

10.1.2. People and Services General Reports

10.1.2.1. LATE REPORT - PS 22 05 2023 - The Foundations Portland - Draft Development Control Plan

Prepared by Sherilyn Hanrahan - Strategic Land Use Planner

Department Strategic Land Use Planning

Authorised by Director of People & Services

Reference

Min 18-159 Ordinary Meeting of Council 25 June 2018

Min 20-273 Ordinary Meeting of Council 23 November 2020

Min 21-243 Ordinary Meeting of Council 25 October 2021

Summary

The purpose of this report is to introduce and provide an overview of a Draft Development Control Plan (DCP) for “The Foundations Portland” site and to obtain a Council resolution to place the document on public exhibition.

Commentary

Background

The Foundations site is an industrial legacy site (being the former Portland Cement Works). Since taking control of the site in 2014, the owners of the site have been working proactively to activate and plan for the repurposing and re-development of the site.

It was rezoned in April 2022 to a mix of employment, residential and recreational zoning and was designated as an Urban Release Area.

Relevant Legislation

The Draft Foundations Development Control Plan has been prepared by a team of consultants managed by Catalyst Consulting Pty Ltd on behalf of the owners of the site, The Foundations Portland Pty Ltd. It has been submitted under Section 3.44 of the Environmental Planning and Assessment Act (EP& A Act), 1979 (the Act) to accord with Part 6.3(3) of Lithgow Local Environmental Plan 2014 (LLEP2014).

Section 3.44 of the Act enables environmental planning instruments (in this case, LLEP 2014) to require a development control plan to be prepared before any development or kind of development may be carried out and make provision with respect to the preparation and content of any such plan.

Under this section, if Council refuses to make the development control plan or delays by more than 60 days to make a decision on whether to make the plan the owners may make a development application despite the requirement for the preparation of a development control plan. In this circumstance the development application would be subject to a full merit-based assessment.

The 60-day period for this process would fall due on 6 July 2023 extended by any time taken for further information requests.

Council may approve the development control plan submitted to under this Section, including any changes.

Urban Release Areas

Part 6 of LLEP 2014 – Urban Release Areas applies to the site. This Part addresses State and Local Public Infrastructure provision, or satisfactory arrangements for that provision, and requires each area to have a development control plan in place to ensure development occurs in a logical and cost-effective manner.

Council may not grant development consent for subdivision or development of the land until these provisions of have been satisfied.

Clause 6.1 Designated State Infrastructure

The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

No state public infrastructure requirements were identified during the Planning Proposal process. Council will request through the Western Region Office of NSW Department Planning and Environment, the relevant satisfactory arrangements certification to run concurrently with this Draft DCP process.

Clause 6.2 Public Utility Infrastructure

Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

It is expected that satisfactory arrangements will be able to be made at the appropriate time for the development. The site is subject to Council's Development Servicing Plan for water and wastewater. Recent water infrastructure improvements to the town of Portland have been undertaken by Council to improve water pressure, local supply, and capacity, to support future development including that proposed on this site. The new upgraded Sewerage Treatment Plant also has the capacity to cater for this development.

No issues in relation to essential public utility infrastructure were identified during the Planning Proposal process. Relevant authorities/agencies will be consulted again during the public exhibition process.

Clause 6.3(3) Development Control Plan

The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

The development control plan must provide for all the following: -

- (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,
- (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
- (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
- (d) a network of active and passive recreation areas,
- (e) stormwater and water quality management controls,

- (f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
- (g) detailed urban design controls for significant development sites,
- (h) measures to encourage higher density living around transport, open space and service nodes,
- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
- (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

Where do the Draft Foundations DCP provisions apply?

The provisions of the location specific controls for the Foundations Site Portland will apply to the Urban Release Area identified in the Urban Release Area Map of Lithgow Local Environmental Plan 2014 and as indicated in red outline on the Masterplan Map below.

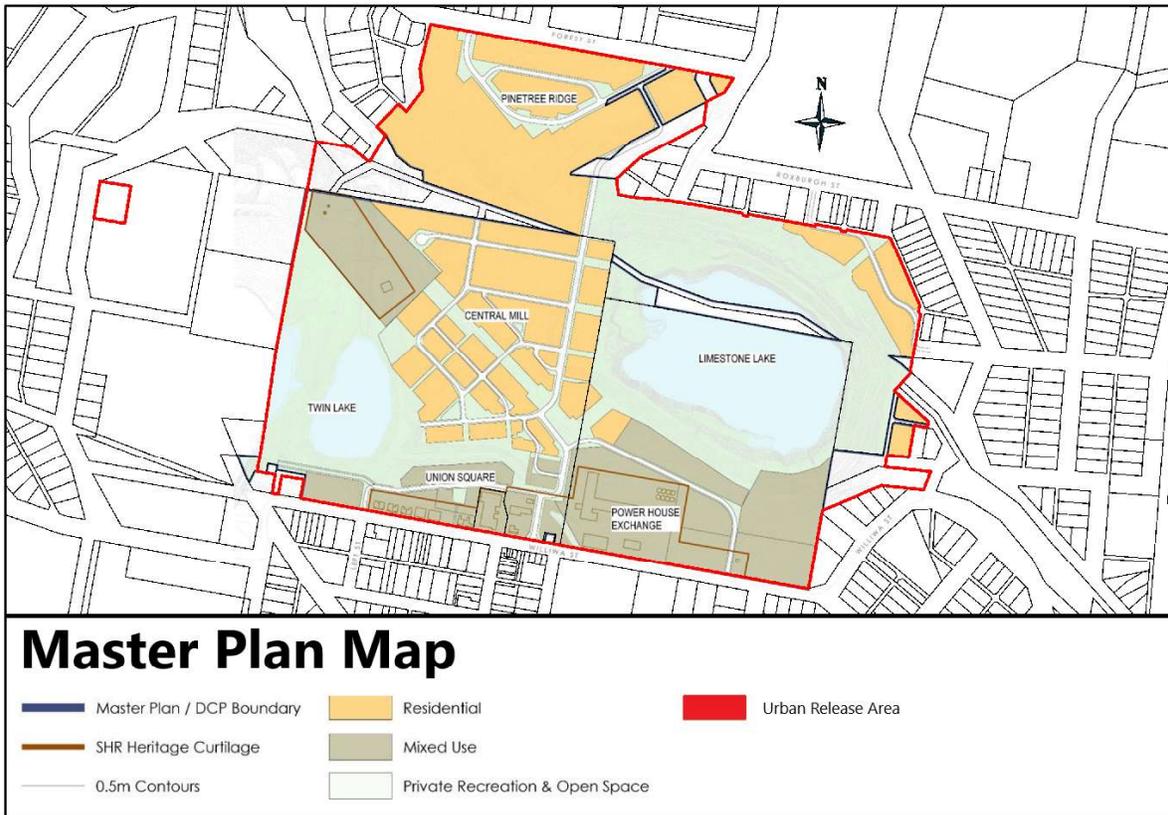
A Place Led Approach

The owners have engaged the services of Hatch/Roberts Day to prepare an urban design analysis and report, and site masterplan/structure plan (Appendix 1 – Place-Led DCP Primer) that underpins the controls within the Draft DCP.

This document outlines what is the place-led approach, its vision, values and the six key elements of place-led design:

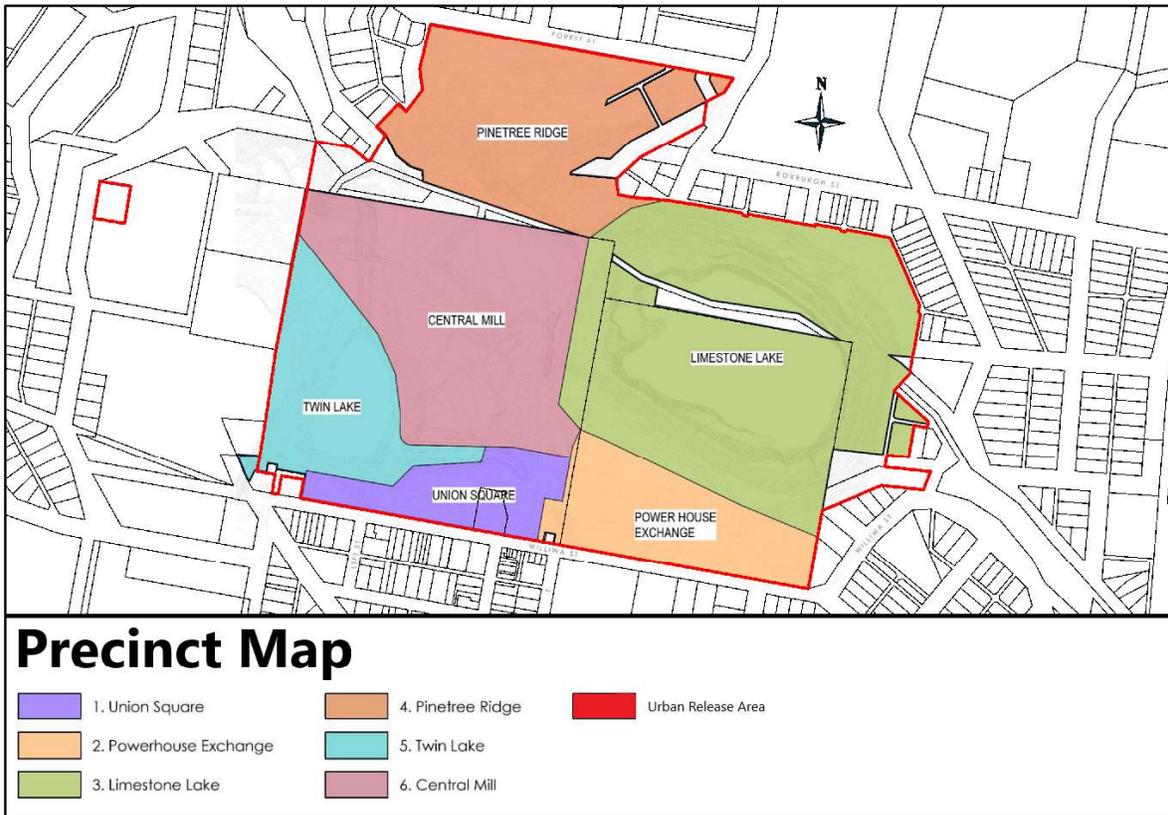
- Neighbourhood Character
- Open Spaces
- Streets
- Built Form
- Housing Diversity and
- Place Making

It also provides a comparison of outcomes between the place-led approach and conventional practice and controls to provide a rationale for the provisions of the Draft DCP.

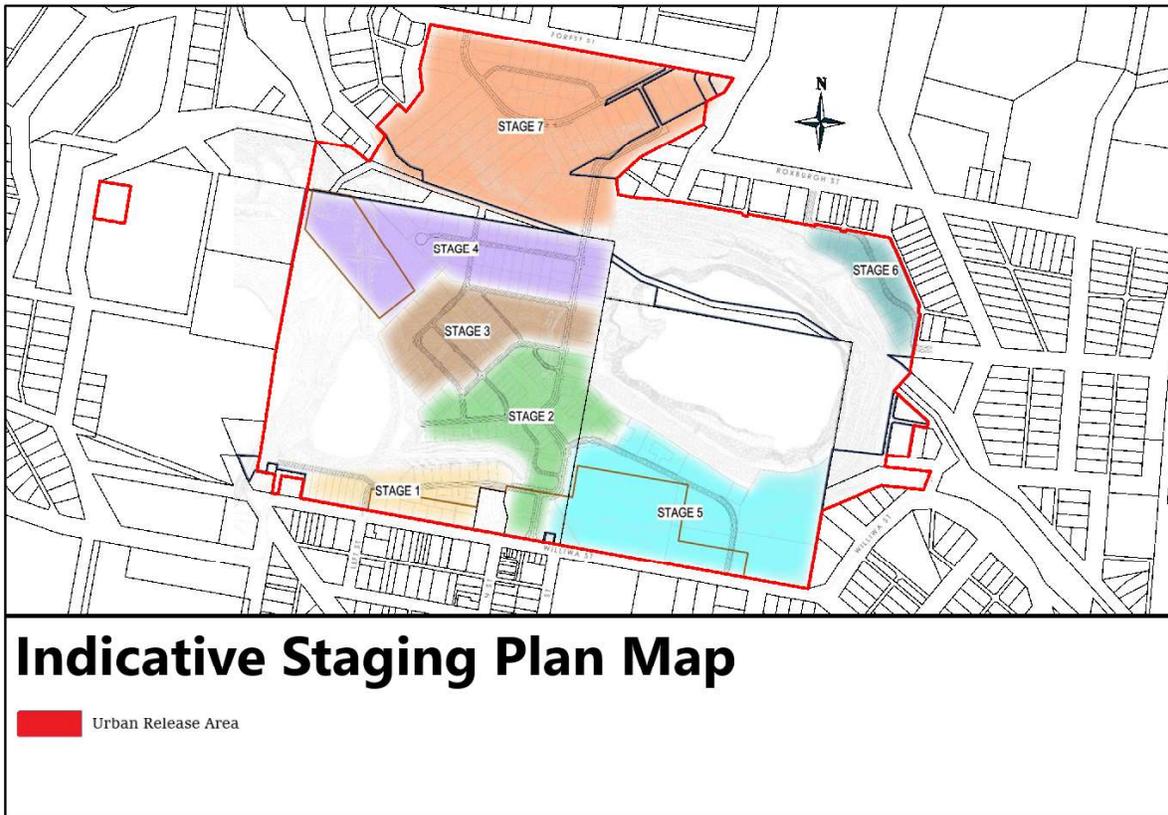


The Structure/Masterplan is also supported by a public domain masterplan indicating the proposed landscape and open strategy for the site (Appendix 2)

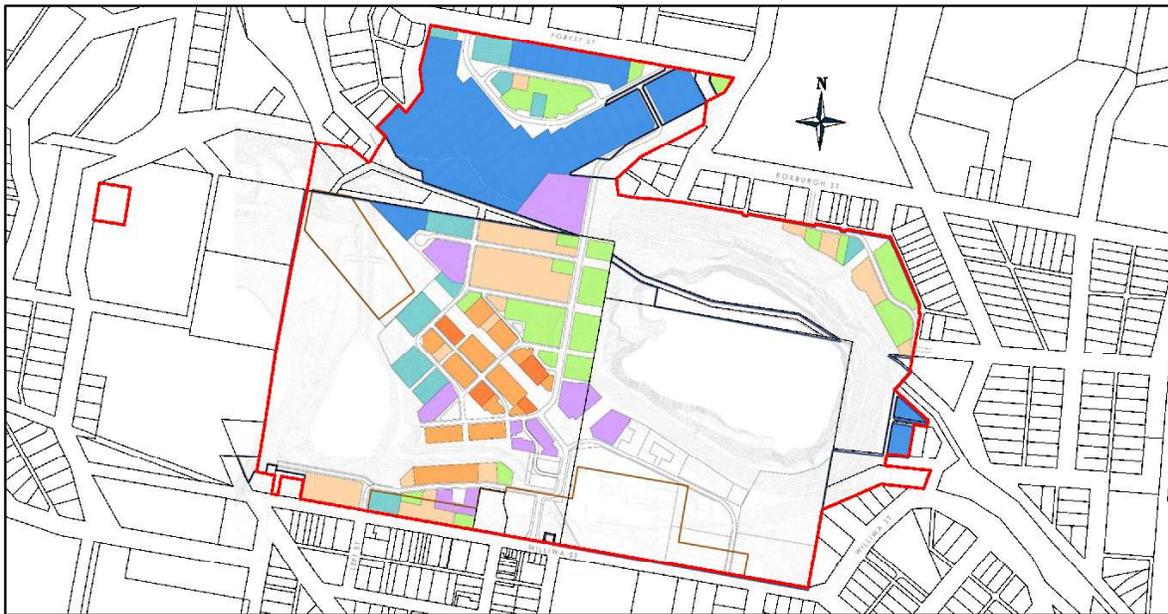
The Draft DCP has identified six distinct place precincts as identified in the Precinct Map below. The Place precincts have been established to ensure the character and identity of each precinct is reflective of the look and feel unique to that setting based on the geographic, physical and historical attributes, topography, proximity to the existing lakes, historical buildings, and the town centre.



The site is proposed to be developed in seven (7) stages as indicated in the indicative staging plan map below.



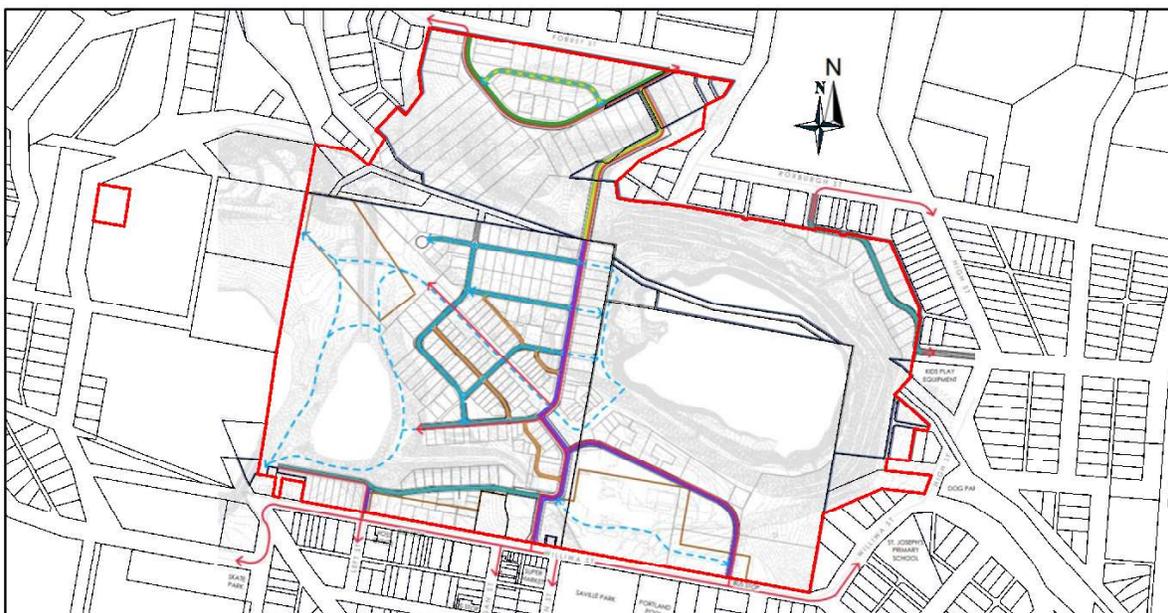
The Foundations site is unique in that no minimum lot size is provided in the LLEP 2014 to guide residential densities. This was supported at the Planning Proposal stage to provide a degree of innovation and flexibility to enable the site development to respond to changing needs and demands of the community over time and for the site to create a place-led design and character. The Draft DCP provides an indicative subdivision Map with identified lot sizes to guide future subdivision applications.



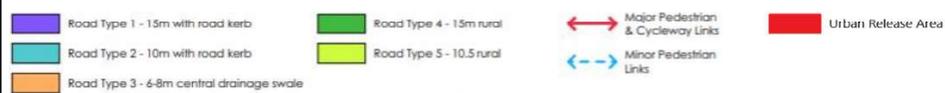
Indicative Subdivision Map



The Draft DCP has provided the Street Typology Map below to identify the transport network within the site.



Street Typology Map



Planning Comment

The Place-Led approach to underpin planning controls, although not a new concept in planning, does represent a change in the more conventional and standardised approach that Lithgow's planning framework has been based upon. The need for innovation in the planning framework is to encourage greater liveability, greater diversity and affordability of housing, and to create places that are sustainable into the future. These are goals of several of Council's strategic planning documents.

This approach has presented some challenges and will require Council's officers to work closely with the proponent to reconcile the divergence of current standards and controls against the more innovative place-led controls.

This collaboration will be undertaken during the public exhibition period to enable the proponent to respond to Council's concerns in relation to key elements such as street design, residential density targets/bands, and some built form controls.

It is considered that some changes may be required to the Draft DCP to strengthen some of the controls and to provide further explanation to assist the ease of understanding of their intent.

It is not envisaged that any changes that may result from this process will be of a substantive nature requiring re-exhibition.

Relationship with Lithgow Development Control Plan 2021

The Draft Foundations DCP has been developed as a stand-alone DCP for the site. Therefore, Lithgow Development Control Plan 2021 will not apply.

Council's Planning Team are exploring the benefits of having the location specific controls being an additional chapter in the Lithgow DCP 2021 with all generic controls of Lithgow DCP also applying to this site.

To enable this option to be explored further, the resolution to publicly exhibit the Draft DCP will allow the option of an amendment to Lithgow DCP 2021.

Can the Foundations DCP controls be varied?

In applying and implementing the controls there will inevitably be situations where strict compliance is not able to be achieved, and/or alternate solutions are preferred.

In accordance with Section 4.15(3A) (b) of the EP & A Act, Council is required to be flexible applying the controls within the DCP and allow reasonable alternative solutions that achieve the objectives of controls for evaluating that aspect of the development.

A clause will be added to the Draft DCP to give effect to these provisions (as per Clause 1.6 of Lithgow DCP 2021), prior to public exhibition.

MOU dedication of open space

The Foundations site contains considerable open space that is currently contained within a private recreation RE 2 zone.

A concept proposal for dedication of the more publicly accessible open space within the site such as the Mill Pond and its foreshores, the heritage spine and residential open space areas has been the subject of a Memorandum of Understanding (MOU) between Council and the proponent.

This MOU is to enable more certainty around what parameters Council will require should it decide to accept dedication and management of these spaces as part of future development applications.

Whilst Council acknowledges the public and community benefit afforded by these spaces, Council must also consider the ongoing maintenance and liability costs associated with their lifecycle.

Council will require further information as outlined in the signed MOU prior to adoption of a DCP.

Community Consultation and Public Exhibition

Under Schedule 1 of the EP & A Act 1979 and Council's Community Participation Plan (CPP), Draft Development Control Plans must be placed on public exhibition for a period of no less than 28 days.

The community consultation plan will be designed to inform and consult with the community and will include the following:

- Notification in the local newspaper (Village Voice) through Council's Column throughout the exhibition period
- Notification on Council's Facebook Page and Website - 'On Exhibition' and electronic newsletter
- Hardcopy display at Council's Administration Centre and each of the town libraries
- Written notification to adjoining landowners
- Consultation with relevant government authorities /agencies as required
- Media release

All submissions received will be considered and the outcomes reported back to Council following the end of the exhibition period. After considering any submissions, Council may:

- Approve the plan as exhibited
- Approve the plan with amendments, or
- Decide not to proceed with the plan

Should Council decide not to proceed with the plan, Council must include their reasons in the required notice to be published on its website.

Donations and Gift Disclosure

The EP & A act, 1979 requires the public disclosure of donations or gifts when lodging or commenting on development proposals. This law is designed to improve the transparency of the planning system.

The laws set out disclosure requirements for individuals or entities with a relevant financial interest as part of the lodgement of relevant planning applications including requests to initiate environmental planning instruments or development control plans.

These disclosure requirements apply at the time of lodgement to Council. It is the responsibility of the applicant to ensure that they have met the requirements specified under the Act. Disclosure requirements also apply to individuals or entities lodging submissions in objection or support of these types of proposals.

The proponent has not made any disclosures.

Recording of voting on planning matters

Under Section 375A of the Local Government Act, 1993 a division must be called whenever a motion for a planning decision is put at a meeting of the Council or Council Committee. The making and adoption of a Development Control Plan is a planning decision for the purposes of this provision.

Policy Implications

Nil

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact –N/A

Legal and Risk Management Implications

The preparation, public participation, approval and administration of Development Control Plans is to comply with Part 3 of Division 3.6 of the Environmental Planning and Assessment Act 1979 and Part 2 Division 2 of the Environmental Planning and Assessment Regulation 2021.

Attachments

1. Foundations Draft DCP [**10.1.2.1.1** - 80 pages]
2. Appendix 1 DCP Primer Place Led [**10.1.2.1.2** - 54 pages]
3. Appendix 2 Public Domain Masterplan [**10.1.2.1.3** - 17 pages]
4. Appendix 3 Conservation Management Plan [**10.1.2.1.4** - 173 pages]

Recommendation

THAT Council

1. Endorse the public exhibition of the Draft Foundations DCP for a period of no less than 28 days, including an option to amend the Lithgow DCP 2021 to insert the Draft Foundations DCP as a chapter (if required).
2. Authorise the General Manager to make any minor consequential and formatting amendments prior to publishing for public exhibition.
3. Endorse the public exhibition and consultation plan summarised in this report.