

## SECTION 4.15 EVALUATION

Environmental Planning and Assessment Act 1979 (as amended)

<b>Development Application No.</b>	DA123/24 (PAN-468996)
<b>Subject Site</b>	Lot 1 DP933666 and Lot 24 DP1041700, 14 Claret Ash Avenue, South Bowenfels NSW 2790 and the existing drainage reserve on Lot 45 DP1109094, Munbinga Drive, Lithgow.
<b>Proposal</b>	Subdivision 2 Lots into 54 Residential Allotments, Six (6) New Roads, and Two (2) Drainage Reserves
<b>Zoning</b>	C3- Environmental Management and R2- Low Density Residential - LEP 2014
<b>Permissibility</b>	Subdivisions are considered permissible under Lithgow Local Environmental Plan 2014, subject to development consent as per Clause 2.6 and Clause 4.1.
<b>Key SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021,</i></li> <li>• <i>State Environmental Planning Policy (Biodiversity &amp; Conservation) 2021,</i></li> <li>• <i>State Environmental Planning Policy (Resilience &amp; Hazards) 2021,</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021,</i></li> <li>• <i>Lithgow Local Environmental Plan 2014.</i></li> </ul>
<b>Application Type</b>	Integrated Development – NSW Rural Fire Service and Subsidence Advisory
<b>Cost of Development</b>	\$2,404,969.60
<b>Applicant</b>	Mr Paul Ledger
<b>Owner</b>	Paul and Catherine Ledger and Lithgow Council (existing drainage reserve on Lot 45 DP1109094)
<b>Notification</b>	26 September 2024 to 4 November 2024, the notification period was then extended until the 2 December 2024 by Council’s Assessment Department.
<b>Submissions</b>	Forty Three (43)
<b>Variations</b>	<u>Lithgow Development Control Plan 2021</u> <ul style="list-style-type: none"> <li>• Clause 5.3.1 Lot Size &amp; Arrangements-General,</li> <li>• Clause 5.4.1 Corner Lots,</li> <li>• Clause 5.7.4 Terminating Roads (Cul-De-Sac).</li> </ul>
<b>Site Inspection</b>	17 December 2024
<b>Responsible Officer</b>	Lauren Stevens-Development Assessment Planner Will Cherrington- Team Leader Development Sandra Politi- Development Manager Shaun Elwood- Director People and Place
<b>Recommendation</b>	Approval subject to attached conditions

### Executive Summary

Objective of Report: To assess and recommend determination of DA123/24 with recommendation for approval subject to conditions.

On 12 September 2024, the subject Development Application DA123/24 was lodged with Council seeking consent for a Torrens Title subdivision of 2 lots into 54 Residential Allotments, 6 New Roads, 2 Lots for Drainage and Public Reserve, on land known as Lot 1 DP933666 and Lot 24 DP1041700, 14 Claret Ash Avenue, South Bowenfels. The development also includes the existing drainage reserve on Lot 45 DP1109094, Munbinga Drive, Lithgow.

Pursuant to the Lithgow Community Participation Plan, the Application was notified for a period of 28 days, commencing 26 September 2024 to 4 November 2024 (extending until 4 December 2024). The development proposal was further exhibited at Council’s Administration Building, on Council’s website.

During the notification period, forty three (43) submissions were received. These submissions are detailed later in this report.

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.

The following formal RFI's were undertaken (informal emails and meetings):

<b>Date</b>	<b>Concerns/Issues</b>
23 October 2024	<ul style="list-style-type: none"> <li>• WaterNSW requested additional information through the Planning Portal</li> </ul>
28 October 2024	<ul style="list-style-type: none"> <li>• Subsidence Advisory requested additional information through the Planning Portal</li> </ul>
11 November 2024	<ul style="list-style-type: none"> <li>• Rural Fire Service requested additional information through the Planning Portal</li> </ul>
2 December 2024	<ul style="list-style-type: none"> <li>• Summary of submissions,</li> <li>• Engineers additional information,</li> <li>• Compliance of existing earthworks,</li> <li>• Plan of subdivision showing allotment widths,</li> </ul>
13 December 2024	<ul style="list-style-type: none"> <li>• Additional Information for Biodiversity Assessment.</li> </ul>
	<ul style="list-style-type: none"> <li>• Additional Information (Email) relating to original earthwork approval (MOD036/20).</li> </ul>
7 February 2025	<ul style="list-style-type: none"> <li>• Additional Information (Email) relating to the RFS RFI.</li> </ul>
20 February 2025	<ul style="list-style-type: none"> <li>• Additional Information (Email) for Hydraulic Assessment.</li> </ul>
2 April 2025	<ul style="list-style-type: none"> <li>• Additional Information (Email) for Transport, Stormwater Pipe, Water and Sewer and Watercourse concerns.</li> </ul>

It is to be noted that numerous attempts were considered to re-design the subdivision to achieve a suitable outcome from the community submissions. This included amending the subdivision layout plan to have no through connector road to Munbinga Drive and Claret Ash Avenue. However, the Rural Fire Service (RFS) could not support the proposed road amendments and as such the application was evaluated based on the original proposal which included the connector road.

### **Description of Site and Surrounds**

The subject site is formally known as Lot 1 DP933666 and Lot 24 DP1041700, 14 Claret Ash Avenue, South Bowenfels. The site is an irregular shaped allotment with a site area of approximately 17.23ha. The development also involves the existing drainage reserve on Lot 45 DP1109094, Munbinga Drive, Lithgow.

The property adjoins residential subdivisions (containing built developments) on Claret Ash Avenue to the south west of the site and Munbinga Drive to the North East. Hassans Walls Reserve adjoins the site to the south east.

The site contains two high points, the north western corner and the southern area of the site. These both slope down towards the centre of the property. Most of the proposed allotments therefore are affected by slopes over 20%. These allotments have been designed to contain larger area sizes in order to provide suitable land availability for future dwellings.

The site is flood-affected under the Lithgow Council's Flood Prone Maps and is identified to be bushfire-prone. The site contains no heritage items or in a heritage conservation area.

Location of the proposed development



Figure 1: Aerial View of the property



Figure 2: The property proposed to be subdivided, photo from Munbinga Drive 17/12/2024



Figure 3: The property proposed to be subdivided, photo from Munbinga Drive 17/12/2024



Figure 4: The property proposed to be subdivided, photo from Munbinga Drive 17/12/2024



Figure 5: The existing bioretention basin, photo from Munbinga Drive 17/12/2024



Figure 6: The property proposed to be subdivided, photo from Claret Ash Avenue 17/12/2024



Figure 7: The property proposed to be subdivided, photo from Claret Ash Avenue 17/12/2022

### **Existing Approvals**

DA168/02 – Earthworks for Stage 3 Subdivision; these works have not yet been completed.

MOD036/20 – Extension of bulk earthworks area to enable finalisation of DA, including:

- Propose extension to the earthworks area to include additional fill,
- Improvements to lower portion of existing overland flow path to the existing concrete channel and detention basin,
- Included Controlled Activity Approval.

The following table provides a summary of the earthwork areas to date:

DA	Area reference	Approved area	Actual area worked as at 1/1/25	Actual area worked %
168/02	Cut "C1"	5,610m <sup>2</sup>	5,460m <sup>2</sup>	97%
168/02	Fill "F1"	11,890m <sup>2</sup>	11,280m <sup>2</sup>	95%
168/02	Cut "C2"	12,600m <sup>2</sup>	4,730m <sup>2</sup>	37%
Mod036/20	Fill "F2"	8,860m <sup>2</sup>	2,770m <sup>2</sup>	31%
	Total	38,960m <sup>2</sup>	24,240m <sup>2</sup>	62%

The current site earthwork activities and intent appear to comply with the conditions laid out in DA168/02 and MOD036/20 consents, principally:

- All batters in soil are no steeper than 3:1 batters in solid rock may be up to ½:1;
- The generalised contours of the areas are as per approvals;
- Soil and Sedimentation Control measures including Western detention basin, sediment ponds, silt fences and coir logs are all in place and maintained;
- The total area that was envisaged to may be affected, including landscaping (1,020m<sup>2</sup>) and borrow pit (410m<sup>2</sup>) are well within overall limits;
- All soil stockpiles are placed within the confines of the sedimentation control area;
- There has been no change to the total catchment area by these works;
- Native trees within the environmentally sensitive zoned areas have been protected;
- Unsuitable fill will be placed in a non-residential area or has been removed from site;
- Compaction test results have/will be forwarded to Council for future reference as they become available.

### **Proposed Development**

Council is in receipt of Development Application No. DA123/24 seeking consent for a Torrens Title subdivision of 2 lots into 54 Residential Allotments, 6 New Roads, 2 Lots for Drainage and Public Reserve, on land known as Lot 1 DP933666 and Lot 24 DP1041700, 14 Claret Ash Avenue, South Bowenfels. The development also includes the existing drainage reserve on Lot 45 DP1109094, Munbinga Drive, Lithgow (Council owned land).

The lots are proposed to range in size from 830m<sup>2</sup> to 7.4ha.

The development proposes to provide two (2) connections to the existing road network; that being from Claret Ash Avenue and Munbinga Drive.

The proposed subdivision allotment sizes are detailed below:

Proposed Lot	Allotment Size		Proposed Lot	Allotment Size		Proposed Lot	Allotment Size
Lot 1	830m <sup>2</sup>		Lot 21	1384m <sup>2</sup>		Lot 41	1360m <sup>2</sup>
Lot 2	938m <sup>2</sup>		Lot 22	1327m <sup>2</sup>		Lot 42	969m <sup>2</sup>
Lot 3	1103m <sup>2</sup>		Lot 23	1256m <sup>2</sup>		Lot 43	1030m <sup>2</sup>
Lot 4	1108m <sup>2</sup>		Lot 24	1148m <sup>2</sup>		Lot 44	1315m <sup>2</sup>
Lot 5	2172m <sup>2</sup>		Lot 25	1061m <sup>2</sup>		Lot 45	835m <sup>2</sup>
Lot 6	1464m <sup>2</sup>		Lot 26	832m <sup>2</sup>		Lot 46	834m <sup>2</sup>
Lot 7	1010m <sup>2</sup>		Lot 27	837m <sup>2</sup>		Lot 47	2327m <sup>2</sup>
Lot 8	1266m <sup>2</sup>		Lot 28	865m <sup>2</sup>		Lot 48	2491m <sup>2</sup>

Lot 9	1315m <sup>2</sup>	Lot 29	1313m <sup>2</sup>	Lot 49	1145m <sup>2</sup>
Lot 10	967m <sup>2</sup>	Lot 30	1168m <sup>2</sup>	Lot 50	1041m <sup>2</sup>
Lot 11	1185m <sup>2</sup>	Lot 31	1142m <sup>2</sup>	Lot 51	3447m <sup>2</sup>
Lot 12	1065m <sup>2</sup>	Lot 32	1413m <sup>2</sup>	Lot 52	6304m <sup>2</sup>
Lot 13	1052m <sup>2</sup>	Lot 33	2424m <sup>2</sup>	Lot 53	5000m <sup>2</sup>
Lot 14	968m <sup>2</sup>	Lot 34	2313m <sup>2</sup>	Lot 54	7.4ha
Lot 15	968m <sup>2</sup>	Lot 35	1203m <sup>2</sup>		
Lot 16	928m <sup>2</sup>	Lot 36	1203m <sup>2</sup>		
Lot 17	1103m <sup>2</sup>	Lot 37	1352m <sup>2</sup>		
Lot 18	1005m <sup>2</sup>	Lot 38	1422m <sup>2</sup>		
Lot 19	909m <sup>2</sup>	Lot 39	1251m <sup>2</sup>		
Lot 20	2505m <sup>2</sup>	Lot 40	1202m <sup>2</sup>		

The proposed subdivision layout is shown in the Figure below:

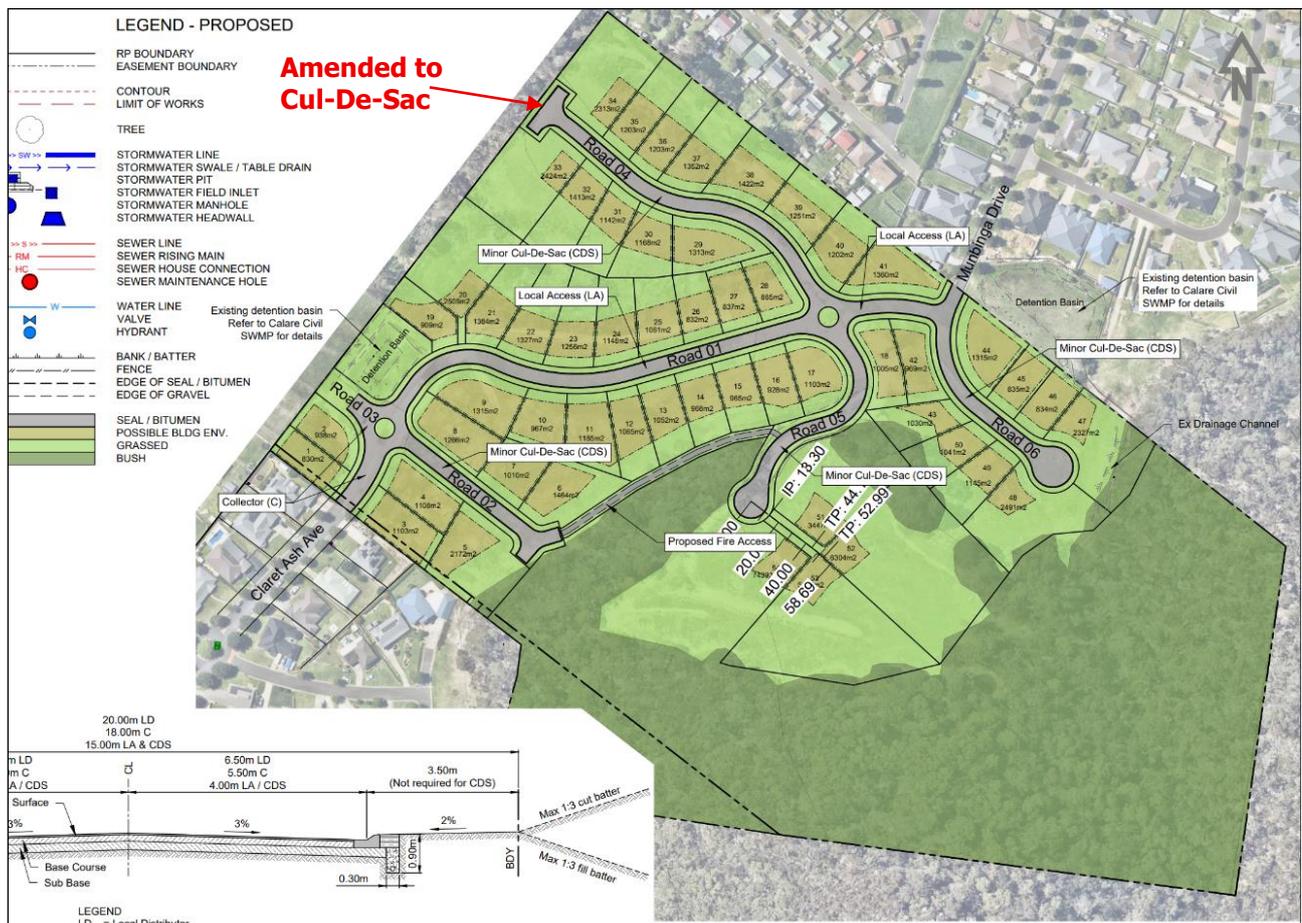


Figure 3: Proposed Subdivision Layout

All required services for the development can be provided via an extension to the existing utility infrastructure.

## Referrals

### Internal Referrals

Branch	Comment
Building	NA
Environmental & Health	NA
Heritage Advisor	NA

Infrastructure Services	The application was referred to Council's Infrastructure Department for comment in relation to vehicular access and stormwater. Council's Infrastructure Department has no objection to the application subject to conditions on the consent. (Response received 10 June 2025).
Strategic Planning	NA
Property/Legal	NA
Water & Wastewater	The application was referred to Council's Water and Wastewater Department for comment in relation to connection to services. Council's Water and Wastewater Department has no objection to the application subject to conditions on the consent. (Response received 16 June 2025).
Waste Officer	The application was referred to Council's Waste Department for comment in relation to waste collection services. Council's Waste Department has no objection to the application. (Response received 7 November 2024).

### External Referrals

Agency	Comment
Endeavour Energy	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. (Refer to response letter received 26 August 2024).
DPE-Water	NA- No construction work is proposed to be undertaken within 40m of a water course.
Rural Fire Service	The development is defined as being Integrated Development under Section 100B of the Rural Fires Act. As such the development was referred to the NSW Rural Fire Service for comment. The NSW Rural Fire Service has no objection to the application subject to conditions on the consent. (Refer to response letter received 2 April 2025).
Subsidence Advisory	The application was referred to Subsidence Advisory in accordance with the Coal Mine Subsidence Compensation Act 1017. No concerns or objections were raised by Subsidence Advisory. The proposed development is therefore considered satisfactory subject to compliance with their recommended conditions of consent. (Refer to concurrence letter received 25 November 2024).
WaterNSW	The application was referred to WaterNSW in accordance with Sydney Drinking Water SEPP. No concerns or objections were raised by Water NSW. The proposed development is therefore considered satisfactory subject to compliance with their recommended conditions of consent. (Refer to concurrence letter received 23 December 2024).

### Statutory Assessment

In determining a Development Application, a consent authority is to take into consideration the matters of relevance to the development pursuant to section 4.15 of the Environmental Planning and Assessment Act (EP&A Act) 1979.

### State Environmental Planning Policies

#### 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	The proposal has been assessed in relation to clearing of native vegetation and the Biodiversity Offset Scheme threshold under the provisions of this Act. A desktop assessment of threatened species using the BioNet Atlas identified the brushtail possum, Person's and Screaming Tree Frog, Common Eastern Froglet, Spotted Grass Frog, Kangaroo/Wallaby species.
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	<p>A Biodiversity Development Assessment Report was therefore submitted by the applicant. The Report identified that two vegetation communities were recorded on the subject land that being:</p> <ul style="list-style-type: none"> <li>• Goulburn-Lithgow Ranges Silvertop Ash Forest and</li> <li>• Newnes Plateau Peppermint-Ash Tall Forest.</li> </ul> <p>Areas of native vegetation were recorded on the steep southeastern slope, and retained patches of native vegetation will largely be avoided by the proposed development.</p> <p>The report further indicates that most of the impacted area is on cleared land composed of exotic vegetation and pine mulch consisting of low diversity.</p> <p>The report concluded that the proposal does not trigger the NSW Biodiversity Offsets Scheme, as it does not exceed the area clearing threshold, and no mapped 'biodiversity values' will be impacted.</p> <p>To ensure minimal harm to the environment, safeguards and mitigation measures are proposed for the development and would be condition on the consent.</p>
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. As such the development was no required to be referred to National Parks and Wildlife.
Roads Act 1993 (Roads Act)	<p>The development does not require road works to any regional road networks. The development is also further under the threshold for traffic generated development as per <i>Schedule 3 Traffic-generating development to be referred to TFNSW-Chapter 2</i> of the State Environmental Planning Policy (Transport and Infrastructure) 2021</p> <p>As the development is not required to be referred to Transport for NSW and complies with the Roads Act 1993.</p>
Conveyancing Act 1919	<p>DP933666 (dated 1909) (Lot 1) – no restrictions or easements shown on title</p> <p>DP1041700 (Lot 24) shows easements to the property boundary of Lot 24 from Claret Ash Avenue. The sewer and water drainage easement is proposed to be extended into the new subdivision, along the front of the new allotments. The covenant also contains restrictions to future developers (specifically dwellings) on the allotments. It is expected that these restrictions will be carried over to the new subdivision by the developer should the application be approved.</p> <p>DP1109094 (Lot 45) noted as a drainage reserve on the plans and as such this is proposed to remain with no restrictions stated on the title.</p> <p>The development will require restrictions and easements for Council's Infrastructure services and restrictions by WaterNSW and the Rural Fire Service.</p>
Contaminated Land Management Act 1997 (CLMAAct)	A Preliminary Contamination Investigation Report was submitted with the application. The report identified a coal mine was previously (operated between 1925 to 1932) located east of the site and a mine access track to have traversed the development site. The rest of the site was previously utilised for grazing purposes. It is to be noted that the mine is located outside of the investigation area (20m east of the proposed lot boundary), within the C3 – Environmental Management zone.

	The development has considered contamination with the support of a Preliminary Contamination Investigation submitted as required by the State Environmental Planning Policy (Resilience and Hazards) 2021 and considered satisfactory.
Crown Land Management Act 2016 (CLMAAct)	The proposal does not impact any Crown Land.
Water Management Act 2000 (WMAAct)	Water NSW has provided concurrence to the development subject to conditions of consent.
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 applicant that includes provisions for weed removal and management. As such this will be conditioned on the consent.</p>

#### **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 and the Coal Mine Subsidence Compensation Act 1017.

##### **Planning Agreements (Section 7.4)**

It is proposed to enter into a Planning Agreement under Section 7.4 of the EP&A Act. Information regarding the applicant's offer to enter a Planning Agreement is provided later in this report.

##### **Local Infrastructure Contributions (Sections 7.11 and 7.12)**

Councils may impose a condition under s. 7.11 or 7.12 of the EP&A Act for development contributions only if it is of a kind allowed by a contributions plan and is determined in accordance with the provisions of that plan (s. 7.13 EP&A Act).

Council does not have a section 7.11 contributions plan and therefore Council cannot impose a levy under section 7.11.

While Council has a section 7.12 Local Infrastructure Contributions Plan 2024, the applicant has offered a monetary contribution under a Planning Agreement that is significantly more than the 1% levy that could be imposed under section 7.12.

Acceptance of the applicants offer to enter a Planning Agreement at the exclusion of a 7.12 contribution, provides the best value for Council and the consent can be conditioned subject to a planning agreement being entered.

### **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 (LDCP2021).*

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

<b>EPI</b>	<b>Matters for Consideration</b>	<b>Comply (Y/N)</b>
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
SEPP (Resilience & Hazards)	<p><u>Chapter 4: Remediation of Land</u> Chapter Four of the R&amp;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>	Yes

	<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> <p>A Preliminary Contamination Investigation Report was submitted with the application. The report identified a coal mine was previously (operated between 1925 to 1932) located east of the site and a mine access track to have traversed the development site. The rest of the site was previously utilised for grazing purposes. It is to be noted that the mine is located outside of the investigation area (20m east of the proposed lot boundary), within the C3 – Environmental Management zone. Samples collected from the access track did not contain elevated levels of heavy metals or PAH.</p> <p>Extensive earthworks have been undertaken to level the site by cut and fill for the creation of roads and suitable building lots. Part of the earthworks involved excavation works with a 15,000t carbonaceous shale seam removed. The sandstone was then backfilled with material from on site. No other areas of carbonaceous shale are located within 10m of the surface.</p> <p>Natural soils onsite comprised of brown to dark brown silty sand topsoil to depths up to 0.7m. Sandy clay, clayey and silty clay subsoils were at depths greater than 3.5m. Fill comprising material from on site is present in some areas to varying depths. As such, no evidence of contamination from surface staining or odours were identified.</p> <p>It was conditioned on DA168/02 that compaction testing was to be undertaken for the earthworks. Testing was subsequently undertaken by Macquarie Geotech and found to be adequate.</p> <p>In addition, tree harvesting occurred in 2023 to remove a radiata pine plantation from the northern ridge. Off cuts were chipped and remained onsite.</p> <p>In summary, the site did not indicate any potential contaminating land-use or evidence of contamination from surface staining or odours.</p> <p>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.</p>	
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p><u>Chapter 2: Infrastructure</u></p> <ul style="list-style-type: none"> <li>• Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal satisfies this section, subject to recommended conditions.</li> </ul>	Yes
Lithgow Local Environment Plan 2014 (LLEP2014)	<ul style="list-style-type: none"> <li>• Clause 2.3 – Permissibility and zone objectives</li> <li>• Clause 4.1 – Minimum lot size</li> <li>• Clause 5.21 – Flood Planning</li> </ul>	Yes

	<ul style="list-style-type: none"> <li>• Clause 7.1 – Earthworks</li> <li>• Clause 7.3 – Stormwater management</li> <li>• Clause 7.4 – Terrestrial biodiversity</li> <li>• Clause 7.5 – Groundwater vulnerability</li> <li>• Clause 7.7 - Sensitive lands</li> <li>• Clause 7.10 – Essential services</li> </ul> <p>The development is generally consistent with LLEP2014.</p>	
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>	No-Variation Required

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

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

#### Chapter 3: Koala Habitat Protection 2020

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 3 applies to land of more than 1 hectare in area.

#### Part 3.2 Development Control of Koala Habitats

A Biodiversity assessment was undertaken for the property and did not identify any core koala habitats being located on the property. No eucalypt vegetation is located on or in the vicinity of the property. As such, Council is satisfied that the development would have no impact on koala habitats.

#### 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.'*

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 (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.

The report identified a coal mine was previously (operated between 1925 to 1932) located east of the site and a mine access track to have traversed the development site. Samples collected from the access track did not contain elevated levels of heavy metals or PAH.

Extensive earthworks have been undertaken (as per DA168/02) to level the site by cut and fill for the creation of roads and suitable building lots. Part of the earthworks involved excavation works with a 15,000t carbonaceous shale seam removed. The sandstone was then backfilled with material from on site. No other areas of carbonaceous shale are located within 10m of the surface.

Natural soils onsite comprised of brown to dark brown silty sand topsoil to depths up to 0.7m. Sandy clay, clayey and silty clay subsoils were at depths greater than 3.5m. Fill comprising material from on site is present in some areas to varying depths. As such, no evidence of contamination from surface staining or odours were identified.

It was conditioned on DA168/02 that compaction testing was to be undertaken for the earthworks. Testing was subsequently undertaken by Macquarie Geotech and found to be adequate.

In addition, tree harvesting occurred in 2023 to remove a radiata pine plantation from the northern ridge. Off cuts were chipped and remained onsite.

In summary, the site did not indicate any potential contaminating land-use or evidence of contamination from surface staining or odours.

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 low-voltage underground cables that adjoins the property 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 responses 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 (LEP) 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:

<b>Clause 1.2 Aims of Plan</b>	
<b>Objective</b>	<b>Comment</b>

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,	Not applicable – the proposed development is a permissible land use and is considered to support the housing needs of the local community.
(a) to encourage sustainable and planned development that complements the unique character and amenity of Lithgow and enhances its towns, villages and rural areas,	Complies – the proposed development is considered to be in keeping with the existing residential locality that adjoins the property.
(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,	Complies – the proposed development is considered to provide for a range of development opportunities that contribute to the social, economic and environmental resources.
(c) to manage, facilitate and encourage sustainable growth and development that—	Refer to below comments.
(i) promotes the efficient and effective delivery of utilities, infrastructure and service and minimises long-term costs to government, authorities and the community, and	Complies – the proposed development is considered to appropriately manage the necessary utilities, infrastructure and services required.
(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	Not applicable - the proposed development relates to the subdivision for future development purposes.
(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	Complies – the proposed development is considered unlikely to result in land use conflict.
(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	Complies – the subdivision would allow a variety of future housing choices.
(v) preserves and protects land that has been identified for future long term urban development from inappropriate fragmentation and development, and	Not applicable – the site has not been identified for long term urban development.
(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	Complies – appropriate consideration has been given to the environmentally sensitive areas located. Based on the information submitted and the matters outlined in this 4.15 Assessment Report, the development is considered to achieve compliance with this objective.
(vii) protects and enhances places and items of environmental, archaeological, cultural or heritage significance, including Aboriginal relics and places, and	Complies - appropriate consideration has been given to the environmentally sensitive areas located. Based on the information submitted and the matters outlined in this 4.15 Assessment Report, the development is considered to achieve compliance with this objective.  The subject site is not mapped as being an item of heritage significance. The property however does adjoin a heritage item known as the former Coerwell Academy and now utilised as a private cottage. The property has a frontage to the Great Western Highway as per the map below:



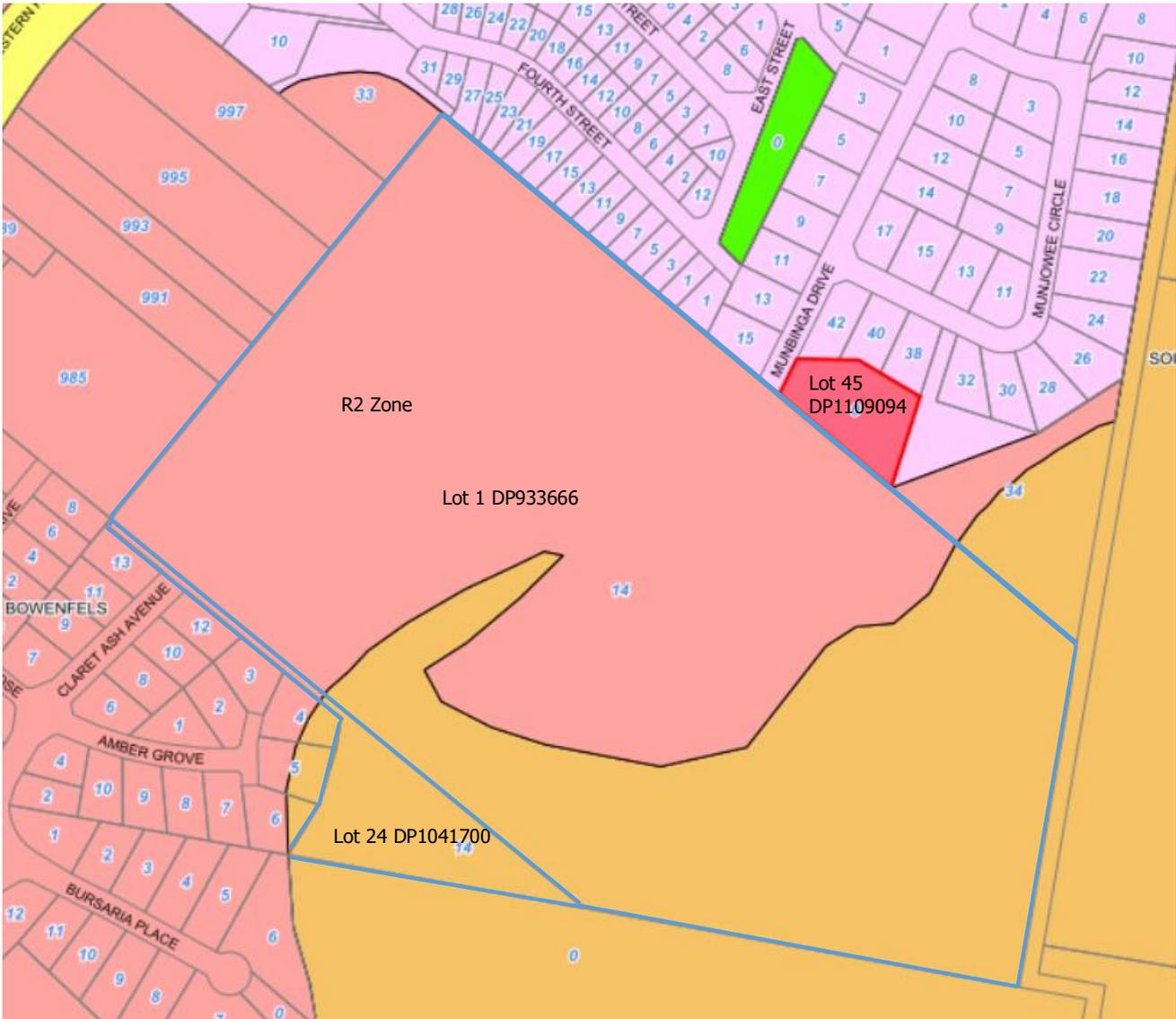


Figure 4: Zoning Map

**Permissibility** The development being a 'subdivision' is considered permissible under Lithgow Local Environmental Plan 2014, subject to development consent as per Clause 2.3 and Clause 4.1.

Clause 2.6 states:

**2.6 Subdivision—consent requirements**

- (1) Land to which this Plan applies may be subdivided, but only with development consent.
- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

**Comment:** The development application was lodged to Council for assessment.

**Clause 4.1 Minimum subdivision lot size**

- (1) The objectives of this clause are as follows:
  - (a) to minimise the cost to the community of:
    - (i) fragmented and isolated development of rural land, and
    - (ii) providing, extending and maintaining public amenities and services,
  - (b) to ensure that the character and landscape setting of an area is protected and enhanced by any development,
  - (c) to promote development on appropriately sized lots and to ensure access to available essential services.

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

Comment: The minimum allotment size identified under Council’s LEP 2014 is 800m<sup>2</sup> in the R2 zone and 40ha in the C3 zone. Lots identified as 1 to 53 residential allotments are all proposed to be located within the R2 zone and contain land areas above 800m<sup>2</sup>.

Lot 54 is proposed to be located within the R2 and C3 zone. As such, Clause 4.1B of the LEP 2014 applies. Clause 4.1B states:

**4.1B Minimum subdivision lot size for certain split zones**

(1) The objectives of this clause are as follows—

(a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1, 4.1AA or 4.2C,

(b) to ensure that the subdivision occurs in a manner that promotes sustainable land uses and development.

(2) This clause applies to any lot (an **original lot**) that contains—

(a) land in Zone RU5 Village or in a residential mixed use or employment zone, and

(b) land in a rural zone or conservation zone.

(3) Development consent may be granted to the subdivision of an original lot to create other lots if—

(a) one of the resulting lots will contain—

(i) all of the land of the original lot that is in a rural zone or conservation zone, and

(ii) land in Zone RU5 Village, or in a residential mixed use or employment zone, that has an area not less than the minimum size shown on the Lot Size Map in relation to that land, and

(b) each of the other resulting lots will have an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.

Comment: Lot 54 is proposed to contain an area of 7.4ha and is to wholly contain the C3 zone and part of the R2 zone. As the other allotments comply with the minimum allotment size in the R2 zone, and the allotment contains more than 800m<sup>2</sup> the development is considered to comply with Clause 4.1B above.

Zone Objectives

Objective	Comment
<b>Zone C3 Environmental Management</b>	
<ul style="list-style-type: none"> <li>To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.</li> </ul>	Complies – given that a small area of the property is located within the C3 zone, the property does not contain any special ecological, scientific, cultural or aesthetic values. All of the C3 zone will further be contained within proposed Lot 54.
<ul style="list-style-type: none"> <li>To provide for a limited range of development that does not have an adverse effect on those values.</li> </ul>	Complies – the development will have minimal impact to the C3 values stated above, given that majority of the land is zoned R2 and is surrounded by residential subdivisions. The C3 land is due to Hassans Walls Reserve adjoining the site to the south east and an extension of vegetation expanding onto the property. Proposed Lot 54 will further contain part of the R2 zone that has previously been cleared of native vegetation and no further clearing is proposed for future dwelling/s.
<ul style="list-style-type: none"> <li>To facilitate the management of environmentally sensitive lands and riparian areas.</li> </ul>	Complies – Part of the property is identified to be mapped within the environmentally sensitive area. Majority of this area is area will be retained where possible.  The property is not mapped as being located within the riparian land area.
<ul style="list-style-type: none"> <li>To protect and conserve the vegetation and escarpment landscape surrounding Lithgow.</li> </ul>	Complies – The development has been designed to limit clearing and earthworks within the environmentally sensitive areas by ensuring the area is wholly within 1 new allotment.

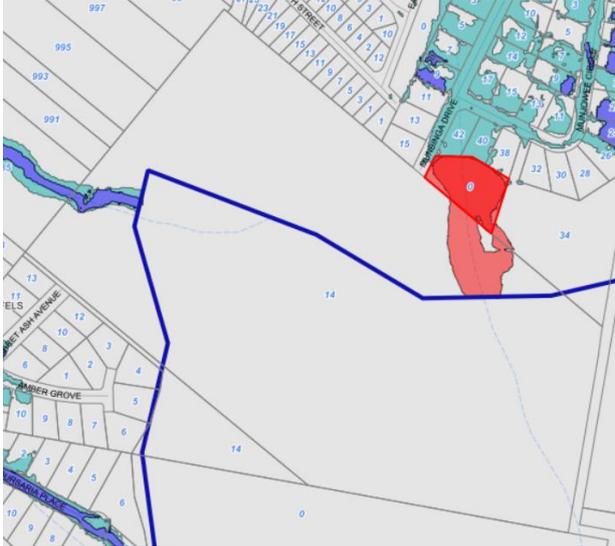
Objective	Comment
	Restrictions on title regarding environmental management and clearing would be conditioned on the consent.
• <i>To maintain or improve the water quality of receiving water catchments.</i>	Complies – The development contains adequate stormwater designs that has been assessed by WaterNSW as achieving a neutral or beneficial effect on water quality.

Objective	Comment
<b>Zone R2 Low Density Residential</b>	
• <i>To provide for the housing needs of the community within a low density residential environment.</i>	Complies – the development being for 54 new residential allotments will provide additional housing developments in the future. The land is currently vacant within a surrounding residential area and within proposed allotment sizes ranging from 800m <sup>2</sup> to 7.4ha. This would help to facilitate a variety of housing types in the area.
• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Complies – The subdivision has been designed to accommodate road services for buses and waste trucks. Land is also proposed to be dedicated to Council for public use. Playground equipment is available within the vicinity with the development proposed to be linked to the adjoining residential subdivisions.
• <i>To maintain or improve the water quality of receiving water catchments.</i>	Complies – The development contains adequate stormwater designs that has been assessed by WaterNSW as achieving a neutral or beneficial effect on water quality.

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.

LEP Clauses		
Relevant Provisions		Comment
<b>Part 2 Permitted or prohibited development</b>		
2.3	Zone objectives and Land Use Table	Complies – subdivisions are permitted with consent in the zones applicable; and the development is in keeping with the objectives of those zones.
2.4	Unzoned land	Not applicable.
2.5	Additional permitted uses for particular land	Not applicable.
2.6	Subdivision – consent required	Complies – The Development Application has been submitted.
2.7	Demolition – consent required	Not applicable.
2.8	Temporary use of land	Not applicable.
<b>Part 4 Principal development standards</b>		
4.1	Minimum subdivision lot size	Complies – The minimum allotment size identified under Council's LEP 2014 is 800m <sup>2</sup> in the R2 zone and 40ha in the C3 zone. Lots identified as 1 to 53 residential allotments are all proposed to be located within the R2 zone and contain land areas above 800m <sup>2</sup> .  Lot 54 is proposed to be located within the R2 and C3 zone. As such, Clause 4.1B of the LEP 2014 applies.
4.1B	Minimum subdivision lot size for certain split zones	Lot 54 is proposed to contain an area of 7.4ha and is to wholly contain the C3 zone and part of the R2 zone. As the other allotments comply with the minimum allotment size in the R2 zone, and the allotment contains more than 800m <sup>2</sup> the development is considered to comply with Clause 4.1B.
4.2	Rural subdivision	Not applicable.

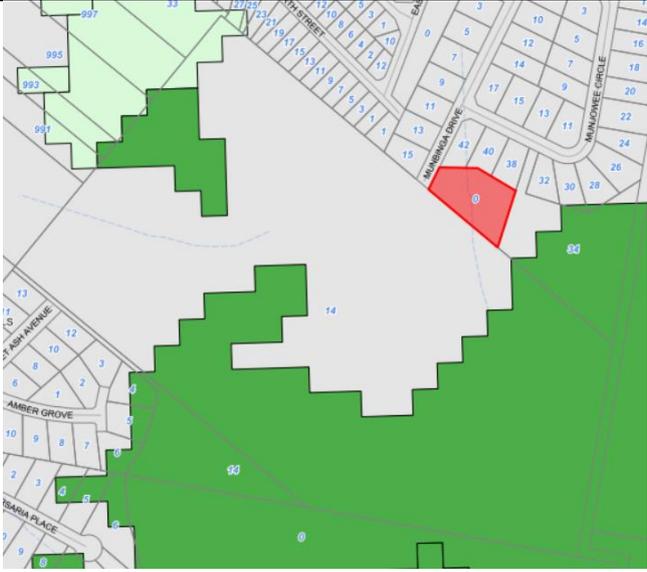
LEP Clauses		
Relevant Provisions		Comment
4.3	Height of buildings	Not applicable.
4.4	Floor space ratio	Not applicable.
4.6	Exceptions to development standards	Not applicable.
<b>Part 5 Miscellaneous provisions</b>		
5.3	Development near zone boundaries	Not applicable.
5.4	Controls relating to miscellaneous permissible uses	Not applicable.
5.5	Controls relating to secondary dwelling on land in a rural zone	Not applicable.
5.9	Dwelling house or secondary dwelling affected by natural disaster	Not applicable.
5.10	Heritage conservation	Not applicable.
5.16	Subdivision of, or dwellings on, land in certain rural, residential or conservation zones	Not applicable.
5.21	Flood planning	<p>Complies – two areas of the property is mapped as being within Council’s flood prone area. The Statement of Environmental Effects states that the original gully in the northeast of the site was redirected by the previous coal mine on site. The previous DA168/02 (MOD036/20) involved works to formalise the existing flow path and earthworks to the site utilising excess fill which reshaped the land.</p> <p>The flood prone area in the north west side of the property will consist of the proposed detention basin. It has been assessed that the site is unlikely to be inundated during a flood event as outlined in the stormwater report.</p> 
<b>Part 7 Additional local provisions</b>		
7.1	Earthworks	<p>Earthworks were originally undertaken on the site as per DA168/02, MOD036/20 to extend the bulk of the earthworks area.</p> <p>The current subdivision application will involve minor additional earthworks for the construction of roads and infrastructure. It is to be noted that there will be no additional fill to enter the site.</p>

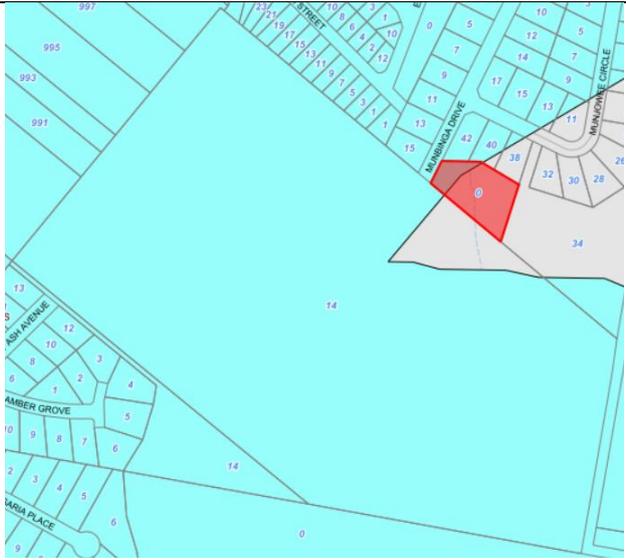
LEP Clauses	
Relevant Provisions	Comment
	<p>The road network and stormwater infrastructure proposed have been designed to allow for the diversion of stormwater to be captured within detention basin systems (x2 basins) and treated before being naturally dispersed.</p> <p>Conditions of consent have been imposed to ensure dust, noise and erosion impacts are minimised during works and in perpetuity as a result of the earthworks.</p> <p>The main connection road through the site will utilise the least effected sloped areas in order to best utilise the topography and natural drainage paths.</p>  <p>The site contains a few areas with slopes over 20%. This threshold is deemed to provide geological and built form constraints.</p> <p>The main lots affected by steeper slopes, within the (south eastern corner) have been designed to be larger in size in order to provide areas for future dwellings.</p> <p>A slope stability investigation report was submitted with the application and identified that the property contains slopes in all directions to a maximum of 21 degrees. The report concluded that the development is assessed as having a 'low' risk slope stability. Although it was assessed as low risk, the following recommendations were made:</p> <ul style="list-style-type: none"> <li>• <u>Type of Structure</u> – All future dwellings are to be founded on footings, designed and constructed in accordance with AS2870:2011-'Residential Slabs and Footings' or sound engineering principles.</li> <li>• <u>Area for Development</u> – All future dwellings should be undertaken in accordance with sound hillside construction practice and sound engineering principles as presented in the Australian Geomechanics Society "Landslide Risk Management Concepts and Guidelines, 2007".</li> </ul>

LEP Clauses	
Relevant Provisions	Comment
	<ul style="list-style-type: none"> <li>• <u>Soil Excavation</u> – Any soil materials to be removed for foundations and footings should be removed using a bucket excavator, auger attachment or hand tools. -Any residual soils overlying the sedimentary rock is to be battered to a minimum 45 degrees with retaining walls may be required. If permanent batters are proposed, the unsupported batter must not be steeper in gradient than 20 degrees in soil or 45 degrees in rock. These batters should be supported by geotextile fabric, pinned to the slope, and planted with soil binding vegetation.</li> <li>• <u>Filling</u> - All fill should be supported by properly designed and constructed retaining walls or else battered at 1V:2H or flatter and protected against erosion. The depth of unsupported fill on the site should not exceed 1.5m. All fill greater than 1.5m deep should be supported by engineer designed retaining walls. Where fill is to be placed on slopes in excess of 1V:8H (7 degrees), a prepared surface should be benched or stepped into the natural slope. It is recommended that existing fill on site in any areas be removed and replaced with approved control fill materials. Alternatively, footings supporting such structures should be taken to underlying natural soils or bedrock. The placement of fill should be witnessed and documented by a qualified Geotechnical Engineer, carried out to 'Level 1' criteria as defined in Clause 8.2 of 44046 Ref: 44046-SR01_B 12 Section 8 in AS3798:2007 - Guidelines for Earthworks for Commercial and Residential Developments.</li> <li>• <u>Rock Excavation</u> - All Excavation should be undertaken in accordance with SafeWork Australia's 'Excavation Work – Code of Practice, dated March 2020. All rock excavation that cannot be completed with a bucket excavator, should be carried out initially with a rock saw to minimise the impact and disturbance of vibrations on the adjoining properties and structures. Any rock breaking must be carried out only after the rock has been sawn in short bursts to prevent the effects of vibrations of surrounding properties. In addition to rock saws, the use of pneumatics picks may be used without restriction. All excavated material is to be removed from site in accordance with current Office of Environment and Heritage Regulations.</li> <li>• <u>Excavation Support</u> - If appropriate batter angles are achieved, any exposed batter is covered to prevent excessive infiltration or evaporation of moisture, no significant excavation support is anticipated. Vertical or subvertical excavation through igneous rock should stand unsupported until permanent supporting structures are installed. Any permanent vertical or sub-vertical cuts are to be supported by adequately design retaining walls.</li> <li>• <u>Sediment and Erosion Control</u> - Appropriate design and construction methods shall be required during site works to minimise erosion and provide sediment control. Any stockpiled</li> </ul>

LEP Clauses	
Relevant Provisions	Comment
	<p><i>soil will require erosion control measures, such as siltation fencing and barriers.</i></p> <ul style="list-style-type: none"> <li>• <i><u>Retaining Structures</u> - All structural walls and all landscaping walls in excess of 1.0m should be designed by an experienced engineer.</i></li> </ul> <p>As such, appropriate conditions would be included on the consent including the need for restrictions on title.</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.</p>
7.3	<p>Stormwater management</p> <p>The proposal has been designed to maximise water permeable surfaces with minimal road networks and stormwater infrastructure.</p> <p>The development will involve minor alterations to the two existing stormwater detention basins for the purpose of:</p> <ul style="list-style-type: none"> <li>• new inlet connections from the new piped (underground and overland flowpaths) stormwater drainage system, and</li> <li>• bioretention systems.</li> </ul> <p>The western discharge point is at the boundary of Lot 7 DP776529 where an existing drainage depression conveys the runoff to the existing drainage system at the Great Western Highway. This depression is deemed to be the legal point of discharge for the western side of the development.</p> <p>The eastern discharge point is at the boundary of Lot 45 DP1109094. This block is Council owned and contains an existing detention basin where a piped system then conveys the runoff. This detention basin and the piped network is deemed to be the legal point of discharge for the eastern side of the development.</p> <p>No changes are proposed to the size of the existing basins or outlet systems.</p> <p>The drainage systems will be dedicated as an asset to Council upon the issue of the Subdivision Certificate.</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 development and the stormwater management plan submitted with the application 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>The development was also assessed by Council's Engineers who considers the development to have adequate drainage.</p>
7.4	<p>Terrestrial biodiversity</p> <p>Complies – The development is partially located within the biodiversity prone area as per Council's Biodiversity Map.</p>

<b>LEP Clauses</b>	
<b>Relevant Provisions</b>	<b>Comment</b>
	<p>The proposal has been assessed in relation to clearing of native vegetation. A desktop assessment of threatened species using the BioNet Atlas identified the brushtail possum, Person's and Screaming Tree Frog, Common Eastern Froglet, Spotted Grass Frog, Kangaroo/Wallaby species.</p> <p>A Biodiversity Assessment Report (BAR) has therefore been prepared for the development.</p> <p>The assessment identifies that much of the site is comprised of non-native vegetation which has been historically subject to agricultural activities and more recently significant earthworks.</p> <p>The report identified that two vegetation communities were recorded on the subject land that being:</p> <ul style="list-style-type: none"> <li>• Goulburn-Lithgow Ranges Silvertop Ash Forest and</li> <li>• Newnes Plateau Peppermint-Ash Tall Forest.</li> </ul> <p>Areas of native vegetation were recorded on the steep southeastern slope, and retained patches of native vegetation will largely be avoided by the proposed development.</p> <p>The report further indicates that most of the impacted area is on cleared land composed of exotic vegetation and pine mulch consisting of low diversity.</p> <p>To ensure minimal harm to the environment, safeguards and mitigation measures have been provided within the BAR to avoid any residual adverse impacts on biodiversity. These mitigation measures would further be condition on the consent.</p> <p>Given the existing land use zoning and other legislation provisions in existence to protect biodiversity, it is not expected that the development will compromise the continued protection or long-term maintenance of any land in a conservation zone.</p> <p>The terrestrial biodiversity map is shown below:</p>

LEP Clauses		
	Relevant Provisions	Comment
		
7.5	Groundwater vulnerability	<p>Complies – Majority of the site is mapped as being located within the groundwater vulnerability area.</p> <p>The development has been considered by Water NSW, with the inclusion of MUSIC modelling. The development is considered to achieve neutral or beneficial effects on water quality.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p>It is not expected that the residential subdivision would result in any groundwater contamination or impact groundwater dependent ecosystems as all lots will be serviced by a reticulated sewerage system as well as measures to be undertaken to remediate the land from contaminants. It is therefore not expected that the residential subdivision would result in any groundwater contamination.</p> <p>The groundwater vulnerability map is shown below:</p>

LEP Clauses	
Relevant Provisions	Comment
	
7.7	<p>Sensitive lands</p> <p>Complies – Part of the property is identified as containing sensitive land.</p> <p>The site does not contain evidence of a high erosion potential, salinity or impeded drainage, being subject to regular or permanent inundation, or contain a karst environment. There are parts of the subject site that have a slope greater than 25%.</p> <p>The development has been designed to avoid and minimise civil works being carried out and future dwellings being located on the land identified as having a slope more than 25%. There are areas, however, where these works will need to occur.</p> <p>A slope stability investigation report has been undertaken to consider the suitability of the steep land for such development.</p> <p>The report concludes that the development is suitable for the site and no significant geotechnical hazard should result from the development provided the recommendations are adhered to.</p> <p>Landscaping is to be included within the subdivision with a condition of consent requiring a vegetation management plan to be submitted as part of the subdivision works certificate.</p> <p>As such, conditions have been included on the consent in this regard.</p> <p>The Sensitive Land map is shown below:</p>

LEP Clauses		
Relevant Provisions		Comment
		
7.10	Essential services	<p>Complies - 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>

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

Not applicable.

**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 (LDCP2021).

**Lithgow Development Control Plan (DCP) 2021**

Applicable DCP Chapters			
Chapter 2 – Site Requirements	X	Chapter 3 – Environment & Hazards	X
Chapter 4 – Heritage		Chapter 5 – Subdivision	X
Chapter 6 – Residential		Chapter 7 – Commercial & Industrial	
Chapter 8 – Rural & Other Land Uses		Chapter 9 – Pottery Estate Precinct	

<b>Chapter 2 – Site Requirements</b>	
<b>Development Control</b>	<b>Assessment Comments</b>
<b>2.2 Site Analysis, Local Character &amp; Context</b>	
2.2.1 Site Selection	The development is permissible in the applicable zone and complies with the zone objectives. The development is consistent with surrounding landuses being for residential purposes.
2.2.2 Site Analysis & Development Response a) The Site topography, climate and natural environment; b) Natural hazards on or near the Site; c) Potential land use conflicts; d) Heritage items or heritage conservation areas; e) Surrounding built form and landscape/streetscape character; and f) Amenity for the Site and adjacent sites (where relevant).	<p>Consideration has been given to the site topography and natural environment, along with any potential hazards on or near the site. The development is considered to respond to the established built form and is unlikely to result in adverse impacts on adjoining residential allotments.</p> <p>The site contains two high points, the north western corner and the southern area of the site. These both slope down towards the centre of the property. Some of the proposed allotments therefore are affected by slopes over 20%. This threshold is deemed to provide geological and built form constraints.</p> <p>These allotments have been designed to contain larger area sizes in order to provide suitable land availability for future dwellings.</p> <p>The main connection road through the site will utilise the least sloped and biodiversity prone areas in order to best utilise the topography and natural drainage paths.</p>
2.2.3 Local Character & Context	<p>The development is for a residential subdivision within the R2 and C3 zoning areas 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>
2.2.4 Visually Prominent Sites	<p>The development is located within a prominent location to the Great Western Highway and South Bowenfels area. The property however has previously been approved for earthworks with these works undertaken.</p> <p>Adjoining developments were also subdivided for residential purposes; therefore the development would be consistent with the surrounding landuses.</p> <p>Given the slope of the land, future developments will be constrained within certain building envelopes and design criteria's.</p> <p>As such, future dwellings would be located below key ridgelines, and will blend into the surrounding residential uses. Therefore the development complies with Clause 2.2.4.</p>
<b>2.3 Slope Response, Earthworks &amp; Retaining Walls</b>	
2.3.1 Earthworks	Earthworks were originally undertaken on the site as per DA168/02, MOD036/20 to extend the bulk of the earthworks area.

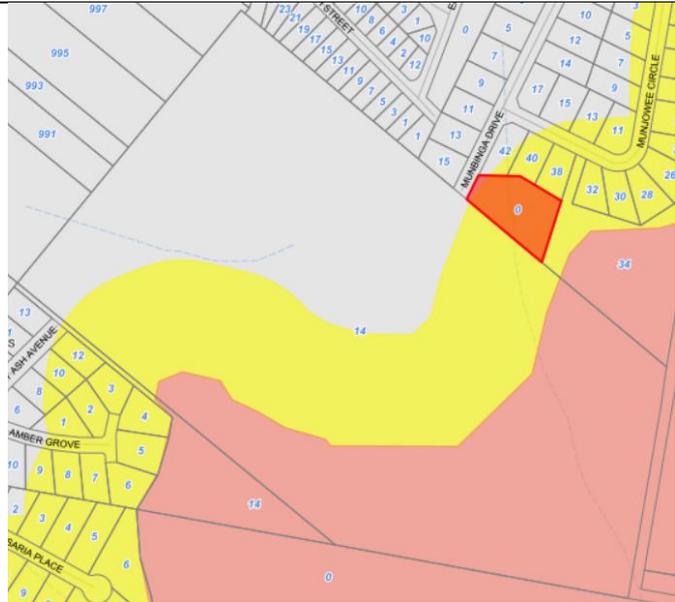
	<p>The current subdivision application will involve minor additional earthworks for the construction of roads and infrastructure. It is to be noted that there will be no additional fill to enter the site.</p> <p>The road network and stormwater infrastructure proposed have been designed to allow for the diversion of stormwater to be captured within detention 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 main connection road through the site will utilise the least effected sloped areas in order to best utilise the topography and natural drainage paths.</p> <p>The site contains a few areas with slopes over 20%. This threshold is deemed to provide geological and built form constraints.</p> <p>The main lots affected by steeper slopes, within the (south eastern corner) have been designed to be larger in size in order to provide areas for future dwellings.</p> <p>A slope stability investigation report was submitted with the application and identified that the property contains slopes in all directions to a maximum of 21 degrees. The report concluded that the development is assessed as having a 'low' risk slope stability. Although it was assessed as low risk, recommendations were made for future developments to minimise earthworks.</p> <p>As such, appropriate conditions would be included on the consent including the need for restrictions on title.</p>
2.3.2 Retaining Walls	<p>Not applicable – no retaining walls are proposed as part of the proposed subdivision.</p> <p>It is recommended that the following restriction be placed on an 88B Instrument, should the application be approved for any future developments on the proposed allotments.</p> <ul style="list-style-type: none"> <li>• <i>Filling - All fill should be supported by properly designed and constructed retaining walls or else battered at 1V:2H or flatter and protected against erosion. The depth of unsupported fill on the site should not exceed 1.5m. All fill greater than 1.5m deep should be supported by engineer designed retaining walls. Where fill is to be placed on slopes in excess of 1V:8H (7 degrees), a prepared surface should be benched or stepped into the natural slope. It is recommended that existing fill on site in any areas be removed and replaced with approved control fill materials. Alternatively, footings supporting such structures should be taken to underlying natural soils or bedrock. The placement of fill should be witnessed and documented by a qualified Geotechnical Engineer, carried out to 'Level 1' criteria as defined in Clause 8.2 of 44046 Ref: 44046-SR01_B 12 Section 8 in</i></li> </ul>

	<i>AS3798:2007 - Guidelines for Earthworks for Commercial and Residential Developments.</i>
<b>2.4 Stormwater Management</b>	
2.4 Stormwater Management	<p>The proposal has been designed to maximise water permeable surfaces with minimal road networks and stormwater infrastructure.</p> <p>The development will involve minor alterations to the two existing stormwater detention basins for the purpose of:</p> <ul style="list-style-type: none"> <li>• new inlet connections from the new piped (underground and overland flowpaths) stormwater drainage system, and</li> <li>• bioretention systems.</li> </ul> <p>The western discharge point is at the boundary of Lot 7 DP776529 where an existing drainage depression conveys the runoff to the existing drainage system at the Great Western Highway. This depression is deemed to be the legal point of discharge for the western side of the development.</p> <p>The eastern discharge point is at the boundary of Lot 45 DP1109094. This block is Council owned and contains an existing detention basin where a piped system then conveys the runoff. This detention basin and the piped network is deemed to be the legal point of discharge for the eastern side of the development.</p> <p>No changes are proposed to the size of the existing basins or outlet systems.</p> <p>The drainage systems will be dedicated as an asset to Council upon the issue of the Subdivision Certificate.</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 development and the stormwater management plan submitted with the application 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>The development was also assessed by Council's Engineers who considers the development to have adequate drainage.</p>
<b>2.5 Vehicle Access &amp; Parking</b>	
2.5.1 Guidelines & Standards	<p>The development has been designed to be consistent with Council's Engineering Guidelines and Austroads Guidelines.</p> <p>Vehicle access and parking has been considered under Chapter 5- Subdivisions of the DCP and is found to be satisfactory.</p>
2.5.2 Vehicle Access & Driveways	<p>Complies – The development proposes a connector road from Claret Ash Avenue to Munbinga Drive. Three minors roads are proposed to come off the connector road, each ending in a cul de sac including Munbinda Drive being extended into the proposed subdivision. The roads are within a build up residential area and therefore residential speed limits apply.</p> <p>The development therefore avoids direct access to an arterial road.</p>

	<p>The collector road will follow the existing road alignment with extended easement/services and street trees to be continued through the subdivision to adjoin the surrounding street landscaping. The street trees would be conditioned on the consent if approved.</p> <p>Access points have been considered to avoid interference with natural and street drainage.</p> <p>Each future potential driveways to each allotment would contain appropriate sight-lines clear of obstructions.</p> <p>A pedestrian footpath is required along the northern side of the collector road. This would be conditioned on the consent should the development be approved.</p>
1) Access	Complies – Refer to the above comment.
2) Policy: All works comply with Council Policy – <i>Specification for the construction of driveways, footpath/gutter crossings and foot-paving (as amended).</i>	Complies – Refer to the above comment.
3) All weather access: all weather access is required to all development to ensure that emergency services are able to access them at all times.	Complies – The roads are proposed to be constructed to a residential standard, concrete and compacted. The road construction standard will be conditioned on the consent should the application be approved.
4) Proximity to Intersection(s) & Sight-Lines	Complies – Refer to the above comment.
5) Direction of Travel: Vehicle access and egress to/from a lot occurs in a forward direction.	Complies – the roads within the subdivision are proposed to contain 2 way streets. This is satisfactory for the development.
6) Access to street	Complies – Refer to the above comment.
7) Slope	Complies – Refer to the above comment.
8) Driveway width: a) Driveways servicing one (1) to two (2) dwellings or in rural areas are a minimum width of 3.5m b) Shared driveways servicing three (3) or more dwellings (up to eight (8) dwellings) have a minimum width of 4.5m (3.5m carriageway plus landscaping) increasing to 5.5m forward of the front building line or provide for passing bays based on the size of the development/length of driveway. d) Driveways do not dominate the street and provide the minimum width to achieve safety whilst being integrated with the landscape design for the site.	Not Applicable as no driveways are proposed as part of the subdivision. Driveways are designed with future dwelling applications.
<b>2.6 Pedestrian Access, Mobility &amp; Safety</b>	
2.6.1 Accessibility	The development will require footpaths and street lighting to be constructed around the subdivision. Suitable conditions will be included on the consent in this regard.
2.6.2 Pedestrians	Refer to above comment.
2.6.3 Street Numbering & Letterboxes	Complies – Conditioned on the consent
<b>2.7 Designing for Crime Prevention</b>	
Complies – The orientation of the allotments allow for passive open space areas and suitable surveillance.	
<b>2.8 Utilities, Easements &amp; Infrastructure</b>	
2.8.1 Connection to Utilities	The development will provide reticulated water, underground electricity, sewerage management/disposal, stormwater

	<p>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 2.8 of the DCP.</p>
2.8.2 Building Near Utilities/Easements/Drainage Lines	<p>The development will have no impact on easements in the area as all easements will be extended and incorporated into the subdivision.</p> <p>Easements will be created for services and conditioned on the consent.</p> <p>The provisions of services therefore are considered satisfactory for the development.</p>
2.8.6 Water Supply	<p>Future dwellings on the allotment would be connected to Council's services. The development was referred to Council's Water and Wastewater Officer who had no objection to the application subject to conditions on the consent.</p>
2.9 Solid Waste Management	<p>The development has adequate access for Council's Waste Services to access the frontage for each development lot. Therefore, the development complies with the DCP.</p>

<b>Chapter 3 – Natural Environment &amp; Hazards</b>	
<b>Development Control</b>	<b>Assessment Comments</b>
<b>3.2 Bushfire Prone Land</b>	
O1. To meet the statutory requirements for bush fire protection in NSW.	<p>The development site is located on land mapped as being bushfire prone on the certified Bush Fire Prone Land Map.</p> <p>As such Planning for Bushfire Protection 2019 has been applied to the development to ensure all future development can be located in an appropriate area of bushfire risk through the provision of Asset Protection Zones on site, provides for appropriate and connected access, and infrastructure is appropriately designed and located.</p> <p>Subdivision of land for a residential purpose is defined as being 'integrated development' under S4.46 of the EP&amp;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.</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>Conditions have been included for consent in this regard.</p> <p>The bushfire map is shown below:</p>



### 3.3 Vegetation Management & Biodiversity

#### 3.3.3 LLEP 2014 – Terrestrial Biodiversity

The development is partially located within the biodiversity prone area as per Council's Biodiversity Map.

The proposal has been assessed in relation to clearing of native vegetation. A desktop assessment of threatened species using the BioNet Atlas identified the brushtail possum, Person's and Screaming Tree Frog, Common Eastern Froglet, Spotted Grass Frog, Kangaroo/Wallaby species.

A Biodiversity Assessment Report (BAR) has therefore been prepared for the development.

The assessment identifies that much of the site is comprised of non-native vegetation which has been historically subject to agricultural activities and more recently significant earthworks.

The report identified that two vegetation communities were recorded on the subject land that being:

- Goulburn-Lithgow Ranges Silvertop Ash Forest and
- Newnes Plateau Peppermint-Ash Tall Forest.

Areas of native vegetation were recorded on the steep southeastern slope, and retained patches of native vegetation will largely be avoided by the proposed development.

The report further indicates that most of the impacted area is on cleared land composed of exotic vegetation and pine mulch consisting of low diversity.

To ensure minimal harm to the environment, safeguards and mitigation measures have been provided within the BAR to avoid any residual adverse impacts on biodiversity. These mitigation measures would further be condition on the consent.

Given the existing land use zoning and other legislation provisions in existence to protect biodiversity, it is not expected

	that the development will compromise the continued protection or long-term maintenance of any land in a conservation zone.
<b>3.4 Land and Soil</b>	
3.4.1 Contaminated Land	<p>A Preliminary Contamination Investigation Report was submitted with the application. The report identified a coal mine was previously (operated between 1925 to 1932) located east of the site and a mine access track to have traversed the development site. The rest of the site was previously utilised for grazing purposes. It is to be noted that the mine is located outside of the investigation area (20m east of the proposed lot boundary), within the C3 – Environmental Management zone. Samples collected from the access track did not contain elevated levels of heavy metals or PAH.</p> <p>Extensive earthworks have been undertaken to level the site by cut and fill for the creation of roads and suitable building lots. Part of the earthworks involved excavation works with a 15,000t carbonaceous shale seam removed. The sandstone was then backfilled with material from on site. No other areas of carbonaceous shale are located within 10m of the surface.</p> <p>Natural soils onsite comprised of brown to dark brown silty sand topsoil to depths up to 0.7m. Sandy clay, clayey and silty clay subsoils were at depths greater than 3.5m. Fill comprising material from on site is present in some areas to varying depths. As such, no evidence of contamination from surface staining or odours were identified.</p> <p>It was conditioned on DA168/02 that compaction testing was to be undertaken for the earthworks. Testing was subsequently undertaken by Macquarie Geotech and found to be adequate.</p> <p>In addition, tree harvesting occurred in 2023 to remove a radiata pine plantation from the northern ridge. Off cuts were chipped and remained onsite.</p> <p>In summary, the site did not indicate any potential contaminating land-use or evidence of contamination from surface staining or odours.</p> <p>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.</p>
3.4.2 Sensitive Land Areas	<p>The consideration of sensitive lands has been considered under clause 7.7 of LLEP2014 (assessed earlier in this report) and considered satisfactory.</p> <p>Assessment of the application has taken into consideration slope, erosion mitigation, drainage and water quality.</p> <p>The site does not contain evidence of a high erosion potential, salinity or impeded drainage, being subject to regular or permanent inundation, or contain a karst environment. There are parts of the subject site that have a slope greater than 25%.</p>

	<p>The development has been designed to avoid and minimise civil works being carried out and future dwellings being located on the land identified as having a slope more than 25%. There are areas, however, where these works will need to occur.</p> <p>A slope stability investigation report has been undertaken to consider the suitability of the steep land for such development.</p> <p>The report concludes that the development is suitable for the site and no significant geotechnical hazard should result from the development provided the recommendations are adhered to.</p> <p>Landscaping is to be included within the subdivision with a condition of consent requiring a vegetation management plan to be submitted as part of the subdivision works certificate.</p> <p>As such, conditions have been included on the consent in this regard.</p>
3.4.3 Erosion & Sedimentation	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.
<b>3.6 Ground &amp; Surface Water Protection</b>	
<p>This clause applies to land where the following Clauses of LLEP2014 apply:</p> <p>a) Clause 7.5 – Groundwater vulnerability; and/or</p> <p>b) Clause 7.6 – Riparian land and watercourses;</p>	<p>Majority of the site is mapped as being located within the groundwater vulnerability area.</p> <p>The development has been considered by Water NSW, with the inclusion of MUSIC modelling. The development is considered to achieve neutral or beneficial effects on water quality.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p>It is not expected that the residential subdivision would result in any groundwater contamination or impact groundwater dependent ecosystems as all lots will be serviced by a reticulated sewerage system as well as measures to be undertaken to remediate the land from contaminants. It is therefore not expected that the residential subdivision would result in any groundwater contamination.</p>

<b>Chapter 5 – Subdivision &amp; Roads</b> including consolidation and boundary adjustments	
<b>Development Control</b>	<b>Assessment Comments</b>
<b>5.2 Site Selection, Analysis &amp; Design Response</b>	
5.2.1 Site Analysis & Potential Land Use Conflicts	The site is located within an existing R2 and C3 zoned area. No land use conflicts expected given that all of the allotments will be located within the residential area. A site analysis was submitted with the application and found to be satisfactory for the development.
5.2.2 Water, Natural Environment & Hazards	Stormwater- A stormwater management system is proposed around the development site including the drainage flow into two bioretention basins. The stormwater measures have been assessed by Council's Engineering Department and by WaterNSW. Suitable 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>Significant vegetation- The proposal has been assessed in relation to clearing of native vegetation and the Biodiversity Offset Scheme threshold under the provisions of this Act. A desktop assessment of threatened species using the BioNet Atlas identified the brushtail possum, Person's and Screaming Tree Frog, Common Eastern Froglet, Spotted Grass Frog, Kangaroo/Wallaby species.</p> <p>A Biodiversity Development Assessment Report was therefore submitted by the applicant. The Report identified that two vegetation communities were recorded on the subject land that being:</p> <ul style="list-style-type: none"> <li>• Goulburn-Lithgow Ranges Silvertop Ash Forest and</li> <li>• Newnes Plateau Peppermint-Ash Tall Forest.</li> </ul> <p>Areas of native vegetation were recorded on the steep southeastern slope, and retained patches of native vegetation will largely be avoided by the proposed development.</p> <p>The report further indicates that most of the impacted area is on cleared land composed of exotic vegetation and pine mulch consisting of low diversity.</p> <p>The report concluded that the proposal does not trigger the NSW Biodiversity Offsets Scheme, as it does not exceed the area clearing threshold, and no mapped 'biodiversity values' will be impacted.</p> <p>To ensure minimal harm to the environment, safeguards and mitigation measures are proposed for the development and would be condition on the consent.</p> <p>Hazards- The property is mapped as being bushfire prone, flood prone and subsidence. Refer to previous comments under Chapter 3 in this report.</p> <p>An Aboriginal Heritage Due Diligence Assessment was submitted with the application with no Aboriginal objects or areas of potential archaeological depots identified. Council concurred with the assessment subject to standard conditions applied on the consent.</p> <p>Slope- The property contains a steep topography. As such a Geotechnical Report was submitted with the application with recommendations included as conditions on the consent.</p>
5.2.3 Lot Sizes, Dimensions & Suitability	<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 varying lots sizes is consistent with the requirement to enhance character of the area and minimise receptiveness.</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>

5.2.4 Access & Entrances	<p>The property adjoins Claret Ash Avenue to the south west and Munbinga Drive to the north. Both of these streets are proposed to be utilised as an access point for the subdivision.</p> <p>This connection through the subdivision will maintain pedestrian access as well as improving vehicular permeability.</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 the site. This is considered satisfactory for the development and complies with the DCP.</p>
5.2.5 Utilities/Easements	<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>The development will have no impact on easements in the area as all easements will be extended and incorporated into the subdivision.</p> <p>Easements will be created for services and conditioned on the consent.</p> <p>The provisions of services therefore are considered satisfactory for the development.</p>
5.2.6 Siting and Visibility of Utilities	<p>Complies – The development infrastructure will be located underground as per the existing services.</p> <p>The development was further referred to the relevant authorities who have no objection to the application subject to conditions on the consent.</p>
5.2.7 Staging	<p>Not applicable as no staging of the application is proposed.</p>
<b>5.3 Urban Residential Subdivision</b>	
5.3.1 Lot Size & Arrangements-General	<p>The proposed allotments meet the minimum requirements under the LLEP2014.</p> <p>1) Sewerage: Complies- the development will contain connections to Council’s sewer services. The development was referred to Council’s Water and Wastewater Officer who has no objection to the application subject to conditions on the consent.</p> <p>2) Dwelling Diversity: The development is proposed to contain a variation of allotment sizes due to constraints on the land and to allow a diversity of future development types. As such corner allotments would be able to accommodate dual occupancy developments (allotments above 1000m<sup>2</sup> as per the Lithgow LEP 2014).</p> <p>3) Lot Width: Majority of the allotments comply with the minimum 10m frontage as per the DCP except the proposed battleaxe allotments; Lots 20, 52 and 53. These allotments further contain a 4.6m frontage each. This complies with Clause 5.3.2 of the DCP as indicated in the below section.</p> <p>The development therefore seeks a variation to the DCP. As such, Council’s assessment officer provides the following assessment:</p> <ul style="list-style-type: none"> <li>• The property is highly constrained by a number of restrictions including steep topography and easements. Access to these</li> </ul>

allotments would be minimal distance in length and would be required to be sealed as per any future dwelling application for the property.

- The development has been designed to be compatible with the surrounding allotment sizes as well as designing allotments that would contain the best possible building envelopes.
- The variation for the 3 allotments is minimal and would be able to accommodate driveway accesses that would comply with Council's Engineering Guidelines.

Give the above, Council assessment officer supports the variation to the DCP.

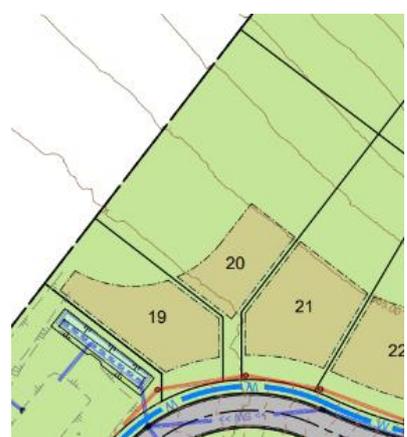
4) Layout/Orientation: The site is restricted due to the topography of the land. The allotments have been arranged to promote future dwelling separations, privacy (to an extent), overshadowing and open space areas.

5.3.2 Access to Lots with Limited or No Road Frontage

Complies – The development proposes to include three (3) battle-axe allotments, two (2) adjoining the environmental management zone; Lots 52 and 53 and Lot 20 being within the vicinity of the proposed detention basin.

The Statement of Environmental Effects indicates that the three (3) battle axe allotments have been proposed due to site constraints and that each battle-axe allotment will achieve the 4.5m width as per the DCP. None of the access handles will exceed 60m in length nor will there be shared handles.

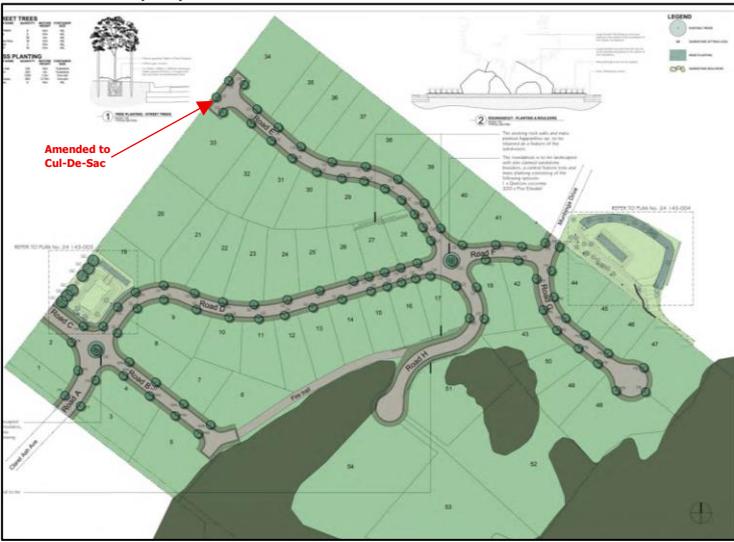
As such, the development complies with Clause 5.3.2 for future single dwelling/dual occupancy developments.



<b>5.4 Urban Release Areas &amp; South Bowenfels</b>	
5.4.1 Corner Lots	<p>Non-compliance- The DCP states that corner allotments are to have the following dimensions:</p> <p><i>a) Depth - 25m (on at least one boundary).</i>  <i>b) Width (average) - 30m.</i></p> <p>All of the proposed corner allotments contain at least one boundary to have a depth above 25m.</p> <p>The width of some of the proposed corner allotments vary between 20m to 30m street frontages.</p> <p>The applicant has provided justification indicating that the geometry provided for each corner allotment is suitable for future dwellings.</p> <p>Majority of the corner allotments further contain site areas above 900m<sup>2</sup> (three proposed lots below 1000m<sup>2</sup>), with the exception of Lot 28 being 865m<sup>2</sup>. The location of these allotments and potential future access arrangements are considered suitable to comply with Council's Engineering requirements relating to the distance from intersections and safety interactions.</p> <p>Given the minor variation to the DCP, the application can be supported.</p>
5.4.2 Battle-Axe Lots	<p>The development proposes three (3) battle axe lots. The Statement of Environmental Effects submitted with the application states that the battleaxe allotments are required due to the site constraints (bushfire, slope) and in order to provide lots with suitable geometry and aspect for future dwellings.</p> <p>These allotments are larger in size area and does not include the access handles within the allotments measurements. The driveway of the access handles are required to be constructed prior to the issue of the subdivision certificate.</p> <p>The requirements for the construction of the driveway access handles is conditioned on the consent should the application be recommended for approval.</p> <p>As such, the development is considered to satisfy Clause 5.4.2 of the DCP.</p>
5.4.3 Public Open Space & Facilities	<p>The development does not include any usable public open space area. The development proposes a voluntary planning agreement in lieu.</p> <p>The development is located within 600m radius of public open space in the vicinity, within 1km radius of active open space/playground, and 800m radius from neighbourhood shops and/or community facilities.</p> <p>The diagram below shows the development in comparison to public open space and facilities:</p>

<p>5.7 New or Upgraded Public Roads</p>	<p>The development has been considered by Development Engineers to satisfactory comply with Council’s Engineering requirements.</p> <p>Road 1 shown on the site plan contains the main access/collector road from Claret Ash Avenue to Munbinga Drive. The road is to contain to roundabouts for access to other adjoining roads. This is similar to the road layout within he Strathlone Estate Subdivision. The roundabouts would also help to reduce traffic speed.</p> <p>Road 2 is designed to support 6 allotments ending in a t-section to allow for a fire access.</p> <p>Road 3 is for access to the western detention basin while road 4 ends in a t-section and services approximately 12 allotments.</p> <p>Road 5 will service 2 allotments as well as adjoining the fire access trail and ends in a cul-de-sac.</p> <p>Road 6 is proposed to be an extension of Munbinga Drive, end in a Cul-de-sac and service approximately 8 allotments.</p> <p>The development consent will include conditions for road construction.</p>
<p>5.7.2 Surrounding Road Patterns and Access</p>	<p>The development will integrate the new road with the existing road networks being Claret Ash Avenue and Munbinga Drive. Given the topography of the land no further road networks connect to the site.</p> <p>A new footpath will be proposed around the site to connect pedestrian walkways including connection to the adjoining residential and beyond recreation areas/La Sal School.</p> <p>The road network is easily able to be navigated with the cul-de-sacs and minor roads only servicing minimal allotments each.</p> <p>The two detention basins are proposed to have road access with limited residential allotments adjoining the drainage corridors.</p>

5.7.3 Road hierarchy and Design	<p>All roads have been considered by the Council's Development Engineer.</p> <p>Roads are considered suitable as specified within Council's Engineering 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)	<p>The development proposes two (2) cul-de-sacs and two (2) T-Sections, with each servicing less than 25 allotments in accordance with the DCP.</p> <p>During the assessment process, Council's Engineers advised that the terminating roads should be cul-de-sacs unless there is no other option.</p> <p>One of the T Sections is to be changed to a cul-de-sac as part of the subdivision works certificate plans. This will further be conditioned on the consent should the application be approved.</p> <p>Council's Development Engineer advised that the T intersection at Road No. 2 is acceptable due to topography, adjacent environmental constraints and no lots proposed around the intersection dead end, hence pedestrian safety won't be an issue for garbage truck turning circles.</p> <p>The DCP states that each cul-de-sac is to be no longer than 150m from the nearest intersection. The development proposes three of the four terminating roads to comply with the DCP and one road to be slightly longer than 150m in length. Road No. 4 on the plans is proposed to have a length of approximately 200m, with Road No.2 being 100m in length and Roads No. 5 and 6 having a distance of 140m each.</p> <p>As such the applicant is seeking a variation to the DCP.</p> <p>Road No. 4 on the plans is proposed to be consistent with the maximum length in accordance with the Planning for Bushfire Protection 2019. The road will also service 12 residential allotments.</p> <p>Due to the topography of the land and the layout of the adjoining subdivisions and road networks, the terminating road design and variation is considered satisfactory for the land.</p> <p>All of the terminating roads will further be configured to enable fire appliance and garbage truck manoeuvring.</p> <p>Council's Development Engineer is satisfied with the road design subject to conditions on the consent should the application be approved.</p>
5.7.6 Safety and Surveillance	<p>Street lighting and footpaths will be conditioned on the consent should the application be approved. This satisfies Clause 5.7.7 of the DCP.</p>
5.7.7 Public Domain Landscaping & Street Trees	<p>The landscaping plan submitted with the application complies with e DCP requirements being one (1) street tree per allotment. The tree species will be similar to the surrounding subdivisions and to the Lithgow climate.</p>

	<p>The landscape plan is shown below:</p> 
5.7.8 Naming of New Roads	This will be conditioned on the consent.

**Council’s Policy Implications (Other than DCP’s)**

Lithgow Community Participation Plan

Section 4.15(1)(d) of the EP&A Act requires the consent authority to consider any submissions made in accordance with this Act or the regulations.

Notification Period: 26 September 2024 to 4 November 2024, the notification period was then extended until the 2 December 2024 by Council’s Assessment Department.

Submissions: Forty Three (43) Submissions.

Onsite Council Meeting: 23 January 2025

Submissions	Applicants Response	Council’s Assessment Officer’s Response
<b>Traffic Impacts</b>		
<p>Claret Ash should not be connected to road 1 as this would allow additional vehicular traffic (approximately 311 allotments from existing and approved subdivisions in the area) from Strathlone to avoid the Highway.</p>	<p><i>It is understood that it has always been intended that a public through road would be provided through the subject site. This is evidenced by Council’s former South Bowenfels DCP which shows a public road through the subject site connecting to Claret Ash Avenue and Munbinga Drive. This statement regarding 311 allotments is misleading. There are currently approximately 171 existing allotments in the Strathlone and Fairview Park developments (11 are undeveloped) which access the highway via Robinia Drive. It is important to note that the existing approved subdivision for the extension of Strathlone Estate</i></p>	<p>The development is located between Claret Ash Avenue and Munbinga Drive. There are no other connector roads that adjoins the property.</p> <p>The property is zoned R2 and C3 with the residential allotments to be created within the R2 zone. The subdivision would therefore be consistent with the surrounding residential developments within the two subdivision estates. The property was further intended to be subdivided for residential purposes.</p> <p>The connector road would allow for safety in terms of emergency accesses, community engagement between all residences and access to facilities such as parks and schools by providing direct routes. For example; the development</p>

	<p><i>(currently undeveloped) also provides for an additional connection to the Great Western Highway via an extension of Woodlands Drive. Furthermore, Council has required the road connection through the site, reflecting the importance of interconnected roads through their own policy. This was evident through the applicant of this DA being required to provide confirmation to Council at the time the adjacent Wirraway subdivision was occurring and which extended Munbinga Drive to the northern boundary of the subject site, that a through road would indeed be provided through the subject site in the future.</i></p>	<p>would provide a pedestrian footpath between urban streets away from the Highway.</p> <p>Connector roads also create positive design solutions for bus routes, garbage trucks and bicycle paths, as well as services.</p> <p>Aesthetically, the development would connect landscaping and open space areas between the subdivisions</p> <p>It is expected that the majority of Strathlone Estate residents would continue to utilise the Highway to get to the Lithgow City Centre as the distance is approximately the same as going through Munbinga Drive.</p> <p>It is also anticipated that proposed residents within the new subdivision would utilise Claret Ash Avenue to travel east to Sydney and the Blue Mountains that would avoid Munbinga Drive.</p> <p>As such, the development would provide an option for residents to utilise both road networks. This outcome is expected to not congest either Munbinga Drive or Claret Ash Avenue. Both roads have also been designed to suit additional traffic movements.</p> <p>As part of the subdivision works certificate, safety designs such as the roundabouts, speed bumps and no stopping signage would be incorporated into the road network to reduce traffic speed limits, consistency within the streets and safety purposes.</p> <p>Council's Engineering Department is further investigating local road networks beyond these two streets.</p> <p>It is to be further noted that future subdivisions adjacent to the Highway (ie. Col Drew Drive/ South Bowenfels) have all been designed and approved to be connected via internal connecting roads. Therefore the development would be consistent with current approved subdivisions in the Lithgow area.</p>
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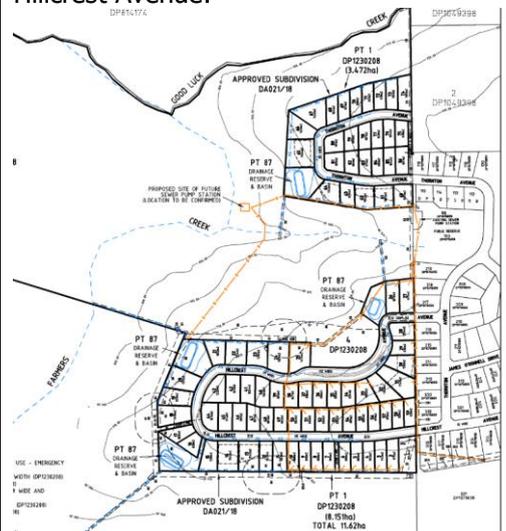


Photo showing the end of the formed Munbinga Drive connecting to the development site.



Photo showing the end of the formed Claret Ash Avenue connecting to the development site.

DA021/18- Example of an approved subdivision connecting road networks to an existing built subdivision. The subdivision plan below shows new roads to be connected to Thornton Avenue and Hillcrest Avenue:



DA227/23- Example of an approved Council subdivision connecting road networks to Cul Drew Drive and future residential subdivisions that are proposed to connect to Hillcrest Estate. DA227/23 subdivision plan is shown below:

<p>The traffic study should therefore be amended to include impacts from all allotments within Strathlone Estate.</p>	<p><i>Some of the traffic generated by the existing development to the south of the site may utilise the roads in the proposed development to gain access to the north. However, given the slower traffic environment and greater turns required, it is not expected that a significant proportion of the development to the south of the site would see this route as an attractive alternative to the Highway.</i></p>	<p>Future subdivisions within Strathlone Estate is expected to be to the south of Robina Drive (Highway connection). It is likely that any residents or future subdivisions would utilise Robina Drive to avoid the existing roundabouts and intersections within the proposed subdivision, Strathlone residents to the north, Wirraway Estate residents and beyond.</p> <p>The road is proposed to be designed in accordance with Council's Engineering Guidelines as well as being assessed for the safety of current and future road users.</p> <p>Should the application be recommended for approval, conditions would be incorporated into the consent relating to the road design standards.</p>
<p>An option could be to separate the road network to reduce the additional traffic through Munbinga Drive or provide a new access to the Highway.</p>	<p><i>Whilst the proposed development has provided a road reserve to facilitate a future road connection to the Great Western Highway via a fourth leg at the Col Drewe Drive intersection, the land to the west of the site is in separate land ownership and the development cannot therefore rely upon a future road in this location as there no certainty as to when this road connection may or may not be developed. A fundamental principle of good urban design is to ensure good connectivity and permeability of road networks. Providing a single point of connectivity for a development is a poor outcome for many reasons, including but not limited to safety and emergency access. Both Transport for NSW (TfNSW) and Council have supported the proposed connectivity. The former South Bowenfels DCP has</i></p>	<p>After the onsite meeting with the residences, the applicant attempted to redesign the subdivision layout to separate the road network. This included, an option to separate half of the proposed subdivision with public open space and/or gates to reduce flow through traffic.</p> <p>However, the Rural Fire Service did not support any such amendments to the subdivision layout and preferred the original through traffic road design.</p> <p>It is to be noted that there is currently no Highway access connected to the property due to private properties located between the Highway and the development site.</p> <p>Refer to additional comments under point 1 in this table detailing the importance of connecting roads.</p>

	<i>specifically shown the intention for a through road connecting north to south in this location. A fundamental requirement of Planning for Bush Fire Protection 2019 is that residential developments have more than one way in and out of a development in order to distribute traffic load and to provide alternatives should one way become blocked.</i>	
Additional traffic impacts through Robina Drive with a current intersection congestion.	<i>As outlined in Section 6.1 of the Traffic Impact Assessment (TIA) submitted with the DA, the additional traffic generated by the development is expected to be 20 vehicles in the peak hour, which equates to one (1) vehicle every three (3) minutes. This is minor traffic generation. As outlined in the TIA the additional traffic distributed to the local traffic network would see these receiving streets remaining below acceptable capacity thresholds.</i>	Refer to previous comments under the first concern in this table.  The intersection of Robina Drive and the Highway was approved previously by Transport for NSW for Strathlone Estate and the Strathlone Estate extension that is yet to be developed. It is unlikely that an additionally 54 lots with an optional access through Munbinga Drive would create a high volume of traffic congestion at this intersection.
Additional traffic movements would diminish the sense of safety and security specifically to Wirraway Estate.	<i>Whilst there might be a perception of reduced safety and security, it is not expected that the development would result in an actual adverse impact in terms of safety and security. From a Crime Prevention Through Environmental Design (CPTED) perspective, the provision of through traffic will enhance natural surveillance and thus improve safety and security. As outlined in Section 6.1 of the TIA, the additional traffic movements generated by the development would not result in the receiving road network exceeding their capacity and no modifications to the road network are deemed necessary.</i>	Refer to previous comments under the first concern in this table.  Standard residential street speed limits apply and with the inclusion of roundabouts within the proposed development, it is likely that traffic safety would be minimised.  Vehicle movements from the proposed subdivision is expected to be high during early mornings and late afternoons, as with the current traffic movements.  The larger scale allotments, topography of the land and open space areas would also help to provide security and surveillance to surrounding allotments.
The traffic impact assessment is based on one vehicle per residents and should be amended to address two vehicles per potential future dwelling, as well as assumptions only being made for work time movements.	<i>The traffic impacts have been based on Transport for NSW's (TFNSWs) document Guide to Traffic Generating Development – Updated Traffic Surveys which is industry standard for determining traffic generation associated with a development. The assessment does not assume that no other traffic will be generated during the day. The traffic impacts are</i>	The through traffic flow via the connector road between Munbinga Drive and Claret Ash Avenue, is more favourable for additional traffic movements from potentially two (2) vehicles per allotment.  The work time and school time movements are found to be the busiest times of the days and as such the traffic report was reflected for the worst case scenarios.

	<p><i>focussed on considering the worst-case impact, which is during the peak hour of generation of the development and/or the local road network. This is typically in the afternoon. The TIA has used these industry standard inputs to determine impacts. The utilisation of two (2) vehicles per dwelling during the peak hour result in a gross over estimation of traffic generation and thus is inappropriate for use in this proposed development.</i></p>	
<p>Munbinga Drive joins onto Lemnos Street which is a narrow street that becomes a single lane street when vehicles are parked along the kerb. Therefore, this creates traffic impacts.</p>	<p><i>It is noted that this comment is not incorrect, however, it is assumed that Lemnos Street has been designed in accordance with Council's engineering requirements and is suitable for its existing function as a collector road. As evidenced by the previous South Bowenfels DCP (refer Figure 1), a connecting north/south road through the site has been planned for some time. As outlined in Section 6.1 of the TIA, the additional traffic movements generated by the development would not result in the receiving road network exceeding their capacity and no modifications to the road network are deemed necessary.</i></p>	<p>Council's Engineering Department is investigating local road networks beyond the subdivisions such as Lemnos Street.</p> <p>Lemnos Street, although narrow, is a local road network with majority of the existing dwellings containing off street parking via internal driveways or front lawn parking.</p> <p>On street parking along the kerb is sporadic and minimal that there would not be a high congestion rate from the development.</p> <p>At the end of Minbinga Drive, there are a number of road networks for vehicle movements such as turning left onto Lemnos Street to First Street or turn right onto Lemnos Street to Rabaul Street.</p> <p>Traffic therefore have numerous options and alternative road routes to enter the Lithgow Business Centre.</p>
<p>Flora and fauna impacts, specifically on kangaroos and vehicle accidents due to the increase in traffic.</p>	<p><i>It is expected that such impacts would be a rare occurrence. The local road network is a low-speed environment with sufficient Safe Stopping Distances (SSD). With it being predominantly utilised by locals who are familiar with the environment, drivers would be aware of the potentiality of wildlife entering the road environment and therefore be cautious to such possibilities. It is not expected that the development would result in a discernible change to impacts compared to the existing. Fauna warning road signs could be erected within the development to further make drivers aware of the possible presence of animals on the roads.</i></p>	<p>The subdivision adjoins other residential subdivisions in the locality where flora and fauna and kangaroos reside.</p> <p>The development is partially located within the biodiversity prone area as per Council's Biodiversity Map.</p> <p>The proposal has been assessed in relation to clearing of native vegetation. A desktop assessment of threatened species using the BioNet Atlas identified the brushtail possum, Person's and Screaming Tree Frog, Common Eastern Froglet, Spotted Grass Frog, Kangaroo/Wallaby species.</p> <p>A Biodiversity Assessment Report (BAR) has therefore been prepared for the development.</p>

		<p>The assessment identifies that much of the site is comprised of non-native vegetation which has been historically subject to agricultural activities and more recently significant earthworks.</p> <p>The report identified that two vegetation communities were recorded on the subject land that being:</p> <ul style="list-style-type: none"> <li>• Goulburn-Lithgow Ranges Silvertop Ash Forest and</li> <li>• Newnes Plateau Peppermint-Ash Tall Forest.</li> </ul> <p>Areas of native vegetation were recorded on the steep southeastern slope, and retained patches of native vegetation will largely be avoided by the proposed development.</p> <p>The report further indicates that most of the impacted area is on cleared land composed of exotic vegetation and pine mulch consisting of low diversity.</p> <p>To ensure minimal harm to the environment, safeguards and mitigation measures have been provided within the BAR to avoid any residual adverse impacts on biodiversity. These mitigation measures would further be condition on the consent.</p> <p>Given the existing land use zoning and other legislation provisions in existence to protect biodiversity, it is not expected that the development will compromise the continued protection or long-term maintenance of any land in a conservation zone</p>
<p>The additional traffic would create additional impacts/upgrading costs to the wear and tear of the current road networks.</p>	<p>Existing public roads are designed and constructed to specific standards for their intended use. They require ongoing maintenance over time which form part of Council's maintenance regime as a road authority. The site has been zoned for residential land use since circa 1994. As outlined in the previous South Bowenfels DCP (refer Figure 1), it was always intended that a through road would be provided in the proposed location. As outlined in Section 6.1 of the TIA the proposed development would not result in significant traffic generation, and certainly no more</p>	<p>These are existing public roads that is owned and maintained by Council.</p> <p>Additional land availability for residential purposes is considered an important aspect to help with population growth to the Lithgow region. This would further contribute to the cost of roads in the area.</p>

	<p>than that reasonably expected to be generated as part of the residential land use of the site. It is expected that Council's road maintenance/refurbishment regime would be planning for such development of the subject site.</p>	
<p><b>Footpaths, Cycleways and Bus Stops</b></p>		
<p>The development is to consider footpaths and cycle ways, as well as suitable bus stop locations.</p>	<p><i>As agreed with Council's engineers as part of the prelodgement discussions, a footpath is to be provided on the northern/western side of the road that connects Claret Ash Avenue and Munbinga Drive (i.e. Road 01). Cycleways and cycle lanes were not required by Council as part of these prelodgement/design discussions to be provided through the development. Typically bus companies review the need for additional/augmented bus services once a new subdivision has been created. It could be reasonably expected that the #100 bus route could be augmented to service the proposed development, however, this would be at the discretion of the local bus provider. Bus stop locations would be determined by the local bus provider. It is expected that the development could accommodate bus stops consistent with the standards provided in the adjacent subdivision areas.</i></p>	<p>Footpaths and road carriageway for cycleways would be conditioned on the consent should the application be approved.</p> <p>Bus stop locations would further be designed at the Subdivision Works Certificate application process.</p>
<p>The traffic impact assessment makes note of the limited access future residents will have to the local bike network but fails to identify how the new subdivision street network and fire trail can provide safe bike riding options for future and surrounding residents.</p>	<p><i>The purpose of the fire trail is not to provide a cycle trail. Its purpose is for emergency firefighting access. The site the subject of this DA is a landlocked parcel of land surrounded by existing residential development. The adjacent existing residential development that the proposed development connects into has no existing cycling facilities separate to the road carriageway. The proposed development has been designed to be consistent with the adjoining development in this regard. The development provides for a footpath on the main road through the site (i.e. Road 01) which will provide for protected cycling for</i></p>	<p>The development will be similar to the surrounding/existing adjoining subdivisions ie. no cycleways have been provisioned for linkages to occur.</p>

	<i>children as legally permitted to ride on footpaths.</i>	
It is recommended that a shared path along the collector street (Road 1) between Claret Ash Avenue and Munbinga Drive and bike riding access to the proposed fire trail.	<i>Addressed in comments above.</i>	This would be conditioned on the consent should the application be recommended for approval.
<b>Flood and Stormwater Impacts</b>		
The existing stormwater infrastructure is already operating at capacity, with properties to the west experiencing flood impacts. Concerns are raised relating to an increase of flood events and runoff towards these properties.	<i>As outlined in Section 7.1 of the Conceptual Stormwater Management Plan submitted with the DA, the two existing basins will have more than sufficient capacity to accommodate the stormwater runoff generated by the development and will not result in any adverse impact on the downstream system. The Assessment considered the impacts of flood events.</i>	The proposed detention basins have been sized to accommodate stormwater infrastructure. This has been assessed by WaterNSW and by Council's Development Engineers.  The hydraulic report and flood assessment has been assessed to be considered adequate subject to conditions on the consent should the application be approved.
It is recommended that the developer address drainage improvements from the development to the discharge point under the Highway, including the existing culvert.	<i>The proposed development is utilising existing Council approved onsite detention basins and outlets to manage the stormwater runoff generated by the development. The development has been designed to ensure that post development stormwater flows leaving site do not exceed pre-development flows. The Conceptual Stormwater Management Plan submitted with the DA has not identified the need for any downstream works as the development will not result in any adverse impact on the downstream system.</i>	Infrastructure within the Highway is owned and managed by Transport for NSW. Note that this is an existing issue and not caused by the proposed subdivision development.  Refer to previous comments relating to stormwater infrastructure and detention details that should address drainage improvements from the development site.
Detention basin concerns-reassurance that the basin is adequately sized and will not overflow.	<i>As outlined in Section 7.1 of the Conceptual Stormwater Management Plan submitted with the DA, the two existing basins will have more than sufficient capacity to accommodate the stormwater runoff generated by the development and will not result in any adverse impact on the downstream system.</i>	The detention basins have been assessed by WaterNSW and by Council's Development Engineers and is considered adequate for the development.
<b>Noise</b>		
Noise would be increased due to vehicle increase.	<i>The site has been zoned for residential development since circa 1994. The proposed development will facilitate the intended residential land use of the area. Any noise generated by traffic associated with this</i>	Standard vehicle noise is expected from the development. Due to the roundabouts and intersections within the proposed subdivision, noise is not expected to be high.

	<i>intended land use would be consistent with that reasonably expected to be generated by such development.</i>	
<b>Decrease Land Values</b>		
The development would decrease land values in the area.	<i>Impact on property values is not a relevant planning consideration as held by the Land and Environment Court.</i>	This is not a planning consideration.
<b>Detention Basin stability</b>		
The wall of the existing detention basin is currently failing, and additional water impacts will decrease the stability of the basin, this will then create flooding impacts.	<i>The existing eastern detention basin on Lot 45 is an existing Council asset. The proposed development will not alter the walls of this basin. Project engineers have advised that the wall of this basin is not failing. The continued use of this basin for stormwater management is not expected to adversely impact on the stability of the basin nor create flooding impacts. The existing western detention basin currently within Lot 1 is currently within private ownership. Project engineers have advised that the wall of this basin is not failing. The continued use of this basin for stormwater management is not expected to adversely impact on the stability of the basin nor create flooding impacts. This basin and its curtilage will become a Council drainage reserve. It is expected that Council will ensure that the basin is of suitable construction prior to taking over as an asset. Calare Civil have advised that they have not seen any evidence that the detention basin walls are failing.</i>	<p>The detention basins have been assessed by WaterNSW and Council's Development Engineers.</p> <p>The existing eastern detention basin on Lot 45 is currently owned and managed by Council.</p> <p>Prior to the western basin being handed over as a Council asset, the developer is to undertake an operational environmental management plan as well as a payment of a maintenance/security bond. These requirements would be conditioned on the consent should the application be approved.</p>
<b>Sewerage Impacts</b>		
The current sewerage infrastructure gets blocked regularly and therefore additional sewer to the system would create more impacts.	<i>Extensive prelodgement discussions were had with Council's Executive Manager of Water, Wastewater and Waste regarding requirements for inter alia sewer connections. No issues were raised with existing capacity of the existing sewerage infrastructure. Any existing blockages of sewerage infrastructure is the responsibility of Council, as the water and sewer authority, to address, separate to any considerations of this proposed development.</i>	<p>The application has been assessed by Council's Water and Sewer Department.</p> <p>The applicant submitted pressure tests to ensure that the existing infrastructure is suitable for the development. This was further assessed by Council's Water and Sewer Officer and found to be adequate.</p> <p>Conditions would be included on the consent, should the application be approved, for full water and sewer designs as part of the Section 68 Application.</p>

<b>Other</b>		
<p>As such and in conclusion, majority of the residents within the area do not want the two existing estates to join.</p>	<p><i>The subject site has been zoned for residential development for some 30 years. Previous developments to the north and south of the site have left a dead-end road each abutting the site to enable future connection into the subject site when it is developed. The former South Bowenfels DCP (refer Figure 1) clearly indicated that a through road was to be provided in the location as proposed as part of this development. A fundamental principle of good urban design is to ensure good connectivity and permeability of road networks. Providing a single point of connectivity for a development is a poor outcome for many reasons including for safety and emergency access. The developer has no control over the timing of the development of the land to the west of the site in order to provide for a fourth leg connection to the intersection of Col Drewe Drive with the Great Western Highway. The development has, however, left a road reserve within the current development site to facilitate any future connection through to the highway. Both Transport for NSW (TfNSW) and Council have supported the proposed connectivity. A fundamental requirement of Planning for Bush Fire Protection 2019 is that residential developments have more than one way in and out of a development in order to distribute traffic load and to provide alternative should one way become blocked. Whilst the local residents may not be supportive of the site connecting the two existing estates, the subject site was always intended to be developed for residential development and associated road connectivity between the two is important for the reasons as outlined above.</i></p>	<p>Refer to previous comments in this table.</p>

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 \$353,600 (2 concessional allotments).

The contribution is for the upgrade and embellishment of public open space within the South Bowenfels/Littleton catchments including East Street Local Recreation Park and Endeavour Park, including active transport connections.

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 7.6 Development Applications by Councillors And Staff (including immediate relatives), Or On Council Owned Land & Conflicts of Interest

Council's Policy 7.6 Development Applications by Councillors and Staff or on Council Owned Land requires any application that proposes to dedicate land or an asset to Council is to be considered and determined by Council if the recommendation is for approval of that application. Given that the proposed roads, bioretention basins and open space areas will become Council assets and will be under the care and maintenance of Council, the application is to be determined by the elected Council.

Conditions such as maintenance bond will further be conditioned on the consent.

The application further involves land owned by Council being the existing drainage reserve on Lot 45 DP1109094.

#### Policy 7.7 Calling In Of Development Applications By Councillors

This application has been called in pursuant to Policy 7.7 "Calling in of Applications by Councillors" Item 3 that states:

3. Should written notice signed by a Councillor be provided to the General Manager prior to determination of a development application, the application shall not be determined under delegated authority but shall be:

- Reported to the next available Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been 'called in'; and
- Reported to a Meeting of Council for determination where the application is in a state that it can be determined.

The application was called in by Councillor Ring.

A call in report was presented at the Ordinary Meeting of Council held 25 November 2024, with the following resolution:

#### **24 -251 RESOLVED**

**THAT:**

1. Council note the information provided on Development Application DA123/24.
2. An onsite meeting be organised for staff, Councillors and residents.
3. Council note that a report on the final assessment and recommendation will be furnished to a future Council meeting for determination of DA123/24 for a 54 lot torrens title subdivision at 14 Claret Ash Avenue, South Bowenfels.
4. Prior to a report on the final assessment and recommendation being furnished to Council on DA123/24, the Planning and Development Department provide an urgent report to Council on the possibility of there being traffic access into and out of the Strathlone Estate onto the Great Western Highway at the current intersection of the Lithgow Hospital, Col Drewe Drive, South Bowenfels.

An onsite meeting was subsequently undertaken on 23 January 2025, with Councillors, the residents and the applicant.

It is further advised that no access is proposed to the Highway directly from the property due to private landowners located between the property and the Highway.

**Section 4.15(1)(a)(iiia) – 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:**

Paul Ledger (**Developer**)  
Lithgow City Council (**Council**)

**Planning Agreement:**

VPA Deed of agreement dated 10 September 2024.

**Monetary Contribution:**

The developer offers a Monetary Contribution of \$6,800 per residential lot, totalling \$353,600.

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.

**Environmental Planning and Assessment Regulation 2021**

Section 4.15(1)(a)(iv) of the EP&A Act requires the consent authority to consider any prescribed matters under the Environmental Planning and Assessment Regulation 2021 (the Regulation). Council has assessed the development in accordance with all relevant matters prescribed by the Regulation.

**Likely Impacts of the Development**

Section 4.15(1)(b) of the EP&A Act requires the consent authority to consider the likely impacts of that development including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

Head of Consideration	Comment
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. Apart from Hassans Walls Reserve, the surrounding developments consist of residential uses.
Access and traffic	Access and Traffic has been raised as a major concern for existing residents within both Wirraway Estate and Strathlone Estate.  Majority of the concerns raised involved safety issues should the two estates connect via a through road.  The developer and Council has undertaken numerous attempts to redesign the proposed development to limit traffic impacts. However, due to emergency services, a through connector road, to be compliant, was the only solution.  Refer to the submissions table and comments undertaken earlier in this report for more details.
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.
Other land resources	The development was assessed by Subsidence Advisory with General Terms of Approval issued should the application be approved.

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 Biodiversity Assessment Report. (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.
Noise and vibration	There is potential for adverse impacts during construction on some existing neighbouring residential properties. These temporary construction impacts will be managed by the preparation and implementation of a Construction Environmental Management Plan. Once the subdivision has been developed, the standard residential social and traffic noise is expected.
Natural hazards	The site is affected by bushfire and mine subsidence, 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/Subsidence Advisory 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	Concerns were raised by the surrounding residents in terms of safety impacts from an increase in traffic generation. Refer to traffic impacts earlier in this table.  The connector road would allow for safety in terms of emergency accesses, community engagement between all residences and access to facilities such as parks and schools by providing direct routes. For example; the development would provide a pedestrian footpath between urban streets away from the Highway.  Connector roads also create positive design solutions for bus routes, garbage trucks and bicycle paths, as well as services.  Aesthetically, the development would connect landscaping and open space areas between the subdivisions
Economic Impact	The proposal is assessed as providing significant positive economic benefits resulting from the release of new residential land.
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.

### **Site Suitability**

Section 4.15(1)(c) of the EP&A Act requires the consent authority to consider the suitability of the site for the development.

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 zoning under Lithgow LEP 2014.
- The proposed development is in accordance with the indicative lot layout and staging plan.
- The constraints of the site have been considered in the development, which includes sloping sites, biodiversity, bushfire, traffic and access arrangements.

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

## **Contributions**

### **Section 7.12 Development Contributions Plan 2015**

Council's Section 7.12 Development Contributions Plan 2015 does not apply to this development given it is for subdivision development at an estimated cost of \$2,404,969.60 and therefore a voluntary planning agreement has been negotiated.

### **Development Servicing Plan for Water Supply and Sewerage**

Under the *Water Management Act 2000*, Section 305, an application for Certificate of Compliance must be submitted to Council. This Act states:

#### **305 Application for certificate of compliance**

- (1) A person may apply to a water supply authority for a certificate of compliance for development carried out, or proposed to be carried out, within the water supply authority's area.
- (2) An application must be accompanied by such information as the regulations may prescribe.

Contributions under the Development Servicing Plan for Water Supply and Sewerage under Section 64 of the *Local Government Act 1993* for the additional lot will be required to be paid prior to the release of the Subdivision Certificate. This will be conditioned on the consent should the application be approved.

## **The Public Interest**

The public interest is best served by the orderly and economic use of land for permissible uses and that does not impact unreasonably on the use and development of surrounding land. Based on the information submitted and an assessment of the proposal, the development is considered to be in the public interest as per the following:

**Road Extension:** The development requires an addition and new road network that will service the lots within the subdivision. As a result, this road extension will be dedicated to Council. Therefore, Council is required to be satisfied that this road will be at a standard acceptable as a roads authority. This is of public interest as the additional road and extension will be required to be maintained by Council resulting in future costs to the community.

**Sewer:** The development requires additional connections to Council's reticulated sewer. This requires potential upgrades of existing services to allow for the additional loadings. The cost of these of upgrades will be borne by the developer; however the ongoing maintenance of the services will be the responsibility of Council. It is important for Council to ensure that these services are properly provided to minimise potential unnecessary maintenance in the future. This is of public interest as there are additional sewer services that will be required to be maintained by Council resulting in future costs to the community. However, contributions through the Water Management Act 2000 will be applicable and will provide support to Council's ongoing maintenance of this utility.

**Water:** The development requires additional connections to the reticulated water services. The cost of these of upgrades will be borne by the developer; however the ongoing maintenance of the services will be the responsibility of Council. It is important for Council to ensure that these services are properly provided to minimise potential unnecessary maintenance in the future. This is of public interest as there are additional water services that will be required to be maintained by Council resulting in future costs to the community. However, contributions through the Water Management Act 2000 will be applicable and will provide support to Council's ongoing maintenance of this utility.

**Designation of land and associated assets:** The development proposes to dedicate land to Council which retains the stormwater infrastructure being an additional detention basin. This land and detention basin will require ongoing maintenance once the land is dedicated to Council. This is of public interest as there is additional land and infrastructure that will require maintenance by Council resulting in future costs to the community.

## **Discussions and Conclusions**

The proposal generally complies with the relevant provisions of all applicable environmental planning instruments and regulatory provisions. The proposal not expected to result in any significant negative impacts upon the environment



	Landscape Architect				
Western Stormwater Detention Basin Plan	Grant Maundrell Landscape Architect	24143-003	-	-	August 2024
Eastern Stormwater Detention Basin Plan	Grant Maundrell Landscape Architect	-	-	-	August 2024
Civil Plans- Cover Sheet	Calare Civil	2020.0047	G01	C	26/08/2024
General Arrangement Plan	Calare Civil	2020.0047	G02	C	26/08/2024
Road Layout Index Plan	Calare Civil	2020.0047	G03	C	26/08/2024
Road 01 Preliminary Plan	Calare Civil	2020.0047	R02	C	26/08/2024
Road 01- Preliminary Longitudinal Section	Calare Civil	2020.0047	R03	C	26/08/2024
Road 01- Preliminary Cross Sections	Calare Civil	2020.0047	R04-R07	C	26/08/2024
Roads 02 & 03- Preliminary Plan & Longitudinal Section	Calare Civil	2020.0047	R08	C	26/08/2024
Road 02- Preliminary Cross Sections	Calare Civil	2020.0047	R09	C	26/08/2024
Road 03- Preliminary Cross Sections	Calare Civil	2020.0047	R10	C	26/08/2024
Road 04- Preliminary Plan & Longitudinal Section	Calare Civil	2020.0047	R11	C	26/08/2024
Road 04- Preliminary Cross Sections	Calare Civil	2020.0047	R12-R13	C	26/08/2024
Road 05- Preliminary Plan & Long Section	Calare Civil	2020.0047	R14	C	26/08/2024
Road 05- Preliminary Cross Sections	Calare Civil	2020.0047	R15	C	26/08/2024
Road 06- Preliminary Plan & Longitudinal Section	Calare Civil	2020.0047	R16	C	26/08/2024
Munbinga Drive- Preliminary Cross Sections	Calare Civil	2020.0047	R17	C	26/08/2024
Preliminary Stormwater Layout Plan	Calare Civil	2020.0047	SW01	C	26/08/2024
Preliminary Stormwater Drainage Longitudinal Sections	Calare Civil	2020.0047	SW02-SW06	C	26/08/2024
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Preliminary Sewer Longitudinal Sections	Calare Civil	2020.0047	SS03-SS07	C	26/08/2024
Preliminary Watermain Layout Plan	Calare Civil	2020.0047	W01	C	26/08/2024

<b>Approved Documents</b>					
Title	Author	Project	Sheet	Revision	Date
Preliminary Contamination Investigation	Envirowest Consulting	R44046c		0	31/05/2024
Biodiversity Assessment Report	AREA Environmental & Heritage Consultant	-	-	-	August 2024
Bush Fire Assessment Report	Integrated Consulting				September 2024
Aboriginal Heritage Due Diligence Assessment	AREA Environmental & Heritage Consultant	-	-	-	July 2024
Slope Stability Investigation Report	Barnson	44046-SRR01_B	-	B	23 July 2024
Conceptual Stormwater Management Plan	Calare Civil	2020.0047	-	P3	20/11/2024
Traffic Assessment Report	PDC Consulting	0971r01v02	-		05/09/2024
Statement of Environmental Effects	Integrated Consulting	23050-RO2_B	-	B	9 September 2024

In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans/documents and a condition of this consent, the condition prevails.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

3. **Contract Works Insurance**  
The developer is to ensure that Contract Works Insurance is kept current for the duration of the development and must also ensure that all Contractors and Subcontractors working within Council road reserves possess and maintain adequate Public Liability Insurance (\$20 million), with copies to be provided to Council prior to commencement of any works. Any potential claims that result from negligent actions performed by Contractors/Subcontractors engaged by the Applicant within Council road reserves will be borne by the Applicant and not Lithgow City Council.  
Condition Reason: To ensure the development has no impact to Council's Assets.

4. **Council Assets**  
Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.  
Condition Reason: To ensure the development has no impact to Council's Assets.

5. **Planning Agreement**  
A Planning Agreement is to be entered with Council in the terms of the developer's offer dated 10 September 2024 (and Council's template deed of planning agreement) in connection with DA123/24.  
Condition Reason: To require a planning agreement be entered into (section 7.7(3) of the *Environmental Planning and Assessment Act 1979*).

## GENERAL TERMS OF APPROVAL AND CONCURRENCE REQUIREMENTS

### RURAL FIRE SERVICE REQUIREMENTS

#### Asset Protection Zones

6.	<p>At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, asset protection zones must be provided, to the standard of an inner protection area, as shown on Figure 10: Bush Fire Protection Measures (revised) prepared by Integrated Consulting (dated 11th March 2025). When establishing and maintaining an inner protection area (IPA) the following requirements apply in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019:</p> <ul style="list-style-type: none"> <li>• tree canopy cover should be less than 15% at maturity;</li> <li>• trees at maturity should not touch or overhang the building;</li> <li>• lower limbs should be removed up to a height of 2 metres above the ground;</li> <li>• tree canopies should be separated by 2 to 5 metres;</li> <li>• preference should be given to smooth barked and evergreen trees;</li> <li>• large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;</li> <li>• shrubs should not be located under trees;</li> <li>• shrubs should not form more than 10% ground cover; and</li> <li>• clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.</li> <li>• grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and</li> <li>• leaves and vegetation debris should be removed.</li> </ul> <p>Condition Reason: The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.</p>
7.	<p><b>Section 88B Restrictions</b></p> <p>At the issue of subdivision certificate, a restriction to the land use pursuant to section 88B of the Conveyancing Act 1919 must be placed on proposed Lots 51-54, 47-50, 43, 6, 11-17, 19, 20, 33 and 34 identifying the building envelope as generally depicted on the drawing titled Figure 10: Bush Fire Protection Measures (revised) prepared by Integrated Consulting (dated 11th March 2025). The restriction must limit the habitable portions of any dwellings on proposed Lots 51-54, 47-50, 43, 6, 11-17, 19, 20, 33 and 34 to that nominated building envelope, whilst considering the requirements for property access design. The name of authority empowered to release, vary, or modify the instrument must be Lithgow City Council.</p> <p>Condition Reason: To comply with the Rural Fire Service requirements.</p>
8.	<p><b>Access Requirements</b></p> <p>a) Access roads must comply with the following general requirements of Table 5.3b of Planning for Bush Fire Protection 2019 and the following:</p> <ul style="list-style-type: none"> <li>• subdivisions of three or more allotments have more than one access in and out of the development;</li> <li>• traffic management devices are constructed to not prohibit access by emergency services vehicles;</li> <li>• maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;</li> <li>• the capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating;</li> <li>• hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;</li> <li>• hydrants are provided in accordance with the relevant clauses of AS 2419.1:2021 - Fire hydrant installations System design, installation and commissioning; and</li> <li>• there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available.</li> </ul>

	<p>b) The proposed dead end roads (Roads 4, 5 and 6) must incorporate a turning circle with a minimum outer radius of 12 metres and be clearly sign posted as dead end roads.</p> <p>c) The proposed Road 2 must provide a suitable turning area in accordance with Appendix 3 of Planning for Bush Fire Protection 2019.</p> <p>Condition Reason: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.</p>
9.	<p><b>Access – Public Roads</b></p> <p>a) The proposed Roads 1, 2, 3, 4, 5 and 6 must comply with the general requirements of Table 5.3b of Planning for Bush Fire Protection 2019 and the following:</p> <ul style="list-style-type: none"> <li>• are two-way sealed roads;</li> <li>• minimum 8m carriageway width kerb to kerb;</li> <li>• parking is provided outside of the carriageway width;</li> <li>• hydrants are located clear of parking areas;</li> <li>• curves of roads have a minimum inner radius of 6m;</li> <li>• the maximum grade road is 15 degrees and average grade of not more than 10 degrees;</li> <li>• the road crossfall does not exceed 3 degrees; and</li> <li>• a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.</li> </ul> <p>b) The proposed Property Access (sealed) as shown in Figure 10: Bush Fire Protection Measures (revised) prepared by Integrated Consulting (dated 11th March 2025) must comply with the general requirements of Table 5.3b of Planning for Bush Fire Protection 2019 and the following:</p> <ul style="list-style-type: none"> <li>• property access roads are two-wheel drive, sealed roads;</li> <li>• minimum 4m carriageway width;</li> <li>• in forest, woodland and heath situations, rural property access roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m at the passing bay;</li> <li>• a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;</li> <li>• curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;</li> <li>• the minimum distance between inner and outer curves is 6m;</li> <li>• the crossfall is not more than 10 degrees;</li> <li>• maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.</li> </ul> <p>c) The property access road (providing connection between proposed Roads 2 and 5), must provide unobstructed access (no locked gates).</p> <p>d) At the issue of subdivision certificate, a restriction to the land use pursuant to section 88A of the Conveyancing Act 1919 must be placed on proposed Lots 47 and 48 to establish a Right of Access as an Easement, in the location and for the extent shown as Easement for Access on Figure 10: Bush Fire Protection Measures (revised) prepared by Integrated Consulting (dated 11 March 2025) to facilitate operational assistance during bush fire emergencies. The body having the benefit of the Right of Access must be the Office of the New South Wales Rural Fire Service. The name of authority empowered to release, vary, or modify the instrument must be Lithgow City Council.</p> <p>Condition Reason: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.</p>
10.	<p><b>Water and Utility Services</b></p>

	<p>The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:</p> <ul style="list-style-type: none"> <li>● reticulated water is to be provided to the development where available;</li> <li>● fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2021;</li> <li>● hydrants are not located within any road carriageway;</li> <li>● reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;</li> <li>● fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;</li> <li>● all above-ground water service pipes are metal, including and up to any taps;</li> <li>● where practicable, electrical transmission lines are underground;</li> <li>● where overhead, electrical transmission lines are proposed as follows: <ul style="list-style-type: none"> <li>a. lines are installed with short pole spacing (30 metres), unless crossing gullies, gorges or riparian areas; and</li> <li>b. no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.</li> </ul> </li> <li>● reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 The - storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;</li> <li>● all fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and shielded on the hazard side;</li> <li>● connections to and from gas cylinders are metal; polymer sheathed flexible gas supply lines are not - used; and</li> <li>● above-ground gas service pipes are metal, including and up to any outlets.</li> </ul>
	<p>Condition Reason: The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.</p>
11.	<p><b>Landscaping Assessment</b></p> <p>Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:</p> <ul style="list-style-type: none"> <li>● A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;</li> <li>● Planting is limited in the immediate vicinity of the building;</li> <li>● Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);</li> <li>● Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do no touch or overhang buildings;</li> <li>● Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;</li> <li>● Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;</li> <li>● Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);</li> <li>● Avoid climbing species to walls and pergolas;</li> <li>● Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;</li> <li>● Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and</li> <li>● Low flammability vegetation species are used.</li> </ul> <p>Condition Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.</p>
12.	<p><b>Bio-retention/ Detention Basin</b></p>

	At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, a suitable mechanism, such as an instrument pursuant to section 88 of the Conveyancing Act 1919 or an adopted Plan of Management, must be in place over the Bio-retention/ Detention Basin (east and west) to ensure the ongoing management of the grassed dry basin as an inner protection area in accordance with Appendix 4 of Planning for Bush Fire Protection 2019.
	Condition Reason: To comply with the Rural Fire Service requirements.
13.	<b>Construction Standards</b> Fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019. New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6m of a dwelling or in areas of BAL-29 or greater, they must be made of non-combustible material only.
	Condition Reason: The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

### WATERSW REQUIREMENTS

14.	<b>General</b> The subdivision layout and works shall be implemented in accordance with the plans and supporting documents set out in the following table.																																															
	<table border="1"> <thead> <tr> <th>Plan title</th> <th>Reference</th> <th>Vers /Issue</th> <th>Prepared By</th> <th>Dated</th> </tr> </thead> <tbody> <tr> <td>Aerial Survey</td> <td>Ref: 5510_DETAIL</td> <td>-</td> <td>CEH Survey Pty Ltd</td> <td>17/0723</td> </tr> <tr> <td>General Arrangement Plan</td> <td>Project:2020.0047 Drawing No: G02</td> <td>C</td> <td rowspan="10">Calare Civil Pty Ltd</td> <td>26/08/24</td> </tr> <tr> <td>Road Layout Index Plan</td> <td>Project:2020.0047 Drawing No: R01</td> <td>C</td> <td>26/08/24</td> </tr> <tr> <td>Road 01 Preliminary Plan</td> <td>Project:2020.0047 Drawing No: R02</td> <td>C</td> <td>26/08/24</td> </tr> <tr> <td>Road 01 Preliminary Longitudinal Section</td> <td>Project:2020.0047 Drawing No: R03</td> <td>C</td> <td>26/08/24</td> </tr> <tr> <td>Road 01 Preliminary Cross Sections</td> <td>Project:2020.0047 Drawing No: R04-R07</td> <td>C</td> <td>26/08/24</td> </tr> <tr> <td>Road 02 &amp; 03 Preliminary Plan &amp; Longitudinal Section</td> <td>Project:2020.0047 Drawing No: R08</td> <td>C</td> <td>26/08/24</td> </tr> <tr> <td>Road 02 Preliminary Cross Sections</td> <td>Project:2020.0047 Drawing No: R09</td> <td>C</td> <td>26/08/24</td> </tr> <tr> <td>Road 03 Preliminary Cross Sections</td> <td>Project:2020.0047 Drawing No: R10</td> <td>C</td> <td>26/08/24</td> </tr> <tr> <td>Road 04 Preliminary Plan &amp; Longitudinal Section</td> <td>Project:2020.0047 Drawing No: R11</td> <td>C</td> <td>26/08/24</td> </tr> </tbody> </table>	Plan title	Reference	Vers /Issue	Prepared By	Dated	Aerial Survey	Ref: 5510_DETAIL	-	CEH Survey Pty Ltd	17/0723	General Arrangement Plan	Project:2020.0047 Drawing No: G02	C	Calare Civil Pty Ltd	26/08/24	Road Layout Index Plan	Project:2020.0047 Drawing No: R01	C	26/08/24	Road 01 Preliminary Plan	Project:2020.0047 Drawing No: R02	C	26/08/24	Road 01 Preliminary Longitudinal Section	Project:2020.0047 Drawing No: R03	C	26/08/24	Road 01 Preliminary Cross Sections	Project:2020.0047 Drawing No: R04-R07	C	26/08/24	Road 02 & 03 Preliminary Plan & Longitudinal Section	Project:2020.0047 Drawing No: R08	C	26/08/24	Road 02 Preliminary Cross Sections	Project:2020.0047 Drawing No: R09	C	26/08/24	Road 03 Preliminary Cross Sections	Project:2020.0047 Drawing No: R10	C	26/08/24	Road 04 Preliminary Plan & Longitudinal Section	Project:2020.0047 Drawing No: R11	C	26/08/24
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Preliminary Sewer Layout Plan	Project:2020.0047 Drawing No: SS01	C		26/08/24
Western Stormwater Treatment Catchment Plan	Project:2020.0047 Ref:2020.0047- C01 Drawing No: C01	F		20/11/24
Eastern Stormwater Treatment Catchment Plan	Project:2020.0047 Ref: 2020.0047- C02 Drawing No: C02	F		20/11/24
Western Stormwater Treatment Details	Project:2020.0047 2020.0047-C03 Drawing No: C03	F		20/11/24
Eastern Stormwater Treatment Details	Project:2020.0047 2020.0047-C04 Drawing No: C04	F		20/11/24
Bio-Retention Basin Details	Project:2020.0047 2020.0047-C05 Drawing No: C05	F		20/11/24
Landscape Plan	Drawing No. 24 143- 002	-	Grant Maundrell Landscape Architect	August 2024
Western Stormwater Detention Basin Plan	Drawing No. 24 143- 003			

	Eastern Stormwater Detention Basin Plan	Drawing No. 24 143- 004			
<b>Supporting Documents</b>					
	Statement of Environmental Effects	Project: 23050 Ref: 23050-R02_B	B	Integrated Consulting	9/09/24
	Preliminary Contamination Investigation	Ref: R44046c	0	Barnson Pty Ltd	31/05/24
	Slope Stability Investigation Report	Ref: 44046- SR01_B	-		23 July 2024
	Conceptual Stormwater Management Plan	Ref: 2020.0047	P3	Calare Civil Pty Ltd	20/11/24
No revisions to lot layout, works or staging of the subdivision that will have any impact on water quality, shall be permitted without the agreement of Water NSW.					
Condition Reason: Water NSW has based its assessment under State Environmental Planning Policy (Biodiversity and Conservation) 2021 on this version of the subdivision.					
15.	<b>Sewerage Infrastructure</b>				
	All new sewerage infrastructure shall be designed, located, and installed in accordance with Council's requirements and be to the satisfaction of Council.				
	Condition Reason: To ensure that wastewater is appropriately managed to have an overall and sustainable neutral or beneficial effect on water quality over the longer term, and that Council's STP has sufficient capacity.				
16.	<b>Subdivision Roads and Stormwater Management</b>				
	<ol style="list-style-type: none"> <li>The subdivision roads shall be located and constructed as shown on the Road Layout Index Plan and preliminary plans. The subdivision roads shall: <ul style="list-style-type: none"> <li>be sealed and constructed in accordance with Council's engineering standards,</li> <li>be consistent with the requirements of Sealed Roads Best Practice Guide (ARRB, March 2020), and</li> <li>incorporate a two-way crossfall with runoff to be collected via a series of pits and pipes and directed to various water quality treatment measures.</li> </ul> </li> <li>All stormwater structures and drainage works associated with the proposed subdivision roads shall be wholly included in the road reserve or within suitably defined easements.</li> <li>The final stormwater drainage plan, including suitable stormwater management measures, shall: <ul style="list-style-type: none"> <li>be prepared in consultation with Water NSW and Council prior to the issuance of a Subdivision Works Certificate and approved by the Principal Certifier,</li> <li>include stormwater management measures suitable for the type and scale of the proposed development, having regard for steep slopes and erodible soils present across the site,</li> <li>include measures to protect the stormwater management structure/s from flood waters, and</li> <li>be implemented.</li> </ul> </li> </ol>				

	<p>4. No variation to stormwater treatment or management that will have any impact on water quality shall be permitted without the prior agreement of Water NSW.</p> <p>5. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and the Principal Certifier prior to the issuance of a Subdivision Certificate that all stormwater management structures have been installed as per these conditions of consent, and the final stormwater drainage plan, and are in a functional state.</p> <p>6. An Operational Environmental Management Plan shall be prepared in consultation with Water NSW and Council prior to the issuance of a Subdivision Certificate, by a person with knowledge and experience in the preparation of such plans. The Plan shall:</p> <ul style="list-style-type: none"> <li>• incorporate the final stormwater drainage plan approved by the Principal Certifier,</li> <li>• be provided to Council when the management and maintenance of the stormwater management measures is handed over to Council,</li> <li>• include details on the location, description, and function of stormwater management structures as per the final stormwater drainage plan,</li> <li>• outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures including the frequency of such activities, before and after handing over to Council,</li> <li>• identify the individuals or positions responsible for inspection and maintenance activities, including a reporting protocol and hierarchy, before and after handing over to Council, and</li> <li>• include checklists for recording inspections and maintenance activities.</li> </ul> <p>7. The Operational Environmental Management Plan shall be implemented, after all comments from Water NSW and Council have been appropriately addressed and incorporated in the final plan.</p>
	<p>Condition Reason: To ensure that the proposed subdivision roads and associated stormwater quality management infrastructure will have a sustainable neutral or beneficial impact on water quality during the operational phase of the development.</p>
<p>17.</p>	<p><b>Construction Activities</b></p> <p>1. A Soil and Water Management Plan shall be prepared for all works required as part of the subdivision, including the subdivision road, by a person with knowledge and experience in the preparation of such plans. The Plan shall:</p> <ul style="list-style-type: none"> <li>• be prepared in consultation with Water NSW, prior to the issuance of a Subdivision Works Certificate, and be to the satisfaction of Council</li> <li>• meet the requirements outlined in Chapter 2 of NSW Landcom’s Soils and Construction: Managing Urban Stormwater (2004), and</li> <li>• include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.</li> </ul> <p>2. A suitably qualified, certified professional shall oversee the implementation of the Soil and Water Management Plan and effective erosion and sediment controls at the site prior to and during any construction activity including site access and works within waterways and shall certify in writing to Water NSW and Council that erosion and sediment controls have been installed and maintained at the site in accordance with the Soil and Water Management Plan. The controls shall be regularly inspected, maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.</p> <p>Condition Reason: To manage adverse environmental and water quality impacts during the construction phase of the development to minimise the risk of erosion, sedimentation, and pollution within or from the site during this phase.</p>
<p><b>ENDEAVOUR ENERGY REQUIREMENTS</b></p>	
<p><b>Safety Clearances</b></p>	

18.	<p>The construction of any building or structure (including fencing, signage, flag poles etc.) whether temporary or permanent must comply with the minimum safe distances/clearances for voltages up to and including 132,000 volts (132kV) as specified in:</p> <ul style="list-style-type: none"> <li>o Australian/New Zealand Standard AS/NZS 7000 – 2016: 'Overhead line design' as updated from time to time.</li> <li>o 'Service and Installation Rules of NSW' which can be accessed via the following link to the NSW Planning, Industry &amp; Environment website:</li> </ul> <p><a href="https://energy.nsw.gov.au/government-and-regulation/legislative-and-regulatory-requirements/service-installation-rules">https://energy.nsw.gov.au/government-and-regulation/legislative-and-regulatory-requirements/service-installation-rules</a></p>
Condition Reason: To ensure the development complies with Endeavor Energy Requirements.	
19.	<p><b>Easement Management/Network Access</b></p> <p>The following is a summary of the main terms of Endeavour Energy's electrical easements requiring that the land owner:</p> <ul style="list-style-type: none"> <li>o Not install or permit to be installed any services or structures within the easement site.</li> <li>o Not alter the surface level of the easement site.</li> <li>o Not do or permit to be done anything that restricts access to the easement site without the prior written permission of Endeavour Energy and in accordance with such conditions as Endeavour Energy may reasonably impose.</li> <li>o No easement is redundant or obsolete until it is released having regard to risks to its network, commercial and community interests.</li> <li>o The incorporation of easements into to multiple/private owned lots is generally not supported.</li> <li>o Electricity infrastructure should not be subject to flood inundation or stormwater runoff.</li> </ul>
Condition Reason: To ensure the development complies with Endeavor Energy Requirements.	
20.	<p><b>Earthing</b></p> <p>The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations'.</p>
Condition Reason: To ensure the development complies with Endeavor Energy Requirements.	
21.	<p><b>Vegetation Management</b></p> <p>The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure. Larger trees should be planted well away from electricity infrastructure and underground cables, be installed with a root barrier around the root ball of the plant. Landscaping that interferes with electricity infrastructure could become a potential safety risk, restrict access, reduce light levels from streetlights or result in the interruption of supply.</p>
Condition Reason: To ensure the development complies with Endeavor Energy Requirements.	
22.	<p><b>Dial Before You Dig</b></p> <p>Before commencing any underground activity the applicant is required to obtain advice from the <i>Dial Before You Dig</i> 1100 service in accordance with the requirements of the <i>Electricity Supply Act 1995</i> (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.</p>
Condition Reason: To ensure the development complies with Endeavor Energy Requirements.	
23.	<p><b>Public Safety</b></p> <p>Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. Endeavour Energy's public safety training resources, which were developed to help general public/workers to understand why you may be at risk and what you can do to work safely is available via the following link:</p> <p><a href="http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures">http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures</a>.</p>
Condition Reason: To ensure the development complies with Endeavor Energy Requirements.	
24.	<p><b>Emergency Contact</b></p> <p>In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the Emergencies Telephone is 131 003 which can be contacted 24 hours/7 days.</p>

	Condition Reason: To ensure the development complies with Endeavor Energy Requirements.
25.	<p><b>Network Access</b></p> <p>It is imperative that the access to the existing electrical infrastructure on and in proximity of the site be maintained at all times. To ensure that supply electricity is available to the community, access to the electricity infrastructure may be required at any time.</p> <p>Applicants will need to submit an appropriate application based on the maximum demand for electricity for connection of load.</p>
	Condition Reason: To ensure the development complies with Endeavor Energy Requirements.
<b>Subsidence Advisory</b>	
26.	Subsidence Advisory General Terms of Approval are attached under Schedule B and must be complied with prior to the issue of the Subdivision Certificate.
	Condition Reason: To ensure the development complies with Subsidence Advisory Requirements.

<b>FEES, CHARGES AND CONTRIBUTIONS CONDITIONS</b>	
27.	<p><b>Voluntary Planning Agreement</b></p> <p>Prior to the issue of a Subdivision Certificate, a monetary contribution is to be paid at a rate of \$6,800.00 per residential lot, totaling \$353,600.00, for the provision of open space and recreational needs, pursuant to the offer dated 10 September 2024 and the Deed of Planning Agreement to be entered with Council.</p>
	Condition Reason: To demonstrate compliance and ensure fees are paid in accordance with the Lithgow Contributions Plan.
28.	<p><b>Development Contributions - Development Services Plans for Water Supply and Sewerage</b></p> <p>Development Contributions are levied in accordance with the Development Service Plans for Water Supply and Sewerage made pursuant to section 64 of the Local Government Act 1993 and Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000. The amount of the contribution per Equivalent Tenement is published in Council's adopted Fees and Charges. Contributions are subject to annual CPI increases and the levy is calculated at the time of payment.</p> <p><i>Advisory Note Calculations:</i> The charges for the subject DA are as such:</p> <p>Lithgow Water and South Bowenfels Sewer charges are applicable Charges calculated utilising LCC Development Servicing Plan, Water Directorate Section 64 Determination of Equivalent Tenements Guidelines</p> <p>Lithgow Water charges applicable: 54 lots. Approx. 6x 2000m<sup>2</sup> and 48 x &lt;2000m<sup>2</sup> and &gt;450m<sup>2</sup></p> <p>Charge applicable is 48 (lots) x 1 (ET) + 6 (lots) x 1.2 (ET) x \$3,477.80 = \$191,974.56</p> <p>South Bowenfels Sewerage 23 (lots) x 1 (ET) x \$16,921.53 = \$389,185.19</p> <p>Lithgow Sewerage 31 (lots) x 1(ET) x \$3,250.24 = \$100,757.44</p> <p><b>Total charges = \$681,917.19</b></p> <p>The number of Equivalent Tenements in development is determined using the methodology and definitions as described in the Water Directorate Section 64 Determinations of Equivalent Tenements Guidelines, April 2017. Council will make a copy available to the applicant for the purpose of determining the contribution amount.</p>
	Condition Reason: To demonstrate compliance and ensure fees are paid in accordance with the Lithgow Council's Development Servicing Plan.

## SUBDIVISION WORK

<b>BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE</b>	
29.	<p><b>Prior to the commencement of any works</b></p> <p>Prior to the commencement of any work, a Subdivision Works Certificate shall be issued by Council or accredited Certifier for the development. A Certificate issued by an accredited Certifier must be lodged to Council along with any approved plans and documents prior to commencing works.</p> <p>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</p>
30.	<p><b>Engineering Requirements - General</b></p> <p>a) Prior to the issue of any Subdivision Works Certificate, the Certifying Authority shall ensure that engineering plans shall be generally consistent with the stamped approved concept plans prepared by CALARE CIVIL CONSULTING ENGINEERS, Job Number: 2020.0047, Revision C, Dated 26/08/2024.</p> <p>b) All subdivision works must be designed in accordance with the development consent, Council's "Guidelines for Civil Engineering Design and Construction for Development", Austroads Guidelines and best engineering practice.</p> <p>c) The subdivision works may include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>• Public and private roads</li> <li>• Stormwater management (quantity and quality)</li> <li>• Private access driveways</li> <li>• Sediment and erosion control measures</li> <li>• Overland flow paths</li> <li>• Traffic facilities</li> <li>• Earthworks</li> <li>• culverts, retaining walls and other structures</li> <li>• Landscaping and embellishment works</li> </ul> <p>d) The Subdivision Works Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.</p> <p>e) Prior to the issue of any Subdivision Works Certificate, the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Lithgow City Council's Guidelines for Civil Engineering Design and Construction for Development for Developments and the following criteria: ESA: <math>1 \times 10^6</math> for Claret Ash Avenue and ESA: <math>1 \times 10^5</math> for all other roads. Road 4 T intersection shall be replaced with a cul-de-sac.</p> <p>A copy of the site investigation report, including test results, pavement design calculations and certification prepared and certified by a suitably qualified geotechnical engineer must accompany the application for Construction.</p> <p>f) All subdivision and associated works are to be designed and constructed in accordance with the following documents or current equivalent documents at the time of application.</p> <ul style="list-style-type: none"> <li>• Relevant Austroads publications</li> <li>• Associated Transport for NSW (TfNSW) (formerly the Roads and Maritime Services (RMS)) supplements and Technical Directions</li> <li>• Council's Development Control Plan</li> <li>• Lithgow City Council – Engineering Specifications for Development Design and Construction.</li> </ul> <p>e) Any driveway construction works (new or replacement of existing driveway access) needs to comply with Council's Policy 10.18 – Specification for the Construction of Driveways, Footpath/Gutter Crossing and Foot paving (available on Council's website). The application fee for the inspection is required to be paid prior to inspection being undertaken. Notification of at least 48 hours is required to arrange inspections (no</p>

inspection undertaken on Fridays). Further information can be obtained regarding Driveway approvals by contacting Council's Infrastructure Services Department on (02) 6354 9999 during business hours.

- f) Vehicular access and manoeuvring associated with the subject development shall be designed in accordance with AS 2890.1.
- g) A minimum one (1) metre clearance shall be provided between proposed driveway crossings and any street tree/existing services. All existing services conflicting with the proposed driveway are to be relocated in accordance with the relevant Authority's regulations and standards.
- h) The access driveways shall have a minimum of 150mm of DGB-20 road base applied and compacted providing a smooth transitional surface. Access is to be constructed providing a minimum entry splay of 6.0 metres in width, tapering back into a minimum 4.0-metre-wide internal access road.
- i) A pedestrian footpath is required along the northern side of the collector road and be constructed in accordance with Council's Engineering Guidelines.
- j) The three (3) battleaxe allotments are to have driveways constructed prior to release of the Subdivision Certificate each with a minimum seal width of 3m for the entire length of the battle-axe handle.
- k) Upon completion of all works in the road reserve, all disturbed verge areas fronting development site are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of driveways, concrete footpaths, service lids or other infrastructure which is not to be turned over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

Condition Reason: To ensure the development complies with Council's Guidelines.

31.

**Road Design and Testing**

Each layer of pavement shall be tested for compaction and deflection as detailed below. The Director of Infrastructure and Economy or his delegate must approve each layer prior to the placing and compaction of subsequent layers.

a) Compaction Testing:

The subgrade (CBR 3), and all pavement layers, shall be density tested in-situ at the start and finish of the work (within the first/last five metres), and thereafter at intervals of no more than 50 metres, or as indicated by Council's Development Engineer. A minimum of two tests will be required for road pavements less than 50 metres in length. At cul-de-sacs, additional testing will be required at the turning head. The test sites selected should be representative of the likely minimum pavement compaction levels achieved.

Density testing must be undertaken by an authorised representative of a laboratory registered by the National Association of Testing Authorities (NATA). Density testing may be conducted using either the sand replacement test, nuclear gauge, or other NATA approved method.

Where a nuclear gauge in direct transmission mode is used to determine pavement density, the test method shall comply with RTA Test Method T173. Results of density testing shall be forwarded directly to Council for approval. No pavement layer shall be covered by a subsequent layer until the results of the density testing have been delivered to and approved by Council's Development Engineer.

Table 1 below sets out the minimum compaction requirement for each pavement layer.

Layer	Compaction Requirement	Standard
Subgrade	98% standard maximum dry density	AS 1289.E1.1
	California Bearing Ratio (CBR) test	AS 1289.F1.1
Sub-Base	100% standard maximum dry density	AS 1289.E1.1
Base	100% standard maximum dry density	AS 1289.E2.1
	• Unbound Materials	AS 1289.E3.1
	• Cemented Materials	AS 1289.E3.1

		Density in place test California Bearing Ratio (CBR) test	AS 1289.F1.1	
	<p>Laboratory determination of maximum dry density for pavement materials which have been modified with cement must be undertaken within 4 hours of the cement being added to the material. Materials tested outside this time will be subject to an adjustment to correctly determine the maximum dry density of the sample. For either natural or modified material, the laboratory determination of maximum dry density shall be undertaken at a frequency of no less than one determination for each days production of material.</p> <p>b) Deflection Testing: All pavement layers must be proof-rolled, and approved by Council's Development Engineer prior to the placement of subsequent pavement layers. The proof-rolling will be conducted using either:</p> <ul style="list-style-type: none"> <li>i. a roller having a load intensity of seven (7) tonnes per metre width of roller.</li> <li>ii. a tandem axle rigid vehicle, having a maximum load of 15 tonnes per axle group (8 tyres), 12 tonnes per axle group (6 tyres), or 10 tonnes per axle group (4 tyres). Single axle vehicles should have maximum loads of 8.5 tonnes (dual tyres), or 5.4 tonnes (single tyres).</li> </ul> <p>Any movement of the pavement layer under loading will be deemed a failure. Although not a subdivision requirement at this stage, Council strongly encourages Developers to specify in their contracts the use of Benkelman Beam tests to test for any deflection in the pavement layers, and as a means of quality assurance.</p> <p>c) Final Road Profile: The mean construction tolerance on pavement surface crossfalls should be within <math>\pm 5\%</math> of the design crossfall. The maximum allowable construction tolerance is <math>\pm 5\%</math>, and the maximum standard deviation of crossfalls is 5%. The vertical alignment should not deviate by more than 25mm from the value shown on the drawings.</p>			
	Condition Reason: To ensure the development complies with Council's Guidelines.			
32.	<p><b>Road Infrastructure</b> Road infrastructure including intersection treatments, road pavement, foot/cycle/shared paths, kerb and gutter, stormwater drainage, services, landscaping (including street trees), street lighting, signage and markings is to be provided for each Stage of the subdivision, generally in accordance with the approved plans or as otherwise detailed in this consent. Full details are to be included in the detailed design drawings for a Subdivision Works Certificate application.</p>			
	Condition Reason: To ensure the development complies with Council's Guidelines.			
33.	<p><b>Drainage Design</b> A detailed drainage design including DRAINS is to be submitted to Council for the Subdivision Works Certificate demonstrating all stormwater drainage from the site is fully managed for each development stage in accordance with Lithgow Development Control Plan 2021 including but not limited to stormwater discharge control and stormwater quality before discharging into a legal point of discharge, and will not cause adverse effects to neighbouring properties. Full details are to be included in the documentation for a Subdivision Works Certificate application.</p>			
	Condition Reason: To ensure compliance with Council's Development Control Plan.			
34.	<p><b>Soil Management</b> The Developer is to identify all locations and extents of any existing and/or proposed stockpiles of surplus virgin excavated natural material (VENM) resulting from previous or current proposed subdivision works. Full details, including associated ongoing environmental management measures, are to be included in the detailed design drawings provided to Council for a Subdivision Works Certificate application.</p>			
	Condition Reason: To ensure compliance with Council's Development Control Plan.			
	<b>Stormwater Management and Water Sensitive Urban Design (WSUD)</b>			

35.	Stormwater Management and associated Water Sensitive Urban Design (WSUD) measures are to be designed and constructed in accordance with Lithgow Council's Development Control Plan 2021 and Standard Drawings that are current when making each application for Subdivision Works Certificate.
	Condition Reason: To ensure compliance with Council's Development Control Plan.
36.	<p><b>Section 138 Requirements</b></p> <p>Where works are proposed within the road reserve, the Developer must obtain approval from the Council (as the Roads Authority and / or as required under Section 138 of the <i>Roads Act 1993</i>) prior to the issue of the Construction Certificate. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the <i>Roads Act 1993</i>. The following details must be submitted to Council in order to obtain the Section 138 approval:</p> <ul style="list-style-type: none"> <li>• A copy of approved design plans related to the development and proposed works to be undertaken.</li> <li>• Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.</li> <li>• Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.</li> </ul>
	Condition Reason: To ensure compliance with Section 138 of the Roads Act 1993.
37.	<p><b>Road Naming</b></p> <p>Prior to making an application for a Subdivision Works Certificate for each Stage the Developer is to submit to the Council and obtain approval for all proposed road names (in accordance with the Lithgow City Council's Road Naming Policy) within that Stage and the approved road names are to be shown on the submitted documentation accompanying the Subdivision Works Certificate.</p>
	Condition Reason: To ensure compliance with Council's Road Naming Policy.
38.	<p><b>Street Signs</b></p> <p>Street signs are required at all road junctions. Signs shall be purchased from Council. The location of proposed street signs is to be indicated on the Engineering Drawings submitted with the Subdivision Works Certificate.</p>
	Condition Reason: To ensure compliance with Council's Engineering Guidelines.
39.	<p><b>Traffic Signage</b></p> <p>Traffic signs, traffic signals, pavement markings, guide posts, delineators, safety barriers and the like, whether permanent or temporary, are to be designed and installed at all roads in accordance with guidelines contained within the Austroads publication, "Guide to Traffic Engineering Practice – Part 8: Traffic Control Devices", Australian Standard 1742 – Manual of Uniform Traffic Control Devices and the Roads and Traffic Authority "Road Design Guide". All traffic control devices and signage are to be detailed in the engineering drawings submitted with the subdivision works certificate. The consent of Lithgow City Council's Executive Manager of Operations or appointed officer will be required prior to the installation of any traffic control devices on existing roads.</p>
	Condition Reason: To ensure compliance with Council's Engineering Guidelines.
40.	<p><b>Land Management</b></p> <p>All disturbed, regraded or exposed areas outside of development lots are to be stabilised and suitably revegetated. All revegetation is to be undertaken using native plants propagated from local native seed from on-site or a nearby seed source. Propagation material is to be sourced from areas to be cleared in preference to areas that will be retained as natural areas. Full details are to be included in the documentation for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure minimal impact to the environment.
	<b>Landscape Plan Detail</b>

41.	<p>Detailed Landscape Plans and Specifications is to be prepared for the Subdivision by a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects and is also to comply with the following requirements:</p> <ul style="list-style-type: none"> <li>a) Existing trees on the site, which are to be retained, are to have no cut or fill under their canopy areas and the location of these trees is to be clearly identified on the Landscape Management Plan and Engineering Plans.</li> <li>b) Areas of restricted access and fence detail to be erected during construction and areas proposed for storage/stockpile of plant and materials are to be identified.</li> <li>c) Street tree species are to be agreed by the Council.</li> <li>d) All street trees are to be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003).</li> <li>e) For all internal Local roads street trees are to be a minimum 75 litre pot size, or as otherwise approved by Council, planted at a maximum spacing of 12m. All street trees are to be protected with tree guards to the Council's requirements.</li> <li>f) No turf is to be installed between the road and riparian zone. A continuous double line of Lomandra species is to be installed in lieu of weed control and territorial enforcement.</li> <li>g) Street tree locations are to be reviewed with the inclusion of a potential driveway to ensure the location of the street trees allows for driveway access to each lot.</li> <li>h) For all batters which will remain or adjoin public land; and <ul style="list-style-type: none"> <li>i. More native species are included in the planting schedule. No single species to exceed 15% of the total species mix. No non-native species.</li> <li>ii. Type, diversity and density of native species to replicate the structure of adjacent Vegetation Types.</li> <li>iii. Taller longer-lived plants are required on the lower third of batters.</li> <li>iv. Lomandra to be limited to interfaces e.g. between turf and natives.</li> <li>v. Measures to increase the resilience of riparian corridor for example retention of habitat logs; use of vines, midstory and longer-lived canopy species to out-compete weeds.</li> <li>vi. Refer to NSW RFS general terms of approval conditions and NSW RFS Planning for Bush Fire Protection 2019 guide for species selection within the riparian area.</li> </ul> </li> </ul> <p>The detailed Landscape Plans and Specifications is to be provided with the Subdivision Works Certificate application.</p>
	Condition Reason: To ensure minimal impact to the environment.
42.	<p><b>Landscape Management Plan</b></p> <p>A landscaping management plan is to be submitted to Council as part of the Subdivision Works Certificate in accordance with Council's "Planted Species List" to be provided as required including street trees, preferably located centrally to lots and ensuring clearance from drainage and electrical services, among other services.</p> <p>Landscaping works for the subdivision site must include the substantial planting of locally endemic flora species consistent with the Plant Community Types (PCTs) identified for the site.</p> <p>All other street plantings should be native to the locality. The site is nearby a World Heritage national park as such an ecotone of continuation for species within the World Heritage area should be provided for species whose territories/home ranges extend beyond the boundaries of the national parks.</p> <p>Full details are to be included in the documentation for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure minimal impact to the environment.
43.	<p><b>Cut and Fill</b></p> <p>Areas of cut and fill and their respective volumes should be clearly shown on the detailed design drawings as part of the subdivision works Certificate, and appropriately managing for any compaction requirements and drainage impacts, with any proposed additional cut material to be subject to a Haulage Route plan under a future Section 138 Permit and/or ROL from TfNSW. Full details to be included in documentation for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure minimal impact to the environment.
	<b>Retaining Walls</b>

44.	<p>Detailed designs for all retaining walls to be provided as part of the Subdivision Works Certificate. Wall locations, sections and structural details (if required) are to be included. Proposed retaining wall locations shown on the provided plans and sections are included in step critical areas. All proposed Retaining wall materials to provide a minimum 50 year design life, but preferably 100 year design life and include suitable drainage conditions that prevent hydraulic pressure or blockage of backfill media. Full details to be included in documentation for a Subdivision Works Certificate application.</p>
45.	<p><b>Services Infrastructure</b> Water, electricity and gas installations are to comply with Section 4.1.3 of the NSW Rural Fire Service document 'Planning for Bushfire Protection 2006' (or as updated). Full details to be included in documentation for a Subdivision Works Certificate application.</p>
46.	<p><b>Section 68 Approval – Water and Wastewater</b> Prior to the issue of a Subdivision Works Certificate, an application under section 68 of the <i>Local Government Act 1993</i> shall be made to, and issued by, Lithgow City Council, for the following approvals:</p> <ul style="list-style-type: none"> <li>• The applicant will be required to submit a Section 68 application for water and sewer connection and construction.</li> <li>• The s68 application will require all hydraulic and construction plans of the development showing all infrastructure in water, sewer, and stormwater.</li> <li>• These plans will show position, size and material used for construction and include the location of all sewerage property connections and water connection points.</li> <li>• The plans will be required to show connection to Council's existing infrastructure and proposed connections to neighbouring lots or developments.</li> <li>• The S68 application must include the details of the proposed connection points to Council water system and sewer system designed in accordance with all WSAA regional codes and Australian Standards.</li> <li>• The S68 application must be accompanied with all drawings and reports showing that the site can handle the hydraulic loading for pressure and flow at completion and full buildout of the proposed development.</li> <li>• The applicant will be required to place a covenant on each lot for a pressurising system to be installed after the Council meter connection to ensure that water pressure delivered to the dwelling will be no less than 300kPa for water services into dwellings. The hydraulic analysis shows that higher elevation lots may not have appropriate water pressure and so the applicant must provide appropriate systems to each allotment to provide pressure and flow from the proposed water services.</li> </ul>
47.	<p><b>Section 68 -Stormwater Detail</b> Prior to the issue of a Subdivision Works Certificate the person acting with this consent shall obtain approval under Section 68 of the Local Government Act 1993 for the carrying out of stormwater works.</p> <p>Documentary evidence is to be provided to the Principle Certifying Authority demonstrating that these approvals have been obtained prior to the issue of a Construction Certificate.</p> <p>The person acting with this consent shall ensure that mandatory stage inspections prescribed by the Section 68 Approval are carried out by Council Officers at the relevant stage of development.</p>
48.	<p><b>Construction Loads and Detention Basins</b> All stormwater detention basins should be designed with consideration of construction loads of sediment as temporary sediment control basins, maintained at all times, and modified to suit final construction design for detention function prior to issue of the Subdivision Certificate.</p>

**BEFORE SUBDIVISION WORK COMMENCES**

49.	<p><b>Commencement of Works Requirements</b> Work on the subdivision shall not commence until:</p> <ul style="list-style-type: none"> <li>• a Subdivision Works Certificate has been issued;</li> <li>• a Principal Certifying Authority has been appointed for the project and</li> <li>• any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.</li> </ul> <p>A Notice of Commencement of works is to be submitted to Lithgow City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.</p>
Condition Reason: To ensure compliance with the Environmental Planning and Assessment Act and Regulations.	
50.	<p><b>Engineering Inspections</b> All road, drainage, kerb and gutter, water and sewerage reticulation works associated with a development shall be inspected by Council's Operations Department. The whole of the works are to be carried out to the satisfaction of the Executive Manager of Operations. Council shall inspect engineering works at the following stages as a minimum:</p> <ul style="list-style-type: none"> <li>• Following site regrading and shaping, and prior to installation of footway services;</li> <li>• Installation of erosion and sedimentation control measures;</li> <li>• Storm water drainage lines prior to backfill;</li> <li>• Water and sewer lines prior to backfill;</li> <li>• Testing of water and sewer lines;</li> <li>• Subgrade preparation, before placing pavement;</li> <li>• Establishment of line and level for kerb and gutter placement;</li> <li>• Completion of each pavement layer ready for proof roll testing;</li> <li>• Road pavement surfacing;</li> <li>• Completion of works.</li> </ul> <p>The developer or contractor shall give Council a minimum 48 hours' notice when requesting an inspection to ensure that development works are not delayed. The developer shall, if required by a Council Engineer, submit delivery dockets for all materials used, and all material and performance test results obtained in the development.</p>
Condition Reason: To ensure compliance with Council's Engineering Guidelines.	
51.	<p><b>Street Lighting</b> A Street lighting is to be provided for all new and existing streets within the proposed subdivision to Lithgow City Council's standards.</p>
Condition Reason: To ensure compliance with Council's Engineering Guidelines.	
52.	<p><b>Works Signage</b> A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:</p> <ol style="list-style-type: none"> <li>a) stating that unauthorised entry to the work site is prohibited;</li> <li>b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at anytime for business purposes and outside working hours; and</li> <li>c) showing the name, address and telephone number of the Principal Certifying Authority for the work.</li> </ol> <p>The sign is to be maintained for the duration of building work, subdivision work or demolition work. The sign must be removed when the work has been completed.</p>
Condition Reason: To ensure compliance with the Environmental Planning and Assessment Regulation 2021.	
<b>Site Specific Environmental Management Plan (SSEMPs)</b>	

53.	<p>Site Specific Environmental Management Plans (SSEMPs) are to be prepared, such to be designed and implemented to manage all environmental aspects associated with the clearing, earthworks and construction works.</p> <p>A copy of each SSEMP is to be provided in .pdf format to the Principal Certifier and Council and the SSEMP is to be maintained on-site during all site works and be made available to Authorised Officers upon request. The SSEMP is to include but not be limited to:</p> <ol style="list-style-type: none"> <li>a) A statement of compliance together with detailed justification(s) for any diversions from the overarching Construction Environmental Management Plan that demonstrate how such diversions meet the stated objectives of the CEMP.</li> <li>b) A site management strategy, identifying and addressing issues such as environmental health and safety, site access and security, 'no-go' zones and traffic/pedestrian/cyclist management.</li> <li>c) A Construction Traffic Management Plan approved by Council.</li> <li>d) A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.</li> <li>e) Procedures for managing complaints for government authorities and public.</li> </ol>
	Condition Reason: To ensure minimal impact to the environment.
54.	<p><b>Work Site Facilities Requirement</b></p> <p>Site Facilities required:</p> <ol style="list-style-type: none"> <li>a) If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hoarding) before work commences.</li> <li>b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians.</li> <li>c) Any such hoarding or fence is to be removed when the work has been completed.</li> <li>d) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.</li> <li>e) Toilet facilities must be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.</li> <li>f) Each toilet provided must: <ul style="list-style-type: none"> <li>• be a standard flushing toilet, connected to a public sewer, or</li> <li>• if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or</li> <li>• an approved temporary chemical closet.</li> </ul> </li> <li>g) The provision of toilet facilities must be completed before any other work is commenced.</li> <li>h) A person having the benefit of this certificate who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land must at their own expense and where necessary: <ul style="list-style-type: none"> <li>• protect and support the building from damage, and</li> <li>• If necessary, underpin and support the building in accordance with the details prepared by a professional engineer.</li> </ul> </li> <li>i) A person having the benefit of this certificate who causes the excavation must, at least 7 days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and provide particulars of the proposed work.</li> <li>j) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.</li> </ol>
	Condition Reason: To ensure minimal impact to the environment.
55.	<p><b>Damaged Council Property</b></p> <p>The developer shall bear the cost of all restoration works to Council property damaged during the course of this development. The applicant shall submit in writing and/or photographic record, of any existing damage to Council property before commencement of work.</p>

	Note: This documentation will be used to resolve any dispute over damage to infrastructure. If no documentation is received prior to the commencement of work it will be assumed that the infrastructure was undamaged and the applicant will be required to restore all damage infrastructure at their expense.
	Condition Reason: To ensure the development has no impact to Council's Assets.
56.	<b>Council Land and Aboriginal Objects</b> No permanent keeping place or re-burial of Aboriginal objects is to occur on any land owned by Council or intended to be dedicated to Council.
	Condition Reason: To ensure the development has minimal impact to the surrounding environment.
57.	<b>Road Authority Approval</b> Written approval is to be obtained from the Road Authority for all proposed temporary changes to traffic conditions or traffic regulations on any existing Public Road as a result of the development. The Developer shall be responsible for all costs associated with any public notification and implementation of the proposed temporary changes.
	Condition Reason: To ensure minimal impact to the environment.
58.	<b>AS3798-1996 Requirements</b> Compaction of earthworks is to be carried out under Level 1 supervision as per AS 3798-1996 "Guidelines on earthworks for commercial and residential developments".
	Condition Reason: To ensure minimal impact to the environment.
59.	<b>Surface Water Runoff Management</b> Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
	Condition Reason: To ensure minimal impact to the environment.
60.	<b>Erosion and Sediment Control Measures</b> Erosion and sediment control measures are to be implemented prior to the commencement of works for each stage and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements: i. control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins; and ii. controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition – Vol. 1 (the 'Blue Book') published by Landcom, 2004.
	Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

#### DURING SUBDIVISION WORKS

61.	<b>Engineering Inspections</b> All road, drainage, kerb and gutter, water and sewerage reticulation works associated with a development shall be inspected by Council's Operations Department. The whole of the works are to be carried out to the satisfaction of the Executive Manager of Operations. Council shall inspect engineering works at the following stages as a minimum: <ul style="list-style-type: none"> <li>• Following site regrading and shaping, and prior to installation of footway services;</li> <li>• Installation of erosion and sedimentation control measures;</li> <li>• Storm water drainage lines prior to backfill;</li> <li>• Water and sewer lines prior to backfill;</li> <li>• Testing of water and sewer lines;</li> <li>• Subgrade preparation, before placing pavement;</li> <li>• Establishment of line and level for kerb and gutter placement;</li> <li>• Completion of each pavement layer ready for proof roll testing;</li> </ul>
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	<ul style="list-style-type: none"> <li>• Road pavement surfacing;</li> <li>• Completion of works.</li> </ul> <p>The developer or contractor shall give Council a minimum 48 hours' notice when requesting an inspection to ensure that development works are not delayed. The developer shall, if required by a Council Engineer, submit delivery dockets for all materials used, and all material and performance test results obtained in the development.</p>
	Condition Reason: To ensure compliance with Council's Engineering Guidelines.
62.	<p><b>Aboriginal Objects</b></p> <p>During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and Heritage NSW should be contacted so that appropriate management strategies can be identified.</p> <p>In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact NSW Police, Heritage NSW and the Heritage Division to determine an appropriate course of action.</p>
	Condition Reason: To ensure the development has minimal impact to the surrounding environment.
63.	<p><b>Notification requirements for Aboriginal Objects</b></p> <p>If unanticipated suspected Aboriginal heritage objects are uncovered at any time throughout the life of the project, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with Section 89A of the National Parks and Wildlife Act 1974 (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.</p>
	Condition Reason: To ensure the development has minimal impact to the surrounding environment.
64.	<p><b>Approvals Available</b></p> <p>A copy of the Notice of Determination and relevant Subdivision Works Certificates, including associated approved plans, is to be kept on-site at all times during construction works.</p>
	Condition Reason: To ensure compliance with the Environmental Planning and Assessment Act.
65.	<p><b>Hours of Construction</b></p> <p>Construction Hours:</p> <ol style="list-style-type: none"> <li>Subject to this clause, building construction is to be carried out during the following hours: <ol style="list-style-type: none"> <li>between Monday to Friday (inclusive)—7.00am to 6.00pm,</li> <li>on a Saturday—8.00am to 1.00pm.</li> </ol> </li> <li>Building construction must not be carried out on a Sunday or a public holidays.</li> <li>Demolition works and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.</li> <li>The builder and excavator must display, on-site, their 24 hour contact telephone numbers, which are to be clearly visible and legible from any public place adjoining the site.</li> <li>Construction noise shall be in accordance with the 'Noise Control Guidelines for Construction Noise Standards'.</li> </ol>
	Condition Reason: To ensure minimal impact to the environment.
66.	<p><b>Rock Breaking</b></p> <p>Mechanical rock breaking is to be confined to between 9.00 am to 3.30 pm Monday to Friday excluding any Public Holiday. Rock-breaking methods must not include blasting.</p>
	Condition Reason: To ensure minimal impact to the environment.
67.	<p><b>Dust and Air Quality Management</b></p> <p>Dust Emission and Air Quality:</p> <ol style="list-style-type: none"> <li>Materials must not be burnt on the site.</li> <li>Vehicles entering and leaving the site with soil or fill material must be covered.</li> <li>Dust suppression measures must be carried out to minimise wind-borne</li> </ol>

	d) emissions in addition odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.
	Condition Reason: To ensure minimal impact to the environment.
68.	<p><b>Storage of Building Materials</b></p> <p>Building materials and equipment must be stored wholly within the work site unless prior written approval has been obtained from Council. Equipment must not be operated on the footpath or roadway unless prior written approval has been obtained from Council.</p>
	Condition Reason: To ensure minimal impact to the environment.
69.	<p><b>Project Contact Details</b></p> <p>The project manager nominating a community contact person and advising adjoining owners and Council of the name of the nominated contact person, along with a contact telephone number. The contact person is to be available at all times for the duration of the construction work.</p>
	Condition Reason: To ensure minimal impact to the environment.
70.	<p><b>Earthworks, retaining walls and structural support</b></p> <p>a) Any earthworks (including any structural support or other related structure for the purposes of the development)—</p> <ul style="list-style-type: none"> <li>• must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and</li> <li>• must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and</li> <li>• that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the <i>Protection of the Environment Operations Act 1997</i>, and</li> <li>• that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the <i>Protection of the Environment Operations (Waste) Regulation 2005</i>.</li> </ul> <p>b) Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442 [PDF] and ISBN 978-0-642-785459 [DOCX]), published in July 2012 by Safe Work Australia.</p> <p>c) All earthworks shall be undertaken in accordance with AS3798 and Lithgow City Council’s Guidelines for Civil Engineering Design and Construction for Development”.</p> <p>d) All earthworks are to be undertaken with the approved Geotechnical Report undertaken by Macquarie Geotech, dated 15 November 2023, specifically:</p> <p><u>a. Filling</u></p> <ul style="list-style-type: none"> <li>• Where filling is required, unsupported fill batters should be limited to a maximum height of 3m at 1V:2H. Filling to greater heights or steeper gradients than this should be further assessed by MG;</li> <li>• Prior to construction and placement of any fill, the proposed areas should be stripped to remove all vegetation, topsoil, uncontrolled fill, organic, root affected, oversize (material greater than 150 mm) or other potentially deleterious material;</li> <li>• Following stripping, the exposed subgrade materials should be proof rolled in the presence of a suitably qualified and experienced Geotechnical Engineer to identify any wet or excessively deflecting material;</li> <li>• Proof rolling should involve compacting the subgrade with a minimum 8-tonne non vibratory roller, trimming the rolled surface to level and clean finish; where there are areas indicating excessive deflection then these will require over-excavation and backfilling with an approved select material/engineered fill.</li> <li>• Where the ground slopes at more than 1V:10H (6°), the ground profile should be benched in 300mm vertical steps to create near-level platforms for filling. The platforms should be graded with a cross fall no steeper than 2% downslope to allow drainage of any infiltration into the fill and to prevent pooling of subsurface moisture.</li> <li>• Sub-soil drains should be considered where fill thickness exceed 1m;</li> <li>• Boxed-out excavations should be drained permanently to allow any infiltration from subsequent fill to escape the excavation profile.</li> <li>• If required, additional imported fill materials will need to be approved by MG prior to use.</li> </ul>

	<ul style="list-style-type: none"> <li>• Fill should be placed in layers not exceeding 200 mm loose thickness and compacted to at least 98% Standard Compaction;</li> <li>• Fill batters should be overfilled by at least 1 m and trimmed back to the design profile;</li> <li>• Earthworks should be supervised by a suitably qualified person and compaction levels checked by field density (Nuclear Densometer) testing. Level 1 earthworks inspection is recommended; and</li> <li>• Streams and gullies should be appropriately culverted through embankments and the embankments protected from scour.</li> <li>• <u>Cut</u> Where excavation is required, unsupported cut batters should be excavated to a maximum height of 3m at no steeper than 1V:1H or to a maximum height of 5 m at 1V:2H. Higher or steeper profiles should be further assessed by MG.</li> <li>• <u>Excavation</u> Excavation should be readily achieved by conventional excavators (say 20t or larger). For stability during construction we recommend that the excavations be battered at no steeper than 1V:1H to a maximum height of about 3m. It should be noted that no surcharges including the temporary stockpiling of materials should be placed within 3m of the edge of excavations or slopes.</li> </ul>
	Condition Reason: To ensure adequate earthworks are undertaken for the development.
71.	<p><b>Traffic Control Plan</b></p> <p>A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on any Public Road whilst construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on the shoulder of any Public Road. Failure to comply may result in Work Cover Intervention and may also include Council stopping all work immediately until such time the developer complies with suitable traffic management procedures.</p>
	Condition Reason: To ensure compliance with Council's Engineering requirements.
72.	<p><b>Public Utilities</b></p> <p>The developer is responsible for all adjustments to and/or relocation of public utilities. Any necessary alterations are to be at the Developer's expense and to the requirements of the appropriate Authorities.</p>
	Condition Reason: To ensure minimal impact to the environment.

<b>BEFORE ISSUE OF A SUBDIVISION CERTIFICATE</b>	
73.	<p><b>Landscape Practical Completion</b></p> <p>A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to achieving Practical Completion for the development. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were approved under the respective Subdivision Works Certificate and/or all works granted consent under section 138 of the Roads Act, 1993 and is to verify that an effective maintenance program has been commenced. Full details area to be included in the documentation prior to the subdivision certificate application.</p>
	Condition reason: To ensure compliance under Section 138 of the Roads Act 1993.
74.	<p><b>Street Addresses</b></p> <p>Prior to making an application for a Subdivision Certificate for the Developer to obtain from Council the required street addresses and show such addresses on the respective Administration Sheet.</p>
	Condition Reason: Condition Reason: To ensure the development complies with the NSW Address Policy.
75.	<p><b>All Works Completed</b></p> <p>All subdivision works, road works granted consent under section 138 of the Roads Act 1993 and public utility installations are to be completed, prior to issue of the Subdivision Certificate.</p>
	Condition reason: To ensure compliance under Section 138 of the Roads Act 1993.

76.	<p><b>Repair of Damage</b> The Developer making good any damage caused to a public road or associated structures, including drains and kerb and gutter, as well as to private property, and revegetating any disturbed areas resulting from the works. Condition Reason: To ensure minimal impact to the environment.</p>
77.	<p><b>Traffic Authority Local Committee</b> Prior to issue of any Subdivision Certificate, the installation of any prescribed traffic control devices and traffic control facilities are required to be referred to and endorsed by Council's Traffic Authority Local Committee (TALC), and recommendation to Council for action. Approval can only be granted upon Council resolution. Condition Reason: To ensure minimal traffic impacts.</p>
78.	<p><b>Subdivision Certificate Application Requirements</b> A Subdivision Certificate Application is to be submitted to the NSW Planning Portal, accompanied by the appropriate fee.  The application is to be supported by, at a minimum, the following documentation, together with any other documentation required under the conditions of this consent: a) The plan of subdivision prepared by a Registered Surveyor. b) The instrument prepared under s88B of the Conveyancing Act,1919 as appropriate. c) A geotechnical assessment prepared by a suitably qualified geotechnical engineer that: i. indicates any areas of potential slip or subsidence which may influence future road and building design requirements. ii. indicates the location, extent and suitability of any fill placed on the site. iii. provides a report on all earthworks carried out under Level 1 supervision as per AS3798-1996 'Guidelines on earthworks for commercial and residential developments'; and iv. provides testing results for each phase of construction in relation to earthworks and roadworks. Condition Reason: To ensure minimal impact to the environment.</p>
79.	<p><b>Conveyancing Act, 1919 - Section 88B</b> Prior to the issue of a Subdivision Certificate, the submission of a Section 88B Instrument in accordance with the Conveyancing Act 1919 that creates the following Easements, Restrictions and Positive Covenants: a) Rights of carriageway, b) Easements for services in favour of the property serviced and /or the appropriate utility provider. c) Asset Protection Zones (APZ) in accordance with the requirements of the NSW Rural Fire Service General Terms of Approval. d) Public stormwater drains, existing and proposed stormwater outlets, overland flow paths and e) Any temporary cul-de-sac heads or turning facilities in favour of Council. f) No coal burning appliances are to be installed on the residential allotments. g) Restrictions relating to vegetation clearing on proposed lot 54. h) Restriction on all lots to comply with the recommendations within the approved Geotechnical Report relating to steep slopes. i) Individual Pressure Pump Systems.  Note: • Council in addition to the owner of any land benefited by the easement is to be a party whose consent is needed to release or vary easements or positive covenants. • Council advises that it will not withhold consent to release the Positive Covenants or Easements in respect of temporary cul-de-sac heads or turning facilities or APZ's subject to adequate alternate measures being provided in lieu. Condition Reason: To comply with the Conveyancing Act 1919.</p>
80.	<p><b>Surveyor's Certificate</b> Prior to issue of any Subdivision Certificate, a Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands. Condition Reason: To ensure that the development is adequately serviced.</p>
	<b>Certificate of Works As Executed (WAE)</b>

81.	<p>A "Work-As-Executed" (WAE) plan is required to be prepared by a Registered Surveyor or professional engineer and forwarded to Council prior to the final inspection. The WAE is to include, as a minimum:</p> <ul style="list-style-type: none"> <li>• certification that all works have been completed generally in accordance with the approved plans and specification,</li> <li>• any departure from the approved plans,</li> <li>• any additional/deleted work,</li> <li>• the location of conduits, subsoil lines, stub mains and inter-allotment drainage lines,</li> <li>• pipeline long sections showing the constructed invert levels of each pipe at each pit and pipe dimensions,</li> <li>• details of overland flow provisions,</li> <li>• site regrading areas by new contours, and</li> <li>• all other details which have a bearing on the extent of works and their acceptance by Council</li> <li>• A copy of all documentation, reports and manuals, technical guidelines for handover of stormwater management facilities (bioretention basin/swell) to Lithgow City Council.</li> <li>• All required sediment and water management controls as outlined in the soil and water management plan are in place and functioning as intended,</li> <li>• Details of any incidents including Work Health and Safety incidents, public safety and complaints received are documents and provided to Council; and</li> <li>• Any required maintenance and security bonds have been received as detailed in the conditions.</li> </ul>
	Condition Reason: To ensure compliance with Council's Engineering requirements.
82.	<p><b>Maintenance Responsibilities</b></p> <p>A maintenance bond of 5% of final construction costs shall be paid to Council upon final inspection and approval of all civil works. The value of the maintenance bond shall be approved by Council after witnessing a certified copy of the contract documentation showing all civil construction costs for the subdivision. The maintenance period will start from the date of final inspection for a period of 12 months. At the conclusion of the 12 month period a final inspection is to be undertaken by Council at the request of the developer to determine if any defects have arisen during this time. All deficiencies are to be rectified by the developer, should outstanding works remain Lithgow City Council reserves the right to expend bond monies on rectification works.</p>
	Condition Reason: To ensure compliance with Council's Engineering requirements.
83.	<p><b>Maintenance and Security</b></p> <p>The following stormwater asset maintenance and security bonds are required prior to asset handover:</p> <ul style="list-style-type: none"> <li>• Bioretention basins – A bond totaling the cost to complete the bio-retention basin construction (if not already constructed to bio-retention basin stage) and expected maintenance cost for the contracted maintenance period of 2 years is to be provided to Council prior to asset hand over.</li> <li>• Gross Pollutant Traps – a bond totaling the expected maintenance cost for 2 years is to be provided to Council prior to asset hand over.</li> </ul>
	Condition Reason: To ensure compliance with Council's Engineering requirements.
84.	<p><b>Environmental Protection</b></p> <p>Prior to the issue of the Subdivision Certificate, Council is to be provided with a report from Upper Macquarie County Council indicating:</p> <ul style="list-style-type: none"> <li>• Noxious plants are under adequate management; or</li> <li>• Noxious plant management has been undertaken and adequate control measures are in place; or</li> <li>• Noxious plants are not a concern for the property.</li> </ul>
	Condition Reason: To ensure minimal impact to the environment.
85.	<p><b>Utilities and Services</b></p> <p>Utility service connections are to be provided and completed to each lot in accordance with the relevant telecommunications, and electricity authorities requirements prior to the issue of a Subdivision Certificate. Written confirmation from each utility authority that services have been completed and provided to each lot is to be submitted to Council prior to the issue of a Subdivision Certificate.</p>
	Condition reason: To ensure compliance with relevant utility services and providers.
<b>Water Management Act 2000 Compliance</b>	

86.	<p>An application for the Certificate of Compliance for all Water and Sewerage Supply works is to be submitted by the applicant at the completion of the works and prior to Subdivision Certificate or Occupation Certificate. This application is to be accompanied by all plumbing, drainage and civil works details associated with the water and sewerage supply including Work as Executed drawings and .</p> <p>Please be advised that a Certificate of Compliance issued under the Water Management Act 2000 only covers the water supply and sewerage supply works that are not defined as plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011.</p> <p>The final compliance certificate must be submitted to the Certifying Authority prior to release of any linen plan for subdivision or Construction Certificate.</p>
Condition Reason: To ensure compliance with the Water Management Act 2000.	
87.	<p><b>Services</b></p> <p>The applicant shall consult with an Authorised Telecommunications, Electricity and Gas Authorities for the provision of underground telephone, electricity, and gas services to each allotment. Notification of Arrangement for provision to each allotment shall be lodged with Council prior to the issue of a Subdivision Certificate.</p>
Condition Reason: To ensure adequate services to the allotments.	

<b>CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT</b>	
88.	<p><b>Drainage Requirements</b></p> <p>The registered title for all land proposed as Drainage Reserve, is to be transferred to Council, and at no cost to Council, within 28 days of Council providing written notice to the Developer that satisfactory completion vegetating the Drainage Reserves.</p>
Condition Reason: To ensure minimal impact to the environment.	
89.	<p><b>Landscape Establishment Report</b></p> <p>A six-monthly Landscape Establishment Report (.pdf format) is to be submitted to Council for the term of a twelve month landscape defect and maintenance period commencing from the date of registration of the Subdivision Certificate, verifying that satisfactory maintenance of the landscape works including street trees, re-vegetation and weeding, has been undertaken in accordance with the approved Landscape Plans and Vegetation Management Plan and any necessary rectification measures have been carried out to a high professional standard.</p>
Condition Reason: To ensure minimal impact to the environment.	

## PRESCRIBED CONDITIONS

<b>PRESCRIBED CONDITIONS</b> <i>Environmental Planning and Assessment Regulation 2021</i>	
90.	<p><b>Erection of signs</b></p> <p>(1) This section applies to a development consent for development involving building work, subdivision work or demolition work.</p> <p>(2) It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—</p> <ul style="list-style-type: none"> <li>(i) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>(ii) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>(iii) stating that unauthorised entry to the work site is prohibited.</li> </ul> <p>(3) The sign must be—</p> <ul style="list-style-type: none"> <li>(i) maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>(ii) removed when the work has been completed.</li> </ul>

	<p>(4) This section does not apply in relation to—</p> <ul style="list-style-type: none"> <li>(i) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>(ii) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ul>
	<p>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</p>
<p>91.</p>	<p><b>Shoring and adequacy of adjoining property</b></p> <p>(1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.</p> <p>(2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense—</p> <ul style="list-style-type: none"> <li>(i) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and</li> <li>(ii) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.</li> </ul> <p>(3) This section does not apply if—</p> <ul style="list-style-type: none"> <li>(i) the person having the benefit of the development consent owns the adjoining land, or</li> <li>(ii) the owner of the adjoining land gives written consent to the condition not applying.</li> </ul>
	<p>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</p>

## General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

### Schedule B- Subsidence Advisory General Terms of Approval

**SCHEDULE 1**  
**CONDITIONS OF APPROVAL**

Application No:	TSUB24-00290
DA:	DA123/24
Applicant:	LITHGOW CITY COUNCIL
Lot and DP:	24/-/1041700 and 1/-/933666
Site Address:	14 CLARET ASH AVENUE SOUTH BOWENFELS
Mine Subsidence District:	LITHGOW SOUTH
Proposal:	1 INTO 54 LOT TORRENS SUBDIVISION AND 1 DRAINAGE RESERVE
Date:	25 NOVEMBER 2024

<b>GENERAL</b>	
<b>Plans, Standards and Guidelines</b>	
<b>1.</b>	These General Terms of Approval (GTAs) only apply to the subdivision development described in the plans and associated documentation relating to <b>DA123/24</b> and provided to Subsidence Advisory NSW. Any amendments or subsequent modifications to the development renders these GTAs invalid.
<b>2.</b>	This approval expires 5 years after the date the approval was granted if building, engineering or construction work relating to the application has not physically commenced on the land.
<b>POST COMPLETION OF SUBDIVISION WORKS</b>	
<b>3.</b>	<b>Certification of Works</b> Upon completion of works, submit a work-as-executed certification from a registered surveyor that confirms the subdivision is in accordance with the plans approved by Subsidence Advisory.



# RFS



## BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision  
14 Claret Ash Avenue South Bowenfels NSW 2790, 1//DP933666, 24//DP1041700, 45//DP1109094  
RFS Reference: DA20240926003960-S38-2  
Your Reference: (CNR-73831) DA123/24

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA20240926003960-S38-1 issued on 30/01/2025 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

**Nika Fomin**

**Manager Planning & Environment Services  
Built & Natural Environment**

Wednesday 2 April 2025

