



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

EXTRAORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

03 FEBRUARY 2014

AT 7.00pm

AGENDA

ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES

PRESENT

DECLARATION OF INTEREST

PUBLIC FORUM

PRESENTATIONS - NIL

MAYORAL MINUTES - NIL

STAFF REPORTS

Environment and Development Report

COUNCIL COMMITTEE MINUTES - NIL

DELEGATES REPORTS - NIL

NOTICES OF MOTION - NIL

QUESTIONS WITH NOTICE - NIL

NOTICE OF RECISSIONS - NIL

BUSINESS OF GREAT URGENCY

as identified by Clause 241 of the Local Government (General) Regulations 2005

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ENVIRONMENT AND DEVELOPMENT REPORTS

ITEM-1 ENVIRO - 03/02/2014 - DRAFT PLANNING PROPOSAL FOR THE PRINCIPAL LITHGOW CITY LOCAL ENVIRONMENTAL PLAN 2013 EXHIBITION OUTCOMES AND RECOMMENDED ACTIONS

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 568:	Ordinary Meeting of Council held on 14 June 1994
Min No 50:	Ordinary Meeting of Council held on 13 January 1997
Min No 07-518:	Policy and Strategy Committee Meeting held on 3 December 2007
Min No 07-519:	Policy and Strategy Committee Meeting held on 3 December 2007
Min No 08-78:	Policy and Strategy Committee Meeting held on 1 July 2008
Min No 08-134:	Ordinary Meeting of Council held on 19 August 2008
Min No 008-227:	Ordinary Meeting of Council held on 15 December 2008
Min No 10-138:	Ordinary Meeting of Council held on 12 April 2010
Min No 10-160:	Extra Ordinary Meeting of Council held on 27 April 2010
Min No 11-23:	Ordinary Meeting of Council held on 24 January 2011
Min No 11-24:	Ordinary Meeting of Council held on 24 January 2011
Min No 11-27:	Ordinary Meeting of Council held on 24 January 2011
Min No 11-231:	Ordinary Meeting of Council held on 20 June 2011
Min No 11-422:	Ordinary Meeting of Council held on 31 October 2011
Min No 11-450:	Ordinary Meeting of Council held on 31 October 2011
Min No 12-75:	Ordinary Meeting of Council held on 5 March 2012
Min No 12-215:	Ordinary Meeting of Council held on 25 June 2012
Min No 13-116:	Ordinary Meeting of Council held on 15 April 2013
Min No 13-190:	Ordinary Meeting of Council held on 27 May 2013
Min No 13-390:	Ordinary Meeting of Council held on 28 October 2013
Min No 13-391:	Ordinary Meeting of Council held on 28 October 2013

SUMMARY

The purpose of this report is to advise of the outcomes of the public exhibition of the Draft Planning Proposal; evaluate and address the written submissions and to recommend actions to enable the finalisation of the Planning Proposal for referral back to the NSW Department of Planning and Infrastructure for the making of the Plan.

ACRONYMS USED IN THIS REPORT

For ease of reference the acronyms frequently used in this report are expanded below:

DCP Development Control Plan

DoP & I NSW Department of Planning and Infrastructure

ESA	Environmentally Sensitive Areas
LCC	Lithgow City Council
LEP	Local Environmental Plan
LGA	Local Government Area
MLS	Minimum lot size
OEH	Office of Environment and Heritage
SCA	Sydney Catchment Authority
SEPP	State Environmental Planning Policy

COMMENTARY

BACKGROUND

The Draft LEP 2013 is the culmination of a number of years of strategic planning work and consultation with the Lithgow community and relevant government agencies. Its key purpose is to implement the strategic directions and actions of the Lithgow Land Use Strategy 2010-2030 (LUS) adopted by Council on 31 October, 2011 and formally endorsed by the Director General of NSW Department of Planning and Infrastructure on 24 May 2012 as amended by Council's resolutions of the 15 April 2013.

EXHIBITED DRAFT LEP 2013 – KEY ELEMENTS

Whilst the Draft LEP 2013 is a Standard Instrument LEP with a set template of zones, clauses and definitions, it does deliver locally specific outcomes that support the key directions of the endorsed LUS. More specifically the exhibited Draft LEP will:

- Repeal and replace the two environmental planning instruments that apply to the area: *Lithgow Local Environmental Plan 1994 and Rylstone Local Environmental Plan 1996*.
- Provide a suite of land use zones to accord with the Standard Instrument LEP and support the strategic directions of the LUS;
- Provide 50 ha of new industrially zoned land at Marrangaroo and 104ha of heavy industrial land zoning at the Minerals Processing Site, Wallerawang;
- Provide 19.08ha of new light industrially zoned land at Lidsdale;
- Identify a 310ha urban release area at Marrangaroo to provide for future growth in residential and allied urban land use and to ensure potential further growth is not compromised in the short term;
- Provide a suite of land use zones to replace the Village Zone in the towns of Portland and Wallerawang;
- Consolidate the commercial centre of Lithgow and differentiate the role of the commercial core and out of centre commercial areas;
- Provide zonings for neighbourhood shopping areas at Col Drewe Drive and adjoining KFC, South Bowenfels;

- Modify the zoning of land in the villages of Capertee, Rydal, Tarana and Lidsdale to consolidate village zoned lands and provide for large lot residential growth to support each village commensurate with its role in the settlement hierarchy;
- Retain existing provisions in relation to rural minimum lot size and the erection of dwellings in the rural areas;
- Retain existing areas available for unsewered large lot residential land use with the exception of the area to the northeast of Lidsdale;
- Provide appropriate zones for serviced large lot residential areas at Lidsdale and on the southern urban fringe of Lithgow;
- Contain provisions to protect the natural environment;
- Contain provisions to align development growth with the provision of essential infrastructure;
- Provide for the protection and conservation of items and areas of environmental heritage;
- Classify or reclassify a number of public lands to accord with the provisions of the Local Government Act, 1993.

In accordance with the Gateway Determination issued by the Minister and dated 20/5/13, the Draft Planning Proposal for the Principal Lithgow Local Environmental Plan 2013 has been exhibited consistent with the statutory requirements of Section 56(2)(c) and Section 57 of the Environmental Planning and Assessment Act, 1979; the specifications as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Infrastructure 2012) and the consultation strategy adopted by Council on 27 May 2013.

A Public Hearing was held in relation to the reclassification of 90 identified parcels of public lands from community to operational under Section 29 of the Local Government Act, 1993 and in accordance with Section 57 (6) of the Environmental Planning and Assessment Act 1979.

Council considered two notices of motion affecting the following components of the exhibited Draft LEP 2013 at its Ordinary Meeting of 28 October, 2013:

- Local Heritage Listings and Conservation Areas - Minute Number 13-390
- Development Standards for unsewered lands less than 4000m² - Minute Number 13 -391.

OUTCOMES OF PUBLIC EXHIBITION AND CONSULTATION PROCESS

PUBLIC EXHIBITION

The Draft Planning Proposal was publicly exhibited for a period of fifty days between 20 June 2013 and 9 August 2013. To support the exhibition, an extensive consultation program was undertaken in accordance with the consultation strategy outlined and adopted by Council on 27 May 2013. This engagement program followed the major consultation Council undertook in 2011 in relation to the Draft Land Use Strategy.

The following Table 1 provides a summary of the type of notification/consultation undertaken and the results achieved.

PUBLIC NOTICES/MEDIA RELEASES		
FORM	DATE/S ISSUED	SENT TO/PUBLISHED IN
Public Notice Draft LEP	Weekly from 13/6/13 – 1/8/13 Commencement of exhibition	Council Column Lithgow Mercury Mudgee Guardian, Western Advocate and Blue Mountains Gazette.
Public Notice Public Hearing	Weekly from 8/8/13-22/8/13	Council Column Lithgow Mercury
Media Release	11/4/13 Next Step for LEP 17/6/13 Draft LEP Have Your Say 2/8/13 New Planning Laws - Have you had your say	All local media
Radio Announcements	Commencement of Exhibition – Open House Notices Last week of Exhibition – Have you had your say?	2LT and Move FM

NOTIFICATION LETTERS		
TO	DATE SENT	NUMBER
Persons who have previously registered an interest in the process since 2006.	17 June 2013	689
Landowners of individual local heritage items	28 June 2013	491
Landowners of properties within proposed Heritage Conservation Areas	28 June 2013	465

DEDICATED WEB PAGE AND INTERACTIVE MAPPING
<p>A dedicated web page within Council's website was created for the Draft Principal LEP 2013 at www.lithgow.com/lep/ . This site provided all relevant information to assist in understanding the Draft LEP and the strategic planning framework including the following:</p> <ul style="list-style-type: none"> • Mayoral Interview – U Tube • All relevant documentation including a Plain English Version of the Draft LEP 2013 • LEP Mapping presented in both Pdf format as well as interactive mapping tool with associated online tutorials on how to use the interactive mapping • Total of 16 downloadable Plain English Fact Sheets • Explanation of the Strategic Context and • A LEP Enquiry contact form linked to a dedicated LEP email address.

1,144 people visited this site during the exhibition period visiting **on average 2.04 pages per visit** and average **visit duration of 3.38 minutes** with **20% of visitors being returning visitors**. Web usage **peaked in early July and early August**. The statistics identifying the use of the site are included in the web report below:

Audience Overview

Jun 20, 2013 - Aug 14

Advanced Segments | Email | Export | Add to Dashboard | Shortcut

% of visits: 100.00%

Overview

Visits vs. Select a metric

Hourly | Day | We

Visits

80

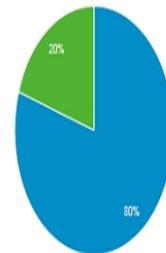
40



1,144 people visited this site



■ New Visitor ■ Returning Visitor



GOVERNMENT AUTHORITY CONSULTATION		
GOVERNMENT AUTHORITY/AGENCY	DATE SENT	NUMBER SENT
As determined by condition of Gateway Determination Additional agencies having local relevance	17 June 2013	54

OPEN HOUSE SESSIONS		
LOCATION	DATE HELD 10am -3pm	NUMBER OF ATTENDEES
Lithgow	26 June 2013	5
Capertee	28 June 2013	12
Wallerawang	2 July 2013	5
Hartley Historic School	9 July 2013	14
Portland	10 July 2013	8
Lithgow (Evening)	15 July 2013	8
TOTAL ATTENDEES		52
In addition to the open houses Council planners were available by appointment between 10am and 3pm each day during the exhibition period from the 16 th July, 2013.		

Table 1: Summary of Community and Government Authority Engagement Program

OVERVIEW OF WRITTEN SUBMISSIONS

A total of 110 written submissions were received during the public exhibition process. A further 9 written submissions were received shortly after the final exhibition process and have been accepted and taken into consideration for this report. One very late submission was received. Due to the lateness of this submission (see Attachment 8) it has not been able to be considered as part of this report.

The further breakdown of these submissions is as follows:

ISSUE AREA	NUMBER OF SUBMISSIONS
Government Authority Responses	27
Urban Zoning and Development Controls	19
Rural Zoning and Development Controls	13
Rural Lifestyle- Requests	6
Heritage	36
General Issues (Range of Topics)	18
Total	119

Table 2: Summary of written submission response issues

Note: There were instances of multiple submissions being made by individuals or groups affecting the same parcel(s) or issue e.g. one person put in three submissions on the same issue. These were counted as three. In total there were 15 such multiple submissions.

All written submissions were uploaded to Council's web page for public viewing in full, except where the respondent requested name and address details to be withheld, or where the submission identified information of commercial in confidence information in which case the submission was either redacted in part or withheld from the website.

An acknowledgement letter was sent to all respondents for those submissions received prior to 23 August, 2013.

Where required further discussions/meetings have been held with individual respondents to clarify their submissions and to discuss alternative solutions where such were available. Copies of all revised written submissions are attached to this report.

This report addresses each of the written submissions in tabulated form providing the identification of respondent, summary of the submission, planning comment including assessment of consistency with endorsed LUS and recommended actions to be taken forward to finalise the Planning Proposal.

Generally where a submission requested changes to the Draft LEP inconsistent with the endorsed strategy objectives, directions and actions it has not been supported. However where submissions requested changes to the Draft LEP that may be inconsistent with the LEP actions and directions of the LUS but can demonstrate consistency with the overall strategic objective it has been supported.

Please refer to **Tables 3- 7 (Attachments 9-13)** of this report.

PUBLIC HEARING - PUBLIC LAND RECLASSIFICATIONS

A Public Hearing was held on 29 August 2013 in the Council chambers in relation to the reclassification of 90 parcels of public lands as identified in Schedule 4 of Draft LEP 2013, from “community” to “operational” classification.

The Public Hearing was presided over by an Independent Chairperson, Mr Ray Christison, of High Ground Consulting, being a person who satisfied the provisions of Clause 47G of the Local Government Act, 1993.

No persons registered or presented at the Public Hearing to make a submission. A copy of the Public Hearing Report completed by Mr Christison is provided as Attachment 1 of this report.

GENERAL PUBLIC HEARING

It is considered that no matter raised through the public engagement process or written submissions warrant the holding of a Public Hearing pursuant to Clause 56(2) of the EP & A Act, 1979.

IDENTIFIED ANOMALIES REQUIRING POST EXHIBITION CHANGE

A number of anomalies have been identified as part of Council’s internal review and quality assurance process as well as a number identified and highlighted by the community as a consequence of the community and government authority engagement process.

Table 8 (Attachment 14) of this report summarises these anomalies, omissions or errors, how each was identified and provides a recommended action to inform post exhibition changes required to finalise the Draft Planning Proposal.

These changes are considered to be minor in nature and are not inconsistent with the strategic directions and recommendations of the endorsed Lithgow Land Use Strategy 2010-2030.

Please refer to Table 8 (Attachment 14) of this report.

GENERAL STRATEGIC LAND USE PLANNING ISSUES

HERITAGE

Whilst Council's resolution of 28 October, 2013 Min No 13-390 has determined the path of potential heritage items and heritage conservation areas for the Draft LEP 2013, written submissions were received during the exhibition process and are outlined in Table 9 (Attachment 15).

IMPLICATIONS OF COUNCIL RESOLUTION OF 28 OCTOBER 2013 (MIN NO 13-390)

Council at its Ordinary meeting of 28 October, 2013 considered a notice of motion in relation to property heritage listing and resolved as follows:

13-390 That Council list all proposed Heritage Conservation zones on the deferred list and develop policy of consultation with affected landowners before any zone is imposed.

All new heritage items and conservation areas proposed to be listed in Draft LEP 2013 are to be deferred pending further consultation which will be based on a Council Policy. The following actions will now be taken:

- Amendment of Schedule 5 Part 1 and 3 of Draft LEP 2013 to remove all items except those currently listed in the 1994 LEP or now required for inclusion by virtue of their status as State Heritage Items on the State Heritage Register.
- Amendment of Schedule 5 Part 2 of Draft LEP 2013 to remove all Heritage Conservation Areas (noting that individual items that are currently listed in the 1994 LEP and proposed to be within the HCA, will now remain individually listed).

The required actions listed in Heritage Table 9 (Attachment 15) of this report are as a consequence of this minute.

IMPLICATIONS OF COUNCIL RESOLUTION OF 28 OCTOBER 2013 (MIN NO 13-391)

Council at its Ordinary Meeting of 28 October 2013 considered a notice of motion in relation to DA's with Septic Systems and resolved as follows:

13-391 That Council resolves that lots under 4000m² area assessed on merit when DA's are submitted with regards to septic systems.

The following actions will occur:

- Deletion of Clause 4.2A (6) of Draft LEP 2013.

RURAL LIFESTYLE LOTS

Notwithstanding Council's resolution of 13-116 in relation to the issue of additional rural small lots within the LGA, it would still appear that some sections of the community still feel that this matter needs to be brought forward into this Draft Principal LEP process.

As explained in the Draft Planning Proposal report to Council in April of this year, this matter should be deferred to a separate Planning Proposal process prepared following a detailed Rural Lands Study.

Council resolved the following in relation to this matter:

13-116 (7) To undertake the preparation of a detailed rural lands study to inform a possible future Planning Proposal to provide for additional rural small lots within the Lithgow LGA, including areas around Hartley and Portland, and allocate \$80,000 towards this project in the 2014/15 operational plan. The study must take into account the impacts on the viability of our current urban centre, towns and villages, conflicting land use issues, levels of facilities and services required and their projected costs.

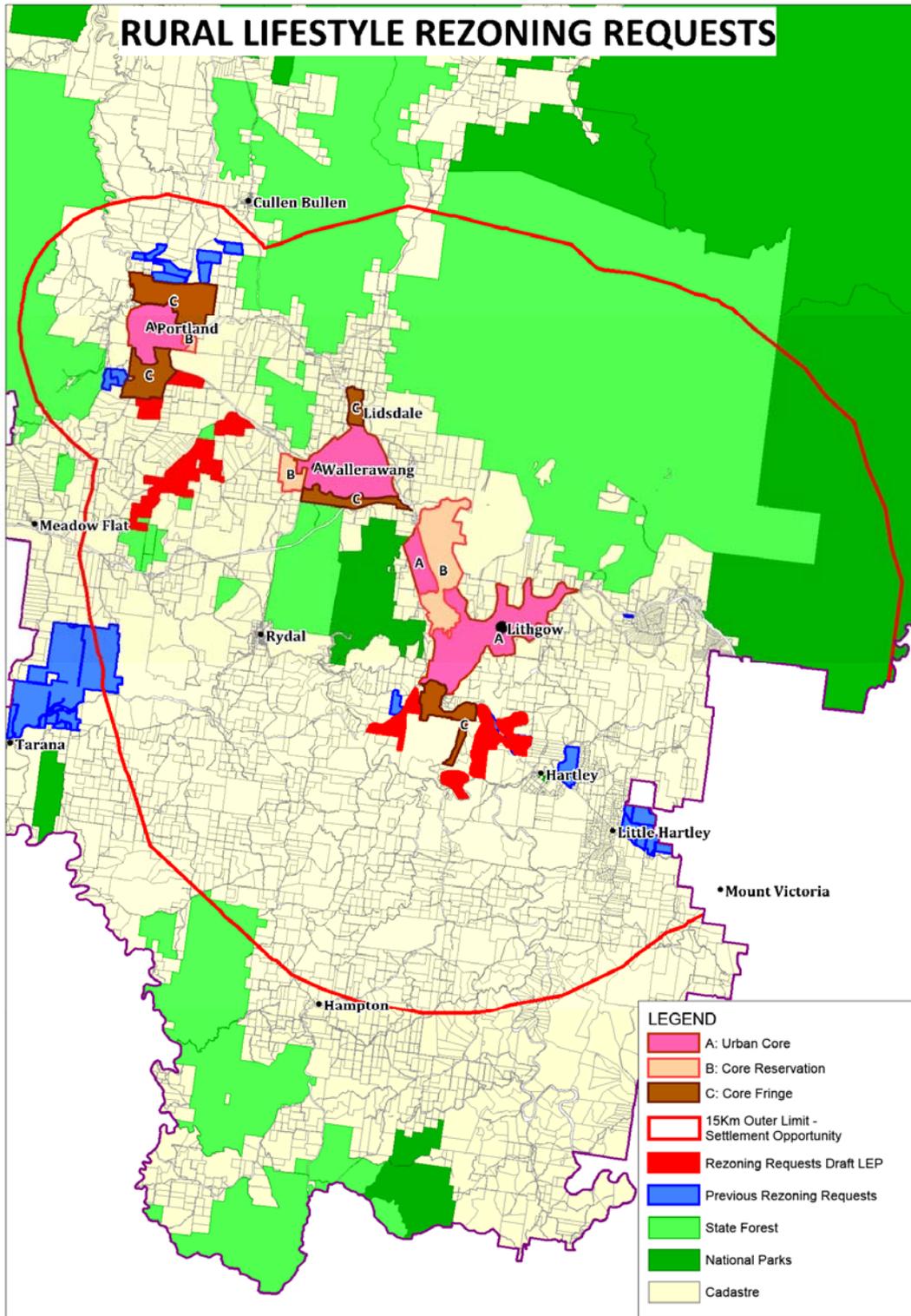
In September of this year Council received written confirmation from the Regional Director Western Region Department of Planning and Infrastructure that Council should proceed with the making of Draft LEP 2013 and defer matters regarding increases in rural small lots and rural residential areas to a separate planning proposal. A copy of this advice is provided in Attachment 2 of this report.

During the public exhibition period Council received six written submissions specifically requesting consideration of areas for rural lifestyle lots whilst four other submissions suggested that Council should give further consideration to this issue.

These areas are shown in red on the map titled Rural Lifestyle Rezoning Requests below. The areas in blue show those areas requested for similar consideration as part of the LUS process but did not come forth again as part of the Draft LEP exhibition.

Interestingly all the areas proposed in this and previous community consultations have been identified in the outer limit for settlement opportunity as identified by the endorsed LUS.

These areas will be taken forward for further evaluation in the Rural Lands Study, however they should not be considered as the only areas to be reviewed.



It is anticipated that the Rural Lands Study will be prepared by an external consultancy in accordance with a Consultants Brief and Contract.

A project steering committee will be formed to provide a transparent reference group for the project and may include: Council officers, Councillor representatives and DoP & I representatives and will report as required to full Council.

IMPLICATIONS OF POST EXHIBITION CHANGES

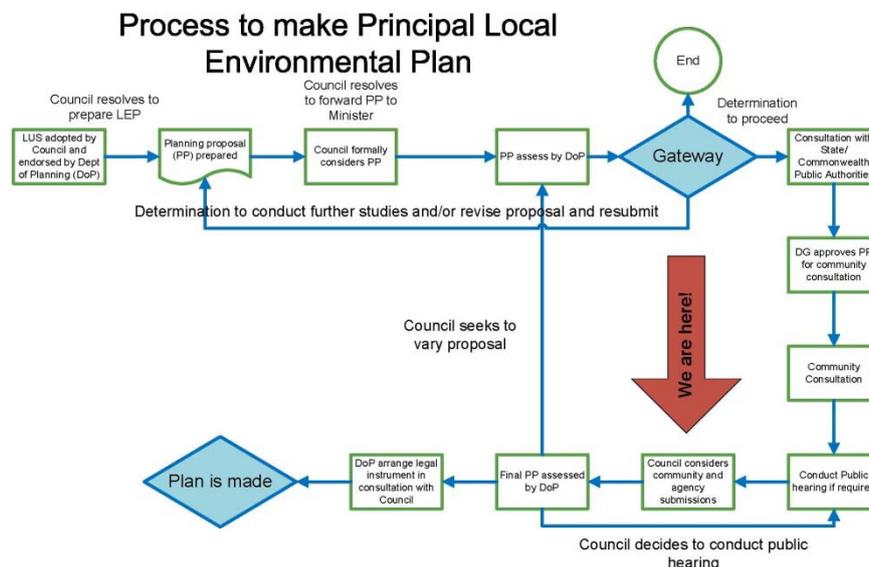
In considering post exhibition changes to the Draft LEP Council should be aware that any changes that are a major departure from the exhibited draft or are inconsistent with the endorsed LUS; and/or are not justifiably consistent with relevant Ministerial Directions increase the potential of having those amendments not accepted by the NSW Department of Planning and Infrastructure or having the Plan subject to a further Gateway Review and possible re-exhibition. All such possibilities impact upon Council's ability to meet the timeframes for completion of the LEP by 27 February 2014.

The Deputy Director General of the NSW Department of Planning and Infrastructure in issuing his gateway determination has stated that should Council fail to meet the timeframes for finalisation of the Draft LEP that the Minister may take action under section 54(2) (d) of the EP & A Act, 1979 whereby the Minister or his delegate may replace Council as the relevant planning authority for the making of the LEP having determined that Council has either failed in its obligations to make the plan or has not carried those obligations in a satisfactory manner.

This report has highlighted those changes considered to be a major departure from the exhibited draft and where inconsistency with the endorsed LUS cannot be supported.

NEXT STEPS AND TIMELINE FOR FINALISATION OF DRAFT PLANNING PROPOSAL

A flowchart showing the process for making of the Principal LEP is shown below:



Following consideration of this report the following actions need to be undertaken:

- The Planning Proposal is amended to accord with Council's resolution;
- Mapping is to be amended and referred to the DoP & I's GIS division for amendment and production of the final LEP templated maps
- Final Draft Planning Proposal referred to the Western Region Office of DoP & I for approval and the making of the Plan.

In considering this report Council should be mindful that the identified timeline for finalisation of the LEP being 27 February 2014 does not provide for any further steps in the process not identified above.

SPECIAL DISCLOSURE OF PECUNIARY INTERESTS

Section 451 of the *Local Government Act 1993*, has been amended to provide for a Councillor who has a pecuniary interest in a principal environmental planning instrument such as Draft LEP 2013 to participate in the discussion of and vote on the instrument, provided that they make a special disclosure. A special disclosure in relation to the interest must be made before the commencement of the council meeting or the council committee meeting, and must be recorded in the minutes of the meeting.

The special disclosure must be made on the prescribed form, a copy of which is Attachment 3 to this report.

All Councillors are reminded of this obligation and Councils planners will be available to assist the completion of the forms as required prior to the meeting date. The application of the Special Disclosure provisions have been discussed with the Division of Local Government and whilst it is clear that a disclosure can be made and the Councillor can take part in the debate and decision, no matters have yet been tested in the Pecuniary Interest and Disciplinary Tribunal. Furthermore, irrespective of the provision, Councillors may also wish to carefully consider matters such as public perception. If a Councillor has any doubt, then they should seek their own legal advice.

Notwithstanding the Special Disclosure provisions, a Councillor may choose to declare a pecuniary interest in any aspect of the draft LEP and **not** take part in consideration of that matter. This does not have to preclude the Councillor from taking part in other aspects of the overall item. Councillors should indicate the specific aspect that they are declaring an interest in. It is then possible for the individual matter to be separately considered when the Councillor has exited the Chamber and the balance to be considered when the Councillor is in the Chamber. The recommendations are structured to try and assist with such a scenario.

COUNCIL'S CODE OF CONDUCT

Councillors should also be mindful of their obligations under Council's Code of Conduct and irrespective of the provisions of Section 451 relating to pecuniary interests careful consideration should also be given to significant non-pecuniary conflicts of interest. In this regard it is advisable for Councillors to peruse the Code of Conduct, particularly Part 4, to determine if any other obligations exist for them. Issues, such as "relationships", "other relationships", "affiliations", and actions relating to "political donations" are particular matters that Councillors should acquaint themselves with.

Should a Councillor declare a non-pecuniary significant conflict of interest then they are required under the code to leave the chamber and not take part in debate or voting on the issue. However, once again the individual issue/matter may be separated so that the Councillor can still take part in the remainder of the item.

CONCLUSION

The Draft LEP 2013 is the culmination of a number of years of strategic planning work and consultation with the Lithgow community. It will give legal effect to the strategic principles and directions identified in the endorsed Lithgow Land Use Strategy 2010-2030.

The Draft LEP 2013 in the standard instrument format provides for a simpler and more efficient planning system and will facilitate Council moving to an e-planning environment. It represents a substantial shift in approach from the current flexible planning instrument in an attempt to be more transparent about the roles and functions of land use zones and the intended land use outcome.

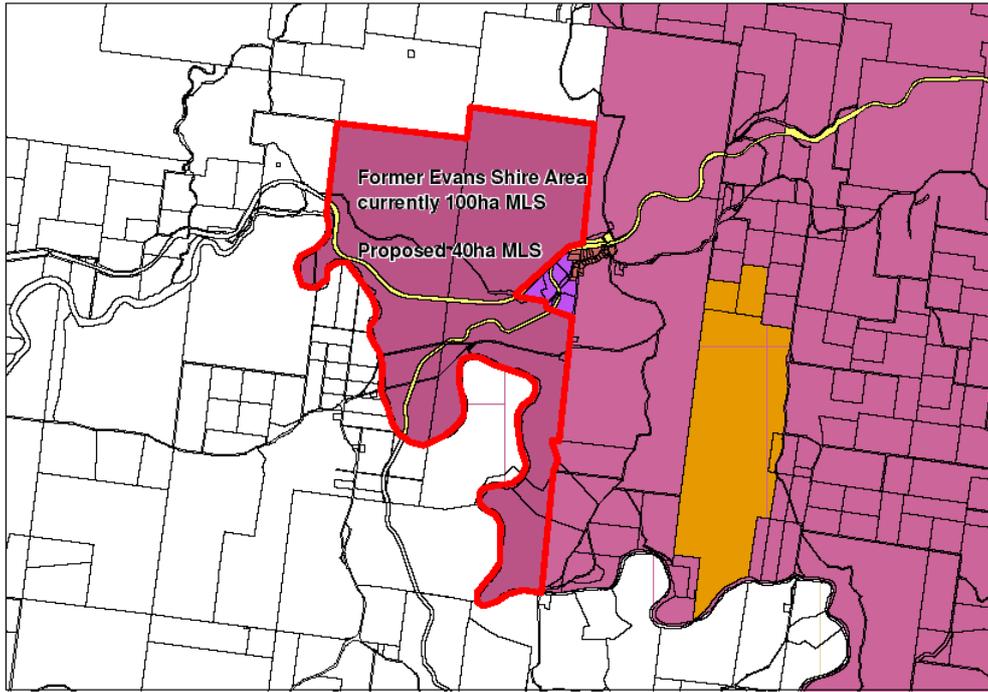
Whilst recognising that this Draft LEP 2013 will not meet all community or individual expectations it will deliver sound planning outcomes in relation to the facilitation of employment, land development and more robust urban and natural resource planning controls.

In relation to rural planning it is recognised that further strategic work in the form of a detailed rural lands study is required. However this should not delay the progression of the Draft LEP 2013 as to do so would place Council in a position whereby the Department of Planning may seek to issue Council with a standard LEP and remove the possibility for local input.

This further rural planning work can progress independently of Draft LEP 2013 and if required lead to an amending Planning Proposal once that work is complete.

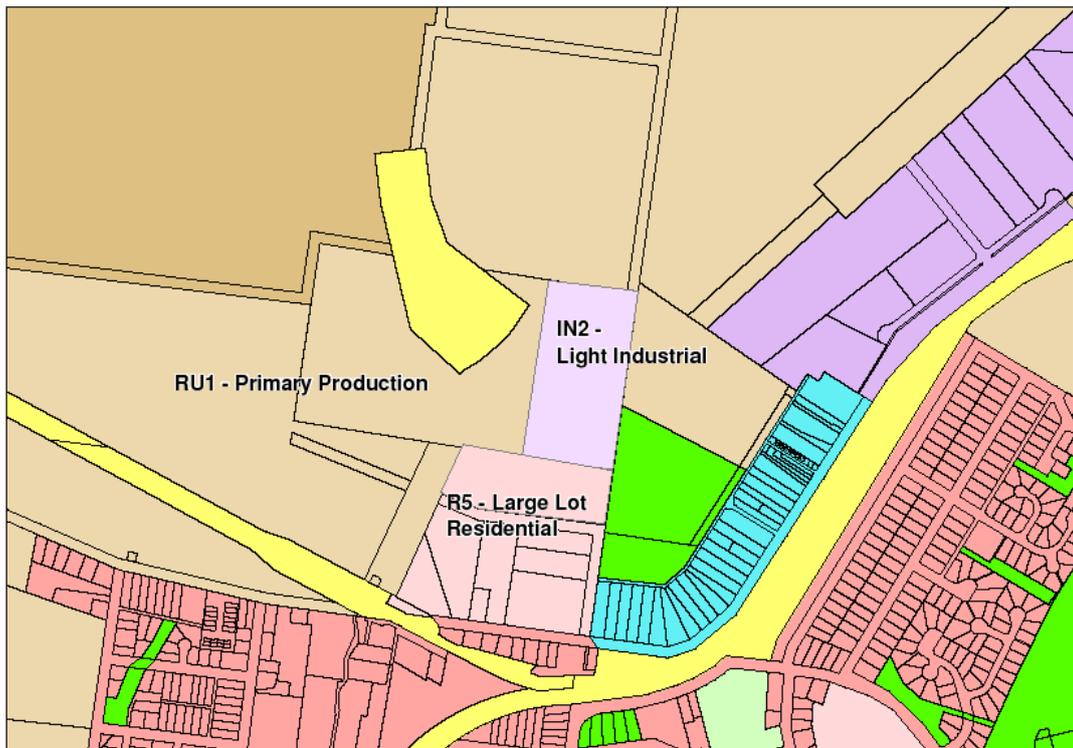
GENERAL MANAGER'S RECOMMENDATIONS

Two recommendations also arise from the General Manager. Firstly, in relation to the land in the former Evans Shire Council area at Tarana, it will be recommended that for consistency purposes the area in the RU1 Zone which was to remain as a 100 hectare minimum size for subdivision become 40 hectares in line with the remainder of the Local Government Area. See Map 1 below:



Map1 Tarana

Secondly, there were two submissions relating to Brays Lane, Wallerawang. It will be recommended that a section of land fronting Brays Lane be Zoned IN2, Light Industrial. See Map 2 below:



Map 2 Brays Lane

FURTHER REPRESENTATIONS RECEIVED FOLLOWING THE DEFERRAL OF CONSIDERATION OF THIS MATTER AT COUNCIL’S MEETING OF 16 DECEMBER 2013.

Council is advised that representations in relation to the Draft LEP 2013 have been received following the publishing of the December 16 report. These are summarised in the Table below:

Respondent	Brief Summary	Planning Comment	Recommendation
Ingham Planning/ Lithgow Mountain View Estate Pty Ltd (Attachment 16)	<ul style="list-style-type: none"> • Recommendations put forward in Council’s report to Dec 16 meeting still not satisfactory. • Recommendations still seek to back zone the residential component of Lot 58 DP 751655 and increase the MLS for current future urban lands to 20ha (a 100% increase on the current 10ha standard). • Current residential zoned land adjoins Council land that has by recommendation of this report had its residential zoning reinstated. • It is good residential land that can be appropriately serviced. • No justifiable basis to back zone land • It is commercially unviable to erect only one dwelling on each of Lots 58 and 31. • Suggest an acceptable solution as follows: <ul style="list-style-type: none"> ▪ Zone 9.54ha of Lot 31 DP 839469 adjoining Lot 702 as R2 to compensate for residential zoning lost in Lot 58 DP 751655 and loss of 10ha MLS in Lot 31 DP 839469. 	<p>The section of land currently zoned residential within Lot 58 DP 751655 is severed from other residential land by an unformed paper crown road and steeply sloping land and appears to have limited development potential to be developed in isolation. It has approximately 2.3ha in area and to provide an offset of 9.54ha in another allotment where the development potential is reduced by one allotment only cannot be supported.</p> <p>The representations raise no new supporting information or justification for altering the recommended actions of this report beyond that already duly considered. It is recommended that no further action be taken through this Principal LEP process.</p> <p>This review has however highlighted that Recommendation 33 of Table 4 has unintentionally omitted Lot 68 DP 813538. This requires amendment to also include Lot 68 DP813538 Marrangaroo as</p>	<p>No further action</p> <p>Recommendation 33 Table 4 is to be amended to include Lot 68 DP 813538.</p>

		shown in the revised zoning recommendation map Table 4 Pg 26.	
Andrew Joseph on behalf of Ceedive Pty Ltd (Attachment 17)	<p>Requires clarification as to the concerns Council has in relation to those areas of the Pottery Estate where it is recommended that the submission/s not be supported.</p> <p>An additional map was provided by CEH to try and clarify the extent of former underground mining and is included in Attachment 17.</p>	<p>As stated in Table 4 of this report Council has tried for several years to facilitate an outcome with the current landowner and has on many occasions reached an impasse.</p> <p>The proposed zoning and Clause 7.11 (requiring a DCP to be prepared and adopted prior to further development of the site) of Draft LEP 2013 have been recommended having regard to a combination of both natural and man-made hazards inherent on the site. These include mine subsidence and surface stability issues, potential site contamination from previous contaminating land use, bushfire risk, slope, biodiversity issues and significant uncategorised drainage lines.</p> <p>The proposed R1 zoning does also include some of these areas however, the areas excluded from the R1 zone are the areas of highest sensitivity, increased slope and those areas that have not been substantially disturbed or cleared.</p> <p>The additional representations on this item have been carefully considered. The land owner is of</p>	<p>No further action to be taken as part of the Draft LEP 2013 process.</p> <p>A letter has been written to the correspondent again outlining the concerns Council has with the subject site.</p>

		<p>the view that issues such as mine subsidence can be fully considered in a DCP. The area in Table 4 shown as Area 3 was previously predominately zoned Open Space 6 and from an historic search it appears this was primarily due to it being heavily impacted by former mine workings. Consequently, any proposal to make this area residential cannot be supported.</p> <p>The area shown as Area 2 in Table 4 is currently zoned residential. Given this fact, the owners additional representations were given very serious consideration. However, given the number of constraints that appear to be impacting on this land, it would not be professionally responsible to recommend this land retain a residential zoning without some surety that the land will be able to be reasonably developed. Therefore this cannot be supported.</p> <p>Finally, the owner was concerned that a road may not be permissible on the proposed E3 land across Area 3 to link Silcock Street to any future subdivision within the residential zoned land. However, such a road would be permissible.</p> <p>Should future site investigations and</p>	
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		technical data suggest that the zoning should be modified further it can be undertaken as a separate Planning Proposal informed by appropriate investigation and consideration of defined outcomes.	
<p>Glen Alice Community Association on behalf of Hall, Agnew and McGrigor (Attachment 18)</p> <p>Mr Hall advised Council in a separate letter regarding his Lot 7 DP 753777 and Lot 63 DP 755796 (Attachment 19)</p> <p>The other two landowners have not contacted Council directly with their concerns despite an invitation to do so being extended.</p>	<p>Planning recommendations submitted to Council on 16 December has not fully addressed the landowners concerns whereby some allotments of each of the landowners holdings have been omitted from the recommended zoning change (recommendation 49 Table 5) from RU2 to RU1.</p>	<p>The zoning of the lands was reviewed against available Environmentally Sensitive Areas (ESA) mapping that forms part of the LEP and only those allotments that have been substantially cleared and predominantly free of the ESA attributes have been recommended for a zoning change from RU2 to RU1.</p> <p>This review did however identify a further four lots that were unintentionally omitted from the recommended zoning change. These lots are Lot 7 DP 753777, Lot 63 DP 755796, Lot 26 DP 753777 and Lot 8 DP 753777. It is recommended that these allotments be inserted into Recommendation 49 Table 5. This satisfies Mr Halls concerns and includes one additional lot each owned by Mc Grigor and Currie inadvertently omitted from previous recommendation.</p> <p>The RU2 zone has been applied to identify those lands of highest environmental sensitivity and to prohibit intensive</p>	<p>Amend Recommendation 49 Table 5 to include Lot 7 DP 753777, Lot 63 DP 755796, Lot 26 DP 753777 and Lot 8 DP 753777.</p>

		<p>plant and intensive livestock agriculture as defined in the Standard LEP Dictionary upon those lands. This includes agricultural pursuits such as the cultivation of irrigated crops for commercial purposes (other than pasture and fodder), horticulture, turf farming, viticulture and the keeping and breeding for commercial purposes of cattle poultry, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed except the operation of facilities for drought or similar emergency relief. These uses are not currently undertaken on the lands and are not likely to be undertaken in the future due to the suitability and capability of the lands to support such uses.</p>	
<p>Sue Graves (Attachment 20)</p>	<p>Have no objection to the property at 45 Railway Parade being listed as a local Heritage Item.</p> <p>Does not understand why the group of cottages 41-59 Railway Parade are excluded from the exhibited draft LEP.</p>	<p>The subject property and group of cottages were proposed to be listed as individual heritage items in Draft LEP 2013 as exhibited.</p> <p>As they are new heritage items these cottages will not be taken forward in the new LEP by virtue of Council resolution 13-390.</p>	<p>No further action to be taken as part of the Draft LEP 2013 process.</p>

RECTIFIED ANOMALY – EDUCATIONAL ESTABLISHMENTS IN RU1 ZONE

Upon an internal review of the Tables attached to the report following the deferral of the matter on 16 December, 2013 it has been highlighted that there is an inconsistency between recommendation 18 Table 3 (Attachment 9) and Recommendation 50 Table 5 (Attachment 11) in relation to educational establishments in the RU1 zone.

Upon further consideration it is recommended that Recommendation 50 Table 5 (Attachment 11) be amended to be the same as Recommendation 18 which states “Amend the RU1 Land Use Table to specify Educational Establishment as permitted with consent”. This will provide Cranbrook Park School with the same planning outcome in a much simpler form and will not complicate the LEP with the use of the additional permitted uses clause.

OLD RSL SITE

Late approaches have been made by Westfund indicating it is in the process of purchasing the old RSL site and will be proposing offices and medical facilities. Commercial premises (offices) would not be permissible under the proposed R1 Residential zoning. A submission will be further provided requesting that this be rectified. The submission will be forwarded to Councillors once received.

POLICY IMPLICATIONS

The final Draft Lithgow City Local Environmental Plan 2013 provides future policy direction for land use planning decisions.

FINANCIAL IMPLICATIONS

This project is jointly funded by Council and NSW Department of Planning and Infrastructure through Round 4 of the Planning Reform Fund Program.

LEGAL IMPLICATIONS

The process for preparing, consulting upon and making a Local Environmental Plan is governed by the provisions of the Environmental Planning and Assessment Act, 1979 and its Regulations.

The reclassification of public lands is also governed by Section 29 of the Local Government Act, 1993.

The Draft Lithgow Local Environmental Plan once made will be a legal environmental planning instrument.

ATTACHMENTS

1. Public Hearing Report prepared by High Ground Consulting.
2. NSW Department of Planning and Infrastructure Letter dated 12 September 2013
3. Form of special disclosure of pecuniary interest
4. Revised Submission from APP on behalf of Boral
5. Revised Submission Mr McLaughlan
6. Revised Submission – Conceptual Plans Anthony Daintith Planning on behalf of Private 1 and 7
7. Revised Submission – Ingham Planning
8. Late Submission – BOSKAE Environmental Planning
9. Table 3 Government Agency Submissions
10. Table 4 Community Submissions Urban
11. Table 5 Community Submissions Rural
12. Table 6 Community Submissions Rural Lifestyle
13. Table 7 Community Submissions General Issues
14. Table 8 Exhibited Draft LEP Anomalies

15. Table 9 Community Submissions Heritage
16. Additional Representation/Submission - Ingham Planning and Lithgow Mountain View Estate P/L
17. Additional Representation - Joseph on behalf of Ceedive
18. Additional Representation – Glen Alice Community Association
19. Additional Representation - Hall
20. Additional Representation - Graves
21. Exhibited Draft LEP 2013

RECOMMENDATION

THAT:

1. Council amend the Draft Planning Proposal for Draft Lithgow City Principal LEP 2013 and advise respondents in accordance with the recommended actions as outlined below:

A	Table 3	Government Agencies	Recommendations 1-24
B	Table 4	Community Submissions - Urban	Recommendations 25-46 Amend Recommendation 33 to include Lot 68 DP 813538.
C	Table 5	Community Submissions - Rural	Recommendations 47-54 Amend Recommendation 49 Table 5 to include Lot 7 DP 753777, Lot 63 DP 755796, Lot 26 DP 753777 and Lot 8 DP 753777. Amend Recommendation 50 Table 5 to read "Amend RU1 Land Use Table to specify Educational Establishment as permitted with consent".
D	Table 6	Community Submissions - Rural Lifestyle	Recommendations 55-61
E	Table 7	Community Submissions - General	Recommendations 62-72
F	Table 8	Draft LEP Anomalies	Recommendations 73-102
G	Table 9	Community Submissions - Heritage	Recommendations 103-113

2. Council note the report prepared by Ray Christison regarding the Public Hearing held in relation to the proposed reclassification of Public Lands and proceed with the reclassification of all lands identified in Schedule 4 of the Draft LEP 2013 from community to operational.
3. Council reiterate its decision per Minute No 13-116 to undertake the preparation of a detailed rural lands study to inform a possible future Planning Proposal to provide for additional rural small lots within the Lithgow LGA,

including areas around Hartley and Portland, and allocate \$80,000 towards this project in the 2014/15 operational plan. The study must take into account the impacts on the viability of our current urban centre, towns and villages, conflicting land use issues, levels of facilities and services required and their projected costs.

4. Council note the correspondence dated 12th September 2013 from the Regional Director Western Region Department of Planning and Infrastructure that states Council should proceed with the making of Draft LEP 2013 and defer matters regarding increases in rural small lots and rural residential areas to a separate planning proposal.
5. Council proceed with the preparation of the Rural Lands Study following gazettal of the Draft LEP 2013.
6. Council delegate to the General Manager authority to make any minor amendments that may arise during the preparation of the final draft document that do not substantially alter the recommendations adopted by this report.
7. Council delegate to the General Manager authority to refer the amended Final Draft Planning Proposal to the Western Region Office of NSW Department of Planning and Infrastructure for the making of the Plan.

GENERAL MANAGER'S RECOMMENDATIONS

8. Amend the Draft LEP Lot Size Map for the area of land contained within the former Evans LGA as shown on the Former LGA Boundaries Map from 100ha to 40ha.
9. Amend Draft LEP 2013 Land Zone Map to zone Part Lot 162 DP 1073238 along Brays Lane to a depth of 150m IN2 Light Industrial with the remainder of the land being zoned RU1 Primary Production.

BUSINESS OF GREAT URGENCY

In accordance with Clause 241 of the Local Government (General) Regulations 2005 business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only of:

- a) A motion is passed to have the business transacted at the meeting: and*
- b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency.*