

COUNCIL ASSESSMENT REPORT

WESTERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSWES-168 – DA227/22
PROPOSAL	Staged subdivision of 1 lot into 46 residential lots and 1 lot public reserve, civil works and associated infrastructure.
ADDRESS	<ul style="list-style-type: none"> Lot 1 DP1268778 – 10 Col Drewe Drive Bowenfels NSW 2790 (Development Allotment) Lot 2 DP1049398 – Great Western Highway Bowenfels (Civil Works) Lot 2 DP1082148 – Col Drewe Drive Bowenfels NSW 2790 (Civil Works)
APPLICANT	Lithgow City Council
OWNER	Lithgow City Council (Lot 1 DP1268778) Bernadette Seckold (Lot 2 DP1049398) John and Heather Baxter (Lot 2 DP1082148)
DA LODGEMENT DATE	09 December 2022
APPLICATION TYPE	Integrated Development – NSW Rural Fire Service
REGIONALLY SIGNIFICANT CRITERIA	Clause 2.19 & Schedule 6 of State Environmental Planning Policy (Planning System) 2021 – Council-related development over \$5 million.
CIV	\$6,754, 345 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	<ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021, State Environmental Planning Policy (Biodiversity & Conservation) 2021, State Environmental Planning Policy (Resilience & Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Lithgow Local Environmental Plan 2014.
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	<p>The development was publicly notified in accordance with the Lithgow Community Participation Plan 2020 (CPP) and the provisions of Environmental Planning and Assessment Regulations 2021 (EP&A Regulation). The notification period was for a minimum of 28 days duration from 14 December 2022 to 18 January 2023.</p> <p>No submissions were received.</p>
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Attachment A: Draft Conditions of Consent</p> <p>Attachment B: Assessment Report</p> <p>Attachment C: Subdivision and Engineering Plans</p>

	Attachment D: Concept Master Plan Attachment E: Landscape Plan 1 Attachment F: Landscape Plan 2 Attachment G: Landscape Plan 3 Attachment H: Biodiversity Development Assessment Report Attachment I: Bushfire Assessment Attachment J: Preliminary Contamination Report Attachment K: Heritage Impact Statement & Additional Supporting Information Attachment L: Statement of Environmental Effects
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	The site is not located in an area that Special Infrastructure Contributions (SIC) apply.
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE-CENTRAL WEST REGIONAL PLANNING PANEL	30 January 2024
PREPARED BY	Ian Clark Senior Environmental Assessment Officer - NSW Department of Planning and Environment - (Regional Housing Flying Squad)
DATE OF REPORT	22 January 2024

EXECUTIVE SUMMARY

Lithgow City Council (the Applicant) has lodged an application under DA227/22 for the 'Subdivision of 1 lot into 46 residential lots and 1 lot public reserve, civil works and associated infrastructure' on Lot 1 DP1268778 10 Col Drew Drive Bowenfels

A small component of the development, two temporary turning heads (parts of Road A and C located on the submitted plans) will occur on Lot 2 DP1049398 and one temporary (until further developments are undertaken) turning head (part of Road B) on Lot 2 DP1082148. Owners' consent in support of the application has been provided.

To the north of the site on Lot 2 DP1049398, a separate development application (DA142/18 – 1 Lot into 134 Residential Lots including open space, drainage reserves, and new roads), has been approved and substantially commended by Council in 2018. Should the current application be approved, Roads A and C will connect into the adjoining subdivision development on Lot 2 DP1049398.

The development is defined as being ‘Regional Development’ as per Chapter 2 Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 (PS SEPP) – Council-related development over \$5 million. As such, The Central West Regional Planning Panel (the Panel) is the consent authority for the application.

Two briefing meetings were held with the Panel, (online) on Tuesday 21 February 2023 and Wednesday 22 March 2023. The key issues discussed have been resolved through additional information submitted by the applicant and conditions on the consent. Further detail in this regard is discussed within this report.

A significant delay in reporting the development application to the Panel was due to several key issues that was required to be resolved. The main issue was the requirement for a Biodiversity Development Assessment Report (BDAR). This assessment report has since been submitted and assessed later in this report.

The main planning instruments, approvals and guidelines that are relevant to the proposal include:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021,
- State Environmental Planning Policy (Planning Systems) 2021,
- State Environmental Planning Policy (Resilience & Hazards) 2021,
- State Environmental Planning Policy (Transport and Infrastructure) 2021,
- Lithgow Local Environmental Plan 2014 (LLEP2014) and
- The Lithgow Development Control Plan 2021.

Several pre-conditions/jurisdictional prerequisites are required to be satisfied before the granting of consent. These are listed in the following table and are considered to have been satisfactorily addressed by the documentation submitted.

State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p>Chapter 2 Vegetation in non-rural areas</p> <ul style="list-style-type: none"> • Clause 2.6 - Clearing that requires a permit or approval states: <i>(1) a person must not clear vegetation in any non-rural area of the State without the authority confirmed by a permit granted by the council.</i> <p>Chapter 4: Koala Habitat Protection 2021</p> <ul style="list-style-type: none"> • Clause 4.9(2) - whether the development is likely to have any impact on koalas or koala habitat.
State Environmental Planning Policy (Resilience & Hazards) 2021	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> • Clause 4.6 - Contamination and remediation to be considered in determining development applications
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> • Clause 2.48(2) - (Determination of development applications - other development) – electricity transmission
Lithgow Local Environmental Plan 2012 (LLEP2014)	<ul style="list-style-type: none"> • Clause 2.3 – Zone Objectives and Land Use Table • Clause 4.1 – Minimum subdivision lot size • Clause 5.2 – Reclassification of Public Land • Clause 5.3 – Development near zone boundaries • Clause 5.10 – Heritage Conservation, Consideration of Aboriginal and non-aboriginal heritage

	<ul style="list-style-type: none"> • Clause 7.1 – Consideration of earthworks • Clause 7.3 – Stormwater management • Clause 7.4 – Terrestrial biodiversity • Clause 7.5 – Groundwater vulnerability • Clause 7.7 – Sensitive lands • Clause 7.10 Essential services
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The proposed development is characterised and defined as a '*Subdivision*' and is permissible with consent in the relevant land zones (R1) – General Residential and (E3) – Environmental Management under LLEP2014.

The application was referred to Endeavour Energy in accordance with CI 2.48 SEPP (Transport and Infrastructure 2021). No concerns or objections were raised by Endeavour Energy. The proposed development is therefore considered satisfactory subject to compliance with their recommended conditions of consent.

There are no legislative referral triggers for the development to be referred to Transport for NSW (TfNSW). However, Council referred the development application seeking advice from TfNSW as the subdivision of this land, recently approved adjoining subdivisions and potential future subdivisions, may have a cumulative impact on the operation of the Great Western Highway and its intersections with James O'Donnell Drive and Col Drewe Drive. TfNSW, as such, does not object to the proposed development subject to a suite of recommended advisory notes.

The application was referred to NSW Department of Planning (Water) in accordance with State Environmental Planning Policy (Biodiversity and Conservation) 2021. No response was received by the Department and as such it is considered that they have no concerns or objections to the application. The proposed development is considered to be satisfactory subject to standard recommended conditions of consent.

Any issues of concern identified during the assessment of the application were identified in a number of Request for Further Information (RFI) letters issued by Council's Development Assessment Department and have been satisfactorily resolved by the Applicant's responses or have been addressed in the recommended conditions of consent.

Key Issues

The 'key issues' arising from the assessment of the proposal included biodiversity, land contamination, civil works, landscaping, urban design and stormwater management, which have all since been satisfactorily addressed.

Details of the key issues associated with the development include:

1. Issues raised in RPP briefing meeting dated 21 February 2023:

- a) *Overall, the proposal lacks contextual information. Further details are required to understand the context of this site regarding the sites association to be developed as residential land. In discussion with Council, it was advised a masterplan for the area was never created when the land was zoned R1 and R2 and in support of previous development applications associated with the site. Further information is required to understand the contextual/strategic background of this site in association with the immediate locality (Bowenfels) and existing/proposed greenfield developments. Previous development consents associated with the site are also to be considered.*

- b) *Uncertainty over zoning of the neighbouring sites – clarification on zoning of the subject site and neighbouring sites are required. In particular, to the north-western, south-western and western side of the site.*
 - c) *The residential subdivision of the adjoining land to the north of the subject site was approved in 2018. More information on the status of this is required. Background and status of consent DA142/18 is required and the association that consent has with this development application i.e. conditions of consent (DA142/18) that are intrinsically linked to this development application.*
 - d) *Details of any strategic plan or master plan for the locality are required. The proposed cul-de-sac at Circuit A appears unnecessary. Provide details and justification of the requirement of Circuit A and further details within a Landscape Plan. Unnecessary hardstand is also not supported.*
 - e) *Landscape and Vegetation Plan is pending. The proposal will require a comprehensive landscape plan incorporating bushfire requirements and street planting details. In addition, open spaces and public verges must be detailed indicating hardstand areas and treatment (colours).*
 - f) *An 'Aboriginal Cultural Heritage assessment is required'. An Aboriginal Impact Assessment and contact with the Local Aboriginal Land Council is required.*
 - g) *Biodiversity/Ecological Impact Assessment report is required to identify if any threatened species will be impacted by the proposal. Please note the reference to requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021 and Lithgow City Council Development Control Plan 2021 – Chapter 3: Natural Environment and Hazards – 3.3 Vegetation Management and Biodiversity.*
 - h) *Justification for subdivision pattern required, together with any details supporting the demand for the proposed lots. The lots proposed include a range suitable for single dwellings, dual occupancies and multi-dwelling housing. Further information shall be submitted detailing why demand is foreseen for this range of residential lot types in this location.*
 - i) *Preliminary/Stage 1 of contamination investigation is required.*
 - j) *Justification for the portion of the land in the south-western corner of the subject land – required for infrastructure or buffer for the larger lots? In addition, is owners consent submitted to utilise part of these neighbouring lots.*
 - k) *Carparking study - hospital car parking area interacts with residential lots is required. Consideration of car parking impacts on the site in association with the hospital car park is to be addressed.*
 - l) *Information required in the site plan and SEE addressing topography, water flow from the site, etc. – Further information is required regarding the site's topography and details supporting each lot as viable, taking into consideration existing/proposed topography. It is to be noted significant retaining walls will not be supported.*
2. *Landscaping and vegetation management – Landscaping across the development site and vegetation management for the C3 Environmental Management zoned portion of the site.*

3. *Interaction with other subdivisions- The interaction of this development and DA142/18 to the north of the site requires a more comprehensive response.*

Response to the above key issues is within Part 5 of this report.

There were no submissions received during the public notification period between 14 December 2022 and 18 January 2023.

Following assessment of the matters for consideration under Section 4.15(1) of the EP&A Act 1979 and the provisions of the relevant State Environmental Planning Policies, the proposal is considered to be generally consistent with all applicable environmental planning instruments and regulatory provisions and to be in the Public Interest. Therefore, the development is supported subject to conditions on the consent.

Pursuant to Section 4.16(1)(a) of the EP&A Act, DA 227/22 is recommended for approval subject to the conditions of consent contained in **Attachment A** of this report.

THE SITE AND LOCALITY

1.1 The Site

The subject property is Lot 1 in DP 1268778, 10 Col Drewe Drive, Bowenfels, owned by Lithgow City Council. The development includes temporary turning areas on adjacent lots as part of the development of Lot 2 DP1049398 – Great Western Highway Bowenfels and Lot 2 DP1082148 – Col Drew Drive Bowenfels (refer to **Figure 1**).



Figure 1: Aerial Image of the development site (shaded green), 2023

The site has an existing frontage to Col Drewe Drive (south-west). The highest point on site is 967.79m Australian Height Datum (AHD) in the west of the site and the lowest point is 941m in the north-eastern corner of the site.

The site currently is utilised as grazing land and contains minimal vegetation.

The site is not known to be flood-affected under the Lithgow Council's Flood Prone Maps though is identified to be bushfire-prone. The site contains no heritage items or in a heritage conservation area, however, is located near a heritage item (Local Item known as 'Sweet Briar'), including those of Aboriginal significance, as confirmed through a 200m wide Aboriginal Heritage Information Management System (AHIMS) search, that was undertaken on 1 September 2023.

The site is further not burdened by any easements.

Currently, road works have commenced along proposed Road A as this has already been gazetted as a road that is yet to be formed. The works were/are undertaken under Part 5 *Infrastructure and environmental impact assessment, Environmental Planning and Assessment Act 1979*.

The site was inspected on 26 July 2023 by the assessment officer (NSW Department of Planning and Environment - Regional Housing Flying Squad). Photos from the site inspection are included below (refer to **Figures 2-4**).



Figure 2: Internal site view toward the southwest; dated 26 July 2023.



Figure 3: *Internal site view toward seniors housing located at the rear of Lithgow District Hospital; dated 26 July 2023.*



Figure 4: *'Three Tree Hill' located within the E3 zone land, western portion of the site; dated 26 July 2023.*

1.2 The Locality

The site is located within the Bowenfels suburb which is 3km south-west of the Lithgow CBD.

The area is adjacent to Lithgow Hospital with many new residential subdivisions located within close proximity.

The area surrounding Bowenfels is characterised by a variety of land uses including; nature reserves, rural residential development, cattle and sheep grazing and recreation uses. The Great Western Highway is the main arterial road for the suburb.

2. THE DEVELOPMENT AND BACKGROUND

2.1 The Development

The Applicant is seeking development consent for the subdivision of one (1) lot into forty six (46) Torrens Title Lots and one (1) residue lot being designated as a public reserve. The development includes bulk earthworks and associated civil works for new roads, stormwater drainage, retaining walls and essential services.

The development is proposed to be undertaken into two stages.

The proposed subdivision allotment sizes are detailed below:

Table 1: Development Data

Control	Proposal
Site area	70,445m ²
Residential Lots	47 Torrens Title Lots
Proposed Lot	Allotment Size
Lot 1	482m ²
Lot 2	415.7m ²
Lot 3	405.5m ²
Lot 4	420m ²
Lot 5	442.8m ²
Lot 6	500.6m ²
Lot 7	504m ²
Lot 8	468m ²
Lot 9	468m ²
Lot 10	702m ²
Lot 11	702m ²
Lot 12	468m ²

Lot 13	468m ²
Lot 14	468m ²
Lot 15	493.9m ²
Lot 16	511.7m ²
Lot 17	572.7m ²
Lot 18	562m ²
Lot 19	473.4m ²
Lot 20	451.2m ²
Lot 21	694.7m ²
Lot 22	587.4m ²
Lot 23	542.1m ²
Lot 24	554.4m ²
Lot 25	1,249.1m ²
Lot 26	547.5m ²
Lot 27	547.5m ²
Lot 28	547.5m ²
Lot 29	547.5m ²
Lot 30	1,447m ²
Lot 31	912.2m ²
Lot 32	1,488.4m ²
Lot 33	640m ²
Lot 34	640m ²
Lot 35	644.7m ²
Lot 36	2,124.1m ²
Lot 37	600.3m ²
Lot 38	600.4m ²
Lot 39	644.5m ²
Lot 40	495.9m ²
Lot 41	420m ²
Lot 42	420m ²
Lot 43	405m ²
Lot 44	804.5m ²

Lot 45	508.7m ²
Lot 46	450.5m ²
Residue Lot 47	20,307.4m ² or 2.03ha

The proposed subdivision layout and staging is shown in the Figure below:

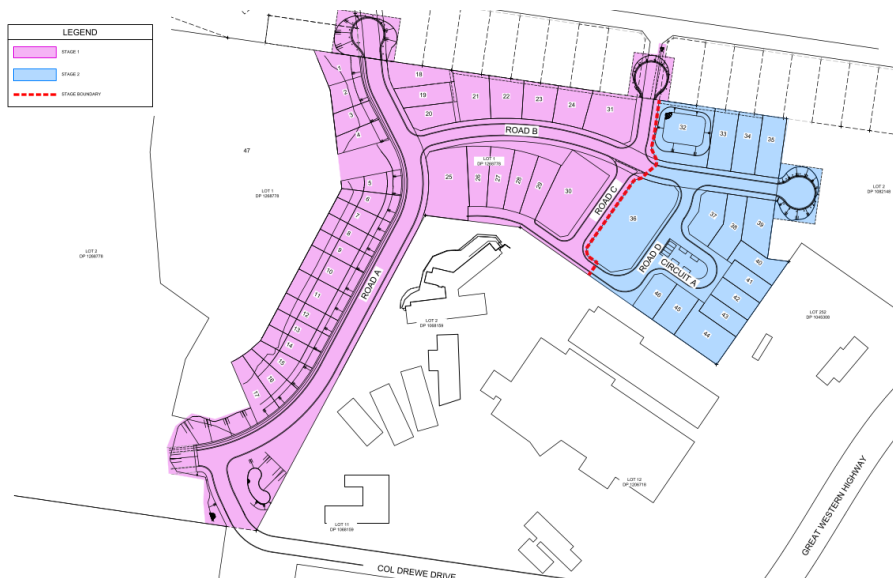


Figure 5: Indicates the lot layout and extent of the Stages 1 to 2 for the development.

Commented [IC1]: Update from amended plans

All required services for the development can be provided via an extension to the existing utility infrastructure, as detailed below:

Water: The site will be connected to the existing potable water main located within Col Drewe Drive and a water main system that would be extended along the proposed road network. The site will be serviced from the reservoir located off Hill Range Crescent (being within the vicinity). The reservoir has a ground level of approximately RL 972m AHD, more than 10m higher than the highest point within the proposed allotment.

Sewer: The site falls into two catchments for sewer services. Proposed Lots 1-17 are located within the western catchment. These lots will be serviced by a reticulated sewer system that drains to the south of the existing sewer pumping station located within the University of Notre Dame (Hospital site).

Lots 18 - 46 are located within the eastern/northern catchment. These lots will be serviced by a reticulated sewer system that drains to a sewer lead-out that extends from the proposed sewer pumping station to the north and through the adjoining property of Lot 2 DP1049398.

Electricity: The site will be serviced by the electrical extension from the Great Western Highway, along Col Drewe Drive to the site. This will be connected to a substation within the

subdivision and electrical services distributed throughout the road network to service the proposed lots.

Gas: Gas services are available in the locality. The proposed subdivision will be serviced by the extension of the existing gas mains within Col Drewe Drive to the site and throughout the proposed road network.

Telecommunications: Telecommunications services are available in the locality. The proposed subdivision will be serviced by the extension of the existing NBN network within Col Drewe Drive to the site and throughout the proposed road network.

2.2 Background

A pre-lodgement meeting was held before the lodgement of the applicant on 08 November 2022 where various issues were discussed. A summary of the key issues is outlined below:

- Stormwater drainage addressing staging of the approved DA142/18 to the north,
- Servicing Design,
- Temporary turning circles,
- Nearby local heritage item, and
- Council Engineering standards

The development application was lodged on **9 December 2022**. A chronology of the development application, since lodgement, is outlined below including the Panel's involvement (briefings, referrals, etc):

Table 2: Chronology of the DA

Date	Event and Details
9 December 2022	DA lodged.
14 December 2022	Exhibition of the application.
13 December 2022	DA referred to external agencies.
21 February 2023	Panel briefing meeting.
7 March 2023	Request for Information from Council's Development Assessment Department to the Applicant: <ul style="list-style-type: none">▪ Response to Western Regional Planning Panels Briefing.▪ Detail Survey Plan.▪ Detail of zone boundary locations in association with proposed lots.▪ CPTED report or comment.▪ Preliminary Site Investigation Report (Contamination).▪ Heritage impact considerations.▪ Asset Protection Zone reconsiderations.▪ Detailed Development Control Plan consideration.▪ Further detail regarding Road C – Turning head requirements.▪ Consideration of Koala Habitat and Koala Protection.

	<ul style="list-style-type: none"> ▪ Development Engineering matters. Biodiversity Assessment Report.
22 March 2023	Panel briefing meeting.
19 April 2023	Amended Plans lodged by the applicant addressing: <ul style="list-style-type: none"> ▪ Amended Statement of Environmental Effects.
5 June 2023	Amended Plans lodged by the applicant addressing: <ul style="list-style-type: none"> ▪ Amended Site Plan.
14 June 2023	Meeting with the applicant to advise outstanding request for information.
19 June 2023	Reminder Request for Information from Council's Development Assessment Department to Applicant: <ul style="list-style-type: none"> ▪ 07 March 2023 RFI points. Additional points: <ul style="list-style-type: none"> ▪ Flora and Fauna Assessment Report further details. ▪ Landscape Plan. ▪ Civil Plans.
11 July 2023	Reminder Request for Information from Council to Applicant: <ul style="list-style-type: none"> ▪ 07 March and 19 June reminders. Additional points: <ul style="list-style-type: none"> ▪ Further Development engineering details are required. ▪ Voluntary Planning Agreement update required.
4 August 2023	Reminder Request for Information from Council to Applicant: <ul style="list-style-type: none"> ▪ 07 March, 19 June and 11 July reminders. ▪ Further information is required from the submitted PSI.
4 August 2023	Meeting with the applicant to advise on outstanding RFI items.
21 August 2023	Amended Plans lodged by the applicant addressing: <ul style="list-style-type: none"> ▪ Civil Works (Road, Drainage and Staging Plans). ▪ Heritage Impact Statement.
23 August 2023	Amended Plans lodged by the applicant addressing: <ul style="list-style-type: none"> ▪ Landscape Plan.
13 September 2023	Amended Preliminary Site Investigation Report and Survey Plan lodged by the applicant.
1 November 2023	Biodiversity Development Assessment Report (BDAR) lodged by the applicant.
1 December 2023	Request for Information from Council to Applicant (BDAR).
12 December 2023	Amended BDAR lodged by the applicant.
17 January 2024	Amended Plans lodged by the applicant showing amended Civil Engineering Plans to be in conjunction with the BDAR.

2.3 Site History

The site is located within Bowenfels, a suburb which is on the outskirts of Lithgow and comprising approximately 7ha of land currently zoned for urban development. This is further located approximately three and a half kilometres southwest of the Lithgow CBD.

The site has historically been utilised as grazing land, with this use being the only known use to have occurred on the site.

3. STATUTORY CONSIDERATIONS

3.1 Relevant Commonwealth Legislation

Environment Protection and Biodiversity Conservation Act 1999	No referral was necessary under the Environment Protection and Biodiversity Act 1999 (EPBe Act) as the proposal does not constitute a controlled action.
Native Title Act 1993	The subject site is not affected by any native title or Indigenous Land Use agreements under the provisions of the <i>Native Title Act 1993</i> (NT Act) and its associated registers (The National Native Title Register, the Register of Native Title Claims and the Register of Indigenous Land Use Agreements).

3.2 Relevant State (NSW) Legislation

In addition to the Environmental Planning and Assessment Act 1979, the following State (NSW) legislations have been considered. Where relevant, further detailed assessment of the proposed development against the various Acts have been included throughout this report.

Biodiversity Conservation Act 2016 (BCAct)	The development has been considered as part of the requirements against the BCAct. A Biodiversity Development Assessment Report (BDAR) has been submitted and considered within this report. The report is considered satisfactory subject to conditions of consent.
National Park and Wildlife Act 1974 (NP&WAct)	An AHIMS search did not identify any places of Aboriginal significance on the site or associated with the site. The development was referred to the Bathurst Local Aboriginal Land Council (BLALC) for comment on 1 March 2023. A follow-up email was sent on 12 May 2023. No comment was received by BLALC.
Roads Act 1993 (Roads Act)	The development requires road work and construction on Col Drewe Drive to link the new roads.

	<p>Road works are not required on The Great Western Highway.</p> <p>Transport for NSW (TfNSW) has advised, via a referral for comment only, the proposed development to be satisfactory for the site as it would provide connectivity between Col Drewe Drive and James O'Donnell Drive. This is further considered to provide safer vehicular and pedestrian movements.</p>
Contaminated Land Management Act 1997 (CLMAAct)	<p>The land is not identified or known to be a contaminated site.</p> <p>The development has considered contamination with the support of a Preliminary Site Investigation (PSI) submitted as required by the State Environmental Planning Policy (Resilience and Hazards) 2021 and considered satisfactory.</p>
Protection of the Environment Operations Act 1997 (POEOAct)	<p>The proposal does not trigger the requirement for an Environmental Protection Licence under the POEO Act.</p> <p>Notwithstanding, the POEO Act requires proponents to manage and limit the potential to cause water, noise, air pollution and potential waste streams during construction.</p>
Crown Land Management Act 2016 (CLMAAct)	<p>The proposal does not impact any Crown Land.</p>
Water Management Act 2000 (WMAAct)	<p>Water NSW has provided concurrence to the development subject to conditions of consent.</p>
Biosecurity Act 2015 (Biosecurity Act)	<p>Under Section 21 of the Biosecurity Act, any person who deals with any plant, who knows (or ought to know) of any biosecurity risk, must ensure the risk is prevented, eliminated or minimised as is reasonably practicable.</p> <p>The Biosecurity Act and Regulations provide specific legal requirements for high-risk activities and State-level-priority weeds.</p> <p>If present, priority weeds on the site would need to be assessed and controlled to fulfill the General Biosecurity Duty and minimise biosecurity risks. A Vegetation Management Plan will be required to be prepared by the</p>

	applicant that includes provisions for weed removal and management. As such this will be conditioned on the consent.
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3.3 Part 4 Environmental Planning and Assessment Act, 1979

Matters for Consideration – General (Section 4.15)

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are considered below.

Integrated Development (Section 4.46)

The development is identified to be integrated development with regard to Section 4.46 -Rural Fires Act 1997.

The applicant acknowledges that subsequent approvals and permits will, or may, need to be obtained under Acts such as the Protection of the Environment Operations Act 1997, the National Parks and Wildlife Act 1974 and the Water Management Act 2000.

3.4 Environmental Planning Instruments, Proposed Instruments, Development Control Plan, Planning Agreements and Regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulations are considered below.

(a)Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*,
- *State Environmental Planning Policy (Planning Systems) 2021*,
- *State Environmental Planning Policy (Resilience and Hazards) 2021*,
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*,
- *Lithgow Local Environment Plan 2014 (LLEP2014)*,
- *Lithgow Development Control Plan 2021 (LDGP2021)*.

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined and considered in more detail below.

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p><u>Chapter 4: Koala Habitat Protection 2021</u> Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site.</p> <p>There are no native trees on the site and the site is not identified as a koala habitat or emerging habitat.</p> <p>The site is within the Central and Southern Tablelands Koala Management Area. At this stage Lithgow has no Koala Management Plan endorsed.</p> <p><u>Chapter 6: Water Catchments</u> The development site is located within the Sydney Drinking Water Catchment (SDWC). The development was referred to the Water NSW with a satisfactory response received.</p>	Yes
State Environmental Planning Policy (Planning Systems) 2021	<p><u>Chapter 2: State and Regional Development</u> Section 2.19(1) declares the proposal to be regionally significant development under Clause 3 of Schedule 6.</p> <p>Clause 3(d), Schedule 6 of SEPP (Planning Systems) 2021: Council-related development over \$5 million.</p>	Yes
SEPP (Resilience & Hazards)	<p><u>Chapter 4: Remediation of Land</u> Chapter Four of the R&H SEPP applies to the site under Clause 4.4 and aims to promote the remediation of contaminated land to reduce the risk of harm to human health or any other aspect of the environment.</p> <p>Clause 4.6 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.</p>	Yes

	<p>A search of Council's records and aerial photos indicates the site has a history of grazing. A preliminary Site (Contamination) Assessment was prepared by Macquarie Geotech, dated 27 August 2023. The submitted report noted sampling across the site and concluded to contain no detection of contaminants of concern, with particular attention provided to the potential development areas. The submitted report provides the following conclusion:</p> <p><i>'The preliminary desk study and historical investigation has not identified any potentially significant sources of contamination or evidence to show any historical changes regarding the land usage – the preliminary investigation indicates that as long as the findings of this report are implemented then the site may be considered low risk for a proposed end use as a residential development.'</i></p> <p><i>If at any point contaminants are suspected during earthworks associated with the development, then it is important to contact Macquarie Geotechnical to undertake further review and advice.'</i></p> <p>A consultant Environmental Scientist on behalf of Lithgow City Council and the Department of Planning and Environment reviewed the submitted PSI and provided the following comments:</p> <ul style="list-style-type: none"> • <i>'The site appears to have historically been used for agricultural purposes likely to be associated with a former stockyard, piggery and slaughterhouse operating on adjacent land to the south.'</i> • <i>Historical aerial imagery identified agricultural use on the land in the mid-1970s with no significant changes occurring after this time.</i> • <i>The preliminary conceptual site model (CSM) identified potential contamination sources and their contaminants of concern associated with the historical use of the site. Human and ecological receptors in the vicinity of the site were identified and their potential pathways of migration.</i> • <i>A summary of the findings of intrusive sampling and testing undertaken at the site in 2006 was provided in the CSM. The targeted sampling at shallow depths identified all contaminants of concern to be below adopted residential criteria except one elevated sample for lead. However, this sample was outside the current site boundary and additionally, calculation of the 95% Upper Confidence Level (UCLmean) of all the shallow samples collected reported the concentration of lead to be below the adopted land use criteria for lead.</i>
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	<ul style="list-style-type: none"> • An assessment on the preliminary assessment of contamination risk stated the risk of contamination to be low for the proposed residential land use. • The report recommended that if any previously unidentified sources of contamination are identified during development, a suitably qualified environmental consultant is to be engaged. <p>Based on the review it is considered that the preliminary assessment of contamination risk at the site has been adequately addressed and that the report generally meets the requirements of a Preliminary Site Investigation. It is recommended that the implementation of an unexpected finds protocol during development is undertaken.'</p> <p>It is therefore unlikely, due to the site's past use, that the site has experienced any known contamination. It is therefore considered that the site is suitable for the development of residential subdivision and further assessment is not necessary. An unexpected finds protocol standard condition will be included in the conditions of consent.</p>		
State Environmental Planning Policy (Transport and Infrastructure) 2021	<u>Chapter 2: Infrastructure</u> <ul style="list-style-type: none"> • Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal satisfies this section, subject to recommended conditions. 	Yes	
Lithgow Local Environment Plan 2014 (LLEP2014)	<ul style="list-style-type: none"> • Clause 2.3 – Permissibility and zone objectives • Clause 4.1 – Minimum lot size • Clause 5.1 Reclassification of public land • Clause 5.3 – Development near zone boundaries • Clause 5.10 – Heritage conservation • Clause 7.1 – Earthworks • Clause 7.3 – Stormwater management • Clause 7.4 – Terrestrial biodiversity • Clause 7.5 – Groundwater vulnerability • Clause 7.7 - Sensitive lands • Clause 7.10 – Essential services <p>The development is generally consistent with LLEP2014.</p>	Yes	
Lithgow Development Control Plan 2021 (LDCP2021)	<p>Chapter 2 – Site Requirements Chapter 3 – Environment and Hazards Chapter 5 – Subdivision</p> <p>The development is generally consistent with LDCP2021.</p>	Yes	

Further considerations of the relevant SEPPs are outlined in more detail below:

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 4: Koala Habitat Protection 2021

This policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. The SEPP replaces the previous State Environmental Planning Policy No 44 - Koala Habitat Protection.

Chapter 4 applies to all zones other than RU1 (Primary Production), RU2 (Rural Landscape) and RU3 (Forestry) in the Lithgow Local Government Area.

Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site.

Control	Development	Outcome
Clause 4.8 - Does the site have a KPOM?	No	Determination of the development must be consistent with the KPOM. If no, proceed to Clause 4.9.
Clause 4.9 - Does the site have a site area greater than 1.0 Ha or does the site form part of a landholding greater than 1.0 Ha in area?	Yes	Assessment under B&C SEPP required.
Clause 4.9 - Is the development likely to have any impact on koalas or koala habitat. Note: 'koala habitat' means koala habitat however described in a plan of management under this Chapter or a former Koala SEPP and includes core koala habitat.	No	Development satisfactory under B&C SEPP – able to grant consent.

The submitted Biodiversity Assessment report (prepared by KHS Ecology and Bushfire; dated October 2023; revised 8 December 2023) indicated one Koala specie tree '*Eucalyptus dives*' to be located in the north of the site on the neighbouring property, where the temporary turning head is to be located. A Koala survey was completed in August 2023 and Koala scat search in September 2023, with a result indicating that no Koala activities being observed.

Koala activity and habitat are considered highly unlikely and further consideration is not required with regard to the SEPP.

Chapter 6: Water Catchments

Chapter Six – Water Catchments of the B&C SEPP applies to the development pursuant to Clause 6.1, as the development is located within the Sydney Drinking Water Catchment (SDWC).

Part 6.2 of Chapter Six lists several controls that development within a regulated catchment must consider when determining to grant consent. As such, the development was referred to Water NSW. Water NSW provided that the following comments:

'The subject property, which has been inspected by Water NSW, is located within the Warragamba catchment which forms part of Sydney's water supply.'

Water NSW considered the following documents in its assessment of the application:

- *Statement of Environmental Effects prepared by Integrated Design Group Pty Ltd (dated 19/04/2023),*
- *South Bowenfels Development Application Proposed Lot, Road, and Drainage Works and associated MUSIC stormwater quality modelling both prepared by J. Wyndham Prince (dated 02/06/23), and*
- *Preliminary Contamination Report prepared by Macquarie Geotech (dated 25/05/2023).*

It is noted that the subdivision is proposed to be staged as follows:

- *Stage 1: comprising proposed Roads A, B & C, Lots 1 to 17, and a proportion of Lots 18 to 31, and*
- *Stage 2: comprising the eastern part of Roads B, Road D, and Circuit A, and Lots 32 to 46.*

Water NSW notes that the north rain garden is proposed to be constructed in Stage 1 but is also proposed to serve as a sediment basin for Stage 2 construction, which cannot be done concurrently. Therefore, the Soil and Water Management Plan for Stage 2 should be revised.

Furthermore, the run-off from an undeveloped area located on the west of Road A should be separated from the road run-off, with the proposed stormwater management measures not to overload the design capacity. Therefore, the final stormwater management plan should be updated to reflect this matter.'

The above matters are addressed in conditions on the consent.

Based on the site inspection and the information provided, Water NSW considers that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.

Water NSW concurs with Council granting consent to the application subject to conditions.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is defined as a '*regionally significant development*' pursuant to Section 2.19(1) as it satisfies the criteria in Clause 3 of Schedule 6 of the Planning Systems SEPP, that being the proposed development capital investment value of more than \$5 million and Council being owner/applicant of the site. Accordingly, the Western Regional Panel is the consent authority for the application. The proposal is therefore consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of the *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. To consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

An amended PSI received from the applicant (dated 27 August 2023, prepared by Macquarie Geotech) was reviewed by a consultant (Senior Environmental Scientist) on behalf of Council.

The PSI review by the consultant included the following comments:

A summary of the review is as follows:

- *'The site appears to have historically been used for agricultural purposes likely to be associated with a former stockyard, piggery and slaughterhouse operating on adjacent land to the south.'*
- *'Historical aerial imagery identified agricultural use on the land in the mid-1970s with no significant changes occurring after this time.'*
- *'The preliminary conceptual site model (CSM) identified potential contamination sources and their contaminants of concern associated with the historical use of the site. Human and ecological receptors in the vicinity of the site were identified and their potential pathways of migration.'*
- *'A summary of the findings of intrusive sampling and testing undertaken at the site in 2006 was provided in the CSM. The targeted sampling at shallow depths identified all contaminants of concern to be below adopted residential criteria except one elevated sample for lead. However, this sample was outside the current site boundary and additionally, calculation of the 95% Upper Confidence Level (UCLmean) of all the shallow samples collected reported the concentration of lead to be below the adopted land use criteria for lead.'*
- *'An assessment on the preliminary assessment of contamination risk stated the risk of contamination to be low for the proposed residential land use. The report recommended that if any previously unidentified sources of contamination are identified during development, a suitably qualified environmental consultant is to be engaged.'*

The report concluded that the preliminary desk study and historical investigation have not identified any potentially significant sources of contamination or evidence to show any historical changes regarding land usage. The preliminary investigation further indicated that as long as the findings of this report are implemented then the site may be considered low risk for the proposed end use as a residential development.

Based on the review, it is considered that the preliminary assessment of contamination risk at the site has been adequately addressed and that the report generally meets the requirements of a Preliminary Site Investigation. It is recommended that the implementation of an unexpected finds protocol during development is undertaken.

It is therefore considered that the site is suitable for the development being for a residential subdivision and further assessment is not necessary. An unexpected finds protocol standard condition will be included in the conditions of consent.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter Two: Infrastructure

Chapter Two - State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP) applies to the development pursuant to Clause 2.2 and aims to facilitate the effective delivery of infrastructure across the State.

Clause 2.48 of the T&I SEPP requires certain developments to be referred to the relevant electricity supply authority and any response is to be considered as part of the assessment.

The development involves works near high-voltage underground cables adjacent to the common boundary of the Lithgow Community Private Hospital and the installation of an underground power supply for the residential subdivision. The development has been referred to Endeavour Energy for comment under Clause 2.48(2)(a) of the SEPP. This requires a referral for any of the following:

- Ground penetration within 2.0m of an underground electricity power line or electricity distribution pole, or within 10m of any electricity tower.
- Development within or immediately adjacent to an easement for electricity purposes.
- Immediately adjacent to an electricity substation.
- Within 5.0m of exposed overhead electricity power line.
- Installation of a swimming pool within 30m of a structure supporting overhead electricity transmission line or within 5.0m of an overhead electricity power line.
- Development involving or requiring the placement of power lines underground.

The response received from Endeavour Energy under Clause 2.48(2)(b) has indicated that the development is acceptable with recommended conditions to be included in the development consent.

Lithgow Local Environmental Plan 2014

The relevant local environmental plan applying to the site is the *Lithgow Local Environmental Plan 2014* ('the LEP'). The aims of the LEP include:

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

(a) to encourage sustainable and planned development that complements the unique character and amenity of Lithgow and enhances its towns, villages and rural areas,

(b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Lithgow in a way that allows the needs of present and future generations to be met by implementing the principles of ecologically sustainable development,

(c) to manage, facilitate and encourage sustainable growth and development that—

(i) promotes the efficient and effective delivery of utilities, infrastructure and service and minimises long-term costs to government, authorities and the community, and

(ii) protects, enhances and conserves mineral and extractive resources lands, forests and agricultural lands and the contributions they make to the local, regional and State economy, and

(iii) allows for the orderly growth of land uses while minimising conflict between land uses in a zone and land uses in adjoining zones, and

(iv) encourages a range of housing choices in planned urban and rural locations to meet population growth and the diverse needs of the community, and

(v) preserves and protects land that has been identified for future long-term urban development from inappropriate fragmentation and development, and

(vi) protects and enhances environmentally sensitive areas, ecological systems, areas of high scenic, recreational, landscape or conservation value and areas that have the potential to contribute to improved environmental outcomes, and

(vii) protects and enhances places and items of environmental, archaeological, cultural or heritage significance, including Aboriginal relics and places, and

(viii) avoids or minimises the impact of development on drinking and environmental water catchments to protect and enhance water availability and safety for human consumption and the maintenance of environmental and recreational values, and

(ix) strengthens and promotes employment land opportunities and appropriate tourism development and growth, and

(x) creates resilience to natural hazards through local land use planning.

The proposal is consistent with these aims as the proposal will contribute to the economic well-being of the community, in a socially and environmentally responsible manner and strengthen the position of Lithgow by encouraging employment and economic growth.

Zoning and Permissibility

The proposal is located within the following land use zones under Clause 2.3 of the Lithgow Local Environmental Plan 2014 (LLEP2014).

- C3 – Environmental Management; and
- R1 – General Residential

Figure 6 below shows the LLEP2014 zoning map of the property:

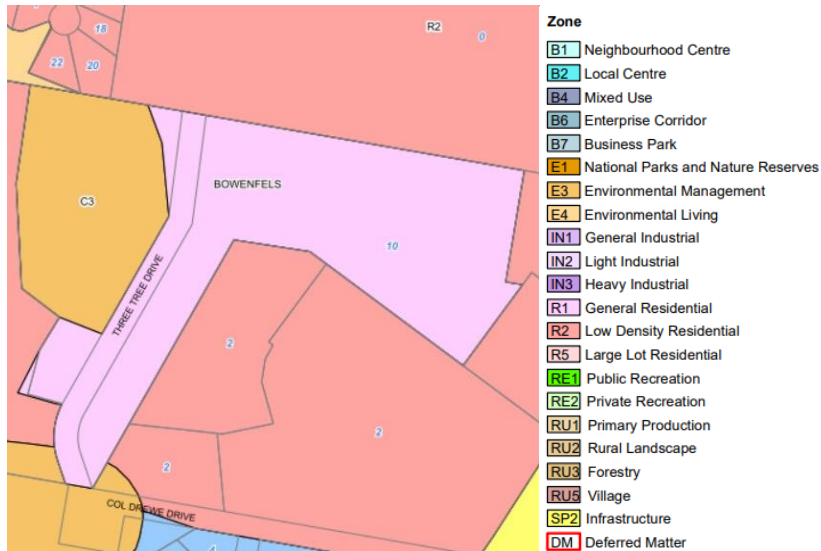


Figure 6: Zoning map and key (LLEP2014)

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

Zone	Objectives of zone
C3 – Environmental Management	<ul style="list-style-type: none"> To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. To provide for a limited range of development that does not have an adverse effect on those values. To facilitate the management of environmentally sensitive lands and riparian areas. To protect and conserve the vegetation and escarpment landscape surrounding Lithgow. To maintain or improve the water quality of receiving water catchments.
R1 – General Residential	<ul style="list-style-type: none"> To provide for the housing needs of the community. To provide for a variety of housing types and densities. To enable other land uses that provide facilities or services to meet the day-to-day needs of residents. To maintain or improve the water quality of receiving water catchments. The C3 Conservation management area will remain undeveloped and is considered to have the potential to provide for an area of environmental conservation into the future.

The development is considered to be consistent with the zone objectives as:

- The development is for subdivision for residential purposes on residential land.


- The subdivision layout has the potential to allow for a variety of housing types and densities.
- The development includes a water detention basin to ensure improvements for water quality on receiving catchments.
- The development is supported by a Biodiversity Development Assessment Report (BDAR) and has been considered to mitigate ecological impacts. Cultural and aesthetic values will also be preserved.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP 2014 contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered below.

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	<i>R1 General residential - 400²m</i>	The development includes a range of lots from 405.5m ² (Lot 3) to 2,124.1m ² (Lot 36).	Yes
Land acquisition (CI 5.1)	<i>Development consent must not be granted to any development on land to which this clause applies if the land is identified land identified as acquisition.</i>	The proposal does not involve any land reserved for acquisition	Yes
Heritage (CI 5.10)	<i>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.</i>	No items of State or Local heritage significance are located on the development site. The adjacent site (Lot 2 DP1082148) contains a Local Heritage Item I066 – ‘Sweet Briars’. Refer to a detailed assessment, further in this report, relating to the heritage values under the DCP considerations of Chapter 4 – Heritage. Assessment has also taken into consideration the submitted Heritage Impact Statement (HIS) prepared by Integrated Design Group; dated 8 December 2022.	Yes
Earthworks (CI 7.1)	<i>In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</i>	The development will include earthworks for services and road construction. These earthworks will result in a change to the drainage pattern of the area. The road network and stormwater infrastructure proposed have been	Yes

	<p>a) <i>the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i></p> <p>b) <i>the effect of the development on the likely future use or redevelopment of the land,</i></p> <p>c) <i>the quality of the fill or the soil to be excavated, or both,</i></p> <p>d) <i>the effect of the development on the existing and likely amenity of adjoining properties,</i></p> <p>e) <i>the source of any fill material and the destination of any excavated material,</i></p> <p>f) <i>the likelihood of disturbing relics,</i></p> <p>g) <i>the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</i></p> <p>h) <i>any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,</i></p> <p>i) <i>the proximity to, and potential for adverse impacts on, any heritage item, archaeological site or heritage conservation area.</i></p>	<p>designed to allow for the diversion of stormwater to be captured within bio-retention basin systems (x2 basins) and treated before being naturally dispersed.</p> <p>Conditions of consent have been imposed to ensure dust, noise and erosion impacts are minimised during works and in perpetuity as a result of the earthworks.</p> <p>The development has been assessed by appropriate authorities for potential impacts from earthworks on water courses and found to be satisfactory subject to conditions of consent, should the application be approved. It is unlikely that the development will disturb the nearby heritage item on the adjacent site (refer to heritage comments later in this report).</p> <p>Details of earthworks have been provided within Plan No. 110698-03-CD010 - Revision G, dated 16 August 2023. As such, the development will comply with the requirements of the earthwork provisions.</p>	
Stormwater Management (CI 7.3)	<p><i>In deciding whether to grant development consent for stormwater management, the consent authority must consider the following matters—</i></p> <p>a) <i>is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics</i></p>	<p>The proposal has been designed to maximise water permeable surfaces with minimal road networks and stormwater infrastructure.</p> <p>The development will have minimal runoff to adjoining properties as it will be retained onsite and dispersed adequately into adjoining water catchments. The</p>	Yes

	<p><i>affecting on-site infiltration of water, and</i></p> <p><i>b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</i></p> <p><i>c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.</i></p>	<p>development has been assessed by appropriate authorities with no objection to the stormwater management proposals subject to conditions of consent being imposed, if approved.</p>	
<p>Terrestrial biodiversity (CI 7.4)</p>	<p><i>Considerations:</i></p> <p><i>a) whether the development is likely to have –</i></p> <p><i>i. any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</i></p> <p><i>ii. any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</i></p> <p><i>iii. any adverse impact on the habitat elements providing connectivity on the land, and</i></p> <p><i>b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p>	<p>The development site is within the terrestrial biodiversity mapped area. Specifically, the biodiversity is mapped to be located within a small northern portion of the site. Refer to the biodiversity map below:</p>  <p>A Biodiversity Development Assessment Report (BDAR) was submitted and considered the adverse impacts on biodiversity associated with and adjacent to the site. As such, it was concluded that the development will require biodiversity offsetting associated with the impacts.</p> <p>A Consultant Ecologist considered the submitted BDAR as being satisfactory for the development</p>	<p>Yes</p>

	<p>(a) any land with slopes greater than 25%,</p> <p>(b) any land subject to high erosion potential,</p> <p>(c) any land subject to salinity or impeded drainage,</p> <p>(d) any land subject to regular or permanent inundation,</p> <p>(e) any significant karst environment (including ecological, air quality and movement, water quality, biodiversity, geodiversity (geomorphical and geological), heritage, recreational and sociological values).</p>	<p>Details of earthworks have been provided within Plan No. 110698-03-CD010 - Revision G; dated 16 August 2023. The development, as such, will comply with the requirements of the earthwork provisions.</p> <p>In addition, landscaping is to be included with a condition of consent including the requirement for a vegetation management plan to be submitted as part of the subdivision works certificate requirement.</p>	
Essential Services (CI 7.10)	<p><i>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</i></p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) suitable vehicular access.</p>	<p>The development will provide reticulated water, underground electricity, sewerage management/disposal, stormwater drainage (including detention basins) and suitable vehicular access through the design and via conditions of consent.</p> <p>The subject site is currently unsewered and will involve connections to nearby services. Essential sewerage provisions therefore are included as conditions of consent.</p> <p>As such, the development will have all essential services as required and complies with CI 7.10.</p>	Yes

The development is assessed to be generally consistent with the LEP based on the above considerations.

b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are several proposed instruments which have been the subject of public consultation under the EP&A Act. Those relevant to the proposal, include the following:

- Draft Remediation of Land SEPP

A proposed Remediation of Land State Environmental Planning Policy ('Remediation of land SEPP'), that was exhibited from 31 January to 13 April 2018, is currently under consideration by the NSW Department of Planning. The proposed Remediation of Land SEPP is intended to repeal and replace the provisions of SEPP 55 (now Chapter 4 of SEPP (Resilience and Hazards) 2021) and Contaminated Land Planning Guidelines. The SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including; outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly list remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

The Remediation of Land SEPP is aimed at improving the assessment and management of land contamination and its associated remediation practices. The proposal is consistent with the draft provisions and is considered to be acceptable subject to conditions of consent having been assessed in detail against the current provisions of SEPP (Resilience and Hazards) 2021.

The proposal therefore is generally consistent with the proposed instrument.

c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

Section 4.15(1)(a)(iii) of the EP&A Act requires Council to consider the provisions of any development control plans.

The development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Lithgow Development Control Plan 2021 (LDGP2021).

Lithgow Development Control Plan 2021

LDGP2021 Clause	Requirement	Assessment Comments	Compliance
Chapter 2 – Site Requirements	<i>Site Analysis demonstrates that the design of the proposed development has responded to an analysis of the site and its relevant context.</i>	The development includes an analysis within the submitted Statement of Environmental Effects for the site and inclusion of a site-specific masterplan. The report and plan provide an adequate context of the development site and immediate area. This is considered to	Yes
2.2 Site Analysis, Local Character and Context			
2.2.2 Site Analysis & Development Response			

		therefore satisfy the DCP requirements.	
2.2.3 Local Character & Context	<i>Character: All applications demonstrate that the proposed development has considered the local existing and desired future character of the area and that the proposed development is consistent with and/or integrates with this character.</i>	<p>The development is for a residential subdivision within the R1 General Residential and C3 Environmental Management Zoning area under the Lithgow LEP 2014. The development proposes to create a variety of allotment sizes for future developments as well as being able to demonstrate that the proposed allotment sizes are similar to the existing surrounding residential subdivisions. As such, this is considered to be a desired outcome as prescribed in the DCP.</p> <p>The development is further consistent with the current and future character of the area.</p>	Yes
2.2.4 Visually Prominent Sites	<i>Development on a visually prominent site, particularly in rural and/or environmental zones or in heritage conservation areas, is sited and designed to minimise visual and environmental impact.</i>	<p>The development site is locally known as 'Three Tree Hill' due to a portion of the site being elevated above the remainder of the site. This section of the site is proposed to remain vacant with no development to occur as the area is zoned C3 Environmental Management under the Lithgow LEP 2014. The area is further visually prominent across the Lithgow township and surrounding locality. As such, the area will be retained with no impact expected from the subdivision. The area has been designated to be used for future parkland and vegetation management.</p>	Yes

		The development therefore is considered to comply with the DCP requirements.	
2.3 Slope Response, Earthworks & Retaining Walls	<p>1) <i>Description: All development that involves any significant earthworks provides a plan and/or description of the location, extent and depth of earthworks that forms part of the application.</i></p> <p>2) <i>LLEP2014: All development that involves any significant earthworks addresses Clause 7.1 - Earthworks of LLEP2014.</i></p> <p>3) <i>Design: Developments on sloping sites are sited, designed and use construction techniques that respond to the topographical (slope) & hydrological (water) features of the site. Alternatives to slab on ground construction should be utilised where, due to gradient and characteristics of the site, such form of construction is inappropriate.</i></p> <p>4) <i>Impact: Depending on the likelihood and significance of impact of any proposed earthworks on the matters raised in the objectives of this Section, Council may require justification for the need for those earthworks AND additional plans/reports/certification to demonstrate that the impacts can be avoided, mitigated or minimised (for examples, see table below).</i></p> <p>5) <i>Drainage: Disturbance to natural drainage patterns</i></p>	The applicant has demonstrated through design plans, how the proposed subdivision complies with the earthwork requirements including the need for potential retaining walls.	Yes
2.3.1 Earthworks		Further details are provided under 'Earthwork' considerations with Clause 7.1 Earthworks -LLEP2014 and below in the DCP table under Chapter 5-Subdivisions.	

	<p>is minimised and addresses Section 2.5 Stormwater Management of this DCP.</p> <p>6) Batters:</p> <p>a) Cut and fill batters do not exceed a slope of 1V:2H (vertical to horizontal) depending on soil classification or Council is satisfied of sufficient site stability by a Geo-technical and/or Structural Report; and</p> <p>b) All batters are to be provided with both short and long-term stabilisation to prevent soil erosion and do not extend onto public or adjoining land without permission.</p>		
2.4 Stormwater Management	<p>1) Application: Development applications (in accordance with Council's DA Guide) may need to provide a Stormwater Drainage (Concept) Plan (SDCP) and/or Soil and Water Management Plan (SWMP) addressing stormwater management on the Site.</p> <p>2) Guidelines: All Stormwater drainage is designed to comply with Council's Engineering Guidelines – Section 3 – Stormwater Drainage.</p> <p>3) Drinking Catchment: Unless there is 'no identifiable potential impact', all development within the Sydney Drinking Water Catchment demonstrates a neutral or beneficial</p>	Stormwater management has been considered under Chapter 5-Subdivisions of the DCP and is found to be satisfactory.	Yes

	<i>effect upon water quality in accordance with the requirements of SEPP (Sydney Water Drinking Catchment) 2011.</i>		
2.5 Vehicle Access and Parking	<p><i>All development is e.g., designed to be consistent with (as amended):</i></p> <ol style="list-style-type: none"> <i>1) Council's Guidelines for Civil Engineering Design and Construction for Development (2012) ('Engineering Guidelines').</i> <i>2) RTA (now Transport for NSW) (2002) Guide to Traffic Generating Developments; and</i> <i>3) Relevant Australian Standards including but not limited to (as amended):</i> <ol style="list-style-type: none"> <i>a) AS2890 – Parking facilities including:</i> <ol style="list-style-type: none"> <i>i. AS2890.1 (2004) – Off-street car parking.</i> <i>ii. AS2890.2 (2018) – Off-street commercial vehicle facilities.</i> <i>iii. AS2890.3 (2015) – Bicycle parking facilities.</i> <i>iv. AS2890.6 (2009) – Off-street parking for people with disabilities</i> <i>b) AS1428 – Design for Access and Mobility.</i> <i>4) Relevant Austroads Guidelines; and</i> 	Vehicle access and parking has been considered under Chapter 5- Subdivisions of the DCP and is found to be satisfactory.	Yes

	5) Relevant Council Policies.		
2.7 Designing for Crime Prevention	<p><i>Crime Risk Assessment Objective 1</i> <i>To ensure that new larger developments and subdivisions (see table below), and/or significant alterations and additions to existing larger developments (see table below) has:</i></p> <p><i>a) Considered how it may improve safety and reduce the facilitation of criminal activity.</i></p> <p><i>b) Demonstrated how the design has responded to the four (4) main principles of crime prevention including: territorial re-enforcement, surveillance, access control and space/activity management to create the perception or reality of reduced opportunity for crime or inappropriate behaviour.</i></p> <p><i>c) Provided appropriate lighting that enhances safety and security whilst minimising impacts from light-spill or inappropriate lighting on neighbouring properties.</i></p>	<p>The submitted Statement of Environmental Effects provides a comment for CPTED assessment.</p> <p>The subdivision layout relies on a pattern form existing development to the north and does not include any cul-de-sacs.</p> <p>The subdivision layout has adequately considered the principles of Crime Prevention Through Environment Design (CPTED) guidelines and is considered acceptable.</p>	Yes
2.8 Utilities, Easements & Infrastructure	<p>2.8.1 – Connections Utilities</p> <p>2.8.6 – Water Supply</p>	<p>Refer to comments within Chapter 5 – Subdivisions – CI5.25 – Utilities and Easements.</p> <p>The residential lots will be connected to reticulated water and sewerage, and underground electricity connections.</p>	Yes

		The development therefore is considered to satisfactory comply with CI 2.8 of the DCP.	
2.9 Solid Waste Management	<i>Waster Storage and Collection – Larger Developments</i>	The development has adequate access for Council's Waste Services to access the frontage for each development lot. Lots 25 will be accessed from Road A. Lots 26, 27, 28 and 29 will have access from Road B. Lot 30 will have access from either Road B or C. Therefore, the development complies with the DCP.	Yes
Chapter 3 – Natural Environment and Hazards	<i>Where a proposed development is on land identified as bush fire prone on the Bush Fire Prone Land Map, the design and management of any proposed development on that bush fire prone land complies with the following:</i>	The development site is located on land mapped as being bushfire prone on the certified Bush Fire Prone Land Map.	Yes
3.2 Bush Fire Prone Land	<ol style="list-style-type: none"> 1) <i>Rural Fire Act 1997 (NSW) & the associated Rural Fires Regulation 2013 (as amended); and</i> 2) <i>NSW Rural Fire Service (2019) Planning for Bush Fire Protection (Bush Fire Guidelines).</i> 3) <i>Any development application involving the erection of a dwelling house or alterations and additions to an existing dwelling house on bush fire prone land addresses the requirements contained in:</i> <ol style="list-style-type: none"> a) <i>The NSW Rural Fire Service (RFS) publication titled "Building in Bush</i> 	<p>Subdivision of land for a residential purpose is defined as being 'integrated development' under S4.46 of the EP&A Act, therefore, the application was referred to the NSW Rural Fire Service for comment.</p> <p>The NSW Rural Fire Service and Council consideration was assessed against the submitted Bushfire Assessment prepared by Peterson Bushfire; dated 29 November 2022.</p> <p>The NSW RFS considered the information submitted and provided General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and under section 100B of the Rural Fires Act 1997.</p>	

	<p><i>Fire Prone Areas Single Dwelling Applicants Kit" found on the RFS website (www.rfs.nsw.gov.au); and</i></p> <p><i>b) Australian Standard AS3959 – 2009 Construction of Buildings in Bush Fire Prone Areas (for any Construction Certificate application). A suitably qualified person may need to provide a schedule of compliance with the applicable construction standards. This schedule will form part of the approval documentation and the applicant will be required to comply with it during the course of construction; and</i></p> <p><i>4) National Construction Code (NCC) may specify additional controls for the construction of buildings on bushfire-prone lands.</i></p>	<p>Conditions have been included for consent in this regard.</p>	
3.3 Vegetation Management and Biodiversity		<p>The development impacts to biodiversity were determined to trigger the requirement to obtain a Biodiversity Development Assessment Report (BDAR).</p> <p>The BDAR was submitted and prepared by KHS Ecology and Bushfire, dated October 2023 (revised 8 December 2023). The BDAR was reviewed by a Consultant Ecologist on behalf of</p>	Yes

		<p>Council and provided comments.</p> <p>It was determined that the revised BDAR is considered satisfactory with the inclusion of recommended conditions involving the retiring Biodiversity Offset Credits.</p> <p>The site is required to be offset for <i>Chaliniolobus dwyeri</i> (Large-eared Pied Bat), as the site is a potential foraging habitat, being located 2km from the cliff lines of Hassans Walls Reserve.</p> <p>The species credits are based on the type of species and area of the site.</p> <p>As such, it was determined that the development will require 35 species credits for potential impacts to the Large-eared Pied Bat. A condition has been included in the consent in this regard.</p> <p>A Vegetation Management Plan will also be required to manage vegetation on site during and after construction. The plan is to include the C3 Environmental Management zone portion of the site. The plan as such will be conditioned on the consent.</p>	
3.4 Land and Soils	<p><i>In order to satisfy the requirements of Clause 7.7 - Sensitive Lands, particularly subclause (4) that:</i></p> <p><i>a) The development is designed, sited and will be managed to avoid</i></p>	<p>The consideration of sensitive lands has been considered under clause 7.7 of LLEP2014 (assessed earlier in this report) and considered satisfactory.</p>	Yes
3.4.2 Sensitive Lands			

	<p><i>significant adverse environmental impact, or</i></p> <p><i>b) If that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or</i></p> <p><i>c) If that impact cannot be minimised—the development will be managed to mitigate that impact</i></p>	<p>Further, the development has considered the required steps to comply with the DCP requirements.</p> <p>The development further involves the construction of a retaining wall to be provided along the eastern side of the collector road, from Col Drewe Drive to proposed Lot 25 and return along the south boundary of Lot 25 for approximately 10m.</p> <p>The wall is required to be at least 10m as the lots along this portion are constrained by steep grades. Future developments on these allotments will be required to address the topography impacts, such as stepping for split level designs.</p>	
Chapter 5 – Subdivision and Roads	<i>Objectives</i>		Yes
5.2 Site Selection, Analysis and Design Response	(a) <i>That a detailed Site Analysis has been conducted/documentated in accordance with the opportunities/constraints of the Site informed (where relevant) by this DCP (including Chapter 2 – Site Requirements; Chapter 3 – Natural Environment & Hazards; and Chapter 4 – Heritage & Cultural Conservation; and</i>	<p>The applicant provided a conceptual masterplan, details within the Statement of Environmental Effects, along with amended plans that document the consideration of the site's environmental elements of the built and natural environment.</p>	
5.2.1 Site Analysis and Potential Land Use Conflict	(b) <i>That the proposed development has provided an appropriate response to the Site Analysis for the proposed subdivision and the future intended use(s) whilst minimising potential land use conflicts and environmental impacts.</i>	<p>The development is considered to respond to the land with appropriate earthworks, retaining walls, stormwater management and associated subdivision infrastructure to be undertaken.</p> <p>As such, the proposed lots are adequately sited and has been assessed to adequately comply with the DCP requirements relating</p>	

		to site analysis and land use.	
3.4.3 Erosion and Sedimentation	<p><i>Erosion of land through poor land management and development practices can result in significant sedimentation and water quality issues in watercourses and drainage corridors.</i></p> <p><i>The applicant addresses (where relevant) the relative risk of certain developments causing erosion and sedimentation in accordance with the requirements of Landcom, Fourth Edition (2004) Managing Urban Stormwater: Soils and Construction ('Blue Book') (as amended) including, but not limited to:</i></p> <ul style="list-style-type: none"> <i>c) Assessment of site constraints and opportunities.</i> <i>d) Management of soils/earthworks.</i> <i>e) Vegetation retention and enhancement.</i> <i>f) Management of water.</i> <i>g) Sediment and waste control; and</i> <i>h) Site access, stabilisation and maintenance.</i> 	<p>The development plans include sediment control measures that were considered by Council's Development Engineer as being satisfactory. Conditions are included in the consent in this regard.</p>	Yes
5.2.2 Water, Natural Environment and Hazards	<p>Objectives O1. Stormwater Management</p> <p><i>a) That stormwater systems are designed to maximise the resulting water quality leaving the site and manage water quantity to prevent</i></p>	<p>The stormwater management detail within the submitted plans (OSD and Raingarden Plan - Sheet No.: CD250 and North Raingarden Plan - CD251) have been considered satisfactory by Council's Development Engineer. Suitable</p>	Yes

	<p><i>environmental impacts and flooding.</i></p> <p><i>b) The need for inter-allotment drainage easements has been considered/addressed.</i></p> <p><i>c) For larger developments, detention basins and/or water-sensitive urban design water treatment mechanisms may be required.</i></p> <p><i>O3. Significant Vegetation</i></p> <p><i>That it maximises the retention and protection of existing significant vegetation/trees from both the Subdivision and future development (including infrastructure).</i></p> <p><i>O4. Hazards</i> <i>That the site has limited hazards or that the hazards can be avoided or minimised/mitigated to an acceptable level for both the development area and associated access.</i></p> <p><i>O5. Slope</i></p>	<p>conditions have been included in the consent to ensure that the development complies with the requirements and that there is adequate handover to become Council's assets to maintain and manage.</p> <p>A survey plan prepared by CEH Survey, dated 25 August 2023 was submitted with the application and indicates the existing vegetation on the site.</p> <p>The impacts on existing vegetation on and adjacent to the site have been comprehensively considered within this report and as part of the biodiversity assessment. A BDAR and landscaping plan submitted by the applicant, supports the development with regard to site vegetation and future vegetation.</p> <p>A vegetation management plan will be required as a condition of consent.</p> <p>As such the development is considered to be acceptable in terms of vegetation management.</p> <p>The development has no significant hazards, with contamination to be considered satisfactory. (refer to previous comments in this report regarding contamination)</p> <p>The development plans include details of earthworks that have been provided within Plan No.</p>	
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	<p><i>Subdivision on land with a slope of 20% or greater (being ~1:5 or 11°) is significantly constrained and needs to be supported by a Survey Plan and Geotechnical Report prepared by a suitably qualified person verifying the suitability of the proposed lot size considering any future (likely) building(s), hydrology and drainage, and site stability during site works, construction and operation of the development.</i></p>	<p>110698-03-CD010 - Revision G, dated 16 August 2023 and a survey plan prepared by CEH Survey, dated 25 August 2023.</p> <p>The technical documentation along with a site masterplan indicates different housing types for the proposed allotments.</p> <p>The most significantly impacted sloped sites would require a stepping design of future dwellings. Stepped-designed dwellings, as such, are considered satisfactory for all lots constrained by slopes greater than 20%.</p>	
5.2.3 Lot sizes, Dimensions and suitability	<p><i>Minimum Lot Size: Any lot(s) created must comply with the minimum lot size(s) in LLEP2014. However, this is a minimum size only and larger lot sizes may be required to respond to site constraints including, but not limited to the following:</i></p> <p><i>a) Site constraints and opportunities raised in DCP Sections 5.2.1 & 5.2.2 above.</i></p> <p><i>b) Requirements for on-site effluent disposal areas (if relevant).</i></p> <p><i>c) The objectives for lot size in LLEP2014.</i></p> <p><i>d) Provision of a range of lot sizes to enhance the character of an area and minimise development that is too repetitive in lot layout and design.</i></p> <p><i>2) Urban Areas: Subdivisions in or adjacent to an urban</i></p>	<p>The development is consistent with the objectives of the zone and development standards of the LLEP2014 relating to lot sizes (refer to considerations under the LLEP2014).</p> <p>The development proposes lots that will allow reasonable solar and aesthetic orientation for future developments.</p> <p>The lot sizes are consistent along proposed Road A, with allotment sizes varying between approximately 440m² to 700m².</p> <p>Varying lot sizes are proposed addressing Roads B, C, D and Circuit A. These allotment sizes range between 400m² to super lots having an area of approximately 2,124m² being the largest.</p>	Yes

	<p>zone and/or area are to satisfy the following design standards:</p> <p>d) If a new public road is created, address the controls in DCP Section 5.7 – New or Upgraded Public Roads below.</p> <p>e) Ensure lot sizes and shapes address and relate to the prevailing dimensions (including street frontages), pattern or rhythm of subdivision in the surrounding locality, particularly in historic areas, where this is a significant part of the street or local character.</p> <p>f) Maximise the number of regular shaped lots (i.e., lots that are roughly rectangular in shape) so there are less constraints for future development and/or subdivision, particularly in existing/historic urban areas.</p> <p>g) Provide suitable road frontage lot widths to promote ease-of-access to and servicing/utilities for each lot without dominating the street and ensure buildings address the street (where relevant).</p> <p>h) Provide depth to width ratios that accommodate vehicle access, manoeuvring, and a range of standard building types/layouts with relevant setbacks.</p>	<p>The varying lots sizes is consistent with the requirement to enhance character of the area and minimise receptiveness.</p> <p>The large lot sizes are supported with a masterplan document, along with the scope that these allotments will provide opportunity for higher density development, such as, dual occupancies, multi dwelling housing, small scale residential flat building etc.</p> <p>The objective to provide opportunity for housing diversity through the creation of larger lots is considered a benefit for the area and consistent with the objectives and aims of the both the LLEP2014 and LDGP2021.</p> <p>The proposed road layouts are consistent with development to the north, being for a subdivision approved under DA142/18.</p> <p>Proposed Road A and B will be connector roads to the adjoining development.</p>	
5.2.4 Access and Entrances	<p>1) Public Road: Each lot in a subdivision (including lots with adjusted boundaries) has safe, legal and practical access to a public road (maintained to</p>	<p>All lots will have direct access to new public roads. These accesses are considered to provide safe manoeuvring onto each new allotment and around</p>	Yes

	<p><i>Council's standards) either through:</i></p> <p><i>a) A direct frontage to that public road (this is the most desirable outcome for all new lots).</i></p> <p><i>b) A right-of-way arrangement through another lot; or</i></p> <p><i>c) By consolidation with an existing allotment that has access.</i></p> <p><i>2) Reference: Address the requirements of DCP Section 2.5 – Vehicle Access & Parking and Section 2.6 – Pedestrian Access, Mobility & Safety (where relevant).</i></p> <p><i>3) Right-of-Way: Council will only permit subdivision that creates lot(s) that rely for access on an easement or right-of-way (or other restriction on title) in a rural and/or environmental zone/area where all of the following are satisfied:</i></p> <p><i>a) No public road access is adjacent to, or could reasonably be provided to, the proposed lot(s).</i></p> <p><i>b) A maximum of:</i></p> <p><i>i) Three (3) lots will utilise any easement or right-of-way (including the primary lot providing the access and two (2) additional lots).</i></p> <p><i>ii) Two (2) allotments are behind any allotment which has</i></p>	<p>the site. This is considered satisfactory for the development and complies with the DCP.</p>	
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	<p><i>direct frontage to a public road.</i></p> <p><i>c) There is a minimum carriageway width for a right-of-way of 10m with a 4m formation with appropriate drainage.</i></p> <p><i>d) Where the slope of a driveway exceeds 10%, the access is to have a two-coat bitumen seal.</i></p> <p><i>e) There is written approval from the affected lot owner (easement only).</i></p>		
5.2.5 Utilities and Easements	<p>1) <i>Reference: All subdivision(s) comply with and address DCP Section 2.8 – Utilities, Easements & Infrastructure (where relevant).</i></p> <p>2) <i>Servicing Plan: A Concept Servicing Plan is to be submitted in support of all subdivision proposals detailing the location of all existing and proposed services to each lot including all existing and proposed easements.</i></p> <p>3) <i>Easements: If any easements are reliant on or cross over land adjoining the proposed subdivision then owners' consent from that adjoining land is required to be provided with the application.</i></p>	<p>Infrastructure will be installed underground, with water, electricity and communication mains within the proposed road networks.</p> <p>Sewer mains will be installed within the front of lots that slope to the road, and at the rear of lots that slope away from the road.</p> <p>The site does not contain any watercourses, sensitive areas or any known natural hazards that would be adversely impacted by the provision of services.</p> <p>Service mains will be located in their standard footpath allocation and have no impacts on street trees.</p> <p>The provisions of services therefore are considered</p>	Yes

		satisfactory for the development.	
3.2.6 Site and Visibility of Utilities	1) <i>Impacts</i> 2) <i>Efficiency</i> 3) <i>Underground</i> 4) <i>Common Trenching</i> 5) <i>Screening</i>	The development is considered satisfactory in this regard.	Yes
3.2.7 Staging	1) <i>Plans</i> 2) <i>Connectivity</i> 3) <i>Future Growth</i>	The applicant provides the following comment: <i>'The proposal has been divided into 2 stages; however, the entire subdivision is being designed to ensure a holistic approach to lot sizes, layout and access to utilities.'</i> The development is therefore considered to be staged appropriately.	Yes
5.3 Urban Subdivision	1) <i>Sewerage</i> 2) <i>Dwelling Density</i> 3) <i>Lot width</i> 4) <i>Layout/Orientation</i>	The proposed allotments meet the minimum requirements under the LLEP2014. As previously stated, some lots are arranged into larger lot sizes to allow for medium density developments. This promotes variance as required by the DCP and opportunity for different residential types. The development is therefore considered satisfactory and complies with the DCP.	Yes
5.3.1 Lot Size and Arrangements – General			
5.3.2 Access to Lots with limited or no road frontage	3) <i>Access Seal: A sealed, or concrete pavement is constructed for the full length of the access handle in accordance with Council's Engineering Guidelines prior to release of the Subdivision Certificate; and</i>	The development includes sealed concrete pavement in accordance with Council's Engineering Specifications and does not include battle axe allotments.	Yes

	<p>4) <i>Higher Densities: If the proposed battle-axe lot is intended to be used for more than a single dwelling and/or dual occupancy (i.e., it is for the purposes of medium density housing) then it may require:</i></p> <p>a) <i>A wider access handle/driveway seal for two-way vehicle traffic; and</i></p> <p>b) <i>Consider additional width to include setbacks and/or landscaping to minimise impacts on adjacent lots/dwellings.</i></p>		
Part 5.7 New or Upgraded Public Roads	<p><i>New road design(s) for residential subdivisions comply with Council's Engineering Guidelines and other relevant development standards including, but not limited to (as amended):</i></p> <p>1) <i>Roads & Traffic Authority (RTA- now Transport for NSW) (2002) Guide to Traffic Generating Development.</i></p> <p>2) <i>Roads & Traffic Authority (RTA- now Transport for NSW) (1995) Road Design Guide.</i></p> <p>3) <i>Relevant Australian Standards.</i></p> <p>4) <i>AUSTROADS (1988) Guide to Traffic Engineering Practice.</i></p> <p>5) <i>AUSTROADS Guide to Road Design; and</i></p>	<p>The development has been considered by Development Engineers to satisfactory comply with Council's Engineering requirements. Road A is a collector road with an 18m wide reserve and 11m wide carriageway.</p> <p>Roads B, C D are local roads with 15m wide reserves and 87m wide carriageways.</p> <p>Circuit A is a one-way road around a road reserve in the middle.</p> <p>The development consent will include conditions for road construction.</p>	Yes
5.7.1 Guidelines			

	6) <i>Council Policy 10.5 - Footpath Reservations – Works Requirements.</i>		
5.7.2 Surrounding Road Patterns and Access	1) <i>Navigation</i> 2) <i>Pattern</i> 3) <i>Connections</i> 4) <i>Future Connections</i> 5) <i>Rear Lanes</i> 6) <i>Open Space</i>	<p>Roads A and C have been designed to coordinate with the adjoining subdivision approval, DA142/18, north of the site. Road B is located in a position to allow future development to the east.</p> <p>The development allows for the required road carriageways that will incorporate any future pedestrian and cycle pathways.</p> <p>A rear lane is provided to Lots 25, 26, 27, 28, 29 and 30. These lots will also have adequate primary frontage to Roads, A, B and C. (Refer to subdivision layout plan).</p> <p>The area of the site proposed as Lot 47 and that contains the C3 Environmental Management zoned portion of the site, will be retained for future open space and vegetation planting (condition of consent included).</p> <p>Sightlines and visibility of Lot 47 containing landscape significance as 'Three Tree Hill' will not be disturbed or interrupted due to the topography of the proposed allotment.</p>	Yes
5.7.3 Road hierarchy and Design	1) <i>How the road hierarchy will promote ease-of-navigation and connectivity for vehicles, pedestrians, and bicycles (where relevant).</i> 2) <i>The impact of any traffic generation from the</i>	<p>All roads have been considered by the Council's Development Engineer.</p> <p>Roads are considered suitable as specified within Council's Engineering</p>	Yes

	<p><i>proposed subdivision on the proposed and existing road network and pedestrian / cycle routes.</i></p> <p>3) <i>The maximum vehicle sizes likely to utilise the road network during construction and future use and provision of appropriate turning paths for the largest vehicle sizes.</i></p> <p>4) <i>The location, design and safety of any intersections or crossings.</i></p>	<p>Design Guidelines for local and collector roads.</p> <p>Ability to provide for off-street parking has also been accounted in the design of the subdivision.</p>	
5.7.4 Terminating Roads (Cul- De- Sacs)	N/A	There are no Cul-de-sacs proposed.	Yes

Council's Policy Implications (Other than DCP's)

Lithgow Community Participation Plan

Pursuant to the Lithgow Community Participation Plan, the Application was notified commencing 14 December 2022 and concluded 18 January 2023.

The proposed development was placed on public exhibition in accordance with the Lithgow Community Participation Plan and nearby landowners have been notified of the proposal. The proposal documents were placed on public exhibition for 28 days in accordance with the Participation Plan.

During the notification period no submissions were received.

Policy 7.6 Development Applications by Councillors and Staff or on Council Owned Land

This Policy states:

1. *That, subject to the exemptions in Part 2 of this Policy, the following development applications shall be referred to Council for consideration and determination:*
 - a. *Any development application lodged where the applicant is a Councillor or a member of Council's Executive staff or immediate family thereof,*
 - b. *Where a Councillor or member of Executive staff, or their immediate family, is the owner of the land to which the application relates,*
 - c. *Where the development application is on Council owned land,*
 - d. *Where the application is on Crown land managed by Council,*
 - e. *Any application that proposes to dedicate land or an asset to Council if the recommendation is for approval of that application.*

Given that the development application is on Council owned land with land to be dedicated as public land (remain as Council assets in the future) the application would normally be determined by the elected Council.

In this circumstance, the development is defined as being 'Regional Development' as per Chapter 2 Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 (PS SEPP) – Council-related development over \$5 million. As such, The Central West Regional Planning Panel (the Panel) is the consent authority for the application.

The development application was further assessed by an independent consultant; being Ian Clark (Senior Environmental Assessment Officer), from the NSW Department of Planning and Environment - (Regional Housing Flying Squad).

7.8 Voluntary Planning Agreements

A voluntary planning agreement was undertaken for the application between the developer and Council.

The developer offers a Monetary Contribution of \$6,800 per residential lot, totalling \$312,800.

The wider community will share in benefits resulting from the Planning Agreement, through the provision of open space and recreational needs.

As such, the development complies with Council's Policy; 7.8.

Policy 1.3- Acquisition and Disposal of Assets

Once, the subdivision has been completed, the roads, bioretention basins and open space areas will remain as Council owned assets and will continue to be under the care and maintenance of Council.

Given that the land is currently owned by Council, the dedication of this land is not proposed to change as part of this application.

d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

The following planning agreement has been entered into and endorsed under Section 7.4 of the EP&A Act and states the following:

Parties:

Lithgow City Council (**Developer**)

Lithgow City Council (**Council**)

Planning Agreement:

VPA Deed of agreement dated 17 August 2023.

Monetary Contribution:

The developer offers a Monetary Contribution of \$6,800 per residential lot, totalling \$312,800.

The wider community will share in benefits resulting from the Planning Agreement, through the provision of open space and recreational needs, which although not strictly required to make the development acceptable in planning terms, are not wholly unrelated to the development.

The proposal is consistent with the Planning Agreement as discussed in this report and a condition will be included that all monies be paid prior to the issue of a subdivision certificate.

e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Environmental Planning and Assessment Regulation 2021

The following relevant matters contained in the 2021 Regulation must be taken into consideration by a consent authority in determining a development application:

- Matters contained in Clause 61(1) including:
 - If demolition of a building proposed - the provisions of AS 2601;
 - If on land subject to subdivision order under Schedule 7, provisions of that order and any development plan;
 - Dark Sky Planning Guideline if applicable;
 - Low Rise Housing Diversity Design Guide for Development Applications (July 2020) if for manor house or multi dwelling housing (terraces).
- Matters in Clause 61 where the consent authority must be satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.
- Matters in Clause 94 where the consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.

These prescribed matters above have been considered and found not applicable to the proposed development.

3.5 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context, setting and adjoining land uses – The proposal is considered to be generally consistent with the context of the site, in that the proposed residential subdivision is appropriate as a result of Lithgow regional and local context.

The adjoining approved (DA142/18) subdivision pattern and road configuration are consistent with interaction with this development. Minimal impact to the surrounding area is expected and improved traffic movement and bus routing is considered.

- Access and traffic – Council's Development Engineers and Transport for NSW (general comment) have considered the future road networks and any impacts to intersections onsite and nearby with regard of The Great Western Highway, particularly the intersection with James O'Donnell Drive. Both Council's Development Engineers and TfNSW are satisfied with the development design for traffic and access.
- Public Domain – The proposed development will not result in loss of any existing area of public domain.

- Utilities – Water, sewer, electricity and telecommunication utilities will be provided to all lots within the development to the requirements of the respective public utility authority.
- Heritage – The proposal does not impact on the Local listed item on the adjacent site and has been considered satisfactory. The development has provided landscaping and adequate design measure; through the orientation of the allotments and road networks, to ensure that the heritage item will not be impacted upon once the subdivision has been constructed. A heritage report was submitted with the application and assessed by Council's Heritage Consultant. The report and proposed subdivision layout were found to be satisfactory for the development.

There are no other Local or State listed Items close to the site. Aboriginal heritage has been considered and determined to have no Aboriginal Cultural Heritage on the site or close to the site.

- Other land resources – It has been confirmed that there are no underground coal mining activities proposed on the development site.
- Water/air/soil impacts - Contamination has been appropriately considered and the proposal is satisfactory subject to conditions (refer to previous comments outlined in this report). Consideration of the impacts of the development during construction on air, water and soils, including erosion and sedimentation, will be appropriately managed with a conditioned Construction Environmental Management Plan and appropriate conditions of consent.
- Flora and fauna impacts - The impacts on flora and fauna have been assessed within this report and are considered to be acceptable with support of a BDAR. (Refer to previous comments).
- Natural environment – The development proposes large scale changes to the natural environment through regrading and reshaping works to facilitate large, useable residential allotments. These works do not have any significant impact on the natural environment on the designated 'Three Tree Hill' area preserved on the site.
- Noise and vibration – There is potential for adverse impacts during construction on some existing neighbouring residential properties (closest is approximately 250m away). These temporary construction impacts will be managed by the preparation and implementation of a Construction Environmental Management Plan.
- Natural hazards –The site is affected by bushfire, however, the impact of this on the proposed development, and on proposed users of the road, is considered to be acceptable. Refer to previous comments and the RFS conditions on the consent.
- Safety, security and crime prevention – The proposed development is considered acceptable having regard to CPTED Principles, through the orientation and design layout of the subdivision.
- Social impact – The proposed development is assessed as having no significant adverse impacts on the health and safety of the community, sense of place, community facilities or interactions between the new development and the community.

- Economic impact – The proposal is assessed as providing significant positive economic benefits resulting from the release of new residential land.
- Site design and internal design – The proposed subdivision layout is generally consistent with the Staging Plan and Updated Indicative Lot Layout submitted with the application.
- Construction – Potential and likely impacts during the construction phase have been appropriately considered and are acceptable subject to the preparation and implementation of a Construction Environmental Management Plan. This plan is condition on the consent.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.6 Section 4.15(1)(c) - Suitability of the site

The site is considered suitable for subdivision works for the following reasons:

- The development is consistent with the objectives and permissible under the applicable land use zonings under Lithgow LEP 2014.
- The proposed development is in accordance with the indicative lot layout and staging plan.
- The development is consistent with the provisions of the Community Strategic Plan 2035 for creating housing opportunities for the community.
- The constraints of the site have been considered in the development, which includes sloping sites, biodiversity, bushfire and heritage.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

3.7 Section 4.15(1)(d) - Public Submissions

There were no public submissions received during the notification period of the development application.

3.8 Section 4.15(1)(e) - Public interest

The development is considered to be in the public interest and is likely to result in significant housing developments on residential lots, employment and economic benefits.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 3: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (S4.13 of EP&A Act)			
Water NSW	Section 8.9(1) of the Biodiversity and Conservation SEPP (Chapter 8 - Sydney Drinking Water Catchment)	Water NSW considers that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality. Water NSW further provided appropriate conditions that are to be included in any development consent (03 July 2023)	Yes
Environment Agency Head (Environment, Energy & Science Group within DPIE)	S7.12(2) - <i>Biodiversity Conservation Act 2016</i>	N/A	N/A
Rail authority for the rail corridor	Section 2.98(3) - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	N/A	N/A
Referral/Consultation Agencies			
RFS	S4.14 – EP&A Act Development on bushfire-prone land	Refer to below comment under Integrated Development section.	Yes
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Endeavour Energy has advised that the proposal is satisfactory subject to conditions.	Yes
Rail authority	Section 2.97 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development land that is in or adjacent to a rail corridor.	N/A	N/A
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic-generating development in Schedule 3.	N/A- Referred for advise. Transport for NSW considers the development to be satisfactory for the site.	N/A
Design Review Panel	CI 28(2)(a) – SEPP 65	N/A	N/A

	Advice of the Design Review Panel ('DRP')		
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and a Bush Fire Safety Authority, under section 100B of the Rural Fires Act 1997 (08 March 2023).	Yes
NSW Department of Planning and Environment-Water Division	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	The development was referred to NSW DPE (Water) concerning s89-91 Water Management Act 2000. Development for the bioretention basin is to be located towards the south, approximately 72m from the watercourse. Given that the site will naturally drain towards the direction of the watercourse and given the significance of the development, the development is considered to have minimal to no impact on the water course. No response was further received from NSW DPE Water.	Yes

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 4: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted amended stormwater concept plan and considered that there were no objections subject to conditions.	Yes (conditions)
Engineering	Council's Engineering Officer reviewed the proposal and considered the amended civil plans for road typology and movement networks are satisfactory. A Landscape Plan is requested in relation to public domain works as part of the subdivision including street trees and hardstand areas. These areas will be designated to Council for care and maintenance.	Yes (Conditions)

Waste	No waste consideration was provided from Council. However, manoeuvring of waste vehicles is considered satisfactory as confirmed by Council's Development Engineers.	Yes
Heritage	Council's Heritage Officer/Consultant reviewed the submitted Heritage Impact Statement ('HIS') prepared for the applicant and concurred with the conclusion of the HIS that there would be no adverse impacts on heritage values arising from the development and nearby items. The development includes vegetation screening plants as a mitigation measure. <u>Outcome:</u> Satisfactory subject to standard conditions being imposed on any consent granted.	Yes (conditions)

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 14 December 2022 until 18 January 2023. The notification included the following:

- Notification letters sent to adjoining and adjacent properties.
- Notification on the Council's website.

Council received no submissions during the public notification period.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Issues raise in the RPP briefing meeting:

- Overall, the proposal lacks contextual information.*
- Uncertainty over zoning of the neighbouring sites – clarification on the zoning of the subject site and neighbouring sites are required. In particular, to the north-western, south-western and western side of the site.*
- The residential subdivision of the adjoining land to the north of the subject site was approved in 2018. More information on the status of this is required. Background and status of consent DA142/18 is required and the association that consent has with this development application i.e. conditions of consent (DA142/18) that are intrinsically linked to this development application.*
- Details of any strategic plan or master plan for the locality is required.*
- Provide details and justification of the requirement of Circuit A appears unnecessary.*

- f) *Landscape and Vegetation Plan is pending*
- g) *An Aboriginal Cultural Heritage assessment is required.'*
- h) *Biodiversity/Ecological Impact Assessment report is required.*
- i) *Justification for subdivision pattern required, together with any details supporting the demand for the proposed lots.*
- j) *Preliminary / Stage 1 of contamination investigation is required.*
- k) *Justification for the portion of the land in the southwestern corner of the subject land – required for infrastructure or buffer for the larger lots.*
- l) *Carparking study - hospital car parking area interacts with residential lots.*
- m) *Adequate information required in the site plan and SEE addressing topography, water flow from the site, etc.*

Resolution: The issues raised have been addressed and resolved as follows:

a) Contextual Additional information.

The applicant submitted the following detail within the SOE:

'2.4 CONTEXTUAL INFORMATION

Lithgow City Council purchased Lots 1 and 2, DP1268778 in March 2021 and now intends to develop Lot 1 DP 1268778, having an area of 6.36ha into a new residential community.



Figure 3: Local Green Spaces in Lithgow



Figure 4: Public Transport Proximity to Site

Figure 3 shows the development site in its locality context with the approved subdivisions and future concept layouts (subject to change). The development site sits between existing and approved neighbourhoods of low-density residential character to the north and southwest with lot sizes typically above 800m² and housing forms of large single detached dwellings.

The development site and its parent lot have remained undeveloped since initial development consent was granted in 2007. This led to a submission to LCC Draft LEP 2013 to provide for a different housing product at South Bowenfels. This was encouraged by the success of the Tree View Estate development to the south,

which saw positive results following a decrease in the lot size from the then standard of 800m² to 400m² with a General Residential zone R1.

The current zoning of the site, General Residential Zone R1, provides a minimum lot size of 400m², allowing a more affordable option to the current stock availability in South Bowenfels. The existing Development Control Plan (DCP) is based on the LRMDHC allowing for a diversity of housing types including attached and detached duplexes and terraces. This product has been developed in the existing township of Lithgow, however in the South Bowenfels release, due to the lot size controls, only large lot residential have been delivered.

The master plan and Figure 3 above highlight the connectivity between green spaces. The DA-approved subdivision to the north will provide the social amenity through a park and open spaces, while our application will further enhance this by adding additional open space, as depicted in the master plan. "The Three Tree Hill" will be the additional passive open space provided to contribute to the greenery and overall aesthetics of the development.

The development application (DA 142/18) was granted approval in 2018, and the owners and developer are currently in the process of finalising the Construction Certificate documentation before commencing construction on the site. DA 142/18 is an independent application and has a separate owner and development partner. The subject development can proceed without any involvement from the adjoining landowner who obtained DA 142/18. The owners of the land to the north (DA 142/18) are observed to be in the process of obtaining a construction certificate for the consent that was granted in 2018. However, no projected start date for the project has been provided at this time.

The development site is situated in what is known as the South Bowenfels Release Area created by two major land rezonings in July 2004 LLEP1994 (Amendment No 8 & 9) that rezoned the land from Future Urban and Rural zone to part Residential and part Open Space. This followed the siting and construction of the major state infrastructure of the Lithgow Hospital in an out-of-center location. No Masterplan of this area was prepared with the land rezonings. In 2007 Council prepared a DCP to provide development guidelines for the area.

The parent lot having an area of 33.48ha was created in 2005.

In 2007, Council consented to the subdivision of the parent lot into 160 lots - DA 335/05. This consent was substantially commenced with the extension of Col Drewe Drive but remained undeveloped causing a stalemate for developments to the north and south in relation to collector roads and distribution of traffic back onto the GWH.

South Bowenfels DCP commenced in 2007 (now repealed and replaced by LDCP 2021) and provided development controls for the area at that time including an MLS of an average of 700m² in anyone development. This created the low-density residential pattern typical within the release area. The DCP also provided a conceptual road layout for the main collector roads within the area (see attached map).

In 2014, Council's Principal Standard LEP was made. As a result of a submission to the Draft LEP supported by the Council, the parent lot was then zoned Part R2 Low-Density Residential, Part R1 General Residential and Part C3 Environmental Management. R1 General Residential zone was assigned an MLS of 400m². The

R2 zone was assigned an 800m² MLS. Council supported this amendment to provide for further housing diversity in the area around the Subject development site was created from a subdivision of Lot 1 DP 10824 (parent lot) in August 2020. Council purchased Lot 1 and 2 DP 1268778 in 2021. Lot 5 DP 1268778 was a road reserve to be dedicated to Council.

C3 Environmental Management zone provides passive open space and linkages to the public reserve located to the north of the development site.

Development of land to the north (DA 142/18) of Lot 1 DP 1268778 will make provision for the dedication of a public open space reserve that is planned to be embellished to a District Level Park as identified in Council's Open Space and Recreational Needs Study. This park is located within a 500m radius from the development site with direct access from an extended public road.

Core community facilities and services will be provided by the Lithgow Town Centre located only minutes from the development site.

The additional information provides context and setting of the site. The development is considered to be generally consistent with the context of the site, in that the proposed development is in an area occupied by other new residential subdivision developments.

b) Site zoning in relation to new boundaries

The applicant provided zoning mapping that ensures that the new lots for residential development are solely within the R1 General residential zoned portions of the site and not with C3 Environmental Management portions of the site.

c) Intrinsic links to the approved subdivision to the north – DA142/18.

The applicant responded to the quoted comments above. Noting the development does interact with each other and this DA has responded to the development approved (DA142/18). However, this development is standalone, and the inclusion of temporary turning heads allows this development to be stand-alone with no reliance on subdivision works to the north site to be completed.

d) Strategic plans or policies

The site is not included in any strategic plan or policies. There was no masterplan created in 2005 for the site concerning the rezoning of the land and adjacent land. The development is consistent with the Lithgow Local Environmental Plan 2014 and Community Strategic Plan 2035.

e) Circuit A

The application provided the following comments:

Circuit A: In general, the estate is seeking to provide a wide diversity of housing and to gather these into neighbourly communities/places. This is achieved in a range of ways across the estate. Circuit A seeks to enable community activation and amenities amid a particularly diverse group of homes in a low-traffic environment and away from the major traffic thoroughfares. Further, it avoids 'dead-end' vehicle movements in an otherwise land-locked corner of the subject land. (Note: previous concepts for the site deployed battle-axe and similar devices for access to this corner portion of the oddly shaped site).

Superlot 36, together with Lots 37&38 (having 2 street frontages) deliberately create the opportunity for supplementary dwellings and studios to address and gain access from the small cul-de-sac that serves otherwise family-sized homes.

In preference to providing a short street with a large cul-de-sac head, Circuit A enables simple large vehicle manoeuvring and a pocket park within the street reserve, in which children can safely play and the elderly can share in the community.

Pavement is minimised with a narrow carriageway, sufficient for turning movements in a low-speed environment. Visitor parking will also be achieved where it doesn't restrict vehicle movements.

Significant planting is afforded through both the planted median (pocket park) and both regular verges having minimum driveway crossings. This reduces potential urban heat island effects and centres the homes around a significant low-maintenance public landscape space.

The small number of homes forms a community of interest in caring for and protecting this discreet public space, and the space creates a particular, discreet identity for the community that surrounds it. There are successful and less successful versions of similar landscape medians throughout the history of urban and suburban spaces. Key elements contributing to the success of this proposal include:

- appropriate number of homes served*
- appropriate diversity of homes/demographics served*
- small scale of public space with very low maintenance demand and within the scope of 'neighbourly' effort - similar to private mowing of nature strips*
- low traffic volume and as narrow as possible carriageway to enable safe traverse by children between home and park.*
- potential for detailed capital investment on the establishment by the developer without high ongoing maintenance.*
- the space will add value to the surrounding homes, distinguishing them in the market, and therefore be valued by owner/occupiers.*
- this is not a 'utopian experiment' imposed within a 'social housing' scheme, but rather serves a percentage of likely homeowners with due social capacity, while it is also an 'agglomerated' open space serving smaller than average family lot sizes and a broad demographic.*
- there will be reasonable surveillance of the space from a range of homes and obvious vantage points discouraging anti-social potential.*
- it is not too withdrawn from more active public areas.*
- the location and orientation are deliberately aligned with topography to create a hierarchy within the precinct, symmetrically rising to the larger houses overlooking the park.*

Successful spaces of similar intent include:

- Basin Reserve at Raleigh Park, Kensington*
- Old Belvedere Promenade, East Perth*
- Correys Square and Parkside Terrace, Cabarita*

(These are each within specific Community Management Plans due to their size and the quality of homes surrounding them, hence the relative scale of this proposal is important in context).

The additional detail demonstrates on balance the inclusion of Circuit A as an urban design element that will avoid a cul-de-sac arrangement. The circuit will allow for acceptable manoeuvring within the subdivision and allow for the inclusion of the development sites as part of the community. The inclusion of Circuit A is considered acceptable.

f) Landscape and Vegetation Plan

The applicant has included a Landscape Plan indicating the vegetation plantings for street trees and feature trees. A vegetation management Plan will form a condition of consent as required prior to the subdivision works certificate being released.

g) Aboriginal Cultural Heritage

An AHIMS was conducted, and no Aboriginal Cultural Sites were found on the site or within a 400m radius. One site was located within a 1km radius which the development will have no impact on.

Conditions will be included in the consent to ensure any aboriginal objects located during development stop work immediately and the requirements of the *National Park and Wildlife Act 1974* are followed. An applicant may also need to seek an Aboriginal Heritage Impact Permit in accordance with that act.

h) Biodiversity/Threaten Species

An amended BDAR was submitted and considered acceptable against the requirements of the Biodiversity Conservation Act 2016. Conditions have been included identifying habitat trees requiring protection and entry requirements into the Biodiversity Offset Scheme for 35 credits identified in the submitted reporting.

i) Subdivision Pattern and proposed lot size

As discussed throughout the report and within the submitted amended SOE, the subdivision pattern is a response to the approved development to the north and site topography. In addition, the DCP specifies that residential lots should be varied to allow for different types of residential development. The unification of residential lots is not considered an appropriate outcome and provides for varying sizes and patterns to create interest in the new subdivision and design opportunities. The development is considered satisfactory.

j) Preliminary Site Investigation

An amended PSI was submitted and supported by a Consultant Environment Protection Officer. Refer to assessment under SEPP (Resilience and Hazards) 2021 considerations.

k) Required infrastructure on adjacent site missing detail, as not described as part of the development.

The bioretention basin located on an adjacent site and within a watercourse for the development sites has been amended to be incorporated within the development site. The location and consideration of the bioretention basin within the southern portion of the site is adequately located and Development Engineers have included conditions for consent.

l) Car parking study

The development will not lead to a deficiency in onsite parking for future development or on-street car parking impacts. The separation of the hospital to the south and the hospital car parking area is adequate with retaining walls separating the subdivision due to the hospital site being at a lower contour to the development site. The interaction between the hospital and the development site is considered negligible and acceptable.

m) Subdivision requirements in DCP R1 zone land

Lithgow DCP 2021 – Chapter 5 Subdivision has been considered above within this report as satisfactory. Refer to Chapter 5 Subdivision assessment in this report.

n) Site analysis detail missing addressing topology, water flow from the site, etc

The development includes amended development plan documentation and additional information within the SOE addressing the site analysis detail. In addition, assessment is provided under Lithgow DCP 2021 – Chapter 2 Site Requirements. The applicant provided the following comments:

‘3.10 TOPOGRAPHY

The site is Lot 1 DP 1268778, 10 Col Drewe Drive Bowenfels. It is located at the western end of Col Drewe Drive, is irregularly shaped and is approximately 6.36ha in area. The lot is bisected by an existing 18m wide public road reserve. The proposed subdivision includes the closure of that road reserve and its incorporation within the future road and lot layout.

The site contains Three Tree Hill within the C3 zone in the west of the site. Three Tree Hill forms the high point on the site, at an approximate RL of 969m. From that high point, the site slopes in two general directions.

The northern part of the site generally slopes to the north-eastern corner of the site to an RL of approximately 942m. The southern part of the site generally slopes to the southeast to an RL of approximately 934m at Col Drewe Drive. The western part of the site contains existing slopes generally between 10 and 20%. The eastern part of the site is flatter, with existing slopes between 0 and 10%.

The proposal includes bulk earthworks across the site. This is detailed in sheets CD010, CD011 and CD012 of the supporting engineering plans. The bulk earthwork provides benching to facilitate future dwelling design and construction for proposed Lots 1 to 17 on the steeper parts of the site. The bulk earthworks also regrade the area containing proposed Lots 18 to 46 to remove trapped low points and assist in stormwater and sewer gravity drainage to the north.’

The development is considered to be satisfactory considering the current state of the site in construction and design considerations of the residential subdivision.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the key issues as outlined in Section 6 have been resolved satisfactorily through amendments to the proposal and/or in the recommended conditions within **Attachment A**.

7. RECOMMENDATION

That the Development Application DA No 227/22 for a staged subdivision of 1 lot into 46 residential lots and 1 lot public reserve, civil works and associated infrastructure at Lot 1 DP1268778 – 10 Col Drewe Drive Bowenfels, Lot 2 DP1049398 – 994 Great Western Highway Bowenfels and Lot 2 DP1082148 - Col Drewe Drive Bowenfels be APPROVED pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of Consent
- Attachment B: Assessment Report
- Attachment C: Subdivision and Engineering Plans
- Attachment D: Concept Master Plan
- Attachment E: Landscape Plan 1
- Attachment F: Landscape Plan 2
- Attachment G: Landscape Plan 3
- Attachment H: Biodiversity Development Assessment Report
- Attachment I: Bushfire Assessment
- Attachment J: Preliminary Contamination Report
- Attachment K: Heritage Impact Statement & Additional Supporting Information
- Attachment L: Statement of Environmental Effects

