

DRAFT PLANNING PROPOSAL

LITHGOW LOCAL ENVIRONMENTAL PLAN 2014

(Local Amendment No 5)

Foundations Site Williwa St Portland

Contents

INTRODUCTION	3
What is a Planning Proposal?	4
SITE DESCRIPTION	4
PART 1 OBJECTIVE OR INTENDED OUTCOMES	7
PART 2 EXPLANATION OF PROVISIONS	7
PART 3 JUSTIFICATION	12
Section A Need for Planning Proposal	12
Is the planning proposal a result of any strategic study or report?	12
Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	12
Section B Relationship to strategic planning framework	12
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)?	12
Is the Planning Proposal consistent with a Council’s local strategy or other local strategic plan?	13
Is the planning proposal consistent with applicable State Environmental Planning Policies?	14
Is the planning proposal consistent with applicable Ministerial Directions (S.9.1cf previous S117 directions)?	16
Section C Environmental, social and economic impact	20
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?	20
Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	20
Has the planning proposal adequately addressed any social and economic effects?	25
Section D State and Commonwealth interests	25
Is there adequate public infrastructure for the planning proposal?	25
What were the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?	26
PART 4 MAPPING	26
PART 5 COMMUNITY CONSULTATION	26
PART 6 PROJECT TIMELINE	27
APPENDIX LIST	28

INTRODUCTION

A planning proposal has been requested to be prepared by Catalyst Project Consulting on behalf of the registered landowners Foundations Portland Pty Ltd. This request and supporting documentation prepared by Willottree Planning Pty Ltd & Roberts Day forms the basis of this proposal.

The intended place based design outcome is for the Foundations to become a tourism and community-based ecosystem celebrating the areas unique offerings, place attributes and people.

The intended urban design outcomes of the proposal are to facilitate:

- Approximately 174 residential lots of varying size ranging from more compact lots to large lot residential.
- Seniors Housing
- Employment and entertainment land
- Private recreation land to support parks, walkways, caravanning, camping/glamping and suitable tourist and visitor accommodation
- A range of mixed uses to support commercial, retail, tourism and employment land uses
- Future works to improve the environmental management and integrity of the eastern most quarry void
- Adaptive reuse of heritage cottages at the site and promotion and conservation of the remaining heritage on the site.

The request was considered by Council at its Ordinary Meeting of 23 November 2020. Council resolved the following:

Minute No: 20-273

THAT

1. Council supports the preparation of a Planning Proposal over Lot 1 DP 109592, Lot 1 DP 842890, Lot 5 DP 749907, Lot 6 DP749908, Lot 7 DP 749909, Lot 24 Section 46 DP 758855, Lots 53 & 104 DP 755769, and Lots 1&4 DP1227369, known as the Foundations Site, Williwa Street Portland which seeks to:
 - Remove the “deferred matter” status of the site and bring the lands within Lithgow Local Environmental Plan 2014;
 - Rezone the site from 2(v) under Lithgow Local Environmental Plan 1994 to a combination of R1 General Residential, R2 Low Density Residential, B4 Mixed Use and RE 2 Private Recreation under Lithgow Local Environmental Plan 2014 as shown in Figure 6 of this report;

- Apply an additional permitted use to two areas of the B4 mixed use zone as shown hatched in Figure 6 of this report to permit dual occupancy (attached and detached); dwelling houses and multi-dwelling housing;
 - Remove all minimum lot size provisions across the site;
 - Insert a local provision into LLEP2014 to require the preparation of a site-specific development control plan prior to development on the land addressing the matters outlined in the standard clause 6.3(3).
2. The Planning Proposal documentation once prepared be forwarded to the Western Region office of Department of Planning, Industry and Investment for a Gateway Determination
 3. Council recommends Gateway to place a condition on its determination requiring Council to consult with Crown Lands and Bathurst Aboriginal Land Council to resolve land zoning over lands adjoining and traversing the Foundations site prior to public exhibition.
 4. Council consults with relevant government agencies as required.
 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 former cement works site lies immediately to the north of the Portland Town Centre. Portland has an estimated resident population of 2, 514 persons (2019 ABS) and is located 20 minutes from Lithgow and two and half hours from Sydney.

The site is generally bounded by Forest St to the north, Carlton and Kiln Street to the west, High St and Williwa Street to the east and Williwa and Laurie Street to the south.

The area subject to this Planning Proposal request excluding the crown land and Bathurst Aboriginal Land Council (BALC) lands is outlined in red in **Figure 1** below.



Figure 1 – The site – Aerial View (Six Maps, 2020)

The key features of the site and its surrounds are summarised in **Figure 2** below. The site exhibits steep topography in a downwards direction from all boundaries, descending into four man-made quarry lakes. There are significant views available from north and north-west of the site into the lakes area and dense vegetation to the north of the site creating a natural site boundary. Limestone Creek traverses the site from north to south. Two unnamed creek tributaries traverse the site from south-southwest and from the north east.

Outside of the remaining main building clusters to the south, the site currently exists as mostly vacant and cleared areas. The four lakes originated as lime quarries. They have stepped back walls, are filled with water and are surrounded by rehabilitation plantings. The range in depth from 15-70m and have a combined surface area of 18.3ha.

A 66kv electricity transmission line bisects the south-eastern corner of the site. Internal circulation throughout the site is provided by unsealed vehicle access tracks with main access from Williwa Street.



Figure 2 Key Features of the site and its surrounds (Roberts Day 2017)

PART 1 OBJECTIVE OR INTENDED OUTCOMES

The intended place based design outcome is for the Foundations to become a tourism and community-based ecosystem celebrating the areas unique offerings, place attributes and people.

The intended urban design outcomes of the proposal are to facilitate:

- Approximately 174 residential lots of varying size ranging from more compact lots to large lot residential.
- Seniors Housing
- Employment and entertainment land
- Private recreation land to support parks, walkways, caravanning, camping/glamping and suitable tourist and visitor accommodation
- A range of mixed uses to support commercial, retail, tourism and employment land uses
- Future works to improve the environmental management and integrity of the eastern most quarry void
- Adaptive reuse of heritage cottages at the site and promotion and conservation of the remaining heritage on the site.

PART 2 EXPLANATION OF PROVISIONS

The planning proposal seeks to:

- Remove the “deferred matter” status of the site and bring the lands within Lithgow Local Environmental Plan 2014. Lithgow Local Environmental Plan 1994 can then be fully repealed.
- Rezone the site from 2(v) under Lithgow Local Environmental Plan 1994 to a combination of R1 General Residential, R2 Low Density Residential, B4 Mixed Use and RE 2 Private Recreation under Lithgow Local Environmental Plan 2014 generally as shown in **Figure 3 and 3B** below.
- Apply an additional permitted use to two areas of the B4 mixed use zone as shown hatched in **Figure 3 and Figure 6** below to permit dual occupancy (attached and detached); dwelling houses and multi-dwelling housing. These additional uses will only apply to the identified areas in this site only.
- Remove all minimum lot size provisions across the site.
- Insert a local provision into the LEP to require the preparation of a site-specific development control plan prior to development on the land addressing similar matters to those outlined in the standard clause 6.3(3) as follows:
 - A **staging plan** for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing;

- An overall **transport movement hierarchy** showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists;
- An overall **landscaping strategy** for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
- A network of **active and passive recreation areas**;
- Stormwater and water quality management controls;
- Amelioration of **natural and environmental hazards**, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected;
- Detailed **urban design controls** for significant development sites;
- Measures to encourage higher density living around transport, open space and service nodes;
- Measures to accommodate and control **appropriate neighbourhood commercial and retail uses**; and
- **Suitably located public facilities and services**, including provision for appropriate traffic management facilities and parking.

Council will work closely with NSW Department of Industry, Planning and Environment (DPIE) to prepare this proposed LEP clause and will consider further if the area should be defined as an “urban release area”.

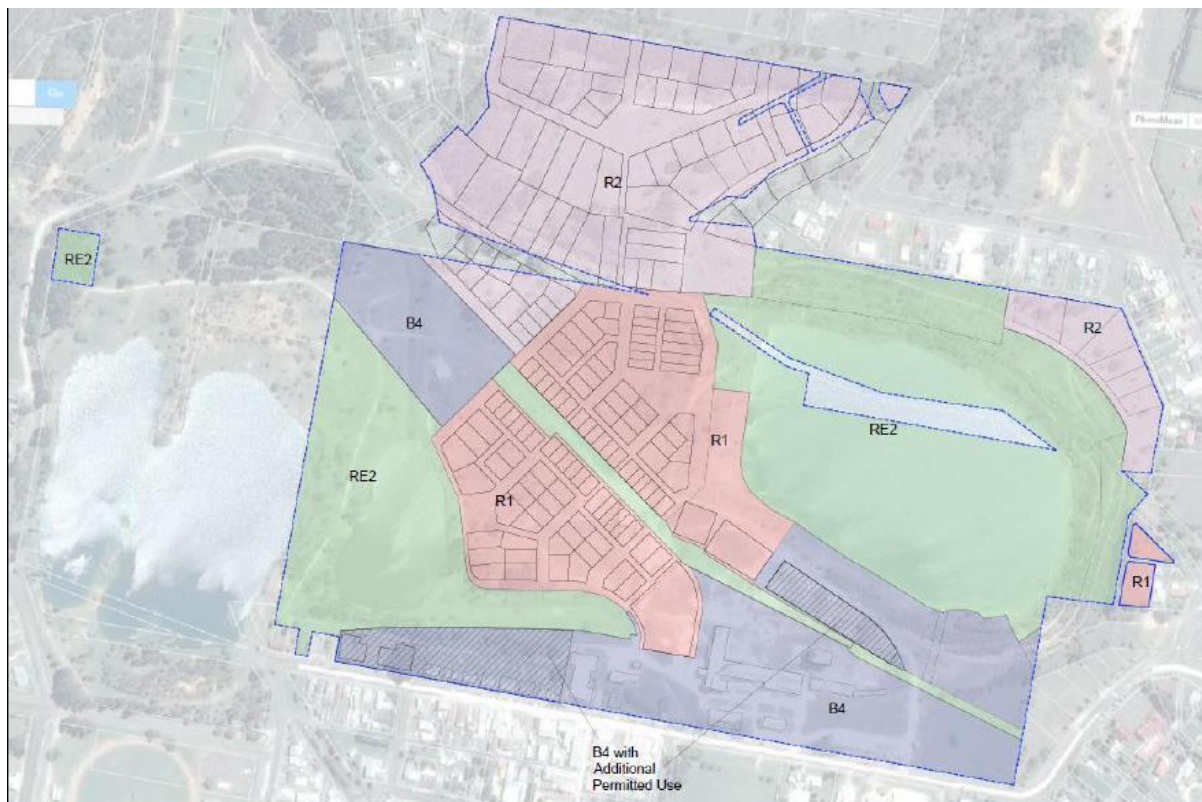


Figure 3 Proposed land zones and concept lot layout (Roberts Day 2020)

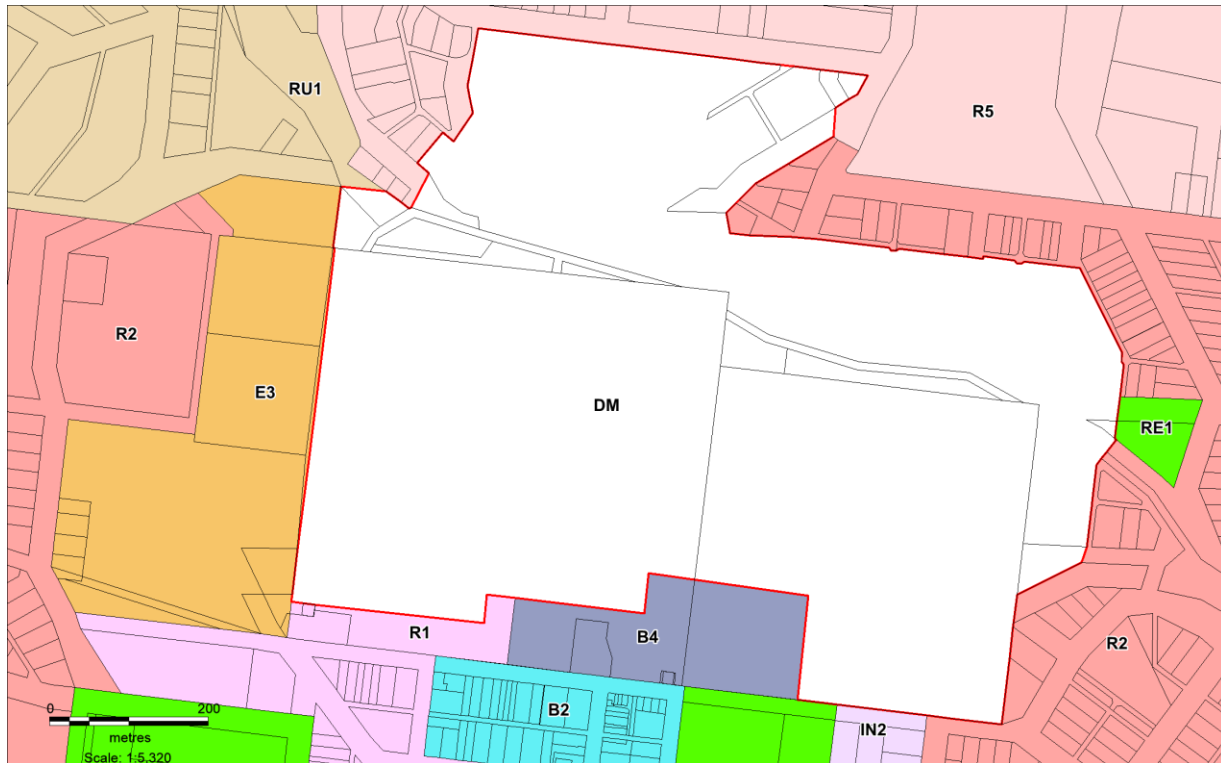


Figure 3A Existing Land Use Zone

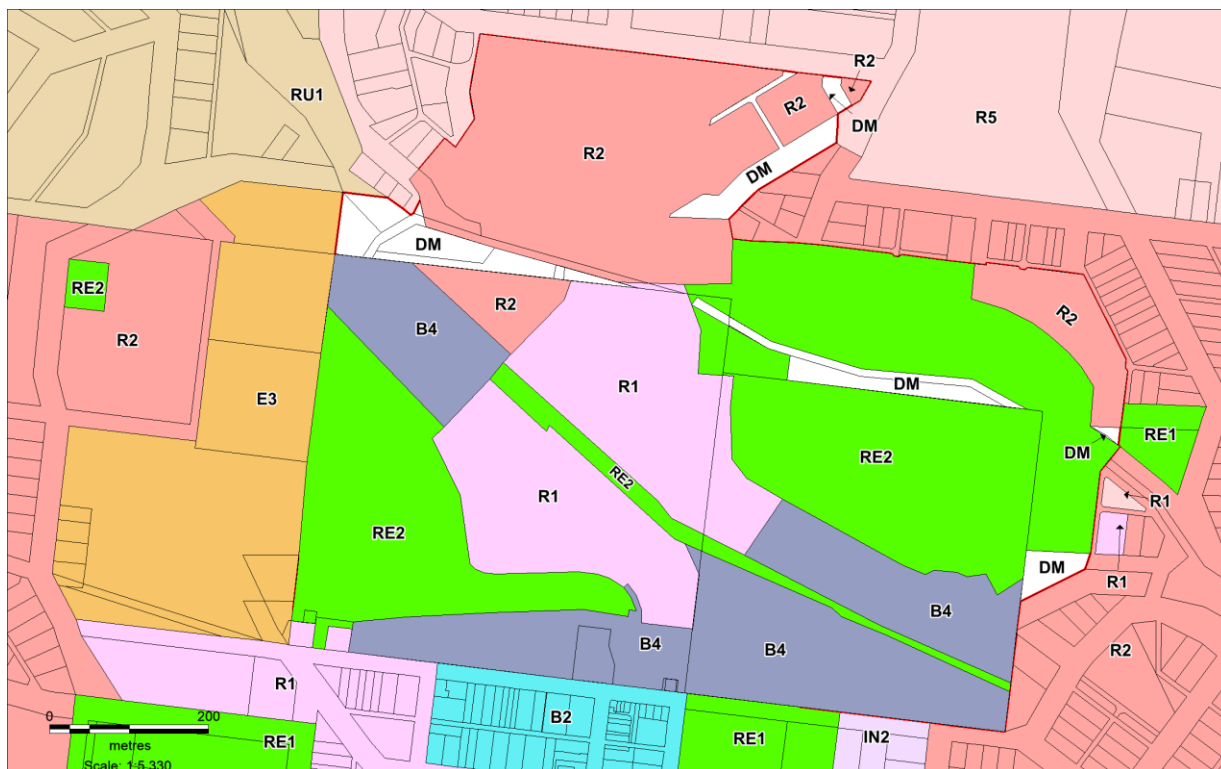


Figure 3B Proposed Land Use Zones

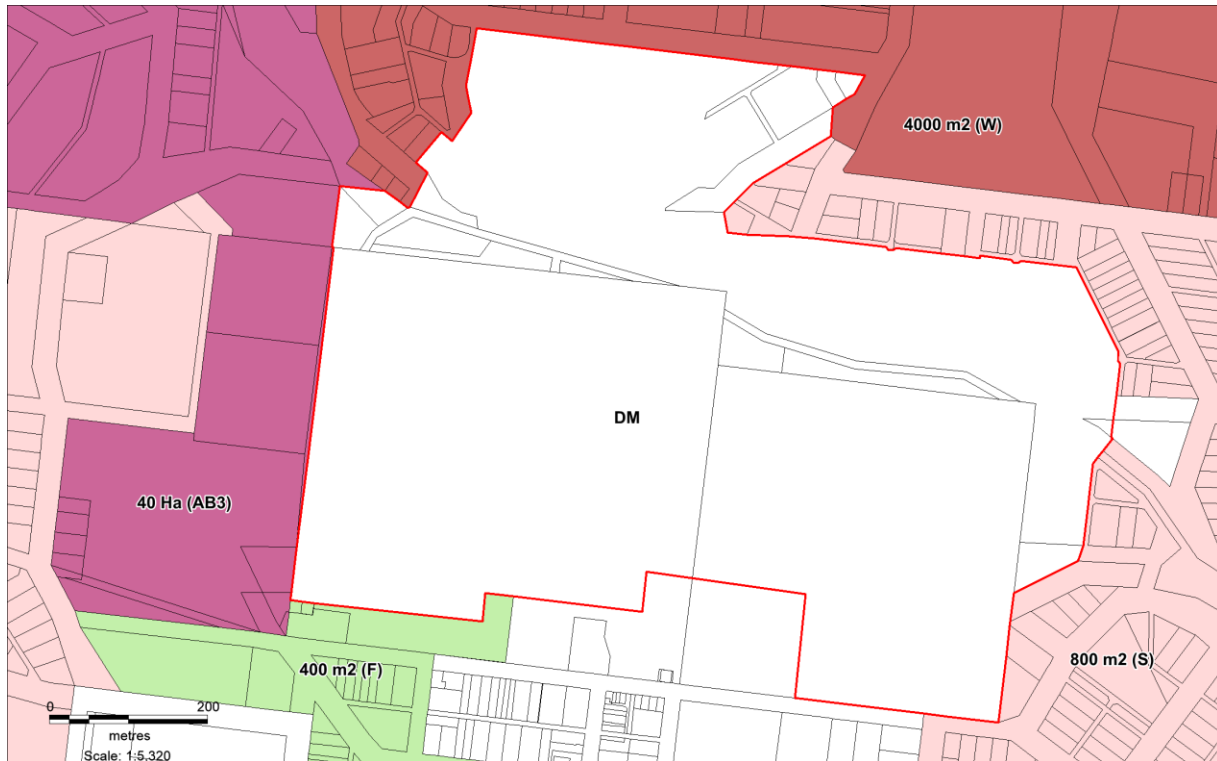


Figure 4 Existing Minimum Lot Size

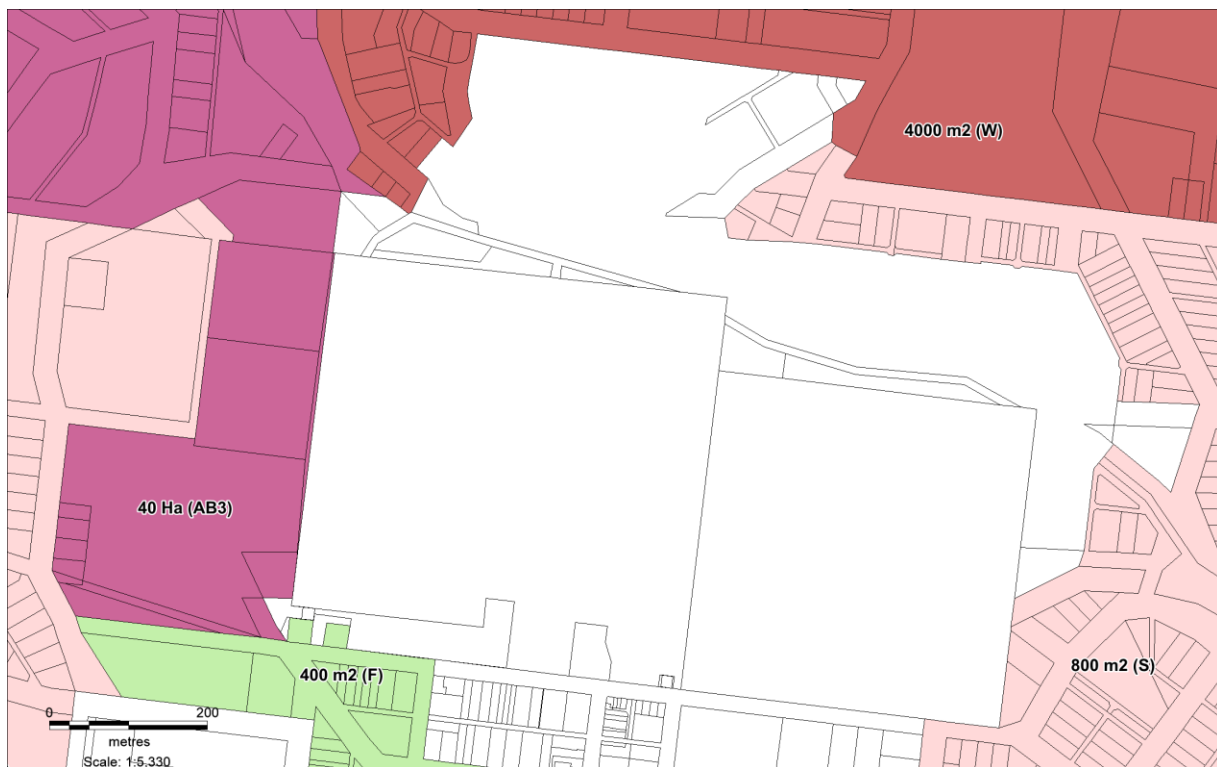


Figure 5 Proposed Minimum Lot Size

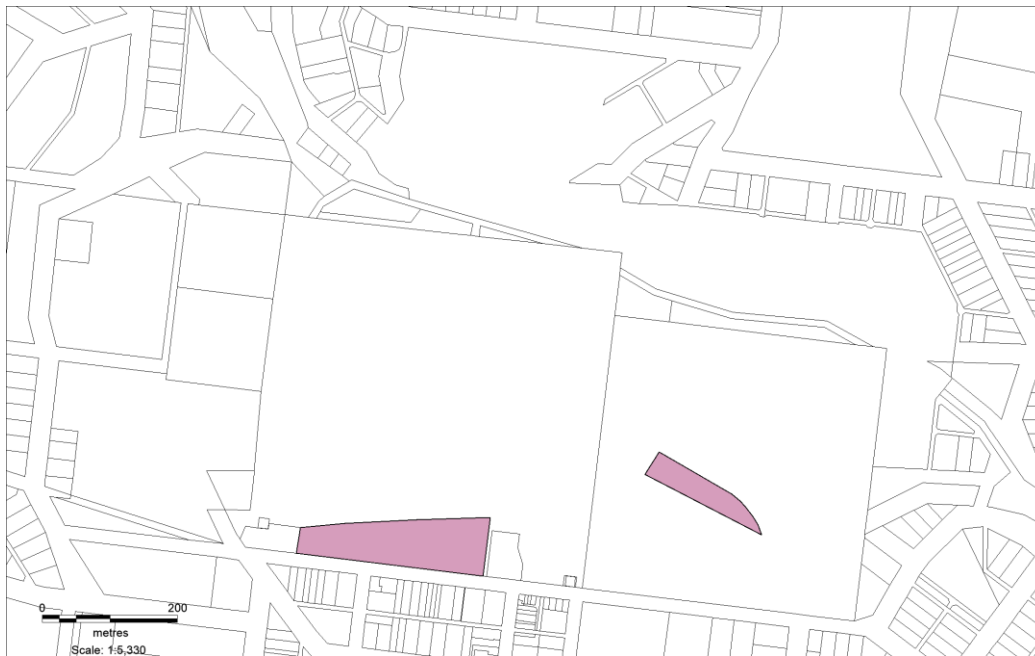


Figure 6 Areas of Additional Permitted Use

Further as outlined in Council's resolution, the planning proposal will also seek to resolve land zoning over lands owned by Crown land and Bathurst Aboriginal Lands Council that adjoin and/or traverse the site as shown in **Figure 7** below. This will be resolved throughout the planning proposal process following consultation with those landowners prior to public exhibition.

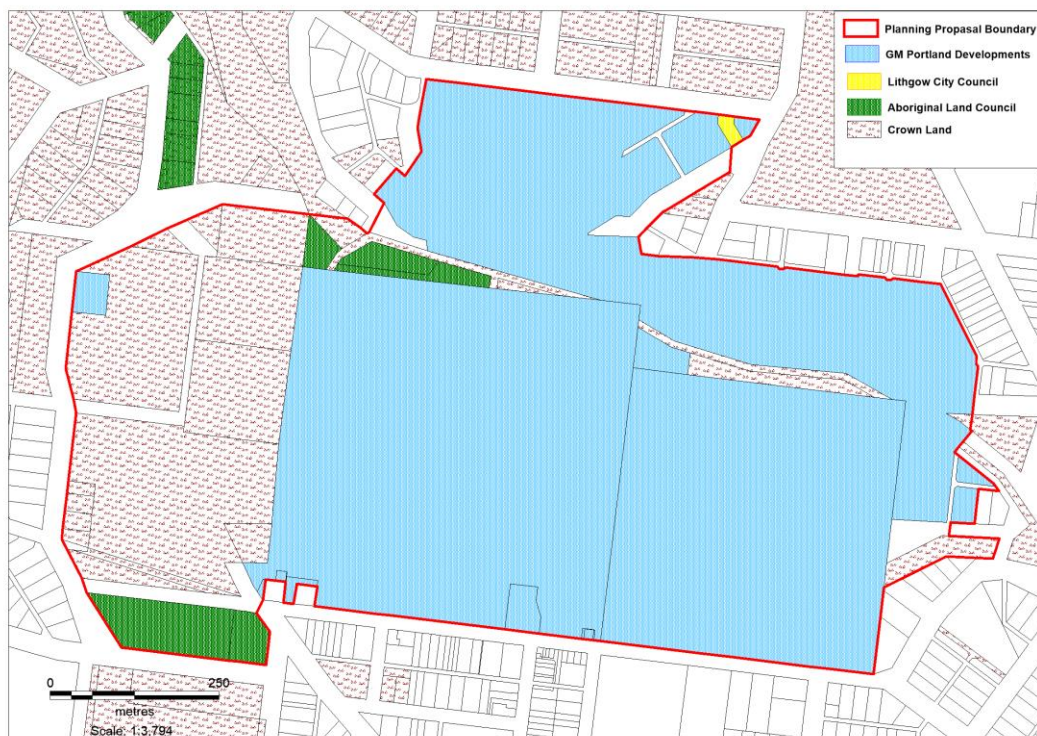


Figure 7 Land Ownership Map

PART 3 JUSTIFICATION

Section A Need for Planning Proposal

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

At the time of making Lithgow Local Environmental Plan 2014 the site was undergoing final stages of rehabilitation and mine closure works, therefore the future land use requirements of the site were unknown. Consequently, a large part of the if the site was identified as a ‘deferred matter’ in Lithgow Local Environmental Plan 2014.

This planning proposal is a result of various technical and urban design reports to inform the future land use requirements and planning provisions for the site.

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

A planning proposal is the only means of removing the “deferred matter” status of the site and bring it all under Lithgow Local Environmental Plan 2014.

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

The planning proposal responds directly and is consistent with the following relevant directions as outlined in **Table 1** below:

Table 1

CWORP Direction	Comment
Direction 10: Promote business and industrial activities in employment lands.	The proposed B4 Mixed Use land within the Foundations site will provide for a range of business, commercial and tourist support services. The site will build on its close proximity to the Portland town centre and ensure, through the DCP, that the type and scale of future land uses do not detract from the core town centre.
Direction 12: Plan for greater land use compatibility.	The PP will require the preparation of a site-specific DCP that will address land use compatibility in the mixed use environment and ensure appropriate separation of uses where required.
Direction 17: Conserve and adaptively re-use heritage assets.	This is one of the key drivers of the PP to encourage the adaptive re-use of the sites heritage items and places. The Urban Design Concept has directly responded to retaining and preserving the heritage significance of the site. The DCP will support

CWORP Direction	Comment
	this concept by building in controls to respect, protect and interpret the heritage of the site within the heritage regulatory framework.
Direction 22: Manage growth and change in regional cities and strategic and local centres.	<p>Portland is a town centre that supports the Strategic Centre of Lithgow. The vision of the Foundations site is become a tourism and community based ecosystem celebrating the areas unique offerings, place and attributes.</p> <p>It will support the higher order services and facilities located in Lithgow and the regional cities.</p> <p>The proposed residential component of the site has the potential to increase the population of Portland by 500 persons. This would not significantly change its role and function with the adopted settlement hierarchy.</p>
Direction 23: Build the resilience of towns and villages.	<p>The PP will directly build the economic and social resilience of the town by increasing its population and visitation levels.</p> <p>It will also increase job opportunities within the town and LGA both during construction phases and ongoing through establishing businesses.</p>
Direction 25: Increase housing diversity and choice.	The PP will provide for a diversity of housing choice ranging from smaller compact lots to larger lifestyle lots as well as low rise medium density opportunities. It will also provide for seniors housing and aged care.
Direction 29: Deliver healthy built environments and better urban design.	The PP will deliver improved environmental outcomes on a legacy industrial site in the centre of town. The PP is supported by a well-considered urban design concept that will deliver well designed and integrated residential and commercial precincts. It will also provide new recreational lands that will promote healthy living.

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

Lithgow 2040 Local Strategic Planning Statement (LSPS) as informed by Lithgow Land Use Strategy 2010-2030

The planning proposal is generally consistent with the wider strategic land use directions of both the Lithgow 2040 LSPS and Lithgow LUS 2010-2030. **Table 2** below outlines consistency with the key relevant LSPS priorities.

Table 2

LSPS Planning Priority	Comment
Planning Priority 2: Plan for a Diversity of Housing.	<p>The PP is aligned with the LSPS as it proposes a mix of housing types including 71 low density residential lots, 103 general residential lots and the possibility of medium to high-density residential accommodation in the B4 zones.</p> <p>The LSPS identified that central areas of our town centres would experience demand for an increase in residential accommodation and density, particularly for senior housing developments.</p>

LSPS Planning Priority	Comment
Planning Priority 4: Recognise, Preserve, Promote and Activate our Heritage	<p>The Portland Foundations site is a significant heritage asset to the Lithgow region as ‘the town that built Sydney’, containing both significant state and locally listed heritage items.</p> <p>Of particular interest on site is the remnants of the Portland Cement Works, Raffan’s Mill and Brick Bottle Kilns and the worker’s cottages along Williwa Street.</p> <p>The proposal seeks to protect these important cultural items by adaptively reusing the existing built form and creating an interpretive heritage trail to identify heritage items, opening them up to the public for tourism and event opportunities.</p>
Planning Priority 5: Align Development with Essential Infrastructure	<p>Development within our established towns helps to concentrate infrastructure provision in an orderly and appropriate manner in addition to reducing the associated costs of maintaining new infrastructure. As the planning proposal is located within the edge of servicing for water and wastewater in the <i>Lithgow Development Servicing Plan for Water Supply and Sewerage 2018</i>, it will draw upon the existing infrastructure located within Portland which is largely consistent with the objectives of planning priority 5.</p> <p>It is noted that the proposal may take up the majority of the remaining allocation of wastewater capabilities of the Portland STP in its current form upon full build out.</p>
Planning Priority 6: Provide the Community with Access to Attractive, Healthy and Green Public Spaces and Places.	<p>The PP aims to rezone large tracts of land at the site to RE2 Private Recreation, including the man-made quarry lake located at the eastern end of the site for future environmental protection works in addition to the south-western part of the site to support parks, walkways, caravanning, camping/glamping and suitable tourist and visitor accommodation.</p>
Planning Priority 9: Attract Investment and Grow Local Jobs.	<p>The planning proposal will facilitate an approximate 16 hectares of B4 Mixed Use zoning to cater for a range of potential future land uses including light industrial and commercial uses. This B4 zoning is a continuation of the existing B4 zone along the main commercial hub of Portland along Williwa Street which encompasses the southern south-east of the site with a small B4 zone over the bottle kilns.</p> <p>Redevelopment of the Foundations site has the potential to rejuvenate commercial interest within Portland’s commercial cluster and lead to employment generating opportunities.</p>

Is the planning proposal consistent with applicable State Environmental Planning Policies?

Relevant State Environmental Planning Policies (“SEPPs”)

The proposal has been assessed against the key 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

Name of SEPP	Comment
State Environmental Planning Policy No.55 – Remediation of Land	<p>The site has been previously used for mining and cement manufacturing purposes. Previous environmental investigations conducted on the site, and on the quarry as a whole have identified the presence of contamination.</p> <p>Appendix 4 and 6 of the PP contain a Phase 1 Environmental Site Assessment prepared by URS (covers 10.5ha to the south of the site) and a Land Use Suitability Assessment prepared by Compliance Health and Environmental Consulting (CHEC) being a certified contaminated land consultancy.</p> <p>This report states the site CAN be made suitable for the proposed land uses with the implementation of the required remedial work identified within that report.</p> <p>The PP will include controls to ensure that legacy contamination is further addressed once detailed development footprints and plans are available in accordance with SEPP 55 and its guidelines.</p> <p>Willowtree also notes that, as per Clause 6(2) of SEPP 55, only a Preliminary Site Investigation is required to be prepared at the rezoning stage. Clause 7(3) of SEPP 55 goes on to require that, at DA stage, a Detailed Site Investigation may thereafter be required before consent is granted for a DA. However, there is no equivalent requirement at the PP stage to provide such Detailed Site Investigation for the purposes of SEPP 55. The information provided at this stage is therefore considered to be sufficient.</p>
State Environmental Planning Policy No.64 – Advertising and Signage	Any signage associated with future commercial premises on the site would be assessed and approved in accordance with SEPP 64.
State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development	Future development for residential accommodation will be designed in accordance with the requirements of SEPP 65 and the Apartment Design Guide.
State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)	Any future development for residential use for the purposes of affordable housing will be designed in accordance with the principles outlined in schedule 2 of SEPP 70.
State Environmental Planning Policy (Affordable Rental Housing) 2009	The PP at this point in time doesn't propose the reduction or increase of affordable housing at this stage. Future implementation of the planning proposal through the LEP won't hinder the application of this SEPP.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	<p>Clause 3 of BASIX SEPP clarifies that the EP&A Regulations require an agreed list of sustainability commitments to be carried out at a new residential development prior to the construction certificate being issued.</p> <p>These matters would require consideration in future DA's prepared to support residential development at the site.</p>

Name of SEPP	Comment
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	The relevant approvals pathway for future development will be determined in light of the relevant LEP and Exempt and Complying Development Codes.
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	This SEPP sets out site related requirements, design requirements, design principles and development standards to be complied with when developing land for seniors' living. These matters would be dealt with as part of future DAs for seniors' living at the site, including application for relevant site compatibility certificates.
State Environmental Planning Policy (Koala Habitat Protection) 2020	The likelihood of impact on Koala Habitat at this site is considered to be low due to its disturbed state and location. Further consideration will be given at the development assessment phase once the development footprint is known. The PP will not hinder implementation of this SEPP.
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	The site does not contain significant areas of Native Vegetation. 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 R1, R2, B4 and RE2 zones. 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.

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 (2) Planning Directions issued by the Minister of Planning as outlined in **Table 4** below:

Table 4

Planning Direction	Comment
Direction 1.1: Business and Industrial Zones	Consistent. The existing 2(v) zone permitted the same range of development proposed at the site under this PP. The site is ideally located on the edge of the Portland B2 Local Centre to support a range of employment growth opportunities. The PP will not reduce the potential floor space available for employment land uses.

Planning Direction	Comment
	<p>The PP will support the viability of Lithgow LGA as a Strategic Centre identified in the Central West and Orana Regional Plan by increasing employment opportunities and increasing visitation to the area.</p> <p>This matter is further addressed in Table 6 of the Willowtree PP document.</p> <p>The re-development of the Foundations site was identified in the adopted and endorsed Lithgow Land Use Strategy 2010-2030 and the endorsed Lithgow 2040 Local Strategic Planning Statement as a key priority.</p>
Direction 2.3: Heritage Conservation	<p>Consistent</p> <p>The PP includes provisions to ensure the ongoing preservation of, and the future adaptive re-use and interpretation of, the site's significant heritage items.</p> <p>The heritage items and places are listed within Schedule 5 of Lithgow Local Environmental Plan 2014 and will continue to be regulated through Clause 5 (10) of the LEP.</p> <p>The items listed on the State Heritage Register will be additionally regulated by the Heritage Council of NSW.</p> <p>A Heritage Conservation Management Plan has been prepared for the site.</p>
Direction 2.6: Remediation of Contaminated Land	<p>Consistent</p> <p>The site has been previously used for mining and cement manufacturing purposes. Previous environmental investigations conducted on the site, and on the quarry as a whole have identified the presence of contamination.</p> <p>Appendix 4 and 6 of the PP contain a Phase 1 Environmental Site Assessment prepared by URS (covers 10.5ha to the south of the site) and a Land Use Suitability Assessment prepared by Compliance Health and Environmental Consulting (CHEC) being a certified contaminated land consultancy.</p> <p>This report states the site CAN be made suitable for the proposed land uses with the implementation of the required remedial work identified within that report.</p> <p>The PP will include controls to ensure that legacy contamination is further addressed once detailed development footprints and plans are available in accordance with SEPP 55 and its guidelines.</p>

Planning Direction	Comment
	The required DCP will address this matter in more detail.
Direction 3.1: Residential Zones	<p>Consistent</p> <p>The PP would affect land both within an existing and proposed residential zone, given that a range of residential land uses are currently permitted at the site under the 2(v) Village and B4 Mixed Use zones. This PP would also introduce R2 Low Density Residential and R1 General Residential zoned land to the site. Ministerial Direction 3.1 therefore applies to this PP.</p> <p>Specifically, this PP would create suitable planning controls under the LLEP2014 to enable future built form development for:</p> <ul style="list-style-type: none"> • Seventy-one R2 Low Density Residential lots; • One-hundred and three R1 General Residential lots; and • Employment and entertainment land. <p>In response to the matters for consideration under this Section 9.1 Ministerial Direction, this PP would:</p> <ul style="list-style-type: none"> • Encourage the provision of housing at the site; • Enable a broad range and diversity of residential building types to be made available for the local housing market; • Support the transition of the site from its current state into a modern, usable site that can achieve sufficient economic return so as to justify providing services such as formalised roads and utilities, and delivering built-form development; • Support the delivery of housing directly adjacent to the centre of Portland, which is recognised as a town. • Encourage the provision of dwellings at the site which are of good design, through the future Foundations Development Control Plan at the site; • The Foundations can be adequately serviced by existing service utilities infrastructure, or by new/augmented infrastructure; • Heritage values at The Foundations can be maintained as utility servicing infrastructure is upgraded at the site; and • This PP would slightly increase the density of residential dwellings permitted at the site, rather than reducing this density.
Direction 3.2 Caravan Parks and Manufactured Home Estates	Consistent

Planning Direction	Comment
	The PP does not seek to permit caravan parks or MHE's in any zones not currently permitted under Lithgow LEP 2014.
Direction 3.3: Home Occupations	Consistent The PP does not seek to alter the current land use tables of LLEP2014 in this regard.
Direction 3.4: Integrating Land Use and Transport	Consistent The site is accessible via Main Roads to both Castlereagh Highway, which links the region's destinations together from Mudgee to Lithgow and the Great Western Highway along an accessible drive or potential cycle highway, where the distances between each destination does not exceed 30 minutes. The site is also located at an ideal stopping point along the Sydney-Bathurst route. The Foundations would include legible pedestrian links to the nearby Portland town centre and physical connections to the quarry lakes onsite to create recreational and communal amenity. It would also create active linkages to the site's State-listed heritage items and celebrate Portland's industrial heritage. By allowing tourism opportunities to develop near to where people live, The Foundations has the potential to reduce commuter times for those tourism industry workers living onsite or within the greater Lithgow region.
Direction 4.4: Planning for Bushfire Protection	Consistent The site is partially identified as bush fire prone land Category 3 and buffer on Council's bush fire prone land map under Section 10.3 of the Environmental Planning and Assessment Act, 1979. This area will be subject to Planning for Bushfire Protection 2019 legislation. Although the area is not of high bush fire risk, Council will consult with RFS to consider if the proposal requires a Bush Fire Study following receipt of a Gateway Determination in accordance with Planning Direction 4.4(4).
Direction 5.10: Implementation of Regional Plans	Consistent The PP is consistent with Central West Orana Regional Plan in particular the directions outlined in Table1.
Direction 6.1: Approval and Referral Requirements	Consistent The PP does not contain provisions for concurrence, consultation or referral of DA's to a minister or public authority.

Planning Direction	Comment
	The PP does not identify any development as designated development.
Direction 6.3: Site specific Provisions	<p>Inconsistent – Justified as minor local significance</p> <p>The PP will introduce additional permitted uses on part of the B4 zone to enable dwelling houses; dual occupancies and multi-dwelling housing.</p> <p>The PP will insert a local provision into the LLEP2014 to require the preparation and adoption of a detailed site-specific development control plan prior to any further built form development or subdivision of the site.</p> <p>This flexibility is necessary to enable the site to be developed in stages over a number years and to respond quickly to changes in community needs and demands and the investment market.</p>

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*.

A search of the *NSW Bio Net Atlas* and the *Commonwealth Department of Environment's Protected Matters Search Tool* has identified that there are threatened, vulnerable and/or endangered species and ecological communities predicted or known to occur within 1-10km of the site as identified in Section 4.3 of the Willowtree supporting document.

A portion of the site generally around quarry 3 and following the corridor of Limestone Creek north is identified on the *Biodiversity Values Map* prepared under Part 7 of the *Biodiversity Conservation Act 2016* as Protected Riparian Land being land within 20 metres of a bed or bank of a named natural watercourse or waterbody.

Given the historically disturbed nature of the site and its past land use it is considered unlikely that the planning proposal will significantly impact on the key ecological features of the site and its surrounds.

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

Heritage

The Planning Proposal request is accompanied by a Conservation Management Plan (CMP) prepared by Niche Environment and Heritage (Appendix 2 Willowtree). This CMP was

developed to assist with the management of the subject site and its associated heritage items, inform and guide the proposed masterplan and assess its impacts on the heritage significance of the items.

Part of the southern portion of the site is included in the locally listed Portland Heritage Conservation Area (C10), shown in red hatching in **Figure 8** below.

The following heritage items are present on the site as indicated in **Figure 8**:

State Heritage Register Listing 01739 – Portland Cement Works Precinct. This includes the significant industrial and administration buildings on the site and the historical worker's cottages.

State Heritage Register Listing 01738 – Raffan's Mill and Brick Bottle Kilns Precinct

Lithgow Local Environmental Plan 2014 (Schedule 5) Listing I296 (includes both state item curtilages)

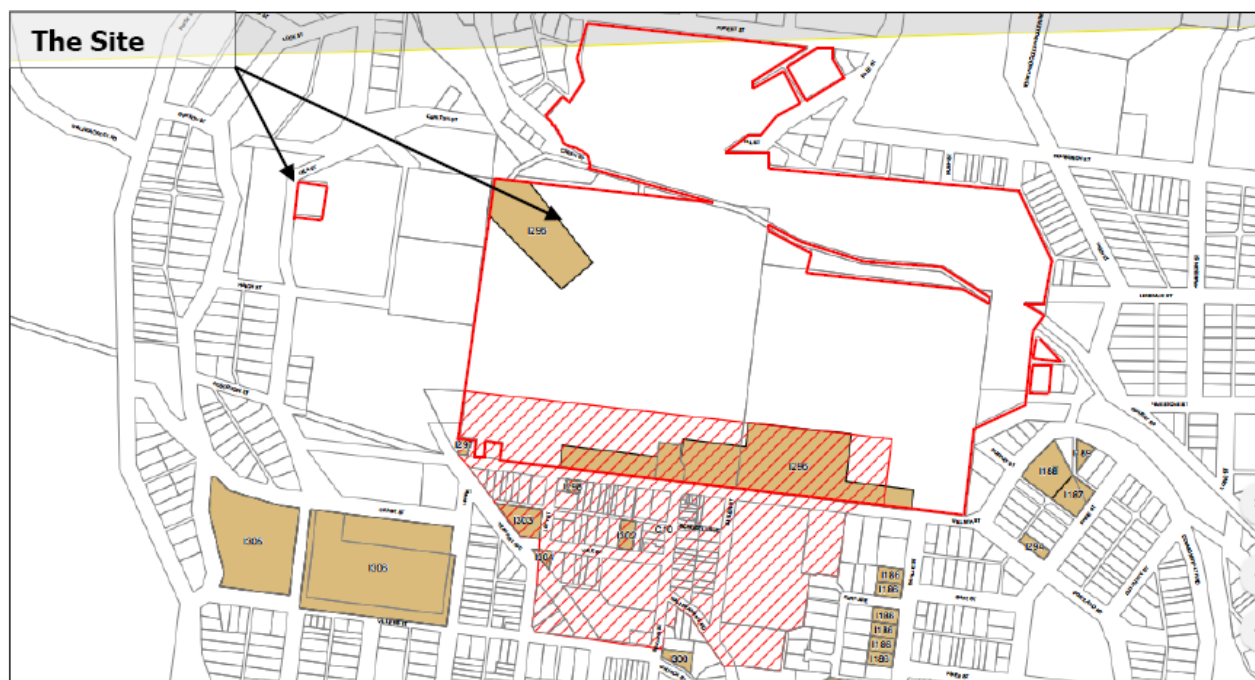


Figure 8 Heritage items and Heritage Conservation Areas at the site (LLEP2014)

The site is also adjacent to locally listed item I297 St Stephens Anglican Church and Hall with several other locally listed heritage items in the vicinity of the site as indicated in **Figure 8**.

The site also includes remnants of the private railway that moved product around the site from the kilns to the works crushers as well as a short private railway that linked the site to the NSWGR line to Mudgee to the east of the site. Although not covered by the heritage listing this is significant to the site and is included in the CMP.

Heritage protection works have already been undertaken on the site to protect the integrity of the powerhouse, blacksmith's shop, bath house, administration office building, Williwa Street cottages, workshop and Raffan's Mill.

Due to the continuous development of the site there is a high potential for archaeological remains of earlier structures to have survived within the site as identified in the development constraints map of the urban design report. The future development concept for the site respects its heritage significance and interpretation as addressed in the place making urban design strategy.

The heritage of the site will be managed in accordance with the Niche Conservation Management Plan in consultation with Council and the Heritage Council of NSW.

Past land use and contamination

The site has been previously used for mining and cement processing purposes and therefore land contamination is relevant to future land use decision making. Previous environmental investigations conducted on site, and on the quarry as a whole have identified the presence of contamination.

A search of the EPA's public register of notices issued under the Contaminated Land Management Act 1997 indicates that there are no current and two former notices relating to the site. Blue Circle Southern Cement Ltd was issued an Investigation Order on 17 August 1995. A Revocation Notice was issued by the EPA on 6 October 1999.

The Planning Proposal is therefore accompanied by a Phase 1 Environmental Site Assessment prepared by URS (covering only 10.5ha of the site at the southern end) and, at Council's request, an additional Land Use Suitability Assessment prepared by Compliance Health & Environmental Consulting (CHEC) being a certified contaminated land consultancy. (**Appendices 4 and 6** Willowtree respectively).

The CHEC report includes a review of all available contaminations studies for the site, as well as soil sample investigations where data gaps were evident. The relevant data was then collated to determine the proposed land use suitability for the various land zonings under the planning proposal.

Appropriate site specific threshold values were referenced to assess the risks to both human health and to the environment. The analytical data provided by the laboratory was collated and compared with the relevant threshold values.

The CHEC report concluded that with the additional sampling program and inspections undertaken it is possible to provide the required level of confidence to determine the suitability of the site for the proposed land uses.

Further discussions with the CHEC consultant confirmed that any further detailed investigation to accord with State Environmental Planning Policy 55 - Remediation of Land required would be best undertaken when the land uses are defined at either a precinct scale within the Development

Control Plan or at the development application phase to enable the investigations to be more spatially specific relating to known future land uses.

The CHEC report concludes that the site CAN be made suitable for the proposed land use with the implementation of the required remedial work identified in the report. This provides the necessary level of confidence required to move forward with the rezoning of the land. This matter will be a head of consideration in the development of the Development Control Plan and individual precinct plans and appropriate mechanisms will be put in place to ensure that contamination is addressed at the appropriate stage of development.

Geotechnical

Several areas of the site were identified as having potential constraint to future development due to slope stability and significant past site reshaping and filling.

The planning proposal is accompanied by a preliminary geotechnical land use stability assessment prepared by GDK Keighran Geotechnics (**Appendix 8 WillowTree**).

This investigation revealed:

Former Hot Water Dam Residential Area – The slope stability risk is “*VERY LOW*”, however the presence of uncontrolled ash and limestone gravel fill materials provide a “*HIGH*” risk of differential settlements across any proposed building platform and will require significant bulk earthworks to create a stable “*VERY LOW*” risk building platform suitable for proposed General Residential Development.

This area will require removal of the existing fill material and replacement with suitable blended material before being placed and compacted on a Level 1 basis (AS 3798-2007) to provide 98% standard compaction to a suitable design level.

R2 Zone North – Overburden Stockpile - Considered to be the former overburden stockpile for the site. The current access roadway to the east exposes natural soil and rock materials on the surface which present as “*VERY LOW*” risk of instability. However, the western side is elevated by up to 10 metres. This area is considered to be a “*MEDIUM*” risk of instability which can be reduced to a “*LOW*” risk with significant bulk earthworks to remove existing overburden materials and then replaced with suitable material and reshaped.

The existing slopes are currently less than 1V:2H which is considered to a stable for the longer term, however, the presence of fill materials presents the “*MEDIUM*” (further investigation likely on most lots, restrictions on types of housing) risk of instability.

R2 – NE Corner

This area is located on shallow residual soils with limited if any fill materials overlying the bedrock at depth up to 0.5m. This presents a “*VERY LOW*” risk of instability.

Two other areas of concern in relation to slope stability and geotechnical suitability for development at the north and east of the eastern most quarry have been changed from employment lands to recreational land use.

This report finds that the geotechnical risks to the proposed future development can be managed through appropriate bulk earthworks.

The report did not address the stability of the quarry structures. This will be further considered as part of the design and planning of any environmental protection works undertaken.

Quarry/Lakes

The quarries and their surrounds are proposed to be zoned RE2 Private Recreation and would be ideally transferred to private ownership under the sites development corporation, or another, similar landowner.

Importantly this zoning will not require Council to either acquire or maintain these recreational lands that have potentially significant on- going maintenance and liability issues.

The eastern most man-made quarry is likely to require extensive filling and environmental protection works to improve its structural integrity. These works would require development consent and require consultation and compliance with Environmental Protection Authority legislation. The intent of the filling to be undertaken must satisfy as “environmental protection works” to be permissible within the zone. This will prevent the site from being used as “waste management facility” for any other purpose.

Land use that promotes recreational access to these quarries will need to be monitored carefully.

The filling of the quarry may require associated ancillary infrastructure to receive and stockpile fill material to be present at the site for a number of years.

The Department of Primary Industries- Fisheries have overseen the stocking of fish at the site in the other quarries/lakes including Rainbow Trout and Murray Cod. Once these stocked fish reach a suitable size and the relevant water quality parameters are confirmed, stocked fishing would be able to occur at the site.

This use is however restricted on Crown lands. This may have to be delayed in the western most quarry that is located on Crown land until the ownership of the lands are able to be transferred from the Crown or resolved.

Bush Fire

The northern area of the site is identified as Bush Fire Prone Land Category 3 and buffer on Council’s bush fire prone land map under Section 10.3 of the Environmental Planning and Assessment Act, 1979. This area will be subject to Planning for Bushfire Protection 2019 legislation. Although the area is not of high bush fire risk, Council will consult with RFS to consider if the proposal requires a Bush Fire Study.

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

The activation and re-development of the Foundations site has been an expressed vision of Council and in particular the Portland Community since the closure of the Portland Cement Works. The Urban Design Concept respects the history and unique characteristics of the site and intends to re-develop the site to once again become the social, cultural and economic hub of Portland.

This urban design concept to be implemented through this planning proposal is directly consistent with the following aims of the Lithgow Economic Development Strategy 2018-2022;

- Prioritise liveability/lifestyle infrastructure and local place-making.
- Foster a collaborative and vibrant community led by a diverse and inclusive culture.
- Develop tourism and marketing opportunities.

The proposal will facilitate positive economic and social impacts through the creation of jobs and the development of housing, social, recreational and tourism infrastructure and support services for the Lithgow LGA.

Section D State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

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

Council's Water and Wastewater Director has confirmed that the necessary head infrastructure for water and sewer is available to meet the preliminary demand loads using the development yields indicated within the Urban Design Report.

Council has recently been awarded a grant to undertake works to improve and stabilise water pressure across the town including the Foundations site. This will allow the site to achieve the fire-fighting pressure capacities as required by NSW Fire and Rescue.

Any further development at the site will require a new sewer pumping station to be provided by the developer. The site is included in Council's Development Servicing Plans for Water and Sewerage 2018 that will require developer contributions for sewer.

It is not anticipated that the planning proposal will facilitate development at a level that would trigger State Infrastructure Contributions or an unreasonable demand on current state public infrastructure.

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

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

PART 4 MAPPING

The Planning Proposal will require amendment to the following maps of Lithgow Local Environmental Plan 2014:

LAP_20140430
LZN_20140430_002
4870_COM_LZN_002A_010_20140430
4870_COM_LSZ_002A_010_20140613
4870_COM_LSZ_002_160_20140613

It will also require a new Additional Permitted Uses Map.

Council will prepare the required maps 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.

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:
 - NSW Heritage
 - Rural Fire Service
 - Bathurst Aboriginal Land Council
 - DPIE Crown Lands
 - DPIE Fisheries
 - DPIE Biodiversity and Conservation Division
 - Water NSW

- Transgrid
- Endeavour Energy
- Environment Protection Authority

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:

Key Stages of Consultation and Approval	Estimated Timeframe
Stage 1 Submission of Draft Planning Proposal to DPIE	December 2020
Stage 2 Gateway Determination	Jan- Feb 2021
Stage 2A Consultation with Rural Fire Service Consultation with Crown Lands and Bathurst Aboriginal Land Council	Mar 2021
Stage 3 Public Exhibition/Government Agency Consultation	Apr-Jul 2021
Stage 4 Review/consideration of submissions	August 2021
Stage 5 Council Report	Sept 2021
Stage 6 Plan Making and Legal Drafting	October/November 2021
Stage 7 Notification of LEP	November/December 2021

APPENDIX LIST

Appendix 1

Report to Ordinary Meeting of Council held on 23 November 2020 and Minute No 20- 273

Document Control

Version	Date	Description	Responsible Officer
1.0	21/12/2020	Planning Proposal – Pre Gateway	Sherilyn Hanrahan

APPENDIX ONE

COUNCIL REPORT AND MINUTE

10.1.2.2. ECDEV - 23/11/2020 - Draft Planning Proposal - Portland Foundations - Williwa St Portland

Prepared by Sherilyn Hanrahan - Strategic Land Use Planner
Department Economic Development & Environment
Authorised by Director of Economic Development & Environment

Reference

Min 18-159 Ordinary Meeting of Council held on 25 June 2018

Summary

A Draft Planning Proposal has been received for the Foundations site, Williwa St Portland (Former Portland Cement Works). This report recommends that Council support the Planning Proposal

Commentary

A Draft Planning Proposal has been received involving lands owned by GM Portland Developments Pty Ltd, known as the Foundations site, Williwa St Portland (Former Portland Cement Works). The Draft Planning Proposal involves the following lands:

Lot 1 DP 109592, Lot 1 DP 842890, Lot 5 DP 749907, Lot 6 DP749908, Lot 7 DP 749909, Lot 24 Section 46 DP 758855, Lots 53 & 104 DP 755769, and Lots 1&4 DP1227369.

This excludes the Crown lands and lands now owned by the Bathurst Local Aboriginal Land Council that adjoin and/or traverse the site that were part of the former cement works site.

At the time of making Lithgow Local Environmental Plan 2014 the site was undergoing final stages of rehabilitation and mine closure works, therefore the future land use requirements of the site were unknown. Consequently, a large part of the subject lands was identified as a 'deferred matter' in the Lithgow Local Environmental Plan 2014 meaning that the lands continued to be administered under the previous 1994 LEP.

The Draft Planning Proposal seeks to bring the "deferred matter" into the Lithgow Local Environmental Plan, modify the existing 2014 land zones and to apply appropriate planning controls to facilitate the re-development of the site.

The current proposal is owner initiated and has been accompanied by the appropriate fee under Council's fees and charges 2020/2021. Documentation supporting the draft proposal has been received from a team of consultants managed by Catalyst Project Consulting Pty Ltd. The Planning Proposal request has been prepared by Willow Tree Planning. This report addresses this document and any errors, omissions or anomalies found therein.

The intended urban design outcomes of the proposal are to facilitate:

- Approximately 174 residential lots of varying size ranging from more compact lots to large lot residential;
- Seniors Housing;
- Employment and entertainment land;
- Private recreation land to support parks, walkways, caravanning, camping/glamping and suitable tourist and visitor accommodation;
- A range of mixed uses to support commercial, retail, tourism and employment land uses;
- Future works to improve the environmental management and integrity of the eastern most quarry void; and

- Adaptive reuse of heritage cottages at the site and promotion and conservation of the remaining heritage on the site.

Council officers have been working closely with the proponents over the past two years to finalise a draft planning proposal that will provide appropriate land use directions for the site and allow a balanced degree of flexibility in its implementation within the local planning framework.

This report presents a preliminary assessment of the Planning Proposal request and 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 the Department of Planning, Industry and Environment under Section 3.34 of the Act seeking a Gateway Determination subject to conditions.

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 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 Planning Industry and Environment 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 – Public exhibition is required for a period of 28 days or as specified by Gateway.
- Finalising the planning proposal
- Drafting 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 the process.

Background

Site History

The site operated for the purpose of a limestone quarry and cement manufacture plant from the late 1800's to its closure in 1991. The site and its operations were the focal point of the Portland township dominating its landscape and providing much of its social and civic fabric. *The relationship between industry and local population is of State significance because of its rarity within NSW as a long-term, single industry, one-company town, and because the relationship is evident in the layout of the town*

and in many of its civic amenities....it is of State significance for begetting "the town that built NSW". (State Heritage Register).

Between 1991 and 2014 the site was progressively decommissioned and rehabilitated to enable a mine closure plan to be implemented, the freehold portions of the site to be divested and the crown land portions relinquished back to the Crown. The freehold portion of the site was transferred to GM Portland Developments Pty Ltd in 2014. Since the transfer of ownership in 2014, works required to complete the process of relinquishing the mining lease have been undertaken including demolition of certain buildings, heritage protection works, soil remediation, hazardous material removal, weed control work, safety signage, groundwater monitoring, dam surface water monitoring, slope stability audits and gabion wall stability audit.

Demolition works (cement store, loco shed and former bachelor's cottage) were completed in 2015. As the site has been used as a mine site, there are still some mine closure formalities which have to be completed.

Zoning History

The site and its surrounds were zoned Village 2(v) in the Lithgow Local Environmental Plan 1994. This zone was a flexible zone allowing for a wide range of land uses with the primary objective to *"promote development which is compatible with an urban function within a rural area"*.

With the introduction of the standard local environmental plan, as informed by the Lithgow Land Use Strategy 2010-2030 adopted settlement hierarchy, the town of Portland was given an appropriate zoning framework using a suite of standard zones in Lithgow Local Environmental Plan 2014.

At the time of making Lithgow Local Environmental Plan 2014 the site was undergoing final stages of rehabilitation and mine closure works, therefore the future land use requirements of the site were unknown. Consequently, a large part of the subject lands were identified as a 'deferred matter' in the Lithgow Local Environmental Plan 2014 meaning that the lands continued to be administered under the previous 1994 LLEP 2(v) zone as shaded grey in Figure 1 below.



Figure 1 Site Zoning and Ownership (LLEP 2014 – LCC Property)

Site description

The former cement works site lies immediately to the north of the Portland Town Centre. Portland has an estimated resident population of 2,514 persons (2019 ABS) and is located 20 minutes from Lithgow and two and half hours from Sydney.

The site is generally bounded by Forest St to the north, Carlton and Kiln Street to the west, High St and Williwa Street to the east and Laurie Street to the south.

The area subject to this Planning Proposal request excluding the crown land and Bathurst Aboriginal Land Council (BALC) lands is outlined in red in Figure 2 below.



Figure 2 – The site – Aerial View (Six Maps, 2020)

The key features of the site and its surrounds are summarised in Figure 3 below. The site exhibits steep topography in a downwards direction from all boundaries, descending into four man-made quarry lakes. There are significant views available from north and north-west of the site into the lakes area and dense vegetation to the north of the site creating a natural site boundary. Limestone Creek traverses the site from north to south. Two unnamed creek tributaries traverse the site from south-southwest and from the north east.

Outside of the remaining main building clusters to the south, the site currently exists as mostly vacant and cleared areas. The four lakes originated as lime quarries. They have stepped back walls, are filled with water and are surrounded by rehabilitation plantings. The range in depth from 15-70m and have a combined surface area of 18.3ha.

A 66kv electricity transmission line bisects the south-eastern corner of the site. Internal circulation throughout the site is provided by unsealed vehicle access tracks with main access from Williwa Street.



Figure 3 Key Features of the site and its surrounds (Roberts Day 2017)

Draft planning proposal intended outcomes

The Draft Planning Proposal request was accompanied by an urban design report prepared by Roberts Day. This report outlines a long-term design concept for the site to be known as Foundations based on four pillars of tourism, community, culture and recreation. The intended placed based design outcome is for the Foundations to become a tourism and community-based ecosystem celebrating the areas unique offerings, place attribute and people.

The intended urban design outcomes of the proposal are to facilitate the following as indicatively represented in Figures 4 and 5 below:

- Approximately 174 residential lots of varying size ranging from more compact lots to large lot residential;
- Seniors Housing;
- Employment and entertainment land;
- Private recreation land to support parks, walkways, caravanning, camping/glamping and suitable tourist and visitor accommodation;
- A range of mixed uses to support commercial, retail, tourism and employment land uses;
- Future works to improve the environmental management and integrity of the eastern most quarry void;
- Adaptive reuse of heritage cottages at the site and promotion and conservation of the remaining heritage on the site; and

- Avoid the need for multiple future planning proposals to enable redevelopment of the site over what may be decades in the making.

It should be noted that this concept plan has been modified slightly in the current planning proposal. In particular the employment areas shown to the north and east boundaries (purple) have been removed and are now proposed as recreational lands as indicated in Figure 6.



Figure 4 Concept Proposal – Precincts



Figure 5 Concept Proposal – Built Form

Explanation of provisions

The planning proposal request seeks to:

- Remove the “deferred matter” status of the site and bring the lands within Lithgow Local Environmental Plan 2014
- Rezone the site from 2(v) under Lithgow Local Environmental Plan 1994 to a combination of R1 General Residential, R2 Low Density Residential, B4 Mixed Use and RE 2 Private Recreation under Lithgow Local Environmental Plan 2014 as shown in Figure 6 below.
- Apply an additional permitted use to two areas of the B4 mixed use zone as shown hatched in Figure 6 below to permit dual occupancy (attached and detached); dwelling houses and multi-dwelling housing.
- Remove all minimum lot size provisions across the site.
- Insert a local provision into the LEP to require the preparation of a site-specific development control plan prior to development on the land addressing the matters outlined in the standard clause 6.3(3).



Figure 6 Proposed land zones and concept lot layout (Roberts Day 2020)

Urban design considerations and implementation tools

The site is an industrial legacy site, and it is within the public and community interest to have the site activated and redeveloped to provide the opportunity for improved environmental, social and economic outcomes for the community. In this regard the proposal directly responds to Council's adopted Planning Priority 9 – Attract Investment and Grow Local Jobs.

Given the potential long-term lifespan of the development and the unique site characteristics of this site it is imperative that the land use planning response, as delivered through the local planning framework, provides a greater level of flexibility than more established areas within the town. This flexibility will facilitate development outcomes that are able to quickly adapt and respond to the changing needs and demands of the community over time and for the site to create its own character.

Council officers have been working closely with the proponents over the past two years to finalise a draft planning proposal that will provide appropriate land use directions for the site and allow a balanced degree of flexibility in its implementation within the local planning framework.

Land Use Zones

The change in land use zone from 2(v) to a suite of standard instrument zones will provide greater direction for future land use within the site.

The land use zones proposed across the site have been selected having regard to the best fit between the zone objectives, land use permissibility's and the desired future land use outcomes. The consultant has undertaken a detailed analysis of the land use zones available in Lithgow Local Environmental Plan 2014 as outlined in Appendix 9 and 10. It is important to note that the majority of the identified proposed land uses for the site are permitted with consent within the current 2(v) zoning.

The land use zones also have regard to the varying site suitability and capability across the site to sustain the proposed land uses.

The introduction of the more structured zoning framework over the site will significantly add to the supply of residential, business and recreational lands in Portland providing for far in excess of the lands required to provide a forward supply of at least five years under the current low demand levels. This has not been supported by any study or reports.

Such a supply level scenario under normal circumstances would be of concern, however it is considered it can be justified by the following factors:

- The ultimate development yield of this site may span over many years, maybe decades.
- The development of the land will be staged to respond to community demand and needs and will be managed under a site-specific development control plan.
- The development can be serviced by essential head infrastructure of water and sewer and will not create uneconomic demands on current services and facilities.
- The scale of development proposed should not require new State infrastructure.
- The B4 Mixed use zone objective "*to promote development that does not detract from the role of the town centre and core commercial precinct*" will act to govern the land use type and scale.
- The reactivation and re-development of the site would not be feasible without the potential for the intended outcomes to be realised over time.
- The proposal responds to the vision of the community for the site to once again be a focal point of the town.
- The social, environmental and economic benefits expected to be associated with the development justify this release of land.

Development Control Plan (DCP)

To achieve the intended outcomes of the Planning Proposal it seeks to insert a local provision into the Lithgow Local Environmental Plan to require the preparation of a site-specific development control plan prior to development of further built form or subdivision on the site addressing the matters outlined in the standard clause 6.3(3).

Council officers will liaise with our regional support officer in the Department of Planning, Industry and Environment to consider whether this requirement is a local provision or whether the site becomes an "*Urban Release Area*".

The DCP will guide the design of new development within the site, and to provide greater certainty regarding the future design outcomes for the site. The urban design concept has identified a number

of precincts across the site as indicated in Figure 4. These precincts will be further defined in the DCP in precinct plans that will include controls to ensure that orderly development is achieved. The precinct plans would act as mini masterplans, however, would not act as "concept development applications" or "consents" pursuant to Division 4.4 of the EP & A Act, 1979.

The DCP will at a minimum consider the following matters:

- A staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing;
- An overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists;
- An overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain;
- A network of active and passive recreation areas;
- Stormwater and water quality management controls;
- Amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected;
- Detailed urban design controls for significant development sites;
- Measures to encourage higher density living around transport, open space and service nodes;
- Measures to accommodate and control appropriate neighbourhood commercial and retail uses; and
- Suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

The site-specific Development Control Plan would also include greater certainty around:

- Controls in relation to lots sizes and housing product types.
- Indicative dwelling/lot yields.
- Indicative land uses across the site, and
- Indicative commercial floor space.
- Building Heights.

It should be noted that DCPs do not have the same level of statutory weight as an LEP. However, particularly when required as part of an LEP, they are an important consideration in the development assessment and approval process. It is recommended that Council support this component of the Planning Proposal.

Minimum Lot Size (MLS)

The proponents have requested that no minimum lot size provisions be applied to the site through the Local Environmental Plan. MLS is a mechanism that controls the residential lot yield achievable at the site. This control assists in communicating the proposed character and density of development to be achieved as well as enabling infrastructure to be planned and aligned to development.

The urban design concept has indicated that there would be a diversity of housing choice provided at the site ranging from small compact lots to larger lifestyle lots as well as a seniors housing and housing forms within the commercial precincts. The indicated lot yield across the site can be accommodated within Council's existing head water and sewer infrastructure.

The consultant has justified this request as follows:

"It is anticipated that development of the site will be delivered in stages which may span over an extended period. For this reason, flexibility in relation to lot yields and minimum lot sizes is critical to

allow these outcomes to be more appropriately and accurately realised following the planning proposal phase and as the development of the site progresses and evolves.

This approach will enable the proponent to carry out further urban design, social and community analysis to more accurately inform the planning controls around minimum lot size and product and more appropriately respond to the community and social demands at the time of development. Not providing such an opportunity to carry out such analysis would significantly jeopardise the site from being able to realise its potential and adapting to the needs of the community and market demands at the time.

Notwithstanding the above, it is important to note that whilst a minimum lot size or lot yield is not sought for the site under the planning proposal, the minimum lot sizes and final lot/dwelling yield shall be determined under a site- specific development control plan and subsequent precinct plans.” (WillowTree PP pg. 23-24)

Department of Planning LEP Practice Note PN11-001 states that “if a council wishes to identify subdivision lot sizes in its LGA, these are to be shown on a Lot Size Map to the LEP”. Lithgow Local Environmental Plan 2014 has included the minimum lot size clause and lot size map for all residential lands. Commercial and industrial lands do not have an applied minimum lot size on the lot size map.

Notwithstanding this direction, some Council's, for example Wagga Wagga City Council have elected to identify MLS within adopted development control plans and not the LEP as is the request under this planning proposal. Discussions with the Wagga DPIE office confirmed that this approach can work well when the DCP controls are consistently applied and where any major variation of DCP controls requires an amendment of the DCP. This requires the amendment to be not only endorsed by the elected Council but also the community through appropriate community consultation, engagement and exhibition.

When considered within a development control plan several measures or controls can be used to best control development outcomes such as lot averaging, lot yield caps or lot/dwelling density bands for each precinct. This would allow much greater integration of the suite of controls used to manage built form and scale across the site.

It is recommended that Council support this request over the site.

Additional Permitted Use (APU)

The residential APU's within the identified two sections of the B4 zone (Figure 6) are sought to allow a level of flexibility in the potential residential outcomes of these parts of the site. Specifically, this APU seeks the following additional permitted uses:

- **Dual occupancy:** means a dual occupancy (attached) or a dual occupancy (detached).
 - dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other but does not include a secondary dwelling.
 - dual occupancy (detached) means 2 detached dwellings on one lot of land but does not include a secondary dwelling.
- **Dwelling house:** means a building containing only one dwelling.
- **Multi dwelling housing:** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

This would be achieved by inclusion in Schedule 1 and the provision of an APU map to identify the spatial application of the listing.

The Department of Planning LEP Practice Note 11-001 states that “listings in the LEP Schedule 1 should be minimised, with appropriate justification provided to the Department for any inclusions. Wherever possible, land uses should be governed by the Land Use Table and Schedule 1 should only be used where council has demonstrated why this cannot be achieved”.

The primary objective of the B4 zone is “to provide a range of compatible land uses”. The above land uses are not currently permissible in this zone due to the higher likelihood of land use conflict to occur between low density residential land uses and the range of other commercial and employment land uses. For these reasons Council would not ordinarily wish to modify the B4 zone land use table to achieve the intended outcome.

In relation to the Foundations site, the following factors will mitigate against this risk:

- The type, form, scale and density of any development to or in the vicinity of the Heritage listed cottages and within the Heritage Conservation Area (C 10) will be managed by the additional urban design responses required by heritage regulation including maintaining existing character and appropriate buffers and separation.
- A site-specific development control plan will be prepared that will consider appropriate urban design controls and measures to accommodate and control appropriate neighbourhood commercial, retail and residential uses within the B4 zone and appropriate integration or separation of those uses to control land use conflict.

It is recommended that Council support the use of the stated APU's in this case.

Key site planning considerations

Heritage

The Planning Proposal request is accompanied by a Conservation Management Plan (CMP) prepared by Niche Environment and Heritage (Appendix 2). This CMP was developed to assist with the management of the subject site and its associated heritage items, inform and guide the proposed masterplan and assess its impacts on the heritage significance of the items.

Part of the southern portion of the site is included in the locally listed Portland Heritage Conservation Area (C10), shown in red hatching in Figure 7 below.

The following heritage items are present on the site as indicated in Figure 7:

- State Heritage Register Listing 01739 – Portland Cement Works Precinct. This includes the significant industrial and administration buildings on the site and the historical workers cottages.
- State Heritage Register Listing 01738 – Raffan's Mill and Brick Bottle Kilns Precinct
- Lithgow Local Environmental Plan 2014 (Schedule 5) Listing I296 (includes both state item curtilages)

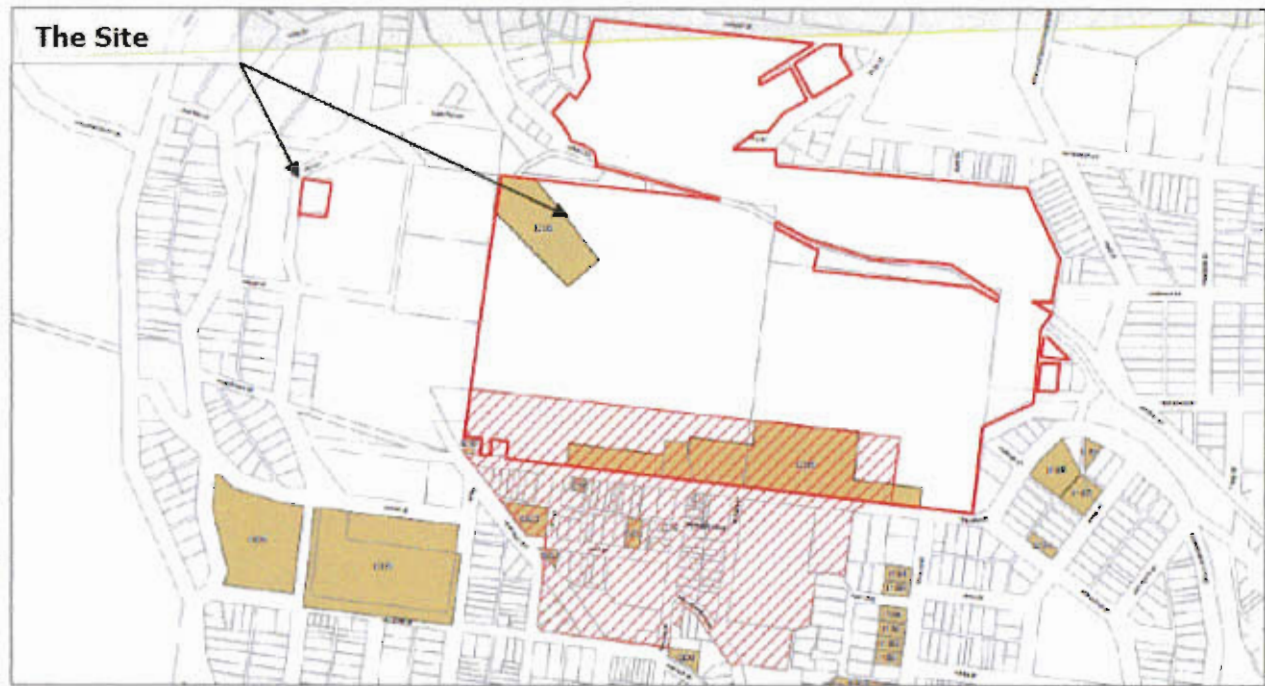


Figure 7 Heritage items and Heritage Conservation Areas at the site (LLEP2014)

The site is also adjacent to locally listed item I297 St Stephens Anglican Church and Hall with several other locally listed heritage items in the vicinity of the site as indicated in Figure 7.

The site also includes remnants of the private railway that moved product around the site from the kilns to the works crushers as well as a short private railway that linked the site to the NSWGR line to Mudgee to the east of the site. Although not covered by the heritage listing this is significant to the site and is included in the CMP.

Heritage protection works have already been undertaken on the site to protect the integrity of the powerhouse, blacksmith's shop, bath house, administration office building, Williwa Street cottages, workshop and Raffan's Mill.

Due to the continuous development of the site, there is a high potential for archaeological remains of earlier structures to have survived within the site as identified in the development constraints map of the urban design report. The future development concept for the site respects its heritage significance and interpretation as addressed in the place making urban design strategy.

The heritage of the site will be managed in accordance with the Niche Conservation Management Plan in consultation with Council and the Heritage Council of NSW.

Past land use and contamination

The site has been previously used for mining and cement processing purposes and therefore land contamination is relevant to future land use decision making. Previous environmental investigations conducted on site, and on the quarry have identified the presence of contamination.

A search of the EPA's public register of notices issued under the Contaminated Land Management Act 1997 indicates that there are no current and two former notices relating to the site. Blue Circle Southern Cement Ltd was issued and Investigation Order on 17 August 1995. A Revocation Notice was issued by the EPA on 6 October 1999.

The Planning Proposal is therefore accompanied by a Phase 1 Environmental Site Assessment prepared by URS (covering only 10.5ha of the site at the southern end) and, at Council's request, an additional Land Use Suitability Assessment prepared by Compliance Health & Environmental

Consulting (CHEC) being a certified contaminated land consultancy. (Appendices 4 and 6 respectively).

The CHEC report includes a review of all available contamination studies for the site, as well as soil sample investigations where data gaps were evident. The relevant data was then collated to determine the proposed land use suitability for the various land zonings under the planning proposal.

Appropriate site- specific threshold values were referenced to assess the risks to both human health and to the environment. The analytical data provided by the laboratory was collated and compared with the relevant threshold values.

The CHEC report concluded that with the additional sampling program and inspections undertaken it is possible to provide the required level of confidence to determine the suitability of the site for the proposed land uses.

Further discussions with the CHEC consultant confirmed that any further detailed investigation to accord with State Environmental Planning Policy 55 - Remediation of Land required would be best undertaken when the land uses are defined at either a precinct scale within the Development Control Plan or at the development application phase to enable the investigations to be more spatially specific relating to known future land uses.

The CHEC report concludes that the site CAN be made suitable for the proposed land use with the implementation of the required remedial work identified in the report. This provides the necessary level of confidence required to move forward with the rezoning of the land. This matter will be a head of consideration in the development of the Development Control Plan and individual precinct plans and appropriate mechanisms will be put in place to ensure that contamination is addressed at the appropriate stage of development.

Crown Lands

A significant portion of the former Portland Cement Works site were crown lands, particularly in the western quarries and surrounds and with some smaller parcels traversing the site generally in the transition between proposed residential zones to the north of the site. Some lots have more recently been divested to Bathurst Aboriginal Land Council as indicated in Figure 8 below. These lands are subject to a large Native Title Claim (NC 2013/001) as well as Aboriginal Land Claims.

As the proponents had exhausted the options available to have the crown lands transferred to them and following a meeting with Crown Lands in September 2019, it was determined that the Crown Lands should be removed from the planning proposal until these matters can be appropriately addressed.

For an appropriate planning outcome to be achieved across the entire area (including removal of the full "deferred matter" status of all lands) and so that the lands may be used in appropriate and compatible manner with the Foundations site, Council will continue to consult with Crown Lands and Bathurst Aboriginal Land Council in relation to land zoning of excluded lands within this process.

This consultation and acceptable resolution of this matter will be recommended to the Gateway to be conditioned to occur prior to public exhibition of the planning proposal within the gateway determination.



Figure 8 Foundations/Crown/BALC Ownership

Geotechnical

Several areas of the site were identified as having potential constraint to future development due to slope stability and significant past site reshaping and filling. At Council's request, the planning proposal is accompanied by a preliminary geotechnical land use stability assessment prepared by GDK Keighran Geotechnics (Appendix 8). This investigation revealed:

Former Hot Water Dam Residential Area – The slope stability risk is “VERY LOW”; however, the presence of uncontrolled ash and limestone gravel fill materials provide a “HIGH” risk of differential settlements across any proposed building platform and will require significant bulk earthworks to create a stable “VERY LOW” risk building platform suitable for proposed General Residential Development.

This area will require removal of the existing fill material and replacement with suitable blended material before being placed and compacted on a Level 1 basis (AS 3798-2007) to provide 98% standard compaction to a suitable design level.

R2 Zone North – Overburden Stockpile - Considered to be the former overburden stockpile for the site. The current access roadway to the east exposes natural soil and rock materials on the surface which present as “VERY LOW” risk of instability. However, the western side is elevated by up to 10 metres. This area is considered to be a “MEDIUM” risk of instability which can be reduced to a “LOW” risk with significant bulk earthworks to remove existing overburden materials and then replaced with suitable material and reshaped.

The existing slopes are currently less than 1V:2H which is considered to be stable for the longer term, however, the presence of fill materials presents the “MEDIUM” (further investigation likely on most lots, restrictions on types of housing) risk of instability.

R2 – NE Corner

This area is located on shallow residual soils with limited, if any, fill materials overlying the bedrock at depth up to 0.5m. This presents a 'VERY LOW' risk of instability.

Two other areas of concern in relation to slope stability and geotechnical suitability for development at the north and east of the eastern most quarry have been changed from employment lands to recreational land use.

This report finds that the geotechnical risks to the proposed future development can be managed through appropriate bulk earthworks. The report did not address the stability of the quarry structures. This will be further considered as part of the design and planning of any environmental protection works undertaken.

Flooding/Stormwater

At Council's request the planning proposal has been accompanied by a preliminary flooding assessment prepared by Costin Roe Consulting (Appendix 7).

An overland flow path is present through the site. The flow path conveys stormwater from catchments to the south of the site, in a northerly direction through a series of open channels, culverts and storage dams.

In times of intense rain events, overland flooding has been known to occur in Saville Park and over Williwa Street. The rapidly increasing and decreasing flows and peak flows (and hence maximum flood depths) occur over short durations.

The report describes the flood and overland flow behaviour for the 1% Average Exceedance Probability (AEP) design storm event. The report concludes that there will be limited effect on and to existing flood behaviour resulting from the development of the site. The existing stone planter box and bund to the north of Saville Park and Williwa Street within the site will continue to manage overland flow into the site. The report concludes that the site can be rezoned and developed without undue flood impact or affectation.

Quarry/Lakes

The quarries and their surrounds are proposed to be zoned RE2 Private Recreation and would be ideally transferred to private ownership under the site's development corporation, or another, similar landowner.

Importantly this zoning will not require Council to either acquire or maintain these recreational lands that have potentially significant on-going maintenance and liability issues.

The eastern most man-made quarry is likely to require extensive filling and environmental protection works to improve its structural integrity. These works would require development consent and require consultation and compliance with Environment Protection Authority legislation. The intent of the filling to be undertaken must satisfy as "environmental protection works" to be permissible within the zone. This will prevent the site from being used as "waste management facility" for any other purpose.

Land use that promotes recreational access to these quarries will need to be monitored carefully.

The filling of the quarry may require associated ancillary infrastructure to receive and stockpile fill material to be present at the site for several years.

The Department of Primary Industries - Fisheries have overseen the stocking of fish at the site in the other quarries/lakes including Rainbow Trout and Murray Cod. Once these stocked fish reach a

suitable size and the relevant water quality parameters are confirmed, stocked fishing would be able to occur at the site.

This use is however restricted on Crown lands. This may have to be delayed in the western most quarry that is located on Crown land until the ownership of the lands are resolved.

Environmental Considerations

The Foundations site is a rehabilitated mining site, parts of which are still in a degraded state. The site is being progressively restored. The site contains area of derived grasslands as well as forested pockets dominated by Conifer Eucalypt/Myrtaceae species. The understorey is sparse in areas.

The recent stocking of fish in the quarries and sightings of turtles indicates that sufficient water quality parameters are being achieved that support aquatic fauna.

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

Small areas of the site are identified on the sensitive lands map as salt affected areas unsuitable for intensified development. These areas are recommended to be maintained and /or restored with groundcover and salt tolerant vegetation. The DCP can address these impacts within the relevant precinct plans and identify appropriate measures to address any development impacts.

No endangered ecological communities have been identified on the site.

The northern area of the site is identified as Bush Fire Prone Land Category 3 and buffer on Council's bush fire prone land map under Section 10.3 of the Environmental Planning and Assessment Act, 1979. This area will be subject to Planning for Bushfire Protection 2019 legislation. Although the area is not of high bush fire risk, Council will consult with RFS to consider if the proposal requires a Bush Fire Study.

The following areas of potential environmental impact will be considered within the DCP and future development applications for built form across the site:

- Geotechnical stability
- Groundwater and surface water impacts (to Limestone Creek, quarry lakes and existing groundwater exchanges at the site)
- Aquatic ecology
- Bush Fire
- Vegetation clearing and terrestrial ecology
- Legacy site contamination; and
- Acoustic and traffic impacts in the locality both during and after construction works.

The Planning Proposal is not likely to have significant impacts on the key ecological features of the site that cannot be met by existing assessment and regulatory frameworks.

Essential Infrastructure

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

Council's Water and Wastewater Director has confirmed that the necessary head infrastructure for water and sewer is available to meet the preliminary demand loads using the development yields

indicated within the Urban Design Report. Any further development at the site will require a new sewer pumping station to be provided by the developer. The site is included in Council's Development Servicing Plans for Water and Sewerage that will require developer contributions.

It is not anticipated that the planning proposal will facilitate development at a level that would trigger State Infrastructure Contribution or unreasonable demand on current infrastructure.

Social and Economic Impact

The activation and re-development of the Foundations site has been an expressed vision of Council and in particular the Portland Community since the closure of the Portland Cement Works. The Urban Design Concept respects the history and unique characteristics of the site and intends to re-develop the site to once again become the social, cultural and economic hub of Portland.

This urban design concept to be implemented through this planning proposal is directly consistent with the following aims of the Lithgow Economic Development Strategy 2018-2022:

- Prioritise liveability/lifestyle infrastructure and local place-making.
- Foster a collaborative and vibrant community led by a diverse and inclusive culture.
- Develop tourism and marketing opportunities.

The proposal will facilitate positive economic and social impacts through the creation of jobs and the development of housing, social, recreational and tourism infrastructure and support services for the Lithgow LGA.

Relationship with Key Local, Regional and State Policy/Strategy

Central West and Orana Regional Plan

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

The planning proposal responds directly and is consistent with the following relevant directions as outlined in Table 1 below:

Table 1

CWORP Direction	Comment
Direction 10: Promote business and industrial activities in employment lands.	The proposed B4 Mixed Use land within the Foundations site will provide for a range of business, commercial and tourist support services. The site will build on its proximity to the Portland town centre and ensure, through the DCP, that the type and scale of future land uses do not detract from the core town centre.
Direction 12: Plan for greater land use compatibility.	The PP will require the preparation of a site-specific DCP that will address land use compatibility in the mixed- use environment and ensure appropriate separation of uses where required.
Direction 17: Conserve and adaptively re-use heritage assets.	This is one of the key drivers of the PP to encourage the adaptive re-use of the site's heritage items and places. The Urban Design Concept has directly responded to retaining and preserving the heritage significance of the site. The DCP will support this concept by building in controls to respect, protect and interpret the heritage of

	the site within the heritage regulatory framework.
Direction 22: Manage growth and change in regional cities and strategic and local centres.	<p>Portland is a town centre that supports the Strategic Centre of Lithgow. The vision of the Foundations site is a tourism and community-based ecosystem celebrating the areas unique offerings, place and attributes.</p> <p>It will support the higher order services and facilities located in Lithgow and the regional cities.</p> <p>The proposed residential component of the site has the potential to increase the population of Portland by 500 persons. This would not significantly change its role and function with the adopted settlement hierarchy.</p>
Direction 23: Build the resilience of towns and villages.	<p>The PP will directly build the economic and social resilience of the town by increasing its population and visitation levels.</p> <p>It will also increase job opportunities within the town and LGA both during construction phases and ongoing through establishing businesses.</p>
Direction 25: Increase housing diversity and choice.	<p>The PP will provide for a diversity of housing choice ranging from smaller compact lots to larger lifestyle lots as well as low rise medium density opportunities. It will also provide for seniors housing and aged care.</p>
Direction 29: Deliver healthy built environments and better urban design.	<p>The PP will deliver improved environmental outcomes on a legacy industrial site in the centre of town. The PP is supported by a well-considered urban design concept that will deliver well designed and integrated residential and commercial precincts. It will also provide new recreational lands that will promote healthy living.</p>

S.9.1 Planning Directions

Preliminary assessment of the planning proposal indicates that it is generally consistent with the applicable and relevant Section 9.1 Planning Directions issued by the Minister for Planning (13 September 2020), in particular, the directions as outlined in Table 2 below.

Table 2

Planning Direction	Comment
Direction 1.1: Business and Industrial Zones	<p>Consistent.</p> <p>The existing 2(v) zone permitted the same range of development proposed at the site under this PP.</p> <p>The site is ideally located on the edge of the Portland B2 Local Centre to support a range of employment growth opportunities.</p> <p>The PP will not reduce the potential floor space available for employment land uses.</p> <p>The PP will support the viability of Lithgow LGA as a Strategic Centre identified in the Central West and Orana Regional Plan by</p>

	<p>increasing employment opportunities and increasing visitation to the area.</p> <p>This matter is further addressed in Table 6 of the Willowtree PP document.</p> <p>The re-development of the Foundations site was identified in the adopted and endorsed Lithgow Land Use Strategy 2010-2030 and the endorsed Lithgow 2040 Local Strategic Planning Statement as a key priority.</p>
Direction 2.3: Heritage Conservation	<p>Consistent</p> <p>The PP includes provisions to ensure the ongoing preservation of, and the future adaptive re-use and interpretation of, the site's significant heritage items.</p> <p>The heritage items and places are listed within Schedule 5 of Lithgow Local Environmental Plan 2014 and will continue to be regulated through Clause 5 (10) of the LEP.</p> <p>The items listed on the State Heritage Register will be additionally regulated by the Heritage Council of NSW.</p> <p>A Heritage Conservation Management Plan has been prepared for the site.</p>
Direction 2.6: Remediation of Contaminated Land	<p>Consistent</p> <p>The site has been previously used for mining and cement manufacturing purposes. Previous environmental investigations conducted on the site, and on the quarry as a whole have identified the presence of contamination.</p> <p>Appendix 4 and 6 of the PP contain a Phase 1 Environmental Site Assessment prepared by URS (covers 10.5ha to the south of the site) and a Land Use Suitability Assessment prepared by Compliance Health and Environmental Consulting (CHEC) being a certified contaminated land consultancy.</p> <p>This report states the site CAN be made suitable for the proposed land uses with the implementation of the required remedial work identified within that report.</p> <p>The PP will include controls to ensure that legacy contamination is further addressed once detailed development footprints and plans are available in accordance with SEPP 55 and its guidelines.</p> <p>The required DCP will address this matter in more detail.</p>
Direction 3.1: Residential Zones	<p>Consistent</p> <p>The PP would affect land both within an existing and proposed residential zone, given that a range of residential land uses are currently permitted at the site under the 2(v) Village and B4 Mixed Use zones. This PP would also introduce R2 Low Density Residential and R1 General Residential zoned</p>

	<p>land to the site. Ministerial Direction 3.1 therefore applies to this PP.</p> <p>Specifically, this PP would create suitable planning controls under the LLEP2014 to enable future built form development for:</p> <ul style="list-style-type: none"> • Seventy-one R2 Low Density Residential lots. • One-hundred and three R1 General Residential lots; and • Employment and entertainment land. <p>In response to the matters for consideration under this Section 9.1 Ministerial Direction, this PP would:</p> <ul style="list-style-type: none"> • Encourage the provision of housing at the site. • Enable a broad range and diversity of residential building types to be made available for the local housing market. • Support the transition of the site from its current state into a modern, usable site that can achieve sufficient economic return to justify providing services such as formalised roads and utilities and delivering built form development. • Support the delivery of housing directly adjacent to the centre of Portland, which is recognised as a town. • Encourage the provision of dwellings at the site which are of good design, through the future Foundations Development Control Plan at the site. • The Foundations can be adequately serviced by existing service utilities infrastructure, or by new/augmented infrastructure. • Heritage values at The Foundations can be maintained as utility servicing infrastructure is upgraded at the site; and • This PP would slightly increase the density of residential dwellings permitted at the site, rather than reducing this density.
Direction 3.2 Caravan Parks and Manufactured Home Estates	<p>Consistent</p> <p>The PP does not seek to permit caravan parks or MHE's in any zones not currently permitted under Lithgow LEP 2014.</p>
Direction 3.3: Home Occupations	<p>Consistent</p> <p>The PP does not seek to alter the current land use tables of LLEP2014 in this regard.</p>
Direction 3.4: Integrating Land Use and Transport	<p>Consistent</p> <p>The site is accessible via Main Roads to both Castlereagh Highway, which links the region's destinations together from Mudgee to Lithgow and the Great Western Highway along an</p>

	<p>accessible drive or potential cycle highway, where the distances between each destination does not exceed 30 minutes. The site is also located at an ideal stopping point along the Sydney-Bathurst route.</p> <p>The Foundations would include legible pedestrian links to the nearby Portland town centre and physical connections to the quarry lakes onsite to create recreational and communal amenity. It would also create active linkages to the site's State-listed heritage items and celebrate Portland's industrial heritage. By allowing tourism opportunities to develop near to where people live, The Foundations has the potential to reduce commuter times for those tourism industry workers living onsite or within the greater Lithgow region.</p>
Direction 4.4: Planning for Bushfire Protection	<p>Consistent</p> <p>The site is partially identified as bush fire prone land Category 3 and buffer on Council's bush fire prone land map under Section 10.3 of the Environmental Planning and Assessment Act, 1979. This area will be subject to Planning for Bushfire Protection 2019 legislation. Although the area is not of high bush fire risk, Council will consult with RFS to consider if the proposal requires a Bush Fire Study following receipt of the Gateway Determination in accordance with 4.4(4).</p>
Direction 5.10: Implementation of Regional Plans	<p>Consistent</p> <p>The PP is consistent with Central West Orana Regional Plan in particular the directions outlined in Table1.</p>
Direction 6.1: Approval and Referral Requirements	<p>Consistent</p> <p>The PP does not contain provisions for concurrence, consultation or referral of DA's to a minister or public authority.</p> <p>The PP does not identify any development as designated development.</p>
Direction 6.3: Site specific Provisions	<p>Inconsistent - Justified as minor local significance</p> <p>The PP will introduce additional permitted uses on part of the B4 zone to enable dwelling houses, dual occupancies and multi-dwelling housing.</p> <p>The PP will insert a local provision into the LLEP2014 to require the preparation and adoption of a detailed site-specific development control plan prior to any further built form development or subdivision of the site.</p> <p>This flexibility is necessary to enable the site to be developed in stages over a number years and to respond quickly to changes in</p>

	community needs and demands and the investment market.
--	--

State Environmental Planning Policies (SEPPs)

The planning 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 the proposal. The key policies are outlined in Table 3 below:

Table 3

Name of SEPP	Comment
State Environmental Planning Policy No.55 – Remediation of Land	<p>The site has been previously used for mining and cement manufacturing purposes. Previous environmental investigations conducted on the site, and on the quarry have identified the presence of contamination.</p> <p>Appendix 4 and 6 of the PP contain a Phase 1 Environmental Site Assessment prepared by URS (covers 10.5ha to the south of the site) and a Land Use Suitability Assessment prepared by Compliance Health and Environmental Consulting (CHEC) being a certified contaminated land consultancy.</p> <p>This report states the site CAN be made suitable for the proposed land uses with the implementation of the required remedial work identified within that report.</p> <p>The PP will include controls to ensure that legacy contamination is further addressed once detailed development footprints and plans are available in accordance with SEPP 55 and its guidelines.</p> <p>Willowtree also notes that, as per Clause 6(2) of SEPP 55, only a Preliminary Site Investigation is required to be prepared at the rezoning stage. Clause 7(3) of SEPP 55 goes on to require that, at DA stage, a Detailed Site Investigation may thereafter be required before consent is granted for a DA. However, there is no equivalent requirement at the PP stage to provide such Detailed Site Investigation for the purposes of SEPP 55. The information provided at this stage is therefore considered to be sufficient.</p>
State Environmental Planning Policy No.64 – Advertising and Signage	Any signage associated with future commercial premises on the site would be assessed and approved in accordance with SEPP 64.
State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development	Future development for residential accommodation will be designed in accordance with the requirements of SEPP 65 and the Apartment Design Guide.
State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)	Any future development for residential use for the purposes of affordable housing will be designed in accordance with the principles outlined in schedule 2 of SEPP 70.
State Environmental Planning Policy (Affordable Rental Housing) 2009	The PP at this point in time doesn't propose the reduction or increase of affordable housing at

	<p>this stage. Future implementation of the planning proposal through the LEP won't hinder the application of this SEPP.</p>
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	<p>Clause 3 of BASIX SEPP clarifies that the EP&A Regulations require an agreed list of sustainability commitments to be carried out at a new residential development prior to the construction certificate being issued.</p> <p>These matters would require consideration in future DA's prepared to support residential development at the site.</p>
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	<p>The relevant approvals pathway for future development will be determined considering the relevant LEP and Exempt and Complying Development Codes.</p>
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	<p>This SEPP sets out site related requirements, design requirements, design principles and development standards to be complied with when developing land for seniors' living. These matters would be dealt with as part of future DAs for seniors' living at the site, including application for relevant site compatibility certificates.</p>
State Environmental Planning Policy (Koala Habitat Protection) 2019	<p>Pursuant to clause 9 of the Koala SEPP, this PP is considered to applicable as:</p> <ol style="list-style-type: none"> 1. This PP is seeking to rezone greater than 1 hectare of land which is held in both the applicant's ownership, not including land held by other parties. 2. Schedule 1 of the Koala SEPP identifies Lithgow as having potential Koala habitat pursuant to clause 5 'Land to which Policy Applies'. Schedule 1 further categorises Lithgow within the Central & Southern Tablelands Koala Management Area which identifies 39 unique Koala Use Tree Species used for Koala habitat. 3. Planning Proposals require the approval of Council. <p>Further considerations of the Koala SEPP are to be undertaken at the Development Application stage. This will require Council to determine whether future developments are to be considered Tier 1 development (low to no impact on Koalas or Koala habitat) or Tier 2 development (potential impact on Koalas or Koala habitat) based on the criteria set out in clause 9.</p> <p>The likelihood of impact on Koala Habitat at this site is low.</p>
State Environmental Planning Policy (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</p>

	<p>of the State including land within the R1, R2, B4 and RE2 zones.</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 Community Strategic Plan (CSP) 2030

The planning proposal has been assessed against the relevant broad directions and goals of the Lithgow Community Strategic Plan 2030 as outlined in Table 4 below:

Table 4

Community Priority	Comment
SE1.2: Facilitate and provide infrastructure and land to support residential, rural and economic growth.	<p>The Planning Proposal will facilitate a range of residential allotments for population growth, a significant increase of employment generating lands and appropriate soft and hard infrastructure to facilitate development within the development area.</p> <p>It is envisaged that this planning proposal will take up the majority of development demand potential for the Portland area for the foreseeable future in regard to both projected population increases and capacity of the Portland STP.</p>
SE2.1: Promote, develop and utilise the creative talents of the Lithgow LGA.	<p>The proposal has heavily marketed itself on the cultural and artistic background of Portland. It is proposed that future development will encourage further expansion in the arts sector with the addition of artist' studios. Clause 5(10) of the LLEP2014 coupled with the B4 zoning allows for greater flexibility of the existing heritage items within the site to be used for creative purposes.</p>
SE2.2: A strong tourism industry that maximises benefits from visitors to the Lithgow LGA.	<p>The Foundations site has been heavily marketed as a potential major destination for events and tourism, focusing on the potential of cultural heritage tourism and visitor accommodation.</p> <p>The proposal closely aligns with the <i>Lithgow Destination Management Plan – A Tourism Strategy for Lithgow 2013</i> by appropriate zoning adaptable heritage items for potential commercial uses and the provision of recreational areas.</p>
SE2.3: The cultural diversity and rich heritage of the Lithgow LGA is celebrated.	<p>The proposal seeks to restore and repurpose remnant structures from the former Portland Cement Works. These works will assist in</p>

	increasing the awareness of the history of Portland and bring vibrancy into the centre of Portland through the activation of land uses in conjunction with events and exhibitions.
BE1.2: We provide cultural and recreational infrastructure that meets the needs of the community.	The proposal includes the creation and upgrading of recreational assets within the site including walking trails and park lands connected by pedestrian, cycling and road networks for the purposes of both active and passive recreation. The proposal has also taken into consideration the Lithgow City Cultural Plan 2008-2013. The recommendations of the plan were considered in the PP and are permissible under the proposed zoning arrangement.
GL1.1: Our community is involved in the planning and decision-making processes of Council.	The proponents have engaged and consulted with the community since the early planning phases of the development concept and PP. The PP will be placed on exhibition for 28 days OR any period recommended through the gateway determination as prescribed in the Lithgow Community Participation Plan. During the exhibition period, Council will accept submissions from the community and will consider all submissions.

Lithgow 2040 Local Strategic Planning Statement (LSPS) as informed by Lithgow Land Use Strategy 2010-2030

The planning proposal is generally consistent with the wider strategic land use directions of both the Lithgow 2040 LSPS and Lithgow LUS 2010-2030. Table 5 below outlines consistency with the key relevant LSPS priorities.

Table 5

LSPS Planning Priority	Comment
Planning Priority 2: Plan for a Diversity of Housing.	The PP is aligned with the LSPS as it proposes a mix of housing types including 71 low density residential lots, 103 general residential lots and the possibility of medium to high-density residential accommodation in the B4 zones. The LSPS identified that central areas of our town centres would experience demand for an increase in residential accommodation and density, particularly for senior housing developments.
Planning Priority 4: Recognise, Preserve, Promote and Activate our Heritage	The Portland Foundations site is a significant heritage asset to the Lithgow region as 'the town that built Sydney', containing both significant state and locally listed heritage items. Of particular interest on site is the remnants of the Portland Cement Works, Raffan's Mill and Brick Bottle Kilns and the worker's cottages along Williwa Street.

	The proposal seeks to protect these important cultural items by adaptively reusing the existing built form and creating an interpretive heritage trail to identify heritage items, opening them up to the public for tourism and event opportunities.
Planning Priority 5: Align Development with Essential Infrastructure	Development within our established towns helps to concentrate infrastructure provision in an orderly and appropriate manner in addition to reducing the associated costs of maintaining new infrastructure. As the planning proposal is located within the edge of servicing for water and wastewater in the <i>Lithgow Development Servicing Plan for Water Supply and Sewerage 2018</i> , it will draw upon the existing infrastructure located within Portland which is largely consistent with the objectives of planning priority 5. It is noted that the proposal may take up the majority of the remaining allocation of wastewater capabilities of the Portland STP in its current form upon full build out.
Planning Priority 6: Provide the Community with Access to Attractive, Healthy and Green Public Spaces and Places.	The PP aims to rezone large tracts of land at the site to RE2 Private Recreation, including the man-made quarry lake located at the eastern end of the site for future environmental protection works in addition to the south-western part of the site to support parks, walkways, caravanning, camping/glamping and suitable tourist and visitor accommodation.
Planning Priority 9: Attract Investment and Grow Local Jobs.	The planning proposal will facilitate an approximate 16 hectares of B4 Mixed Use zoning to cater for a range of potential future land uses including light industrial and commercial uses. This B4 zoning is a continuation of the existing B4 zone along the main commercial hub of Portland along Willwa Street which encompasses the southern south-east of the site with a small B4 zone over the bottle kilns. Redevelopment of the Foundations site has the potential to rejuvenate commercial interest within Portland's commercial cluster and lead to employment generating opportunities.

Consultation

The proponent has extensively consulted with the Portland community since 2015. The community were invited to add their input into parts of the site to be redeveloped and expressed any concerns and questions. The early phase of community consultation served to reveal the grand vision for the site, including the launch of the project branding and vision. More recently, the consultation session hosted on 11th August 2017 revealed the long-term plan for Portland Cement Works based on the masterplan and program prepared by RobertsDay.

The Gateway Determination will confirm the community consultation requirements for the proposal. The proposal will be publicly exhibited for a period no less than 28 days.

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:
 - Heritage Council of NSW
 - Rural Fire Service
 - Bathurst Aboriginal Land Council
 - DPIE Crown Lands
 - DPIE Fisheries
 - DPIE Biodiversity and Conservation Division
 - Water NSW
 - Transgrid
 - Endeavour Energy
 - Environment Protection Authority

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
Stage 1 Submission of Draft Planning Proposal to DPIE	December 2020
*Stage 2 Gateway Determination	
*Stage 2A Consultation with Rural Fire Service	Jan- Mar 2021
*Stage 3 Public Exhibition Government Agency Consultation	April -/July 2021
Stage 4 Review/consideration of submissions	August 2021
Stage 5 Council Report	September 2021
*Stage 6 Plan Making and Legal Drafting	October/November 2021
*Stage 7 Notification of LEP	November/December 2021

* Denotes process involves external parties

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.

Conclusion

It is considered that the Planning Proposal request has provided sufficient strategic and site- specific merit to be supported by Council and referred for a Gateway Determination.

The activation and re-development of a legacy industrial site located within the centre of a town has necessarily led to a request for flexibility to be provided in the local planning framework requiring alternative mechanisms to ensure the intended outcomes are achieved.

It is considered that the planning proposal is a reasonable compromise to standardised practices that should be supported. Council officers will continue to work closely with the proponents, their

consultants and the western region office of Department of Planning, Industry and Environment to further refine the proposal and move it through the plan making process.

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 \$25,000 charged to the proponent.

Legal and Risk Management Implications

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

Attachments

1. LEP Process Flowchart [10.1.2.2.1 - 1 page]
2. Foundations PP Nov 2020 [10.1.2.2.2 - 757 pages]

Recommendation

THAT

1. Council supports the preparation of a Planning Proposal over Lot 1 DP 109592, Lot 1 DP 842890, Lot 5 DP 749907, Lot 6 DP749908, Lot 7 DP 749909, Lot 24 Section 46 DP 758855, Lots 53 & 104 DP 755769, and Lots 1&4 DP1227369, known as the Foundations Site, Williwa Street Portland which seeks to:
 - Remove the “deferred matter” status of the site and bring the lands within Lithgow Local Environmental Plan 2014;
 - Rezone the site from 2(v) under Lithgow Local Environmental Plan 1994 to a combination of R1 General Residential, R2 Low Density Residential, B4 Mixed Use and RE 2 Private Recreation under Lithgow Local Environmental Plan 2014 as shown in Figure 6 of this report;
 - Apply an additional permitted use to two areas of the B4 mixed use zone as shown hatched in Figure 6 of this report to permit dual occupancy (attached and detached); dwelling houses and multi-dwelling housing;
 - Remove all minimum lot size provisions across the site; and
 - Insert a local provision into LLEP2014 to require the preparation of a site-specific development control plan prior to development on the land addressing the matters outlined in the standard clause 6.3.(3).
2. The Planning Proposal documentation, once prepared, be forwarded to the Western Region office of Department of Planning, Industry and Investment for a Gateway Determination,
3. Council recommends Gateway to place a condition on its determination requiring Council to consult with Crown Lands and Bathurst Aboriginal Land Council to resolve land zoning over lands adjoining and traversing the Foundations site prior to public exhibition.
4. Council consults with relevant government agencies as required.
5. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

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

10.1.2.2. ECDEV - 23/11/2020 - Draft Planning Proposal - Portland Foundations - Williwa St Portland

Councillor D Goodwin left the meeting at 09:04 pm.
Councillor D Goodwin returned to the meeting at 09:05 pm.

Due to earlier declarations of interest the following Councillors left the chambers:

Councillor S Ring left the meeting at 09:04 pm.
Councillor C Coleman left the meeting at 09:04 pm.
Councillor M Statham left the meeting at 09:05 pm.

20 -273 RESOLVED

THAT

1. Council supports the preparation of a Planning Proposal over Lot 1 DP 109592, Lot 1 DP 842890, Lot 5 DP 749907, Lot 6 DP 749908, Lot 7 DP 749909, Lot 24 Section 46 DP 758855, Lots 53 & 104 DP 755769, and Lots 1&4 DP 1227369, known as the Foundations Site, Williwa Street Portland which seeks to:
 - Remove the “deferred matter” status of the site and bring the lands within Lithgow Local Environmental Plan 2014;
 - Rezone the site from 2(v) under Lithgow Local Environmental Plan 1994 to a combination of R1 General Residential, R2 Low Density Residential, B4 Mixed Use and RE 2 Private Recreation under Lithgow Local Environmental Plan 2014 as shown in Figure 6 of this report;
 - Apply an additional permitted use to two areas of the B4 mixed use zone as shown hatched in Figure 6 of this report to permit dual occupancy (attached and detached); dwelling houses and multi-dwelling housing;
 - Remove all minimum lot size provisions across the site; and
 - Insert a local provision into LLEP2014 to require the preparation of a site-specific development control plan prior to development on the land addressing the matters outlined in the standard clause 6.3.(3).
2. The Planning Proposal documentation, once prepared, be forwarded to the Western Region office of Department of Planning, Industry and Investment for a Gateway Determination,
3. Council recommends Gateway to place a condition on its determination requiring Council to consult with Crown Lands and Bathurst Aboriginal Land Council to resolve land zoning over lands adjoining and traversing the Foundations site prior to public exhibition.
4. Council consults with relevant government agencies as required.
5. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

MOVED: Councillor J Smith

SECONDED: Councillor D Goodsell

CARRIED Unanimously

A Division was called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

Divisions

FOR: Councillor R Thompson, Councillor W McAndrew, Councillor D Goodsell, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith

AGAINST: nil

Councillor S Ring returned to the meeting at 09:14 pm.
Councillor C Coleman returned to the meeting at 09:14 pm.
Councillor M Statham returned to the meeting at 09:14 pm.

10.1.2.3. ECDEV - 23/11/2020 - Proposed Boundary Adjustment between Lithgow City Council and Blue Mountains City Council

MOTION

20 -274 RESOLVED

THAT Council not proceed with a boundary adjustment transferring Lot 1 DP 1223992, Lot 2 DP 1223992, part of Lot 5 DP 2941 and part of Lot 6 DP 2941 totalling 3396m2 to Lithgow City Council from Blue Mountains City Council.

MOVED: Councillor W McAndrew

SECONDED: Councillor C Coleman

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

10.1.2.4. ECDEV - 23/11/2020 - Proposed Road Naming - Angels Way, Capertee

MOTION

20 -275 RESOLVED

THAT in accordance with Council's Addressing Policy, Council advertise the road name "Theobalds Lane" for a private road in Capertee in the local newspaper and notify emergency authorities and residents in the area, calling for submissions to be made for the statutory period of twenty-eight (28) days after which:

- a. If no submissions against the proposal are submitted, Council proceed with the gazettal process of the name and notify all residents and emergency authorities accordingly.
- b. If submissions against the proposal are submitted, a report is furnished to the next available Council meeting for resolution.

MOVED: Councillor M Statham

SECONDED: Councillor C Coleman