

Planning Services

Gateway Determination Report

IRF18/5132

LGA	City of Lithgow Council
PPA	City of Lithgow Council
NAME	Rezone one lot from R5 Large Lot Residential to R2 Low Density Residential and change minimum lot size from 2ha to 800m2. (Lots = 12 Jobs = 0)
NUMBER	PP_2018_LITHG_001_00
LEP TO BE AMENDED	Lithgow Local Environmental Plan 2014
ADDRESS	88 Pipers Flat Road, Wallerawang
DESCRIPTION	Lot Y DP407106
RECEIVED	18/9/2018. WaterNSW consultation submitted 8 October 2018
FILE NO.	IRF18/5132
POLITICAL DONATIONS	There are no known donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

This proposal intends to rezone Lot Y DP 407106 88 Pipers Flat Road, Wallerawang from zone R5 Large Lot Residential to R2 Low Density Residential and change minimum lot size from 2ha to 800m2. This has the potential to yield about 12 residential lots.

Site description

The site is located on the western corner of Bray's Lane and Pipers Flat Road, Wallerawang. It is located to the immediate west of the town centre of Wallerawang and contains a number of buildings currently used for respite by a local Group Home. The lot has an area of 1.366ha, is rectangular in shape, is mostly cleared and slopes gently to the northwest of the site.

Existing planning controls

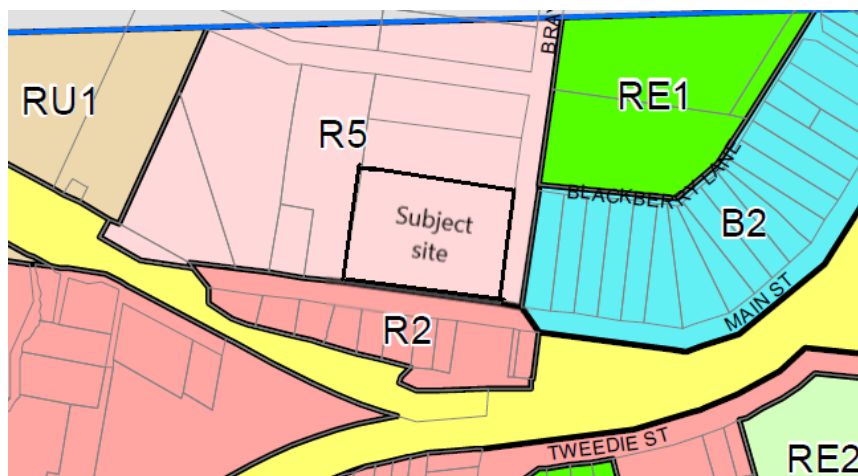
The lot is currently zoned R5 Large Lot Residential. The lot is captured as groundwater vulnerable, as is the whole of the Wallerawang township, and facilities buffer under the LEP. The site is also captured by SEPP (Sydney Drinking Water Catchment) 2011 due to its location on the Upper Cox's River.

Surrounding area

The lot is located to the west of the town of Wallerawang. Wallerawang is located 14km northwest of the city of Lithgow. Directly south from the site is land zoned R2 which contains a number of low density dwellings. To the east of the site, land is zoned B2 Local Centre and this forms the western edge of the township of

Wallerawang. To the north and west of the site, lands are currently zoned R5 yet are currently vacant.

Zone of site and surrounds



Extract from Lithgow LEP 2014, Zoning Map

Summary of recommendation

Proceed with conditions. The subject site is able to be fully serviced, close to town centre, adjoins R2 lands and is a logical extension of zone R2.

PROPOSAL

Objectives or intended outcomes

The proposal intends to:

- Provide additional low density residential lands through a rezoning;
- Provide access to the site via a new road located off Brays Lane (not an arterial road);
- Extend services to the site to allow for connections to water and sewer.

Explanation of provisions

No changes to current LEP clauses are necessitated by this proposal.

Mapping

- A change to land zoning map (LZN002F) to show the lot zoned as R2 Low Density Residential.
- A change to Lot Size map (LSZ002F) to show the lot has a minimum lot size of 800m² (a change from the current minimum of 2 hectares); and

Maps have been provided in the proposal which show the current and proposed changes to zoning and lot size.

NEED FOR THE PLANNING PROPOSAL

A planning proposal is required to achieve the objectives of the proposal. Council advise that whilst the increase in residential land provided by this proposal is not in accordance with the recommendations of the Lithgow Land Use Strategy 2010-2030 (which recommended the site be zoned R5) which was endorsed by the Department on 24 May 2012. The proposal is not inconsistent with the planning framework of the LUS in terms of growth management and sustainability principles. Indeed, the proposal is retaining the primary use of the land as residential, with the density being

increased. The proponent has put forward that the MLS is to be 800m², which is slightly larger than the R2 MLS across Pipers Flat Road, being 600m². Despite this, Pipers Flat Road does seem to be a natural boundary between the more developed part of Wallerawang and R5 land to the north and west of the site.

Preliminary research from the DPE Estimated Resident Population data indicates that Wallerawang has grown and is growing. This supports the assertion in the proposal that residential land stocks are depleting and take-up rates are higher than originally envisaged under the life of the Lithgow LUS.

This proposal is the best method of achieving the intended increase in residential density proposed.

STRATEGIC ASSESSMENT

State

The proposal is consistent with State growth and broad policy objectives.

Regional / District

The proposal is consistent with the Central West and Orana Regional Plan, in particular, Direction 25: Increase housing diversity and choice, and Action 25.4: locate higher density development close to town centres to capitalise on existing infrastructure and increase housing choice.

Local

As mentioned above, the current and adopted LUS for Lithgow cites the land is to be used for future R5. Despite this departure from the intended and adopted future zoning, Council mentions that the proposal is congruous with the strategic direction of the Council in still providing residential land yet at a higher density.

Section 9.1 Ministerial Directions

Direction 3.1 Residential Zones

The planning proposal is consistent with this Direction as it:

- Broadens the choice of building types and locations available in the local housing market;
- Utilises existing local infrastructure
- Reduces the consumption of land for housing and associated urban development on the urban fringe (as the site is already zoned for residential use)
- Increases the residential density permissible on the land.

Direction 3.4 Integrating Land Use Transport

The planning proposal is consistent with this Direction as it:

- Provides housing choice in close proximity to the Wallerawang town centre and established recreational areas accessible via pedestrian networks.
- The use of access via Brays Lane limits additional intersections with an arterial road (Pipers Flat Road).

Direction 5.2 Sydney Drinking Water Catchment

The proposal complies with this Direction as it:

- Is capable of being fully serviced, which will assist in achieving a neutral or beneficial impact on water quality
- Lithgow Council strategic documents highlight that the site is 'highly capable' of being connected to sewerage services
- Council will be required to consult with Water NSW regarding Sydney water catchment impacts and resulting quality.

In accordance with item 5(e) of the Direction Council has consulted with WaterNSW. WaterNSW in a letter dated 3 October 2018 (**Attachment E**) advise there is no objection to the proposal as long as the land is connected to a sewage system with further impacts addressed at the DA stage. The Director Regions, Western can be satisfied that the proposal is consistent with this Direction.

State environmental planning policies (SEPPs)

SEPP (Sydney Drinking Water Catchment) 2011 applies to the site. As mentioned in Council's report, any development resulting from the proposal will need to achieve a neutral or beneficial impact on water quality leaving the site. See above consultation has been undertaken with WaterNSW.

SEPP 55 – Remediation of Land - A preliminary contamination investigation has also been undertaken with the recommendation that the land is suitable for residential purposes.

SITE-SPECIFIC ASSESSMENT

Social

Positive social impacts are envisaged by the proposal and the following comment by Council is agreed - *'...development of the land for residential purposes will support and strengthen the existing commercial and community precincts of Wallerawang'*.

Environmental

The site is mostly cleared with the exception of a small section of trees along the northern boundary. The site includes some scattered outbuildings which are currently used for respite day activities for a group home. These buildings are not listed as heritage items within the Lithgow LEP and are proposed to be demolished as part of the development of the site. Verbal communications with Council's Planning Officer have indicated that the buildings have no heritage significance and their demolition will be assessed as part of the DA process.

The land is also identified as groundwater vulnerable – the land will be serviced by water and sewage services. Refer to the consultation with WaterNSW.

Economic

Economic impacts to the community are envisaged to be positive as the site is to be serviced with all utilities being water, sewer, power and telecommunications. Stormwater and internal road design will be handled at DA stage.

CONSULTATION

Community

Council is proposing that the development be considered a "low impact" proposal and as such, community consultation be reduced to 14 days in accordance with the Department's Guide to Preparing LEPs. The proposal fits with all of the

requirements for it to be considered a low impact proposal with the exception of 'Consistent with the strategic planning framework'. It is explicitly stated that this proposal is departing from the Lithgow LUS and moving away from the recommended R5 zoning for this portion of land. Whilst it is still a residential zoning, the density is moving from 2ha to 800m², which is a vast change and adjoining owners and the community deserve additional time to digest this change and put forward a response, if deemed necessary and therefore a minimum 28 days consultation period is required.

Agencies

Council has consulted with WaterNSW about the Sydney Water Catchment and Roads and Maritime Services. Both agencies raised no objection to the proposal. No further agency consultations are required.

TIME FRAME

The timeframes put forward are slightly skewed as instead of the planning proposal being submitted to the Department in July 2018, it was received in September 2018. A 12 month timeframe will be conditioned to allow time for the plan-making process to be undertaken.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to use its delegations under section 3.36(2-4) of the Act to make the plan following compliance with Gateway conditions. This is a local planning matter and is supported in this instance.

CONCLUSION

The Planning Proposal is supported to proceed with conditions as outlined below.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. Community consultation is required under section 3.34(2)(c) and schedule 1 clause 4 of the *Environmental Planning and Assessment Act 1979* as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing Local Environmental Plans (Department of Planning & Environment August 2016)*.
2. Prior to submission of the planning proposal under section 3.36 of the *Environmental Planning and Assessment Act, 1979*, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017.

3. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the *Environmental Planning and Assessment Act, 1979* subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objection from public authorities.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the *Environmental Planning and Assessment Act, 1979*. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.



12.10.18

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15.10.18

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