



# STATEMENT OF ENVIRONMENTAL EFFECTS

**PROPOSAL:** Residential Flat Building  
and Subdivision (Torrens and Strata)

**ADDRESS:** 210, 212, 214 Main Street,  
Lithgow

February 2025

**PROPOSAL: Residential Flat Building & Subdivision (Torrens and Strata)**

**CLIENT: Hospland Pty Ltd**

**Anthony Daintith Town Planning Pty Ltd**

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This document has been authorised by

Anthony Daintith (Principal)

Date: 21/2/2025



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# 1 BACKGROUND

## 1.1 INTRODUCTION

Hospland Pty Ltd have engaged Anthony Daintith Town Planning (ADTP) to prepare a Statement of Environmental Effects (SOEE) to support a development application for a proposed residential flat building development at 210, 212 & 214 Main Street, Lithgow (including Torrens and Strata subdivision).

The purpose of this document is to:

- Describe the existing environment;
- Outline the proposed development;
- Consider relevant statutory matters; and
- Make conclusions and recommendations for Councils consideration.

The development application consists of the following components:

- Statement of Environmental Effects
- Architectural Plans
- Statement of Heritage Impact
- Civil Plans
- Noise and Vibration Report
- BASIX Certificate
- Subdivision Plans (Torrens and Strata)

## 1.2 APPLICANT AND OWNER

The applicant is Todd Dean.

The registered owner of the subject land is Hospland Pty Ltd

The owner has provided their written consent to the lodgement of the Development Application.

## 2 SUBJECT LAND

### 2.1 LOCATION AND TITLE

The subject land is identified as 210, 212 & 214 Main Street, Lithgow. Refer to **Figure 1**, which depicts the site within the locality.

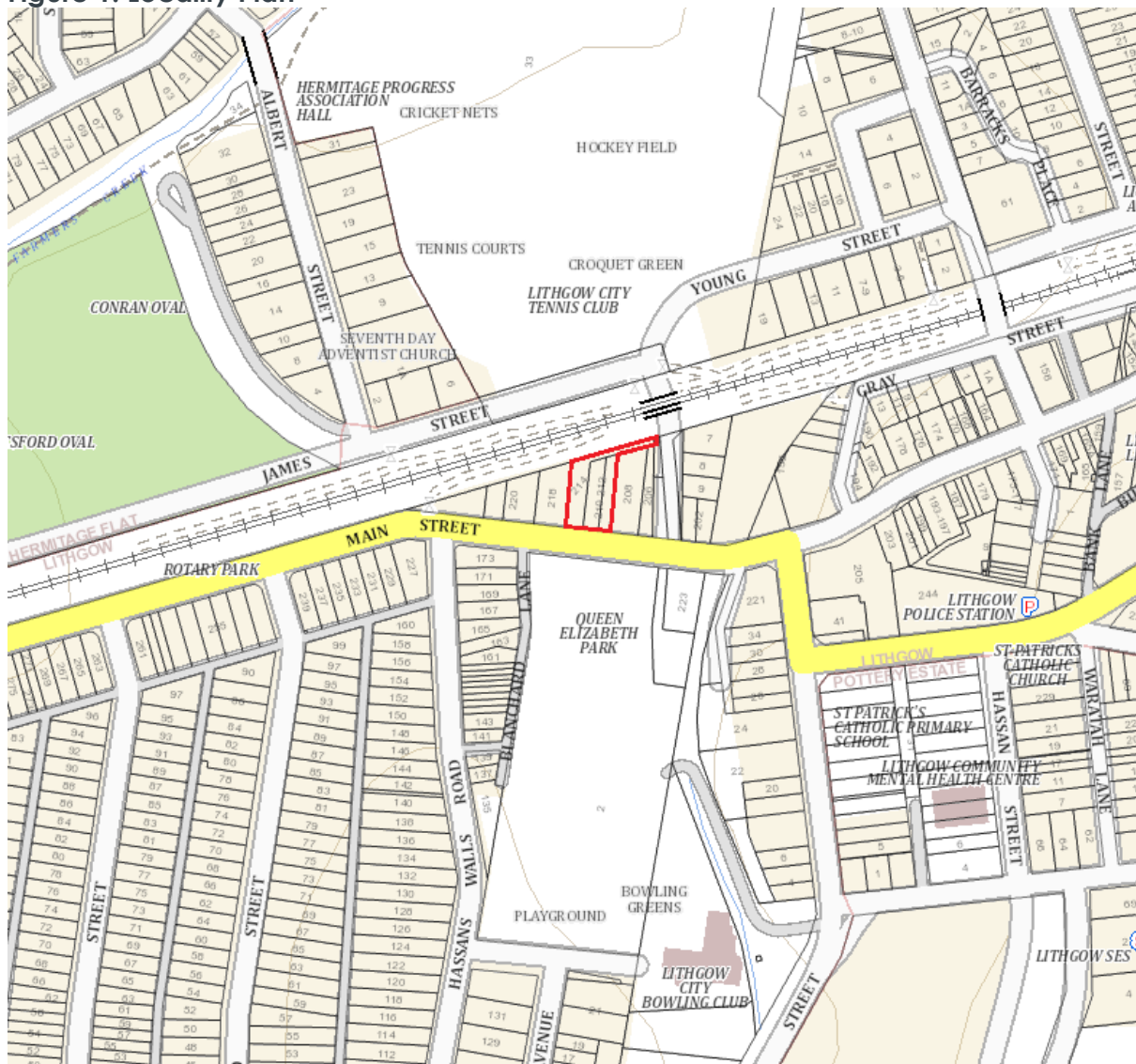
The area of the subject land is 1467m<sup>2</sup>.

The land title description is:

**Table 1: Land Title Details**

Lot	Deposited Plan
5	19238
10	131092
1	308160

**Figure 1: Locality Plan**



**Figure 2: Aerial Photo**



## **2.2 GENERAL SITE DESCRIPTION**

### Topography

Slight fall to the north.

### Vegetation

There is no existing vegetation.

### Waterways

There are no water courses traversing the site.

### Buildings

Vacant land.

**Photo 1: Subject land looking south from north eastern corner**



**Photo 2: Subject land looking south from northern boundary**



**Photo 3: Subject land looking north**



### 3 PROPOSAL

The application seeks approval for the following (and to be developed in this order):

1. 2 lot Torrens Title Subdivision
2. Residential Flat Building (4 dwellings)
3. 4 lot Strata Title Subdivision.

#### Subdivision (2 Lot Torrens Title)

The proposal involves the subdivision of the subject land into 2 lots (Torrens Title). Refer to the submitted subdivision plan for greater detail.

The proposed lots are as follows:

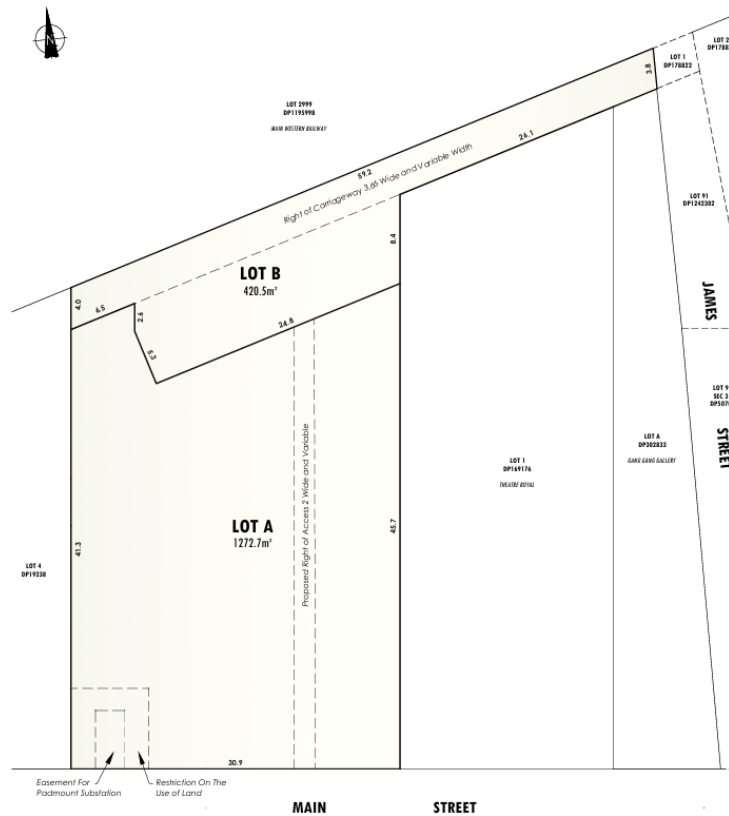
**Table 2: Proposed Lots**

Lot	Area (m <sup>2</sup> )
A	1272.7
B	420.5

**Note:** Areas will be subject to final survey and are approximate.

Lot A will be the site of the proposed Residential Flat Building.

**Figure 3: Proposed Strata Title Subdivision Plan**



## Residential Flat Building

It is proposed to construct a residential flat building on Lot A.

It is proposed that each dwelling will have three (3) bedrooms, combined dining, lounge and kitchen, 2 bathrooms and double garage.

This building has been designed to reflect the character of surrounding buildings and the Lithgow Main Street Heritage Conservation Area (HCA). The following design characteristics are consistent with the context:

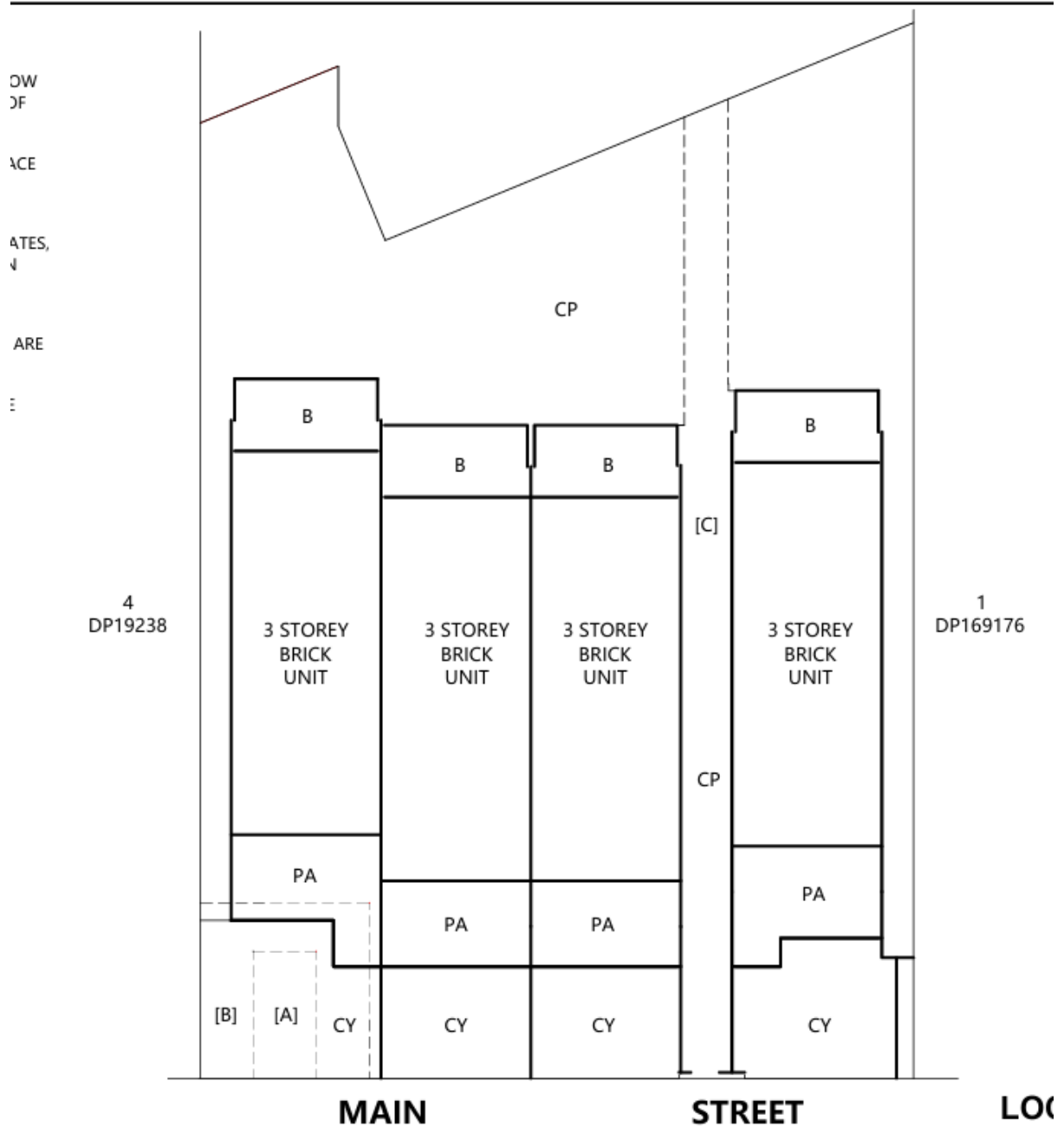
- Building frontages aligned to the Main Street property boundary,
- Buildings designed to provide shared access from James Street along the northern boundary,
- Materials, style and form to be consistent with the general character of the Main Street HCA.
- Building heights consistent with adjacent structures.

The new dwellings will be constructed on a former carpark. This site is sealed with asphalt and retains some remnant footings of former residential buildings. Retaining walls along Main Street boundary of the blocks are collapsing and unsafe. This site is currently unsightly and detracts from the presentation of the Theatre Royal. The new development will fill a gap in the streetscape and remove this unsightliness.

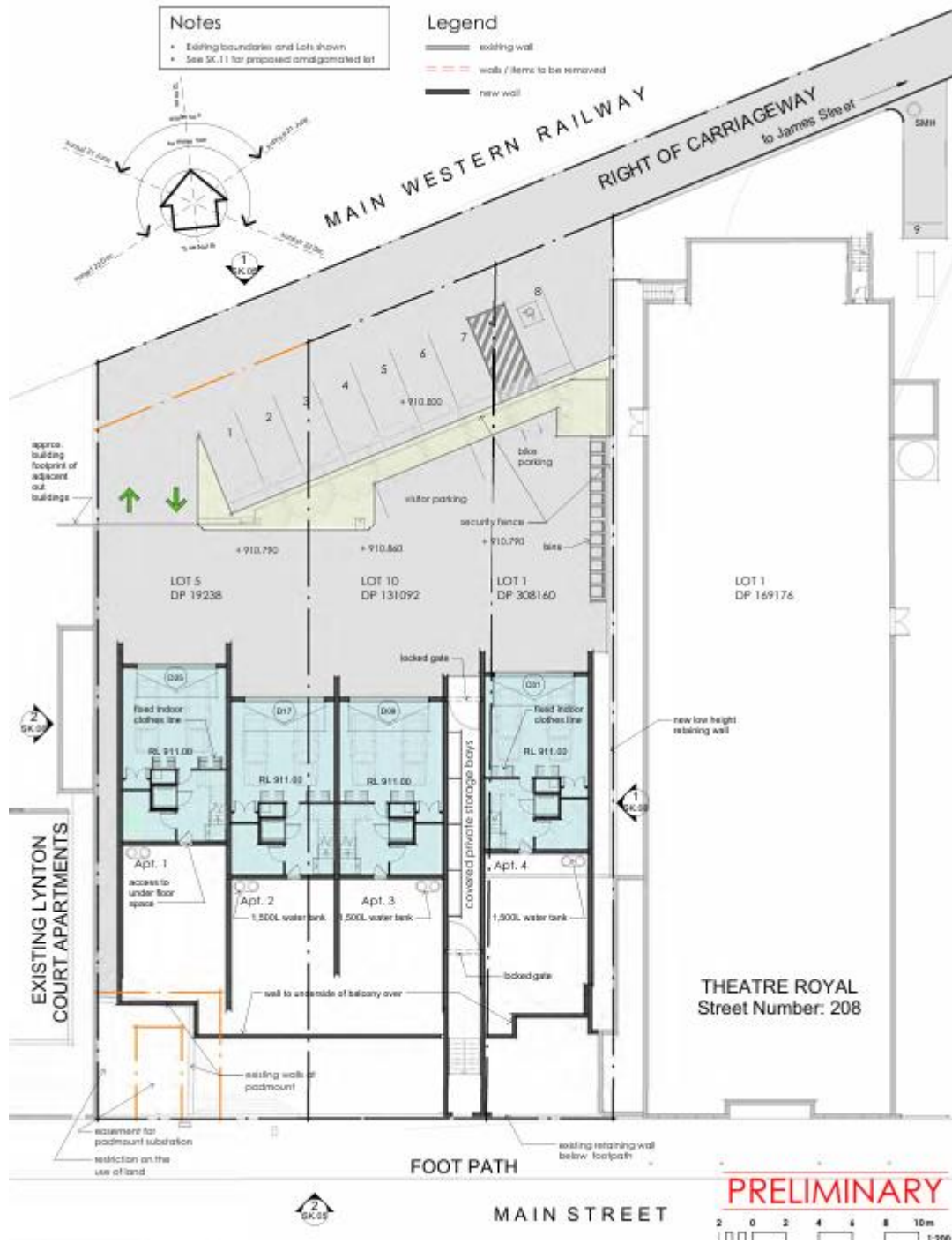
## Subdivision (4 lot Strata Title)

The proposal involves the Strata subdivision of the Residential Flat Building into 4 lots. Refer to the submitted subdivision plan for greater detail.

**Figure 4: Proposed Strata Title Subdivision Plan**  
WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION



**Figure 5: Proposed Site Plan – Residential Flat Building**



**Figure 6: Proposed South Elevation**



## 4 TOWN PLANNING CONSIDERATIONS

Pursuant to Section 4.15 (formerly Section 79C) of the *Environmental Planning and Assessment Act 1979*, the following matters must be taken into consideration when assessing a development application:

### 4.15 Evaluation

(cf previous s 79C)

#### **Matters for consideration—general**

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

- (a) *the provisions of:*
  - (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 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 the purposes of this paragraph), and*
  - (v) *any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)),*

*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.*

## (a)(i) The provisions of any environmental planning instrument

### LOCAL ENVIRONMENTAL PLANS

#### **LITHGOW LOCAL ENVIRONMENTAL PLAN 2014**

##### Applicable LEP Clauses

##### **Zone E1 Local Centre**

###### 1 Objectives of zone

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To maintain the built integrity of the area by enabling development that is sympathetic to the heritage character and significance of the area and surrounding streetscapes and features.
- To maintain or improve the water quality of receiving water catchments.
- To ensure development within the area is of a scale consistent with the needs of the local community and will not detract from the role of the Lithgow core business area as the primary centre.

###### 2 Permitted without consent

###### Roads

###### 3 Permitted with consent

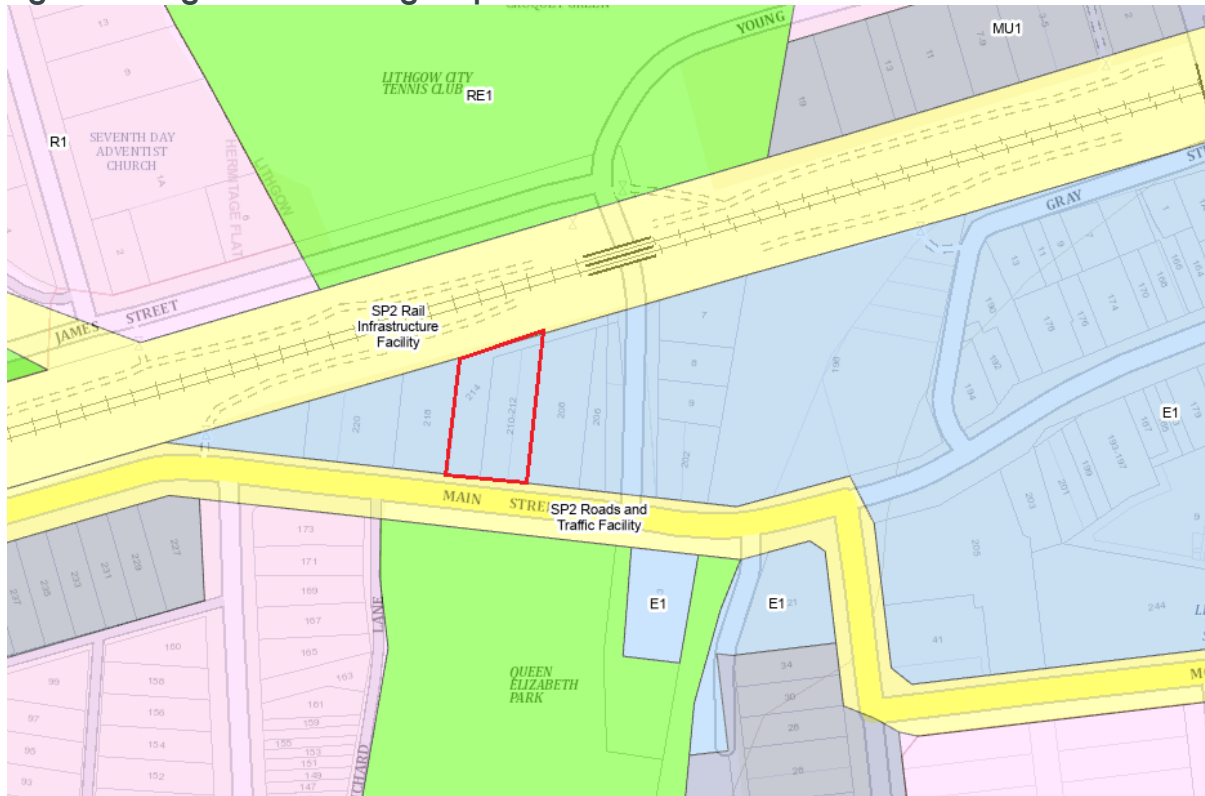
Amusement centres; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Function centres; Home industries; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation facilities (indoor); **Residential flat buildings**; Respite day care centres; Service stations; Shop top housing; Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4

###### 4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Recreation facilities

(outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water storage facilities; Water treatment facilities; Wharf or boating facilities; Wholesale supplies

**Figure 7: Lithgow LEP - Zoning Map**



### Comment

The subject land is zoned E1 Local Centre under the provisions of the *Lithgow Local Environment Plan 2014*.

**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

Note—

Residential flat buildings are a type of residential accommodation—see the definition of that term in this Dictionary.

The proposed residential flat building is permissible subject to the consent of Council via the lodgement of a Development Application.

The following sets out how the proposed development meets the “Residential Flat Building” definition. In order to achieve this, we need to determine that the proposal does not meet the definitions of an attached dwelling, co-living housing or multi dwelling housing.

The following definitions are taken from the Lithgow Local Environmental Plan 2014 (each in red):

**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

Note—

Residential flat buildings are a type of residential accommodation—see the definition of that term in this Dictionary.

The first part of the definition is that it must be within a “building” – it is understood that Council is in agreement that the proposal is one “building” as everything will be under the one roof.

The next part is that it must contain 3 or more “dwellings” – there are 4 proposed – therefore this component is met (each dwelling will be occupied and used as a separate domicile).

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

The next step is to ensure that the proposal is not an “attached dwelling, co-living housing or multi dwelling housing.” Will go through these definitions below:

**co-living housing** means a building or place that—

(a) has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and

(b) provides occupants with a principal place of residence for at least 3 months, and

(c) has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day,

but does not include backpackers' accommodation, a boarding house, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note—

Co-living housing is a type of residential accommodation—see the definition of that term in this Dictionary.

The proposed development is not “co-living housing” - there are no shared facilities.

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Note—

Multi dwelling housing is a type of residential accommodation—see the definition of that term in this Dictionary.

As discussed, the revised proposal would include 4 lots (each dwelling on a separate lot – refer to the subdivision plans). A MDH development requires 3 or more dwellings (whether attached or detached) on 1 lot of land. Therefore, the proposal is not an MDH development. With the introduction of the 4 lots,

appropriate BCA compliance, servicing, easements and rights of carriageways has been incorporated into the design. It is noted that there is no minimum lot size under the *Lithgow Local Environmental Plan 2014* applicable to the subject land.

**attached dwelling** means a building containing 3 or more dwellings, where—  
 (a) each dwelling is attached to another dwelling by a common wall, and  
 (b) each of the dwellings is on its own lot of land, and  
 (c) none of the dwellings is located above any part of another dwelling.

Note—

Attached dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.

The last definition to demonstrate the proposal is not, is an “attached dwelling”. As per the definition above, there are 3 criteria (a,b,c) that all need to be met to meet the definition – if one of the criteria isn't met, then the proposal is not an attached dwelling. Based on discussion with Council and as per the development plans, it is proposed that “Dwelling 4” be separated by a service passage – therefore ensuring that “Dwelling 4” does not have a common wall with “Dwelling 3” – accordingly, the criteria of “each dwelling is attached to another dwelling by a common wall” is not met and the revised proposal is not an “attached dwelling”.

Based on the above discussion, the only definition left is a “Residential Flat Building” which is permitted with consent in the E1 Local Centre zone (*Lithgow Local Environmental Plan 2014*).

As detailed throughout this report, the proposed development can generally be shown to be consistent with the relevant objectives of the zone.

<b>Objective</b>	<b>Response</b>
<i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i>	Not applicable to this development.
<i>To encourage employment opportunities in accessible locations.</i>	Not applicable to this development.
<i>To maximise public transport patronage and encourage walking and cycling.</i>	The proposal is within walking and riding distance of the Lithgow CBD and opposite Queen Elizabeth Park. It is envisaged that residents will walk to the development from both the CBD and the Park.
<i>To maintain the built integrity of the area by enabling development that is sympathetic to the heritage character and significance of the area and surrounding streetscapes and features.</i>	The proposal will enhance the streetscape and blend in with the character of the neighbouring development. The development has been designed to respect the historic and scenic quality of the both the site

	and within the Heritage Conservation Area. The site is currently an undeveloped vacant allotment that detracts from the Lithgow CBD.
To maintain or improve the water quality of receiving water catchments.	No negative impact has been identified as demonstrated by the engineering plans.

## 2.6 Subdivision—consent requirements

(1) Land to which this Plan applies may be subdivided, but only with development consent.

Notes—

1

If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the Act enables it to be carried out without development consent.

2

Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that the strata subdivision of a building in certain circumstances is complying development.

(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.

Note—

The definition of secondary dwelling in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

## Comments

The proposal also seeks consent for the Torrens & Strata title subdivision of the land/building.

### 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.

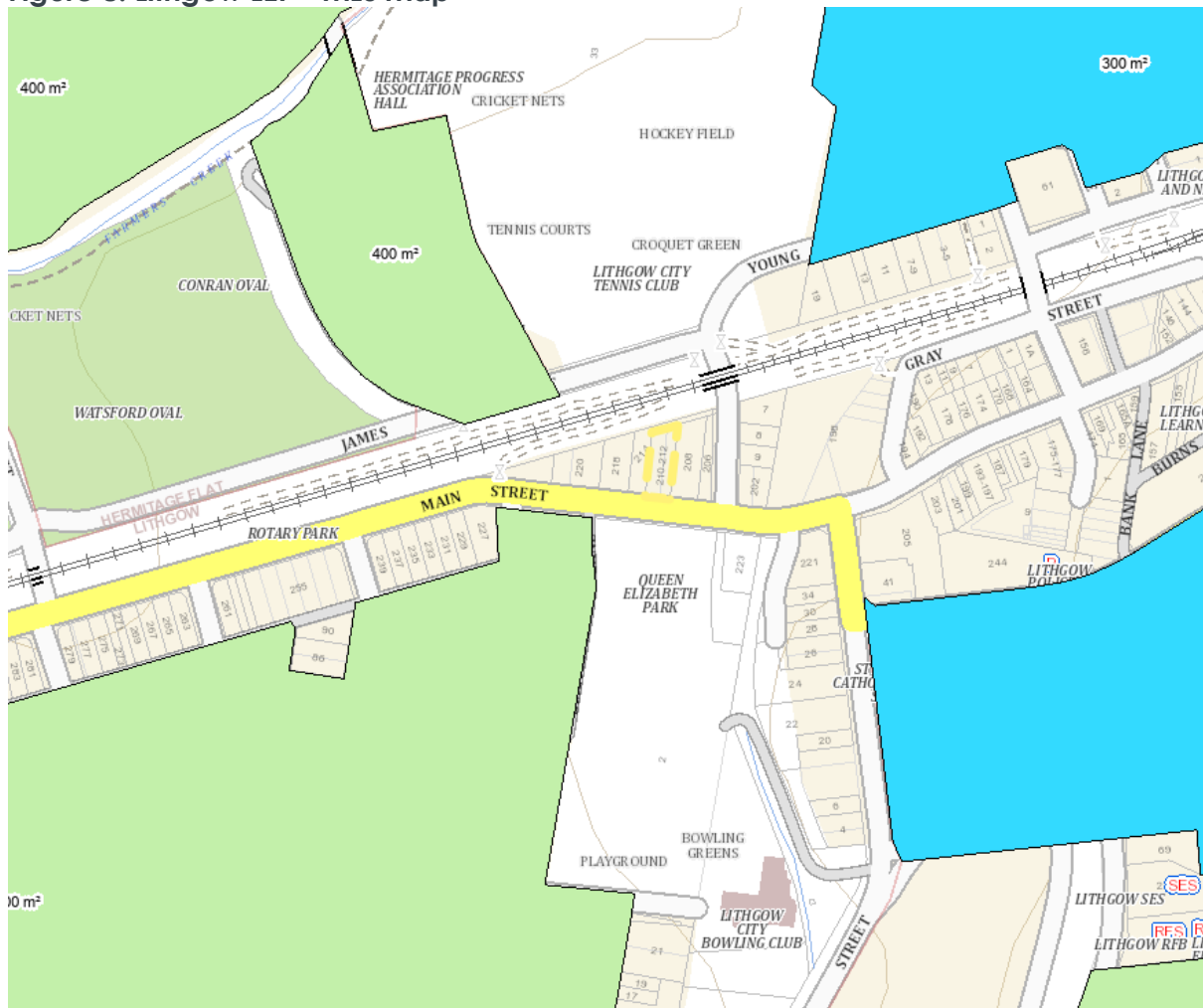
(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

- (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.
- (4) This clause does not apply in relation to the subdivision of individual lots in a **strata plan** or community title scheme.
- (4A) Despite any other provision of this clause, land identified as "Area 1" or "Area 2" on the Lot Size Map may not be further subdivided.

### Comment

There is no MLS applicable to the subject land.

**Figure 8: Lithgow LEP - MLS Map**



#### 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

(1) The objective of this clause is to achieve planned residential density in certain zones.

(2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.

Column 1	Column 2	Column 3
Dual occupancy	Zone RU5 Village	6,000 square metres
Dual occupancy (attached)	Zone R1 Residential	General (a) 400 square metres (in areas with a minimum lot size of 300 square metres on the Lot Size Map) (b) 500 square metres (in areas with a minimum lot size of 400 square metres on the Lot Size Map) (c) 700 square metres (in areas with a minimum lot size of 600 square metres on the Lot Size Map)
Dual occupancy (attached)	Zone R2 Low Density Residential	1,000 square metres
Dual occupancy (detached)	Zone R2 Low Density Residential	1,000 square metres
Dual occupancy (detached)	Zone R1 Residential	General (a) 500 square metres (in areas with a minimum lot size of 300 square metres on the Lot Size Map) (b) 600 square metres (in areas with a minimum lot size of 400 square metres on the Lot Size Map) (c) 800 square metres (in areas with a minimum lot size of 600 square metres on the Lot Size Map)
Multi dwelling housing	Zone R1 Residential	General (a) 600 square metres (in areas with a minimum lot size of 300 square metres on the Lot Size Map) (b) 800 square metres (in any other case)
Multi dwelling housing	Zone R2 Low Density Residential	1,200 square metres
Residential flat building	Zone R1 Residential	General (a) 600 square metres (in areas with a minimum lot size of 300 square metres on the Lot Size Map) (b) 800 square metres (in any other case)

#### Comments

This clause does not apply to the B1 zone.

## 5.10 - Heritage Conservation

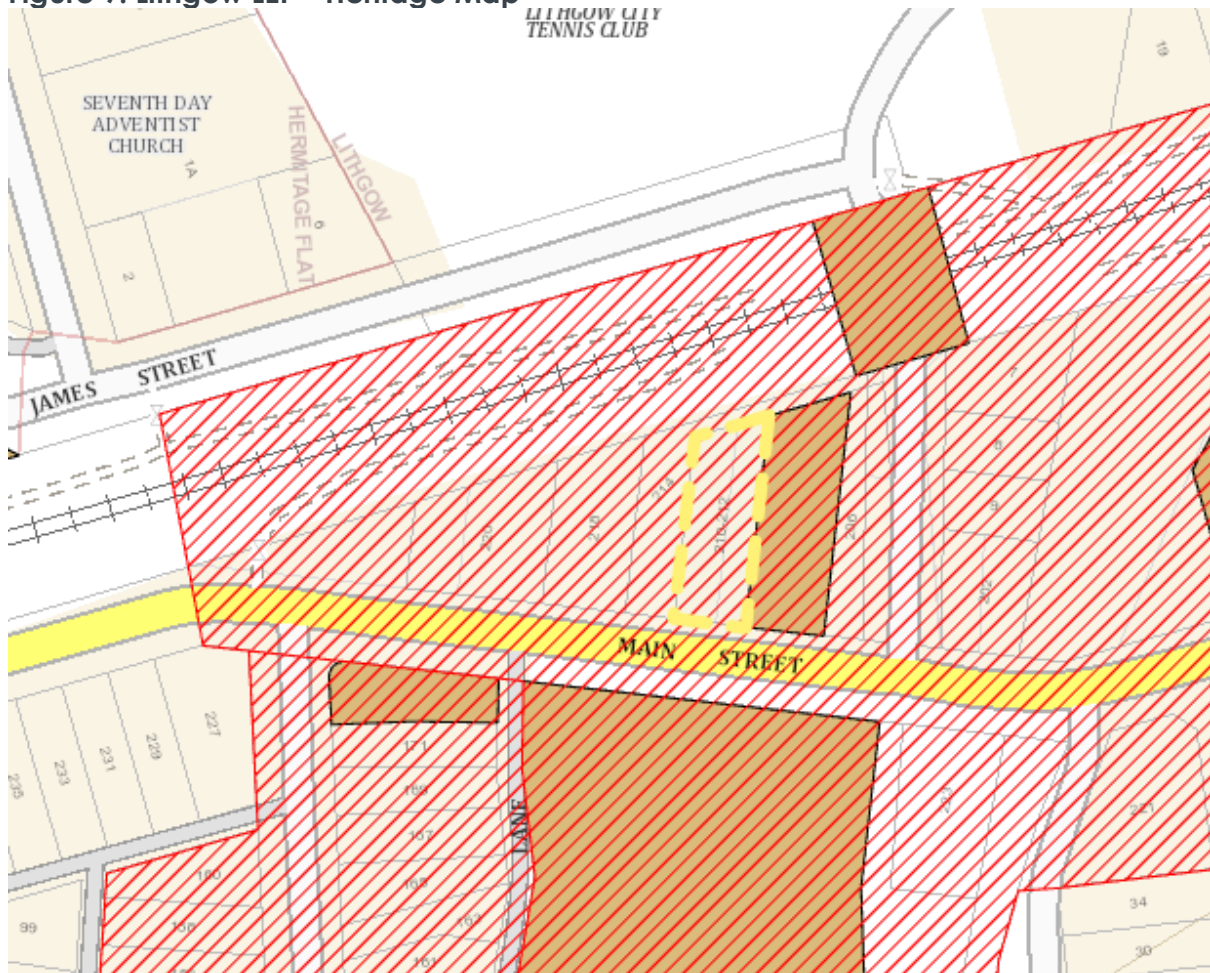
The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Lithgow,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

### Comments

A Statement of Heritage Impact (prepared by Ray Christison and High Ground Consulting) is required as the property is located within the Lithgow Main Street Heritage Conservation Area (HCA) C07. It is also adjacent to the Theatre Royal, which is located at 208 Main Street. Lithgow.

**Figure 9: Lithgow LEP - Heritage Map**



## Clause 5.10 Heritage Conservation

<p><b>(1) Objectives</b> The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> <li>(a) to conserve the environmental heritage of Cowra,</li> <li>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</li> <li>(c) to conserve archaeological sites,</li> <li>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</li> </ul>	<p>These objectives are addressed throughout this Statement of Environmental Effects and the Statement of Heritage Impact.</p>
<p><b>(2) Requirement for consent</b> Development consent is required for any of the following—</p> <ul style="list-style-type: none"> <li>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)— <ul style="list-style-type: none"> <li>(i) a heritage item,</li> <li>(ii) an Aboriginal object,</li> <li>(iii) a building, work, relic or tree within a heritage conservation area,</li> </ul> </li> <li>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</li> <li>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</li> <li>(d) disturbing or excavating an Aboriginal place of heritage significance,</li> <li>(e) erecting a building on land— <ul style="list-style-type: none"> <li>(i) on which a heritage item is located or that is within a heritage conservation area, or</li> <li>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</li> </ul> </li> <li>(f) subdividing land— <ul style="list-style-type: none"> <li>(i) on which a heritage item is located or that is within a heritage conservation area, or</li> <li>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</li> </ul> </li> </ul>	<p>The subject site falls within the curtilage of the “Lithgow Main Street Heritage Conservation Area”, item no. C7 under Schedule 5 of the Lithgow LEP, and accordingly development consent for the proposed development is required under this clause.</p> <ul style="list-style-type: none"> <li>(c) Refer to heritage report.</li> <li>(d) The site has not been identified as an ‘Aboriginal place of heritage significance’, nor does it hold ‘Aboriginal objects’, within the meanings of these terms as defined in the LEP.</li> <li>(f) Not applicable to the proposed works.</li> </ul>
<p><b>(3) When consent not required</b> However, development consent under this clause is not required if—</p> <ul style="list-style-type: none"> <li>(a) the applicant has notified the consent authority of the proposed development and</li> </ul>	<ul style="list-style-type: none"> <li>(a) Not applicable, as development consent for the proposed works is required under clause 5.10(2) of the LEP.</li> <li>(b, c and d) Not applicable to the proposed works.</li> </ul>

<p>the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—</p> <p>(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and</p> <p>(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development—</p> <p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and</p> <p>(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or</p> <p>(d) the development is exempt development.</p>	
<p><b>(4) Effect of proposed development on heritage significance</b></p> <p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<p>The effect of the proposed works on heritage significance is addressed throughout this Statement of Environmental Effects and the Statement of Heritage Impact.</p>
<p><b>(5) Heritage assessment</b></p> <p>The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed</p>	<p>This Statement of Environmental Effects and, the Statement of Heritage Impact together comprise the heritage management documents that assess the extent to which the proposed works would affect the heritage significance of development.</p>

<p>development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	
<p><b>(6) Heritage conservation management plans</b> The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p>	<p>Refer to the Statement of Heritage Impact.</p>
<p><b>(7) Archaeological sites</b> The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <i>Heritage Act 1977</i> applies)— (a) notify the Heritage Council of its intention to grant consent, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>Refer to the Statement of Heritage Impact.</p>
<p><b>(8) Aboriginal places of heritage significance</b> The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance— (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	<p>Refer to the Statement of Heritage Impact.</p>
<p><b>(9) Demolition of nominated State heritage items</b> The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item— (a) notify the Heritage Council about the application, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>Not applicable.</p>
<p><b>(10) Conservation incentives</b> The consent authority may grant consent to development for any purpose of a building</p>	<p>Not applicable, as development consent for the proposed works is required under clause 5.10(2) of the LEP.</p>

that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—

(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and

(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and

(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

## **Part 7 - Additional Local Provisions**

### **7.1 Earthworks**

*(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

*(2) Development consent is required for earthworks unless—*

*(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*

*(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*

*(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

*(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

*(b) the effect of the development on the likely future use or redevelopment of the land,*

*(c) the quality of the fill or the soil to be excavated, or both,*

*(d) the effect of the development on the existing and likely amenity of adjoining properties,*

*(e) the source of any fill material and the destination of any excavated material,*

*(f) the likelihood of disturbing relics,*

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*

(i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site or heritage conservation area.

Note—

The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.

## Comments

All earthworks to be undertaken with appropriate erosion and sediment controls.

### **7.3 Stormwater management**

(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

(2) This clause applies to all land in the following zones—

(a) Zone RU5 Village,

(b) all residential, business and industrial zones.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

## Comments

Stormwater is already discharged to the rear of the site – the proposed carparking will need to be drained appropriately to the requirements of Council.

A Stormwater Management Plan has been prepared by Calare Civil and provides the following conclusion:

## **9. CONCLUSION**

### **9.1.Flood Impacts & Risk**

The purpose of this report is to assess the flooding associated with Sheedys Gully and to ascertain the peak flood level within the subject site so to inform the flood planning and habitable floor levels. The assessment also was required to confirm that no impact to the neighbouring sites is likely.

From the HEC-RAS modelling completed it is evident that the development does not result in any changes to the primary overland flow paths or flooding mechanisms. Given that only minor filling is proposed to achieve the design levels, and the fact that the site is not considered to be within a flood storage area (floodway only), no compensatory storage volume is required to offset the proposed fill, however despite this, the proposed changes to the site grading was modelled to confirm any possible impacts.

From the modelling it was found that there was negligible impact on the flood levels experienced, with a peak water levels being as follows:

- Main St = 913.15m AHD, 0.02m lower than the existing scenario, and
- Basement / carpark = 911.72m AHD, 0.01m lower than the existing scenario. In addition, with the raising of the pad level to 911.25 m AHD, this has seen also seen a reduction of inundation depth to 470mm.

Regarding the flood planning and habitable floor levels, these are informed by the peak water. Based on the above the flood planning levels should be as follows:

- Non-habitable areas subject to the James Street backwater effect = 911.72m AHD. Noting that inundation shall not exceed 500mm, the minimum floor level for non-habitable areas shall be 911.22m AHD.
- Habitable areas subject to the backwater effect = 912.22m AHD, this includes 500mm freeboard from the peak water level.
- Habitable areas subject to overland flows on Main St = 913.65m AHD this includes 500mm freeboard from the peak water level.

## 9.2. Water Quality

The site is currently being used as an informal parking area where it is wholly covered by a bitumen pavement. There are no SQID's or WSUD measures and all runoff generated is discharged directly to the highly modified environments of the Sheedys Gully drainage channel and Farmers Creek.

The implementation of the proposed SQID & WSUD measures will improve the quality of any discharge and thus satisfy the NorBE requirements for all development within the Sydney Drinking Water Catchment.

## 7.10 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

## Comment

Water – is available for connection.

Electricity – is available for connection.

Sewage – is available for connection.

Stormwater drainage – refer to stormwater management plan.

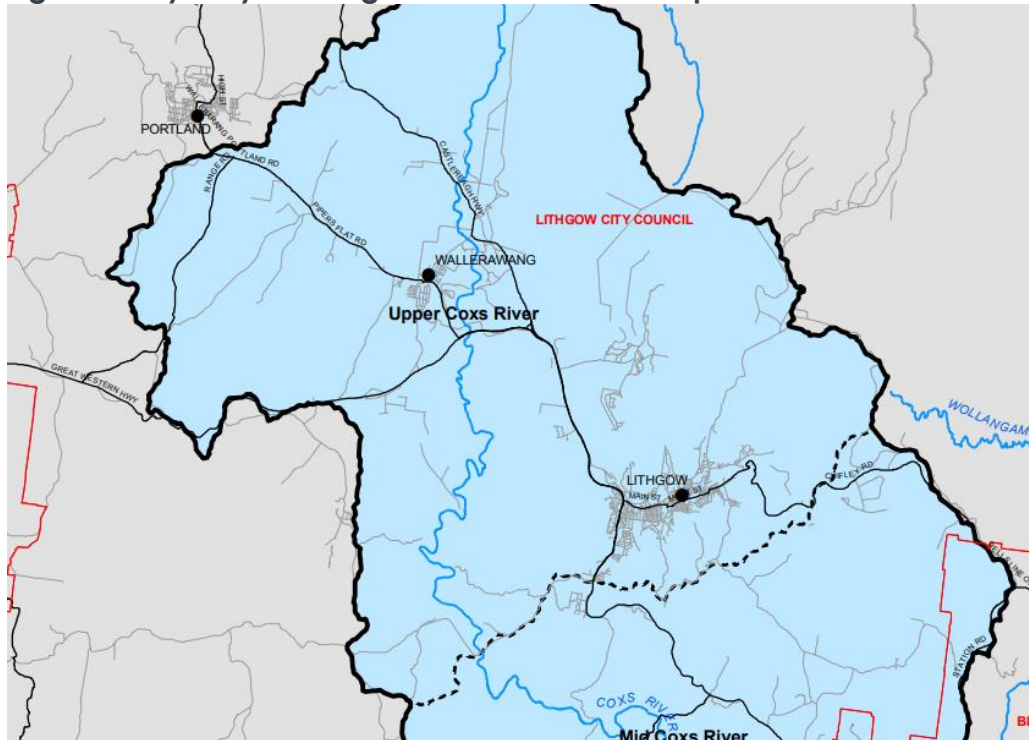
Vehicle access – existing access off the rear lane.

## **STATE ENVIRONMENTAL PLANNING POLICYS**

<b>SEPP</b>	<b>COMMENTS</b>
SEPP (Housing) 2021	As per Clause 144 (5) of the SEPP, Chapter 4 Design of residential apartment development does not apply to the proposed development as the development involves only a class 1a or 1b building within the meaning of the Building Code of Australia.
SEPP (Primary Production) 2021	Not applicable
SEPP (Resources and Energy) 2021	Not applicable
SEPP (Resilience and Hazards) 2021	Includes the former SEPP 55 – Remediation of Land. See comments below.
SEPP (Industry and Employment) 2021	Not applicable
SEPP (Transport and Infrastructure) 2021	Refer to comments below.
SEPP (Biodiversity and Conservation) 2021	The site is located within the Sydney Catchment. Refer to the Stormwater Management Plan prepared by Calare Civil.
SEPP (Planning Systems) 2021	Not applicable
SEPP (Precincts – Eastern Harbour City) 2021	Not applicable
SEPP (Precincts – Central River City) 2021	Not applicable
SEPP (Precincts – Western Parkland City) 2021	Not applicable
SEPP (Precincts - Regional) 2021	Not applicable
SEPP (Sustainable Buildings)	BASIX Certificates provided.
SEPP (Exempt and Complying Development Codes) 2008	Not applicable

## SEPP (BIODIVERSITY AND CONSERVATION) 2021

Figure 10: Sydney Drinking Water Catchment Map



### 8.7 Recommended practices and performance standards of the Sydney Catchment Authority

- (1) Any development or activity proposed to be carried out on land to which this Policy applies should incorporate the Authority's current recommended practices and standards.
- (2) If any development or activity does not incorporate the Authority's current recommended practices and standards, the development or activity should demonstrate to the satisfaction of the consent authority or determining authority how the practices and performance standards proposed to be adopted will achieve outcomes not less than those achieved by the Authority's current recommended practices and standards.
- (3) The Authority must ensure that:
  - (a) a list of each of the Authority's current recommended practices and standards is published on the Authority's website, and
  - (b) a copy of each of the Authority's current recommended practices and standards is available for public inspection at the office of the Authority without cost during ordinary office hours.

### **8.8 Development consent cannot be granted unless neutral or beneficial effect on water quality**

- (1) A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment unless it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.
- (2) For the purposes of determining whether the carrying out of the proposed development on land in the Sydney drinking water catchment would have a neutral or beneficial effect on water quality, the consent authority must, if the proposed development is one to which the NorBE Tool applies, undertake an assessment using that Tool.

Note. The NorBE Guideline provides information and guidance for consent authorities in the use of the NorBE Tool.

### **8.9 Development that needs concurrence of Regulatory Authority**

- (1) A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment except with the concurrence of the Chief Executive.
- (2) For the purposes of section 30 (3) of the Act, the matters that are to be taken into consideration by the Chief Executive in deciding whether to grant concurrence are:
  - (a) whether the development incorporates the Authority's current recommended practices and standards, and
  - (b) if the development does not incorporate those practices and standards, whether the alternative practices that relate to the protection of water quality that have been adopted in relation to the development will achieve outcomes not less than those achieved by the Authority's current recommended practices and standards, and
  - (c) whether the development would have a neutral or beneficial effect on water quality.
- (3) A consent authority must forward a copy of its determination of a development application that requires the concurrence of the Chief Executive to the Chief Executive within 10 days after the determination is made.
- (4) This clause does not apply if:
  - (a) the Minister is the consent authority, or
  - (b) the consent authority is satisfied that the proposed development has no identifiable potential impact on water quality.

### Comments

The subject land is located within the Sydney Catchment Authority Area.

Refer to the Stormwater Management Plan prepared by Calare Civil.

## SEPP (RESILIENCE AND HAZARDS) 2021

### 7 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:
- (a) it has considered whether the land is contaminated, and
  - (b) 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, and
  - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
- (4) The land concerned is:
- (a) land that is within an investigation area,
  - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
  - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:
    - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
    - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

## Comment

A Preliminary Contamination Investigation was undertaken by Barnson.

### Summary

*A desktop investigation was undertaken by reviewing aerial photographs, available databases published information and council records for evidence of contamination. A walkover inspection of the investigation area was made on the 12 June 2024.*

*Records indicate structures were established on parts of the site prior to 1940. Structures have been removed. The structures are expected to include dwellings and sheds. Degraded bitumen hardstand covered the majority of the site.*

*An oil pan was identified along the western boundary. The soil surface around the oil pan was stained. Foreign materials including tyres, fridge and oil heater were identified in along the northern and southern boundaries. No additional signs of visible contamination such as discolouration or staining was identified on the surface of the site.*

*Structures have been removed from the site. The structures are expected to have included dwellings and sheds. The structures may have been constructed with asbestos containing materials and lead based paints. Potential exists for subsurface building materials to remain. Small amounts of oils and chemicals may have been stored within sheds. A concrete transformer easement was present in the south west.*

*Historical fill material may have been applied to the site prior to the construction of hard surfaces. Fill may have been applied following the removal of structures. Potential exists for fill associated with the Main Western Railway being placed or tracked over the site.*

### Recommendations

*A detailed investigation of the site is required to characterise areas of potential contamination and suitability for residential land-use.*

The applicant has committed to undertake further investigations prior to the issue of the Construction Certificate to demonstrate suitability.

## **STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021**

As the 208 Main Street, Lithgow residential dwelling is adjacent to the NSW Trainlink maintained by Sydney Trains corridor, Clauses 2.100 of the State Environmental Planning Policy (Transport and Infrastructure) 2021, which is referenced in NSW Department of Planning's Publication 'Development Near Rail Corridors and Busy Roads – Interim Guideline' (DNRCBR) applies and must be considered.

A Rail Noise & Vibration Noise Assessment was prepared by EMS and provides the following conclusions:

## 8 CONCLUSIONS

A Rail Noise and Vibration Assessment was conducted for 208 Main Street, Lithgow to assess the noise intrusion from nearby NSW Trainlink rail corridor. The purpose of the acoustic report was to provide a construction recommendation for the proposed development based on the measured noise levels.

The Noise Assessment was conducted in accordance with the Lithgow Development Control Plan, SEPP 2021 (Transport and Infrastructure) NSW Department of Planning Publication Development Near Rail Corridors and Busy Roads – Interim Guideline.

Construction recommendations for appropriate acoustic treatments against rail noise intrusion are provided in Section 5 Construction Recommendation.

Section 7 show the rail vibration emissions will not results in human discomfort nor structural damage at the proposed development.

The proposed site will comply with the requirements of the relevant Australian and NSW Guidelines, Standards and Policies, provided the recommendations outlined in 5 Construction Recommendation of this report are implemented.

### **(a)(ii) Any draft environmental planning instrument**

Nil

## (a)(iii) Any development control plan


### LITHGOW DEVELOPMENT CONTROL PLAN 2021

#### Chapter 2 – Site Requirements

Clause	Heading	Comment
<b>2.2</b>	Site Analysis, Local Character & Context	The proposed development is permitted on the subject land and within the E1 zone.
<b>2.2.2</b>	Site Analysis & Development Response	Refer to the site analysis plan prepared as part of the architectural plan set.
<b>2.2.3</b>	Local Character and Context	The proposal is an infill development of an existing long time vacant site in the centre of Lithgow. Refer to the Heritage Impact Assessment relating to the impact the proposed development will have on the building and neighbouring properties.
<b>2.2.4</b>	Visually prominent site	The existing building is within a Heritage Conservation Area – refer to the Statement of Heritage Impact.
<b>2.2.5</b>	Reflective materials	The proposed development will not have reflective materials and will be suitable within the Heritage Conservation Area.
<b>2.3</b>	Slope Response, Earthworks & Retaining Walls	There will be relatively minor earthworks on the site – retaining walls will be minor. Refer to the architectural plans for greater detail.
<b>2.4</b>	Stormwater management	Refer to the Stormwater Management Plan prepared by Calare Civil.
<b>2.5</b>	Vehicle Access and Parking	<p>It is proposed to access the site via the existing rear lane (right of carriageway) back to James Street. The right of carriageway surface will be maintained to a satisfactory condition.</p> <p>Each apartment will have a double garage and visitor parking has been provided at the rear of the site.</p> <p>Car parking spaces for the theatre royal are also provided at the rear of the site as shown on the site plan.</p>
<b>2.5.3</b>	Loading/Unloading, Delivery & Servicing Facilities	No deliveries will be required.
<b>2.5.4</b>	Parking Location, Design & Circulation	<p>It is proposed to provide a double garage for each unit and visitor car spaces at the rear of the site. It is noted that there is currently no construction car parking spaces on the subject land.</p> <p>Refer to the site plan to show the proposed location.</p>
<b>2.5.5</b>	On-Site Parking Numbers	The requirement for residential flat buildings:

		<p><u>Parking for Residents:</u></p> <p>Minimum one (1) off-street enclosed car parking space for one and two-bedroom units.</p> <p><u>Visitor Parking</u></p> <p>Minimum one (1) space per five (5) units or part thereof.</p> <p>The proposed development has provided the required spaces.</p>
<b>2.5.6</b>	Exemptions to Off-street Car Parking Requirements	No variations are sought.
<b>2.5.7</b>	Bicycle Parking	<p>Residential flat buildings require:</p> <p><u>Residents</u></p> <p>1 space per 4 units (or rooms for boarding houses)</p> <p><u>Visitors</u></p> <p>1 spaces per 20 units/rooms</p> <p>Bike parking is provided on site as shown on the site plan.</p>
<b>2.6</b>	Pedestrian Access, Mobility & Safety	<p>Access to the building will be available either directly off Main Street or from the rear car parking area.</p> <p>Appropriate street numbering and letterboxes to be provided.</p>
<b>2.7</b>	Designing for Crime Prevention	A Crime Risk Assessment is not considered necessary for this small scale development (only applies for 10 or more dwellings).
<b>2.8</b>	Utilities, Easements & Infrastructure	Available for connection to the proposed development. Any alterations to the requirements of the service provider.
<b>2.9</b>	Solid Waste Management	<p>Detailed waste management arrangements are not known at this stage.</p> <p>There is no hazardous materials proposed.</p> <p>No asbestos removal required.</p>
<b>2.10</b>	Amenity/Buffers for Sensitive Uses	<p>Not considered relevant.</p> <p>The development will not generate any significant noise, odour or air impacts.</p> <p>There are no nearby sensitive land uses.</p>
<b>2.11</b>	Water and Energy Efficiency	BASIX certificate provided.

## Chapter 3 – Natural Environment and Hazards

<b>3.2</b>	Bushfire prone land	Not mapped as bushfire prone.
<b>3.3</b>	Vegetation management and biodiversity	The land is totally cleared of vegetation. There is no identified threatened species etc.
<b>3.4.1</b>	Contaminated land	Refer to SEPP Resilience and Hazards comments of potential for contamination.
<b>3.4.2</b>	Sensitive land uses	There are no identified sensitive land areas on the subject land.
<b>3.4.3</b>	Erosion and sedimentation	Erosion and sediment controls to be implemented as part of the building works.
<b>3.4.4</b>	Other geological or soil related issues	There are no identified geological or soil related issue that will have an impact on the construction of the development.
<b>3.5</b>	Flood prone land	The land is not mapped as flood prone.
<b>3.6</b>	Ground and surface water protection	No issues with respect to groundwater vulnerability and riparian land & watercourses have been identified for the subject land. Refer to the Stormwater Management Plan prepared by Calare Civil.
<b>3.7</b>	Mine subsidence risk	<p>Not mapped as mine subsidence.</p> <p>Good Afternoon Derek Moses,</p> <p>Thank you for your enquiry, received 26 September 2024.</p> <p>The below properties are <b>not</b> within a proclaimed Mine Subsidence District and is not subject to any building restrictions imp</p> <ul style="list-style-type: none"> <li>• Lot 5 DP 19238</li> <li>• Lot 10 DP 131092</li> <li>• Lot 1 DP 308160</li> </ul> <p>Subsidence Advisory NSW records indicate underground coal mining has not occurred beneath the property.</p> <p>Kind Regards,</p> <p><b>Brooke. N</b></p> <p>Customer Service Support Officer   Performance &amp; Operations</p> <p><b>Subsidence Advisory NSW</b></p> <p>T 02 4908 4300 E <a href="mailto:subsidenceadvisory@customerservice.nsw.gov.au">subsidenceadvisory@customerservice.nsw.gov.au</a></p> <p><a href="http://www.nsw.gov.au/subsidence-advisory">www.nsw.gov.au/subsidence-advisory</a></p>  <p>Department of Customer Service</p>

## Chapter 4 - Heritage

The subject land is located within the Heritage Conservation Area (there are no heritage items located on the site).

The site is cleared – therefore no demolition is required.

Refer to the Statement of Heritage Impact prepared by Ray Christison of High Ground for further information along with assessment under Clause 5.10 of the LEP within this report. The proposed architectural plans have been development to ensure that the proposed development is consistent with the SOHI and to ensure that the development is complementary to the Main Street streetscape.

## Chapter 5 – Subdivision and Roads

Clause	Comments
5.1.1	Applies to the subject land.
5.1.2	Chapter 3 applies.
5.1.3	Not applicable.
5.2.1	Refer to the subdivision plans that provides a site analysis. The land is vacant land.
5.2.2	Stormwater management – refer to Calare Civil Report. Watercourses – there are no watercourses on the subject land. Significant vegetation – the land is cleared. Hazards – not applicable. Slope – relatively level
5.2.3	Lot sizes comply with the LEP MLS (nil MLS). Each lot has acceptable dimensions to facilitate the future development. Access is available to the street for both lots (and subsequent strata title).
5.2.4	All lots will have safe, legal and practical vehicle access. Meets emergency service and garbage truck requirements. There is a right of way proposed.
5.2.5	Easements have been identified on the plans. Stormwater management will be undertaken in accordance with Councils requirements and Calare Civil Report. All services to the street to connect up with Council reticulated services.
5.2.6	Utilities to be constructed to the requirements of the service provider and Council (underground).
5.2.7	Torrens Title subdivision to be undertaken first and then Strata Title subdivision after the units are constructed.
5.3.1	Not applicable.
5.3.2	A suitable rear battleaxe is proposed.
5.4	Not applicable.
5.6	The proposed lots are suitable when considering access, the future residential flat building and car parking (as shown

	on the site plan and demonstrated compliance with the DCP).
<b>5.7.1</b>	No new roads proposed.
<b>5.7.2</b>	Not applicable.
<b>5.7.3</b>	A Traffic and Parking Assessment is not considered necessary for this small scale subdivision.
<b>5.7.4</b>	Not applicable.
<b>5.7.5</b>	Not applicable.
<b>5.7.6</b>	Appropriate street lighting as already installed. No specific crime prevention assessment considered necessary.
<b>5.7.7</b>	Streets trees to be planted as per Councils requirements.
<b>5.7.8</b>	Not applicable.

## Chapter 6 - Residential

Section 6.5 Medium to Higher Density Housing applies to the proposed development.

<b>Clause</b>	<b>Comments</b>
<b>6.5.1 Siting and Setbacks</b>	<p>It is noted that the subject land has dual street frontage (with access from the rear right of carriageway).</p> <p>There are no front setback requirements in the E1 zone.</p> <p>The garages do not front a public road.</p> <p>The eastern side setback is no less than 2m.</p> <p>The western side setback is proposed to have a 1.2m setback. This is consistent with the eastern setback of the neighbouring block development to the west (with the same bulk and scale – which is 3 storey). The small setback variation is considered reasonable. It is considered that the design is a good fit overall as an infill development in the context of the street and respects the heritage item on the east.</p> <p>The rear setback is compliant.</p>
<b>6.5.2 Low Rise Medium Density Housing</b>	Not applicable.
<b>6.5.3 Dual Occupancies (Side by Side and Rear)</b>	Not applicable.
<b>6.5.4 Manor Houses and Dual Occupancy (One Above the Other)</b>	Not applicable.
<b>6.5.5 Terraces</b>	Not applicable.
<b>6.5.6 Multi-Dwelling Houses</b>	Not applicable.
<b>6.5.7 Residential Flat (Apartment) Buildings</b>	
<b>1) This DCP provides controls for the following aspects of</b>	Refer to DCP assessment.

<p><b>Low-Rise Medium Density Housing:</b></p> <p>a) <b>General controls – See DCP Section 6.2 including DCP Chapter 2 – Site Requirements and Chapter 3 – Natural Environment &amp; Hazards;</b></p>	
<p>b) <b>Setbacks – See DCP Section 6.5.1 – Siting &amp; Setbacks above;</b></p>	<p>Refer to DCP assessment.</p>
<p>c) <b>Local character and context – where relevant in a heritage conservation area in Chapter 4 – Heritage &amp; Cultural Conservation or Chapter 9 – Location Specific Controls.</b></p>	<p>Refer to DCP assessment.</p>
<p><b>2) SEPP65: In addition to the controls in this DCP listed in subclause (1), all residential flat buildings where SEPP No.65 (Design Quality of Residential Apartment Development) applies address:</b></p> <p>a) <b>The principles/development standards in that SEPP; and</b></p> <p>b) <b>The relevant objectives and design criteria in the associated Apartment Design Guide (ADG).</b></p> <p><b>If the proposal is a multi-level development and not a residential flat building (e.g., some shop top housing or smaller apartment buildings) they will be considered on their merits with regard to the principles of SEPP No.65, the ADG, and the controls in this DCP (see below).</b></p>	<p>SEPP 65 does not apply to this proposal as the development involves only a class 1a or 1b building within the meaning of the Building Code of Australia</p>

### (a)(iii) Any Planning Agreements

There are no known planning agreements affecting the property.

### (a)(iv) Any matters prescribed by the regulations:

<b>CLAUSE</b>	<b>COMMENT</b>
<b>61 Additional matters that consent authority must consider</b>	No demolition is proposed.  No subdivision orders are applicable.  Dark Sky Planning Guideline does not need to be addressed for this proposal.  The proposal does not include a manor house or multi dwelling housing (terraces),
<b>62 Consideration of fire safety</b>	The proposal does not propose a change of building use for an existing building.
<b>63 Considerations for erection of temporary structures</b>	The proposal does not include a temporary structure.
<b>64 Consent authority may require upgrade of buildings</b>	The proposal does not involve the rebuilding or alteration of an existing building.
<b>65 Consideration of conservation plan for development at Sydney Opera House</b>	Not applicable.
<b>66 Contributions plans for certain areas in Sydney—the Act, s 4.16(1)</b>	Not applicable.
<b>67 Modification or surrender of development consent or existing use right—the Act, s 4.17(5)</b>	There is no proposal to modify or surrender a development consent or existing use right.
<b>68 Voluntary surrender of development consent—the Act, s 4.63</b>	There is no proposal to voluntarily surrender a development consent.

### (b) The likely impacts of the development:

#### CONTEXT AND SETTING

The proposed development can be conducted in such a way so as to not prejudice the operation or viability of surrounding commercial and residential land uses.

As already discussed, it is considered that the proposal is within the context of the locality and is compatible with the surrounding area and will have minimal impact in regard to:

- Adjacent properties;
- Adjoining land uses;
- Overshadowing; and

- Views and vistas.

The proposed development is considered compatible with the adjacent land uses.

## **ACCESS AND TRANSPORT**

### Access

There is an existing access off James Street via a rear right of carriageway.

### Car Parking

Refer to the DCP analysis.

### Traffic

It is considered that the road network (bitumen sealed streets is more than adequate to cater for the additional loading proposed dwellings (four dwellings – or approximately 24 vehicle movements per day) without the need for upgrading.

Historically the land was used for residential housing and more recently for carparking for the neighbouring theatre – each of which would have had comparable traffic generation. It is noted that due to the location essentially within the Lithgow CBD, that occupants will tend to walk/ride to attend commercial, retail and recreational sites close by rather than to drive -further reducing any impact on the road network.

Main Street experiences significant light and heavy vehicle movements throughout the day and night and James Street provides a strategic link to land north of the railway line (i.e. Hermitage Flat, McKellars Park, Morts Estate, hockey & football fields and the like. The traffic generation as a percentage of the existing traffic movements is negligible.

## **PUBLIC DOMAIN**

It is considered that the development will have a negligible impact on the public domain in terms of:

- Public recreational opportunities in the locality;
- Amount, location, design, use and management of public spaces in and around the development; and
- Pedestrian linkages and access between the development and public areas.

## **UTILITIES & SERVICES**

### Electricity

The service is available for connection to the proposed development.

### Telephone

The service is available for connection to the proposed development.

### Water

Town water is available for connection to the proposed development.

### Sewerage

The service is available for connection to the proposed development.

### Stormwater

Refer to the Stormwater Management Plan prepared by Calare Civil.

## **HERITAGE**

Refer to the LEP discussions with respect to the heritage impact of the proposed development and the Statement of Heritage Impact.

## **FLORA AND FAUNA**

There are no existing trees on the subject land.

There is no critical habitat or threatened species on the subject land.

A detailed Flora and Fauna study has not been conducted and is not considered necessary in this instance.

## **ENERGY**

A BASIX certificate is provided for the proposed development.

## **NOISE AND VIBRATION**

All construction work will be undertaken during hours specified within the development consent and/or normal construction hours. No vibration during construction is expected.

Noise generated from the dwellings after occupation will be of a residential scale.

A Rail Noise & Vibration Noise Assessment was prepared by EMS and provides the following conclusions:

## **8 CONCLUSIONS**

*A Rail Noise and Vibration Assessment was conducted for 208 Main Street, Lithgow to assess the noise intrusion from nearby NSW Trainlink rail corridor. The purpose of the acoustic report was to provide a construction recommendation for the proposed development based on the measured noise levels.*

*The Noise Assessment was conducted in accordance with the Lithgow Development Control Plan, SEPP 2021 (Transport and Infrastructure) NSW Department of Planning Publication Development Near Rail Corridors and Busy Roads – Interim Guideline.*

*Construction recommendations for appropriate acoustic treatments against rail noise intrusion are provided in Section 5 Construction Recommendation.*

*Section 7 show the rail vibration emissions will not results in human discomfort nor structural damage at the proposed development.*

*The proposed site will comply with the requirements of the relevant Australian and NSW Guidelines, Standards and Policies, provided the recommendations outlined in 5 Construction Recommendation of this report are implemented.*

## **NATURAL HAZARDS**

There are no known bushfire or land subsidence issues in the general locality of the site.

A Stormwater Management Plan has been prepared by Calare Civil and provides the following conclusion relating to flooding:

## **9. CONCLUSION**

### **9.1. Flood Impacts & Risk**

*The purpose of this report is to assess the flooding associated with Sheedys Gully and to ascertain the peak flood level within the subject site so to inform the flood planning and habitable floor levels. The assessment also was required to confirm that no impact to the neighbouring sites is likely.*

*From the HEC-RAS modelling completed it is evident that the development does not result in any changes to the primary overland flow paths or flooding mechanisms. Given that only minor filling is proposed to achieve the design levels, and the fact that the site is not considered to be within a flood storage area (floodway only), no compensatory storage volume is required to offset the proposed fill, however despite this, the proposed changes to the site grading was modelled to confirm any possible impacts.*

*From the modelling it was found that there was negligible impact on the flood levels experienced, with a peak water levels being as follows:*

- *Main St = 913.15m AHD, 0.02m lower than the existing scenario, and*
- *Basement / carpark = 911.72m AHD, 0.01m lower than the existing scenario. In addition, with the raising of the pad level to 911.25 m AHD, this has seen also seen a reduction of inundation depth to 470mm.*

Regarding the flood planning and habitable floor levels, these are informed by the peak water. Based on the above the flood planning levels should be as follows:

- *Non-habitable areas subject to the James Street backwater effect = 911.72m AHD. Noting that inundation shall not exceed 500mm, the minimum floor level for non-habitable areas shall be 911.22m AHD.*
- *Habitable areas subject to the backwater effect = 912.22m AHD, this includes 500mm freeboard from the peak water level.*
- *Habitable areas subject to overland flows on Main St = 913.65m AHD this includes 500mm freeboard from the peak water level.*

## **POTENTIAL CONTAMINATION**

See comments under SEPP Resilience and Hazards.

## **SAFETY, SECURITY & CRIME PREVENTION**

No specific safety or security measures are proposed to be implemented as part of the proposed residential flat building (as per the DCP, a CPTED is not required due to the small scale of the development..

## **SOCIAL & ECONOMIC IMPACTS IN THE LOCALITY**

The likely social and economic impacts of the development are considered positive.

## CONSTRUCTION

All construction work will be undertaken in accordance with the BCA and Council's conditions of consent.

Construction impacts are not anticipated to have an adverse impact on the locality. Works would occur during daytime hours, thus not impacting on the local amenity. The site would have temporary containment fencing erected and signage to warn and exclude the public from entering the site during the construction phase.

Erosion and sedimentation control measures would be developed and implemented during construction to minimise any erosion and sedimentation at the site. All disturbed areas rehabilitated as soon as practical.

All waste generated during construction would be taken and disposed of at Council's Waste Disposal Facility.

All construction machinery would be fitted with appropriate muffling devices to limit noise generation during construction. The construction period would be for a limited period, and thus any impacts would be limited to that time frame.

## CUMULATIVE IMPACTS

It is considered there will be no negative cumulative impacts as a result of the proposed development.

### (c) Suitability of the site for the development

Does the proposal fit in the locality?

- There are no constraints posed by surrounding development to render the proposal prohibitive;
- The proposal is complimentary to the surrounding land use pattern and zoning;
- It is considered that the proposal will not create any unmanageable access or transport concerns in the locality;
- No impact on public spaces will eventuate as a result of the proposal proceeding;
- No upgrading to services is required (are all readily available for connection);
- There are no issues in relation to air quality and microclimate; and
- There are no identified surrounding hazardous land uses or activities.

### Are the site attributes conducive to development?

It is considered that the site is conducive to the development based on the following:

- The site is not affected by any known natural hazards;
- The heritage impact is considered acceptable;
- There is no known soil characteristics that would render the proposal prohibitive; and
- There are no known flora and fauna considerations that will have an impact on the proposal.

### **(d) Any submissions**

The application may be notified to adjoining neighbours for comment.

### **(e) The public interest**

The proposed development is considered to be only of minor interest to the wider public due to the relatively localised nature of potential impacts. It is believed that by the imposition of appropriate conditions of consent and the safeguards discussed in this report, potential impacts would be modest.

## 5. CONCLUSION

This report includes an analysis of the existing environment, details of the proposed development and consideration of applicable statutory requirements.

Based upon the investigations of the proposal it can be concluded that:

- The impacts upon or by surrounding development will not be altered significantly as a result of the development proceeding;
- The topography of the site can accommodate the proposal;
- There will be limited additional traffic generated, however this can be handled by the current road network without the need for upgrading;
- Utilities and services are already connected to the site and available for connection to the proposed development; and
- The proposal is generally consistent with the objectives and provisions of Councils relevant planning documents.

The proposal is considered to be acceptable in terms of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended) and potential impacts are expected to be minor.

**Accordingly, it is recommended that the Development Application be approved subject to appropriate standard conditions.**