2nd August 2013

The General Manager
Lithgow City Council
PO Box 19
LITHGOW NSW 2790

ATT Sherilyn Hanrahan

Your Reference:LEP2013
Our Reference (TRIM):OUT13/21127
Emailed

Dear Ms Hanrahan,

Re: PUBLIC EXHIBITION – PLANNING PROPOSAL FOR DRAFT PRINCIPAL LITHGOW CITY LOCAL ENVIRONMENTAL PLAN 2013

Thank you for the opportunity to provide advice on the Draft Lithgow LEP. This is a response from the NSW Department of Trade & Investment (DTIRIS) – Mineral Resources Branch (MRB). The Department of Primary Industries, incorporating advice from Agriculture, Fisheries and Forests NSW may respond separately.

Summary of Mineral Resources

Generally, the Lithgow LGA area occupies an area of the western margin of the Western Coalfields. The eastern portion of the LGA is largely covered by Triassic sediments which overlie the Late Permian Illawarra Coal Measures. The coal measures outcrop throughout the central LGA area in a roughly north-south orientation. West of the coal measures are the non coal-bearing Early to Late Permian Shoalhaven Group, and older rocks of the Lachlan Fold Belt. There are 79 current coal titles throughout the LGA, including 10 operating mines. Other resources include industrial minerals, friable sandstone for silica, and limestone. Construction materials include dimension stone, clay and hard rock aggregate.

General Issues

The Draft Lithgow LEP 2013 has generally satisfied key recommendations of DTIRIS – Mineral Resources Branch. The following notes address specific qualifications.

Under the provisions of the Mining, Petroleum and Extractive Industries SEPP (Mining SEPP), mining, petroleum production and extractive industries are permissible with consent where agriculture and industry are permitted. Although the SEPP will prevail to the extent of any inconsistency with an LEP, NSW Trade & Investment considers that these provisions should be reflected in LEPs so that the permissibility of mining, petroleum production and

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extractive industry can be readily ascertained from a single planning instrument without having to also refer to the SEPP or have prior knowledge of its provisions. The general public may benefit from clarification of the permissibility of Extractive industries and Open Cut Mining in zones where the Mining SEPP applies.

As such MRB recommends the Land Use Table and Land Use Matrix be amended to reflect the permissibility by virtue of the Mining SEPP, of open cut mining and extractive industries in zones RU2, R5, IN1, IN2, IN3, E3, E4 and as a permitted use in RU3 under the *Forestry Act 1916*. MRB notes the use of the symbol '**M**' in the Land Use Matrix to indicate regulation via the Mining SEPP however it is inconsistent in its application to relevant zones and with the Standard Instrument.

MRB wishes to reinforce its concern regarding intensification of residential development such as lands around Marrangaroo Quartzite Quarry and rural land fragmentation in the central west of New South Wales. This has the cumulative effect of inadvertent sterilisation of undiscovered mineral resources, and the discouragement of further mineral exploration.

Planning for Mineral Resources

The most significant aspect of mineral resource evaluation and development from a land use planning viewpoint is that the locations of minable deposits cannot always be predicted. This makes it imperative that known resources should be protected from sterilisation by inappropriate zoning or development, and that access to land for mineral exploration should be maintained over as much of the planning area as possible. Another important aspect is that although mining is a temporary land use, it is inherently incompatible with some other land uses such as residential or rural residential development (unless these activities postdate mining and rehabilitation), but is not necessarily incompatible with a wide range of other land uses such as agriculture or industrial development.

It is recommended that Council adopt the following strategies regarding mineral resources in its planning.
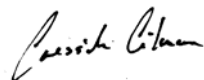
1.   Operating mines and quarries should be protected from sterilisation or hindrance by encroachment of incompatible adjacent development.

2.   Known resources and areas of identified high mineral potential should not be unnecessarily sterilised by inappropriate zoning or development.

3.   Access to land for mineral exploration and possible development should be maintained over as much of the planning area as possible.

These strategies require DTIRIS - MRB to provide Council with adequate information on the location of known and potential mineral resources. In addition, in response to the Government's recent reforms to the planning system which require all councils to prepare new comprehensive LEPs, DTIRIS - MRB commenced a comprehensive resources audit of the entire state to provide data on the location of mineral resources and areas of high mineral potential within LGAs throughout the State. This process will update data on resources and operations for LGAs where advice has previously been supplied in relation to Section 117 Direction 1.3 (mainly in eastern New South Wales). For many LGAs, however it is the first time such information has been provided. The data and reports are being progressively supplied (in both digital and hard copy form) to Councils and Department of Planning & Infrastructure to inform the preparation of planning strategies, LEPs and land use decision making.

An assessment of known and potential mineral resources has been undertaken in Lithgow LGA and was forwarded, most recently, to Council in August 2012 in the form of a Statewide Mineral Resource Audit Data Package.

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the MRB Land Use team at landuse.minerals@industry.nsw.gov.au.

Yours sincerely

Cressida Gilmore
Team Leader Land Use