

30 January 2026

Contact: Stuart Little
Telephone: 0436 948 347
Our ref: D2026/4862

General Manager
Lithgow City Council
Locked Bag 19
LITHGOW NSW 2790

Dear Sir/ Madam,

RE: Planning Proposal Lithgow Local Environmental Plan 2014 - Housekeeping Amendments

I refer to the Planning Proposal (dated March 2025) for Housekeeping Amendments to the *Lithgow Environmental Plan 2014* (LEP). The Proposal seeks various amendments to the LEP including broadening the range of permissible uses, improving guidance on Minimum Lot Size (MLS) calculations, adding a new Special Flood Considerations clause, and correcting various errors and anomalies to improve the accuracy and efficiency of the LEP. The Proposal affects both the written instrument and LEP maps.

WaterNSW has an interest in the Proposal as approximately 83,000 ha (18%) of the Lithgow Local Government Area (LGA) occurs within the Sydney Drinking Water Catchment (SDWC). Section 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment applies to Planning Proposals within the SDWC and has healthy catchments and the protection of water quality as its key objective.

WaterNSW provided comment on an earlier draft of the Proposal on 12 September 2024 (Our Ref: D2024/79356). This submission takes account of our previous comments and Council's response to them, as well as raising additional matters relevant to the SDWC.

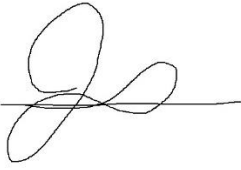
In summary, WaterNSW does not support the inclusion of 'Recreational Facility (Outdoor)' in the C3 Environmental Management zone, particularly given that most the C3 zoned land in the LEP occurs within the SDWC. This land use attracts a range of uses that are, overall, incompatible with the zoning objectives and which are generally beyond the capability of the C3 land. We provide alternative suggestions that may enable certain lower impact uses to occur or ways in which the proposed use might apply to less environmentally sensitive areas.

We support other aspects of the Proposal, such as excluding access handles from the MLS sizing calculations and the introduction of the Special Flood Considerations clause, as they will indirectly benefit water quality. We raise some additional considerations regarding the Lithgow cemetery rezoning component of the Proposal to reduce the risk of a later Planning Proposal being required.

Our detailed comments are provided in **Attachment 1**. We have underlined our main conclusions and recommendations for ease of reference.

If you have any questions regarding this letter, please contact Stuart Little at stuart.little@waternsw.com.au. Also, please direct any correspondence on strategic planning matters to environmental.assessments@waternsw.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Mina Suh', written over a horizontal line.

MINA SUH
Environment and Heritage Manager
Land and Water Operations

ATTACHMENT 1 – DETAILED COMMENTS

1. Inclusion of ‘Recreational Facility (Outdoor)’ in the C3 – Environmental Management Zone

The Proposal seeks to make ‘Recreational facility (outdoor)’ development permissible with consent in the C3 Environmental Management zone to allow outdoor recreation, such as mountain bike trails, on privately owned land. ‘Recreation facility (outdoor)’ is defined as:

Recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

In our correspondence dated 12 September 2024 (see Planning Proposal, Appendix 3), we indicated that we did not support the addition of this land use to the C3 zone. We noted that numerous uses encompassed by ‘Recreational facility (outdoor)’, such as ‘golf courses, golf driving ranges, lawn bowling green, equestrian centre, go-Kart track, rifle range and water-ski centre, or any other building or place of a like character’ were inappropriate and potentially incompatible with the objectives of the C3 zone. We noted that much of the C3 land was mapped as ‘Environmentally Sensitive Areas’ for sensitive waterways, groundwater vulnerability and biodiversity, and that such uses were unlikely to have a neutral or beneficial effect (NorBE) on water quality (including groundwater) or be matched to land and water capability assessments.

We note Council’s response to our previous submission which clarifies Council’s intention to allow low impact tourism/recreation developments such as walking trails, mountain bike tracks and similar development to occur on appropriately privately owned sites (see Appendix 4). Council indicates that its approach is to rely on adopting the definition of ‘Recreational facility (outdoor)’ and then using the development assessment process the ‘sieve out’ the high impact uses so that only low impact activities would be approved.

Inclusion of the term ‘Recreational facility (outdoor)’ as a permissible use encompasses a much broader range of uses than walking trails and mountain bike tracks as intended by Council. Reliance on the development assessment process to ‘sieve out’ or refuse applications for high-impact recreation outdoor uses would be influenced by the permissibility and zone objectives for this land use, i.e. by law Council is required to assess the development application (DA) against the permissibility, merit, any applicable development controls, among other considerations. However, the zoning and permissibility would be given weight in the decision-making process for DAs and reliance on the DA process does not guarantee that ‘high-impact’ uses would not be approved.

Also, as the term ‘Recreational facility (outdoor)’ introduces a wide range of uses that are generally incompatible with the zoning objectives, the approach predisposes development in the C3 zone to a greater likelihood of developer appeals if Council refuses a particular DA. This would be at cost to Council and could result in Court approval despite Council’s intent and actions to prevent ‘higher impact’ recreational outdoor uses through the DA process.

WaterNSW also raises the following additional matters:

- While only approximately 18% of the Lithgow LGA lies in the SDWC, approximately 8,578 ha of the 9,212 ha of the C3 land (i.e., 93%) occurs in the SDWC. In other words, the proposed additional use will significantly affect land inside the SDWC rather than outside it. Potential impacts on the catchment and water quality are therefore clearly relevant considerations.

- Most of the C3 zoned areas would be unsewered. Increasing development opportunities in these areas will increase the demand and need for appropriately designed on-site sewage management systems (OSMS) and Effluent Management Areas (EMAs) as part of any development proposal for increased visitation. EMAs would also need to comply with required buffer distances from watercourses, usually 100m. Environmental constraints will limit the sites and areas available for EMAs. The ability to accommodate and treat wastewater from unsewered development will be an influencing factor in determining whether a particular development will be able to have a NorBE on water quality.
- As indicated previously, much of the C3 zoned land occurs within the mapped 'Environmentally Sensitive Areas' for biodiversity, groundwater vulnerability, riparian land and watercourses, and sensitive lands. While such mapping does not directly play a role in the NorBE assessment, it is indicative of the environmental values and constraints which will influence wastewater treatment and management (particularly where development is proposed on unsewered land) as well as water quality risks associated with erosion and sedimentation during soil/watercourse disturbance or construction activities. These are factors that would be considered in the NorBE assessment and concurrence process. In short, NorBE may be difficult to achieve for the intended use given land and water constraints.
- The broader approach of making 'Recreational facility (outdoor)' a permissible use with development consent would implicitly rely on the DA process under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to determine the merits of a particular development, on a case-by-case basis. Council's response in Appendix 4 notes that more intensive activities would be filtered out during the DA and assessment process, taking into account environmental constraints and noting the provisions of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (B&C SEPP) relating to the SDWC, as well as Part 7 of the *Biodiversity Conservation Act 2016* and other environmental provisions of the Lithgow LEP and Development Control Plan (DCP). However, we note that making 'Recreational facility (outdoor)' a permissible use in the C3 zone is likely to create significant challenges for Council when assessing such developments against the provisions of both Parts 6.2 and 6.5 of the B&C SEPP and when developments require concurrence by WaterNSW under section 6.64 of the B&C SEPP.

WaterNSW does not support the addition of 'Recreation facility (outdoor)' as a permissible use for the C3 zone.

As 93% of the C3 area lies within the SDWC, we see minimal benefit in using an alternative option such as amending Schedule 1 of the LEP add 'Recreational facility (outdoor)' to all C3 in the LGA except the SDWC. However, we request that Council consider the following alternative options:

1. That Schedule 1 of the LEP be amended to add the following:
 'Recreational facility (outdoor)' uses are permissible with development consent within the C3 zone except for the following uses for land within the Sydney Drinking Water Catchment: *golf courses, golf driving ranges, lawn bowling green, equestrian centre, go-Kart track, rifle range and water-ski centre, or any other building or place of a like character.*
2. That Schedule 1 of the LEP be amended to add the following:
 'Recreational facility (outdoor)' uses are permissible with development consent within the C3 zone except for land within the Sydney Drinking Water Catchment which is mapped as "Groundwater Vulnerable" or "Sensitive Waterway" on the *Environmentally Sensitive Areas—Water Overlay Map* or as

“Sensitive Land Areas” on the *Environmentally Sensitive Areas—Land Overlay Map*.

Should Council decide that this use be permitted in the C3 zone, then this option (2) is our preferred approach as it would protect the more environmentally sensitive lands from the higher impact uses associated with the ‘Recreation facility (outdoor)’ use.

3. Whether the land use table for the C3 zone could be amended so that the proposed permissibility was limited to lower impact outdoor recreational uses such as walking tracks.
4. Whether the Department would be open to defining and including a new use such as ‘Recreational facility (outdoor)(minor)’ (or some equivalent land use) to limit the scope of permissibility that would otherwise occur by adopting the ‘Recreational facility (outdoor)’ use as proposed.

We are happy to meet with Council to discuss the above or other possible options for the SDWC.

2. Artisan Food and Drink Industry

The Proposal seeks to add Artisan food and drink industry as a permissible use in the RU1 Primary Production, RU2 – Rural Landscape and RU5 – Village zones. The Proposal notes that this will support economic development and value adding opportunities in keeping with the recent the Agritourism reforms. Under the LEP, ‘Artisan food and drink industry’ is defined as ‘a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only’. It must include at least one of the following:

- a retail area for the sale of the products, or
- the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, or
- facilities for holding tastings, tours or workshops

This use is in keeping with character and objectives of the rural zones stated. We note that any new ‘Artisan food and drink industry’ development within the SDWC would be subject to Part 6.5 of the B&C SEPP, including the requirement for such development to demonstrate a NorBE on water quality. This would help ensure that any wastewater or stormwater impacts from new retail and related facilities, and increased visitation, do not impact on water quality in the SDWC.

WaterNSW has no objection to this aspect of the Proposal.

3. Removal of Access Handles in Calculation for Minimum Lot Size

The Proposal seeks to amend Clause 4.1 of the LEP to improve the development outcomes of battle-axe lots created by subdivision by excising the access handle from the calculation of the MLS. The provision would generically apply across all land use zones. This will effectively deliver better planning and development outcomes as more practicable space will be available on offspring lots to provide and meet building orientation, private open space, setbacks and other planning and environmental requirements. This has implicit benefits for water quality as it means that for unsewered allotments, more practicable space will be available for stormwater and sewage management including increased available space to meet any necessary buffer requirements for EMAs.

WaterNSW supports the amendment to Clause 4.1 as proposed.

4. Standard Instrument Clause 5.22 Special Flood Considerations

The Proposal seeks to introduce Clause 5.22 Special Flood Considerations into the LEP. This clause applies to 'sensitive and hazardous' development when it is located between the Flood Planning Area (1-in-100-year flood level in addition to freeboard) and the Probable Maximum Flood (PMF) extent and requires the consent authority to consider the adverse effects of the development on the environment in the event of a flood. "Sensitive and hazardous development" includes hazardous industries, hazardous storage establishments, hospitals, sewerage systems and water supply systems. The environmental considerations would implicitly require the consideration of water quality impacts and the broader catchment values including for lands within the SDWC.

WaterNSW strongly supports the proposed adoption of Clause 5.22 as it will extend water pollution risk considerations to hazardous uses when such uses are proposed between the Flood Planning Area and the PMF.

5. Re-classification of certain lands from Community to Operational

Council is seeking to reclassify four (4) Council owned/controlled public land sites from 'Community' to 'Operational' classification as part of the Proposal.

We request that the Proposal also consider whether Lots 1 DP 1133793, Lot 7306 DP 1142901 and Lot 2 DP 1040909 need to be added to the 'Community' or 'Operational' land classification under Schedule 4 of the LEP (see comments under 'Rezoning of Lithgow General Cemetery' below).

6. Amending Zoning of Various National Park Estate

The Proposal seeks to amend the zoning of various rural zoned land from RU1 Primary Production, RU2 Rural Landscape and RU3 Forestry, to C1 National Parks and Nature Reserves to align with the land reserved and dedicated as National Park Estate (NPE) since the adoption of the LEP in 2014. The applicable MLS requirement is also proposed to be removed from these stated land areas. WaterNSW is generally supportive of the intent of the above changes and notes that the proposed changes in zoning will help align the zoning with the land tenure and help ensure that NPE land is adequately protected from potential private development impacts.

Section 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment requires Special Area land to be zoned in accordance with that Direction. While the Lithgow LGA includes land within the SDWC, we confirm that no designated 'Special Area' land occurs within the LGA. Therefore, this provision within Direction 3.3 is not applicable here.

7. Rezoning of Lithgow City Council Works Depot at Wallerawang

WaterNSW has no comment to make on this aspect of the Proposal.

8. Rezoning of Lithgow General Cemetery

Lithgow General Cemetery comprises three (3) lots (Lot 1 DP 1133793, Lot 7306 DP 1142901 and Lot 2 DP 1040909). Lots 1 and 7306 are zoned SP 2 Infrastructure (Parks and Public Reserves). Lot 2 is zoned R1 General Residential although it has a restriction on title, limiting the use of the land as a public cemetery. The Proposal notes that since preparation of the LEP (2014), the cemetery operations have expanded into Lot 2 and that rezoning is required for the expansion of the cemetery to continue. It is proposed that all three lots would be zoned SP2 (Cemetery) and that the 600m² MLS requirement would be removed from the R1 zoned land to overcome any ambiguity regarding the current and intended use of the land.

We raise the following matters:

- The ownership of the three lots is currently unclear and should be clarified. The Proposal indicates that Lots 1 DP 1133793 and Lot 7306 DP 1142901 are in public ownership, but it is unclear if Council is the owner. It also appears that Lot 2 DP 1040909 may be in private ownership as the Proposal indicates that this land would need to be purchased. Confirmation on the ownership of the lands is relevant as it may influence the rezoning process and classification of the land (see below).
- If Lots 1 and 7306 are in Council ownership, it is unclear if these lands are currently classified as 'community' or 'operational' land, and whether this classification would need to change given the proposed change in SP2 classification from 'Parks and Reserves' to 'Cemetery'. It is also unclear whether Lot 2 would need to be classified as 'operational' or 'community' land (if acquired by Council), and whether such classification would occur through this LEP amendment. We observe that none of the three lots appear to be listed in Schedule 4 of the LEP, which deals with the classification and reclassification of public land. To minimise the need for any future Planning Proposals for the site, we request that the current Planning Proposal review process clarify both the existing and future land classification for all three lots (i.e. 'community' or 'operational' land) and, if necessary, further amend the Proposal to include the relevant lots in Schedule 4 of the LEP.
- While not stated in the Proposal, under the land use table for the SP2 zone, land uses that are *permitted with consent* include 'the purpose shown on the *Land Zoning Map*, including any development that is ordinarily incidental or ancillary to development for that purpose'. We note that there are no proposed changes to the land use table for the SP2 zone. We therefore assume that the proposed SP2 zoning would facilitate the expansion of the cemetery by means of a development application (DA) and development consent from Council. On this basis, we have no objection to the proposed rezoning of the three lots to SP2 (Cemetery). Any future expansion or development of the site would still be required to demonstrate a NorBE on water quality and obtain concurrence from WaterNSW under Part 6.5 of the B&C SEPP. We also observe that there appears to be no 'development without consent' planning pathway for 'cemetery' expansion under *State Environmental Planning Policy (Transport and Infrastructure) 2021*. Exempt and complying development pathways are only available for an existing or approved cemetery as defined.

The following matters require clarification:

- The Planning Proposal (Pp 17-18) describes Lot 2 DP 1040909 as being zoned R1 General Residential with a MLS of 600m². The Planning Proposal indicates that the lot would be rezoned to SP2 (Cemetery) and have the MLS mapping removed from the lot. Based on the current and proposed future zoning and MLS maps provided in Figures 87-90 (Pp 89-80), we note that a sliver of land in the west of Lot 2 would apparently retain its C4 Environmental Living zoning and associated 20 ha MLS, while the remainder of the lot would be zoned SP2 (Cemetery) and have the MLS mapping removed from the associated SP2 area. This outcome is not described in the body of the Planning Proposal, although similar information is provided in relation to Lot 5 DP 1230208. WaterNSW has no objection to this approach, but further clarification of the outcome for Lot 2 is required (see comments below).
- The Planning Proposal (P.18) notes that the proposed above rezoning would result in a small sliver of R1 General Residential zoning remaining on the adjacent privately owned lot (Lot 5 DP 1230208). That remaining R1 portion would then be zoned C4 and afforded a 40 ha MLS. We have not been able to locate Lot 5 DP 1230208 on NSW Planning Portal Spatial Viewer or the relevant zoning and MLS maps of the Proposal (Figures 87-90; Pp. 89-80). We also note that the existing C4 land west of the cemetery has a MLS of 20 ha, not 40 ha. We therefore request that the Proposal clarify the relationship between Lot 2 and Lot 5, and whether any subdivision of Lot 2 has occurred or is proposed under the current

zoning and MLS arrangement. WaterNSW is generally supportive of the intended approach of retaining C4 zoning and a large MLS over an irregular residual parcel of land, but further clarity on the affected lots and proposed MLS is required.

9. Erection of Dwellings Within the Cullen Bullen Township

The township of Cullen Bullen, and the new proposed Area 3 (encompassing the township which is proposed to be shown on the MLS maps), is located outside the SDWC. WaterNSW has no comment on this aspect of the Proposal.

10. Renaming of Environmental Sensitive Areas Map

We note the intention to remove the phrase 'Environmentally Sensitive Area' from the Map titles of Environmentally Sensitive Area - Biodiversity Overlay Map, the Environmentally Sensitive Area - Water Overlay Map and Environmentally Sensitive Area - Land Overlay maps associated with the LEP. References to these maps will similarly be updated in clauses 7.4 Terrestrial biodiversity, 7.5 Groundwater vulnerability, 7.6 Riparian land and watercourses, and 7.7 Sensitive lands. We understand that the proposed change in map titles is to avoid ambiguity in relation to the operation of clause 1.17A(1)(e) of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* which does not allow complying development to be undertaken on lands within an 'environmentally sensitive area'.

We have no objection to the proposed change in the Overlay Map titles. However, the implications may be broader than canvassed in the Planning Proposal.

Removal of the term 'Environmentally Sensitive Area' as stated may have indirect flow-on effects on the inter-relationship with other SEPPs where the term "Environmentally Sensitive Area" is not defined or broadly used or defined by reference to an EPI (which would include the Lithgow LEP). Having examined relevant SEPPs, there appears to only minor implications for the Lithgow LEP although Council needs to satisfy itself in this regard. We do not see any material issue or decrease in water quality or catchment protection arising from the proposed changes in map titles on this matter.

Please note that the proposed change in map titles and referencing may affect the application of Ministerial Direction 3.1 Conservation Zones, particularly in the operation of clause (1), for any future Planning Proposals affecting currently mapped 'Environmentally Sensitive Areas.' This would also affect land within the SDWC. We believe the relationship of the proposed changes to Direction 3.1 warrants more consideration. This should also include consideration of the proposed addition of 'Recreation facility(outdoor)' as a permissible use in the C3 zone as discussed earlier in this letter.

11. Updates to Schedule 5 Environmental Heritage

The Proposal includes a schedule of amendments in its Appendix 2 to address the errors and anomalies associated with Schedule 5. The proposed amendments do not appear to affect any WaterNSW land.

Other matters

As this is a Housekeeping Amendment, Council may wish to discuss with the Department whether *State Environmental Planning Policy (Primary Production) 2021* can be amended to remove the two references to the Lithgow LEP 1994 from Part 6 of the SEPP. It is our understanding that the 1994 LEP is repealed and that the reference now appears superfluous. Removal of these two references would also help overcome any confusion regarding whether the 'Environmental sensitive area' restrictions for 'intensive livestock agriculture' (as contained in clause 4 of Schedule 4 of the SEPP) apply to parts of the Lithgow LGA or not.

Consideration of Direction 3.3 Sydney Drinking Water Catchment

The primary objective of Direction 3.3 is to provide healthy catchments and protect water quality in the SDWC. The Proposal states that it is consistent with s 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment and refers to the consultation that has occurred with WaterNSW including Council's response to the issues raised by us in September 2024.

We believe that the Proposal is largely consistent with Direction 3.3, except with regard to the proposed addition of 'Recreational facility (outdoor)' as a permissible use in the C3 zone (see our comments above). For completeness, we note that no Special Areas occur in the Lithgow LGA and that, given the nature of the proposed LEP amendments, Strategic Land and Water Capability Assessments (SLWCAs) are not relevant.



NSW National Parks and Wildlife Service

Your ref: PP-2025-566
Our ref: DOC25/1049374

General Manager
Lithgow City Council
PO Box 19
LITHGOW NSW 2790

By the Planning Portal

Attention: Christian Matthews, Strategic Land Use Planner

Dear Mr Matthews

Thank you for notifying the NSW National Parks and Wildlife Service (NPWS) of **Lithgow Housekeeping Planning Proposal PP-2025-566**, which outlines 11 amendments to the *Lithgow Local Environmental Plan 2014*.

NPWS has reviewed the Planning Proposal and provides advice on the following aspects:

- Amendment 6 – Amending Zoning of Various National Park Estate
 - NPWS has reviewed the detail of the zone amendments, and identified a few changes required to the amendment, another suitable parcel of land that has recently been reserved under the *National Parks and Wildlife Act 1974* (NPW Act) and another lot that should not be zoned C1.
- Amendment 11 – Updates to Schedule 5 Environmental Heritage.
 - NPWS has reviewed the proposal and has not identified any additional items assessed as being of local heritage significance that are suitable for addition to this Schedule. However, we have a comment on the naming of one of the items.

These comments are detailed in **Attachment 1**.

If you have any further questions about this issue, please contact Ms Janet Cavanaugh, Senior Project Officer (EIA Advisory), NPWS Planning and Assessment Unit, on 02 66411551 or at npws.envplanningadvice@environment.nsw.gov.au.

Yours faithfully

Ange Lonergan
**Manager, Kanangra Area
Blue Mountains Branch**

29 January 2026

cc: Christian Matthews, Strategic Land Use Planner, christian.matthews@lithgow.nsw.gov.au

Attachment 1

NPWS comments on Lithgow Housekeeping Planning Proposal PP 2025-566

Amendment 6 – Amending Zoning of Various National Park Estate

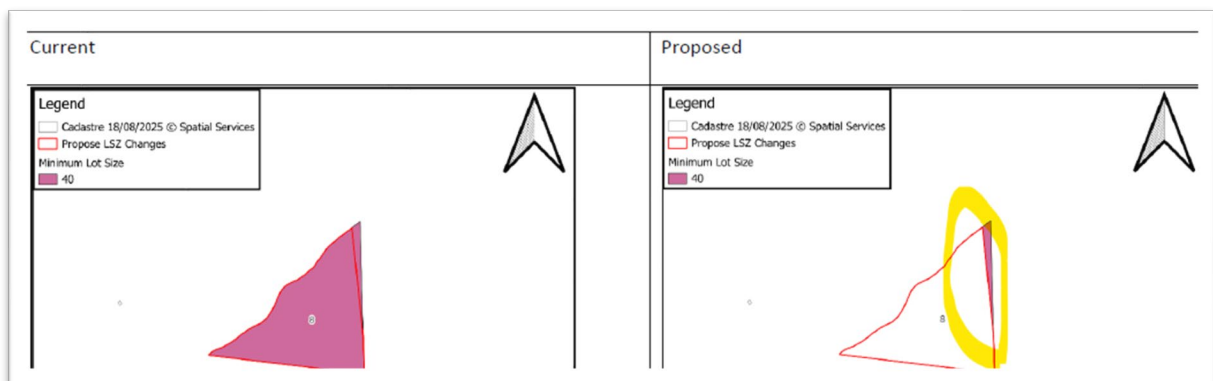
Comments on rezonings currently identified in Planning Proposal PP 2025-566

NPWS has reviewed the list of proposed rezonings and changes to the minimum lot sizes, as given in Tables 4 and 5.

NPWS agrees with most of the proposed changes, including the removal of C1 zoning from part of the waterway reserve for the Turon River adjacent to (but not part of) Turon National Park (Item 21).

A few matters require correction, as follows:

- **Item 8** – Figure 64 shows that a sliver of land will retain a minimum lot size (MLS) of 40ha within the lands to be rezoned as C1. That sliver (highlighted in yellow) should not be there. It is all reserved and so should have a nil MLS, as identified in Table 4.



- **Item 9** – The description of the land in this item requires amendment. The description of the land reserved under the NPW Act on 18/5/2018 as Gardens of Stone National Park was updated via an erratum in the NSW Government Gazette published on 8 June 2018 (it should refer to the Crown road separating Lots 90 and 108 DP751640 from Lot 10 **DP861340**). See page 3525 in [Government Gazette No 59 of Friday 8 June 2018](#) which states:

Government Notices

GOVERNMENT NOTICES

Miscellaneous Instruments

NATIONAL PARKS AND WILDLIFE ACT 1974
NOTICE OF RESERVATION OF A NATIONAL PARK
ERRATUM

In the notice published in NSW Government Gazette No 51 of 18 May 2018 page 2898, the words “and the Crown road separating Lots 108 and 56 DP751640 from Lot 10 DP751640” are replaced with “and the Crown road separating the northern most boundary of Lots 108 & 56 DP751640 from Lot 10 DP861340”. This notice corrects that error.

The gazettal date remains 18 May 2018

Anthony Lean
Chief Executive
Office of Environment and Heritage

[n2018-1942]

- **Item 16** – Table 4’s description of the lands subject to this item is correct, however the diagrams only display Lots 1 & 2 DP1178133. The other parcels listed in that item are not shown on any diagram.

Additional area suitable for rezoning to C1

On 24 October 2025, an additional 64.52 hectares was reserved as part of Gardens of Stone State Conservation Area via a notice in the NSW Government Gazette.

Extract from NSW Government Gazette No 437 of 24 October 2025

NATIONAL PARKS AND WILDLIFE ACT 1974

NOTICE OF RESERVATION OF A STATE CONSERVATION AREA

I, the Honourable Margaret Beazley AC KC, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the land described in the Schedule below as part of **Gardens of Stone State Conservation Area**, under the provisions of Section 30A(1)(c) of the *National Parks and Wildlife Act 1974*.

Dated this 22nd day of October 2025.

ANDREW SCOTT BELL
By Deputation from Her Excellency the Governor,
By Her Excellency’s Command,

PENNY SHARPE
Minister for the Environment

Schedule

Land District – Lithgow LGA – Lithgow City

County of Cook, Parish of Marangaroo, 64.52 hectares, being Lot 421 & 422 DP1152246.

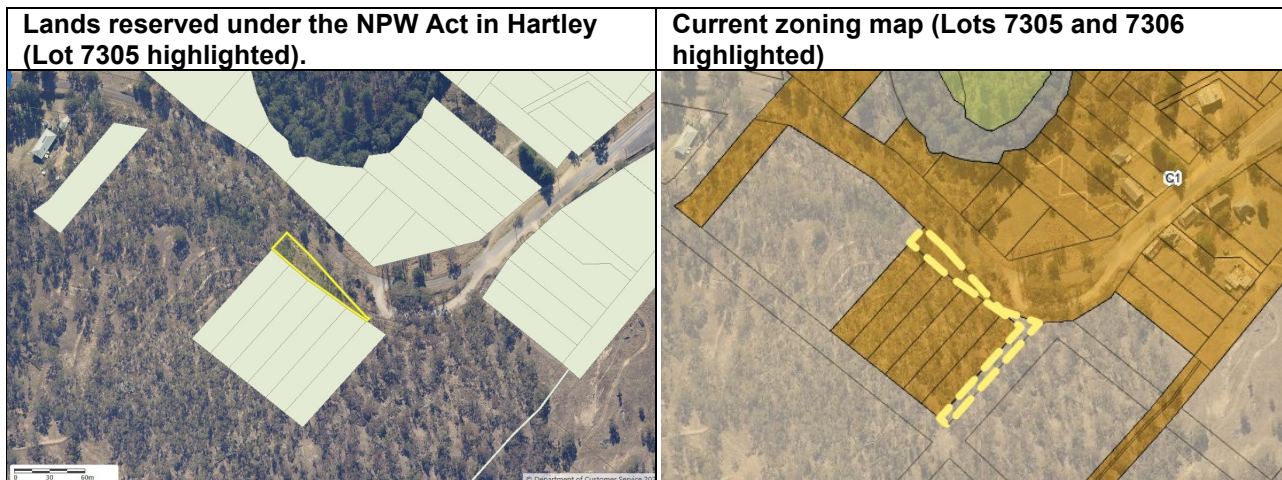
Papers NPWS/EF21/18142

As such, it is suitable for rezoning to C1 National Parks and Nature Reserves. This land should be added to Table 4 with the following details:

Name	Gazettal date	Current zone & MLS	Proposed zone & MLS	Lot/Section/DP (Or Other Description)
Gardens of Stone State Conservation Area	24/10/2025	SP2 Water Supply System	C1 National Parks and Nature Reserves (C1)	Lots 421 & 422 DP1152246
		Nil	Nil	

Areas currently zoned as C1 which should not be

Lot 7305 DP1166069 is currently zoned C1 National Parks and Nature Reserves, but this appears to be an error, as it is not reserved under the *National Parks and Wildlife Act 1974*. It is suggested that it be made subject to the same planning controls as Lot 7306 DP1166069.



Amendment 11 – Updates to Schedule 5 Environmental Heritage.

NPWS has reviewed the proposed updates to the LEP’s Schedule 5, and the items currently listed in Schedule 5.

The only recommended change is to update the name of Item I245 ‘Railway Line Newnes – Zig Zag etc.’, to reflect the name that is used in the State Heritage Inventory ‘Wolgan Valley Railway (Newnes to Zig Zag)’ which NPWS considers to be more descriptive and less confusing.

Our ref: HMS 12753

Your ref: REF-4282

Christian Matthews
Strategic Land Use Planner
Lithgow City Council
christian.matthews@lithgow.nsw.gov.au

Heritage NSW advice

Planning Proposal – Housekeeping amendments to Lithgow Local Environmental Plan 2014

Dear Christian

Heritage NSW appreciates the opportunity to provide advice on the Planning Proposal to make various housekeeping amendments to *Lithgow Local Environmental Plan 2014* (LEP), including 12 amendments to Schedule 5 Environmental heritage to:

- align with the State Heritage Register (SHR)
- update the significance of some items
- change an item's heritage curtilage
- update property addresses, names, and descriptions to reflect current lot data
- remove a heritage item listed at an incorrect address (true location yet to be confirmed).

We have reviewed the Planning Proposal and supporting documents and provide the following advice.

State heritage considerations under the *Heritage Act 1977*

We note that the Planning Proposal intends to make six amendments to Schedule 5 of Council's LEP to align with the SHR, as follows:

- add the following items which are now listed on the SHR
 - 'Cox's Road and Early Deviations' at Cuthill Road (off), Sodwalls
 - 'Cox's Road and Early Deviations' at The Old Bathurst Road, Hartley
 - 'Victoria Pass and Berhofers Pass' at Great Western Highway, Little Hartley
- updating the name, curtilage and property description for the Great Zig Zag Railway at Bells Line of Road, Lithgow in Council's LEP to reflect the railway's two separate SHR listings:
 - 'Great Zig Zag Railway and Reserves'
 - 'Great Zig Zag Railway deviation tunnels'
- amend the significance of 'Eskbank House' at 70 Inch Street, Lithgow from Local to State.

Heritage NSW considers that the above proposed amendments will have a positive heritage impact, as it will improve alignment between Council's LEP and the SHR, providing for greater clarity.

Local heritage considerations under the *Environmental Planning and Assessment Act 1979*

We note that the Planning Proposal identifies the six following amendments to Local heritage items listed under Schedule 5 of Council's LEP:

- amending the addresses and property descriptions for:
 - 'Bonnie Blink' to 108 Baaners Lane, Little Hatley and Lot 2 DP 1220880
 - 'Chapel House Farm' to 18 Coach Road, Rydal and Lot 11 DP 1246417
- correcting the names of:
 - 'Windmill Lad Stud' at 35 Ian Holt Drive, Lidsdale to 'The Junction Inn'
 - 'Newvale Colliery and Coke-Ovens' at Ida Falls Gully, Lithgow to 'Vale Colliery and Coke-Ovens'
- amending the property description for 'State Mine Heritage Park' to Lot 11, DP 1240259 and Lot 10, PD 1240259, and changing the item from an archaeological site to a heritage item
- removing 'Cottage (former Coerwull Academy)' at 993 Great Western Highway, Lithgow, as this item is not located at this address, with further investigation needed prior to relisting.

Heritage NSW considers that the above proposed amendments will have a positive heritage impact, as they improve the accuracy of data for these Local items in Council's LEP.

As Local heritage is protected under the *Environmental Planning and Assessment Act 1979* and under your LEP, Council is the Local Plan-Making Authority, and the decision on whether to make these amendments rests with Council.

We note that the Heritage Council of NSW, and Heritage NSW as its Delegate, do not have a role in the assessment or approval of impacts to local heritage, unless those impacts are to archaeological sites or relics, which require management under the *Heritage Act 1977*.

Further advice

Heritage NSW offers a pre-lodgement service to assist Council understand assessment requirements and provide general advice on:

- Aboriginal cultural heritage under the *National Parks and Wildlife Act 1974*
- for State Heritage Register items and historical archaeology under the *Heritage Act 1977*

If you have any questions about the above, please contact James Sellwood, Senior Planning Officer at Heritage NSW on (02) 9873 8500 or heritagemailbox@environment.nsw.gov.au.

Yours sincerely

Andreana Kennedy

Andreana Kennedy
Practice Lead, Planning Referrals
Heritage NSW

As delegate of the Heritage Council of NSW and for Heritage NSW
18 December 2025



Our ref: DOC26/51646-2
Your ref: PP-2025-566

Christian Matthews
Strategic Land Use Planner
Lithgow City Council
By email: christian.matthews@lithgow.nsw.gov.au

Dear Christian

CPHR objection to Lithgow Local Environmental Plan Housekeeping Amendments (PP-2025-566)

Thank you for your request via the NSW Planning Portal dated 27 November 2025 to the NSW National Parks and Wildlife Service (NPWS) regarding Lithgow Local Environmental Plan Housekeeping Amendments (PP-2025-566) ('the planning proposal'). The Conservation Programs, Heritage and Regulation Group (CPHR) of the NSW Department of Climate Change, Energy, the Environment and Water (NSW DCCEEW) were forwarded this request for comment.

CPHR understands the planning proposal's intent is to correct errors and anomalies identified within the *Lithgow Local Environmental Plan 2014* (LEP) written instrument and associated maps. We note there are a total of 11 proposed instrument amendments.

CPHR objects to Amendment 1 and Amendment 10 of the proposed LEP amendments. We consider they are inconsistent with *Ministerial Direction 3.1 Conservation Zones*, and are likely to reduce conservation standards which protect sensitive biodiversity values across the Local Government Area (LGA).

CPHR is committed to working with Lithgow City Council and the Department of Planning, Housing and Infrastructure (DPHI) to address our concerns. We can assist council in updating the LEP maps and biodiversity overlays to adequately reflect the areas with significant biodiversity values. We request any changes related to proposed Amendment 1 and 10 be provided to CPHR for review. Detailed recommendations about CPHR's objections are in **Attachment A**.

If you have any questions about this advice, please contact the Conservation Programs and Assessment team - North, at rog.nw@environment.nsw.gov.au.

Yours sincerely

Kerry Richardson
Director Conservation Programs and Assessment
Conservation Programs, Heritage and Regulation Group

16 February 2026

Attachment A – CPHR's Detailed Comments and Recommendations

CPHR's Detailed Comments and Recommendations

Lithgow City Council – LEP Housekeeping Amendments (PP-2025-566)

CPHR met with DPHI and Lithgow Council on 22 January 2026 to obtain further information on the proposed amendments 1 and 10 and to discuss our concerns.

CPHR's concern is the impact of the proposed LEP amendments on biodiversity values across the Lithgow LGA, which has large areas of significant environmental value and environmentally sensitive landscape features. This includes karsts, threatened flora and fauna and threatened ecological communities within the rural landscape, areas of state forest and national park.

Issue 1: CPHR objects to the addition of the 'Recreational Facility (Outdoor)' land use in zone C3 Environmental Management.

CPHR objects to the addition of the 'Recreation facility (outdoor)' land use permitted with consent in the C3 Environmental Management zone.

Some land uses permitted under 'Recreation facility (outdoor)' are incompatible with the ecological sensitivity of the land. Permitted land uses are high-impact development types such as golf courses and rifle ranges. These will have significant impacts on threatened species and ecological communities present within ecologically sensitive areas zoned C3 Environmental Management.

CPHR considers that a limited range of development types is more consistent with the LEP objectives for zone C3 Environmental Management. CPHR does not object in principle to the intent of this amendment. We acknowledge that some recreational development types are currently permitted with consent within C3 zoned land.

The C3 zone is ecologically sensitive and requires adequate protection

Land zoned C3 is approximately 9,200 hectares of predominantly intact remnant vegetation. This has direct connectivity to the Blue Mountains National Park and Gardens of Stone State Conservation Area.

NSW BioNet Atlas indicates this C3 zone contains an extensive number of threatened flora and fauna species records (>18,000). Examples include species listed as endangered in NSW:

- purple copper butterfly (*Paralucia spinifera*),
- blue mountains skink (*Eulamprus leuraensis*),
- giant dragonfly (*Petalura gigantea*), and
- *Acacia meiantha*.

This is relevant to the area immediately south of Lithgow city, including Hassan's Wall and surrounding Clarence. Figure 1 shows the extent of threatened species records (image A), priority management sites for the purple copper butterfly (image B) and the Newnes Plateau Shrub Swamp in the Sydney Basin Bioregion Endangered Ecological Community (EEC) (image C). CPHR understands Council has received enquiries relating to bike trails in these areas. These areas are priority management sites that support direct conservation efforts, including health monitoring to support the persistence of these species and populations.

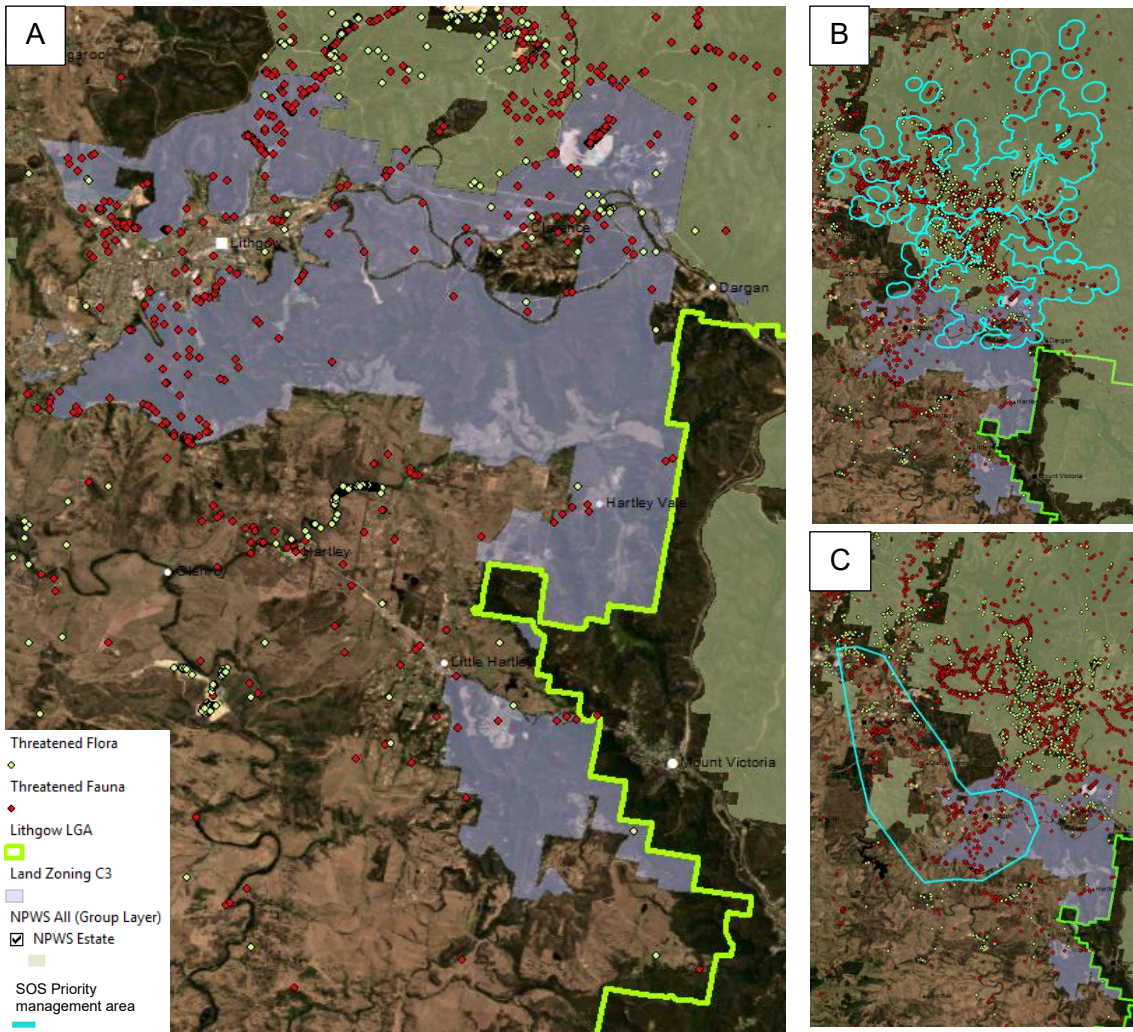


Figure 1: Biodiversity values within the C3 zone of Lithgow LGA

Increasing access to these areas for recreational activities has potential for direct negative impacts to sensitive species and ecosystems. Weed invasion, direct removal or physical damage from recreational users and trampling by invasive pests are key threatening processes for both the Newnes shrub swamp EEC and the purple copper butterfly. Newnes shrub swamp EEC also supports the endangered giant dragonfly and blue mountains water skink, which are sensitive to disturbance from walking tracks through swamp habitat.

Permissible development types should be sympathetic to the specific environmental values within this zone and remain consistent with the zone objectives and the priorities of the *Lithgow 2040 Local Strategic Planning Statement* to protect, manage and restore areas of high environmental value and significance. Alternative options should be investigated to facilitate desired land uses while simultaneously prohibiting incompatible development.

Recommendations

- 1.1. Retain current land uses permitted with consent for the C3 Environmental Management zone in the LEP
- 1.2. Consider a bespoke clause in the LEP to limit '*Recreation facilities (outdoors)*' within C3 zones to mountain bike trails only.

Issue 2: CPHR objects to the removal of ‘Environmentally Sensitive Area’ text from the *Environmentally Sensitive Area – Terrestrial Biodiversity Overlay* and the *Environmentally Sensitive Area – Land Overlay* maps

CPHR objects to removing the term ‘*Environmentally Sensitive Area*’ from clause 7.4 terrestrial biodiversity and clause 7.7 sensitive lands as these clauses apply to areas of high biodiversity significance.

This amendment will have implications for the planning approval pathway for development and the associated environmental assessment required.

LEP mapped areas are Environmentally Sensitive Areas

CPHR disagrees that areas identified on the Biodiversity Overlay and Land Overlay maps do not meet the definition of an environmentally sensitive area (ESA) under clause 1.5 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP).

CPHR’s view is that mapped areas capture land identified in the environmental planning instrument as being of high biodiversity significance, and meet clause 1.5(g) of the Codes SEPP. The significance of parts of these areas is recognised on the NSW Biodiversity Values Map.

The land overlay map includes significant karst environments. Karst environments provide habitat for many threatened species. Some of these species are at risk of serious and irreversible impacts (SAIL). Development impacts on karst environments and entities at risk of SAIL are subject to additional assessment in some planning pathways.

CPHR considers this amendment is inconsistent with:

- *Ministerial Direction 3.1 Conservation Zones*, as it will result in the reduction of the conservation standards which apply to the land
- Strategy 5.2 of the *Central West Orana Regional Plan 2041*, to avoid areas of high environmental value and consequently, *Ministerial Direction 1.1 Implementation of Regional Plans*.

The significance of biodiversity values in Lithgow LGA warrant comprehensive assessment

Approximately 35% of land within Lithgow LGA is annexed into national parks, state parks and nature reserves. This indicates the high conservation value of the LGA across the region. Environmentally sensitive land also extends into public and private land. *Lithgow 2040 Local Strategic Planning Statement* indicates that a total of 92.3% of all land in the Lithgow LGA is within an area of environmental constraint, which includes areas of high biodiversity significance.

Many of the endangered species in Lithgow LGA are listed as entities at risk of SAIL, due to their restricted distribution to the LGA or the immediate surrounds. This includes:

- *Asterolasia buxifolia* – the only known population of this critically endangered shrub is along the Lett River near Hartley
- *Grevillia obtusiflora subsp. fecunda* – an endangered shrub found only in the Capertee Valley
- *Newnes Plateau Shrub Swamp in the Sydney Basin Bioregion* – an EEC only recorded in the Lithgow and Blue Mountains LGAs
- Blue Mountains water skink (*Eulamprus leuraensis*) – an endangered species associated with Newnes shrub swamp EEC habitat. Populations on the Newnes Plateau are distinct from Blue Mountains populations.

Three of the SAIL entities listed above meet principle 4 of SAIL, meaning they ‘*are unlikely to respond to measures to improve its habitat and vegetation integrity and therefore its members are not replaceable*’. Impacts to the species and/or habitat quality that cause a decline in population viability are irreversible.

There are priority management sites for threatened species in Lithgow LGA that are part of the NSW government's 'Saving our Species' program (Figure 2). The management area for the Regent honeyeater encompasses known breeding habitat within the Capertee Valley and is recognised on the Biodiversity Values Map.

Development impacts on entities at risk of SAI are subject to additional assessment in some planning pathways where the Biodiversity Offset Scheme (BOS) applies. Entities at risk of SAI may be at risk of extinction if they are not assessed.

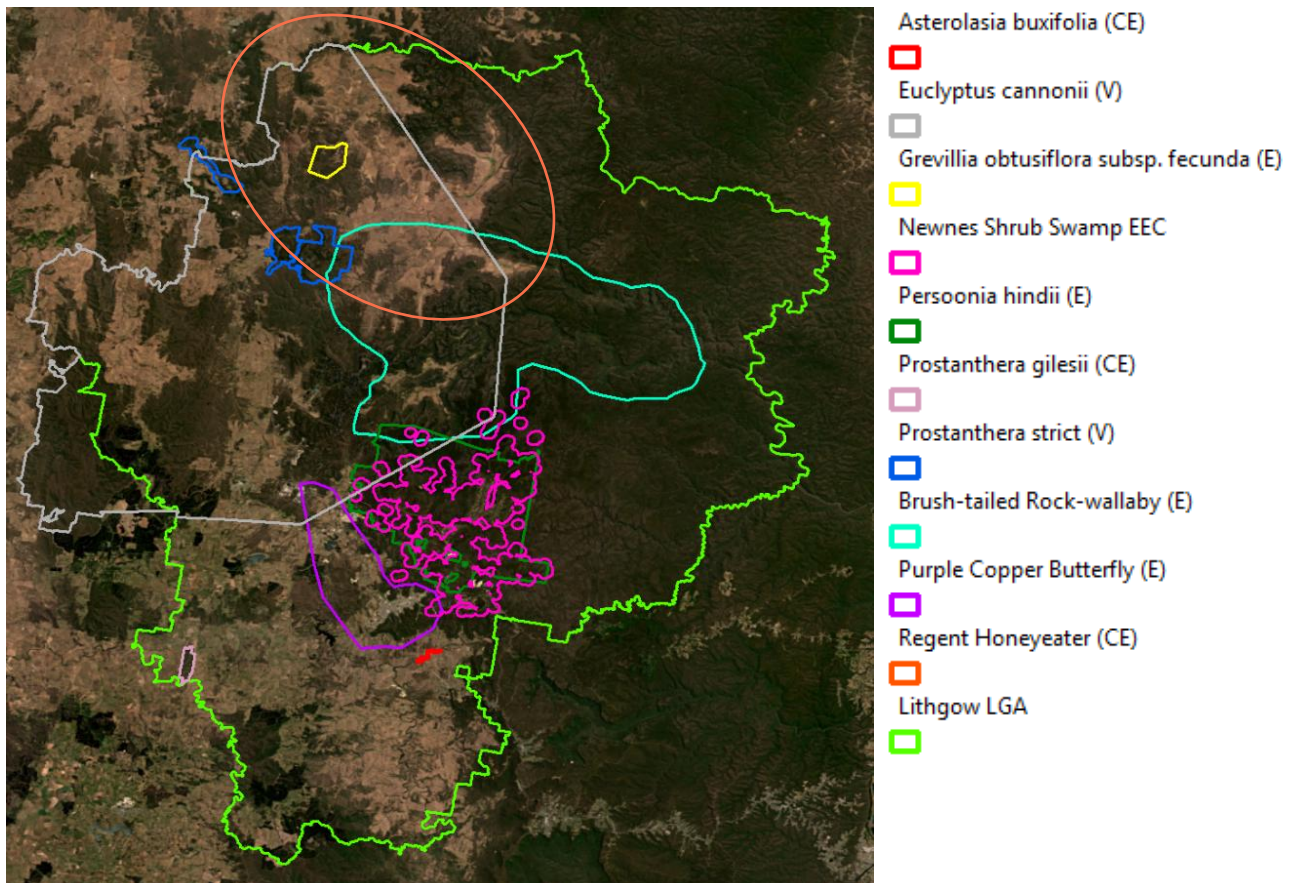


Figure 2: Saving our Species priority management site areas within Lithgow LGA

ESA designation has implications on biodiversity assessment requirements

Exempt development generally does not result in significant impacts to biodiversity values.

Biodiversity assessment is required for complying development if the development is likely to significantly affect threatened species, as defined by the BOS thresholds. Section 1.19(e)(iv) of the Codes SEPP prevents complying development on environmentally sensitive land. It is therefore important to retain the ESA clause in the LEP.

There is a risk that high biodiversity land will gradually deteriorate from cumulative impacts of exempt and complying development. CPHR considers the current controls adequately protect areas of high biodiversity significance from cumulative impacts via exclusion of exempt and complying development on lands identified as an ESA.

The *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) provides that the location of high impact development within or nearby 'environmentally sensitive areas of State Significance' triggers assessment as designated development or State Significant Development (SSD). If the land is not designated as an ESA in the LEP, it will not be designated as 'environmentally sensitive areas of State Significance' under the EP&A Regulation.

The ESA designation affects the development approval pathway and the associated environmental assessment required. For example, an extractive industry development located:

- more than 40 m from an environmentally sensitive area of State significance is assessed as local development when permitted with consent in an environmental planning instrument
- within 40 m of an environmentally sensitive area of State significance is assessed as designated development
- within an environmentally sensitive area of State significance is assessed as SSD when the extraction occurs on an area mapped as ESA under a LEP.

CPHR is generally supportive of facilitating an efficient planning process where risks to biodiversity are nil or low. However, it is important that development impacts within ESAs of high biodiversity significance are appropriately assessed.

CPHR considers it is necessary to retain protections to ESAs of high biodiversity significance. An alternative amendment is to refine the application of ESA to only those areas identified as containing high biodiversity significance within the map legend and written instrument.

Recommendations:

- 2.1 Retain 'Environmentally Sensitive Area' in the title of the Biodiversity Overlay and Land Overlay maps, and associated text within clause 7.4 and 7.7 of the LEP, **or:**

Update clause 7.4 of the Lithgow LEP (and associated mapping) to specify that areas mapped as 'high' on the biodiversity overlay map meet the definition of 'Environmentally Sensitive Area'.

- 2.2 Consider updating terrestrial biodiversity and karst mapping in CPHR can assist in this process.