u></p> <p>To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</p> <p>Section 4 states that:</p> <p>(4) A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area where</p> <ul style="list-style-type: none"> <li>• The land is within an environmental protection zone.</li> <li>• The land comprises a beach or dune adjacent to or adjoining a beach</li> <li>• Where land not mentioned above unless the planning authority has taken into consideration the provisions of the guidelines titled <ul style="list-style-type: none"> <li>• Guidelines for selection, establishment and maintenance of recreation vehicle areas, Soil Conservation Service of NSW,1985</li> <li>• Recreation Vehicles Act 1983, Guidelines for Selection, Design and Operation of Recreation Vehicles Areas, State Pollution Control Commission, 1985.</li> </ul> </li> </ul>	<p>Direction is not applicable</p>
<p><u>3.1 Residential Zones (Issued July 2009)</u></p> <p><u>Objective</u></p> <ul style="list-style-type: none"> <li>• To encourage a variety and choice of housing types to provide for existing and future housing needs;</li> <li>• To make efficient use of existing infrastructure and services and ensure that new housing has</li> </ul>	<p>The Draft LEP 2013 implements the recommendations of the Lithgow Land Use Strategy as endorsed by the Director General.</p> <p>The Strategy has reviewed the supply of residential land in relation to existing infrastructure and service capacity and has made recommendations consistent with this direction to ensure that the land can be adequately serviced.</p> <p>The Draft LEP 2013 adopts a range of residential zones that</p>

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<p>appropriate access to infrastructure and services; and</p> <ul style="list-style-type: none"> <li>To minimise the impact of residential development on the environment and resource lands.</li> </ul> <p>Sections 4 states that:</p> <p>(4) A planning proposal shall include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li>broaden the choice of building types and locations available in the housing market; and</li> <li>make more efficient use of existing infrastructure and services; and</li> <li>reduce the consumption of land for housing and associated urban development on the urban fringe; and</li> <li>be of good design.</li> </ul> <p>(5) A planning proposal shall, in relation to land to which this direction applies:</p> <p>a) Contain a requirement that residential development is not permitted until and is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it),</p> <p>b) And not contain provisions which will reduce the permissible residential density of land.</p>	<p>permit a wide choice of housing types across the LGA.</p> <p>It also contains a new urban release area and includes the standard model clauses for Part 6 of the plan as well as a local essential services clause that, in combination, ensure that land proposed for residential land use is adequately serviced before it can be developed.</p> <p><b>The Draft LEP 2013 will reduce the permissible density of some residential lands and is therefore inconsistent with Section 5 (b).</b></p> <p>The Draft LEP 2013 seeks to identify variable minimum lot sizes for residential land use within residential zones. In some areas this introduces a control where no control currently exists and in some other areas increased the MLS required to take account of the need for on-site effluent disposal systems.</p> <p>The Draft LEP 2013 also considers density controls through minimum lots sizes for certain types of residential accommodation to facilitate good design and the retention of identified character and amenity within the various residential zones.</p> <p>This inconsistency is considered to be justifiable in terms of the objectives of this Direction and the growth management and sustainability principles adopted as part of the local strategy.</p> <p><b>Council seeks the Director Generals view that this inconsistency is justifiable and of minor significance.</b></p>
<p><u>3.2 Caravan Parks and Manufactured Home Estates (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>To provide for a variety of housing types and opportunities for caravan parks and manufactured home estates.</p>	<p>There are currently two caravan parks within the Lithgow LGA.</p> <p>The Draft LEP 2013 facilitates the retention of these parks by appropriately zoning the land upon which they are located as a residential zone and making caravan parks permissible with consent.</p>

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<p>Sections 4 &amp; 5 that:</p> <p>(4) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal (Draft LEP), council shall:</p> <ul style="list-style-type: none"> <li>a) Retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</li> <li>b) Retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</li> </ul> <p>(5) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, council shall:</p> <ul style="list-style-type: none"> <li>a) Take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located.</li> <li>b) Take in account the principles listed in clause 9 of SEPP 36 (which councils are required to consider when assessing and determining the development and subdivision proposals), and</li> <li>c) Include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.</li> </ul>	<p>Other zones where caravan parks are proposed to be permissible with consent include the RU5 Village zone and both the RE1 and RE2 recreation zones.</p> <p>The location of zones where caravan parks are permissible do not include any categories of land in Schedule 2 of SEPP 36 Manufactured Home Estates that would exclude the development of MHEs.</p> <p><b>The Draft LEP 2013 is consistent with this Direction.</b></p>
<p><u>3.3 Home Occupations (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses stating:</p> <p>(4) Planning Proposals shall permit home occupations to be carried out in dwelling houses</p>	<p>The Draft LEP 2013 permits home occupations without consent in all zones where dwelling-houses are permitted with consent in the Land Use Tables.</p> <p><b>The Draft LEP 2013 is consistent with this Direction.</b></p>

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<p>without the need for development consent.</p>	
<p><u>3.4 Integrating Land Use and Transport (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>• Improving access to housing, jobs, and services by walking, cycling and public transport; and</li> <li>• Increasing the choice of available transport and reducing dependence on cars, and</li> <li>• Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>• Supporting the efficient and viable operation of public transport services; and</li> <li>• Providing for the efficient movement of freight.</li> </ul> <p>Section 4 states that:</p> <p>(4) A planning proposal shall locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>a) <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</i></p> <p>b) <i>The Right Place for Business and Services – Planning Policy (DUAP 2001).</i></p>	<p>The Draft LEP 2013 implements the recommendations of the endorsed Lithgow Land Use Strategy 2010-2030.</p> <p>The objectives of this Direction are reflected in the recommended growth management and sustainability principles that underpin the LUS.</p> <p>The LUS adopts a settlement hierarchy based on cluster planning principles to achieve critical mass of the town centres and greater use of walking, cycling and transport as set out in the identified guidelines.</p> <p>The Strategy has identified a comprehensive transport strategy as a key data gap and has made recommendation for Council to undertake this additional Strategy to inform the first major LEP review.</p> <p>The Draft LEP 2013 does not extend the footprint of urban lands in areas that could not support the objectives of this Direction.</p> <p>The new urban release area at Marrangaroo will provide for new urban development close to designated employment lands and will provide for a link back to the main town centre via a low traffic road as well as the main highway.</p> <p><b>The Draft LEP 2013 is consistent with this Direction.</b></p>

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<p><u>4.2 Mine Subsidence and Unstable Land (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>To prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p> <p>(2) This direction applies to land that:</p> <p><b>a)</b> is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or</p> <p><b>b)</b> has been identified as unstable land.</p> <p>Section 4 states:</p> <p>When preparing a planning proposal a planning authority must:</p> <p>(a) Consult the Mine Subsidence Board to ascertain:</p> <ul style="list-style-type: none"> <li>• If the Board has any objection, and</li> <li>• The scale, density and type of development that is appropriate for the potential level of subsidence</li> </ul> <p>(b) Incorporate provisions onto the Draft LEP that are consistent with the recommended scale, density and type of development recommended in 4(a) (ii).</p>	<p>A large area of the Lithgow Township is identified as a Mine Subsidence District.</p> <p>Mine Subsidence in most cases within the Lithgow Mine Subsidence District is seen as a controllable risk through appropriate building design, scale and density.</p> <p>The Mine subsidence Board raised no objection to the Draft LUS. Further consultation will be undertaken with the Mine Subsidence Board in the public exhibition of the Draft LEP.</p> <p><b>The Draft LEP 2013 is consistent with this Direction.</b></p>
<p><u>4.3 Flood Prone Land (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>; and</p> <p>To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes</p>	<p>There are significant areas of flood prone land within the town centre of Lithgow along Farmers Creek. These areas have been identified by a Floodplain Management Study completed in 1991.</p> <p>Council has not developed a Floodplain Risk Management Plan in accordance with the 2005 Floodplain Development Manual.</p> <p>The preparation of the Floodplain Risk Management Plan has been identified in the endorsed Lithgow Land Use Strategy 2010-2030 as a key data gap.</p>



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<p>consideration of the potential flood impacts both on and off the subject land.</p> <p>Sections 4 to 8 state that:</p> <p>(4) A planning proposal shall include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guidelines on Development Controls on Low Flood Risk Areas).</p> <p>(5) A planning proposal shall not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>(6) A planning proposal shall not contain provisions that apply to the flood planning areas which:</p> <ol style="list-style-type: none"> <li>a) permit development in floodway areas,</li> <li>b) permit development that will result in significant flood impacts to other properties.</li> <li>c) Permit a significant increase in the development of that land.</li> <li>d) Are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services; or</li> <li>e) Permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in flood ways or high hazard areas), roads or exempt development.</li> </ol> <p>(7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a council provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>	<p><b>The Draft LEP 2013 is therefore inconsistent with this Direction.</b></p> <p>It is considered that Council can justify inconsistency with this Direction based on the following:</p> <ul style="list-style-type: none"> <li>• Comprehensive data included in 1991 Flood Study used to inform the Flood Planning Area and Flood Planning Level of Farmers Creek</li> <li>• Current flood mitigation works would need to be completed to enable a new Flood Study to take account of the changed conditions;</li> <li>• No significant land use intensification of rezoning is proposed upon the flood liable lands.</li> </ul> <p><b>Council seeks the Director General's view that this inconsistency is justifiable.</b></p>

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<p>(8) For the purposes of a planning proposal, a council must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a council provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>	
<p><u>4.4 Planning for Bushfire Protection (Issued July 2009)</u></p> <p><u>Objective</u></p> <ul style="list-style-type: none"> <li>• To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</li> <li>• To encourage sound management of bush fire prone areas.</li> </ul> <p>Sections 4 to 6 state that:</p> <p>(4) In the preparation of a planning proposal LEP a Council shall consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under Section 56 of the Act, and prior to undertaking community consultation in satisfaction of Section 57 of the Act, and take into account any comments so made;</p> <p>(5) A planning proposal must:</p> <ol style="list-style-type: none"> <li>a) Have regard to Planning for Bushfire Protection 2006,</li> <li>b) Introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>c) Ensure that bushfire hazard reduction is not prohibited within the APZ.</li> </ol> <p>(6) A planning proposal shall, where development is proposed, comply with the following provisions, as appropriate:</p> <ol style="list-style-type: none"> <li>a) Provide an Asset Protection Zone (APZ) incorporating at a minimum;</li> </ol>	<p>The LGA is significantly affected by Bush Fire Prone Land.</p> <p>The objectives of this Direction are met by recommended strategies and principles to direct new settlement and land use intensification away from bush fire prone areas.</p> <p>The NSW Rural Fires Service was consulted in the preparation of the Lithgow Land Use Strategy and will be further consulted as part of the exhibition of the Draft LEP.</p> <p>The majority of the Special Fire Protection Purpose development types have been limited through the Land Use Tables to urban zones.</p> <p>The Draft LEP 2013 will not affect the effective application of the Planning for Bushfire Protection legislation.</p> <p><b>The Draft LEP 2013 is consistent with this Direction.</b></p>

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<ul style="list-style-type: none"> <li>b) An Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property; and</li> <li>c) An Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</li> <li>d) For infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the Draft LEP permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,</li> <li>e) Contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks.</li> <li>f) Contain provisions for adequate water supply for fire-fighting purposes.</li> <li>g) Minimise the perimeter of the area of land interfacing the hazard which may be developed.</li> <li>h) Introduce controls on the placement of combustible materials in the Inner Protection Area.</li> </ul>	
<p><u>5.2 Sydney Drinking Water Catchments (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>To protect water quality in the hydrological catchment.</p> <p>Sections 4 and 5 state:</p> <p>(4) A planning proposal must be prepared in accordance with the general principle that water quality within the hydrological catchment must be protected, and in accordance with the following specific principles:</p> <ul style="list-style-type: none"> <li>(a) New development within the hydrological catchment must have a neutral or beneficial effect on water quality; and</li> <li>(b) New development within the hydrological catchment must not compromise the achievement of the water quality</li> </ul>	<p>A large percentage (18.44%) of the Lithgow LGA is within the Sydney Drinking Water Catchment.</p> <p>The SCA has prepared a strategic land and water capability assessment of land within the catchment in the Lithgow LGA.</p> <p>This SLAWCA assessment has been applied as a primary constraint in determining the recommended principles and actions of the endorsed Lithgow Land Use Strategy 2010-2030 in relation to the minor extensions to the urban footprint and the removal of developments of high risk to water quality within the rural land use zones.</p> <p>Councils resolution in relation to rural land use planning and the retaining the rural minimum lot size and dwelling provisions as are currently in force ("status quo") nullifies the application of SLAWCA to inform rural land use planning controls at the strategic level.</p> <p>The Draft LEP 2013 is informed by the recommendations of the</p>

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<p>objectives set out in the Drinking Water Catchments Regional Plan No 1; and</p> <p>(c) Future use of the hydrological catchment should be matched to land and water capability, and</p> <p>(d) The ecological values of land within a Special Area that is:</p> <ul style="list-style-type: none"> <li>• Reserved as national park, nature reserve or state recreation area under the National Parks and Wildlife Act 1974, or</li> <li>• Declared as a wilderness area under the Wilderness Act 1987, or</li> <li>• Owned or under the care control and management of the Sydney Catchment Authority, should be maintained.</li> </ul> <p>(5) When preparing a planning proposal that applies to land within the hydrological catchment, the planning authority must:</p> <p>(a) include provisions which will achieve or give effect to the principles in 4 and</p> <p>(b) give consideration to the outcomes of any strategic land and water capability assessment prepared by the SCA, or if such an assessment has not yet been prepared may give consideration to:</p> <p>(i) the outcomes of an assessment, prepared in consultation with the Sydney Catchment Authority, which is equivalent to a strategic land and water capability assessment, or</p> <p>(ii) a site-specific assessment prepared in consultation with the Sydney Catchment Authority which into account the likely impact of rezoning on water quality, or</p> <p>(iii) a current settlement strategy or rural residential strategy that has been approved by the Director-General of the Department of Planning, and</p>	<p>endorsed Lithgow Land Use Strategy 2010-2030.</p> <p>The SCA was consulted in the preparation of the Draft LUS and a copy of their response is attached in Attachment 3.</p> <p><b>The Draft LEP 2013 is consistent with this Direction as a result of being able to retain in force minimum lot sizes.</b></p>

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<p>(c) zone land with the Special Areas owned or under the care control and management of the Sydney Catchment Authority generally in accordance with Table (Refer to Direction):</p> <p>(d) consult with the SCA, describing the means by which the planning proposal gives effect to the water quality protection principles set out in paragraph 4 of this direction, and</p> <p>(e) include a copy of any information received from the SCA as a result of the consultation process, in its planning proposal prior to the issuing of a gateway determination under Section 56 of the Act.</p>	
<p><u>6.1 Approval and Referral Requirements (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>Section 4 states:</p> <p>(4) A planning proposal must:</p> <p>(a) minimise the inclusion of provisions that require concurrence, consultation or referral of development applications to a Minister or public authority, and</p> <p>(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained approval of both the appropriate Minister, public authority and the Director-General of the Department of Planning prior to undertaking community consultation in satisfaction of Section 57 of the Act, and</p> <p>(c) not identify development as designated development unless:</p> <p>(i) can satisfy the Director- General</p>	<p>The Draft LEP 2013 does not propose any approval or referral requirements.</p> <p><b>The Draft LEP 2013 is consistent with this Direction.</b></p>

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<p>Department of Planning that the class of development is likely to have a significant impact on the environment, and</p> <p>(ii) has obtained the approval of the Director-General nominated by the DG prior to undertaking community consultation in satisfaction of Section 57 of the Act.</p>	
<p><u>6.2 Reserving Land for Public Purposes (Issued July 2009)</u></p> <p><u>Objective</u></p> <p>To facilitate the provision of public services and facilities by reserving land for public purposes, and</p> <p>To facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p> <p>(1) A planning proposal shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).</p> <p>(2) When a Minister or public authority requests a council to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the council shall:</p> <p>(a) Reserve the land in accordance with the request; and</p> <p>(b) Include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and</p> <p>(3) When a Minister or public authority requests a</p>	<p>The Draft LEP 2013 does not propose to identify any lands to be reserved for public purposes.</p> <p>It is possible that the Roads and Maritime Service may require land to be reserved for public road purposes associated with the Mt Victoria to Lithgow GWH Road Upgrade project; however Council has not been provided sufficient detail at this stage to include these provisions and acquisition maps in the Draft LEP.</p> <p><b>Direction is not applicable.</b></p>

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<p>council to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the council shall:</p> <p>(a) Include the requested provisions, or</p> <p>(b) Take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.</p> <p>(4) When a Minister or public authority requests a council to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the council shall rezone and/or remove the relevant reservation in accordance with the request.</p>	
<p><u>6.3 Site Specific Provisions</u></p> <p><u>Objective</u></p> <p>To discourage unnecessarily restrictive site specific planning controls.</p> <p>It applies to a planning proposal that will allow a particular development to be carried out.</p>	<p>The Draft LEP 2013 is a Principal LEP and does not propose to allow particular developments on specific sites outside of the nominated Land Use Tables.</p> <p><b>Direction is not applicable.</b></p>