



Our Ref: 13031

29th July, 2013

The General Manager
Lithgow City Council
180 Mort Street
Lithgow NSW 2790

Dear Sir

**Re: Draft Lithgow City LEP 2013 – Objection Letter Relating To Lot 702 DP 1135310,
Lot 31 DP 839469 and Lot 58 DP 751655 at Bowenfels in the City of Lithgow**

1. INTRODUCTION

We note a new draft LEP for Lithgow City Council area was placed on public exhibition on 20th June, 2013. This draft plan proposes to change the zoning of land at Bowenfels, being Lot 702 DP 1135310 from Residential 2(a) (see **Figure 1**) to an Environmental Living E4 zone (see **Figure 2**), which is a rural zone with a minimum 40 hectare lot size. In addition, Lot 31 DP 839469 and Lot 58 DP 751655 are also being down zoned from a Rural (Future Urban) 1(d) zone to the same E4 zone.

The area of Lot 702 DP 1135310 is 13.93ha, the area of Lot 31 DP 839469 is 28.27ha and the area of Lot 58 DP 751655 is 32.37ha. Lot 702 is predominantly zoned for Residential 2(a) for urban residential housing and Lots 31 and 58 are predominantly zoned for future urban use, being within a Rural (Future Urban) 1(d) zone. Lot 58 also has a small component currently zoned Residential 2(a).

The draft LEP is taking away the residential potential of the subject land and placing this potential on a much larger area of land (310ha) on the eastern side of the Great Western Highway, to the north-east of the subject site, ie further away from the Town Centre of Lithgow.

2. THE DOWN ZONING IS CONTRARY TO THE OBJECTS OF THE ACT

It appears that the subject residential land was zoned for urban purposes in 1988 at the same time the Council's land to the north (Marrangaroo Fields Estate now developed) was also zoned urban. The present owner of the subject land has had the intention of developing the residential component for many years and had a development application prepared to subdivide the land before the Draft LEP went on exhibition. It was lodged just after the LEP exhibition started without the owner or his consultants being aware of it.

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The owner has placed considerable reliance upon the existing zoning of the land, only to find that this reliance has been frustrated by an action which removes the urban zone and strips the land of most of its value.

Why it is desirable to remove the urban use of land from one area at Marangaroo and place it on another area in close proximity is not explained. Indeed the subject land is still identified in the strategic background documents as “future urban” land. Why then is it necessary or desirable to remove the land from its current Residential 2(a) zone. A major objective of the EP&A Act is found in Section 5 of the Act which states as follows:

“5(a)(ii) the promotion and co-ordination of the orderly and economic use and development of land”

The draft LEP creates a situation which is entirely the reverse of this objective of the Act. The land or a significant portion of it is already zoned Residential 2(a) and the draft LEP proposes to remove that residential zoning of the land so that it cannot be developed for residential purposes. How then can it be said that this promotes the orderly and economic use and development of land, and that the draft LEP is meeting the objectives of the Act?

3. MINISTERIAL DIRECTION 3.1 IS CLEAR THAT THE DOWN ZONING IS NOT PERMISSIBLE

In addition to this, there is a Section 117(2) Direction of the Minister relating to residential zones. Clause 3.1(5) states as follows:

“A draft LEP shall, in relation to land to which this direction applies:

- (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and*
- (b) not contain provisions which will reduce the permissible residential density of land.”*

The Draft LEP not only reduces the density of residential development on the subject land, it removes the zoning so that residential development is no longer possible. It is an extreme discriminatory action.

The Section 117 Direction contains a clause 3.1(6) which provides for an LEP to be inconsistent with the terms of the direction only if the council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:

- “(a) justified by a strategy which:*
 - (i) gives consideration to the objective of this direction, and*
 - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and*
 - (iii) is approved by the Director-General of the Department of Planning, or*



- (b) *justified by an environmental study prepared in accordance with section 57 of the Environmental Planning and Assessment Act 1979 which gives consideration to the objective of this direction, or*
- (c) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *of minor significance.”*

Having read the Lithgow City Council Land Use Strategy 2010-2030 (LCCLUS) there is nothing within this strategy which identifies the subject land in terms of the Section 117 direction. There is a reference to the Section 117 direction but there is no justification for the removal of this land from the residential zone to satisfy the Section 117 direction.

There is one plan within the Lithgow City Council Land Use Strategy 2010-2030 which relates to land adjacent or in proximity to a quartzite quarry west of the existing Council Marrangaroo Fields residential estate. This Plan is titled “Marrangaroo LEP Directions” and notes on the plan “Land use changed to reflect existing constraints and proximity to mineral reserve. Residential to Rural.”

The Quartzite Reserve Boundary, shown on **Figure 3** attached is about 1.4 kilometres from the subject residential land, but is within 400m of the existing housing in the Marrangaroo Fields Estate.

Furthermore, the Marrangaroo Fields 2(A) constraints mapping contained within the Strategy Document (see **Figure 4** attached) shows that there is none of the subject land affected by constraints imposed by the quarry. We make the comment that maps such as this, which do not identify the location of the land relative to identifiable objects, are not very helpful for the public to understand.

The area of land shown on **Figure 4** as being environmentally sensitive is not in this category and neither is the land between the subject site and the existing Marrangaroo Fields Estate (see **Photographs A & B**). The development application lodged with Council recently has kept the density low to ensure that sewage can be removed by pumping into the Marrangaroo Fields Estate system as well as ensuring the character of Marrangaroo Fields Estate is extended.

There are therefore, as illustrated in the DA lodged with Council, no constraints that would prevent development of the subject land.

Any owner of this land at the time the Lithgow City Council Land Use Strategy (LCCLUS) was publicly exhibited would have great difficulty in being aware of any proposal to remove the subject land from the Residential 2(a) zone and would therefore have no reason to object to the strategy document.



Photo A - View Towards The Site From Bundara Road Pavemen



Photo B - View From Within The Subject Land Looking North East



There is a further element relating to the subject land which illustrates a complete disregard for the rights of the owner of the subject land. The Council has published an “overview” statement of the key changes proposed in the Draft LEP. Yet there is no comment about any down zoning of land which would alert an owner to the Draft LEP impacts on land.

Furthermore, the Draft LEP is not only reducing the density of residential development permissible on the land, it is removing the residential zone and removing any potential for residential development. The Draft LEP goes well beyond any possibility of the inconsistency being allowed by Direction 3.1.

It is noted that the Deputy Director General, as delegate of the Minister for Planning and Infrastructure, has stated that the inconsistency of the Draft LEP with the Section 117 Direction 3.1 is of minor significance. How this statement can be made given the removal of a length of over 3km of residential zoning west of the Great Western Highway at Marrangaroo (see Figures 1 & 2) leaves the reader wondering what logic arrived at this conclusion.

Therefore it is our submission that the Draft LEP should not proceed with this land being removed from the Residential 2(a) zone as the Draft LEP is entirely inconsistent with the Section 117 direction relating to residential zones.

4. THE DRAFT LEP PROPOSES TO REZONE 310 HECTARES OF MARRANGAROO LAND WHILE REMOVING THE SUBJECT EXISTING RESIDENTIAL ZONE

There is a further matter which indicates the inappropriateness of the removal of this land. Within the Land Use Strategy document the subject Residential 2(a) zoned land is identified as being land reserved for Future Urban Development.

In the key findings of the Land Use Strategy document is a comment as follows:

“There are sufficient residential, commercial and open space lands within the LGA to cater for estimated demand over the life of this Strategy. Some modifications of these areas is required to reflect the findings of the primary constraints and infrastructure analysis and strategic planning studies such as the 2010 Business and Retail Strategy and the Open Space and Recreational Needs Study” (see Page 14 of LCCLUS).

In addition the findings state:

“The Marrangaroo Study Area remains the preferred area for future urban growth opportunities for the LGA as identified in the adopted Marrangaroo Structure Plan. Zoning of this area have been recommended to be deferred until at least the 2016 LEP review.”

The Marrangaroo area which is identified within this Land Use Strategy is an area of 310 hectares which is proposed to be rezoned predominantly General Residential R1 within this draft LEP. The draft LEP does not follow the recommendations of the Land Use Strategy document and there are very real questions to be asked as to why the land subject of this objection should be back zoned to a non urban zone, when a very much larger area is



proposed to be zoned General Residential R1. This is all being undertaken in the knowledge of there being sufficient residential land already within the LGA to cater for the estimated demand over the life of the strategy up to 2030. What justification can there be therefore for this large 310 hectares of Marrangaroo land east of the Great Western Highway to be rezoned General Residential R1 when a significantly smaller area of land is back zoned to a non urban zone closer to the Lithgow CBD area and without any constraints which would prevent development from taking place? Investigation indicates there is no significant problem in providing water and sewer and electricity to this land.

The Draft LEP is therefore internally inconsistent with the Lithgow City Council Land Use Strategy and the proposal within the draft LEP should be reviewed having regard to the current development application, the Land Use Strategy as discussed in this objection, and the Section 117 Direction of the Minister.

Comments made within the Land Use Strategy document identify that the “1994 Lithgow Local Environmental Plan sought to provide a high level of flexibility to the area to respond to undefined growth opportunities. This flexibility, instead of encouraging development opportunity, has to some degree, stifled development as a result of creating an uncertain investment environment”.

It is axiomatic that the draft LEP, insofar as the subject land is concerned, is creating a very real uncertain investment environment for the Residential 2(a) component of the land and is therefore not encouraging development opportunities but is rather stifling development. For this reason, if no other, the proposed back zoning of the subject land should be reversed and the proposed Marrangaroo 310 hectares of land east of the Great Western Highway should be deleted from the plan as proposed in the Land Use Strategy documents

It is not appropriate for the Council to suggest that the subject Residential 2(a) land is not suitable for residential purposes because of some constraints upon the land which do not prevent development. The comments made in the Land Use Strategy document about constraints to urban/residential development relate to future urban land and not to existing residential land. In addition to that, the subject land, including the existing non urban lands are still identified for future urban development within the LCCLUS, which indicates the Council still accepts the land is appropriate for residential use in the future. Indeed, it may well be asked why the Council would back zone an area of residential land simply to include it in some future residential land category.

This objection is not an objection to new future residential opportunities being provided within the South Bowenfels area and with future development within the Marrangaroo (eastern side of the Great Western Highway) area. There is no objection to that land being rezoned as part of the next local environmental plan preparation (beyond 2016). However, there is great objection to the current land being back zoned to allow some other land to be zoned for residential purposes.

The Marrangaroo Strategic Framework Plan of the Strategy document identifies the subject land including the non urban land as being a strategic site for future urban land use outside of this LEP. This notation also relates to the current Residential 2(a) land on the subject site. The area proposed to be rezoned beyond 2016 to the north-east, being the Marrangaroo land identified



within the Land Use Strategy document, is now proposed to be zoned General Residential R1 within the draft LEP.

The Marrangaroo land, shown on Figure 9 of Chapter 12 of the LCCLUS, has a number of areas shown with different lot sizes ranging between urban land, to 2,000 sqm lots, to 4,000sqm lots, to 20,000sqm lots (see **Figure 5**). Yet the Draft LEP places the whole of the land within the General Residential R1 zone, allowing 700sqm subdivision throughout the Residential zone. It has to be asked why Council is giving such a huge benefit to this land, while actively discriminating against the subject land.

There is no explanation in the Draft LEP or the accompanying “overview” statement as to why this land is now being proposed to be General Residential R1. This is particularly relevant given the LCCLUS commenting that any rezoning of this land was not required before 2016.

5. THE EXISTING LOT SIZE PROVISION FOR RURAL (FUTURE URBAN) ZONE LAND IS NOT RETAINED

There is a further matter relating to the subject land which concerns the existing Rural (Future Urban) 1(b) zone.

At the present time this land has a minimum lot size within it of 10 hectares. It is reserved for future urban use and as a consequence the lot sizes have been set at 10 hectares to ensure that residential subdivisions can take place without unreasonable constraints relating to the design of future residential land created by existing subdivision.

The Council resolved via minute no.11-450 to adopt in relation to rural land that the status quo be kept for rural planning. On page 19 of the Executive Summary of the Lithgow City Council Land Use Strategy 2010-1030 this is stated to mean as follows:

“This means that the existing minimum lot sizes of 40 hectares in the existing 1(a) zone areas and 100 hectares in the existing 1(e) zone areas will be retained in the new LEP along with all other provisions governing the erection of a dwelling in rural areas”.

Apparently the officers of Council have taken this to mean that the Rural (Future Urban) 1(d) zone is not covered by this resolution of the Council. The Rural 1(d) land has been included within the Environmental Living E4 zone and as a consequence has a minimum area of 40 hectares proposed. This provision of the draft LEP appears to be totally inconsistent with the Council’s resolution of retaining the status quo for rural areas. It is also inconsistent with any principle of retaining the existing density of land within the Lithgow area. In addition, the overview statement of Council relating to the issue of lot size states that the Draft LEP will:

“Retain existing provisions in relation to rural minimum lot size and the erection of dwellings in the rural areas”

It is recognised that part of this Rural (Future Urban) 1(d) zone has a constraint on it relating to a vegetation constraint which is identified within the existing Lithgow LEP plans. However, a significant part of the Rural 1(d) land has no constraint upon it and may be presently developed for rural 10 hectare lot housing. It is totally suitable for future residential use.



It is our submission that the draft LEP has not been prepared in accordance with the directions of the Council and that it should be withdrawn to be rectified.

6. THE ZONE BOUNDARY FLEXIBILITY IS REMOVED

There is also a provision of the existing LEP which allows flexibility where two zones meet in relation to residential zoning and rural zoning. The extent of flexibility is 50m, which is normally provided because the base mapping and constraints information upon which the zoning boundary relies is not ground truthed.

This flexibility is totally removed by the Draft LEP thus creating an inflexibility when the Council is said to be providing “more certainty to landowners, developers and investors.” If “more certainty” means reducing opportunities, then Council has achieved this.

7. THE COUNCIL DCP FOR MARRANGAROO FIELDS SHOWS THE ROAD EXTENSION TO THE SUBJECT LAND

When the Council subdivided its own land at Marrangaroo Fields for 2,000sqm lots, it showed on Appendix 11 the road extension of Bundara Place to the subject land (see **Figure 6**). This is the road which will need to be extended in due course to the subdivision of the subject land which has been lodged with Council. The owner of the subject land has prepared the DA in accordance with the current LEP, which the Council via this Draft LEP now seeks to frustrate.

It is recognised that there is a clause within the draft LEP which is a savings provision. This savings provision states as follows:

“If a development application has been made before the commencement of this Plan in relation to land which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not been commenced.”

While this savings provision will allow the current development application before the Council to be dealt with and approved, it is not a provision which should be there in the first place because back zoning of the land is inappropriate and is not justified. It furthermore creates the situation where the land would have some difficulty getting approval if it were not approved prior to the commencement of the Plan. It is a well recognised fact that the Land & Environment Court considers the imminence and certainty of a draft Local Environmental Plan in considering the savings provisions of a Plan.

8. CONCLUSION

Therefore for all of the reasons set out in this report it is submitted that the draft LEP should be withdrawn and amended prior to any consideration of it proceeding to gazettal. At the present moment the draft LEP is proceeding in a totally unreasonable and unjustified way in relation to the subject land. It is our submission that this situation needs to be reversed and our client given back the rights he presently has not only now but into the future.



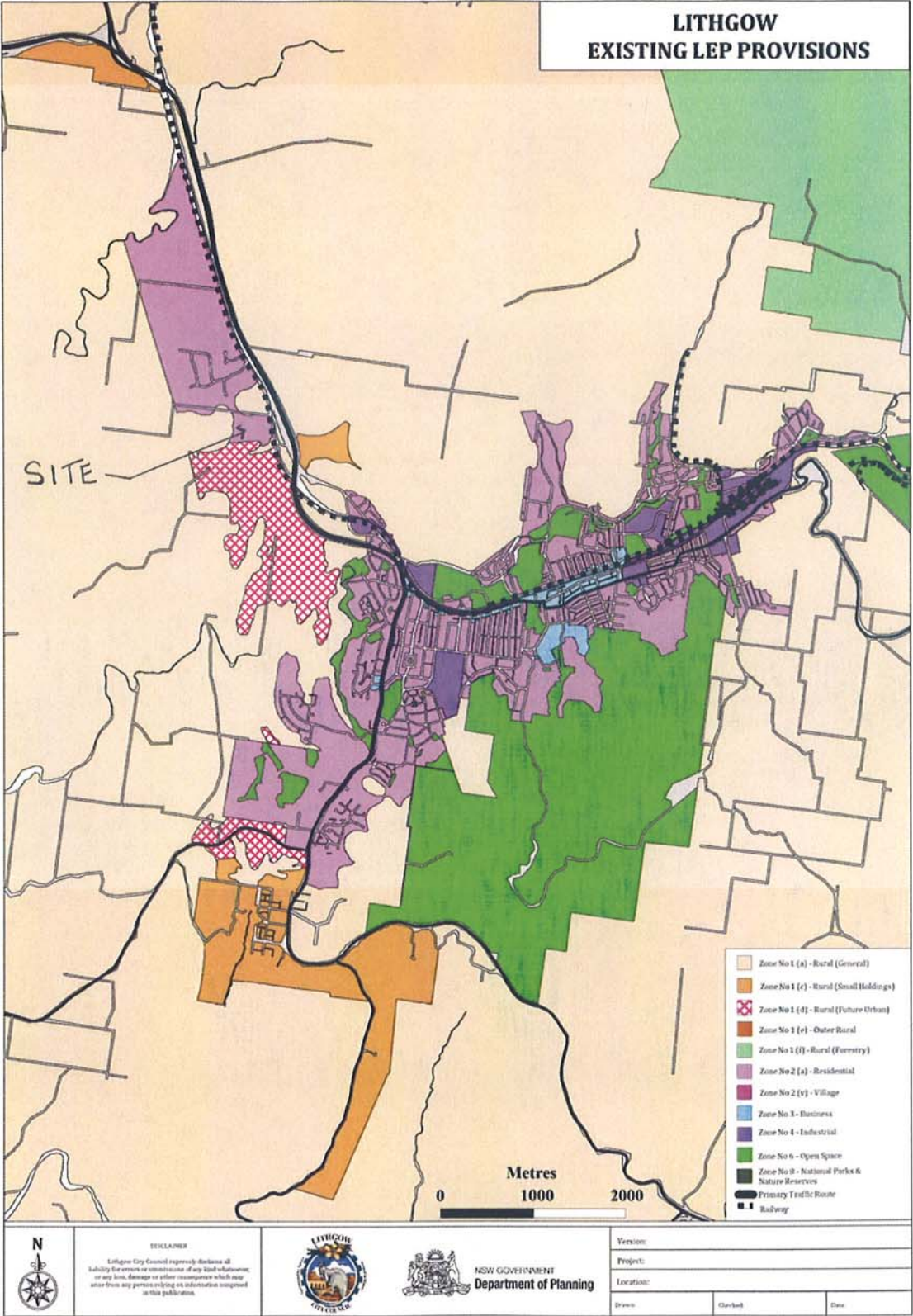
In summary the objections to the Draft LEP are as follows.

- (1) The back zoning of part of the subject site from Residential 2(a) to Environmental Living E4 is inappropriate and is not justified.
- (2) The inclusion of 310ha of land north-east of the Great Western Highway to General Residential R1 is inappropriate at present and is contrary to the findings of the Lithgow City Council Land Use Strategy relied upon by Council.
- (3) The back zoning of the subject land is contrary to the Objects of the EP&A Act found in Section 5.
- (4) The removal of the Residential 2(a) zone from the subject land is not consistent with Ministerial 117 Direction 3.1 and the inconsistency is not justified, particularly having regard to the proposal to retain the subject land as “future urban”.
- (5) The reduction of the minimum lot size within the Rural (Future Urban)1(d) component of the subject land from 10ha to 40ha is not consistent with the Council’s resolution 11-450. It reduce the housing opportunities on this land, and together with the down zoning of the Residential 2(a) component of the land pushes the future urban opportunities off into the distant future. It is a discriminatory action.
- (6) The flexibility of the existing LEP where two zone boundaries meet is removed unnecessarily.
- (7) Future access by road to the subject site is shown on the Marrangaroo Fields Estate DCP plan. This future road access should be acknowledged by Council as owner of the land.

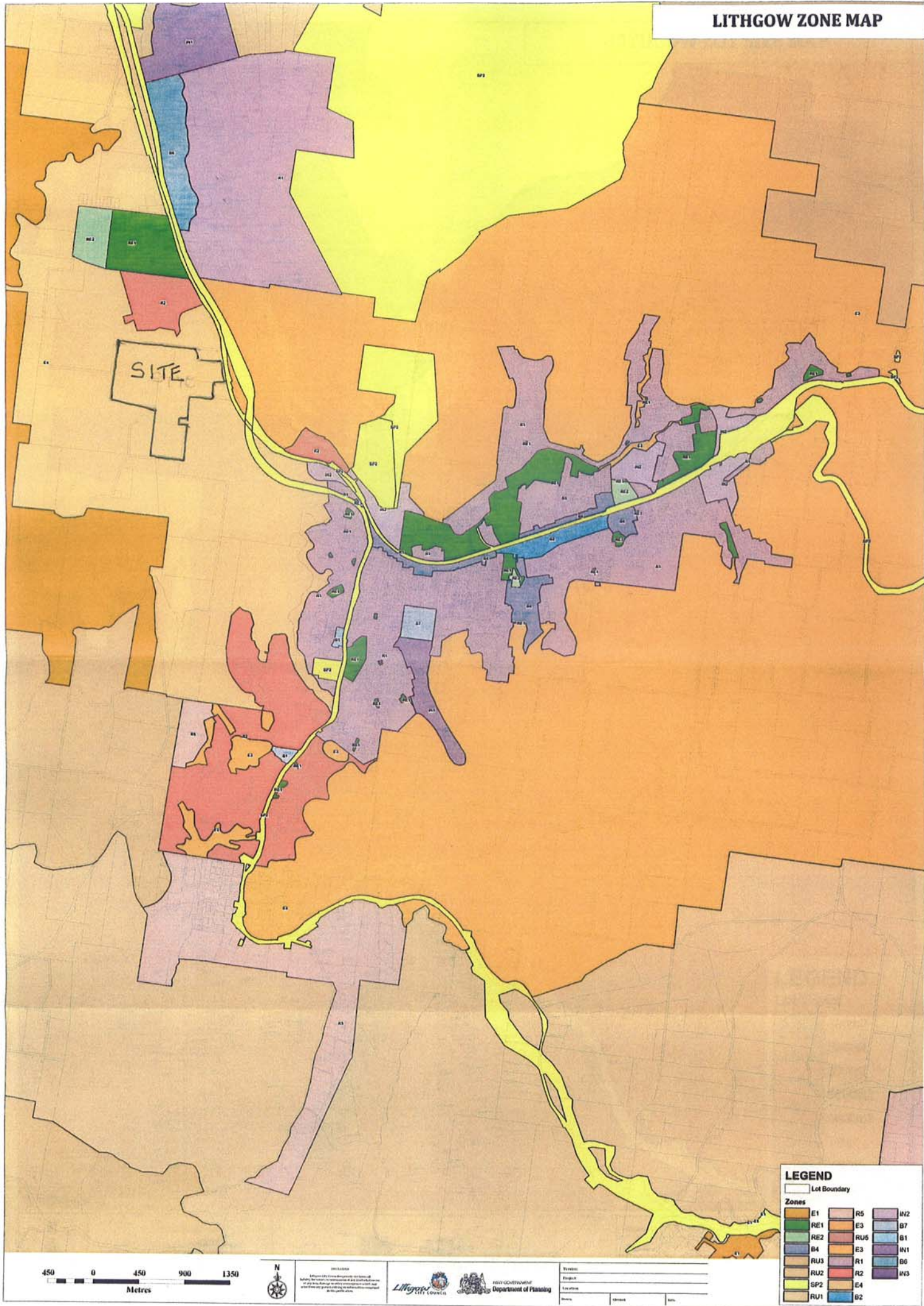
Yours faithfully

NEIL INGHAM

Figure 1. Lithgow Urban Existing LEP Provisions



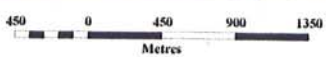
LITHGOW ZONE MAP



LEGEND

Lot Boundary

Zones		
E1	R5	W2
RE1	E3	B7
RE2	RU5	B1
B4	E3	W3
RU3	R1	B6
RU2	R2	B2
SP2	E4	
RU1	B2	



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Revision: _____
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 Date: _____
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Figure 5. Marrangaroo New LEP Directions

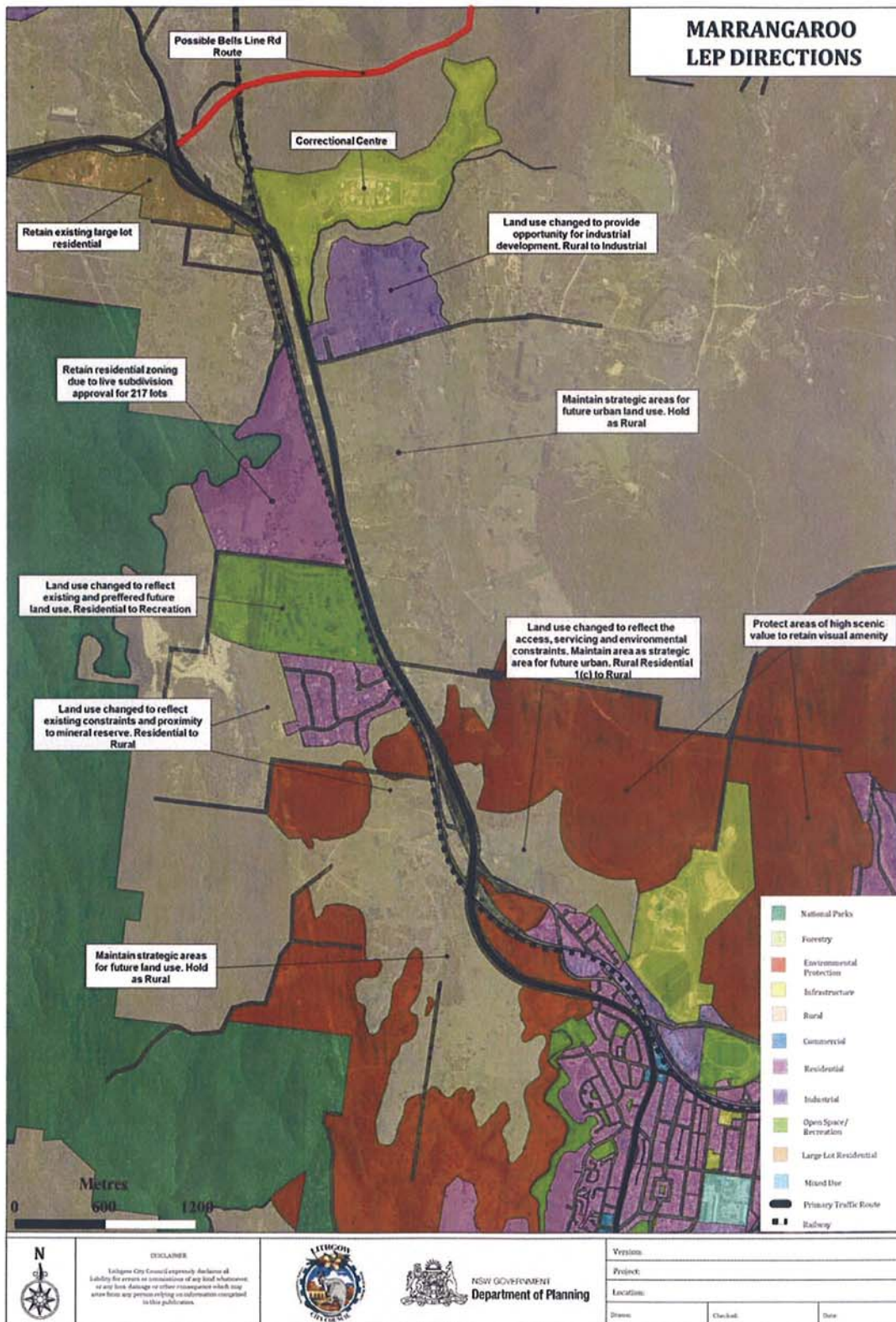


Figure 24. Marrangaroo Fields 2(a)

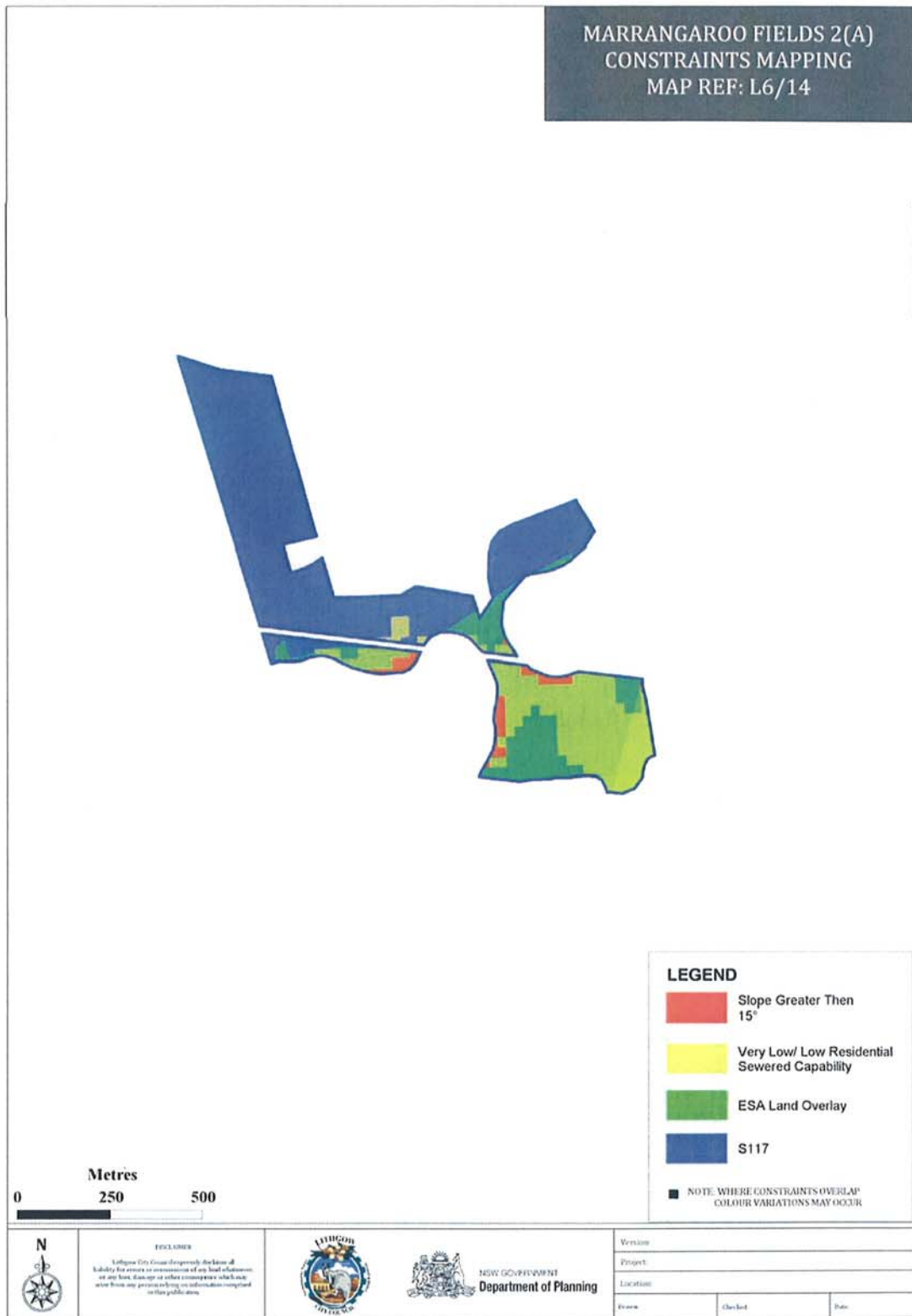
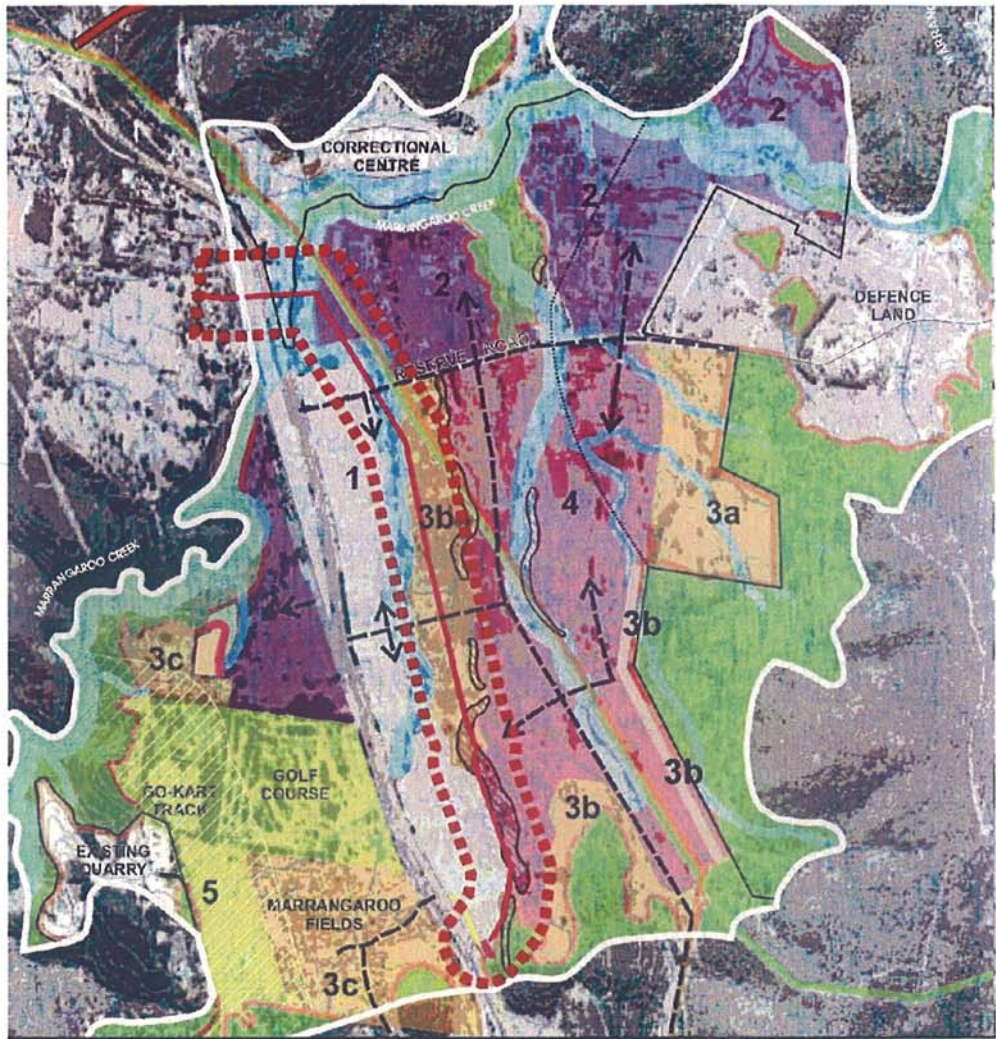


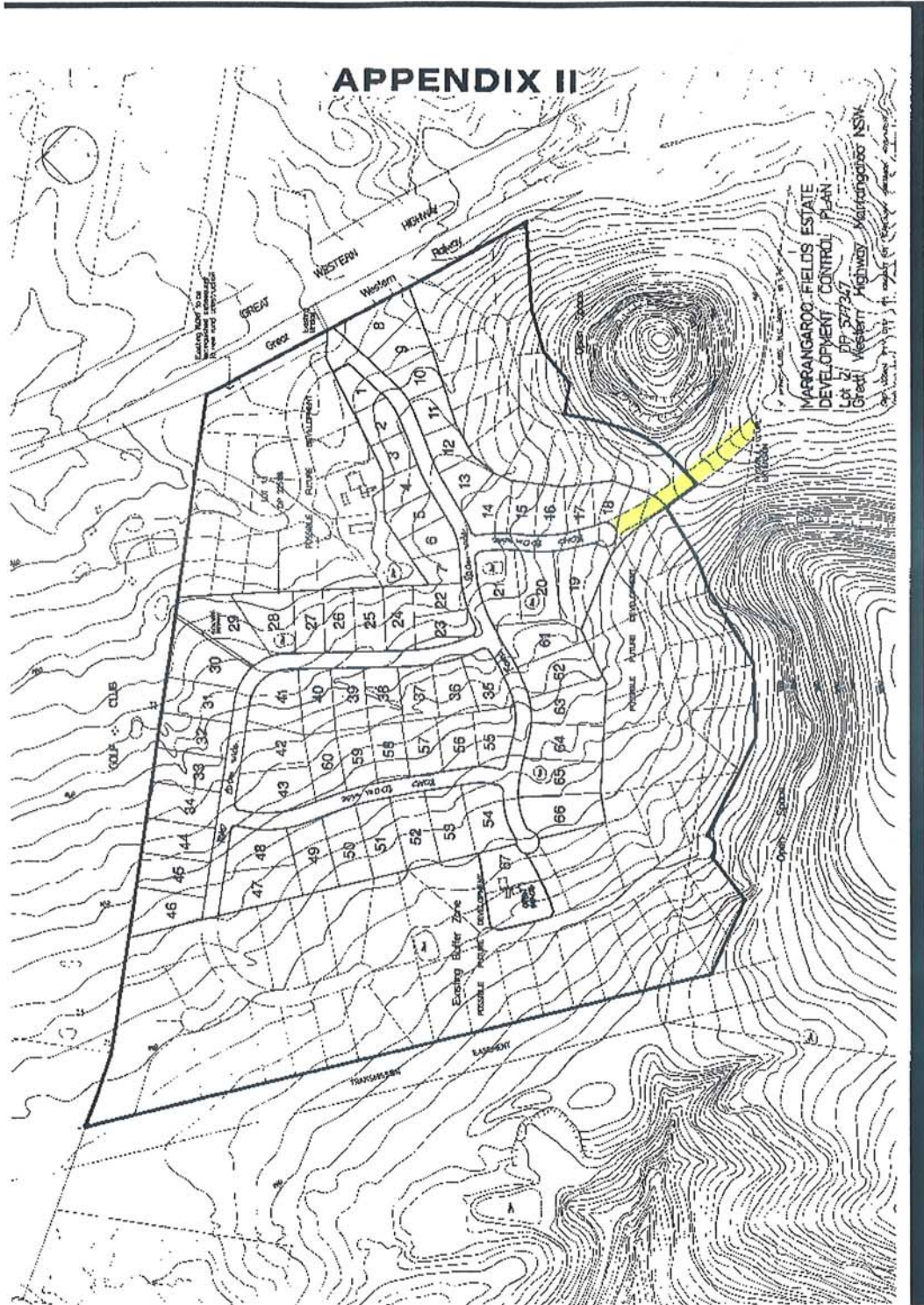
FIGURE 5 - PROPOSED MARRANGAROO STRUCTURE PLAN



- PROPOSED LAND-USES**
- 1 HIGHWAY / BUSINESS SERVICES
 - 2 EMPLOYMENT GENERATION
 - 3 LARGE LOT RESIDENTIAL
 - 3a - 26,000m² LOTS
 - 3b - 4,000m² LOTS
 - 3c - 2,000m² LOTS
 - 4 URBAN
 - 5 PRIVATE OPEN SPACE & COMMERCIAL RECREATION & TOURIST ACCOMMODATION
- SPECIAL ACTIVITIES**
- DEFENCE LAND
 - CORRECTIONAL CENTRE
 - QUARRY
- KEY:**
- DEFENCE LAND
 - ... AREA FOR FURTHER INVESTIGATION WITH DIFFERENT
 - ← POSSIBLE ACCESS ROUTE
 - PROPOSED OPTION FOR BELLS LINE OF ROAD (APPROXIMATE LOCATION)
 - QUARRY 400m BUFFER FOR RESIDENTIAL
 - EASEMENT FOR TRANSMISSION LINE 27.5 WIDE
 - EASEMENT FOR TRANSMISSION LINE 30.48 WIDE
 - EASEMENT FOR WATER 10.06 WIDE
 - NAT. GAS TRANSFER STATION (SUBJECT TO RISK ASSESSMENT)
 - PIPELINE EASEMENT 20 WIDE (SUBJECT TO RISK ASSESSMENT)
 - WOODLAND
 - 25m BUFFER
 - ROCKY SCARP ENVIRONMENTAL PROTECTION
 - STREAM BUFFER
 - DRAINAGE LINE
 - 10m CONTOUR LINE
 - SITE BOUNDARY
- 205177

PROPOSED MARRANGAROO STRUCTURE PLAN

**FIGURE 6 - MARRANGAROO FIELDS SUBDIVISION
LAYOUT AND ROAD EXTENSION TO THE
SUBJECT SITE**





Our Ref: 13031

9th August, 2013

The General Manager
Lithgow City Council
180 Mort Street
Lithgow NSW 2790

Att: Mr Andrew Muir (andrew.muir@lithgow.nsw.gov.au)

Dear Sir

**Re: Draft Lithgow City LEP 20113 – Objection Letter
Down Zoning of Residential Land
Relating to Lot 702 DP 1135310, Lot 31 DP 839469 and Lot 58 DP 751655**

1. INTRODUCTION

Following the forwarding of our recent letter of objection to Council concerning the Draft Lithgow City LEP 2013 and our meeting with Mr Andrew Muir and Ms Sherilyn Hanrahan who suggested that we forward to Council our proposals for the new zoning of the Draft LEP, we now forward our proposals. The existing zones are shown on **Figure 1**.

We were advised that the Standard Instrument of the NSW Government made it difficult for Council to place land within an appropriate zone. However, we are familiar with the Standard Instrument and consider that those difficulties do not exist in Standard Instrument provisions.

2. THE ENVIRONMENTAL LIVING E2 ZONE IS AN INAPPROPRIATE ZONE FOR MOST OF THE SUBJECT LAND

The whole of the subject land under the Draft LEP has been placed within an Environmental Living E4 Zone. The objectives of this zone are:-

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To maintain the rural character of the lands within the zone whilst preserving the land for future urban growth.*
- *To ensure that development does not create unreasonable and uneconomic demands for the provision of extension of public infrastructure, amenities and services.*
- *To maintain or improve the water quality of receiving water catchments in accordance with the NSW water quality objectives."*

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The first thing to note is that the land is to be preserved “for future urban growth”, along with a very extensive area of adjacent and other land in Lithgow City. We find it difficult to believe that the whole of the E4 zoned land is being preserved for future urban growth. The areas would allow more than a doubling of Lithgow’s population.

However, the objectives also state that the land is in “areas with special ecological, scientific or aesthetic values”. While some parts of the land might have “special ecological, scientific or aesthetic values”, the vast majority does not, and has never been seriously identified or recognised with these values. Indeed, the fact that the land is being “preserved for future urban growth” would appear to be a complete contradiction of these values.

Therefore the majority of the subject land should be removed from this zone.

3. THE PROPOSED RESIDENTIAL ZONE

The existing Residential 2(a) zoned land, together with an adjustment of it, is discussed below, should be zoned the same as the Marrangaroo Fields Estate. This would result in the residential component of the subject land being zoned R2 Low Density Residential.

In the interests of rationalising the boundaries of the Residential 2(a) zone, the north-western part of this zone (part Lot 58 DP 751655) should be deleted and an equivalent area should be added to the new zone (R2) as shown on the attached zoning map (**Figure 2**).

This additional land is not constrained by any special ecological, scientific or aesthetic value and is a logical extension into the existing future urban land. The equivalent area adjustment would require a zone boundary 60 metres within Lot 31 DP 839469.

The Council officers have stated that the Draft LEP has attempted to keep zone boundaries to property boundaries. However, even a casual perusal of the Draft LEP maps shows that the vast majority of zone boundaries do not follow cadastral boundaries. Our zone boundaries leave no doubt as to the precise location of them.

The R2 Low Density Residential land would then be in the same category as Marrangaroo Fields Estate with a 2,000sqm minimum lot size placed upon it. There is no reason why a small portion of Council’s land, along the future access road, should not be placed in the same R2 zone, along with Lot 701 DP 1135310.

4. THE APPROPRIATE NEW LARGE LOT RESIDENTIAL ZONE (RURAL RESIDENTIAL)

The land which is not proposed above as Low Density Residential R2 land and does not form part of the two well vegetated hills to the north of the site and within the western part of the site (being the majority of Lot 31 in DP 839469 as shown in Figure 2), should at least be zoned to reflect the “status quo”. This current minimum area is 10ha. However, to simply leave the subject site within an E4 Environmental Living Zone, and then place the land within a lot size of 10ha on the lot size map would be inappropriate as the land is not constrained by “special ecological, scientific or aesthetic” values. In addition, the 10ha minimum lot size is a waste of



land, as it is far too small for rural production and is far too large for rational single dwelling use.

Within the City of Lithgow, the R5 Large Lot Residential zone has been used, as permitted by the Standard Template. The zone has the following objectives:-

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones."*

The zone requires consideration of "environmentally sensitive locations and scenic quality" and also requires that subdivisions and development "do not hinder the proper and orderly development of urban areas in the future".

These objectives are totally consistent with consideration of ensuring that the subject land, in the future, can be developed for urban purposes". This zone is more appropriate for this part of Lot 31 DP 839469 than any other zone within the Draft LEP.

This means that, while the Environmental Living E4 zone is inconsistent with the future use of the land, the Large Lot Residential R5 zone is totally consistent. We therefore submit that Council's current Draft LEP is deficient in omitting the R5 zone from the subject land, and indeed other lands in the immediate area identified for future urban use.

This zone has been applied to a large area of land to the south of Lithgow City, with a minimum lot size of 2ha, which is appropriate for future urban land.

We submit that the southern part of the land should be zoned Large Lot Residential R5 with a 2ha minimum lot size as is proposed to the south at Old Bowenfels. This zone and minimum lot size could also reasonably cover other future urban lands adjacent to the subject land.

5. THE ZONING OF LOT 58 DP 751655

Even with part of Lot 58 DP 751655 being currently zoned for future urban use, in the interests of rationalising zone boundaries, we submit that the whole of this lot be retained in the Environmental Living E4 zone. The loss of this existing urban area is offset and rationalised by the R5 zone covering the majority of Lot 31 DP 839469 with a small area being zoned R2. A small corner of Lot 31 DP 839469, covered by vegetation, would also be included in the E4 zone, as shown on the attached **Figure 2**.

6. CONCLUSION AND SUBMISSION

The above investigation has shown that the zoning of the subject land should be as follows (see **Figure 2**).



- The existing Residential 2(a) land, as modified and shown on **Figure 2** should be zoned Low Density Residential R2. The minimum lot size should be 2,000sqm as applies to the Marrangaroo Fields Estate.
- The Rural (Future Urban) 1(d) zone should be modified and zoned Large Lot Residential R5 as shown on **Figure 2**. The minimum lot size should be 2ha to ensure that subdivision and development do not create difficulty for the future urban development of the land when required and to avoid a waste of land by requiring unnecessarily large rural/residential lots.
- The part of the land to the west, Lot 58 DP 751655 should be retained as Environmental Living E4 zone, with a minimum lot size of 40ha as proposed in the Draft LEP.

Providing the Draft LEP is amended in accordance with this submission, it will not be discriminatory as occurs within the exhibited Draft LEP.

Yours faithfully

NEIL INGHAM

FIGURE 1 - EXISTING ZONING

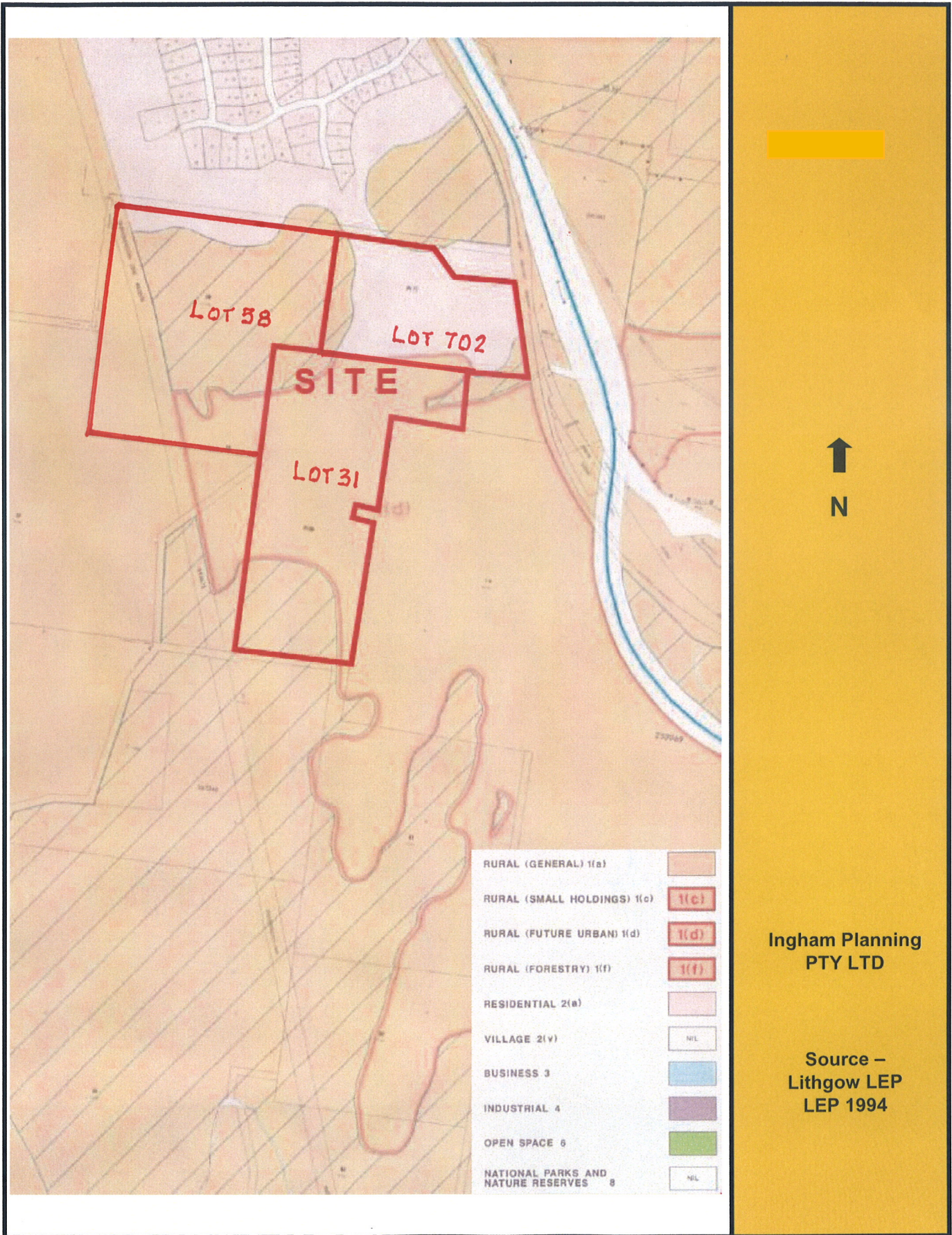


FIGURE 2 - PROPOSED ZONING

