



Gateway determination report – PP-2025-566

Lithgow LEP 2014 Housekeeping amendment

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment PP – Planning Proposal PP-2025-566
Attachment Minutes – Minutes of Council meeting 22 July 2024
Attachment CR – Council report, 22 July 2024
Attachment HIS – Heritage Impact Assessment, 993 Great Western Highway, September 2014
Attachment DCP – Proposed update to Lithgow DCP flood chapter

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Lithgow City
PPA	Lithgow City Council
NAME	Housekeeping amendment – Lithgow LEP 2014
NUMBER	PP-2025-566
LEP TO BE AMENDED	Lithgow Local Environmental Plan 2014
ADDRESS	Various locations throughout the LGA
DESCRIPTION	Various housekeeping amendments throughout the LGA
RECEIVED	26/03/2025
FILE NO.	IRF25/769
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

Via 13 amendment items, the objectives of the planning proposal are to:

- Facilitate compatible economic development opportunities for agriculture and tourism
- Facilitate and manage suitable housing opportunities
- Adopt standard instrument clauses for flooding
- Facilitate appropriate management and/or disposal of Council owned land
- Correct mapping to reflect purpose and use for certain land
- Correct and expand Schedule 5 Heritage listings

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

1.3 Explanation of provisions

The planning proposal (Attachment PP) seeks to amend the Lithgow LEP 2014 per the items identified below in Table 3. The planning proposal has been presented by Council as 13 amendment items, most of which effect multiple sites.

Table 3 Policy intent and proposed LEP changes

Item	Policy intent	Location	Proposed LEP change
1.	Include the land use term 'Recreation facilities (outdoor)' in Zone C3 Environmental Management to allow sympathetic development, such as mountain bike trails on privately owned land.	LGA wide	Zone C3 Environmental Management Add ' <i>Recreation facilities (outdoor)</i> ' as permitted with consent
2.	Prohibit strata subdivision in Zone R5 Large Lot Residential and Zone RU5 Village to ensure that rural residential development is undertaken in appropriate zonings, reducing the fragmentation of rural land.	LGA wide	Clause 4.2C - Minimum subdivision lot size for strata plan schemes in certain rural and conservation zones Add the word ' <i>residential</i> ' to clause heading and add ' <i>Zone R5 Large Lot Residential</i> ' and ' <i>Zone RU5 Village</i> ' to section 4.2C(2).
3	Include the land use term 'Artisan food and drink industry' in three rural zones with the aim of supporting the economic development and value adding opportunities for businesses in these areas.	LGA wide	Zone RU1 Primary Production, Zone RU2 Rural Landscape Zone RU5 Village Add ' <i>Artisan food and drink industry</i> ' as permitted with consent
4	Remove the area of the access handle/laneway in calculating the size of a battle-axe lot for minimum subdivision lot size to avoid creating allotments which lead to poor built-form outcomes for future residential dwellings.	LGA wide	4.1 Minimum subdivision lot size Addition to Clause 4.1: <i>In calculating the size of a battle-axe lot, the area of the access laneway must not be included" or words to that effect to be added to the clause.</i> Addition to Dictionary Schedule: <i>battle-axe lot</i> means a lot that has access to a road by an access laneway Note: The wording of the final clause is subject to legal drafting
5	Introduce clause 5.22 Special Flood Considerations to strengthen planning laws to protect and manage: - new sensitive and hazardous development between the flood planning area and the probable maximum flood, and - development that is not sensitive or hazardous on land	LGA wide	Add ' Clause 5.22 Special Flood Considerations ' of the Standard Instrument—Principal Local Environmental Plan

Item	Policy intent	Location	Proposed LEP change
	that the consent authority considers that, in a flood, may pose a particular risk to life and where people may need to evacuate.		
6	Reclassify four Council owned/controlled public land sites from 'community land' to 'operational land': (i) Lot 1 DP 246233 – land submerged at Lake Lyell (Bowenfels) when lake was established for electricity generating purposes in conjunction with Wallerawang Power Station in the mid-1980s. The reclassification is to correct an historical anomaly. Council's intention is to transfer the lot to Energy Australia NW Pty Ltd so that ownership of the land is consistent with all other land that makes up the waterbody at Lake Lyell. (ii) Lot 5 DP 1304125 - land submerged at Lake Lyell (Bowenfels) when lake was established for electricity generating purposes in conjunction with Wallerawang Power Station in the mid-1980s. The reclassification is to correct an historical anomaly. Council's intention is to transfer the lot to Energy Australia NW Pty Ltd so that ownership of the land is consistent with all other land that makes up the waterbody at Lake Lyell. (iii) Part Lot 1 DP 1077295 – area behind property used	Site specific: (i) Lot 1 DP 246233 (ii) Lot 5 DP 1304125 (iii) Part Lot 1 DP 1077295 (iv) Part Lot 45 DP 1096536	Schedule 4 Classification and reclassification of public land Add 4 items to reclassify land from 'community land' to 'operational land'. Department comment: Upon council providing land title searches for the four lots proposed for reclassification, it was established that the title search for: - Lot 1 DP 246233 includes a notification bearing a 'K200000P Caveat' indicating the land is a public reserve. - Lot 45 DP 1096536 includes a notification 'the land within described is public reserve' A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to clarify whether a change or extinguishment of any interests is sought, including removal of any public reserve status, which will require the Governor's approval. While associated mapping changes are not sought by the submitted planning proposal it is anticipated that mapping will be required to support finalisation of 2 sites where only part of the lot is being reclassified.

Item	Policy intent	Location	Proposed LEP change
	by café owners as an alfresco area (Lithgow). Council's intention is to have the option of selling the land to the café owner who presently leases the outdoor area from Council. (iv) Part Lot 45 DP 1096536 – portion occupied by the Lithgow City Bowling Club Limited (Lithgow). The reclassification will resolve a historical encroachment from the Club Lithgow bowling greens on Queen Elizabeth Park. Council's intention is to transfer the affected part to the adjoining owner who owns the bowling greens.		
7	Amend the zoning of a number of rural lands that have been notified in the NSW Government Gazette for reservation as a national park or nature reserve to Zone C1 National Parks and Nature Reserves	Site specific – additions to the following: • Wollemi National Park • Mugii Murumban State Conservation Area • Gardens of Stone State Conservation Area • Capertee National Park • Hartley Historic Site	Mapping: Land Zoning and Lot Size Rezone multiple lots as identified in the planning proposal, to Zone C1 National Parks and Nature Reserves and remove any minimum lot size. Department comment: The table on pages 14 and 15 of the planning proposal as lodged includes duplicate and insufficient legal descriptions. A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to refer to all land consistent with the schedule listing in the NSW Government Gazette, including lot, section and plan number and other relevant descriptions. Each line item is to be separately mapped with a figure number for reference.

Item	Policy intent	Location	Proposed LEP change
8	Rezone Lithgow City Council Works Depot at Wallerawang to Zone E3 Productivity Support to align with the site's current and proposed foreseeable land use	Site specific: Lot 1 DP 390626, Brays Lane, Wallerawang	Mapping: Land Zoning Rezone Lithgow City Council Works Depot at Wallerawang (Lot 1 DP390626) from RE1 Public Recreation to E3 Productivity Support. Department comment: See section 1.4.2
9	Rezone Lithgow General Cemetery to Zone SP2 Infrastructure (Cemetery) align with the site's current and future land use	Site specific - Lithgow General Cemetery: (i) Lot 1 DP 1133793 (ii) Lot 7306 DP 1142901 (iii) Lot 2 DP 1040909 Adjacent privately owned lot: (iv) Lot 5 DP 1230208	Mapping: Land Zoning and Lot Size Lot 1 DP 1133793: rezone from SP2 Infrastructure (Parks and Public Reserves) to SP2 Infrastructure (Cemetery). Lot 7306 DP 1142901: rezone from SP2 Infrastructure (Parks and Public Reserves) to SP2 Infrastructure (Cemetery). Lot 2 DP 1040909: rezone from R1 General Residential to SP2 Infrastructure (Cemetery) and remove minimum lot size. Note: as a consequence of the above rezonings for the Lithgow General Cemetery, a small slither of R1 General Residential land will be created on adjacent privately owned land, Lot 1 DP 1230208. To remedy this anomaly, the planning proposal seeks to rezone part of Lot 5 DP 1230208 from R1 General Residential to C4 Environmental Living and apply a 40ha minimum lot size consistent with the adjacent C4 Environmental Living zone.
10	Rezone Crown and Bathurst Aboriginal Land Council land in Portland to ensure that planning controls match the physical topography and other constraints present on the land.	Site specific: (i) Lot 7330 DP 1143704 (ii) Lot 7001 DP 1075853 (iii) Unformed Crown Roads	Mapping: Zoning and Lot Size Rezone Lot 7330 DP 1143704, Lot 7001 DP 1075853 and unformed Crown roads from R2 Low Density Residential to C3 Environmental Management and increase the minimum lot size from 400m ² and 800m ² to 40ha.

Item	Policy intent	Location	Proposed LEP change
			Department comment: This proposed amendment to Lithgow LEP 2014 was not reported to Council at the Ordinary Meeting of Council on 22 July 2024, nor did it form part of Council's resolution of the same date. As such, a Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to remove reference to this proposed amendment and any associated mapping.
11	To reinstate dwelling entitlements for 37 vacant lots zoned RU5 Village in Cullen Bullen, where the dwelling house on these lands is subject to connection to the reticulated sewerage system. This is a result of Council's commissioning of the Cullen Bullen Sewer Treatment Plant in April 2024. It is proposed to identify the Cullen Bullen township area ('Area 3') and exclude it from the requirement of a 4,000m² minimum lot size for the erection of a dwelling house, provided the dwelling house is to be connected to a reticulated sewerage system.	Cullen Bullen Township depicted as "Area 3"	4.2B Erection of dwelling houses, dual occupancies and secondary dwellings in Zone RU5 and Zone R5 Mapping: New "Area 3" to be shown on the Lot Size Map Add the following words to the clause: <i>Despite subclause (3), development consent may be granted for the erection of a dwelling house on land within "Area 3" of the Lot Size Map, but only if the dwelling house is to be connected to a reticulated sewerage system.</i> Or words to that effect, and associated mapping change.
12	Remove reference to "Environmentally Sensitive Area" in three series of maps in order to remove any ambiguity in the operation of Complying Development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).	LGA wide	Mapping: Titles - Environmentally Sensitive Area - Biodiversity Overlay Map - Environmentally Sensitive Area - Water Overlay Map - Environmentally Sensitive Area - Land Overlay Map Remove the words "Environmentally Sensitive Area" from the map titles and rename to: - Biodiversity Overlay Map - Water Overlay Map - Land Overlay Map

Item	Policy intent	Location	Proposed LEP change
			Part 7 Additional local provisions & Dictionary: Amend Clause 7.4, 7.5, 7.6, 7.7, and Dictionary Schedule to reference updated map titles
13	Updates to Schedule 5 Environmental Heritage and associated Heritage Map	Site specific: see Appendix 12 of the planning proposal	Schedule 5 Environmental heritage Mapping – Heritage 12 amendments as per Appendix 2 of the Planning Proposal: • Update relevant items from local significance to state significance • Change of an item's heritage curtilage • Update property addresses, names, and descriptions to reflect current lot data • Removal of a heritage item listed as an incorrect address (true location of the item is yet to be confirmed) • Add two new state heritage items to Schedule 5.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

Amendment items 1-5 (inclusive) and item 12 relate to LEP clauses that apply LGA-wide and are not associated with specific parcels of land. Amendment items 7 and 13 will affect specific parcels of land however the amendments are administrative in nature. While a desktop site review has been undertaken for all areas affected by items 7 and 13, these individual site characteristics have no bearing on the amendments sought. The remaining seven amendment items cover a total of 182 lots across the Lithgow City LGA. A site description is provided for each relevant amendment item below.

1.4.1 Amendment Item 6 – Reclassification of four sites from community to operational land

Lot 1 DP246233, Sir Thomas Mitchell Drive South Bowenfels is identified by the yellow hatched area in Figure 1. The planning proposal identifies '**Lot 5 DP1304125**' (see red outlined area in Figure 2) however this folio identifier does not appear on Six Maps, Planning Portal Spatial Viewer or SDT Explorer. The title search for Lot 5 DP 1304125 includes a notification 'limited title'. Limited title is where land is not fully defined by survey in a new deposited plan, indicating that the

boundaries have not been examined in NSW Land Registry Services. This limitation notification on title may be the reason Lot 5 DP 1304125 could not be viewed on the abovementioned spatial portals.

Both sites are submerged community parcels of land and mapped (entirely) as an environmentally sensitive area (groundwater, watercourses, and sensitive waterways) and bushfire prone land.



Figure 1 Lot 1 DP246233 (source: NSW Planning Portal Spatial Viewer)



Figure 2 – Site 2 for reclassification (source: NSW Planning Portal Spatial Viewer)

Part of Lot 2 DP1077295, 67 Bridge Street Lithgow (see red outlined area in Figure 3) is a Council owned site zoned E1 Local Centre. This 222.7m² area of Lot 2 contains a tin shed and alfresco area and is mapped (entirely) as part of local heritage item I321(Union Theatre) and within conservation area C7 (Lithgow Main Street). The entire site is also within the Sydney Drinking Water Catchment area, within a 'Mine Subsidence District' and identified as 'Mine Subsidence development'.



Figure 3 Part of Lot 2 DP1077295 (source: Planning Proposal PP-2025-566, p89)

Part of Lot 45 DP1096536, 2 Lithgow Street, Lithgow (see red outlined area in Figure 4) is a Council owned site zoned RE2 Private Recreation. This 2,595m² area of Lot 45 contains bowling greens of Club Lithgow which are currently on the same Certificate of Title as the adjoining Queen Elizabeth Park. This site is on the same Lot as local heritage items I364 (war Memorial Statue) and I332 (Charles Lewins Memorial Rotunda), and local archaeological item A122 (Lithgow War Memorial), and in proximity to heritage conservation area C7 (Lithgow Main Street). The site is also entirely within the Sydney Drinking Water Catchment area, within a 'Mine Subsidence District' and identified as 'Mine Subsidence development'.



Figure 4 Part of Lot 45 DP1096536 (source: Planning Proposal PP-2025-566, p90)

1.4.2 Amendment Item 8 - Rezone Lithgow City Council Works Depot at Wallerawang to E3 Productivity Support

Lot 1 DP 390626, Brays Lane, Wallerawang (see yellow hatched area in Figure 5) has an area of approximately 11,848m² and is currently used as the Lithgow City Council works depot. The lot is zoned RE1 Public Recreation with no minimum lot size. The site adjoins RE1 zoned land to the north, E1 zoned land to the east and south, R2 zoned land to the south-west and R5 zoned land to the west. The site is mapped entirely as groundwater vulnerable and within the Sydney Drinking Water Catchment.



Figure 5 Lot 1 DP 390626 (source: NSW Planning Portal Spatial Viewer)

The planning proposal explains the Council Works Depot at Wallerawang was zoned RE1 Public Recreation at the time of making Lithgow LEP 2014 having regard to the potential future use of the site as an expanded sports precinct, noting the site adjoins the Wallerawang sports oval, and that that strategy has since been abandoned by Council.

Justification provided in the planning proposal for the application of Zone E3 Productivity Support is based on the land use 'depot' being permitted with consent in Zone E3. The Department notes several other zones in Lithgow LEP 2014 permit 'depots', such as Zone E4 General Industrial and Zone E5 Heavy Industrial. Furthermore, there is also the option of applying an SP2 Infrastructure zone to this council owned and operated site.

The planning proposal does not include any consideration of other potential zones for the site where 'depots' are permissible, nor in the context of the site's location and surrounding zoning (see Figure 6). Zone E3 would permit a significantly greater number of land uses, compared to Zone E4, and may not be considered suitable or reflective of the site's current and foreseeable use as a work depot.

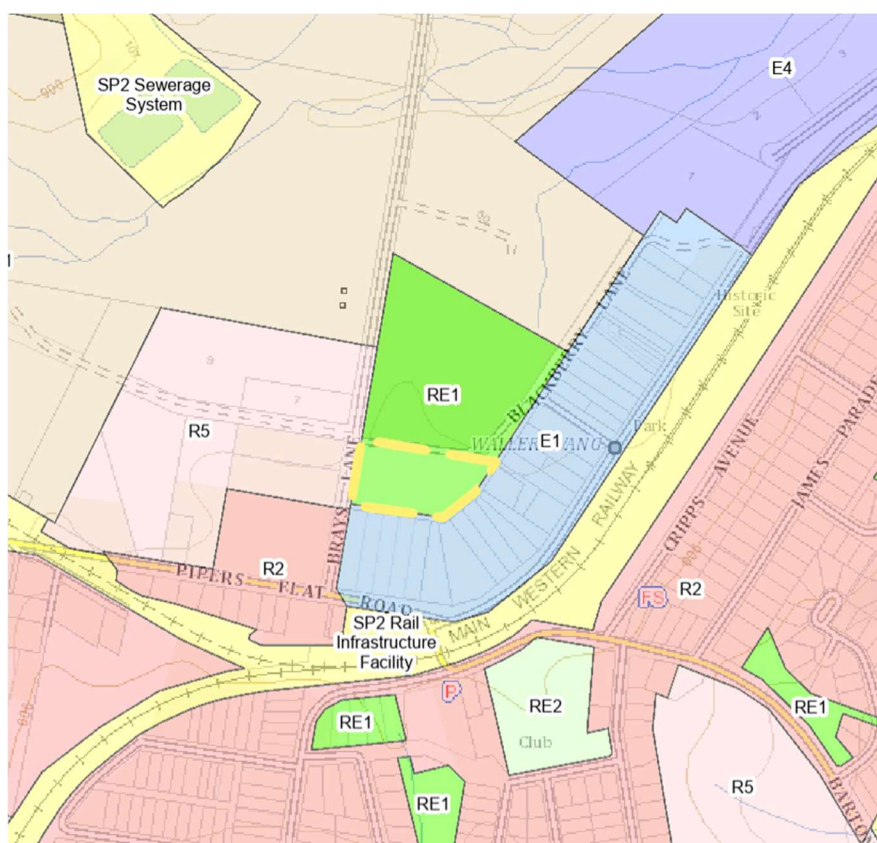


Figure 6 Land zoning context of the Council Works Depot in Wallerawang (yellow hatched area)
(source: NSW Planning Portal Spatial Viewer)

The Department further notes the use of E3 Productivity Support in the Lithgow LGA is very limited, in that from the Department's analysis there appears to be only one area zoned E3 – approximately 10 hectares of land in Lithgow bounded by Martini Parade, Methven Street and Park Parade. This land is identified in the Lithgow Local Strategic Planning Statement 2020 as "existing commercial". The planning proposal does not include adequate justification for the proposed E3 zoning. The Department considers a more appropriate zone for the Council Works Depot in Wallerawang to be Zone E4 General Industrial or possibly Zone SP2 Infrastructure.

A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to seek a more appropriate zone, being Zone E4 General Industrial or SP2 Infrastructure.

- 1.4.3 Amendment Item 9 - Rezone land at Lithgow General Cemetery (Lot 2 DP1040909) to SP2 Infrastructure (Cemetery) and remove minimum lot size, and rezone part Lot 5 DP1230208 to C4 Environmental Living and apply a 40ha minimum lot size

Lot 2 DP1040909, Great Western Highway, Bowenfels (yellow hatched area in Figure 7) has an area of approximately 9,141m². The site is used as the Lithgow Public Cemetery and adjoins residential land to the north, SP2 zoned cemetery land to the east, C4 Environmental Living zoned land to the south and Lot 5 DP 1230208 (C4 zone) to the west. Lot 2 adjoins local heritage item A032 (Lithgow General Cemetery) to the east.

Part of Lot 5 DP 1230208, 998 Great Western Highway Bowenfels (red outlined area in Figure 7) has an area of approximately 1,752m². The site is currently vacant with some remnant vegetation and adjoins residential land to the north, Lithgow General Cemetery land (Lot 2 DP1040909) to the east and C4 Environmental Living zoned land to the south and west. The subject site is located in proximity to Biodiversity values mapping (however does not cover this site) and a small section in the north of this site (Approximately 40m²) is mapped by Council's biodiversity overlay map.

Both sites are Zone R1 General Residential with a minimum lot size of 600m², entirely within Sydney Drinking Water Catchment and mapped as groundwater vulnerable.



Figure 7 Lot 2 DP1040909 (yellow hatched area) and part of Lot 5 DP 1230208 (red outlined area) (source: NSW Planning Portal Spatial Viewer)

1.4.4 Amendment Item 10 - Rezone land and unformed Crown Roads from R2 Low Density Residential to C3 Environmental Management and increase minimum lot size to 40ha.

Amendment item 10 refers to Lot 7330 DP 1143704, Lot 7001 DP 1075853 and unformed Crown roads in Part 2 Explanation of Provisions of the planning proposal, although mapping on page 71 of the proposal indicates the proposed rezoning of 6 lots in Portland.

Setting aside these inconsistencies, these proposed amendments to Lithgow LEP 2014 were not reported to Council at the Ordinary Meeting of Council on 22 July 2024, nor did they form part of Council's resolution of the same date. As such, a Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to remove reference to this proposed amendment and any associated mapping. No further assessment of these sites have been undertaken.

1.4.5 Amendment Item 11 – Add ‘Area 3’ to land within Cullen Bullen to permit a dwelling house when connected to reticulated sewer.

Amendment item 11 affects approximately 121 lots (the amendment areas) of varying size within the Cullen Bullen Township (shown in Figure 8 below). The two amendment areas are separated by the Castlereagh Highway with each area containing a mix of dwellings houses, undeveloped lots and urban uses servicing Cullen Bullen. The areas are zoned RU5 Village with a 4000m² minimum lot size and are serviced by reticulated water and sewer.

The amendment areas are surrounded by RU1 Primary Production zoned land with parts of the amendment areas mapped as:

- Bushfire prone land mapping (Figure 9)
- Terrestrial biodiversity (Figure 10)
- Crown Land owned sites (Figure 11)
- Local Heritage significance (Figure 12)



Figure 8 Amendment 11 sites (source: Google maps)



Figure 9 Bushfire prone land mapping (source: NSW Planning Portal Spatial Viewer)



Figure 10 Terrestrial Biodiversity mapping (source: NSW Planning Portal Spatial Viewer)

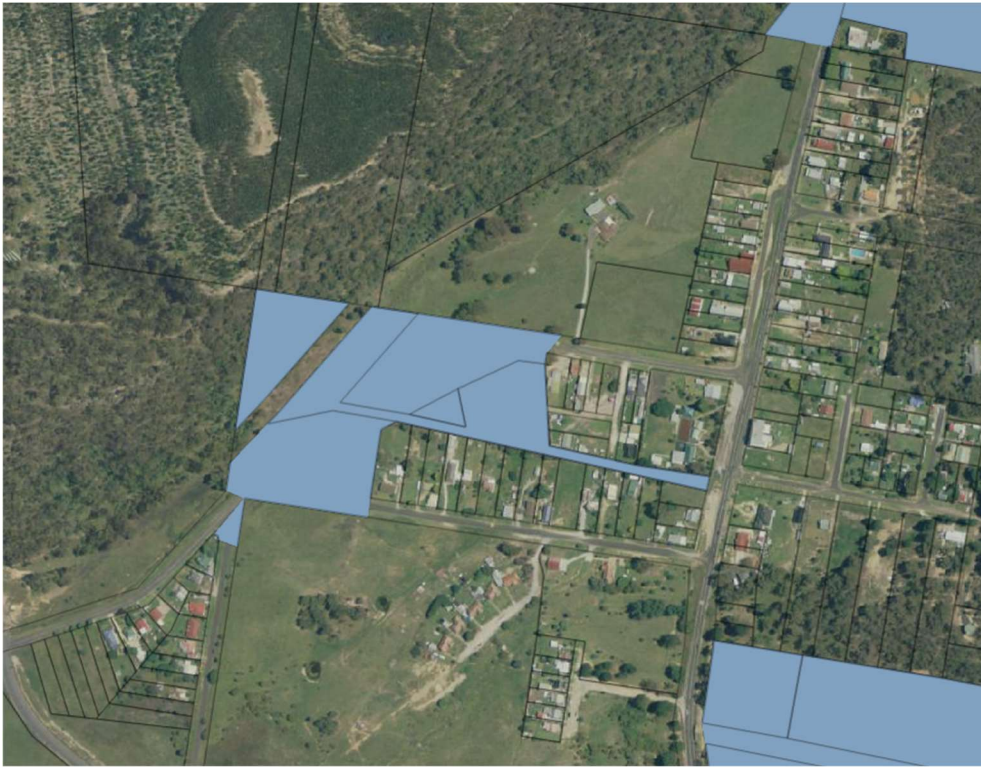


Figure 11 Land owned by Crown Lands (source: NSW Planning Portal Spatial Viewer)



Figure 12 Items of local heritage significance (source: NSW Planning Portal Spatial Viewer)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the applicable maps, which are suitable for community consultation. Due to the volume of mapping changes sought by the housekeeping amendment, the maps have not been replicated within this report. Please refer

to the planning proposal (Attachment PP) for details of the proposed maps. Table 4 of this report identifies mapping corrections required prior to exhibition of the planning proposal.

2 Need for the planning proposal

The proposal seeks to implement amendments identified by Council staff as anomalies, errors, or positive planning outcomes relating to housing, economy, hazard, heritage, environment, and land use. The planning proposal is not a direct result of any strategic study or report and is cited by Council staff as minor in nature. Given the nature of the amendments sought, a planning proposal to amend the Lithgow LEP 2014 is the most appropriate means to achieve the intended outcomes and objectives. The amendment is considered to have merit.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Central West and Orana Regional Plan 2041.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
OBJECTIVE 5: Identify, protect and connect important environmental assets	The proposal is broadly consistent with Strategy 5.1, 5.2, and 5.3. The proposal seeks to rezone various sites to C1 National Parks and Nature Reserves (amendment item 7) and C3 Environmental Conservation (amendment item 10) to better reflect the environmental value. Various sites affected by housekeeping amendment are mapped as containing environmentally sensitive land. This mapping will continue to apply and will be used to assess any future development enabled by the amendment.
OBJECTIVE 6: Support connected and healthy communities.	Amendment item 6 of the proposal seeks to reclassify four sites from community to operational land. The proposed has adequately illustrated that the reclassification of these sites will not pose a detrimental impact to the community by way of loss of public open space or community areas.
OBJECTIVE 7: Plan for resilient places and communities	Parts of this proposal (for example amendment items 2, 5, 10) are consistent with this objective. However, various amendment items (for example amendment items 1, 3, and 11) seek to introduce additional development opportunity on land across the LGA mapped as bushfire prone without supporting discussion or assessment regarding bushfire hazard impact. Concurrence from Rural Fire Service will be sought as a condition of any Gateway issued in respect of this proposal.
OBJECTIVE 9: Ensure site selection and design embraces and respects the region's landscapes, character and cultural heritage	The proposal is consistent with this objective and provides numerous amendments in direct response to site characteristics and landscapes (for example, amendment items 4, 6 to 13).

Regional Plan Objectives	Justification
OBJECTIVE 12: Sustain a network of healthy and prosperous centres	Strategy 12.2 seeks to improve public open space, public facilities, green infrastructure and green walkable, liveable streets. The proposal has demonstrated consistency with this objective.
OBJECTIVE 13: Provide well located housing options to meet demand OBJECTIVE 15: Manage rural residential development	The proposal is not inconsistent with the objectives and the associated strategies. Amendment item 11 will capitalise on existing supply of residential land to enable development of housing in Cullen Bullen where incoming dwellings can be serviced by reticulated sewerage infrastructure.
OBJECTIVE 17: Coordinate smart and resilient utility infrastructure	Various aspects of the proposal are consistent with aspects of Strategy 17.1. For example, amendment item 9 seeks to rezone land set aside for the Lithgow General Cemetery expansion and amendment item 11 seeks to capitalise on surplus capacity within the Cullen Bullen sewer treatment plant by permitting housing which can be serviced by this infrastructure.
OBJECTIVE 19: Protect agricultural production values and promote agricultural innovation, sustainability and value-add opportunities	The proposal is consistent with Objective 19 and Strategy 19.1. Amendment item 3 aims to support economic development and value adding opportunities by permitting 'artisan food and drink industry' with consent in the RU1, RU2 and RU5 zones.
OBJECTIVE 22: Support a diverse visitor economy	The proposal is consistent with the Objective and Strategy 22.1. Amendment item 1 seeks to create compatible tourism opportunities in the C3 zone by permitting 'recreation facilities (outdoor)' with consent under the zone land use table.

3.2 Local

While the amendment items are not specifically identified in the local strategy for Lithgow City Council, the planning proposal is considered to demonstrate merit and consistency with local strategy, as set out in Table 5.

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The proposal is consistent with the Lithgow 2040 Local Strategic Planning Statement and in particular, the priorities related to housing (Priority 1, 2, and 5), heritage (Priority 4), visitor economy (Priority 7 and 9), and protection of the environment (Priority 11 and 12).
Lithgow Land Use Strategy 2010-2030	Consistent. The Lithgow LUS notes there is sufficient residential land to cater for estimated demand over the life of the Strategy (although this is subject to further review). Amendment item 11 (Cullen Bullen) does not seek to rezone additional

Local Strategies	Justification
	residential land, however, will present additional dwelling opportunities on certain land zoned RU5 Village at Cullen Bullen and utilise surplus capacity within the existing reticulated services. Amendment items 2, 4 and 10 are considered to deliver on the overarching aims of the strategy by refining the desired housing product delivered in the LGA.
Lithgow Economic Development Strategy 2015	Consistent. Amendment items 1 and 3 are aligned with the analysis and broader objective to capitalise and diversify Lithgow's economic assets and offerings.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below in Table 6.

While the following listed Directions apply to all planning proposals, the proposal does not seek to alter the Lithgow LEP 2014 in a manner inconsistent with the objectives and requirements of the directions. Additional discussion in Table 6 is not required:

- 1.3 Approval and Referral Requirements
- 3.5 Recreation Vehicle Areas
- 6.2 Caravan Parks and Manufactured Home Estates

Directions not listed in Table 6 or in the preceding dot-points are not applicable to the subject proposal.

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans.	Yes	The proposal is largely consistent with the Central West and Orana Regional Plan 2041, as discussed in Section 3.1 of this report.
1.4 Site Specific Provisions	Yes	Amendment item 11 of the proposal seeks to add a local provision to Clause 4.2B of the LEP (Erection of dwelling houses, dual occupancies and secondary dwellings in Zone RU5 and Zone R5). Clause 4.2B(3) provides for development standards which must be met for the erection of a dwelling. The proposed addition to this clause will facilitate development consent for dwelling houses on land within "Area 3" of the Lot Size Map affecting Cullen Bullen village if the dwelling house is to be connected to a reticulated sewerage system. This clause can be utilised despite non-compliance with Clause 4.2B(3)(a)-(c). While this clause proposes to introduce a new site specific development standard (the required connection to reticulated sewer) it is considered an enabling standard rather than an additional standard as it will facilitate new housing opportunities not currently available under the current LEP.

Directions	Consistent	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	Yes	Amendment item 12 of the proposal seeks to remove the words “environmentally sensitive area” from three LEP map titles. Council cites that the naming of the maps causes confusion in interpreting Section 1.17A of the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> (the Codes SEPP), noting that the land covered by this mapping does not meet the definition of ‘environmentally sensitive area’ provided in section 1.5 of the Codes SEPP. This amendment is not considered to reduce the conservation standards applying to the land.
3.2 Heritage Conservation	Yes	The planning proposal is consistent with Direction 3.2. Amendment item 13 (collectively) and seeks to correct heritage identification under the Lithgow LEP and add new items. The proposed removal of I067 (item incorrectly identified as the former Coorwull Academy Cottage) is supported by an investigation undertaken by a Heritage Impact Statement (Attachment HIS - Heritage Impact Statement, September 2014) confirming the former Coorwull Academy Cottage is not located at 993 Great Western Highway. The investigation also cites that the 19th century cottage located at 993 Great Western Highway has low historical significance and does not warrant listing in the Lithgow LEP Heritage Schedule. While it is suspected that the former Coorwull Academy Cottage may be located at 999 Great Western Highway, investigations to confirm this have not yet been undertaken. The existing provisions within the Lithgow LEP 2014 (Clause 5.10) for heritage conservation will remain unchanged.
3.3 Sydney Drinking Water Catchments	Yes	The proposal will affect land within the Sydney Drinking Water catchment. Council has received preliminary advice from Water NSW regarding the proposal (see Appendix 3 of Attachment PP). While Water NSW raises concern with amendment item 1 (the introduction of ‘ <i>recreation facilities (outdoor)</i> ’ as permitted with consent in the C3 Environmental management Zone), Council has provided subsequent advice (see Appendix 4 of Attachment PP) addressing the concerns raised by Water NSW. For the purposes of the proposal, Council’s justification and assessment (via the return correspondence to Water NSW) is deemed an adequate response to this Direction. Any Gateway determination issued for this proposal will include a condition to refer to Water NSW.
4.1 Flooding	Yes	Amendment items 1, 2, 3, 4, 6 and 7 will broadly affect land within the flood planning area. The amendments sought are not inconsistent with Direction 4.1. Council has prepared a draft revision to the Lithgow Development Control Plan (Attachment DCP) to assist with flood assessment.

Directions	Consistent	Reasons for Consistency or Inconsistency
4.3 Planning for Bushfire Protection	Unresolved	The proposal does not provide an assessment to demonstrate consistency with this Direction. As the proposal affects land mapped as bushfire prone, any Gateway determination issued will include a requirement to consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination and prior to community consultation.
5.1 Integrating Land Use and Transport	Yes	Various amendments will affect zoning or provisions relating to urban land. The proposal is not inconsistent with the aims and requirements of this Direction.
6.1 Residential Zones	Inconsistent, of minor significance	This Direction applies to amendment items 2, 4, 9, 11. Amendments 4 and 11 are consistent with this Direction however aspects of amendment items 2 and 9 are technically inconsistent with Objective 6.1(a), Direction 6.1(1)(a) and (2)(b) as the amendments will affect housing permissibility and reduce housing diversity options. These inconsistencies are considered of minor significance and the amendments sought will better respond to the site characteristics and existing uses of the land. Additionally, the proposed amendments are considered consistent with objective (b) and (c) and 6.1(1)(b) of the Direction.
7.1 Employment Zones	Inconsistent, of minor significance	The proposal is inconsistent with this direction as Amendment items 6 and 8 seek to affect land within an existing or proposed Employment zone that is not identified by a regional or local strategy endorsed by the Planning Secretary. Given the nature of the proposed amendments and that the proposal is not inconsistent with the objectives of Direction 7.1, the proposal's inconsistency with this direction is considered a matter of minor significance.
9.1 Rural Zones	Yes	Amendment items 3, 4, 5, 7, and 13 will affect rural zoned land. The proposal is consistent with this Direction. The planning proposal does not seek to rezone rural land to a residential, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone.
9.2 Rural Lands	Yes	Amendment items 1, 3, 4, 5, 7, and 13 will affect rural and/or conservation zoned land. The proposal aligns with the requirements of Direction 9.2(1)(a) to (i). Direction 9.1(2) does not apply.

3.4 LEP Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan

The planning proposal has adequately addressed the requirements of Practice Note PN 16-001 See Appendix 6 Reclassification Sheets within the Planning Proposal.

3.5 State environmental planning policies (SEPPs)

The proposal is consistent with the aims of following SEPPs:

- SEPP (Exempt and Complying Development Codes) 2008 – The proposal will not inhibit the achievement of the SEPP aims and will clarify the areas where complying development may be considered.
- SEPP (Biodiversity and Conservation) 2021 – Direction 3.3 requires consideration of this SEPP at planning proposal stage. The proposal is considered consistent with the aims of this SEPP. Subsequent assessment will occur at development application stage, as required.

The remaining SEPPs in force are either not triggered for application at planning proposal stage, relate to development assessment stage, or relate to specific application areas outside of the subject land.

4 Site-specific assessment

4.1 Environmental

Based on the nature and outcomes sought by the proposed amendment items, the proposal is considered to generate a positive or neutral environmental impact. The amendments are largely administrative in nature and in particular, amendments items 2, 4, 5, 7, 8, 9 seek a more appropriate zone/outcome based on site characteristics and sensitivities. While Water NSW have provided comments raising concern with amendment item 1, the proposal is considered to adequately address environmental concerns raised at this stage of the planning process and further opportunities to comment will be afforded to Water NSW and other public authorities prior to (and as part of) public exhibition.

4.2 Social and economic

Extending the existing clause for minimum subdivision lot size for strata plan schemes to Zone R5 Large Lot Residential and Zone RU5 Village (Amendment 2) seeks to prevent the cumulative fragmentation of land in these zones and is considered a positive outcome. The reclassification of community land (Amendment 6), the rezoning of RE1 zoned land (amendment item 8), and the rezoning of residential zoned land (amendment item 9) are not considered to pose a negative social or economic impact to the community, LGA or region. Amendment items 1, 3, 11 and 13 are considered to present a positive social and economic opportunity.

4.3 Infrastructure

The proposal poses minimal impact with respect to infrastructure provision and is adequately addressed by the commentary provided within the planning proposal. The proposal does not seek an unreasonable intensification of infrastructure requirements within Council's servicing catchment.

5 Consultation

5.1 Community

The planning proposal is categorised as principal under the LEP Making Guidelines (August 2023).

It is noted that for a planning proposal involving the reclassification of public land, the LEP Practice Note PN 16-001 requires at least 28 days for public exhibition, and that the *Local Government Act*

1993 requires a public hearing to be held. Accordingly, a community consultation period of 20 working days is recommended and forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service (regarding satisfaction of Direction 4.3 Planning for Bushfire Protection).
- Water NSW (regarding the proposed inclusion of 'recreation facilities (outdoor)' in Zone C3 Environmental Management).
- National Parks and Wildlife Service Division of the NSW Department of Climate Change, Energy, the Environment and Water (regarding the proposed rezoning of land that has been notified in the NSW Government Gazette for reservation as a national park or nature reserve).
- Heritage NSW (regarding the proposed amendments to the heritage schedule and mapping).

6 Timeframe

Council proposes a nine month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as principal.

The Department recommends an LEP completion date of 1 July 2026 in line with its commitment to reducing processing times and adhere to benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

The Department recommends that Council not be authorised to be the local plan-making authority for this proposal given Council's interest in the public land proposed to be reclassified from community land to operational land.

8 Assessment summary

The planning proposal is supported to proceed subject to conditions as it will:

- Improve the accuracy and operation of Lithgow LEP 2014 by removing administrative anomalies and errors.
- Seek to better respond to site characteristics and sensitivities for certain land and better utilise Council owned land and infrastructure.
- Tailor housing opportunity to better respond to infrastructure capacity and zone character.
- Support the economic development and value adding opportunities for certain businesses in areas of the Lithgow LGA in keeping with the recent incentives of the Agritourism reforms.
- Better protect and manage new development in areas that could be at risk during floods.
- Improve the conservation of items of heritage significance.

The planning proposal is generally consistent with the relevant provisions of the Region Plan, relevant SEPPs, Council's Local Strategic Planning Statement and local strategies. The proposal poses neutral or positive environmental and social impact.

Based on the assessment outlined in this report, it is recommended the planning proposal is updated prior to the commencement of agency and/or community consultation to address the matters identified in Table 7 below:

Table 7 Updates required prior to public authority consultation / public exhibition

Amendment item	Correction/amendment
6 – Reclassification of land	Clarify whether a change or extinguishment of any interests is sought, including removal of any public reserve status, which will require the Governor's approval. Mapping may be required to support the reclassification of part of lots 2/DP1077295 and 45/DP1096536. The Department's GIS team will determine if this mapping is required.
7 – Amending zoning of various National Park estate	Table commencing on Page 14 to be updated to refer to all land consistent with the schedule listing in the NSW Government Gazette, including, lot, section, plan number and other descriptions or equivalent legal description if there has been a change since notification. Each line item is to be separately mapped with a figure number for reference.
8 – Rezone Lithgow City Council Works Depot at Wallerawang	Propose a more appropriate zone to Lot 1 DP 390626, being Zone E4 General Industrial or SP2 Infrastructure.
9 – Lithgow Cemetery land	Page 17 of the proposal lists the incorrect zone (E4) – this is to be corrected to reflect the intent to rezone to C4 Environmental Living.
10 – Rezoning of Crown and Bathurst Aboriginal Land Council land in Portland	Remove all references to this proposed amendment and any associated mapping.
Mapping Pages 35 to 72	All figures are to be updated to: - label existing and proposed maps - include reference to applicable map tiles, for e.g. LSZ_001, LZN_001 etc - include figure numbers Map changes not mentioned in Part 2 – Explanation of Provisions are to be removed, or Part 2 of the planning proposal is to be updated accordingly, for e.g. rezone change to part Lot 121 DP 1155980 on page 46.

Page 72 incorrectly refers to “the Cullen Bullen 2ha MLS area” in the text adjacent to two Minimum Lot Size Maps – this is to be corrected to “the Cullen Bullen 4,000m² MLS area”.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions *6.1 Residential Zones* and *7.1 Employment Zones* are of minor significance.
- Note that the consistency with section 9.1 Direction *4.3 Planning for Bushfire Protection* is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to:
 - Clarify whether a change or extinguishment of any interests is sought, including the removal of any public reserve status, for all public land proposed to be reclassified from community land to operational land.
 - Refer to all land added to the National Park estate consistent with the schedule listing in the NSW Government Gazette, including full legal description and provide corresponding mapping with figure references.
 - Propose a more appropriate zone for the Lithgow City Council Works Depot at Wallerawang, being Zone E4 General Industrial or SP2 Infrastructure.
 - Ensure all zones are correctly referenced, in particular, the renaming of E Zones to C Zones.
 - Remove all references to proposed Amendment No. 10 ‘Rezoning of Crown and Bathurst Aboriginal Land Council land in Portland’ and any associated mapping.
 - Ensure all mapping includes labels, map title references and figure numbers.
2. The updated planning proposal shall be submitted for review and approval, prior to the commencement of agency and/or community consultation.
3. Prior to public exhibition, consultation is required with the following public authority:
 - NSW Rural Fire Service (regarding satisfaction of Direction 4.3 Planning for Bushfire Protection).
4. Consultation is required with the following public authorities:
 - Water NSW (regarding the proposed inclusion of ‘recreation facilities (outdoor)’ in Zone C3 Environmental Management).
 - National Parks and Wildlife Service Division of the NSW Department of Climate Change, Energy, the Environment and Water (regarding the proposed rezoning of land that has been notified in the NSW Government Gazette for reservation as a national park or nature reserve).
 - Heritage NSW (regarding the proposed amendments to the heritage schedule and mapping).

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 20 working days to comment.

5. The planning proposal should be made available for community consultation for a minimum of 20 working days.

6. It is recommended that Council not be authorised to be the local plan-making authority given Council's interest in the public land proposed for reclassification, and the need for the Department to coordinate Governor's approval.
7. The recommended completion date for the LEP is on or before 1 June 2026



20 June 2025

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25/7/2025

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