

# **DRAFT PLANNING PROPOSAL**

## ***LITHGOW LOCAL ENVIRONMENTAL PLAN 2014***

### ***(Local Amendment No 4)***

#### ***121-123 Main St Wallerawang and Adjoining Lands***

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## INTRODUCTION

A planning proposal has been requested to be prepared by the proponent Resolve Urban Planning on behalf of the registered landowners. This request forms the basis of this planning proposal.

This request was considered by Council at its **Ordinary Meeting of 28 September 2020**. Council resolved unanimously the following:

### Minute No 20-222

THAT

1. Council supports the preparation of a Planning Proposal for Lot 20 DP 1207089, Lot 1 and Lot 2 DP 213770, Main Street Wallerawang to amend Lithgow Local Environmental Plan 2014 as follows:
  - a. Amend the land use zone of the site from part Primary Production RU1 and Part SP2 Infrastructure (Electricity Generation) to Light Industrial IN2
  - b. Insert a new clause into Schedule 1 - Additional Permitted Uses to apply to Lot 20 DP 1207089 and Lot 1 DP 213770 to permit development for the purposes of Hotel or Motel Accommodation.
2. The Planning Proposal documentation once prepared be forwarded to the Western Region office of the Department of Planning, Industry and Environment for a Gateway Determination.
3. Council consults with relevant government agencies as required. Council is to consult with Water NSW prior to the issuing of a Gateway Determination and Rural Fire Service prior to undertaking community consultation.
4. Council advise NSW Department of Planning, Industry and Environment that it proposes to seek approval to use the delegated functions under S.3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
5. A DIVISION be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

### What is a Planning Proposal?

A planning proposal is a document that explains the intended effect of a proposed local environmental plan (LEP) and sets out the justification for making that plan. It will be used and read by a wide audience including the general community as well as those who are responsible for deciding whether or not the proposal should proceed. As such it must be concise and accessible to its audience. It must also be technically competent - founded on an accurate assessment of the likely impacts of the proposal and supported where necessary by technical studies and investigations.

The preparation of a planning proposal is the first step in preparing a LEP. Throughout the course of preparing the proposed LEP, the planning proposal evolves. This is particularly the case for complex proposals in which the initial gateway determination will confirm the technical studies and consultation required to justify the proposal. As the studies and consultation are undertaken, relevant parts of the planning proposal will be updated, amended and embellished.

## SITE DESCRIPTION

The subject site is located on Main Street Wallerawang and is described as Lot 20 DP 1207089 and Lots 1 & 2 DP 213770 as indicated by red outline in Figure 1 below. The subject site has an area of 5.89 ha and a total frontage of 550m to Main St.

The western portion of the subject site contains the Black Gold Motel, including its current extensions, whilst the eastern portion is vacant land vegetated with predominantly introduced pine species. The site has a gentle east/south east cross fall. The eastern most portion of the site is affected by high voltage transmission lines and easements that will reduce the developable area of the site. These easements do however also act as a further built form buffer from the adjoining State listed heritage item to the east.

Figure 1 below shows the site (including the existing motel) in its immediate context being surrounded predominantly by industrial land use. The land immediately to the south of the site is vacant land owned by State Rail, whilst to the east it shares its boundary with St John the Evangelist Church.



**Figure 1: Subject site locality context.**



**Image1 State Heritage Item adjoining site**



**Image 2 Industrial Development adjacent to the site**



**Image 3 Looking from rear of site to Former Wallerawang Power Station Site**

## **PART 1 OBJECTIVE OR INTENDED OUTCOMES**

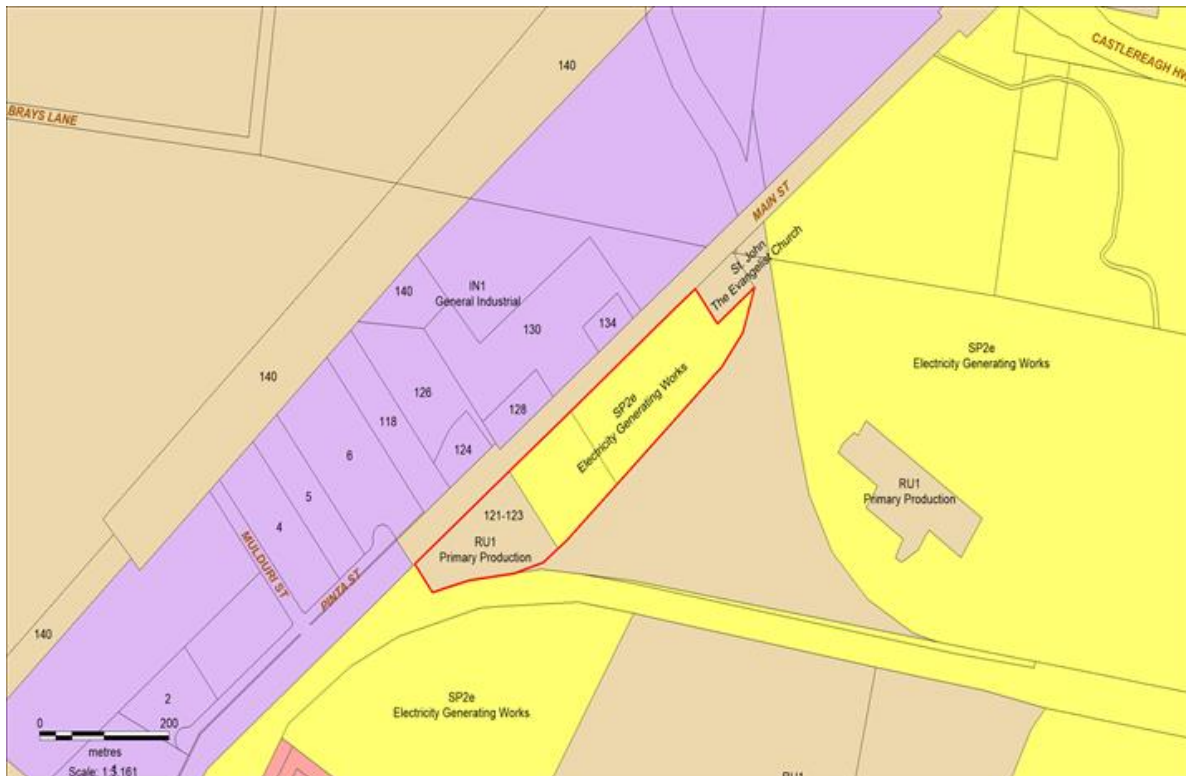
The objective of the Draft Planning Proposal is to amend Lithgow Local Environmental Plan 2014 to facilitate:

- light industrial land use on the site; and
- the continuation of the existing motel development land use on part of the site without limitation from existing use rights.

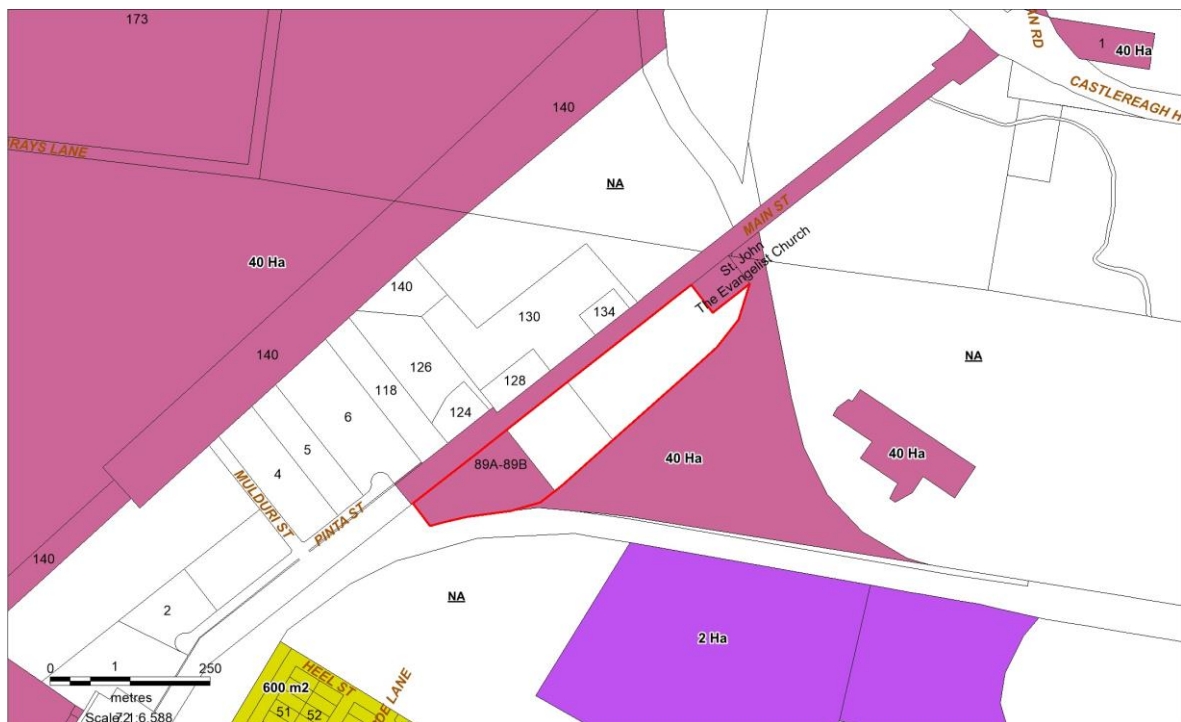
## **PART 2 EXPLANATION OF PROVISIONS**

The Draft Planning Proposal seeks to:

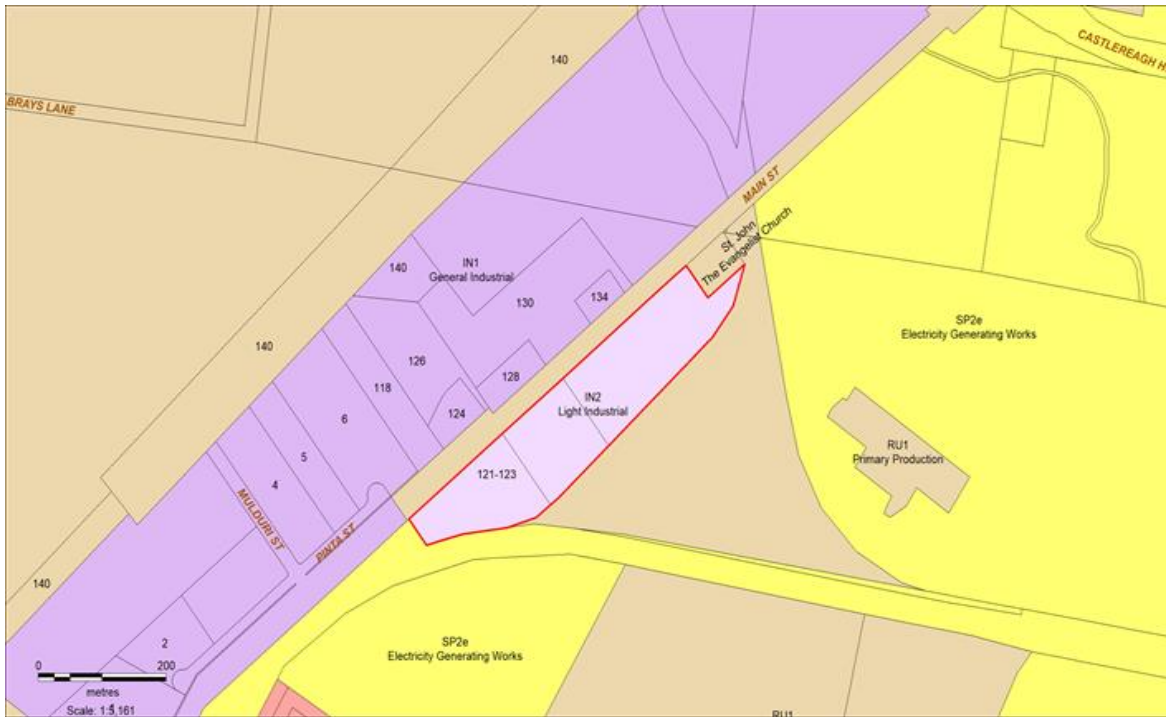
- Amend the Lot Size Map for Lot 20 DP 1207089 from 40ha to Nil.
- Amend the land use zone of the site from part Primary Production RU1 and Part SP2 Infrastructure (Electricity Generation) to Light Industrial IN2
- Insert a new clause into *Schedule 1 - Additional Permitted Uses* to apply to Lot 20 DP 1207089 and Lot 1 DP 213770 to permit development for the purposes of Hotel or Motel Accommodation.



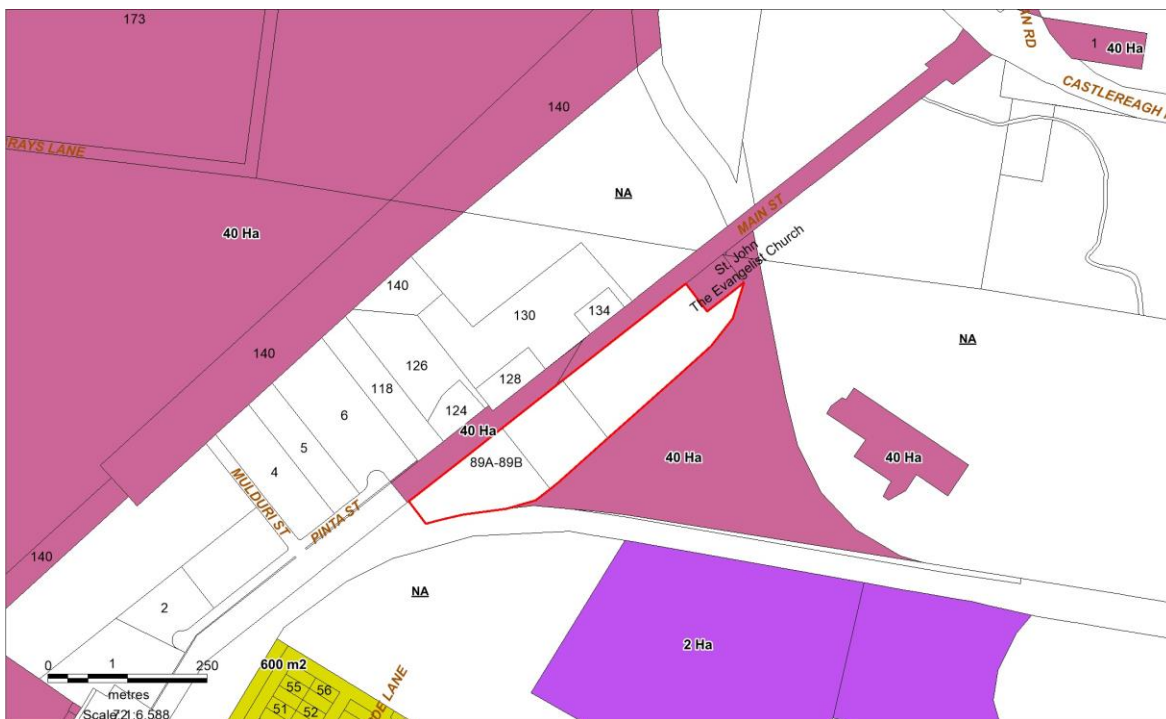
**Figure 2 Existing Land Zone Part RU1/Part SP2**



**Figure 2 Existing Lot Size**



**Figure 3 Proposed Land Zone IN2 Light Industrial**



**Figure 3 Proposed Lot Size (Nil)**

## PART 3 JUSTIFICATION

### Section A Need for Planning Proposal

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

The planning proposal is not the result of a strategic study or report. It has arisen as an owner initiated proposal to facilitate the future development of the vacant areas of the site. This opportunity has only recently become possible due to the closure and decommissioning of the Wallerawang Power Station and the land being released, by sale (being surplus to their needs) from Energy Australia to the proponent.

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

The planning proposal is the only means of achieving the objectives and intended outcomes due to the restrictive nature of the SP2 Infrastructure (Electricity Generation) zone.

### Section B Relationship to strategic planning framework

#### *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including Sydney Metropolitan Strategy and exhibited draft strategies)?*

The proposal is not inconsistent with the directions and actions of the Central West and Orana Regional Plan.

This planning proposal responds directly and is consistent with relevant **Direction 10-Promote business and industrial activities in employment lands** in particular Actions 10.1-10.3 as outlined in Table 1 below:

Table 1

CWORP Action	Comment
10.1 Encourage the sustainable development of industrial and employment land to maximize infrastructure and connect to existing freight network.	The land use change to IN2 will enable development of the lands in a sustainable manner that will enable land use conflicts with the existing motel development to be mitigated through appropriate design. It will also maximize existing infrastructure to the site and allow possible additional use of any new intermodal freight

	network that may arise from the re-development of the former power station site.
10.2 Use local environmental plans to promote the development of specialized industry clusters and the co-location of related industries.	The predominant land use in the area is industrial in nature. The minor change of zoning of the vacant lands from SP2 to IN2 will enable co-location and potential specialization of light or high-tech industries to support the more intense industries on surrounding lands. Clustering of like land uses will result in reduced land use conflict.
10.3 Encourage the consolidation of isolated, unused or underused pockets of industrial land to create long-term development opportunities.	The planning proposal responds directly to this action. The land use change to IN2 will enable development of this isolated pocket of land that has been identified as surplus to electricity generation to create long-term industrial development opportunities.

***Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?***

The Planning Proposal is a small spot rezoning that is generally consistent with the wider strategic land use directions of both the Lithgow 2040 Local Strategic Planning Statement and Lithgow Land Use Strategy 2010-030 as outlined in Table 2 below.

The IN2 proposed zone will provide a rationalization of zone within the area brought about by the disposal of excess SP2 Infrastructure lands owned by Energy Australia.

**Table 2**

<b>Lithgow LUS 2010-2030</b>		
<b>LUS Growth Management Principle</b>	<b>Relevant Guiding Principle</b>	<b>Assessment/Comment</b>
GM1 Thresholds to Growth	Future development should strengthen the desired settlement hierarchy, support and maintain strong commercial centres, minimise urban sprawl and environmental footprints and maximise infrastructure and service efficiencies.	The subject site is in a suitable location for industrial land use being located on the periphery of the Wallerawang town centre, away from residential zones and within a cluster of industrial employment lands.

		The site can be fully serviced with required local infrastructure.
GM2 Land Use Suitability and Capability	<p>Future development should be located on land that is suitable for the development and capable of supporting the proposed uses.</p> <p>Cluster businesses and industries with similar environmental impacts and business synergies to reduce land use conflicts and improve business efficiencies and identity.</p>	<p>The site is suitable for the intended land uses.</p> <p>The site is located within an existing cluster of industrial employment lands.</p>
GM3 Infrastructure Provision	Future development should only be permitted where it can be provided with adequate, cost effective physical and social infrastructure to match the expected population of each settlement area.	The site can be fully serviced with required local infrastructure.
GM6 Economic Growth	Industrial land should be made available in a variety of locations to encourage new opportunities and employment diversity. However, location and availability should recognise the linkages between employment land and: settlement areas; markets; transport and access; environmental constraints; and cost effective provision of necessary services and infrastructure.	<p>The site is located within an existing cluster of industrial employment lands and will add to the supply of lands that can be readily developed.</p> <p>The site is ideally located to compliment and benefit from the re-development of the former Wallerawang Power Station by the recently announced <i>GreenSpot</i> joint venture.</p> <p>The development of this land will attract investment and grow local jobs.</p>
<b>Lithgow 2040 Local Strategic Planning Statement</b>		

Planning Priority	Assessment /Comment
PP 1- Establish a framework for sustainable growth	<p>The proposal will provide opportunity for innovative industries that would utilise the available public infrastructure. This can occur without needing to expand into rural areas or impact on existing residential communities.</p> <p>The proposal does not materially change the directions as outlined in the Wallerawang LSPS structure plan.</p>
PP 4 - Recognise, Preserve, Promote and Activate our Heritage	<p>The Planning Proposal will not significantly impact on the preservation and conservation of heritage associated with the two listed items.</p> <p>This proposal facilitates the ongoing operation of the Black Gold Motel which has successfully respected and integrated into the heritage fabric of the former Wallerawang Public School Site ensuring its continued maintenance and conservation.</p>
PP5 – Align development with essential infrastructure	<p>The planning proposal will afford opportunity to maximise the utilisation of existing service and utility infrastructure provided to the site. This includes road infrastructure encompassing both Main Street and the intersection with the Castlereagh Highway.</p> <p>The development may also be able to integrate with any new intermodal facility that may be established in the re-development of the Wallerawang Power Station site as an Eco-Industrial hub.</p>
PP 7- Increasing the visitor economy	<p>The additional permissible uses clause for the existing Motel will provide continued security for this use, without relying on existing use rights.</p> <p>The current extension of the motel will assist in increasing the supply of available short-term accommodation for tourists and itinerant workers.</p>
PP 9 - Attract investment and grow local jobs	<p>The planning proposal will facilitate an employment generating land use that will increase local employment opportunities.</p> <p>The proposal involving less than 4 hectares of developable land area will not detrimentally impact on the viability/feasibility of future development of the larger greenfield sites identified in the adopted LUS and LSPS structure plans.</p>

	The future development of the site primarily for light industrial land use in area of existing infrastructure will fill a gap in the industrial land market for relatively shovel ready industrial land sites that will cater for both start up and more intensive development.
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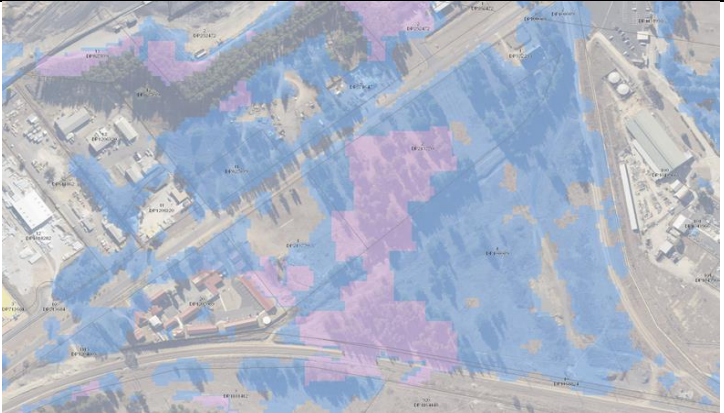
***Is the planning proposal consistent with applicable State Environmental Planning Policies?***

***Relevant State Environmental Planning Policies (“SEPPs”)***

The proposal has been assessed against the applicable and relevant State Environmental Planning Policies (SEPPs) that apply to the land and in particular the land use change to be facilitated through this proposal as outlined in Table 3 below:

**Table 3**

<b>Policy</b>	<b>Comment</b>
SEPP 55 Remediation of Land	A search of Council’s property records, zoning maps and aerial photography has not revealed any evidence that the site has been associated with any activities listed in Table 1 of the Managing Land Contamination Planning Guidelines, being uses that can potentially cause contamination. The proposed land use change to IN2 Light Industrial will not result in more sensitive land use. From this initial evaluation, it not considered that the potential for the land to be contaminated causing a significant risk to health or environment warrants further investigation at this time.
SEPP Koala Habitat Protection 2019	Lithgow Local Government Area does not have a Koala Plan of Management.  Therefore, the provisions of this SEPP will apply to the development assessment phase of this proposal.  The site is above 1ha in area part of the subject site is identified as containing potential koala habitat on the Koala Development Application Map (see pink area on the map extract below). Therefore, the requirement of Clause 9 of the SEPP will be triggered.

	 <p>Extract – NSW Spatial Viewer – Koala Development Application Map.</p> <p>The proposal may require a report prepared by a suitably qualified and experienced person in accordance with the Koala Habitat Protection Guideline.</p> <p>Council will consult with the Biodiversity and Conservation Division of DPIE in relation to this SEPP as part of the consultation processes of this planning proposal.</p>
<p>SEPP Sydney Drinking Water Catchment</p>	<p>The future development of the site will need to ensure any stormwater leaving the site achieves the neutral or beneficial effect qualities required by Water NSW.</p> <p>This will be addressed at the development assessment phase.</p>
<p>SEPP Vegetation in Non –Rural Areas 2017</p>	<p>This SEPP requires the approval of the Native Vegetation Panel for clearing of native vegetation that exceeds the biodiversity offsets scheme (BOS) threshold in any non-rural area of the State including land within the IN2 Light Industrial Zone.</p> <p>The subject site will require clearing to achieve the objectives of this proposal within the development assessment phase. If the BOS threshold is exceeded, approval of the Native Vegetation Panel is required and a biodiversity development assessment report will be required to identify the biodiversity values on the land.</p>

***Is the planning proposal consistent with applicable Ministerial Directions (S.9.1 of previous S117 directions)?***

***Relevant Ministerial Directions***

Assessment of the Planning Proposal indicates that is generally consistent, or where there is inconsistency it is of minor significance, with the applicable and relevant Section 9.1 Planning Directions issued by the Minister of Planning as outlined in Table 4 below:

**Table 4**

Relevant Planning Direction	Comment
<b>Employment and Resources</b>	
1.1 Business and Industrial Zones	<p>The planning proposal is consistent with, and will give effect to, the objectives of this direction as outlined below:</p> <ul style="list-style-type: none"> <li>• The subject site is a suitable location for industrial land use being located on the periphery of the Wallerawang town centre, away from residential zones and within a cluster of industrial employment lands</li> <li>• The proposal will not negatively impact on other areas of business or industrial land. The net addition of 5.89ha (3.5ha of which is vacant developable land) of light industrial infill land will not significantly impact on the larger greenfield sites identified in the Lithgow 2040 Local Strategic Planning Statement structure plans.</li> <li>• The additional permitted use of Hotel or Motel Accommodation will support the continued operation of the existing Black Gold Motel that will protect and encourage employment growth in that business.</li> <li>• The change in land use zone from part RU1 and part SP2 to IN2 will rationalize the zoning and land use of this site consistent with the existing and future character of the area and the endorsed directions and strategies within the Lithgow Land Use Strategy 2010-2030 and Lithgow 2040 Local Strategic Planning Statement.</li> </ul>

Relevant Planning Direction	Comment
	<ul style="list-style-type: none"> <li>The proposal is of minor local strategic significance.</li> </ul>
1.2 Rural Zone	<p>The objective of this direction is to protect the agricultural value of the rural land. Part of the subject site (Lot 20 DP 1207089) is currently zoned RU1 Primary Production. The site is fully developed and operates as the Black Gold Motel, being adapted from its historical use as the former Wallerawang Public School. It has no agricultural value.</p> <p>The RU1 zone was applied in 2014 to this site to be consistent with surrounding remnant sites isolated by the SP2 Infrastructure zoning to all Energy Australia land and the zoning out of the former Wallerawang Village zone.</p> <p>The inconsistency with this planning direction is justified as of minor local strategic significance.</p>
<b>Environment and Heritage</b>	
2.3 Heritage Conservation	<p>Lot 20 DP 1207089 contains the local heritage item I225 being the former Wallerawang Public School. The site has been adaptively reused as Black Gold Motel which has conserved and maintained the heritage significance of this site.</p> <p>The subject site adjoins the St Johns the Evangelist Church that is listed on the State Heritage Register and as item I112 in Schedule 5 of Lithgow Local Environmental Plan 2014. The curtilage of this site is identified as within its cadastral boundaries.</p> <p>The listing of these items in Schedule 5 and associated provisions of Clause 5.10 of the Lithgow Local Environmental Plan and the State Heritage Register provides adequate regulatory protection for the conservation of heritage on these sites. Any impact from development will be considered at the development assessment phases through appropriate development controls.</p>

Relevant Planning Direction	Comment
	<p>The site is disturbed and only contains predominantly introduced vegetation. An Aboriginal Heritage Information System search (AHIMS) confirms that the site, and its context, contains no identified items of Aboriginal heritage significance. The site does not comprise Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974.</p> <p>Council will consult with Heritage NSW in relation to the State Heritage Register site.</p>
<b>Hazard and Risk</b>	
4.4 Planning for Bushfire Protection	<p>The site is mapped as being partially bushfire prone on Council's bush fire prone land map under Section 146 of the Environmental Planning and Assessment Act 1979.</p> <p>Under this Planning Direction, Council is required to consult with the Commissioner of NSW Rural Fire Service following receipt of a gateway determination, and prior to undertaking community consultation and consider any comments so made in proceeding with the Planning Proposal.</p> <p>The Planning Proposal is a minor spot rezoning and consideration of Planning for Bushfire Protection may with the advice of the RFS be addressed within the development assessment phase.</p>
<b>Regional Planning</b>	
5.2 Sydney Drinking Water Catchment	<p>The site is located within the Sydney Drinking Water Catchment and any future development must be able to demonstrate a neutral or beneficial effect on water quality in accordance with Sydney Drinking Water Catchment State Environmental Planning Policy.</p> <p>The site is not covered by the Strategic Land and Water Capability Assessment (SLAWCA) for category 6A light industrial land use representing a gap in the data set.</p> <p>Having regard to the most influential factors affecting water quality for this land use being slope and vegetation</p>

Relevant Planning Direction	Comment
	<p>the site is not considered to be of high risk to water quality.</p> <p>Under this direction, Council is required to consult with Water NSW and include a copy of the response in its Planning Proposal prior to the issuing of any Gateway Determination.</p>
5.0 Implementation of Regional Plans	The proposal has demonstrated it is consistent with the Central West and Orana Regional Plan as outlined in <b>Table 1.</b>
<b>Local Plan Making</b>	
6.3 Site Specific Provisions	The proposal will introduce an additional permitted use on part of the site to allow for the motel operation to be a permissible land use. The planning proposal will not however introduce any additional standards or controls in relation to that use.

## Section C Environmental, social and economic impact

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

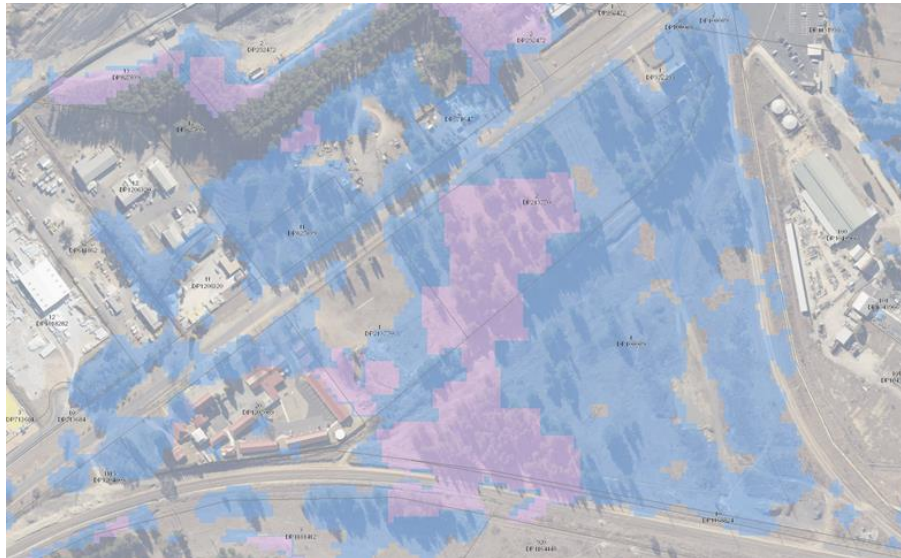
The site is not a declared critical habitat under the *Threatened Species Conservation Act 1995* or area of Outstanding Biodiversity Value (AOBV) under the *Biodiversity Conservation Act 2016*.

The site is not identified as having biodiversity values under the Biodiversity Values Map prepared under Part 7 of the *Biodiversity Conservation Act 2016 (BC Act)*.

A search of BioNet Atlas has revealed that there are no endangered populations of flora and fauna within a 10km radius of the site,

It is not identified within the environmentally sensitive areas mapping for biodiversity or sensitive lands under Lithgow Local Environmental Plan 2014.

The site is above 1ha in area part of the subject site is identified as containing potential koala habitat on the Koala Development Application Map (see pink area on the map extract below). Therefore, the requirement of Clause 9 of the SEPP will be triggered.



Extract – NSW Spatial Viewer – Koala Development Application Map

The proposal may require a report prepared by a suitably qualified and experienced person in accordance with the Koala Habitat Protection Guideline.

The site is moderately vegetated predominantly with introduced pine with some interspersed native vegetation and regrowth. The likelihood of there being Koala Habitat on this site is low, however Council will consult with the Biodiversity and Conservation Division of DPIE in relation to this SEPP as part of the consultation processes of this planning proposal.

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

The subject site has not been identified within the environmentally sensitive areas mapping for biodiversity or sensitive lands. It is, however, identified as having moderately high groundwater vulnerability. As the site will be fully serviced with water and sewer and stormwater it is not expected that the proposed use will negatively impact groundwater.

The site is not identified as being bush fire prone, flood liable or within a declared mine subsidence district.

The site is located within the Sydney Water Drinking Catchment and any future development must be able to demonstrate a neutral or beneficial effect on water quality in accordance with

Sydney Drinking Water Catchment 2011 State Environmental Planning Policy. This matter will be addressed at the development assessment phase.

***Has the planning proposal adequately addressed any social and economic effects?***

The Planning Proposal outcomes will have the following positive social and economic impacts on the surrounding area:

- Providing for the continued operation of the Black Gold Motel, that significantly contributes to the provision of tourist and short-term itinerant worker accommodation in the region, without restriction
- Reducing land use conflict by clustering of industrial development in an appropriate location away from residential land use
- Maximising utility and transport infrastructure through appropriate infill development
- Increasing employment opportunities through construction and operation of new and emerging industries
- Potential for increase in business activity in Wallerawang town centre servicing the day to day convenience needs of construction workers and employees, increasing economic spend.

**Section D State and Commonwealth interests**

***Is there adequate public infrastructure for the planning proposal?***

The relative small scale of the proposal, is not significant enough to trigger any new or augmented state or commonwealth public infrastructure.

The site is currently serviced by essential water, sewer and electricity services and has frontage to Main St Wallerawang which has good connection to Castlereagh Highway to the east.

Any impact upon local essential infrastructure will be considered as part of the development assessment phase and mitigated through either development consent conditions or development servicing contributions.

***What were the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?***

Council is awaiting a response from Water NSW in relation to the S.9.1 (5.2) consultations required.

Relevant state and government public authorities will be consulted as part of the process and/or considered prior to final Gateway Determination.

## PART 4 MAPPING

The Planning Proposal will require amendment to the following maps of Lithgow Local Environmental Plan 2014 as indicated in **Figure 3**:

- Land Zoning Map LZN\_ 002E
- Lot Size Map LSZ\_002

Council will prepare this map in accordance with the *Standard Technical Requirements for Spatial Datasets and Maps- Version 2.10 August 2017* following the community consultation phase of the planning proposal.

## PART 5 COMMUNITY CONSULTATION

The Gateway Determination will confirm the community consultation requirements for the proposal. Unless determined as a “low impact” proposal the proposal will be publicly exhibited for a period no less than 28 days. Should public exhibition fall over a public holiday period the exhibition period would be extended accordingly. In accordance with the Lithgow Community Participation Plan the days between 20th December and 10th January will not be included in the public exhibition period.

The Draft Planning Proposal will be publicly notified by:

- A notice in the Village Voice in each week of the exhibition
- Written notification to adjoining and potentially affected landowners
- Notification on Council’s website
- Display at Council’s customer service centre and libraries (subject to Covid 19 protocols and public health orders at the time)
- Council will also notify relevant government agencies concurrently with the public exhibition period unless directed otherwise through the Gateway Determination. Key agencies will include:
  - Water NSW
  - Heritage NSW
  - RFS
  - Bathurst Aboriginal Land Council
  - DPIE Biodiversity and Conservation Division
  - Transgrid

## PART 6 PROJECT TIMELINE

Provided no delays are experienced, for example through public consultation and government agency responses, an indicative timeline to complete the plan making process is outlined below:

<b>Key Stages of Consultation and Approval</b>	<b>Estimated Timeframe</b>
<b>Stage 1</b> Consultation with Water NSW <b>Stage 1A</b> Submission of Draft Planning Proposal to DPIE	October 2020
<b>Stage 2</b> Gateway Determination <b>Stage 2A</b> Consultation with Rural Fire Service	November/December 2020
<b>Stage 3</b> Public Exhibition and Government Agency Consultation	January 2021
<b>Stage 4</b> Review/consideration of submissions	January/February 2021
<b>Stage 5</b> Council Report	February 2021
<b>Stage 6</b> Plan Making and Legal Drafting (Council delegated functions)	March 2021
<b>Stage 7</b> Notification of LEP	March 2021

## APPENDIX LIST

### Appendix 1

Copy of Report to Ordinary Meeting of Council held on 28 September 2020 and Minute No 20-222

### Appendix 2

Completed Delegations Checklist

### Document Control

Version	Date	Description	Responsible Officer
1.0	30/10/2020	Planning Proposal – Pre Gateway	Sherilyn Hanrahan
1.1	1/12/2020	Planning Proposal – Public Exhibition	Sherilyn Hanrahan

# APPENDIX ONE

## COUNCIL REPORT AND MINUTE

**10.2.4. Draft Planning Proposal - Spot Rezoning - Black Gold Motel and adjoining land, Main St Wallerawang**

**Prepared by** Sherilyn Hanrahan - Strategic Land Use Planner

**Department** Economic Development & Environment

**Authorised by** Director of Economic Development & Environment

**Summary**

A Draft Planning Proposal has been received involving Lot 20 DP 1207089 and Lots 1 & 2 DP 213770, being 121-123 Main St Wallerawang and adjoining lands to the east. The draft proposal seeks the following changes to Lithgow Local Environmental Plan 2014:

- Amend the land zone of the site from part Primary Production RU1 and part SP2 Infrastructure (Electricity Generation) to Light Industrial IN2
- Add additional permitted use within Schedule 1 applying to Lot 20 DP 1207089 and Lot 1 DP 213770 (existing Black Gold Motel development) for the purpose of Hotel or Motel Accommodation.

The Draft Planning Proposal is owner initiated and has been accompanied by the appropriate fee under Council's adopted fees and charges 2020/2021. Documentation supporting a draft planning proposal has been prepared by Resolve Urban Planning on behalf of the landowners being R & L Cluff Custodian Pty Ltd and R & L Cluff Super Pty Ltd.

The planning proposal is a spot rezoning at a property scale. The proposed land use changes are not directly inconsistent with state, regional or local strategic planning directions and are of minor strategic significance.

This report recommends that Council support the preparation of a Planning Proposal under Section 3.33 of the Environmental Planning and Assessment Act 1979 (Act) and to refer such proposal to the Western Region office of Department of Planning, Industry and Environment under Section 3.34 of the Act along with required agency consultation at this stage of the process.

**Commentary**

**Disclosure of political donations and gifts**

Under Section 10.4(4) of the Environmental Planning and Assessment Act a person who makes a relevant planning application including a planning proposal to Council is required to disclose the following reportable gifts(if any) made by any person with a financial interest in the application within the period commencing two(2) years before the application is made and ending when the application is determined:

1. All reportable political donations made to any local councillor or that Council;
2. All gifts made to any local councillor or employee of that Council.

No disclosure has been made in relation to this proposal.

**Local Environmental Plan making process**

The plan making process normally involves the following key components:

- The preparation of a Planning Proposal. (A Planning Proposal is a document that explains the intended effect of a proposed local environmental plan (LEP) and sets out the justification for making that plan.)
- The issuing of a Gateway determination. (A Gateway Determination is assessed by the Regional office of the Department of Environment and Planning in the first instance and it specifies whether a planning proposal is to proceed and if so, in what circumstances.

The Gateway is a checkpoint for planning proposals before resources are committed to carrying out investigative research, preparatory work and consultation with agencies and the community.)

- Community and other consultation on the planning proposal (as required; exhibition periods are either 14 days for low impact proposals or 28 days for all other proposals)
- Finalising the planning proposal
- Drafting of the LEP legal instrument
- Making the plan
- Notifying the LEP on the NSW Government Legislation Website.

A flow chart detailing the LEP plan making process is provided in Attachment 1.

This report is concerned with the first stage of this process.

### Site Description

The subject site is located on Main Street Wallerawang and is described as Lot 20 DP 1207089 and Lots 1 & 2 DP 213770 as indicated by red outline in Figure 1 below. The subject site has an area of 5.89 ha and a total frontage of 550m to Main St.

The western portion of the subject site contains the Black Gold Motel, including its current extensions, whilst the eastern portion is vacant land vegetated with predominantly introduced pine species. The site has a gentle east/south east crossfall.

The eastern most portion of the site is affected by high voltage transmission lines and easements that will reduce the developable area of the site. These easements do however also act as a further built form buffer from the adjoining State listed heritage item to the east.

Figure 1 below shows the site (including the existing motel) in its immediate context being surrounded predominantly by industrial land use. The land immediately to the south of the site is vacant land owned by State Rail, whilst to the east it shares its boundary with St John the Evangelist Church.



Figure 1: Subject site locality context.

## Draft Planning Proposal Intended Outcomes and Explanation of Provisions

The objective of the Draft Planning Proposal is to amend Lithgow Local Environmental Plan 2014 to facilitate:

- light industrial land use on the site; and
- the continuation of the existing motel development land use on part of the site without limitation from existing use rights

The Draft Planning Proposal seeks to:

- Amend the land use zone of the site from part Primary Production RU1 and Part SP2 Infrastructure (Electricity Generation) to Light Industrial IN2
- Insert a new clause into *Schedule 1 - Additional Permitted Uses* to apply to Lot 20 DP 1207089 and Lot 1 DP 213770 to permit development for the purposes of Hotel or Motel Accommodation.



Existing Land Zone Part RU1/Part SP2

Proposed Land Zone IN2 Light Industrial

## Site Suitability

The subject site is an infill site isolated from the Wallerawang town centre by the alignment of the rail line. The surrounding land use is predominantly industrial in nature. The future character of the area will be defined by the re-development of the decommissioned Wallerawang Power Station to the east which is expected to be eco-industrial.

## Past Land Use and Contamination

State Environmental Planning Policy 55 - Remediation of Land requires consideration of contamination issues when rezoning land. If a rezoning allows a change of land use that may increase the risk to health or the environment from contamination, then Council must be satisfied that the land is suitable for the all the proposed uses or can be remediated to make it suitable.

The western most portion of the site, Lot 20 DP 1207089, was originally developed as the Wallerawang Public School and Residence until its closure when the new Barton Ave school site was developed. This lot has been subsequently re-developed as the Black Gold Motel which now also includes a recent extension of 30 motel units on Lot 1 DP 213770.

Both Lot 1 (prior to 2020) and 2 DP 213770 appear to have remained vacant, except for the transmission lines traversing the eastern portion of Lot 2 being used as vacant vegetated buffer lands for the former Wallerawang Power Station site.

A search of Council's property records, zoning maps and aerial photography has not revealed any evidence that the site has been associated with any activities listed in Table 1 of the Managing Land Contamination Planning Guidelines, being uses that can potentially cause contamination. The proposed land use change to IN2 Light Industrial will not result in more sensitive land use. From this initial evaluation, it not considered that the potential for the land to be contaminated causing a significant risk to health or environment warrants further investigation at this time.

### **Site Constraints and Hazards**

The proposal is a small spot rezoning thereby limiting the potential for strategic outcomes to be achieved at the property scale in isolation.

The subject site is not significantly constrained by either man-made or natural hazards or constraints, however there are some potential areas of impact that will require further consideration as either part of this process or at the development assessment phase.

The subject site has not been identified within the environmentally sensitive areas mapping for biodiversity or sensitive lands and does not contain values identified on the biodiversity values map. It is however identified as having moderately high groundwater vulnerability. The site will be fully serviced with water, sewer and stormwater infrastructure thereby minimising degrading impacts on groundwater aquifers from future development.

The site is located within the Sydney Drinking Water Catchment and any future development must be able to demonstrate a neutral or beneficial effect on water quality in accordance with Sydney Drinking Water Catchment State Environmental Planning Policy. The subject site is not covered by the Strategic Land and Water Capability Assessment (SLAWCA) for category 6A light industrial land use representing a gap in the data set.

The SLAWCA identifies that slope is the most influential factor on water quality. This site has only a gentle east/southeast crossfall and therefore slope is not expected to increase the risk to water quality.

Vegetation is another important factor on water quality due to the removal of vegetation and creation of impervious surfaces. As the site is in the urban setting and will be serviced by appropriate stormwater control infrastructure, it is considered that this risk can be mitigated through appropriate design and engineered environmental controls.

Council is required to consult with Water NSW prior to the issuing of a Gateway Determination.

The site is moderately vegetated predominantly with introduced pine with some interspersed native vegetation and regrowth. The site is identified as partially bush fire prone and will therefore trigger consideration of Planning for Bushfire Protection legislation. Council is required to consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination, and prior to undertaking community consultation and consider any comments so made in proceeding with the Planning Proposal.

The eastern portion of the site is affected by a high voltage transmission line, towers and easements and is near the major electricity substation. Council will consult directly with the responsible authorities in relation to this infrastructure.

### **Traffic Management**

The site has direct frontage to Main Street Wallerawang which is a local road with good sight distance along the site frontage. The new access and road intersection treatment will be a matter for the development assessment phase.

### **Essential Services/Infrastructure**

Essential services of water, sewer, electricity, stormwater and telecommunications are all available in the vicinity of the site. Augmentation or reticulation or connection to these services will be addressed in the development assessment phase.

### **Heritage Conservation and Management**

The subject site contains a local heritage listed item, I 225, being the former Wallerawang Public School. Its heritage significance being historic as a good representative example of a school building by architect William Kemp.

The former school site has been since redeveloped and adapted as the Black Gold Motel. The heritage item is appropriately protected and regulated through Schedule 5 and Clause 5.10 of the Lithgow Local Environmental Plan 2014.

The subject site is adjoined on the eastern most boundary by a State listed heritage item, I112 being St John the Evangelist Church. The state significance of this item is a rare example of a major church erected by private philanthropy and is possibly the only example of a "union" or public dual denomination church identified to date in the Central West region. It is a fine example of the architecture of Blacket and Sons. It contains several moveable items of heritage.

The curtilage of this heritage item is identified as its cadastral boundaries. Development on the subject site will need to consider any impact on this heritage item. The high voltage transmission lines towards the eastern boundary of the subject site will act as a physical buffer.

A search of the Aboriginal Heritage Information Management System did not reveal any Aboriginal archaeological sites within the subject area.

### Social and Economic Impact

The Planning Proposal outcomes will have the following positive social and economic impacts on the surrounding area:

- Providing for the continued operation of the Black Gold Motel, that significantly contributes to the provision of tourist and short-term itinerant worker accommodation in the region, without restriction
- Reducing land use conflict by clustering of industrial development in an appropriate location away from residential land use
- Maximising utility and transport infrastructure through appropriate infill development
- Increasing employment opportunities through construction and operation of new and emerging industries
- Potential for increase in business activity in Wallerawang town centre servicing the day to day convenience needs of construction workers and employees, increasing economic spend.

### Justification of planning proposal and relationship to strategic framework

#### Need for Planning Proposal

The planning proposal is not the result of a strategic study or report. It has arisen as an owner-initiated proposal to facilitate the future development of the vacant areas of the site. This opportunity has only recently become possible due to the closure and decommissioning of the Wallerawang Power Station and the land being released, by sale (being surplus to their needs) from Energy Australia to the proponent.

The planning proposal is the only means of achieving the objectives and intended outcomes due to the restrictive nature of the SP2 Infrastructure (Electricity Generation) zone.

#### Central West and Orana Regional Plan

The proposal is not inconsistent with the directions and actions of the Central West and Orana Regional Plan.

This planning proposal responds directly and is consistent with relevant **Direction 10 – Promote business and industrial activities in employment lands** in particular Actions 10.1- 10.3 as outlined in Table 1 below:

Action	Comment
10.1 Encourage the sustainable development of industrial and employment land to maximise infrastructure and connect to existing freight network.	The land use change to IN2 will enable development of the land in a sustainable manner that will enable land use conflicts with the existing motel development to be mitigated

	through appropriate design. It will also maximise existing infrastructure to the site and allow possible additional use of any new intermodal freight network that may arise from the re-development of the former power station site.
<b>10.2</b> Use local environmental plans to promote the development of specialised industry clusters and the co-location of related industries	The predominant land use in the area is industrial in nature. The minor change of zoning of the vacant lands from SP2 to IN2 will enable co-location and potential specialisation of light or high-tech industries to support the more intense industries on surrounding lands. Clustering of like land uses will result in reduced land use conflict.
<b>10.3</b> Encourage the consolidation of isolated, unused or underused pockets of industrial land to create long-term development opportunities	The planning proposal responds directly to this action. The land use change to IN2 will enable development of this isolated pocket of land that has been identified as surplus to electricity generation to create long-term industrial development opportunities.

### Planning Directions

Preliminary assessment of the Planning Proposal indicates that it is generally consistent, or where there is inconsistency it is of minor significance, with the applicable and relevant Section 9.1 Planning Directions issued by the Minister of Planning in particular, the directions as outlined in Table 2 below:

Direction	Comment
<b>Employment and Resources</b>	
1.1 Business and Industrial Zones	<p>The planning proposal is consistent with, and will give effect to, the objectives of this direction as outlined below.</p> <ul style="list-style-type: none"> <li>• The subject site is a suitable location for industrial land use being located on the periphery of the Wallerawang town centre, away from residential zones and within a cluster of industrial employment lands</li> <li>• The proposal will not negatively impact on other areas of business or industrial zoned land. The net addition of 5.89ha (3.5ha of which is vacant developable land) of light industrial infill land will not significantly impact on the larger greenfield sites identified in the Lithgow 2040 Local Strategic Planning Statement structure plans.</li> <li>• The additional permitted use of Hotel or Motel Accommodation will support the continued operation of the existing Black Gold Motel that will protect and encourage employment growth in that business.</li> <li>• The change in land use zone from part RU1 and part SP2 to IN2 will rationalise the zoning and land use of this site consistent with the existing and future character of the area and the endorsed directions and strategies within the Lithgow Land Use Strategy 2010-2030 and Lithgow 2040 Local Strategic Planning Statement.</li> <li>• The proposal is of minor strategic significance.</li> </ul>
1.2 Rural Zone	<p>The objective of this direction is to protect the agricultural value of rural land. Part of the subject site (Lot 20 DP 1207089) is currently zoned RU1 Primary Production. The site is fully developed and operates as the Black Gold Motel, being adapted from its historical use as the former Wallerawang Public School. It has no agricultural value.</p>

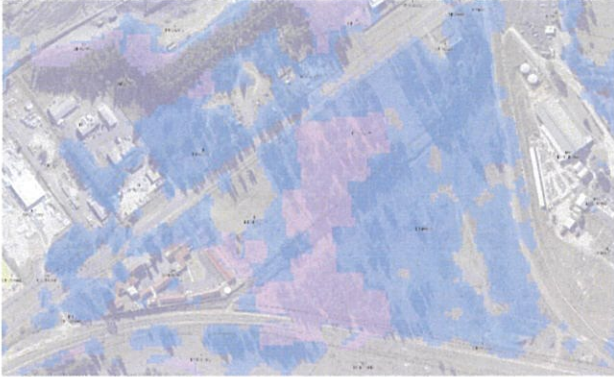
	<p>The RU1 zone was applied in 2014 to this site to be consistent with surrounding remnant sites isolated by the SP2 Infrastructure zoning to all Energy Australia lands and the zoning out of the former Wallerawang Village zone.</p> <p>The inconsistency with this direction is justified as of minor significance.</p>
1.5 Rural Lands	<p>The RU1 zoning of Lot 20 DP 1207089 is inappropriate. The land is fully developed as a Motel and having an area of 1.66ha on the fringe of the Wallerawang town centre. It holds no agricultural value.</p> <p>The planning proposal provides a more rational zoning for this site, the outcomes of which will be generally consistent with endorsed local strategic land use plans and the Lithgow 2040 Local Strategic Planning Statement.</p> <p>The inconsistency with this planning direction is justified as of minor strategic significance.</p>
<b>Environment and Heritage</b>	
2.3 Heritage Conservation	<p>Lot 20 DP 1207089 contains the local heritage item I225 being the former Wallerawang Public School. This site has been adaptively reused as Black Gold Motel which has conserved and maintained the heritage significance of this site.</p> <p>The subject site adjoins the St Johns the Evangelist Church that is listed on the State Heritage Register and as item I112 in Schedule 5 of Lithgow Local Environmental Plan 2014. The curtilage of this site is identified as its cadastral boundaries.</p> <p>The listing of these items in Schedule 5 and associated provisions of Clause 5.10 of the Lithgow Local Environmental Plan, provide adequate regulatory protection for the conservation of heritage on these sites. Any impact from development will be considered at the development assessment phase through appropriate development controls.</p> <p>The site is disturbed and only contains predominantly introduced vegetation. An Aboriginal Heritage Information Management System Search (AHIMS) confirms that the site, and its context, contains no identified items of Aboriginal heritage significance. The site does not comprise Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974.</p> <p>Council will consult with Heritage NSW in relation to the State Heritage Register site.</p>
<b>Hazard and Risk</b>	
4.4 Planning for Bushfire Protection	<p>The site is mapped as being partially bushfire prone on Council's bush fire prone land map under Section 146 of the Environmental Planning and Assessment Act 1979.</p> <p>Under this Planning Direction, Council is required to consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination, and prior to undertaking community consultation and consider any comments so made in proceeding with the Planning Proposal.</p>

	The Planning Proposal is a spot rezoning and consideration of Planning for Bushfire Protection may with the advice of RFS be addressed within the development assessment phase.
<b>Regional Planning</b>	
5.2 Sydney Drinking Water Catchment	<p>The site is located within the Sydney Drinking Water Catchment and any future development must be able to demonstrate a neutral or beneficial effect on water quality in accordance with Sydney Drinking Water Catchment State Environmental Planning Policy.</p> <p>Under this direction Council is required to consult with Water NSW and include a copy of the response in its planning proposal prior to the issuing of any Gateway Determination.</p>
5.10 Implementation of Regional Plans	The proposal has demonstrated it is consistent with the Central West and Orana Regional Plan in <b>Table 1</b> .
<b>Local Plan Making</b>	
6.3 Site Specific Provisions	The proposal will introduce an additional permitted use on part of the subject site to allow for the motel operation to be permissible land use. The planning proposal will not however introduce any additional standards or controls in relation to that use.

#### State Environmental Planning Policies

The proposal has been assessed against the applicable and relevant State Environmental Planning Policies (SEPP's) that apply to the land and in particular the land use change to be facilitated through this proposal. The key policies are outlined in Table 3 below:

Policy	Comment
SEPP 55 Remediation of Land	<p>A search of Council's property records, zoning maps and aerial photography has not revealed any evidence that the site has been associated with any activities listed in Table 1 of the Managing Land Contamination Planning Guidelines, being uses that can potentially cause contamination. The proposed land use change to IN2 Light Industrial will not result in more sensitive land use. From this initial evaluation, it not considered that the potential for the land to be contaminated causing a significant risk to health or environment warrants further investigation at this time.</p>
SEPP Koala Habitat Protection 2019	<p>Lithgow Local Government Area does not have a Koala Plan of Management.</p> <p>Therefore, the provisions of this SEPP will apply to the development assessment phase of this proposal.</p> <p>The site is above 1ha in area part of the subject site is identified as containing potential koala habitat on the Koala Development Application Map (see pink area on the map extract below). Therefore, the requirement of Clause 9 of the SEPP will be triggered.</p>

	 <p>Extract – NSW Spatial Viewer – Koala Development Application Map</p> <p>The proposal may require a report prepared by a suitably qualified and experienced person in accordance with the Koala Habitat Protection Guideline.</p> <p>Council will consult with the Biodiversity and Conservation Division of DPIE in relation to this SEPP as part of the consultation processes of this planning proposal.</p>
SEPP Drinking Water Catchment	<p>The future development of the site will need to ensure any stormwater leaving the site achieves the neutral or beneficial effect qualities required by Water NSW.</p> <p>This will be addressed at the development assessment phase.</p>
SEPP Vegetation in Non-Rural Areas 2017	<p>This SEPP requires the approval of the Native Vegetation Panel for clearing of native vegetation that exceeds the biodiversity offsets scheme (BOS) threshold in any non-rural area of the State including land within the IN2 Light Industrial Zone.</p> <p>The subject site will require clearing to achieve the objectives of this proposal within the development assessment phase. If the BOS threshold is exceeded, approval of the Native Vegetation Panel is required and a biodiversity development assessment report will be required to identify the biodiversity values on the land.</p>

#### Lithgow 2040 Local Strategic Planning Statement and Lithgow Land Use Strategy 2010-2030

The Planning Proposal is a small spot rezoning that is generally consistent with the wider strategic land use directions of the both the Lithgow 2040 Local Strategic Planning Statement and Lithgow Land Use Strategy 2010-2030.

The IN2 proposed zone will provide a rationalisation of zones within the area brought about by the disposal of excess SP2 Infrastructure lands owned by Energy Australia.

Planning Priority	Assessment/Comment
Establish a framework for sustainable growth	The proposal will provide opportunity for innovative industries that would utilise the available public infrastructure. This can occur without needing to expand into rural areas or impact on existing residential communities.

Recognise, Preserve, Promote and Activate our Heritage	<p>The Planning Proposal will not significantly impact on the preservation and conservation of heritage associated with the two listed items.</p> <p>This proposal facilitates the ongoing operation of the Black Gold Motel which has successfully respected and integrated into the heritage fabric of the former Wallerawang Public School Site ensuring its continued maintenance and conservation.</p>
Align development with Essential Infrastructure	<p>The planning proposal will afford opportunity to maximise the utilisation of existing infrastructure provided to the site. This includes road infrastructure encompassing both Main Street and the intersection with the Castlereagh Highway.</p> <p>The development may also be able to integrate with any new intermodal facility that may be established in the re-development of the Wallerawang Power Station site as an Eco-Industrial hub.</p>
Increasing the Visitor Economy	<p>The additional permissible uses clause for the existing Motel will provide continued security for this use, without relying on existing use rights.</p> <p>The current extension of the motel will assist in increasing the supply of available short-term accommodation for tourists and itinerant workers.</p>
Attracting investment and growing local jobs - Industrial	<p>The planning proposal will facilitate an employment generating land use that will increase local employment opportunities.</p> <p>The proposal involving less than 4 hectares of developable land area will not detrimentally impact on the viability/feasibility of future development of the larger greenfield sites identified in the adopted LUS and LSPS structure plans.</p> <p>The future development of the site primarily for light industrial land use in area of existing infrastructure will fill a gap in the industrial land market for relatively shovel ready industrial land sites that will cater for both start up and more intensive development.</p>

#### Community and Government Authority Consultation

The Gateway Determination will confirm the community consultation requirements for the proposal. Unless determined as a "low impact" proposal the proposal will be publicly exhibited for a period no less than 28 days. Should public exhibition fall over a public holiday period the exhibition period would be extended accordingly. In accordance with the Lithgow Community Participation Plan the days between 20<sup>th</sup> December and 10<sup>th</sup> January will not be included in the public exhibition period.

The Draft Planning Proposal will be publicly notified by:

- A notice in the Village Voice in each week of the exhibition
- Written notification to adjoining and potentially affected landowners
- Notification on Council's website
- Display at Council's customer service centre and libraries (subject to Covid 19 protocols and public health orders at the time)

Council will also notify relevant government agencies concurrently with the public exhibition period unless directed otherwise through the Gateway Determination. Key agencies will include:

- Water NSW
- Heritage NSW
- RFS

- Bathurst Aboriginal Land Council
- DPIE Biodiversity and Conservation Division
- Transgrid

#### Indicative timeline to complete plan making process

Provided no delays are experienced, for example through public consultation and government agency responses, an indicative timeline to complete the plan making process is outlined below:

Key Stages of Consultation and Approval	Estimated Timeframe
<b>Stage 1</b> Consultation with Water NSW	October 2020
<b>Stage 1A</b> Submission of Draft Planning Proposal to DPIE	
<b>Stage 2</b> Gateway Determination	November/December 2020
<b>Stage 2A</b> Consultation with Rural Fire Service	
<b>Stage 3</b> Public Exhibition and Government Agency Consultation	January 2021
<b>Stage 4</b> Review/consideration of submissions	January/February 2021
<b>Stage 5</b> Council Report	February 2021
<b>Stage 6</b> Plan Making and Legal Drafting (Council delegated functions)	March 2021
<b>Stage 7</b> Notification of LEP	March 2021

#### Use of delegated powers to make the local environmental plan

Following a Gateway Determination some plan making powers (S.336(2)-(4) statutory steps of the process) may be delegated back to Council to finalise should Council request it or where the matters are determined to be of local significance as determined by the Gateway. This would increase Council's involvement and decision making in the process and streamline the administrative processing and making of the plan.

As this Planning Proposal is a spot rezoning of local significance and is not materially inconsistent with the endorsed local strategic planning strategy, it is recommended that Council indicate that it will be seeking to use its delegated plan making powers to finalise the plan following Gateway Determination.

#### Recording of Voting on Planning Matters

Under Section 375A of the Local Government Act, 1993 a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee. A planning proposal is a planning decision for the purposes of this provision.

#### Policy Implications

Nil.

#### Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact – The staff costs of administering the Planning Proposal will be met by the applicable fee of \$15,000 (to be paid in two stages) charged to the proponent.

#### Legal and Risk Management Implications

The Planning Proposal is required to be undertaken in accordance with Part 3 of the Environmental Planning and Assessment Act.

#### Attachments

1. LEP Process Flowchart [10.2.4.1 - 1 page]

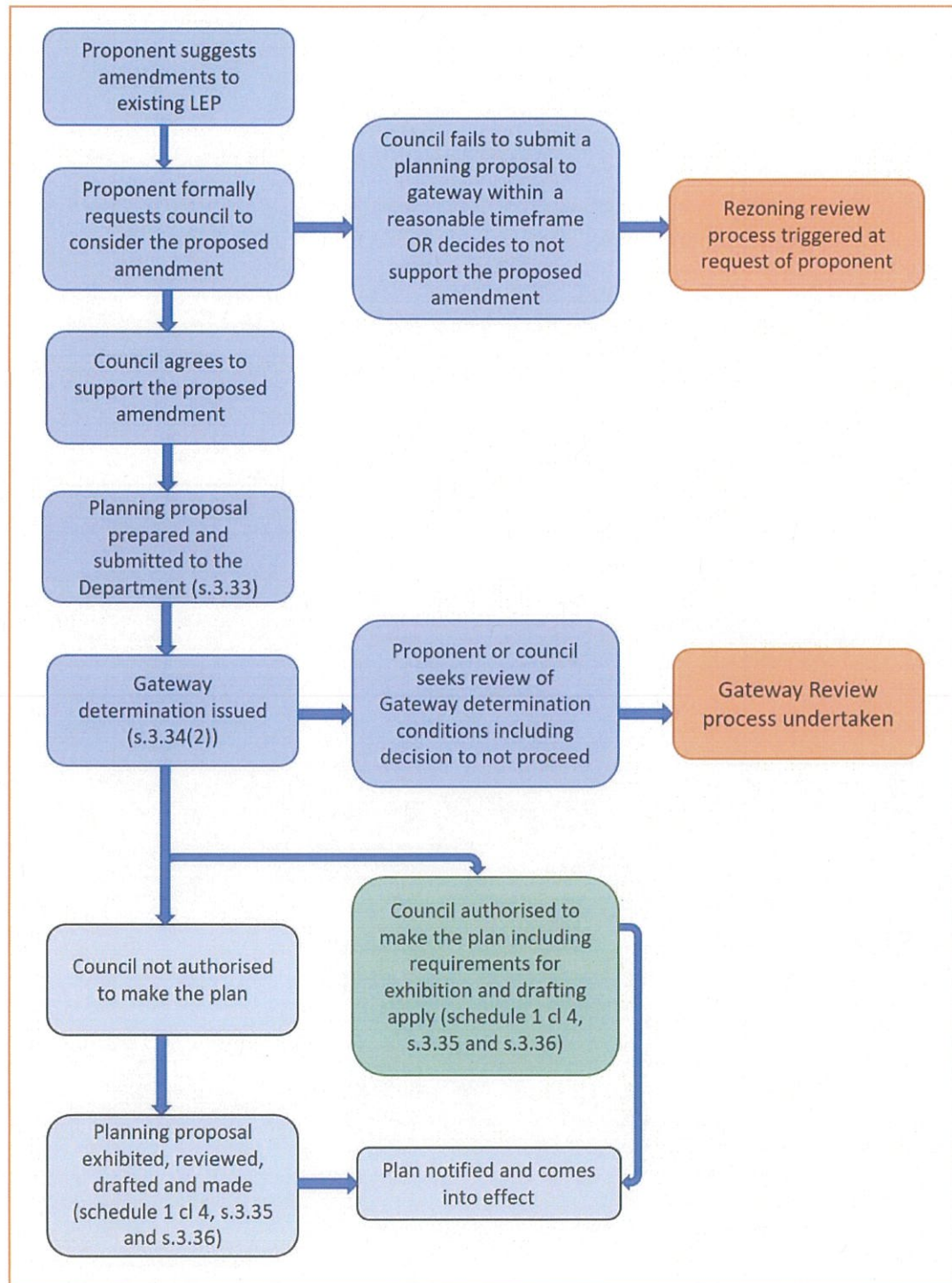
**Recommendation**

THAT

1. Council supports the preparation of a Planning Proposal for Lot 20 DP 1207089, Lot 1 and Lot 2 DP 213770, Main Street Wallerawang to amend Lithgow Local Environmental Plan 2014 as follows:
  - a. Amend the land use zone of the site from part Primary Production RU1 and Part SP2 Infrastructure (Electricity Generation) to Light Industrial IN2
  - b. Insert a new clause into *Schedule 1 - Additional Permitted Uses* to apply to Lot 20 DP 1207089 and Lot 1 DP 213770 to permit development for the purposes of Hotel or Motel Accommodation.
2. The Planning Proposal documentation once prepared be forwarded to the Western Region office of the Department of Planning, Industry and Environment for a Gateway Determination.
3. Council consults with relevant government agencies as required. Council is to consult with Water NSW prior to the issuing of a Gateway Determination and Rural Fire Service prior to undertaking community consultation.
4. Council advise NSW Department of Planning, Industry and Environment that it proposes to seek approval to use the delegated functions under S.3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
5. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

## 7 Attachments

### Attachment 1 – LEP plan making process



2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.
3. Council endorse the Draft Voluntary Planning Agreement proposed for DA230/18 being for \$6,600 per residential lot (total of \$534,600) to go towards community facilities and infrastructure.
4. The Draft Voluntary Planning Agreement for DA230/18 be placed on public exhibition for a period of 28 days.

**MOVED:** Councillor M Statham

**SECONDED:** Councillor D Goodsell

**CARRIED** Unanimously

#### Divisions

**FOR:** Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodsell, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith, Councillor M Statham

**AGAINST:** nil

#### 10.2.4. Draft Planning Proposal - Spot Rezoning - Black Gold Motel and adjoining land, Main St Wallerawang

Due to an earlier declaration of interest, Councillor J Smith left the meeting at 08:32 pm and Councillor C Coleman left the meeting at 08:32 pm.

#### 20 -222 RESOLVED

##### THAT

1. Council supports the preparation of a Planning Proposal for Lot 20 DP 1207089, Lot 1 and Lot 2 DP 213770, Main Street Wallerawang to amend Lithgow Local Environmental Plan 2014 as follows:
  - a. Amend the land use zone of the site from part Primary Production RU1 and Part SP2 Infrastructure (Electricity Generation) to Light Industrial IN2
  - b. Insert a new clause into *Schedule 1 - Additional Permitted Uses* to apply to Lot 20 DP 1207089 and Lot 1 DP 213770 to permit development for the purposes of Hotel or Motel Accommodation.
2. The Planning Proposal documentation once prepared be forwarded to the Western Region office of the Department of Planning, Industry and Environment for a Gateway Determination.
3. Council consults with relevant government agencies as required. Council is to consult with Water NSW prior to the issuing of a Gateway Determination and Rural Fire Service prior to undertaking community consultation.
4. Council advise NSW Department of Planning, Industry and Environment that it proposes to seek approval to use the delegated functions under S.3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
5. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

**MOVED:** Councillor S Ring

**SECONDED:** Councillor M Statham

**CARRIED** Unanimously

#### Divisions

**FOR:** Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor D Goodsell, Councillor D Goodwin, Councillor S Lesslie, Councillor M Statham

**AGAINST:** nil

Councillor C Coleman returned to the meeting at 08:41 pm.

Councillor J Smith returned to the meeting at 08:41 pm.

#### **10.2.5. DA107/20 - Demolition and Reconstruction of Shed, Lithgow Golf Club**

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Councillor S Ring left the meeting at 08:41 pm.

Councillor S Ring returned to the meeting at 08:42 pm.

#### **20 -223 RESOLVED**

THAT

1. Development Application DA107/20 be APPROVED subject to conditions on the consent as shown in the attached Planning Assessment Report.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor J Smith

**CARRIED** Unanimously

#### **Divisions**

**FOR:** Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodsell, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith, Councillor M Statham

**AGAINST:** nil

#### **10.2.6. 335/05DA- Dedication of Subdivision Roads - South Bowenfels**

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#### **20 -224 RESOLVED**

THAT Council endorse the dedication of two unconstructed roads under Stage A of 335/05DA being an extension of Col Drewe Drive (Three Tree Drive) and Shanny Close as shown on the attached plan.

**MOVED:** Councillor S Ring

**SECONDED:** Councillor D Goodsell

**CARRIED** Carried Unanimously

#### **Divisions**

**FOR:** Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodsell, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith, Councillor M Statham

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# APPENDIX TWO

## DELEGATION EVALUATION CHECKLIST

## Attachment 4 – Evaluation criteria for authorising council to make the local environmental plan

Checklist for the review of a request for council to become the local plan making authority

Local Government Area:

LITHGOW CITY COUNCIL LGA

Name of draft LEP:

LITHGOW LOCAL ENVIRONMENTAL PLAN (LOCAL AMENDMENT NO 4)

Address of Land (if applicable):

MAIN ST WALLERAWONG.

LOT 1 & 2 D.P. 213770 & LOT 20 D.P. 1207089

Intent of draft LEP:

TO AMEND LITHGOW LOCAL ENVIRONMENTAL PLAN 2014 TO:

AMEND THE LAND ZONE OF THE SITE FROM PART PRIMARY PRODUCTION RUI +

PART SP2 INFRASTRUCTURE TO LIGHT INDUSTRIAL IN2

ADD ADDITIONAL PERMITTED USE IN SCHEDULE 1 APPLYING TO LOT 20 D.P. 1207089 & LOT 1  
DP 213770 FOR THE PURPOSE OF HOTEL OR HOTEL ACCOMMODATION.

Additional Supporting Points/Information:

ATTACHED PLANNING PROPOSAL

## Evaluation criteria for authorising Council to be the local plan-making authority

(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council	Response	Department assessment
	Y/N	Not Relevant	Agree / Disagree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y		
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y		
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y		
Does the planning proposal contain details related to proposed consultation?	Y		
Does the planning proposal give effect to an endorsed regional or sub-regional planning strategy or a local strategy including the LSPS endorsed by the Planning Secretary?	Y		
Does the planning proposal adequately address any consistency with all relevant s. 9.1 Planning Directions?	Y		
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y		
<b>Minor Mapping Error Amendments</b>			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N		
<b>Heritage LEPs</b>			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N		

Reclassifications			
Is there an associated spot rezoning with the reclassification?	2	N/A	
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/A	
Is the planning proposal proposed to rectify an anomaly in a classification?	2	N/A	
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?	2	N/A	
Has Council confirmed whether there are any trusts, estates, interests, dedications, conditions, restrictions or covenants on the public land and included a copy of the title with the planning proposal?	2	N/A	
Has council confirmed that there will be no change or extinguishment of interests and that the proposal does not require the Governor's approval?	2	N/A	
Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note regarding <i>classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?	2	N/A	
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	2	N/A	
Spot Rezoning			
Will the proposal result in a loss of development potential for the site (i.e. reduced FSR or building height) that is not supported by an endorsed strategy?	2		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	2		
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	2		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		N/A	
Does the planning proposal create an exception to a mapped development standard?	2		

### Section 3.22 matters

Does the proposed instrument			
a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;	2		
b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or	2		
c) deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?	2		
(Note – the Minister (or Delegate) will need to form an Opinion under section 3.22(1)(c) of the Act in order for a matter in this category to proceed).			

#### Notes

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the council will be authorised to make the plan, as a matter of local planning significance
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Planning Secretary of the Department.

Matters that will be routinely delegated to a Council under administration are confirmed on the Department's website [www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/](http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/)