

COMMUNITY AND STRATEGY REPORTS

ITEM-22 **COMM - 31/10/11 - DRAFT LITHGOW LAND USE STRATEGY 2010 - 2030**

REPORT FROM: STRATEGIC LAND USE PLANNER – SHERILYN HANRAHAN

REFERENCE

| | |
|-----------------|---|
| Min No 07-518: | Policy and Strategy Committee Meeting 3 December 2007 |
| Min No 07-519: | Policy and Strategy Committee Meeting 3 December 2007 |
| Min No 08-78: | Policy and Strategy Committee Meeting 1 July 2008 |
| Min No 08-134: | Ordinary Meeting of Council 19 August 2008 |
| Min No 008-227: | Ordinary Meeting of Council 15 December 2008 |
| Min No 10-138: | Ordinary Meeting of Council 12 April 2010 |
| Min No 10-160: | Extra Ordinary Meeting of Council 27 April 2010 |
| Min No 11-23: | Ordinary Meeting of Council 24 January 2011 |
| Min No 11-24: | Ordinary Meeting of Council 24 January 2011 |
| Min No 11-231: | Ordinary Meeting of Council 20 June 2011 |

SUMMARY

This report presents recommendations to Council to amend the Draft Lithgow Land Use Strategy 2010-2030 as a response to community and government authority consultation.

The attached detailed report summarises the consultation process with respect to the issues raised during the exhibition period. It discusses the recommended amendments to policy directions of the Draft Strategy as a result of the public exhibition process for Council's consideration prior to referring the Strategy to the NSW Department of Planning for final endorsement at the State Government level.

COMMENTARY

The Draft Lithgow Land Use Strategy 2010-2030 was placed on continuous public exhibition from 5th May 2011 until the 31st July 2011 following a resolution of Council on 20th June 2011 to extend the exhibition from 16th June until the 31st July, 2011. Two related supporting documents being the Draft Open Space and Recreational Needs Study and Draft Heritage DCP Study were also placed on joint exhibition.

A total of 527 submissions were received of which 510 were private submissions and 17 were public authority/agency submissions

The detailed report has been broken into the following sections:

Section 1 Public exhibition process

This section outlines the public exhibition process undertaken and the key outcomes. The key issue areas of the submissions are summarised and a relevant response provided.

Section 2 Discussion of key rural planning issues and revised planning direction

This section discusses the key issues of dwelling entitlements and rural minimum lot size and presents further revised options for Council's consideration.

Section 3 Discussion of key urban planning issues and revised planning direction

This section discusses the key urban issues raised by submissions or picked up through a further internal review of the draft strategy that require amendment within the draft strategy. Key areas discussed include:

- Plaza/Pottery shopping precinct
- South Bowenfels business area
- Boral site at Portland
- Rydal and Capertee Villages

Section 4 Supporting Studies

This section discusses the outcomes of the public exhibition program for the following studies that were placed on joint exhibition with the draft land use strategy:

- Draft Open Space and Recreational Needs Study
- Draft Heritage DCP Study.

Section 5 Conclusion

This section includes a summary conclusion.

POLICY IMPLICATIONS

The recommended actions of this report will amend the Draft Lithgow Land Use Strategy 2010-2030 that will, upon endorsement by the NSW Department of Planning, provide the future policy direction for all land use planning decisions

FINANCIAL IMPLICATIONS

The project is jointly funded by Council and the Department of Planning through the Planning Reform Fund.

LEGAL IMPLICATIONS

The land use strategy once finalised will underpin the preparation of Council's Comprehensive Local Environmental Plan which is the instrument that legislates land use management and control for the LGA.

Possible class action

A number of submissions raised the potential for members of the community to seek legal recourse through a class action legal challenge should Council proceed with the recommendations of the exhibited draft strategy in relation to the rural minimum lot size.

In this regard Council's Solicitors have advised the following:

"That to be successful any class action would need to establish the following:

- 1. Council had a duty of care*
- 2. That there was a breach of the duty*
- 3. That the claimants had suffered damage.*

Even if it were established that there was a duty of care, we are unable to discern any basis on which it could be established that there was a breach of that duty in circumstances where Council's decision to increase the minimum lot size was based on a rural planning strategy which was based on proper principles including the Rural Lands State Environmental Planning Policy and input from relevant government agencies.

Section 123 of the Environmental Planning and Assessment Act, 1979 ("the Act") entitles any person to bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of the Act. ...

The proceedings are generally on technical grounds where there has been a failure to follow process, such proceedings may also allege invalidity on grounds such as bad faith or denial of natural justice.

Based on the information to hand, we are unable to discern at this stage any basis on which such a proceeding could be brought against the Council."

Pecuniary interests

In making decisions in relation to the making, altering or repealing of an environmental planning instrument, Councillors are reminded of their obligations in relation to pecuniary and non pecuniary conflicts of interest.

The consideration of the new comprehensive Local Environmental Plan will require a quorum of the elected Council. Should Council not be able to form a quorum due to pecuniary interests obligations it will be necessary for the General Manager to make application to the Minister of Local Government (on behalf of the affected Councillors) for an exemption under Section 458 of the Local Government Act 1993.

The attached Department Local Government Circular 06-02 dated 4 October 2006 outlines the process for applying for a pecuniary interest exemption under the Act.

ATTACHMENTS

1. Detailed Planning Report
2. Department of Local Government Circular 06-62 dated 4 October 2006

RECOMMENDATION

THAT:

1. Council amends the exhibited Draft Lithgow Land Use Strategy 2010-2030 to provide effect to the following:

Section A Urban Land Use

- i. Retention of a primary production zone over the Blackmans Flat area in the new Local Environmental Plan and identification of the land as a strategic site for future industrial land use in the strategic framework.
- ii. Inclusion of an action in the Land Use Strategy to provide specific provisions and controls within the comprehensive development control plan to manage future land use conflict in the Blackmans Flat area.
- iii. Extension of the Lithgow mixed use business zone around Lithgow St, to encompass the land bounded by the Bowling Club, Mines Rescue Facility and Childcare Centre as shown in Figure 1 of the attached report.
- iv. Alteration of the land use designation for the Pottery Estate Lithgow to identify lands of highest hazard and constraints within an environmental zone and retain the residential zoned land as shown in Figure 1 of the attached report.
- v. Correction of the mapping anomalies over the existing commercial uses off Bent and Silcock St and existing residential development along Hassans Walls Road, Lithgow.
- vi. Provision of a neighbourhood business area at South Bowenfels as identified in Figure 2 of the attached report.
- vii. Correction of anomalies in the landuse designations for the following areas as shown in Figure 3 of the attached report:
 - a. The slither of land between the railway line and the Great Western Highway, opposite the Reserve Rd intersection at Marrangaroo which is currently identified as rural to remain rural in the Local Environmental Plan directions but be identified as a future urban land use in the strategic framework plans to signify that this land may have a higher use once commencement of the development of the Marrangaroo Release Area occurs.
 - b. The area along Coorwull Rd, Lithgow, containing the existing caravan park, currently shown as environmental in the Local Environmental Plan directions to be shown as residential.
- viii. Introduction of an environmental land use designation to that part of the former Boral Site, Portland, not proposed for mixed use or industrial landuse as shown in the Figure 4 of the attached report.

- ix. Application of a minimum lot size of 4000m² for the following areas:
 - a. area to the north of Roxburgh St and east of High St Portland
 - b. area to the south of Purcell St, Portland.
- x. Alteration to the identified land use for the area to the west of Charles St, Rydal, and north of Quarry St, Rydal, from rural to large lot residential with a minimum allotment size for the erection of a dwelling of 2ha.
- xi. Alteration to the identified land use for the area to the west of the railway line bounded by Charles St, Quarry St and Railway St, Rydal, from rural to large lot residential with a minimum allotment size for the erection of a dwelling of 4000m².
- xii. Alteration to the existing southeast Rydal village zone from village to large lot residential with a minimum allotment size for the erection of a dwelling of 4000m².
- xiii. Alteration to the proposed extension to the Rydal village area to the north to large lot residential with a minimum allotment size for the erection of a dwelling of 2ha.
- xiv. Introduction of a minimum allotment size for the erection of a dwelling in the zoned Rydal Village area of 4000m².
- xv. Modification of the existing village boundaries of Capertee and introduction of a large lot residential area as follows:
 - a. Extension of the village zone to the north over existing small lots
 - b. Provision of a large lot residential area to the north west of the existing village boundary and south of the Castlereagh Highway and rail line.
- xvi. Application of a 4000m² minimum lot size to both the Capertee village and large lot residential areas.

Section B Rural Land Use

- xvii. Carry over of all dwelling provisions within the operating Local Environmental Plans through a savings clause in the new Local Environmental Plan without a sunset period. To be clear this includes all allotments less than 40ha defined as existing holdings in the operating Local Environmental Plans and all allotments created by an approved subdivision under any previous planning instrument.
- xviii. Monitoring of the take up of these provisions over time and reviewing this position at the first comprehensive review of the new Local Environmental Plan as part of overall rural land use policy.

- xix. Adoption of a variable rural minimum lot size using both 40ha and 100ha as detailed in Option 1 of the attached report.
 - xx. Introduction of a new existing holding clause in the new Local Environmental Plan to enable holdings between 40ha and 100ha to have a dwelling erected upon them notwithstanding any new minimum lot size that applies.
 - xxi. Review of the rural minimum lot size following the completion of further strategic documents such as the biodiversity strategy, cultural landscape assessment, housing strategy and ageing strategy.
-
- 2. Council provides the General Manager with the delegation to make any minor amendments to the Draft Lithgow Land Use Strategy 2010-2030 that do not alter policy intent.
 - 3. Council adopts the amended Lithgow Land Use Strategy 2010-2030.
 - 4. Council refers the adopted Lithgow Land Use Strategy 2010-2030 to the NSW Department of Planning for final endorsement.
 - 5. Council adopts in principle the recommendations of the Open Space and Recreational Needs Study and Heritage Development Control Plan Study to inform the development of the comprehensive Local Environmental Plan and other Council planning and management documents.
 - 6. Councillors wishing to seek an exemption under Section 458 of the Local Government Act 1993 nominate their intent in relation to the preparation of the new comprehensive Local Environmental Plan with the General Manager by the 21 November 2011.

ENVIRONMENT AND DEVELOPMENT REPORTS

ITEM-9 ENVIRO - 15/04/13 - DRAFT PLANNING PROPOSAL FOR PRINCIPAL LITHGOW CITY LEP 2013

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

| | |
|------------------|---|
| Minute No 568: | Ordinary Meeting of Council 14 th June 1994 |
| Minute No 50: | Ordinary Meeting of Council 13 th January 1997 |
| Min No 07-518: | Policy and Strategy Committee Meeting 3 December 2007 |
| Min No 07-519: | Policy and Strategy Committee Meeting 3 December 2007 |
| Min No 08-78: | Policy and Strategy Committee Meeting 1 July 2008 |
| Min No 08-134: | Ordinary Meeting of Council 19 August 2008 |
| Min No 008-227: | Ordinary Meeting of Council 15 December 2008 |
| Min No 10-138: | Ordinary Meeting of Council 12 April 2010 |
| Min No 10-160: | Extra Ordinary Meeting of Council 27 April 2010 |
| Min No 11-23: | Ordinary Meeting of Council 24 January 2011 |
| Min No 11-24: | Ordinary Meeting of Council 24 January 2011 |
| Minute No 11-27: | Ordinary Meeting of Council 24 th January 2011 |
| Min No 11-231: | Ordinary Meeting of Council 20 June 2011 |
| Min No 11-422: | Ordinary Meeting of Council 31 October 2011 |
| Min No 11-450: | Ordinary Meeting of Council 31 October 2011 |
| Min No 12-75: | Ordinary Meeting of Council 5 March 2012 |
| Min No 12-215: | Ordinary Meeting of Council 25 June 2012 |

SUMMARY

The purpose of this report is to recommend Council formerly resolve to commence the legal process for the making of the Draft Lithgow City Council Local Environmental Plan (LEP) 2013 under Section 55 of the Environmental Planning and Assessment Act, 1979 (Act).

The first step in this process is the preparation of a Planning Proposal. A Planning Proposal is a document that explains the intended effect of a proposed Local Environmental Plan and sets out the justification for making that plan.

This report seeks Council's consideration of the attached Planning Proposal and a resolution to refer such proposal to the Western Region Office of NSW Department of Planning and Infrastructure (DP & I) to arrange for the issuing of a Gateway Determination under Section 56 of the Act. This determination is necessary to allow Council to proceed to public exhibition and formal government agency consultation in relation to the Draft LEP.

COMMENTARY

BACKGROUND

As part of the NSW Planning Reform Agenda, all Councils in NSW are required to prepare a new Principal LEP to comply with the Standard Instrument (Local Environmental Plans) Order, 2006.

Although legally required to move to the Standard Instrument format, Council also at that time recognised the need to undertake a full strategic planning review to bring the LGA under one planning instrument (replacing the *Lithgow City LEP 1994* and *Rylstone LEP 1996*) and to update

the provisions of the existing instruments. These planning instruments had not been comprehensively reviewed since 1994 and 1996 respectively.

In 2006, Council, supported by funds under the Planning Reform Fund Program, commenced strategic planning work on the preparation of a local land use strategy. The Lithgow Land Use Strategy 2010-2030(LUS) was adopted by Council on 31 October 2011 and endorsed by the Director General of NSW Department of Planning and Infrastructure (DP & I) on 24 May 2012.

The LUS was informed by, but not limited to, the 2007 Local Profile, the Community Strategic Plan 2025 and other strategic documents 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.

STATUTORY FRAMEWORK AND PROCESS

LEP STATUTORY FRAMEWORK

An LEP is a legal planning instrument that zones land imposes standards to control development, or implements a state or local policy outcome. The purpose of an LEP is to achieve the objectives of the Act. It is a means to implement strategies, giving legal effect to where and under what circumstances places should be developed or particular environmental controls imposed. A Principal LEP is one that applies to the whole of the LGA.

The principal LEP must be made in the standard form prescribed in the Standard Instrument (Local Environmental Plans) Order 2006. It must also conform to the “*Standard Technical requirements for LEP maps*”. This provides consistency in the appearance of LEPs and assists users interpreting planning controls across different LGAs. Complying with the standard technical requirements will also assist in the creation of an e-mapping platform and will enable all LEP maps to be made available on line after the plan is made.

The principal LEP is required to be prepared having regard to the statutory framework set by the Act and the best practice framework set out in DP & I practice notes and circulars.

Overview of the Standard Instrument

The Standard Instrument provides a “template” for Council to use as a basis for preparing new LEPs. It contains standard zones (including standard zone objectives and mandated permitted and prohibited uses), standard definitions, standard clauses and has a standard format.

The mandatory provisions in a new LEP are either compulsory (including compulsory if applicable) or optional. Compulsory provisions are those which must be included in all principal LEPs. These are generally administrative matters that are common to all LEPs or planning matters that are relevant to all Councils in NSW. Compulsory (if applicable) provisions are clauses that are compulsory where specified conditions exist such as coastal zones or where Council has adopted certain other related provisions. Optional provisions are a type of mandatory provision which Council can choose whether or not to use, but if used, cannot be altered.

Local provisions refer to any LEP content (e.g. clauses, objectives, additional permitted or prohibited uses) that is not part of the Standard Instrument. The inclusion of local provisions should be able to be justified by a local or regional strategy.

In developing a new LEP

Council can:

- prepare additional local provisions that address local planning issues and which reflect the outcomes of local and regional strategies
- add local objectives to the core zone objectives
- add additional permitted or prohibited uses in the land use tables
- decide whether or not to include optional provisions in their LEP
- specify what will be permitted as exempt and complying development in addition to those identified in the SEPP (Exempt and Complying Development Codes)
- insert local criteria or standards into certain mandatory clauses
- prepare maps that specify the lot sizes, building heights and floor space ratios appropriate to the local areas
- define terms within a local provision in certain circumstances
- suggest new definitions to the Department of Planning for inclusion in the standard dictionary for all Councils to use.

Council cannot:

- add new zones or create sub-zones
- prohibit uses that are mandated as permissible in a zone
- permit uses that are mandated as prohibited in a zone
- add local provisions that are inconsistent with the mandatory provisions
- change the standard dictionary by altering or adding to the standard definitions
- change the standard clause numbering
- change the format
- change the wording of the provisions.

NOTE: In the Draft Lithgow City LEP 2013 attached, the content in black font represents the standard instrument content and the red font represents the local provisions prepared by Council officers.

All local provisions prepared by council must be consistent with the relevant core zone objectives and mandated land uses, other mandatory provisions and relevant state or regional planning guidance (including State Environmental Planning Policies (SEPPs), Regional Environmental Plans (REPs), Section 117 Directions and other planning guidance.

State Environmental Planning Policies (SEPPs)

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

In general SEPPs override LEPs regardless of when the LEP is made. For this reason any new LEP should ensure consistency with all relevant SEPPs.

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

Section 117 (2) Ministerial Directions

The Minister for Planning and Infrastructure has issued a set of directions under Section 117(2) of the Act 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. LEPs must be consistent with these Directions except where any inconsistency is supported by an approved strategy or can be demonstrated to be of minor significance.

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 of the Planning Proposal.

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.

LEP Practice Notes and Circulars

There are several Practice Notes and Circulars produced by DP & I to instruct council and planning practitioners on the preparation of a Principal LEP to accord with the Standard Instrument. Where practical these instructions have been followed as well as referencing of recently gazetted LEPs for the most recent interpretations and adaptations.

Classification of public lands

On the commencement of the Local Government Act 1993 on 1 July 1993, a new regime for the management of public land owned or controlled by Council was introduced. The Act emphasised Council's responsibility to actively manage public land and to involve the community in developing a strategy for its management.

"Public land" is any land (including a public reserve) vested in, or under the control of Council. It does not include roads, land to which the *Crown Land Act 1989* applies, a common, or land to which the *Trustees of Schools of Arts Enabling Act 1902* applies.

All public land must be classified as either "community land" or "operational land".

"Community" land:

- Reflects the importance of the land to the community for public access and use and would generally comprise a public park, sports ground or community facility
- Must not be sold
- Use is regulated via a plan of management (POM)
- Cannot be leased/licenced for more than 21yrs (plan to amend to 30yrs in line with financing terms)

"Operational" land:

- Is land that facilitates the carrying out by Council of its functions
- May not be open to the general public, such as works depots, sewerage and water treatment plants, water reservoirs, drainage reserves etc
- May be land held as a temporary asset or investment
- Has no special restrictions other than those that apply to any piece of land

Classification of public land refers to the process when this land is first acquired and first classified as either "operational" land or "community" land.

Reclassification of public land refers to the process of changing the classification either from "community" to "operational" or "operational to community".

Depending on the circumstances this is undertaken by either:

- Resolution of Council under Section 31, 32 or 33 of the *Local Government Act, 1993*, or

- A Local Environmental Plan (LEP) under the *Environmental Planning and Assessment Act, 1979*.

In 1994 Council undertook by resolution to classify Council's public land portfolio. The table below also summarises the existing classifications for Council's public land, as determined by Council Resolution 568, from the General Council Meeting of 14th June 1994, as amended by Resolution 50, General Council Meeting 13th January 1997.

| Public Land Classification | Number of Parcels |
|----------------------------|-------------------|
| Community | 263 |
| Operational | 54 |

Public land that is not classified by Council under resolution within 3 months of its acquisition automatically devolves to a "community" classification.

Classification review

Council has recently completed an audit of its public land portfolio and has compiled a Land Register in accordance with Section 53 of the *Local Government Act, 1993*. The Land Register details information about each parcel of public land, including but not limited to, its classification (operational or community), locality, zoning, tenure and certificate of title reference.

It is apparent from the audit and analysis of Council's property records that some lands require reclassification in order to achieve consistency with long term management objectives. A number of properties have devolved to a "community" classification on acquisition but may be more appropriately classified as "operational".

The table below provides a summary of the audit findings:

| Classification Status | Number of Parcels | Required Process |
|---|-------------------|--------------------------|
| Appropriately Classified | 214 | Nil |
| Reclassification from Community to Operational (no interest change) | 89 | Local Environmental Plan |
| Reclassification from Community to Operational (interest change) | 8 | Local Environmental Plan |
| Reclassification from Operational to Community | 6 | Council resolution |

Land proposed to be reclassified through the Local Environmental Plan has been included in Schedule 4 of the Draft LEP 2013 attached.

In order for reclassification to occur as part of the LEP process, the following information needs to be obtained for each parcel requiring reclassification:

- the planning merits behind the reclassification
- the reasons for the reclassification, e.g. Council's strategic framework, council's proposed future use of the land, proposed zones, site specific requirements
- the nature of council's interest in the land and the reason it acquired that interest
- any agreements over the land
- any financial gain or loss from the reclassification and any benefit that could arise
- the asset management objectives being pursued through the reclassification; the manner in which they will be achieved and the type of benefits the council wants
- whether there has been an agreement for the sale or lease of the land; the details of any such agreement and, if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time.

This process provides the Council and the community with opportunities to view the information being presented and make comment or submissions during the exhibition period. In addition to the required public exhibition period for the LEP, a public hearing into the reclassifications is also required in accordance with Section 29 of the *Local Government Act 1993*.

The six parcels proposed to be reclassified from “operational” to “community” via Council resolution are listed in the table below. Council must publicly exhibit its intention to reclassify these parcels under Section 33 and 34 of the *Local Government Act 1993* for a period of least 28 days during which submission may be received.

| | | | | |
|--------------------------|---|-------------|---------------|----------------------------|
| Community Hall | Civilian Widows Hall | Lithgow | Tank Street | Lot 1 DP517242 |
| Community Hall | East St Public Hall and Park | Lithgow | East Street | Lot 114 DP 28254 |
| Community Hall | Community Hall Vale of Clywdd | Lithgow | Mort Street | Lot 2 DP 563455 |
| Indoor Sporting Facility | Reg Cowden Memorial Sports Centre Lithgow | Lithgow | Barton Street | Lot 3 DP 29016 |
| Public Hall | Crystal Theatre | Portland | Wolgan St | Lot 1 DP 558522 |
| Public Hall | Memorial Hall/Pre School Building | Wallerawang | Commens St | Lots 1,2,3,4,5 DP 15683 |

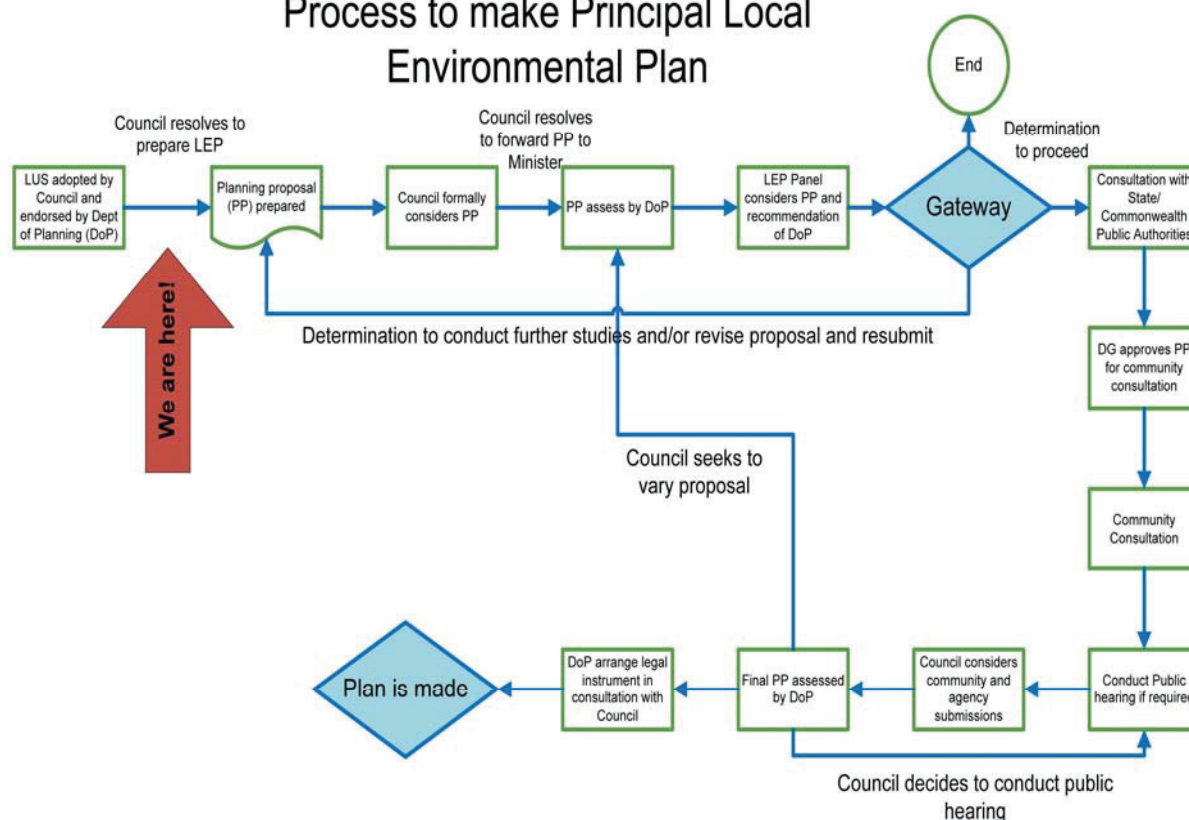
LEP PROCESS

A flowchart summarising the process for the making of the Principal LEP is shown below.

As the Draft LEP 2013 will be classifying public lands a public hearing will be required to be held as part of this process following the end of the public exhibition period.

It is expected that the process will be relatively smooth and linear given that Council is seeking to implement an endorsed local land use strategy, however there is potential for the process to be more iterative causing review and some steps may need to be revisited as indicated in the flowchart below.

Process to make Principal Local Environmental Plan



PLANNING PROPOSAL 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 2013 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:

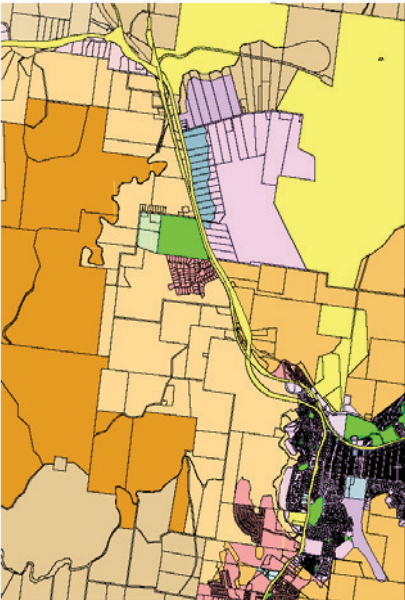
- Provide a suite of land use zones to accord with the Standard Instrument LEP and support the strategic directions of the LUS;
- Provide 50 ha of new industrial land at Marrangaroo and 104ha of heavy industrial land at the Minerals Processing Site, Wallerawang;
- Identify a 310ha urban release area 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.

DRAFT LOCAL ENVIROMENTAL PLAN 2013 - MINOR VARIATIONS FROM THE ENDORSED LAND USE STRATEGY

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 Council:

| Relevant LUS Action | Variation Sought |
|---|---|
| <p>Residential Land Action 11.2</p> <p>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 (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>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> |
| <p>Residential Land Action 11.3</p> <p>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"> ▪ General Residential 600m² ▪ Medium Density Residential 400m² ▪ Low Density Residential 800m² | <ul style="list-style-type: none"> • 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. • R1 General Residential Zone contains areas of 300m², 400m² and 600m² minimum lot sizes. • R2 Low Density Residential Zone contains areas of 600m², 800m² and 2000m² minimum lot sizes. • 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. |

| | |
|---|--|
| <p>Residential Land Action 11.6</p> <p>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>Employment Lands – Commercial Action 12.14</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"> Retain and consolidate the principal commercial centre of Lithgow by rezoning surplus commercial lands as indicated in Figure 3 of Chapter 14. 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 | <ul style="list-style-type: none"> 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. <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"> Variation to the proposed zoning of the site on the corner of GWH and Caroline Ave to retain residential zoning as R1 General Residential. 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. 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 |

| | |
|--|---|
| <p>Main St commercial precinct.</p> <ul style="list-style-type: none"> ▪ Introduce floor space ratios in the LEP to limit the potential for expansion of the Valley and Pottery Plazas out –of centre sites. ▪ Identify and appropriately zone the commercial centre of Wallerawang as identified in Figure 13 of Chapter 14. ▪ Identify and appropriately zone the commercial centre of Portland as identified in Figure 19 of Chapter 14. | <p>development demand , similar and more flexible outcomes can be achieved through a robust development assessment process on a case by case basis.</p> |
|--|---|

EXPLANATION OF PROVISIONS OF DRAFT LITHGOW CITY COUNCIL LEP 2013

The Draft LEP 2013 will consist of a written instrument and associated maps. In combination they will form the legal draft LEP or environmental planning instrument.

For the purposes of the Planning Proposal the associated maps are not compliant with the Standard Instrument (SI). The LEP mapping has been completed in house following as far as possible the “*Standard Technical requirements for LEP maps*”, however Council does not have the appropriate mapping software to easily convert the maps in the final standard format. This part of the process is being undertaken on Councils behalf by the GIS division of DP & I. It is expected that SI LEP compliant mapping will be available for the public exhibition process making it far simpler for on-line viewing.

The Draft LEP 2013 attached has been prepared in accordance with the Standard Instrument Order.

The written instrument consists of seven parts, five schedules and the Standard Dictionary.

A brief overview of each part of the Draft LEP 2013 attached is provided below.

NOTE: In the Draft Lithgow City LEP 2013 attached, the content in black font represents the standard instrument content and the red font represents the local provisions prepared by Council officers.

PART 1 PRELIMINARY

This part contains the standard administrative clauses and as such comment will be limited to those clauses with local content or application.

Clause 1.2 (2) – Aims of the Plan

This clause identifies specific local aims for the LEP which have been drawn from the overarching strategic principles and directions of the Lithgow Land Use Strategy 2010-2030 and the Community Strategic Plan 2025.

Clause 1.8A – Savings provision relating to development applications

This clause allows for the continued processing of undetermined development applications at the time of the gazettal of the LEP to enable transition to the new LEP.

Clause 1.9A – Suspension of covenants, agreements and instruments

This clause ensures that the carrying out of development granted development consent under the LEP is not restricted due to certain covenants, agreements and instruments.

PART 2 PERMITTED OR PROHIBITED DEVELOPMENT

This part outlines what development types as defined in the standard dictionary are permitted or prohibited in each zone selected for use in the LEP.

Clauses 2.1 -2.4

These clauses are compulsory standard administrative clauses relating to the land use zones

Clause 2.5 Additional permitted uses for particular land

This clause allows for some flexibility for additional permitted uses on specific land despite the provisions of the land use tables. These uses and lands must then be detailed in Schedule 1.

It is not proposed to utilise this clause in Draft LEP 2013.

Clause 2.6 Subdivision consent requirements

This clause allows the subdivision of land with development consent and restricts subdivision for the purposes of secondary dwellings unless the resulting lot is not less than the minimum lot size shown on the Lot Size Map.

Clause 2.7 Demolition requires development consent

This clause requires that all demolition may only be carried out with development consent.

Clause 2.8 Temporary use of land

This clause provides for the temporary use of land despite the provisions of the LEP land use tables.

The Draft LEP 2013 has adopted this clause and has specified maximum period for temporary use of land to be 52 days (whether or not consecutive days). This clause will facilitate events and festivals and the like.

Land Use Zones

The Standard Instrument includes a suite of land use zones. Council is not required to adopt all zones, but cannot add any new zones.

The Draft LEP 2013 proposes to adopt twenty one (21) of these zones to apply to areas across the LGA. These zones contain mandated core zone objectives. Council is able to provide a limited number of additional zone objectives to tailor the zone to local circumstances provided that these additional objectives do not undermine any of the core zone objectives and are consistent with drafting directions provided in DP & I practice notes and circulars.

It is proposed to adopt a more structured (closed) form of land use zoning for the Draft LEP 2013, replacing the current flexible zoning model, in order to be more transparent and specific about the roles and functions of the land use zone, to ensure land use compatibility, protect established and proposed future amenity and to provide more surety for investment decisions.

The Draft LEP 2013 Land Use Matrix, although not forming part of the legal instrument, is attached to assist understanding and to provide a quick reference for permitted and prohibited uses within each zone.

Rural Zones

The Draft LEP 2013 proposes to adopt four out of the possible six rural zones of the Standard Instrument. These zones are outlined below:

RU1 Primary Production

This zone covers the largest area of land within the LGA and is the most suitable conversion zone for the existing General Rural 1(a) and Outer Rural 1(e) zones.

The zone is allocated to land where the primary function is primary production and covers land used for most kinds of commercial primary industry production including extensive and intensive agriculture, private forestry, mining and extractive industries. The zone is aimed at utilising the natural resource base in a sustainable manner.

A key change from the existing range of permitted land use proposed within this zone relates to the prohibition of all forms of industry, except home industry and the prohibition of a range of residential accommodation forms including detached dual occupancy. These and other less significant land use changes are necessary to meet consistency with the core mandated zone objectives and drafting directions provided by DP & I as set out in PN 11-002.

RU 2 Rural Landscape

This zone applies to land identified as having high environmental sensitivity and biodiversity connectivity and scenic quality, most notably due to topographical features such as steep slopes, escarpment areas and heavy vegetation, whilst still being used for some forms of low impact commercial primary production.

Additional local objectives have been added in this zone to properly consider the type and intensity of development within this zone.

The range of permitted uses within this zone are more limited than the RU 1 zone in that intensive livestock agriculture and intensive plant agriculture are prohibited within this zone.

RU3 Forestry

This zone is a straight conversion of the existing Zone 1(f) Rural (Forestry).

RU5 Village

This zone is applied to the core areas of all existing rural villages at Rydal, Cullen Bullen, Capertee and Tarana.

This zone is a flexible zone where a mix of residential and business and other allied uses are permitted to support the viability of the rural village.

It is important to note here that the Village zone will no longer be used for the Portland and Wallerawang townships. These towns given their size, structure and role within the adopted settlement hierarchy are proposed under the Draft LEP 2013 to have a suite of land use zones applied to more provide for more orderly and sustainable planning outcomes.

Residential Zones

The Draft LEP 2013 proposes to adopt three out of the possible five residential zones of the Standard Instrument. These zones are outlined below. The use of three residential zones represents a significant change from the existing zoning model where only one residential zone applies.

R1 General Residential

This zone is to provide a broad variety of residential densities and housing types. This zone will be applied to the majority of urban residential lands within the LGA and will replace the majority

of the existing Zone 2(a) Residential zone in Lithgow and parts of the existing 2(v) Village zone in Portland.

R2 Low Density Residential

This zone is the lowest density urban residential zone and is proposed to apply to urban residential lands primarily at South Bowenfels, Marrangaroo and the outer residential areas of Portland. This zone has also been applied to all residential land at Wallerawang.

Typically this zone is applied to land where primarily low density housing is to be established or maintained and features detached dwelling houses as the major housing form. Other permitted uses are generally restricted to facilities and services that meet the day to day needs of the residents.

R5 Large Lot Residential

This zone is used to cater for development that provides for residential housing on larger allotments in a rural setting. The primary function of this zone is residential.

The existing lands Zoned 1(c) Rural (Small Holdings) on the fringes of Portland, Wallerawang and Lithgow and localities such as Hartley, Dargan and Clarence will translate comfortably into this zone given the existing settlement pattern and primary land uses that have evolved in these areas since being introduced in late 1980's.

This zone is also proposed to be applied to land on the fringes of Rydal, Tarana and Capertee Villages and to the existing Lidsdale Village.

Business Zones

The Draft LEP 2013 proposes to adopt six out of the possible eight business zones of the Standard Instrument. These zones are outlined below. The use of six business zones represents a significant change from the existing zoning model where only one business zone (Zone 3 Business) is applied.

The use of six zones is necessary to differentiate the role and function of the various business areas in the three town centres and to respond to a range of local circumstances.

B1 Neighbourhood Centre

This zone is to provide for a cluster of small scale convenience retail premises (neighbourhood shops), business premises, medical centres and community uses that serve the day to day needs of residents in easy walking distance.

This zone is proposed for two out of centre locations at Bowenfels, one around KFC and another around the mix of commercial uses at Col Drewe Drive.

B2 Local Centre

This zone is intended for centres that provide a range of commercial, civic, cultural and residential uses.

This zone is proposed to be applied to the Main St core business areas of Lithgow, Wallerawang and Portland.

B4 Mixed Use

This zone provides for a wide range of land uses including commercial, residential, tourist and visitor and community uses.

It is proposed to apply this zone to business areas in the out of centre business areas in Lithgow such as the Lithgow Valley and Pottery Plaza centres, Lithgow St, Railway Parade and western Main St.

A further smaller area is also proposed in part of the former cement works site at Portland.

An additional local objective is proposed to be added to this zone to ensure that development within this zone does not detract from the role of the B2 Local Centres and to promote the retention and reuse of heritage items and established buildings in Portland.

B6 Enterprise Corridor

This zone provides for a range of commercial and light industry development to be encouraged along main roads.

This zone is proposed to be applied along a section of the Great Western Highway at Marrangaroo and forms part of the Urban Release Area.

B7 Business Park

This zone provides for a range of office and light industrial uses, including high technology industries and a range of ancillary and allied land uses to support the day to day needs of workers.

This zone is proposed to be applied to part of the former ADI site in Lithgow to encourage employment opportunities through a range of uses compatible with the constraints of the site and the adaptive reuse of the industrial heritage buildings.

Retail premises will be prohibited to ensure that development in this area does not detract from the role of the B2 Local Centre.

Industrial Zones

The Draft LEP 2013 proposes to adopt three out of the possible four industrial zones of the Standard Instrument. These zones are outlined below. The use of three industrial zones represents a significant change from the existing zoning model where only one industrial zone (Zone 4 Industrial) is applied and where various forms of industrial development are permitted within a wide range of zones including residential, business and rural zones.

The use of three zones clearly differentiates the intensity of development proposed for each area and clearly signals the varying capability of each area to support expanded industrial development into the future.

The Draft LEP 2013 proposes to prohibit industrial development except for home industry in areas outside the designated industrial zones.

IN1 General Industrial

This zone provides for a wide range of industrial and warehouse uses in areas where the objective is to protect industrial land primarily for industrial land use.

This zone is proposed to be applied to the new greenfield industrial area at Reserve Road Marrangaroo and the Pinta St area at Wallerawang.

IN2 Light Industrial

This zone provides for a range of “light industry”, “warehouse or distributions centre” and depots. The types of uses accommodated in this zone need to be “light” in nature, meaning they will not cause nuisance or adversely affect the surrounding amenity for example by way of emissions or noise.

This zone will apply to the existing industrial areas within Lithgow and a new small area within the former cement works site at Portland.

IN3 Heavy Industrial

This zone provides for heavy industrial land uses that may require separation from other land uses and general industrial land use.

This zone is proposed to be applied to the Minerals Processing Park site at Wallerawang.

Special Purpose Zones

The Draft LEP 2013 proposes to adopt one out of the possible three special purpose zones of the Standard Instrument as outlined below.

SP2 Infrastructure Zone

This zone is used to zone land used for infrastructure that is highly unlikely to be used for a different purpose in the future.

This zone is proposed to be applied to cemeteries, classified roads, railways, waste disposal facilities, sewage treatment plants, defence lands etc in accordance with the State Environmental Planning Policy (Infrastructure) 2007 and Planning Circular PS 08-001 and LEP Practice Note PN 10-001.

Recreation Zones

The Standard Instrument provides for two recreation zones. The Draft LEP 2013 proposes to adopt both these zones.

RE1 Public Recreation

This zone provides for a wide range of public recreational areas and activities including local and regional parks and open space.

This zone is proposed to be applied to all public recreation and open space areas within the urban centres. The majority of these areas are currently zoned 6 Open Space.

RE 2 Private Recreation

This zone provides for a wide range of recreation areas and facilities on land that is privately owned or managed. The use of facilities developed on this land may be open to the general public or restricted e.g. to members only.

This zone is proposed to be applied to all privately owned or operated recreational areas or activities.

Environment Zones

The Draft LEP 2013 proposes to adopt three out of the possible four environment zones of the Standard Instrument as outlined below.

E1 National Parks and Nature Reserves

This zone is intended to cover existing national parks and nature reserves, and new conservation areas proposed for reservation that have been identified and agreed to by the NSW Government.

This zone is proposed to be applied to all areas currently zoned Zone 8 National Parks and Nature Reserves and any known new areas advised by the Office of Environment and Heritage.

E3 Environmental Management

This zone is generally intended to be applied to land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards.

This zone is proposed to be applied to riparian areas in the urban centres that are currently zoned 6 Open Space and an area surrounding Lithgow including the steep escarpments and heavily vegetated scenic landscapes. This includes the majority of land identified as environmentally sensitive within the current LEP.

E4 Environmental Living

This zone is generally intended to provide for low impact residential development in areas of special environmental or scenic value.

This zone is proposed to be applied to land on the western side of the Great Western Highway between Bowenfels and Tunnel Hill. This zone will be used as a transitional holding zone for future urban expansion beyond the life of the current LUS.

PART 3 EXEMPT AND COMPLYING DEVELOPMENT

This part contains all the standard compulsory clauses relating to exempt and complying development. The types of development that are considered to be either exempt or complying development are then listed in Schedule 2 and 3 respectively.

Draft LEP 2013 proposes no additional development types to those identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

PART 4 PRINCIPAL DEVELOPMENT STANDARDS

This part contains a number of clauses that relate to development standards such as minimum lot sizes for subdivision and dwelling entitlements.

Clause 4.1 Minimum subdivision lot sizes

This clause is an optional standard clause for adoption where Council requires minimum lot sizes to be regulated by application of a development standard.

The development standard is indicated spatially on the Lot Size Map, rather than written into the clauses. This is a significant change in how development standards are applied as this process allows different minimum lots sizes to be applied within a land use zone.

The Lot Size Map includes minimum lot sizes for the following zones as follows:

| Proposed Zone | Applicable Lot Size |
|-----------------------------|---|
| RU1 Primary Production | 40ha |
| RU2 Rural Landscape | 40ha |
| RU5 Village | Varying – Areas of 4000m ² |
| RU5 Large Lot Residential | Varying – Areas of 4000m ² , 2ha and 10ha |
| R1 General Residential | Varying – Areas of 300m ² , 400m ² and 600m ² |
| R2 Low Density Residential | Varying – Areas of 600m ² , 800m ² and 2000m ² |
| E3 Environmental Management | 40ha |
| E4 Environmental Living | 40ha |

Where a minimum lot size has not been indicated on the Lot Size Map, then land can be subdivided with consent under the provisions of Clause 2.6. In this circumstance, a greater flexibility is afforded to Council in determining an appropriate development outcome such as in the commercial, industrial and recreation zones.

As Council resolved not to change the existing minimum lot size of 40ha, it is required that the existing performance standards contained within Clause 13 of the Rylstone LEP 1996 and Clause 12(1) of Lithgow LEP 1994 be carried over into the new LEP.

To effect this, subclause 5 has been added to this clause to restrict further subdivision of lands identified on the Lot Size Map as Areas 1 and Area 2 respectively.

Area 1 contains lands comprising in any part as prime, crop and pasture land being Class 1, 2 or 3 on a map prepared by or on behalf of the Department of Agriculture.

Area 2 contains residue consolidated lands resulting from previous concessional allotment subdivisions.

Clause 4.1A Strata subdivisions in certain rural and environmental zones

This clause is adopted to prevent further fragmentation of land in the rural and environmental zones from other forms of subdivision not addressed in Clause 4.1.

Clause 4.1AA Minimum subdivision lot size for community title schemes

This clause is adopted to prevent further fragmentation of land in the rural and environmental zones from other forms of subdivision not addressed in Clause 4.1.

Clause 4.1B Minimum lot sizes for dual occupancy, multi-dwelling housing and residential flat buildings in certain zones

This clause requires a minimum lot size for certain forms of residential development to achieve or maintain a certain density of development in areas where it applies.

Clause 4.2 Rural subdivision

This is a standard compulsory clause to provide that land within the RU1 primary production zone and the R2 Rural Landscape zone may be subdivided for the purposes of primary production into a lot of a size less than the minimum lot size shown on the Lot Size Map provided no existing dwelling would be situated on the lot. Further no dwelling can be erected on any such lot created.

This clause supports the provisions of the Rural Lands SEPP.

Clause 4.2A Erection of dwelling houses or dual occupancies and secondary dwellings on land in certain rural and environmental protection zones

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 m² 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.

Clause 4.2B Erection of dwelling houses, dual occupancies and secondary dwellings on land within certain village and large lot residential areas

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.

Draft LEP 2013 does not adopt the optional Height of Buildings or Floor Space Ratio clauses.

It should be noted that this part includes a compulsory standard clause (clause 4.6) for exemptions to development standards that reflect the provisions of State Environmental Planning Policy No 1- Development Standards and as such is replaced by this clause.

PART 5 MISCELLANEOUS PROVISIONS

This part contains a collection of unrelated standard compulsory clauses. A brief discussion is provided below where necessary to explain the intention of the clause.

Clause 5.1 Relevant Acquisition Authority

This clause identifies the relevant acquiring authority for any land that is intended to be purchased for a public purpose.

The Draft LEP 2013 does not identify any land proposed for acquisition at this point in time.

Clause 5.2 Classification and reclassification of public land

This clause provides the legal mechanism for council to classify or reclassify public land. Schedule 4 then lists the land so affected.

Draft LEP 2013 proposes to reclassify 97 parcels of public land. Further detail regarding this matter is included in a separate section of this report.

Clause 5.3 Development near zone boundaries

This clause is not proposed to be adopted in the Draft LEP 2013.

A similar clause exists in the current LEP and has been exploited to produce development outcomes resulting in quasi zoning extensions to increase development potential rather than promote good development design.

Clause 5.4 Controls relating to miscellaneous permissible uses

This clause enables Council to insert numerical standards for a range of common types of development to reflect local circumstances.

Clauses 5.5 - 5.7

These clauses are not proposed in the Draft LEP 2013.

Clause 5.8 Conversion of fire alarms

This clause provides requirements for the conversion of fire alarms and specifies the criteria for which this development is considered to be complying development.

Clause 5.9 Preservation of trees or vegetation

This compulsory clause will function in place of any Tree Preservation Order in association with a Development Control Plan.

Clause 5.10 Heritage conservation

This compulsory standard clause outlines the requirements for heritage conservation across the LGA. Schedule 5 lists the various heritage items, heritage conservation areas and archaeological sites that relate to this clause. The Heritage Map then spatially identifies the location of such items and areas.

Schedule 5 in the Draft LEP 2013 has transferred all items currently listed in the current LEPs as well as additional items and conservation areas recommended by the Lithgow and Rylstone Heritage Studies and the Heritage DCP Study.

Clause 5.11 Bush Fire Hazard Reduction

This clause authorises bush fire hazard reduction work authorised by the Rural Fires Service to be carried out without development consent.

Clause 5.12 Infrastructure development and use of existing buildings of the Crown

This clause makes special provisions for development by public authorities under the Infrastructure SEPP and the use of existing buildings of the Crown.

Clause 5.13 Eco-Tourist facilities

This clause provides performance standards and criteria for the development of eco-tourist facilities on land where these are permitted with consent.

PART 6 URBAN RELEASE AREAS

This part relates only to significant land releases where satisfactory arrangements must be made with various state authorities for the provision of infrastructure. In order to trigger Part 6 clauses the land must be identified on the Urban Release Map.

A development control plan addressing a range of planning and design matters is also required before any major development of this area can be considered.

Land at Marrangaroo has been identified in the Draft LEP 2013 as an urban release area.

PART 7 ADDITIONAL LOCAL PROVISIONS

This part contains specific local clauses that relate to the Lithgow LGA.

Clause 7.1 Flood Planning

This clause provides performance standards for land affected by flooding. The Flood Planning Map identifies the land to which this clause applies as flood planning area. The clause also relates to any other land at or below the flood planning level being the 1 in 100 year ARI plus a freeboard of 0.5m.

Clause 7.2 Stormwater management

This clause provides for consideration of stormwater management and water sensitive urban design for all developments. The inclusion of these provisions in the LEP gives such consideration determinative weight in the assessment process.

Clause 7.3 Earthworks

This clause provides for development consent to be obtained for earthworks and identifies those matters that require consideration in the development assessment process. The inclusion of these provisions in the LEP gives such consideration determinative weight in the assessment process.

Clause 7.4 Riparian lands and waterways

This clause implements the State Government Agency Environmentally Sensitive Areas (ESA) mapping and model natural resource management (NRM) clauses to trigger a higher level of assessment in relation to identified sensitive riparian lands and waterways. This clause is supported by the Environmentally Sensitive Areas - Water Overlay Map.

Clause 7.5 Groundwater vulnerability

This clause implements the State Government Agency ESA mapping and model NRM clauses to trigger a higher level of assessment in relation to identified areas of groundwater vulnerability. This clause is supported by the Environmentally Sensitive Areas - Water Overlay Map.

Clause 7.6 Terrestrial biodiversity

This clause implements the State Government Agency ESA mapping and model NRM clauses to trigger a higher level of assessment in relation to areas identified as moderate and high biodiversity on the Environmentally Sensitive Areas - Biodiversity Overlay Map.

Clause 7.7 Sensitive Lands

This clause implements the State Government Agency ESA mapping and model NRM clauses to trigger a higher level of assessment in relation to identified areas of sensitive lands as indicated on the Environmentally Sensitive Areas - Land Overlay Map.

Clause 7.8 Essential Services

This Clause is to ensure that all development is provided with essential infrastructure at the time of development.

The inclusion of these provisions in the LEP gives such consideration determinative weight in the assessment process.

Clause 7.9 Active Street Frontage

This clause provides that the central core of the Lithgow Main St business precinct retains its business and retail function and concentrates the areas of high pedestrian traffic. This clause is supported by the Active Street Frontage Map.

The clause applies to land within Main St Lithgow between Eskbank St and Naomi St.

Clause 7.10 Location of Sex Services Premises

This clause provides for additional consideration criteria for the location of sex services premises in the vicinity of residential development, schools, child care centres and the like.

Clause 7.11 Development Pottery Estate

This clause provides that a development control plan is required to address specific development criteria for development of the land identified on the Pottery Estate Development Map. This is to ensure that this strategically located site is developed in an orderly and environmentally responsible manner.

Clause 7.12 Existing Dwellings on unsubdivided land

This clause is required to retain existing exemptions to development standards for particular lands within the LGA to enable existing dwellings built under historic joint tenure to have separate Torrens title.

Clause 7.13 Lithgow Drinking Water Catchment

This clause provides additional performance considerations for development within the Lithgow Drinking Water Catchment. This clause is supported by the Drinking Water Map.

Clause 7.14 Development within designated buffer areas

This clause provides for additional performance consideration for development in the vicinity of local infrastructure and is supported by the Sewage Treatment Plant, Waste Disposal Facility and Water Treatment Facilities Map. This map identifies land within 400m of the local infrastructure.

Schedule 1 – Additional Permitted Uses

Not Applicable

Schedule 2 – Exempt Development

Adopts SEPP (Exempt and Complying Development Codes)
No further development types listed

Schedule 3 – Complying Development

Adopts SEPP (Exempt and Complying Development Codes)
No further development types listed

Schedule 4 – Classification and reclassification of public land

This schedule details all public land to be reclassified under Draft LEP 2013.

Schedule 5 – Environmental Heritage

This schedule lists all items of environmental heritage, heritage conservation areas and archaeological sites to which clause 5.10 applies.

Dictionary

This dictionary defines the words and expressions for the purposes of the LEP.

This is a standard compulsory dictionary that cannot be altered by Council.

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:

| 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 A3 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.

LAND USE MATTERS REQUIRING FURTHER STRATEGIC WORK AND CONSIDERATION BEYOND DRAFT LEP 2013.

The Lithgow Land Use Strategy identified a number of data gaps that limited the strategic directions and recommendations for the Draft LEP 2013.

Specifically these are:

- Completion of the Marrangaroo Investigation Studies
- Housing Strategy
- Biodiversity Strategy
- Aboriginal Culture and Heritage Strategy
- Floodplain Risk Management Plan
- Transport and Cycling Strategy
- CBD and Public Domain Strategy

These gaps are proposed to be addressed over the next five to six years as resources permit to inform the first major review of the Principal LEP.

It has also become apparent that many in the community feel that the issue of demand for rural small allotments for lifestyle development and smaller hobby farms (below 40hectares) has not been given sufficient consideration in the LUS and therefore has not been addressed in the Draft LEP 2013.

Whilst it can be said that the LUS had in planning terms sufficiently addressed this issue including identifying longer term growth opportunities; it is recognised that the strategy did not undertake an exhaustive rural analysis to better inform such issues as defining:

- the factors influencing demand for smaller allotments
- the factors influencing the supply chain of zoned land for this purpose
- the range of purposes for which smaller allotments are required
- how rural lands are currently used
- the ability of rural lands to cater for emerging intensified agricultural land use
- whether such demand should be met and if so to what extent
- the range of lot sizes required to meet the demand once established
- the range of factors determining appropriate locations including land capability and suitability and subjective factors such as visual amenity
- the demand for and feasibility of providing an appropriate level of services and facilities.
- what impact such development would have on the continued viability of the urban centre and villages.
- the impact such development would have on the existing primary and natural resources.

It is therefore recommended that Council undertake a further strategic rural lands study over the next 18 month period and seek to implement the findings of such study through an amending Planning Proposal should such be required.

This will require the allocation of further funds to enable this work to be outsourced to an external consultant.

CONSULTATION AND ENGAGEMENT

The *Environmental Planning and Assessment Act, 1979* sets out the community consultation requirements for planning proposals and these are determined or confirmed by the Gateway within its determination issued under Section 56 of the Act.

Council is not able to seek public comment on Draft LEP 2013 until it has received and complied with the Gateway determination.

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.

Internal Consultation

Significant internal consultation has occurred with relevant Councils officers during the preparation of the LUS and Draft LEP 2013. Information obtained from the internal workshops and engagements has informed the draft document.

Councillor Consultation

In preparation of the Draft LEP 2013, Councillors have been involved in a series of briefing sessions. Further sessions will occur as comments are received from DP & I prior to the exhibition process and throughout the remainder of the process as issues are raised by the community.

Public and Agency Consultation

Community consultation for the Draft LEP 2013 will be conducted in accordance with Section 5.5.2 Community Consultation of the DP & 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.

A full consultation strategy will be prepared 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 will be seeking, through the planning proposal, a public exhibition period of 50 plus days to be considered for this planning proposal to ensure the concerns and interests of the community are properly identified.**

TARGET TIMELINE FOR THE MAKING OF THE DRAFT LEP

The Minister for Planning and Infrastructure, Hon Brad Hazzard MP, has strongly encouraged Council to finalise its standard instrument LEP by 30th 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

| 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

- Draft Planning Proposal not adopted in submitted form by the newly elected Council
- 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.

SPECIAL DISCLOSURE OF PECUNIARY INTERESTS

Section 451 of the *Local Government Act 1993*, has been amended to provide for a Councillor who has a pecuniary interest in a Principal environmental planning instrument such as Draft LEP 2103 to participate in the discussion of and vote on the instrument, provided that they make a special disclosure.

A special disclosure in relation to the interest must be made before the commencement of the council meeting or the council committee meeting, and must be recorded in the minutes of the meeting.

The special disclosure must be made on the prescribed form (a copy of which is attached) to this report.

All Councillors are hereby reminded of this obligation and advise that Councils planners will be available to assist the completion of the forms as required prior to the meeting date.

CONCLUSION

The Draft LEP 2013 is the culmination of a number of years of strategic planning work and consultation with the Lithgow community. It will give legal effect to the strategic principles and directions identified in the endorsed Lithgow Land Use Strategy 2010-2030.

The Draft LEP 2013 in the standard instrument format provides for a simpler and more efficient planning system and will facilitate Council moving to an e-planning environment. It represents a substantial shift in approach from the current flexible planning instrument in an attempt to be more transparent about the roles and functions of land use zones and the intended land use outcome.

Whilst recognising that this Draft LEP 2013 will not meet all community or individual expectations it will deliver sound planning outcomes in relation to the facilitation of employment land development and more robust urban and natural resource planning controls.

In relation to rural planning it is recognised that further strategic work in the form of a detailed rural lands study is required. However this should not delay the progression of the Draft LEP

2013 as to do so would place Council in a position whereby the Department of Planning may seek to issue Council with a standard LEP and remove the possibility for local input.

This further rural planning work can progress independently of Draft LEP 2013 and if required lead to an amending Planning Proposal once that work is complete.

GENERAL MANAGER'S COMMENTS

In addition to the minor variations discussed above there have been some late submissions lodged through Council's Economic Development Officer. Of these, there are two that are considered to have merit and which are supported with additional General Manager's recommendations. These are indicated as recommendations at the end of this report.

The first relates to a site adjacent to KFC consisting of lands as indicated in Attachment 5. This land has merit to be zoned B1 Neighbourhood Centre. Over recent times Council has received several enquiries from 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.

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

In principle Council's 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.

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.

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.

A site at Lidsdale consisting of lands as indicated in Attachment 6. This land has merit to be zoned IN2 Light Industrial. Lithgow presently 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.

Council has addressed this issue for the longer term by actively pursuing the development of the Wallerawang Minerals and Industry 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.

There is therefore an imperative to provide land for the market place for light industrial and business purposes within the shorter term.

Council has been approached by the owner of Whalans at Lidsdale with an initial proposal to supply land for light industrial/business park uses at that site. The development of land for this purpose in this location is considered to have the following economic merit:

- consolidation of an existing cluster of power and mining related service activities within Lidsdale
- opportunities to attract new investment and employment for Lithgow in the short term within an attractive purpose designed subdivision
- the physical characteristics of the site provides an opportunity to buffer the light industrial and business uses from residential development elsewhere in Lidsdale
- the site is fully serviced and can offer excellent heavy vehicle access to road infrastructure

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 and Industry Park. This will allow the Wallerawang site to become an attractor for heavy industries within the Lithgow LGA.

POLICY IMPLICATIONS

The Draft LEP 2013 provides future policy direction for all land use planning decisions.

FINANCIAL IMPLICATIONS

This project is jointly funded by Council and the Department of Planning and Infrastructure through round four funding of the Planning Reform Fund.

Should Council resolve to carry out a rural lands study a further allocation of funds by Council will be required. It is expected that this rural land study would cost approximately \$80,000.

LEGAL IMPLICATIONS

The process for preparing, consulting upon and making of a Local Environmental Plan is governed by the provisions of the Environmental Planning and Assessment Act 1979 and its Regulations.

The Draft LEP 2013 once gazetted will be a legal environmental planning instrument.

ATTACHMENTS

1. Draft Planning Proposal – Draft Lithgow City Local Environmental Plan 2013
2. Draft Lithgow City Local Environmental Plan 2013 and accompanying maps
3. Draft Lithgow City Local Environmental Plan Land Use Matrix
4. Schedule 3A Form of special disclosure of pecuniary interest
5. Map site adjacent to Lithgow KFC
6. Map site at Lidsdale

RECOMMENDATION

THAT Council:

1. Endorse the Draft Lithgow City Planning Proposal; the Draft Lithgow City Local Environmental Plan 2013 and accompanying maps to commence the process in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979 (as amended)*.
 - 1A Note that the planning proposal and Draft LEP now includes the variations to the endorsed LUS as detailed in the section titled “Draft Local Environmental Plan 2013 – Minor Variations form the Endorsed Land Use Strategy” of this report.
 - 1B Seek the Gateway Determination to allow for a public exhibition period for the Planning Proposal and Draft LEP 2013 of at least 50 days.

2. Refer the above documents to the Western Region Office of the Department of Planning and Infrastructure to arrange for the issuing of a Gateway determination under Section 56 of the *Environmental Planning and Assessment Act 1979 (as amended)* to allow Council to proceed to public exhibition and formal government agency consultation.
3. Seek the Director-Generals opinion that inconsistencies between the Draft Lithgow City Local Environmental Plan 2013 and identified 117(2) Ministerial Directions are justified either by the endorsed Lithgow Land Use Strategy 2010-2030 or as being of local and minor significance.
4. Delegate to the General Manager authority to make any minor amendments to the adopted Draft Lithgow City Planning Proposal and Draft Lithgow City Local Environmental Plan 2013 that may arise after the formal adoption of this report or as conditions placed on the Gateway determination issued by DP & I.
5. Note that a report will be resubmitted to Council if significant amendments are required by the DP & I to the adopted Draft Lithgow City Local Environmental Plan 2013.
6. Notifies the public for a period of not less than 28 days of its intention to reclassify via Council resolution the following parcels of public land from “operational” to “community” classification under the provisions of the *Local Government Act, 1993*:

| | | | | |
|--------------------------|---|-------------|---------------|-------------------------|
| Community Hall | Civilian Widows Hall | Lithgow | Tank Street | Lot 1 DP517242 |
| Community Hall | East St Public Hall and Park | Lithgow | East Street | Lot 114 DP 28254 |
| Community Hall | Community Hall Vale of Clywdd | Lithgow | Mort Street | Lot 2 DP 563455 |
| Indoor Sporting Facility | Reg Cowden Memorial Sports Centre Lithgow | Lithgow | Barton Street | Lot 3 DP 29016 |
| Public Hall | Crystal Theatre | Portland | Wolgan St | Lot 1 DP 558522 |
| Public Hall | Memorial Hall/Pre School Building | Wallerawang | Commens St | Lots 1,2,3,4,5 DP 15683 |

7. Undertake the preparation of a detailed rural lands study to inform a possible future Planning Proposal to provide for additional rural small lots within the Lithgow LGA, including areas around Hartley and Portland, and allocate \$80,000 towards this project in the 2014/15 operational plan.

GENERAL MANAGER'S ADDITIONAL RECOMMENDATION

THAT:

8. The site adjacent to Lithgow KFC consisting of lands as indicated in Attachment 5 be reflected in the draft Local Environmental Plan and Planning Proposal as zone B1 Neighbourhood Centre.
9. The site at Lidsdale consisting of lands bounded by the purple border in Attachment 6 be reflected in the draft Local Environmental Plan and Planning Proposal as zone IN2 Light Industrial.

**ITEM - 24 LATE REPORT - ENVIRO – 27/05/13 – DRAFT PLANNING
PROPOSAL FOR THE PRINCIPAL LITHGOW CITY LOCAL
ENVIRONMENTAL PLAN 2013**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

| | |
|-----------------|---|
| Min No 568: | Ordinary Meeting of Council 14 th June 1994 |
| Mine No 50: | Ordinary Meeting of Council 13 th January 1997 |
| Min No 07-518: | Policy and Strategy Committee Meeting 3 December 2007 |
| Min No 07-519: | Policy and Strategy Committee Meeting 3 December 2007 |
| Min No 08-78: | Policy and Strategy Committee Meeting 1 July 2008 |
| Min No 08-134: | Ordinary Meeting of Council 19 August 2008 |
| Min No 008-227: | Ordinary Meeting of Council 15 December 2008 |
| Min No 10-138: | Ordinary Meeting of Council 12 April 2010 |
| Min No 10-160: | Extra Ordinary Meeting of Council 27 April 2010 |
| Min No 11-23: | Ordinary Meeting of Council 24 January 2011 |
| Min No 11-24: | Ordinary Meeting of Council 24 January 2011 |
| Min No 11-27 | Ordinary Meeting of Council 24 th January 2011 |
| Min No 11-231: | Ordinary Meeting of Council 20 June 2011 |
| Min No 11-422: | Ordinary Meeting of Council 31 October 2011 |
| Min No 11-450: | Ordinary Meeting of Council 31 October 2011 |
| Min No 12-75: | Ordinary Meeting of Council 5 March 2012 |
| Min No 12-215: | Ordinary Meeting of Council 25 June 2012 |
| Min No 13-116: | Ordinary Meeting of Council 15 April 2013 |

SUMMARY

The purpose of this report is to advise that a Gateway Determination under Section 56(2) of the Environmental Planning and Assessment Act 1979 has been received in respect of the Planning Proposal for the Draft Lithgow Principal Local Environmental Plan 2013 (Draft LEP).

The determination issued by the delegate of the Minister of Planning and Infrastructure has determined that the Draft Lithgow Local Environmental Plan should proceed subject to six conditions. A copy of the Gateway Determination is attached to this report.

This Determination enables Council to proceed to public exhibition of the Draft LEP. This report also seeks Council to approve the consultation strategy outlined in this report and to re-confirm the required consultation period in light of the recommendations and timeframe conditions of the Gateway Determination.

COMMENTARY

CONDITIONS OF THE GATEWAY DETERMINATION

The conditions of the Gateway Determination are discussed below:

1. Draft LEP to be amended to include the road and land acquisition corridors for the Roads and Maritime Services (RMS), Great Western Highway, Katoomba to Lithgow Upgrade should RMS provide the data before the commencement of public exhibition.

Comment

Council has been in contact with the relevant officers of RMS to expedite the delivery of data to enable the RMS road and land acquisition corridors to be included in the Draft LEP. It will be in the best interests of the community if this occurs in the process of the Draft LEP rather than a separate planning proposal at a later date.

That being said, Council is not in a position to delay the public exhibition of the Draft LEP beyond mid June and therefore has issued an absolute deadline of the 14th June 2013 for the submission of data from RMS.

2. Prior to resubmission of the planning proposal to the Department following public exhibition, all maps should be prepared in the Standard Instrument format.

Comment

The mapping for the Draft LEP has been referred to the GIS division of the NSW Department of Planning and Infrastructure who are currently converting the maps to the Standard Instrument format. It is expected that the mapping in the standard format will be available for public exhibition purposes. However should this not be the case the mapping will be in the required format prior to resubmission of the Planning Proposal post public exhibition to the Department.

3. Community consultation is required under Section 56(2)(c) and 57 of the E P & A Act 1979 for a minimum period of **28 days** and comply with the specifications as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning Infrastructure 2012)

Comment

This condition will be met by the proposed community engagement strategy outlined in this report.

4. Consultation is required with a number of specified public authorities under Section 56(2)(d) of the EP& A Act 1979.

Comment

This consultation will occur concurrently with the public exhibition period.

Each authority will be provided all relevant material and given at least 21 days to comment on the proposal. It should be noted that public authorities may request additional information or additional matters to be addressed in the planning proposal.

5. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the EP & A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Comment

As the Draft LEP 2013 is seeking to reclassify public land a public hearing will be held after the close of the public exhibition period and this process must be factored into the overall timeline of the Draft LEP 2013.

6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway Determination.

Comment

To comply with this condition the LEP will need to be **finalised (gazetted) no later than 27 February, 2014.**

It is expected that this requirement will be able to be met and is consistent with the target timeline Council identified in the Planning Proposal.

However it must be noted that this timeline allows little room for Council to deviate from a standard process and will not allow for any substantial revision of the planning proposal that would require a new Gateway Determination and further public exhibition period.

Further Council is advised that the Minister may take action under Section 54(2)(d) of the EP & A Act if the timeframes outlined in the determination are not met.

COMMUNITY ENGAGEMENT STRATEGY

PUBLIC EXHIBITION PERIOD

Council resolved on 15 April 2013:

Min 13-116 1B "To seek the Gateway Determination to allow for a public exhibition period for the Planning Proposal and Draft LEP 2013 of at least 50 days."

The Gateway Determination condition three specifies a minimum public exhibition period of **28 days**. Whilst the Determination does not preclude a 50 day public exhibition period, the delegate of the Minister of Planning and Infrastructure has recommended that the public consultation be undertaken for a period of 28 days. This is due to the view that sufficient consultation has already been undertaken on Council's Land Use Strategy, and the Draft LEP largely reflects the outcomes of that strategy.

In determining an appropriate public exhibition period for this Draft LEP, Council is asked to keep in mind the following:

- Extensive consultation was undertaken in relation to the adopted and endorsed Lithgow Land Use Strategy.
- The Draft LEP directly reflects the outcomes of the land use strategy.
- The purpose of this phase of community participation in the LEP plan making process is to inform the community of the Draft LEP and assist understanding of the LEP directions, process and provisions.
- In considering the Planning Proposal in April of this year Council gave consideration to key issues considered not to be adequately addressed in the Draft LEP and made appropriate resolutions to address these matters.
- It is within the best interests of the local community to ensure rapid progression and implementation of the Draft LEP within the Standard Instrument format.

Having regard to the above, the Council may agree that a 28 day public exhibition period is sufficient to enable adequate public participation in this part of the process and will better able Council to meet required timelines for the finalisation of the LEP.

LEVEL OF ENGAGEMENT

Public participation and engagement in a process can occur across a wide spectrum from 'full collaboration'; to 'consultation' to 'providing information'. As the LEP is a continuation of a previous planning process that developed the Local Profile, Community Visions and the Lithgow Land Use Strategy 2010-2030; this LEP phase of consultation moves from 'involvement and consultation' to '**consultation and inform**'. This is based on the principle that if we have adequately consulted and understood the community correctly in the preceding stages that the LEP is merely an implementation tool and drives the consultation strategy. In this regard, the following goals, commitments and objects form the basis of community engagement for the LEP phase of the project.

DRAFT LEP PUBLIC PARTICIPATION GOAL

To provide the public with balanced and objective information to assist them in understanding the LEP directions, process and provisions.

DRAFT LEP PROMISE TO THE PUBLIC

We will keep you informed and provide feedback on how public input influenced the final LEP.

KEY ENGAGEMENT OBJECTIVES

- **To gauge community confidence that the draft plan aligns with the adopted and endorsed strategies and recommendations of the Lithgow Land Use Strategy 2010-2030.**
- For the community and government authorities/agencies to provide comment on draft plan.
- For the community and government authorities/agencies to see the outcomes of the planning process and to see how their input has been incorporated into the plan.
- To meet legislative requirements.

CONTINUATION OF “OUR PLACE OUR FUTURE” BRANDING

- At the initial commencement of this Project in 2005 Council endorsed the “Our Place Our Future” branding to enable easy identification of the project and to reflect the community ownership of the project.
- This branding was used in the development of the community vision statements, local profile and land use strategy.
- It is considered that this branding should follow through in this project to provide connection and recognition of the project as a continuation of previous work.

WHAT WILL THE CONSULTATION PROCESS INVOLVE?

PUBLIC NOTIFICATION

Public notification will involve the following;

- Public Notice in Councils Column of the Lithgow Mercury every week during the exhibition period.
- Public Notice in the Western Advocate, Mudgee Guardian and Blue Mountains Gazette Radio Public Notice Radio 90, KRR FM (Kandos Community Radio) and ABC
- Dedicated Council web page
- All notifications, press releases and information updates to be placed on Council's Face book page
- Staged Media Releases throughout the period commencing the week preceding the exhibition period.
- Written notification to all those who made a submission to the LUS process who provided sufficient contact details
- Written notification to all those who have previously registered an interest in the strategic planning process
- Written notification to all relevant public authorities and agencies including adjoining Councils.
- Written notification to all relevant community groups and organisations and Council Committees including but not limited to the following:
 - Lithgow Business Association
 - All Community Progress Associations
 - Economic Development Advisory Committee
 - Tourism Advisory Committee
 - Environmental Advisory Committee
 - Lithgow Tidy Towns Committee
 - National Trust
 - Historical Society

PUBLIC ENGAGEMENT

STATIC VISUAL EXHIBITION DISPLAYS

At the following public locations:

- Council's Administration Centre

- Lithgow, Wallerawang, Portland and
- Lithgow Valley Shopping Complex (if vacant shop window is available) and
- Councils dedicated web-page.

OPEN HOUSE SESSIONS

Six open house sessions staffed by the strategic planners will be held in the following locations:

- Lithgow (one day and one evening)
- Portland
- Wallerawang
- Capertee
- Hartley

The open house format allows the community to shop for information relevant and of most interest to them and then have face to face discussion regarding their concerns with a planner. Each session will have available all the public exhibition material.

PLANNER APPOINTMENT

For those unable to attend an open house session or requiring a longer consultation, appointments will be available with a planner during the exhibition period between the hours of 10am - 3pm throughout the exhibition period with the exception of the weeks when the open house sessions will be held.

This will be available strictly by pre-arranged appointment only.

AUDIO VISUAL INTERVIEW

It is proposed to create an audio/visual clip presenting an interview by the Mayor with the General Manager and/or Group Manager Environment and Development to introduce the LEP, what it means for the public and how to become involved in the process. This provides a new and innovative way to reach more people in the community and an alternative to wading through pages of planning documentation.

POLICY IMPLICATIONS

Nil arising from this report

FINANCIAL IMPLICATIONS

Nil arising from this report

LEGAL IMPLICATIONS

Part 3 of the Environmental Planning and Assessment Act, 1979 and its accompanying Regulations specify the legislated requirements for public exhibition of the Draft LEP.

ATTACHMENTS

1. Gateway Determination – Planning Proposal to make the Lithgow Local Environmental Plan 2013.

RECOMMENDATION

THAT:

1. Council note the receipt of the Gateway Determination - Planning Proposal to make the Lithgow Local Environmental Plan 2013.
2. Council determine that the public exhibition of the Draft LEP 2013 be for a minimum period of 50 days.
3. Council endorse the consultation strategy outlined in this report to guide the public exhibition of the Draft LEP 2013.

BUSINESS OF GREAT URGENCY

In accordance with Clause 241 of the Local Government (General) Regulations 2005 business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only of:

- a) A motion is passed to have the business transacted at the meeting: and*
- b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency.*