From: Julie Owens [owensjw@activ8.net.au]
Sent: Friday, 9 August 2013 4:00:21 PM
To: Lithgow City Council
Subject: LEP2013

Attention: General Manager

REF: LEP 2013

Dear Sir,

I wish to comment on some elements of the draft LEP as they impact on the Capertee Valley, where my wife and I have a modest cottage on approx 14 hectares (37 acres).

Briefly, I object to a range of measures each curtailing either my, or other Capertee landholders', rights to full use of their properties under existing laws and regulations, without any hint of compensation for the potential legal rights forgone and with no real reason given, other than the apparent bowing to the bureaucratic dictates of the Department of Planning and Infrastructure at a time when the current NSW Government, though local MP Paul Toole, insists that local government should be responsible for its own decisions. Each of the following items can be varied by Lithgow Council, if it chooses.

Collectively, the following proposals within the LEP can be seen as flying in the face of Lithgow Council's decision of 2011 to leave untouched the minimum subdivision rights that existed within the former Rylstone Shire Council zone. Where democracy then prevailed over bureaucratic insistence on textbook planning theory, the following LEP proposals represent nothing less than a bureaucratic fightback against democratic choice. When the voters exercised their rights, the bureaucrats called in the cavalry of the Planning Department and their aides in the Department of Environment and Climate Change in what can be seen as a theory-based determination to resist obvious market pressures for 40-hectare retirement properties, instead of the planning fraternity's obsession with 2.5-hectare or 100-hectare versions.

1. Dual occupancy: The proposed insistence on attached dual occupancy, instead of the current detached version, is not only a bureaucratic curtailment of my current legal right but potentially a major blow to our provisional plan to erect a dual occupancy dwelling for my wife's ageing parents. Several detached sites commend themselves for their excellent views, as well as close proximity to the Glen Alice school where my mother-in-law (a former teacher) could involve herself with reading to the children, as she does elsewhere now. An attached dual occupancy structure would be almost impossible to accommodate for layout reasons, as well as being almost certainly more expensive, based on building quotes we have previously obtained. For all the above reasons, I oppose this part of the proposed LEP.

2. Biodiversity Overlay: The council's proposed resort to use of this Overlay will act as a virtual, vague, covenant on our property, potentially curtailing some of the rights we now have to deal with it under current laws and regulations. I have been advised by a council staffer, following my query, that the Overlay shows a Vulnerable Ecological Community on the southern edge of our property, or very close to it. I am dumbfounded at this assertion, which can only relate to the occasional rabbit, hare or fox which I occasionally see in this area. The land in question, whether our's or the adjacent church or public land almost alongside, has been grazed sporadically for decades by cattle or, occasionally, sheep. For these reasons, I oppose this part of the proposed LEP.

3. Water Overlay: The council's resort to use of this Overlay, with its virtual 40-metre no-go zone on each side of local creekbeds, even where they flow only "intermittently', amounts to a virtual 90-metre covenant for the full length of any creekbed affecting farmers' use of their land. For what real purpose, other than to impose yet another restriction on rural landholders trying to exercise their legal and deomocratic rights?

4. RU2 zone, banning intensive livestock and plant agriculture, among other land uses: Council's information leaflets cite the Planning Department's Practice Note 11-002 to justify this decision yet that same practice note cites intensive plant agriculure, specifically viticulture, as entirely suitable for an RU2 zone.

5. "Prime agricultural land Categories 1, 2 and 3" in the former Rylstone Shire zone: Council planners' insistence on retaining this zoning sub-category, and insisting on a strict legal definition of its coverage instead of the more practical definition previously used by Rylstone Council, can be faulted on several

grounds: (a) Imposing an RU2 zoning with significantly restricted agricultural uses on huge areas of alleged "prime agricultural land" (currently virtual RU1 zone) is patently self-contradictory; (b) Maintaining such old Rylstone Shire definitions at the same time as stating that a major goal of the new LEP is to unify both the old Lithgow and Rylstone LEPs is, again, self-contradictory; (c) Insisting on a strict legal definition of areas affected by the "prime agricultural land", instead of the practical application previously adopted by Rylstone Council, effectively removes minimum sub-division rights that existed under the former Rylstone regime, thus defying Lithgow Council's 2011 resolution for those sub-division rights to be maintained; (d) Adopting such an unquestioning approach to the so-called "prime agricultural land" calls into question council's actual understanding of the geology and geography of the Capertee Valley, where prime agricultural land in any real sense is in demonstrably short supply, notwithstanding any lines drawn on paper decades ago by staff in the former NSW Agriculture Department.

Yours in common sense,

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