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**Planning / Heritage / Development**

## **PLANNING PROPOSAL**



**Macaulay/Atkinson Streets Residential Extension  
Lithgow City Council LGA  
August 2013**

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## EXECUTIVE SUMMARY

This has been prepared in accordance with the guide for preparing planning proposals through the NSW Department of Planning, to examine land at Macaulay and Atkinson St, Lithgow. This proposal is being lodged as an objection to the Draft Lithgow City Local Environmental Plan 2013 (DLEP) exhibition.

This proposal identifies that the land is suitable for development. It is adjacent to physical services such as water and sewer, it is well served by transport and other more urban requirements and the community services provided by the town of Lithgow. This also promotes sustainable development by utilising the existing water supply and wastewater treatment requirements of the town.

In the consideration of development of my client's property we have previously used the variation of the zone boundary to provide for the optimum development level using all environmental characteristics of the land.

Council also has removed the opportunity of better defining land for development by not including the Development near zone boundaries clause. This means that Council must be absolutely sure as to the actual suitability of land down to the level of survey as there is no option to consider variations. We doubt that Council has considered the entire City area to that level of detail.

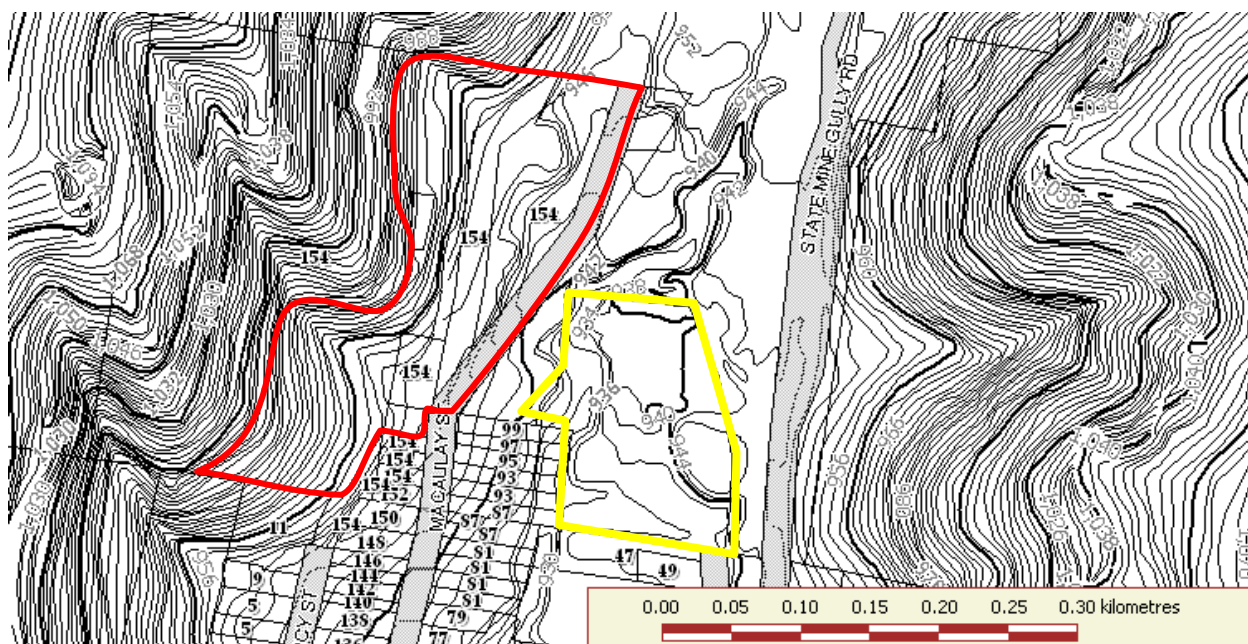
The information required by Council for this purpose also appears to be far greater than Council has provided for land it is proposing to rezone in the overall rezoning of the entire city. It is important to understand that our documentation prepared for rezoning is to the level of detail suitable at zoning stage. Of course, once the general suitability of the land has been confirmed by zoning, more detailed studies for the eventual development will be carried out, in conformity with the eventual zoning and standard environmental requirements of development in the City.

It is also very well for the State Government to state that environmental planning requirements are to be reviewed every 5 years, when the current planning review for Lithgow (and many other LGA's) is coming up to 2 decades before a new plan is likely to be in place.

This illustrates that without Council providing quality areas of suitably zoned land for development, persons seeking to live in Lithgow will be forced further away from the infrastructure and facilities that modern living requires. This will eventually require further spread of facilities provided by all levels of government, in an unsustainable manner.

Council is requested to consider this proposal in the overall rezoning of the City on its own merit, to ensure that suitably located and planned residential development land is available for the overall benefit of the City.

In summary for the drafting of the plan map, the following plan shows the boundaries requested. We are more than willing to discuss and amend the boundaries to fit the riparian zone for example if that is Council's wish. We feel it would be far simpler to use the variable zone boundary clause, and request it be included in the overall plan as many properties are in exactly the same situation.





## 1.2 MINIMUM LEVEL OF REQUIRED INFORMATION

From council's website:

*The following information should accompany any rezoning request:*

- **Property Information:** Lot and DP, location, ownership
- **Zoning:** Existing zone, proposed zone under Draft LEP and the requested zone
- **Land Uses:** Current and proposed use of the subject site and adjoining lands
- **Servicing:** Availability of water, sewerage, electricity, gas, stormwater drainage
- **Traffic:** Vehicular, cycle and pedestrian access to and from the site and any traffic considerations
- **Natural Resource Management:** Vegetation cover, presence of flora and fauna threatened species or habitat, waterways or wetlands, water quality
- **Hazard assessment:** Bushfire, flooding/inundation, slope, erosion, mine subsidence, contamination
- **Heritage:** Aboriginal or European heritage significance
- **Scenic value:** Visual Landscape Analysis
- **Policy Framework:** Consistency with Lithgow Land Use
- **Strategy 2010-2030, State Policies.**

However, in the limited time available this proposal will cover the requirements of a planning proposal so that it may be seamlessly inserted into the process and considered for rezoning with the Council's own planning proposal for the entire City area.

## 2 PROPOSED LAND

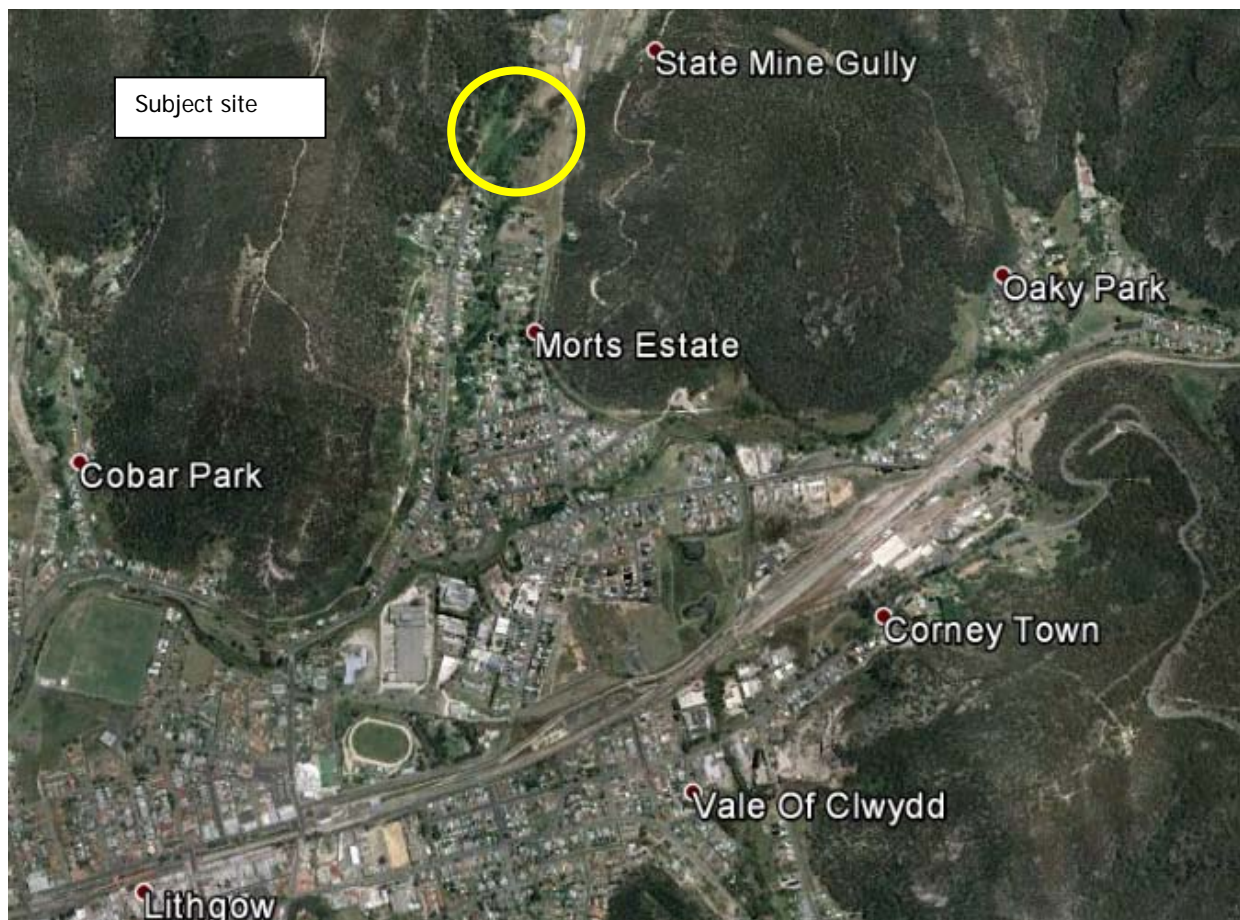


Figure 1: Aerial view of site context to Lithgow urban area

The air photo shows the proximity of the site to the Lithgow CBD, identifying the utility of the land to the town and all the facilities required for residential planned environment. In terms of planned development in the area, the following maps show the current areas zoned for urban and rural residential development.

Within many parts of the Morts Estate area, there are severe constraints that make the development of land extremely difficult. These range from road access, creek crossings and steep areas often with bushfire and watercourse issues. One of the best ways to visually identify these issues is to view them with slant view aerial photography, which provides a quick means of identifying the better areas in terms of slope, and accessibility. These are shown on the maps.



Figure 2: Overall view of area around Lithgow and subject site

In the plans below, the land marked in red is part of the entire holdings where the land marked in yellow is the subject site proposed to be extended to a residential zone. The land is made up of various lots in the ownership of P Mason, who has commissioned this report. See survey plan at the end of this document for details of all lots involved.



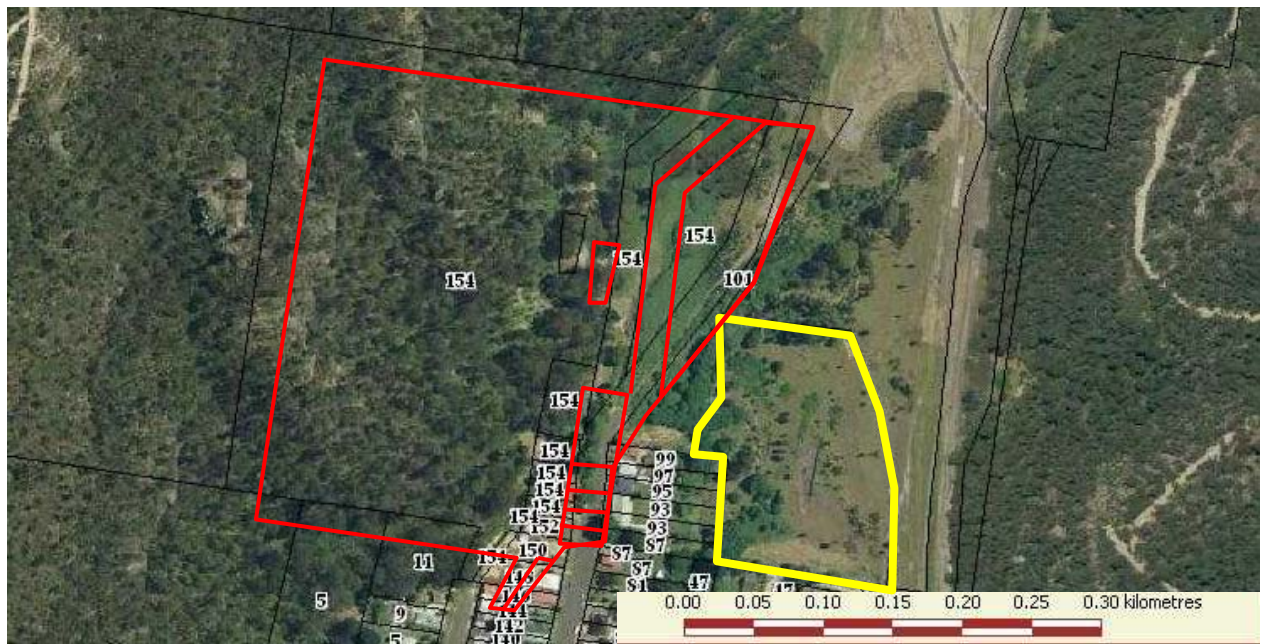


Figure 3: Aerial photo showing lots and subject site

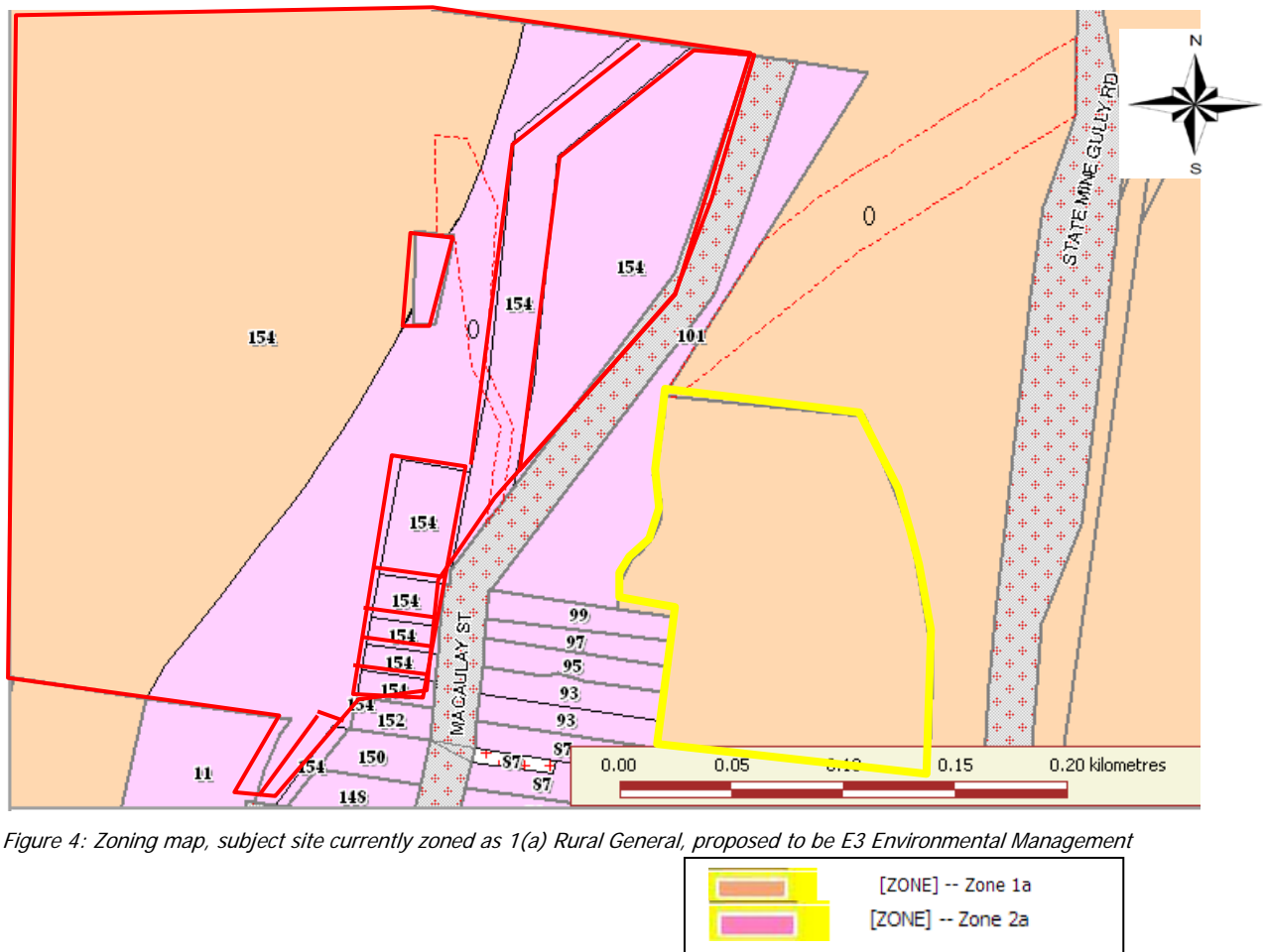


Figure 4: Zoning map, subject site currently zoned as 1(a) Rural General, proposed to be E3 Environmental Management

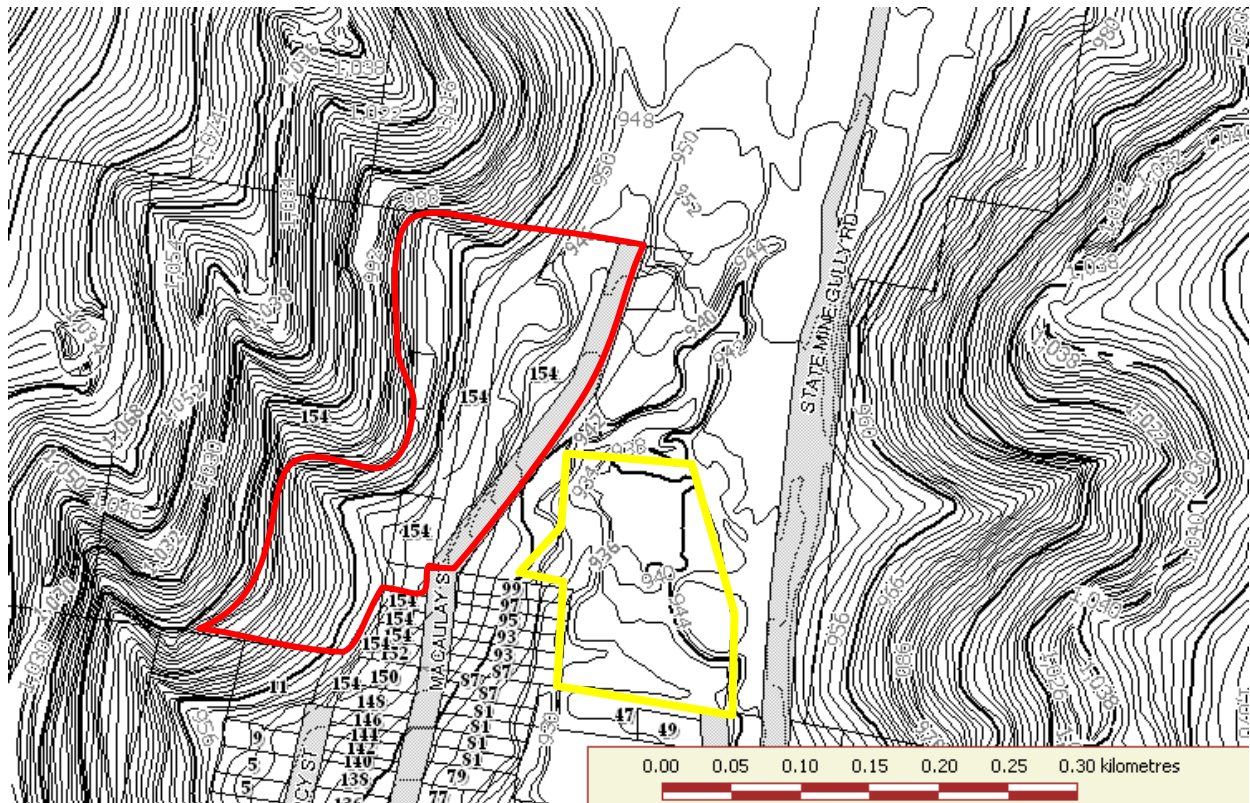


Figure 5: Contours, 2m, detailed view showing developable section of the red highlighted land and the subject site

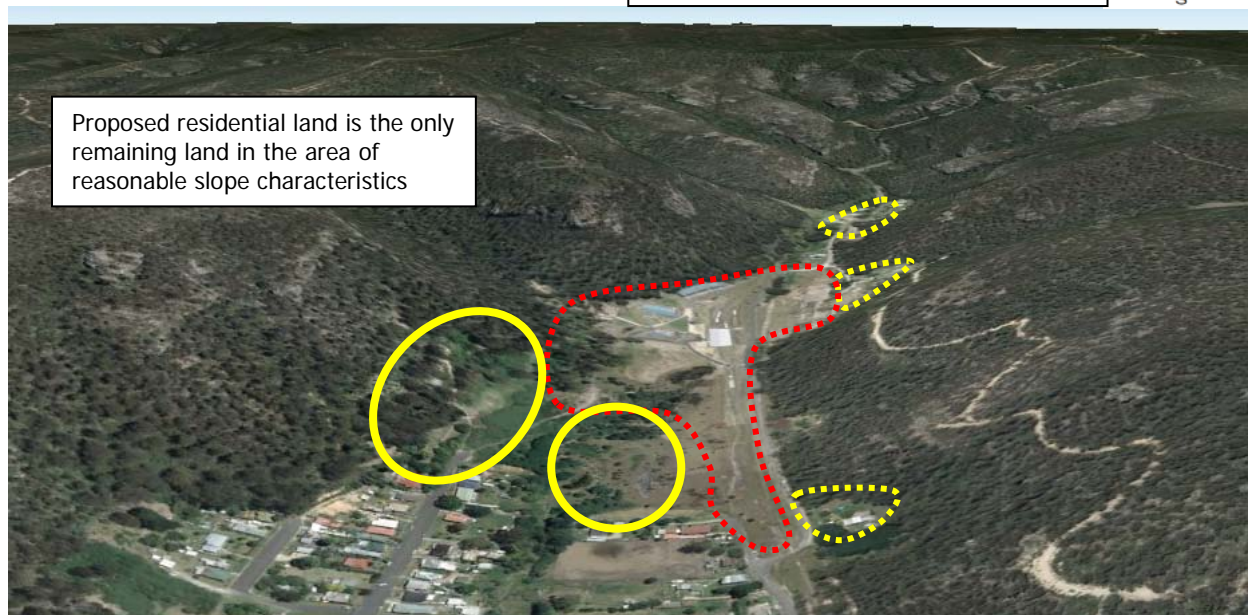
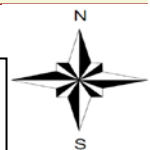
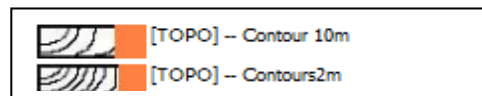


Figure 6: Oblique view looking north indicating flatter land areas and subject site

All the reasonably flat land to the north and east of the site is taken up with the State Mine Heritage Park, Lithgow State Mine Railway and Lithgow Power Station site (shown in red dashes) or is already developed with housing (shown in yellow dashes) from the early days of development of Lithgow. The area of this proposal, shown by solid yellow line is the only remaining undeveloped land in the area of reasonable slope characteristics.

These areas are further analysed in the following mapping, showing proximity to the developing urban area of Lithgow.



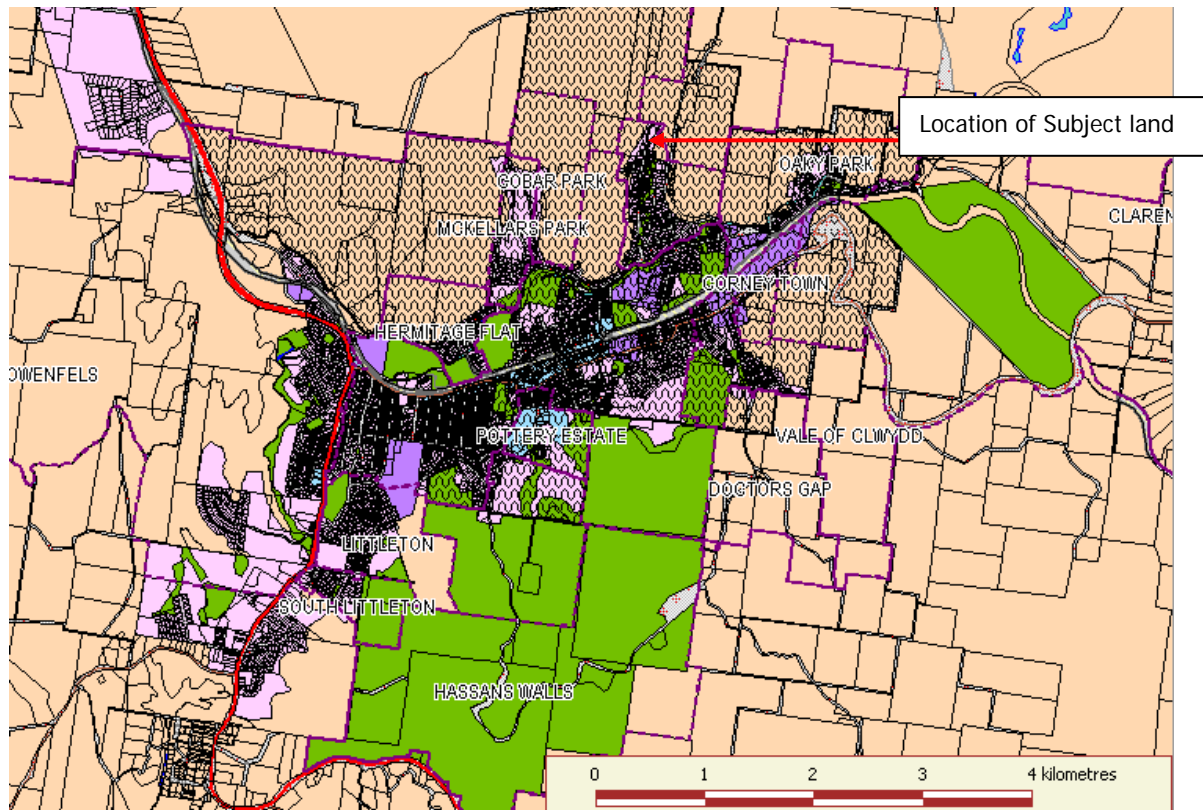


Figure 7: Location & overall current zoning

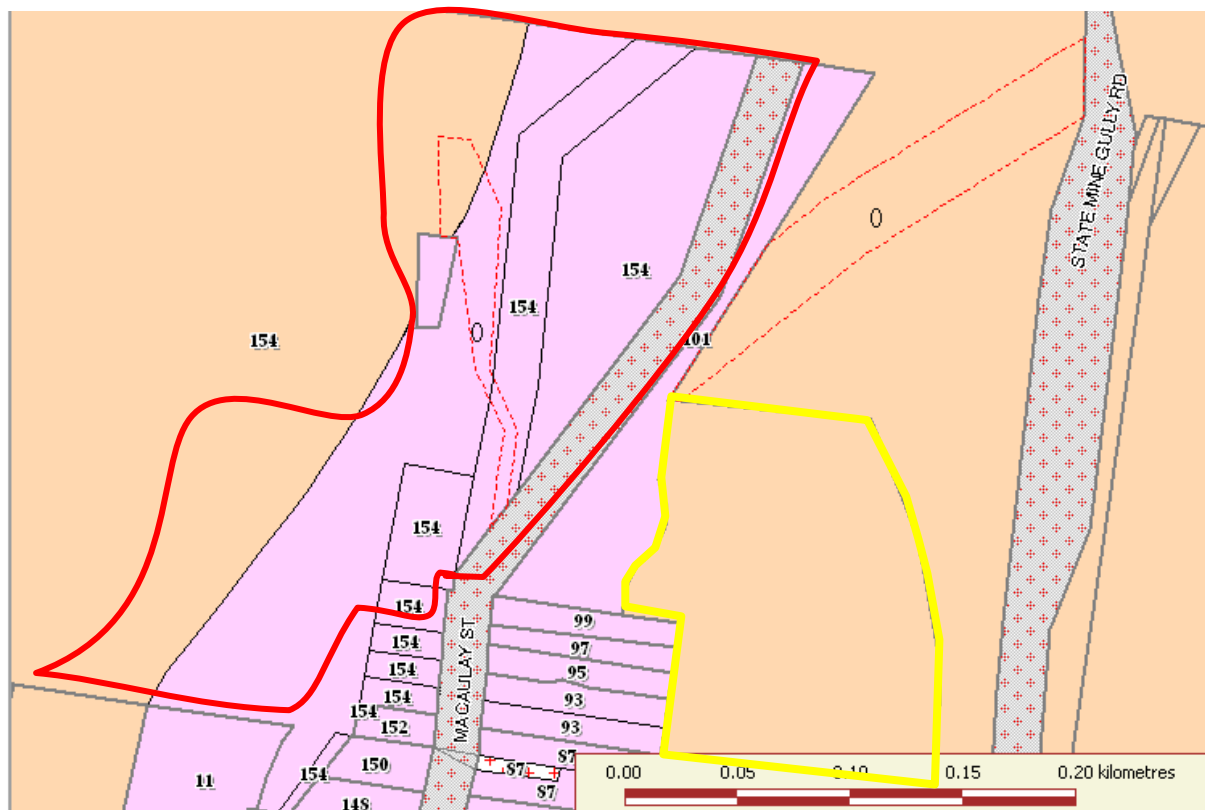
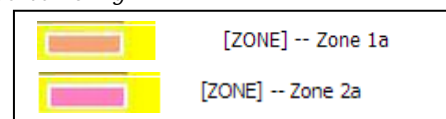


Figure 8: Subject site 1(a) Rural (General) zoning & adjacent 2(a) Residential zoning



These maps confirm the pattern of zoned development in the town and demonstrate the logic of the proposed extensions to the many and varied opportunities for residential development in Lithgow City. The land is within the valley area itself, adjacent to existing residential development.

This can be further clarified by examining the distances by road to developable lands around the town of Lithgow. It is clear that higher densities of population should be concentrated to make the best use of available resources and to reduce the impact of extension of services provided by all tiers of government.

From the geographical centre of the current and developing urban area of Lithgow, the land in question is one of the closest undeveloped areas of cleared and suitable land in the City.



Figure 9: Current zoning under LEP 1994

It is unfortunate council is rezoning the land currently zoned as Open Space to Environmental Management E3 which allows:

*Extensive agriculture; Home occupations Building identification signs; Business identification signs; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Information and education facilities; Recreation areas; Research stations; Secondary dwellings; Water recycling facilities; Water reticulation systems;*

This zoning would allow council to permit houses, dual occupancies and secondary dwellings (another house as well) on areas identified earlier for open space purposes.

## PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objective of this Planning Proposal is to rezone a discrete area of suitable land under Lithgow LEP1994 from Rural General to Residential in order to permit standard residential development.

Unfortunately the Proposed LEP maps document is very difficult to use as it is slow to load and in very low resolution. It is particularly hard to distinguish the lots and colours on the map in order to match them with the colours on the legend.

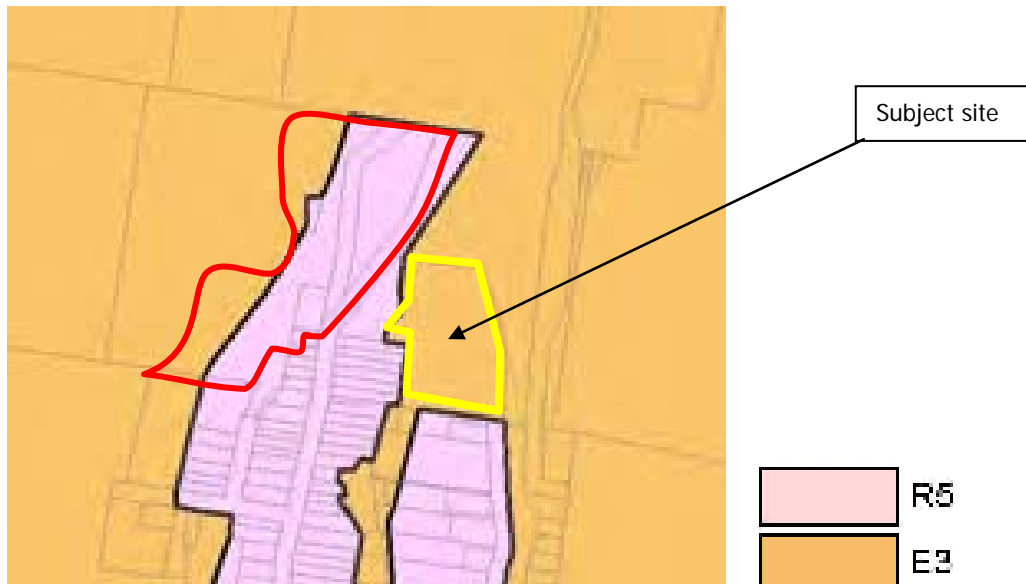


Figure 10: LGA planning proposal zoning map, subject site in yellow, proposed to be zoned E3 Environmental Management

It is noted that Council is proposing to rezone land currently open space proposed to be zoned E3 Environmental Management



Figure 11: LGA planning proposal lot size map, with subject site proposed to be 40 ha





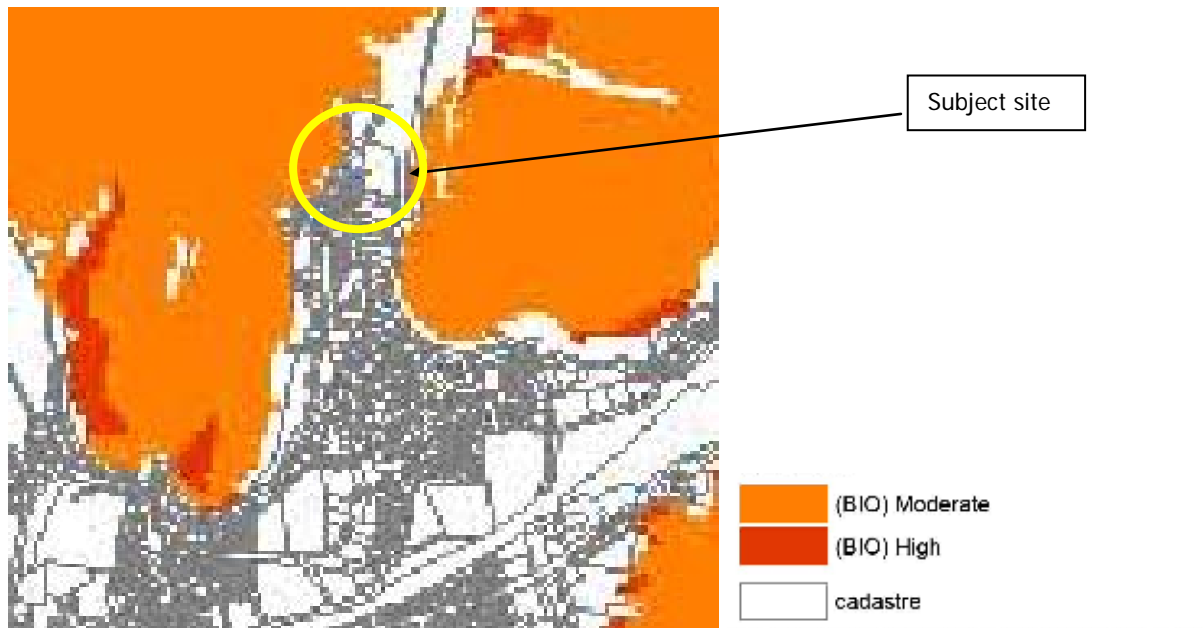


Figure 12: LGA planning proposal biodiversity map, none of the subject site is marked

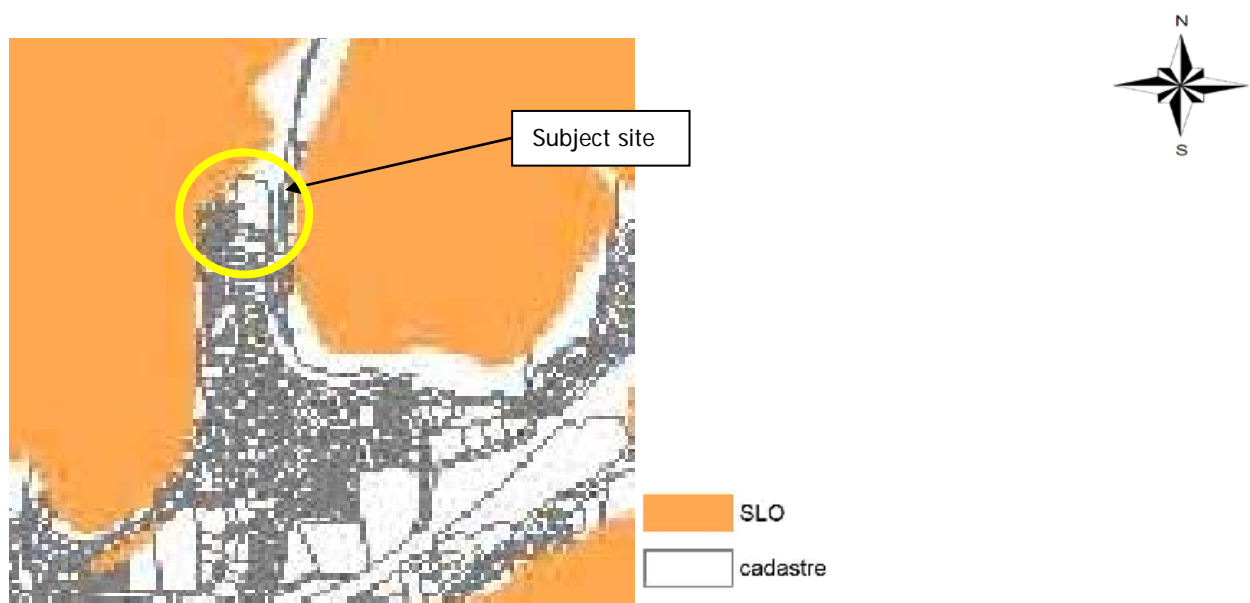


Figure 13: LGA planning proposal land sensitivity map, none of the land marked sensitive

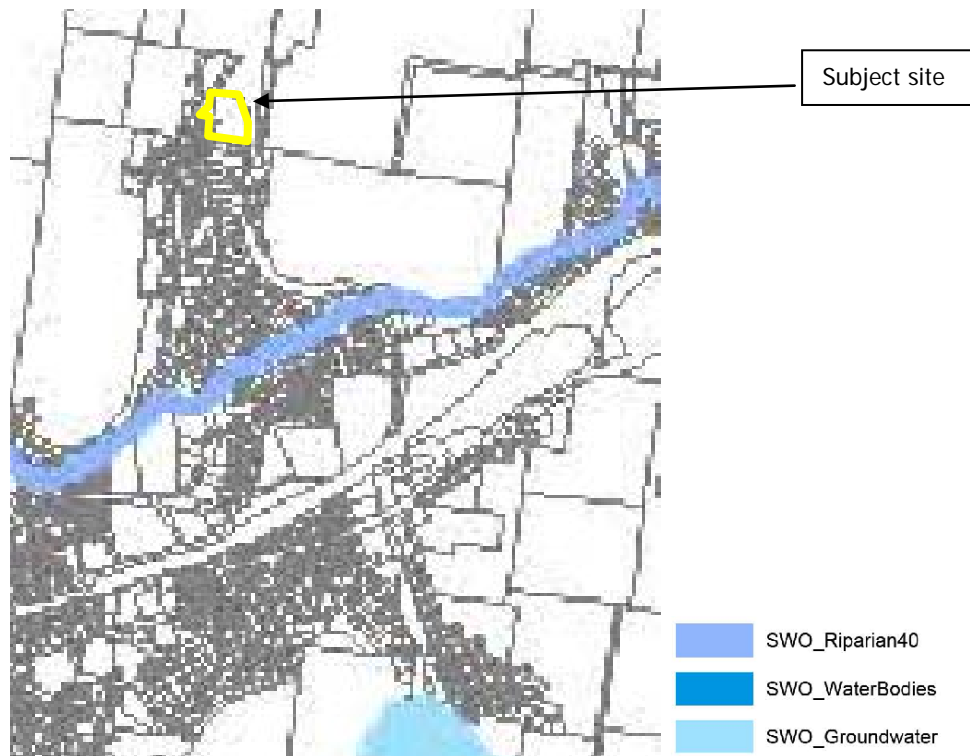


Figure 14: LGA planning proposal sensitive water map showing Riparian40 quite far away from the subject site

Although the land is shown as flood affected, it is not shown as riparian land.



Figure 15: LGA planning proposal buffer zone map shows no land on subject site being affected

## PART 2: EXPLANATION OF PROVISIONS

Currently the areas for residential development are identified in LEP1994, which deals with the overall area of the City of Lithgow. Council has now exhibited its draft mapping proposed for the overall rezoning of the City. The land is proposed to be zoned as:

### ***Zone E3 Environmental Management***

#### ***1 Objectives of zone***

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To facilitate the management of environmentally sensitive lands and riparian areas within the zone.*

- To protect and conserve the vegetation and escarpment landscape surrounding the Lithgow Valley.
- To maintain or improve the water quality of receiving water catchments in accordance with the NSW water quality objectives.

## **2 Permitted without consent**

*Extensive agriculture; Home occupations*

## **3 Permitted with consent**

*Building identification signs; Business identification signs; Community facilities;*

*Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Information and education facilities; Recreation areas; Research stations; Secondary dwellings; Water recycling facilities; Water reticulation systems;*

## **Prohibited**

*Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3*

The “plain English” version notes that *It is noted that the proposed zone provides for dwelling houses, but the subdivision capabilities of the lot size map would preclude such development.* This is not actually the case as many large lots exist in the virtually undevelopable escarpment areas or could be consolidated into such overall size. This also applies to many other allowable commercial style uses such as eco tourist facilities. There is likely to be pressure to do just that type of development to the detriment of the Lithgow escarpment areas.

In any event, the land is considered suitable for normal residential development, in general in the style of standard residential zone for most of the City.

The LEP template from the NSW Department of Planning refers to such a development zone as R1 General Residential, which would be the case if the proposal occurred in conjunction with the intended new LEP.

## **Zone R1 General Residential**

### **1 Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maintain or improve the water quality of receiving water catchments in accordance with the NSW water quality objectives.

## **2 Permitted without consent**

*Home occupations; Roads*

## **3 Permitted with consent**

*Attached dwellings; Backpackers' accommodation; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Caravan parks; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home-based child care; Home businesses; Hostels; Hotel or motel accommodation Kiosks; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Residential flat buildings; Respite day care centres; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Water recycling facilities; Water supply systems;*

## **4 Prohibited**

*Any development not specified in item 2 or 3.*

## **2.1 SUSTAINABILITY AND SERVICING**

The Strategic Plan incorporates the principles of Ecologically Sustainable Development (ESD), which has been defined as *development that meets the needs of the present without compromising the ability of future generations to meet their needs.*



Social and emergency services are available to the town and similar nearby developments and the relatively small number of dwellings in relation to existing would not tax the existing systems. The area is traversed by the main road artery in the district, and existing services such as bus and other vehicular services are available and would likely benefit from increased patronage in the area.

### **2.1.1 Lack of vacant residential land**

Council has provided for very large areas of residential land to be provided under the proposed zoning. This land proposed for residential extension is very minor in comparison by area and so there is no need to justify the residential land need requirements in comparison.

### **2.1.2 LCC Local Profile**

Considerable calculation has been done within the local profile concerning capacities for residential lots to be built upon at present or with subdivision potential under the current planning requirements. It is noted that scattered development would be unsustainable, leading to difficulties and additional costs for both local and state governments.

This is quite rightly a valid planning matter for Council to consider and further justifies the provision of closer residential land for development. This proposal is simply good planning to provide for effective use of Lithgow's existing urban areas and surrounds.

In the current situation, focus should be on the provision of suitable lands for the growth and development of the towns. The take up of that land has been driven by the desirability of the individual areas, in particular the proximity to the services which encourage the development of communities, such as schools, shopping, and cultural facilities.

## **2.2 CONSTRAINTS MAPPING**

### **2.2.1 Slope**

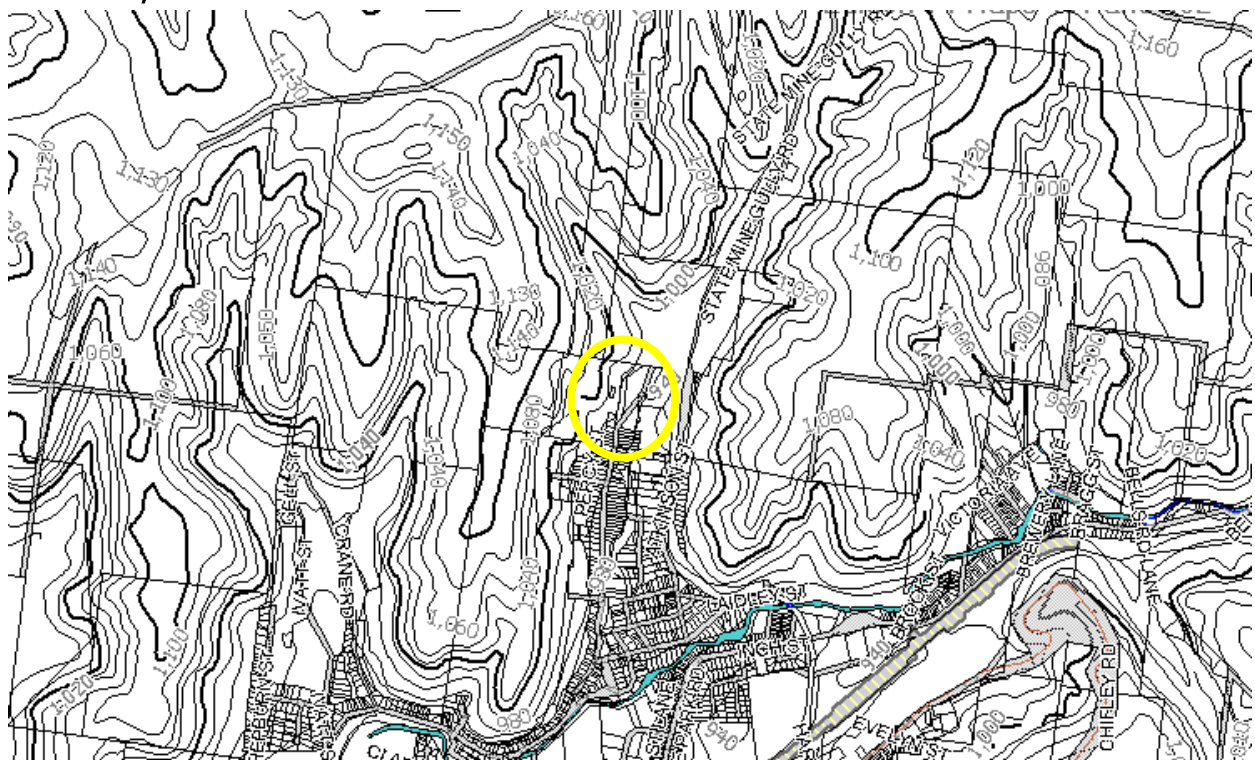


Figure 16: Area contours, 10m

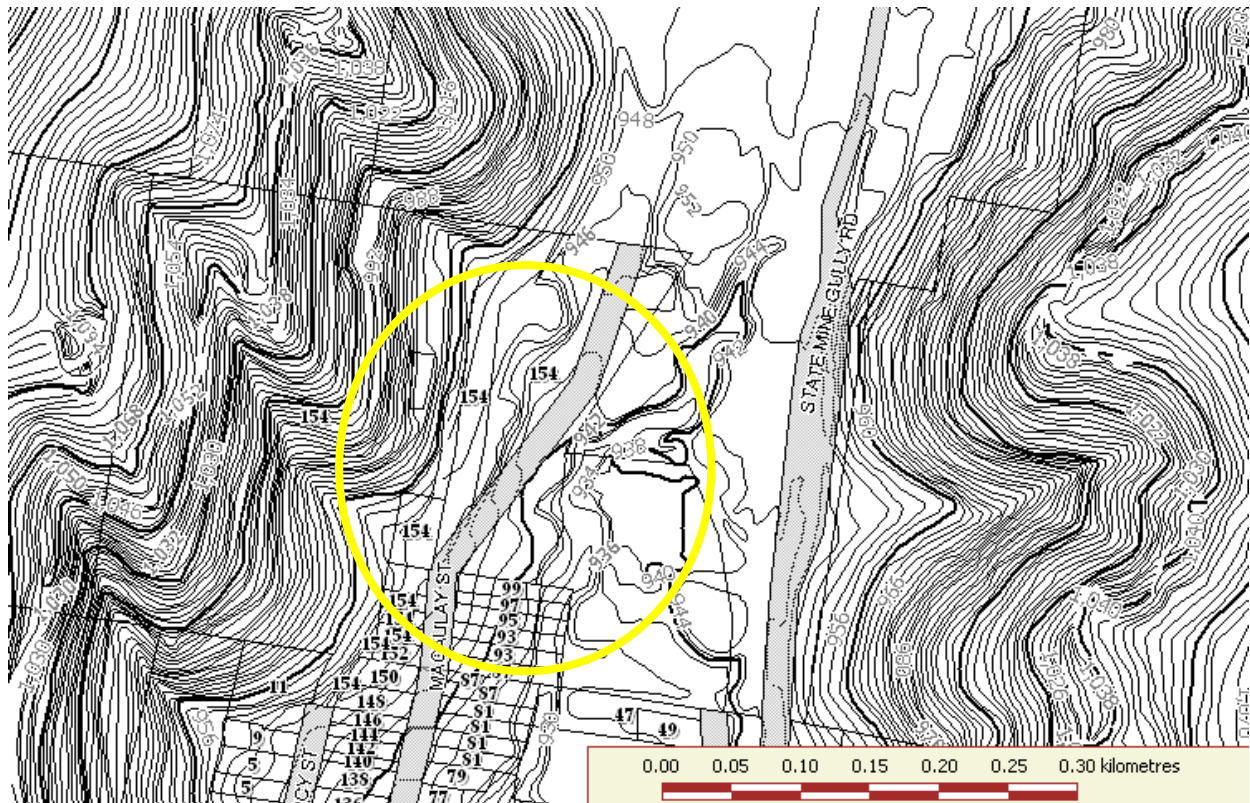


Figure 17: Contours, 2m, detailed view

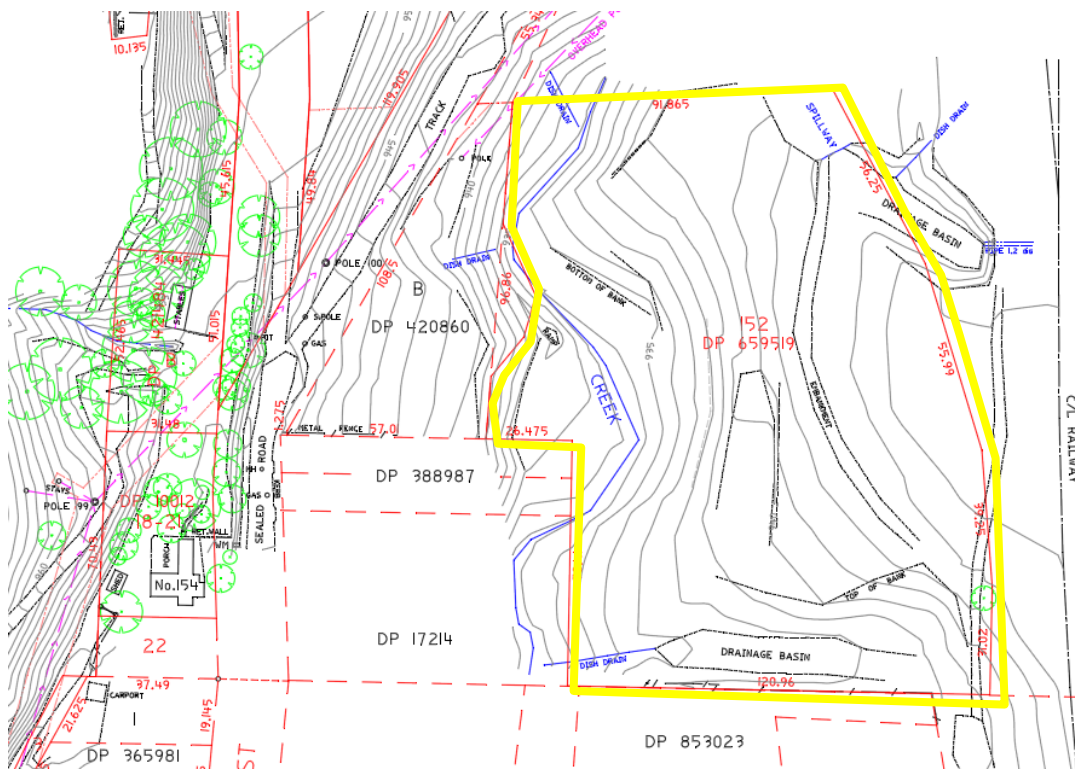
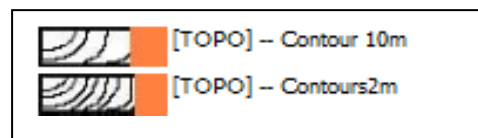


Figure 18: Survey showing detail contours

## 2.2.2 Drainage

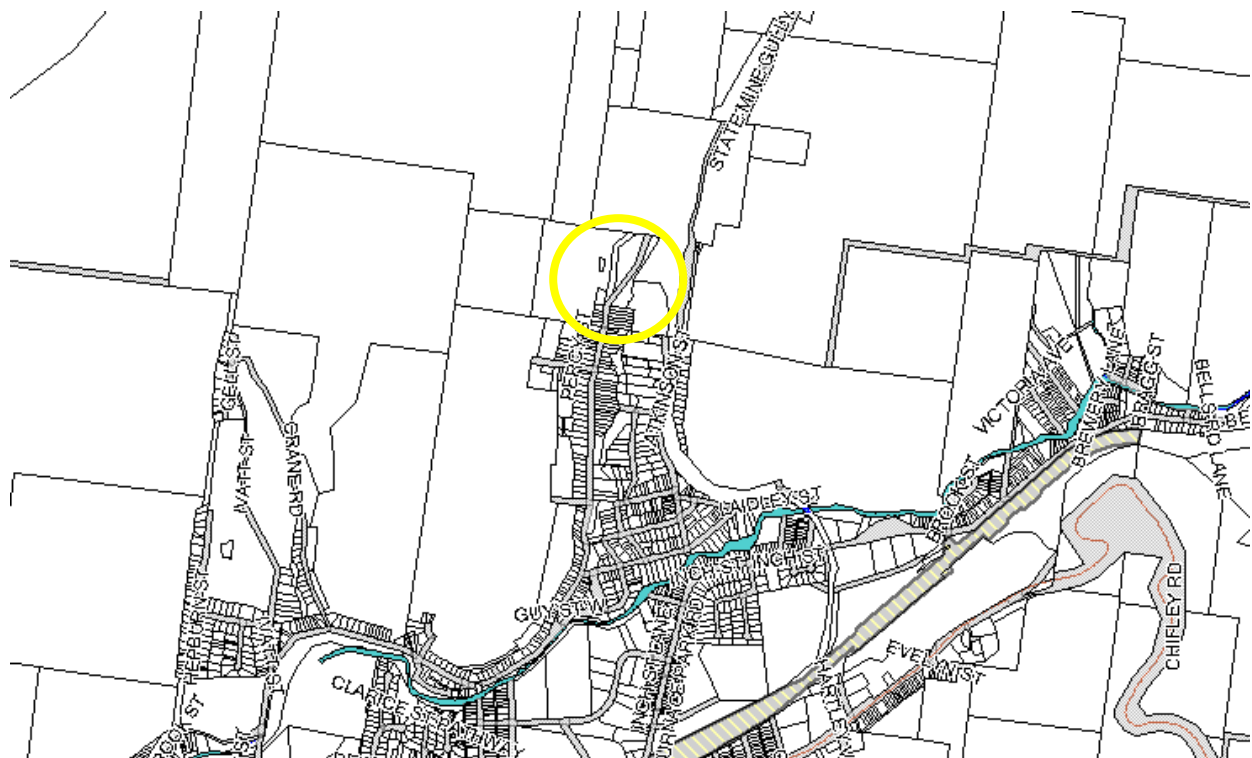


Figure 19: Rivers

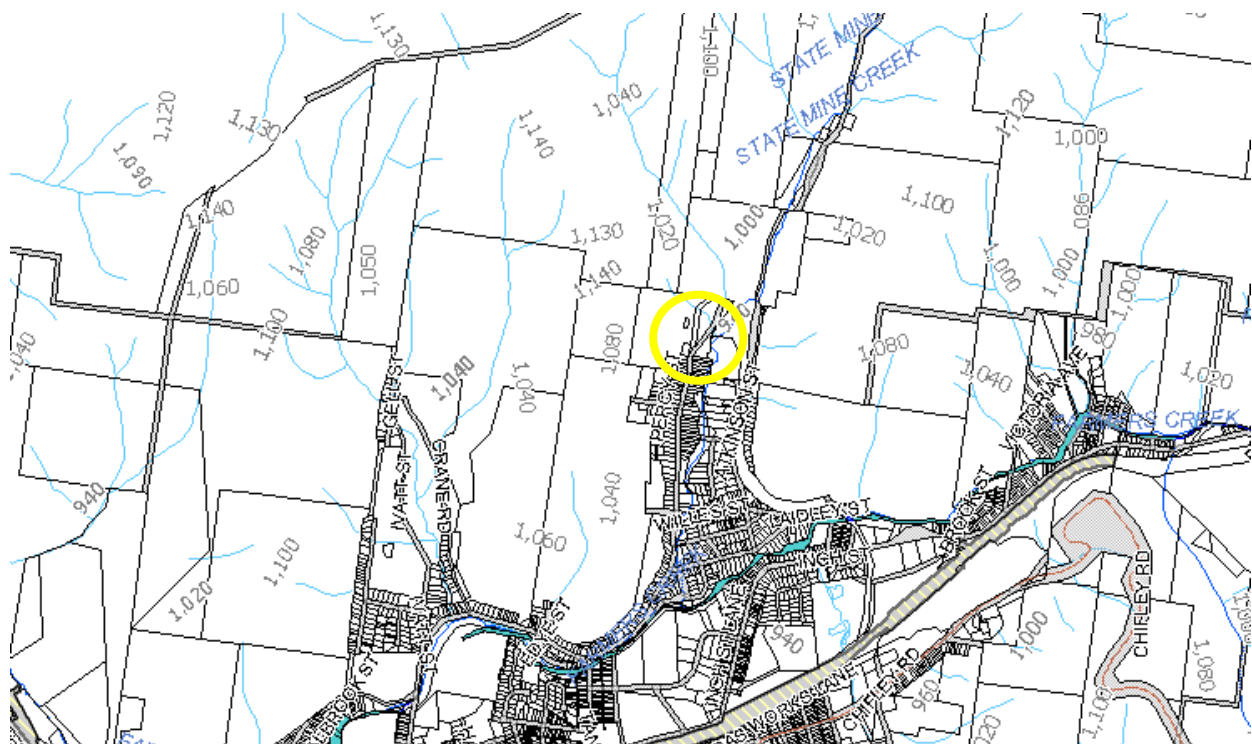
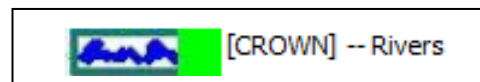


Figure 20: Hydroline



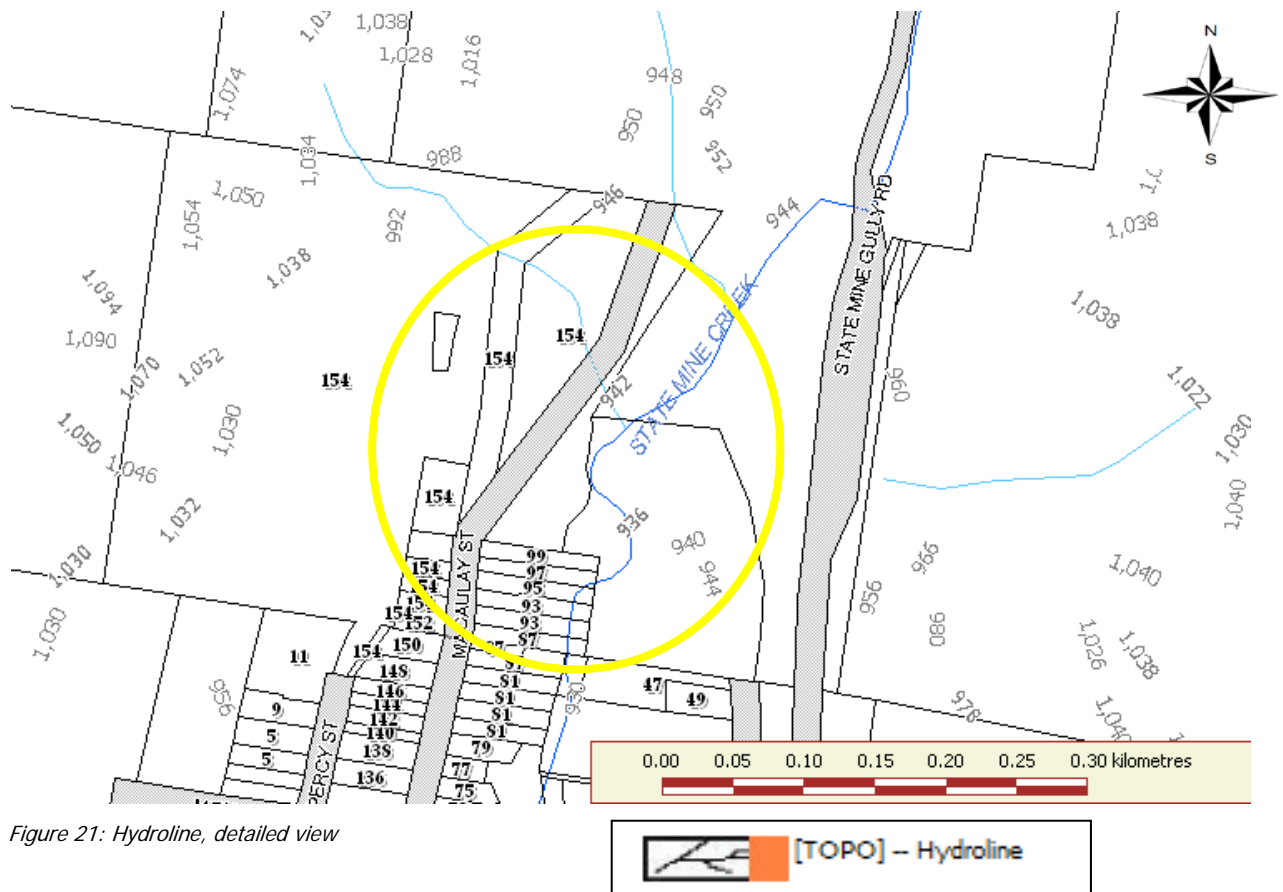


Figure 21: Hydroline, detailed view

These maps would require ground truthing due to the scale at which they have been prepared. While riparian zones would need to be extracted from the land to be developed, this would require detail work at survey stage for any new proposals for building in the area, and not at rezoning stage.

### 2.2.3 Panoramas of developable areas

The following photographs show a representative example of the general lie of the land, explaining visually the characteristics of the study area. These panoramas display the general character of the developable land. Most of the area is cleared. Areas along the creek have been revegetated by Landcare groups in that past decade or more. The edges of the flatter areas are bounded by native vegetation, which this proposal would not affect.



Figure 22: View north west showing general slope of land



Figure 23: Residential land abutting to the south



Figure 24: Northern extent of the land looking toward State Mine



Figure 25: Drainage line structure

While the area is in good condition, both the farmed and forested lands in their respective manners, the above photographs show some areas of environmental weeds which would require attention in any development.

These photographs show the general slope and vegetation characteristics of the areas considered suitable for development.

## PART 3: JUSTIFICATION

*The process of a planning proposal includes ensuring the level of justification is proportionate to the impact the planning proposal will have. The justification sets out the case for changing the zones and/or development controls on the land affected by the proposed LEP. The aim is to ensure the planning proposal is comprehensive, yet is also concise for the benefit of a wide audience.*

### 2.3 SECTION A - A NEED FOR THE PLANNING PROPOSAL

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

The planning proposal results from an application to rezone land fronting Macaulay St to facilitate residential development.

**Comment:** This is also in line with the strategic plan which aims to concentrate the population in and around the existing town centres and villages.

The land owner has also expressed an interest in using part of her land for a Youngcare facility.

*There are over 700,000 people in Australia with severe disabilities needing residential care. 7,600 of them are being cared for in Aged Care facilities. The youngest of these is just 16, many are in 20's, 30's and 40's and are being housed in with residents who are in their 70's 80's or 90's. The balance of the 700,000 are being cared for in the homes of parents and family members with assistance from community nurses and other health workers. This is obviously a very unsatisfactory situation as the carers are often the parents, themselves advancing in years and their major concern apart from providing 24 hours of care to their child, is who will care for them when they are too old to do so.*

*Facilities currently able to provide type of care offered in Aged Care, but designed specifically for Younger people.*

*Young Care in Brisbane has accommodation for 16 residents, the Gold Coast has accommodation for 8 residents. In Perth, Brightwater Care has both a Rehabilitation Facility with 27 single rooms and a number of share houses where people can transition to after being in the larger facility. Melbourne is in the process of creating some custom designed care for Young People needing high care.*

*Currently Sydney has no facility for Young People needing high care. A joint venture with St Vincent's Hospital is planned but this will only provide a small number of beds (6) at a facility in Auburn.*

*Lithgow is ideally placed to offer an environment which is surrounded by natural beauty and country fresh air, as well as having the correct infrastructure of hospital, large range of local health care professionals.*

*A considerable difference between Aged and Young Care is that in Young Care provides very specific services to help their residents regain their independence with the longer term goal being they can move back into the community in either a share house designed for their needs or in some instances to be able to go home to their own families.*

*Additional benefits to the Lithgow community:*

- *Be the first to offer a Country based facility for Young Care in NSW*
- *Positive story for Lithgow – Public Relations*
- *New jobs - Nursing and Care staff.*
- *New business - for local businesses in the supply of food, medical services and other ancillary items.*
- *Increase the population of Lithgow.*

However, this is essentially a charity being supported. The development potential of the proposed land would need to be utilised to provide for the development. Further details are in the appendices.

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

Investigation of the areas surrounding Lithgow show that this land is the best located in terms of proximity to the town. The town is nestled in the most imposing of surrounding mountains, which provide a magnificent backdrop to the existing urban areas.



LEP1994 has identified the land to the west of the valley mouth to be suitable generally for urban purposes, and so it is quarantined from immediate development by the current future urban zoning. The Marrangaroo study showed that area to be the most suitable for the further urban development of Lithgow, where huge areas of residential land are proposed.

This relatively small parcels of land covered by this planning proposal, located near the town with good traffic access is eminently suitable for residential development, with all services. It would be untenable to not utilise the area proposed from that viewpoint.

### ***2.3.1 Current population information.***

It is not necessary to consider the projected population growth of the town for this small area of land to be included as residential, given that it is a minimal percentage of the overall extent of the new residential land proposed by Council.

In the minimal time allowed for the preparation of detailed information, this is also not feasible or necessary for such a small proposal.

### **3. Is there a net community benefit?**

The following table has been prepared to assess net community benefit of the proposal

<b>Factor</b>	<b>Current</b>	<b>Proposed</b>
Land values	Current land values reflect the current zone, Rural – General and permissible land uses applying to this zone.	The land value is likely to rise reflecting the higher value of the proposed zone and increase in possible land uses.  The increased land values are unlikely to have any significant wider effect as adjoining land properties are developed. The adjoining properties to the west and south are already in the same category of zoning.
Land uses	Virtually all the area adjoining with similar characteristics is developed for residential purposes.	Suitable for residential, and would provide for managed and maintained land adjacent to the already residential area.
Agricultural uses	The size of the lot and existing subdivision pattern of the land do not facilitate economic agricultural activity. It is virtually unusable even as a hobby farm.	While the population density close to Lithgow would be increased, there would be no change in agricultural productivity.
Community welfare	Unused and vacant land with little incentive for weed control or bushfire safety. Recent grass fire on the land was a significant problem for neighbours.	Provides for residential development in conformity with adjoining uses. Greater use and incentive for provision of facilities to the area.
Employment	None at present.	Increase in population and employment generated especially in the development of land and then the building and homemaking stage. Additional population provides incentive for new businesses.
Travel	Current residential development is well placed resulting in less travel times than for outer area development proposed by Council.	Closer development to the major town of Lithgow makes this land highly suitable.

## 2.4 SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

### 4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub – regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposed rezoning is consistent with the objectives of the existing and the likely future zoning requirements for standard residential development in Lithgow.

It is necessary to look again at the geography of the area and suitability of lands around the towns. This particular location has been missed in previous planning instruments, perhaps as it has been considered as part of the State Mine or Steelworks colliery site opposite. The intention of this plan is not to duplicate Council's strategic approach, but to simply infill the area in terms of land suitability, and identify target areas for growth.

The LEP1994 was restricted by an apparent need to follow cadastral boundaries, and rely on the development application process to sort out the land capabilities for each parcel. This planning proposal specifically identifies generally developable land.

The proposed DLEP does not include the standard clause which would allow the adjustment of zone boundaries so that actual developable land could be considered at development stage. It is important to understand in an area of 4500 square kilometres that at rezoning stage, it is impossible to assess all the boundaries of land so that any possible impacts can be described and assessed down to the last millimetre which is what attempting to survey the boundaries shown on the plans would require..

#### 2.4.1 *Scenic amenity*

There may be some concern with impact on the views from adjacent residential areas. Residential development design and amenity is a standard requirement of the development process. While the area of vacant land may be a pleasing appearance to some from the point of view of scenery, it is more than compensated by the virtually pristine escarpments, except where sullied by unfortunately allowed developments.

While as shown on the cover of this report the land can be seen from the top of the ridge to the north, the viewpoint is only available by walking in half a kilometre from the nearest road. It would also simply appear as a natural extension of the existing urban form of the valley.

Of far greater concern is the possibility of dwellings to be placed on the surrounding escarpments due to the proposed zoning of the land for environmental development under the proposed plan. Council has previously been unable or unwilling to stop development on top of the escarpments, but extreme public outcry has resulted from that inaction. Regardless of tree and other vegetation protection, large areas of trees have been removed and the houses exposed due to bushfire requirements, or even bulldozed as would be expected as fires approached.

#### 2.4.2 *Suitable areas for development*

The constraint maps provided earlier clearly show the land to be suitable for development.

### 5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

#### **Lithgow City Council Strategic Plan, 2007**

Without major reference to chapter and verse, the strategic plan supported the concept of sustainable development of land for residential purposes. This proposal complies with that requirement.

#### **Economic Strategy 2010 - 2014.**

This notes Lithgow's Competitive advantages overall, it is evident that Lithgow has many social, economic and environmental advantages that can provide the basis for future prosperity.

In summary, Lithgow:

- Is very well located with respect to its proximity to Sydney and major transport infrastructures
- Has a rich and proud cultural history
- Has great physical charm, especially in terms of its heritage and environmental attractions
- Has an important cluster of engineering related companies, with potential to grow this sector
- Has a strong industrial sector that has diversified from the original resource base into specialised machinery and equipment manufacturing, food processing and other sub-sectors
- Has a unique climate which is attractive to certain niche industries
- Has a low cost business environment compared with other neighbouring regions
- Is supported by a strong skilled labour market
- Has significant community services and facilities available which can be improved

- Has an important role in delivering retail and business services to a wide regional catchment.

This supports Council's overall aim to provide for residential development into the future, by zoning land in varied locations, both within the town and on the fringes. Obviously development within the town is far more environmentally sustainable, more cost effective and provides for better use of local services.

### Population Stabilisation and Sustainable Growth

**Growth in population** is a critically important component in economic development. Such growth or decline in population figures has a direct impact on levels of total private and public expenditure in a community. Population growth in fact provides the underlying basis for growth in labour resources, improvements in skill levels, and development of investment and capital within an area.

**Population growth** provides critical support for industry sectors and services that typically locate close to population centres such as retailers, financial services, business services, construction, education, health and community services, government administration, utilities sector, cultural and recreational services, communication services, personal and other services.

### 6. Is the planning proposal consistent with applicable state environmental planning policies?

This is a standard requirement with State and local government planning from the rezoning down to the development stage.

SEPP Number	State/regional policy	Compliance	Comment
SEPP No. 1	Development Standards	N/A	
SEPP No. 4	Development Without Consent and Miscellaneous Complying Development	N/A	
SEPP No. 6	Number of Storeys in a Building	N/A	
SEPP No. 10	Retention of Low-Cost Rental Accommodation	N/A	
SEPP No. 14	Coastal Wetlands	N/A	
SEPP No. 15	Rural Land-Sharing Communities	N/A	
SEPP No. 19	Bushland in Urban Areas	N/A	
SEPP No. 21	Caravan Parks	N/A	
SEPP No. 22	Shops and Commercial Premises	N/A	
SEPP No. 26	Littoral Rainforests	N/A	
SEPP No. 29	Western Sydney Recreational Area	N/A	
SEPP No. 30	Intensive Agriculture	N/A	
SEPP No. 32	Urban Consolidation (Redevelopment of Urban Land)	N/A	
SEPP No. 33	Hazardous and Offensive Development	N/A	
SEPP No. 36	Manufactured Home Estates	N/A	
SEPP No. 39	Spit Island Bird Habitat	N/A	
SEPP No. 41	Casino/Entertainment Complex	N/A	
SEPP No. 44	Koala Habitat Protection	N/A	
SEPP No. 47	Moore Park Showground	N/A	
SEPP No. 50	Canal Estate Development	N/A	
SEPP No. 52	Farm Dams and other works in Land and Water Management Plan Areas	N/A	
SEPP No. 53	Metropolitan Residential Development	N/A	
SEPP No. 55	Remediation of Land	Possible	See report



SEPP Number	State/regional policy	Compliance	Comment
SEPP No. 59	Central Western Sydney Economic & Employment Area	N/A	
SEPP No. 60	Exempt and complying Development	N/A	
SEPP No. 62	Sustainable Aquaculture	N/A	
SEPP No. 64	Advertising and Signage	N/A	
SEPP No. 65	Design Quality of Residential Flat Development	N/A	
SEPP No. 70	Affordable Housing (Revised Schemes)	N/A	
SEPP No. 71	Coastal Protection	N/A	
SEPP (Building Sustainability Index: BASIX) 2004		N/A	
SEPP (Housing for Seniors or People with a Disability) 2004		N/A	
SEPP (Infrastructure) 2007		N/A	
SEPP (Kosciuszko National Park – Alpine Resorts) 2007		N/A	
SEPP (Major Projects) 2005		N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007		N/A	
SEPP (Sydney Region Growth Centres) 2006		N/A	
SEPP (Temporary Structures and Places of Public Entertainment) 2007		N/A	
State Environmental Planning Policy (Rural Lands) 2008		Yes	See report
State Environmental Planning Policy (Affordable Rental Housing) 2009		N/A	
Sydney REP No. 5	Chatswood Town Centre	N/A	
Sydney REP No. 6	Gosford Coastal Areas	N/A	
Sydney REP No. 7	Multi-Unit Housing Surplus Government Sites	N/A	
Sydney REP No. 8	Central Coast Plateau Areas	N/A	
Sydney REP No. 9	Extractive Industry (No. 2)	N/A	
Sydney REP No. 10	Blue Mountains Regional Open Space	N/A	
Sydney REP No. 11	Penrith Lakes Scheme	N/A	
Sydney REP No. 13	Mulgoa Valley	N/A	
Sydney REP No. 14	Eastern Beaches	N/A	
Sydney REP No. 16	Walsh Bay	N/A	
Sydney REP No. 17	Kurnell Peninsula	N/A	
Sydney REP No. 18	Public Transport Corridor	N/A	
Sydney REP No. 19	Rouse Hill Development Area	N/A	
Sydney REP No. 20	Hawkesbury Nepean River (No. 2 – 1997)	Yes	
Sydney REP No. 21	Warringah Urban Release Areas	N/A	
Sydney REP No. 24	Homebush Bay Area	N/A	
Sydney REP No. 25	Orchard Hills	N/A	
Sydney REP No. 26	City West	N/A	
Sydney REP No. 27	Wollondilly Regional Open Space	N/A	
Sydney REP No. 28	Parramatta	N/A	
Sydney REP No. 29	Rhodes Peninsula	N/A	

SEPP Number	State/regional policy	Compliance	Comment
Sydney REP No. 30	St. Marys	N/A	
Sydney REP No. 31	Regional Parklands	N/A	
Sydney REP No. 33	Cooks Cove	N/A	
Sydney REP 2005	Sydney Harbour Catchment	N/A	
Drinking Water Catchments Regional Environmental Plan No 1		Yes	See report

## 2.5 ISSUES ARISING

### 2.5.1 State Environmental Planning Policy Remediation of Land

#### Suggested Checklist for Initial Evaluation

*The potential for contamination is often linked to past uses of land and a good early indicator of possible uses is land zoning. Contamination is more likely to have occurred if the land is currently, or was previously, zoned for industrial, agricultural or defence purposes. The following is a brief checklist for doing an initial evaluation.*

- Is the planning authority aware of any previous investigations about contamination on the land? What were the results, including any previous initial evaluations?*
- Do existing records held by the planning authority show that an activity listed in Table 1 has ever been approved on the subject land? (The use of records held by other authorities or libraries is not required for an initial evaluation.)*
- Was the subject land at any time zoned for industrial, agricultural or defence purposes?*
- Is the subject land currently used for an activity listed in Table 1?*
- To the planning authority's knowledge was, or is, the subject land regulated through licensing or other mechanisms in relation to any activity listed in Table 1?*
- Are there any land use restrictions on the subject land relating to possible contamination, such as notices issued by the EPA or other regulatory authority?*
- Does a site inspection conducted by the planning authority [optional] suggest that the site may have been associated with any activities listed in Table 1?*
- Is the planning authority aware of information concerning contamination impacts on land immediately adjacent to the subject land which could affect the subject land?*

#### **Instances where No Further Information is Required**

*If, after carrying out an initial evaluation, none of the enquiries suggest that the land might be contaminated or that further enquiry is warranted, the planning process should proceed in the normal way.*

#### **Comment:**

Table 1 lists some activities that may cause contamination. Mining and extractive industries are included in this list.

The land is likely to have been used in conjunction with the adjacent coal mines. However, the pit heads and major activities of the mines are far from the site itself. It is quite possible that the land was used for dumping of inert, coal washing waste from the inspection of the site. In any even event, large areas of land with the same characteristics in Lithgow have been subject to contamination surveys and reports and residential development permitted. Indeed, many of the areas of land covered by the DLEP are similarly subject to past industrial uses and will also require such investigation at development stage.

The issue of possible contamination in this very usual case in Lithgow and other mining areas is no reason whatsoever to reuse to zone this land residential at this time. Any delay requiring such investigation would require the site to go through the entire planning process as a separate issue, taking unnecessary time, effort and cost to achieve the same result.

#### **Rural Planning and Rural Subdivision**

*In February 2007, the NSW Government established the Central West Rural Lands Panel to advise on rural land use in the Central West Region of NSW. This panel was chaired by former State MP and Minister Garry West and also included NSW Farmers' Association president Jock Laurie, Local Government and Shires Associations*

secretary Bill Gillooly and former Department of Planning Director-General Gabrielle Kibble. The Ministers for Planning and Primary Industries released the Report of the Central West Rural Lands Panel in Bathurst on 22 August 2007. The major recommendations of the Panel included:

- retaining existing minimum lot sizes, which may be varied by councils but only based on appropriate criteria
- retaining existing rights to build new homes on rural land based on subdivisions that have already been approved
- preparation of a new State environmental planning policy (SEPP) to support a strategic approach to rural planning across councils and manage land-use conflicts
- removal of concessional lot provisions on rural land – which have been misused in the past – through a SEPP
- establishing an Independent Hearing and Assessment Panel to advise councils on development applications that fall outside of normal planning controls but may be subject to exceptional circumstances within appropriate criteria
- requiring new local environmental plans (LEPs) to recognise the changing face of agriculture, such as smaller farms, share farming, leasing or farms that may consist of a number of separate holdings
- the outcomes of the Panel could be extended across other rural areas within the State.

In response to the Panel's findings, State Environmental Planning Policy (Rural Lands) 2008 was gazetted.

### **State Environmental Planning Policy (Rural Lands) 2008**

The aims of the Policy are:

- (a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,
- (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,
- (c) to implement measures designed to reduce land use conflicts,
- (d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.

Under section 117 of the Act, the Minister has directed that councils exercise their functions relating to local environmental plans in accordance with the Rural Planning Principles embodied in the Plan. However, a draft LEP may be inconsistent if it is justified by an approved strategy, or is of minor significance.

### **Comment –**

As the area is of extremely minor significance in the overall rural zones of Lithgow City, this planning proposal is justifiably inconsistent with the Rural Planning Principles.

## **2.5.2 Drinking Water Catchments Regional Environmental Plan No 1**

The proposal is located within the catchment of the upper Cocks River and is therefore subject to Drinking Water Catchments Regional Environmental Plan No 1. Relevant extracts from the plan are:

### **26 Development consent cannot be granted unless neutral or beneficial effect on water quality**

A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the hydrological catchment unless:

- (a) it has considered whether the proposed development will have a neutral or beneficial effect on water quality, and
- (b) it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.....

### **28 Development that needs concurrence of Chief Executive**

- (1) A person must not carry out development on land in the hydrological catchment except with the concurrence of the Chief Executive (except as provided by subclause (3)).....
- (3) This clause does not apply if the consent authority is satisfied that the proposed development:



- (a) has no identifiable potential impact on water quality, or  
 (b) will contain any such impact on the site of the development and prevent it from reaching any watercourse, waterbody or drainage depression on the site.

**Comment:**

Standard Council anti-pollution requirements will be met in the development of the site. Council can be confident that either the eventual proposals will have no identifiable potential impact on water quality or that the development will contain any such impact on the site of the development and prevent it from reaching any watercourse, water body or drainage depression on the site. The owner and designers are committed to sustainable development, so applicable water sensitive urban design would be incorporated into the development.

**7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)**

<b>DIRECTIONS UNDER SECTION 117(2)</b>	<b>1 NOT RELEVANT</b>	<b>2 CONSISTENT</b>	<b>3 JUSTIFIABLY INCONSISTENT</b>
<b>1. EMPLOYMENT AND RESOURCES</b>			
1.1 Business and Industrial Zones	X		
1.2 Rural Zones	X		
1.3 Mining, Petroleum Production and Extractive Industries	X		
1.4 Oyster Aquaculture	X		
1.5 Rural Lands	X		
<b>2. ENVIRONMENT AND HERITAGE</b>			
2.1 Environmental Protection Zones		X	
2.2 Coastal Protection	X		
2.3 Heritage Conservation		X	
2.4 Recreation Vehicle Areas	X		
<b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>			
3.1 Residential Zones		X	
3.2 Caravan Parks and Manufactured Home Estates	X		
3.3 Home Occupations		X	
3.4 Integrating Land Use and Transport		X	
3.5 Development Near Licensed Aerodromes	X		
<b>4. HAZARD AND RISK</b>			
4.1 Acid Sulphate Soils	X		
4.2 Mine Subsidence and Unstable Land		X	
4.3 Flood Prone Land	X		
4.4 Planning for Bushfire Protection			X
<b>5. REGIONAL PLANNING</b>			
5.1 Implementation of Regional Strategies		X	
5.2 Sydney Drinking Water Catchments		X	

5.3 Farmland of State and Regional Significance on the NSW Far North Coast	X		
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	X		
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	X		
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	X		
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	X		
5.8 Second Sydney Airport: Badgerys Creek	X		
6. LOCAL PLAN MAKING			
6.1 Approval and Referral Requirements		X	
6.2 Reserving Land for Public Purposes	X		
6.3 Site Specific Provisions		X	
7. METROPOLITAN PLANNING			
7.1 Implementation of the Metropolitan Strategy		X	

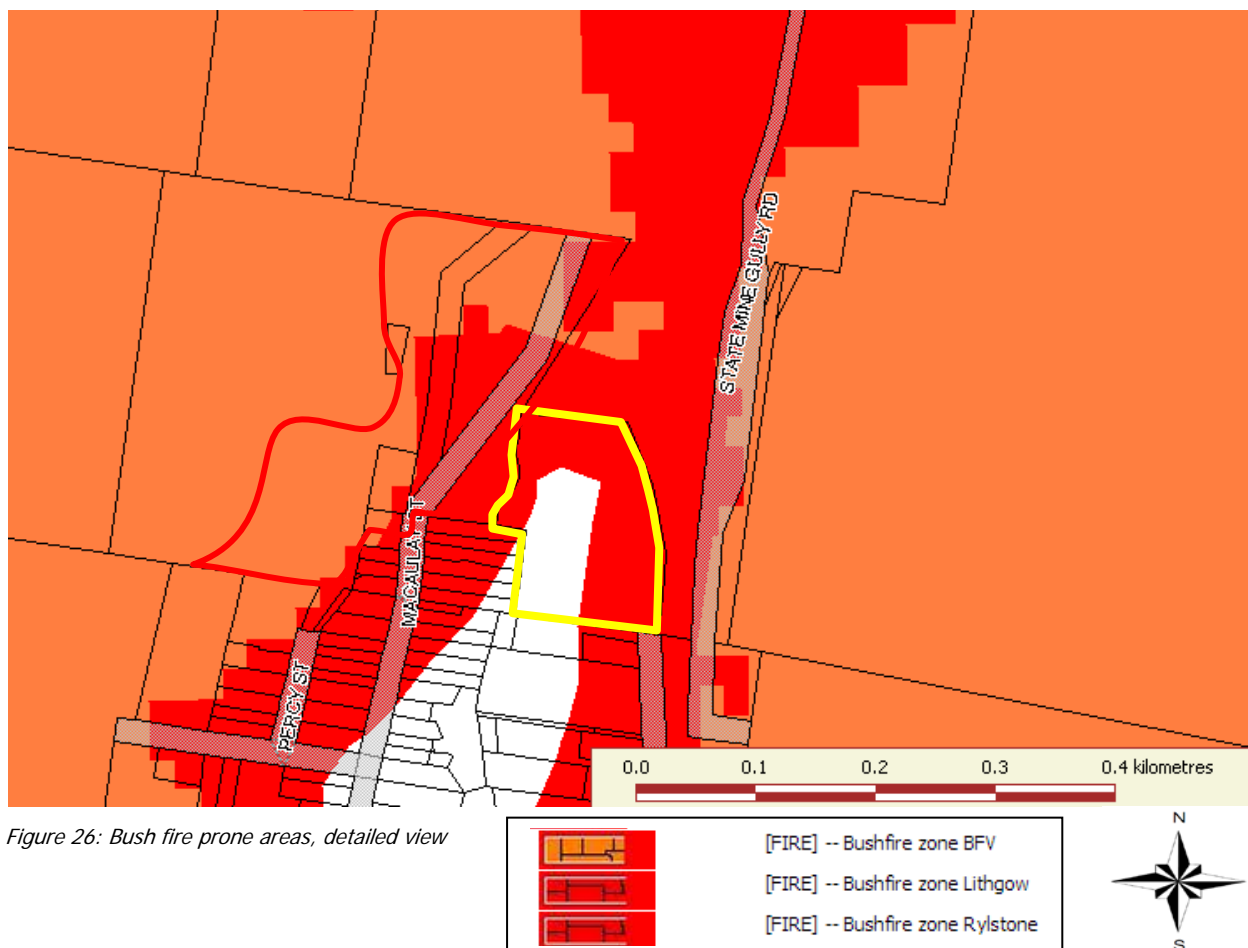
## 2.6 SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

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

The areas proposed for rezoning are restricted to cleared grassed areas, with some areas of recent regrowth. The plantings by Landcare are well within the riparian zone which would not be developed.

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

As shown in the mapping, there are areas of bushfire hazard in the vicinity.



The site is constrained by bushfire considerations, but a large percentage of the town of Lithgow is similarly constrained within this area. The building requirements of the areas shown in red are a simple design issue, and will require specific design response at the building approval stage.

The contour and bushfire mapping show the situation broadly, given the accuracy of the mapping when taken at a broad brush level. On ground truthing and specific bushfire information is needed at the specific area level.

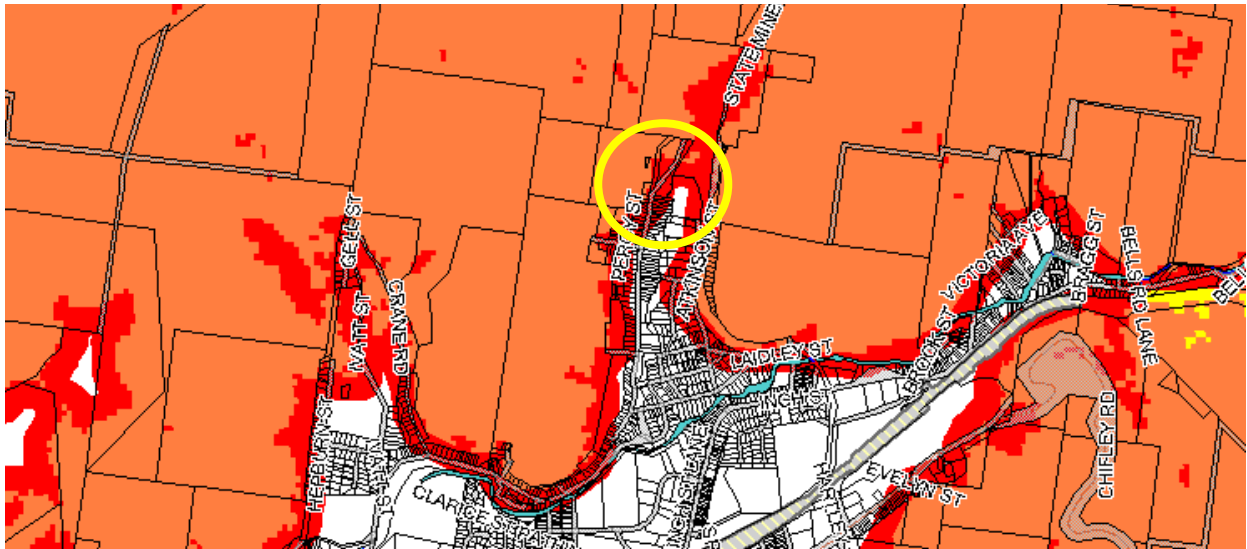


Figure 27: Bush fire prone areas showing large areas of Lithgow similarly affected

However, the land proposed for rezoning is minimally affected, easily satisfied by proper design. It is far less affected than existing developed residential land in the area. Any necessary investigations considered to be required should be undertaken before development application stage, as would virtually all the residential land in the vicinity.

### 2.6.1 Mine Subsidence

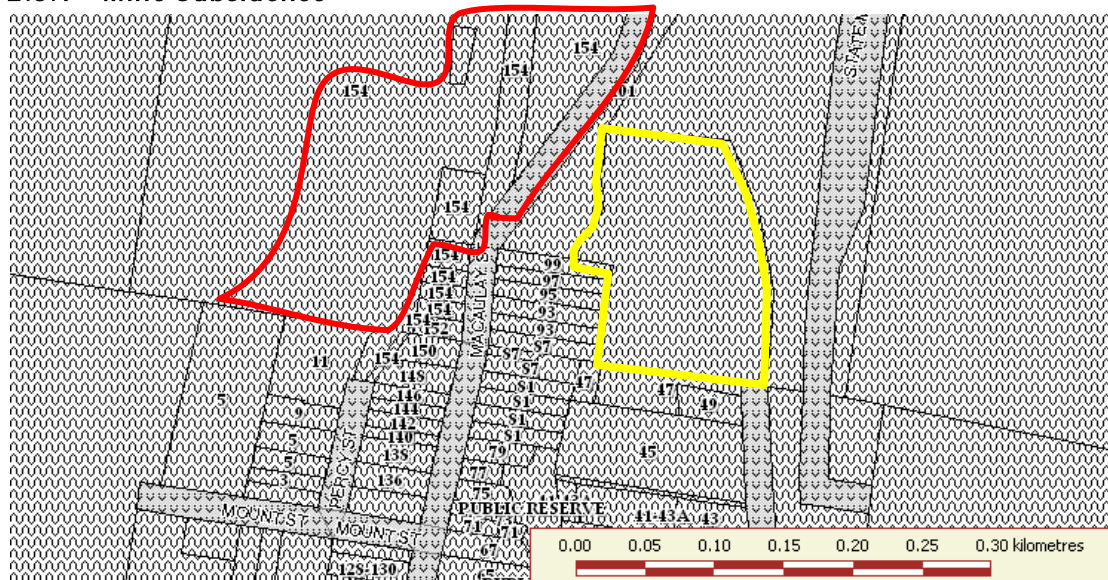
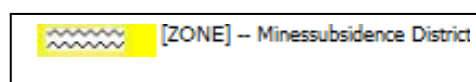


Figure 28: Mines subsidence, detailed view



The Mines Subsidence Board has advised for the nearby property:



*This property is located within a proclaimed Mine Subsidence District. The purpose of a District is to prevent damage through surface development controls that take account of the risk of damage by subsidence from old, current and future mining.*

*As a guide to persons intending to erect improvements on this property, the Board has adopted the following surface development guidelines subject to them being erected on reinforced concrete footings and/or slabs to comply with AS 2870. The following improvements are limited to a maximum length of 30 metres.*

- *Single or two storey timber or steel framed improvements clad with weatherboards or other similar materials.*
- *Single or two storey brick veneer improvements.*

*Full masonry and other types of improvements will be considered for this property under the Board's 'Graduated Guidelines for Residential Construction'. The improvements will be subject to length restriction and may require engineering design. Details of the requirements may be obtained from the Board's technical staff.*

*Architectural plans submitted to the Mine Subsidence Board for approval must show the location and detailing of articulation/control joints in brickwork to comply with the requirements of the Building Code of Australia and best building practices.*

The development of this land would be similarly constrained. Given the minimal time given to respond to the overall rezoning of the city, it has not been possible to obtain the exact details for this land from the board, but they would be similar if not exactly the same.

These requirements are not unusual in mining areas and designers work around them fairly easily. An example is the approved townhouses in Hill Street Lithgow which have similar requirements with far less cover to the mine workings.

#### 10. How has the planning proposal adequately addressed any social and economic effects?

The State Mine is listed on the State Heritage Inventory and Lithgow LEP 1994. The listing covers the area shown on the plan below from the heritage item mapping of the DLEP.

Although the property is adjacent to the State Mine, there are no buildings nearby. The closest mine buildings are over 200 metres away and screened by Landcare tree plantings some 15 years old now. The only mine infrastructure nearby is simply the railway line.

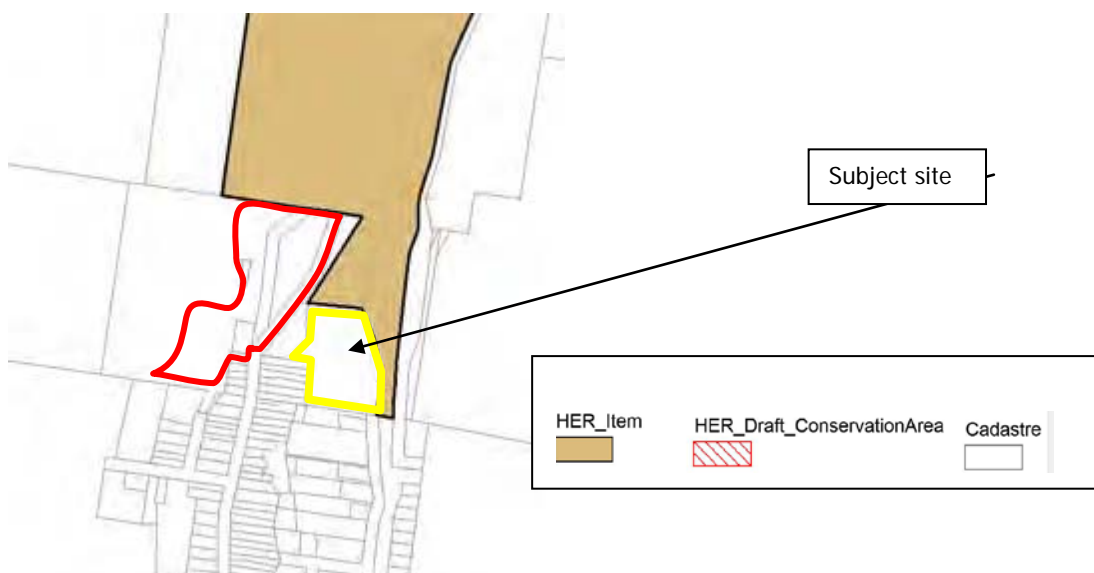


Figure 29: LGA planning proposal heritage map showing State mine heritage item

The museums rely upon the movement of trains along the nearby branch line. The movements are not frequent and are carried out at low speed. The development approvals for the State Mine already cover the possible impacts of the movement of trains on the nearby residential properties. There is no reason to believe the permitted uses would impact any greater upon the land proposed to be zoned residential.

## 2.7 SECTION D - STATE AND COMMONWEALTH INTERESTS

### 11. Is there adequate public infrastructure for the planning proposal?

Electricity, water, sewer and telecommunication are available to the subject land and adequate to service the residential development which would be permissible within the proposed zone.

### 12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

State and Commonwealth public authorities have not been consulted. This will be undertaken at development stage by notifying the following agencies:

- Mines Subsidence Board; and
- Sydney Catchment Authority.

However, given previous investigations nearby and the provision of access and services to the area it is unlikely there will be any unsurmountable issues.

## PART 4: COMMUNITY CONSULTATION

At this stage there has been no specific or formalised community consultation for the proposed rezoning. It is understood the owner has met with Councillors and Council officers concerning development of the area.

## 3 CONCLUSION

This has been prepared in accordance with the guide for preparing planning proposals through the NSW Department of Planning, to examine land at Macaulay St, Lithgow. This proposal is being lodged as an objection to the Draft Lithgow City Local Environmental Plan 2013 (DLEP) exhibition.

This proposal identifies that the land is suitable for development. It is adjacent to physical services such as water and sewer, it is well served by transport and other more urban requirements and the community services provided by the town of Lithgow. This also promotes sustainable development by utilising the existing water supply and wastewater treatment requirements of the town.

Council also has removed the opportunity of better defining land for development by not including the Development near zone boundaries clause. This means that Council must be absolutely sure as to the actual suitability of land down to the level of survey as there is no option to consider variations. We doubt that Council has considered the entire City area to that level of detail.

In the consideration of development of my client's property we have used the variation of the zone boundary to provide for the optimum development level using all environmental characteristics of the land.

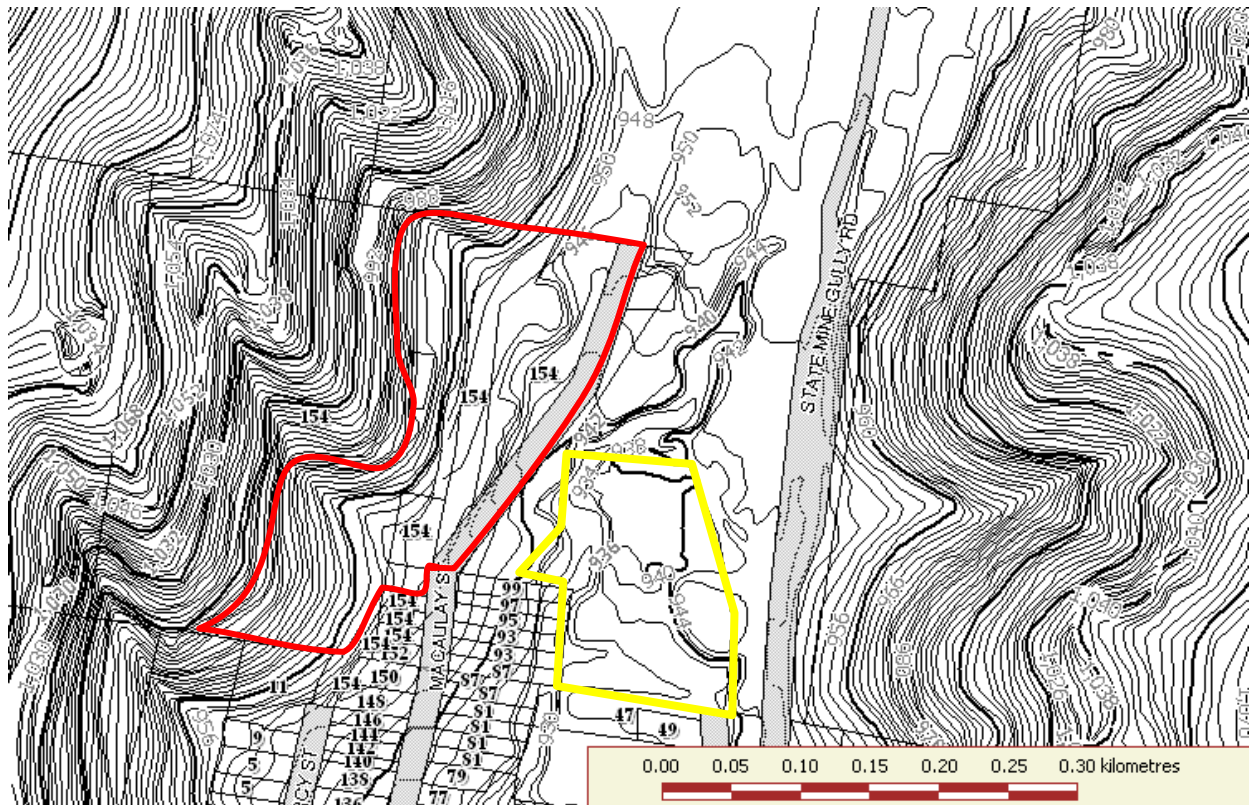
The information required by Council for this purpose also appears to be far greater than Council has provided for land it is proposing to rezone in the overall rezoning of the entire city. It is important to understand that our documentation prepared for rezoning is to the level of detail suitable at zoning stage. Of course, once the general suitability of the land has been confirmed by zoning, more detailed studies for the eventual development will be carried out, in conformity with the eventual zoning and standard environmental requirements of development in the City.

It is also very well for the State Government to state that environmental planning requirements are to be reviewed every 5 years, when the current planning review for Lithgow (and many other LGA's) is coming up to 2 decades before a new plan is likely to be in place.

This illustrates that without Council providing quality areas of suitably zoned land for development, persons seeking to live in Lithgow will be forced further away from the infrastructure and facilities that modern living requires. This will eventually require further spread of facilities provided by all levels of government, in an unsustainable manner.

Council is requested to consider this proposal in the overall rezoning of the City on its own merit, to ensure that suitably located and planned residential development land is available for the overall benefit of the City.

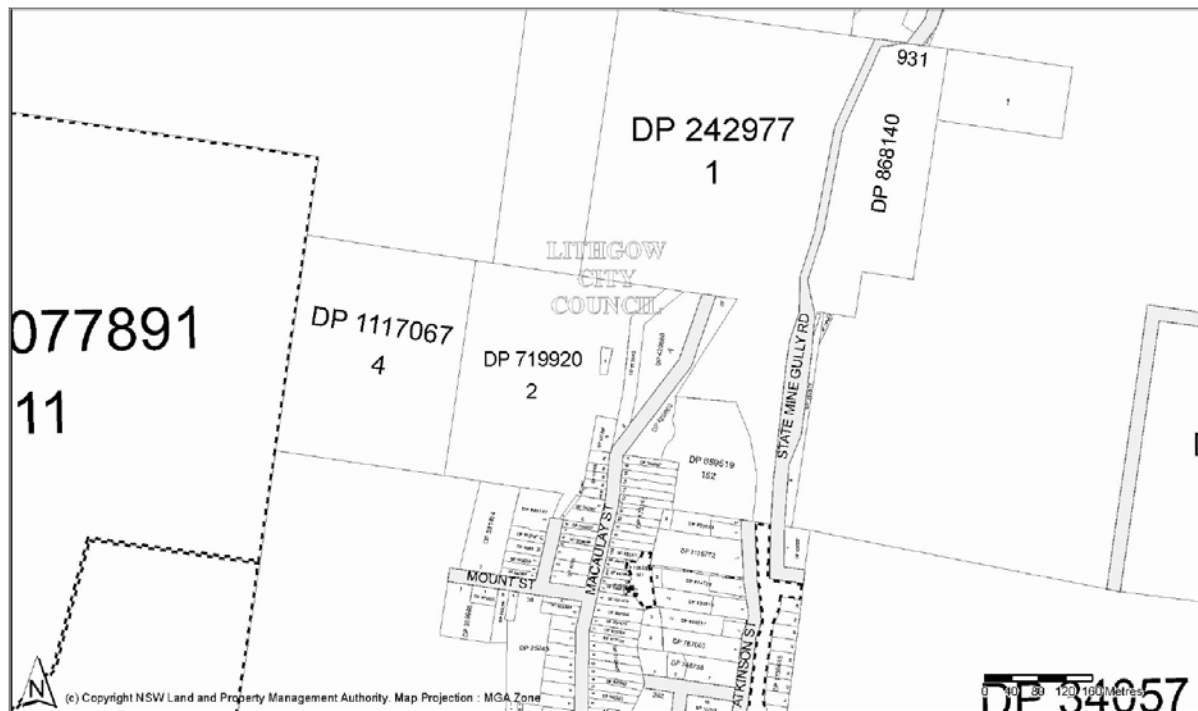
In summary for the drafting of the plan map, the following plan shows the boundaries requested. We are more than willing to discuss and amend the boundaries to fit the riparian zone for example if that is Council's wish. We feel it would be far simpler to use the variable zone boundary clause, and request it be included in the overall plan as many properties are in exactly the same situation.



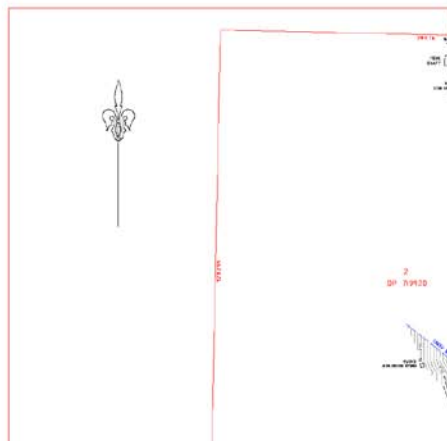


## ATTACHMENTS

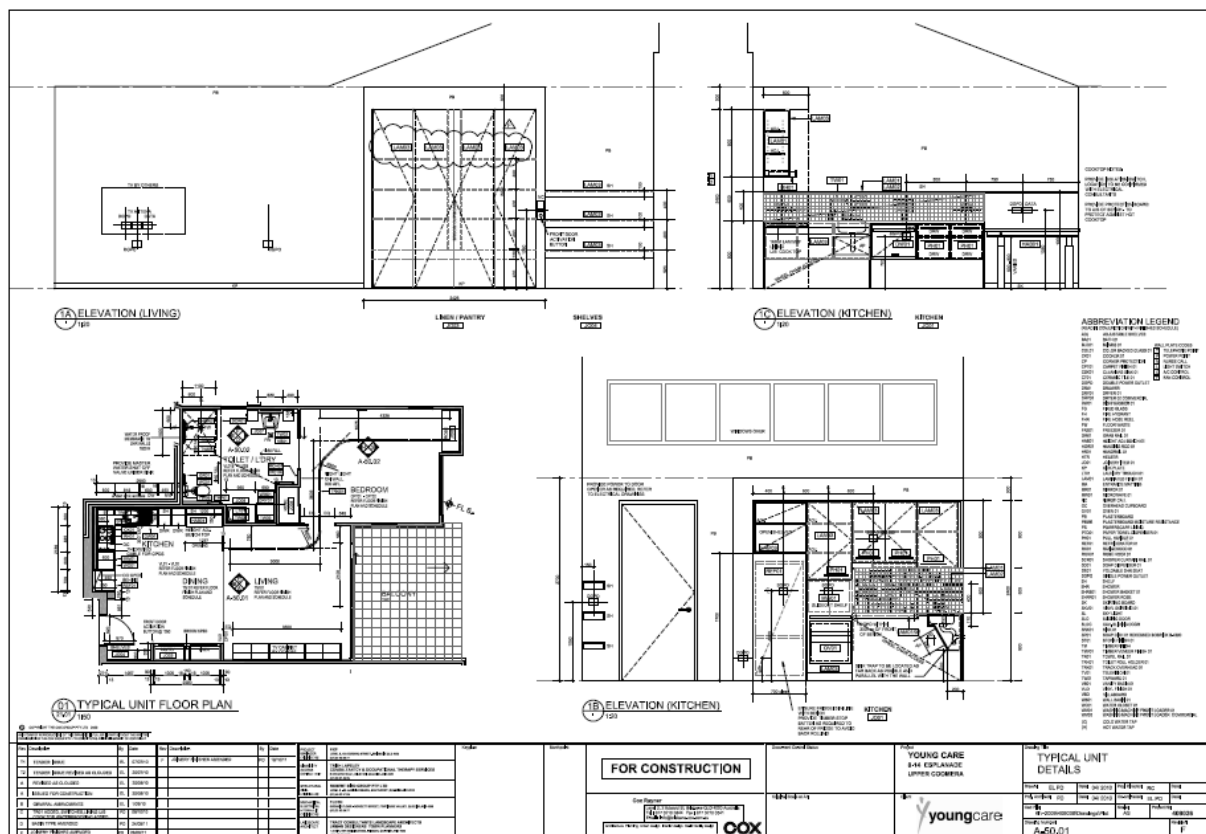
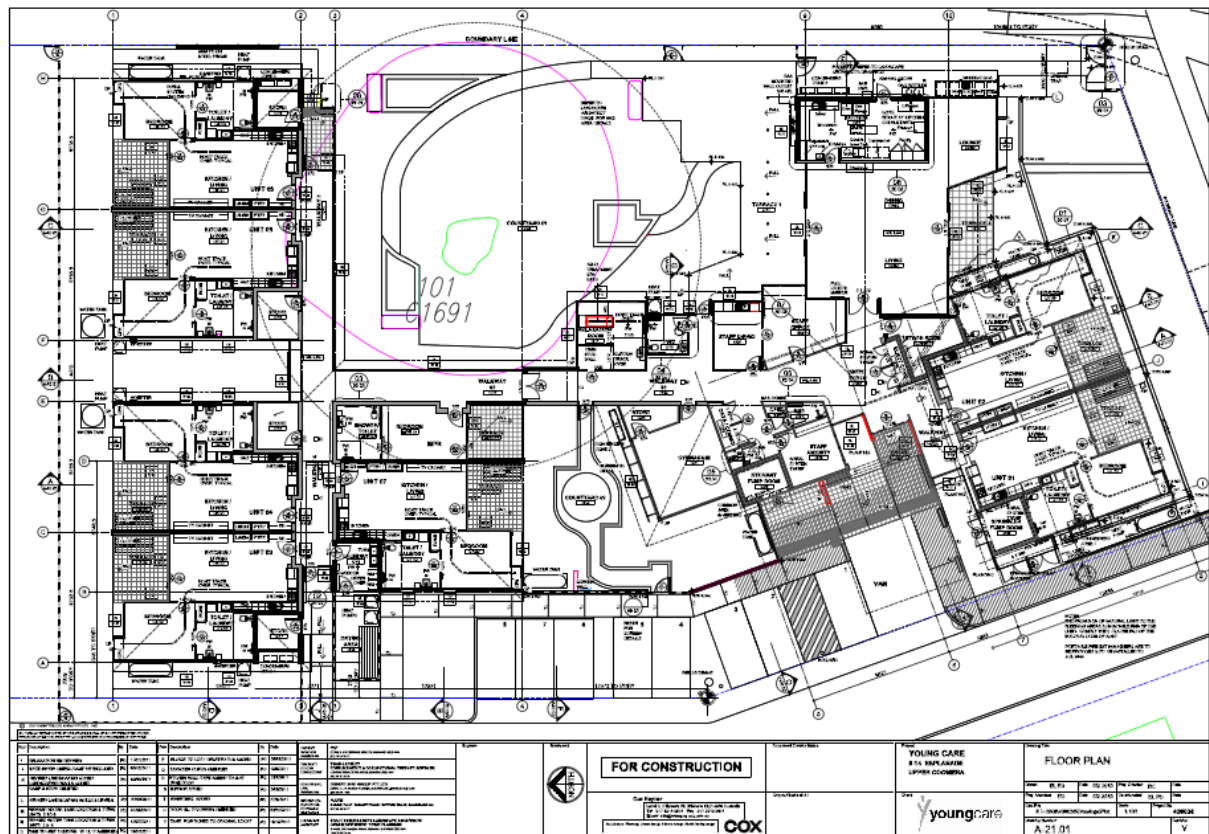
### 3.1.1 Cadastral map



### 3.1.2 Survey Plan



### 3.1.3 Architectural plans for Young Care facility



### 3.1.4 *Youngcare Information*

#### **High Care Needs Support**

Young people with **high care needs** are just like you, your friends and your loved ones. The only difference is that they have acquired a debilitating injury or illness (such as Multiple Sclerosis or an Acquired Brain Injury) that has left them requiring round-the-clock care.

Most would never have imagined that they would ever require such a high level of care, particularly so early in life.

Specialised care and equipment is required to help with day-to-day living because of profound or severe limitation in the core activities of communication, mobility and self-care. Assistance may be needed with a broad range of daily activities including bathing, dressing, feeding, toileting and mobility. In addition, they may require medical care such as dispensing of medication, peg or nasal feeding, rehabilitation programs and, at the far extreme, they might need assistance to breathe through ventilation or a tracheotomy.

Right now, there is a desperate gap in Australia's disability care and support system, and in many cases, families are primarily responsible for meeting the 24/7 care needs of their family member. Many families are struggling physically, emotionally and financially.

In 2009, there were 2.6 million carers who provided assistance to those who needed help because of disability or old age. Just under one third of these (29%) were primary carers; that is, people who provided the majority of the informal help needed by a person with a disability or aged 60 years and over. Over two-thirds of primary carers (68%) were women (Australian Bureau of Statistics).

Youngcare's goal is to continue to work with local, state and federal governments, and the sector to bring about national policy and systems changes so that every young person requiring appropriate care and accommodation will receive it.

In the meantime, Youngcare has introduced a range of initiatives, including the **At Home Care Grants program** and **Youngcare Connect**, to deliver greater choice to those who need it.

#### **Tim's Story**

Tim was just 24 and in his last year at uni when he was injured and suffered a severe Acquired Brain Injury. Tim was unable to walk, talk or communicate in any way as a result of his brain injury.

During his initial recovery, Tim lived with his parents but like most young people, he craved independence and freedom. However, the only type of accommodation available for a young person like Tim with 24/7 care needs was an aged care facility, a horrifying prospect for both Tim and his family. And then they found Youngcare.

Tim was one of the first residents at the Youngcare Apartments Brisbane and enjoys all the life-changing benefits that came with having his very own apartment. Tim's rehabilitation has been remarkable and can be credited to the fantastic support network he has in his family, as well as the level of specialised care provided by his carers and the support offered at the Youngcare Apartments.

Where once loneliness had been one of Tim's greatest hurdles, he is now surrounded by his mates and other young people. His friends and family can visit whenever they please, he can listen to his own music, eat his own food..... pretty much everything we take for granted. Tim is living the kind of life every young person deserves, regardless of their care needs.

"If it wasn't for the Youngcare Apartments, Tim would not have his own place, with dignified care, and the freedom to live his life as he chooses" Jenny, Tim's Mum.

**Friday, September 9, 2011**



A young disabled man was placed in a giant Perspex box to illustrate why aged care is no place for any young person.

Right now, 6,500 young Australians are living in aged care, simply because there are few other options.

Youngcare, a national charity working to address the issue, recreated an aged care room in Martin Place where 36 year old Quadriplegic and West Tigers fan John Tassone spent two hours, alongside the elderly, to shine a bright light on this enormous injustice.

Of those young people living in aged care, 44% receive visits from friends less than once a year and 21% go outside the home less than once a month. They share a residence where the average age is 86 and life expectancy less than three years.

Young people in aged care have limited interaction with people their own age, can be socially isolated, have limited community access and reduced opportunities to participate in community based activities such as shopping, all leading to a lack of stimulation.

To illustrate this point, passersby were encouraged to experience what life might be like in such a facility, even if only for a brief moment.

Youngcare's CEO Marina Vit said the interactive experience will provide a platform for Youngcare to raise awareness of the enormous gap in Australia's health care system, that is, the lack of age appropriate care and housing options currently available to young people with round-the-clock care needs.

"It really is ridiculous that in this day and age, 6,500 young Australians are living in aged care simply because there are few other options, and a further 700,000 are being cared for at home by loved ones, often with limited support.