

## CHAPTER 9 RURAL LAND USE

### STRATEGIC RURAL PLANNING PRINCIPLES

The Planning principles to be used to guide the development of this Strategy and to inform the future management and development of rural lands in the Lithgow LGA are as follows:

- Rural planning principles of the Rural Lands 2008 SEPP.
- Recognise and protect mining, extractive industries, forestry and agriculture (predominantly extensive grazing) as key primary production land uses and significant economic contributors in the Lithgow LGA.
- Protect primary production lands and their interface from further land fragmentation and land use conflict.
- Protect environmental conservation areas and their interface from further land fragmentation and land use conflict.
- Recognise and protect natural and cultural resources and features of the Lithgow LGA.
- Recognise tourism as an emerging industry for the Lithgow LGA and provide for opportunities.
- Consider the environmental capacity of the rural land and ensure that any development within rural areas is within the capability of, and is suitable for, the land having regard to constraints and opportunities analysis and mapping.
- Provide for the development of intensive agricultural land use activities in appropriate areas.
- Recognise the capability of the Lithgow LGA to contribute to renewable energy development.
- Provide for heavy industry in the rural areas in appropriate location subject to land capability and suitability.
- Remove general and light industry land use and activity from rural areas into designated zones.
- Reinforce the recommended settlement hierarchy by minimising further rural lifestyle development opportunities outside of nominated areas and ensure that rural settlement is ancillary to primary production.
- Determine an appropriate minimum lot size for the erection of a dwelling in rural areas having regard to the recommended growth management and sustainability principles, the principles contained within the Rural Lands SEPP and the principles outlined in this section.
- Determine a management framework to address existing inconsistent living opportunities through the sunseting of entitlements.

## PLANNING CONTEXT

Rural lands provide a range of key functions and uses ranging from primary production to forms of settlement and environmental conservation. The management and planning of the rural lands of the LGA is critical to long term sustainability of the significant primary and natural resources and conservation values present.

The three largest zones by land area within the Lithgow LGA are the Rural (General), Rural (Forestry) and National Park, which collectively cover over 97% of the LGA land area.

The Rural (General) zone covers 46.66% and due to the flexibility of the zone is used for a number of land uses other than agriculture such as mining, power generation, industry, private forests, rural lifestyle and tourism developments. Agricultural land use equates to 28.87% of the LGA land area with the majority of this area (28.79%) being used for grazing.

Table 5.2 and Figure 5.2 of the Local Profile shows the distribution of land use classes as defined by Department of Natural Resources in the LGA.

One of the largest threats to rural lands is the continuing fragmentation of lands driven by unplanned rural lifestyle development.

This Strategy will seek to balance the competing pressures of urban and rural settlement growth against the protection and conservation of primary resources and environmentally sensitive lands.

## PAST STUDIES AND CONSULTATION

### LOCAL

In the 1980s several planning studies were carried out preceding the development of the current Lithgow City 1994 Local Environmental Plan. These included the following:

Table 1. Summary of past planning studies

Planning Study/Report	Key Findings
Greater Lithgow Local Environmental Study – Kinhill Pty Ltd – March 1981	To examine new development areas to manage predicted population increase to 35,000 by 2001 as a result of new coal and power generation developments.  Predominantly concerned with residential expansion in urban areas with rural issues only briefly examined.  It suggested that additional rural residential land in limited quantities be appropriately located in western areas, possibly near Portland.
City of Greater Lithgow Rural Environmental Study – Latona Masterman and Associates – April 1983	To define conservation areas; identifying recreation resources, maintain amenity of existing communities whilst providing for population growth and to identify and conserve agricultural and natural resources.  The study made recommendations for rural “living opportunities “ in the following localities; Cox’s River Rd,

Planning Study/Report	Key Findings
	Hartley Valley near Brown's Gap, Bowenfels- Farmers Creek, Rydal, Mt Lambie, Sunny Corner, together with one-off rural home site opportunities as a concessional lot per 100ha of rural holding. It also recommended the balance of the rural areas to have a MLS of 200ha.
Lithgow Rural Strategy – JTCW Planning – August 1985	To review previous planning reports particularly in relation to approach to rural subdivision and the provision of rural residential opportunities.  This study recommended a flexible planning approach advocating a large area (concentrated along existing roads and related to settlement) for rural small holdings with no MLS and subject to merit based assessment; maintenance of status quo in general rural area allowing limited small subdivisions subject to merit controls and Section 94 framework.

Source: LCC

It would appear from these studies that the Lithgow City 1994 LEP contained an eclectic combination of the recommendations of all three studies. Rural planning has not been significantly reviewed since 1994.

Key facts and findings in relation to Lithgow LGA rural lands are summarised in Table 2

Table 2. Summary Rural Agricultural Key Facts and Findings

RURAL LANDS TOPIC	KEY FACTS AND FINDINGS
AGRICULTURAL RESOURCE	<ul style="list-style-type: none"> <li>• Less than 33% of land within the LGA is classed as suitable for agricultural production.</li> <li>• Of the land zoned Rural General (210,357ha) only 64% (134,563ha) is capable of sustaining agricultural production.</li> <li>• Of the land suited to agriculture only 1.4% (2,945ha) is capable of sustaining regular cultivation. This fact explains the bias towards grazing within the LGA.</li> <li>• Approximately (37,300ha) of land classed as being agriculturally capable is being used for non-agricultural purposes such as tree and shrub cover and urban and conservation land uses. However it is also evident that 20,784 ha of grazing is occurring outside land that is classed as agriculturally capable.</li> <li>• Only 16% of holdings in the Rural General zone of the LGA are greater than 100ha.</li> <li>• Significantly whilst there is a large total area of large holdings (76% greater than 100ha and 46% above 400ha) the LGA is clearly fragmented by smaller holdings.</li> <li>• The 129,224ha within the Rural General zone likely to be capable of agricultural production is significantly less than both the area zoned (210,357ha) and that classed as being capable of cultivation and/or grazing (145,586).</li> <li>• Total value of agricultural production to the LGA is low.</li> <li>• Major agricultural enterprise for the LGA is beef cattle production (84% of ag holdings), followed by sheep production (39% of ag holdings)</li> <li>• Average value of agriculture within the agriculturally capable land in the LGA in 2006 was calculated at \$135 per hectare. This suggests that many agricultural enterprises are reliant on off-farm income</li> </ul>

Source: LCC 2007 Local Profile and 2010 Addendum; Draft LCC Land Use Strategy Appendix 1 Supply and Demand Analysis

## COMMUNITY CONSULTATION

Community consultation carried out in conjunction with the 2007 Local Profile and Strategic Plan identified the following key issue areas for rural lands:

- Land use conflict as a result of rural lifestyle development
- Impact of rural lifestyle development on normal operations of a rural holding in particular weed control, bush fire hazard reduction, control of feral animals, fencing etc
- Protection of resources and maximising opportunities for growth of employment lands
- Diversification of the economic base
- A desire to provide for a legitimate demand for rural lifestyle development but subject to a more planned approach, in closer proximity to town centres
- Planning system removing the “right to subdivide” and its impact upon maintenance of sustainable rural enterprises
- Developing tourism potential
- Conservation of environmentally sensitive areas
- Protection of rural landscape and character

A summary of government authority consultation also carried out in conjunction with the 2007 Local Profile is included in Section 9 of Local Profile.

## REGIONAL

In February 2007, the Minister for Planning established the Central West Rural Lands Inquiry, appointing an Independent Review Panel (IRP) to investigate report and make recommendations on land use planning in the Central West Region of NSW. The IRP were asked to give particular regard to balancing the protection of agricultural lands with other competing interests including, but not limited to, subdivision and rural residential development.

A key finding of the Central West Rural Lands Inquiry was that adherence to the Department of Primary Industry (Agriculture) methodology for determining rural minimum lot size for subdivision was flawed and that, in particular, the issue of minimum lot size for agricultural activity should be separated from the issue of rural/residential/rural lifestyle development.

The key outcome of the Inquiry was the introduction of a new State Environmental Planning Policy to apply to the State that supports a more strategic approach to rural planning issues. State Environmental Planning Policy (Rural Lands) released in May 2008, effectively implements the following recommendations of the IRP:

- Retaining existing minimum lot sizes, which may be varied by councils, but only if the decision is based on appropriate criteria.
- Retaining existing rights to build new homes on rural land 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 to manage land-use conflicts.
- Removal of concessional lot provisions on rural land – which have been misused in the past – through a SEPP.
- Establishment of 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 specific provisions of the Rural Lands SEPP and its implications are discussed further later in this chapter.

## POLICY AND LEGISLATIVE FRAMEWORK

The key state and federal policy and legislation governing rural land use within the Lithgow LGA is summarised as follows:

Table 3. Summary of Legislation

Instrument Name
<b>KEY ACTS</b>
Environmental Planning and Assessment Act
Local Government Act
National Parks and Wildlife Act 1974
Environment Protection and Biodiversity Conservation Act 1999 (EPBC)
Threatened Species and Conservation Act 1995 (TSC)
Protection of the Environment Operations Act 1997 (POEO)
Rural Fires Act 1997
Mining Act 1992
Crown Land Act 1989
<b>KEY MINISTERIAL DIRECTIONS (Section 117)</b>
Direction 1.1 Business and Industrial Zones
Direction 1.2 Rural Zones
Direction 1.3 Mining, Petroleum and Extractive Industries
Direction 1.4 Rural Lands
Direction 2.1 Environmental Protection Zones
Direction 2.3 Heritage Conservation
Direction 4.4 Planning for Bushfire Protection
Direction 5.2 Sydney Drinking Water Catchments
<b>KEY STATE ENVIRONMENTAL PLANNING POLICIES</b>
Standard Instrument (LEP) Order 2006
Drinking Water Catchments Regional Environmental Plan No 1 (Deemed SEPP)
Mining Petroleum Production and Extractive Industries 2007
Rural Lands 2008
Infrastructure SEPP (2007)

Please refer to Chapter 3 for more detail.

## LOCAL PLANNING PROVISIONS

### SUBDIVISION OF LAND IN LITHGOW LGA

Current subdivision standards within the two operating LEPs in the Lithgow LGA are summarised in the following Table 4.

Table 4. Subdivision Standards

Local Environmental Plan	Provision
Lithgow City Local Environmental Plan 1994	<p><b>Clause 12 Subdivision of Land in Zone 1(a)</b> General Restriction (1) Land may only be subdivided in accordance with (2) if it does not comprise the whole or in part of an allotment or portion of land previously subdivided in accordance with a consent granted after the commencement of this Plan.</p> <p>Creation of 40 ha allotments (2) Each allotment to be created has an area of not less than 40 ha</p> <p>Exceptions for subdivisions to allow agriculture</p> <ul style="list-style-type: none"> <li>• For the purposes of agriculture, an allotment of any size provided that Council is satisfied the agricultural production will be viable on any land less than 40ha.</li> </ul> <p>Clause 12A Subdivision of Land in Zone 1(e) Each allotment to be created has an area of not less than 100ha Clause 13 Subdivision for other purposes in Zone 1(a) or 1(e) (1) for other purposes other than agriculture or a dwelling is the land (a) is not prime crop and pasture land (b) the area of each allotment is appropriate having regard to the purpose for which it is created</p> <p>(2) Despite (1) an allotment may be created if it is satisfied that (a) the proposed lot will be used for the purpose of supplying goods and services for which there is a demand (b) no other land in the locality could reasonably be used for that purpose, and (c) the level of demand for the goods and services and the extent of the use justifies the creation of the lot regardless of its agricultural value.</p>
Rylstone Local Environmental Plan 1996	<p>Clause 12 Subdivision for the purpose of agriculture in Zone 1(a) An allotment of any size for the purposes of agriculture Clause 13 Subdivision for the purposes of dwellings within Zone 1(a) (1) (a) Each allotment created has an areas of not less than 40 hectares (b) Is unlikely to affect the existing and potential capability of the land adjacent land to produce food or fibre or to be used for other agricultural purposes, and (c) Does not comprise prime crop and pasture land.</p> <p>Clause 14 Subdivision for other purposes within Zone 1(a) (1) for purposes other than agriculture and dwellings if (a) none of the land is prime crop and pasture land (b) the area of each lot to be created is appropriate having regard to the purpose for which it is being created</p> <p>(3) Despite (1) an allotment may be created if it is satisfied that (a) the proposed lot will be used for the purpose of supplying goods and services for which there is a demand (b) no other land in the locality could reasonably be used for that purpose, and (c) the level of demand for the goods and services and the extent of the use justifies the creation of the lot regardless of its agricultural value.</p>

Source: Lithgow City Local Environmental Plan 1994 and Rylstone Local Environmental Plan 1996

The standards in Table 4 only applied from May 2008 with the introduction of the Rural Lands SEPP. The Rural Lands SEPP removed all concessional allotment provisions from the LEP but retained dwelling entitlement for any lot already created under such provisions.

## CONCESSIONAL ALLOTMENTS

For the purposes of discussing and providing context to rural land fragmentation in the Lithgow LGA we must also look to the subdivision standards that applied prior to their removal in 2008. The repealed provisions are outlined in the following table:

Table 5. Repealed Provisions of Subdivision Standards (Pre May 2008)

Local Environmental Plan	Provision
Lithgow City Local Environmental Plan 1994	<p>Clause 12 (3) Excision of dwelling allotment from smaller holdings Excision of one allotment from an existing holding within Zone 1(a), being an existing holding that has a total area of not less than 50ha and not more than 80ha if:</p> <ul style="list-style-type: none"> <li>(a) the Council is satisfied the allotment will be used for the purpose of a dwelling, and</li> <li>(b) the allotment does not comprise prime crop and pasture land, and</li> <li>(c) the allotment will have an area of not less than 2 and not more than 10ha, and</li> <li>(d) the residue of the existing holding is consolidated into one allotment, and</li> <li>(e) the Council is satisfied that effective disposal of domestic waste water within the boundaries of the allotment is achievable, and</li> <li>(f) the excision of the allotment is, in the opinion of the Council, unlikely to have a significant adverse effect on the existing capability and use, for agricultural purposes, of the residue land and adjacent land.</li> </ul> <p>Clause 12(4) Excision of allotments from larger holdings Excision of one allotment from an existing holding within Zone 1(a), being an existing holding for every 80 ha of that existing holding if:</p> <ul style="list-style-type: none"> <li>(a) the Council is satisfied the allotment will be used for the purpose of a dwelling, and</li> <li>(b) the allotment does not comprise prime crop and pasture land, and</li> <li>(c) the allotment will have an area of not less than 2 and not more than 10ha, and</li> <li>(d) the residue of the existing holding is consolidated into one allotment, and</li> <li>(e) the Council is satisfied that effective disposal of domestic waste water within the boundaries of the allotment is achievable, and</li> <li>(f) the excision of the allotment is, in the opinion of the Council, unlikely to have a significant adverse effect on the existing capability and use, for agricultural purposes, of the residue land and adjacent land.</li> </ul>
	<p>Clause 12(5) Exception for family allotments Council may consent to the excision of an allotment within Zone 1(a) if the Council is satisfied that the allotment will be used for the purpose of a dwelling-house, but only if:</p> <ul style="list-style-type: none"> <li>(a) The allotment is required for the erection or use of a</li> </ul>

Local Environmental Plan	Provision
Rylstone Local Environmental Plan 1996	<p>dwelling the Council is satisfied will be occupied by the person who owned the land on 24<sup>th</sup> April 1969 (...) or by a brother, sister, son, daughter, grandson, or granddaughter of that owner, and</p> <p>(b) Only one such allotment is excised for each 10 ha of a parcel of contiguous land, with a maximum of three(3) allotments permitted including all allotments created for relatives under Interim Development Order No 1 – Shire of Blaxland and any consented to in accordance with subclause 3, and</p> <p>(c) The Council is satisfied that effective disposal of domestic waste water within the boundaries of each allotment is achievable, and</p> <p>(d) The allotment does not comprise prime crop and pasture land.</p> <p>Clause 13(1) Subdivision for the purpose of dwelling Zone 1(a)</p> <p>Council may consent to the subdivision of land within Zone 1(a) if Council is satisfied that each of the allotments to be created is intended to be used for the purposes of a dwelling, but only if each allotment,</p> <p>(a) has an area of not less than 40 hectares, provided that one concessional allotment of less than 4 hectares but not less than 0.4ha may be created for a relative of the owner of the owner,</p> <p>(b) is unlikely to affect the existing and potential capability of the land and adjacent land to produce food or fibre or to be used for other agricultural purposes, and</p> <p>(c) does not comprise prime crop and pasture land</p> <p>13 (2) Notwithstanding any other provision of this plan, the Council may consent to the subdivision of land within Zone 1(a) resulting in the creation of one but one more than one allotment on which a dwelling stands from an existing holding of that dwelling was lawfully erected on that land on or before the appointed day.</p>

Source: Lithgow City Local Environmental Plan 1994 and Rylstone Local Environmental Plan 1996 (Pre May 2008).

## APPROPRIATENESS OF EXISTING LEPS

Both of the current LEPs were structured on a flexible planning approach enabling a wide and varied range of land uses within each zone. In the General Rural and Outer Rural zones this flexibility, instead of encouraging diversified development has, in some cases hindered it due to lack of investment certainty.

The current General Rural and Outer Rural zones permit a range of uses from a dwelling house to offensive and hazardous industry increasing significantly the potential for land use conflict.

The LEPs are also not supported by detailed development control plans. This has resulted in land use decisions being based solely on a site by site merit assessment basis where cumulative impact cannot be properly addressed.

## SUMMARY OF ISSUES

Table 6. Summary Key Rural Planning Issues

ISSUE	WHY IS IT AN ISSUE?
<p>Unplanned dispersed settlement</p> <p>Increased risk of social isolation</p>	<ul style="list-style-type: none"> <li>• Past and current planning provisions have retained a range of provisions to enable the subdivision of rural land and the erection of a dwelling with limited to no consideration of natural and primary production resource management and protection.</li> <li>• What was initially intended to be an alternative to urban living has grown significantly in that the population now living in the urban areas has fallen from 95% in 2001 to 80% in 2006. Due to the unplanned and dispersed nature of this form of settlement growth it has not led to the sustainability of rural villages.</li> <li>• Increased land fragmentation</li> <li>• Encroachment of development into more marginal lands without regard to the carrying capacity of the land. This places onus on the development assessment process to control impacts on a site-by-site basis and this has limited potential to address cumulative impact.</li> <li>• Increased potential for land use conflict leading to primary production lands being limited in their capacity to operate without restriction.</li> <li>• Increasing infrastructure and service costs particularly in relation to provision and maintenance of rural roads and garbage services, but also in social and governance services.</li> <li>• Loss of critical mass in urban areas to maintain and improve services and higher order infrastructure.</li> </ul>
	<ul style="list-style-type: none"> <li>• Increased risk of social isolation due to lack of community structure and the impacts of ageing of the population in rural areas.</li> </ul>
<p>Increased environmental footprint of development and impact upon environmentally sensitive lands and rural landscape.</p>	<ul style="list-style-type: none"> <li>• Reduced ability to achieve natural resource management objectives due to increased stakeholders with smaller parcels of land and different expectations.</li> <li>• Increased potential for negative impact upon natural resources such as water, soils, vegetation and biodiversity.</li> <li>• Increased threat of bushfire hazard.</li> <li>• Loss of rural landscape and rural character.</li> </ul>
<p>Land use conflict impact on primary production resources (ag land, forestry, resource lands, mining, extractive industries) impact on environmental conservation</p>	<ul style="list-style-type: none"> <li>• Proliferation of rural lifestyle development in primary production areas impacts upon the ability for these lands to maximise their potential in terms of the natural and primary resource. Specific examples of this conflict occurs in locations such as Blackmans Flat (impact on mining and power generating developments), Clarence (impact upon underground mining), Baal Bone Colliery (impact upon underground mining and surface works), Megalong and Kanimbla Valleys (impact on agricultural management).</li> <li>• Reduction in security of investment for both those seeking rural lifestyle and primary producers.</li> <li>• Rural lifestyle development introduces matters of land stewardship in relation to weed control, bush fire hazard reduction, introduction of domestic animals, maintenance of water quality and quantity and soil management.</li> <li>• Conflict occurs at the interface of DECC and forestry lands and impedes the production and management regimes of these lands.</li> </ul>
<p>Fragmentation and conversion of primary production lands</p>	<ul style="list-style-type: none"> <li>• Conversion of lands from primary production inflates land values beyond primary production value, making it difficult for entry of rural producers and resource industries to buy in.</li> <li>• Land once converted in many cases will never revert back to primary production use.</li> <li>• Land parcel isolation. Rural land interspersed with rural lifestyle development is often cut off from other major land holdings making consolidation of land possible for farm management.</li> </ul>

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## DISCUSSION OF ISSUES

Issues relating to the planning and management of rural lands are complex and varied. All issues are inter-related with the cumulative impact being greater than that of any one issue in isolation. This is the reason why these issues require a more strategic approach in the development of LEPs and supporting planning strategies and policies. It also requires an alignment and recognition of the myriad of legislative and policy frameworks across all three levels of government and the forging of successful community partnerships to achieve better planning outcomes.

The key rural planning issues for the Lithgow LGA are discussed in detail below.

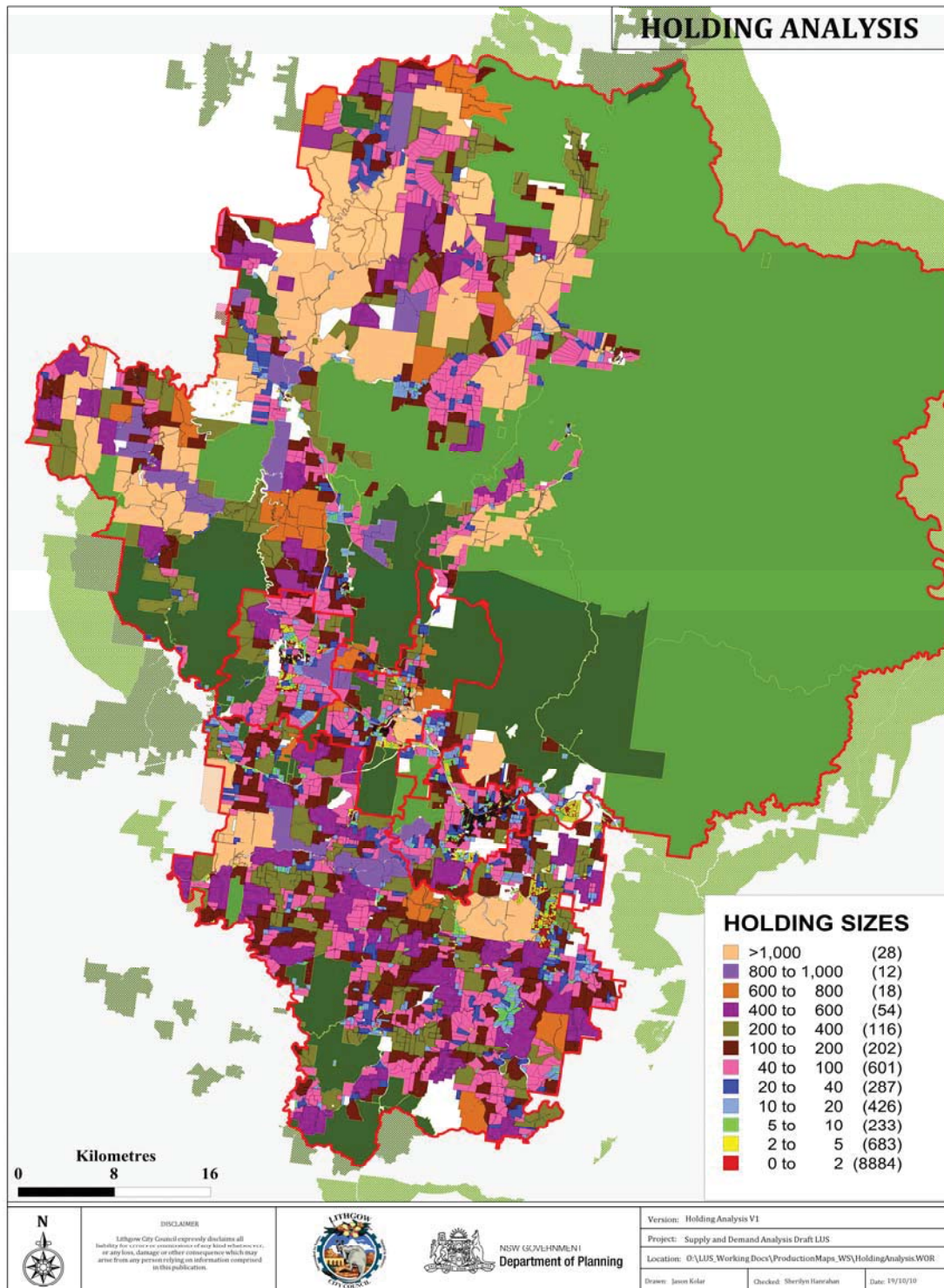
### FRAGMENTATION OF RURAL LAND

The fragmentation and potential loss of rural lands has been identified as a major issue for the Lithgow LGA in that it has the ability to impact significantly on the following areas:

- primary production such as mining and extractive industries, forestry and agriculture
- environmental values and environmentally sensitive lands
- sustainability of rural village and urban centres
- rural landscape and character.

Figure 1 clearly demonstrates the distribution of existing fragmentation within the wider rural areas of the LGA.

Figure 1. LGA Holding Analysis



**NOTE:** There may be slight discrepancies between Figure 1 and Table 6 due to the date of their production. The manner in which land holdings are held is a continually changing factor. Within Council this data is updated on a monthly basis.

Table 7. Holding analysis of rural lands within the General and Outer Rural zones

Holding Size	Number of Holdings	Average Holding Size(ha)	% of Total Holdings	Area (ha)	% of Area
≥ 1000 ha	27	1626.59037	1.03%	43917.94	22.12%
400-1000 ha	84	574.6072619	3.20%	48267.01	24.31%
200-400 ha	112	277.7236607	4.27%	31105.05	15.67%
100-200 ha	195	143.0297949	7.43%	27890.81	14.05%
40-100 ha	590	54.79410169	22.49%	32328.52	16.28%
10-40 ha	612	20.76727124	23.33%	12709.57	6.40%
5-10 ha	164	7.952378049	6.25%	1304.19	0.66%
1-5 ha	328	2.68347561	12.50%	880.18	0.44%
0.1-1 ha	324	0.380185185	12.35%	123.18	0.06%
0.01-0.1 ha	185	0.054594595	7.05%	10.1	0.01%
≤0.01 ha	2	0	0.08%	0	0.00%
<b>Total</b>	<b>2623</b>		<b>100.00%</b>	<b>198536.55</b>	<b>100.00%</b>

Source: LCC

Table 7 shows that whilst there is a large area of the general and outer rural zoned areas held in larger holdings (76% above 100ha and 46% above 400ha) the area is clearly fragmented by smaller holdings with 84% below 100ha and 62% below 40ha.

Table 8 below provides a further breakdown of this holding analysis across the planning precincts. The precinct experiencing the highest level of fragmentation is the Rural South precinct with 506 holdings between 1 and 40ha.

Table 8. Holding Sizes in General and Outer Rural above 40 ha by precinct

	Holding Scenarios						
	Average Holding size	Total No of Holdings	Lithgow	Wallerawang	Portland	Rural Nth	Rural Sth
1ha -5ha	3ha	328	65	12	17	83	145
5ha- 10ha	8ha	164	19	11	5	34	94
10ha – 40ha	21ha	612	49	33	37	226	267
Above 40Ha	182ha	1008	40	32	56	477	403
Above 100Ha	362ha	418	14	13	12	203	176
Above 200Ha	553ha	223	4	7	7	126	79
Above 400Ha	831ha	111	1	5	2	67	36

Note: Slight variances between total number of holdings and precinct totals may occur due to cadastre boundaries.

Table 8 also shows the average holding size of properties above 40 ha in the Lithgow LGA rural areas. This data shows that the current minimum lot size of 40 ha is inconsistent with the size of average holdings, meaning that, should the minimum lot size remain unchanged, that the potential for further significant land fragmentation may occur.

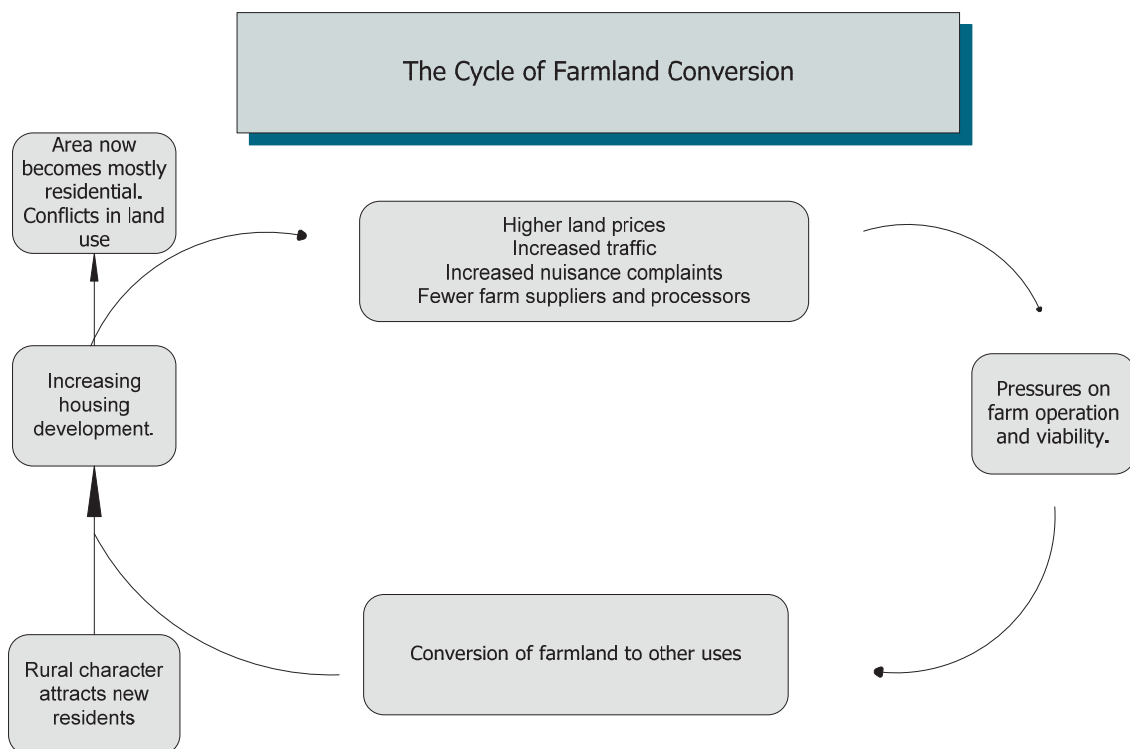
The table shows that the variance between the average holding size and minimum lot size would not substantially reduce until subdivision below 200ha was removed.

## DRIVERS OF LAND FRAGMENTATION

One of the most significant threats to the sustainable management of rural lands is the pressure from rural lifestyle development. Rural Lifestyle development in this context is best described as development of a dwelling on rural lands as the primary use of the land to achieve a “lifestyle and amenity” which in most cases is unrelated to full-time agricultural pursuits.

This form of development results in fragmentation of rural lands that is almost always non-reversible. The opportunity for future consolidation of lands is lost once the value of lands are elevated beyond their agricultural value. The inflated prices of rural lands also prevents the entry of new farmers. The cycle of rural land conversion is illustrated in the Figure 2:

Figure 2. Cycle of Farmland Conversion



Source: Daniels and Bower 1997

The fragmentation of rural lands in the Lithgow LGA is clearly being driven by rural lifestyle development pressures. The Lithgow Development Approvals Monitor 1996-2010 indicates that 32.7% of dwelling applications lodged were located within the Rural General zone. The majority of these dwellings were unrelated to the use of the land for any other purpose except for rural lifestyle residential.

Land fragmentation may also occur due to other forms of development such as intensive agriculture, tourism development and industrial development. The level of fragmentation due to these forms of development have historically been low in the Lithgow LGA and is not considered a key driver of fragmentation, however will also require further consideration in this Strategy.

## CONCESSIONAL ALLOTMENT PROVISIONS

The Lithgow Subdivision Monitor 1996-2006 found that 49% (211) of all new allotments applied for in this period were under the concessional allotment provisions.

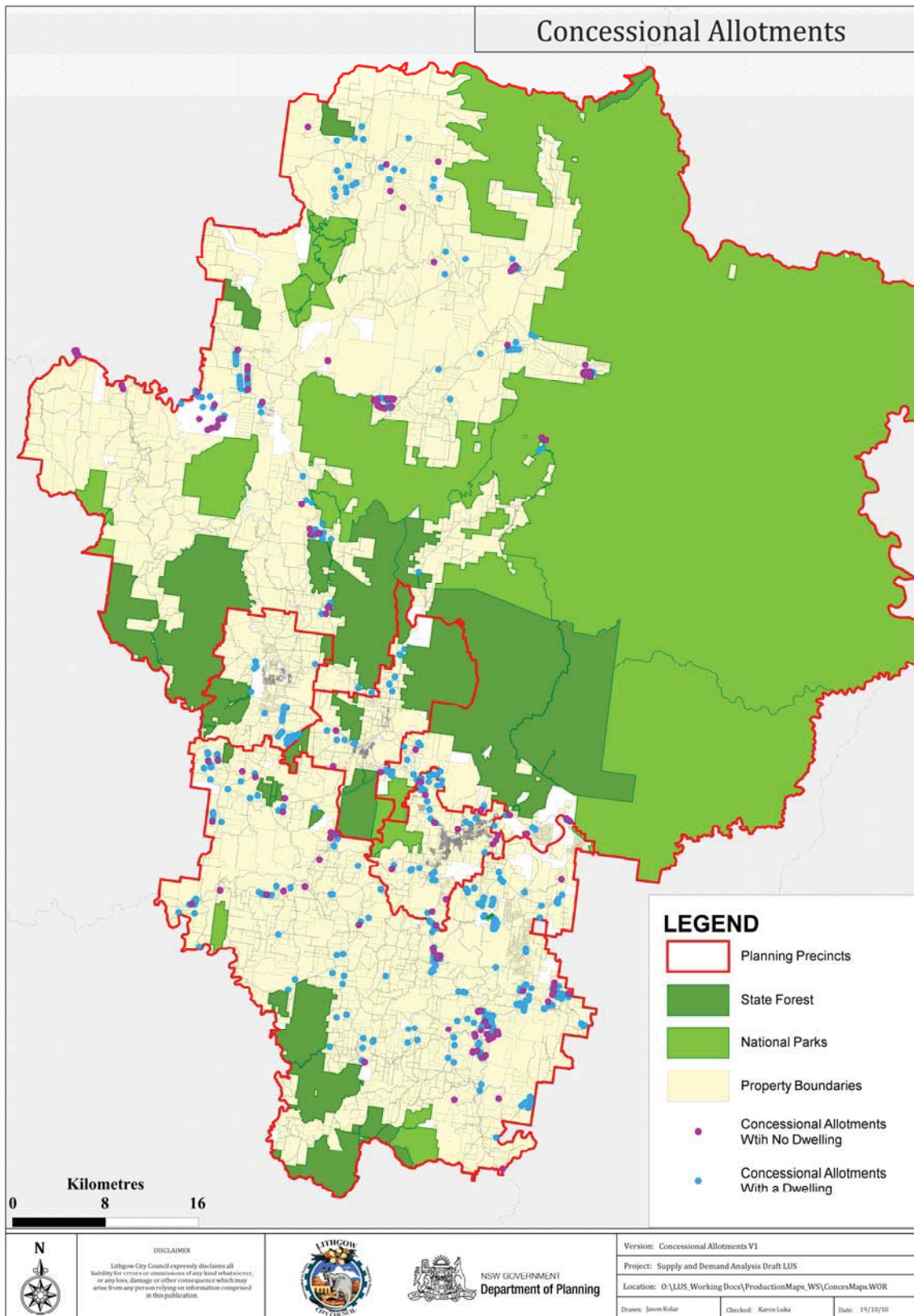
Concessional allotments were originally introduced to provide small lots, below the standard minimum lot size, for farm workers and to encourage intergenerational farming by allowing the erection of dwellings on separate lots whilst minimising the fragmentation of the larger holding. As stated in Central West Rural Lands Panel Report "this objective is no longer relevant and this concession has been misused with many of the concessional

lots being sold to unrelated rural lifestylers. In this way concessional lots have become residential in nature and have resulted in land use conflict”.

In the Lithgow LGA, past planning policy in the early 1970s to make concessions for the introduction of the 40 hectare minimum lot size has also created several unplanned rural residential estates in locations isolated from town centres and in some cases areas of marginal suitability and capability to sustain this land use.

An investigation of all small lots below 40 hectares in the Rural General area of the LGA has revealed a total of 555 collectively termed concessional allotments, 109 of which remain vacant. The distribution of these allotments is shown in Figure 3, highlighting the impact on rural land fragmentation.

Figure 3. Pattern of Concessional Allotment take up in Lithgow LGA



## EXISTING MINIMUM LOT SIZE

Although removal of the concessional allotment provisions will stem the flow of small rural lifestyle lots it, in itself, will not be sufficient to reverse the trends for rural lifestyle development driving rural land fragmentation within the Lithgow LGA. Any new planning approach must also address the appropriateness of the existing 40 hectare minimum lot size.

The Lithgow Subdivision Monitor 1996-2006 found that 48% (208, 45 of which were residual allotments >80ha) of new allotments applied for in this period were enabled by the standard 40 hectare minimum lot size provision. Again the majority of these dwelling lots were unrelated to the use of the land for any other purpose except for rural lifestyle residential as indicated by 32.7 % of dwelling applications between 1996- 2009 being within the General Rural zone.

An analysis of the future potential of further rural land fragmentation under the existing 40 hectare minimum lot size indicates a maximum potential for an additional 3545 lots to be created in the Rural (General) area and distributed in the planning precincts as indicated in Table 8 below.

*Note: Category B are vacant lands in the rural zone with further subdivision potential, whilst category C lands are those lands with a dwelling in the rural zone with further subdivision potential. Such distinction recognises that lands have different levels of market readiness and/or motivations for subdivision.*

This LGA supply level under the current demand indicators of 33 dwellings per year would take 107 years to be exhausted. Broken down into precincts the supply years are represented as 241 in the Rural North and 73 years in the Rural South precincts.

Over the 20 year life of the strategy this hanging supply, under current demand indicators, would result in a further 160 dwellings (400 persons) in the Rural North precinct and 346 dwellings (884 persons) in the Rural South precinct. Although the numbers themselves may not appear significant, they are when considered against the principles of a settlement hierarchy and provisions of services and facilities to support communities.

Table. 9 Potential Supply under existing 40 Hectare provision

	Lithgow	Portland	Wallerawang	Rural North	Rural South	Total
<b>Category B</b>						
Subdivision Vacant Lots 80ha> 1(a)	58	42	32	304	270	706
<b>Category C</b>						
Subdivision Holdings 80ha> with a dwelling 1(a)	40	44	59	1199	831	2173

Continued and unchecked conversion of rural lands in this manner is not sustainable and will only contribute to the worsening of the other issues facing rural lands as discussed below.

## LAND USE CONFLICT

Rural land use conflict is a significant consequence and reflection of rural land fragmentation. It occurs as a result of the inappropriate union of incompatible land uses, in particular the proximity of residential development

to primary production such as forestry, agriculture, mining and extractive industry, other industry as well as environmentally sensitive areas.

The major contributor to land use conflict in the Lithgow LGA is the dispersed and unplanned proliferation of rural lifestyle development on a range of lot sizes. Often rural “lifestylers” move into rural areas because of the rural setting but with an expectation that primary production land uses will not impact on their amenity or enjoyment of their land. This is notwithstanding that in many cases the primary production land use/activity preceded the rural lifestyle development and complies with relevant legislation and policies.

Conflict by nature arises from unmatched expectations. The divergence of some of the more common expectations between rural “lifestylers” and the more traditional rural landowners is shown in the following table:

Table 10. Expectations for Land Use

Rural Lifestylers Expectations for land use	Traditional Rural Landowners Expectation for land use
Residential amenity with associated services such as garbage collection	Weed control
Low noise tolerance	Bush Fire Hazard control
Low odour tolerance	Domestic animals control
Low dust tolerance	
Maintenance of limited curtilage around dwelling with little or no attention to remaining land area	Land stewardship land restoration
Keeping of domestic and hobby farm animals	Feral animals control
Unrestricted use of recreational vehicles (motorcycles, 4WD and quad bikes)	Stock control and adequate fencing
Siting of dwelling for views or ease of construction	Siting of buildings for functional operation and maintenance or rural character

As land is split up and the number of landowners increase on the boundaries of larger holdings the resolution of these conflicts and achievement of natural resource management objectives becomes more difficult to achieve.

Whilst the above represents conflict between rural “lifestylers” and agricultural landowners, conflict can and does occur with other types of rural land users such as industry, mining and forestry. Such conflict often impacts on the normal operations of these uses and, depending on the extent of these conflicts, may jeopardise the future expansion and/or viability of some areas resulting in resource sterilisation or industry job losses.

In the Lithgow LGA, a prime example of unresolvable land use conflict and inappropriate juxtaposition of land uses occurs in the area locally known as Blackmans Flat. In this area conflict between rural lifestyle development and the power generation and mining industry cannot be reconciled without extreme measures such as land acquisition. This case study highlights the fact that development assessment and regulatory processes are ill equipped to address such intense land use conflict. The potential for this level of conflict needs to be removed in the strategic planning process and implemented through the LEP.

The two operating planning instruments (LEPs) are ineffectual in minimising land use conflict. They are structured on a flexible zoning framework, whereby the Rural General zone permits a range of land uses ranging from a dwelling to offensive and hazardous industries and do not contain any provisions for prescriptive buffering of land use likely to give rise to land use conflict. Compounding this fact is the low minimum lot size for rural lifestyle development and the retention of concessional lot and existing holding dwelling entitlements throughout the rural area.

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## UNECONOMIC PROVISION OF INFRASTRUCTURE AND SERVICES

The Lithgow LGA contains a large land mass (4,550km<sup>2</sup>) with varying landforms and capability. Providing infrastructure and services throughout the LGA is difficult due to the distances between higher order centres and the varying level of services available.

Continued and dispersed forms of settlement in the rural areas create an uneconomic demand for infrastructure and services provided by both local government and other levels of government.

From a local government perspective, it creates a demand for increased level of service and provision of rural roads, garbage collection facilities, library outreach services, cemeteries and community facilities such as halls and support facilities for emergency services.

It also increases the cost of provision of governance and regulatory services such as development assessment and environmental health.

In the rural areas, the most significant infrastructure provision is that of rural roads and bridges.

Council's road network includes 192.5km of urban sealed roads, 23.9km of urban unsealed roads and 43.8km of arterial road which are all sealed. With regard to Council's unsealed roads there is a total length of 411.8km of unsealed rural road and 201.6km of sealed rural road. For a population of the Lithgow Council area of approximately 22,000 you can see that Council's road network is indeed extensive with regard to that population. There are also a number of RTA roads which traverse the Council area. They come to a total of 149.5km and in the past Council has been responsible for the maintenance of the shoulders and drainage structures on such roads.

Council expends 1.45 million dollars on urban road maintenance and 1.296 million dollars on rural roads maintenance.

The Capital Works program on an annual basis for improvements is very limited by funding options and basically is restricted to about 1.6 million dollars per year for Capital improvements. In the opinion of Council's road experts, Council needs an allocation of a minimum of 6-8 million dollars per year for Capital Improvements to its rural road network to maintain an appropriate standard.

Demands on Councils rural roads network in addition to demands from redistribution of populations throughout the rural areas is extremely high. Council has an extensive rural road network that provides access to a number of remote areas, predominantly in the valleys within the Lithgow Council area and it is far from economical to continue to maintain these roads under normal conditions for residential and tourist traffic. The added costs of upgrading some of these existing roads to a standard suitable for further ongoing development scattered throughout the Council area is causing serious problems for Council, in not only maintaining the existing road network but also improving the road network to a satisfactory standard that is being expected more and more from Council's road users.

Council's rural road network is also located in very difficult topographic areas and the extreme climates of the LGA further add to the maintenance costs and difficulties of ensuring that the rural road network is up to a standard that is acceptable to all users. The added burden of tourist traffic throughout the area coupled with the demands from new residents in the rural area is proving to be a major financial impost on Council's ability to allocate funds to meet the demands of the community.

Intensification of population outside the major urban centres in a dispersed manner does not allow Council to effectively plan and budget for road maintenance and this leads to a demand for level of services that cannot be met into the future. It also does not allow for an effective developer contributions framework to be developed due

to the uncertainty of spatial demand and establishment of nexus between development and required infrastructure improvements and service provision.

Lithgow City Council does not have the financial capacity to meet these increased costs without significantly sharing the cost burden across all ratepayers through rate increases.

## **LOSS OF CRITICAL MASS FOR URBAN CENTRES**

Whilst living opportunities in the rural areas provide a “lifestyle” choice, when it replaces development in the urban areas to the extent experienced since 1996 (representing more than 50% of all dwelling application lodged), it reduces the opportunity for critical mass to be retained in urban areas and achievement of economies of scale.

The wider distribution of the population base also increases the potential for a proportion of the population to access higher order services in district centres outside of the LGA.

This places in jeopardy the retention of critical higher order community infrastructure within the main town centres and reduces the potential for new services to be secured.

## **SOCIAL ISOLATION AND POCKETS OF DISADVANTAGE**

Chapter 5 discusses the SEIFA index for the Lithgow Local Government Area. The LGA has been identified as an area of disadvantage with Postcode 2846 being in the top 5% of disadvantaged postcodes in NSW (Community Adversity and Resilience 2004).

Dispersed rural settlement has the potential to create social isolation and pockets of disadvantage due to the distances to higher order centres, lack of community structure and equitable access to social and community services.

Reliance on the motor vehicle is critical due to lack of public transport options in rural areas. Rising fuel costs compound this issue.

This will be made worse into the future as the population ages and access to services becomes more critical. The opportunity for ageing in place (ie, remaining in ones own homes) is significantly reduced in rural areas.

## **PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS AND NATURAL RESOURCE MANAGEMENT**

Environmental values and characteristics of the LGA are contained within Section 6 of the 2007 Local Profile.

The rural areas of the Lithgow LGA have diverse and significant environmental values, many of which are not protected within the National Park and Reserves. The LGA's environmentally sensitive areas have been mapped and these are included in Chapter 7.

The most significant threat to these environmentally sensitive areas is the inappropriate location and intensification of rural lifestyle development.

In 2006 DECC identified “rural land fragmentation and settlement intensification as a major pressure on many community values that are core elements of sustainable development”.

Impact on the environmental values of rural land through rural lifestyle development can occur through the following:

- Increased risk of land use conflict
- Increased risk of vegetation and biodiversity loss
- Increased risk of bush fire threat
- Increased risk of soil erosion and loss of soils
- Increased risk to river health and fish habitat
- Increased risk to the control of noxious weeds and feral animals
- Increased risk to preservation of rural landscapes and cultural heritage.

This form of development, being dispersed and unplanned, works against the achievement of natural resource management outcomes. Such outcomes are more easily achieved when land is retained in larger holdings.

Consideration of the range of environmental values should not be deferred to the development assessment process, as often, conservation objectives cannot be achieved at this scale.

A planning approach coupling cluster planning of rural lifestyle development through a large minimum lot size for the erection of a dwelling and the consideration of a range of zonings to protect significant environmental sensitivities is required.

## **PROTECTION OF PRIMARY PRODUCTION RESOURCES**

### **MINERAL RESOURCES**

The Lithgow LGA contains a range of important known and potential energy and industrial mineral resources. These include coal, coal seam gas and sand resources in the eastern portion of the LGA and limestone and related industrial mineral resources in the west. Metallic minerals (gold, copper and base materials) are also present within the western portion of the LGA and exploration licences are in force.

While the location of mineable deposits cannot always be predicted, known resources need to be protected so they are not sterilised by incompatible land uses.

These resources have been mapped by the Department of Industry and Investment (DII) and the Draft findings are shown in Figure 8 of Chapter 7. DII are currently finalising the 2010 Resource Audit for the Lithgow LGA to which the Ministerial Direction under Section 117 of the EP & A Act will apply. This information has been used in evaluating the location and extent of current and potentially new settlement areas in the LGA to avoid land use conflict.

The mining industry employs 773 persons (2006) and represents 10% of the Lithgow LGA workforce. Thermal power generation is interdependent on the local coal mining activity. Two base-load power stations are operated by Delta Electricity in Lithgow LGA. These enterprises and the coal mines generate multiplier effects in engineering and the maintenance industries in the LGA. It is considered that these will remain the mainstay of employment and economic drivers in the Lithgow LGA throughout the life of this Strategy.

Coal mining and extractive industries present the following challenges:

- These activities are permissible with development consent within the current General Rural and Outer Rural zones. This conflicts with the general perception of a rural zone being primarily for agriculture and ancillary housing.
- How to manage mine and extractive industry rehabilitation, including both progressive and upon closure.
- Impact of mining and extractive industry on the environment such as key natural features, land form and landscape quality.
- Local planning to protect state and regionally significant resources is restricted by a Ministerial Direction (No 1.3) under Section 117 of the EP & A Act, 1979.

One of the largest threats to the mining and extractive industry base that can be controlled by the planning process is land use conflict driven by a proliferation of rural lifestyle development.

## AGRICULTURE

The Agricultural industry in the Lithgow LGA contributes approximately \$14 million dollars annually to the economy (2007 Local Profile). Although a smaller contribution than surrounding regions, it is still significant and for the most part represents an additional income for rural landowners.

The Lithgow LGA has negligible land areas classified as prime crop and pasture lands. Only 64% of the land within the General Rural zone is capable of some form of agriculture (2007 Local Profile Table 5.19). Grazing is the predominant activity of which beef and sheep production are the most significant enterprises. Here, agricultural activities/land use match land capability, essential to their sustainability.

Land capability and holding size are both major determinants of land use within the LGA. The majority of agricultural capable land has already been divided into holdings less than 400 hectares (Ivey ATP, 2006). In nearly all instances, owners of these holdings would be relying on off-farm income. It is important to note that many of the smaller holdings classed as being capable of supporting agriculture (on a land capability basis) are not economically sustainable in their own right.

Ivey ATP (2006) found that there were only 9 holdings within agriculturally capable land in the LGA large enough (1000ha) to be considered self-sufficient agricultural enterprises. This was based on the assumption that most agricultural ventures would require an annual turnover of at least \$132,000 to cover enterprise and overhead costs (2007 Local Profile Section 5). Smaller holdings, with an average turnover of below \$132,000 would likely need some level of off-farm income to remain economically viable.

The biggest threat to agricultural lands within the LGA is continued fragmentation predominantly for rural lifestyle development. The extent and impacts of land fragmentation have already been discussed in previous sections

The protection of the agricultural resource in the Lithgow LGA raises the following key challenges:

- Managing land fragmentation and conversion of agriculturally capable lands for rural lifestyle development.
- Managing land use conflict.

- Determining an appropriate minimum lot size for the erection of a rural dwelling.
- Providing opportunity for new and emerging agricultural enterprises.
- Integrating and aligning the land use planning process with natural resource management objectives and regulatory regimes.

## FORESTRY

Forestry zoned lands represent 14.89% of land area within the Lithgow LGA and they are located as shown in Figure 5 Chapter 7. The LGA also has one known private forest involving a further 279.5ha of rural land.

Forests NSW (2006) have advised that the Central Tablelands, incorporating Lithgow City Council, hosts a timber industry with \$525 million in output, \$226 million in gross regional product, \$91 million in household income and almost 2,000 full time equivalent jobs which represents 5.8% of the Central Tableland gross regional product.

Plantation and native forests are dynamic systems exposed to management activities, recreation activities and natural forces.

Many of the activities that occur within forests have the potential to change the amenity value of adjacent lands. Perceptions of rural amenities such as visual landscape, fresh air, lack of urban noise and general peacefulness can be challenged by activities within forests and within most primary industries. In nearly all circumstances the location of residential (including rural lifestyle) on forest boundaries reduces the economic viability of forest management and the timber industry (Forests NSW).

Forests also provide for a range of tourism activities. Newnes, Sunny Corner, Ben Bullen and Jenolan State Forests are in the top most frequently visited Forests in NSW (Forests NSW).

Forests NSW construct roads and fire trails for harvesting, haulage, management and fire protection measures. These same roads, once constructed, fulfil other community functions. However, members of the public do not have unfettered rights to use forestry roads in the same manner as public roads. Forests NSW can restrict access in order to provide safety to its employees and the public, protect the environment and maintain the economic viability of the forest.

Haulage of timber products can impact upon local and State government road networks. Forests NSW has requested that where it has contributed to road improvement works that consideration be given to protecting timber haulage roads from subsequent residential development. The separation of heavy trucks and rural industry is also sound planning practice.

In the Lithgow LGA significant conflict exists between the use of Forests NSW roads for tourism and recreation access to the Newnes State Forest and the Glow-worm Tunnels within the Wollemi National Park.

The protection of land resources for forestry is most threatened by all forms of residential and urban development on its boundaries. The clear identification of forest resources and the allocation of compatible adjoining land uses will improve protection of this resource, increase certainty for landowners and reduce conflict.



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## WIND RESOURCE

The NSW Wind Atlas, Figure 5 shows that the Lithgow LGA has a relatively high wind speed as depicted by green shading.

The NSW Government is positioning NSW to take advantage of the predicted increase in investment in renewable energy that will result from the expanded national renewable energy target (RET) to 20% by 2020. Initially it is expected that most of the renewable energy supply will be met by wind energy developments. (DECC)

[Six renewable energy precincts](#) have been established across NSW in areas with the best-known wind resources in order to streamline the planning and approval process for wind developers. These include: New England Tablelands, Upper Hunter, Central Tablelands, NSW/ACT Border Region, South Coast and Cooma-Monaro. (DECC)

[Precinct advisory committees](#) will be formed in each of the six regions. A key focus of committees will be to enhance consultation and engagement with local government and local communities so that local communities will get a voice and a stake in renewable energy development within their region. To help facilitate improved engagement, the precinct advisory committees will include broad community representation. (DECC)

The Lithgow LGA has been introduced to Wind Farms through the establishment of the Hampton Wind Park and increasing focus and priority on alternative energy supplies provides further potential opportunities. The Hampton Wind Park produces power from two 660kW wind turbines and enhances the quality of supply in the surrounding rural electricity grid. This wind farm supplies electricity to Integral Energy's Green Power customers.

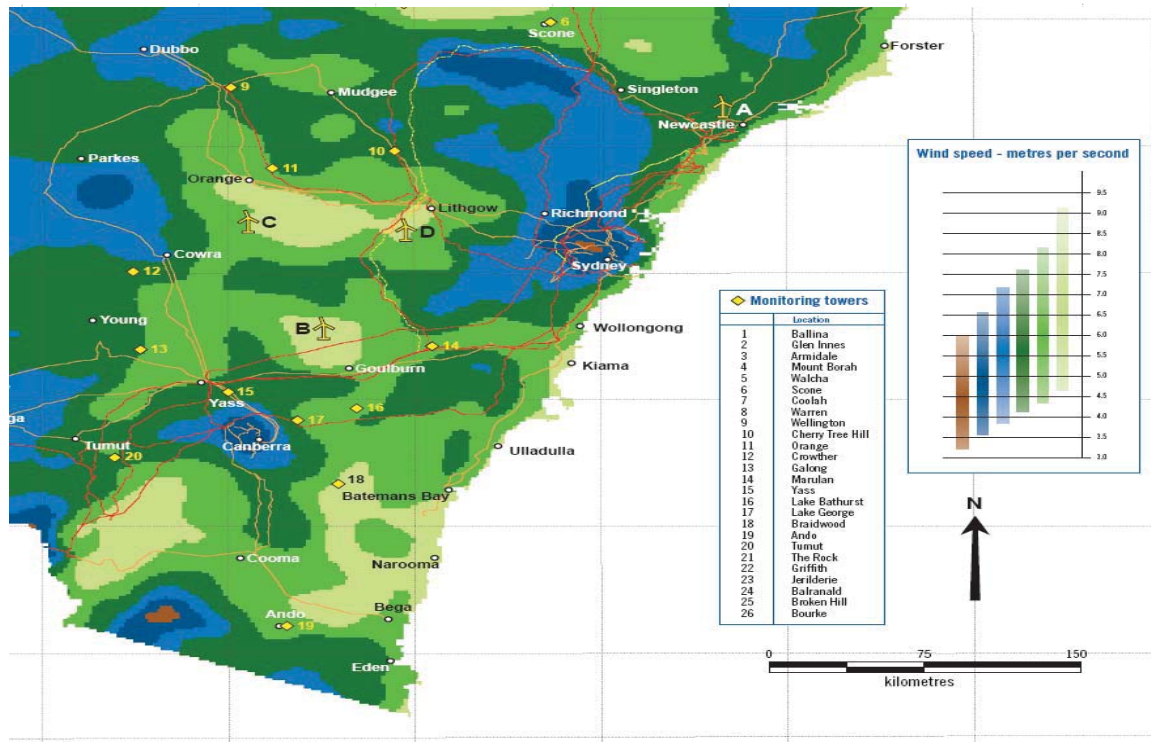
Key issues associated with wind energy land use as identified by Planning NSW (2002) includes:

- Selection of an appropriate location
- Minimisation of landscape and visual amenity impacts
- Minimisation of noise and electromagnetic disturbance impacts
- Minimisation of adverse impacts on aerial fauna
- Minimisation of land use conflicts

Management of rural lands through this Strategy to cluster settlement intensification away from natural resource areas (including high wind areas) and to reduce dispersed rural lifestyle will benefit both the planning and future potential for renewable energy projects within the LGA. This will enable planning at the operational and assessment level to function more effectively by minimising land use conflict and identifying priority land uses for rural areas.

Figure 5. The New South Wales Wind Atlas

# The New South Wales Wind Atlas



Source: Extract of SEDA Wind Atlas

## DISCUSSION OF NEW PLANNING APPROACH

### DETERMINING AN APPROPRIATE MINIMUM LOT SIZE (MLS) FOR ERECTION OF A DWELLING

The establishment of minimum lot sizes is the key planning tool by which the planning system is able to manage development and land use within the rural areas.

It is not the determinant of what constitutes a viable holding for agricultural and rural purposes.

Since the introduction of the Rural Lands SEPP (clause 9), adherence to a prescribed minimum lot size for primary production land use and activities where no dwelling is involved has been relaxed. This allows land owners a greater chance to achieve zone objectives that facilitate primary production. It recognises the changing face of agriculture where the trends are for larger farms to become larger and smaller farms becoming smaller and where no longer is farm viability measured on holding size. It also allows for non-contiguous farming enterprises particularly in relation to the mainstay of agriculture in the Lithgow LGA being grazing.

Therefore minimum lot size as a planning tool is now focused primarily on managing the density of rural dwellings.

### REVIEW OF THE CURRENT MINIMUM RURAL LOT SIZE

The current predominant rural minimum lot size of 40 hectares was introduced as Policy by the State Planning Authority in 1973. The policy was introduced in response to the concerns about the spread of residential lots in rural areas that were seen to alter the character of rural areas and lead to associated problems such as the fragmentation of farms, inflated land values, loss of agricultural land and the uneconomic diversion of services away from towns and rural villages. All concerns that remain relevant today.

The 40 hectare Policy was intended to be an arbitrary holding measure whilst Councils determined a more appropriate MLS. However this LGA along with many others showed little initiative to review this standard. The most significant threat to primary production lands and environmentally sensitive lands is the proliferation of dispersed rural dwellings. It is also the major driver of rural land use conflict. The 40 hectare development standard widely applied actively promotes the fragmentation of rural lands and its associated impacts.

As a result of local government amalgamations in 2004 and amendments to the Lithgow Local Environmental Plan in 2008, there are currently inconsistencies with the MLS provisions in the operating Local Environmental Plans.

Of significance are the following:

- A 100ha MLS applies to the Outer Rural 1(e) zone in the Lithgow Local Environmental Plan, being the area formerly part of the Evans Shire.
- A 40ha MLS applies to the General Rural 1(a) zone in the Lithgow Local Environmental Plan. Notwithstanding this development standard, Clause 12(1) of this Local Environmental Plan contains a

general restriction that restricts further subdivision of any land that has in whole, or in part, been previously subdivided to create a concessional allotment.

- A 40ha MLS applies to the General Rural 1(a) zone in the Rylstone Local Environmental Plan. Notwithstanding this development standard, Clause 13(1) (c) prohibits subdivision of land comprising prime crop and pasture land. Prime crop and pasture land is defined as land that is Class 1 -3 identified by the Agricultural Suitability Map, 1982.

This classification affects a large proportion of the former Rylstone Shire area in and around the Capertee Valley. This area is shown as shaded in Figure 8

To be clear if Council elects to maintain the existing 40ha MLS development standard in this area, no further subdivision of this area can occur. It is only by reviewing and implementing a change to the rural MLS policy that this prohibition can be overcome.

**The Rural Lands State Environmental Planning Policy (2008) does not require Council to review the rural minimum lot size or change the minimum lot size in the existing LEPs.**

Having regard to the previous discussion of rural planning issues, it is considered necessary to review the rural minimum lot size for the following reasons:

- The continued fragmentation of primary production lands for rural lifestyle development is unsustainable.
- The current standards, if left unchanged, will continue to produce poor planning outcomes across the four sustainability areas of social, economic, environmental and governance. The impact of these outcomes will worsen over time.
- The LGA currently has two disparate minimum lot sizes relating to the General Rural (40ha) and Outer Rural (100ha) land use zones as a result of repealing the former Evans Shire planning instruments as well as disparate supporting provisions.
- There is an existing Council resolution (Min No 008-227) to strategically review minimum lot size for the erection of a rural dwelling in the development of a Land Use Strategy the new LEP.
- To implement related strategies of Council's 2007 Strategic Plan in particular G2 and G5.

## **RURAL PLANNING AND SUBDIVISION PRINCIPLES UNDER SEPP (RURAL LANDS) 2008**

In reviewing the minimum lot size of rural lands under Local Environmental Plans, the Minister of Planning under Section 117 of the Environmental Planning & Assessment Act has directed that Councils exercise their functions in accordance with the Rural Planning Principles and Rural Subdivision Principles outlined in State Environmental Planning Policy (Rural Lands) 2008.

### **RURAL PLANNING PRINCIPLES ARE AS FOLLOWS:**

- a) The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.
- b) Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State.
- c) Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development.

- d) In planning for rural lands, to balance the social, economic and environmental interests of the community.
- e) The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land.
- f) The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities.
- g) The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.
- h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director General.

**RURAL SUBDIVISION PRINCIPLES ARE AS FOLLOWS:**

- a) The minimisation of rural land fragmentation.
- b) The minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses.
- c) The consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands.
- d) The consideration of the natural and physical constraints and opportunities of land.
- e) Ensuring that planning for dwelling opportunities takes account of those constraints.

Any proposed change to the rural minimum lot size requires an assessment against the above principles.

## **BALANCING PLANNING PRINCIPLE WITH COMMUNITY EXPECTATION**

From a pure strategic land use planning perspective the principle strategies and justifications within the Draft Land Use Strategy relating to the proposed increase in the rural minimum lot size to 400ha and the phasing out of dwelling entitlements below this standard remain valid for the following key reasons:

- Supporting an identified settlement hierarchy
- Minimising rural land use conflict with primary production uses including mining, extractive industry, forestry and agriculture
- Minimising the uneconomic provision of services and infrastructure
- Minimising the potential for further land fragmentation and erection of dispersed dwellings
- Directing development away from environmentally sensitive areas
- Protecting water quality
- Protecting rural landscape'

However what is evident from the public exhibition and consultation program outcomes is that the Draft Strategy did not give sufficient weight to the social and economic impact of the policy on existing landowners.

In addition the ten-fold increase in the minimum lot size has been seen as just too large of an adjustment to be made in the first review of this nature since the early 1980s.

A detailed analysis of the submissions has revealed that approximately 72.5% of submissions can be related to landowners owning less than 80ha (48.8% below 40ha and 23.6% between 40 and 80ha).

Therefore, in relation to the debate around the 400ha minimum lot size, the most contentious issues arising from the Draft Strategy were the recommendations in relation to the phasing out of dwelling entitlements (ability to

lodge a development application) on existing allotments/holdings that would be less than the proposed new minimum lot size rather than the effect of the new minimum lot size on future land subdivision potential.

Since the writing of the Draft Land Use Strategy and in response to the issues raised in the submissions, Council has undertaken a more robust analysis of rural lands and has been able to more accurately estimate the impact (particularly in terms of potential dwellings) of various policy directions for rural minimum lot size across the local government area (LGA).

Further consideration has also been given to the demand trends for rural dwellings. A review of historic development application data since 2009 has shown that the trend towards rural dwellings continues to fall. The average annual demand for rural dwellings between 1999-2004 was 41, whilst in the period 2005-2010 it fell to 20 per year. Demand is changing and more closely aligning with the recommended settlement hierarchy where Lithgow takes the larger share of new residential development representing 45% in the last five years compared with 26 % in the previous five years.

Having regard to this analysis, further options have been developed that seek to provide a better balance between planning principle, community expectation and social and economic equity.

In order to effectively address the issues raised during public exhibition it is considered necessary to separate the key issues associated with rural MLS being, provisions in relation to the erection of a dwelling on existing allotments/holdings and future subdivisional potential of rural holdings.

## **DWELLING PROVISIONS FOR EXISTING OR APPROVED ALLOTMENTS**

The exhibited Draft Land Use Strategy recommended an increase in the rural MLS from 40ha to 400ha. As a result, further recommendations in relation to existing dwelling provisions were also proposed to phase out, over time, the erection of dwellings on allotments less than the new minimum lot size. This was to be achieved through the immediate extinguishment of dwelling provisions relating to holdings less than 40ha and a sunset period of two years for all other existing dwelling provisions/entitlements including those allotments legally created by subdivision under any previous planning instrument following the gazettal of a new LEP.

These recommendations were strongly objected to by the community. As stated previously 72.5 % of submissions can be related to landowners owning less than 80ha. As these landowners do not have any subdivisional potential under the current operating LEP's, the identified issue is the impact on the landowners' ability to erect a dwelling.

In engaging with the community, it has become clearly apparent that the recommendations of the exhibited strategy did not recognise the social and economic implications on individual landowners of not honouring past planning policy decisions, albeit that these decisions can now be shown to be inappropriate.

It is estimated from a desktop analysis that 672 (448 of these are on allotments less than 40ha) dwelling opportunities exist on holdings that do not have the ability to further subdivide, under the provisions of the current operating LEP's. These opportunities are reasonably distributed across the LGA.

In reality this figure may increase as it does not include those allotments that have been approved by subdivision application that have not yet been issued with separate title. Council does not currently have an accurate or detailed land monitor that identified and tracks subdivision approvals for the erection of a dwelling through to the occupation of the dwelling. Therefore Council is at this time, is unable to quantify the number,

location and status of approved live development applications for the creation of new allotments. This is a significant data gap for strategic analysis.

**It is the recommendation of this Strategy that all dwelling provisions within the operating LEP's be carried over through a savings clause in the new LEP.**

**To be clear this includes all allotments less than 40ha defined as existing holdings in the operating LEP's and all allotments created by an approved subdivision for the purposes of a dwelling under any previous planning instrument.**

## APPROPRIATE MINIMUM LOT SIZE FOR SUBDIVISION

The exhibited Draft Land Use Strategy proposed one rural zone and one rural minimum lot size of 400ha. As stated previously, the justifications for this recommendation as outlined in the Draft Strategy remain valid.

However, having regard to the outcomes of the community consultation it is clear that the community does not want the planning outcomes of that recommendation. In order to achieve a greater balance between planning principle and community expectation a more robust analysis of rural lands was undertaken.

This analysis produced a further two rural planning options to compare against the maintenance of the existing provisions.

## METHODOLOGY OF ANALYSIS

The opportunities and constraints present in the rural areas of the LGA were further refined using the following:

- Identifying where areas of both high biodiversity and Land Capability 7 & 8 are present using Environmentally Sensitive Areas mapping
- Identifying biodiversity corridors linking key habitat areas as specified by the Office of Environment and Heritage
- Identifying contiguous areas of endangered ecological communities using Environmentally Sensitive Areas mapping
- Identifying areas of National Parks, State Conservation Areas and State Forests
- Identifying significant natural landform and where appropriate physical infrastructure including roads and railway lines.

**Note: High Biodiversity areas are characterised by a high degree of flora and fauna habitat. Areas of Land Capability 7 & 8 are characterised by one or more of the following and are unsuitable for development; steep slopes, shallow soils, salinity, temporary or permanent inundation, rocky outcrops, high dispersability and erosion potential or the presence of karst systems.**

Once the above data was mapped, distinct sector boundaries began to emerge and areas of the highest sensitivity were identified. It should be noted that not all areas of high sensitivity and high biodiversity within the LGA are included in these areas as other remnant pockets exist that are not contiguous.

The sectors were then further refined to link as far as possible, areas of similar holding patterns and environmental characteristics.

The LGA's high sensitivity areas as shown by hatching on the attached maps have been identified as occurring predominantly on the fringes of the LGA corresponding to the LGA's characteristic landform of escarpment areas surrounding the various valleys. These areas contain varying degrees of slope and are usually areas of dense remnant vegetation. These areas cover 44.16% of all the rural land in the LGA. These areas are not suited to land use intensification.

Typical landform of these areas is evident in the images below:



Photo: Looking to escarpment areas from Mill Creek Road.



Photo: Area around Turon Gates.

The outcomes of this analysis are shown in the following figures and tables:

### **OPTION 1 - VARIABLE MINIMUM LOT SIZE**

This option introduces a variable minimum lot size across the LGA of 40ha and 100ha. The increased 100ha minimum lot size is the predominant MLS applied.

Under this option indicated in Table 11 and Figure 6, there would be a potential for a further 2125 dwellings, 898 of which would occur without the need for further subdivision. This is reflective of the high level of existing fragmentation enabled through past planning policy decisions.

This option identifies areas of highest sensitivity (44.16% of all rural land) across the LGA and proposes to apply a minimum lot size of 100ha in those areas.

It provides added protection to a further 35.58% of rural lands through an increased minimum lot size of 100ha.

It also identifies two sectors (6 and 9 as shown in Figure 6) within the LGA that due to the current holding pattern would not substantially benefit from an increased minimum lot size. These areas are surrounding Portland and Wallerawang and to the south and east of Lithgow in the Hartley/Kanimbla valleys. These areas are proposed to retain a 40ha minimum lot size.

Figure 6. Option 1 – Rural Planning Directions

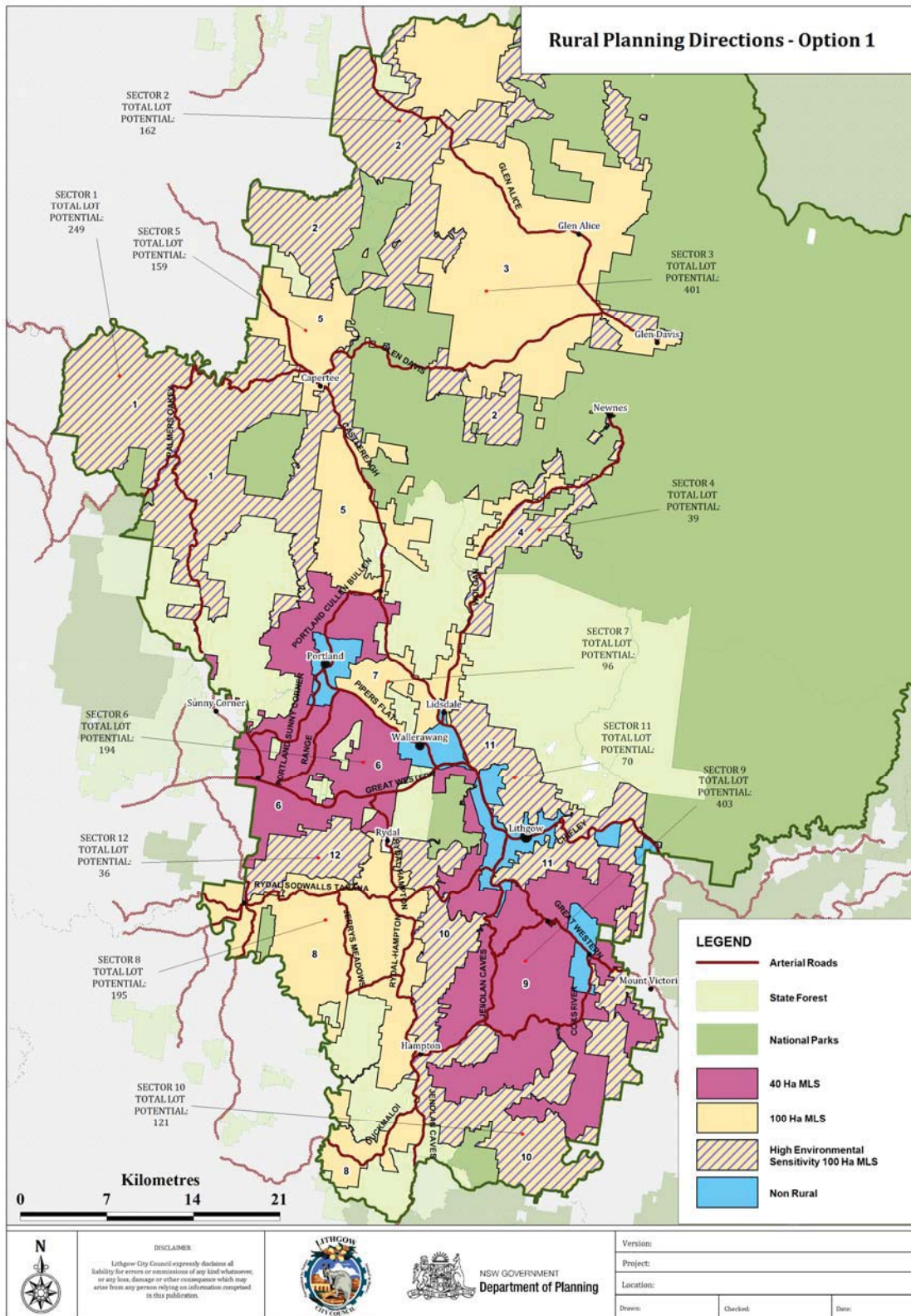


Table .11 Option 1 – Variable minimum lot size

Option 1 - Variable MLS(40 & 100 in rural & 100ha in ESA Areas	1 - 100ha	2- 100ha	3 - 100ha	4 - 100ha	5 - 100ha	6 - 40ha	7 - 100ha	8 - 100ha	9- 40ha	10- 100ha	11- 100ha	12- 100ha(17)	Total
<b>Savings Clause</b>	22	18	59	8	22		23	63		30	8	1	254
Vacant Properties 100 - 200	5	5	6	0	3		1	5		7	5	1	38
Vacant Lots 100 - 200	25	9	17	4	20		2	13		12	6	3	111
Vacant Properties 40 - 80													
Vacant Lots 40 - 80						16			22				38
						4			5				9
Vacant Existing Holdings	12	3	73	5	38	24	19	31	41	7	32	0	285
Vacant Concessionals	12	12	51	0	13	9	1	10	34	8	13	0	163
Subdivision Potential Vacant Holdings > 200	58	24	8	0	11		21	14		23	6	7	172
Subdivision Potential Holdings > 200 With a Dwelling	115	91	187	22	52		29	59		34	0	24	613
Subdivision Potential Vacant Holdings > 80						25			19				44
Subdivision Potential Holdings >80 with dwelling						116			282				398
<b>Totals</b>	<b>249</b>	<b>162</b>	<b>401</b>	<b>39</b>	<b>159</b>	<b>194</b>	<b>96</b>	<b>195</b>	<b>403</b>	<b>121</b>	<b>70</b>	<b>36</b>	<b>2125</b>

## **OPTION 2 - VARIABLE MINIMUM LOT SIZE**

This option also introduces a variable lot size across the LGA of 40ha and 100ha. In this option the 40ha is the predominant minimum lot size applied.

Under this option indicated in Table 12 and Figure 7, there would be a potential for a further 2529 dwellings, 822 of which would occur without the need for further subdivision.

This option identifies areas of highest sensitivity (44.14% of rural land) across the LGA and proposes to apply a minimum lot size of 100ha in those areas.

All other rural areas would have a 40 ha minimum lot size.

Figure 7. Option 2 – Rural Planning Directions

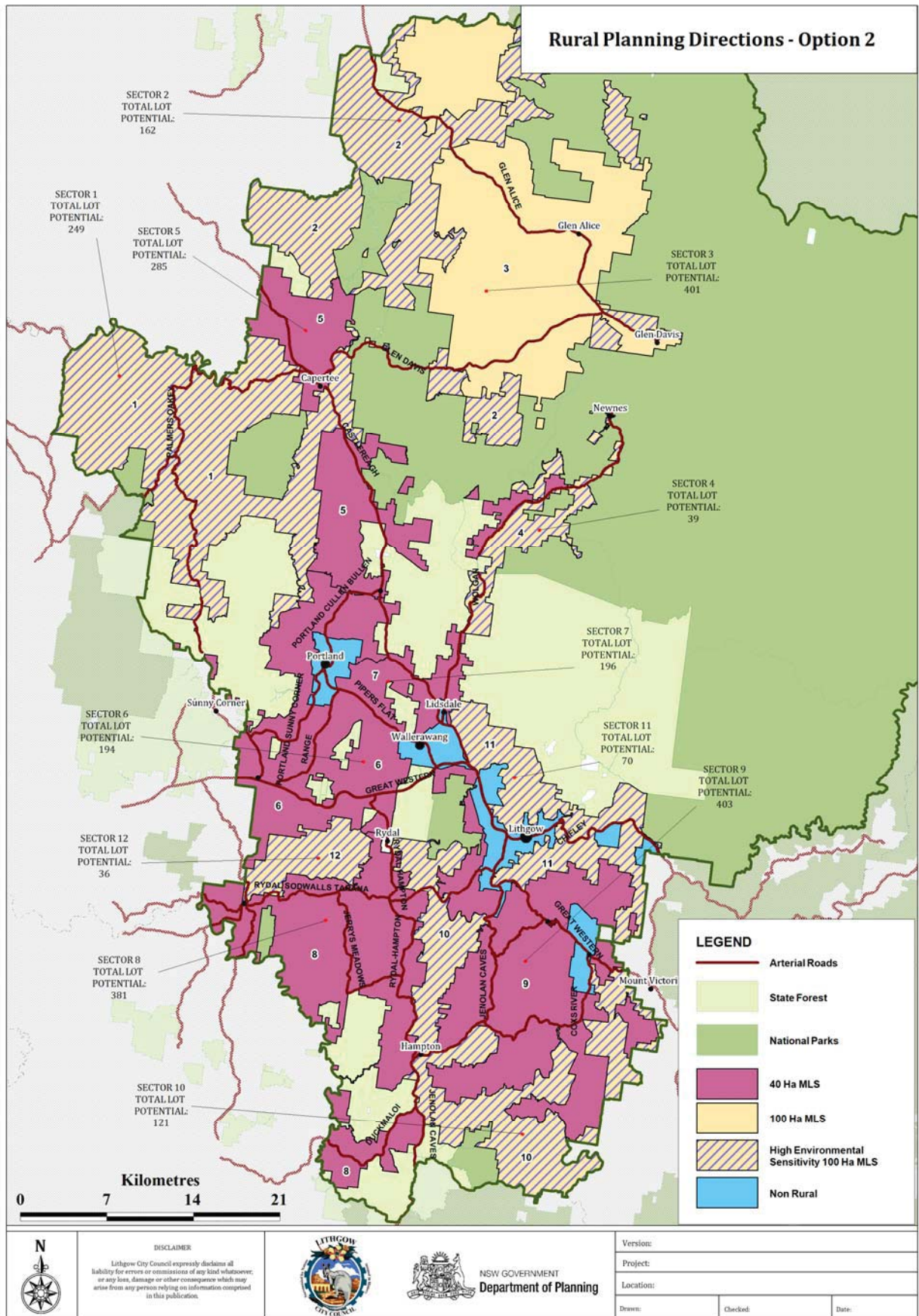


Table 12. Option 2- Variable minimum lot size

Option 2 - Variable MLS(40 & 100ha in ESA areas)	1 - 100ha	2 - 100ha	3 - 40ha	4 - 100ha	5 - 40ha	6 - 40ha	7 - 40ha	8 - 40ha	9 - 40ha	10 - 100ha	11 - 100ha	12 - 100ha	Total
<b>Savings Provisions</b>	<b>22</b>	<b>18</b>		<b>8</b>						<b>30</b>	<b>8</b>	<b>1</b>	<b>87</b>
Vacant Properties 40 - 80	-	-	37	-	10	16	14	39	22	-	-	-	<b>138</b>
Vacant Lots 40 - 80	-	-	9	-	3	4	2	8	5	-	-	-	<b>31</b>
Vacant Properties 100 - 200	5	5	-	0	-	-	-	-	-	7	5	1	<b>23</b>
Vacant Lots 100 - 200	25	9	-	4	-	-	-	-	-	12	6	3	<b>59</b>
Vacant Existing Holdings	12	3	73	5	38	24	19	31	41	7	32	0	<b>285</b>
Vacant Concessionals	12	12	51	0	13	9	1	10	34	8	13	0	<b>163</b>
Subdivision Potential Vacant Holdings > 80	-	-	41	-	40	25	62	57	19	-	-	-	<b>244</b>
Subdivision Potential Vacant Holdings > 80 With a Dwelling	-	-	535	-	181	116	98	228	282	-	-	-	<b>1440</b>
Subdivision Potential Vacant Holdings > 200	58	24	-	0	-	-	-	-	-	23	6	7	<b>118</b>
Subdivision Potential Holdings > 200 With a Dwelling	115	91	-	22	-	-	-	-	-	34	0	24	<b>286</b>
<b>Total</b>	<b>249</b>	<b>162</b>	<b>746</b>	<b>39</b>	<b>285</b>	<b>194</b>	<b>196</b>	<b>373</b>	<b>403</b>	<b>121</b>	<b>70</b>	<b>36</b>	<b>2874</b>

### **OPTION 3 - NO CHANGE TO EXISTING MINIMUM LOT SIZE**

This option exercises Council's right under State Environmental Planning Policy (Rural Lands) 2008 not to change existing rural minimum lot sizes.

Under this option indicated in Table 13 and Figure 8, there would be a potential for a further 3545 dwellings, 672 of which would occur without the need for further subdivision.

This option retains the disparate rural minimum lot sizes and provisions across the LGA and provides no further protection to high sensitivity areas or areas where land is held on larger holdings.

A comparison of the relative advantages and disadvantages of options 1, 2 and 3 is provided in Table 14.

Figure 8. Option 3- Rural Planning Directions

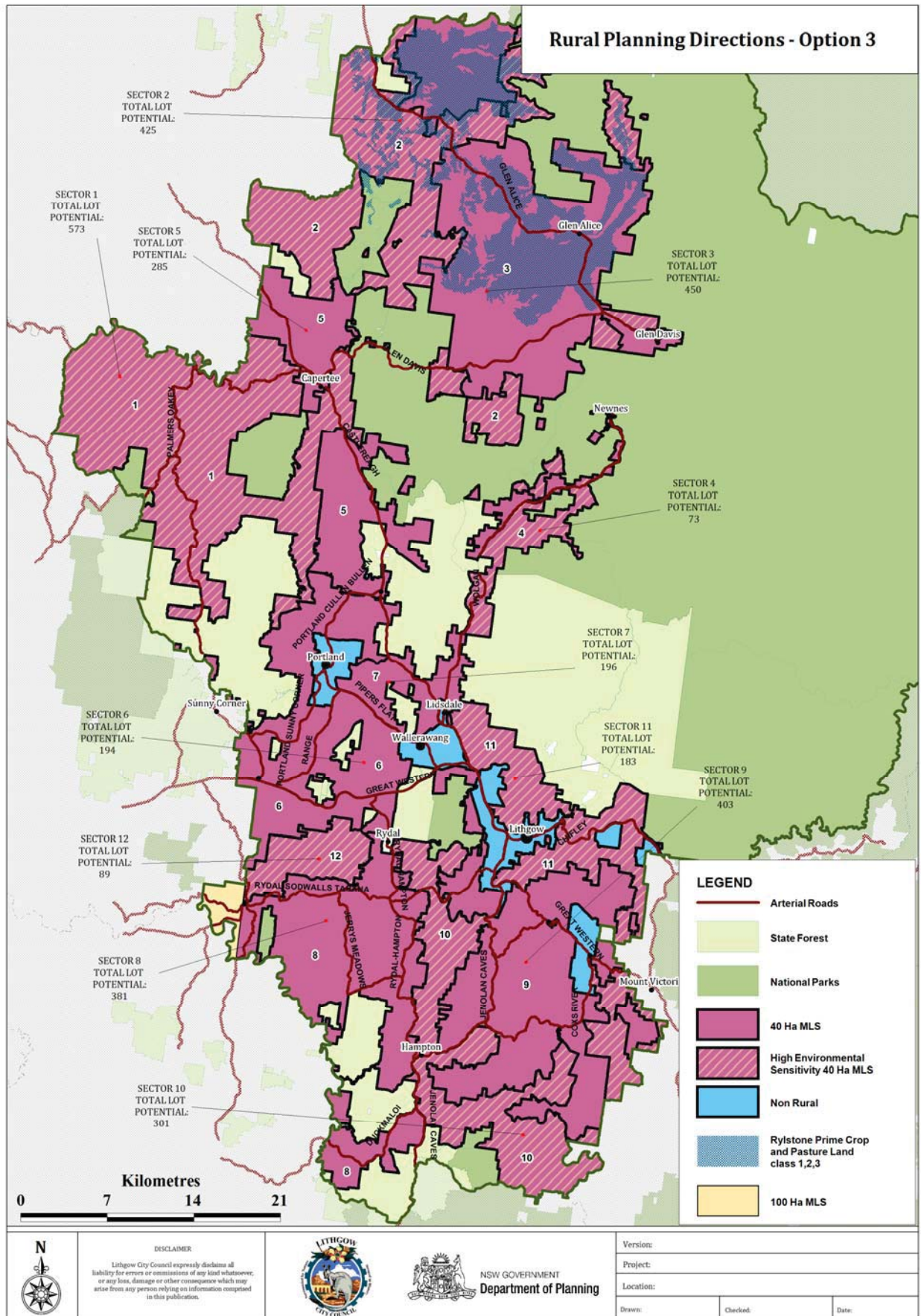


Table 13. Option 3 - No change to minimum lot size

Option 3 - 40ha	1 - 40ha	2 - 40ha	3 - 40ha	4 - 40ha	5 - 40ha	6 - 40ha	7 - 40ha	8 - 40ha	9 - 40ha	10 - 40ha	11 - 40ha	12 - 40ha	Totals
Vacant Properties 40 - 80	9	12	46	4	13	20	16	47	27	21	8	1	224
Vacant Existing Holdings	12	3	73	5	38	24	19	31	41	7	32	0	285
Vacant Concessionals	12	12	51	0	13	9	1	10	34	8	13	0	163
Subdivision Potential Vacant Holdings > 80	167	76	41	0	40	25	62	57	19	101	37	21	646
Subdivision Potential Vacant Holdings > 80 With a Dwelling	373	322	535	64	181	116	98	228	282	164	93	67	2523
<b>Total</b>	<b>573</b>	<b>425</b>	<b>746</b>	<b>73</b>	<b>285</b>	<b>194</b>	<b>196</b>	<b>373</b>	<b>403</b>	<b>301</b>	<b>183</b>	<b>89</b>	<b>3841</b>

A comparison summary of the rural lands analysis is provided in the following table:

Table 14. Rural Lands Analysis

MLS Scenario	Description of Option	Estimated Dwelling Potential without subdivision	Estimated Dwelling Potential with subdivision	Advantages	Disadvantages
Option 1	<p>This option introduces a variable MLS across the LGA of 40ha and 100ha. The increased 100ha MLS is the predominant MLS. This MLS is applied to areas identified of highest sensitivity and areas of the LGA (as shown by hatching on the Option 1 map) that have been identified as having a holding pattern that may result in substantial future fragmentation at the current 40ha MLS.</p>	<p>898 includes 448 protected by actions recommended previously. Includes further 254 potential dwellings in holdings between 40ha and 100ha proposed to be protected through new existing holding savings clause.</p>	<p>1227</p>	<ul style="list-style-type: none"> <li>Balances community expectation with achieving sound planning outcomes</li> <li>Reduces potential for land use conflict and encroachment of intensified settlement on resource lands such as coal deposits, extractive resources as identified in Section 117 Directions, forestry and higher quality grazing land</li> <li>Enables higher planning outcomes to be achieved across 79.74% of the rural areas</li> <li>Recognizes current development and holding patterns</li> <li>Recognises the prevalence of prime crop and pasture land in the former Rylstone Shire area and introduces a new MLS of 100ha that would remove the current prohibition of subdivision of this land</li> <li>Maintains rural housing choice</li> <li>Supports desired settlement hierarchy principles</li> </ul>	<ul style="list-style-type: none"> <li>Number of dispersed rural dwellings is still high. This level does not substantially reduce until a MLS of 200ha or higher is applied</li> <li>Does not substantially reduce potential for the uneconomic provision of services such as road and social infrastructure and governance</li> <li>Still defers significant strategic matters to the development assessment process and open to the influences of market forces</li> </ul>

MLS Scenario	Description of Option	Estimated Dwelling Potential without subdivision	Estimated Dwelling Potential with subdivision	Advantages	Disadvantages
Option 2	<p>This option introduces a variable MLS across the LGA. It retains the existing 40ha MLS in all areas of the LGA except for:</p> <ul style="list-style-type: none"> <li>those areas identified as highest sensitivity (as shown by hatching on the Option 2 map)</li> <li>Sector 3 (as shown on the Option 2 map) being an area in and around the Capertee Valley to which a 100ha MLS will apply.</li> <li>The area of the former Evans Shire LGA which would retain a 100ha MLS</li> </ul>	822 includes 448 protected by actions recommended previously and includes 146 potential dwellings in holdings between 40ha and 100ha proposed to be protected through new existing holding savings clause.	1707	<ul style="list-style-type: none"> <li>Balances community expectation with improved planning outcomes in areas of highest sensitivity when compared to the existing 40ha policy</li> <li>Maintains rural housing choice across the LGA</li> <li>Enables higher planning outcomes in 44.16% of the rural areas</li> </ul>	<ul style="list-style-type: none"> <li>Maintains a demand and expectation for the uneconomic provision of road and social infrastructure and governance</li> <li>Still defers significant strategic matters to the development assessment process and open to the influences of market forces</li> <li>Promotes further fragmentation of rural land for the primary purpose of a dwelling</li> <li>Does not substantially reduce land use conflict with resource lands</li> <li>Does not support the recommended growth management and sustainability principles/settlement hierarchy</li> <li>principles outlined in Chapter 4 of the exhibited Draft Strategy</li> <li>Requires the current performance criteria and provisions in each operating LEP to be given effect in the new LEP. This includes Clause 12 General Restriction of the Lithgow LEP preventing further subdivision of lands previously subdivided for concessional allotments and Clause 13 of the Rylstone LEP that prohibits subdivision of prime crop and pasture land that affects the majority of land within the former Rylstone area.</li> </ul>

MLS Scenario	Description of Option	Estimated Dwelling Potential without subdivision	Estimated Dwelling Potential with subdivision	Advantages	Disadvantages
Option 3	This option represents NO CHANGE. The current 40ha MLS is retained across all rural areas of the LGA.	672 includes 448 protected by actions recommended previously	2873	<ul style="list-style-type: none"> <li>Landowners not directly disadvantaged</li> </ul>	<ul style="list-style-type: none"> <li>Does not support the recommended growth management and sustainability principles/settlement hierarchy principles outlined in Chapter 4 of the exhibited Draft Strategy</li> <li>Actively promotes further fragmentation of rural land for the primary purpose of a dwelling. Level of potential dwellings is unsustainably high.</li> <li>Defers significant strategic matters to the development assessment process and opens planning decisions to the influences of market forces. This places increased pressure on Council's assessment processes to avoid litigation.</li> <li>Ability to address cumulative impact associated with dispersed rural dwellings is diminished</li> <li>Does not reduce land use conflict with resource lands</li> <li>Does not provide broad strategic protection to areas of highest sensitivity and cannot demonstrate adequate consideration of Environmentally Sensitive Areas as required by Section 117 Direction 2.1</li> </ul>

MLS Scenario	Description of Option	Estimated Dwelling Potential without subdivision	Estimated Dwelling Potential with subdivision	Advantages	Disadvantages
					<ul style="list-style-type: none"> <li>Maintains a demand and expectation for the uneconomic provision of road and social infrastructure and governance</li> <li>No change to MLS retains the former Evans Shire area at 100ha whilst all other rural areas will be retained at 40ha.</li> <li>Requires the current performance criteria and provisions in each operating LEP to be given effect in the new LEP. This includes Clause 12 General Restriction of the Lithgow LEP preventing further subdivision of lands previously subdivided for concessional allotments and Clause 13(1) (c) of the Rylstone LEP that prohibits subdivision of prime crop and pasture land that affects the majority of land within the former Rylstone area.</li> </ul>

## IDENTIFICATION OF A PREFERRED MINIMUM LOT SIZE OPTION

Table 15 lists the growth management and sustainability principles (GMP's) of this Strategy and provides a subjective assessment "score" of the ability of the different minimum lot size scenarios, as compared against each other, to meet the GMP's. The assessment is based on assigning a subjective score between 1 (Very low) – 5 (Very High) within the matrix.

Table 15. Comparative Assessment of Minimum Lot Size Scenarios against Growth Management and Sustainability Principles

	Option 3 Status Quo	Option 1 (Variable) (Preferred Option)	Option 2 (Variable)	400ha (Draft Strategy Recommendation)
Thresholds to Growth	1	2	1	3
Land Use Suitability and Capability	1	3	2	4
Infrastructure Provision	1	2	1	2
Diversity of Lifestyle	2	2	3	4
Character, Identity and Urban Design	1	2	1	3
Economic Growth	2	2	3	3
Access & Equity	1	2	2	3
Total	9	16	13	22

At what level does the scenario meet the GMSP

- 1 – Very Low
- 2 – Low
- 3 – Medium
- 4 – High
- 5 – Very High

## PREFERRED RURAL MINIMUM LOT SIZE

The Draft Strategy provided justification for the 400ha minimum lot size as the most effective in meeting the GMP's. Although this justification remains valid, this Strategy must take into consideration the community interest and expectation and provide a balance between the social, economic, environmental and governance parameters facing the LGA.

Therefore, Option 1 presents itself as the preferred rural minimum lot size scenario. The justification for this option as reflected in each of the assessment scores is summarised in Table 16 below:

Table 16. Justification of Option 1 Variable Minimum Lot Size

STRATEGIC PLAN REFERENCE	Guiding Principle	Justification of Preferred Option 1
<p><b>G1</b> Planning for an annual growth rate of 1 to 2% for the LGA. (NB Revised by this Strategy to 0.5-1%)</p> <p><b>G2</b> Planning growth in the towns and villages followed by rural residential areas.</p> <p><b>G4</b> Providing residential land to cater for future growth</p>	<p><b>GMSP1</b> <b>Thresholds to Growth</b></p>	<p>An analysis of historic development application data has indicated a trend towards dispersed rural lifestyle development with 32.7 % (415) of all dwelling applications between 1996-2009 being within the General Rural area. This is higher than 30% in the Lithgow urban area.</p> <p>Such unplanned growth is unsustainable and is inconsistent with the recommended settlement hierarchy designed to create critical mass within the three urban centres of the LGA supported by the rural villages.</p> <p>The application of an increased minimum lot size is necessary to generally not attract rural lifestyle development as the primary use and driver of fragmentation of rural land. The MLS must therefore function to “price-out” prospective rural lifestyle purchasers. Consultation with rural landowners has revealed that 100ha would be sufficient to achieve this outcome.</p> <p>An increased MLS for the majority of the wider rural areas supports a clustered approach to providing for residential land use within a rural environment. By reducing this choice in the wider rural areas to locations where land is already fragmented, new growth may be directed back into the planned and clustered areas currently known as rural small holding 1(c) and areas predominantly within the 15km outer limit from the Lithgow township.</p> <p>As a result of community consultation it is proposed to save all existing dwelling opportunities within the rural areas that do not require further subdivision. This in itself is a large concession from the recommendations of the Draft Land Use Strategy and under Option 1 represents the retention of 898 dwelling opportunities.</p> <p>Such concession minimises the individual landowner burden of the introduction of a 100ha MLS policy in the majority of the wider rural areas.</p> <p>Although the ability of Option 1 to meet this GMP is low, it does represent an improvement upon the current provisions.</p> <p><b>This demonstrates consistency with Rural Land Principles (f) and (g) and Rural Subdivision Principle (a) (c).</b></p>
<p><b>G3</b> Facilitating the sustainable planning of land through assessment criteria</p> <p><b>E2</b> Identifying and protecting the Department of Environment and Climate Changes Estates</p>	<p><b>GMP 2</b> <b>Land Use Suitability and Capability</b></p>	<p>Potential for land use conflict is increased with land fragmentation and the proliferation of unplanned dispersed rural lifestyle development.</p> <p>Whilst the 40 ha MLS may be sufficient to separate incompatible land use on any one development site, it is the cumulative impact of these uses that creates widespread land use conflict that can most effectively be addressed at the strategic planning level.</p> <p>The larger the MLS the greater the potential to minimise rural land use conflict and achieve rural land zone objectives.</p>

STRATEGIC PLAN REFERENCE	Guiding Principle	Justification of Preferred Option 1
<p><b>E3</b> Protecting and enhancing biodiversity through consultation and development of partnerships</p> <p><b>E/113</b> Protecting the economic assets</p>		<p>The rural areas of the Lithgow LGA contain varying landforms and land capability. The Environmentally Sensitive Areas mapping and the Strategic Land and Water Capability Assessment as referred to in Chapter 7 are indicators of the LGA land capability and suitability for differing land uses. The protection of the natural resource base and the minimisation of inappropriate pressure on scarce resources is a critical component of ecologically sustainable development. The general message from key government stakeholders is that it is easier to protect the natural resource base when rural property holdings are larger and there is less dwelling intensification in rural areas (Collie Pty Ltd Cowra LUS '09).</p> <p>Option 1 identifies areas of highest sensitivity within the LGA. These areas represent 44.16% of all rural land in the LGA.</p> <p>The potential to achieve natural resource outcomes and minimise land use conflict will be maximised in these areas by the introduction of the higher 100haMLS. Consideration was given to a higher MLS of 200ha in these areas however due to the current land holding pattern such increase did not make a significant change to the overall outcome in terms of the numbers of potential dwellings that may result.</p> <p>Option 1 also provides further protection for a further 35.58% of rural land from further land fragmentation driven purely for lifestyle development. It will reduce the number of new dispersed rural lots by 1646 or 57.3% when compared with the current provisions.</p> <p><b>This demonstrates consistency with Rural Planning Principle (d) and (e) and Rural Subdivision Principle (b), (c) (d) and (e).</b></p>
<p><b>G6</b> Providing infrastructure for growth</p> <p><b>T1</b> Providing road infrastructure which meets the needs of residents</p> <p><b>T3</b> Promoting equitable access to public transport</p> <p><b>T5</b> Improving and expanding the pedestrian and bicycle network</p> <p><b>E8</b> Securing the community access to water</p>	<p><b>GMP 3</b> <b>Infrastructure Provision</b></p>	<p>There are significant costs associated with unplanned dispersed rural settlement including, but not limited to, road and transport infrastructure and services, waste disposal, rural land protection, emergency services and noxious weed control.</p> <p>When these services are provided over a wider area, there is a loss of critical mass and economies of scale are unable to be achieved. This results in the service provision being subsidised by the wider community.</p> <p>It also creates effects of displaced demand and includes the loss of population critical mass to attract or retain retail catchments and catchments for higher order services such as health, emergency services, law enforcement and community social services.</p> <p>The application of an increased MLS supports the recommended settlement hierarchy and ensures that rural lifestyle development remains ancillary to primary production.</p> <p>Again, the higher the MLS the less pressure for dispersed settlement which maximises the opportunity for a clustered settlement hierarchy to be achieved.</p> <p>The increased MLS enables future growth in areas to be forecasted with more certainty, enabling infrastructure and service provision to</p>

STRATEGIC PLAN REFERENCE	Guiding Principle	Justification of Preferred Option 1
		<p>be properly planned for and funded through appropriate mechanisms such as developer contribution plans, development serving plans and grant allocations.</p> <p>The ability of Option 1 to meet this GMP is still low however it will significantly reduce the potential number of new dispersed lots to be created in the rural areas by 1646 or 57.3% when compared to the current provisions.</p> <p><b>This demonstrates consistency with Rural Planning Principle (g) and Rural Subdivision Principle (c), (d) and (e).</b></p>
<p><b>G2</b> Planning growth in the towns and villages followed by the rural residential areas</p> <p><b>G5</b> Providing for rural living in an appropriate development form that will minimise its impact and maximise the concentration of population of population in around existing town centres and villages</p> <p><b>C9</b> Providing a range of housing opportunities to meet the diverse needs of the community</p>	<p><b>GMP 4</b> <b>Diversity of Lifestyle</b></p>	<p>The Lithgow LGA holding analysis shows that there is extensive rural living opportunities already created in the rural zones on land of various lot sizes.</p> <p>These opportunities will be saved in the new LEP and under this option represent 898 dwellings (448 of which are on allotments below 40ha).</p> <p>The LGA also provides for clustered small lot rural lifestyle in various locations throughout the LGA.</p> <p>The implementation of an increased MLS will serve to direct rural lifestyle development into a more sustainable clustered form. The MLS for rural lifestyle in the wider rural areas needs to be sufficiently high to ensure that it is a limited alternative to urban development instead of replacing it as has been the trend in the last decade.</p> <p>Option 1 will provide for a further 1227 rural lots to be created.</p> <p><b>This demonstrates consistency with Rural Planning Principle (c) and Rural Subdivision Principle (c).</b></p>
<p><b>C2</b> Protecting and enhancing areas of unique qualities and character</p> <p><b>C4</b> Determining and prioritising the recreational needs of the community and explore funding options</p> <p><b>C7</b> Ensuring adequate open space is provided throughout the towns and villages</p> <p><b>HR1</b> Identifying preserving, improving and promoting the LGA's indigenous and non indigenous built and natural heritage</p>	<p><b>GMP 5</b> <b>Character, Identity and Urban Design</b></p>	<p>The proliferation of unplanned and dispersed rural dwellings within the wider rural areas leads to a blurring of the rural character, identity and amenity.</p> <p>Rural lifestylers have different expectation of amenity than traditional rural landowners.</p> <p>It also significantly impacts upon the scenic quality of rural landscapes and vistas. These are often interrupted and alienated by inappropriate location, design and structured landscaping of rural lifestyle development.</p> <p>An increased MLS reduces the pressure on rural lands for rural lifestyle development and enables rural character and amenity to be retained.</p> <p><b>This demonstrates consistency with Rural Planning Principle (c) and Rural Subdivision Principle (b).</b></p>

STRATEGIC PLAN REFERENCE	Guiding Principle	Justification of Preferred Option 1
<p><b>E/I11</b> Planning for a diversified economy which supports local employment</p> <p><b>E/I12</b> Encouraging local employment opportunities for the community</p> <p><b>E/I14</b> Providing employment generation lands</p> <p><b>E/I15</b> Providing retailing opportunities in the LGA</p> <p><b>E/I16</b> Developing our natural and cultural assets for the tourism market</p>	<p><b>GMP 6</b> <b>Economic Growth</b></p>	<p>Primary production land uses and activities contribute significantly to the LGA economy and employment base.</p> <p>Primary threats to these land uses such as land fragmentation and land use conflict created from rural lifestyle development are significantly reduced the higher the MLS.</p> <p>Option 1 will provide further protection to 79.74% of rural lands within the LGA.</p> <p>The reduced number of dispersed rural dwellings will assist with the retention of the rural landscape and resource areas to facilitate economic growth.</p> <p>At the same time, economic growth through lifestyle development will still occur through the saving of 898 potential dwelling opportunities without further subdivision.</p> <p><b>This demonstrates consistency with Rural Planning Principle (a) and (d) and Rural Subdivision Principle (a).</b></p>
<p><b>C3</b> Encouraging equitable access to services and facilities which meet the needs of the community</p>	<p><b>GMP 7</b> <b>Access and Equity</b></p>	<p>The potential for the provision of infrastructure and services to be aligned with the role of the area within the recommended settlement hierarchy is significantly improved through an increased MLS that will ensure that primary production remains the mainstay land use of rural areas.</p> <p>The increased MLS in the majority of rural areas will also remove the level of uncertainty as to population growth potential in areas across the LGA enabling infrastructure and service provision to be better planned.</p> <p><b>This demonstrates consistency with Rural Planning Principle (f) and (g) and Rural Subdivision Principle (c).</b></p>

Source: LCC

## MINIMUM LOT SIZE FOR INTENSIVE AGRICULTURE

As stated previously the Lithgow LGA contains negligible lands considered to be prime crop and pasture lands capable of sustaining intensive agricultural pursuits (Refer to Figure 5.11 of 2007 Local Profile). This has been reflected in low demand for this land use since the introduction of the existing planning instruments.

A further assessment of the Strategic Land and Capability Assessment mapping, prepared by the Sydney Catchment Authority, indicates that the majority of lands contained within the Sydney Drinking Water Catchment has low to very low capability to meet water quality objectives in relation to intensive plant and livestock agriculture land uses.

The recommendation in this Strategy is that Council investigates measures to restrict intensive agriculture land use where appropriate either by nominating an alternate zone to the primary production zone to vary permissible

land use in different areas, or by increased development assessment criteria provisions through the use of overlays within the new LEP.

Notwithstanding the above, it is recognised that as technology and farming practices change, new and emerging agricultural enterprises need to be catered for where land capability permits.

Clause 9 of the 2008 Rural Lands SEPP provides for rural lands to be subdivided with consent for the purposes of primary production of any size with no dwelling.

Where the primary production rural zone will remain it is the recommendation of this Strategy that intensive agriculture be permitted with consent. It is considered that the majority of these uses can be carried out without the need for a dwelling to be located upon the same holding and that sufficient housing choice would be available in most circumstances either within a rural or urban context within commuting distance.

## COUNCIL DETERMINATION AND RESOLUTION

Council at its meeting of 31<sup>st</sup> October, 2011 considered a planning report from the Strategic Land Use Planner in relation to the Draft Land Use Strategy and proposed amendments following community and government agency consultation.

A copy of this report can be viewed at the following link:

[http://www.council.lithgow.com/gen\\_businesspapers.html](http://www.council.lithgow.com/gen_businesspapers.html)

The recommendations of this report and strategy in relation to rural lands policy were NOT supported by Council.

The Council exercised its right to review, but not change, the rural minimum lot size provisions of the current operating LEPs as provided under State Environmental Planning Policy (Rural Lands) 2008.

Council at its Ordinary meeting of 31 October, 2011 resolved the following in relation to rural lands:

**Min 11-450**

THAT:

1B Rural Land Use

"Council adopts Option 3, "status quo" for rural planning directions for Council's Draft Land Use Strategy".

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## SUMMARY OF KEY ACTIONS

### **Action 9.1 Original action prior to Council Resolution**

- Introduce a variable minimum lot size in the 2012 LEP for the erection of a dwelling in the primary rural zone of 40ha and 100ha as indicated in Figure 6 Chapter 9.

### **Action 9.2 Original action prior to Council Resolution**

- Introduce a new existing holdings savings clause in the 2012 LEP to retain dwelling opportunities in the primary rural zone for holdings between 40ha and 100ha as outlined in Option 1 Chapter 9.
- Retain through a savings provision all existing dwelling opportunities for all lots less than 40ha defined as existing holdings and all allotments created by an approved subdivision under any previous planning instrument.

### **Action 9.1 Modified by Council Resolution**

- Carry forward the existing rural minimum lot size provisions under the current operating LEPs into the new 2012 LEP.

### **Action 9.2 Modified by Council Resolution**

- Carry forward the existing provisions governing the erection of a dwelling under the current operating LEP's into the new 2012 LEP.

### **Action 9.3**

- Develop a Land Monitor to identify and track all subdivision and dwelling approvals within the primary production areas.

### **Action 9.4**

- Limit the range of development permissible within the primary production zones to those compatible with sustaining the natural primary resource base within the Lithgow City 2012 LEP.

### **Action 9.5**

- Use Environmentally Sensitive Area mapping to inform the identification of new zones, land use permissibility, and /or assessment criteria defined by overlays in the rural areas within the Lithgow City 2012 LEP.

### **Action 9.6**

- Restrict intensive plant and animal agriculture in areas of low capability as defined by Environmentally Sensitive Area mapping and Sydney Catchment Authority Strategic Land and Water Capability Assessments within the Lithgow City 2012 LEP.

### **Action 9.7**

- Undertake a biodiversity strategy in areas identified by Environmentally Sensitive Area mapping as moderate to high biodiversity as resources permit.

### **Action 9.8**

- Identify areas of high scenic value and protect through appropriate rural or environmental conservation zone and/or overlay provisions in the Lithgow City 2012 LEP.