

# Lithgow City Council Development Control Plan (DCP) 2021



DRAFT FOR PUBLIC EXHIBITION – April 2021

# DRAFT LITHGOW DEVELOPMENT CONTROL PLAN 2021

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This Development Control Plan (DCP) has been prepared as a joint project between **Lithgow City Council** staff and **iPLAN PROJECTS**, Planning & Development Consultants.



We would like to also thank Dean Steward (Complete Concepts + Planning) for new graphics and use and adaptation of some of the graphics from Cowra & Blayney Development Control Plans.

This DCP has been adapted from a literature review and some wording from other successful DCPs across NSW so those Councils are thanked for their contribution and assistance.

It also references guidelines produced by the NSW Government.

The Team would like to thank everyone who was involved in this project and provided feedback in the preparation of the DCP.

## Document Control for Drafting Only

Date/Version	Key Amendments	Provided to:
March 2021 – V1	Draft Final	Lithgow City Council - SH
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*Title Page: The picture on the title page is of the City of Lithgow (Source: Council's Facebook page).*

## **Table of Contents**

### **Chapter 1 – Introduction & Administration**

---

- 1.1 Name of this DCP
- 1.2 Adoption & Commencement
- 1.3 Where this DCP Applies
- 1.4 Aims of this DCP
- 1.5 How to Use this DCP
- 1.6 Variations to DCP Controls
- 1.7 Relationship to other Documents
- 1.8 Exempt & Complying Development
- 1.9 Developer Contributions
- 1.10 Abbreviations
- 1.11 Dictionary

### **Chapter 2 – Site Requirements (All Development)**

---

- 2.1 Introduction
- 2.2 Site Analysis, Local Character & Context
- 2.3 Slope Response, Earthworks & Retaining Walls
- 2.4 Stormwater Management
- 2.5 Vehicle Access & Parking
- 2.6 Pedestrian Access, Mobility & Safety
- 2.7 Designing for Crime Prevention
- 2.8 Utilities, Easements & Infrastructure
- 2.9 Solid Waste Management
- 2.10 Amenity / Buffers for Sensitive Uses
- 2.11 Water & Energy Efficiency

### **Chapter 3 – Natural Environment & Hazards**

---

- 3.1 Introduction
- 3.2 Bush Fire Prone Land
- 3.3 Vegetation Management & Biodiversity
- 3.4 Land & Soils
- 3.5 Flood Prone Land
- 3.6 Ground & Surface Water Protection
- 3.7 Mine Subsidence Risk
- 3.8 Appendices: Flood Maps

## Chapter 4 – Heritage & Cultural Conservation

---

- 4.1 Introduction
- 4.2 Development Consent Requirements
- 4.3 General Controls – Development of Heritage Items/Places & within Heritage Conservation Areas
- 4.4 Specific Controls – Heritage Conservation Areas

## Chapter 5 – Subdivision & Roads (including Consolidation & Boundary Adjustment)

---

- 5.1 Introduction
- 5.2 Site Selection, Analysis & Design Response
- 5.3 Urban Residential Subdivision
- 5.4 Urban Release Areas & South Bowenfels
- 5.5 Large Lot Residential & Rural Subdivision
- 5.6 Commercial, Industrial or Community Use Subdivision
- 5.7 New or Upgraded Public Roads

## Chapter 6 – Residential Development (including Ancillary Development such as Garages, Carports, Outbuildings, Sheds, Tanks & Pools)

---

- 6.1 Introduction
- 6.2 General Controls
- 6.3 Dwellings/Secondary Dwellings/Dual Occupancies (Large Lot Residential, Rural & Environmental Zones)
- 6.4 Dwellings/Secondary Dwellings (Urban Areas)
- 6.5 Medium to Higher Density Housing
- 6.6 Ancillary & Other Development

## Chapter 7 – Commercial, Community & Industrial Development (including Advertising/Signage)

---

- 7.1 Introduction
- 7.2 General Controls
- 7.3 Industrial Uses
- 7.4 Commercial & Community Uses
- 7.5 Advertising & Signage

## **Chapter 8 – Rural & Other Land Uses**

---

- 8.1 Introduction
- 8.2 Tourist Development (Rural & Environmental Zones)
- 8.3 Retail & Business Activities (Rural & Environmental Zones)
- 8.4 Temporary Use of Land & Markets/Events
- 8.5 Agricultural Activities & Rural Industry
- 8.6 Animal Boarding or Training Establishments
- 8.7 Mining & Extractive Industries
- 8.8 Solar Energy & Wind Farms

## **Chapter 9 – Location Specific Controls**

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At the time of preparing the DCP, there were no *Location Specific Controls*. This Chapter may be added at a later time.

# Chapter 1:

## Introduction & Administration



## Table of Contents

<b>1.1</b>	<b>Name of this DCP.....</b>	<b>4</b>
<b>1.2</b>	<b>Adoption &amp; Commencement.....</b>	<b>4</b>
<b>1.3</b>	<b>Where this DCP Applies .....</b>	<b>4</b>
<b>1.4</b>	<b>Aims of this DCP .....</b>	<b>4</b>
<b>1.5</b>	<b>How to Use this DCP .....</b>	<b>4</b>
1.5.1	Purpose of the DCP.....	4
1.5.2	Development Application Guide .....	5
1.5.3	Development Types .....	5
1.5.4	Structure of the DCP.....	5
1.5.5	How the Controls are Structured .....	6
<b>1.6</b>	<b>Variations to DCP Controls .....</b>	<b>6</b>
<b>1.7</b>	<b>Relationship to other Documents.....</b>	<b>7</b>
<b>1.8</b>	<b>Exempt &amp; Complying Development.....</b>	<b>7</b>
<b>1.9</b>	<b>Developer Contributions .....</b>	<b>7</b>
<b>1.10</b>	<b>Abbreviations.....</b>	<b>8</b>
<b>1.11</b>	<b>Dictionary .....</b>	<b>9</b>

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May 2020 – V3	Updated after Council Feedback (Stage 2)	Lithgow City Council - SH
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*Title Page: The picture on the title page is of the Capertee Valley (Source: Destination NSW - <https://www.visitnsw.com/destinations/blue-mountains/lithgow-area>).*

## Amendments to this DCP

Amendments to this DCP will be listed in the table below when they are adopted by Council.

**Note:** *At the commencement of this DCP there were no amendments.*

Date of Amendment	Name of Amendment	Chapters/Controls Affected

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## 1.1 Name of this DCP

This Plan is called the *Lithgow Development Control Plan 2021 (DCP)*.

## 1.2 Adoption & Commencement

The DCP was originally adopted by Lithgow City Council (**Council**) on the ..... 2021 and came into operation on ..... 2021.

*Please see Amendments Section to this DCP at the start of this Chapter.*

## 1.3 Where this DCP Applies

This DCP applies to all land within the Lithgow Local Government Area (**LGA**) where *Lithgow Local Environmental Plan 2014 (LLEP2014)* applies except the following:

- a) Portland 'Foundations Site'- shown as Deferred Matter on *Land Application Map* in [LLEP2014](#);
- b) Lithgow Pottery Estate- shown as Pottery Estate on *Pottery Estate Development Map* in [LLEP2014](#);
- c) Marrangaroo- shown as Urban Release Area on *Urban Release Area Map* in [LLEP2014](#).

## 1.4 Aims of this DCP

The overarching aims of this DCP are:

- a) To implement and support the objectives of [LLEP2014](#);
- b) To provide clear and concise development guidelines for various forms of development;
- c) To promote appropriate growth and development in the Lithgow Local Government Area and ensure it occurs in an orderly, environmentally friendly and sustainable manner;
- d) To ensure positive planning outcomes are maximised for the benefit of the broader community.

## 1.5 How to Use this DCP

### 1.5.1 Purpose of the DCP

This DCP supplements the [Lithgow Local Environmental Plan 2014 \(LLEP2014\)](#) by providing more detailed controls relating to specific types of development.

The controls included in this DCP must be taken into account during the design phase of development and will be taken into consideration by Council as part of the assessment of any Development Application.

All controls are designed to aid the decision-making process and improve planning outcomes for the Lithgow community.

### 1.5.2 Development Application Guide

Council has prepared a *Development Application Guide (DA Guide)* that is available on Council's website [www.lithgow.nsw.gov.au](http://www.lithgow.nsw.gov.au). This should be reviewed by ALL Applicants prior to lodging a Development Application and sets out:

- a) The key steps in preparing a **Development Application**;
- b) How to address development controls including, but not limited to [LLEP2014](#) and this DCP;
- c) Checklist of Plans/Studies that may be needed to support a **Development Application**;
- d) Detail on what some of those supporting Plans/Studies may need to address.

### 1.5.3 Development Types

Prior to applying the controls in this DCP for the proposed development it is necessary to confirm the appropriate land use definition and whether it is permissible in the relevant zone for the subject land. Please review the relevant zone for the site on the *Land Zoning Maps* in [LLEP2014](#) or via the [NSW Government Planning Portal](#). The Land Use Table of [LLEP2014](#) identifies the permissibility of development types within each zone. Please discuss this with Council if you are unsure.

### 1.5.4 Structure of the DCP

*The DCP has the following Chapters:*

<b>Chapter 1:</b>	Introduction & Administration ( <b>THIS CHAPTER</b> )
<b>Chapter 2:</b>	Site Requirements (All Development)
<b>Chapter 3:</b>	Natural Environment & Hazards
<b>Chapter 4:</b>	Heritage & Cultural Conservation
<b>Chapter 5:</b>	Subdivision & Roads
<b>Chapter 6:</b>	Residential Development
<b>Chapter 7</b>	Commercial, Community & Industrial Development (including Advertising/ Signage for all relevant land uses)
<b>Chapter 8:</b>	Rural & Other Land Uses
<b>Chapter 9:</b>	Location Specific Controls

For any development proposal you may need to address more than one Chapter of this DCP depending on the site opportunities and constraints and what development is proposed.

You are encouraged to consult with Council for clarification as to which Chapters or Sections in this DCP will apply to a particular development proposal. **IF YOU ARE UNSURE, PLEASE DISCUSS THIS WITH COUNCIL STAFF PRIOR TO LODGING YOUR APPLICATION.**

### 1.5.5 How the Controls are Structured

The development controls contained within this DCP are structured to ensure that zone objectives of **LLEP2014** are achieved and the desired land use and/or development outcome on a site is consistent with the corresponding objectives of the DCP. Therefore, the structure of each Part of this DCP includes:

#### Objectives (Performance Criteria)

Are located at the start of each Section or in the left-hand column of each Section and clearly state what Council is seeking to achieve and the desired outcomes for each Part or Section. If the Acceptable Solution below requires variation then the Objectives / Performance Criteria must be addressed.

#### Controls (Acceptable Solutions / Prescriptive Criteria)

Are located below the objectives/performance criteria and set the requirements for achieving an outcome consistent with the corresponding objectives for each Section. Some **Controls** are written more like objectives/performance criteria where no prescriptive criteria are appropriate. There is sometimes an 'acceptable solution' provided for 'performance criteria'.

**Notes:** Boxes like this are used to provide supporting information that may include:

- Information about when a particular section or control applies;
- Relevant definitions;
- References to other relevant Sections of the DCP or other planning policies;
- Background information justifying or explaining the control.

## 1.6 Variations to DCP Controls

The controls in this DCP have been designed to address the common development types and scenarios. Council accepts that it is not possible to plan for all development scenarios.

However, there will inevitably be situations where strict compliance is not able to be achieved, and/or alternate solutions are preferred.

Council may consent to a Development Application involving variation to a control contained within this DCP, but only where Council has considered a written request from the applicant that seeks to justify the variation by demonstrating:

- e) The objectives of the particular control(s) are met or sufficiently addressed; and
- f) Compliance with the particular control(s) within this DCP is unreasonable or unnecessary in the circumstance of the case; and
- g) There are sufficient environmental planning grounds to justify the departure from the particular control(s) within this DCP; and
- h) The impact(s) of the non-compliant proposal will not be significantly greater than a compliant proposal or may enhance the outcome; and
- i) There are public benefits from varying the control(s).

The written request for variation of a development control or controls may be included within the **Statement of Environmental Effects** submitted with the **Development Application**.

## 1.7 Relationship to other Documents

The DCP has been prepared in accordance with Part 3 Division 3.6 of the [Environmental Planning and Assessment Act 1979 \(EP&A Act\)](#).

This DCP supplements *Lithgow Local Environmental Plan 2014 (LLEP2014)* by providing more detailed controls relating to specific types of development.

The DCP is also to be read in conjunction with other relevant legislation, environmental planning instruments including *State Environmental Planning Policies (SEPPs)*, Council policies, codes and specifications that are relevant to specific aspects of a development proposal.

Council's *Local Strategic Planning Statement (LSPS)* sets out the vision for land use planning across the LGA and may provide background information on the desired future character and development of key areas. This DCP supports the vision and desired future character statements outlined in the **LSPS**.

Council's *Community Participation Plan (CPP)* sets out how Council will engage with the community and key stakeholders as part of its decision-making process. This includes when and how it will notify and/or publicly exhibit certain development applications made to Council. Please see the **CPP** for additional detail on these requirements.

In addition, you should read the DCP alongside the following documents on Council's website ([www.lithgow.nsw.gov.au](http://www.lithgow.nsw.gov.au)):

- Council's **Development Application (DA) Guide**, forms and checklists;
- Council's *Guidelines for Civil Engineering Design and Construction*; and
- Any other relevant endorsed / adopted Council Policies.

In the event of an inconsistency between this DCP and any other legislation or environmental planning instrument applying to the same land, the provisions of the other state-level documents or **LLEP2014** will prevail to the extent of the identified inconsistency. In assessing a Development Application, in addition to the provisions of this DCP, Council must also make an assessment of those matters specified for consideration under Section 4.15 of the [EP&A Act](#).

## 1.8 Exempt & Complying Development

Please note that [State Environment Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#) may permit certain development set out in that policy without requiring a development application to Council if it complies with the requirements of the **Codes SEPP**. Please discuss this with Council or visit the [NSW Government Planning Portal](#).

## 1.9 Developer Contributions

Development may create a need for public services and facilities, such as open space, community facilities, utilities and traffic management. Needs will vary depending on the scale of the proposal, the characteristics of the area, the relevant population and standard/capacity of existing services.

*Section 7.11 and Section 7.12 of the EP&A Act* enables Council to levy contributions for amenities and services. As at the date of commencement of this DCP, Council has only adopted a Fixed Development Consent Levy under *Section 7.12 of the EP&A Act* (see Council's website for details).

Contributions are imposed by way of a condition of consent and can be satisfied by:

- a) Dedication of land;
- b) A monetary contribution;
- c) A material public benefit; or
- d) A combination of the above.

As an alternative to the payment of a *Section 7.11/7.12* contribution, the applicant may offer to enter into a Voluntary Planning Agreement (**VPA**) with Council. Acceptance of an offer is at the sole discretion of Council and where Council decides not to accept the offer, payment of the *Section 7.11/7.12* contributions will be required.

Council is also able to levy contributions for amenities and services under *Section 64* of the *Local Government Act 1993 (LG Act)*. In Lithgow **LGA**, Council may require contributions for water supply and sewerage utilities (headworks charges) in accordance with the relevant *Development Servicing Plan(s)* (as amended). See Council's website ([www.lithgow.nsw.gov.au](http://www.lithgow.nsw.gov.au)) for more details.

## 1.10 Abbreviations

The following are some abbreviations (or acronyms) used for key planning terms or legislation/policies that are used throughout this DCP when words are repeated several times.

ABBREVIATION	DEFINITION
AS	Australian Standards
Codes SEPP	<a href="#">State Environment Planning Policy (Exempt and Complying Development Codes) 2008</a>
Council	Lithgow City Council
DA	Development Application
DA Guide	Council's Development Application Guide – See <b>DCP Section 1.5.2</b>
DCP	Development Control Plan made under Part 3 of the <a href="#">EP&amp;A Act</a>
Engineering Guidelines	Council's <a href="#">Guidelines for Civil Engineering Design and Construction</a>
EP&A Act	<a href="#">Environmental Planning &amp; Assessment Act 1979</a>
LLEP2014 or LEP	<a href="#">Lithgow Local Environmental Plan 2014</a>
LGA	Local Government Area (of Lithgow)
LG Act	<a href="#">Local Government Act 1993</a>
Map	Map(s) under <a href="#">LLEP2014</a> (unless otherwise defined)
NCC	<a href="#">National Construction Code</a> (former Building Code of Australia)
Bush Fire Guidelines	<a href="#">Planning for Bushfire Protection (PBP) Guidelines</a> (2019 as amended)
SEPP	State Environmental Planning Policy
VPA	A planning agreement under Section 7.4 of the <a href="#">Environmental Planning &amp; Assessment Act 1979</a> .(between Council and the Applicant)
Zone	Land Use Zone under <a href="#">LLEP2014</a>

## 1.11 Dictionary

The definitions for key words that are highlighted in **bold** in this DCP can be found in the Abbreviations section above or Dictionary in the Table below or in the various chapters of this DCP (where they are specific to certain land uses in those chapters).

Most words in this DCP are standard definitions in [LLEP2014](#) (as shown) or are defined by their common meaning or in accordance with the [EP&A Act](#). Some definitions are from the NSW Government (Dec 2018) *Standard DCP Definitions Discussion Paper (SDCP)* – noting this is still under review and not yet adopted government policy.

TERM	DEFINITION
<b>Acceptable solution</b> (SDCP)	acceptable solutions are ‘deemed to comply’ means by which a development may achieve the intent of a planning objective or performance criteria.
<b>Active street frontage</b> (SDCP)	means building street frontage(s) at street level that provides direct and level entry, and openings to allow physical and visual access that encourage interaction between the inside of a building and the external areas adjoining the building, including footpaths, road reserves or public spaces. Active street frontages support pedestrian safety and amenity and provide an interface between the public and private domain. <b>Note:</b> See Clause 7.9 & the <b>Active Street Frontages Map</b> in <a href="#">LLEP2014</a> .
<b>Adaptable housing</b> (SDCP/ Affordable Housing Guide)	means housing that is designed and built to accommodate future changes to suit occupants with mobility impairments or life-cycle needs.
<b>Allowable encroachments</b> ( <a href="#">NCC</a> )	Side and rear setbacks and setbacks from the boundary with a road do not apply to ‘ <b>allowable encroachments</b> ’ permitted under the <b>National Construction Code</b> ( <a href="#">NCC</a> ) or any eave or roof overhang that has a horizontal setback of not less than 450mm from a boundary. ‘ <b>Allowable encroachments</b> ’ forming part of a building may include the fascia, gutters, downpipes, rainwater tanks, chimneys, flues, cooling or heating appliances, light fittings, electricity and gas meters, aerials, antennae, pergolas, sun blinds, unroofed terraces, landings, steps and certain ramps (fencing, paths, driveways, retaining walls and landscaping are also permitted).
<b>Alteration</b> (SDCP)	means buildings works within the existing building footprint that do not increase the total floor space but may include new or resized windows or new roof design.
<b>Amenity</b> (SDCP)	means the ‘liveability’ of a place that makes it pleasant and agreeable for individuals and the community. Amenity includes, but is not limited to, the enjoyment of sunlight, views, privacy and quiet.
<b>Ancillary development</b> (SDCP)	means development that is subordinate or subservient to the dominant purpose for which a site is used or proposed to be used.

TERM	DEFINITION
<b>Approval/ Approved (SDCP)</b>	means a consent, licence or permission or any form of authorisation issued by Council.
<b>Articulation</b>	means variations to the bulk, form, height, setbacks, openings and materials of a building that can create visual interest, avoid dominance of large and/or blank walls, and integrate with street and neighbouring building character.
<b>Arterial road(s)</b> <a href="#">RTA Guide to Traffic Generating Developments</a>	means a road that predominantly carries through traffic from one region to another forming principal avenues of communication for metropolitan traffic movements. They are usually part of the proclaimed Main Roads system, including highways and freeways.
<b>Asset protection zone (APZ)</b> <a href="#">(Bush Fire Guidelines)</a>	means a fuel reduced area surrounding a built asset or structure which provides a buffer zone between a bushfire hazard and an asset. The APZ includes a defensible space within which firefighting operations can be carried out. The size of the required asset protection zone varies with slope, vegetation and Fire Danger Index (FDI).
<b>Attic</b> <a href="#">(LLEP2014)</a>	means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.
<b>Australian standards</b> (SDCP)	<i>Australian Standards (AS)</i> are published documents, developed either by a national standards body (like Standards Australia) or other accredited bodies, setting out specifications and procedures designed to ensure products, services and systems are safe, reliable and consistently perform the way they were intended to. These standards establish a common language which defines quality and safety criteria.
<b>Australian height datum (AHD)</b> (SDCP)	is a common national plane of level. 0.0m AHD corresponds approximately to mean sea level at Fort Denison in Sydney Harbour.
<b>Basement</b> <a href="#">(LLEP2014)</a>	means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).
<b>Basement car park (SDCP)</b>	means a car parking area generally below ground level or above natural ground level but enclosed by bunding.
<b>BASIX certificate</b>	A certificate issued under <i>SEPP (Building Sustainability Index: BASIX) 2004</i> relating to water and energy efficiency of BASIX affected developments.
<b>Battle-axe handle (or laneway)</b> (SDCP)	means the area of land containing the carriageway entry for a <b>battle-axe lot</b> .
<b>Battle-axe lot</b> <a href="#">(Codes SEPP)</a>	means a lot that has access to a road by an access laneway.

TERM	DEFINITION
<b>Boundary adjustment</b> (SDCP)	means a subdivision consisting only of one or more boundary realignments between lots that will not result in additional lots being created.
<b>Buffer</b> (SDCP)	means a distinct separation between two developments or land uses that require separation for amenity protection, environmental protection or other reason/s.
<b>Building</b> ( <a href="#">EP&amp;A Act</a> )	building includes part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the <i>Local Government Act 1993</i> .
<b>Building height (or height of building)</b> ( <a href="#">LLEP2014</a> )	means: a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or b) in relation to the RL of a building—the vertical distance from the <b>Australian Height Datum</b> to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.
<b>Building envelope</b> (SDCP)	means the three-dimensional space within which a building is confined.
<b>Building height plane</b> (SDCP)	means a plane projected at an angle of 45 degrees over the actual land to be built upon from a distance of 3.5m metres above ground level at the side boundaries of the site.
<b>Building line (or setback)</b> ( <a href="#">LLEP2014</a> )	means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and: a) a building wall, or b) the outside face of any balcony, deck or the like, or c) the supporting posts of a carport or verandah roof, whichever distance is the shortest.
<b>Bush Fire Prone Land Map(s)</b>	means land that has been identified by local council which can support a bush fire or is subject to bush fire attack. Bush fire prone land maps are prepared by local council and certified by the Commissioner of the NSW RFS. Check you <b>Site</b> through the NSW Planning Portal at <a href="http://www.planningportal.nsw.gov.au">www.planningportal.nsw.gov.au</a> or the Rural Fire Service website at <a href="http://www.rfs.nsw.gov.au">www.rfs.nsw.gov.au</a> .
<b>Business zone</b>	means land identified on the Land Zoning Map in <a href="#">LLEP2014</a> within Zone B1 Neighbourhood Centre; Zone B2 Local Centre; Zone B4 Mixed Use; Zone B5 Business Development; Zone B6 Enterprise Corridor; or Zone B7 Business Park, (or where the use is permitted with consent in Zone RU5 Village).
<b>Carport</b>	means a car parking space with a roofed structure but no garage door and not totally enclosed by walls and used for car parking. It would be considered an 'enclosed' car parking space.

TERM	DEFINITION
<p><b>Classified road</b> (<a href="#">Roads Act 1993</a>)</p>	<p>means any of the following— (a) a main road, (b) a highway, (c) a freeway, (d) a controlled access road, (e) a secondary road, (f) a tourist road, (g) a tollway, (g1) a transitway, (h) a State work.</p> <p>See Roads &amp; Maritime Services (RMS) <i>Schedule of Classified Roads &amp; Unclassified Roads</i> (as amended) on the RMS website.</p>
<p><b>Communal open space</b> (SDCP)</p>	<p>means outdoor space located within the site at ground level or on a structure that is within common ownership and for the recreational use of all residents of the development. Communal open space may be accessible to residents only, or to the public.</p>
<p><b>Complying development</b> (<a href="#">EP&amp;A Act</a>)</p>	<p>An environmental planning instrument may provide that development, or a class of development, that can be addressed by specified predetermined development standards is complying development (Clause 4.2(5)).</p>
<p><b>Contaminated land</b> (SDCP)</p>	<p>means land in, on or under which any substance is present at a concentration above that naturally present in, on or under the land and that poses, or is likely to pose, an immediate or long-term risk to human health or the environment.</p>
<p><b>Corner lot</b> (<a href="#">Codes SEPP</a>)</p>	<p>means a site that has two contiguous boundaries with a road or roads that intersect at an angle of 135 degrees or less (whether or not the lot has any other boundaries with a road).</p>
<p><b>Council</b> (<a href="#">LLEP2014</a>)</p>	<p>means Lithgow City Council or any officer authorised to act on behalf of Lithgow City Council.</p>
<p><b>Deep soil landscaped area</b> (SDCP)</p>	<p>means the area of the site that contains landscaped area which has no above ground, ground level or subterranean development.</p> <p>Note: Deep soil zones exclude hardstand area &amp; impervious or impervious surface area.</p>
<p><b>Development</b> (<a href="#">EP&amp;A Act</a>)</p>	<p>(1) For the purposes of the <a href="#">EP&amp;A Act</a>, development is any of the following—</p> <ul style="list-style-type: none"> <li>(a) the use of land,</li> <li>(b) the subdivision of land,</li> <li>(c) the erection of a building,</li> <li>(d) the carrying out of a work,</li> <li>(e) the demolition of a building or work,</li> <li>(f) any other act, matter or thing that may be controlled by an environmental planning instrument.</li> </ul> <p>(2) However, development does not include any act, matter or thing excluded by the regulations (either generally for the purposes of this Act or only for the purposes of specified provisions of this Act).</p>
<p><b>Development Application (DA)</b> (<a href="#">EP&amp;A Act</a>)</p>	<p>means an application for consent under Part 4 of the <a href="#">EP&amp;A Act</a> to carry out development but does not include an application for a complying development certificate.</p>

TERM	DEFINITION
<b>Drainage</b> <a href="#">(LLEP2014)</a>	means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land
<b>Dual frontage lot</b> (SDCP)	means a lot which has two road frontages.
<b>Earthworks</b> <a href="#">(LLEP2014)</a>	means excavation or filling.
<b>Easement</b> (SDCP)	means a right to use or travel over a specified strip of land belonging to another. For example, easements may be required for repairs, drainage of sewage, electricity purposes, services, water supply and right of access.
<b>Excavation</b> <a href="#">(LLEP2014)</a>	means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.
<b>External wall height</b> (SDCP)	means the vertical distance between ground level (existing) at any point to the uppermost point of an external wall.
<b>Façade</b> <a href="#">(Apartment Design Guide)</a>	means the external face of a building (usually the principal face facing a public street or space).
<b>Garage</b>	means a fully enclosed car parking space with roof, walls and usually a garage door.
<b>Gross floor area (GFA)</b> <a href="#">(LLEP2014)</a>	means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes— <ul style="list-style-type: none"> <li>(a) the area of a mezzanine, and</li> <li>(b) habitable rooms in a basement or an attic, and</li> <li>(c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—                             <ul style="list-style-type: none"> <li>(d) any area for common vertical circulation, such as lifts and stairs, and</li> <li>(e) any basement—                                     <ul style="list-style-type: none"> <li>(i) storage, and</li> <li>(ii) vehicular access, loading areas, garbage and services, and</li> </ul> </li> <li>(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and</li> <li>(g) car parking to meet any requirements of the consent authority (including access to that car parking), and</li> </ul> </li> </ul>

TERM	DEFINITION
	(h) any space used for the loading or unloading of goods (including access to it), and (i) terraces and balconies with outer walls less than 1.4 metres high, and (j) voids above a floor at the level of a storey or storey above.
<b>Ground level (existing)</b> (LLEP2014)	means the existing level of a site at any point. <b>Note:</b> 'Existing' generally means prior to any development on a site.
<b>Ground level (finished)</b> (LLEP2014)	means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.
<b>Habitable room</b> (NCC)	means a room used for normal domestic activities, and includes a bedroom, living room, kitchen, dining room, study, family room etc., but excludes a bathroom, laundry, pantry, walk-in-wardrobe, corridor/hallway, lobby, and other spaces of a specialised nature occupied neither frequently nor for extended period.
<b>Hardstand area</b> (SDCP)	means the area of a site through which water cannot infiltrate, and includes the area of the building footprint, garages, water tanks, outbuildings, and non-porous driveways, paths and courts, but excludes the water surface area of swimming pools. <b>Note:</b> compare definition for 'impervious or impervious surface'.
<b>Hazardous materials</b> (SDCP)	are solids, liquids, or gases that can harm people, other living organisms, property, or the environment. These may include materials that are radioactive, flammable, explosive, corrosive, oxidising, asphyxiating, bio-hazardous, toxic, pathogenic, or allergenic. Also included are physical conditions such as compressed gases and liquids or hot materials, including all goods containing such materials or chemicals, or may have other characteristics that render them hazardous in specific circumstances.
<b>Higher impact land use</b> (local)	may include, but is not limited to: <ul style="list-style-type: none"> <li>a) Extractive industries and mining;</li> <li>b) Most industrial uses (except light industry and high technology industry that by definition have no significant impacts);</li> <li>c) Commercial uses (e.g., animal boarding &amp; training facilities) that may produce significant dust, noise, odour or traffic generation;</li> <li>d) Recreation areas that may produce significant dust, noise, light spill or traffic generation;</li> <li>e) Intensive agricultural uses (taking into account the 'right to farm' – see below);</li> <li>f) Infrastructure such as sewage treatment plants, waste depots, roads and rail, etc.;</li> <li>g) Other uses that, at the discretion of Council, would be expected to produce significant impacts on a <b>sensitive land use</b> within 500m of that use.</li> </ul>

TERM	DEFINITION
<b>Impervious or Impervious surface</b> (SDCP)	means land or material that is not readily penetrable by water. Impervious areas occur where the soil surface is sealed, eliminating rainwater infiltration and natural groundwater recharge.
<b>Industrial zone</b>	means land identified on the Land Zoning Map in <a href="#">LLEP2014</a> within <i>Zone IN1 General Industrial</i> or <i>Zone IN2 Light Industrial</i> (or where the use is permitted with consent in Zone RU5 Village).
<b>Infill development</b> (SDCP)	means the development of land within an existing developed area.
<b>Landscaped area</b> ( <a href="#">LLEP2014</a> )	means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.
<b>Living area (of a dwelling)</b>	means a living room, kitchen or other primary communal living space within a dwelling but does not include bedrooms or non-habitable rooms.
<b>Local development</b> (SDCP)	means development, not being exempt development, complying development or State significant development, which is permissible with consent of Council under <a href="#">LLEP2014</a> .
<b>Medium to higher density housing</b>	This generally refers to residential accommodation types that includes <b>dual occupancies</b> (side-by-side), <b>multi dwelling housing</b> , <b>residential flat buildings</b> and other higher density outcomes addressed in DCP <i>Section 6.6 Medium to Higher Density Housing</i> .
<b>Mixed-use development</b> ( <a href="#">LLEP2014</a> )	means a building or place comprising two or more different land uses.
<b>National Construction Code</b> ( <a href="#">NCC</a> )	means the document, published by or on behalf of the Australian Building Codes Board, that is prescribed for purposes of this definition by the regulations, together with: <ol style="list-style-type: none"> <li>a) such amendments made by the Board, and</li> <li>b) such variations approved by the Board in relation to New South Wales, as are prescribed by the regulations.</li> </ol>
<b>Non-habitable room</b> (SDCP)	means a space of a specialised nature not occupied frequently or for extended periods, including a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom or clothes-drying room.
<b>Non-potable water</b> ( <a href="#">LLEP2014</a> )	means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.
<b>On-site (stormwater) detention (OSD)</b> (SDCP)	means a device used to control the rate of stormwater runoff in order to reduce peak discharges during storm events.

TERM	DEFINITION
<b>Outbuilding</b> ( <a href="#">Codes SEPP</a> )	means any of the following class 10a buildings under the <b>National Construction Code</b> ( <a href="#">NCC</a> ): <ul style="list-style-type: none"> <li>a) balcony, deck, patio, pergola, terrace or verandah that is detached from a dwelling house,</li> <li>b) cabana, cubby house, fernery, garden shed, gazebo or greenhouse,</li> <li>c) carport that is detached from a dwelling house,</li> <li>d) farm building,</li> <li>e) garage that is detached from a dwelling house,</li> <li>f) rainwater tank (above ground) that is detached from a dwelling house,</li> <li>g) shade structure that is detached from a dwelling house,</li> <li>h) shed.</li> </ul>
<b>Outdoor dining (eating) area</b> (SDCP)	means an approved sit-down, open-air (al-fresco) dining area with associated furniture located on either a public footpath or on private property.
<b>Parapet</b> ( <a href="#">Apartment Design Guide</a> )	means a horizontal low wall or barrier at the edge of a balcony or roof. Often taken to refer to the decorative element which establishes the street wall height of heritage buildings.
<b>Parking space</b>	means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.
<b>Passive (or casual surveillance)</b> (SDCP)	means the casual surveillance of public spaces and streets by the users of the local area or adjoining land.
<b>Permeable or pervious surface</b> (SDCP)	means a surface finish which permits or facilitates the infiltration or penetration of water e.g., grass areas, landscaping, swimming pools, porous paving and the like.  <b>Note:</b> See definition for 'impermeable or impervious surface'.
<b>Potable water</b> ( <a href="#">LLEP2014</a> )	means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.
<b>Primary road</b> ( <a href="#">Codes SEPP</a> )	means the road to which the front of a dwelling house, or a main building, on a lot faces or is proposed to face.
<b>Primary (front) setback</b>	means the setback between the <b>Primary (Street) Frontage</b> and the building or structure.

TERM	DEFINITION
<p><b>Primary (street) frontage</b></p>	<p>The primary street frontage is usually either:</p> <ul style="list-style-type: none"> <li>a) the street frontage where the allotment has a single street frontage; or</li> <li>b) if an allotment has more than one street frontage:                             <ul style="list-style-type: none"> <li>i) the street that is highest in the street hierarchy (connectivity and traffic densities); or</li> <li>ii) the street that most surrounding dwellings present to or have their primary (visitor) entrances/letterbox facing onto (this is usually the designated street address for that property).</li> </ul> </li> </ul>
<p><b>Principal dwelling (SDCP)</b></p>	<p>means the largest dwelling house on a lot, measured by gross floor area</p>
<p><b>Principal private open space (Codes SEPP)</b></p>	<p>means an area outside a dwelling that is directly accessible from, and adjacent to, a habitable room in the dwelling, other than a bedroom.</p>
<p><b>Private open space (LLEP2014)</b></p>	<p>means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.</p>
<p><b>Public domain (SDCP)</b></p>	<p>means any permanent or temporary space, whether publicly or privately owned, that can be accessed and used by the public and/or is publicly visible.</p>
<p><b>Public road (Roads Act 1993)</b></p>	<p>means:</p> <ul style="list-style-type: none"> <li>a) Any road that is opened or dedicated as a public road, whether under the <i>Roads Act 1993</i> or any other Act or law, and</li> <li>b) Any road that is declared to be a public road for the purposes of the <i>Roads Act 1993</i>.</li> </ul>
<p><b>Re-sited dwelling (house) (SDCP)</b></p>	<p>means a dwelling that has been moved to a site from another location. <b>Note:</b> This does not include a <b>manufactured home</b>.</p>
<p><b>Retaining wall (SDCP)</b></p>	<p>means a wall which is external to a building and is used to retain cut or fill and incorporates adequate provision for drainage.</p>
<p><b>Right-of-way (SDCP)</b></p>	<p>means the legal right of access over a lot to another lot, as provided for through the creation of easements under the <i>Conveyancing Act 1919</i>.</p>
<p><b>Riparian corridor</b></p>	<p>means a transition zone between the land (also known as the terrestrial environment) and the river or watercourse (or aquatic environment). Riparian corridors perform a range of important environmental functions. It is generally defined as land that is within 40m of the top of the bank (measured horizontally) of land identified as 'Watercourse' on the <i>Environmentally Sensitive Areas – Water Overlay Map</i> in <a href="#">LLEP2014</a>.</p>
<p><b>Rural and/or Environmental Zone(s)</b></p>	<p>means land identified on the Land Zoning Map in <a href="#">LLEP2014</a> within Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E3 Environmental Management, Zone E4 Environmental Living, or Zone R5 Large Lot Residential where the minimum lot size is &gt;4,000m<sup>2</sup>.</p>

TERM	DEFINITION
<b>Scale</b> (SDCP)	means the size of a building and/or its elements and its relationship with the surrounding buildings or landscape.
<b>Secondary (street) frontage</b>	Means, for a corner lot, the street that is not the <b>Primary Street Frontage</b> .
<b>Secondary (street) setback</b>	means the setback between the <b>Secondary (Street) Frontage</b> and the building or structure.
<b>Sensitive land use</b> (local)	is any land use where there are users that are likely to be significantly and regularly affected by emissions from other <b>higher-impact land use(s)</b> . It extends beyond residential land uses to include, for example, tourist and visitor accommodation, hospitals, aged care and seniors living, child care facilities, playground and recreation areas, and some public buildings where a reasonable level of amenity (suitable for each use) must be protected.
<b>Setback area</b> ( <a href="#">Codes SEPP</a> )	means the area between the building line and the relevant boundary of the lot.
<b>Site</b>	means the allotment(s) of land on which a development is located or is proposed to be carried out.
<b>Site area</b> ( <a href="#">LLEP2014</a> )	means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under <a href="#">LLEP2014</a> .
<b>Site coverage</b> ( <a href="#">LLEP2014</a> )	means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage: <ul style="list-style-type: none"> <li>a) any basement,</li> <li>b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,</li> <li>c) any eaves,</li> <li>d) unenclosed balconies, decks, pergolas and the like.</li> </ul>
<b>Stacked (or tandem) parking</b>	means a car parking space which is located behind (or in the access/ circulation) space of another parking space.
<b>Storey</b> ( <a href="#">LLEP2014</a> )	means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include: <ul style="list-style-type: none"> <li>a) a space that contains only a lift shaft, stairway or meter room, or</li> <li>b) a mezzanine, or</li> <li>c) an attic.</li> </ul>
<b>Stormwater</b> (SDCP)	means untreated water that originates from rainfall or snow/ice melt and soaks into the ground (infiltrate), is held on the surface and evaporates, or runs off to streams, rivers or other water bodies (surface water).

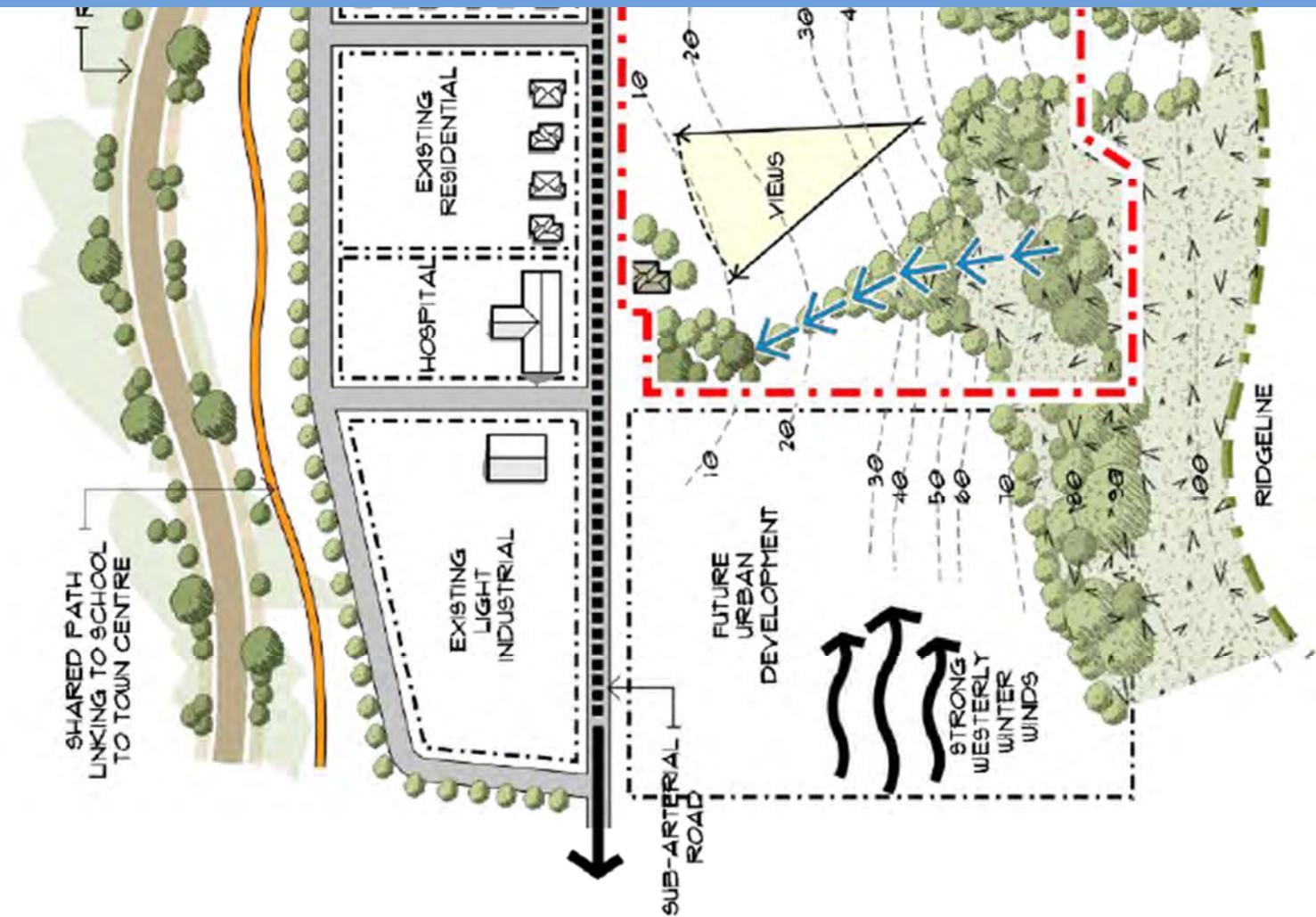
TERM	DEFINITION
<b>Streetscape</b> <a href="#">(SEPP (Housing for Seniors of People with a Disability) 2004)</a>	means the character of a locality (whether it is a street or precinct) defined by the spatial arrangement and visual appearance of built and landscape features when viewed from the street.
<b>Subdivision Certificate</b> <a href="#">(EP&amp;A Act)</a>	means a certificate that authorises the registration of a plan of subdivision under Part 23 of the <i>Conveyancing Act 1919</i> . When issued, a subdivision certificate is taken to be part of the development consent that authorised the carrying out of the subdivision.
<b>Urban residential zone</b>	means land identified on the Land Zoning Map in <a href="#">LLEP2014</a> within <i>Zone R1 General Residential, Zone R2 Low Density Residential, Zone R5 Large Lot Residential</i> where the minimum lot size is $\leq 4,000\text{m}^2$ , <i>Zone RU5 Village</i> , or another 'R' zone that is within the normal urban boundary of a settlement.
<b>Urban zone and/or area</b>	means land identified on the Land Zoning Map in <a href="#">LLEP2014</a> within a <b>Business Zone, Industrial Zone</b> , or an <b>Urban Residential Zone</b> . (i.e., it is not in a <b>Rural and/or Environmental Zone</b> as defined above).
<b>Visually prominent site</b> (SDCP)	means a site that is situated in a highly visible location and includes ridge top locations, escarpments, environmentally sensitive sites on sloping land, elevated allotments, corner sites, road bends, vista end points and any site that has the potential to dominate the visual amenity and character of the area.

NOTE: IMAGE AT  
LAKE MACQUAR  
GUIDELINE



# Chapter 2:

## Site Requirements (All Development)



## Table of Contents

<b>2.1</b>	<b>Introduction .....</b>	<b>4</b>
2.1.1	Application of this Chapter .....	4
2.1.2	Other Relevant Chapters of this DCP .....	4
2.1.3	Exempt & Complying Development .....	4
<b>2.2</b>	<b>Site Analysis, Local Character &amp; Context .....</b>	<b>5</b>
2.2.1	Site Selection .....	5
2.2.2	Site Analysis & Development Response .....	5
2.2.3	Local Character & Context .....	7
2.2.4	Visually Prominent Sites .....	8
2.2.5	Reflective Materials .....	9
<b>2.3</b>	<b>Slope Response, Earthworks &amp; Retaining Walls .....</b>	<b>10</b>
2.3.1	Earthworks .....	11
2.3.2	Retaining Walls .....	12
<b>2.4</b>	<b>Stormwater Management .....</b>	<b>13</b>
<b>2.5</b>	<b>Vehicle Access &amp; Parking .....</b>	<b>15</b>
2.5.1	Guidelines & Standards .....	15
2.5.2	Vehicle Access & Driveways .....	16
2.5.3	Loading/Unloading, Delivery & Servicing Facilities .....	18
2.5.4	Parking Location, Design & Circulation .....	19
2.5.5	On-Site Parking Numbers .....	21
2.5.6	Exemptions to Off-Street Car Parking Requirements .....	24
2.5.7	Bicycle Parking .....	25
<b>2.6</b>	<b>Pedestrian Access, Mobility &amp; Safety .....</b>	<b>25</b>
2.6.1	Accessibility .....	25
2.6.2	Pedestrians .....	26
2.6.3	Street Numbering & Letterboxes .....	26
<b>2.7</b>	<b>Designing for Crime Prevention .....</b>	<b>27</b>
2.7.1	Crime Risk Assessment .....	27
<b>2.8</b>	<b>Utilities, Easements &amp; Infrastructure .....</b>	<b>29</b>
2.8.1	Connection to Utilities .....	30
2.8.2	Building Near Utilities/Easements/Drainage Lines .....	31
2.8.3	On-Site Sewage Management .....	31

2.8.4 Liquid Trade Waste ..... 33

2.8.5 Re-Use of Waste-Water..... 33

2.8.6 Water Supply ..... 33

**2.9 Solid Waste Management ..... 34**

2.9.1 Hazardous Materials & Asbestos ..... 34

2.9.2 Solid Waste Management Plan – Larger Developments ..... 35

2.9.3 Waste Storage & Collection – Larger Developments ..... 35

**2.10 Amenity / Buffers for Sensitive Uses ..... 36**

2.10.1 Noise & Vibration ..... 37

2.10.2 Air Emissions, Odour & Dust ..... 39

2.10.3 Buffers to Sensitive Land Uses ..... 39

2.10.4 Buffers & Landscaping ..... 41

2.10.5 Agriculture & Right to Farm ..... 41

**2.11 Water & Energy Efficiency ..... 42**

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*Title Page: The picture on the title page is of an indicative contextual and site analysis diagram (Source: Blayney DCP/Lake Macquarie DCP).*

## 2.1 Introduction

### 2.1.1 Application of this Chapter

This Chapter contains controls that apply (where relevant) to all types of development. It focusses on a range of requirements that guide site and building design (in addition to those covered by **Chapter 3 – Natural Environment & Hazards**).

### 2.1.2 Other Relevant Chapters of this DCP

Please remember that this Chapter of the DCP is unlikely to contain ALL of the relevant controls for your development.

Please see DCP *Chapter 1 – Introduction & Administration* to review the Section on *How to Use this DCP* including the *Structure of the DCP* (see table below) to determine what other Chapters may be relevant to your development.

**IF YOU ARE UNSURE, PLEASE DISCUSS THIS WITH COUNCIL STAFF PRIOR TO LODGING YOUR APPLICATION.**

*The DCP has the following Chapters:*

<b>Chapter 1:</b>	Introduction & Administration
<b>Chapter 2:</b>	Site Requirements ( <b>THIS CHAPTER</b> )
<b>Chapter 3:</b>	Natural Environment & Hazards
<b>Chapter 4:</b>	Heritage & Cultural Conservation
<b>Chapter 5:</b>	Subdivision & Roads
<b>Chapter 6:</b>	Residential Development
<b>Chapter 7</b>	Commercial, Community & Industrial Development (including Advertising/ Signage for all relevant land uses)
<b>Chapter 8:</b>	Rural & Other Land Uses
<b>Chapter 9:</b>	Location Specific Controls

### 2.1.3 Exempt & Complying Development

Please note that [State Environment Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#) may permit certain development set out in that policy without requiring a development application to Council if it complies with the requirements of the **Codes SEPP**. Please discuss this with Council or visit the [NSW Government Planning Portal](#).

## 2.2 Site Analysis, Local Character & Context

### 2.2.1 Site Selection

#### *Objective(s)*

Council will consider all applications on their merits in any zone where the particular land use is permitted under **LLEP2014**. Development needs to demonstrate that the chosen site is suitable for the proposed development and that the layout and design will avoid, or minimise/mitigate any significant impacts on the environment and on other land uses in the vicinity of the site having regard to:

- O1. The land use zone and its objectives (& neighbouring land use zone(s));
- O2. The likely potential impacts from the proposed development taking into account the desire for employment uses to be able to grow in the future;
- O3. The sensitivity of surrounding existing or likely future land use(s) and potential for land use conflict;
- O4. The size and dimensions of the site and ability to support the proposed development whilst complying with the relevant requirements of this DCP;
- O5. Safe access to/from the site and ability to accommodate the largest likely vehicle(s);
- O6. Any particular sensitive environmental area(s) or local character/heritage that requires protection.

*Higher impact development is expected to provide a more detailed response to this Section.*

### 2.2.2 Site Analysis & Development Response

#### *Objective(s)*

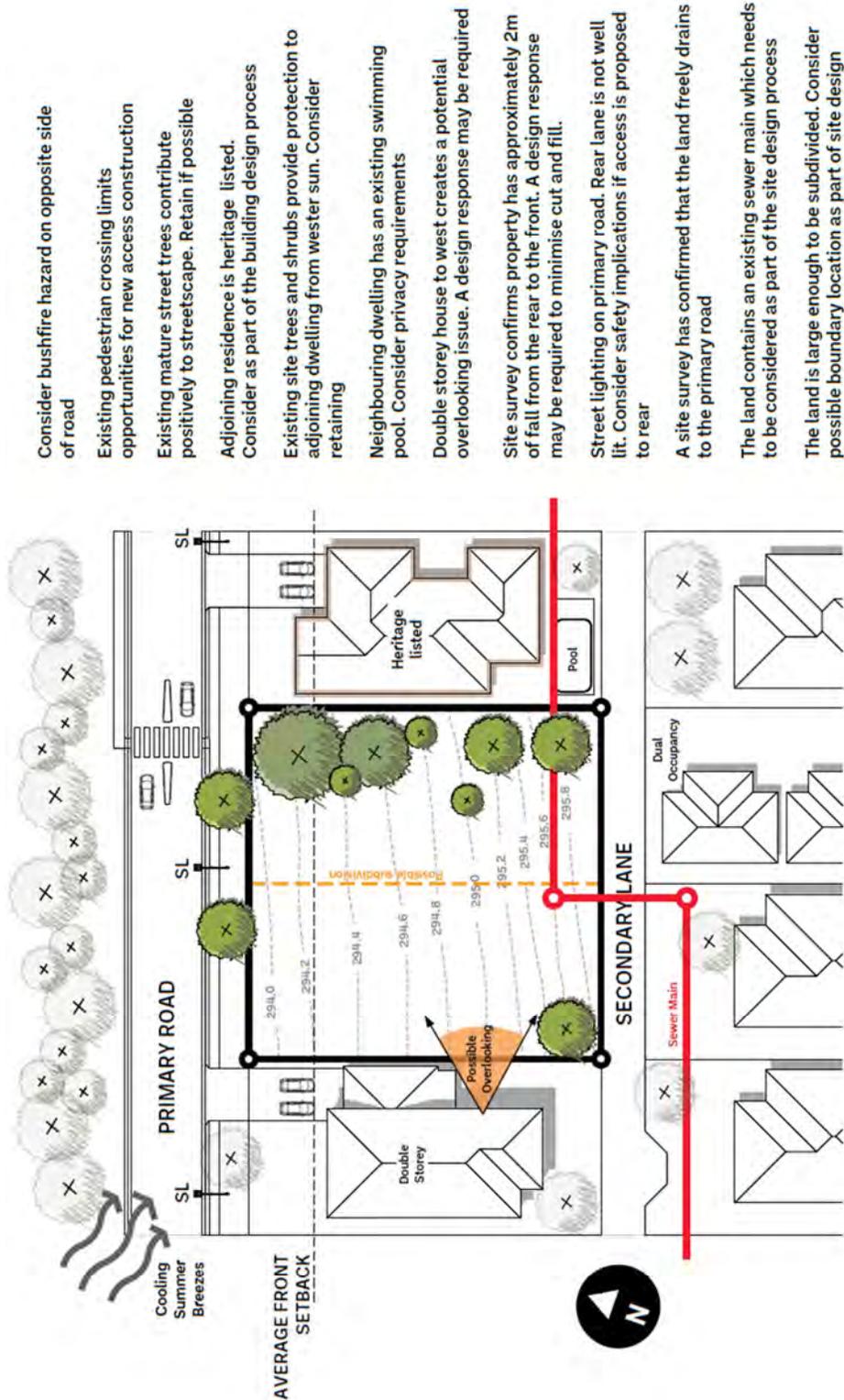
Site analysis is essential to understanding site context and relevant site opportunities/constraints that will affect the proposed development. Site analysis should be undertaken early in the design process and the development/design justified in terms of its response to that analysis. The extent and depth of site analysis is dependent on the level of impacts from the proposed development.

#### *Control(s)*

- 1) **Site Analysis:** Any new development (or significant alterations and additions) demonstrates that the design of the proposed development has responded to an analysis of the **Site** and its relevant context (depending on extent of potential impact). This is set out in more detail in the **DA Guide** but may include, but is not limited to (where relevant):
  - a) The **Site** topography, climate and natural environment;
  - b) Natural hazards on or near the **Site**;
  - c) Potential land use conflicts;
  - d) Heritage items or heritage conservation areas;
  - e) Surrounding built form and landscape/streetscape character; and
  - f) Amenity for the **Site** and adjacent sites (where relevant).

*See example **Site (Analysis) Plan** in figure below. Council will not require a detailed site analysis for development that will have small or low chance of impact including, for example, most internal alterations or minor alterations and additions, change of use, or minor associated development.*

- 2) **Evidence:** To demonstrate a suitable response to the site analysis, Council may require an applicant to lodge a number of supporting studies/plans in accordance with Council's **DA Guide**.



- Consider bushfire hazard on opposite side of road
- Existing pedestrian crossing limits opportunities for new access construction
- Existing mature street trees contribute positively to streetscape. Retain if possible
- Adjoining residence is heritage listed. Consider as part of the building design process
- Existing site trees and shrubs provide protection to adjoining dwelling from wester sun. Consider retaining
- Neighbouring dwelling has an existing swimming pool. Consider privacy requirements
- Double storey house to west creates a potential overlooking issue. A design response may be required
- Site survey confirms property has approximately 2m of fall from the rear to the front. A design response may be required to minimise cut and fill.
- Street lighting on primary road. Rear lane is not well lit. Consider safety implications if access is proposed to rear
- A site survey has confirmed that the land freely drains to the primary road
- The land contains an existing sewer main which needs to be considered as part of the site design process
- The land is large enough to be subdivided. Consider possible boundary location as part of site design

Indicative Site Analysis Plan (Source: Dean Steward).

### 2.2.3 Local Character & Context

*Local character is not limited to the prevailing architectural style or era of development. The layout and form of the area is critical, as is the relationship of the natural environment and topography in the public and private domain to the built form. Settings, vistas, sensory delight and a sense of place can be created through thoughtful urban design responses.*

*Council continues to work on identifying and protecting the local character of a number of important places and spaces but there is more work to do. At the time of preparing this DCP there were only more detailed character statements for Council's Heritage Conservation Areas – see DCP Chapter 4 – Heritage & Cultural Conservation.*

#### Objective(s)

- O1. To retain and enhance the unique qualities of local character and context by responding to the essential elements that make up the character of the surrounding area whilst allowing areas to transition to future desired character.
- O2. To ensure that new development is responsive and sympathetic to the surrounding context in scale, massing, orientation, siting, form, construction and materials (this does not necessarily mean that it produces the same outcomes as the surrounding context).
- O3. To ensure that new development integrates with the existing built form, landscape and public domain and encourages a vibrant, safe and attractive place for activity and community interaction.
- O4. To ensure infill development achieves a cohesive relationship between new and existing urban fabric and where relevant, retains and enhances cultural significance.
- O5. To ensure that the character of small traditional main streets and commercial strip development, with filtered access to rear parking areas and secondary areas, is protected and enhanced.

#### Control(s)

- 1) **Character:** All applications demonstrate that the proposed development has considered the local existing and desired future character of the area and that the proposed development is consistent with and/or integrates with this character.
- 2) **Heritage:** Where a development site is in a **Heritage Conservation Area** in *Chapter 4 – Heritage & Cultural Conservation* then the application addresses the relevant character statement(s) for that site.
- 3) **Site-Specific:** Where a site is covered in *Chapter 9 – Location Specific Controls* of this DCP – any character and form controls in that Chapter are addressed (where relevant).

## 2.2.4 Visually Prominent Sites

### Objective(s)

- O1. To protect and preserve the importance of views to/from **visually prominent sites** including, but not limited to, regionally significant landscape and heritage features such as mountain escarpment(s); National Parks; gateways to settlements; etc.
- O2. To protect and enhance **heritage items** and **heritage conservation areas** consistent with *Chapter 4 – Heritage & Cultural Conservation* of this DCP.
- O3. To avoid insensitive or incompatible development on or in close proximity to a **visually prominent site** that due to location, form, scale, bulk, materials or colours detracts from or dominates the visual amenity of a **visually prominent site**.
- O4. To retain and enhance significant native vegetation on sites, not only for its environmental benefits, but where it can also act as a buffer or screen to existing or proposed development, while also having regard to bushfire protection.

### Control(s)

**Visually Prominent Site** means a site that is situated in a highly visible location and includes ridge top locations, escarpments, environmentally sensitive sites on sloping land, elevated allotments, corner sites, road bends, vista end points and any site that has the potential to dominate the visual amenity and character of the area.

Development on a **visually prominent site**, particularly in **rural and/or environmental zones** or in **heritage conservation areas**, is sited and designed to minimise visual and environmental impact by:

- a) Locating buildings below key ridgelines;
- b) Responding to the site contours to minimise visually obtrusive changes in the landform;
- c) Retaining significant vegetation, particularly where it can act as a buffer to development;
- d) Using a cluster of smaller buildings rather than large single buildings;
- e) Blending into the existing landform or back-drop with appropriate form and materials;
- f) Articulating large buildings and/or facades.

Some examples of **visually prominent sites** that may require protection include, but are not limited to:

- a) *The Blue Mountains' escarpment;*
- b) *Gateways/entrances to towns/villages;*
- c) *Sites near heritage items or in heritage conservation areas;*
- d) *Three Trees Hill, South Bowenfels (Lithgow);*
- e) *Higher elevations in rural areas.*

## 2.2.5 Reflective Materials

### *Objective(s)*

O1. To avoid excessive reflectivity and glare from the external materials and finishes of a building that are visible from a public road or neighbouring dwelling.

### *Control(s)*

- 1) **Reflectivity:** External materials avoid use of reflective materials:
  - a) If they are visible from a public place or neighbouring dwelling; and
  - b) There is a reasonable probability of glare affecting driver safety, residential amenity, or the building being too visually intrusive.
- 2) **Heritage:** Factory pre-coloured non-reflective materials are preferred though alternatives may be required in heritage conservation areas.

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## 2.3 Slope Response, Earthworks & Retaining Walls

### Objective(s)

- O1. To encourage site layout and building design that:
- Responds to site topography and natural drainage and minimises the need for **earthworks**;
  - Protects and enhances environmental outcomes including watercourses;
  - Avoids impacts from stormwater and responds to natural drainage; and
  - Protects the stability and amenity of the Site and adjoining properties.
- O2. To ensure that **earthworks** will not detrimentally impact on/compromise:
- The ongoing stability of the site and adjoining land;
  - The potential for erosion and sedimentation of watercourses and stormwater systems;
  - Neighbouring uses including over-shadowing, privacy and visual amenity;
  - Heritage and/or streetscape character;
  - The useability, safety and amenity of outdoor open space and circulation on a **site**.
- O3. To minimise **earthworks** in close proximity to the boundaries of a site to ensure stability of the site and adjoining land and avoid the need for maintenance works across property boundaries.
- O4. To ensure there is adequate information submitted with a **Development Application (DA)** to determine the impact of future development including **earthworks** or changes in levels of land.
- O5. Retaining walls are located and designed:
- To ensure the long-term stability of supported land and/or structures (and access for maintenance), especially when located close to lot boundaries, or where there are other geo-technical or hydrological constraints that may affect stability.
  - To minimise the required height of retaining wall(s) and resulting difference between building floor levels and ground level (existing), especially where it may impact on residential amenity, safety, or visual amenity of the Site.
  - To avoid diversion of stormwater flow paths to adjacent properties and address drainage requirements.
  - To avoid being located on or too close to an easement or known underground utility main that would prevent or unduly restrict access for maintenance.
  - To ensure useable open and/or landscaped space(s) for the intended uses (where required).

*Some **earthworks** and retaining walls MAY be Exempt or Complying Development under the **Codes SEPP**. There may be additional controls for earthwork in DCP Section 2.5 - Stormwater Management (this Chapter) or for a flood prone area or drinking catchment area in DCP Chapter 3 – Natural Environment & Hazards.*

## Control(s)

### 2.3.1 Earthworks

- 1) **Description:** All development that involves any significant **earthworks** provides a plan and/or description of the location, extent and depth of **earthworks** that forms part of the application.
- 2) **LLEP2014:** All development that involves any significant **earthworks** addresses *Clause 7.1 - Earthworks* of **LLEP2014**.
- 3) **Design:** Developments on sloping sites are sited, designed and use construction techniques that respond to the topographical (slope) & hydrological (water) features of the site. Alternatives to slab on ground construction should be utilised where, due to gradient and characteristics of the site, such form of construction is inappropriate.
- 4) **Impact:** Depending on the likelihood and significance of impact of any proposed earthworks on the matters raised in the objectives of this Section, Council may require justification for the need for those earthworks AND additional plans/reports/certification to demonstrate that the impacts can be avoided, mitigated or minimised (for examples, see table below).
- 5) **Drainage:** Disturbance to natural drainage patterns is minimised and addresses *Section 2.5 Stormwater Management* of this DCP.
- 6) **Batters:**
  - a) Cut and fill batters do not exceed a slope of 1V:2H (vertical to horizontal) depending on soil classification or Council is satisfied of sufficient site stability by a **Geo-technical and/or Structural Report**; and
  - b) All batters are to be provided with both short and long-term stabilisation to prevent soil erosion and do not extend onto public or adjoining land without permission.

*The additional information may include, but is not limited to:*

- a) **Earthworks Plan(s)** showing the extent of cut and/or fill and estimated volumes of each;
- b) **Landscape Plan(s)** and **Cross-Section(s)** through the site showing the existing and proposed finished levels, relationship to adjacent sites and the public domain, retaining walls and materials, and demonstrating compliance with AS2890 for driveway slope;
- c) **Geo-technical Report** demonstrating the site geology, slope, and site stability as affected by any demolition, earthworks, construction or operation of the proposed development;
- d) **Structural Engineering' Plan(s)** showing any slope, batters or retaining walls and demonstrating that any retaining walls will be structurally sound and drained and addressing any buildings, structures or significant trees on adjoining sites within the 'zone of influence' (45 degrees from the base of any cut/retaining wall + 1m);
- e) **Soil and Water Management Plan (SWMP)** and/or **Water Cycle Management Plan (WCMP)** showing how the site (and any adjoining sites draining across the site) will provide adequate drainage in accordance with the Stormwater Management section of this DCP and Council's **Engineering Guidelines** and prevent any ponding of water on the site or adjacent sites.

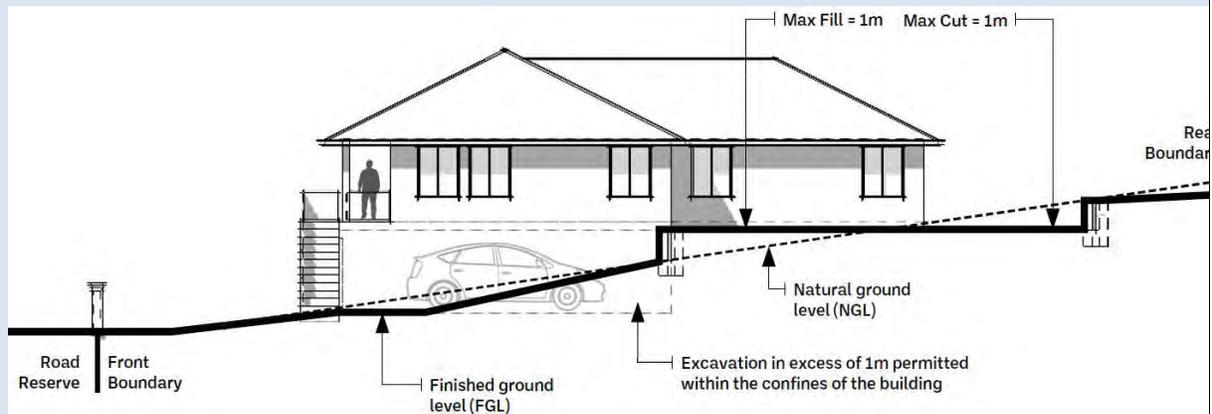
*Some examples where additional evidence may be required include, but are not limited to:*

- a) Residential – Cut and/or fill that is greater than 1m in depth from **ground level (existing)** external to the perimeter of the building (measured at its highest point) (see diagram below); or
- b) All other uses – Cut and/or fill that is:

- i) Greater than 1m in depth from **ground level (existing)**; and
- ii) Closer than 1m to a lot boundary;
- c) **Earthworks** over any easement on the property or within close proximity to existing utilities that pass on or near the property.

These restriction(s) do not apply where the cut and/or fill is to be contained within the perimeter of the building by means of suitable integrated retaining systems (such as slab drop edged beams).

Examples of alternative construction may include: Bearer and joist construction; Deepened edge beams; Split level design; and/or Suspended slab design.



*Minimising cut and/or fill near boundaries for residential uses by stepping the site and floor levels (Source: Dean Steward).*

### 2.3.2 Retaining Walls

- 1) **Application:** Where new or altered retaining wall(s) are proposed (excluding exempt development), the application provides details of retaining wall location, height & materials including **Site Plan(s)** and relevant **Section(s)/Elevation(s)**.
- 2) **Impacts:** All retaining wall(s) associated with residential uses address the objectives in this Section and address any potential impact(s).
- 3) **Structural Design:** Retaining walls (that are not exempt development) are designed by a suitably qualified structural engineer and/or installed in accordance with the manufacturer's specifications.

## 2.4 Stormwater Management

*This Section applies to:*

- a) All proposed development in Lithgow Local Government Area (LGA) where LLEP2014 Clause 7.3 Stormwater management applies (all urban areas including village, residential, business and industrial zones);
- b) Areas affected by State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011; and
- c) Any other areas or larger development(s) where there is likely to be a significant change to stormwater outcomes and/or impacts on the natural environment, at Council's discretion. This may include sensitive soil types, particularly erodible soils near river banks.

### Objective(s)

To ensure that stormwater and drainage systems (during demolition, construction and operation):

O1. Address the objectives and requirements of (where applicable):

- i) Clause 7.3 - Stormwater Management of LLEP2014;
- ii) State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;
- iii) Council's **Engineering Guidelines**.

O2. Provide adequate drainage facilities within the site to collect and carry stormwater to approved external or on-site (natural or human-made) drainage systems;

O3. Minimise disturbance to natural drainage patterns;

O4. Control the quantity (volume and speed) and quality of water:

- i) To minimise impacts (damage, danger or nuisance) from stormwater run-off;
- ii) To retain or improve post-development quantity and quality compared to pre-development stormwater patterns and flow regimes;
- iii) To minimise impacts on watercourses and riparian corridors including water quality;
- iv) To minimise erosion and resulting sedimentation of receiving waters;

O5. Avoid, or minimise/mitigate against impacts of flooding including overland flows consistent with the Flooding requirements in Chapter 3 – Natural Environment & Hazards of this DCP;

O6. Maximise the potential for site water infiltration (minimise **impermeable hardstand areas** or buildings);

O7. Protect proposed or likely building areas from erosion and stormwater damage for the life of the development; and

O8. Maximise water detention and re-use for larger sites or developments.

### Control(s)

- 1) **Application: Development applications** (in accordance with Council's **DA Guide**) may need to provide a **Stormwater Drainage (Concept) Plan (SDCP)** and/or **Soil and Water Management Plan (SWMP)** addressing stormwater management on the Site.
- 2) **Guidelines:** All Stormwater drainage is designed to comply with Council's **Engineering Guidelines – Section 3 – Stormwater Drainage**.
- 3) **Drinking Catchment:** Unless there is 'no identifiable potential impact', all development within the **Sydney Drinking Water Catchment** demonstrates a neutral or beneficial effect upon water quality in accordance with the requirements of *SEPP (Sydney Water Drinking Catchment) 2011*.

*Certain developments in the catchment that require Water NSW concurrence will need supporting information prepared in accordance with Water NSW requirements (e.g., MUSIC modelling etc.).*

- 4) **Water tanks: BASIX,** Council, RFS or Water NSW may require water tanks to be provided that capture roof water, reduce stormwater quantities, and allow for limited re-use on-site in accordance with the stormwater plan(s).
- 5) **On-Site Detention (OSD):** Council may require a development to incorporate OSD on the site for larger developments or subdivisions where (guided by the stormwater assessment):
  - a) There is a significant modification between pre-and post-development flows; and/or
  - b) The downstream hydraulic capacity of one or more components in a drainage system is inadequate for the design flow.
- 6) **Discharge:** Stormwater runoff is designed to flow to Council's stormwater system, inter-allotment drainage easement, or other legal point of discharge.
- 7) **Inter-Allotment Drainage:** Where site topography prevents the discharge of stormwater directly to the street gutter of a Council controlled pipe system (predominantly in an urban area), then:
  - a) Inter-allotment drainage is to be provided to accept runoff from all existing or future impervious areas that are likely to be directly connected;
  - b) Details of proposed stormwater management infrastructure and overland flow paths as well as permission from any adjoining lots for the proposed easement will be required with the application; and
  - c) Appropriate easements are to be acquired over any affected property prior to the issue of either the subdivision or construction certificate (as relevant).

## 2.5 Vehicle Access & Parking

### Objective(s)

- O1. To ensure all development has safe and functional vehicle access/egress that minimises impacts on public roads and pedestrian safety and connections.
- O2. To ensure access and parking areas (and associated structures) are designed:
  - a) To respond to site opportunities and constraints, especially slope;
  - b) To minimise impacts on active or retail frontages in key business zones or main streets;
  - c) To integrate with the building design; and
  - d) To be appropriately located, designed, screened and/or landscaped to protect street character and minimise visual impacts.
- O3. To provide adequate off-street (on-site) parking consistent with:
  - a) The likely parking demand generated by the development;
  - b) The size and nature of the proposed use(s) and activity on the site;
  - c) The number of employees/staff/residents and the estimated number of customers/visitors;
  - d) The availability of public transport or other active/alternative transport methods;
  - e) The need to accommodate service vehicles and deliveries, so that there is not an unreasonable reliance on on-street (or off-site) parking that impacts on other users.
- O4. To provide adequate circulation and manoeuvring areas for the largest design vehicle for the site that addresses safety and ease of access, circulation and navigation.
- O5. To provide suitable loading/unloading, servicing, and waste management for developments.
- O6. To minimise impacts on neighbouring sites from vehicle movements and parking (e.g., noise, dust, vehicle lights, vibrations etc.).
- O7. To encourage alternatives to private vehicles for access including, but not limited to, public transport, walking, and bicycles (active transport).
- O8. To promote accessibility for all users, including people with a disability (where required).

### Control(s)

#### 2.5.1 Guidelines & Standards

All development is e.g., designed to be consistent with (as amended):

- 1) Council's *Guidelines for Civil Engineering Design and Construction for Development (2012)* ('**Engineering Guidelines**');
- 2) *RTA (now Transport for NSW) (2002) Guide to Traffic Generating Developments*; and
- 3) Relevant **Australian Standards** including but not limited to (as amended):
  - a) *AS2890 – Parking facilities* including:
    - i) *AS2890.1 (2004) – Off-street car parking*;
    - ii) *AS2890.2 (2018) – Off-street commercial vehicle facilities*;

- iii) AS2890.3 (2015) – *Bicycle parking facilities*;
- iv) AS2890.6 (2009) – *Off-street parking for people with disabilities*
- b) AS1428 – *Design for Access and Mobility*.
- 4) Relevant Austroads Guidelines; and
- 5) Relevant Council Policies.

*These guidelines/standards are applicable to all relevant control(s) below.*

## 2.5.2 Vehicle Access & Driveways

- 1) **Access:** The applicant demonstrates that any proposed site vehicle access location and design has considered the site opportunities and constraints as well as public safety including, but not limited to:
  - a) Assessing the type of road(s) the site will access and its posted speed limit;
  - b) Avoiding direct access to an **arterial road** (e.g., highway or main road) unless there is an existing suitable access or no suitable alternative;
  - c) Avoiding or minimising impacts on street trees and utilities/services in the street;
  - d) Locating and designing access points to minimise interference with natural and street drainage;
  - e) Ensuring appropriate sight-lines (clear of obstructions) at driveway exits to vehicular traffic and pedestrians/bicycles;
  - f) Assessing potential conflicts with other vehicles and pedestrians/ bicycles on and off-site;
  - g) Separating vehicle and pedestrian accessways for larger developments (See *Section 2.6 - Pedestrian Access, Mobility & Safety* of this DCP for details);
  - h) Ensuring the landscape design does not impact safety whilst screening or softening the visual impact of any parking areas;
  - i) Minimising impacts on on-street parking;
  - j) Minimising the visual impact of larger driveways or on-site parking areas.
- 2) **Policy:** All works comply with Council *Policy No.10.18 – Specification for the Construction of Driveways, Footpath/Gutter Crossings and Foot-paving* (as amended).
- 3) **All Weather Access:** All weather access is required to all development to ensure that emergency services are able to access them at all times.
- 4) **Proximity to Intersection(s) & Sight-Lines:** Any driveway:
  - a) Has a minimum separation of 6m from the kerb return of a street corner/intersection in an urban area (this setback may increase where it is near a major **arterial road** or there are reduced sight-lines); and
  - b) Complies with AS2890.1 (as amended) including:
    - i) *Figure 3.1: Prohibited Locations of Access Driveways*; and
    - ii) *Figure 3.2: Sight Distance Requirements at Access Driveways*.

- 5) **Direction of Travel:** Vehicle access and egress to/from a lot occurs in a forward direction, except as follows:
- With direct access to an **arterial road**, only single dwelling houses or secondary dwellings;
  - With direct access to a **non-arterial (local) road** only single dwellings, secondary dwellings, dual occupancies (attached or detached), bed and breakfast accommodation and short-term holiday lets of these dwelling types. Unless the applicant has demonstrated there are specific site constraints, exceptional circumstances, and safety has been addressed (e.g., emergency vehicles) at the discretion of Council and/or TfNSW.
- 6) **Access to Street:** Vehicle access is designed to:
- Meet the requirements of Council's **Engineering Guidelines** in *Section 2.3.8 - Driveway Construction*;
  - Cross the footpath or footway at right angles to the centreline of the road;
  - Be clear of obstructions, which may prevent drivers having a timely view of pedestrians or vehicles;
  - Be 0.5m clear of drainage structures at the kerb or gutter and not impact other utility infrastructure (or relocation is at the cost of the developer);
  - Be properly signposted, where there are separate access and exit points;
  - Take into consideration any requirements in the former *RTA (2002) Guidelines for Traffic Generating Development* (as amended or replaced) – Section 6.2 Access requirements.
- 7) **Slope:** Driveways and car parking areas in urban areas does not exceed a maximum grade of 25% with suitable transitions at the boundary and garages to prevent scraping for the standard design vehicle.
- 8) **Driveway Width:**
- Driveways serving one (1) to two (2) dwellings or in rural areas are a minimum width of 3.5m.
  - Shared driveways serving three (3) or more dwellings (up to eight (8) dwellings) have a minimum width of 4.5m (3.5m carriageway plus landscaping) increasing to 5.5m forward of the front building line or provide for passing bays (in accordance with AS 2890.1) based on the size of the development/length of the driveway.
  - Driveways servicing commercial or industrial development (or residential development not covered in (a) or (b) above) have sufficient width to enable safe either two-way or separated one-way vehicle movement in and out of the Site without blocking sight-lines.
  - Driveways do not dominate the street and provide the minimum width to achieve safety whilst being integrated with the landscape design for the site.
- If the land is bushfire prone, driveways / access may need to comply with the Rural Fire Service requirements in addition to the above dimensions.*
- 9) **Setbacks/Gates (Rural Areas):** The primary access gate or opening for each lot/development is set back in accordance with:
- Council Policy 10.7 – Public Gates and Grids on Local Roads*;
  - Council's **Engineering Guidelines**; or
  - Any TfNSW requirements for a highway or **arterial road** (where relevant).



For Multi-Dwelling Housing larger internal driveways and parking areas need to be designed to minimise visual impact (Source: Dean Steward adapted from AMCORD 1995).

### 2.5.3 Loading/Unloading, Delivery & Servicing Facilities

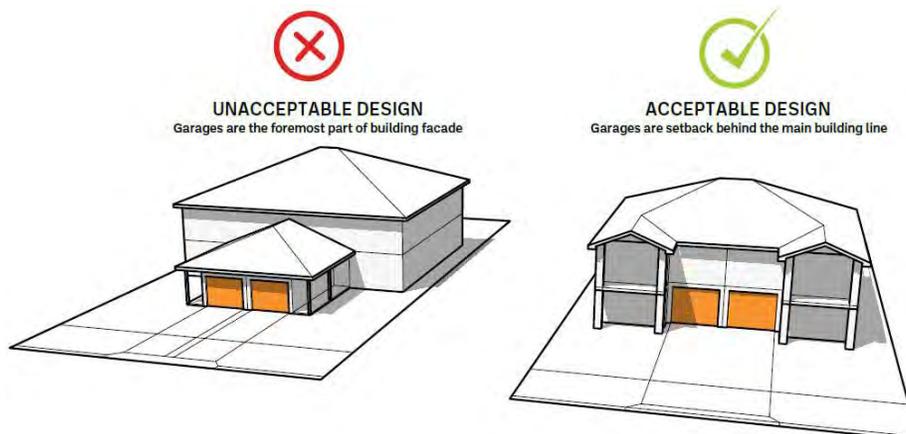
- 1) **Numbers/Spaces:** All new development (except in accordance with *Section 2.5.6 - Exemptions to Off-Street Car Parking Requirements* of this DCP) provides sufficient numbers and size of spaces on-site for service vehicles based on:
  - a) The expected frequency of servicing; and
  - b) The likely vehicle size/type of delivery vehicle (see *Section 5 of the former RTA (2002) Guidelines for Traffic Generating Development* (as amended or replaced) relating to courier, delivery and service vehicles),  
 unless otherwise agreed with Council;
- 2) **Street Servicing:** Servicing from the street frontage is not permitted unless there are site constraints that would prevent off-street servicing from occurring (exemption generally limited to *Zone B2 Local Centre* in **LLEP2014** but justification still required).
- 3) **Design:** Layout and dimensions are to comply with *AS2890.2 Off street commercial vehicle facilities* (where applicable).

- 4) **Residential Impacts: In mixed use developments** (or adjacent to residential zones or **residential accommodation**) servicing facilities for non-residential uses are located and designed to protect the amenity of residents.
- 5) **Loading / Unloading Design:** Servicing area(s) are located and designed so:
  - a) They can be accessed in a safe and efficient manner;
  - b) They do not result in any service vehicles extending over public roads or footpaths during loading and unloading operations;
  - c) They do not utilise or crossover vehicle circulation, parking spaces or pedestrian paths unless all loading/unloading occurs outside the normal business hours of the premises;
  - d) They are located behind the building line to any street;
  - e) They are suitably screened from public spaces, especially where there may be open (outdoor) storage of goods.

#### 2.5.4 Parking Location, Design & Circulation

- 1) **Parking Location:** Parking location considers and addresses (where relevant):
  - a) Providing consistent front building setbacks to the street;
  - b) Minimising visual impact of off-street parking areas/garages/garage doors/driveways on street activity and character;
  - c) Providing screening that can minimise this impact (where appropriate) in urban areas;
  - d) Proximity of customer parking to customer entrances and staff parking to staff entrances including accessible parking and access;
  - e) Minimising impacts of traffic movements and parking on any neighbouring dwellings/residential areas;
  - f) Addressing site conditions such as slope and drainage;
  - g) Ease of access to and from the street and navigation to parking areas;
  - h) Separation of customer parking from courier and service delivery vehicle parking and/or loading and unloading facilities for safety and accessibility;
- 2) **Parking Design:** Parking spaces, manoeuvring areas, and driveways are designed in accordance with *Section 2.5.1 - Guidelines & Standards* of this DCP above.
- 3) **Accessible Parking:**
  - a) All development provides accessible car parking as set out in the **National Construction Code** and the relevant **Australian Standard(s) (AS)**.
  - b) The dimensions for accessible car spaces (including headroom & access) comply with *AS 2890.6 - Off-street parking for people with disabilities*.
- 4) **Safety:** The design of all internal vehicle manoeuvring areas demonstrates consideration of the safety and access for all users (private vehicles, service vehicles, pedestrians, bicycles etc.) and minimise potential conflicts.
- 5) **Sealed Vehicle Areas:**
  - a) All vehicle manoeuvring areas on-site in urban areas are sealed.
  - b) Gravel surfacing is not permissible except where there are no conflicts (noise and dust) with adjacent lots and suitable drainage is provided.

- 6) **Stormwater:** Parking areas and driveways are designed, surfaced and graded to reduce runoff and allow stormwater to be controlled on site in accordance with *Section 2.4 – Stormwater Management* of this DCP.
- 7) **Vehicle Sizes:** Internal vehicle manoeuvring and parking areas is designed to accommodate the size, turning radii and the pavement loading of the largest vehicle that is likely to be used by the proposed development/activity.
- 8) **Operation Hours:** Free and uninterrupted access to car parking areas is maintained at all times during the hours of operation of the proposed development. Any restrictions or overlapping uses should be addressed in the application.
- 9) **Basement Parking:** Basement car parking is not to protrude more than 1m above finished ground level except at the entrance to the car park.
- 10) **Stacked Parking:** Stacked (or 'tandem') car parking is not acceptable for **medium to high density housing**, commercial or industrial uses, or visitor/customer parking unless justified in a relevant report (see *Section 2.5.2 - Traffic Assessments, Studies & Plans* of this DCP) based on special site considerations and parking management arrangements.
- 11) **Circulation:** Larger car parking areas provide rational circulation patterns with ease-of-navigation and minimise the use of dead-end aisles.
- 12) **Parking Navigation:** Signage addresses/takes into consideration the following:
  - a) Parking areas are well sign-posted to indicate the location of off-street parking, exit and entry points, and the circulation spaces on the site, with directional signposting from the building entrance/exit (where necessary);
  - b) Pavement arrows clearly indicate the direction of traffic circulation (if one-way);
  - c) Parking areas are clearly delineated as well as parking spaces for specific users (e.g., disabled spaces/staff/visitors).
- 13) **Lighting:** Lighting of car parking areas is to be in accordance with *AS1158.3 Pedestrian Area (Category P) Lighting* whilst avoiding impacts on neighbouring properties (see *AS4282 Control of Obtrusive Effects of Outdoor Lighting*).
- 14) **Visual Impact:** Design should integrate parking areas including garages and carports to minimise the visual dominance and impact of parking areas and structures, particularly when viewed from the street/public domain.



*Integration of garages into building design (Source: Dean Steward).*

### 2.5.5 On-Site Parking Numbers

**On-Site Parking Numbers:** Each development provides the number of off-street car parking spaces for each development type:

- 1) Set out in the **Table of Car Parking Requirements** below (unless the proposed development satisfies *Section 2.5.6 – Exemptions to Off-Street Car Parking Requirements* of this DCP); OR
- 2) If the use is not listed – in accordance with the *Guide to Traffic Generating Developments* on the Transport for NSW (former Roads & Maritime Services) website (as amended); OR
- 3) For any other use (or for larger developments), in accordance with an assessment of the parking demand for the development determined on merit having regard to the nature of the development and traffic generation. Council may require a **Traffic & Parking Report** with three (3) cases / examples from the region.
- 4) Parking for multi-tenanted or mixed-use facilities are provided to satisfy the peak cumulative parking requirements of the development as a whole. A comparison survey of similar development is provided with the application.

- **Calculations:** *The number of required car parking spaces is rounded up to the nearest whole number for either resident/tenant or visitor/customer parking.*
- **Bedrooms:** *Studies, and the like (that could easily be converted to bedrooms), will be considered as bedrooms for the purpose of calculating residential car parking requirements.*
- **Mixed Uses:** *A development comprising a combination of two or more uses will be assessed as if the two uses exist independently (i.e., the total parking spaces required is the sum of the parking spaces required for each use). Variation to this requirement will only be considered where the applicant can demonstrate that the peak demand for each land use component of the development is staggered or that the development as a whole generates less parking than the sum of its component parts.*

#### TABLE OF CAR PARKING REQUIREMENTS

RESIDENTIAL ACCOMMODATION	PARKING FOR RESIDENTS	VISITOR PARKING
Single dwelling houses	Two car spaces (one of which is covered)	Not required. On-street or in driveway sufficient.
Secondary dwellings, dual occupancies, semi-detached dwellings, and attached dwellings (townhouses) including second-hand (relocatable) and transportable dwellings.	Minimum one (1) off-street covered car parking space on the property <u>for each dwelling</u> located behind the <b>building line</b> (setback to the street lot boundary). Two (2) car spaces are preferred <u>for each dwelling</u> , (particularly where it has three bedrooms or greater) and may include use of the driveway area in front of any garage/carport but entirely on the subject land.	
Multi-dwelling housing, shop-top housing and residential flat buildings	Minimum one (1) off-street enclosed car parking space for one and two-bedroom units; and Minimum two (2) off-street spaces (one enclosed) for units with three (3) or more bedrooms.	Minimum one (1) space per five (5) units or part thereof.
Seniors housing & residential care facilities	In accordance with the requirements of <i>SEPP (Housing for Seniors or People with a Disability) 2004</i> .	

<b>TOURIST &amp; VISITOR ACCOMMODATION</b>	
Bed and breakfasts / Farm-stays/ Short-term holiday lets / Eco-tourist facilities	1 space per guest room + 1 space for staff/proprietor. For facilities > 10 beds or where there will clearly be additional staff and deliveries then additional staff parking is required at Council's discretion.
Hostels or Backpackers accommodation	1 space per 5 beds + 1 space per staff (peak staff level).
Hotels/motels	1 space for each unit + 1 space per 2 staff. <b>If restaurant</b> - Add spaces as per 'restaurants & cafes' below. <b>If function room</b> – Add 1 space per 3 seats.
Serviced apartments	1 space per apartment + 1 space per 2 staff + addition for other uses incorporated into the development.
Caravan parks	1 space for manager + bus parking + 1 space per site + 1 space per 5 sites (visitor parking).
<b>BUSINESS PREMISES</b>	
Business premises	1 space per 50m <sup>2</sup> of Gross Floor Area (GFA).
<b>OFFICE PREMISES</b>	
Office premises	1 space per 50m <sup>2</sup> Gross Floor Area (GFA).
<b>RETAIL PREMISES</b>	
Specialised retail (formerly bulky goods) premises	1 space per 130m <sup>2</sup> of Gross Floor Area (GFA).
Hotels (Pubs), Function Centres & Registered Clubs	1 space per 10 seats or per 10m <sup>2</sup> GFA (whichever is greater).
Restaurants & cafes	1 space per 3 seats or per 10m <sup>2</sup> of customer service area (including outdoor dining areas) (whichever is greater)
Takeaway food & drink premises	As per <i>Guide to Traffic Generating Developments</i> (as amended).
Shopping Centres	As per <i>Guide to Traffic Generating Developments</i> (as amended).
Shops (including neighbourhood shops)	1 space per 35m <sup>2</sup> of customer service area or display.
Hardware, building & rural supplies; plant nursery	1 space per 130m <sup>2</sup> of GFA dedicated to display (indoor & outdoor).
Vehicle sales or hire premises	1 space per 100m <sup>2</sup> site area + 2 spaces per work bay (for vehicle servicing).
<b>COMMERICAL PREMISES (OTHER)</b>	
Amusement centres	1 space per 50m <sup>2</sup> GFA.
Entertainment facilities	1 space per 10m <sup>2</sup> GFA or 1 space per 4 seats (whichever is greater).
Service stations (including convenience stores)	As per <i>Guide to Traffic Generating Developments</i> (as amended).

<b>EDUCATION ESTABLISHMENTS</b>	
Child care centres	1 space per 10 children + 1 space per 2 employees
Education establishment	<p><b>Infants &amp; Primary Schools:</b> 1 space per staff member (peak staff level) + adequate student set down/pick up areas, bus turning areas + parking for auditoriums and sportsgrounds.</p> <p><b>Secondary Schools:</b> 1 space per staff member (peak staff level) + 1 space per 10 students (17 years of age or older) + adequate student set down/pick up areas, bus turning areas + parking for auditoriums and sportsgrounds.</p> <p><b>Tertiary Schools &amp; Colleges:</b> 1 space per staff member (peak staff level) + 1 space per 5 students + adequate parking and turning areas for auditoriums and sportsgrounds.</p>
<b>HEALTH SERVICE FACILITIES</b>	
Hospitals	1 space per resident or staff doctor + 1 space per staff member (peak staff level) + ambulance parking + 1 space per 10 beds (visitor parking).
Medical centres/ Health consulting room	1 space per 50m <sup>2</sup> GFA.
<b>COMMUNITY INFRASTRUCTURE</b>	
Community facilities; place of public worship/assembly	1 space per 10m <sup>2</sup> of GFA OR 1 space per 4 seats (whichever is greater).
Funeral homes/mortuaries	1 space per 10m <sup>2</sup> of GFA OR 1 space per 10 seats (whichever is greater).
<b>MISCELLANEOUS</b>	
Home business	1 space per dwelling + 1 space per 2 staff.
Home occupation (sex services)	1 space per dwelling + 1 space (visitor).
<b>INDUSTRIES &amp; HIGHER IMPACT BUSINESSES</b>	
Rural industries	To be determined on merit having regard to the nature of the development and traffic generation
Light/ General/ Heavy industries in urban areas	1 space per 70m <sup>2</sup> gross floor area OR 1 space per 2 employees (whichever is greater) with a minimum of 2 spaces per industrial building/unit. This requirement may increase at Council's discretion when retailing is permitted on-site (customer parking) or the office component is in excess of 20% of the floor area.
Vehicle body repair workshops or repair stations	1 space per 33m <sup>2</sup> of GFA OR 3 spaces per workshop bay (whichever is the greater) plus 1 space per employee (peak staff level)
Warehouse or Distribution Centre	1 space per 300m <sup>2</sup> gross floor area or 1 space per employee (peak staff level) whichever is the greater

## 2.5.6 Exemptions to Off-Street Car Parking Requirements

The applicant may be able to see a variation to the *Table of Car Parking Requirements* in Section 2.5.5 – *On-Site Parking Numbers* of this DCP supported by written justification (by a suitably qualified person) for the following (The applicant will need to provide (at a minimum) an **Access & Parking Report**):

- 1) **Lithgow CBD:** Within the CBD of Lithgow, particularly on the northern side of Main St, the ability of properties to provide sufficient off-street parking and loading facilities is either very restricted or non-existent. Therefore, these properties rely on street parking, loading zones and the use of public car-parks. Any new development within these areas will be assessed on its merit and the capacity of surrounding public car parks to absorb the increased parking need;
- 2) **Proximity to Public Car Parking:** Public car parking facilities are located in the central business areas of Lithgow, Portland and Wallerawang, and where feasible, may be used to provide parking associated with private development (subject to agreement with Council);
- 3) **Alternative Parking:** The applicant can demonstrate that there is alternative parking on another public or private site (not the proposed development site) that is in close proximity to the development and can accommodate the parking requirements without affecting other users (subject to agreement with Council);
- 4) **Change of Use:** The proposed development is for a 'change of use' where there is no additional space for on-site car parking and the impacts on on-street parking would be minimal;
- 5) **Heritage Item:** The proposed development involves the restoration and/or conservation of a listed heritage item in **LLEP2014**. This is an incentive and will only be applied where the applicant can demonstrate that the conservation of the item depends upon the use of this clause and is consistent with an adopted Conservation Management Plan for the item;
- 6) **Existing Building:** The proposed development involves alterations and additions to an existing building that:
  - a) Have a gross floor area of less than 25m<sup>2</sup>; and
  - b) Do not encroach on existing off-street parking areas,and there is no significant intensification of that use (in terms of on-site parking requirements);
- 7) **Other Site Constraints:** It is not physically possible to comply with the off-street parking requirements and it is not an over-development of the **Site**.

## 2.5.7 Bicycle Parking

- 1) All development set out below is to provide on-site bike parking in accordance with the requirements in the table below:

Proposed Use	Resident/Employees	Customer/Visitor
Shop top housing, multi-dwelling housing, residential flat buildings & boarding houses	1 space per 4 units (or rooms for boarding houses)	1 space per 20 units/rooms
Serviced apartments, hotels & motels	1 space per 4 staff (peak staff level)	1 per 20 units/rooms
New commercial, retail, community, educational, recreational development	1 space per 15 car parking spaces	

- 2) The location, design and construction of bicycle facilities is to comply with *AS2890.3 – Parking facilities – Bicycle parking*.
- 3) Bicycle parking for residents and/or staff is located close to building entry/exits and lifts and be given priority over other parking uses to ensure they are well located, designed and ultimately used.
- 4) Bicycle parking spaces are clearly marked and easily accessible, have good surveillance and provide a means of securely locking bicycle frames and wheels.
- 5) Minimum locker provisions for work places are in accordance with the *NSW Planning Guidelines for Walking and Cycling*.

## 2.6 Pedestrian Access, Mobility & Safety

### Objective(s)

- O1. To maximise the accessibility of the public and private domain (including buildings) for all members of the community.
- O2. To provide safety, connectivity, and ease-of-navigation for pedestrians.
- O3. To ensure (where relevant) development enhances key pedestrian connections, particularly in business and employment areas including connection between major attractions and along major thoroughfares.
- O4. To ensure that new lots or development is clearly identified with street numbering and has a letter-box to the requirements of Australia Post.

### Control(s)

#### 2.6.1 Accessibility

**Accessibility:** Development complies with the relevant accessibility legislation & standards including, but not limited to:

- Access to Premises Standards:** *Disability (Access to Premises — Buildings) Standards 2010* (as amended or replaced) under the Disability Discrimination Act 1992;
- National Construction Code (NCC);** and
- Australian Standards** (including *AS1428 – Design for Access and Mobility*).

## 2.6.2 Pedestrians

- 1) **Separation:** Pedestrian and vehicle access for all larger developments (e.g., > 10 dwellings or for commercial/industrial development) is separated and clearly marked/defined. All other development can provide shared movements with reduced vehicle speeds and appropriate signage and markings.
- 2) **Entrances:** Entrances to buildings are clearly visible from primary street frontages and enhanced as appropriate to improve legibility and accessibility.
- 3) **Mixed-Use Buildings:** Mixed-use buildings, particularly those with residential uses, have separate residential and commercial entrances to the street.
- 4) **Access ramps:** Access ramps (to meet accessibility standards above) are integrated into building design and located outside the road reserve/public footpath to minimise visual impact and impact on footpath safety and flows.
- 5) **Lighting:** Lighting of pedestrian areas is to be in accordance with *AS1158.3 Pedestrian Area (Category P) Lighting* whilst avoiding impacts on neighbouring properties (see *AS4282 Control of Obtrusive Effects of Outdoor Lighting*).

## 2.6.3 Street Numbering & Letterboxes

Letterboxes MAY be Exempt or Complying Development the **Codes SEPP**.

- 1) **Identification:**
  - a) Each new lot has an appropriate street number that is clearly visible from the street (as determined by Council in accordance with *Council Policy No.10.10 – Addressing, Road Naming & Locality Naming*);
  - b) Each new building has a letterbox (in areas with mail delivery).
- 2) **Number of Letterboxes:** Separate letterboxes are provided for each dwelling/tenant with an additional letterbox for the Owners' Corporation for Strata/Community Title/multiple-tenancies (where applicable).
- 3) **Location of Letterboxes:** Letterboxes are:
  - a) Located where it is easily visible from the road frontage and near major pedestrian entrances;
  - b) Accessible for Australia Post employees (in accordance with their requirements);
  - c) Clearly marked with the correct building/unit number;
  - d) For medium density residential, commercial and mixed-use developments - are shown on the relevant plan(s) and integrated with the building and/or landscape design.

## 2.7 Designing for Crime Prevention

*Crime Prevention through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods and seeks to reduce opportunities for crime by using design and place management principles.*

### Objective(s)

- O1. To ensure that new larger developments and subdivisions (see table below), and/or significant alterations and additions to existing larger developments (see table below) has:
- Considered how it may improve safety and reduce the facilitation of criminal activity;
  - Demonstrated how the design has responded to the four (4) main principles of crime prevention including: territorial re-enforcement, surveillance, access control and space/activity management to create the perception or reality of reduced opportunity for crime or inappropriate behaviour;
  - Provided appropriate lighting that enhances safety and security whilst minimising impacts from light-spill or inappropriate lighting on neighbouring properties.

### Control(s)

#### 2.7.1 Crime Risk Assessment

- A **Crime Risk Assessment** is submitted in support of the following types of development unless, in the opinion of Council, it is considered unwarranted:

***New buildings or significant alterations and additions (that are likely to affect the crime prevention principles below) to the following:***

- Subdivisions creating more than four (4) lots, creating any new public roads, or extending an existing public road by more than 50m;*
- Larger retail & commercial (>1000m<sup>2</sup> new floor space) developments;*
- Industrial development with multiple tenancies;*
- Educational establishments (e.g., schools; universities) or child care centres;*
- Health service facilities (e.g., hospitals, medical centres etc.);*
- Transport depots & passenger transport facilities (e.g., bus stops, taxi ranks or similar) and any adaptive re-use of these facilities (e.g., railway stations);*
- Large sporting (e.g., Indoor, outdoor and major recreational facilities) or community facilities;*
- Medium and high-density residential accommodation (10 or more dwellings);*
- Mixed-use developments (5 or more dwellings);*
- Seniors housing and group homes (more than 8 people);*
- Tourist and visitor accommodation in urban areas (more than 6 rooms);*
- Hotels and clubs or other premises that serve alcohol;*
- Amusement centres; Entertainment facilities; Function centres; Restricted premises; Sex service premises (brothels); Tattoo parlours;*
- Highway service centres & service stations;*

- o) At the discretion of Council where a site is adjacent to an area:
- i) With limited street lighting and significant pedestrian activity; and/or
  - ii) Where there is a higher potential risk of crime or impacts on pedestrian safety.

2) A **Crime Risk Assessment** provides:

- a) A detailed site analysis of the physical surrounds of the proposed development and the potential opportunity/relative risk of crime and known evidence of criminal behaviour; and
- b) How the proposed design (built form and landscape) has addressed the site analysis and relative risk in sub-section (a) using the principles as set out in the table below in accordance with the NSW Guidelines for *Safer by Design / Crime Prevention Through Environmental Design* ('CPTED') (see the NSW Police website).

*Please discuss your proposal with Council prior to lodging a **Development Application** so they can offer guidance on some suitable solutions to meet the principles below.*

Principle	Principles of Design
Natural or Casual Surveillance	<p>Natural surveillance focuses on the orientation of buildings and the strategic use of windows and entrances, street design, landscaping, building layout, optical permeable fencing and natural lighting.</p> <ul style="list-style-type: none"> <li>• Locating the windows of habitable or well-used rooms overlooking public and semi-public (communal) spaces.</li> <li>• Clear, unobtrusive line of sight between public and private places and into entrance and lobby areas and direct paths of travel.</li> <li>• Avoid dark corners, alcoves, hidden recesses &amp; narrow pedestrian walkways.</li> <li>• Effective lighting of public places, particularly those used at night.</li> <li>• Landscaping that does not provide offenders with a place to hide or entrap victims or consistently blocks casual surveillance of public places.</li> <li>• Use of materials that enable observation to public areas and entrances/ lobbies (e.g., open wrought iron fencing, glass panelling to building foyers).</li> </ul>
Organised or Technical Surveillance	<p>Where natural or casual surveillance cannot be reasonably provided then organised or technical surveillance may supplement it.</p> <ul style="list-style-type: none"> <li>• Technical surveillance is achieved through mechanical/electrical measures such as CCTV and mirrored building panels (e.g., for basement parking).</li> <li>• Organised surveillance is often used to enhance the capability of on-site or nearby guardians (e.g., security guards for shopping centres).</li> </ul>
Access Control	<p>Access control uses physical and symbolic barriers to restrict, encourage, and channel pedestrian and vehicle movements.</p> <ul style="list-style-type: none"> <li>• Avoid numerous entry points to multi-occupancy buildings.</li> <li>• Separate entrances for different uses/tenants/activities.</li> <li>• Limit access to communal and private areas through security systems.</li> <li>• Prevent short cuts across lands designated for other uses.</li> </ul>
Territorial Reinforcement	<p>Community ownership of public space sends positive signals to the community. Places that feel owned and cared for are likely to be used, enjoyed, and revisited. People are more likely to be protective of places with which they feel some connection or affinity.</p>

(Community ownership of Public Space)	<ul style="list-style-type: none"> <li>• Consistent building setbacks to maximise perception of semi-private areas.</li> <li>• Clearly defining the use of common spaces &amp; encouraging their use.</li> <li>• Ensure site entrances are clearly marked.</li> <li>• Avoid flat or porous wall finishes in public areas to minimise graffiti.</li> </ul>
Activity & Space Management	<p>Space management is linked to the principle of territorial reinforcement. It ensures that space is well used and maintained, and involves the formal supervision, control, and care of urban space.</p> <ul style="list-style-type: none"> <li>• Design opportunities for people to use public spaces.</li> <li>• Incorporating opportunities for casual surveillance or activating the space through activities will discourage the proliferation of crime.</li> </ul>

## 2.8 Utilities, Easements & Infrastructure

### Objective(s)

- O1. To address the requirements of *Clause 7.10 - Essential Services* in **LLEP2014**.
- O2. To ensure that new developments have the appropriate type and/or level of utility or service depending on:
  - a) Service availability and timing and cost-effectiveness to connect over their lifecycle;
  - b) Consistent approaches to connection for similar development types;
  - c) The scale and demands of the development; and
  - d) The need to minimise environmental and public health impacts.
- O3. To require development to connect to and support existing utility infrastructure in accordance with Council's **Engineering Guidelines** and the relevant utility authority's requirements.
- O4. To minimise the visual (and/or heritage) impact of any new utilities, connections, or associated structures, particularly if visible from public areas.
- O5. To minimise the impact of utility services on existing elements of the natural environment or sensitive areas, known natural hazards, and proposed landscaping and vice versa.
- O6. To ensure all buildings and structures are located and designed so they do not obstruct access to, or impact on, the safe operation or integrity of existing or proposed drainage/stormwater systems or utilities (such as sewer, water, electricity, gas, and telecommunications) whether they are above ground or under-ground.
- O7. To ensure that on-site effluent management (if required) can be accommodated on any proposed lot without affecting adjacent properties or the natural environment.
- O8. To ensure that waste-water management and re-use and alternative water supplies are consistent with infrastructure systems, NSW Government public health requirements and protect the natural environment, including surface and ground-water systems.
- O9. To ensure that land uses have sufficient potable water to cater for the likely consumption and any ancillary uses.

**Control(s)**

**2.8.1 Connection to Utilities**

- 1) **Reticulated Sewer/Water:** Where reticulated sewer/water is available within reasonable proximity to the lot (or as required by the relevant authority), any new development is connected to those utilities in accordance with Council's:
  - a) **Engineering Guidelines;**
  - b) *Policy 3.1 – Water service and meter installation;*
  - c) *Policy 3.4 – Backflow Prevention – Containment;*
  - d) *Policy 3.5 – Sewer connection,*

unless the applicant can demonstrate why that connection would not be appropriate and/or propose an alternative system that is acceptable to Council.
- 2) **Electricity:** New development is connected to grid-electricity unless the applicant can demonstrate a sufficiently sized and appropriate alternative (off-grid) system will be constructed prior to occupation to meet the reasonable needs of that type of development.

- a) **Water:** All water connections are to be separately metered for each lot, tenant or dwelling.
- b) **Fire:** Fire hydrants and booster facilities are to be provided to developments in accordance with the requirements of the NSW Fire Brigade.
- c) **Easements:** All existing and proposed easements should be shown on development plans. Appropriate easements will be required to be created for any new service mains located upon private lands.
- d) **Other:** Telecommunications and gas services may also need to be connected. Speak to Council about your requirements. Stormwater Management is addressed above.
- e) **Headworks Charges:** Water & Sewerage Headworks Charges will be based on the load the development places on the water and sewer systems as measured in Equivalent Tenements (ET's), where the load exceeds 1 ET in accordance with Council's **Development Servicing Plan**.
- f) **Construction:** The provision of new or augmented trunk/headwork services/facilities shall be carried out in accordance with the staging requirements of any adopted **Infrastructure Strategy** or Council's **Asset Management Plans**, unless fully funded by the developer.

## 2.8.2 Building Near Utilities/Easements/Drainage Lines

- 1) **Building near Easements:** Permanent buildings, structures or works are not to be located over an easement unless there is express written authorisation from the relevant authority benefited by the easement in accordance with *Council Policy 5.1 – Building Over Easements*.
- 2) **Setbacks from Utilities:** Where an easement does not exist, the structure is located:
  - a) A minimum distance equivalent to the invert depth of the pipeline plus one (1) metre; and/or
  - b) Outside the 'zone of influence' from the known utility location; or
  - c) In accordance with the relevant utility authority requirements.
- 3) **Drainage:** Development does not compromise the integrity of a drainage or stormwater line originating from outside the development site.

- a) **Location:** Council recommends that applicants lodge a 'Dial Before You Dig' Application to ascertain the approximate location of all services on site and confirm this with Council. Where there is a chance that development will be near those services, identify those services accurately on a Survey Plan.
- b) **Easements:** Council may require an Applicant to register an easement or restriction on a property to protect utilities or realign an easement to infrastructure once its location is identified outside an easement.
- c) **Council land:** Wherever possible new easements for Council infrastructure are to be located in land owned or controlled by Council.

## 2.8.3 On-Site Sewage Management

- 1) **Requirements:**
  - a) An on-site sewage management system is required where a development proposal includes the discharge of wastewater and a connection to a reticulated sewage system is not reasonably available.
  - b) An on-site sewage management system requires separate approval under Section 68 of the *Local Government Act 1993*.

*Generally, in urban zones (other than the unserviced Zone RU5 Village areas of the Shire) on-site effluent disposal systems are not permitted.*

- 2) **Lodgement:** Any application for an on-site sewage management system is supported by a **Geotechnical (Effluent) Report** (prepared by a suitably qualified geo-technical engineer) that supports the location, sizing, design and discharge of any on-site system in accordance with Council's **DA Guide**, any relevant **Australian Standards** (e.g., *Australian Standard AS1547*), relevant NSW Government policy, and this DCP. This includes existing systems that require enhancement or replacement.

*Council may condition the requirement to register any effluent disposal area (and sometimes the building envelope) on the title so it demonstrates adequate site planning and buffers and is protected from encroachments.*

- 3) **Environment:** Any on-site effluent system:
  - a) Is capable of being supported within the lot area on the subject soils; and
  - b) Does not impact significantly on any existing or likely future development on the subject lot, neighbouring lots, or surface or ground water systems, or result in excessive vegetation removal.
- 4) **Buffers:** Any proposed lots or on-site effluent disposal systems is located to provide appropriate buffers to watercourses and buildings in accordance with:
  - a) The *Environmental Health Protection Guidelines – On-Site Sewage Management for Single Households* (1998 - as amended);
  - b) *Australian Standard 1547 – On-site domestic wastewater management* (as amended);
 or the **Geotechnical (Effluent) Report** provides justification (to the satisfaction of Council) for a reduction of those buffers and the means to minimise or mitigate any potential impact.
- 5) **Flooding:** On-site sewage management facilities are either:
  - a) Located on land at or above the **Flood Planning Level (FPL)**; or
  - b) Sited and designed (demonstrated in a **Geotechnical (Effluent) Report**) to withstand known or likely flooding conditions (including consideration of structural adequacy, avoidance of inundation and flushing/leaking of effluent into flowing flood waters).

*Any on-site sewage systems that disperse only partly treated effluent to the natural environment (including standard septic absorption trench systems) are generally not permitted on land below the **Flood Planning Level (FPL)**. See DCP Chapter 3 – Natural Environment & Hazards for more details.*

- 6) **Reserve Area:** On lots with an area less than 2,000m<sup>2</sup>, the nominated effluent disposal area(s) allows for:
  - a) Suitable areas for primary buildings and outbuildings, vehicle and pedestrian access, open space, and buffers to adjoining lots and watercourses; and
  - b) An 'alternative future disposal' or 'reserve area' at least equivalent in size to the nominated effluent disposal area that is recommended for disposal in the supporting **Geo-technical (Effluent) Report**.

*LLEP2014 Clause 4.2A(6) does not permit dwellings on unsewered rural land with an area less than 4,000m<sup>2</sup>.*

*The 'reserve area' is intended to allow a secondary disposal area to be constructed or added to the primary disposal area if the primary disposal area/system fails.*

### 2.8.4 Liquid Trade Waste

**Approval:** Development activities that generate and discharge liquid trade waste (this does not include domestic waste from a hand basin, shower, bath or toilet):

- 1) To a reticulated sewerage system need to obtain the relevant Liquid Trade Waste approval(s) from Council in accordance with *Council Policy No.11.3 – Discharge of Liquid Trade Waste to the Sewerage System*;
- 2) Where there is no reticulated sewerage system, the application demonstrates suitable methods for disposal that protect the environment and groundwater systems.

*The industrial and commercial activity complies at all times with the requirements of the Liquid Trade Waste Regulation Guidelines and any conditions of the Liquid Trade Waste Approval.*

### 2.8.5 Re-Use of Waste-Water

- 1) **Guidelines:** Re-use of water (for irrigation or other non-potable water requirements) is encouraged but is to be treated in accordance with the relevant *NSW Health Guidelines* and any other relevant **Australian Standards** using certified systems.
- 2) **Application:** Council will require re-use and any relevant guidelines to be addressed in a report prepared by a suitably qualified consultant or using a product that addresses the standards, maintenance and technical requirements.

### 2.8.6 Water Supply

- 1) **Dwelling Tank Size:** Each dwelling that does not have access to a reticulated potable water supply has a minimum tank capacity of 20,000L per bedroom or the requirements set out in the **BASIX Certificate** (whichever is greater). Additional capacity may be required for garden watering and other purposes.
- 2) **Bushfire:** On bushfire prone land (or where Council conditions this requirement), the draw-off-point for water for domestic purposes is located to ensure a sufficient volume of stored water remains in the tank(s) at all times and there is a connection point to access this water for use in fire-fighting in accordance with the *RFS (2019) Planning for Bushfire Protection Guidelines (as amended)*.
- 3) **Other Uses:** Where there is no reticulated water supply, land uses other than **residential accommodation** provide a calculation of their estimated (conservative) monthly water consumption and nominate a source and storage that provides a minimum of three (3) months' supply on-site.
- 4) **Health:** Uses that either utilise water in the production of food or provide water to the public (e.g., **Tourist & Visitor Accommodation**) address water quality and treatment in accordance with relevant *NSW Department of Health Guidelines*.

## 2.9 Solid Waste Management

### Objective(s)

- O1. To encourage solid waste minimisation through appropriate resource use, re-use/recovery and recycling for the protection of the environment and longevity of solid waste disposal depots.
- O2. To ensure appropriate management of hazardous waste materials (including asbestos) during demolition, construction, and use of sites that protects human health and ensures the site is suitable for its intended use.
- O3. To ensure waste storage and collection facilities are located, sized, and designed to meet the needs of the development and protect the health and amenity of occupants, collectors, neighbouring properties, and the environment.
- O4. To ensure that waste storage and collection facilities are functional, accessible by appropriately sized waste vehicles, and designed to minimise impact on street character.

### Control(s)

#### 2.9.1 Hazardous Materials & Asbestos

- 1) **Application:** It is the applicant's responsibility to identify in the application where there is a likelihood that hazardous materials (including asbestos) may have been used in the building construction (building material produced prior to 1987).
- 2) **Demolition:** Where there is a reasonable likelihood of hazardous materials (including asbestos) being disturbed by demolition or site works, the applicant demonstrates the development can comply with the requirements of *Council Policy No.7.9 Asbestos Management* including the associated *Asbestos Management Plan* (as amended) as well as *Work Health & Safety Guidelines* by the NSW Government. Council may require a **Demolition Management Plan** (in accordance with Council's **DA Guide**).
- 3) **Re-Sited Homes:** Buildings with hazardous materials (including asbestos) used in their construction cannot be relocated or re-sited unless all the hazardous materials (particularly asbestos) are removed prior to relocation (see DCP *Section 6.8.2 Re-Sited (Second Hand/Relocatable) Homes*).

*Council will provide a Condition of Consent to any demolition approval where there is a likelihood of asbestos that the asbestos needs to be removed by a suitably qualified asbestos removal contractor and disposed of at a suitably licensed facility in accordance with the Work Health and Safety Regulation 2011 and the Protection of the Environment Operations (Waste) Regulation 2005.*

## 2.9.2 Solid Waste Management Plan – Larger Developments

Any development that (in Council's opinion):

- a) Is larger than a **single dwelling, dual occupancy, secondary dwelling, semi-detached dwelling** or use of these buildings for **tourist or visitor accommodation**;
- b) Generates significant volumes of waste; or
- c) Significantly modifies existing approved waste management systems; or
- d) Require private waste contractors during the demolition, construction and/or operation of the development (excluding those uses in the control above),

provide a **Waste Management Plan** in accordance with Council's **DA Guide**.

*In assessing waste generation rates and suitable bins numbers Council may have regard to:*

- **Residential Guide:** 120L household garbage bin + 240L recycling bin per dwelling per week.
- EPA (Dec 2012) Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities (<https://www.epa.nsw.gov.au/your-environment/waste/local-council-operations>);
- ResourceSmart (Oct 2010) Guide to Best Practice for Waste Management in Multi-Unit Developments ([www.resourcesmart.vic.gov.au](http://www.resourcesmart.vic.gov.au)).

## 2.9.3 Waste Storage & Collection – Larger Developments

- 1) **Access:** Where waste storage is provided in a communal area, access to this waste area is to be provided for all residents/tenants without crossing a private lot.
- 2) **Ramp Gradient:** Where waste storage is provided in a basement car park, a maximum ramp gradient of 1:6 is to be provided to the waste collection point.
- 3) **Rear Lane:** Where a rear lane has provision for waste collection trucks used by Council, the collection point is to be from the rear lane.
- 4) **Communal Waste Collection Point:** Where waste vehicles are unable to access a site, a communal on-site collection point is to provided that:
  - a) Is less than 10m from the street boundary;
  - b) Is located on a surface with a gradient less than 1:20;
  - c) Does not require access through a security door or gate;
  - d) Has a path that connects the collection area to the street boundary with a gradient less than 1:8 and is free of steps for the transfer of bins to the collection vehicle.
- 5) **Screening:** If a waste collection point is used for permanent storage of bins:
  - a) It is to be screened from view from the public domain (e.g., within garages, basement car parking, or screened enclosures); and
  - b) Any waste storage structure forward of the building line is to have a height no greater than 1.3m.
- 6) **Amenity:** Communal waste areas are to be located at least 3m from any bedroom or living room window.

## 2.10 Amenity / Buffers for Sensitive Uses

### Application of this Section

This Section applies to a proposed development where;

- 1) A **sensitive land use** is proposed within the buffer distances to an existing or likely **higher impact land use** or an industrial zone; or
- 2) A **higher impact land use** is proposed within the buffer distances to an existing or likely future **sensitive land use**,

in accordance with the recommended buffers set out this clause and/or Clause 7.8 – Development within a designated buffer area in **LLEP2014** (sewage treatment plants, waste disposal facilities and water treatment facilities).

*A 'higher impact land use' may include, but is not limited to:*

- a) *Extractive industries and mining;*
- b) *Most industrial uses (except light industry and high technology industry that by definition have no significant impacts);*
- c) *Commercial uses (e.g., animal boarding & training facilities) that may produce significant dust, noise, odour or traffic generation;*
- d) *Recreation areas that may produce significant dust, noise, light spill or traffic generation;*
- e) *Intensive agricultural uses (taking into account the 'right to farm' – see below);*
- f) *Infrastructure such as sewage treatment plants, waste depots, roads and rail, etc.;*
- g) *Other uses that, at the discretion of Council, would be expected to produce significant impacts on a sensitive land use within 500m of that use.*

*'Buffer' or 'Buffer Area' means an area of prescribed width between adjoining land uses or development that is created for the purpose of mitigating the impacts of one or more of those land uses, and in which the carrying out of certain development is restricted.*

*'Sensitive land use' is any land use where there are users that are likely to be significantly and regularly affected by emissions from other higher-impact land uses. It extends beyond residential land uses to include, for example, tourist and visitor accommodation, hospitals, aged care and seniors living, child care facilities, playground and recreation areas, and some public buildings where a reasonable level of amenity (suitable for each use) must be protected.*

### Objective(s)

- O1. To incorporate appropriate buffers or setbacks between **sensitive land uses** (or zones that may support those uses) and **higher impact land uses** (or zones that may support those uses) to avoid or mitigate against that impact;
- O2. To promote economic certainty by ensuring that **higher impact land uses** are located so as to allow their ongoing operation and future expansion with minimal risk of constraints due to impacts by neighbouring **sensitive land uses**.
- O3. To acknowledge that the responsibility of reducing or removing conflict between land uses usually lies with the incoming or encroaching development (except for the 'Right to Farm' in agricultural areas).

## 2.10.1 Noise & Vibration

- 1) **Lodgement Requirement:** An application for development that is likely to:
- Generate significant noise and/or vibration (particularly during night-time) that may impact on an existing **sensitive land use** in reasonable proximity to the development site; or
  - Be significantly impacted by potential noise and/or vibration from an existing (or future expanded) development or infrastructure (including a state/regional road or railway line),

is supported by a **Noise (and/or Vibration) Assessment** (prepared by a suitably qualified acoustic consultant) that demonstrates how the proposed development has been located, designed, and/or managed to avoid, minimise and/or mitigate those impacts to/from the proposed development in accordance with the relevant guidelines (see list below). A **Noise (and/or Vibration) Assessment** may not be necessary where, in the opinion of Council, it is unwarranted due to the scale, nature and/or location of the development.

*Where applicable, the **Noise (and/or Vibration) Assessment** is required to address the requirements in SEPP (Infrastructure) 2007 and the associated guidelines including the (former) Department of Planning - Development near Rail Corridors & Busy Roads – Interim Guideline (as amended).*

- 2) **Design:** The design or construction of building(s) or areas for activities that may emit significant noise considers (where relevant):
- Location, proximity, and buffers to protect **sensitive land uses**;
  - Hours of operation, intensity and intervals of noisy or vibrating activities;
  - Terrain and amplification/direction of noise;
  - Background noise levels and community acceptability of noise in that location;
  - Enclosure of noisy area(s) and suitable acoustic insulation (and ways to manage opening(s) to those area(s) that may direct noise to a **sensitive land use**);
  - Any other factor that would exacerbate likely noise or vibration.
- 3) **Noise Levels:** Noise levels are not designed to exceed the recommended background planning noise level by more than 5dBA at the most affected point of the land use receiver area and/or set out in the following guidelines:
- For development near an existing state or regional road or railway line:
    - Noise level in any bedroom of 35dB(A) between 10pm-7am; and
    - Noise level in other parts of the building (other than a kitchen, garage, bathroom or hallway) of 40dB(A) at any time; or as set out in:
    - State Environmental Planning Policy (Infrastructure) 2007;*
    - NSW Department of Planning (2008) *Development near Rail Corridors and Busy Roads – Interim Guideline.*

- b) For a noise source set out in the *Protection of the Environment Operations Act 1997* - the requirements (where relevant) of:
    - i) the *NSW Industrial Noise Policy* (2017 – as amended) (see <https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise>);
    - ii) EPA (2013) *Noise Guide for Local Government*;
  - c) For vibrations - *Assessing Vibration: a technical guideline* (2006).
- 4) **Rail Corridors:** Development that:
- a) Is on land immediately adjacent to a rail corridor; and/or
  - b) Involves penetration of the ground to a depth of more than 2m within 25m of a rail corridor, may require referral to *Transport for NSW* and may need to address the requirements of the Rail Authority.
- 5) **Plant/Equipment:** If in a residential area or adjacent to existing dwellings, any electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an ‘offensive noise’ as defined in the *Protection of the Environment Operations Act 1997* either within or at the boundaries of any property at any time of the day.
- 6) **Economics:** Any **Noise (and/or Vibration) Assessment** relating to an industrial land use (particularly an existing industrial use) within an Industrial Zone or a business use in a Business Zone considers the economic importance of facilitating industrial and business development in the applicable zone(s).

*The Protection of the Environment Operations Act 1997 and Regulations provide limitations to emissions from development and the applicant may need to seek a separate approval under this legislation.*

### 2.10.2 Air Emissions, Odour & Dust

- 1) Where development is likely:
  - a) To generate significant air emissions (including odour or dust) that may impact on adjoining lots and/or existing **sensitive land uses** in reasonable proximity to the development site; or
  - b) To be significantly impacted by potential air emissions (including odour or dust) from an existing (or future expanded) development or infrastructure (e.g., odour from a sewage treatment plant or waste depot); or
  - c) To be significantly affected by facilities on land identified as '**Facilities Buffer Zone**' on the **Facilities Buffer Zone Map**,

It is supported by an **Air Emissions Assessment** or similar (prepared by a suitably qualified consultant in accordance with Council's **DA Guide** and any relevant guidelines).

This demonstrates how the proposed development has been located, designed, and/or managed to avoid or mitigate those impacts to/from the other development in accordance with the relevant guidelines (e.g., *Technical Framework – Assessment and management of odour from stationary sources in NSW (2006)*).

The above requirement for an **Air Emissions Assessment** may be waived where, in the opinion of Council, the proposal is of a scale, nature or in a location where it is not warranted.

- 2) The **Air Emissions Assessment** demonstrate how air emissions (including odour or dust) will be managed within the boundaries of the development site to avoid any adverse impact on the development and/or surrounding land uses (whichever is relevant).
- 3) Vehicle entry, exits, loading, unloading and internal manoeuvring areas are sealed or have a surface agreed with Council's engineers to minimise the emission of dust from trafficable surfaces for uses that have higher traffic generation or close proximity to **sensitive land uses**.

*The Protection of the Environment Operations Act 1997 and Regulations provide limitations to emissions from development and the applicant may need to seek a separate approval under this legislation.*

### 2.10.3 Buffers to Sensitive Land Uses

Proposed development demonstrates compliance with the recommended buffers between potentially **higher impact land uses** and **sensitive land uses** set out in the tables below or provide a written justification that addresses:

- 1) Why an alternative available site would not be more suitable for the proposed development;
- 2) What mechanisms will be utilised to minimise or mitigate any impacts to/from the proposed development;
- 3) How the proposed development will meet the objectives of this Section and the proposed land use.

The table above is adapted/modified from the NSW Department of Primary Industries publication entitled 'Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast' ([www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)) and from the Oberon DCP. It provides guidelines for buffers for some **sensitive land uses** (top row) from some relevant primary & extractive industries, environmentally sensitive areas, and other land uses (left column) in metres (m).

These are only preliminary estimates for buffers. Council may require the Applicant to lodge a specialised study to examine impacts including, but not limited to: odour, dust, noise, vibration, etc. that considers each specific impact more accurately. Each case will however, be treated on its merits and consideration will be given to the operational characteristics of the activity or facility, the topography, vegetation, prevailing wind conditions and other matters relevant to the particular situation.

The distance from a proposed building is to be measured as the shortest distance between the edge of the dwelling and the boundary of the development or works that has the impact (in some cases this may be the boundary or it may be the defined area of the activity).

LAND USE / SEPARATION (metres)	Residential & Other Sensitive Urban Development	Rural Dwellings	Education Facilities & Child Care Centres	Rural Tourist Accommodation	Property Boundary of Roads
These may be subject to further assessment in accordance with NSW Government Guidelines. Other buffers or setbacks may apply under other legislation or policies for items such as: Utilities; Airports; Rifle ranges; Bushfire protection; and Heritage.					
Piggeries, feedlots, poultry sheds & waste storage > 500 Pigs/ Cattle Feedlot/ All Poultry Farms ≤ 500 Pigs/ Cattle Feedlot	500 300	400 200	1000 500	400 200	100 20
Dairies & Waste Utilisation Area(s)	500	250	250	250	20
Other intensive livestock operations	500	300	500	300	100
Intensive plant agriculture and horticulture (where significant spraying is used or it is sensitive to sprays)	80m if a vegetated buffer of minimum 30m is provided, 150m if no vegetated buffer (notification as per <i>Pesticides Act</i> )				N/A
Rural industries (incl. sawmills & grain mills)	1000	500	500	500	50
Abattoirs	1000	800	1000	800	100
Potentially hazardous or offensive industry or hazardous storage establishment	1000	1000	1000	1000	100
Heavy industry (other than hazardous/offensive industry)	750	500	1000	500	N/A
Mining & extractive industries	500 or 1000 if it involves blasting				N/A
Animal Boarding & Training Establishments	500 to another off-site dwelling and 200 to a property boundary				N/A
Infrastructure – Waste Depots/Landfills	500 (active landfill) / 250m (inert landfill or waste transfer)				N/A
Infrastructure – Sewerage Treatment Plants (STP)	400m				N/A
Infrastructure – Water Treatment Plants (WTP)	50m				N/A

### 2.10.4 Buffers & Landscaping

- 1) Generally, buffers for any new proposed use should be wholly located on the lot that where the development causing the impact is located.
- 2) Any buffers or setbacks incorporate or are capable of incorporating sufficient landscaping / tree plantings (or other mechanism where appropriate) to minimise or mitigate any impacts from adjacent land uses without significantly increasing the bushfire threat to any existing or proposed buildings.

*Council acknowledges that one method for reducing land use conflict is to incorporate significant landscaping and trees into buffer areas to create a barrier to views, dust, and some other impacts (not including noise). The issues with landscaping include:*

- *It is difficult to specify landscaping that will actually provide a buffer for all impacts;*
- *Landscaping needs to grow to the specified scale/density which takes time and is not guaranteed;*
- *Landscaping requires ongoing irrigation and maintenance to achieve the desired outcomes and Council is not well-placed to provide ongoing enforcement;*
- *Landscaping, in certain circumstances can increase bushfire risk to existing or proposed buildings;*
- *Changes in ownership or land use may require different landscaping approaches.*
- *Where required, landscape plantings will form part of the conditions of consent by Council. However, by providing the required buffers/setbacks it allows for the individual owners to utilise landscaping to minimise or mitigate impacts.*

### 2.10.5 Agriculture & Right to Farm

*Council recognises the importance of agriculture and primary production to the economy of the Shire and its rural community. For this reason, Council supports the 'right to farm' (in accordance with NSW Government Policy at [www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)) on rural land including existing agricultural practices or potential future increases in intensity of agricultural practices. This means that agricultural activities MAY have priority over **sensitive land uses** as set out in that policy.*

- 1) Any **sensitive land uses**/development (or subdivision that supports those **sensitive land uses**) that has a boundary with rural zoned land, **should** seek to incorporate buffers or setbacks to that rural land to enable the rural land to be used for standard agricultural practices to the fullest agricultural potential of that land (taking into account the recommended buffers set out in the clause entitled '**Buffers to Sensitive Land Uses**' above).
- 2) Council may require a **Land Use Conflict Risk Assessment (LUCRA)** that addresses the *LUCRA Guide* provided by the Department of Primary Industries/NSW Government – particularly where there is a potential conflict with existing or potential future agricultural activity either on the Site or adjacent lands.

## 2.11 Water & Energy Efficiency

### Objective(s)

To promote sustainable development through careful site planning, building design and construction (aligned to NSW Government policies and requirements) by:

- O1. Minimising unnecessary water and energy use;
- O2. Maximising thermal efficiency of habitable buildings and minimising the need for mechanical heating and cooling; and
- O3. Where possible, incorporating on-site energy generation, rainwater harvesting, or water re-use.

### Control(s)

- 1) **Energy Efficiency:** Where applicable, buildings may need to comply with the requirements of:
  - a) The **National Construction Code** – *Section J* relating to energy efficiency for commercial buildings; or
  - b) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (though submission of a **BASIX Certificate** for **BASIX affected development**).

Please go to [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au) for more information or to conduct a BASIX assessment on-line or see Council's **DA Guide** for more details. The BASIX requirements are a minimum only and Council encourages initiatives that exceed these requirements.

- 2) **Energy Efficiency:** Council encourages all development to review ways to consume less energy, install energy-saving appliances & devices and look at ways of using renewable energy and storage (where possible).
- 3) **Water Efficiency:** Council encourages all development to review ways to consume less water, install water-saving devices and look at ways of capturing and retaining rainwater for re-use for non-potable and irrigation requirements.

# Chapter 3:

## Natural Environment & Hazards



## Table of Contents

<b>3.1</b>	<b>Introduction.....</b>	<b>3</b>
3.1.1	Application of this Chapter .....	3
3.1.2	Other Relevant Chapters of this DCP .....	3
3.1.3	Exempt & Complying Development .....	3
<b>3.2</b>	<b>Bush Fire Prone Land .....</b>	<b>4</b>
<b>3.3</b>	<b>Vegetation Management &amp; Biodiversity.....</b>	<b>5</b>
3.3.1	Vegetation Clearing for Development Requiring Consent .....	7
3.3.2	Threatened/ Endangered Species/ Ecological Communities .....	10
3.3.3	LLEP2014 – Terrestrial Biodiversity .....	11
3.3.4	Clearing NOT Associated with Development (Non-Rural Zones) .....	12
3.3.5	Clearing NOT Associated with Development (Rural Zones).....	12
3.3.6	Declared Vegetation in this DCP.....	13
3.3.7	Tree Removal Criteria.....	13
<b>3.4</b>	<b>Land &amp; Soils.....</b>	<b>15</b>
3.4.1	Contaminated Land .....	15
3.4.2	Sensitive Land Areas.....	16
3.4.3	Erosion & Sedimentation .....	18
3.4.4	Other Geological or Soil-Related Issues .....	19
<b>3.5</b>	<b>Flood Prone Land .....</b>	<b>20</b>
3.5.1	Preliminary Flood Risk Assessment.....	25
3.5.2	Key Controls.....	25
3.5.3	Construction Requirements & Flood Proofing .....	27
<b>3.6</b>	<b>Ground &amp; Surface Water Protection.....</b>	<b>29</b>
<b>3.7</b>	<b>Mine Subsidence Risk.....</b>	<b>31</b>
<b>3.8</b>	<b>Appendices: Flood Maps .....</b>	<b>33</b>

## Document Control for Drafting Only

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Title Page: The picture on the title page is from Hassans Walls Lookout (Source: Destination NSW - <https://www.visitnsw.com/destinations/blue-mountains/lithgow-area/lithgow>).

### 3.1 Introduction

#### 3.1.1 Application of this Chapter

A range of environmental opportunities and constraints exist and affect human activities and development across the Lithgow LGA and some of these are addressed in this Chapter.

Council's **DA Guide** explains how you can find out if your Site is affected by any of these matters including through a range of NSW Government websites including, but not limited to:

- a) **Lithgow Local Environmental Plan 2014 (LLEP14)** at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au);
- b) NSW Planning Portal at [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au);
- c) Additional references provided in the relevant Sections of this Chapter below.

#### 3.1.2 Other Relevant Chapters of this DCP

Please remember that this Chapter of the DCP is unlikely to contain ALL of the relevant controls for your development. Please see DCP *Chapter 1 – Introduction & Administration* to review the Section on *How to Use this DCP* including the *Structure of the DCP* (see table below) to determine what other Chapters may be relevant to your development. **IF YOU ARE UNSURE, PLEASE DISCUSS THIS WITH COUNCIL STAFF PRIOR TO LODGING YOUR APPLICATION.**

*The DCP has the following Chapters:*

<b>Chapter 1:</b>	Introduction & Administration
<b>Chapter 2:</b>	Site Requirements
<b>Chapter 3:</b>	Natural Environment & Hazards ( <b>THIS CHAPTER</b> )
<b>Chapter 4:</b>	Heritage & Cultural Conservation
<b>Chapter 5:</b>	Subdivision & Roads
<b>Chapter 6:</b>	Residential Development
<b>Chapter 7</b>	Commercial, Community & Industrial Development (including Advertising/ Signage for all relevant land uses)
<b>Chapter 8:</b>	Rural & Other Land Uses
<b>Chapter 9:</b>	Location Specific Controls

#### 3.1.3 Exempt & Complying Development

Please note that [State Environment Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#) may permit certain development set out in that policy without requiring a development application to Council if it complies with the requirements of the **Codes SEPP**. Please discuss this with Council or visit the [NSW Government Planning Portal](#).

## 3.2 Bush Fire Prone Land

### *Application of this Section*

This section applies to all land that is mapped as bush fire prone land within Lithgow Local Government Area (**LGA**) on the **Bush Fire Prone Land Map(s)** (as amended or replaced).

*To find out if your land is **bush fire prone land** (and this Section applies) please see Council's **DA Guide**, the NSW Planning Portal on the internet at [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au) and the Rural Fire Service website ([www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)).*

*There may also be instances where land is not identified as bush fire prone on the **Bush Fire Prone Land Map** but a bush fire risk is still present (i.e., the mapping does not guarantee the risk) so development may need to consider appropriate locations, design and construction to manage bush fire risk.*

*A bush fire assessment report from a suitably qualified consultant may need to be submitted with a development application for certain development on bush fire prone land to demonstrate compliance with these requirements.*

### **Objective(s)**

- O1. To meet the statutory requirements for bush fire protection in NSW.
- O2. To prevent the loss of life and property due to bush fire by providing for development compatible with bush fire hazard.
- O3. To ensure risks associated with bush fire are appropriately and effectively managed while having due regard to development potential, on-site amenity and protection of the environment and ecological values of the site and adjoining lands.

### **Control(s)**

Where a proposed development is on land identified as bush fire prone on the **Bush Fire Prone Land Map**, the design and management of any proposed development on that bush fire prone land complies with the following:

- 1) *Rural Fire Act 1997* (NSW) & the associated *Rural Fires Regulation 2013* (as amended); and
- 2) NSW Rural Fire Service (2019) *Planning for Bush Fire Protection* (**Bush Fire Guidelines**).
- 3) Any development application involving the erection of a dwelling house or alterations and additions to an existing dwelling house on bush fire prone land addresses the requirements contained in:
  - a) The NSW Rural Fire Service (RFS) publication titled "*Building in Bush Fire Prone Areas Single Dwelling Applicants Kit*" found on the RFS website ([www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)); and
  - b) *Australian Standard AS3959 – 2009 Construction of Buildings in Bush Fire Prone Areas* (for any Construction Certificate application). A suitably qualified person may need to provide a schedule of compliance with the applicable construction standards. This schedule will form part of the approval documentation and the applicant will be required to comply with it during the course of construction; and
- 4) **National Construction Code (NCC)** may specify additional controls for the construction of buildings on bush fire prone lands.

## 3.3 Vegetation Management & Biodiversity

### Application of this Section

This Section applies:

- 1) To the clearing of vegetation in all areas that is proposed in association with a **Development Application (DA)**;
- 2) To the clearing of specified vegetation in non-rural areas being land in Zones E2 Environmental Conservation, E4 Environmental Living, SP2 Infrastructure, SP3 Tourist, RE1 Public Recreation, R5 Large Lot Residential, RU5 Village & W2 Recreational Waterways.

*This DCP is primarily concerned with clearing associated with development that requires consent under Part 4 of the **EP&A Act** so other approval requirements may not be covered.*

*This section provides guidance on when and how Council will require an applicant to address the biodiversity and vegetation requirements (noting that there may be additional requirements for clearing not associated with either Part 4 or Part 5 of the **EP&A Act**) including, but not limited to:*

- 1) *Biodiversity Conservation Act 2016 ('**BC Act**') & associated regulations;*
- 2) *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ('**Vegetation SEPP**') that regulates the clearing of native vegetation in areas zoned for urban purposes or for environmental conservation/management (i.e., areas not covered by the Local Land Services Amendment Act 2016). The **Vegetation SEPP** regulates:*
  - a) *Native vegetation above the **Biodiversity Offset Scheme (BOS)** threshold;*
  - b) *Vegetation below the **BOS** threshold where a proponent would require a permit from Council if that vegetation is identified in the Council's DCP (see Section 3.3.2).*
- 3) *Local controls in **LLEP2014** that review local issues including:*
  - a) *Clause 7.4 – Terrestrial biodiversity; and*
  - b) *Clause 7.6 – Riparian land and watercourses.*

*The biodiversity assessment and approval pathways are dependent on the purpose, nature, location and extent of the vegetation clearing and whether the clearing is associated with native or non-native vegetation. The following flowchart summarises the various approval pathways.*

*There may be exemptions to the requirements of this Section, for example, if the proposed development is fulfilling the purpose of a subdivision that was approved prior to 25 August 2017 in an urban zone including Zone R1 to R4, RU5, B1 to B8 or IN1 to IN3.*

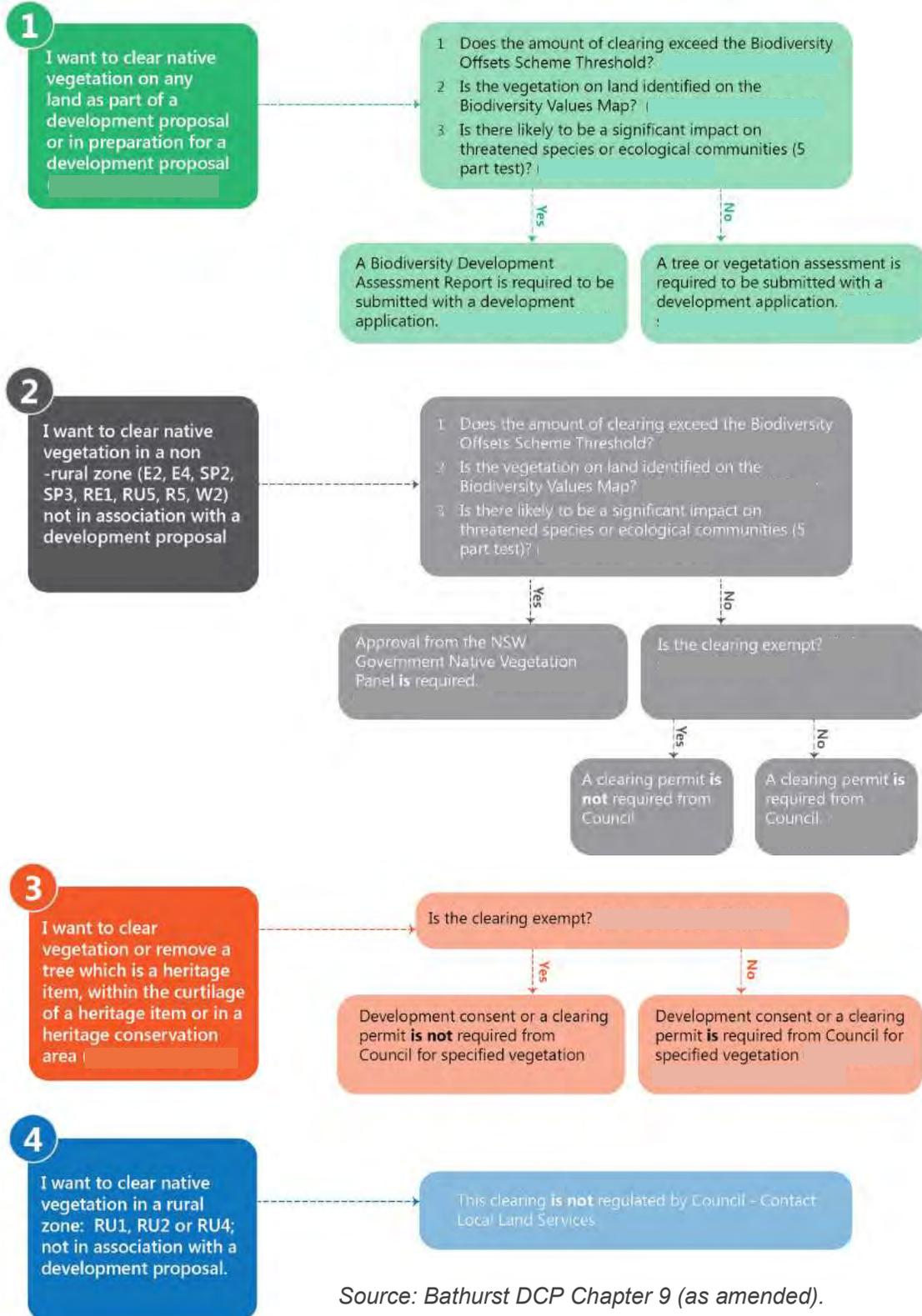
**Native vegetation** is defined in the LLS Act Part 5A, Division 1, Section 60B.

**Note: Native vegetation clearing** is defined under Schedule Part 5A, Division 1 Section 60B and 60C of the Local Land Services Act 2013 (LLS Act).

**Biodiversity** includes plant and animal life.

*This section does not constitute legal advice as to responsibilities under the NSW Local Land Services Act 2013, Biodiversity Conservation Act 2016, or **Vegetation SEPP**.*

**Biodiversity Approval Pathways** – To satisfy the relevant biodiversity legislation/policies, it is first necessary to determine the relevant approval pathway / legislation in accordance with the flow diagram below.



Source: Bathurst DCP Chapter 9 (as amended).

### Objective(s)

- 1) To protect and enhance significant **native vegetation**, ecological corridors/processes, **biodiversity** and native flora/fauna (particularly threatened species or ecological communities) in the Lithgow **LGA** for the benefit of both the natural environment and human sustainability.
- 2) To encourage retention (where possible) of native and other vegetation that can improve environmental outcomes, provide amenity and character, act as a buffer to development, and improve the sustainability of development.

### Control(s)

#### 3.3.1 Vegetation Clearing for Development Requiring Consent

If vegetation clearing is associated with a development that requires development consent under Part 4 of the EP&A Act then the test is '*whether the proposed development is likely to have any biodiversity impacts (clearing and/or prescribed) on threatened species and/or threatened ecological communities*' – using the steps set out below.

The **Biodiversity Offsets Scheme (BOS) Threshold** is a test used to determine when it is necessary to engage an accredited assessor to apply the **Biodiversity Assessment Method (BAM)** to assess the impacts of a proposal in a **Biodiversity Development Assessment Report (BDAR)**.

If you are required to obtain a **BDAR**, the conditions of an approval or consent will likely require you to retire biodiversity credits. The requirement to obtain a **BDAR** and for the conditions of a consent or approval to require the retirement of biodiversity credits is part of what is described as the **Biodiversity Offsets Scheme (BOS)**.

The *Biodiversity Conservation Regulation 2017* sets out threshold levels for when the **Biodiversity Offsets Scheme (BOS)** will be triggered. If clearing and other impacts exceeds the triggers, the **Biodiversity Offset Scheme (BOS)** applies to the proposed development including biodiversity impacts prescribed by clause 6.1 of the *Biodiversity Regulation 2017*.

If the BOS is not triggered, the **test of significance** detailed in *Section 7.3* of the *Biodiversity Conservation Act 2016* is used to determine whether a local development is likely to significantly affect threatened species.

You can also use the NSW Government *Bio Assessment & Approvals Navigator* to determine if they need a BDAR at <https://www.olg.nsw.gov.au/biodiversity-assessment-and-approvals-navigator>.

### 3.3.1.1 Step One (1): Mapping - Biodiversity Values Map

The **Biodiversity Values (BV) Map** identifies land with high biodiversity value (defined by *Clause 7.3(3)* of the *Biodiversity Conservation Regulation 2017*) that is particularly sensitive to impacts from development and clearing. If any part of your proposed development takes place on land identified as having '**Biodiversity Values**' on the **BV Map** then a **BDAR** will be required.

*The relevant 'parts' of a proposed development includes any land required for buildings, landscaping, access roads, bush fire asset protection zones, fencing and any associated infrastructure whether temporary or permanent.*

Applicants should:

- Login to the **Biodiversity Values Map and Threshold (BMAT) Tool** at <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap>
- Accept the *Terms of Use*
- Click on the '*Start Here*' blue button and in the pull-down menu click on either '*Search by Land Parcel by Lot/DP*' or '*Search address*' and input the details of your property OR Zoom (scroll using mouse) into the map to the Subject Site
- Check whether any **Biodiversity Values** are shown on the Site and the **BV Map** Criteria.

### 3.3.1.2 Step Two (2): Identify the Location & Impact of Proposed Development

If there is any chance that the Proposed Development is likely to be located in a biodiversity area on the **BV Map**, then the applicant should prepare the following to provide detailed evidence of the location and impact of the Proposed Development:

- 1) A **Site Plan** that shows:
  - a) The site boundaries and rough contours or terrain;
  - b) Existing buildings and structures of the land;
  - c) The location of any watercourses or vegetated areas;
  - d) The location of any **Biodiversity Values** or **Sensitive Biodiversity** from the map noted above;
  - e) Where all proposed building(s) or work(s) are to be located;
  - f) The area of land/vegetation to be disturbed including any **Asset Protection Zone(s)** (if required) for bush fire protection.

This may need to be based on a **Survey Plan** to locate these items and the affected vegetation;

- 2) A report (prepared by a suitably qualified consultant) that describes the vegetation to be cleared including likely species, number, estimated height and condition supported by photographs and calculates the area of affected vegetation in accordance with the regulatory requirements. This may need to be based on an **Arborist Report** if there is any doubt about the species and their condition.
- 3) There may be a number of exemptions for vegetation clearance under the **Vegetation SEPP** or other legislation. However, you may need to satisfy Council that any exemption applies.

**3.3.1.3 Step Three (3): BOS Threshold**

The **Biodiversity Offset Scheme (BOS) Thresholds** applies to all land, not just land affected by the **BV Map**. The next step is to check the **Minimum Lot Size (MLS)** in **LLEP2014** on the **Lot Size Map** for the Subject Land and then compare it to the **Area Clearing Threshold** in the table below.

If the thresholds are exceeded then a **BDAR** will be required unless there are specific exemptions (e.g., Category 1 land under the LLS Act). The applicant is required to demonstrate if the thresholds are not exceeded.

The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).

Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply
Less than 1 ha	0.25 ha or more
1 ha to less than 40 ha	0.5 ha or more
40 ha to less than 1000 ha	1 ha or more
1000 ha or more	2 ha or more

Source: <https://www.olg.nsw.gov.au/biodiversity-assessment-and-approvals-navigator>

**3.3.1.4 Step Four (4): Significant Impacts on Threatened Species**

Even if the area cleared does not exceed the **Biodiversity Offsets Scheme (BOS)** thresholds or affect **Biodiversity Values** on the **BV Map**, the applicant will need to satisfy the **test of significance** for determining whether a development or activity is likely to significantly affect threatened species under **Part 7 of the BC Act**.

In the context of a Part 4 development (not including major projects), if the **test of significance** assessment indicates that there will be a significant impact, then a **BDAR** will be required. The test of significance is also required to be applied for Part 5 activities.

See *Section 3.3.2 – Threatened/Endangered Species/Ecological Communities* of this DCP (below) for more details.

### 3.3.2 Threatened/ Endangered Species/ Ecological Communities

- 1) Council may require additional information, such as a **Flora and/or Fauna Survey** and/or **Vegetation Management Plan** in the following circumstances:
  - a) The proposed development is likely to have an impact on matters of National environmental significance under the (Commonwealth) *Environment Protection and Biodiversity Conservation Act 1999*; or
  - b) There is evidence that **Threatened Species** and/or **Endangered Ecological Communities (EEC)** have previously been identified on or near the Site and the proposed development is likely to have an impact on those species/communities; or
  - c) The proposed development involves clearing of native vegetation of high ecological value, including wetlands and/or riparian vegetation; or
  - d) Ecological assessment of the proposed development is required under *State Environmental Planning Policy No.44 – Koala Habitat Protection*.
  
- 2) A **Flora and/or Fauna Survey** is an ecological study of a specific area of land that may be incorporated in a **Statement of Environmental Effects, biodiversity assessment, species impact statement** or **environmental impact statement** but should be prepared by a suitably qualified consultant that:
  - a) Addresses industry best practice in accordance with relevant guidelines/policies including, but not limited to:
    - i) NSW Government's *Threatened Species Assessment Guidelines*;
    - ii) *SEPP No.44 – Koala Habitat Protection*.
  - b) Documents the components of biodiversity confirmed to be present within the study area;
  - c) Documents the components of biodiversity not confirmed, but likely to be present within the study area;
  - d) Assesses the extent and nature of likely impacts of planning, land management or development proposals on the components of biodiversity referred to above and particularly matters of national, state, regional, or local significance;
  - e) Makes recommendations as to how any planning, land management or development proposals relating to the study area and/or subject site should be dealt with or modified so as to avoid unacceptable impacts on biodiversity.
  
- 3) Notwithstanding any element of this Chapter, if the clearing of vegetation will cause damage to habitat of a threatened species or ecological community or cause harm to an animal that is threatened, part of a threatened ecological community or a protected plant or animal, a **Biodiversity Conservation Licence** is required under the *Biodiversity Conservation Act 2016*. However, a **Biodiversity Conservation Licence** is not required if:
  - a) A clearing permit or development consent is issued by Council; or
  - b) An approval is granted from the **Native Vegetation Panel**; or
  - c) The clearing is otherwise authorised under other legislation, such as the *Local Land Services Act 2013* (refer to *Part 2 of Biodiversity Conservation Act 2016*).

### 3.3.3 LLEP2014 – Terrestrial Biodiversity

#### Application of this Section

This Section applies whenever proposed development within the Lithgow Local Government Area (LGA) is on land identified as:

- 1) 'Biodiversity' on the Environmentally Sensitive Areas 'Biodiversity Overlay Map' in LLEP2014;
- 2) Within 40m of the top of bank of each watercourse on land identified as 'Sensitive Waterway' on the Environmentally Sensitive Areas - 'Water Overlay Map' in LLEP2014.

This section seeks to protect significant native vegetation and biodiversity that may not be protected under the *Biodiversity Conservation Act*, *Local Land Services Act*, or the **Vegetation SEPP**.

*To find out if your land is affected by this clause, please go to the NSW Planning Portal on the internet at [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au), or consult Council's **DA Guide**.*

*For sites identified as 'Biodiversity' we suggest that the applicant speaks to Council to access mapping provided by the NSW Government that identifies more specific reasons for the biodiversity significance. This may include, but is not limited to:*

- a) Endangered Ecological Communities (EEC);*
- b) Areas where < 30% of that vegetation type is remaining;*
- c) Areas where less than 1000ha of that vegetation type is remaining;*
- d) Vegetation on over-cleared landscapes; or riparian vegetation.*

*The applicant should also check the NSW Government BIONET Atlas ([www.bionet.nsw.gov.au](http://www.bionet.nsw.gov.au)) which is a repository for biodiversity data including species sightings, surveys, and threatened biodiversity. You may require assistance by a suitably qualified consultant to assess this information and determine the likelihood of species on the subject site.*

#### Control(s)

- 1) **Lodgement Requirements:** For all development (excluding single dwellings, alterations and additions, or other minor development) where any native trees (with a height greater than 6m and/or breadth of trunk greater than 600mm at 1m from ground level) are proposed for removal then Council may require:
  - a) For vegetation clearance of 1-10 native trees – an assessment in the **Statement of Environmental Effects** of the likely impact of the vegetation removal on biodiversity; threatened species and ecological communities; and ecological corridors possibly supported by an **Arborist Report** addressing the species and condition of the trees; or
  - b) For any greater clearance of native trees - a **Flora and/or Fauna Assessment** or **Vegetation Management Plan** prepared by a suitably qualified ecologist or flora/fauna specialist to demonstrate that the proposed development will address the requirements of LLEP2014.
- 2) **Disputing Mapping:** Where the applicant wishes to dispute the mapping, it is demonstrated (including photographic and aerial photo evidence) either that:
  - a) The mapping is incorrect in that the identified area does not have any significant native vegetation or likely biodiversity (e.g., it is worked agricultural land/ buildings/ water storage -

with photographic evidence clearly showing the location) or is not native vegetation (this may require species listing); or

- b) That the proposed development (and any impacts from that development on the site) will not be in close proximity to or impact significantly on any sensitive area highlighted by the proposed mapping.

3) **Site Investigation:** Where:

- a) It is unclear whether there is any significant native vegetation from the photographic evidence; or
- b) It is unclear whether the development will be in proximity to sensitive biodiversity and/or significant vegetation on recent aerial images; or
- c) There is other relevant evidence requiring further investigation,

then Council may conduct a preliminary site investigation (site visit) to assess the potential for impact from the proposed development. It is advisable to seek this advice from Council prior to lodgement of your application to reduce any delays.

At this point Council may advise that no additional justification is required if there is minimal impact or the vegetation removal is unlikely to significantly impact the specific biodiversity issue that is mapped OR they may request additional consultant studies to address this matter.

Council and the applicant may have regard to any recent aerial photos of the site in making this decision as well as the other controls in this Section.

*Proximity to significant vegetation may create other hazards (e.g., bush fire risk) that may increase the expense of development so suitable setbacks to existing vegetation are recommended.*

### 3.3.4 Clearing NOT Associated with Development (Non-Rural Zones)

If the vegetation to be cleared is NOT associated with development requiring consent and is above the **BOS Threshold** and covered by the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)* then applicants address the steps in *Section 3.3.2* of this DCP above. The **Vegetation SEPP** generally applies to urban and non-rural zones including Village; Residential; Business; Industrial, Infrastructure, Recreation and Waterways Zones.

*Your property may be able to use the 10/50 clearance rules without approval. Please see the RFS website ([www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)) for more details.*

### 3.3.5 Clearing NOT Associated with Development (Rural Zones)

If the vegetation to be cleared is:

- NOT associated with a development requiring consent; and
- Is within a **Rural and/or Environmental Zone** in the Lithgow **LGA**; or
- Is within a **Deferred Zone** (e.g., Portland Foundations Site);

then it should consider the relevant approval pathway under the *Local Land Services Act 2013* (LLS Act), particularly **Part 5A – Land Management (native vegetation)**, noting Council does not provide this approval.

### 3.3.6 Declared Vegetation in this DCP

At the time of preparing this DCP, Council did not have any of the following:

- a) Tree Protection Orders (TPOs);
- b) Specific vegetation species or sizes that are protected in this DCP.

Therefore, there is no vegetation declared in this DCP to be vegetation to which *Part 3* of the **Vegetation SEPP** applies.

### 3.3.7 Tree Removal Criteria

- 1) Regardless of *Section 3.3.6 Declared Vegetation in this DCP*, Council may take into consideration any or all of the following criteria when assessing an application involving clearing of vegetation (including native and non-native vegetation) whether it is associated with a development or not:
  - a) **Description:** The application includes:
    - i) **Site Plan(s)** showing the location of the vegetation to be cleared supported by a **Survey Plan**;
    - ii) A description of the vegetation to be cleared (type & condition) (possibly supported by an **Arborist Report**) with photos of the relevant trees and justification addressing the points below.
  - b) **Condition:** Condition of the tree/vegetation (may need to be justified by an **Arborist Report**) including:
    - i) Potential life of the tree and whether it is deteriorating or declining;
    - ii) Whether the tree is severely stressed, diseased or is suffering insect damage without the opportunity for remediation/mitigation;
    - iii) Whether the growth habit or mature size of a tree is undesirable;
    - iv) Whether the tree shows poor form, shape and/or vigour typical to the species;
    - v) The significance and rarity of the tree/vegetation species (local/regional/national);
  - c) **Ecology/Amenity:** Whether the removal of the vegetation has the potential:
    - i) To directly or indirectly affect a threatened species, population, ecological community or their habitats;
    - ii) To have an adverse impact on the amenity or scenic environmental quality of the locality;
  - d) **Assets:** Protection of Assets (may need to be justified by a suitably qualified person) including:
    - i) Whether the removal of the vegetation is necessary to create an Asset Protection Zone (APZ);
    - ii) Whether the vegetation is causing structural damage to a building, structure, pipe or sewer;
    - iii) Whether the branches are dangerous and extend over a building or adjoining property and cannot be resolved by reasonable pruning to retain the vegetation;

- e) **Medical:** Whether the applicant has provided a medical certificate from a clinical immunologist/allergy specialist that states that the pruning or removal of the vegetation is necessary for maintaining quality of life;
  - f) **Approvals:** Whether any previous condition of development consent required the retention of the vegetation;
  - g) **Replacement:** Whether the proposal involves the planting or replacement of suitably mature vegetation.
- 2) **Exemptions:** Council is satisfied (based on evidence provided by the applicant) that:
- a) The clearance satisfies the exemptions in the **Vegetation SEPP** (where applicable);
  - b) The vegetation is dead or dying and is not required as the habitat of native animals;
  - c) The species is a weed or non-native invasive species;
  - d) The vegetation is a risk to human life or property;
  - e) Clearance is authorised under other legislation;
  - f) The vegetation is within 3m of a lawful dwelling;
  - g) Clearance is in accordance with an approved vegetation plan or conservation agreement.
- 3) **Unacceptable Reasons:** The following reasons are generally not acceptable to justify tree/vegetation removal:
- a) Shedding of flowers, leaves, bark, twigs, fruit and sap causing nuisance;
  - b) Animals (insect, bird, bat, possum etc.) that inhabit the tree causing nuisance;
  - c) Damage to underground services where there are reasonably feasible alternatives to mitigate and retain the tree;
  - d) Construction of fences;
  - e) Minor heave (lifting) of paths, paving, fences and minor structures where there are reasonably feasible alternatives to mitigate and retain the tree;
  - f) Tree does not suit the existing or proposed landscape;
  - g) Unsubstantiated fear of tree failure;
  - h) Tree removal for fire hazard reduction, where the property is not within a bush fire prone area as defined by the *Rural Fire Services*;
  - i) Tree is considered to be too large or high;
  - j) To enhance amenity (other than solar access) or views;
  - k) To increase solar access unless sufficient evidence is provided.

## 3.4 Land & Soils

### *Application of this Section*

This Section applies wherever site investigations or state or local government mapping indicates there may be contaminated lands or geological, soil classification/types or salinity that may affect the proposed development or where the proposed development may impact significantly on the stability and quality of land and soils.

Issues that may affect parts of Lithgow LGA include, but are not limited to: steep lands and lands with (potential for) significant erosion; rocky outcrops; poorer quality or depth soils that may limit agricultural uses; and salinity.

Any NSW Government publicly-accessible mapping and/or known affected areas through site analysis and previous reporting will be used to determine the presence of these issues.

### 3.4.1 Contaminated Land

*This Section directly relates to requirements under the Contaminated Land Management Act 1997 (& regulations) and State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) that provides procedures to deal with the assessment of known or potentially contaminated land, the remediation of contaminated land, and development that may contaminate land.*

#### **Objective(s)**

- O1. To enable Council to more adequately identify, record and manage known and potentially contaminated land in accordance with legislative and state policy requirements.
- O2. To ensure the applicant reviews the historical uses of a site to identify risks from potentially contaminating land uses.
- O3. To ensure development sites have a suitable soil/water quality for their intended use and that any proposed development of an identified contaminated site will not result in any unacceptable levels of risk to human health or the environment.
- O4. To ensure contaminated sites are remediated to a suitable level for their intended purpose and protection of the natural environment.
- O5. To avoid or minimise the risk of future contamination of sites from proposed development.
- O6. To ensure asbestos or other hazardous material waste (if present on the site) are managed in accordance with the requirements set out in *Section 2.9.1 Hazardous Materials & Asbestos* of this DCP.
- O7. To ensure that fill that is brought onto any site (or leaves the Site not destined for an appropriate waste facility) is uncontaminated and will not increase the risk or spread of contamination.

## Controls

- 1) All developments demonstrate how they comply with any relevant NSW Government legislation, regulations, policies including the NSW Government/ EPA (2020) *Consultants reporting on contaminated land – Contaminated land guidelines* ('**Contaminated Land Guidelines**').
- 2) All development applications provide a **Site History** review to determine if there have been or are any potentially contaminating activities on the site or neighbouring sites that could have resulted in contamination. If there is any risk of contamination, the steps in the **Contaminated Land Guidelines** are to be followed.
- 3) Where any proposed development and its operation involves significant quantities of chemical or petroleum use or storage or harmful materials or waste products (in any form) on the site, the applicant demonstrates how the proposed development:
  - a) Will manage and safely contain any chemicals, materials or wastes on the site and/or during their disposal or transport to/from the site in accordance with the relevant regulations;
  - b) Is designed to minimise or mitigate the risk of contamination to land, surface and ground water, or ecological systems both during normal operations and if in the event the normal systems fail;
  - c) Addresses relevant clauses in **LLEP2014** including (where applicable), but not limited to:
    - i) *Clause 7.5 – Groundwater vulnerability;*
    - ii) *Clause 7.6 – Riparian land and watercourses.*
- 4) If cut and/or fill will result in the net export or import of fill to/from the site, the applicant notifies Council in the application and demonstrates the fill is not contaminated. Council may require a **Soil Analysis Report and/or Contamination Review / Site History** to ensure that only clean fill or virgin excavated natural material (VENM) is utilised on site or taken to another site.

### 3.4.2 Sensitive Land Areas

This section applies to all land identified as 'Sensitive Land Areas' on the *Environmentally Sensitive Areas – Land Overlay Map* where *Clause 7.7 Sensitive Lands* in **LLEP2014** applies.

The maps are provided on the NSW Planning Portal at [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au).

### Objective(s)

To avoid, minimise or restrict development of land (consistent with *Clause 7.7 - Sensitive Lands LLEP2014*) on:

- 1) Unsuitably steep slopes or shallow soils;
- 2) Land subject to soil salinity (where it cannot be mitigated through construction techniques);
- 3) Land where there is significant vegetation that is critical to land stability and soil quality;
- 4) Land subject to permanent inundations; and/or
- 5) Land with a high proportion of rock outcropping.

### Control(s)

In order to satisfy the requirements of *Clause 7.7 - Sensitive Lands*, particularly *subclause (4)* that:

- a) *The development is designed, sited and will be managed to avoid significant adverse environmental impact, or*
- b) *If that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- c) *If that impact cannot be minimised—the development will be managed to mitigate that impact,*

the applicant should consider and address the following steps that Council will follow in assessing impacts on sensitive lands:

#### 3.4.2.1 Step One (1): Identify the Nature of the Sensitive Lands:

If the land (or part of the land affected by the proposed development) is identified as ‘*Sensitive Lands*’ on the ‘*Environmentally Sensitive Areas – Land Overlay Map*’ in **LLEP2014**, then the applicant should discuss with Council the nature of that sensitivity and whether there is any mapping anomaly. If the applicant can demonstrate that the mapping is obviously incorrect Council may waive further steps. However, if there is any doubt, applicants should conduct a **Preliminary Site Investigation** under *Step Two (2)* below.

*For sites identified as 'Sensitive Lands' we suggest that the applicant speaks to Council to access mapping provided by the NSW Government that identifies more specific reasons for the biodiversity significance. This may include, but is not limited to:*

- a) *Steep lands (gradient exceeding 18 degrees);*
- b) *Severe to extreme sheet and rill erosion;*
- c) *Land capability Classes V, VI, VII, & VIII (poorer quality or shallow soils);*
- d) *Rocky outcrops.*

*Proximity to sensitive areas may create other hazards (e.g., land slip and drainage issues) that may increase the expense of development so suitable setbacks to sensitive lands are recommended.*

#### 3.4.2.2 Step Two (2): Preliminary Site Investigation

- 1) **Site Plan:** The applicant provides a **Site Plan** (including survey and contour information and/or photographic and aerial photo) providing evidence that details the following:
  - a) The proposed development including the extent and location of all proposed buildings and works that could disturb or impact on the land/soils;
  - b) The site boundary and existing buildings/significant features (ideally based on a **Survey Plan**) and/or overlaid on a recent aerial photograph;
  - c) The location of any known *sensitive land area(s)* using both NSW Government mapping and/or local knowledge; and
  - d) Drainage lines, watercourses, and land that is regularly inundated.
- 2) **Impact:** The applicant demonstrates that the proposed development (and any impacts from that development on the site) will not be in close proximity to or impact significantly on any **sensitive land(s)**.

3) **Site Investigation:** Where:

- a) It is unclear whether there are any significant sensitive land areas from the photographic or other evidence; or
- b) It is unclear whether the development will be in proximity to a sensitive land area; or
- c) There is other relevant evidence requiring further investigation,

then Council may conduct a preliminary site investigation and/or site visit to assess the potential for impact from the proposed development. It is advisable to seek this advice from Council prior to lodgement of your application to reduce any delays.

At this point, Council may advise that no additional justification is required if there is minimal impact or the proposed development is unlikely to significantly impact the sensitive land issue that is mapped. However, if there is any doubt (or Council has insufficient information/expertise), the applicant will need to address *Step Three (3)* below.

**3.4.2.3 Step Three (3): Significant Sensitive Land Impacts**

Where there is risk of significant impact on *sensitive lands*, then Council may require a plan and/or report prepared by a suitably qualified consultant (examples set out in *Sections 3.4.3 & 3.4.4* below) to demonstrate that the proposed development will address the requirements of **LLEP2014**. This requires detailed evidence that the impacts can be avoided, minimised or mitigated by the proposed development.

**3.4.3 Erosion & Sedimentation**

**Objective(s)**

- O1. To ensure that the quality of stormwater run-off from development of sites with a geological or soil-related issue does not impact on the natural environment and receiving waters in terms of soil erosion, sedimentation, water and groundwater pollution, and other impacts.
- O2. To maximise the amount of existing significant vegetation retained on a site during construction and operation of the development to minimise soil erosion and sedimentation of watercourses.

**Control(s)**

Erosion of land through poor land management and development practices can result in significant sedimentation and water quality issues in watercourses and drainage corridors.

The applicant addresses (where relevant) the relative risk of certain developments causing erosion and sedimentation in accordance with the requirements of Landcom, Fourth Edition (2004) *Managing Urban Stormwater: Soils and Construction* ('Blue Book') (as amended) including, but not limited to:

- a) Assessment of site constraints and opportunities;
- b) Management of soils/earthworks;
- c) Vegetation retention and enhancement;
- d) Management of water;
- e) Sediment and waste control; and
- f) Site access, stabilisation and maintenance.

Council may place conditions of consent on development to comply with the requirements of the 'Blue Book' and Council's **DA Guide** in accordance with the risk of erosion and/or sediment leaving the site in the following order of risk (low to high):

- Implement sediment & erosion control measures during construction;
- Lodge with Council (for approval) an **Erosion & Sediment Control Plan**;
- Lodge with Council (for approval) a more detailed **Soil & Water Management Plan**.

### 3.4.4 Other Geological or Soil-Related Issues

#### Objective(s)

- O1. To encourage proposed development to be appropriately sited and/or designed to address site constraints from geological or soil related issues.
- O2. To ensure that the natural environment is suitably protected from inappropriate development locations and/or construction methods that impact regionally significant geological formations.

#### Control(s)

In addition to the requirements for erosion & sedimentation above, where there is evidence of any geological or soil-related issue(s) that may impact on the suitability of a site for development, its proximity to adjacent development, and/or the method of construction then:

- 1) The **Statement of Environmental Effects** and any relevant plan(s) give consideration to the impacts of the geological or soil related issue and document how the proposed development will address those issues and minimise or mitigate any risk;
- 2) The extent of any impact(s) on the geology or soil should be shown clearly on any:
  - a) **Site (Analysis) Plan(s)** – See requirements in *Section 3.4.2.2* above;
  - b) **Earthworks Plan(s)** – showing the extent and volume of cut and/or fill; and
  - c) **Soil and Water Management Plan(s)** – showing how water will be managed to minimise erosion and provide sediment control.
- 3) Council may require a suitably qualified engineer to provide:
  - a) A **Geo-Technical Report** that analyses the geology, soils and possibly the hydrology (water) of the site to determine the risk(s) and how the proposed development will minimise or mitigate any impacts; and/or
  - b) **Engineering / Structural Plan(s)** to ensure appropriate structure and stability of development.

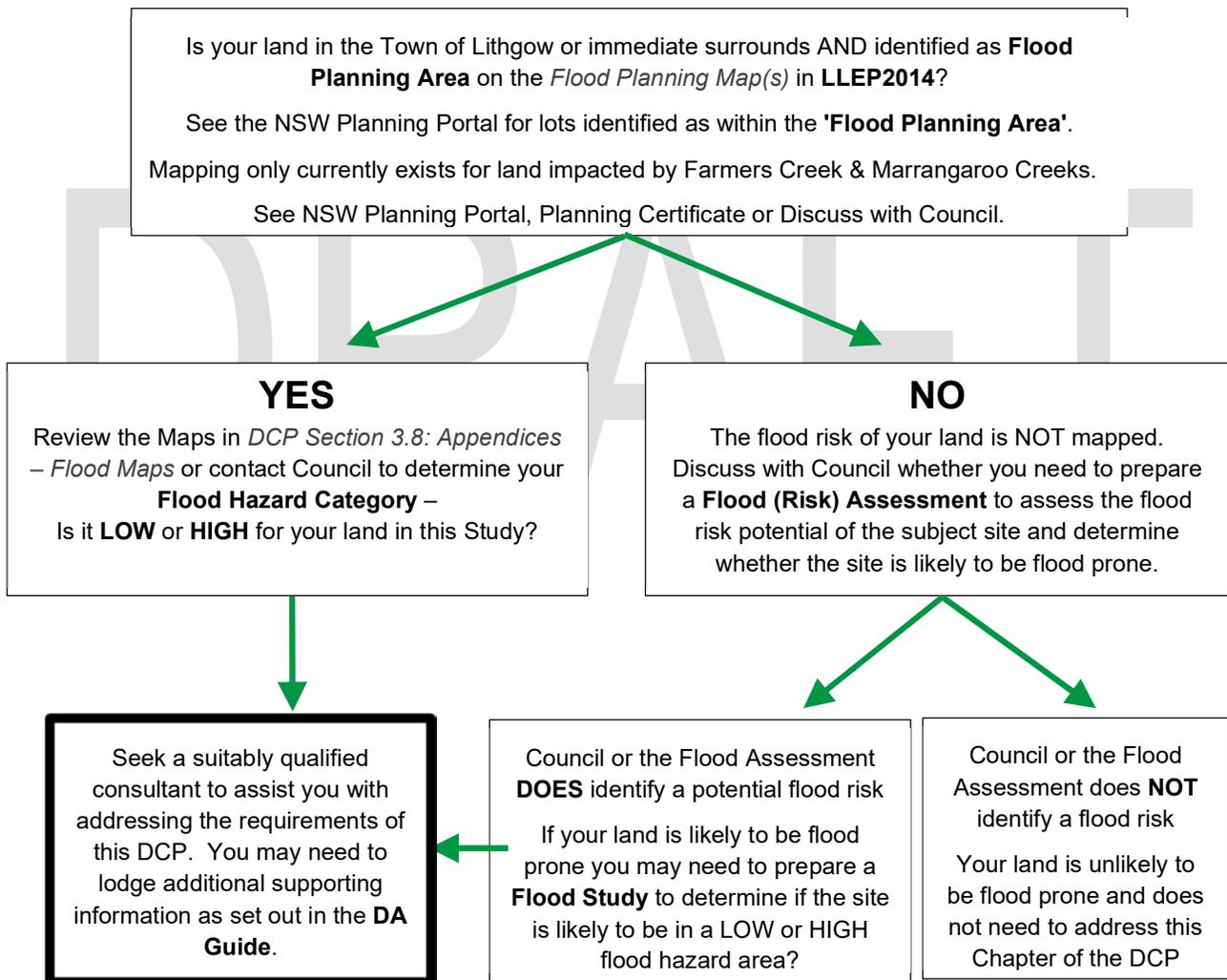
### 3.5 Flood Prone Land

#### Application of this Section

This Section shall apply to all land within the Lithgow Local Government Area (LGA) to which *Clause 7.2 - Flood planning* of **Lithgow Local Environmental Plan 2014 ('LLEP2014')** applies including any land identified or known by Council to have the potential for flooding under that clause. If the requirements in **LLEP2014** are inconsistent with this DCP then **LLEP2014** prevails to the extent of any inconsistency.

#### Flow Chart

The flow chart below aims to assist an understanding of when and how to use this Section.



The flood planning area shown on the **Flood Planning Map(s)** in **LLEP2014** is the 1-in-100-year flood level taken from the Kinhill Engineers Pty Ltd (1991) Lithgow Floodplain Management Study.

Subsequently, Council has adopted the Lyall & Associates (2017) Lithgow Flood Study Review ('**Flood Study**'). This is now the current Flood Study that informs the determination of some flood prone lands (see

*the Maps in Section 3.6 – Appendices: Flooding Maps, and the maps in LLEP2014 will be updated subsequently.*

*Council is in the process of preparing a Flood Risk Management Study & Plan (FRMS&P) that will evaluate options for managing the flood plain and may change flood risk. At this time more detailed flood controls may be added to this DCP.*

*If your land may be affected by flood-related controls, we highly recommend that you seek advice from a Planning or Hydraulic (Flood) Consultant and/or a Council Officer as it is a complex issue. Council offers Pre-Lodgement Meetings to provide advice before you spend significant money on preparing detailed development application(s) or consultant reports.*

### Objective(s)

- O1. To promote awareness of potential flood risks associated with the use and development of land (including mapping of flood risk) and inform the community of Council's flood policy.
- O2. To manage flood risk through appropriate development controls for development at or below the relevant **Flood Planning Level (FPL)**.
- O3. To avoid detrimentally increasing the potential flood affectation on other development or adjacent properties by significantly modifying flood characteristics.
- O4. To avoid unduly sterilising land where flood compatible uses are appropriate and a design response can minimise flood impacts.
- O5. To ensure construction methods and materials on flood liable land are compatible with flooding and flood conveyance.
- O6. To ensure new development does not impose significant additional burdens on, or risk to, State Emergency Services (SES) or other emergency personnel during flood emergencies.

### Relationship to other Planning Policies & Instruments

This Plan is to be read alongside the relevant controls in **LLEP2014**, Council's **Engineering Guidelines**, any adopted **Flood Study** as well as other NSW Legislation, State Policies and Guidelines applying to flood liable land including, but not limited to (as amended):

- a) *Environmental Planning & Assessment Act 1979* and associated Regulations;
- b) NSW Government (2005) *Floodplain Development Manual (Floodplain Manual)*;
- c) NSW Government (2005) *Flood Prone Lands Policy*;
- d) NSW Government (2007) *Flood Planning Guideline*;
- e) NSW Government *Guideline on Development Controls on Low Flood Risk Areas*;
- f) NSW Government (2009) *Section 9.1 Ministerial Directions* (as amended).

### Exempt & Complying Development

This DCP does not affect the requirements for development of land using the rules under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 ('Codes SEPP')*. However, the relevant flood mapping may determine which lots are 'flood control lots' (i.e., lots to which flood related development controls apply for certain uses) for the purpose of the **Codes SEPP** and may determine the minimum floor level for certain development types.

Complying development cannot occur in a floodway, flood storage area, flow path or high hazard or high-risk area. See *Clause 3.36C (General Housing Code)*, *Clause 3A.38A (Rural Housing Code)*, *Clause 5A.30 (Commercial & Industrial (New Buildings and Additions) Code)*, or any other relevant section of the **Codes SEPP**.

### Key Definitions

Flooding is a complex issue and flood controls include a lot of specific words and definitions that affect when and how flood controls operate. Where specific flood definitions are used in this Plan, we have tried to highlight them in BOLD. When you see one of these BOLD words, we suggest you read this **Key Definitions** Section for that term. If you do not understand the flood definitions or controls please ask a Council officer for assistance.

Only key definitions used in this DCP are set out below. For an expanded list of definitions refer to the Glossary within the NSW Government's *Floodplain Development Manual* and/or Council's adopted *Lithgow Flood Study Review* (on Council's website).

#### Flood Levels for Application of Planning Controls

- **Flood Planning Area (FPA)** means the area of land subject to flood related development controls for residential, commercial and industrial development. **Note:** The FPA is generally determined based on land below the **Flood Planning Level ('FPL')**.
- **Flood Planning Levels (FPL)** are the combination of flood level (derived from significant historical flood events or floods of specific **Annual Exceedance Probabilities (AEPs)** and freeboards selected for floodplain risk management purposes, as determined in management studies and incorporated in management plans.
- **Freeboard** provides reasonable certainty that the risk exposure selected in deciding on a particular flood chosen as the basis for the **FPL** is actually provided. It is a factor of safety typically used in relation to the setting of floor levels. **Freeboard** is included in the **FPL**.

*In the Town of Lithgow, the mapped Flood Planning Level (FPL) is the 1% AEP plus 500mm freeboard for mainstream flooding. For other areas the same FPL may need to be determined by a **Flood Study**.*

#### Flood Hazard

- **Flood hazard** is the potential risk to life and property resulting from flooding. The level of hazard varies across the floodplain due to different flood conditions (such as depth, velocity, etc.).
- **High (provisional hydraulic) hazard flood area** occurs where land in the event of a 100-year ARI (1% AEP) flood is subject to a combination of flood water velocities and depth greater than the following combinations (where damage to structures is possible and wading would be unsafe for able bodied adults):
  - 2 metres per second with shallow depth of flood water;
  - depths greater than 0.8m in depth with low velocity.
- **Low (provisional hydraulic) hazard flood area** occurs where land may be affected by floodway of flood storage subject to a combination of floodwater velocities that would not meet the **high hazard** water velocities/depths (noted above). Nuisance damage to structures is possible and able bodies adults would have little difficulty wading.

**Chance of a Flood**

- **Annual Recurrence Interval (ARI) (years) means** the long-term average number of years between the occurrence of a flood equal to or larger in size than the selected event. (Note: ARI is the historical way of describing a flood event. AEP (see below) is generally the preferred terminology).
- **Annual Exceedance Probability (AEP)** is the chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage. For example, a 1% **AEP** flood has a 1% chance of occurring in any one year.
- **Probable Maximum Flood (PMF)** means the largest flood that could conceivably occur at a particular location; usually estimated from probable maximum precipitation, coupled with the worst flood producing catchment conditions. The **PMF** defines the extent of **flood prone land** that is the floodplain. Generally, it is not physically or economically possible to provide complete protection against this event. The average recurrence interval (ARI) for the **PMF** for Lithgow is approximately 1 in 10,000,000 years.

*The Annual Recurrence Interval ('ARI') is similar to AEP but for the purposes of this Plan they can be used inter-changeably (though AEP is the preferred term).*

ANNUAL EXCEEDANCE PROBABILITY (AEP) %	AVERAGE RECURRENCE INTERVAL (ARI) YEARS
0.2	500
0.5	200
1	100
2	50
5	20
10	10
20	5

*The table adjacent shows the rough correspondence between different AEP and ARI terminology.*

*It is important to understand that a 1% AEP (or 1:100 ARI) flood does **not** mean that only one flood of that level would occur every 100 years. Instead, it is the chance in any year of a flood of that level occurring.*

*It is also important to note that historical floods **may not** have reached or exceeded the 1% AEP flood level.*

**Flood – General Terms**

- **Catchment means** the area of land draining to a specific location. It includes the catchment of the primary waterway as well as any tributary streams and flow paths. It always relates to an area above a specific location.
- **Flood** means a relatively high stream flow which overtops the natural or artificial banks in any part of a stream, river, estuary, lake or dam, and/or local overland flow paths associated with major drainage before entering a watercourse, and/or oceanic inundation resulting from super-elevated ocean levels. It excludes waves overtopping coastline defences and tsunamis.
- **Flood liable land** is synonymous with **flood prone land** and **floodplain** i.e., area of land which is subject to inundation by floods up to and including the **probable maximum flood ('PMF')** event. Note that the term **flood liable land** covers the whole floodplain, not just that part below the **Flood Planning Level**.

**Types of Flooding**

Different types of flooding may affect your land. Most people recognise mainstream flooding but land can also be affected by overland flooding or along natural drainage channels.

- **Mainstream flooding** (MSF) is the inundation of normally dry land occurring when water overflows the natural or artificial banks of a stream, river, estuary, lake or dam.
- **Local Drainage** issues are typically caused by direct surface runoff, surcharges and overflows from low points in kerbs, or overflows from the stormwater drainage system. They involve shallow depths with little danger to personal safety. In the FRMS&P a distinction was made between local drainage and **Major Overland Flow** (MOF) and local drainage issues are not included in the Flood Planning Area.
- **Floodway areas** are those areas of the floodplain where a significant discharge of water occurs during floods and are areas that, even if only partially blocked, would cause a significant redistribution of flood flow or a significant increase in flood levels.
- **Flood storage areas** are those parts of the floodplain that are important for the temporary storage of floodwaters during the passage of a flood.
- **Flood fringe areas** means that part of the floodplain remaining after the flood function areas of the floodway and flood storage areas have been defined.

*Historically, the Town of Lithgow has focussed on **mainstream flooding** along Farmers Creek and Marrangaroo Creek as covered by the Flood Study. However, it is likely that the future **FRMS&P** will extend to overland flooding that may be more extensive. Where Council is aware of this flood risk, they may require additional flood studies to assess the risk.*

**General Terms**

- **Australian Height Datum (AHD):** A common national surface level datum approximately corresponding to mean sea level.
- **Flood compatible materials:** Building materials that are resistant to damage when inundated by floodwaters.
- **Flood proofing:** A combination of measures incorporated in the design, construction and alteration of individual building and structures subject to flooding, to reduce or eliminate flood damages.
- **Gross floor area:** Is defined in **LLEP2014**.
- **Habitable room / floor area:** In a residential building a habitable room is a living or working area such as a lounge room, dining room, rumpus room, kitchen, bedroom or workroom. It does not include bathrooms or garages.
- **Reliable access:** The ability for people (pedestrians and vehicles) to safely access and evacuate an area defined as a maximum water depth of 300mm during certain flood events (see Matrix in Controls). Road type/construction is suitable for all weather 2WD access.
- **SES:** State Emergency Service of New South Wales.

### 3.5.1 Preliminary Flood Risk Assessment

PRIOR TO LODGING THE DEVELOPMENT APPLICATION, where there is any reasonable chance that the subject land could be affected by flooding (i.e., it is near a watercourse or on low-lying land), and a Flood Planning Level (FPL) has not already been determined in a Flood Study, THEN the applicant (or their consultant) should provide to Council the following in accordance with Council's **DA Guide**:

- a) A **Survey Plan** from a Registered Surveyor;
- b) **Plans** showing details of the proposed development based on the **Survey Plan**;
- c) A **Flood (Risk) Assessment**.

COUNCIL will conduct a brief assessment of:

- a) Historic flood inundation records held by Council for the site and/or surrounding area as the highest known flood (though this often does not accurately represent the 1% Annual Exceedance Probability (AEP) or Flood Planning Level and is subjective only);
- b) Any (known) existing **Flood Study** or modelling undertaken for a site or for sites in the surrounding area that may provide an indication of flood levels in the area;
- c) Any indicative Flood potential shown in other relevant land use strategies adopted by Council;
- d) Any State Emergency Services or other relevant agency/authority mapping that may be available not just for flooding but also for dam break contingencies.

IF COUNCIL has any reasonable reason to believe that the lot (or the part of the lot where development is proposed or would be needed for access) may be:

- a) affected by **mainstream flooding** or **overland flows**, and/or
- b) at or below the **Flood Planning Level (FPL)**,

then it may (at its discretion based on the risk of the proposal) require further assessment of flood potential and responses (See DCP *Section 3.5.2 - Application Requirements* for more details).

*Please see Council's DA Guide for the lodgement requirements for land affected by flooding. Some additional guidance is provided in the controls below.*

### 3.5.2 Key Controls

#### 3.5.2.1 Development at or below the Flood Planning Level (FPL)

- 1) All development that is at or below the Flood Planning Level (FPL) requires the consent of Council.
- 2) All developments shall be assessed in accordance with the latest edition of the *NSW Floodplain Development Manual* (as amended by the NSW Government).
- 3) Development is prohibited unless Council is satisfied that it will not increase the **flood hazard** rating or likely flood damage to any other property.

### 3.5.2.2 Development within High Hazard Flood Areas

- 1) No alteration in ground levels will be permitted, whether by excavation (cut) or filling, without the submission of a **Flood Study** and prior development consent.
- 2) The carrying out of any work or the erection of any structure, including fence, on land in the **High Hazard Flood Area** will only be permitted if the land is outside the **Floodway**, subject to low velocities, and is supported by a **Flood Impact Assessment (FIA)** showing that the works will have no adverse flooding affects on any other property.

### 3.5.2.3 Development within Low Hazard Flood Areas

- 1) **Low Hazard – Floodway:** No alteration in ground levels, whether by excavation or filling, will be permitted without the submission of a **Flood Study** and prior development consent. Neither the carrying out of any work, nor the erection of any structure, including fences, will be permitted in Low Hazard Floodway areas.
- 2) **Low Hazard – Flood Storage and Flood Fringe:** Development consent is required to be obtained prior to any activity, work or building being carried out within the **Flood Planning Area (FPL)** and a **Flood Study** may be required.
- 3) **Subdivision:** Subdivision for the purpose of new **residential accommodation** or **tourist and visitor accommodation** or other flood-sensitive development must demonstrate that every lot created or resulting from the subdivision is capable of providing a suitable building envelope (for dwellings a minimum of 200m<sup>2</sup>) and access to a public road that is above the **Flood Planning Level (FPL)**.
- 4) **New Development – Non-Residential:** Where the proposed floor level of any building is below the **FPL**, there must be suitable area(s) available for the permanent or temporary storage of hazardous materials and valuable goods above the **FPL** and this area must be a minimum of 20% of the **gross floor area** of the building.
- 5) **Existing Development – Non-Residential:** Alterations and additions to existing non-residential buildings may be constructed at the same floor level as the existing building subject to compliance with the DCP *Section Construction Requirements & Flood Proofing* to the **FPL**.
- 6) **New Development – Residential:** New dwellings must have a floor level located at or above the **FPL**.
- 7) **Existing Development – Residential:** Alterations and additions to existing residential buildings that have an existing floor level below the FPL will be determined by Council on the application's merits, having regard to the following matters:
  - a) Where the existing floor level is below the 1% AEP flood level, any extension at the same floor level is limited to 20% of the existing habitable floor area or 50% if it is built at or above the 1% AEP flood level;
  - b) The extension is to be **flood proofed** to the FPL.
- 8) **Carports and Open Sheds:** Carports and open sheds below the **FPL** are constructed from **flood compatible materials** under DCP *Section Construction Requirements & Flood Proofing* and may be constructed at existing floor levels.

- 9) **Change of Use:** A change of use occurs when an approved use of a building is changed from one use to another use. Some flexibility is provided for commercial/industrial changes of use to facilitate re-use of existing buildings.
  - a) If a change of use is from a commercial/ industrial/ other use to a residential use (or use with a residential component) then the requirements for **residential accommodation** apply.
  - b) If a change of use is from a non-residential use to another non-residential use then:
    - i) If there is no modification to the building footprint required as part of the change of use, existing floor levels need not be changed;
    - ii) Otherwise, the requirements for non-residential uses (including alterations and additions) apply.

### 3.5.3 Construction Requirements & Flood Proofing

Unless it is a dwelling house or minor alterations and additions, a suitably qualified consultant may be required to certify that:

- 1) The proposed structure can withstand the force of floodwater, debris and buoyancy (for calculation of debris forces assume a solid object of mass 250kg travelling at a velocity of 2.0 metres/second).
- 2) All building or construction uses flood compatible materials as per the table below or a suitable alternative is demonstrated to achieve a similar outcome.

<b>TABLE OF CONSTRUCTION THAT IS 'DEEMED TO SATISFY' REQUIREMENTS</b>	
<p><i>This table sets out some recommended flood compatible building materials and construction methods. Use of these materials/methods is deemed to satisfy this control. If alternate materials/methods are proposed then a suitably qualified consultant verifies that they would be flood compatible as per the NSW Government policy. The use of these materials or methods does not guarantee compliance with the relevant provision of the <b>National Construction Code (NCC)</b> - to be separately confirmed.</i></p>	
<b>FLOOD COMPATIBLE MATERIALS</b>	
Flooring & Sub-Floor Structure	<p>Pier and beam construction or suspended reinforced concrete slab is preferred where it can allow floodwaters to pass beneath the floor.</p> <p>Alternatively, concrete slab-on-ground monolith construction is permitted but clay filling is not permitted beneath this where this could be inundated.</p>
Insulation	Foam or closed cell types.
Nails, Bolts, Hinges & Fittings	<p>Galvanised</p> <p>Removable pin hinges</p>

UTILITIES, EQUIPMENT & STORAGE	
Electrical Main Power Supply	Subject to the approval of the relevant power authority, incoming electricity mains, service equipment and meters shall be located above the <b>Flood Planning Level</b> . Means shall be available to easily disconnect the building from the main power supply or all connections are to be automatically isolated in the event of flood waters having the potential to gain access to exposed electrical circuits (internal/external of the building).
Electrical & Wiring	All wiring, power outlets, switches, etc., should, to the maximum extent possible, be located above the <b>Flood Planning Level</b> . All electrical wiring installed at or below the <b>FPL</b> should be suitable for continuous submergence in water and should contain no fibrous components. Only submersible-type splices should be used at or below the <b>Flood Planning Level</b> . All conduits located below the relevant flood level should be so installed that they will be self-draining if subjected to flooding
Equipment	All equipment installed below or partially below the <b>Flood Planning Level</b> should be capable of disconnection by a single plug and socket assembly. Should any electrical device and/or part of the wiring be flooded it should be thoroughly cleaned or replaced and checked by an approved electrical contractor before reconnection.
Heating Equipment & Fuel Storage	<p>Heating and air-conditioning systems should be installed above the <b>Flood Planning Level</b>. If located below the <b>FPL</b>, heating systems using gas or oil as a fuel should have a manually operated valve located in the fuel supply line to enable fuel cut-off.</p> <p>Heating equipment and fuel storage tanks should be mounted on and securely anchored to a foundation pad of sufficient mass to overcome buoyancy and prevent movement that could damage the fuel supply line. All storage tanks should be vented to an elevation of 500 millimetres above the <b>Flood Planning Level</b>.</p> <p>All ductwork located below the <b>FPL</b> should be provided with openings for drainage and cleaning or self-draining on a suitable grade. Where duct work must pass through a water-tight wall or floor below the relevant FPL a closure assembly operated from above the <b>FPL</b> should protect the duct-work / room.</p>

## 3.6 Ground & Surface Water Protection

### Application of this Section

This clause applies to land where the following Clauses of **LLEP2014** apply:

- a) *Clause 7.5 – Groundwater vulnerability*; and/or
- b) *Clause 7.6 – Riparian land and watercourses*; and

Any other developments / land uses that, in Council's discretion, are in proximity to a significant watercourse or sensitive groundwater system and may have potential to affect riparian lands or watercourses through significant on-site storage of significant volumes of hazardous liquids or chemicals or the production of wastes that could contaminate surface or ground water systems.

*To find out if your land is affected by these clauses, please go to the NSW Planning Portal on the internet at [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au), as described in **Section 3.1 – Introduction** of this DCP.*

*All development should address these issues. However, it is not intended that low-impact developments (particularly in existing urban areas) are required to prepare a detailed response to these clause(s).*

*This may be covered by the **Statement of Environmental Effects**, an **on-site effluent report**, **erosion & sediment control plan**, or other **geo-technical report** (where relevant).*

*However, larger projects or those with potentially higher impacts to the drinking water supply system address these clause(s) in greater detail and provide supporting consultant studies (where required).*

*Works within 40m of a watercourse may also require a **controlled activity approval** from the NSW Government under the Water Management Act 2000 & this is **integrated development** under the EP&A Act). For more information go to <http://www.water.nsw.gov.au/water-licensing/approvals/controlled-activity>.*

### Objective(s)

The objectives for this Section are set out in *Clause 7.5 – Groundwater Vulnerability & Clause 7.6 – Riparian Land & Watercourses* (as applicable) of **LLEP2014**.

### Control(s)

- 1) When a development is proposed on land where this Section applies, then the applicant is only required to address the relevant clause(s) in **LLEP2014** with additional reports in sub-section (2) below for the following land uses / development proposals that are permissible in the relevant zone:
  - a) Intensive livestock agriculture;
  - b) Rural industries and other industries with on-site storage or use of hazardous chemicals or significant petro-chemicals;
  - c) Animal boarding and training establishments and veterinary hospitals where there are significant numbers of animals kept on-premises;
  - d) Larger scale tourist accommodation and eco-tourist facilities requiring on-site sewage management;
  - e) Open cut mining and extractive industries;
  - f) Liquid fuel depots and service stations;

- g) New cemeteries;
- h) New sewerage treatment plants;
- i) Other developments / land uses that, in Council's discretion, would have potential for on-site storage of significant volumes of hazardous liquids or chemicals or the production of wastes that could contaminate surface or ground water systems that feed into the drinking water supply.

*Operations that store small quantities of fuel, oils or other machinery lubricants for rural or non-commercial use(s) would not be considered as posing a high risk of contamination. However, some higher impact facilities (e.g., service stations, liquid fuel depots and some other depots) will need to be discussed with Council. Compliance with specific regulations (e.g., Protection of the Environment Operations Regulations) for service stations and other liquid fuel depots may provide sufficient protection.*

- 2) Council may require additional studies, reports or plans (prepared by suitably qualified consultant) that demonstrate the proposed development will not have a significant adverse impact on surface or groundwater systems in the drinking water catchment and this may include:
  - a) **Operational/Mechanical Information** including hazardous materials that will be used and processes and systems designed to prevent on-site chemicals or waste materials from adverse impacts on surface or ground-water systems (including back-up systems if standard processes fail);
  - b) **Site Plan(s)** including locations of the proposed development in relation to bores within 250m, on-site effluent systems, chemical and hazardous storage areas, and environmental constraints (as relevant);
  - c) **Geotechnical (effluent) studies** to determine the suitable types, locations and disposal areas, and impacts of on-site effluent management and any mitigation measures;
  - d) **Hydrological and groundwater analysis** to determine the character and qualities of ground and surface water systems, potential for recharge/impact, water monitoring systems, and any mitigation measures;
  - e) **Stormwater and drainage plan(s)** to direct surface water away from development;
  - f) **Flora and fauna reports** or **vegetation management plans** or **landscaping plans**;
  - g) Any other reports required to assess the risk and determine appropriate management and mitigation strategies/measures.

### 3.7 Mine Subsidence Risk

#### Application of this Section

This section applies to land identified as being within a **Mine Subsidence District** as mapped on the NSW Planning Portal at [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au).

*The area around the Lithgow has a history of underground coal mining in and around the existing urban centre. Mine subsidence is the movement or vibration of the ground following the extraction of coal. Sometimes after coal is extracted from beneath the ground, the above soil and rock can fall and fill the void left behind causing movement of the ground surface.*

*Subsidence Advisory (SA) NSW has adopted **Mine Subsidence Districts (Maps)** to reflect areas where there is potential for subsidence (see indicative maps on the next page). A district is a land zoning classification administered by SA NSW under the Coal Mine Subsidence Compensation Act 2017 to help protect homes and other structures from potential mine subsidence damage.*

*Subsidence can occur without any effect on buildings and structures, however, sometimes damage may occur. Any home or structure that is damaged as a result of mine subsidence in NSW is eligible for compensation through SA NSW provided it has been constructed in accordance with any applicable approvals.*

*There has been a **Mine Subsidence District** in place for most of the urban area of Lithgow for some time. In July 2017, an additional area to the south of Lithgow including Hassans Walls and parts of Hartley was added. The maps on the following page may be updated - so please check the latest maps through the Planning Portal.*

#### Objective(s)

- O1. To avoid, or if not avoid, minimise or mitigate the potential impacts of mine subsidence on development to protect the safety of people and value and structural stability of assets.

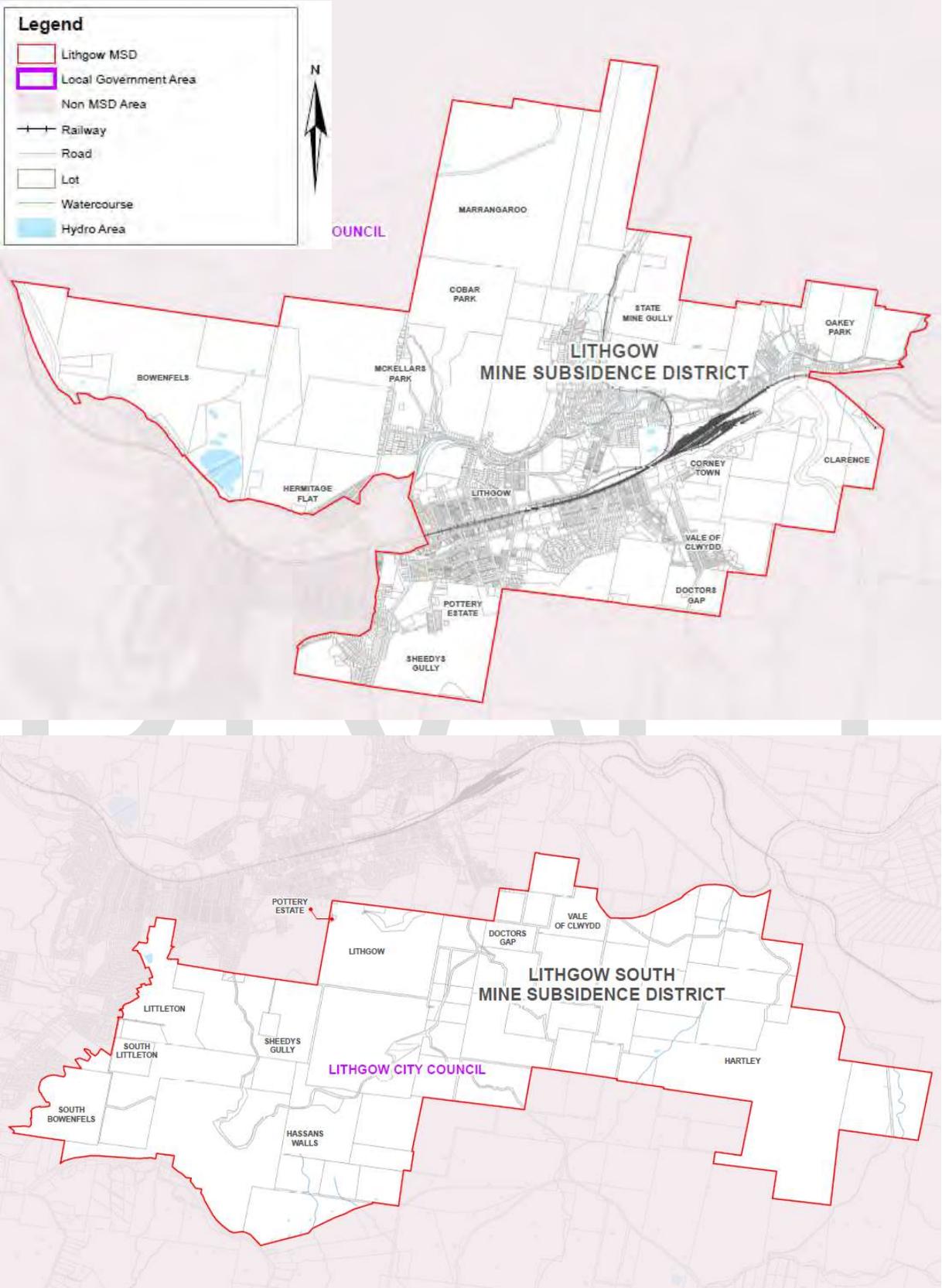
#### Control(s)

- 1) Any development application in a **Mine Subsidence District** considers and addresses the relevant Guideline(s) for the subject site (as amended) prepared by Subsidence Advisory (SA) NSW.

*The relevant guideline for each site is found on the Planning Portal under the 'Mine Subsidence Development' tab (if the land is affected) and depends on the level of subsidence risk and active/non-active mine-workings.*

- 2) Council or SA NSW may require additional **geo-technical studies** and/or **engineering plans and reports** to be prepared for more complex applications or where the development is unable to comply with the standard requirements under the Guidelines prepared by SA NSW.

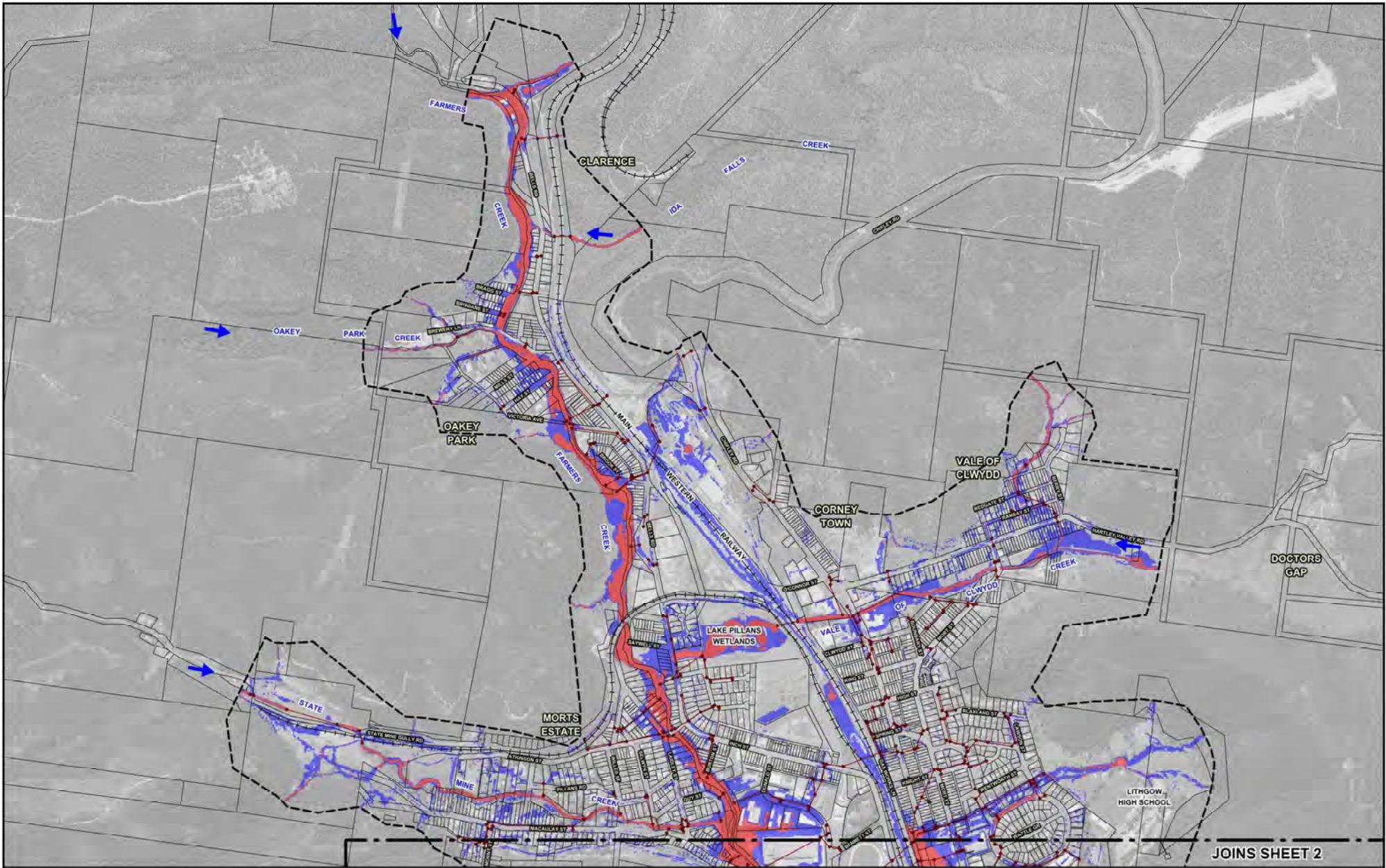
*SA NSW may place conditions of consent on any proposed development to help protect it from potential subsidence damage and ensure the safety of the community. In most cases, SA NSW's development requirements for standard residential development are consistent with the Australian Building Code and do not result in increased construction costs or requirements. However, some of the complex proposals require additional studies and consideration.*



Mine Subsidence Districts in or near Lithgow (Source: Subsidence Advisory NSW website 2020).

### 3.8 Appendices: Flood Maps

DRAFT



JOINS SHEET 2



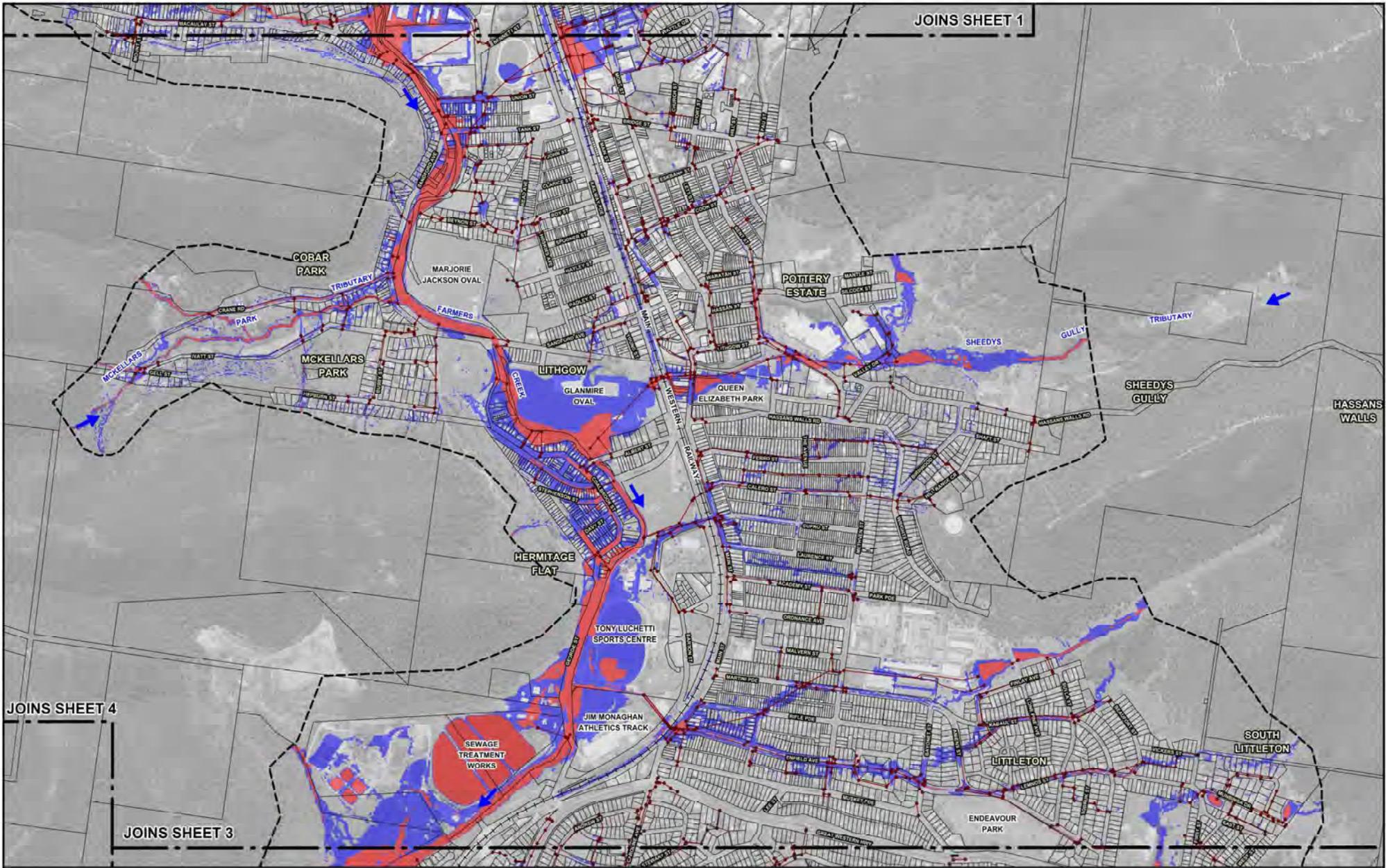
Scale: 1:12,000

**NOTE:**  
 The ground surface model incorporated in TUFLOW is based on LIDAR actively collected from towers sampled on a 3m grid and does not necessarily incorporate localised features which can influence flooding behaviour in individual allotments.  
 Flood depths are therefore approximate only and require interpretation by a suitably qualified engineer to determine flooding behaviour in individual allotments. Any assessment of flooding in individual allotments may also require a site survey.

- LEGEND**
- Two-Dimensional Model Boundary
  - Modelled Stormwater Network
  - High Provisional Hydraulic Hazard
  - Low Provisional Hydraulic Hazard  
(Categories based on Figure L2 of NSW Government's Floodplain Development Manual, 2005)

**LITHGOW FLOOD STUDY REVIEW**

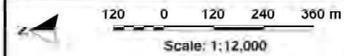




JOINS SHEET 1

JOINS SHEET 4

JOINS SHEET 3



**NOTE:**  
 The ground surface model incorporated in TUFLOW is based on LIDAR activity which has been sampled on a 3m grid and does not necessarily incorporate localized features which can influence flooding behaviour in individual allotments.  
 Flood depths are therefore approximate only and require interpretation by a suitably qualified engineer to determine flooding behaviour in individual allotments. Any assessment of flooding in individual allotments may also require a site survey.

- Two-Dimensional Model Boundary
- Modelled Stormwater Network

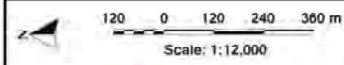
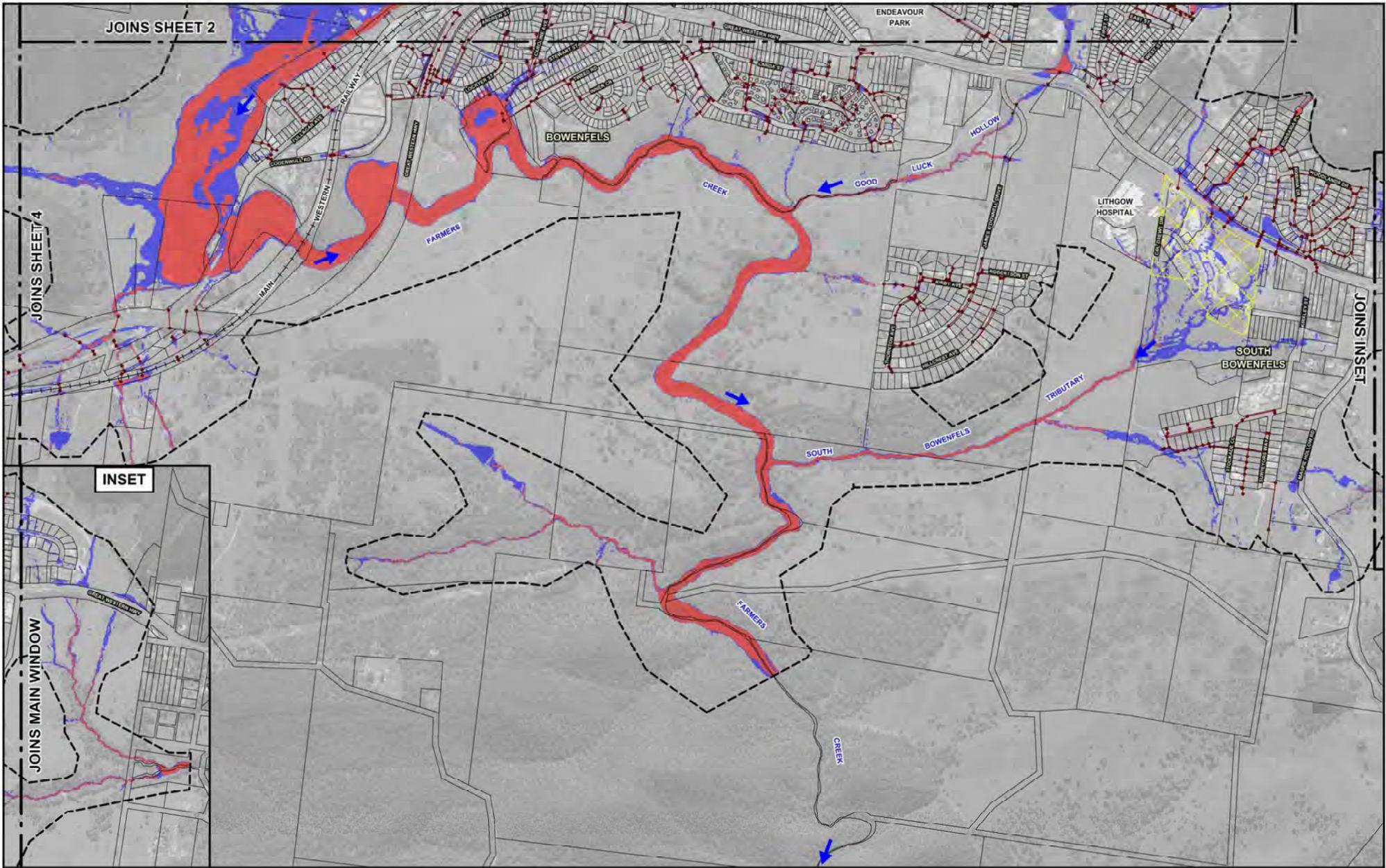
**LEGEND**

- High Provisional Hydraulic Hazard
- Low Provisional Hydraulic Hazard  
(Categories based on Figure L2 of NSW Government's Floodplain Development Manual, 2005)

**LITHGOW FLOOD STUDY REVIEW**

**Lyall & Associates**

Figure 6.9  
 (Sheet 2 of 4)  
 PROVISIONAL FLOOD HAZARD  
 100 YEAR ARI



**NOTE:**  
 The ground surface model incorporated in TUFLOW is based on LIDAR actively collected data from sampled on a 3m grid and does not necessarily incorporate localised features which can influence flooding behaviour in individual allotments.  
 Flood depths are therefore approximate only and require interpretation by a suitably qualified engineer to determine flooding behaviour in individual allotments. Any assessment of flooding in individual allotments may also require a site survey.

- Two-Dimensional Model Boundary
- Modelled Stormwater Network

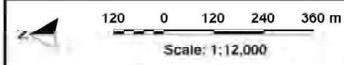
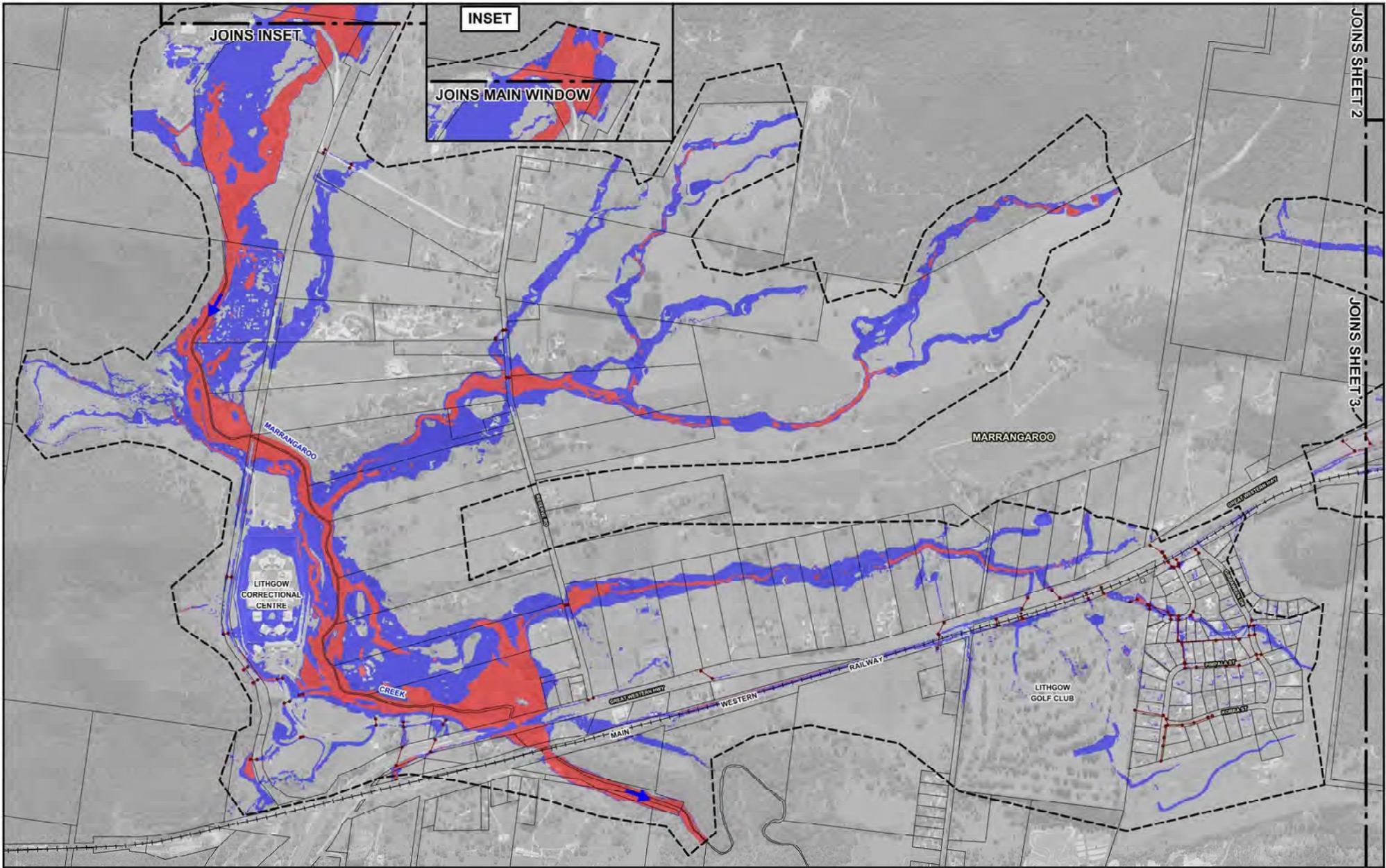
**LEGEND**

- High Provisional Hydraulic Hazard
- Low Provisional Hydraulic Hazard  
(Categories based on Figure L2 of NSW Government's Floodplain Development Manual, 2005)
- Extent of Recent Subdivision Development. Details of New Stormwater Drainage System have not been incorporated in Farmers Creek TUFLOW Model.

**LITHGOW FLOOD STUDY REVIEW**

Figure 6.9  
 (Sheet 3 of 4)

PROVISIONAL FLOOD HAZARD  
 100 YEAR ARI



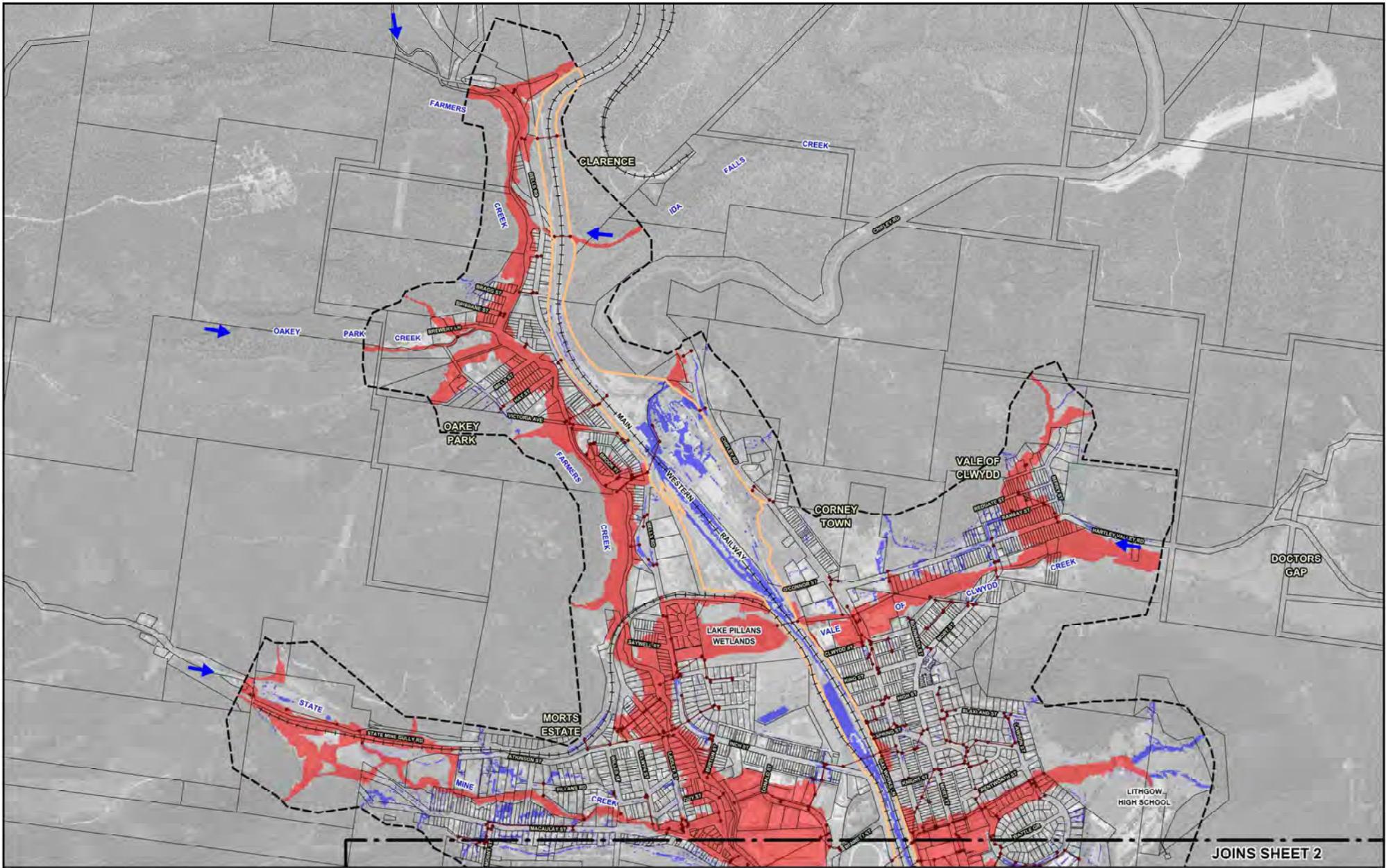
**NOTE:**  
 The ground surface model incorporated in TUFLOW is based on LIDAR actively collected data. It has been sampled on a 1m grid and does not necessarily incorporate localised features which can influence flooding behaviour in individual allotments.  
 Flood depths are therefore approximate only and require interpretation by a suitably qualified engineer to determine flooding behaviour in individual allotments. Any assessment of flooding in individual allotments may also require a site survey.

**Lyall & Associates**

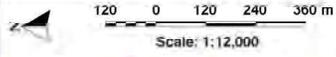
- LEGEND**
- Two-Dimensional Model Boundary
  - Modelled Stormwater Network
  - High Provisional Hydraulic Hazard
  - Low Provisional Hydraulic Hazard  
(Categories based on Figure L2 of NSW Government's Floodplain Development Manual, 2005)

**LITHGOW FLOOD STUDY REVIEW**

Figure 6.9  
 (Sheet 4 of 4)  
 PROVISIONAL FLOOD HAZARD  
 100 YEAR ARI



JOINS SHEET 2



**NOTE:**  
 The ground surface model incorporated in TUFLOW is based on LiDAR activity which has been sampled on a 7m grid and does not necessarily incorporate localized features which can influence flooding behaviour in individual allotments.  
 Flood depths are therefore approximate only and require interpretation by a suitably qualified engineer to determine flooding behaviour in individual allotments. Any assessment of flooding in individual allotments may also require a site survey.

- Two-Dimensional Model Boundary
- Modelled Stormwater Network

**LEGEND**

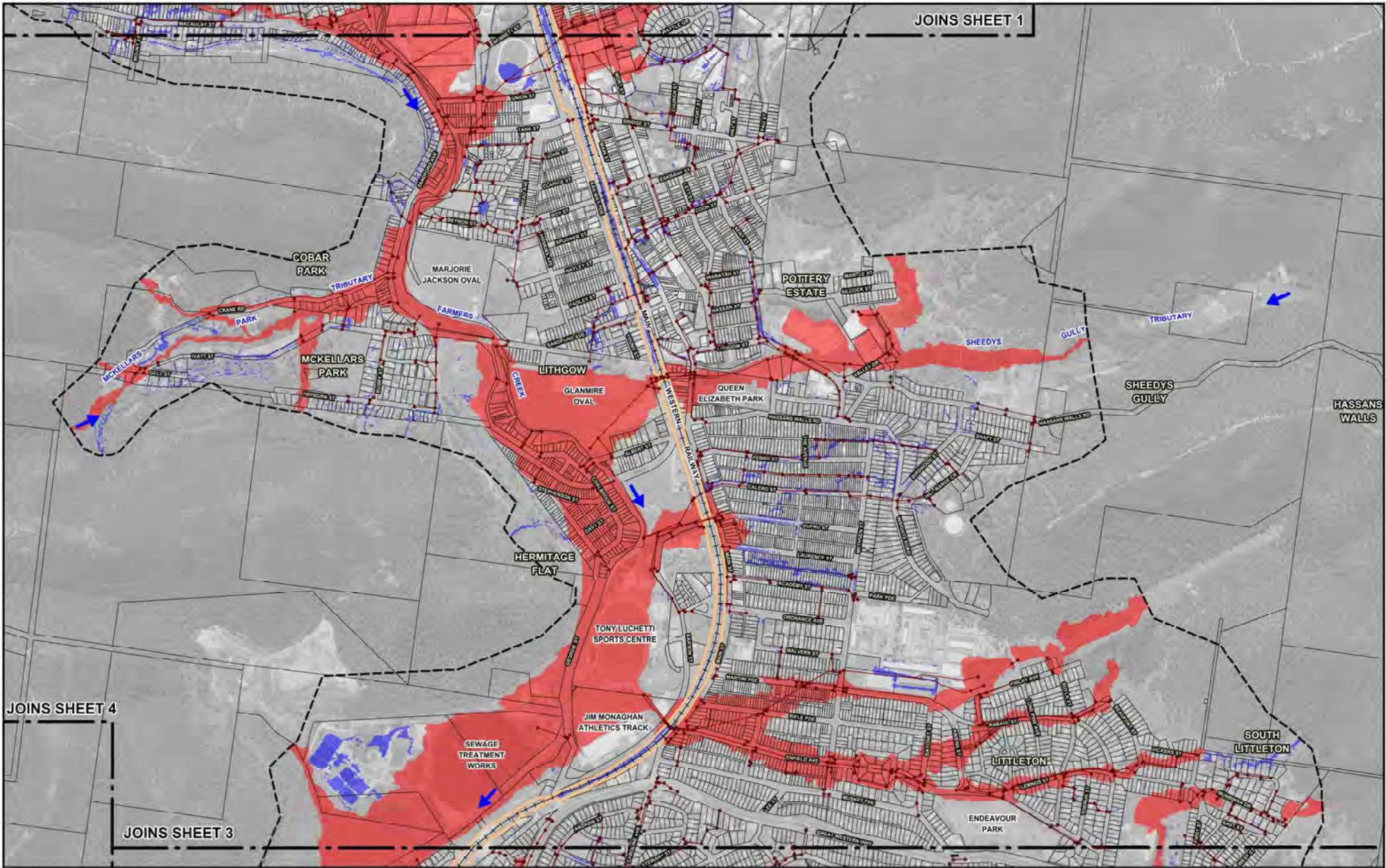
- Interim Flooded Planning Area (Not Shown in Railway Land)
- Land Outside Interim Flood Planning Area Subject To Overland Flow Deeper Than 100 mm
- Extent Of Railway Land

**LITHGOW FLOOD STUDY REVIEW**

Figure 6.16  
 (Sheet 1 of 4)

**INTERIM FLOOD PLANNING AREA  
 MAIN STREAM FLOODING AND MAJOR OVERLAND FLOW AFFECTED AREAS**

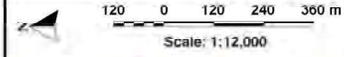




JOINS SHEET 1

JOINS SHEET 4

JOINS SHEET 3



**NOTE:**  
 The ground surface model incorporated in TUFLOW is based on LIDAR activity which has been sampled on a 7m grid and does not necessarily incorporate localized features which can influence flooding behaviour in individual allotments.  
 Flood depths are therefore approximate only and require interpretation by a suitably qualified engineer to determine flooding behaviour in individual allotments. Any assessment of flooding in individual allotments may also require a site survey.

- Two-Dimensional Model Boundary
- Modelled Stormwater Network

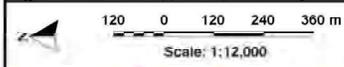
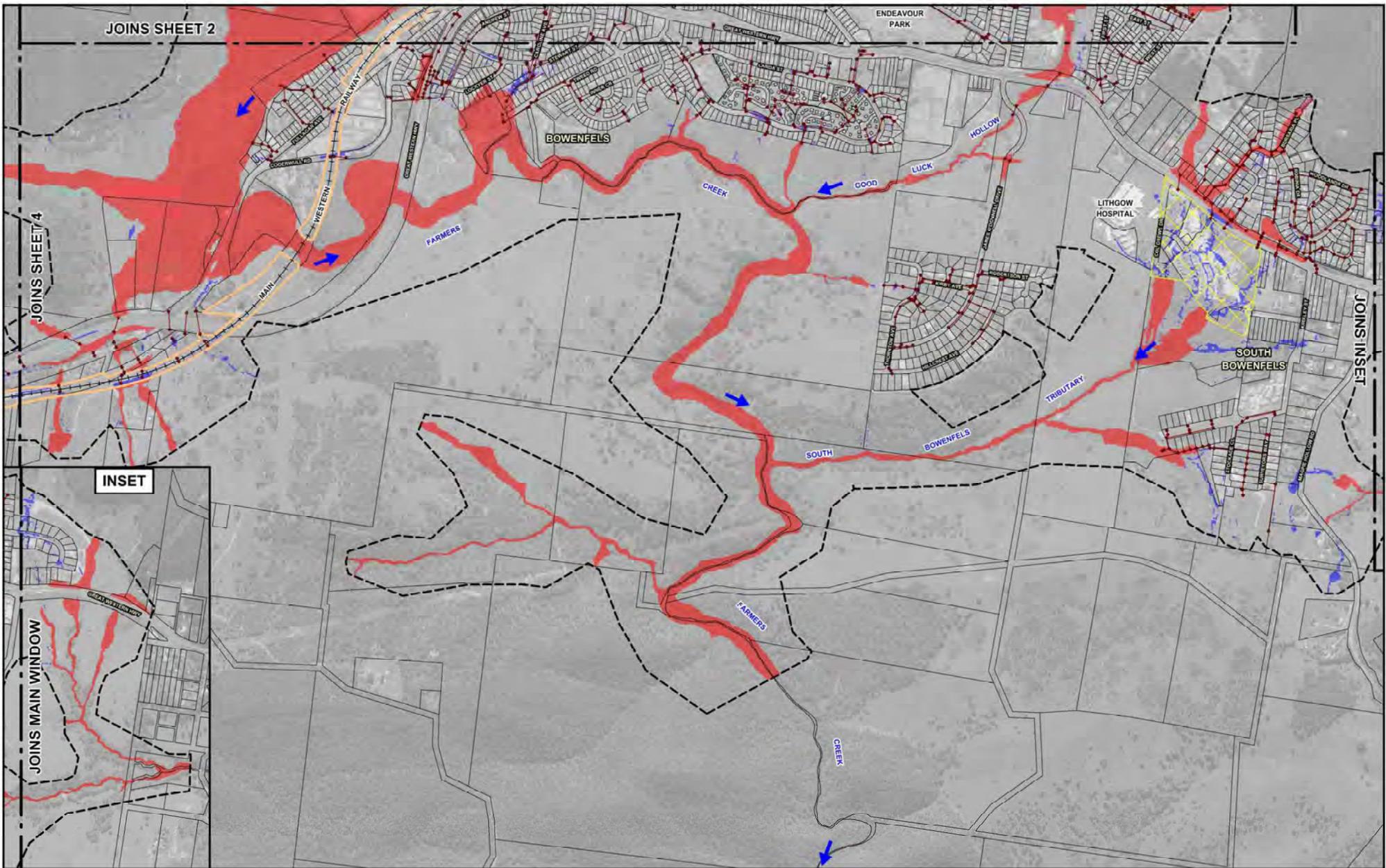
**LEGEND**

- Interim Flood Planning Area (Not Shown in Railway Land)
- Land Outside Interim Flood Planning Area Subject To Overland Flow Deeper Than 100 mm
- Extent Of Railway Land

**LITHGOW FLOOD STUDY REVIEW**

Figure 6.16  
(Sheet 2 of 4)

INTERIM FLOOD PLANNING AREA  
 MAIN STREAM FLOODING AND MAJOR OVERLAND FLOW AFFECTED AREAS



**NOTE:**  
 The ground surface model incorporated in TUFLOW is based on LiDAR survey which has been sampled on a 7m grid and does not necessarily incorporate localized features which can influence flooding behaviour in individual allotments.  
 Flood depths are therefore approximate only and require interpretation by a suitably qualified engineer to determine flooding behaviour in individual allotments. Any assessment of flooding in individual allotments may also require a site survey.

- Two-Dimensional Model Boundary
- Modelled Stormwater Network
- Extent of Recent Subdivision Development. Details of New Stormwater Drainage System have not been incorporated in Farmers Creek TUFLOW Model.

**LEGEND**

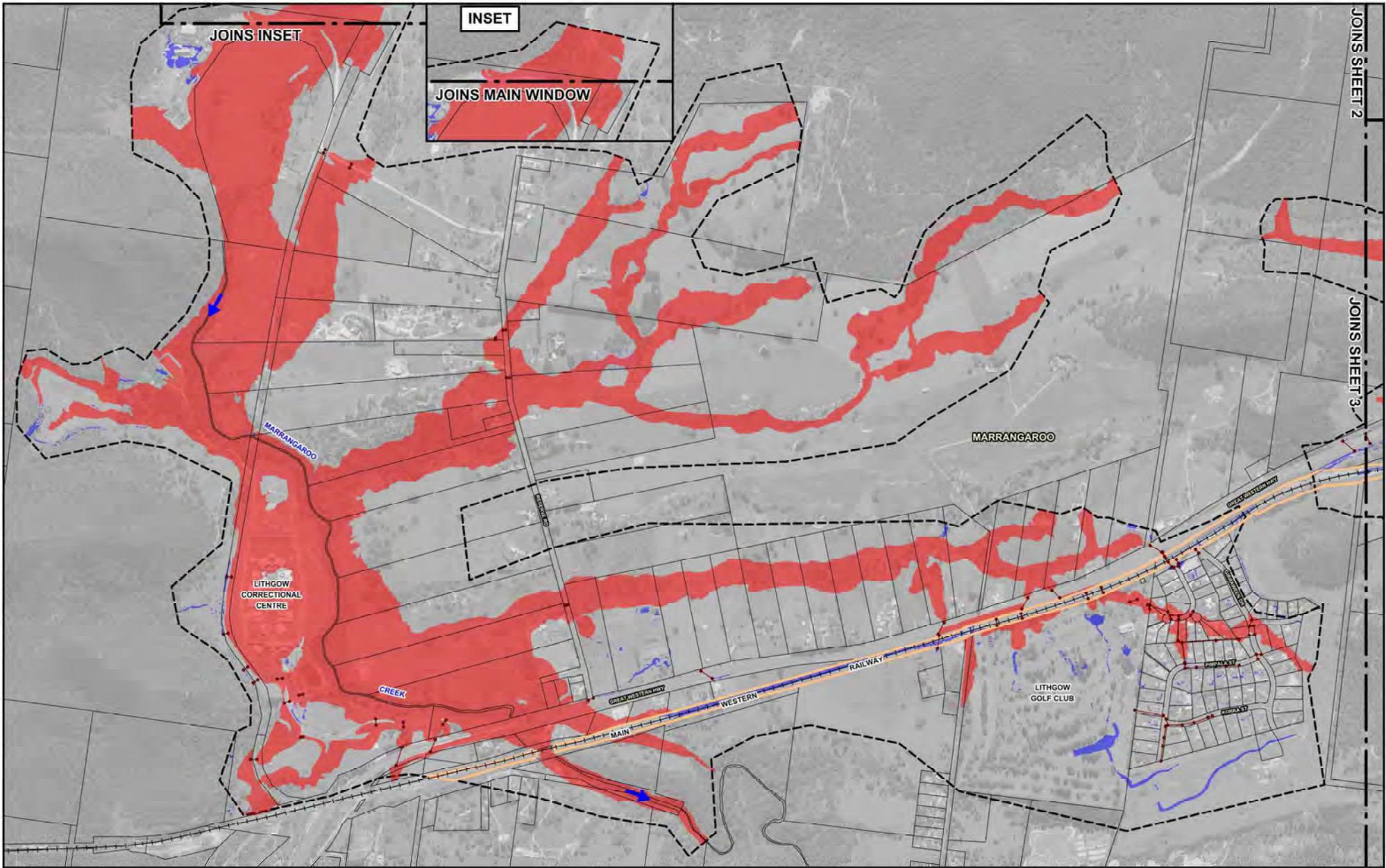
- Interim Flood Planning Area (Not Shown in Railway Land)
- Land Outside Interim Flood Planning Area Subject To Overland Flow Deeper Than 100 mm
- Extent Of Railway Land

**LITHGOW FLOOD STUDY REVIEW**

**Lyall & Associates**

Figure 6.16  
(Sheet 3 of 4)

**INTERIM FLOOD PLANNING AREA  
 MAIN STREAM FLOODING AND MAJOR OVERLAND FLOW AFFECTED AREAS**



Scale: 1:12,000

**NOTE:**  
 The ground surface model incorporated in TUFLOW is based on LiDAR survey which has been sampled on a 7m grid and does not necessarily incorporate localized features which can influence flooding behaviour in individual allotments.  
 Flood depths are therefore approximate only and require interpretation by a suitably qualified engineer to determine flooding behaviour in individual allotments. Any assessment of flooding in individual allotments may also require a site survey.

--- Two-Dimensional Model Boundary  
 — Modelled Stormwater Network

**LEGEND**

- Interim Flooded Planning Area (Not Shown in Railway Land)
- Land Outside Interim Flood Planning Area Subject To Overland Flow Deeper Than 100 mm
- Extent Of Railway Land

**LITHGOW FLOOD STUDY REVIEW**

Figure 6.16  
 (Sheet 4 of 4)

**INTERIM FLOOD PLANNING AREA  
 MAIN STREAM FLOODING AND MAJOR OVERLAND FLOW AFFECTED AREAS**



# Chapter 4:

## Heritage & Cultural Conservation



## Table of Contents

<b>4.1.</b>	<b>Introduction .....</b>	<b>4</b>
4.1.1.	Application of this Chapter .....	4
4.1.2.	Objectives of Heritage Conservation.....	4
4.1.3.	Other Relevant Chapters of this DCP .....	5
4.1.4.	Exempt & Complying Development .....	5
4.1.5.	Definitions.....	6
<b>4.2.</b>	<b>Development Consent Requirements .....</b>	<b>8</b>
4.2.1.	Development Requiring Consent .....	8
4.2.2.	Development Not Requiring Consent.....	8
4.2.3.	Development Application Requirements .....	9
4.2.4.	Archaeological Sites (Non-Indigenous).....	10
4.2.5.	Aboriginal Places of Heritage Significance.....	10
4.2.6.	State Heritage Items .....	11
4.2.7.	Conservation Incentives .....	11
4.2.8.	Demolition .....	12
4.2.9.	Subdivision .....	12
4.2.10.	Adaptive Reuse .....	13
<b>4.3.</b>	<b>General Controls - Development of Heritage Items/Places &amp; within Heritage Conservation Areas .....</b>	<b>14</b>
4.3.1.	Defining Terms .....	14
4.3.2.	Design and Character.....	15
4.3.3.	Scale and Form .....	16
4.3.4.	Siting and Setbacks .....	17
4.3.5.	Detailing .....	18
4.3.6.	Materials, Finishes and Colour Schemes.....	19
4.3.7.	Roofs and Chimneys .....	19
4.3.8.	Verandahs and Balconies .....	20
4.3.9.	Garages, Carports, Car spaces and Driveways .....	20

4.3.10. Fences ..... 21

4.3.11. Gardens, Garden Elements and Swimming Pools ..... 22

4.3.12. Access and Mobility ..... 22

4.3.13. Commercial Properties ..... 23

4.3.14. Service and New Technologies ..... 23

**4.4. Specific Controls - Heritage Conservation Areas ..... 24**

4.4.1. Capertee Heritage Conservation Area “C1” ..... 25

4.4.2. Cook Street Heritage Conservation Area “C2” ..... 29

4.4.3. Eskbank Street Heritage Conservation Area “C3” ..... 31

4.4.4. Hartley Vale Heritage Conservation Area “C4” ..... 33

4.4.5. Hassans Walls Road Heritage Conservation Area “C5” ..... 36

4.4.6. Inch Street Heritage Conservation Areas “C6” ..... 39

4.4.7. Lithgow Main Street Heritage Conservation Area “C7” ..... 42

4.4.8. Little Hartley Heritage Conservation Area “C8” ..... 48

4.4.9. Mort Street Conservation Area “C9” ..... 51

4.4.10. Portland Heritage Conservation Area “C10” ..... 53

4.4.11. Pottery Estate (Silcock Street) Heritage Conservation Area “C11” ..... 58

4.4.12. Rydal Heritage Conservation Area “C12” ..... 61

4.4.13. Wallerawang Heritage Conservation Area “C13” ..... 65

## Document Control for Drafting Only

Date/Version	Name	Provided to:
August 2019 – V1	Initial Draft Outline	Lithgow City Council - SH
February 2021 – V2	Preliminary Full Draft	iPLAN PROJECTS
March 2021 – V3	Draft Final	Lithgow City Council - SH
May 2021 – V4	Exhibition Draft	Lithgow City Council - SH

*Title Page: The picture on the title page is of the painted silos by the artist Guido Van Helten at the State Heritage Listed ‘The Foundations Site’, Portland (Source: [www.thefoundations.com.au](http://www.thefoundations.com.au) (Instagram - <https://www.instagram.com/p/BxwXzQbHqTe/>)).*

## 4.1. Introduction

### 4.1.1. Application of this Chapter

This chapter of the DCP applies to development on land that is:

- a) Identified as a **heritage item** or located in a **heritage conservation area** listed in *Schedule 5* of the **Lithgow Local Environmental Plan 2014 (LLEP2014)** or in the [State Heritage Register](#);
- b) In proximity to an identified **heritage item** that may impact on the heritage significance of a **heritage item**;
- c) Identified as, or in the vicinity to, other locally or regionally significant buildings or places that are not listed in Schedule 5 of the [LLEP2014](#) or identified in a Section 170 Heritage and Conservation Register at the discretion of Council staff; or
- d) Identified as, or in vicinity to, items of **Aboriginal cultural and archaeological significance** that are not listed in [LLEP2014](#) for protection and cultural sensitivity.

*Refer to Councils Heritage Conservation & Management [website](#) and **DA Guide** for further information regarding Heritage Conservation within the Lithgow LGA. If you require further information, contact Councils Economic Development and Environment Department.*

### 4.1.2. Objectives of Heritage Conservation

- 1) To conserve the heritage significance of the built and natural environments of the Lithgow Local Government Area and ensure new development is sympathetic to the identified heritage values.
- 2) To ensure the management of heritage is carried out in line with the Principles and Articles of the [Burra Charter](#) for the assessment of significance of heritage places and the traditions associated with them.
- 3) To implement the objectives and controls contained within [LLEP2014](#) and any other relevant heritage legislation.
- 4) To provide planning and design guidelines for developments associated with **heritage items** or a **heritage conservation area**.

*Refer to the following publications as a guide to heritage conservation and what the best practice principles are to undertaking heritage conservation:*

- [A Guide to the Heritage System](#)
- [The Burra Charter](#)
- [Heritage Listing Explained](#)
- [Planning and Heritage](#)
- [Levels of Significance](#)

### 4.1.3. Other Relevant Chapters of this DCP

Please remember that this Chapter of the DCP is unlikely to contain ALL of the relevant controls for your development.

Please see DCP *Chapter 1 – Introduction & Administration* to review the Section on *How to Use this DCP* including the *Structure of the DCP* (see table below) to determine what other Chapters may be relevant to your development.

**IF YOU ARE UNSURE, PLEASE DISCUSS THIS WITH COUNCIL STAFF PRIOR TO LODGING YOUR APPLICATION.**

*The DCP has the following Chapters:*

<b>Chapter 1:</b>	Introduction & Administration
<b>Chapter 2:</b>	Site Requirements
<b>Chapter 3:</b>	Natural Environment & Hazards
<b>Chapter 4:</b>	Heritage & Cultural Conservation ( <b>THIS CHAPTER</b> )
<b>Chapter 5:</b>	Subdivision & Roads
<b>Chapter 6:</b>	Residential Development
<b>Chapter 7</b>	Commercial, Community & Industrial Development (including Advertising/ Signage for all relevant land uses)
<b>Chapter 8:</b>	Rural & Other Land Uses
<b>Chapter 9:</b>	Location Specific Controls

### 4.1.4. Exempt & Complying Development

Please note that [State Environment Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#) may permit certain development set out in that policy without requiring a development application to Council if it complies with the requirements of the **Codes SEPP**. Please discuss this with Council or visit the [NSW Government Planning Portal](#).

## 4.1.5. Definitions

TERM	DEFINITION
<b>Aboriginal object</b>	means any deposit, object or other material evidence (not being a handcraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.
<b>Aboriginal place of heritage significance</b>	means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the <i>Heritage Map</i> , that is: <ul style="list-style-type: none"> <li>a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or</li> <li>b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.</li> </ul>
<b>Adaptive reuse of buildings</b>	is a process that changes a place that is no longer suitable or required for its original purpose to a place that can be used for a new purpose.
<b>Aboriginal Heritage Information Management System (AHIMS)</b>	contains information and records about Aboriginal objects that have been reported to the Director General of the Department of Premier and Cabinet. It also contains information about Aboriginal Places which have been declared by the Minister for the Environment to have special significance with respect to Aboriginal culture. <b>AHIMS</b> refers to these recorded Aboriginal objects and declared Aboriginal Places as 'Aboriginal sites'.
<b>Archaeological site</b>	means a place that contains one or more relics. This evidence may include objects and artefacts of everyday life such as crockery, bottles, tools and the remains of early buildings and structures.
<b>Curtilage</b>	in relation to a <b>heritage item</b> or <b>conservation area</b> , means the area of land (including land covered by water) surrounding a heritage item, a <b>heritage conservation area</b> , or building, work or place within a <b>heritage conservation area</b> , that contributes to its heritage significance.
<b>Heritage item</b>	means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5 of <a href="#">LLEP2014</a>
<b>Heritage conservation area</b>	means an area of land that has significant streetscape character and are of value due to the collective nature of buildings and elements in that area. The location and nature are described in Schedule 5, Chapter 2 of <a href="#">LLEP2014</a> .

TERM	DEFINITION
<b>Heritage conservation management plan (HCMP)</b>	means a document prepared in accordance with guidelines prepared by the Division of the Government Service responsible to the Minister administering the <i>NSW <a href="#">Heritage Act 1977</a></i> that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.
<b>Heritage impact statement (HIS)</b>	means a document consisting of: a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and b) an assessment of the impact that proposed development will have on that significance, and c) proposals for measures to minimise that impact.
<b>Heritage management document (HMD)</b>	means: a) a <b>heritage conservation management plan</b> , or b) a <b>heritage impact statement</b> , or c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.
<b>Local significance</b>	items of local heritage significance result from previous Heritage Studies, the National Trust listings, the Lithgow Shire Community Based Heritage Study and local community groups and are identified in Schedule 5, Chapter 1 of <b>LLEP2014</b> .
<b>National significance</b>	items of national heritage significance are items having significance beyond the State level and are considered under the <i>Australian <a href="#">Heritage Council Act 2003</a></i> . The Act affects property owned by the Commonwealth Government and its Agencies.
<b>Outbuildings</b>	means an ancillary building that does not include an attached garage or carport.
<b>Relic</b>	is defined in the Heritage Act as any artefact, object or material evidence which relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and which is of State or local heritage significance.
<b>State significance</b>	state significant items are identified in the <a href="#">State Heritage Register</a> and Heritage Office under the <i>NSW <a href="#">Heritage Act 1977</a></i> .
<b>Sympathetic development</b>	means undertaking changes to an item or place whilst maintaining its heritage significance. This may require retaining the form and architectural style of an item, such as retaining original roof pitch, materials, window placement and scale, setbacks and colour treatment or placing extensions at the rear of the building, which all play a role in maintaining and conserving the character of an item or place.

## 4.2. Development Consent Requirements

To undertake changes to a heritage listed item or an item in close vicinity to a heritage listed item, consent will be needed to be sought from Council before undertaking development. To obtain written consent from Council, a Development Application will need to be lodged barring specific exemptions in the LLEP2014. Through this process, Council can assess any potential impacts to a heritage listed item to ensure that any potential impacts to the structural integrity or values of a heritage item are understood and effectively mitigated. Due to the variation of heritage items and heritage conservation areas within the Lithgow LGA, each development proposal will have its own set of unique circumstances to consider and address.

### 4.2.1. Development Requiring Consent

A **Development Application** is required for the carrying out of most development which relates to a **heritage item**, **Aboriginal place of heritage significance** or **archaeological site**, and/or in a **Heritage Conservation Area** unless described in *DCP Section 4.2.2*.

[LLEP2014](#), Clause 5.10 (2) identifies the instances where development consent is required or alternatively contact Council's Economic Development and Environment Department.

### 4.2.2. Development Not Requiring Consent

There are circumstances where development consent is not required for certain works, such as:

- 1) [LLEP2014](#) Clause 5.10(3) contains some exemptions where development consent is not required. Otherwise, applicants need to notify Council prior to undertaking any maintenance or repair work to determine whether development consent is required. A written response is required from Council prior to the commencement of works.

*Council encourages the maintenance and upkeep of heritage items and properties in heritage conservation areas if they are of a minor nature or would not adversely affect the heritage values of an item or place.*

*Maintenance and repairs can include non-structural external works such as:*

- a) *Replacing broken windows, fly screens etc*
- b) *Minor repairs to roofing, brickwork, timberwork and metal work*
- c) *Repainting surfaces which are already painted (Council may be able to assist with suggesting sympathetic colour schemes) including timberwork and metalwork.*
- d) *Maintenance and repairs can also include non-structural internal works such as:*
- e) *Patching, painting and decoration to the interior to the house and installation of joinery items*
- f) *Repairing timber floors*
- g) *Plumbing and gas fitting work*

h) *Electrical work and communications cabling*

i) *Installation of insulation*

*If unsure contact Council's Economic Development and Environmental Department.*

### 4.2.3. Development Application Requirements

When lodging a **Development Application** for development on land on which a **heritage item** is situated, or within a **heritage conservation area**, or within the vicinity of a **heritage item** or **heritage conservation area**, Council may require a **Heritage Management Document (HMD)** to be prepared and submitted for assessment.

To assist in understanding the background of a heritage item, individual Heritage Inventory Sheets have been prepared for each heritage item. These provide basic background information about the history of the property, a description of the item, and an assessment of the various heritage values. These heritage inventory sheets should be referred to early in the development process. They are also required to be considered when preparing a heritage management document for submission to Council with a development application. The inventory sheets are available from Council and are also on the [NSW Office of Environment and Heritage \(OEH\) Website](#).

*The circumstances in which a **HMD** may be required will vary depending on the works proposed and the likely impact they will have on the heritage significance of the item or HCA. Discussions with Council staff and the heritage advisor are recommended to determine what may be needed to assist in assessing a **DEVELOPMENT APPLICATION**.*

The HMD could include:

- 1) **Heritage Impact Statement (HIS)** which considers the extent to which a proposal would affect the heritage significance of a heritage item of heritage conservation areas.
  - a) A **HIS** establishes the heritage significance of a place, assesses the impact of the development on this significance, and proposes measures to minimise impact.
  - b) A **HIS** is generally required for development of a **heritage item** or property within or in close proximity to a **Heritage Conservation Area (HCA)**, including alterations and additions, demolition or construction, or a replacement building.
  - c) For major changes or demolition, a **HIS** should generally be developed by a heritage consultant; OR
- 2) **Conservation Management Plan (CMP)** which develops conservation policies for the heritage item and management frameworks and mechanisms to enable heritage significance to be

retained. The conservation policy should explain the principles to be followed or retain or reveal an item's significance which demonstrates how the significance of the item can be enhanced and maintained.

- a) It is particularly useful where building fabric has deteriorated, and to facilitate master planning and asset management for a large site or area or the item is listed on the [State Heritage Register](#).
- b) Council may ask for a **CMP** before granting consent under Clause 5.10(6) of [LLEP2014](#)
- c) A **CMP** should be prepared by a heritage consultant.

*Refer to the following publications as a guide to developing Heritage Management Documents:*

[Conservation Management Documents](#)

[Conservation Plan](#)

[Statements of Heritage Impact](#)

#### 4.2.4. Archaeological Sites (Non-Indigenous)

- 1) All known and potential archaeological relics in NSW are protected under the NSW [Heritage Act 1977](#) (as amended). When intending to disturb or excavate land where archaeological relics have been identified or are considered likely to occur, it is the responsibility of the property owner to seek relevant approvals.
- 2) Before granting consent to any development on land on which an archaeological site is identified, Council notifies the NSW Heritage Council of its intention to grant consent and take into consideration any response from the NSW Heritage Council.
- 3) If relics are discovered during construction or operation, works should cease immediately and contact the Heritage Office. An assessment from an archaeologist may be required prior to construction or operation resuming.

#### 4.2.5. Aboriginal Places of Heritage Significance

Impact on an Aboriginal place of heritage significance or an Aboriginal object is considered by Council before granting consent. Specifically, *Clause 5.10(8)* of [LLEP2014](#) states that Council:

- 1) 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; and
- 2) Notify the local Aboriginal communities (in such a way as Council thinks appropriate) about the application; and
- 3) Take into consideration any response received within 28 days after the notice is sent.

If an application is located along a significant watercourse or ridgeline or a likely Aboriginal place of heritage significance then please contact Council to discuss.

You may be required to conduct a search of the **Aboriginal Heritage Information Management System (AHIMS)** to see if an Aboriginal object or place has been declared on a parcel of land (though this search is not determinative of the presence of Aboriginal items).

If any Aboriginal object is found during the development process then work stops immediately, and the requirements of the [National Parks and Wildlife Act 1974](#) are followed. An applicant may also need to seek an **Aboriginal Heritage Impact Permit** in accordance with that Act.

#### 4.2.6. State Heritage Items

*Heritage items listed as being of State significance in Schedule 5 of the [LLEP2014](#) are those listed on the State Heritage Register.*

- 1) Any works to a [State Heritage Register](#) listed item (including demolition) requires approval or exemption under Clause 57 of the [Heritage Act 1977](#).
- 2) When a **Development Application** is lodged with Council for demolition or development of any type for a [State Heritage Register](#) listed item, the integrated development application process commences and Council will, as chapter of that process, refer the application to the Heritage Council for approval.

#### 4.2.7. Conservation Incentives

*Council recognises the need to be flexible with heritage items in terms of providing for their long-term conservation. [LLEP2014](#) Clause 5.10(10) - Conservation Incentives enables Council to consider approval of development relating to a heritage item or the site of a heritage item, which would otherwise be prohibited in the zone. Council offers a free Heritage Advisor service owners of heritage properties to assist in promoting positive urban design and heritage in the Lithgow LGA. Works may be able to seek heritage funding. Please contact Councils Economic Development and Environment Department.*

If an applicant seeks approval for development under [LLEP2014](#) Clause 5.10(10) - Conservation Incentives, Council must be satisfied that:

- a) The development is undertaken in accordance with an approved **HMD** (if required); and
- b) The applicant ensures that the necessary conservation work will be carried out in conjunction with the development.

### 4.2.8. Demolition

While the concept of heritage conservation is focused on preserving items which inform historical narratives, at times there may be unique circumstances where the preservation of a heritage item is not possible. Applicants should explore all avenues of retaining heritage items prior to submitting an application for demolition.

- 1) All demolition work requires development consent. In assessing a DA for the demolition of a heritage item or a contributory building, Council will consider:
  - a) The heritage significance of the item or building;
  - b) The structural condition;
  - c) Comparative analysis of all options; and
  - d) The contribution the item or building makes to the **streetscape character**.
- 2) Buildings that are listed as **heritage items** or contribute to the significance of a **heritage item** are not to be (wholly or partly) demolished unless there are overriding reasons such as extensive structural damage. Council may require the submission of a report by a structural engineer with heritage experience as justification for demolition works.
- 3) Partial demolition of a **heritage item** should only be considered when it can be established in a **HMD** that the partial demolition will not have a substantial impact on the significance of the **heritage item**.
- 4) Outbuildings associated with **heritage items** can only be demolished where a **HMD** has established that the outbuilding does not contribute to the heritage significance of the place and development consent has been obtained.
- 5) Photographic records of building/s are to be provided to Council prior to the commencement of any demolition works. This is to be done in accordance with the '[Photographic Recording of Heritage Items Using Film or Digital Capture](#)' (as amended) and '[How To Prepare Archival Records of Heritage Items](#)'.
- 6) Applications for demolition of a **heritage item** or buildings in a **heritage conservation area** are required to provide details on the replacement development.

### 4.2.9. Subdivision

Subdivision of an allotment that includes a **heritage item** or recognised **archaeological site** is not permitted unless:

- 1) It can be demonstrated that the **heritage item** will retain an 'appropriate' **curtilage** (buffer) – the size of which will depend on the significance and content of the **heritage item** and its relationship to the surrounding buildings and landscape.

- 2) It can be established that proposed or future development on the created allotments will not impact on important views to or from the **heritage item**.

*To determine the heritage curtilage of an item or important views to or from a heritage item, please consult with Council's Department of Economic Development and Environment. Refer to the Heritage Office's publication [Heritage Curtilage](#) for further information on defines a heritage curtilage.*

#### 4.2.10. Adaptive Reuse

- 1) Adaptive reuse of a building should retain important architectural qualities and features of the building, where possible, particularly features that contribute to the streetscape and the heritage significance of the place.
- 2) Adaptive reuse involves only minimal change to the significant fabric of the place and acknowledges and respects significant associations and meanings of the place.
- 3) Adaptive reuse has regard to the relevant legislation of the [National Construction Code](#) (NCC) and other relevant **Australian Standards**.

DRAFT

## 4.3. General Controls - Development of Heritage Items/Places & within Heritage Conservation Areas

This section of the DCP contains the general objectives and controls that apply to development on and in the vicinity of heritage items and heritage conservation areas identified in the Lithgow LEP 2014. Due to the complex nature and variation of heritage in the Lithgow LGA, development proposals are to be considered and assessed by individual merit, taking into consideration the unique elements of the item and the issues of pertaining to the item's heritage values. Responses to these controls will vary based on a variety of factors from the complexity of proposed work to location of works.

### 4.3.1. Defining Terms

TERM	DEFINITION
<b>Development in the vicinity of Heritage Item or Heritage Conservation Areas (HCA)</b>	<p>For the purposes of defining 'vicinity' in this section, it is land adjoining or located within the visual catchment of a <b>heritage item</b> or <b>heritage conservation area (HCA)</b>.</p> <p>The visual catchment is dependent on the location of the proposed development in addition to the bulk and scale of the proposed new development.</p> <p>All development that is adjacent to or in the vicinity of a <b>heritage item</b> or <b>HCA</b> needs to address the likely effect the new development has on the heritage significance and setting. The potential impacts of the development on a heritage item or <b>HCA</b> and the measures to minimise this impact should be located within the <b>Statement of Environmental Effects</b>.</p>
	<p>Buildings within the heritage conservation areas are categorised in to one of two categories. The <b>Contributory</b> and <b>Non-Contributory (Neutral) buildings</b> are identified within each Heritage Conservation Area Map in <i>DCP Section 4.5</i>.</p>
<b>Contributory Buildings</b>	<p>provide good evidence of the main development period(s) and make a positive contribution to the character and/or heritage significance of <b>heritage conservation areas</b>. They have a collective significance and their retention is essential if the character of the area is to be maintained.</p>
<b>Non-Contributory (Neutral) Buildings</b>	<p>display qualities which do not add to the character of the <b>heritage conservation area</b>. They are not to be considered as a precedent for new work when assessing the merit of an application. <b>Non-contributory</b></p>

TERM	DEFINITION
	<b>buildings</b> may be demolished and replaced by new development sympathetic to the character of the <b>heritage conservation area (infill development)</b> .
<b>Infill Development</b>	New buildings within a <b>heritage conservation area</b> , referred to as an infill building, respect and are sensitive to its neighbours and should be in keeping with the street’s established setbacks, scale, form and materials. In accordance with the Burra Charter principles, an infill building should however be clearly seen as a new building and not attempt to replicate original buildings or copy traditional detailing.

### 4.3.2. Design and Character

#### Objectives

- O1. To promote high quality design that complements the existing **streetscape character** and heritage significance of the **heritage item** or **heritage conservation area**.
- O2. To ensure that new developments will not adversely impact on the setting, **streetscape character** or views associated with any **heritage item** or **heritage conservation area**.
- O3. To ensure that additions or changes to the external appearance of **heritage items** and **contributory buildings** respect the original, built form, architectural style and character.

#### Controls

- 1) Development is to demonstrate how it respects the heritage values of the **heritage item** or the **heritage conservation area** through a **Heritage Impact Statement** as outlined in *DCP Section 4.2.3*.
- 2) Common elements and features of the **streetscape character** are to be identified in a streetscape analysis and incorporated into the design (e.g., view corridors, built form, fencing styles, extent of soft landscaping, significant trees and driveway locations).
- 3) New developments should be consistent with important horizontal lines of buildings in the streetscape, in particular ground floor levels and eaves lines, where appropriate.
- 4) Large blank area of brick or rendered walls should be avoided. Where this is not possible in the design, contrasting building materials and treatments should be used to break up the expanse of the wall.
- 5) Street elevations and visible side elevations should not be significantly changed. Additions should be located to the rear or to one side of the building to minimise impact on the **streetscape character**.

- 6) The design of any proposed additions or alterations should complement the existing building in its scale, form and detailing. However, it should be possible to distinguish the new work from the old, on close inspection, so that old and new are not confused or the boundaries/junctions blurred.
- 7) All new work and additions should respect the proportions of major elements of significant existing fabric including doors, windows, openings and verandas.
- 8) **Non-contributory buildings** may use contemporary design where it is sympathetic to the **heritage conservation area** and/or **heritage items** in the vicinity.

### 4.3.3. Scale and Form

#### *Objectives*

- O1. To ensure that alterations and additions to **heritage items** and **contributory items** are consistent with the scale and form of these items or buildings, and do not dominate or compete with the existing significant heritage fabric.
- O2. To ensure that the scale and form of development is consistent with the predominant scale and form of the **heritage conservation area**, and of adjacent **heritage items** or **contributory buildings**.

#### *Controls*

- 1) In streetscapes where development is of a consistent single storey height, upper floor additions are appropriate only if not readily visible from the street. However, ground floor rear addition remains the preferred option.
- 2) Attic style additions may be permissible, but there should be no visible alteration to the front of previously unaltered buildings. Front dormer windows are especially discouraged where a building itself is a **heritage item**, or part of a relatively unaltered semi-detached pair or row.
- 3) Dormer windows and skylights are not located facing street elevations or where they will be prominent from a public place or dominate the original roof form. The design of dormer windows should generally be appropriate to the style and scale of the building.
- 4) Additions should not visually dominate, compete with or conceal the original form and massing of the existing buildings.
- 5) Additions to **heritage items** should not contain any major or prominent design elements which compete with the architectural features or detailing of the existing building.
- 6) Where single storey rear additions are proposed to dwelling houses, the addition should not compromise the integrity of the main roof and is to be lower in scale and secondary to it.

- 7) Upper floor additions to the main roof of any single storey dwelling house may be acceptable if contained wholly within the existing roof space without change to the roof pitch or eaves height.
- 8) Upper floor additions to the rear of any single storey dwelling house should preferably use pavilion-type forms, with a lower scale linking structure between the original building and any double storey addition.
- 9) If a pavilion-type form is not suitable or desirable in the location, an upper floor addition may be acceptable, set well to the rear of the building to minimise impact on the main roof and to minimise streetscape visibility.
- 10) Where rear lanes exist, it may be possible to provide additional floor space in an outbuilding at the rear of the site, rather than as an upper-level addition to the dwelling itself.
- 11) Where rear additions are proposed to **semi-detached dwellings**, the additions should not compromise the symmetry and integrity of the front elevation or dominate the other house in the pair.
- 12) Where rear additions are proposed to **attached dwellings** (e.g., terrace houses), the additions should not compromise the integrity of the front elevation or the forms of relatively intact rear wings.
- 13) The scale of new **non-contributory infill buildings** should be compatible with the streetscape, (i.e., single storey, or single storey to the front with two storeys to the rear). The form should also be compatible, including roof form and articulation.

#### 4.3.4. Siting and Setbacks

##### *Objectives*

- O1. To conserve and maintain established setbacks to streets.
- O2. To ensure adequate **curtilage** and landscape setting for the building.
- O3. To ensure the integrity of the **heritage item** and its setting, or the **heritage conservation area**, is retained by the careful siting of new buildings and alterations and additions to existing buildings.

##### *Controls*

- 1) Development should conform to the predominant front setbacks in the street.
- 2) Development should respect side setbacks and rear alignments or setbacks of surrounding development.
- 3) Front and rear setbacks should be adequate to ensure the retention of the existing landscape character of the **heritage item** or **conservation area** and important landscape features.

- 4) Any significant historical pattern of subdivision and lot sizes should be retained. Subdivision or site amalgamation involving **heritage items** or **contributory buildings** should not compromise the setting or **curtilage** of buildings on or adjoining the site.

### 4.3.5. Detailing

#### *Objectives*

- O1. To ensure that original detailing is retained and kept in good repair.
- O2. To encourage the reinstatement of original elements and detail.
- O3. To ensure that alterations and additions and new development have a level of detail which is appropriate to the architectural character and style of the **heritage item** or **heritage conservation area** setting.
- O4. To ensure that the pattern of door and window openings is clearly related to the placement, proportions and scale of existing fenestration of the heritage fabric.

#### *Controls*

- 1) Only detailing which is known to have been original to a building is to be considered acceptable. Do not add what was never there.
- 2) Retain and repair original doors, windows, original sunhoods, awnings, gable detailing and other decorative elements to principal elevations. Original leadlight and coloured glass panes should be retained where possible especially where such is a significant element of the item.
- 3) Where original windows, doors and façade detailing have been removed and replaced with modern materials, consideration should be given to reconstructing original features.
- 4) Authentic reconstruction is encouraged. Decorative elements should not be introduced unless documentary or physical evidence indicates the decorative elements previously existed. Undertake thorough research before attempting to reconstruct lost detail and elements.
- 5) Alterations and additions should incorporate new doors and windows which are compatible with the position, size, and proportions and detailing of original windows and doors.
- 6) Alterations and additions should adopt a level of detailing which complements the heritage fabric and should (in general) be less elaborate than the original.
- 7) Decorative elements of **non-contributory buildings** should adopt a level of detailing which is less elaborate than original buildings and does not mimic inappropriate heritage detailing.

### 4.3.6. Materials, Finishes and Colour Schemes

#### Objectives

- O1. To ensure that the selection of materials and colours is informed by the original finishes and palettes match those used in the **heritage item** or **heritage conservation area**.
- O2. To ensure that the visual quality of the **heritage conservation area** is maintained and upgraded by encouraging the use of appropriate colour schemes in all development

#### Controls

- 1) Materials for pathways and driveways are consistent with the character of the **heritage item** or **heritage conservation area**.
- 2) Changes to materials (including roofs and walls) on elevations visible from a public place are discouraged. Original face brickwork should not generally be rendered, bagged or painted. The removal of external brickwork skin is not supported.
- 3) Matching materials should be used in repairing the fabric of external surfaces. In the case of new face brickwork, the colour and texture of the brick, the type of jointing and mortar colour should be carefully matched.
- 4) New or replacement roof materials should match existing materials. Alternative materials may be considered appropriate to the architectural style of the building and the streetscape context, and are to be submitted for approval.
- 5) Alterations and additions use materials and colours similar to, or compatible with, the original material or colours.
- 6) New development of **non-contributory buildings** should have regard to the original colour or significant colour schemes within the **heritage conservation area**.

### 4.3.7. Roofs and Chimneys

#### Objectives

- O1. To retain the characteristic roof forms of **heritage items** and **heritage conservation areas**.

#### Controls

- 1) Attic rooms are to be contained within roof forms and should not dominate the street and visible side elevations.
- 2) Roofs should not be re-pitched or have their eaves line raised to allow for the provision of attic rooms.
- 3) Chimneys should be retained.

### 4.3.8. Verandahs and Balconies

#### *Objectives*

- O1. To ensure the retention and encourage re-instatement of early verandah and balcony forms.
- O2. To ensure that alterations and additions do not detract from or reduce the importance of original verandahs and balconies.

#### *Controls*

- 1) Front verandahs and balconies are to be developed at a compatible scale to their existing **streetscape character** where these features are a characteristic feature of the **heritage conservation area**.
- 2) Original front verandahs and balconies should be retained and conserved. Consider opening up verandah enclosures or infills, to reinstate an original open verandah.
- 3) Infilling or enclosure of front verandahs and balconies is not supported.
- 4) Additional verandahs should not compete with the importance of the original and should be simple in design and based on existing detail or an understanding of appropriate designs for each period or style.

### 4.3.9. Garages, Carports, Car spaces and Driveways

#### *Objectives*

- O1. To minimise the visual impact of carparking on heritage streetscapes.
- O2. To ensure parking structures and paved areas are visually discreet and do not dominate or compete with original character buildings.

#### *Controls*

- 1) Existing rear lane access or side street access (where available) are utilised for carparking in preference to front access.
- 2) Carparking structures are to be located to the side, or preferably to the rear of the building. Garages and carports should be setback behind the building line.
- 3) Open hard stand car spaces may be provided forward of the building line, but are located adjacent to a side boundary, and generally not be greater than single car width.
- 4) Existing building fabric, including verandahs and balconies, should not be altered to allow for the provision of a carparking structure or an open stand car space.
- 5) Open hard stand car spaces should not dominate the setting of the building in terms of loss of planting, fencing or retaining walls.

- 6) Carparking structures are to be unobtrusive and adopt materials, form and details which harmonise with and do not obscure views of the building. They are not made larger by the provision of a bulky pitched roof.
- 7) Existing driveways constructed of two separate wheel strips contribute to the character of the streetscape and should be retained where possible.
- 8) Large areas of concrete should be avoided and alternative materials such as pavers, gravel or permeable paving should be considered.
- 9) Buildings housing original stables, coach houses and interwar motor garages should be retained and conserved wherever possible.

#### 4.3.10. Fences

##### *Objectives*

- O1. To encourage the retention, repair or reconstruction of original fencing.
- O2. To encourage fencing in character with original buildings.
- O3. To encourage side and rear boundary fencing which is consistent with height and materials of original fencing.
- O4. To encourage consistent fencing where there this is a significant element in the **heritage conservation area**.

##### *Controls*

- 1) New and replacement front fences should not obscure building facades. High solid front fences are not appropriate.
- 2) New fence heights and form should be appropriate to the character of the **heritage item**, or to the **heritage conservation area**.
- 3) Lych-gates should not be provided unless there is evidence that they originally existed.
- 4) Side fencing forward of the building line should be simple with a level of detail and of materials and height compatible with the **heritage item, contributory building or heritage conservation area**.
- 5) Side and rear boundary fences should be preferably of traditional timber construction or otherwise of masonry construction. Colorbond metal fences are generally not considered appropriate.
- 6) Fences forward of the building line are to be consistent in materials and detail with the period and/or style of the primary building
- 7) New fences are to be compatible with surrounding development.

### 4.3.11. Gardens, Garden Elements and Swimming Pools

#### *Objectives*

- O1. To retain or reinstate landscaped settings and elements (particularly pathway location and materials) for **heritage items** or buildings within the **heritage conservation areas**.
- O2. To provide appropriately landscaped front garden areas in keeping with those of the area's significant early houses, properties and streetscapes
- O3. To improve the streetscape setting of all buildings in the **heritage conservation areas**.

#### *Controls*

- 1) Significant trees and landscape elements such as pathways, garden beds and structures should be retained.
- 2) Large areas of hard paving are to be minimised.
- 3) Garden and ancillary structures are appropriate to primary buildings in terms of scale, style and materials.
- 4) Swimming pools should be located at the rear of the property and where possible should retain important trees and areas of soft landscaping. Swimming pools should not result in significant changes to ground levels on the site.

### 4.3.12. Access and Mobility

#### *Objectives*

- O1. To ensure that development to facilitate access and/or adaptable dwelling and universal housing provision does not adversely affect the heritage fabric of the **heritage item** or **heritage conservation area**.

#### *Controls*

- 1) Modifications and alterations to facilitate access and mobility are sympathetic to the heritage values and heritage fabric of the original building.
- 2) Alterations and additions to facility access and mobility should be designed to be reversible.
- 3) Preserve heritage items or heritage fabric of higher significance if a compromise is required.

### 4.3.13. Commercial Properties

#### Objectives

O1. To ensure that original characteristics of traditional local centre retail buildings are retained and enhanced.

#### Controls

- 1) Original forms, details, materials and finishes should be retained, including original shopfronts, original suspended awnings and open balconies at first floor level.
- 2) Where the property is part of a single larger building, changes to ground level shopfronts and upper-level facades should not detract from the integrity and group value.

### 4.3.14. Service and New Technologies

#### Objectives

O1. To minimise the prominence of new building services and technical equipment in heritage items.

#### Controls

- 1) Air exhaust or ventilation systems, skylights, air conditioning systems, solar energy panels, TV antennae and satellite dishes should not be visible on the main elevation of the building or attached to chimneys where they will be obvious. Services and equipment should be installed at the rear, within the roof space or flush with the roof cladding and at the same pitch. They are to be of modest size and not prominent from the street.
- 2) Essential changes to cater for electrical or telecommunications wiring, plumbing or other services should be limited to what is essential to permit the new use to proceed.
- 3) Rainwater tanks are to be located at the rear or side of the dwelling and suitably screened. They should not be obvious from the street.

## 4.4. Specific Controls - Heritage Conservation Areas

**Heritage Conservation Areas (HCAs)** are more than a collection of individual **heritage items**; they comprise areas in which the historical origins and relationships between various elements create a sense of place that is valued and worth preserving. **HCAs** are identified by analysing the special characteristics which make up its heritage significance. This may include its subdivision pattern, the consistency of building materials or architectural style, the common age of the building stock and /or its social connectivity to the origins of its locality.

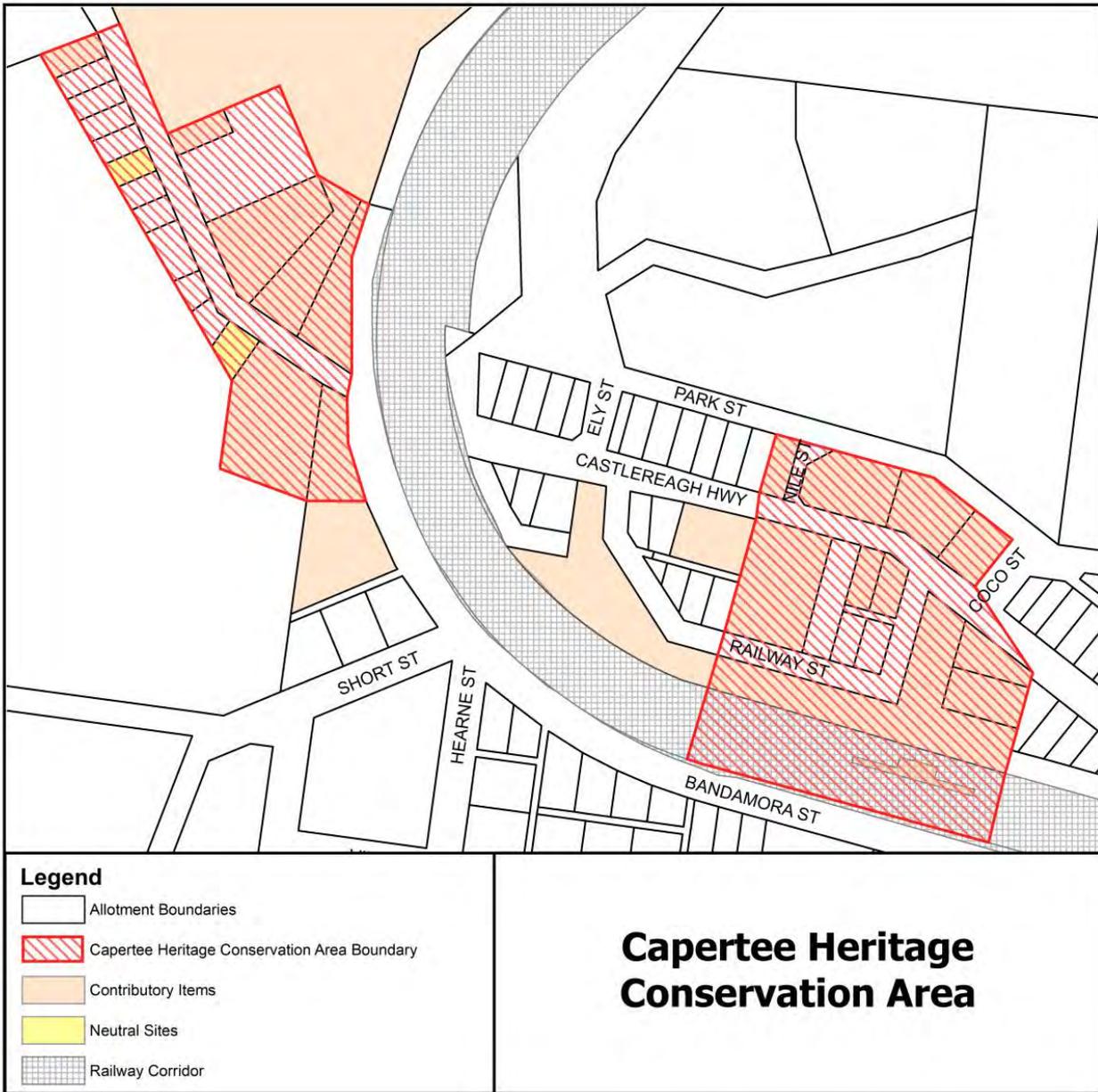
There are thirteen (13) **Heritage Conservation Areas (HCAs)** with individual attributes in the Lithgow Local Government Area as identified by the heritage provisions of the [LLEP2014](#). The controls in this section apply to the areas identified in Schedule 5 Part 2 of the [LLEP2014](#).

Further detail on each heritage conservation area, including photos, is included in the [Lithgow Heritage DCP Study](#) prepared by Paul Davies Pty Ltd, dated October 2010.

This section will prevail over any inconsistency between this Section and Section 4.3 in relation to the individual heritage conservation area objectives and controls.

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4.4.1. Capertee Heritage Conservation Area “C1”



**Period**

- First occupied by settlers in the 1820s
- Hotel opened around 1870
- Construction of the railway in 1882

**Area’s Significance**

Capertee was first occupied by settlers when John Jamison established a cattle ranch in the area known as ‘Capita’. The area became known as Capertee Camp as it was a source of good water on the track to Mudgee. A hotel opened around 1870, a post office shortly after even though the village remained very small. A number of large cattle properties developed around the locality. The

construction of the railway to Capertee in 1882 established the area and the township by providing easy access to mining at Glen Davis (discovered in 1873), Torbane and surrounding areas.

The town has, however, had a mixed history since that time with a school, police station, court house and lock-up being established along with several inns and stores but relatively little other development. The remaining features includes two small churches, the railway station and several railway residences, the school and several residences, a community hall, the police and court group, the Capertee Hotel which has had an interesting history with numerous additions, several former early stores and former inns and a random collection of residential and former commercial buildings. The town is now served by one general store and service station and the hotel.

### ***Important Features***

The Capertee HCA is split in to two parts, reflecting the development and separation of the township. The town has a collection of important structures located along Capertee Highway which provides insight to the how Capertee developed. Such important heritage structures include the Police Station, Court House buildings, Catholic Church and the Civic Hall. It is also of interest that there appears to be significant areas of land within the town that are neither public road or lots of land, a large one is on the northern side of Railway Street.

### ***Objectives***

- O1. To ensure new developments are sympathetic to the heritage character of the Capertee Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape in protected and enhanced.
- O4. To promote the retention of original and characteristic shop front elements.

### ***Controls***

- 1) **Street Alignment and Setbacks:**
  - a) New buildings should adopt the setback of adjacent sites. Should there be a considerable variation in the frontal setback of adjacent structures, setbacks should be determined by the nature of the development (i.e., residential buildings set further back than commercial or civic buildings).
  - b) Buildings on large sites should not be built across the whole width of sites.
  - c) Buildings should be set in landscaped garden settings.
- 2) **Height, Form and Scale:** New buildings are to be no greater than one storey in height to reflect the modest scale of surrounding heritage buildings.

- 3) **Materials and Facades:** Non-painted surfaces are not be painted.
- 4) **Kerbing and Street Elements:** Existing road finishes should be maintained without kerbing and guttering.
- 5) **Outbuildings and Ancillary Structures:**
  - a) Outbuilding and ancillary structures are generally supported in the conservation area given that the following design principles are adhered to:
    - i) ancillary structures should not visually dominate sites from the public street;
    - ii) should be modest in form and use of materials;
    - iii) should be recessive and neutral in colour; and
    - iv) should use traditional elements related to the character of the property on which they are constructed such as matching roof pitches and use of materials.
  - b) The siting of ancillary buildings should be designed to minimise their visual impact on the precinct.
- 6) **Alterations and Additions:**
  - a) Alterations and additions structures are generally supported in the conservation area given that the following design principles are adhered to:
  - b) Additions should be generally at the rear of buildings and of similar scale and form to the main building;
  - c) Additions should be sympathetic to the existing buildings design but not necessarily matching; and
  - d) Where additions are visually prominent, they should not dominate the existing building or site, or impact adversely on the form of a significant building.
- 7) **Infill Development:**
  - a) There are a number of vacant lots within the conservation area that are capable of development. New infill development where appropriate should:
    - b) follow existing development patterns and setbacks
    - c) not cut and fill to bench sites but rather set floor levels above existing ground level as seen in existing buildings
    - d) not be dominated by garages and driveways;
    - e) integrate with existing landscape where it exists and add new landscape that is consistent with the character of the precinct on open sites; and

f) comply with other controls set out in this DCP.

8) **Landscape and Fencing:**

a) New developments should integrate the existing mature landscape and retain all significant plantings.

b) Where fences are added, they should be constructed from:

- i) simple timber picket style fences where that is consistent with the period of the house; or
- ii) simple timber framed fences with wire infills or similar modest fence styles.

c) Generally, brick or modern fencing is not appropriate.

d) Wire fencing or simple timber fencing are the preferred side fencing options for the precinct.

9) **Subdivision and Site Amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area.

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### 4.4.2. Cook Street Heritage Conservation Area “C2”



#### Period

- Nos 28 - 40 Late Victorian (c1880)
- Nos 42 - 54 are an early twentieth Century

#### Area’s Significance

This is a small conservation area, located on the western side of Cook Street comprising two sets of speculative cottages, mostly co-joined, and stepping down the slope of the street. The area is visually connected to the edge of the Main Street Conservation Area extending the Main Street area to the south and linking it to the early residential development that types housing in inner Lithgow.

#### Important Values

Nos 28 - 40 are a continuous row of single storey semi-detached row housing with a high level of intactness and integrity. Several of the houses are abandoned and in poor condition requiring

securing and restoration. They feature a simple front verandah, small projecting bay to the front room, a simple roof gable detail over the front facade to each pair of houses and consistent facade treatment, roofs and detailing. Like many houses in the area, they are set quite close to the street with a small garden.

Nos 42 - 54 are face brick, have consistent brick fences, simple projecting bays with recessed front verandahs and simple window hoods. These structures are a group of detached houses also stepping down the slope of the street with no. 40 being an unusual third house on what are otherwise semi-detached residences. They retain a high level of intactness and integrity.

### **Objectives**

- O1. To ensure development is sympathetic to the heritage character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape is protected and enhanced.
- O4. To ensure the mature frontages on Cook Street are maintained.

### **Controls**

- 1) **Height, Form and Scale:**
  - a) Buildings should be no greater than one storey in height.
  - b) Existing roof forms and configurations should be maintained.
- 2) **Kerbing and Street Elements:** The existing kerbing and street detail should be retained.
- 3) **Alterations and Additions:** Alterations and additions structures are generally supported in the conservation area given that the following design principles are adhered to:
  - a) Additions should be generally at the rear of buildings and of similar scale and form to the main building;
  - b) Additions should be sympathetic to the existing buildings design but not necessarily matching; and
  - c) Additions should not be visible from Cook Street
- 4) **Landscape and Fencing:**
  - a) Front gardens should be retained with no constraints on planting.
  - b) The existing brick fences should be retained.
- 5) **Subdivision and Site Amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area.



bay to the front facade, a simple roof gable detail over the front facade and consistent facade treatment, roofs and detailing. Like many houses in the area on the front boundary alignment. They have a consistent colour scheme.

No 9 at the end of the group is of good detailing that adds to the setting of the adjacent group. Immediately opposite is a small group of four houses, no's 22 - 28, that comprise a single house, a pair of semi-detached houses and the remaining half of a semi-detached pair, one of which has been demolished. They represent the later phase of speculative development of the city.

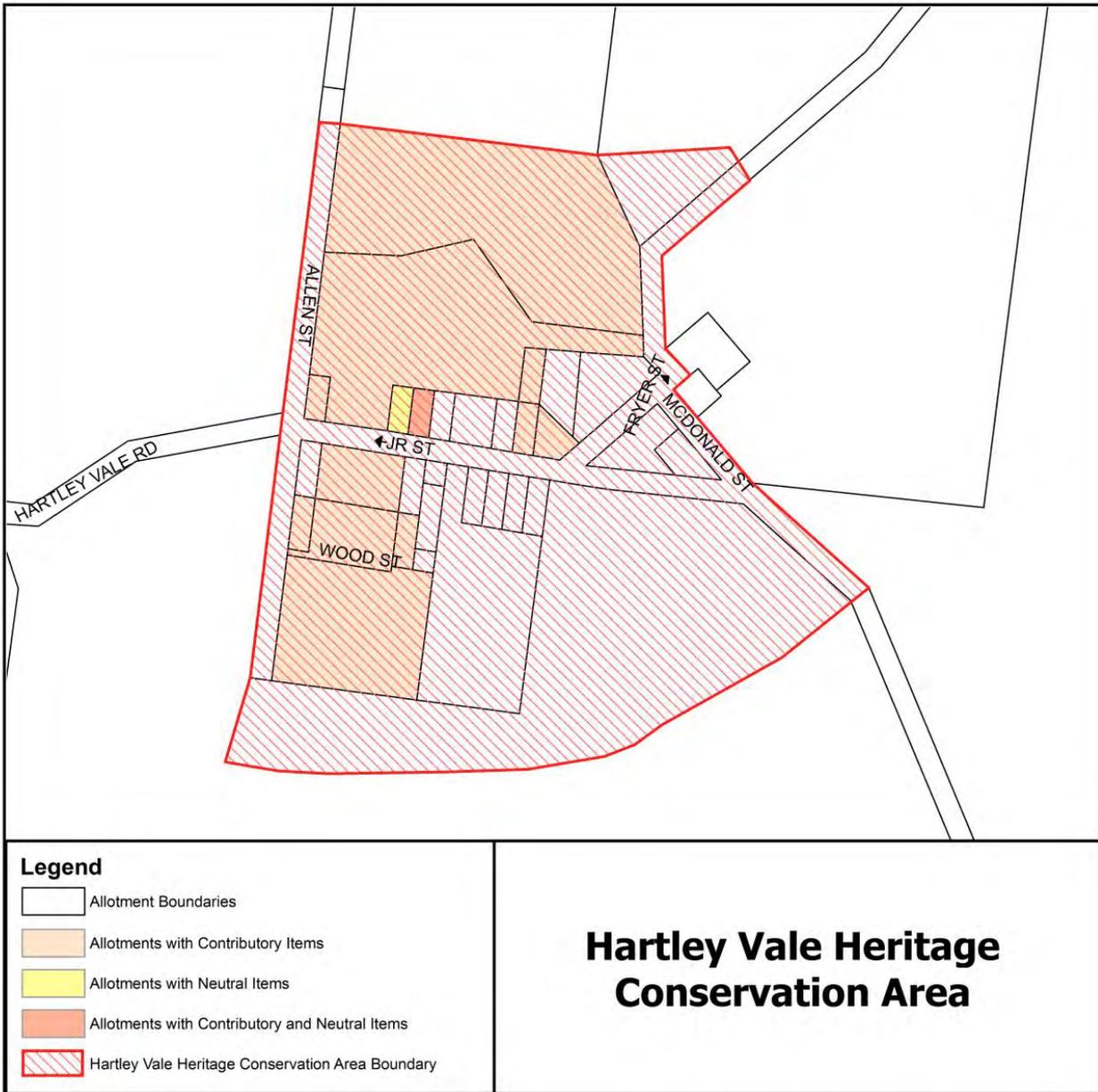
### **Objectives**

01. To ensure development is sympathetic to the heritage character of the Heritage Conservation Area
02. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
03. To ensure the visual amenity of the streetscape is protected and enhanced.
04. To ensure the mature frontages on Eskbank Street are maintained.

### **Controls**

- 1) **Height, Form and Scale:** Buildings should be a maximum of one storey in height
- 2) **Kerbing and Street Elements:** The existing kerbing and street detail should be retained.
- 3) **Alterations and Additions:** Alterations and additions structures are generally supported in the conservation area given that the following design principles are adhered to:
  - a) Additions should be generally at the rear of buildings and of similar scale and form to the main building;
  - b) Additions should be sympathetic to the existing buildings design but not necessarily matching; and
  - c) Additions should not be visible from Eskbank Street.
- 4) **Infill Development:** New Infill Developments should follow the form and general shape of the demolished building with a matching built form to provide streetscape continuity.
- 5) **Landscape and Fencing:**
  - a) Front gardens, where they exist, should be retained with no constraints on planting.
  - b) The existing fences are to be retained.
- 6) **Subdivision and Site Amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area.

4.4.4. Hartley Vale Heritage Conservation Area “C4”



**Period**

Developed from 1860

**Area’s Significance**

Hartley Vale is a small rural village set in a rural valley with a handful of remnant early cottages, a former school and a hotel. The hotel is the centre of the village. The town is surrounded by rural lands on the floor of the valley and steep wooded hillsides. The location has very strong picturesque and visual quality that largely derives from its historic character set against the rugged natural surroundings.

The area developed from kerosene shale mines that promised to provide a new source of fuel of the colony. The Hartley Kerosene Oil and Paraffine Company developed a private township on 30 acres with a school and school residence. Initially there was no hotel and interestingly no church. The

Vale Hotel opened in the village in 1879 and a year later Comet Inn was opened (named after the kerosene brand). The town grew with more hotels, halls, shops, residences, a small department store etc. In 1913 the mining ceased, and the town dwindled to its present state where there is little apart from the hotel and school to indicate the level of activity and development in the vicinity.

### **Important Values**

Historically the village is of great interest through its mining connections and acts as a tourism anchor for the region. The character of the village now is very different from its historic character. The buildings are all found in a mature and established landscape setting, varying in different forms of condition. Collectively, they provide a nostalgic precinct that allows visitors to appreciate what was there and the semi-rural character of the buildings in the landscape.

### **Objectives**

- O1. To ensure development is sympathetic to the heritage character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape in protected and enhanced.
- O4. To ensure that alterations, additions and the construction of new buildings and/or ancillary developments do not compromise the historical elements that contribute to the character of the area.
- O5. To retain the semi-rural character and open feel of the Hartley Vale Heritage Conservation Area

### **Controls**

- 1) **Street Alignment and Setbacks:**
  - a) New buildings if allowed should not be built to property boundaries.
  - b) A siting proposal should be required for any new building to ensure that the current visual quality of the town is not affected.
- 2) **Height, Form and Scale:**
  - a) Buildings should be a maximum of one storey in height
  - b) New buildings should be set above ground level (generally avoiding cutting and building off a ground slab).
  - c) New buildings should adopt traditional forms for roofs, elevational treatment and the use of verandahs.
- 3) **Facades:** Non-painted surfaces should not be painted.
- 4) **Fences:** Simple traditional rural fencing is the most appropriate style of fencing.
- 5) **Kerbing and Street Elements:**
  - a) The road and the current grassed verges should be retained.

b) The use of gravel for parking and edges is appropriate to the character of this HCA.

6) **Outbuildings and Ancillary Structures:**

a) Alterations and additions structures are generally supported in the conservation area given that the following design principles are adhered to:

- i) Ancillary structures should not visually dominate sites from the public street;
- ii) should be modest in form and use of materials;
- iii) should be recessive and neutral in colour; and
- iv) should use traditional elements related to the character of the property on which they are constructed such as matching roof pitches and use of materials.

b) The siting of ancillary buildings should be designed to minimise their visual impact on the precinct is a key to placing buildings in the precinct.

7) **Alterations and Additions:**

a) No alternations or additions are allowed on the following buildings:

- i) Small cottages;
- ii) The Company School.

b) Additions should be generally at the rear of buildings and of similar scale and form to the main building.

c) Additions do not need to mimic the existing building.

d) Where additions are visually prominent, they should not dominate the existing building or site or impact adversely on the form of a significant building.

8) **Infill Development:** There are a number of vacant lots within the conservation area that are capable of development. New infill development where appropriate should:

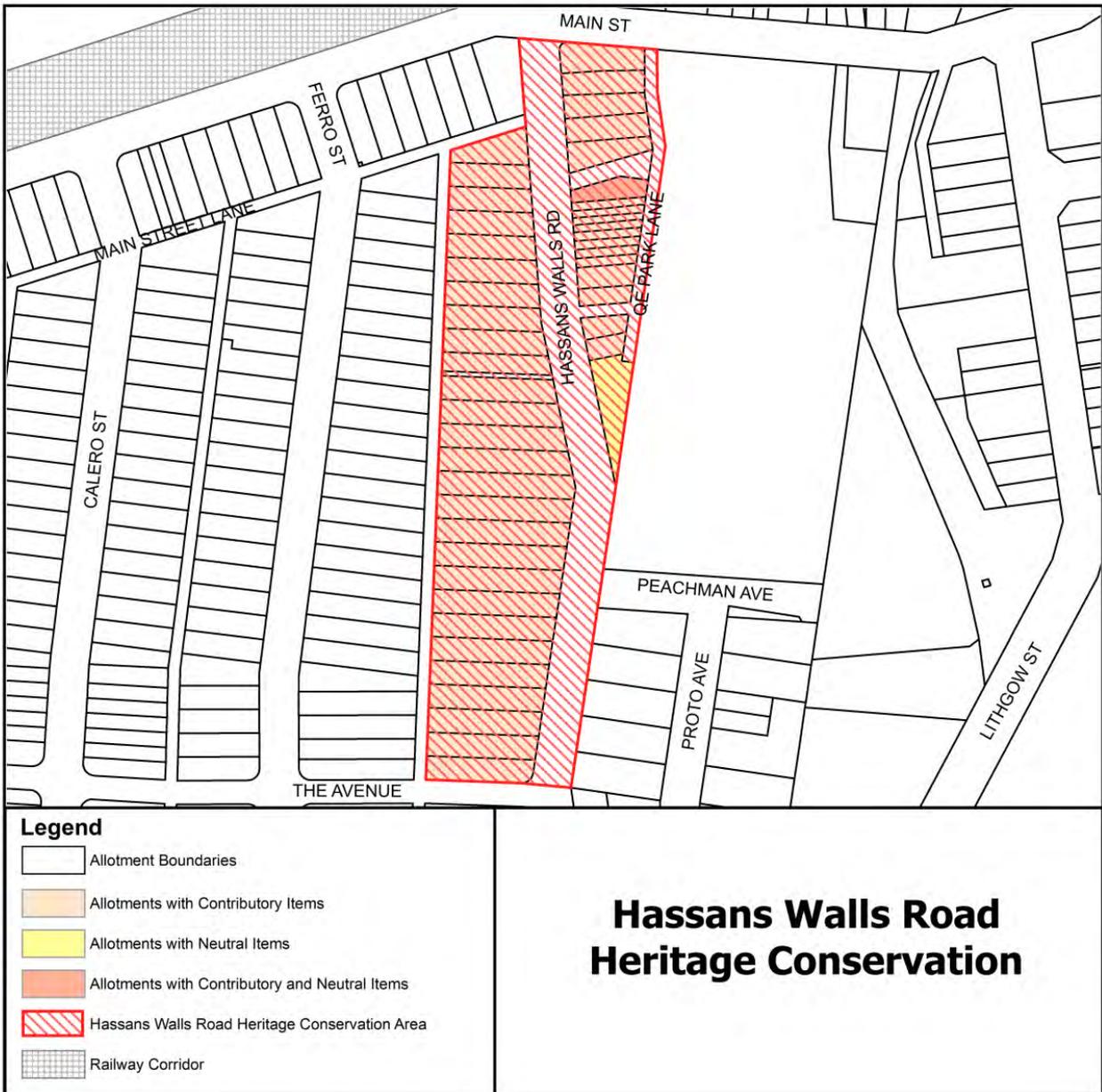
- a) follow existing development patterns and setbacks
- b) not cut and fill to bench sites but rather set floor levels above existing ground level as seen in existing buildings
- c) Not be dominated by garages and driveways, these should in all locations be to the rear and not seen from the main access road
- d) Integrate with existing landscape where it exists and add new landscape that is consistent with the character of the precinct on open sites
- e) Comply with other controls set out in this DCP.
- f) Involve minimal disruption to existing landforms.

9) **Landscape:**

a) The natural values of the area should be maintained as part of the historic character of the area.

b) The rural setting of the valley floor should also be retained with controlled new development only taking place.

4.4.5. Hassans Walls Road Heritage Conservation Area “C5”



**Period**

- Eastern side of the street is late Victorian period with early twentieth century infill.
- Western side of the street is part of the Extension Estate from 1908.

**Area’s Significance**

The conservation area in Hassans Walls Road abuts the edge of the Main Street Conservation Area and Queen Elizabeth Park. In many respects No. 1 Hassans Walls Road, which is a very fine house forms a gateway into the central area of Lithgow and marks the change from residential area to the city commercial centre.

In contrast to the other proposed conservation areas, this precinct contains a very fine collection of substantial houses as well as more modest houses from a range of periods but principally from the early twentieth century. This section of the street demonstrates the variation in class of housing in Lithgow related to location, aspect and setting.

### *Important Values*

The area was developed in several stages in time. The eastern side of the street was developed in the late Victorian period with early twentieth century infill related to providing housing for the Small Arms Factory managers and foremen. The western side of the street was sub-divided as part of the Extension Estate in 1908. It is noted that the names of the eastern side housing are Scottish, linking them to the development of the Small Arms Factory.

The area also contains housing that is largely intact, or which has only minor changes and which establishes a very strong and intact streetscape. While there are many small groups and reasonably coherent streetscapes within Lithgow, there are relatively few areas where high levels of integrity and minimal change have occurred. In this precinct the overall quality and the slightly larger scale of the housing has led to the retention of most buildings in their built form. Of particular interest within the street are the small group of late Victorian two storey terraces (no's 14 - 159) and the buildings adjoining them also from the Victorian period (no's 137 - 141). These reflect the earlier development of this area with two of the buildings fronting the park. Also, of particular interest is the two-storey terrace style house at no 144, no 173 which is a very fine example of housing around the First World War and the eclectic no 134.

While the street contains new housing on the eastern side of the road to the south of the park, it has little impact on the overall quality of the precinct. There is no opportunity in the heritage conservation area for sub-division or infill development as the streetscape is complete, with the exception of no 163 which is the rear yard of the semi-detached building fronting the park. This lot should not be sub-divided or developed separately.

### *Objectives*

- O1. To ensure development is sympathetic to the character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape is protected and enhanced.

## **Controls**

### **1) Street Alignment and Setbacks:**

- a) There should be no change to the street alignments on any site.
- b) There should be no carports or garages on street frontages as all properties have rear access.
- c) There should be no change to the side alignments for the main section of the buildings.
- d) Rear additions should be designed to reflect standard setback requirements, except where they are highly visible from the street where additional controls may be required.

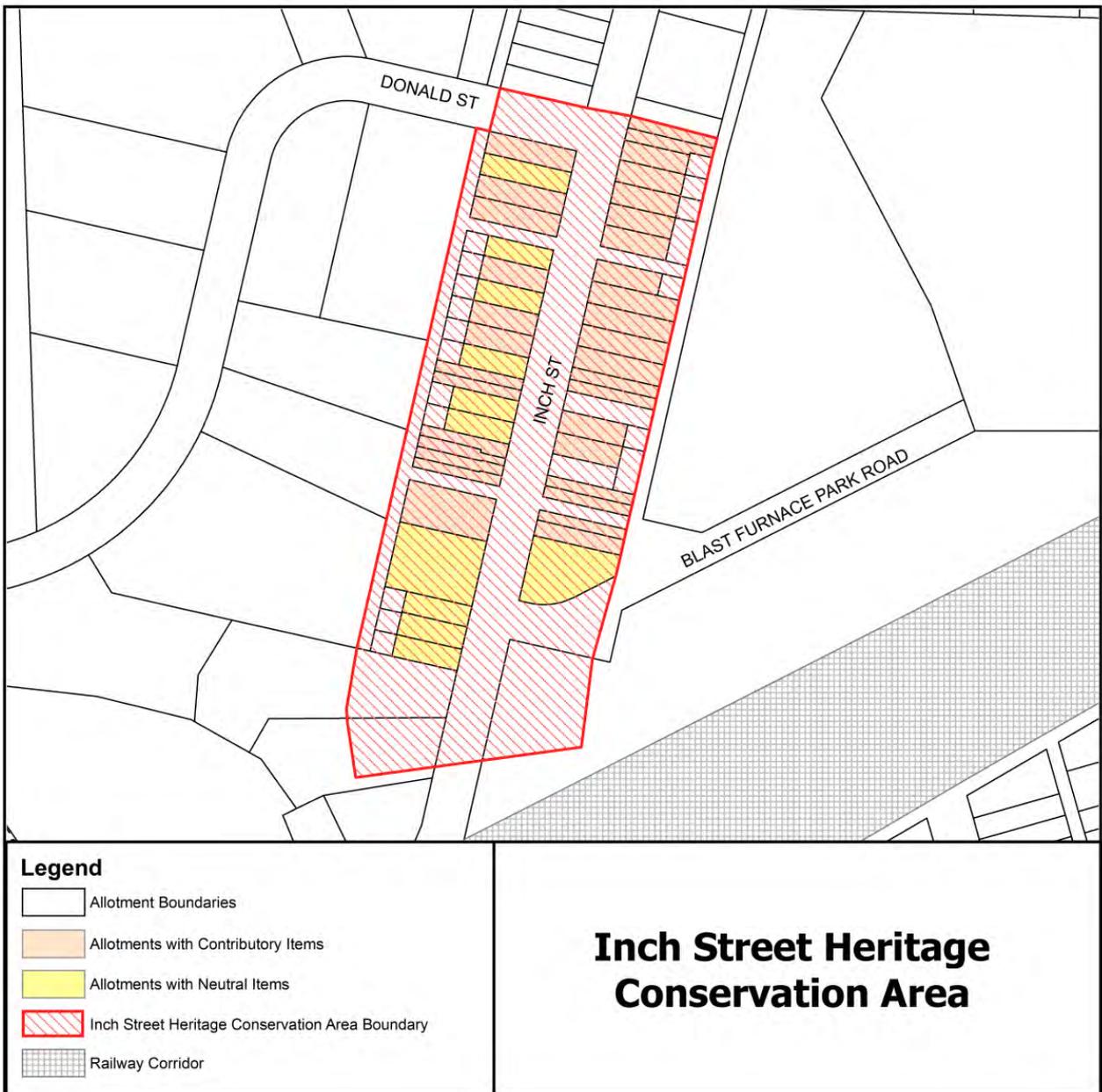
### **2) Height, Form and Scale:**

- a) Buildings are to be one storey in height (exception of the single two-storey building at 144 and several roof additions).
- b) Roof additions, second storeys, dormers and other forms of roof conversion that are seen from the street and which change the roof form of the house are not supported.

### **3) Facades:** Street facades should retain timber traditional joinery and traditional existing building detailing.

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4.4.6. Inch Street Heritage Conservation Areas “C6”



**Period**

- Late Victorian for Nos: 1- 3, 9-21, 35-39 and 100-110
- Early twentieth century for Nos: 5-7, 25-29, 126-130, 136-138 and 142.
- Later twentieth century with buildings from the First World War to the present day for Nos: 31, 80-96, 112-116, 120-124, 132-134 and 140

**Area’s Significance**

This is a small conservation area, located on the northern side of the railway immediately adjacent to the now Blast furnace Park. The housing in the area is related to development of the Eskbank Estate with its industrial focus on the blast furnace and collieries.

### *Important Values*

The grouping is of high interest due to the variety of styles, periods and types of housing found in a small tightly defined area. While some buildings have been altered and a number date to mid twentieth or late twentieth century, they provide a cohesive precinct that demonstrates most characteristics of worker housing found across Lithgow in various locations.

There are three principal groups of structures, late Victorian; Early twentieth century and 142; and later twentieth century with buildings from the First World War to the present day. Unlike other conservation areas, this precinct contains a range of housing with a number of neutral buildings interspersed - most areas contain consistent groups of buildings often from a single or very defined development periods. While the neutral buildings are as a group altered in terms of detail and use of materials, they have all retained their external form and streetscape contribution as a grouping of early and mixed workers cottages.

Of particular interest is the fine, if sometimes modest, collection of Victorian buildings of very different scales, forms and styles. There are also a number of very good examples of later modest housing from the interwar and post war periods that give a layering of the historical development of Lithgow to the precinct.

While most sites are taken up there are several vacant lots and several larger lots that could accommodate further development. Recent Examples of infill housing suggest that care is required in the selection of design for new buildings so that they reinforce the character and value of the group.

The connection of the group to the railway bridge (now unused) and the blast furnace beyond gives the location an added significance as it forms a gateway to the Blast Furnace park area. Interpreting the housing, the industrial uses and the railway are key elements of the area.

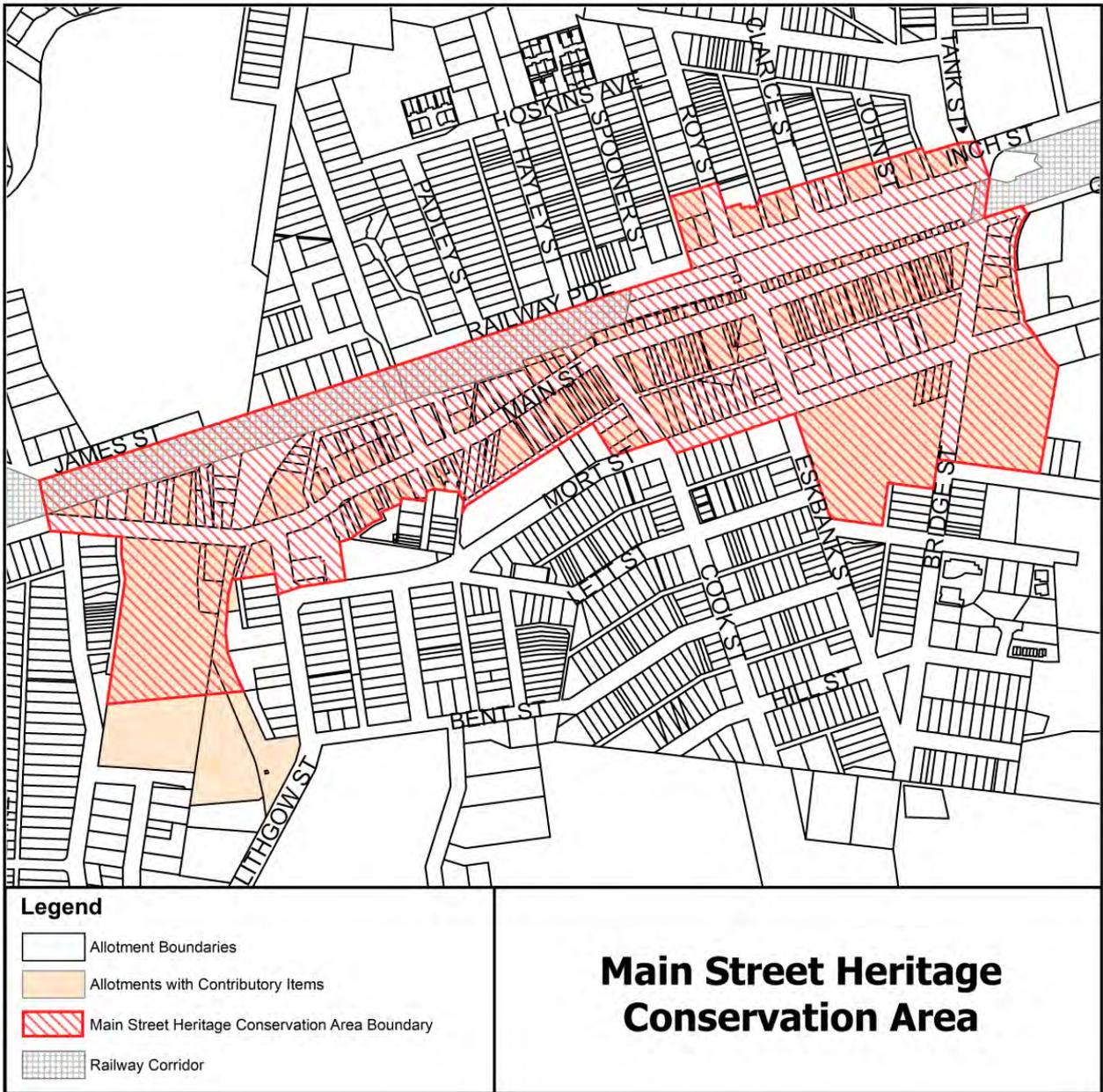
### *Objectives*

- O1. To ensure development is sympathetic to the character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape in protected and enhanced.
- O4. To ensure that new infill developments enhance the character and value of the contributory items within the Heritage Conservation Area.
- O5. To protect visually important sightlines to the Railway bridge and the Lithgow Blast Furnace.

## Controls

- 1) **Street Alignment and Setbacks:** There should be no further infilling of verandahs or works to the frontage of existing buildings.
- 2) **Height, Form and Scale:** Infill development are to be limited to single storey and should use forms and scale elements that are found in the precinct such as steeper roof pitches, traditional roof forms and use of verandahs, etc.
- 3) **Fences:** Front fences are to be low, using timber, brick or traditional mesh wire.
- 4) **Infill Development:** There are a number of vacant lots within the conservation area that are capable of development. New infill development where appropriate should:
  - a) follow existing development patterns and setbacks
  - b) not cut and fill to bench sites but rather set floor levels above existing ground level as seen in existing buildings
  - c) have the principal facade oriented to the street
  - d) not be dominated by garages and driveways, they should be located to the rear on all lots
  - e) be single storey in form
  - f) provide consistent landscaping with the precinct
  - g) comply with other controls set out above
- 5) **Alterations and Additions:**
  - a) Additions should be generally at the rear of buildings and of similar scale and form to the main building.
  - b) Additions do not need to mimic the existing building.
  - c) Where additions are visually prominent, they should not dominate the existing building or site or impact adversely on the form of a significant building.
  - d) Where additions are located on the sides of the building, the new work should be designed in the style of the main building and at a scale that does not dominate the existing building form.
- 6) **Gardens:** Front gardens are to be retained where they exist.
- 7) **Subdivision and Site Amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area.
- 8) **Demolition:** Contributory buildings should not be demolished.

4.4.7. Lithgow Main Street Heritage Conservation Area “C7”



**Period**

- Late Victorian 1880-1900
- Edwardian 1900-1915
- The Twenties & Thirties 1915-1940

**Area’s Significance**

The Main Street HCA provides strong evidence growth of Lithgow from as far back as the mid 1800’s through its well-preserved shops, pubs and hotels which have been repurposed over time. The Main Street HCA encompasses the length of main street bounded by Bridge Street and Hassans Walls Road in addition to adjoining streets where there are visual, functional and use

connections including parts of Railway Parade, Cook Street, Mort Street and Eskbank Street. This section encompasses the majority of the Central Business District of Lithgow and includes the Cook Street Plaza area.

### ***Important Values***

The most significant feature of Lithgow's Main Street is the visual strength, unity and extensiveness of its historic architectural fabric which not only has considerable potential for physical restoration/ reinstatement to its earlier lively character.

The HCA as a whole has retained a substantial number of its early buildings. The most important of buildings date from the boom years of Lithgow's development in the latter years of the 19<sup>th</sup> Century and into the early years of the 20<sup>th</sup>.

The street is lined by a strongly defined street-wall of relatively uniform height and alignment (generally of 2 storeys), particularly along the south side which gives it immediate identification as the main street.

The architectural character of the street has a notable harmony despite the variety of periods and styles, this being due to the fact that many buildings were erected in a relatively short period of times and the fact that even where of different periods their architectural characters share a number of important characteristics including masonry wall construction, use of parapets, sharing of a common repertoire of building forms and the use of vertically proportioned timber framed windows.

### ***Objectives***

- O1. To retain and where possible recover and enhance the heritage attributes of the precinct.
- O2. To ensure the consistency of building form and scale to add interest and rhythm to the street view.
- O3. To ensure that any infill development respects the consistency of built form, materials and detailing of the original shops in the precinct.
- O4. To ensure that new retail shopfronts are traditional in their form.
- O5. To locate the majority of parking outside of Main Street.
- O6. To encourage the reuse and adaption of the existing buildings.

## Controls

### 1) Street Alignment and Setbacks:

- a) Generally front setbacks should:
  - i) Occupy the full width of the block. Only vary from this where the specific locality has setbacks that are not on the street in which case new development should be considered in relation to both existing development that is adjacent and the overall character of the street in which it is located.
  - ii) Allow for street awnings or preferably street verandahs to new buildings and buildings that previously had verandahs and awnings.
- b) Generally, side setbacks should:
  - i) New infill development should extend across the frontage of blocks with zero side setbacks.
  - ii) Vehicle access should not be provided from main street frontages.
  - iii) In fringe areas of the precinct where setbacks vary, adopt adjacent setbacks as a guide to new development.
  - iv) Adopt zero lot alignment for lots with side frontages to lanes or minor streets.

### 2) Building Height:

- a) Existing patterns of height should be maintained: for example, if an area has consistent two-storey development, infill should be two storeys.
- b) Corner sites may be capable of slightly higher development but should not exceed the height of other development in the area.
- c) The overall pattern and rhythm of heights of development should be considered in determining infill development heights.

### 3) Existing Materials:

- a) Face brickwork should be retained as face brick and not painted.
- b) Unpainted render on buildings should not be painted
- c) Polychrome brickwork, patterned brickwork and facade tiling should be retained.
- d) Original shopfronts are rare and should without exception be conserved and retained.
- e) Existing joinery to facades should be retained and if it requires replacement should be replaced in matching joinery.

- 4) **New Materials:** New materials should relate to the existing range of materials in the locality. Common materials used are face brick, rendered facade elements, timber joinery, pressed metal soffits, patterned brickwork, metal and timber awnings and verandahs with painted finishes.
- 5) **Building Form:**
  - a) The form of any new building should relate to the context of the adjacent contributory buildings while maintaining its own integrity as a new element.
  - b) The overwhelming character of the precinct is relatively simple built forms, often with applied detailing depending on the style and period in which it was constructed. New work should retain a simple form approach with detailing that is consistent with contemporary building but using traditional material types and approaches to design.
- 6) **Roofs:**
  - a) The use of parapets is an overriding character of the precinct and is appropriate for new development, particularly in infill buildings in existing rows.
  - b) Elsewhere a range of roof types could be used but generally they should relate to the immediate context in type of roof, material, pitch and form. The shape of roofs is as important as detailing and material.
  - c) Very contemporary roof forms are not encouraged on street frontages, as they are uncharacteristic of the existing patterns of development.
  - d) Preferred roofing materials are corrugated iron, terra cotta tile or for key buildings or buildings that originally used it, slate. Large pan steel roofing should not be used where visible from the street.
- 7) **Facades:**
  - a) Original joinery, verandahs, etc should be retained or recovered. Non-painted surfaces should not be painted.
  - b) Infilled openings should be opened up with matching original joinery.
  - c) Verandahs should be recovered or reinstated.
  - d) Applied claddings should be removed, and the early facade form recovered where possible.
  - e) Use articulation of materials to create a predominant vertical pattern and rhythm to buildings.
  - f) Proportion openings to reinforce a vertical rather than horizontal proportion.
  - g) Use traditional built elements and forms such as dry pressed brickwork and modulate facades with devices such as engaged pilasters, recessed panels, shaped parapets, etc.

**8) Shopfronts and Interior Fitout:**

- a) Original shopfronts in intact or mostly intact form are to be retained, conserved and reinstated in any works. All early or original fabric should be retained and repaired and only replaced if repair is not feasible.
- b) The design of infill shopfronts to existing buildings where later shopfronts are being replaced should be generally to the pattern of original shopfronts, or use design elements from earlier shopfronts on the building such as:
  - i) recessed doorways, often with splayed walls
  - ii) solid plinths and lower panels
  - iii) solid framing to glazing
  - iv) the use of smaller glazed panels above the main glazing
- c) Designs can be adapted to allow for disabled or equitable access.

**9) Verandahs, Awnings and Balconies:**

- a) Existing awnings should be retained to provide shelter and protection unless they are to be replaced by reconstruction of earlier known verandahs or awnings.
- b) Key heritage buildings, such as corner buildings or visually prominent buildings that had street verandahs should as a priority have those verandahs reinstated. Associated work such as reinstating doors from upper floors should also take place.
- c) Replacement verandahs should be based on accurate research and design.
- d) New elements need to comply with structural codes that may require self-supporting structural elements.
- e) Awnings or verandahs on new infill buildings should be provided to development fronting commercial streets. The design should be compatible with the character of the new building and the setting.

**10) Fences:**

- a) Where fences are added they should be simple timber picket style fences where that is consistent with the period of the house or simple timber framed fences with wire infills or similar modest fence styles. Generally, brick or modern fencing is not appropriate.
- b) Side fencing varies but is generally wire fencing or simple timber fencing which are the preferred fencing types for the precinct.

**11) Kerbing and Street Elements:** The brick pavements have provided a high level of amenity and quality to the street and their use on adjacent streets over time is encouraged.

**12) Alterations and Additions:**

- a) Additions should be generally at the rear of buildings and can be of similar scale and form to the main building.
- b) Additions do not need to mimic the existing building.
- c) Where additions are visually prominent (perhaps due to the setting of a particular site) they should not dominate the existing building or site or impact adversely on the form of a significant building. The use of design techniques such as adding pavilions to an existing building that are lightly attached or a new wing to a building can be appropriate ways to undertake new work.
- d) No new work should be visible from the street frontage from a viewing position at head height on the opposite side of the road building frontage. This will ensure that the skyline of the street is not broken by large rear additions.
- e) On corner sites, rear additions need to be designed with a street frontage to the side street that relates to the pattern of development in that street. Side streets should be considered as main facades in addition to main street frontages for the purpose of designing new work.

**13) Infill Development:** There are a large number of vacant lots within the conservation area that are capable of development. New development is appropriate and should:

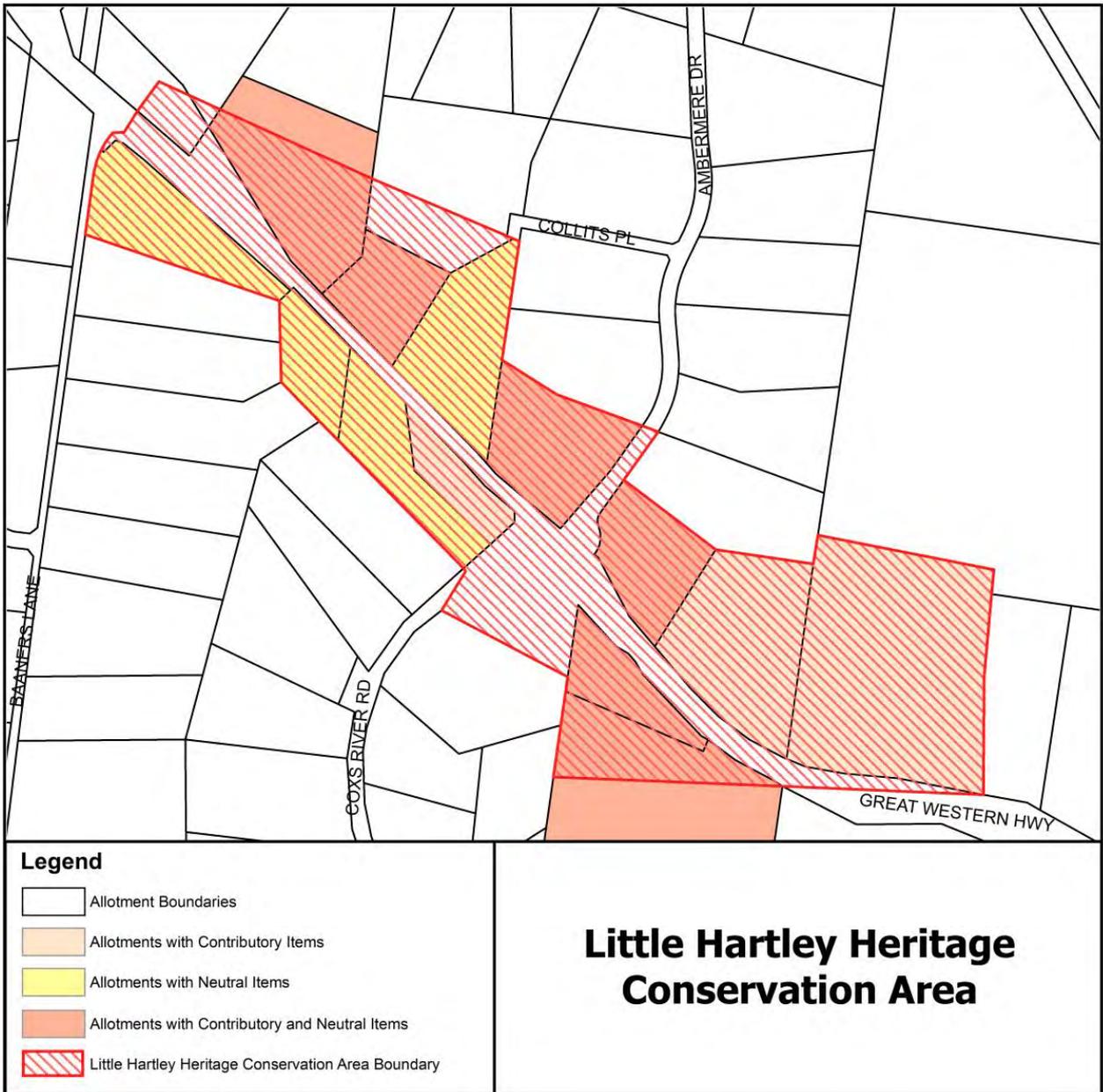
- a) follow existing development patterns
- b) not cut and fill to bench sites but rather set floor levels above existing ground level as seen in existing buildings
- c) not be dominated by garages and driveways
- d) integrate with existing landscape where it exists and add new landscape that is consistent with the character of the precinct on open sites
- e) comply with other controls set out above

**14) Landscape:**

- a) The landscape setting should be retained and enhanced.
- b) Street trees should be protected and incorporated into future plans.

**15) Subdivision and Site Amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area.

### 4.4.8. Little Hartley Heritage Conservation Area “C8”



#### Area’s Significance

Little Hartley is a tiny village located on the Main Western Highway. There are few early colonial roadside villages remaining in NSW although remnants of a number of early settlements remain. One of the inherent difficulties of understanding a location like Little Hartley is its linear and spread-out character without a core or centre.

#### Important Values

The location has an early history with a number of very early and fine colonial structures. They are spread out along the main road and it is hard to define a core area or focus for the village. The buildings comprise early inns, houses, farms and stores, one attached to the Harp of Erin was relocated from Hartley Vale when the mine closed, and the town went into decline.

Six of the key buildings are built close to the road and have a direct and important roadside relationship. Several are inns or shops and others are houses that have had a range of uses including accommodation that required direct road access. Other buildings are set back on larger land holdings as part of farms, they are quite difficult to see from the highway but still make an important visual contribution through their plantings, roof forms, entrances and drives, etc.

### **Objectives**

- O1. To ensure development is sympathetic to the character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape is protected and enhanced.
- O4. To protect the visually important rural landscapes and cultural plantings surrounding the historic houses and inns within the HCA.
- O5. To ensure new sub-divisions does not adversely affect the overall pattern of development.

### **Controls**

- 1) **Fences:**
  - a) Fences are to be of timber picket style design or timber framed fences with wire infills that is consistent with the associate period of erected structures on site.
  - b) Modern or brick fencing is not appropriate.
- 2) **Kerbing and Street Elements:**
  - a) New access points are to be done rural in character and kerb and guttering is not be introduced.
  - b) Local roads are to retain their low-key character, its grassed and gravelled verges and its edge plantings.
- 3) **Alterations and Additions:** Additions should be in the form of separate structures that are lightly attached or show sensitivity in their design when attached to an existing structure.
  - a) Infill Development: Where infill development is appropriate under broader planning controls, new development should:
    - b) Follow existing development patterns and setbacks
    - c) Do not cut and fill to bench sites but rather set floor levels above existing ground level as seen in existing buildings
    - d) New development is not be dominated by garages and driveways not be dominated by garages and driveways, they should be located to the rear on all lots

- e) Integrate new work with existing landscape where it exists and add new landscape that is consistent with the character of the precinct on open sites
  - f) Retain the open rural character of the road
  - g) Development should ideally cluster at the central areas of the precinct and not take place as ribbon development along the main road.
  - h) Signs should be restricted and limited to modest, non-illuminated signs that are consistent with the historic character of the precinct.
  - i) Comply with other controls set out above
- 4) **Landscape:** All new landscape elements are to be in character with the existing landscape features.
- 5) **Subdivision and Site Amalgamations:** Should a sub-division lead to new building entitlements located close to the main road, new buildings should not proceed or should be sited in a way to reduce visual impact of the road area unless the new building is complementary to the core village area.
- 6) **Demolition:** Contributory items should not be demolished.

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**4.4.9. Mort Street Conservation Area “C9”**



**Period**

1920's

**Area's Significance**

This is a small precinct in two parts that encompasses an intact group of unusual houses built for railway employees in the 1920's. The Railway Commissioners were constantly looking for cost efficiencies and standardised, prefabricated housing (and other buildings such as station buildings and service structures) were developed, in this period using pre-cast concrete as drop in panels into a concrete framing system.

### *Important Values*

These two closely located streets form the largest and most intact grouping of such buildings in the State. They are of particular significance as part of the extensive railway infrastructure of Lithgow and are a very recognisable and tangible visual remnant of the system. Some of these structures were of considerable size, but all used the same modules and construction system.

The lots on which the buildings stand (they are all semi-detached houses built in pairs) are quite large and extend to rear lanes. The buildings have been constructed and set in a way to provide good side access between buildings. Overtime, a number of houses in the conservation area have included modest rear additions. The landscape treatment of each lot varies as does fencing, but all retain an overall character that is consistent with their significance.

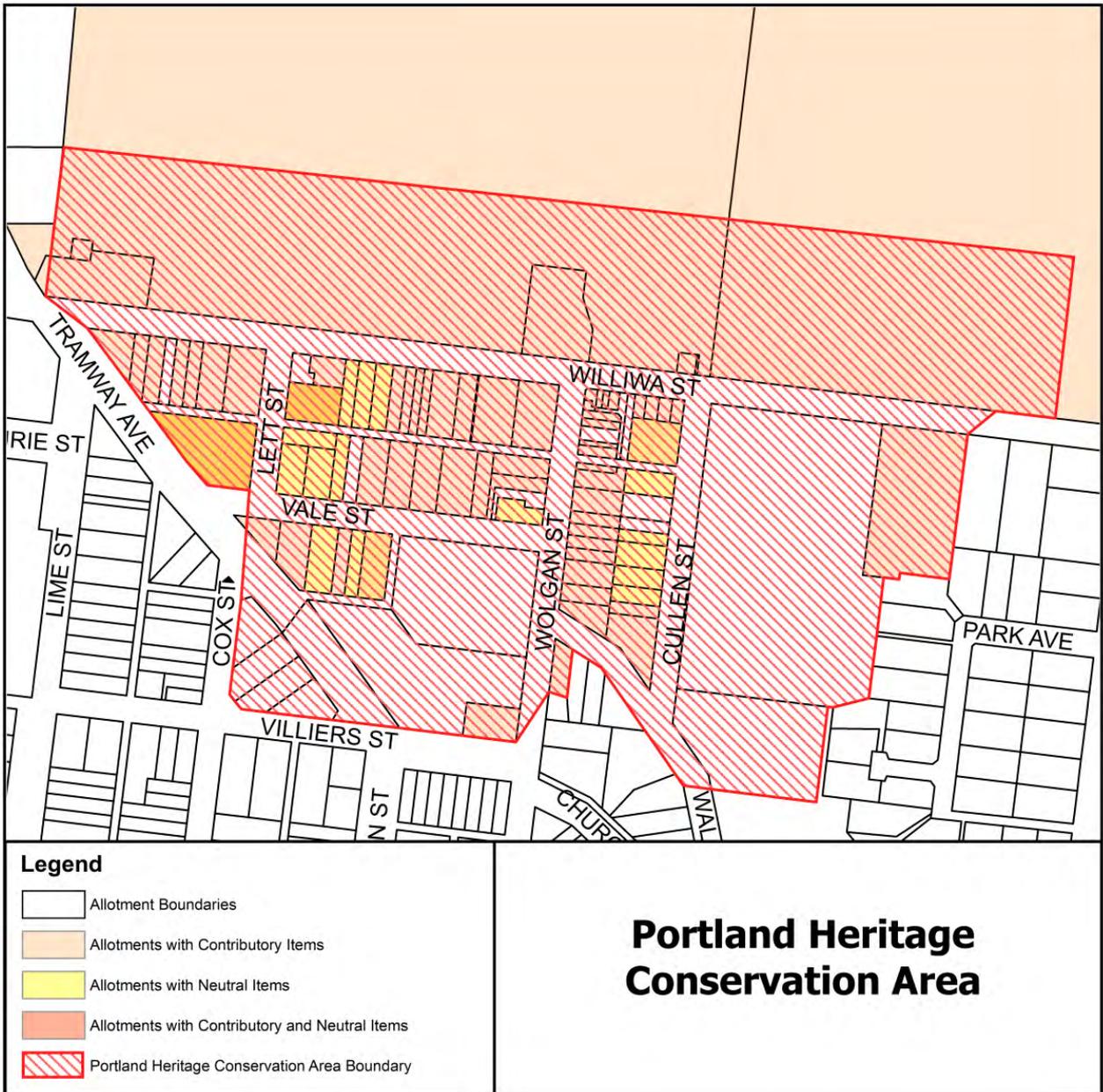
### *Objectives*

- O1. To ensure development is sympathetic to the character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape is protected and enhanced.
- O4. To promote the retention of original and characteristic shop front elements of each period.

### *Controls*

- 1) **Street Alignment and Setbacks:** Additions should not extend in front of the rear alignment of the main section of each building to maintain their streetscape presence and each building form.
- 2) **Height, Form and Scale:**
  - a) Additions, which are to be located to the rear of existing buildings should generally use the form of the existing building as a guide using similar roof slopes and materials.
  - b) Two storey additions are possible provided they do not overwhelm the main building.
- 3) **Materials:**
  - a) Materials for new work should be restrained and generally modest.
  - b) Sheet claddings and rendered brickwork would be suitable wall materials
  - c) Roofs should be constructed with corrugated iron.
- 4) **Fences:** Fencing should be low scale, timber or wire, but preferably not picket or deriving from earlier stylistic periods.
- 5) **Subdivision and Site Amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area.
- 6) **Demolition:** Contributory items should not be demolished.

4.4.10. Portland Heritage Conservation Area “C10”



**Period**

Started development in 1961

**Area’s Significance**

Portland developed as a town and location through the mining and burning of lime to form cement. Apart from being traversed by early settlers it was not until 1861 when Thomas Murray selected land and built a lime kiln (in the vicinity of Lime and Villiers Streets) that development took place.

Unlike many country towns, particularly those around Lithgow, the town dates from the early years of the twentieth century with very few earlier buildings and a relatively small number of later buildings. The quick development and high level of consistency and intactness in the buildings

reflects a quick development as the Cement Works reached their peak. The relatively low level of change over the last fifty years reflects the commercial decline of the town centre and the absence of development pressure. This has provided very contiguous and intact streetscapes, an overall character that is also consistent and due to the commercial success of the cement works quite substantial buildings for a small town.

### *Important Values*

One of the very significant features of the town is the impact of the Cement Works on the form of the town. Not only do the works dominate the townscape as they extend along the whole of the northern side of Williwa Street, but the addition of community facilities such as the large community hall and the row of very fine early twentieth century housing creates a distinctive and unique streetscape directly opposite major commercial buildings.

The town centre also contains a very rare theatre and a co-operative store that provide clear evidence of the character and social cohesion of the township. Also, unlike most town centres in the Lithgow area, the town is compact, tightly defined and has almost no missing elements. It also has almost no intrusive elements, although several buildings have had superficial changes that would ideally be reversed to recover their earlier appearance.

Outstanding buildings within the town centre include: the hotels, the theatre, the co-operative store complex, the shops fronting Williwa Street, between Cullen Bullen Road and Wolgan Street with their very fine awnings and shopfronts (almost all remaining), the exceptionally fine shopfronts to no 39 Williwa Street, most of the commercial buildings fronting Wolgan Street, No 1 Wallerawang Road, the Swimming Centre, the Post Office and Police Station and the two church complexes.

The streetscapes themselves are also of high value, the rise in Williwa Street culminating in the crest near the service station provides a range of views in and out of the area and the relatively steep Wolgan Street creates a defined town centre. The recent addition of the small park in Wolgan Street that connects to the larger parklands to the east enhances the setting.

Elements such as street verandahs, intact shopfronts with a wide range of fine detailing, retention of traditional and early materials and a clear pride and care for the town present Portland as an exceptionally fine country township of very high heritage and civic value

### *Objectives*

- O1. To ensure development is sympathetic to the character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape is protected and enhanced.
- O4. To promote the retention of original and characteristic shop front elements.

- O5. To preserve the view lines, particularly along Wolgan Street towards the Foundations site.
- O6. To ensure the appropriate re-use of the abandoned cottage buildings located on the northern side of Williwa Street.
- O7. To encourage appropriate in-fill development that reflects the existing commercial and residential built form.

### **Controls**

#### **1) Street Alignment and Setbacks:**

- a) New commercial buildings should generally have street awnings or verandahs that are consistent with the form of adjoining verandahs.
- b) Residential buildings should be set in landscaped garden settings.
- c) Commercial development on typical lots should be built boundary to boundary on the street frontage. Where rear or side access is available to sites for vehicles, vehicle access should not be available from the principal street frontage. Exceptions to this are sites such as garages where access already provided and essential for the function of the site.
- d) For residential development on the edges of the precinct statutory setbacks should apply, however on large sites building should not be built across the whole width of sites.

#### **2) Height, Form and Scale:** New buildings are to be no greater than two storeys in height.

#### **3) Infill Development:**

- a) New infill development should reflect the scale of surrounding buildings but generally should not exceed the typical scale in the vicinity.
- b) New elements should overall be recessive and restrained in their form and massing.

#### **4) Materials:**

- a) The use of materials is to be determined by the period of construction and the type of building.
- b) New materials should either reflect traditional use of materials (seen in rendered masonry and generally simple materials) and be modest and recessive in character. Materials such as modern extruded bricks, pre-coloured metal products etc are likely not to be appropriate.

#### **5) Facades:**

- a) Non-painted surfaces should not be painted.
- b) Existing tile facades, original metal shopfronts, decorative elements on facades and awnings should all be retained.
- c) Original materials, where they require replacement should be replaced like for like.

#### **6) Fences:**

- a) Where fences are added they should be simple timber picket style fences where that is consistent with the period of the house or simple timber framed fences with wire infills or similar modest fence styles. Generally, brick or modern fencing is not appropriate.
  - b) Side fencing varies but is generally wire fencing or simple timber fencing which are the preferred fencing types for the precinct.
  - c) Fencing will mostly be appropriate to residential development areas and not within the core commercial area.
- 7) **Kerbing and Street Elements:** The main roads are concrete kerbed and guttered, other streets are bitumen or gravel formation with kerbing and gutters. Existing road finishes should be maintained without changing the predominant concrete character of road surfaces.
- 8) **Abandoned Buildings:** The north side of Williwa Street, part of the Cement Works is fenced off and contains a large number of important but abandoned buildings. The Co-operative store is also unused and falling into severe disrepair. A strategy to find uses for and recover these buildings is very important to retain the very significant heritage character and future viability of the town. Where future uses are not imminent, temporary works should be undertaken to secure the structures, make them waterproof and prevent ongoing deterioration until such time as uses can be developed. This applies to outbuildings and minor elements of key sites as well as the principal buildings or features.
- 9) **Outbuildings and Ancillary Structures:**
- a) Where secondary or outbuildings are found on significant sites (for example the buildings behind the Co-operative store, behind 39 Williwa and 35-37 Williwa Street) they should be retained and conserved.
  - b) Where these structures are in poor condition, an assessment should be made to assess their potential prior to consideration of removal.
  - c) For new structures, ancillary structures should not visually dominate sites from the public street, should be modest in form and use of materials, should be recessive and neutral in colour and should use traditional elements related to the character of the particular property on which they are constructed such as matching roof pitches and use of materials.
  - d) Ancillary buildings are to be sited to minimise their visual impact on the precinct is a key to placing buildings in the precinct.
- 10) **Alterations and Additions:**
- a) Most buildings in the precinct are capable of adaptation with alterations and additions however, most such work should be at the rear of properties and should not affect public views and streetscapes.

- b) Additions should be generally at the rear of buildings and of similar scale and form to the main building (or of lesser scale).
- c) Additions do not need to mimic the existing building.
- d) Where additions are visually prominent (perhaps due to the setting of a site), they should not dominate the existing building or site or impact adversely on the form of a significant building.
- e) The use of design techniques such as adding pavilions to an existing building that are lightly attached or a new wing to a building can be appropriate ways to undertake new work.

11) **Infill Development:** There are several vacant lots within the conservation area that are capable of development. New development can be appropriate and should:

- a) Generally, follow existing development patterns
- b) For residential buildings (in particular) not cut and fill to bench sites but rather set floor levels above existing ground level as seen in existing buildings
- c) For commercial buildings in existing streetscapes:
  - i) Use awnings and verandahs of traditional form.
  - ii) Use traditional approaches to shopfronts though contemporary materials are acceptable.
  - iii) Use parapeted forms to the street.
  - iv) Use traditional forms and patterns of signs including hung under awning signs.
- d) Not be dominated by garages and driveways
- e) Integrate with existing landscape where it exists and add new landscape that is consistent with the character of the precinct on open sites

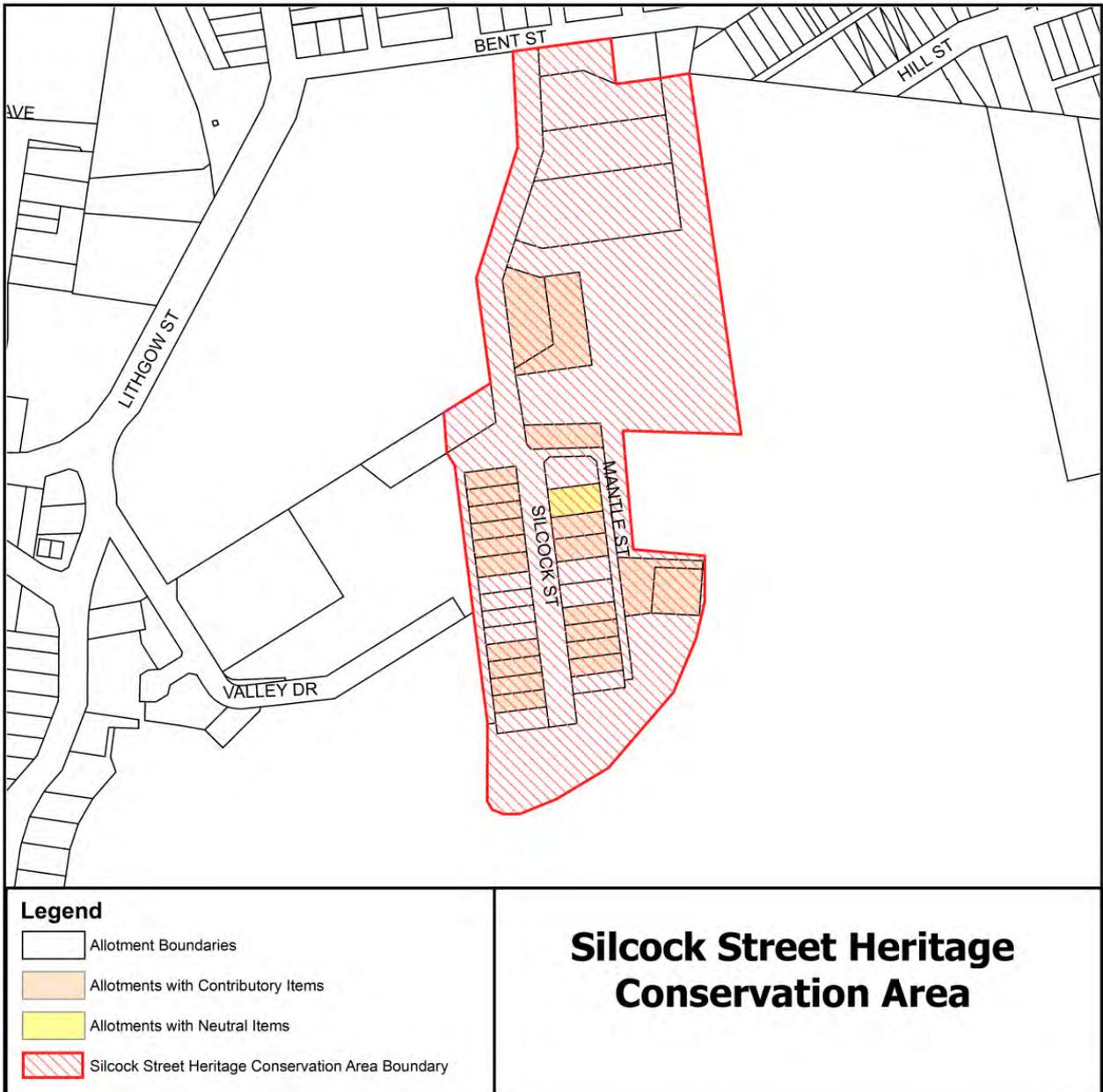
12) **Landscape:**

- a) The mature landscape should be retained on sites and in public areas and enhanced (as has taken place on numerous sites and public areas).
- b) New work should integrate the existing mature landscape and retain all significant plantings.

13) **Subdivision and Site Amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area

14) **Demolition:** Contributory items should not be demolished.

4.4.11. Pottery Estate (Silcock Street) Heritage Conservation Area “C11”



**Period**

1878 to 1907

**Area’s Significance**

Silcock Street is a dead-end street that was once part of the Lithgow Pottery Works. The cottages have remained in company ownership, although vacant land is now being offered for sale and one new house has been added to the group. Lithgow Pottery Works commenced in 1878 and closed in 1907 although the brick and pipe works continued until 1946. The houses were built as part of the earlier pottery works and were occupied by company workers.

Remnant ruins and archaeological remains are located along the central section of the street with a group of houses built to accommodate pottery workers at the end of the street. The majority of houses are located facing each other across a wide street with two other earlier houses, one at the end and one behind the housing.

### *Important Values*

Most of the houses are of the same or very similar design with several being distinctly different. They clearly form a group and can be understood as a planned estate. Not every lot in the street was however developed when the estate was taken up and there are 7 vacant lots. One has been built on recently.

The houses are the most accessible and tangible remains of a major Lithgow industry that has considerable historic interest and value. The houses are able to collectively demonstrate approaches to industry with the provision of good quality worker housing close to the workplace. The buildings and their setting display a consistency in design and detail seen through to fences and kerbing - stone - that is not often seen in such groups.

It is also of interest that the estate is separated from other housing and was and continues to be surrounded by commercial and industrial development. The character of the estate, through its isolation will remain and a key element of its future management is the design of infill housing on the vacant lots. The first new house to be built follows the design of the existing housing and is a successful infill building.

### *Objectives*

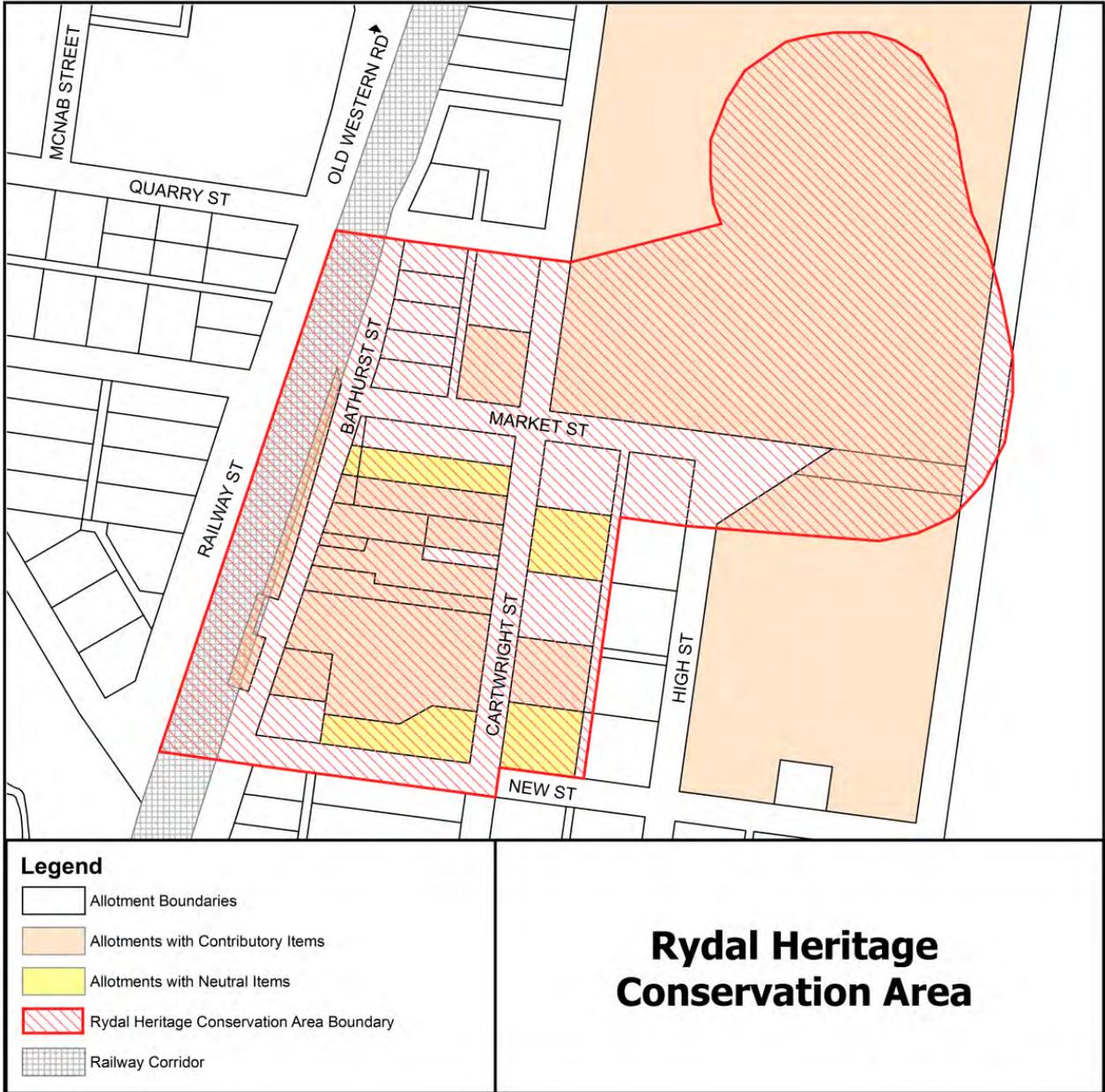
- O1. To ensure development is sympathetic to the character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape is protected and enhanced.
- O4. To encourage appropriate in-fill development and re-use that is sympathetic to the historical built form.
- O5. To retain the high level of consistency of façade treatments along Silcock Street.

### *Controls*

- 1) **Street alignment and setbacks:**
  - a) All access to properties should be from the rear of properties.
  - b) No front driveways are to be permitted in the area.

- 2) **Materials:** New developments are to use materials that are consistent with the traditional palette of materials used in the heritage cottages including face brick for facades, corrugated iron roofs, brick fences, traditionally proportioned joinery
- 3) **Facades:** New developments are to adopt the existing facade of the street.
- 4) **Fences:**
  - a) New fences should be made of brick done at a low scale to match the existing design of fencing.
  - b) Simple low fencing made of timber can be considered appropriate for the area, but not timber picket fencing.
- 5) **Kerbing and Street Elements:**
  - a) The road with is kerbed with stone and vergers are grass with a central sealed pavement which is to be retained.
  - b) Footpaths and new interventions are not to be made into public realm areas.
- 6) **Outbuildings and Ancillary Structures:** Where there is an opportunity to add outbuildings and/or garage, they are to be sited at the rear of the property and traditionally scaled and proportioned to adjacent structures.
- 7) **Alterations and Additions:** Additions are to be confined to the rear of the property, being no greater than one story in height and does not dominate the street view.
- 8) **Infill Development:** There are several vacant lots within the conservation area that are capable of development. New development can be appropriate and should:
  - a) Follow existing development patterns and setbacks
  - b) Not cut and fill to bench sites but rather set floor levels above existing ground level as seen in existing buildings.
  - c) Have the principal facade oriented to the street.
  - d) Not be dominated by garages and driveways, they should be located to the rear on all lots
  - e) be single storey in form.
  - f) Provide consistent landscaping with the precinct.
  - g) Comply with other controls set out above.
- 9) **Subdivision and Site Amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area.
- 10) **Demolition:** Contributory items should not be demolished.

**4.4.12. Rydal Heritage Conservation Area “C12”**



**Period**

- The Western Railway station opened: 1870
- The township started in 1843

**Area’s Significance**

Rydal township is a small rural village centred on the main western railway. The railway and station opened in 1870. The township was named by Governor Gipps after Wordsworth’s hometown in England. The town was used to ship gold and produce to Sydney and an access point to Jenolan Caves using horse-drawn coaches. At its peak the town boasted eight hotels, five blacksmiths, a

school, police residence, two churches and five stores. Today one hotel and two churches remain in use and there are no operating commercial premises, the town having a population of around 80.

### *Important Values*

The core area of the town is formed by two blocks to the east of the railway with the showground on the rise of the hill behind. The major house of the town is located on the other rise behind dense vegetation and is not included in the conservation area, however it is separately listed as a heritage item.

Street fronts the railway and comprises the Hotel Alexander building, a fine structure that indicates the importance of the town in the past, a church, post office and a conference centre based around a major house. The railway station has been restored and is used as a civic building with well-established gardens and linear park. The street has mature plantings and several very fine individual buildings.

Street runs parallel to the railway a block removed and contains several houses the Anglican Church and mature landscape. The rear gardens of properties in Street extend to this street. To the east bushland and mature exotic trees provide a strong backdrop.

A number of buildings have been or are being conserved; this is evident in comparing current photos with those taken for the heritage study. Considerable civic improvement works to public areas has taken place and the town centre has a very fine appearance.

### *Objectives*

- O1. To ensure development is sympathetic to the character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape is protected and enhanced.
- O4. To encourage appropriate in-fill development and re-use that is sympathetic to the historical built form.

### *Controls*

- 1) **Street alignment and setbacks:**
  - a) Buildings should be set in landscaped garden settings.
  - b) Statutory setbacks should apply, however on large sites building should not be built across the whole width of sites.
- 2) **Height, form and scale:** Buildings are to be one or two storeys in height.
- 3) **Facades:**
  - a) Non-painted surfaces should not be painted.

- b) Original materials, where they require replacement should be replaced like for like.
- 4) Shopfronts and interior fit out: There are no requirements for interiors generally, however liturgical fit out of churches is of considerable significance and should be considered carefully if change is anticipated.
- 5) **Fences:**
  - a) Where fences are added they should be simple timber picket style fences where that is consistent with the period of the house or simple timber framed fences with wire infills or similar modest fence styles. Generally, brick or modern fencing is not appropriate.
  - b) Side fencing varies but is generally wire fencing or simple timber fencing which are the preferred fencing types for the precinct.
- 6) **Kerbing and street elements:**
  - a) The main road is concrete kerbed and guttered, other streets are gravel formation without kerbing or gutters.
  - b) Existing road finishes should be maintained without further kerbing and guttering.
- 7) **Outbuildings and ancillary structures:**
  - a) Ancillary structures should not visually dominate sites from the public street, should be modest in form and use of materials, should be recessive and neutral in colour and should use traditional elements related to the character of the particular property on which they are constructed such as matching roof pitches and use of materials.
  - b) Siting of ancillary buildings to minimise their visual impact on the precinct is a key to placing buildings in the precinct.
- 8) **Alterations and Additions:**
  - a) Most buildings in the precinct are capable of adaptation with alterations and additions, the exception being the small timber church in Bathurst Street.
  - b) Additions should be generally at the rear of buildings and of similar scale and form to the main building.
  - c) Additions do not need to mimic the existing building.
  - d) Where additions are visually prominent (perhaps due to the setting of a particular site) they should not dominate the existing building or site or impact adversely on the form of a significant building.
  - e) The use of design techniques such as adding pavilions to an existing building that are lightly attached or a new wing to a building can be appropriate ways to undertake new work.
- 9) **Infill Development:** There are a large number of vacant lots within the conservation area that are capable of development. New development is appropriate and should:

- a) Follow existing development patterns
- b) Not cut and fill to bench sites but rather set floor levels above existing ground level as seen in existing buildings
- c) Not be dominated by garages and driveways
- d) Integrate with existing landscape where it exists and add new landscape that is consistent with the character of the precinct on open sites
- e) Comply with other controls set out above

10) **Landscape:**

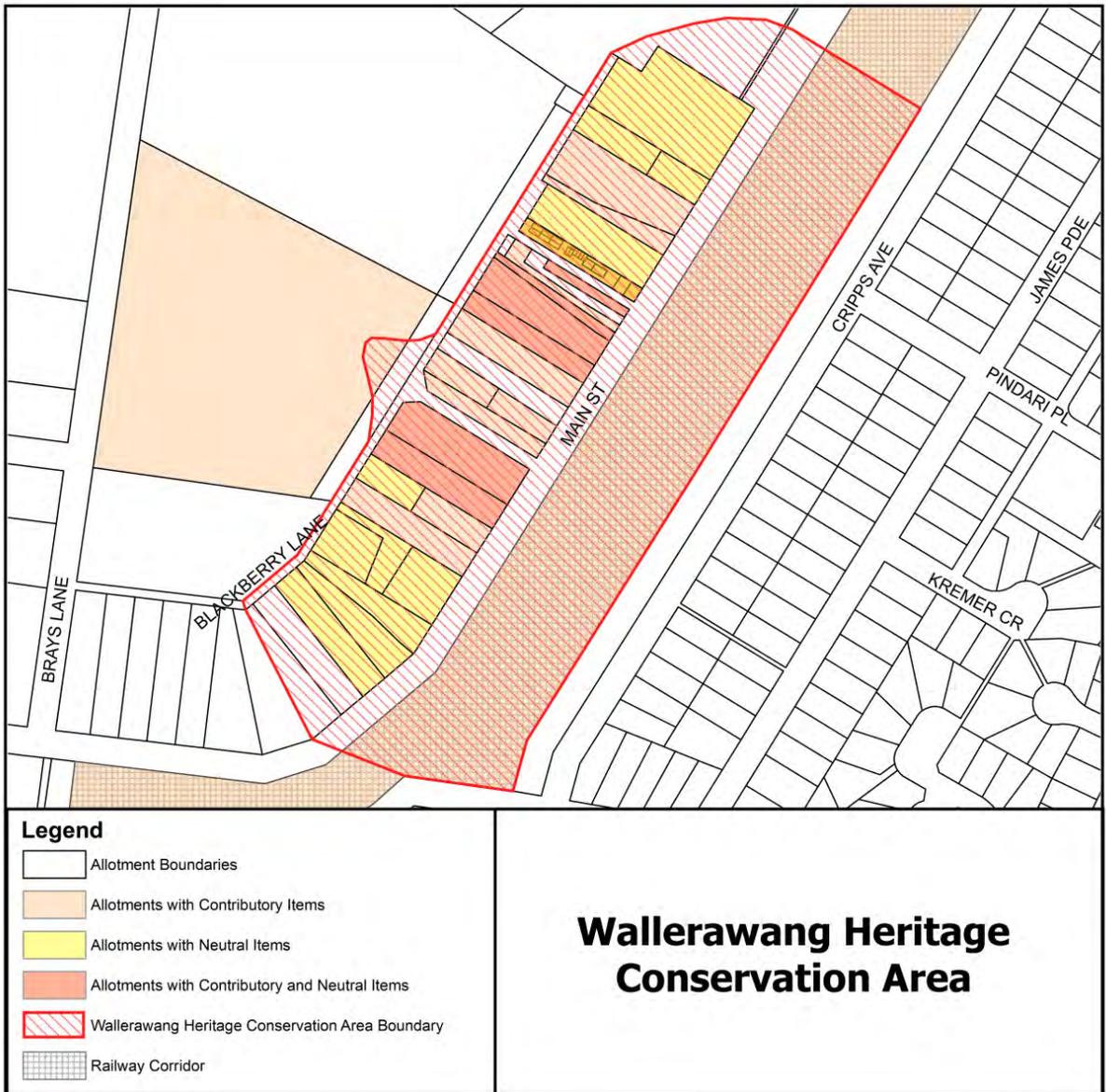
- a) The mature landscape should be retained on all sites and public areas and enhanced (as has taken place on numerous sites and public areas).
- b) New work should integrate the existing mature landscape and retain all significant plantings.

11) **Subdivision and site amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area

12) **Demolition:** Contributory items should not be demolished.

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**4.4.13. Wallerawang Heritage Conservation Area “C13”**



**Period**

- 1860 the first school opened
- Railway line first arrived in Wallerawang in 1871

**Area’s Significance**

Wallerawang is an early railway town that was a key location for many years as both a junction and a point of connection to the goldfields and the surrounding rural areas. The scale and finesse of the railway station and associated buildings and the former extent of the rail yards indicates the importance of the town.

**Important Values**

The town centre reflects the importance of the railway with its single main street with buildings fronting the road and facing the railway complex. While the town has changed in its focus to power

generation and the railway has diminished in importance the town centre with the railway complex remaining one of the important railway town centres in the state.

Also, of importance in the conservation area is the range, integrity and number of heritage structures found along the Main Street. Even structures such as the former council chambers (now library and civic centre) and the childcare clinic are important elements of the history of the town and its development. Within the core town area there are only a few buildings that are neutral or that do not have heritage value fronting the street. Located on several of the deep lots (extending to Blackberry Lane) are found a number of contributory buildings and features that add to the group. Interestingly the town centre is single depth (noting several buildings on side streets) with the sports ground and rural land behind. The balance of the town is on the far side of the railway and to the west leaving the town centre relatively isolated. Other very significant early buildings are found some distance to the east reflecting the spread nature of the early town, these include the very fine St Johns church and the early school buildings.

Also, of interest is the range of building types and forms in the main street ranging from the railway station group, to the hotel, the post office, general stores and some housing.

Civic improvement works along the alignment of the railway station and the recent restoration of the station building have enhanced the area and create a focus for a conservation area.

While a number of buildings have been identified as potential heritage items, the railway group is outstanding, and the listing should include all of the extant elements, features and buildings from the junction and its signal box to the goods shed, crane and station group including the water tank, footbridge and signal box. The precinct has some landscape elements of value including the tree plantings in Daintree Lane leading to the war memorial and several fine mature trees in the park area.

### **Objectives**

- O1. To ensure development is sympathetic to the character of the Heritage Conservation Area
- O2. To ensure that the design and materials used in the new buildings, restorations and renovation of existing buildings is appropriate in scale and form to the character of the street.
- O3. To ensure the visual amenity of the streetscape in protected and enhanced.
- O4. To encourage appropriate in-fill development and re-use that is sympathetic to the historical built form.

### **Controls**

- 1) **Street alignment and setbacks:**
  - a) Buildings are either built to, or close to the property alignment with the exceptions of houses, civic buildings and buildings along the side streets.

- b) New buildings are to be built to the street alignment, should have awnings and should be designed with a strong street presence.
- c) Newer buildings at the western edge of the town are to be set back further than other buildings, breaking down the streetscape value of the group at that location.
- d) An important visual aspect of the town is the ability to see through to the rural lands beyond and into gardens at several locations along the street.
- e) Generally, infill buildings should respond to their immediate setting and the nature of the building. Commercial buildings should be built to the street alignment but necessarily side alignments.
- f) Existing long-distance views should be retained to the north.

2) **Height, form and scale:**

- a) Buildings should be one or two storeys in height.
- b) Awnings are a key feature of a number of buildings and provide part of the core heritage character of the town.
- c) New commercial buildings should incorporate awnings over the footpath,
- d) Buildings should fit into the overall pattern and rhythm of the streetscape.

3) **Materials:** Face brick, corrugated iron, areas of render, shopfronts that are articulated all reflect traditional character.

4) **Facades:** Non-painted surfaces should not be painted.

5) **Shopfronts and interior fit out:** Original shopfronts and interiors should generally be retained and where upgrade is required it should be integrated to retain the significant features of the building.

6) **Fences:**

- a) There are a small number of fences, predominantly picket fences with some timber/steel and wire infill fences.
- b) Where fences are added they should be simple style fences where that is consistent with the period of the building or simple timber framed fences with wire infills or similar modest fence styles. Generally, brick or modern fencing is not appropriate.
- c) Side fencing varies but is generally wire fencing or simple timber fencing which are the preferred fencing types for the precinct.

7) **Kerbing and street elements:** The main road is concrete kerbed and guttered with a concrete footpath, minor streets have grassed verges. Existing road and footpath finishes should be maintained.

**8) Outbuildings and ancillary structures:**

- a) Ancillary structures should not visually dominate sites from public streets, should be modest in form and use of materials, should be recessive and neutral in colour and should use traditional elements related to the character of the particular property on which they are constructed such as matching roof pitches and use of materials.
- b) New constructions are to use of complimentary forms and materials that reinforce and enhance the overall value of the area.
- c) Siting of ancillary buildings to minimise their visual impact on the precinct is a key to placing buildings in the precinct.

**9) Alterations and Additions:**

- a) Additions should be generally at the rear of buildings and of similar scale and form to the main building, although with larger buildings additions are likely to be more modest in scale.
- b) Additions do not need to mimic the existing building.
- c) Where additions are visually prominent (perhaps due to the setting of a particular site) they should not dominate the existing building or site or impact adversely on the form of a significant building.
- d) The use of design techniques such as adding pavilions to an existing building that are lightly attached or a new wing to a building can be appropriate ways to undertake new work.

**10) Infill Development:** There are a number of vacant lots within the conservation area that are capable of development. New development is appropriate and should:

- a) Follow existing development patterns
- b) Add to the activation and vibrancy of the commercial centre
- c) Not be dominated by driveways from Main Street
- d) Integrate with existing landscape where it exists and add new landscape that is consistent with the character of the precinct on open sites
- e) Comply with other controls set out above

**11) Landscape:**

- a) Mature landscape elements as seen in tree plantings should be retained and enhanced with additional plantings.
- b) Garden setting should be retained around houses and the park should add plantings over time.

**12) Subdivision and site amalgamations:** New subdivisions or boundary alterations are not to obscure or degrade the established subdivision pattern and character or the streetscape of the heritage conservation area**13) Demolition:** Contributory items should not be demolished.

# Chapter 5:

## Subdivision & Roads

including Consolidation & Boundary Adjustments



## Table of Contents

<b>5.1</b>	<b>Introduction.....</b>	<b>4</b>
5.1.1	Application of this Chapter.....	4
5.1.2	Other Relevant Chapters of this DCP.....	5
5.1.3	Exempt & Complying Development .....	5
<b>5.2</b>	<b>Site Selection, Analysis &amp; Design Response .....</b>	<b>6</b>
5.2.1	Site Analysis & Potential Land Use Conflicts .....	6
5.2.2	Water, Natural Environment & Hazards.....	6
5.2.3	Lot Sizes, Dimensions & Suitability.....	7
5.2.4	Access & Entrances.....	8
5.2.5	Utilities/ Easements.....	9
5.2.6	Siting and Visibility of Utilities .....	10
5.2.7	Staging .....	11
<b>5.3</b>	<b>Urban Residential Subdivision .....</b>	<b>12</b>
5.3.1	Lot Size & Arrangements – General.....	12
5.3.2	Access to Lots with Limited or No Road Frontage.....	14
<b>5.4</b>	<b>Urban Release Areas &amp; South Bowenfels.....</b>	<b>15</b>
5.4.1	Corner Lots .....	15
5.4.2	Battle-Axe Lots.....	15
5.4.3	Public Open Space & Facilities.....	16
<b>5.5</b>	<b>Large Lot Residential &amp; Rural Subdivision.....</b>	<b>17</b>
5.5.1	Access & Road Design.....	17
5.5.2	Access to Lots with Limited or No Road Frontage.....	17
5.5.3	Lots for the Purpose of Agriculture .....	17
<b>5.6</b>	<b>Commercial, Industrial or Community Use Subdivision.....</b>	<b>18</b>
5.6.1	Lot Size & Arrangement.....	18
<b>5.7</b>	<b>New or Upgraded Public Roads .....</b>	<b>19</b>
5.7.1	Guidelines .....	19
5.7.2	Surrounding Road Patterns & Access .....	19
5.7.3	Road Hierarchy & Design.....	20
5.7.4	Terminating Roads (Cul-de-sacs).....	21
5.7.5	Crown Roads.....	22
5.7.6	Safety and Surveillance.....	23
5.7.7	Public Domain Landscaping & Street Trees.....	23
5.7.8	Naming of New Roads .....	24

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*Title Page: The picture on the title page is the master plan for the Marrangaroo Area (Lithgow City Council).*

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## 5.1 Introduction

### 5.1.1 Application of this Chapter

This Chapter should be addressed whenever a development application includes a type of subdivision or boundary adjustment (see definitions below) or new or upgraded public roads are required.

*There are three (3) main forms of subdivision and related land titles in NSW. The form of title used will be dependent on the nature of the subdivision.*

**Torrens Title Subdivision** is the traditional form of subdivision, and is the most common form of subdivision in the Lithgow LGA. The Torrens title system is based on a plan of survey, which defines the boundaries of a parcel of land at the date upon which it was registered.

**Community Title Subdivision** provides individual ownership of lots and a share in the association property. Association property is a lot in the scheme on which community facilities may be erected, including roads and driveways, swimming pools, common open space and the like. This form of subdivision is most common for multi-dwelling housing.

**Strata Subdivision** can subdivide buildings and land into separate lots capable of individual ownership, with additional areas of land designated as common property. This form of subdivision is most common with townhouses, residential flat buildings, duplex and semi-detached housing and multi-tenant commercial or industrial buildings.

Please note that **Boundary Adjustments** may need to address this Chapter if they are not exempt or complying subdivision types under State Environmental Planning Policy (Exempt & Complying Development Codes) 2008 (**Codes SEPP**).

This Chapter is broken down into Sections. The Sections that apply will depend on the type of land use proposed for the subdivision (and its zone) and whether new roads will be required, including:

- a) DCP Section 5.2 – Site Selection, Analysis & Design Response must be considered for all subdivisions.
- b) DCP Sections 5.3 to 5.6 (Subdivision for Different Land Uses) are for specific subdivision types dependent on the land use or subdivision type. Discuss this with Council if you are unsure which Section applies to your development.
- c) DCP Section 5.7 – New or Upgraded Roads only applies where there is a new or substantially upgraded road required to access the subdivision.

Council sets out the circumstances for release of Subdivision Certificates prior to the completion of works in Council Policy 7.2 – Subdivision – Release of Subdivision Plans.

### 5.1.2 Other Relevant Chapters of this DCP

Please remember that this Chapter of the DCP is unlikely to contain ALL of the relevant controls for your development.

Please see *Chapter 1 – Introduction & Administration* to review the Section on *How to Use this DCP* including the *Structure of the DCP* (see table below) to determine what other Chapters may be relevant to your development.

**IF YOU ARE UNSURE, PLEASE DISCUSS THIS WITH COUNCIL STAFF PRIOR TO LODGING YOUR APPLICATION.**

We also recommend that you seek a **Planning Certificate** from Council that will detail most of the significant constraints or affectations on the property as different Chapters/Sections of this DCP are relevant where these affectations exist.

*The DCP has the following Chapters:*

<b>Chapter 1:</b>	Introduction & Administration
<b>Chapter 2:</b>	Site Requirements
<b>Chapter 3:</b>	Natural Environment & Hazards
<b>Chapter 4:</b>	Heritage & Cultural Conservation
<b>Chapter 5:</b>	Subdivision & Roads ( <b>THIS CHAPTER</b> )
<b>Chapter 6:</b>	Residential Development
<b>Chapter 7</b>	Commercial, Community & Industrial Development (including Advertising/ Signage for all relevant land uses)
<b>Chapter 8:</b>	Rural & Other Land Uses
<b>Chapter 9:</b>	Location Specific Controls

### 5.1.3 Exempt & Complying Development

Please note that [State Environment Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#) may permit certain development set out in that policy without requiring a development application to Council if it complies with the requirements of the **Codes SEPP**. Please discuss this with Council or visit the [NSW Government Planning Portal](#).

## 5.2 Site Selection, Analysis & Design Response

*Site analysis is essential in order to understand the site and its context. Site analysis and good site planning should be undertaken **before** the design of any subdivision.*

*Subdivision is a very important stage to the future development of an area as road layouts, lot areas and dimensions and buffers determine many of the factors for how future development responds to site opportunities/constraints and the likelihood of future land use conflicts that cannot later be changed. It has a significant impact on the future structure, character and amenity/desirability of an area.*

### 5.2.1 Site Analysis & Potential Land Use Conflicts

#### Objective(s)

Any development application (for subdivision, consolidation, boundary adjustments or new roads) in accordance with this Chapter demonstrates:

- a) That a detailed **Site Analysis** has been conducted/documentated in accordance with the opportunities/constraints of the Site informed (where relevant) by this DCP (including *Chapter 2 – Site Requirements*; *Chapter 3 – Natural Environment & Hazards*; and *Chapter 4 – Heritage & Cultural Conservation*; and
- b) That the proposed development has provided an appropriate response to the **Site Analysis** for the proposed subdivision and the future intended use(s) whilst minimising potential land use conflicts and environmental impacts.

### 5.2.2 Water, Natural Environment & Hazards

#### Objective(s)

Without limiting the requirements in this DCP (referred to in *Section 5.2.1* above), the Subdivision design demonstrates:

#### O1. Stormwater Management:

- a) That stormwater systems are designed to maximise the resulting water quality leaving the site and manage water quantity to prevent environmental impacts and flooding.
- b) The need for inter-allotment drainage easements has been considered/addressed.
- c) For larger developments, detention basins and/or water sensitive urban design / water treatment mechanisms may be required.

#### O2. Watercourses: That suitable setbacks for lot boundaries (and where necessary - building envelopes) are provided to:

- d) Address the risk of flooding;
- e) Protect and enhance watercourses (including water quality and quantity); and
- f) Provide riparian corridor buffers for protection of vegetation and water quality.

#### O3. Significant Vegetation: That it maximises the retention and protection of existing significant vegetation/trees from both the Subdivision and future development (including infrastructure). Council may require:

- a) A **Survey Plan** or other suitably accurate plan showing existing trees/species/approximate size and indicating which trees are to be retained or removed;
- b) An **Arborist Report** or other suitably qualified report that provides:
  - i) justification for removal of any significant trees; and
  - ii) demonstration that the subdivision and future development will provide sufficient protection for those trees to be retained.

O4. **Hazards:** That the site has limited hazards or that the hazards can be avoided or minimised/mitigated to an acceptable level for both the development area and associated access.

O5. **Slope:** Subdivision on land with a slope of 20% or greater (being ~1:5 or 11°) is significantly constrained and needs to be supported by a **Survey Plan** and **Geotechnical Report** prepared by a suitably qualified person verifying the suitability of the proposed lot size considering any future (likely) building(s), hydrology and drainage, and site stability during site works, construction and operation of the development.

### 5.2.3 Lot Sizes, Dimensions & Suitability

#### Objective(s)

- O1. To provide lot sizes and dimensions that respond to the site constraints and opportunities and avoid or minimise / mitigate against existing and/or future land use conflicts.
- O2. To increase lot sizes and dimensions (above the minimum) where sites have significant slope, site constraints, or natural hazards that would impact on the useability/amenity of the site layout and future development or environmental requirements in this DCP.
- O3. To integrate infill subdivision(s) into existing urban and historic areas with similar pattern(s) and street frontage(s) to create consistent street character and improve navigation.
- O3 To ensure applications demonstrate that any proposed lot(s) in a subdivision, consolidation or boundary adjustment have an appropriate area and dimensions for the siting and construction of all proposed and/or likely development/buildings as well as ancillary or associated development.
- O4. To achieve good urban design and (where relevant) residential amenity outcomes.

#### Control(s)

- 1) **Minimum Lot Size:** Any lot(s) created must comply with the minimum lot size(s) in **LLEP2014**. However, this is a minimum size only and larger lot sizes may be required to respond to site constraints including, but not limited to the following:
  - a) Site constraints and opportunities raised in DCP *Sections 5.2.1 & 5.2.2* above;
  - b) Requirements for on-site effluent disposal areas (if relevant);
  - c) The objectives for lot size in **LLEP2014**;
  - d) Provision of a range of lot sizes to enhance the character of an area and minimise development that is too repetitive in lot layout and design.

- 2) **Urban Areas:** Subdivisions in or adjacent to an **urban zone and/or area** are to satisfy the following design standards:
- g) If a new public road is created, address the controls in DCP *Section 5.7 – New or Upgraded Public Roads* below;
  - h) Ensure lot sizes and shapes address and relate to the prevailing dimensions (including street frontages), pattern or rhythm of subdivision in the surrounding locality, particularly in historic areas, where this is a significant part of the street or local character;
  - i) Maximise the number of regular shaped lots (i.e., lots that are roughly rectangular in shape) so there are less constraints for future development and/or subdivision, particularly in existing/historic urban areas;
  - j) Provide suitable road frontage lot widths to promote ease-of-access to and servicing/utilities for each lot without dominating the street and ensure buildings address the street (where relevant);
  - k) Provide depth to width ratios that accommodate vehicle access, manoeuvring, and a range of standard building types/layouts with relevant setbacks.

### 5.2.4 Access & Entrances

*Council will condition requirement(s) for construction of new accesses / entrances to every new lot prior to release of the Subdivision Certificate.*

*There are a number of public roads, including Crown roads not maintained by Council or council roads with substandard formations that are not sufficiently maintained to satisfy expected minimum safe access standards. Generally, Council don't want access for a subdivision to be from a Crown road unless it is already established. In some instances, Crown will request that the road be transferred to private ownership or that Council take them over. See DCP Section 5.7.5 – Crown Roads for more details.*

*This control does not affect strata or community title subdivision that relies on access through common property.*

#### Objective(s)

- O1. To provide all lots with safe, legal and practical vehicle access and manoeuvring area(s).
- O2. To provide safe and suitable access and manoeuvring for emergency vehicles and larger vehicles for servicing (as required).
- O3. To provide safe & suitable pedestrian/cycle access and facilities to encourage walking and/or cycling.
- O4. To promote safe and efficient road and footpath environments for all road users, cyclists and pedestrians.
- O5. To minimise the number of lots created that do not have a substantial frontage/ direct access to a public road.
- O6. To ensure any access ways are of sufficient width and driveway construction to minimise impacts on neighbouring lots and provide suitable vehicle access.

**Control(s)**

- 1) **Public Road:** Each lot in a subdivision (including lots with adjusted boundaries) has safe, legal and practical access to a public road (maintained to Council's standards) either through:
  - a) A direct frontage to that public road (this is the most desirable outcome for all new lots);
  - b) A right-of-way arrangement through another lot; or
  - c) By consolidation with an existing allotment that has access.
- 2) **Reference:** Address the requirements of DCP *Section 2.5 – Vehicle Access & Parking* and *Section 2.6 – Pedestrian Access, Mobility & Safety* (where relevant).
- 3) **Right-of-Way:** Council will only permit subdivision that creates lot(s) that rely for access on an easement or right-of-way (or other restriction on title) in a **rural and/or environmental zone/area** where all of the following are satisfied:
  - a) No public road access is adjacent to, or could reasonably be provided to, the proposed lot(s);
  - b) A maximum of:
    - i) Three (3) lots will utilise any easement or right-of-way (including the primary lot providing the access and two (2) additional lots);
    - ii) Two (2) allotments are behind any allotment which has direct frontage to a public road;
  - c) There is a minimum carriageway width for a right-of-way of 10m with a 4m formation with appropriate drainage;
  - d) Where the slope of a driveway exceeds 10%, the access is to have a two-coat bitumen seal;
  - e) There is written approval from the affected lot owner (easement only).

**5.2.5 Utilities/ Easements****Objective(s)**

- O1. To provide all essential utilities to the boundary of any new allotment suitable for the proposed use in accordance with **LLEP2014 Clause 7.10 Essential services**.
- O2. To address any connection requirements of the relevant utility authority.
- O3. To protect the operation of utilities and ensure appropriate access.
- O4. To ensure that on-site effluent management (if required) can be accommodated on any proposed lot without significantly affecting adjacent properties or the natural environment.

**Control(s)**

- 1) **Reference:** All subdivision(s) comply with and address DCP *Section 2.8 – Utilities, Easements & Infrastructure* (where relevant).
- 2) **Servicing Plan:** A Concept **Servicing Plan** is to be submitted in support of all subdivision proposals detailing the location of all existing and proposed services to each lot including all existing and proposed easements.
- 3) **Easements:** If any easements are reliant on or cross over land adjoining the proposed subdivision then owners' consent from that adjoining land is required to be provided with the application.

*Council is likely to condition the requirement (in accordance with the requirements of the relevant authority) for the applicant to (prior to the release of the Subdivision Certificate):*

- a) *provide confirmation from each relevant authority that the services are or can be made available at the boundary of each lot and provide appropriate capacity/level of servicing for all lots; and*
- b) *construct these utilities/services.*

## 5.2.6 Siting and Visibility of Utilities

### Objective(s)

O1. To minimise the visual impact of any new or upgraded utilities by undergrounding connections and integrating infrastructure into the subdivision design (where possible).

### Control(s)

For larger subdivisions that will require significant new or upgraded utilities:

- 1) **Impacts:** Utilities are sited where:
  - a) Utilities installation (and maintenance) will have the least impact on existing site stability and disturbance, significant native vegetation, watercourses or riparian/ecological corridors, or other environmentally sensitive areas; and
  - b) Existing or proposed vegetation (considering mature height of trees etc.), natural hazards (bushfire or flooding), or the environment will have the least impacts on utilities.
- 2) **Efficiency:** Utilities are sited to cater for all existing or future lots in an efficient and cost-effective manner that allows for future augmentation to allow for growth.
- 3) **Underground:** New or relocated utilities are sited:
  - a) Underground (particularly in heritage conservation areas, new urban release areas, or main streets); or
  - b) Utilise existing poles (where possible),

to the satisfaction of the relevant utility authority, unless other constraints make this unsuitable.
- 4) **Common Trenching:** Compatible public utility services are sited in common trenching (where possible) in a service corridor (see **Engineering Guidelines**) in order to:
  - a) Minimise the land area required and future constraints on development of that land;
  - b) Reduce costs; and
  - c) Minimise any environmental impact.
- 5) **Screening:** Utility boxes and cabinets (e.g., electricity substations, meter boxes etc.) on private land above-ground must be integrated into the development and screened from public view whilst providing appropriate access (where appropriate).

## 5.2.7 Staging

### Objective(s)

O1. Larger subdivisions must consider staged subdivision release and ensure each stage is capable of being developed independently of later stages and has appropriate access and utilities.

### Control(s)

- 1) **Plan(s):** Where the subdivision of land will be (or is likely to be) carried out in stages or would result in a remnant parcel of vacant land capable of further subdivision, a **Subdivision Plan** (for the entire subdivision) is to clearly indicate:
  - a) The entire land area to be subdivided (including land likely to be subdivided in the future) AND the boundaries of each stage of the subdivision;
  - b) The proposed access, road structure, and other vehicle and pedestrian/bicycle connections for the development AND any likely future adjoining subdivision/development;
  - c) Any staging of essential roads, infrastructure and/or other essential utilities/services or communal spaces and buildings.
- 2) **Connectivity:** Each individual stage of a staged subdivision is to be designed to ensure it:
  - a) Does not compromise suitable access to any other stage(s) of subdivision;
  - b) Has access to essential infrastructure / utilities, roads and pedestrian connections, and landscaping in accordance with the controls in this DCP and is capable of operating independently of the infrastructure of later stage(s);
  - c) Provides suitable capacity in infrastructure to allow for future development (that is likely to utilise or extend that infrastructure) to occur without significant capacity constraints/upgrades;
  - d) Provides a fully formed cul-de-sac or turning head (see Council's **Engineering Guidelines**) for any temporary terminating roads (that will later become through roads) so that the maximum sized design vehicle can enter and exit the cul-de-sac with a maximum three-point turn.
- 3) **Future Growth:** The staged subdivision of land is designed so that it promotes ease of future road access and infrastructure connection for adjacent land (not part of the subdivision application) where there is a reasonable likelihood it could be developed in the future (even if not currently identified in Council's relevant land use strategies).

## 5.3 Urban Residential Subdivision

*This Section applies to applications for subdivision of land for the purposes of residential accommodation including dwellings in an **Urban Residential Zone** (see **Dictionary** in Chapter 1 of this DCP). These controls are in addition to the requirements of DCP Section 5.2 - Site Selection, Analysis & Design Response above (where applicable).*

### 5.3.1 Lot Size & Arrangements – General

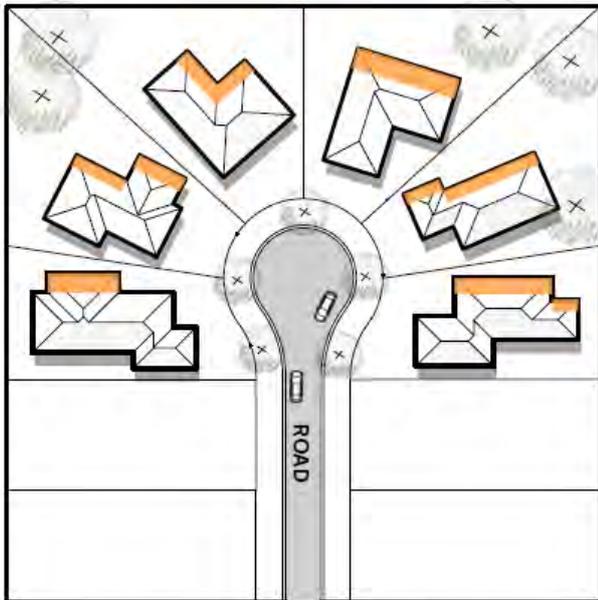
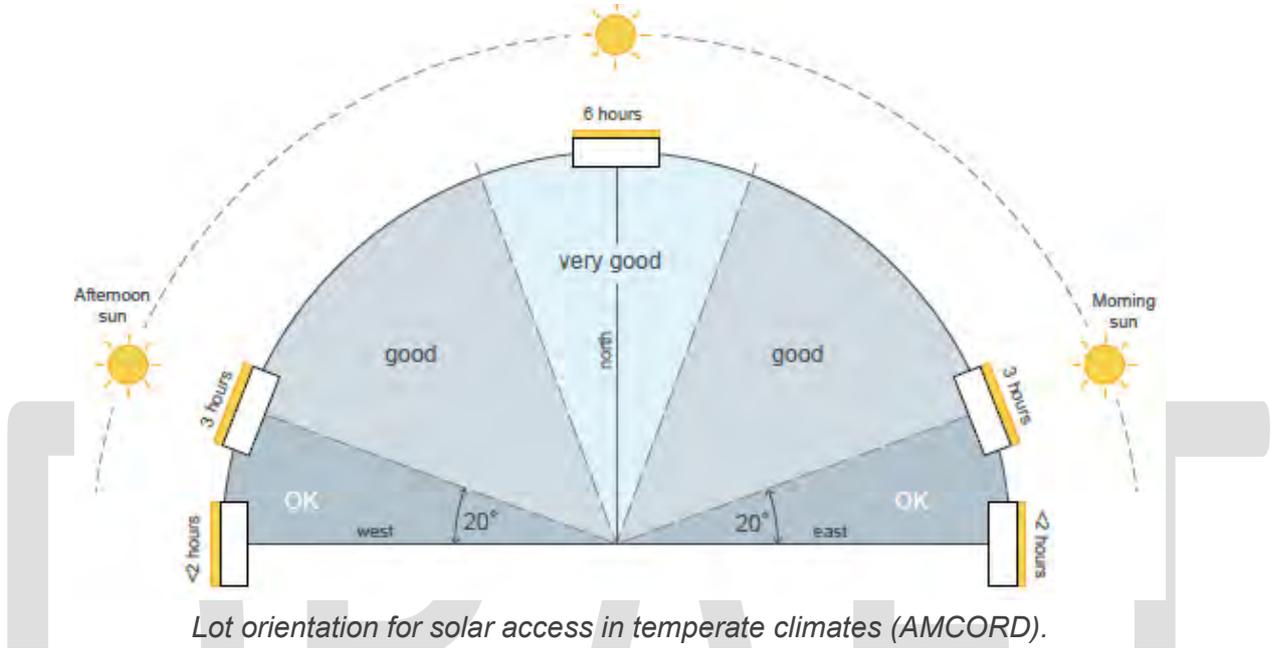
#### Objective(s)

- O1. To provide a range of lot sizes to suit a variety of residential type(s) and densities.
- O2. To ensure new subdivisions in or adjacent to existing urban areas complement the existing subdivision pattern and character of the existing urban area.
- O3. To promote lot sizes, shapes and orientation that will maximise the number of lots with potential solar access to the future living spaces and private open spaces of new dwellings.
- O4. To require sufficient road frontage for all new lots for appropriate driveway access whilst encouraging dwellings to have a frontage/address to the street.
- O5. To ensure that lots in villages without reticulated sewer have sufficient size to accommodate on-site effluent management as well as proposed or future development.

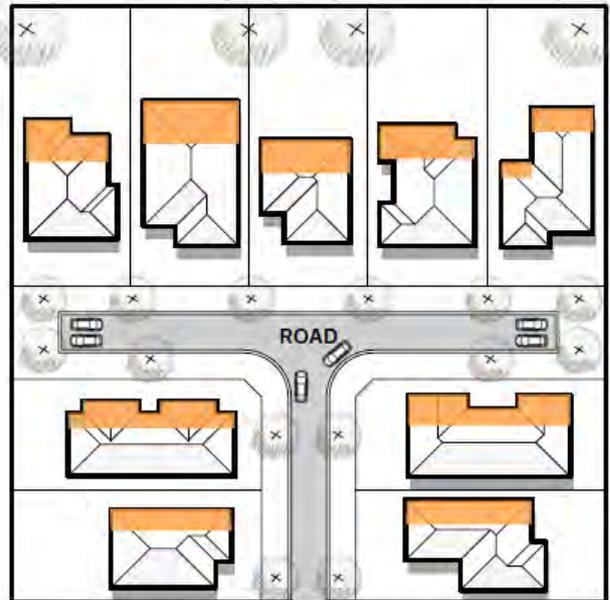
#### Control(s)

- 1) **Sewerage:** All new lots are to comply with DCP Section 2.8.1 – *Connection to Utilities*. Where a village does not have reticulated sewer then lots sizes must address the requirements of DCP Section 2.8.3 – *On-Site Sewage Management*.
- 2) **Dwelling Diversity:** The design of a subdivision creating 10 or more lots is to:
  - a) Provide a range of lot sizes that can encourage diversity in residential type(s)/densities suited to the land use zone and desired character of the area;
  - b) Highlight where different residential type(s)/densities could locate and any additional future subdivision potential; and
  - c) Consider how corner lots could support future **dual occupancies** and/or subdivision.
- 3) **Lot Width:** All lots (excluding **battle-axe lots** and **medium density housing**) are designed to have a minimum width of:
  - a) 10m at the building line (see front setbacks in DCP Chapter 6 – *Residential Development*) for a rectangular lot;
  - b) 8m at the street frontage for a ‘fan’ or ‘radial’ shaped lot and 14m at a point setback 6m from any road frontage.
- 4) **Layout/Orientation:** The subdivision design is to consider lot layout and orientation that will:
  - a) Maximise the opportunity for dwellings to have sufficient presentation and openings to the **primary (street) frontage** and contribute positively to the **streetscape**;
  - b) Promote dwelling separation, privacy, landscape and open space(s) and residential amenity;

- c) Demonstrate adequate solar access for all proposed future and existing neighbouring dwellings and maximise good solar orientation (see diagram below) subject to site constraints; and
- d) Minimise overshadowing between future dwellings, for example, by providing suitable lot widths that allow for up to a two-storey building and respond to topography/slope.



Poor solar orientation with awkward shaped lots - increases requirements for custom plan design



Maximises solar orientation - simpler plan forms

*Lot shape and dwelling orientation (Source: Dean Steward based on AMCORD, 1995).*

## 5.3.2 Access to Lots with Limited or No Road Frontage

### Objective(s)

- O1. To promote safe and efficient access to urban residential lots.
- O2. To provide sufficient driveway widths & design for **battle-axe lots** to minimise impacts on adjacent residential lots and accommodate traffic requirements.

See also DCP Section 2.5.3 - Vehicle Access & Driveways.

### Control(s)

A subdivision proposal that will create a **battle-axe lot(s)** (or lot(s) accessed by an easement/right-of-way) addresses the following design standards:

- 1) **Amount: Battle-axe lots** in an existing **urban residential zone**:
  - a) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size for the purposes of Clause 4.1 of the Lithgow LEP 2014.
  - b) Are only used where it is not feasible to extend a road to the frontage of the lot and a battle-axe lot is needed to efficiently use the land; and
  - c) Do not unreasonably impact on the amenity of adjacent residential lots.
- 2) **Access: Each battle-axe lot** has a minimum access handle/easement width of:
  - a) 4.5m for access to a single lot; or
  - b) 6.0m for combined access to two lots (with reciprocal easements for access and services); and

Access handle lengths do not exceed 60m.
- 3) **Access Seal:** A sealed or concrete pavement is constructed for the full length of the access handle in accordance with Council's **Engineering Guidelines** prior to release of the Subdivision Certificate; and
- 4) **Higher Densities:** If the proposed **battle-axe lot** is intended to be used for more than a single **dwelling** and/or **dual occupancy** (i.e., it is for the purposes of **medium density housing**) then it may require:
  - a) A wider access handle/driveway seal for two-way vehicle traffic; and
  - b) Consider additional width to include setbacks and/or landscaping to minimise impacts on adjacent lots/dwellings.

## 5.4 Urban Release Areas & South Bowenfels

*This Section applies to any Urban Release Area identified in LLEP2014 or in the South Bowenfels area. These controls are in addition to the requirements of DCP Section 5.2 - Site Selection, Analysis & Design Response and the controls in Section 5.3 - Urban Residential Subdivision above (where applicable).*

*There may be additional controls or master-plans in Chapter 9 – Location Specific Controls.*

*The minimum lot size in the South Bowenfels Zone R2 Area is 800m<sup>2</sup>.*

*The minimum lot size for a dual occupancy (attached or detached) in Zone R2 is 1,000m<sup>2</sup>.*

### 5.4.1 Corner Lots

#### Objective(s)

- O1. To ensure **corner lots** can accommodate minimum setback requirements from both the primary and secondary frontages.
- O2. To encourage development of **corner lots** for dual occupancies (where suitable).

#### Control(s)

- 1) **Corner lots** are encouraged to achieve the minimum lot size that can support a dual occupancy in LLEP2014 to take advantage of the dual frontage and facilitate a range of residential types.
- 2) **Corner lots** have the following minimum dimensions:
  - a) Depth - 25m (on at least one boundary).
  - b) Width (average) - 30m.

### 5.4.2 Battle-Axe Lots

#### Objective(s)

- O1. To minimise the use and impacts of **battle-axe lots** in new subdivisions.

#### Control(s)

The design of a subdivision that includes **battle-axe lots** has regard for the requirements of DCP Section 5.2 - Site Selection, Analysis & Design Response and ensures the **battle-axe lot(s)**:

- 1) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size for the purposes of Clause 4.1 of the Lithgow LEP 2014.
- 2) Are only used where it is not feasible to extend a road to the frontage of the lot and a battle-axe lot is needed to efficiently use the land; and
- 3) Provide a larger than average lot size to enable siting of a dwelling that would not impact on privacy or amenity of neighbouring lots/dwellings; and
- 4) Have a driveway constructed prior to release of the *Subdivision Certificate* with a minimum seal width of 3m for the entire length of the battle-axe handle (to minimise impacts on adjacent properties).

### 5.4.3 Public Open Space & Facilities

#### Objective(s)

O1. Provide sufficient open space areas as part of larger subdivisions to meet the recreational needs of that community.

#### Control(s)

For larger subdivisions (creating more than twenty (20) lots):

- 1) Where not specifically stated in an adopted relevant *Open Space plan/study or Voluntary Planning Agreement*, useable public open space shall be provided at a minimum rate of 70m<sup>2</sup> per lot and ideally consolidated into useable recreation area larger than 5,000m<sup>2</sup> (except where their function is primarily to provide cyclist/pedestrian connection or habitat linkages).
- 2) Where it is not feasible or desirable to dedicate a land component for open space within a development, Council will seek an equivalent monetary contribution or off-site land contribution towards the provision of community usable open space areas either through a negotiated *Planning Agreement* or in accordance with an adopted *Contributions Plan*.
- 3) No lot is located more than 600m walking distance from a public open space.
- 4) No lot is located more than 1,000m walking distance from an active open space area/ playground.
- 5) Parks are located so that at least 50% of their perimeter length has a direct frontage to a public road.
- 6) New release residential areas should be designed to locate residential areas within reasonable walking distance 400-800m of any existing or proposed neighbourhood shops and/or community facilities.

## 5.5 Large Lot Residential & Rural Subdivision

*This Section applies to applications for subdivision of land in the **rural and/or environmental zones** (see Dictionary in Chapter 1 of this DCP). These controls are in addition to the requirements of DCP Section 5.2 - Site Selection, Analysis & Design Response above (where applicable).*

### 5.5.1 Access & Road Design

#### Objective(s)

O1. To provide safe and efficient access points to/from proposed lots to rural roads.

*See also requirements in DCP Section 2.5.3 - Vehicle Access & Driveways.*

#### Control(s)

New driveways to public roads are grouped at existing or limited access points (if feasible) to:

- 1) Minimise the traffic impact and risk of additional access points to the public road system; and
- 2) Ensure sight lines in accordance with DCP Section 2.5.3 - Vehicle Access & Driveways and Council's **Engineering Guidelines**.

### 5.5.2 Access to Lots with Limited or No Road Frontage

#### Objective(s)

O1. To ensure lots have sufficient access widths to cater for the intended traffic and minimise impacts on adjacent lots.

#### Control(s)

The design of a subdivision that includes **battle-axe lots** or access to a lot via an easement/right-of-way has regard for the following design standards:

- 1) Each lot has a minimum access handle width of:
  - a) 6.0m for access to a single lot;
  - b) 8.0m for combined access for up to three (3) lots (with reciprocal easements for access and services); and
- 2) A minimum 3.5m wide road is constructed for the full length of the access handle in accordance with Council's **Engineering Guidelines**.

### 5.5.3 Lots for the Purpose of Agriculture

Ensure that lots created for the purpose of agriculture below the minimum lot size are clearly noted for any existing or future land owner on title as having no dwelling potential and that lot(s) created have legal access.

*Where a lot is created for the purposes of agriculture under **LLEP2014 Clause 4.2 Rural Subdivision** and it is below the minimum lot size for the land shown on the **Lot Size Maps** then Council will condition a restriction or covenant to be registered on the title to that allotment that:*

- a) *Restricts the use only for the purposes of agriculture (i.e., a dwelling may not be approved on the site without removal of the covenant and meeting any relevant planning controls);*
- b) *Where the lot does not have constructed legal access at the time of creation of the lot - to require the construction of such access prior to the transfer of title to the satisfaction of Council.*

## 5.6 Commercial, Industrial or Community Use Subdivision

*This Section applies to applications for subdivision of land for the purposes of commercial, industrial or community uses in any zone where the land use is permissible. These controls are in addition to the requirements of DCP Section 5.2 - Site Selection, Analysis & Design Response above (where applicable).*

### 5.6.1 Lot Size & Arrangement

#### Objective(s)

- O1. To encourage the development of well-designed community, commercial and industrial areas servicing the full range of business needs throughout the Lithgow **LGA**.
- O2. To ensure sufficient lot sizes and road frontages to support the intended land uses, access requirements, off-street parking, and circulation/servicing needs whilst minimising significant impacts on adjacent sensitive land uses.
- O3. To ensure new subdivisions in or adjacent to existing urban areas complement the existing subdivision pattern and character of the existing urban area.

#### Control(s)

The design of a subdivision for commercial, industrial or community use(s) has regard for the following design standards:

- 1) Lot sizes and shapes have a sufficient size and road frontage to accommodate:
  - a) Vehicular access catering for the largest design vehicle that will need to enter the site including adequate sight distances at the road frontage and circulation space to enable it to enter and leave the site in a forward direction;
  - b) An indicative building envelope that meets the required setbacks;
  - c) All ancillary or associated development including outdoor structures and storage areas necessary for the normal functioning of the proposed land use located where they do not create significant visual impact from the public street; and
  - d) Off-street car parking and loading/unloading facilities (if required).
- 2) A subdivision creating a **battle-axe lot** is designed to:
  - a) Comply with subsection (1) of this clause;
  - b) Facilitate use(s) that will not require regular access by, or visibility for, members of the public;
  - c) Include an access handle width that will minimise any significant impacts on adjacent properties; and
  - d) Address DCP Section 2.7 – Designing for Crime Prevention.

## 5.7 New or Upgraded Public Roads

*This Section applies to any subdivision application that seeks (or is required) to create a new public road, provide an extension to an existing public road, or significantly upgrade an existing public road to the relevant standard.*

*Whilst Council's **Engineering Guidelines** cover most of the detailed design requirements, this section provides some additional controls for larger subdivisions/new roads to improve urban design and traffic/access outcomes.*

### 5.7.1 Guidelines

#### Objective(s)

O1. To ensure any road design comply with relevant road and access guidelines adopted by Council.

#### Control(s)

New road design(s) for residential subdivisions comply with Council's **Engineering Guidelines** and other relevant development standards including, but not limited to (as amended):

- 1) Roads & Traffic Authority (RTA – now Transport for NSW) (2002) *Guide to Traffic Generating Development*;
- 2) Roads & Traffic Authority (RTA – now Transport for NSW) (1995) *Road Design Guide*;
- 3) Relevant **Australian Standards**;
- 4) AUSTRROADS (1988) *Guide to Traffic Engineering Practice*;
- 5) AUSTRROADS *Guide to Road Design*; and
- 6) Council *Policy 10.5 – Footpath Reservations – Works Requirements*.

*References to some of these standards are made below but still apply even if not specifically referenced. Due to the complexity of these standards, Council recommends that any application for a new road involves a Civil and/or Traffic Engineer to confirm compliance.*

### 5.7.2 Surrounding Road Patterns & Access

#### Objective(s)

Any subdivision design that includes new public road(s) must:

- O1. Integrate with the surrounding road network and other pedestrian/bicycle and open space connections and be sympathetic to settlements with strong grid pattern road systems.
- O2. Provide a subdivision pattern and road layout that enables adjacent lands to be developed as urban growth occurs.

#### Control(s)

- 1) **Navigation:** Any new road pattern integrates with the adjacent road network and promotes ease of navigation and way-finding for someone not familiar with the neighbourhood.
- 2) **Pattern:** Where a grid road pattern is dominant in a locality, that pattern (modified to suit the site and solar orientation) is maintained except where steeper topography dictates a curvilinear road pattern to significantly reduce cut and fill.
- 3) **Connection(s):** New roads and pedestrian/bicycle paths are designed to connect to existing surrounding roads and road heads and shared pathways networks where they exist adjacent (or in reasonable proximity) to the proposed subdivision (particularly in **urban zone and/or area** where connectivity would benefit the broader community).
- 4) **Future Connection(s):** A subdivision of land adjacent to land that has additional development potential (or is likely to in the future) makes provision for future road access to the adjacent (developable) land.
- 5) **Rear Lanes:** Rear lanes do not provide the primary or sole access point to any new subdivision unless that lot has no alternative access point and safety/traffic generation can be addressed.

*There are many existing rear lanes in settlements in the Lithgow LGA that can be utilised for traffic movement as part of a new development in certain circumstances. Some rear lanes are only 6m wide and will generally only support one-way traffic. Development adjacent to and/or relying on a rear lane for access may be required to upgrade or widen the lane and ensure that impacts will be minimised or mitigated on adjacent properties.*

- 6) **Open Space:** Where there is a drainage corridor or public open space proposed as part of the subdivision, where possible roads front these spaces rather than the backs of lot(s) to encourage access, maintenance, safety and improved recreational use and environmental outcomes. See DCP Section 5.4.3.5 – Public Open Space & Facilities.

### 5.7.3 Road Hierarchy & Design

#### Objective(s)

- O1. To provide a logical road pattern / clear hierarchy of roads.
- O2. To provide suitable vehicle, pedestrian and cycle connections and navigation to key services and attractions (suited to the size and density of the subdivision and surrounding network/connections).

*Council's **Engineering Guidelines** specifies the appropriate road hierarchy, road widths and road design standards based on number of lots served, design traffic speeds, vehicle sizes, and parking requirements including footpaths and cycleways.*

#### Control(s)

A development proposal considers relevant traffic impacts and, where warranted, provides a **Local or Area-Wide Traffic & Parking Assessment** (or similar, see Council's **DA Guide**) in support of a development application that addresses:

- 1) How the road hierarchy will promote ease-of-navigation and connectivity for vehicles, pedestrians, and bicycles (where relevant);

- 2) The impact of any traffic generation from the proposed subdivision on the proposed and existing road network and pedestrian / cycle routes;
- 3) The maximum vehicle sizes likely to utilise the road network during construction and future use and provision of appropriate turning paths for the largest vehicle sizes; and
- 4) The location, design and safety of any intersections or crossings.

*Where several new roads are proposed then there should be a clear and logical road hierarchy based on (but not limited to):*

- a) *The level of connectivity and ease-of-navigation for someone unfamiliar with the neighbourhood to the surrounding road network with connections to key public open spaces and/or community infrastructure;*
- b) *Creating an attractive and legible environment with a clear character and identity that builds on existing views, vistas, protects existing vegetation, landmarks and places of heritage significance, and integrates with existing subdivision patterns;*
- c) *The designed road speeds and safety of all users considering the traffic generation and densities likely along any new road and intersections/crossings, key pedestrian routes and sensitive land use(s).*
- d) *Consideration of the size and turning radius of the largest vehicle that is likely to utilise that road including, but not limited to, school buses, garbage trucks, construction vehicles, and heavy vehicle traffic.*
- e) *At new intersections or the T-intersection of any new roads, provision must be made (where Council requires it) for shoulder widening on both sides of the through road to allow for a school bus stopping area.*
- f) *Street and lot layout must facilitate the provision of services in a manner that is efficient and minimises whole of life cycle costs for that infrastructure.*

#### 5.7.4 Terminating Roads (Cul-de-sacs)

##### **Objective(s)**

- O1. To minimise the use of cul-de-sacs, their length, and number of lots serviced by any cul-de-sac, and ensure they cater for waste collection and other services.

##### **Control(s)**

A subdivision design in an **urban zone and/or area** includes cul-de-sacs only where:

- 1) There are no other suitable alternatives; and
- 2) Each cul-de-sac does not service more than 25 lots; and
- 3) Each cul-de-sac is no longer than 150m from the nearest intersection;
- 4) Each cul-de-sac has a turning facility to cater for a 12.5m truck or standard waste collection truck;
- 5) Large vehicles (greater than 12.5m in length) will not need to rely on the cul-de-sac to turn around (i.e. cul-de-sacs will only be considered in commercial and industrial zones where there is on site turning capacity for every lot); and
- 6) The design complies with Council's **Engineering Guidelines** relating to cul-de-sacs.

## 5.7.5 Crown Roads

### Objective(s)

O1. To ensure that Crown roads are appropriately dedicated and upgraded to service new development.

### Control(s)

- 1) **Crown Road Upgrades:** Where a proposed subdivision relies on a Crown road for access; the Crown road is included in the subdivision proposal and is upgraded to Council's standards as part of the development.
- 2) **Consultation:** Prior to the lodgement of a development application for a subdivision relying on a Crown road for access, suitable arrangements are made with the appropriate government agency responsible for Crown lands to obtain owners consent and transfer of the road to Council.

*Under Council Policy 10.11 Crown Roads – Maintenance – Council will not maintain Crown Roads within the LGA unless the landholders receiving the benefit of the Crown Road enter into a Work at Owners Cost arrangement and pay Council for the maintenance works unless the road is already established and used by multiple users. The Crown (NSW Government) may request that the road be transferred to the land owner that benefits or transferred to Council).*

*Where it is intended to upgrade or construct a Crown Road to provide access to a new lot then:*

- a) *The applicant must discuss the requirements with the relevant NSW State Government department (currently the Office of Crown Lands);*
- b) *All construction costs and maintenance relating to that road will be the responsibility of the owner of that land;*
- c) *Any costs or applications associated with the dedication of the road will be the responsibility of the applicant/ owner of the land;*
- d) *Where any Crown road must be significantly upgraded then it may need to be acquired from the Crown, dedicated to Council, and then upgraded to Council's standards or, in the case where only one property uses the access, the party benefitting from the road should apply to close and purchase the Crown Road, or in accordance with current NSW Government policy.*

## 5.7.6 Safety and Surveillance

### Objective(s)

O1. To ensure new roads are designed in accordance with crime prevention principles and to maximise safety and amenity for users.

### Control(s)

The design of a subdivision that creates a new public road or extends an existing road by more than 50 metres addresses DCP *Section 2.7 Designing for Crime Prevention* including, but not limited to:

- 1) Appropriate locations and orientations of lots and building envelopes to maximise casual surveillance of the street;
- 2) Provision of appropriate lighting of roads, public spaces and walkways;
- 3) Clear boundaries between public open space / streets, communal open space (if applicable) and private open spaces;
- 4) Appropriate landscaping and fence design.

*Council may condition that a **Street Lighting Plan** is to be provided with adequate street lighting in accordance with AS/NZS 1158 and to the satisfaction of Distribution Network Service Provider (Endeavour Energy) prior to the release of Subdivision Certificate.*

*The lighting chosen is to be of LED type and is to be chosen from Endeavour Energy's Approved Materials List. Street light design shall be completed to minimise its visual impact and to complement the streetscape. Street lighting is to be implemented for each stage prior to the Subdivision Certificate Release of each stage respectively.*

## 5.7.7 Public Domain Landscaping & Street Trees

### Objective(s)

O1 New urban subdivisions must have street tree planting provided to soften the proposed future buildings and streetscape whilst accommodating required vehicle and pedestrian access and movement.

### Control(s)

A **development application** for the subdivision of land in **urban zones and/or areas** that includes a new road is supported by a **Public Domain Landscaping Design** that includes/addresses the following:

- 1) Avenue planting along all new public roads including at a minimum:
  - a) One (1) street tree per lot frontage (up to a 40m frontage); or
  - b) One tree every 25m (for all lots with road frontages greater than 40m).
- 2) Species are to be selected in discussion / agreement with Council's Parks & Recreation Supervisor (or another authorised officer).

### 5.7.8 Naming of New Roads

*The naming of new roads is addressed in Council Policy 10.10 – Addressing, Road Naming & Locality Naming (as amended).*

*Completion of the road naming process, including gazettal of the new road names in the NSW Government Gazette, is the responsibility of the relevant road authority (Council for local roads / Transport for NSW (former Roads & Maritime Services) for classified roads).*

*Council will need to make a resolution for the decision to rename and/or the determination of a new name after community consultation. The procedures for naming a road are regulated by Clause 162 of the Roads Act 1993 and Part 2, Division 2 of the Roads Regulation 2008 (as amended) and also requires consideration by the Geographical Names Board in accordance with the Addressing User Manual (AUM) and the Online Road Naming System.*

DRAFT

# Chapter 6:

## Residential Development

including Ancillary Development such as Garages, Carports, Outbuildings, Sheds, Tanks & Pools



## Table of Contents

<b>6.1</b>	<b>Introduction.....</b>	<b>4</b>
6.1.1	Application of this Chapter .....	4
6.1.2	Other Relevant Chapters of this DCP .....	5
6.1.3	Exempt & Complying Development .....	5
6.1.4	Affordable Housing .....	5
<b>6.2</b>	<b>General Controls .....</b>	<b>6</b>
6.2.1	Site Analysis & Potential Land Use Conflicts .....	6
6.2.2	Site Suitability .....	6
6.2.3	Landscaping & Tree Protection.....	6
6.2.4	Fencing.....	8
6.2.5	Sustainable Design.....	9
<b>6.3</b>	<b>Dwellings/Secondary Dwellings/Dual Occupancies (Large Lot Residential, Rural &amp; Environmental Zones).....</b>	<b>12</b>
6.3.1	Siting & Setbacks .....	12
6.3.2	Access & Building Clustering .....	13
6.3.3	Garages, Carports, Outbuildings & Sheds .....	14
<b>6.4</b>	<b>Dwellings/Secondary Dwellings (Urban Areas).....</b>	<b>15</b>
6.4.1	Siting & Setbacks .....	15
6.4.2	Average Setback of Adjacent Dwellings.....	18
6.4.3	Height, Scale & Solar Access .....	19
6.4.4	Private Open Space & Landscaping .....	21
6.4.5	Noise (Acoustic) & Visual Privacy .....	22
6.4.6	Building Articulation .....	24
6.4.7	Garages, Carports, Outbuildings & Sheds .....	25
<b>6.5</b>	<b>Medium to Higher Density Housing .....</b>	<b>29</b>
6.5.1	Siting & Setbacks .....	31
6.5.2	Low Rise Medium Density Housing .....	32
6.5.3	Residential Flat (Apartment) Buildings.....	35
6.5.4	Shop Top Housing/Mixed Use Developments.....	35

**6.6 Ancillary & Other Development ..... 37**

6.6.1 Water Tanks, Pools & Spas & Equipment..... 37

6.6.2 Temporary Accommodation..... 37

6.6.3 Conversion/ Use of Non-Habitable Buildings ..... 39

6.6.4 Second Hand (Re-Sited/Relocated) Dwellings..... 40

6.6.5 Manufactured / Transportable Homes..... 41

6.6.6 Exhibition Homes in Urban Residential Zones ..... 41

6.6.7 Shipping Containers ..... 42

## Document Control for Drafting Only

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*Title Page: The picture on the title page is of existing residential development in South Bowenfels. (Top Source: [www.realas.com/property/34-JAMES-O%27DONNELL-DRIVE-BOWENFELS-NSW-2790-14313028](http://www.realas.com/property/34-JAMES-O%27DONNELL-DRIVE-BOWENFELS-NSW-2790-14313028)); (Bottom Source: [www.domain.com.au/sale/south-bowenfels-nsw-2790](http://www.domain.com.au/sale/south-bowenfels-nsw-2790))*

## 6.1 Introduction

### 6.1.1 Application of this Chapter

This Chapter applies to **development applications** for a wide range of **residential accommodation** (dwelling) types and **associated (ancillary) development** like outbuildings, sheds etc. and alterations and additions to all of these buildings. This may include where dwellings form part of a **mixed-use development**. These development types may be permissible across a variety of zones, but are common particularly in residential ('R') zones in **LLEP2014**.

**residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

**Please see the relevant section for definitions of these particular residential types below.**

### 6.1.2 Other Relevant Chapters of this DCP

Please remember that this Chapter of the DCP is unlikely to contain ALL of the relevant controls for your development. Please see DCP *Chapter 1 – Introduction & Administration* to review the Section on *How to Use this DCP* including the *Structure of the DCP* (see table below) to determine what other Chapters may be relevant to your development.

**IF YOU ARE UNSURE, PLEASE DISCUSS THIS WITH COUNCIL STAFF PRIOR TO LODGING YOUR APPLICATION.**

We also recommend that you seek a **Planning Certificate** from Council that will detail most of the significant constraints or affectations on the property as different Chapters/Sections of this DCP are relevant where these affectations exist.

**The DCP has the following Chapters:**

<b>Chapter 1:</b>	Introduction & Administration
<b>Chapter 2:</b>	Site Requirements
<b>Chapter 3:</b>	Natural Environment & Hazards
<b>Chapter 4:</b>	Heritage & Cultural Conservation
<b>Chapter 5:</b>	Subdivision & Roads
<b>Chapter 6:</b>	Residential Development ( <b>THIS CHAPTER</b> )
<b>Chapter 7</b>	Commercial, Community & Industrial Development (including Advertising/ Signage for all relevant land uses)
<b>Chapter 8:</b>	Rural & Other Land Uses
<b>Chapter 9:</b>	Location Specific Controls

### 6.1.3 Exempt & Complying Development

Please note that [State Environment Planning Policy \(Exempt and Complying Development Codes\) 2008](#) (Codes SEPP) may permit certain development set out in that policy without requiring a **development application** to Council if it complies with the requirements of the **Codes SEPP**. Please discuss this with Council or visit the [NSW Government Planning Portal](#).

### 6.1.4 Affordable Housing

Council encourages development applications for affordable housing in accordance with the *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

## 6.2 General Controls

### 6.2.1 Site Analysis & Potential Land Use Conflicts

*Site analysis is essential in order to understand the site and its context. Site analysis and good site planning should be undertaken before the design of any development/building(s).*

*For development covered by this chapter, it is important to encourage this development in areas where they have the least conflict with existing or potential future higher-impact uses so that employment uses can grow without significant constraint to the benefit of the local economy and employment whilst protecting residential amenity.*

Any **development application** covered by this chapter demonstrates that the proposal:

- a) Complies with the **Site Analysis** requirements in DCP *Chapter 2 – Site Requirements* (including any other relevant chapters in this DCP & the **DA Guide**); and
- b) Has responded to the **Site Analysis** to produce a high-quality design that minimises the potential for land use conflict and integrates with the surrounding site context.

### 6.2.2 Site Suitability

Site analysis and constraints (for individual sites) may indicate that even if a development meets the minimum lot size in *Clause 4.1A LLEP2014* (where relevant), it may still not be suitable to support the proposed development or density. The applicant must ensure that the existing lot area is of sufficient size:

- a) To meet the objectives of the relevant land use zone;
- b) To cater for slope and minimise cut, fill and retaining (see *Chapter 2 – Site Requirements*);
- c) To provide suitable areas (in accordance with this Chapter) of **deep soil landscaped area** and **private open space** areas for each dwelling with orientation for solar access and minimise the amount of site covered by buildings or impermeable/hardstand areas.
- d) To provide a reasonable standard of amenity and functionality consistent with the area character.

### 6.2.3 Landscaping & Tree Protection

*Landscape should be considered as part of site planning and design development and integrated with built form because it contributes strongly to amenity, character and environmental outcomes.*

*Please see DCP *Chapter 3 – Natural Environment & Hazards* when considering clearing of vegetation on a site or considering the impact of natural hazards on a development that may be modified by existing or additional landscape.*

*This Section sets out objectives that apply to all development types in this DCP and may require a **Landscape Plan** (see the **DA Guide**) to demonstrate how the development achieves those objectives. Generally, **single dwellings** or alterations and additions do not require a **Landscape Plan**.*

### Objective(s)

01. **Retention:** To encourage the retention of trees and other significant vegetation and integration of these features into the design of buildings and open spaces, particularly where vegetation is outside the proposed building footprint and is of ecological, aesthetic or cultural significance.
02. **Context:** To provide landscaping that responds to the context and character of the area, the land use zone, view lines and land-marks, any existing street or locality planting scheme, the local climate, and the site characteristics.
03. **Amenity:** To integrate landscaping with site and building design so it enhances amenity, privacy, screening and solar access/shading (as required) outcomes for the site and adjoining sites and responds to the layout and scale of the proposed built form.
04. **Arterial Roads:** To ensure development fronting an **arterial road** (especially highways and regional roads) is suitably landscaped to soften the visual impact of development when viewed from these key transport routes.
05. **Screening:** To use landscaping to soften the visual impact of larger buildings, large hardstand / car parking areas, or screen service and storage areas from public view.
06. **Safety:** To consider how landscaping is integrated with built form to address principles in DCP *Section 2.7 – Designing for Crime Prevention*.
07. **Stormwater:** To minimise stormwater run-off and hard paved areas and maximise water infiltration and **deep soil** landscaped area in accordance with *Stormwater Management* controls in this DCP.
08. **Bushfire:** To manage landscaping so that it enhances environmental connectivity but does not increase the bush fire risk to properties.
09. **Stability:** To use landscape to stabilise steeper slopes, earth mounds, and areas with erosion potential.
010. **Suitability:** To encourage landscaping and species selection that is native and non-invasive, low-maintenance, robust, suited to local soil and climatic conditions, and minimises water consumption.
011. **Longevity:** To ensure that development considers the long-term protection, maintenance, irrigation, and longevity of landscape to maximise chances of achieving the original design outcomes.
012. **Utilities:** To avoid planting locations and species that may impact on underground or above-ground utilities or buildings, including but not limited to: excavation, root penetration, water damage or ground-heave from irrigation or moisture levels, mature-height of species interfering with overhead power-lines, etc.
013. **Fencing:** To integrate fencing with landscape design.
014. **Biodiversity:** To consider how retention and enhancement of landscape can address the biodiversity policies of the NSW Government and Council and encourage sustainable development.
015. **Temperature:** To utilise landscaping to mitigate the increases in temperature associated with the 'heat island effect' of buildings and hard surfaces, particularly in denser urban areas.

**Control(s)**

**Plan(s):** Where required by Council's **DA Guide**, the application is accompanied by a **Landscape (Concept) Plan** (or a **Site Plan** for simpler applications such as single dwellings) that addresses the landscaping requirements in this Section of the DCP. See the landscape requirements for specific residential types in the Sections below.

**6.2.4 Fencing**

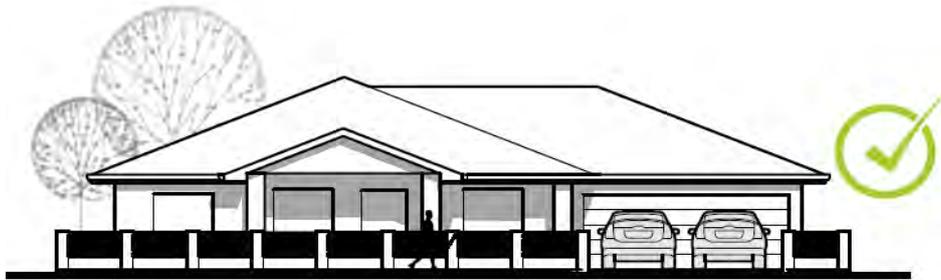
Some fences *MAY* be **EXEMPT** or **Complying Development**. See *State Environmental Planning Policy (Exempt and Complying Codes) 2008 ('Code SEPP')* for more details. Otherwise, a **development application** is required.

As fences must not be placed on neighbouring land or public road reserves Council may require a Survey Plan to identify the boundary or verification by a registered Surveyor of the location of the fence in relation to a boundary.

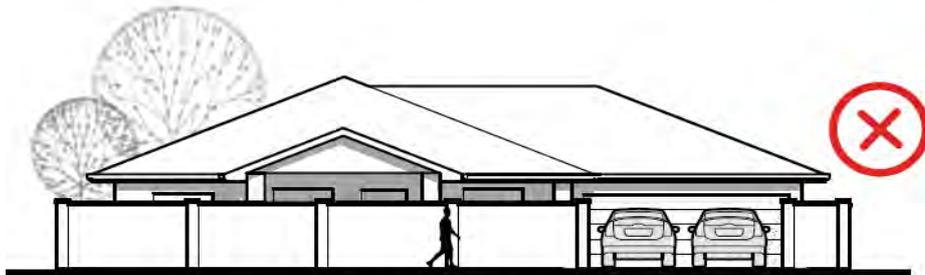
**Objective(s)**

Fencing is located and designed:

- O1. To be consistent with the existing (or desired future) character of the relevant land use zone and street, taking into account the prevailing fence types, solidity, and heights in the locality;
- O2. If it is on, or in proximity to, a **heritage item** or in a **heritage conservation area**, to address any additional relevant requirements in *DCP Chapter 4 Heritage & Cultural Conservation*;
- O3. To meet the security and privacy needs of a development whilst avoiding fencing that dominates the street or impacts significantly on casual surveillance to/from the street from building(s) on the lot;
- O4. To ensure fencing provides adequate sight-lines for vehicle and pedestrian safety.



**ACCEPTABLE DESIGN**  
Low fences are less intrusive and more complimentary to dwelling design



**UNACCEPTABLE DESIGN**  
High walls are visually intrusive and limit passive surveillance

*Acceptable & unacceptable fence designs (Source: Dean Steward).*

### Control(s)

- 1) **Application:** All applications where new or altered fencing is proposed (that is not exempt development) provide details of fencing location, height and materials including **Site Plan(s)** and relevant **Elevation(s)**.
- 2) **Code SEPP:** All fencing complies with the requirements of the **Codes SEPP** and addresses any potential impact(s). Where a variation is sought then the proposed fencing must address *DCP Section 1.6 Variations to DCP Controls* including the objectives of this Section.
- 3) **Solid Metal Fencing:** Metal (solid) fencing (e.g., Colorbond) is not to be installed in the following locations:
  - a) Fences fronting any street (other than a rear lane where metal fencing already is present);
  - b) Fences fronting a public open space or recreation area (unless it is setback and screened by significant landscaping); and
  - c) On **heritage items** and in **heritage conservation areas** (unless permitted by the **Codes SEPP**).
- 4) **Sight Distances:** Fencing preserves safe sight distances for all vehicle entry and exit locations, including those on adjoining properties, especially on corner lots.
- 5) **Reflectivity:** If fencing is constructed of metal panels it is of low reflectivity, factory pre-coloured materials or galvanised iron.
- 6) **Surface Water:** Fencing does not redirect the flow of surface stormwater or floodwaters onto an adjoining property.
- 7) **Flood Prone Land:** If the land is affected by flood related development controls (see *DCP Chapter 3 – Natural Environment & Hazards*) the fence types are designed to allow flood conveyance and prevent additional flooding on adjacent properties.
- 8) **Landscaping:** Long fenced areas fronting public streets or internal driveways are softened with landscaping by setting back parts or all of the fence-line to allow for planting on the subject lot so the fence is partially screened from the street.

### 6.2.5 Sustainable Design

Residential development should seek to promote sustainable development that maximises residential amenity whilst minimising material, water and energy consumption. A **BASIX Certificate** may be required for certain development under *SEPP (BASIX) 2004* and is a starting point for sustainable development.

**Example(s) of Sustainable Development Initiatives (Advisory only as BASIX takes precedence):**

**Overall:** Dwellings are designed within the constraints of the existing lot orientation and dimensions to:

- Maximise solar access to key living spaces during winter (to minimise heating requirements); and
- Minimise solar access and facilitate cross-ventilation of the building during summer (to minimise cooling requirements).

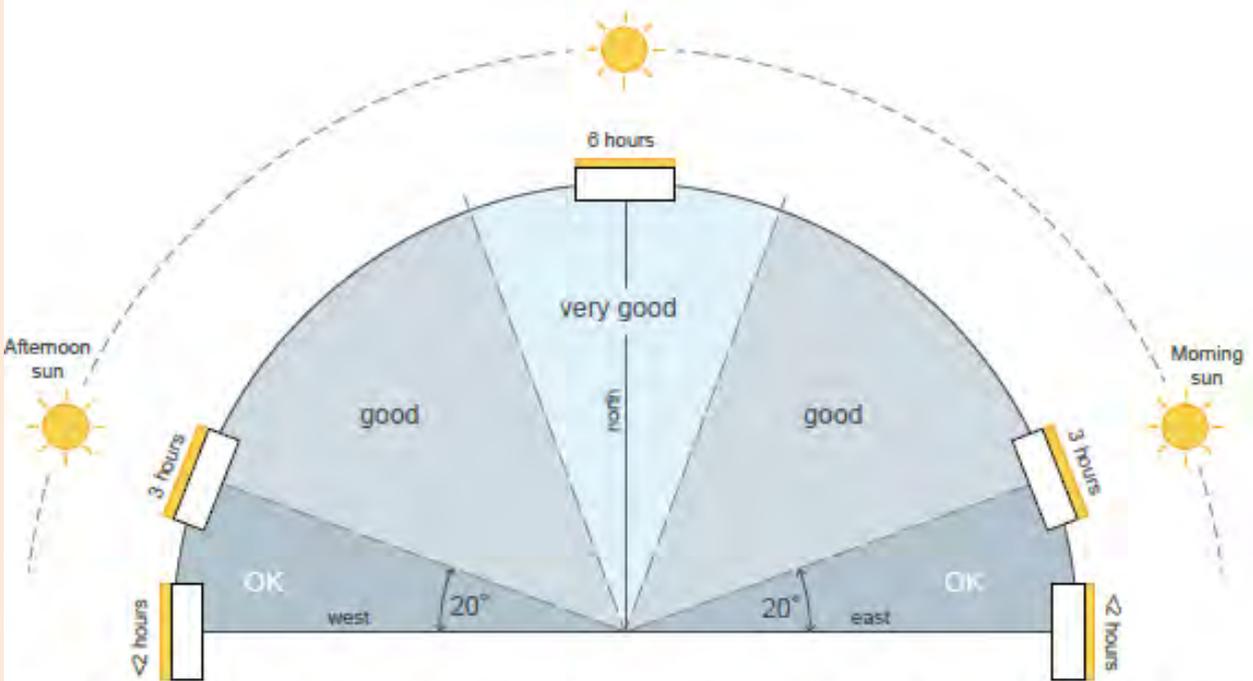


Figure 4A.1 The hours of sunlight that can be expected in mid winter are directly related to the orientation of the facade. This diagram shows the optimal orientation for habitable rooms and balconies

**Activity Zones:** Dwellings have separate living and bedroom zones to avoid having to heat or cool the entire dwelling when only part of the dwelling is in use during different parts of the day.

**Layout:** Living spaces are located on the north side of the dwelling to maximise solar access. Private open space areas are located in areas with good solar access to the majority of the area in mid-Winter.

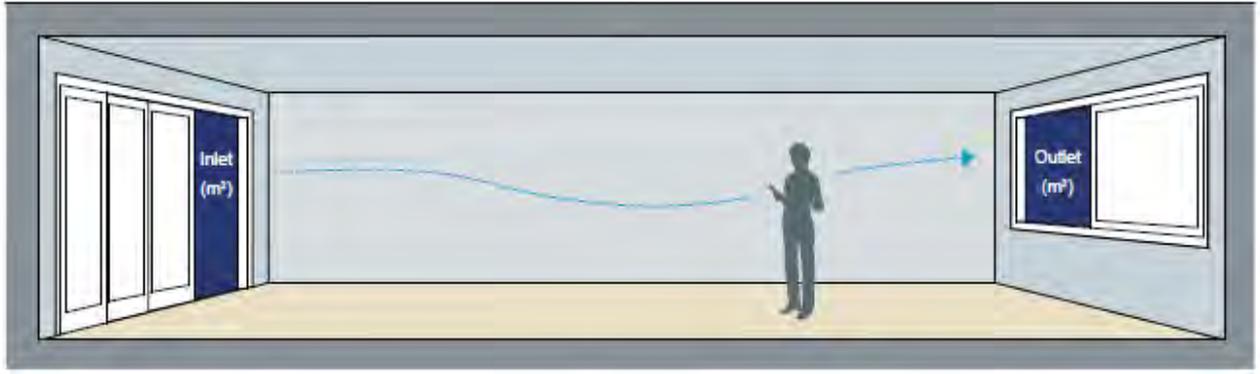
**Windows:** Windows to primary living spaces face between 30° east of solar north or 20° west of solar north to maximise solar access.

**Shading:** Shading devices are provided for windows (including eaves, awnings, balconies, pergolas, louvers and or deciduous plantings) that that will let in the lower winter sun but block the higher summer sun and minimise the need for additional heating/cooling.



Example of how shading can affect winter & summer sun (SEPP65/ADG).

**Cross Ventilation:** Building design facilitates natural cross ventilation (breezes) through a dwelling by minimising interruptions in air flow and providing suitably sized operable windows on opposite sides of the dwelling and key living spaces to capture cooling breezes in summer.



Effective cross-ventilation uses similar sized openings on opposite sides of buildings (SEPP65/ADG).

**Insulation:** The higher the insulation (R) values the greater the ability for the dwelling to stay warm in winter and cool in summer.

**Solar Photovoltaic Panels:** Roof orientation, design and pitch are designed to accommodate photovoltaic panels or other suitable locations with good solar access (now or in the future).

**Landscaping:** Landscape design is integrated with the site planning and building design to utilise perennial and deciduous species to provide wind barriers, privacy, shading in summer and solar access in winter, and water infiltration into the soil.

For more information see the *Your Home - Australia's guide to environmentally sustainable homes* for a range of other ways to make your house more sustainable at [www.yourhome.gov.au](http://www.yourhome.gov.au).

## 6.3 Dwellings/Secondary Dwellings/Dual Occupancies (Large Lot Residential, Rural & Environmental Zones)

*This section applies to applications for a new **dwelling house, secondary dwellings or dual occupancies** (or alterations and additions to existing **dwelling houses or dual occupancies**) in certain large lot residential and **rural and/or environmental zones** including:*

- a) Zone RU1 Primary Production and Zone RU2 Rural Landscape;
- b) Zone E3 Environmental Management and Zone E4 Environmental Living;
- c) Zone R5 Large Lot Residential (in rural areas) where existing/proposed land > 4000m<sup>2</sup> in area (if unclear, please confirm which controls apply with Council).

**LLEP2014** has controls for the minimum lot size required to erect a dwelling in some **rural and/or environmental zone(s)**.

*Any application for a dwelling on a lot without access to reticulated sewer will need to address the requirements in DCP Section 2.9.3 – On Site Sewage Management.*

### 6.3.1 Siting & Setbacks

#### Objective(s)

O1. To adopt building siting & boundary setbacks that seeks to minimise land use conflicts with neighbouring land uses and natural hazards by:

- a) Responding to site constraints & opportunities including, but not limited to: slope, drainage, retaining native vegetation, minimising road noise, dust and visual impact;
- b) Maximising residential amenity and separation to dwellings and agricultural activities on adjacent lands and protecting the 'Right to Farm';
- c) Allowing for suitable buffers (vegetated or otherwise) to minimise conflicts;
- d) Minimising the visual impact of any new buildings and integrating them into the rural and landscape setting so they are less intrusive;
- e) Avoiding or minimising the risk of natural hazards such as bush fire, flooding, drainage & stormwater, land-slip, or other environmentally sensitive areas.

#### Control(s)

1) **Dwelling Setbacks:** Dwellings (and attached ancillary buildings) are designed to meet the following minimum setbacks in metres (m) from the lot boundaries:

- a) Highway – 100m;
- b) Public road frontage – 20m;
- c) Secondary road frontage – 15m;
- d) Side or rear boundary for land less than or equal to 2ha in area – 10m;
- e) Side or rear boundary for land greater than 2ha in area – 20m.

- 2) **Additional Setbacks:** Additional setbacks may be required where there is a higher risk of land use conflict with neighbouring land uses including, but not limited to:
- a) Public roads/noise,
  - b) Adjacent unsealed driveways/dust,
  - c) Proximity of other dwellings,
  - d) Buffers to intensive agriculture (noting the 'Right to Farm') or other likely higher-impact activities,
  - e) Watercourses and riparian buffers,
  - f) Bush fire prone areas, and/or
  - g) Other constraints discussed in this DCP.

Please also see the requirements in this DCP including:

- *Chapter 2 – Site Requirements* (including, but not limited to the *Amenity/Buffers to Sensitive Use* Section,
- *Chapter 3 – Natural Environment & Hazards,*
- *Chapter 4 – Heritage & Cultural Conservation.*

If additional setback/buffers distances cannot be met additional justification is submitted in support of the application that addresses how impacts will be minimised or mitigated.

- 3) **Existing Trees:**
- a) Buildings are sited so as to minimise disturbance or removal of existing significant native trees (including for **Asset Protection Zones (APZs)** to minimise bush fire risk) unless alternatives are not available; and
  - b) Buildings are located outside the drip line of any retained trees to protect root structures or an **Arborist Report** is provided to demonstrate there is no impact on the tree(s).

### 6.3.2 Access & Building Clustering

*Dual occupancies and Secondary dwellings are permitted with consent in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E3 Environmental Management & Zone E4 Environmental Living.*

*Dual occupancies (by definition) must be located on the same lot (i.e., they cannot be on separate lots even if they are part of the same holding) or lots will be required to be consolidated.*

#### **Objective(s)**

- O1. Access driveways are limited to those essential for a single residential access as well as agricultural operations and shared for multiple users of the Site.
- O2. Buildings, where possible, are clustered to minimise impacts on agriculture and share utilities and access.

### Control(s)

Where there are multiple dwellings on a lot or holding, each dwelling, including a **dual occupancy** or **secondary dwelling**:

- 1) Utilises the same driveway access from a public road.
- 2) Is clustered within 250m of each other to minimise impacts on agricultural activities whilst still providing privacy.

### 6.3.3 Garages, Carports, Outbuildings & Sheds

*This Section applies to detached garages, carports, outbuildings and sheds that are ancillary to a residential use. For Farm Building please see DCP Section 8.5.3 – Farm Buildings & Ancillary Structures.*

### Objective(s)

- O1. To ensure that all garages, carports, sheds and outbuildings:
- a) Do not dominate views of the site/dwelling(s) from the street or key public places;
  - b) Are in-keeping with the scale and setting of the relevant land use zone, locality and street character;
  - c) Integrate with the dwelling design, materials and landscaping;
  - d) Do not significantly impact on the amenity of neighbouring properties (e.g., shadow, noise);
  - e) Do not significantly impact on stormwater outcomes by increasing the overall site coverage of buildings and impermeable paved areas.

### Control(s)

- 1) In **Zone R5 Large Lot Residential** areas where the **Site** has an area of 4,000m<sup>2</sup> or greater:
  - a) All detached sheds, garages, and outbuildings will only be considered if there is an existing dwelling on the lot or the same application seeks concurrent approval for a dwelling on the same lot.
  - b) Any detached garages, carports, outbuildings or sheds do not exceed a total cumulative floor area of 300m<sup>2</sup> and no one detached building exceeds a floor area of 150m<sup>2</sup>.
  - c) Where the dwelling is within 50m of a public road, the outbuilding(s)/shed(s) are located behind the front building line of any dwelling.
  - d) All detached sheds/garages, and outbuildings are to have a maximum wall height of 4.2m and a maximum ridge height of 6m. In this control, ridge height is measured from the highest point of the building to the natural ground level immediately below.
  - e) All detached sheds/garages, and outbuildings are to be setback from side and rear boundaries a minimum of 5m.
  
- 2) In **rural and/or environmental zones(s)**, visual impacts will be considered where a structure is not ancillary to an agricultural use on the land and/or is on a **visually prominent site** (see DCP Section 2.2.4 – *Visually Prominent Sites*) or close to a public road.

## 6.4 Dwellings/Secondary Dwellings (Urban Areas)

*This section applies to applications for a new single **dwelling houses, semi-detached dwellings, attached dwellings and secondary dwellings** (or alterations and additions to these residential types) in **urban areas**, including:*

- a) Zone R1 General Residential & Zone R2 Low Density Residential;
- b) Zone RU5 Village (for the other settlements);
- c) Zone R5 Large Lot Residential where existing/proposed lots are less than or equal to 4000m<sup>2</sup> in area.

**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.

**Dwelling house** means a building containing only one dwelling.

**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.

**Semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.

**Secondary dwelling:** means a self-contained dwelling that:

- a) is established in conjunction with another dwelling (the **principal dwelling**), and
- b) is on the same lot of land as the **principal dwelling**, and
- c) is located within, or is attached to, or is separate from, the **principal dwelling**.

A **secondary dwelling** is often referred to as a 'granny flat' and they may share facilities such as a laundry or car parking with the primary dwelling. **Clause 5.4 of LLEP2014** limits the size of **secondary dwellings**.

### 6.4.1 Siting & Setbacks

#### Objective(s)

- O1. To ensure that building setbacks and scale integrate with the existing (or desired future) character of neighbouring buildings, the street and the locality.
- O2. To provide residential amenity for both the proposed dwelling(s) and adjacent dwelling(s) through appropriate building separations that minimise overshadowing, and maximise solar access to key living spaces, and acoustic & visual privacy.
- O3. To provide variation in building wall setbacks to articulate long or less-articulated walls.
- O4. To allow for parking of a car in the front driveway that is wholly within the lot boundaries.
- O5. To encourage landscape outcomes to soften building form consistent with street character.
- O6. To provide sufficient building separations or design mechanisms for fire protection in accordance with the **National Construction Code (NCC)**.
- O7. To ensure that building setbacks respond to individual site constraints and opportunities.
- O8. To retain and protect existing significant trees near boundaries (on the lot and adjacent lots) and in rear yards, wherever possible.

**Control(s)**

- 1) **Dwelling setbacks:** Dwellings are designed to meet the minimum setbacks in metres (m) from the lot boundaries set out in:
  - a) The **National Construction Code (NCC)**; and
  - b) The **SETBACK TABLE** below (noting DCP *Section 6.4.2 - Average Setback of Adjacent Dwellings*); or
  - c) As otherwise set out in this Section.
- 2) **Classified Roads:** All dwellings in urban areas not associated with a commercial use (for example, 'shop top housing') are setback from a boundary of a classified road a minimum of:
  - a) Great Western Highway – 10m;
  - b) All other State & Regional Roads - 8m; and
  - c) Subject to the recommendations of any **Acoustic Report** (when requested by Council) to achieve noise requirements subject to construction.
- 3) **Garage/Carport Setbacks:** All garages or carports are setback from public roads in accordance with DCP *Section 6.4.7 - Garages, Carports, Outbuildings & Sheds*.
- 4) **Additional Level(s):** The setback of the upper level of buildings progressively increase as the building and wall heights increase (i.e., for additional storeys/levels) – see *Height* control below.
- 5) **Site Response:** Additional setbacks may be required in accordance with DCP *Chapter 2 – Site Requirements; Chapter 3 – Natural Environment & Hazards; or Chapter 4 – Heritage & Cultural Conservation*, particularly if the **Site Analysis** response requires additional setbacks to protect significant native vegetation, minimise cut/fill/retaining in proximity to adjacent properties, or protect views to significant heritage items.
- 6) **Public Reserves:** Dwellings are designed to have a setback of at least 3m from a boundary with a public reserve.
- 7) **Existing Dwellings:** These setbacks do not apply to alterations and additions to an existing dwelling that does not meet these setbacks as long as the setbacks are not further reduced by the alterations and additions and **National Construction Code (NCC)** requirements are met.
- 8) **Variation to Setbacks:** Council may consider a setback reduction where:
  - a) The shape of the lot and/or site constraints affect the placement of a building to produce a better outcome for the natural environment and/or neighbouring dwellings; and
  - b) There is sufficient setback for privacy and amenity of neighbouring dwellings and no significant impact on the consistency of built form in the street or road functions; and
  - c) Compliance with the **National Construction Code** including, but not limited to, fire rating; and
  - d) *Section 1.5 – Variations to DCP Controls* in this DCP is addressed.

SETBACK TABLE				
Great Western Highway		<ul style="list-style-type: none"> <li>10m</li> </ul>		
Other Classified Roads		<ul style="list-style-type: none"> <li>8m</li> </ul>		
ZONE / USE	Zone R1 & R2 Lots ≤800m <sup>2</sup>	Zone R1 & R2 Lots >800m <sup>2</sup>	Zone RU5	R5 Large Lot Residential ≤ 4000m <sup>2</sup> lot area
<b>PRIMARY STREET (FRONT) SETBACK (Not Classified Road)</b>	4.5m or <b>average setback of adjacent dwellings</b> (whichever is greater). 5.5m to garage/ carport.	6.0m or <b>average setback of adjacent dwellings</b> (whichever is less).	8m	10m or average setback of adjacent dwellings (whichever is greater)
<b>SECONDARY STREET SETBACK (CORNER LOTS)</b>	2m	3m	4m	6m
<b>REAR LANE</b>	In accordance with desired character of rear lane determined by the lane width, average of adjacent dwelling setbacks, vehicle turning paths, and their servicing requirements.			
<b>SIDE BOUNDARY SETBACK (Not road frontage)</b>	1 <sup>st</sup> storey = 900mm or <b>NCC</b> >1 <sup>st</sup> storey = 1.5m			5m
<b>REAR BOUNDARY SETBACK (Not road frontage)</b>	3m (subject to private open space/landscape provision)	4m (subject to private open space/landscape provision)	6m (subject to private open space/landscape provision)	

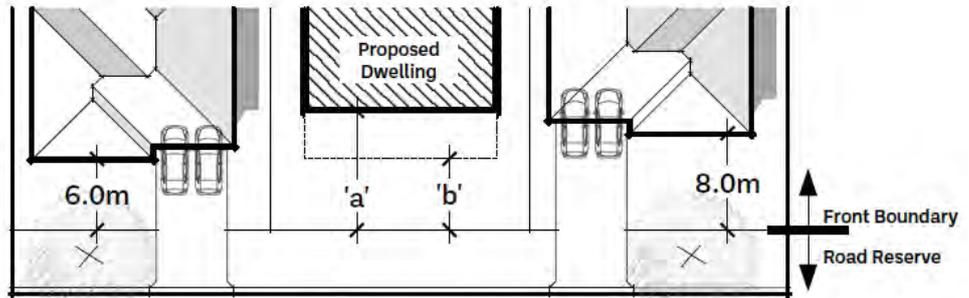
### 6.4.2 Average Setback of Adjacent Dwellings

In urban areas, where there is an existing pattern of setbacks along a street, single dwellings may be able to rely on the average setback of adjacent dwellings to determine the new setback and this may overrule the requirements in the SETBACK TABLE above.

When calculating setbacks based on the 'average setback of adjacent dwellings' the adjacent dwellings should be within 40m of the proposed site boundaries disregarding adjacent battle-axe lots (a lot that is accessed by an access handle rather than a full road frontage).

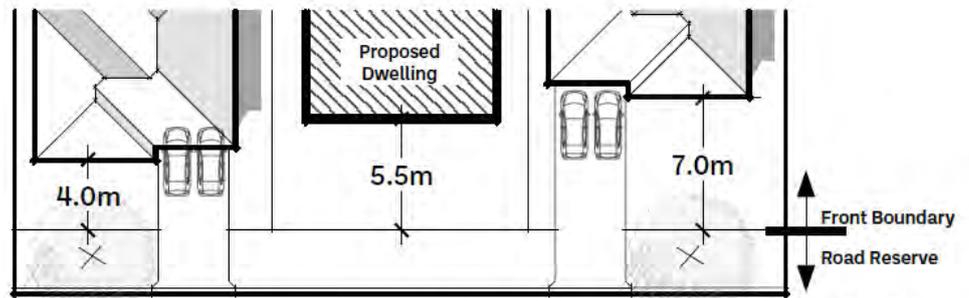
The scenarios in the diagrams below determine the setback of the new dwelling between the two adjacent dwellings.

SCENARIO NO. 1



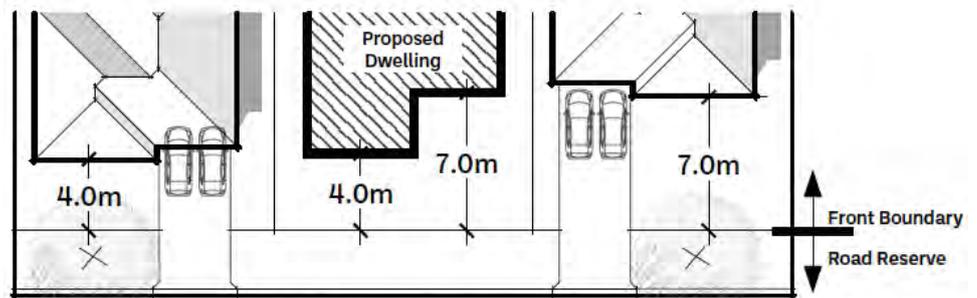
Where setback difference is no more than 2m = choose setback 'a' or 'b' or take the average

SCENARIO NO. 2



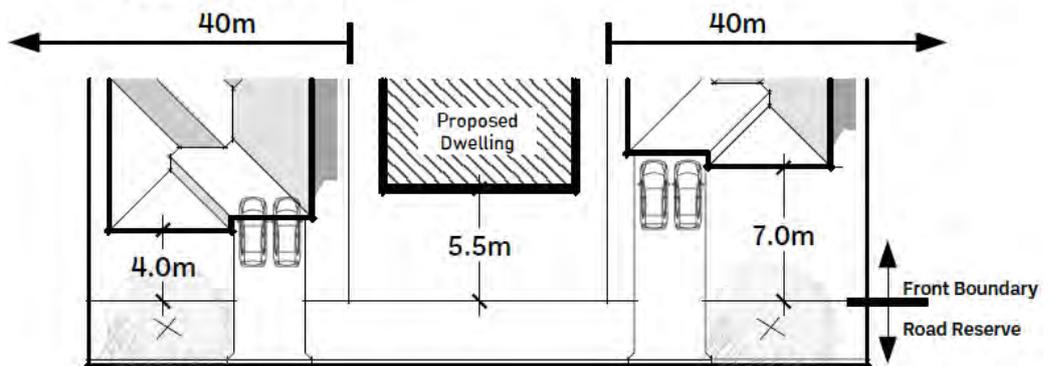
Where setback difference is more than 2m =

SCENARIO NO. 3



Articulate setbacks on infill building to match both existing buildings

SCENARIO NO. 4



Setback is the average of the two nearest dwellings within 40m that face the same primary road

### 6.4.3 Height, Scale & Solar Access

#### Objective(s)

To ensure that the height and scale of proposed dwellings and any ancillary buildings or structures:

- O1. Responds to site topography (slope) by stepping building heights/floor levels to minimise cut and/or fill and not result in excessive scale or bulk.
- O2. Minimises impact on key view-lines or appreciation of significant natural features or heritage items.
- O3. Are sympathetic to or consistent with the existing and/or desired future character of the streets and adjacent buildings.
- O4. Minimises overshadowing and impacts on views and privacy of adjacent dwellings and their private open space.
- O5. Reduces building scale and bulk by increasing upper-level setbacks in response to increased building height.

#### Control(s)

- 1) **Maximum Height:** In *Zone R1 General Residential* and *Zone R2 Low Density Residential* all dwellings are to have:
  - a) A maximum height above ground level (existing) (or natural ground level) demonstrated by Site **Section** and/or **Elevation** of;
    - i) Wall height - 6.5m;
    - ii) Building height - 8.5m; and
  - b) The dwelling is within a **building height plane** - a plane projected at an angle of 45 degrees over the actual land to be built upon from a distance of 3.5m metres above ground level at the side boundaries of the site (see diagram below).

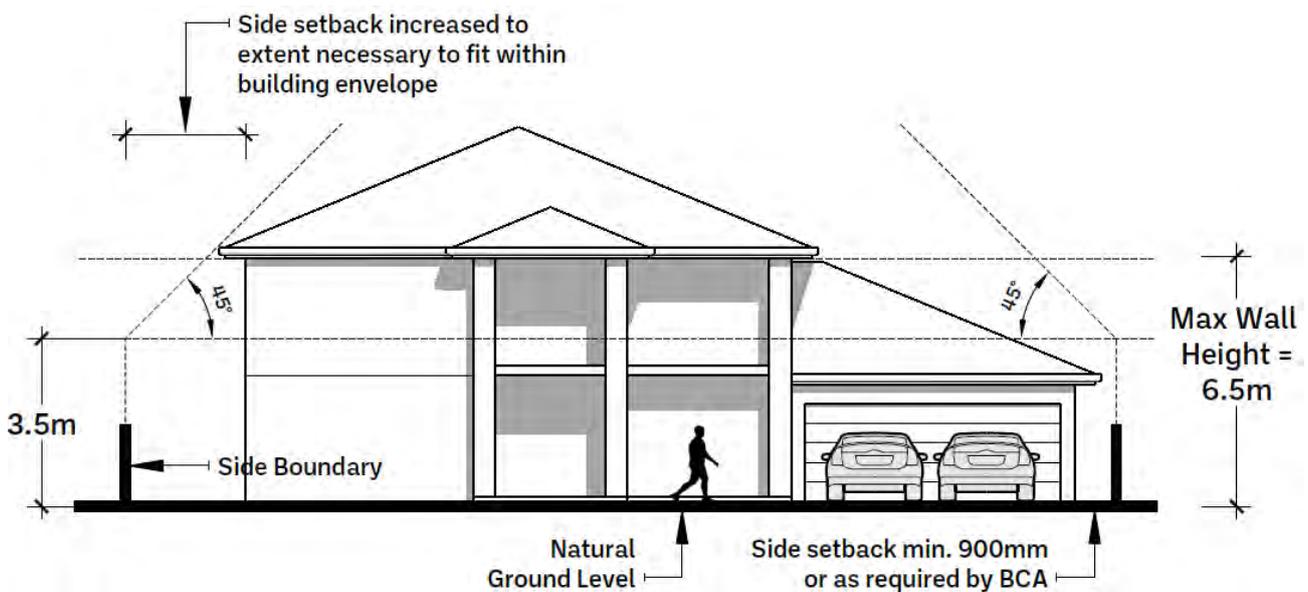


Illustration of building height plane and maximum wall height.

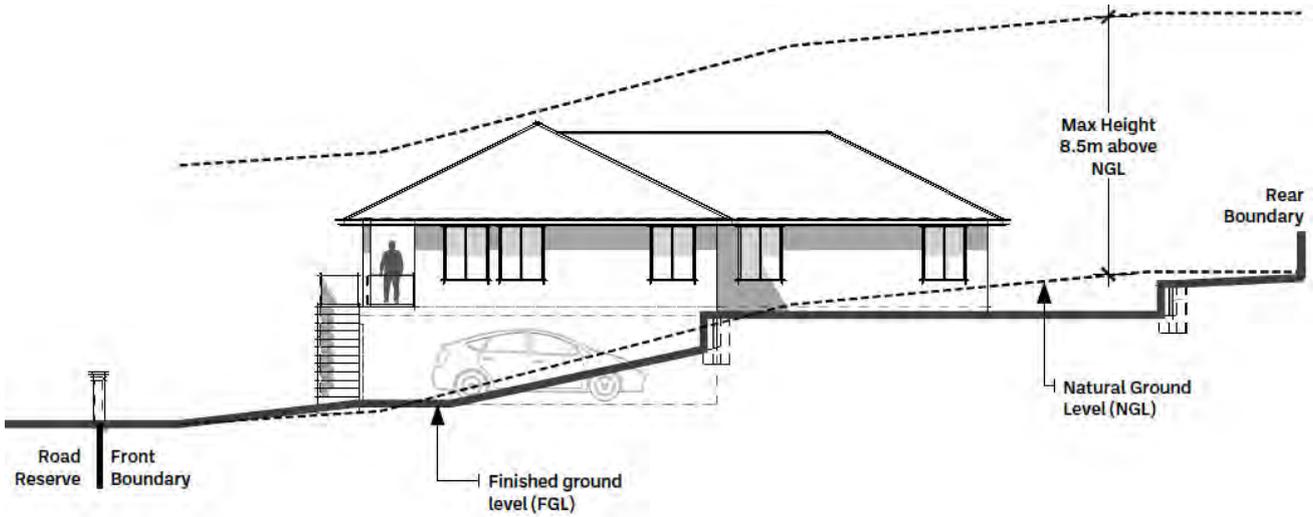


Illustration of maximum building height (Source: Dean Steward).

2) **Height Impacts:** Where a dwelling is:

- a) Greater than 6.5m in height and/or two storeys (measured from **ground level (existing)** to the highest point of the building - excluding antennae or chimneys or similar); or
- b) Ground floor levels are higher than 800mm above the **ground level (existing)**; or
- c) Dwelling setbacks are less than the minimums prescribed above,

the design is to ensure it complies with:

- The objectives of this control;
- The visual and acoustic privacy requirements of this Section; and
- Demonstrate through the provision of **Shadow Diagrams** that there is at least 3 hours solar access to a living room and 50% of the **principal private open space** in each proposed and/or adjacent dwelling(s) between 9am and 3pm at the winter solstice (21 June).

## 6.4.4 Private Open Space & Landscaping

### Objective(s)

See the primary Objective(s) in DCP Section 2.7 Landscaping & Tree Protection.

- O1. Dwellings are provided with a suitable area of private open space that achieves the following:
- promotes outdoor activity & recreation with a useable space;
  - is located with ease-of access from living spaces in the dwelling and with good solar access;
  - has sufficient privacy & separation from sensitive areas of adjacent dwellings;
  - maximises the landscaped area and **deep soil landscaped area** of the site and minimises large hard surfaced areas to promote water infiltration;
  - promotes other landscaping objectives & setbacks between buildings.

### Control(s)

- Area:** A useable area of **private open space** is clearly defined on the **Site Plan(s)** and provide a minimum area for each dwelling of:
  - 100m<sup>2</sup> - *Zone R2 Low Density Residential*; or
  - 50m<sup>2</sup> - *Zone R1 General Residential*;with a principal **private open space** of minimum 4m by 6m at ground level (24m<sup>2</sup>).
- Amenity:** The **principal private open space**:
  - Is located close to or easily accessible from the living spaces of the dwelling;
  - Has a sufficient area that is permeable to water to promote stormwater infiltration by complying with the stormwater controls in this DCP;
  - Has at least 2 hours of solar access on 50% of the space from 9am to 3pm on the Winter Solstice (21 June);
  - Is located and suitably screened to minimise privacy and overlooking of adjacent dwellings;
  - Has suitable landscape to promote use of the space whilst providing some shade in summer and solar access in winter;
  - Is not located in the front setback, on parking and access areas, or include waste storage areas.
- Landscaped Area:** There is a minimum **landscaped area** of:
  - 35% for *Zone R2 Low Density Residential*; or
  - 20% for *Zone R1 Low Density Residential*.
- Site:** Landscape design is to comply with the requirements in DCP *Chapter 2 – Site Requirements* relating to Landscaping as well as that shown on the approved **BASIX Certificate** for the dwelling.

### 6.4.5 Noise (Acoustic) & Visual Privacy

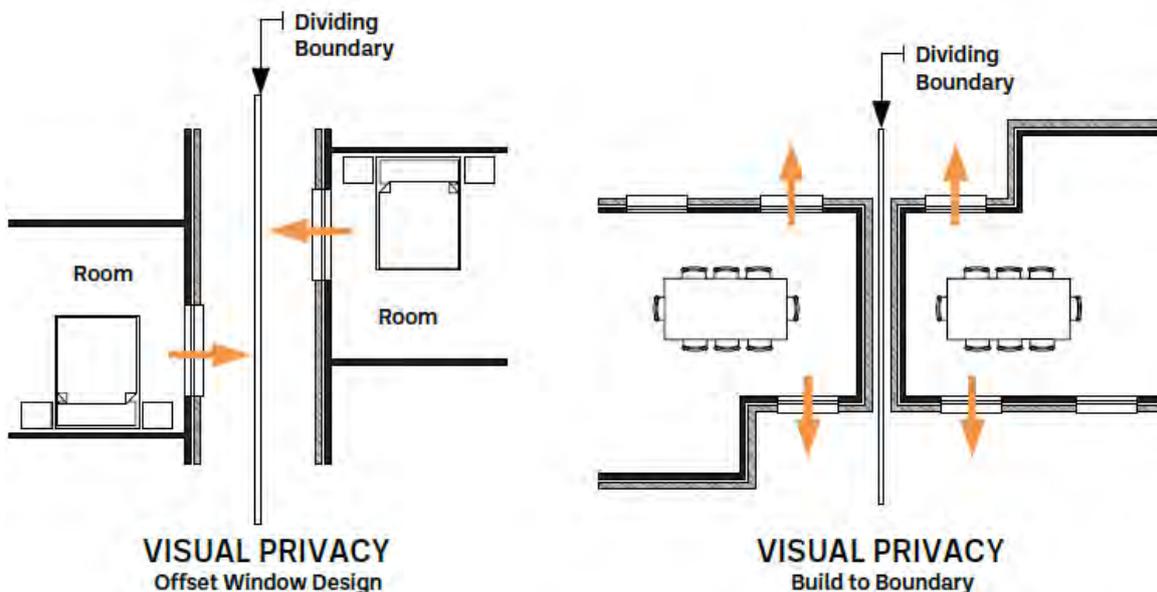
#### Objective(s)

- O1. To increase residential amenity for both the proposed dwelling and adjacent dwelling(s) through:
- a) Appropriate separations of buildings from likely noise sources; and
  - b) Window alignments that minimise noise impacts and maximise privacy of primary living and open spaces.

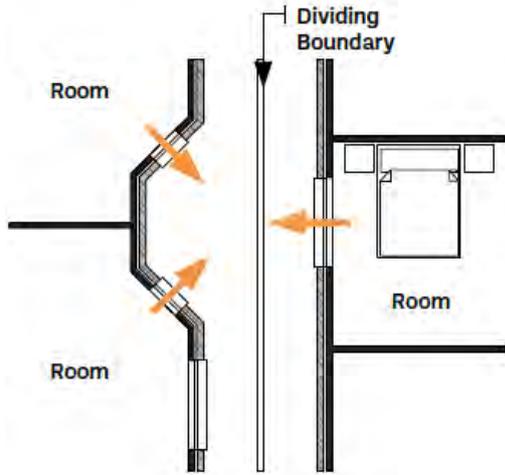
#### Control(s)

- 1) **Visual Privacy:** Development that:
  - a) Is greater than one-storey in height (including habitable attic rooms with dormer windows); or
  - b) Where there is a risk of overlooking of adjacent properties due to floor levels above **ground level (existing)** and/or window sill levels higher than fences and/or adjacent properties; or
  - c) That does not meet the minimum building setbacks,
 is designed to locate and size windows to habitable rooms or balconies to avoid looking directly into windows, balconies, courtyards, and primary private open space(s) of adjoining dwellings or demonstrate how overlooking will be minimised.
- 2) **Screening:** Buildings are designed to avoid and minimise privacy issues in preference to use of screening devices, high sills, obscure glass or landscaping (except for non-habitable rooms).
- 3) **Acoustic Privacy:** Buildings are designed to locate noise sensitive rooms (e.g., bedrooms) away from noise sources (e.g., driveways and parking areas, recreation and private open space areas, pools and equipment, air conditioning units) where possible.

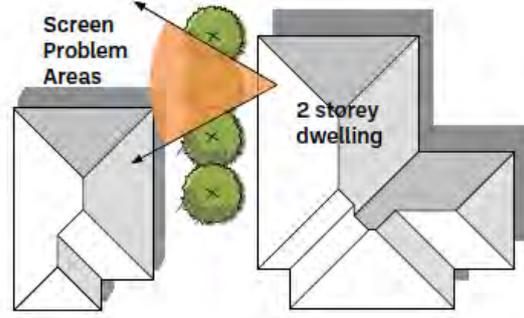
*Techniques for visual privacy may include (but are not limited to) additional building setbacks, offsetting or splaying windows, adding privacy screens, opaque windows, raising the windowsill level, or landscaping / screening / fencing (see diagrams below). However, barriers to solar access to living rooms are not desirable. See additional controls in DCP Chapter 2 – Site Requirements relating to Noise & Vibration.*



*Visual privacy methods/options (Source: Dean Steward – based on AMCORD 1995).*

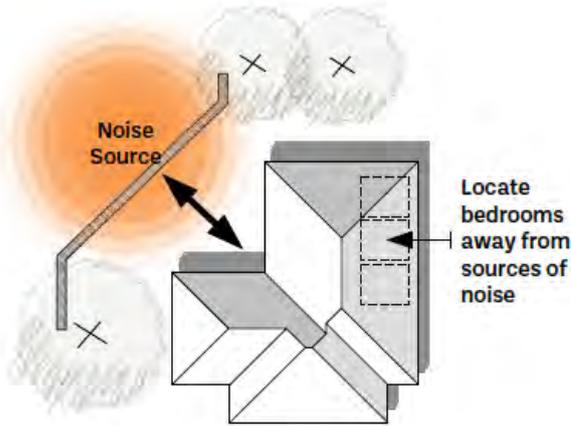


**VISUAL PRIVACY**  
Played Window Design

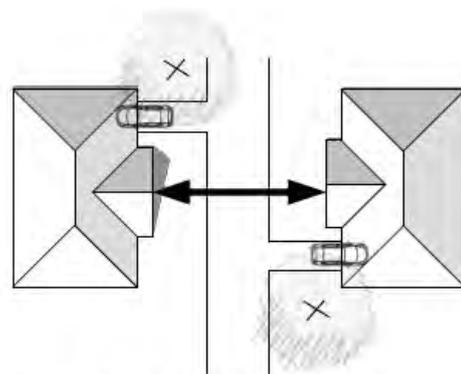


**VISUAL PRIVACY**  
Screening Problem Areas

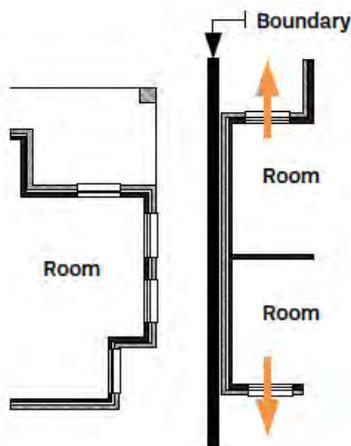
Visual privacy methods/options (Source: Dean Steward – based on AMCORD 1995).



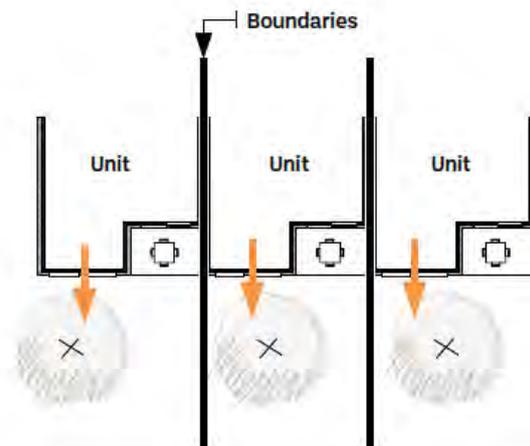
**ACOUSTIC PRIVACY**  
Separate and screen problem areas



**ACOUSTIC PRIVACY**  
Privacy by separation



**ACOUSTIC PRIVACY FOR NEIGHBOUR**  
Building to a boundary



**ACOUSTIC PRIVACY FOR OPEN SPACE**  
Building to a boundary

Acoustic privacy methods/options (Source: Dean Steward – based on AMCORD 1995).

### 6.4.6 Building Articulation

#### Objective(s)

- O1. To promote variations in building height, roof lines and elevations (particularly elevations facing street frontages) to:
- a) Minimise the perceived bulk and scale of larger buildings;
  - b) Avoid large blank walls and facades and provide visual interest;
  - c) Encourage casual surveillance of the public domain for safety; and
  - d) Integrate with the desired character of the area and street.

#### Control(s)

- 1) **Blank Walls:** Building facades are designed to avoid areas of blank wall(s) (in excess of 5m to the street or 12m to a side boundary) and incorporate:
  - a) Window(s) to a **habitable room** facing the street to allow for casual surveillance of any street frontage;
  - b) Entrances/doors and/or recesses and variation of building setbacks;
  - c) Garages do not dominate the street frontage, especially when located forward of the building line (see diagram below);
  - d) Varied roof lines;
  - e) Variation of materials and/or colours to define different levels or sections of buildings;
  - f) Any other articulation acceptable to Council.
- 2) **Corner Lots:** A dwelling on a corner lot is designed address both street frontages with the methods noted above.

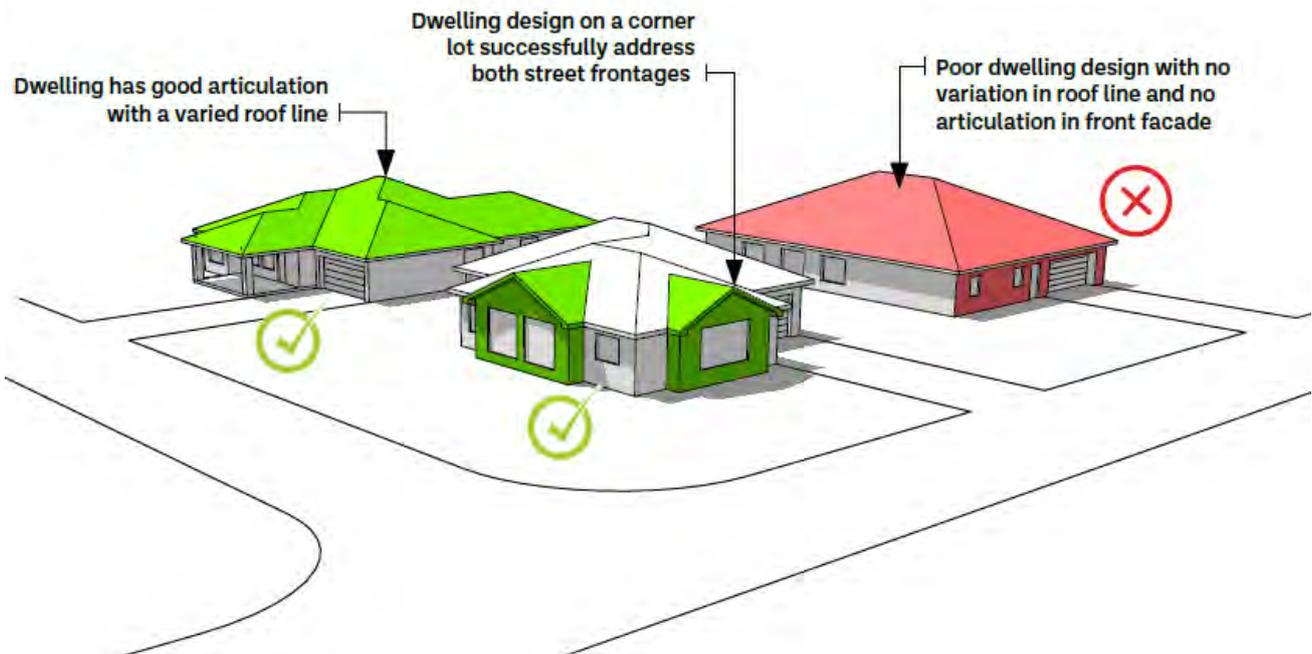


Illustration of preferred dwelling frontages on corner lots (Source: Dean Steward).

### 6.4.7 Garages, Carports, Outbuildings & Sheds

#### Objective(s)

- O1. To ensure that garages, carports, sheds and outbuildings:
- Do not dominate views of the site/dwelling(s) from the street or key public places;
  - Are in-keeping with the scale and setting of the relevant land use zone, locality and street character;
  - Integrate with the dwelling design, materials and landscaping;
  - Do not significantly impact on the amenity of neighbouring properties (e.g., shadow, noise);
  - Allow for and protect significant trees, landscaping, and open space areas;
  - Do not unduly increase the overall site coverage of buildings and impermeable paved areas resulting in impacts on stormwater outcomes.

#### Control(s)

In **urban areas and/or zones** (e.g., Zone R1 /R2/ RU5 or Zone R5 (less than or equal to 4,000m<sup>2</sup> area), in addition to the visual impact/ amenity controls above, garages, carports, outbuildings and sheds must comply with the following:

- Land Use:** All detached sheds, garages, and outbuildings will only be considered if there is an existing dwelling on the lot or the same application seeks concurrent approval for a dwelling on the same lot.

*Detached sheds and outbuildings need to be ancillary to a dwelling or have a specific land use nominated for them that is permissible with consent in the relevant land use zone.*

- Cumulative Floor Area:** The maximum cumulative floor area of all detached garages/ carports/ sheds/ outbuildings on a lot is set out in the following table:

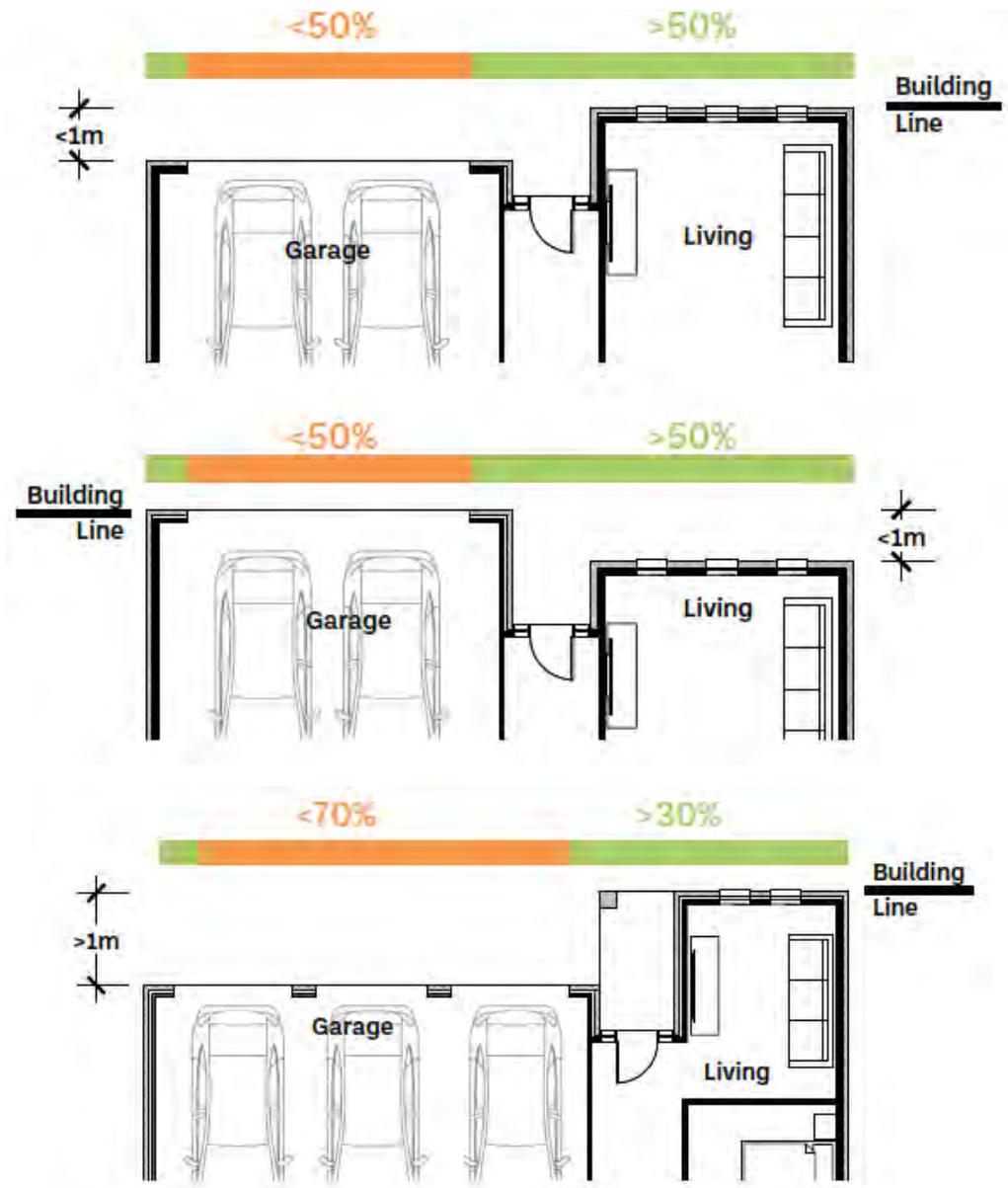
Lot Size	Floor Area Maximum
Lot < 900m <sup>2</sup>	80m <sup>2</sup>
900m <sup>2</sup> ≤ Lot ≤ 2000m <sup>2</sup>	100m <sup>2</sup>
Lot > 2000m <sup>2</sup>	120m <sup>2</sup>

- Amenity:** Building height and setbacks from boundaries consider the impacts on adjacent properties including, but not limited to: overshadowing, solar access, noise and visual amenity/privacy, colour and visibility, and the requirements of the **National Construction Code (NCC)** including, but not limited to, fire separation.

The maximum ridge height (as measured from the highest point on the building to the natural ground level immediately below) and minimum setbacks for all detached garages/carports/sheds/outbuildings on a lot is set out in the following table:

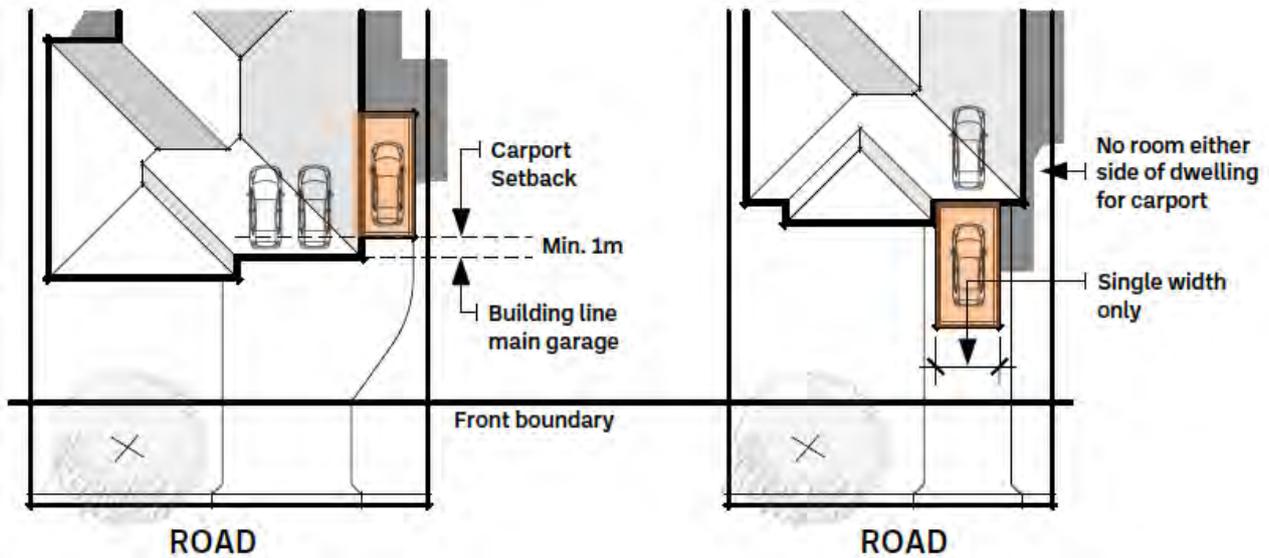
Zone/Lot Size	Maximum Ridge Height	Maximum Wall Height	Wall Height	Minimum Side and Rear Setback
R1	4.5m	3m	2.4m	600mm
			>2.4m – 2.7m	900mm
			>2.7m	1.2m
R2 Lot ≤ 2000m <sup>2</sup>	4.8m	3m	2.4m – 2.7m	900mm
			>2.7m	1.2m
R2 Lot > 2000m <sup>2</sup>	4.8m	3.3m	2.4m – 3m	1.2m
			>3m	1.5m
RU5	4.8m	3m	2.4m – 2.7m	900mm
			>2.7m	1.2m
R5 <4000m <sup>2</sup>	4.8m	3.6m	2.4-3m	1.2m
			>3m – 3.3m	1.5m
			>3.3m	1.8m

- 4) **Setbacks for Parking:** All enclosed car parking areas have the opening/garage doors setback a minimum of 5.5m from the front lot boundary of the street they connect to (rear lanes may have reduced setbacks depending on the desired character of the lane) to enable a single vehicle to be parked in the driveway entirely on the lot without interfering with the public domain/footpath and to avoid dominating the street.
- 5) **Garage Door Widths/Setbacks:** Garage doors facing a public road do not exceed (see diagrams above):
  - a) 50% of the front elevation of the building where the garage doors are aligned with the front building line (or within 1m of the front building line); or
  - b) 70% of the front elevation of the building where the garage doors are located greater than 1m behind the entry/living façade. **Garage within 1m of the building line (at least 5.5m from front lot boundary).**



Garage setbacks depending on proportion of building frontage (Source: Dean Steward).

- 6) **Additional Carport:** In addition to the permitted garage widths facing a street, one (1) (open-sided) carport is permitted that is setback a further 1m behind the line of the other garages/ carports above (see diagram below).
- 7) **Carport in Front Setback:** A carport may be permitted in the front setback of an existing dwelling if (see diagram below):
  - a) There is no potential to locate the carport to the side or rear of the dwelling;
  - b) The carport is only for a single car space;
  - c) The carport uses a light-weight structure with no walls that does not dominate the existing dwelling or streetscape.



*Additional carport locations (Source: Dean Steward).*

- 8) **Colour/Materials:** Buildings comprising metal components that adversely affect visual amenity from adjacent residences, public spaces or heritage items/heritage conservation areas, are constructed using low-reflectivity/ factory pre-coloured external materials (or galvanised iron).

*Please discuss visual impact/ colours/materials with Council if the site is in a **heritage conservation area** or is on or near a **heritage item**.*

## 6.5 Medium to Higher Density Housing

*This Section applies to any application for 'medium to higher density housing' in any zone where they are permitted with consent (in accordance with LLEP2014 (as amended)) including: **dual occupancies; manor houses; multi-dwelling housing and residential flat buildings** (see relevant sections for definitions below).*

*As these applications are more complex and potentially have higher impacts on surrounding land uses, Council suggests that assistance is sought from development professionals to prepare the application and it is discussed with Council prior to lodging.*

*Some types of Low-Rise Medium Density Housing may be permitted as complying development under SEPP (Exempt and Complying Codes) 2008 (**Codes SEPP**). Discuss this with Council before lodging your application.*

### Objective(s)

- O1. To ensure these planning controls are consistent with the State Planning Policies and regulatory provisions that apply to each particular type of residential accommodation.
- O2. To promote higher dwelling densities in areas that are suited to higher densities without significantly compromising the amenity and character of our settlements.
- O3. To ensure that lot size is of sufficient size to promote good site planning, vehicle access and parking, open space and landscaping, building separations and solar access, dwelling design, and street / visual amenity.
- O4. To ensure that the height and scale of development integrates into the existing and desired streetscape and minimises impacts on adjacent properties from shadow, acoustic and visual privacy, and cut and fill.
- O5. To ensure it is designed with suitable building setbacks and separations to provide good residential amenity to the proposed building and neighbours including:
  - a) Minimising noise impacts from adjacent roads & neighbouring land uses;
  - b) Maximising visual privacy;
  - c) Maintaining reasonable solar access to primary living spaces and open spaces & minimise overshadowing to/from other dwellings on the site and adjacent sites;
  - d) Promoting natural cross ventilation;
  - e) Encouraging useable private (and possibly communal) open spaces that are accessible from primary living spaces and capable of supporting some significant landscaping;
  - f) Providing opportunities for water and energy efficiency.
- O6. To ensure the design of higher density or innovative and different building forms demonstrates how the building siting and driveway layout:
  - a) Promotes casual surveillance of the street;
  - b) Creates clear entrances and a sense of address for each dwelling;
  - c) Avoids blank walls to public or semi-public areas and create visual interest;
  - d) Promotes good orientation for solar access to living spaces and private open spaces;

- e) Reduces visibility of maintenance areas and soften driveways with landscaping and screening

O7. To ensure the design of medium density housing incorporates an adequate level of outdoor **private open space** and landscaping areas:

- a) To maximise amenity for each dwelling;
- b) To maximise solar access to private open spaces and living areas.

O8. To encourage **deep soil landscaped areas** that can support significant landscaping to:

- a) Retain and protect existing significant trees;
- b) Allow for water infiltration and reduce stormwater issues;
- c) Reduce the bulk and scale of larger developments and hardstand areas;
- d) Improve privacy and shading whilst allowing solar access in winter;
- e) Utilise species suitable to the climate with lower maintenance;
- f) Assist in defining the boundary between public, semi-public, and private land and promote good sight-lines and safety.

O9. To ensure that solid waste management is integrated into the design of more complex developments and will provide:

- a) Safe and efficient access for waste collection vehicles to the waste storage area;
- b) Suitable locations and accessibility to promote effective waste management and recycling;
- c) Appropriately sized waste storage areas for the potential waste generation of the development and collection periods;
- d) Screening of waste storage areas to minimise visual and odour impacts.

O10. To require larger residential developments to provide a percentage of dwellings that are either universally designed and/or adaptable to meet changing needs of residents and the community.

**Control(s)**

**6.5.1 Siting & Setbacks**

All new **medium to higher density housing** is designed to meet the minimum setbacks from the lot boundaries as set out in the **SETBACK TABLE** below taking into account DCP *Section 6.4.2 – Average Setback of Adjacent Dwellings*.

<b>SETBACK TABLE</b>	
<b>Location</b>	<b>Building Setback</b>
<b>Great Western Highway</b>	<ul style="list-style-type: none"> <li>• 10m</li> </ul>
<b>Other Classified Roads</b>	<ul style="list-style-type: none"> <li>• 8m</li> </ul>
<b>Front Setback to Primary Street (Zone R1 General Residential)</b>	<ul style="list-style-type: none"> <li>• 4.5m - single storey OR average setback of adjacent dwellings (whichever is greater)</li> <li>• 6.0m – two or more storeys OR average setback of adjacent dwellings (whichever is greater)</li> </ul>
<b>Front Setback to Primary Street (Zone R2 Low Density Residential)</b>	<ul style="list-style-type: none"> <li>• 6.0m – single storey or average setback of adjacent dwellings (whichever is greater)</li> <li>• 7.0m – two or more storeys OR average setback of adjacent dwellings (whichever is greater)</li> </ul>
<b>Garages fronting a Public Road</b>	<ul style="list-style-type: none"> <li>• 5.5m from the front boundary AND</li> <li>• 0.5m behind the front building line</li> </ul>
<b>Secondary Street (Corner Lots)</b>	<ul style="list-style-type: none"> <li>• 4m – single storey</li> <li>• 6m – two storeys or greater</li> </ul>
<b>Side Boundary</b>	<ul style="list-style-type: none"> <li>• 1.5m - single storey</li> <li>• 3m - two storeys or greater</li> </ul>
<b>Rear Boundary (no road frontage)</b>	<ul style="list-style-type: none"> <li>• 4.5m - single storey</li> <li>• 6m - two storeys or greater</li> </ul>
<b>Public Reserves</b>	<ul style="list-style-type: none"> <li>• 3m</li> </ul>

### 6.5.2 Low Rise Medium Density Housing

The NSW Government (DPIE) has prepared the **Low Rise Housing Diversity Design Guide for development applications** (July 2020) (**Design Guide for DAs**). This is found at: <https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/Policy-and-legislation/Housing-Diversity-DA-A-2020-10.pdf?la=en>.

This DCP utilises the **Design Guide for DAs** as the controls for all development that contains two or more dwellings and is no more than two storeys in height including (see definitions below):

- **Dual occupancies** (including conversion of an existing dwelling house into a **dual occupancy**);
- **Manor houses** and 'one above the other' **dual occupancies**;
- **Multi-dwelling housing (Terraces)**;
- **Multi-dwelling housing** (town houses and villas).



Range of residential types the **Design Guide for DAs** applies to (Guide Figure 1-1).

Use of the **Design Guide for DAs** ensures that there are consistent and integrated controls for these development types. Applicants can choose to comply with the **Complying Development** requirements under the **Codes SEPP** (<https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.3B>) along with the **Low-Rise Housing Diversity Design Guide** (July 2020) (**HD Design Guide**).

If they cannot meet the **Complying Development** controls then they can lodge a **Development Application (DA)** under the **Design Guide for DAs**.

Definitions:

**Dual occupancy:** means a dual occupancy (attached) or a dual occupancy (detached) (see examples on following page):

- **Dual occupancy (attached):** means two (2) dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling; and
- **Dual occupancy (detached):** means two (2) detached dwellings on one lot of land, but does not include a secondary dwelling.

**Dual occupancies** (side-by-side – either attached or detached) are usually characterised by two dwellings on a corner lot with one dwelling facing the primary road and one facing the secondary road or two attached dual occupancies side-by-side facing the same road (see example on following page).

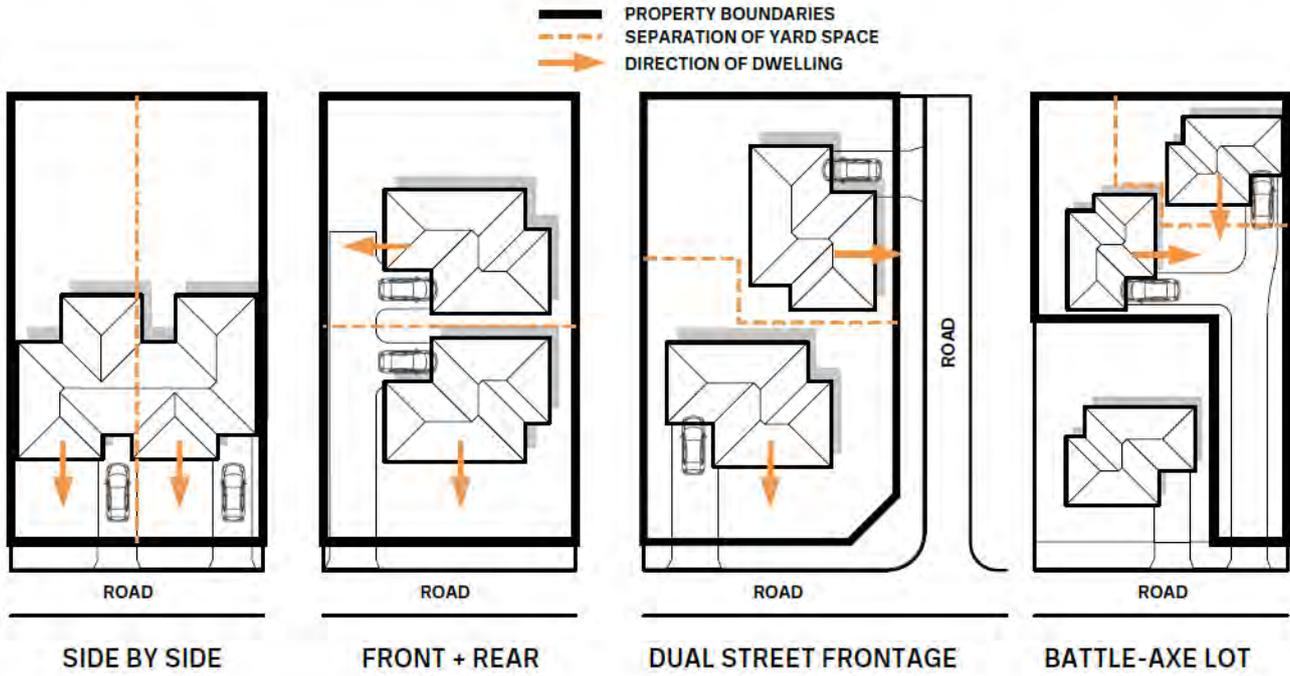
**Manor houses** means – a building containing 3 or 4 dwellings, where:

- Each dwelling is attached to another dwelling by a common wall or floor, and
- At least 1 dwelling is partially or wholly located above another dwelling, and
- The building contains no more than 2 storeys (excluding any basement).

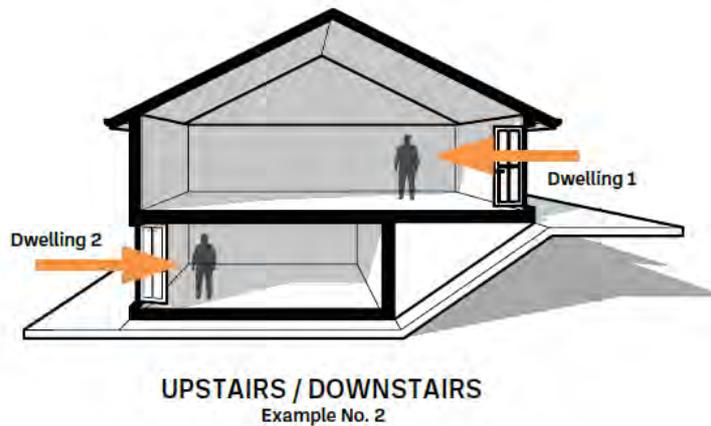
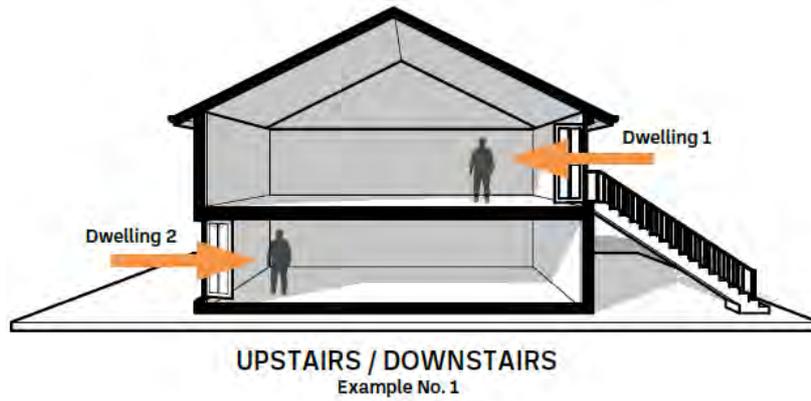
**Multi-dwelling housing (MDH)** means – 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

**Multi-dwelling housing (Terraces)** means 3 or more dwellings on one lot of land where:

- Each dwelling has access at ground level;
- No part of a dwelling is above any part of any other dwelling, and,
- Dwellings face, and generally follow, the alignment of one or more public roads.



Examples of Dual Occupancy arrangements (Source: Dean Steward).



Examples of Upstairs/Downstairs Dual-Occupancy arrangements (Source: Dean Steward).



Example of Multi-Dwelling Housing (Source: Dean Steward adapted from AMCORD 1995).

- 1) This DCP provides controls for the following aspects of **Low-Rise Medium Density Housing**:
  - a) **General controls** – See DCP Section 6.2 including DCP *Chapter 2 – Site Requirements* and *Chapter 3 – Natural Environment & Hazards*;
  - b) **Setbacks** – See DCP *Section 6.5.1 – Siting & Setbacks* above;
  - c) **Local character and context** – where relevant in a **heritage conservation area** in *Chapter 4 – Heritage & Cultural Conservation* or *Chapter 9 – Location Specific Controls*.
- 2) In addition to the controls in this DCP listed in subclause (1), the residential accommodation types to which this Section applies demonstrate compliance with the relevant design principles, objectives, development standards and design criteria in the **Design Guide for DAs**. Where there is inconsistency, the controls in this DCP prevail

### 6.5.3 Residential Flat (Apartment) Buildings

*State Environmental Planning Policy No.65 (Design Quality of Residential Apartment Development ('SEPP65')) only applies to a building of 3 or more storeys and containing 4 or more dwellings.*

- 1) This DCP provides controls for the following aspects of **Low-Rise Medium Density Housing**:
  - a) **General controls** – See DCP Section 6.2 including DCP *Chapter 2 – Site Requirements* and *Chapter 3 – Natural Environment & Hazards*;
  - b) **Setbacks** – See DCP *Section 6.5.1 – Siting & Setbacks* above;
  - c) **Local character and context** – where relevant in a **heritage conservation area** in *Chapter 4 – Heritage & Cultural Conservation* or *Chapter 9 – Location Specific Controls*.
- 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:
  - a) The principles/development standards in that SEPP; and
  - b) The relevant objectives and design criteria in the associated *Apartment Design Guide (ADG)*.

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).

### 6.5.4 Shop Top Housing/Mixed Use Developments

**'Shop top housing'** means one or more dwellings located above ground floor **retail premises** or **business premises**. It is permitted with consent in Zone B2 Local Centre, Zone R1 General Residential, and Zone RU5 Village.

*SEPP65 (Design Quality of Residential Apartment Development)* applies to a building of 3 or more storeys and 4 or more dwellings including shop top housing or mixed-use developments.

#### Objective(s)

- O1. To encourage mixed-use buildings in commercial areas that activate commercial areas.
- O2. To ensure that **shop top housing** is designed to integrate with the associated commercial / retail function whilst providing suitable residential access and amenity.
- O3. To ensure that any residential uses are designed so that commercial uses/ activities do not significantly impact on residential amenity.
- O4. To ensure all units have good residential amenity, safety and security.
- O5. To ensure residential and commercial uses have separate entrances and facilities to minimise conflict.

**Control(s)**

- 1) **Commercial Controls:** The commercial and/or retail element of any **shop-top housing** / mixed-use proposal is designed to address DCP *Chapter 7 – Commercial, Community & Industrial Uses*.
- 2) **Residential Setbacks:** If a dwelling is on top of, or attached to, a commercial component the same setbacks as the commercial component are adopted to the primary street as long as the building satisfies:
  - a) The requirements of the **National Construction Code** and fire separation requirements;
  - b) There is residential amenity for the proposed and adjacent (if any) dwellings in accordance with this DCP Chapter and subclause (4) below;
  - c) Setbacks have minimised overshadowing of adjacent dwellings and their private open spaces;
  - d) Upper-level units may need to be setback from street frontages to maintain street wall/parapet heights and not dominate the street.
- 3) **Residential Amenity:** The controls in DCP *Chapter 2 – Site Requirements* and this DCP Chapter/ NSW Government policy relating to residential amenity including, but not limited to:
  - a) Noise & visual privacy;
  - b) Solar access to living spaces,
 will generally be applicable to **shop-top housing** but the requirements may be varied on merit with justification.
- 4) **Mixed Use Impacts:** The applicant demonstrates that other uses on the site or on adjacent sites will not significantly impact on residential amenity or provide ways to mitigate any impacts.
- 5) **Design:** Council suggests the application addresses the principles in *State Environmental Planning Policy No.65 (Design Quality of Residential Apartment Development)* and the associated *Apartment Design Guide* (where relevant) as guidelines (though they do not strictly apply to **shop-top-housing** except where there are more than 4 units and 3 storeys).
- 6) **Separation:** Residential and commercial uses have separate:
  - a) Entrances from the main street frontage;
  - b) Car parking areas (possibly with additional security for residential parking);
  - c) Waste storage areas;
  - d) Communal space (if required).

## 6.6 Ancillary & Other Development

### 6.6.1 Water Tanks, Pools & Spas & Equipment

#### Objective(s)

- O1. To ensure that water tanks, pools and spas are appropriately located and designed:
- To minimise visual impacts from a street or public domain and integrate with the residential development;
  - To minimise impacts on a **heritage conservation area** or nearby **heritage items** (if applicable);
  - To minimise noise impacts from associated machinery or the use of pools/spas near sensitive areas of adjacent development;
  - To ensure that materials and colours are compatible with the surrounding character (if visible from a public domain).

#### Control(s)

*Pools and spas MAY be either EXEMPT (not require an application) OR COMPLYING (have a fast-tracked application) under State Environmental Planning Policy (Exempt and Complying Codes) 2008 ('Code SEPP'). Otherwise, a **development application** is required.*

*Please also see the Swimming Pools Act 1992 and Regulations 2008 and AS1926- Swimming Pool Safety (as amended) that take precedence over these controls to the extent of any inconsistency.*

- Considerations:** Council will consider any applications for water tanks, pools or spas on their merits (with regards to the relevant controls in the **Codes SEPP** and the visual impact / amenity objectives in this Chapter.
- Front Setback:** Water tanks, pools and spas in **urban areas/zones** are located behind the front building line
- Pools:** Pools are located in the rear yard and have a minimum setback of 1m from any side or rear boundary.
- Heritage:** In **heritage conservation areas** or on land containing **heritage items**, pools and spas are located behind the rear building line or where they are screened and not visible from the public domain.
- Noise:** Machinery (e.g., pumps, filtration equipment, generators, heat pumps or air-conditioners) are located away from sensitive areas of adjacent dwellings (e.g., bedrooms) or suitably shielded to meet standard noise requirements and may require timer switches to avoid operation during night-time hours.

### 6.6.2 Temporary Accommodation

*Council will permit in limited circumstances for the owner of a site and their immediate family to erect or inhabit a temporary residence on the development site to live in during the construction of a proposed dwelling.*

*An alternative may be to seek development approval for a **dual occupancy** or **secondary dwelling** (where permitted) and to build one of the dwellings first to live in while the primary dwelling is being constructed. This would ensure that the smaller dwelling has a permanent approval and can be re-used.*

**Objective(s)**

O1. To ensure temporary accommodation is appropriately constructed and serviced and only used for the limited time needed to construct the permanent dwelling.

**Control(s)**

- 1) **Permissibility:** Temporary accommodation (during construction) is only permissible on:
  - a) Lots or holdings that are  $\geq 4,000m^2$ ; and
  - b) Outside **urban residential zone(s)**.
- 2) **Other Controls:** The building location and design for the temporary accommodation may need to comply with the other relevant controls in this DCP (particularly if it is to be retained at the end of the '**maximum period**' (set out below). For example, any residential controls or natural hazards on the land including, but not limited to flooding and bush fire.
- 3) **Number of Buildings:** A temporary residence may consist of the following Council approved/**National Construction Code (NCC)** compliant types:
  - a) One (1) shed;
  - b) One (1) Caravan (with or without annex); or
  - c) A combination of one (1) shed and one (1) caravan.
- 4) **Visual & Acoustic Impact:** The temporary accommodation is sited and designed so it:
  - a) Is not located within the street frontage setback of the proposed permanent dwelling;
  - b) Minimises visual impact when viewed from any public domain/road;
  - c) Minimises acoustic & visual impact on any dwelling on an adjacent lot, particularly if the building is to be retained after completion of any associated dwelling.
- 5) **Fixtures:** The temporary accommodation is provided with the following facilities installed in accordance with the **NCC**:
  - a) Kitchen that includes cooking and dish-washing facilities with running water;
  - b) Shower and toilet facilities;
  - c) Points of connection for a clothes-washing machine;
  - d) Smoke detectors.
- 6) **Residential Amenity:** The temporary accommodation meets the minimum requirements for habitable and non-habitable rooms to provide suitable residential amenity & safety.
- 7) **Prior to Occupation:** Temporary accommodation is not occupied until:
  - a) Council has approved the **development application** and issued a **Construction Certificate** for the permanent dwelling on the site;
  - b) Council has inspected the temporary accommodation (prior to occupation) to ensure it has been constructed / installed in accordance with the plans and specifications (shed) or Council has been given notice of intent to live on the site (caravan);
  - c) All sewage/drainage for the temporary accommodation has been approved and connected to the town sewerage system or Council approved on-site waste management system (where applicable);

- d) A suitable water system has been provided and connected.
- 8) **Length of Use:** The maximum period that temporary accommodation may be used as a habitable building is (whichever is the shortest time of):
  - a) 12 months from the date of issuing the **Construction Certificate** for the permanent dwelling; or
  - b) 3 months from the date of issuing the final **Occupation Certificate** for the permanent dwelling.

Council will only grant one six (6) month extension to the above timeframes that is supported with justification and a clear construction program agreed to by the builder.

- 9) **Finalisation:** At the end of the maximum period in subclause (8), the temporary accommodation must be:
  - a) Completely demolished / removed and the area remediated; or
  - b) The applicant has Council approval to extend the maximum period for the temporary accommodation; or
  - c) There is a development approval for the building to remain either as:
    - i) a permanent dwelling / dual occupancy; or
    - ii) a shed / outbuilding (where the components that make it habitable have been removed).

### 6.6.3 Conversion/ Use of Non-Habitable Buildings

*Generally, installation of a toilet, wash basin and/or shower in an **outbuilding** would NOT make these a 'habitable' room or dwelling. However, if a kitchen, bathroom and laundry are provided this would be considered a 'dwelling' and can only be approved if it is permissible in the land use zone and meets the relevant controls. Regardless, any building requiring a sewerage/waste-water connection will require at least a Section 68 Local Government Act approval from Council.*

#### **Objective(s)**

O1. Outbuildings reflect their intended use as ancillary to an approved use on the site.

#### **Control(s)**

- 1) An application for an outbuilding should indicate the proposed use for the building and cannot include accommodation or kitchen facilities without approval from Council.
- 2) Facilities in outbuildings satisfy relevant water and wastewater servicing standards and approvals.
- 3) A kitchen and/or bathroom/laundry is provided in an outbuilding only where separate development consent is obtained to convert the outbuilding to a permissible form of residential accommodation.

## 6.6.4 Second Hand (Re-Sited/Relocated) Dwellings

*Existing second-hand dwellings can be moved to the site and often placed on elevated footings. This does not include 'manufactured homes' or 'relocatable dwellings' or any other 'moveable dwelling' that may be approved under Section 68 of the Local Government Act outside of a caravan park (see next section below).*

*A **Development Application** (and possibly **Construction Certificate** if new work such as footings) will be required for a re-sited / second-hand dwelling. You will require Section 68 Application(s) for installation of the building, connection to utilities and on-site sewage management.*

*Second-hand dwellings must not be moved onto the site before development consent is issued for the use of the land. Council will issue a Final Occupation Certificate at the completion of the installation & any associated works. They will generally be required to complete their on-site installation and any associated works within a 6-month period from arrival at the site and Council may require a bond or bank guarantee.*

*A **BASIX Certificate** is NOT required as it is not within the definition of a 'building' under the EP&A Act.*

*If the land is bushfire prone land, additional assessment of bushfire risk and building construction may be required.*

### Objective(s)

- O1. To ensure second-hand dwellings are safe for occupation and use prior to their delivery to the site.
- O2. To ensure that second-hand dwellings are located and/or designed to reduce their visual impact and integrate with the surrounding area character.

### Control(s)

- 1) **Other Controls:** The building location and design for the second-hand dwelling must comply with the other relevant controls in this DCP.
- 2) **Visible Locations:** In general, sites that have a frontage to an **arterial road** or a key public space or community facility must ensure that the second-hand building (once installed) will appear like a normal dwelling (i.e., a permanent structure) with enclosure of any footings, and good articulation and materials.
- 3) **Lodgement:** Applications for a second-hand dwelling must include:
  - a) A **Site Plan** showing the proposed location in accordance with the setbacks in the relevant section of this DCP;
  - b) A **Floor Plan** showing the existing/proposed room layout;
  - c) **Elevations** (as it is to be re-constructed);
  - d) A **Structural Report** prepared and/or certified by an accredited Structural Engineer certifying the structural soundness (including for travel) and design and certification of the footings;
  - e) A **Hazardous Building Material Survey** prepared and/or certified by an accredited Occupational Hygienist/ Asbestos Assessor certifying that there is no asbestos or other hazardous material or it has been removed;
  - f) Photographic evidence of the building (prior to its relocation to site) supported by a description of its condition prepared by a qualified consultant;
  - g) Evidence of how the building will be transported to the site and any permits to ensure safe passage of the dwelling in accordance with the relevant acts / legislation (e.g., *Roads Act*);
  - h) Evidence of proposed screening to obscure any elevated footings from public view, usually with a sub-floor 'curtain' around the base of the building.

## 6.6.5 Manufactured / Transportable Homes

### Objective(s)

O1. To meet statutory requirements for **manufactured / transportable home(s)**.

### Control(s)

- 1) **Approval:** The installation of a **manufactured or transportable home** (outside a **caravan park** or **manufactured housing estate**) requires:
  - a) Development consent for the residential use of the land; and
  - b) Approval(s) under *Section 68* of the *Local Government Act* for the placement of the dwelling and any connections to reticulated sewer and water. This includes plans and specifications as set out in *Clause 79* of the *Local Government Regulations*.
- 2) **Screening of Footings:** The application must include evidence of screening to obscure any elevated footings from public view, usually with a sub-floor 'curtain' around the base of the building.
- 3) **Other Controls:** The building location and design for **manufactured / transportable homes** must comply with the other relevant controls in this DCP.

*Under the Local Government Regulation 2005 - a 'relocatable home' is either a 'manufactured home' or any other 'moveable dwelling' (but does not include a tent, caravan or campervan or other moveable dwelling capable of being registered on the road).*

*This section does NOT apply to flat-pack / kit homes.*

*'Manufactured home' is defined in the Local Government Act as 'a self-contained dwelling (that is a dwelling that includes at least one kitchen, bathroom, bedroom and living area that also includes a toilet and laundry facilities)' that is built either in parts or as a whole off-site and then transported to site for installation. It and includes any associated structures that form part of the dwelling.*

*A construction certificate and/or occupation certificate is not required for the installation of the home.*

*A **BASIX Certificate** is NOT required as it is not within the definition of a '**building**' under the **EP&A Act**.*

*If the land is **bushfire prone land** then additional assessment of bush fire risk and building construction will be required.*

## 6.6.6 Exhibition Homes in Urban Residential Zones

### Objective(s)

O1. To minimise or mitigate any conflict that may arise from the development of exhibition homes in **urban residential zones** and/or areas.

### Control(s)

In addition to the relevant residential controls in this Chapter, development for the purpose of an exhibition home must comply with the following controls:

- 1) **Location:** Exhibition homes are only permitted in residential release areas in **urban residential zones**.
- 2) **Temporary:** Development consent will expire after twelve (12) months from the issue date of an **Occupation Certificate**. Twelve (12) month extensions to consent are considered on merit.

- 3) **Expiry:** Upon expiry of development consent the building shall revert to residential use.
- 4) **Parking:** Off-street car parking for a minimum of two vehicles shall be provided for exhibition homes. If the garage of the home is used as a sales office during its time as an exhibition home, two parking spaces are to be provided for on the driveway and signposted as such.
- 5) **Hours of Operations:** Exhibition homes can only be 'open for inspection' between 8am and 6pm daily.
- 6) **Signage:** One (1) advertising sign is permitted, which is to have a maximum area of 2 square metres.

### 6.6.7 Shipping Containers

#### Objective(s)

- O1. To minimise the visual impact of shipping container(s) and ensure that, where visible from the public domain, they are appropriately integrated into the built environment to appear as a shed.

*Shipping containers can have a significant visual impact & affect the character of an area, particularly in denser urban areas. Shipping containers are generally not accepted as a means of storage in **urban zones and/or areas** when other alternatives are available unless significant effort is made to reduce visual impact and/or make it appear like a standard shed.*

#### Control(s)

##### 1) Urban Zones and/or Areas:

- a) A lot or ownership holding contains no more than one stand-alone shipping container or, where multiple shipping containers are proposed, these are consolidated to appear as a single structure.
- b) Any shipping container is located behind the rear building line of the primary dwelling;
- c) Where visible from any public place, the shipping container is integrated into a shed structure, clad in shed materials, and/or painted to make it appear like a standard shed.
- d) Where located on land fronting a main (arterial) road, the shipping container is does not dominate views from the public domain.
- e) Where located within a **heritage conservation area** or on land containing a **heritage item** the shipping container does not dominate views from the public domain and does not visually detract from the heritage character of the site.

- 2) **Rural and/or Environmental Zone(s):** Unless there is a business on the land that moves goods by shipping containers, any shipping container(s) are well-setback from main roads, unobtrusive, suitably painted and/or their visual impact reduced through landscaping.

# Chapter 7:

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## Commercial, Community & Industrial Development (including Advertising/Signage)



## Table of Contents

<b>7.1</b>	<b>Introduction .....</b>	<b>4</b>
7.1.1	Application of this Chapter .....	4
7.1.2	Overarching Objectives .....	5
7.1.3	Other Relevant Chapters of this DCP.....	6
7.1.4	Exempt & Complying Development .....	6
<b>7.2</b>	<b>General Controls .....</b>	<b>7</b>
7.2.1	Site Analysis & Potential Land Use Conflicts .....	7
7.2.2	Open (Outdoor) Storage, Utility, Waste & Service Areas.....	7
7.2.3	Landscaping & Tree Protection .....	8
7.2.4	Fencing.....	10
7.2.5	Ancillary Dwelling(s) .....	11
<b>7.3</b>	<b>Industrial Uses .....</b>	<b>12</b>
7.3.1	Key Industrial Precincts .....	12
7.3.2	Building Setbacks.....	13
7.3.3	Building Height/Bulk & Site Coverage .....	17
7.3.4	Building Design, Facades, Materials & Colours .....	17
7.3.5	Non-Industrial Uses in the Industrial Zones .....	19
<b>7.4</b>	<b>Commercial &amp; Community Uses .....</b>	<b>20</b>
7.4.1	Key Business Precincts.....	20
7.4.2	Building Setbacks (General).....	21
7.4.3	Setbacks – Zone B2 Local Centre .....	22
7.4.4	Setbacks – Zone RU5 Village.....	23
7.4.5	Setbacks – Other Business Zones or Areas.....	23
7.4.6	Building Height, Bulk & Form .....	24
7.4.7	Building Design, Articulation & Facades.....	25
7.4.8	Structures over Public Footpaths/Roads (Awnings & Balconies) .....	27
7.4.9	Food Premises .....	28
<b>7.5</b>	<b>Advertising &amp; Signage .....</b>	<b>29</b>
7.5.1	General .....	30
7.5.2	SEPP No.64 – Advertising & Signage .....	30
7.5.3	Prohibited Signs.....	30
7.5.4	Location of Signage.....	30
7.5.5	General Controls for Advertising & Signage.....	31
7.5.6	Types of Signage .....	33

## Document Control for Drafting Only

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*Title Page: The picture on the title page is of car parking at the Lithgow Woolworths*  
(Source: [https://www.airbnb.com.au/things-to-do/places/426529?s=51&set\\_bev\\_on\\_new\\_domain=1565314992\\_mGdoAl7whHs18vGo](https://www.airbnb.com.au/things-to-do/places/426529?s=51&set_bev_on_new_domain=1565314992_mGdoAl7whHs18vGo).)

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## 7.1 Introduction

### 7.1.1 Application of this Chapter

This Chapter applies to a broad range of commercial, industrial or community uses including, but not limited to the following (with relevant DCP Section noted):

- a) *Section 7.3: industries* (or industrial uses);
- b) *Section 7.4: commercial premises and community uses*;
- c) *Section 7.5: tourist development in rural and/or environmental zones* including **tourist and visitor accommodation** and other tourism facilities;
- d) *Section 7.6: Advertising & signage requirements for ALL relevant development*;
- e) A mix of other uses such as *Section 7.7 Temporary Use of Land & Markets/Events*; *Section 7.8 Animal Boarding & Training Establishments* and *Section 7.9 Mining & Extractive Industries*; or
- f) **Mixed-use development** including a mix of commercial, community, industrial and/or residential uses (noting residential controls are in DCP *Chapter 6 Residential Development* including *Section 6.7.6 Shop Top Housing/Mixed Use Developments*); and
- g) Alterations, additions and extensions to those uses; or
- h) Broadly to other developments that are similar to community, commercial or industrial uses but outside the formal definitions where the other Chapters of this DCP do not clearly apply or the proposed land use is not specifically covered.

This may include uses outside the **commercial premises** group term such as:

- amusement centres, entertainment facilities, function centres & registered clubs;
- highway service centres, service stations, restricted premises;
- industrial retail outlets, veterinary hospitals, wholesale supplies;
- home businesses, & tourist & visitor accommodation.

This may include uses outside the industrial premises group term such as:

- home industry;
- vehicle repair stations, vehicle body repair workshops & boat building & repair facilities;
- storage premises, depots, warehouse or distributions centres, local distribution centres.

#### **COMMERCIAL PREMISES**

**Commercial premises** is a group term that includes **business premises, office premises and retail premises**. Please see **LLEP2014** for the definitions and sub-terms within these definitions.

#### **INDUSTRIES**

**Industries** is a group term that includes **general industry, heavy industry and light industry**. Please see **LLEP2014** for the definitions and sub-terms within these definitions.

#### **COMMUNITY USES**

For the purpose of this DCP, other community uses where these controls may apply (where relevant) include (See **LLEP2014** for more detailed definitions of these land uses / activities):

- a) **Educational establishments** (e.g., schools, colleges etc.);
- b) **Health service facilities** (e.g., hospitals, medical centres, health consulting rooms etc.);
- c) **Community facilities;**
- d) **Other community infrastructure** (e.g., child care centres; emergency services facilities; industrial training facilities; places of public worship; public administration buildings; etc.)

#### **TOURIST & VISITOR ACCOMMODATION**

This Chapter covers **Tourist & Visitor Accommodation** in **urban areas**. However, please see DCP Chapter 8 – Rural & Other Land Uses for these uses in **rural and/or environmental zones**.

**Tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers' accommodation, (b) bed and breakfast accommodation, (c) farm stay accommodation, (d) hotel or motel accommodation, (e) serviced apartments,

but does not include (f) camping grounds, or (g) caravan parks, or (h) eco-tourist facilities.

#### **MIXED USE DEVELOPMENTS**

**Mixed use development** means a building or place comprising 2 or more different land uses. It may include a mix of commercial, community, industrial and/or residential uses. Where residential uses are included in a mixed-use building some controls from Chapter 6 - Residential Accommodation may also apply.

### **7.1.2 Overarching Objectives**

The objectives for this Chapter are to encourage development and expansion of business, employment and community activities in appropriate locations that:

- 1) Contribute to economic growth and employment opportunities within the **LGA**;
- 2) Capitalise on existing development and maximise the efficient use of public infrastructure;
- 3) Respond to, reinforce and sensitively relate to the spatial and environmental characteristics of the surrounding urban environment;
- 4) Demonstrate good site planning, layout, functionality and amenity for users;
- 5) Conserve and enhance the historic, architectural and aesthetic character of urban areas (particularly in relation to heritage items and heritage conservation areas);
- 6) Reinforce, complement and enhance the desirable visual character of the street;
- 7) Integrate with and transition to neighbouring zones/lots/buildings; and
- 8) Preserve neighbourhood amenity and safety.

### 7.1.3 Other Relevant Chapters of this DCP

Please remember that this Chapter of the DCP is unlikely to contain ALL of the relevant controls for your development. Please see *Chapter 1 – Introduction* to review the Section on *How to Use this DCP* including the *Structure of the DCP* (see table below) to determine what other Chapters may be relevant to your development.

**IF YOU ARE UNSURE, PLEASE DISCUSS THIS WITH COUNCIL STAFF PRIOR TO LODGING YOUR APPLICATION.**

We also recommend that you seek a **Planning Certificate** from Council that will detail most of the significant known constraints or affectations on the property as different Chapters/Sections of this DCP are relevant where these affectations exist.

**The DCP has the following Chapters:**

<b>Chapter 1:</b>	Introduction & Administration
<b>Chapter 2:</b>	Site Requirements
<b>Chapter 3:</b>	Natural Environment & Hazards
<b>Chapter 4:</b>	Heritage & Cultural Conservation
<b>Chapter 5:</b>	Subdivision & Roads
<b>Chapter 6:</b>	Residential Development
<b>Chapter 7</b>	Commercial, Community & Industrial Development (including Advertising/ Signage for all relevant land uses) <b>(THIS CHAPTER)</b>
<b>Chapter 8:</b>	Rural & Other Land Uses
<b>Chapter 9:</b>	Location Specific Controls

### 7.1.4 Exempt & Complying Development

Please note that [State Environment Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#) may permit certain development set out in that policy without requiring a **development application** to Council if it complies with the requirements of the **Codes SEPP**. Please discuss this with Council or visit the [NSW Government Planning Portal](#).

## 7.2 General Controls

### 7.2.1 Site Analysis & Potential Land Use Conflicts

*Site analysis is essential in order to understand the site and its context. Site analysis and good site planning should be undertaken **before** the design of any development/building(s).*

*For development covered by this chapter, it is important to encourage this development in areas where they have the least conflicts with existing sensitive uses and greatest potential for expansion so that these uses can grow without significant constraint to the benefit of the local economy and employment whilst protecting residential amenity.*

Any **development application** covered by this chapter demonstrates that the proposal:

- a) Complies with the **Site Analysis** requirements in DCP *Chapter 2 – Site Requirements* (including any other relevant chapters in this DCP & the **DA Guide**); and
- b) Has responded to the **Site Analysis** to produce a high-quality design that minimises the potential for land use conflict and integrates with the surrounding site context.

### 7.2.2 Open (Outdoor) Storage, Utility, Waste & Service Areas

#### **Objective(s)**

To ensure that open (outdoor) storage, utility, waste and service areas (storage areas):

- O1. Are appropriately located, designed and screened (with fencing and/or landscaping) to minimise the visual impact of these areas from key public areas and streets;
- O2. Avoid or minimise/mitigate environment impacts and impacts on the amenity of neighbouring sites.

#### **Control(s)**

##### 1) **Location & Screening:**

- a) Open (outdoor) storage areas and associated screening are identified on the **Site Plan(s)** for the development and may require **Elevation(s)** to show screening height, materials & transparency (particularly when visible from a public street);
- b) Open storage areas are located behind the building line to any street frontage (preferably behind the building) and/or screened from view from the street (*see diagram below*).

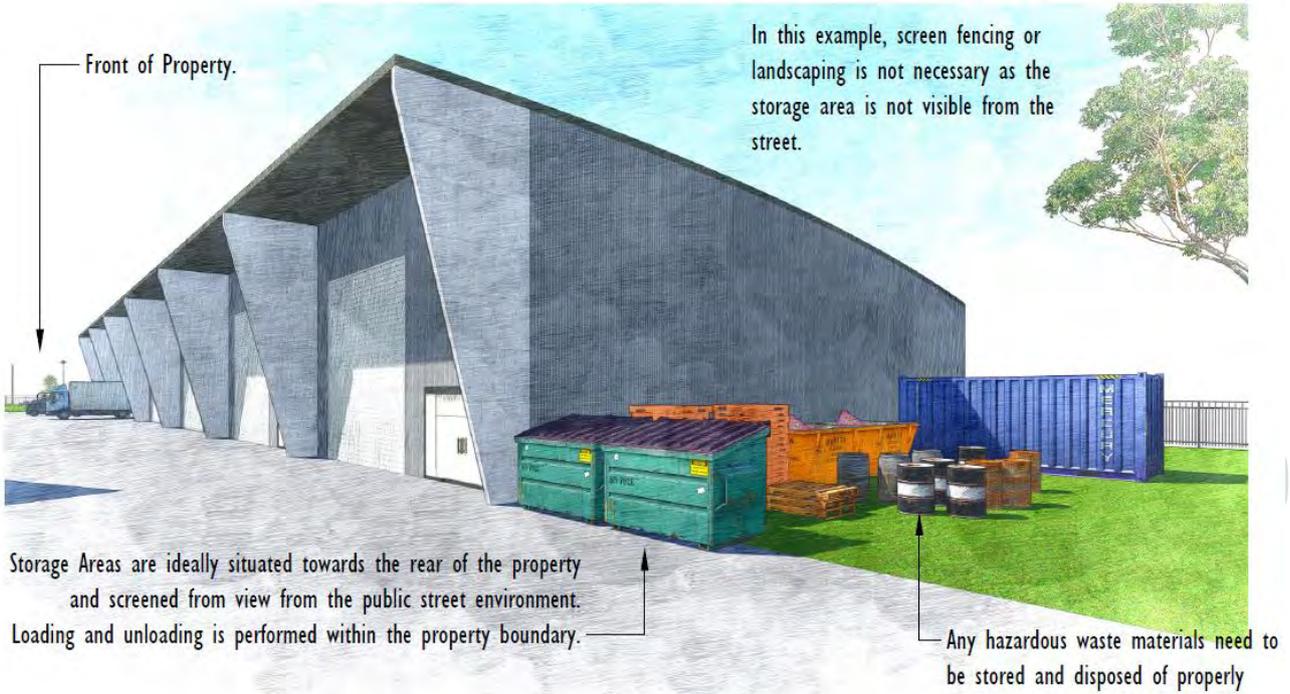
##### 2) **Screening/Fencing:**

- a) Screening is compatible with the design of the building and integrated with the site landscaping and fencing.
- b) Screening that forms part of, or is immediately adjacent to boundaries/fencing complies with the *Fencing* controls in this DCP.

##### 3) **Landscaping:** Landscaping is not used as the primary or only method for screening, unless it is well established or the applicant can demonstrate that the storage area will be effectively screened using advanced plantings in conjunction with fencing, and other screening devices.

##### 4) **Hazardous Materials:** The storage of hazardous goods, materials or wastes does not occur in areas that adjoin residential or other sensitive land-uses, unless screened from view and there are suitable protections to avoid impacts on adjoining sites.

- 5) **Dust:** Open storage areas minimise dust impacts on neighbouring properties with ground surface treatment to minimise dust emissions from vehicle movements.
- 6) **Loading/Unloading:** Sufficient space is provided on-site for the safe loading and unloading of wastes. This activity is not to be undertaken on any public place or street.



Indicative screening of storage and service areas for industrial or commercial development (Source: Dean Steward).

### 7.2.3 Landscaping & Tree Protection

Landscape should be considered as part of site planning and design development and integrated with built form because it contributes strongly to amenity, character and environmental outcomes.

Please see DCP Chapter 3 – Natural Environment & Hazards when considering clearing of vegetation on a site or considering the impact of natural hazards on a development that may be modified by existing or additional landscape.

This Section sets out objectives that apply to all development types in this DCP and may require a **Landscape Plan** to demonstrate how the development achieves those objectives.

#### Objective(s)

- O1. **Retention:** To encourage the retention of trees and other significant vegetation and integration of these features into the design of buildings and open spaces, particularly where vegetation is outside the proposed building footprint and is of ecological, aesthetic or cultural significance.
- O2. **Context:** To provide landscaping that responds to the context and character of the area, the land use zone, view lines and land-marks, any existing street or locality planting scheme, the local climate, and the site characteristics.
- O3. **Amenity:** To integrate landscaping with site and building design so it enhances amenity, privacy, screening and solar access/shading (as required) outcomes for the site and adjoining sites and responds to the layout and scale of the proposed built form.

04. **Arterial Roads:** To ensure development fronting an **arterial road** (especially highways and regional roads) is suitably landscaped to soften the visual impact of development when viewed from these key transport routes.
05. **Screening:** To use landscaping to soften the visual impact of larger buildings, large hardstand / car parking areas, or screen service and storage areas from public view.
06. **Safety:** To consider how landscaping is integrated with built form to address principles in DCP *Section 2.7 – Designing for Crime Prevention*.
07. **Stormwater:** To minimise stormwater run-off and hard paved areas and maximise water infiltration and **deep soil** landscaped area in accordance with *Stormwater Management* controls in this DCP.
08. **Bushfire:** To manage landscaping so that it enhances environmental connectivity but does not increase the bush fire risk to properties.
09. **Stability:** To use landscape to stabilise steeper slopes, earth mounds, and areas with erosion potential.
010. **Suitability:** To encourage landscaping and species selection that is native and non-invasive, low-maintenance, robust, suited to local soil and climatic conditions, and minimises water consumption.
011. **Longevity:** To ensure that development considers the long-term protection, maintenance, irrigation, and longevity of landscape to maximise chances of achieving the original design outcomes.
012. **Utilities:** To avoid planting locations and species that may impact on underground or above-ground utilities or buildings, including but not limited to: excavation, root penetration, water damage or ground-heave from irrigation or moisture levels, mature-height of species interfering with overhead power-lines, etc.
013. **Fencing:** To integrate fencing with landscape design.
014. **Biodiversity:** To consider how retention and enhancement of landscape can address the biodiversity policies of the NSW Government and Council and encourage sustainable development.
015. **Temperature:** To utilise landscaping to mitigate the increases in temperature associated with solar absorption into buildings and hard surfaces, particularly in denser urban areas.

### **Control(s)**

- 1) **Plan(s):** Where required by Council's **DA Guide**, the application is accompanied by a **Landscape (Concept) Plan** (or a **Site Plan** for simpler applications) that addresses the *Landscaping* requirements in this Section of the DCP.
- 2) **Industrial uses:** The following minimum areas of a development site are to be landscaped for industrial uses (See diagram in DCP *Section 7.3.3 – Setbacks* for examples):
  - a) A two (2) metre deep landscaping strip located along the entire frontage to a public street (not a rear lane) excluding vehicle and pedestrian access points;
  - b) A two (2) metre deep landscaping strip located along the entire side or rear boundary of any industrial site where the adjoining property is used for a residential purpose or is in a residential zone;

- c) Large car-parking areas exceeding ten (10) car park spaces include landscaping to soften the visual impact, break up large hard-stand areas, and provide shade;
  - d) The perimeter of any approved open (outdoor) storage areas that is not otherwise screened from public view (consistent with DCP *Section 7.2.2* above);
  - e) All exposed areas such as cut scars, fill batters and retaining walls are stabilised, vegetated and integrated within the landscape design.
- 3) **Commercial & Community Uses:** The following areas of a development site are to be landscaped for commercial & community uses:
- a) Side and rear setbacks, where adjoining a residential use or zone;
  - b) Areas adjacent to building entrances and pedestrian access points (except where no building setback to street);
  - c) The perimeter of all approved open (outdoor) storage areas to screen from public view (consistent with DCP *Section 7.2.2* above);
  - d) Except where space is extremely limited, all new off-street parking areas (exceeding ten (10) car park spaces) incorporate landscaping bays (2.0m by 5.5m) at an interval of every sixth parking space;
  - e) All exposed areas such as cut scars, fill batters and retaining walls are vegetated and integrated within the landscaping design.
- 4) **Protection:** All landscaped areas are to be separated from vehicle manoeuvring and parking areas by the use of a 150mm high fixed barrier or kerb detailed on the **Landscaping Plan**.
- 5) **Street Trees:** All commercial, community & industrial development in an urban area provides street tree planting (shown on the **Landscape Plan**) that:
- a) Is consistent with any existing or approved theme/species in the immediate locality;
  - b) Is compatible with any public infrastructure;
  - c) Will not interfere with the safety of motorists; and/or
  - d) As conditioned/required by Council as part of the approval.

#### 7.2.4 Fencing

*Some fences MAY be EXEMPT or COMPLYING Development. See State Environmental Planning Policy (Exempt and Complying Codes) 2008 (Code SEPP) for more details. Otherwise, a **development application** is required.*

*As fences are not to be placed on neighbouring land or public road reserves Council may require a **Survey Plan** to identify the boundary or verification by a registered Surveyor of the location of the fence in relation to a boundary.*

#### **Objective(s)**

Fencing is located and designed:

- O1. To be consistent with the existing (or desired future) character of the relevant land use zone and street, taking into account the prevailing fence types, solidity, and heights in the locality;
- O2. If it is on, or in proximity to, a **heritage item** or in a **heritage conservation area**, to address any additional relevant requirements in DCP *Chapter 4 Heritage & Cultural Conservation*;

- O3. To meet the security and privacy needs of a development and its staff and customers whilst avoiding fencing that dominates the street or impacts significantly on casual surveillance to/from the street from building(s) on the lot;
- O4. To ensure fencing provides adequate sight-lines for vehicle and pedestrian safety;
- O5. To promote pedestrian activation of key retail streets by avoiding or minimising fencing forward of the building line in Zone B2 Local Centre or Zone B4 Mixed Use.

### Control(s)

- 1) **Application:** All applications where new or altered fencing is proposed (that is not exempt development) provide details of fencing location, height and materials including **Site Plan(s)** and relevant **Elevation(s)**.
- 2) **Code SEPP:** All fencing associated with commercial, community or industrial uses complies with the requirements of the Code SEPP and address any potential impact(s). Where a variation is sought, then the proposed fencing addresses DCP *Section 1.6 Variations to DCP Controls* including the objectives of this Section.
- 3) **Security Fencing:**
  - a) Is not an electric fence and does not incorporate barbed wire due to the visual appearance and safety issues of these fence types; and
  - b) Is located behind or integrated into any landscaped area so it is partially screened from the street.
- 4) **Sight Distances:** Fencing preserves safe sight distances for all vehicle entry and exit locations, including those on adjoining properties, especially on corner lots.
- 5) **Reflectivity:** If fencing (other than for front fences) is constructed of metal panels, it is of low reflectivity, factory pre-coloured materials or galvanised iron.
- 6) **Surface Water:** Fencing does not redirect the flow of surface stormwater or floodwaters onto an adjoining property.
- 7) **Flood Prone Land:** If the land is affected by flood related development controls (see *Chapter 3 – Natural Environment & Hazards*) the fence types are designed to allow flood conveyance and avoid modifying flood patterns or increasing flooding on adjacent properties.
- 8) **Landscaping:** Long fenced areas fronting public streets or internal driveways are softened with landscaping by setting back parts or all of the fence-line to allow for planting on the subject lot so the fence is partially screened from the street.

### 7.2.5 Ancillary Dwelling(s)

No manager's or security residence (ancillary to a commercial, community or industrial development) forms part of the application unless:

- a) The residential use is also permitted in that zone; and
- b) In **rural and/or environmental zones** it is also permitted under *Clause 4.2A of LLEP2014*.

## 7.3 Industrial Uses

### 7.3.1 Key Industrial Precincts

#### Objective(s)

In addition to the objectives in DCP *Section 7.1.2-Overarching Objectives* (above) and the objectives for each control (below), the objectives for this Section (*Industrial Uses*) are:

- To reinforce the industrial precincts of Lithgow, Wallerawang, Portland and Marrangaroo as the focus of industrial activity and associated development (outside mining areas);
- To avoid or minimise/mitigate any potential land use conflict(s) with neighbouring land use(s) taking into account the objective(s) of the relevant land use zone, proximity to sensitive land use(s), and accepted level of impacts from any existing industrial area;
- To not unduly restrict industrial building siting, forms or site layout, except where its is likely to result in unreasonable environmental impacts, visual impact from key public places or roads, or significantly impact the character of the locality;
- To manage other industrial uses in **rural and/or environmental zones** outside industrial precincts.

#### Control(s)

Any development is consistent with:

- The objectives of the relevant land use zone in **LLEP2014** and objectives of this Chapter; and
- The key industrial precinct 'character' statements below.

**LLEP2014** has several industrial and related infrastructure zones as shown on the Land Zoning Maps (as at the date of drafting this DCP):

- Zone IN1 General Industrial:** This zone seeks to provide the greatest flexibility for a range of industrial uses and impacts. There are currently Zone IN1 areas to the north of Marrangaroo (North), Lidsdale/Wallerawang, and Littleton and Corney Town (Lithgow). Generally, these areas have some buffers from sensitive uses so they can operate with less restrictions than Zone IN2.
- Zone IN2 Light Industrial:** This zone seeks to provide land for a wide range of light industrial, warehouse and related uses that generally have a lower impact that is expected to be managed within each Site or industrial precinct so this zone can integrate into urban areas.
- Zone IN3 Heavy Industrial:** This is a zone for the highest impact industrial uses. There is only one (1) zoned area near Lidsdale/Wallerawang. It is well separated from other urban/sensitive land uses.
- Zone SP2 Infrastructure:** This zone has specific uses nominated for each Zone SP2 area that may include electricity generating works, defence, waste or resource management facility, rail infrastructure facility etc. Development is limited to the permitted use and any ancillary activities. Some of these are 'industrial' in their nature but are likely to be addressed under SEPP (Infrastructure) 2008.

In addition to the industrial zones, some smaller, low-impact industries may be permitted in a wider range of business, residential, and rural and/or environmental zones. Where this occurs, Council may consider the character and setback controls for those surrounding uses as relevant to the commercial or community use in that precinct where land use conflict(s) can be addressed.

## 7.3.2 Building Setbacks

### Objective(s)

O1. Building setbacks aim:

- a) To avoid or minimise/mitigate land use conflict(s) with sensitive uses(s) in close proximity to the site;
- b) To minimise the visual impact of larger buildings fronting public spaces or neighbouring residential dwellings or zones;
- c) To provide areas for landscaping as buffers to sensitive neighbouring lots and public spaces;
- d) To provide areas for vehicle parking, loading/unloading and manoeuvring/turning areas whilst minimising the impact of large parking areas on street character/activity;
- e) To provide areas for open/outdoor storage or ancillary activities that are suitably screened;
- f) To allow stormwater management and water infiltration into the soil;
- g) To avoid and/or minimise impacts on sensitive areas of natural environment or hazards.

### Control(s)

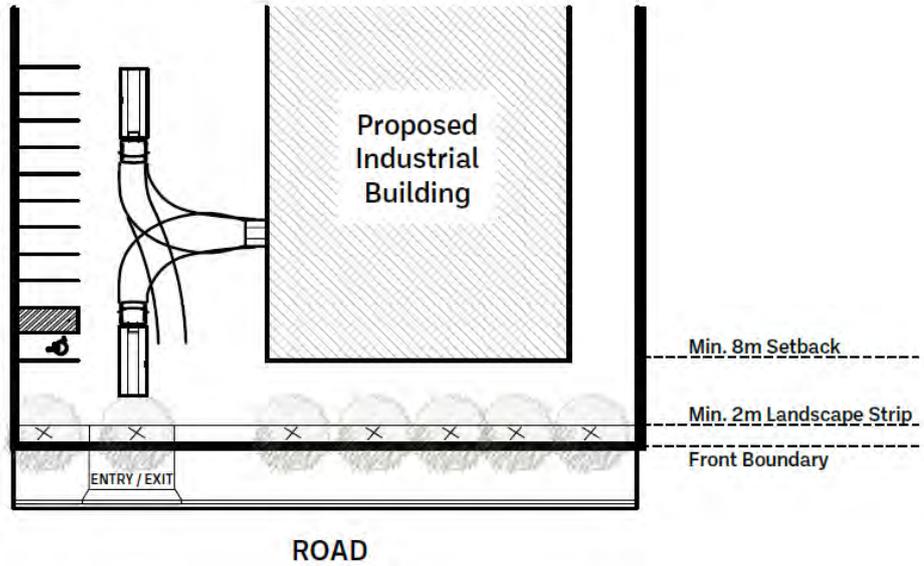
#### 1) Front Setbacks:

- a) Front setback areas in Zone IN2 (and Zone IN1 areas adjacent to residential areas) are a minimum of 8m, incorporating a minimum 2 metre landscaping strip (*see diagram below*).
- b) In Zone IN1 & IN2, new developments on sites that have a corner frontage also provide a 4-metre setback to the secondary frontage, incorporating a minimum 2 metre landscaping strip (*see diagram below*).
- c) Setbacks to primary and/or secondary streets are larger than the minimum where this area is used for vehicle movements and/or on-site car parking providing clearly visible car parking for smaller vehicles (e.g., staff and customers).

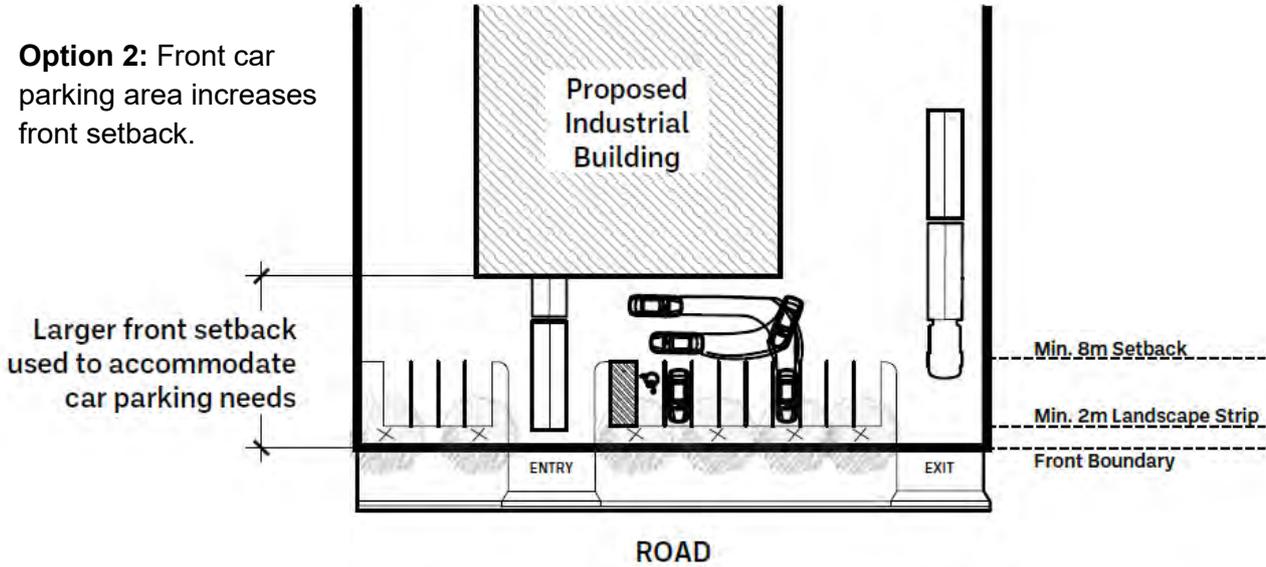
#### 2) Side and Rear Setbacks in Zone IN2:

- a) Industrial buildings are setback minimum 3 metres from side and rear property boundaries.
- b) Where the adjoining property is used for a residential purpose or is in a residential zone, the side and rear setback are minimum 6 metres, incorporating a minimum 2 metre landscaping strip (*see diagram below*).
- c) Zero or reduced side and rear setbacks will only be permitted subject to compliance with the *National Construction Code* and additional evidence addressing *DCP Clause 1.5 Variation to DCP Controls* to ensure any impacts are deemed acceptable in relation to adjoining or adjacent properties.

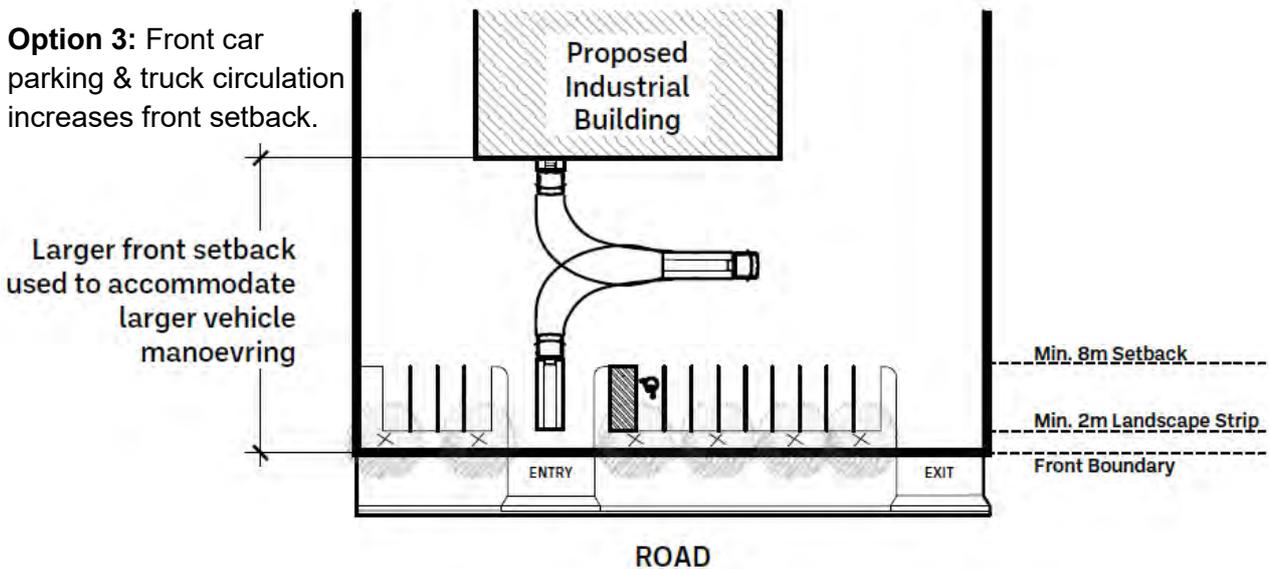
**Option 1:** Building to minimum Setback



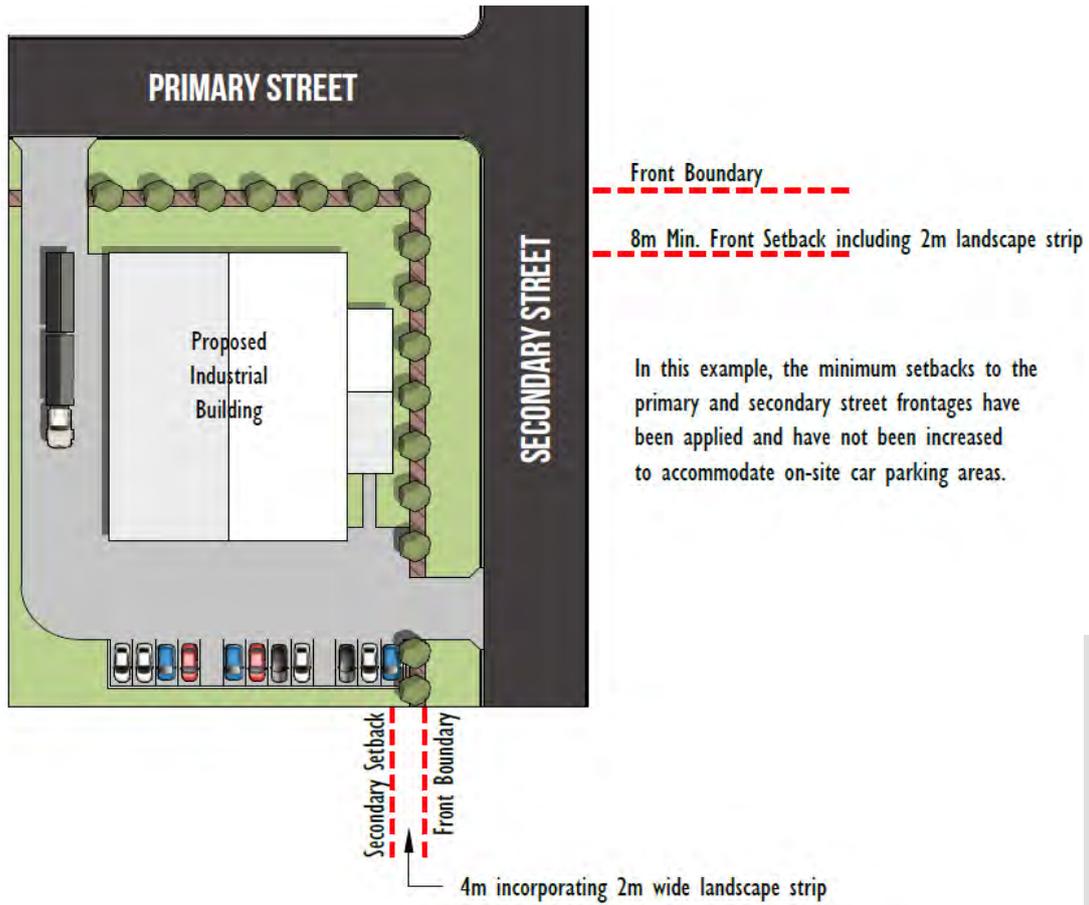
**Option 2:** Front car parking area increases front setback.



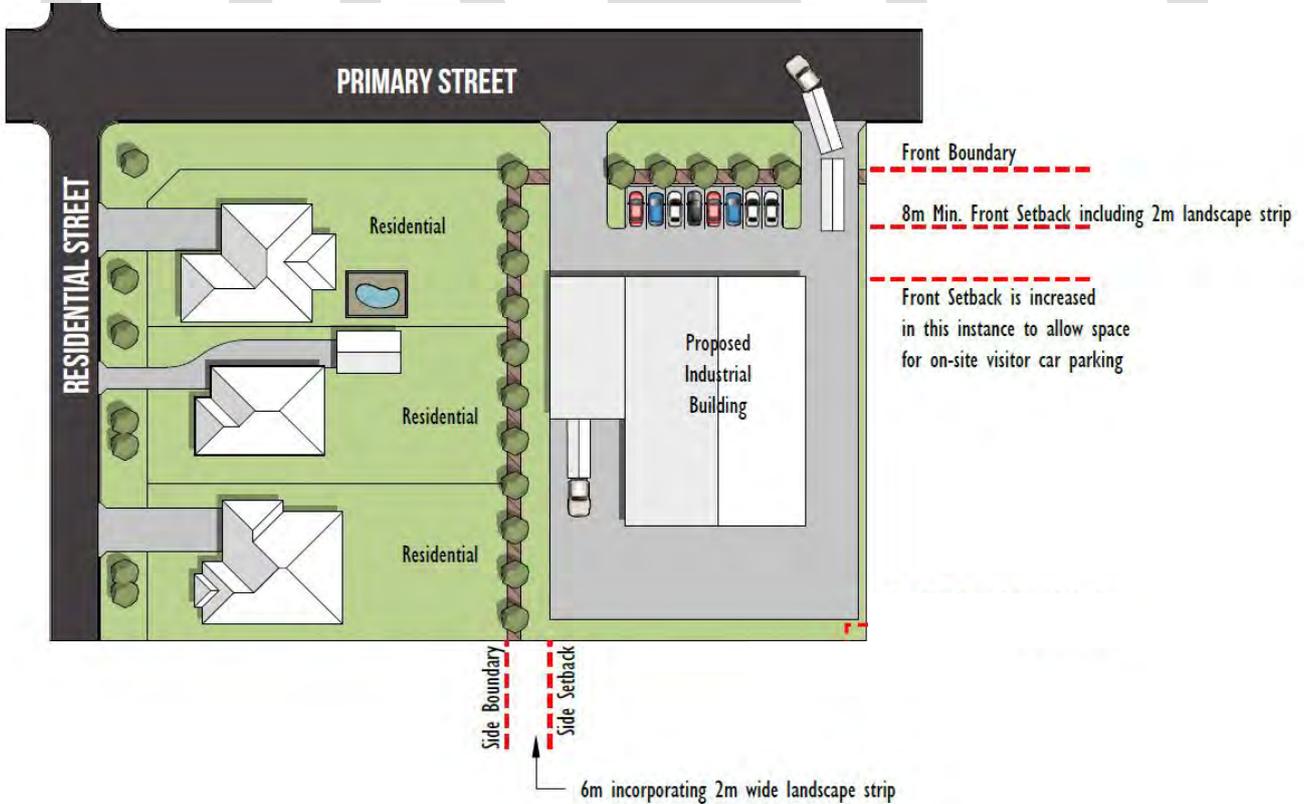
**Option 3:** Front car parking & truck circulation increases front setback.



Front setback scenarios illustrating the controls in this Section (Source: Dean Steward).



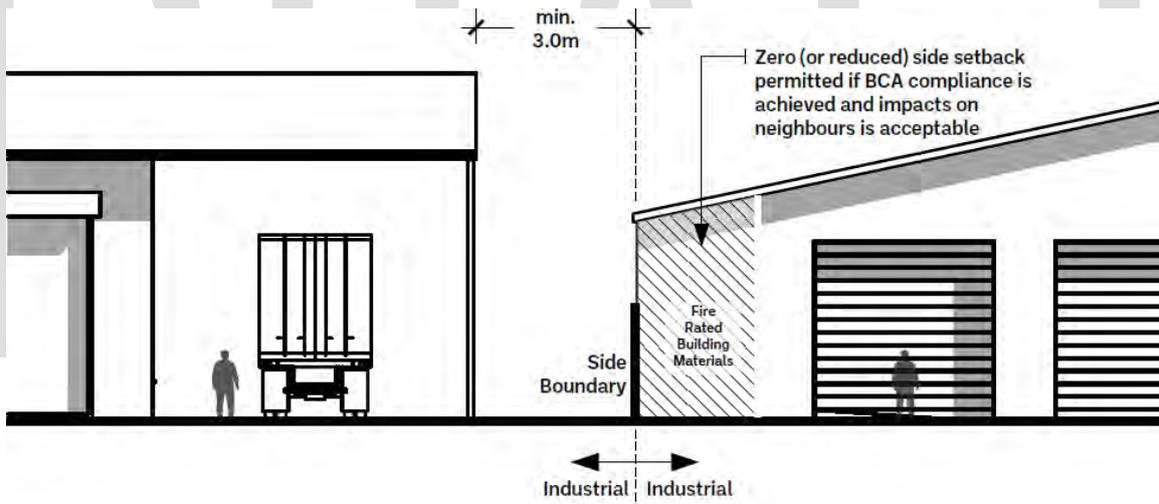
Indicative layout for an industrial building on a corner lot (Source: Dean Steward).



Indicative layout for an industrial building adjacent to dwellings (Source: Dean Steward).



Indicative section of industrial building adjacent to dwelling (Source: Dean Steward).



Indicative section of possible side setbacks for industrial buildings adjacent to other industrial or commercial buildings (Source: Dean Steward).

- 3) **Setback Other Zones:** Side and rear setbacks in zones other than Zone IN2 take into account the character and amenity of the surrounding area as well as the proposed activity and its efficient layout.
- 4) **Additional Setbacks:** Development demonstrates sufficient setbacks and/or buffers to:
  - a) Sensitive uses in accordance with DCP Chapter 2 – Site Requirements, particularly Amenity / Buffers to Sensitive Uses;
  - b) Sensitive natural environmental areas or hazards in accordance with DCP Chapter 3 – Natural Environment & Hazards (where relevant); and/or
  - c) Nearby heritage items or contributory items in heritage conservation areas in accordance with DCP Chapter 4 – Heritage & Cultural Conservation.

### 7.3.3 Building Height/Bulk & Site Coverage

#### Objective(s)

O1. Building height/bulk and site coverage aims:

- a) To respond to site topography and environmental constraints and hazards;
- b) To integrate with the existing/desired height, scale and street character for the relevant land use zone, locality, and surrounding development;
- c) To reduce the visual impact of development upon sensitive streetscapes and visibility of the site from key vantage points in the public domain;
- d) To be sympathetic to heritage buildings, heritage conservation areas and/or historic view lines (where applicable);
- e) To be sympathetic and (if relevant), provide a transition in height and scale, to adjacent land use zones / different building types; and
- f) To minimise impacts on amenity including, but not limited to, disruption of views, loss of privacy and loss of solar access to adjoining sensitive development, particularly key public spaces, open space or adjacent dwellings.

#### Control(s)

- 1) **Transition in Zone IN2:** The height of any building in Zone IN2 adjacent to another zone provides a transition down to the adjacent building height(s) or is sufficiently setback from side boundaries to minimise significant impacts on adjacent uses.
- 2) **Solar Access:** Any proposed development maintains a minimum of 3 hours solar access to adjoining sensitive development, particularly key public spaces, open space or the living and private open space areas of adjoining and adjacent dwellings between the hours of 9:00am and 3:00pm on 21 June (winter solstice).
- 3) **Site Coverage:** The site coverage of any industrial building and its associated areas impenetrable to water (hardscape) does not exceed 80% of any site area and addresses on-site management of stormwater in accordance with DCP *Chapter 2 – Site Requirements*.

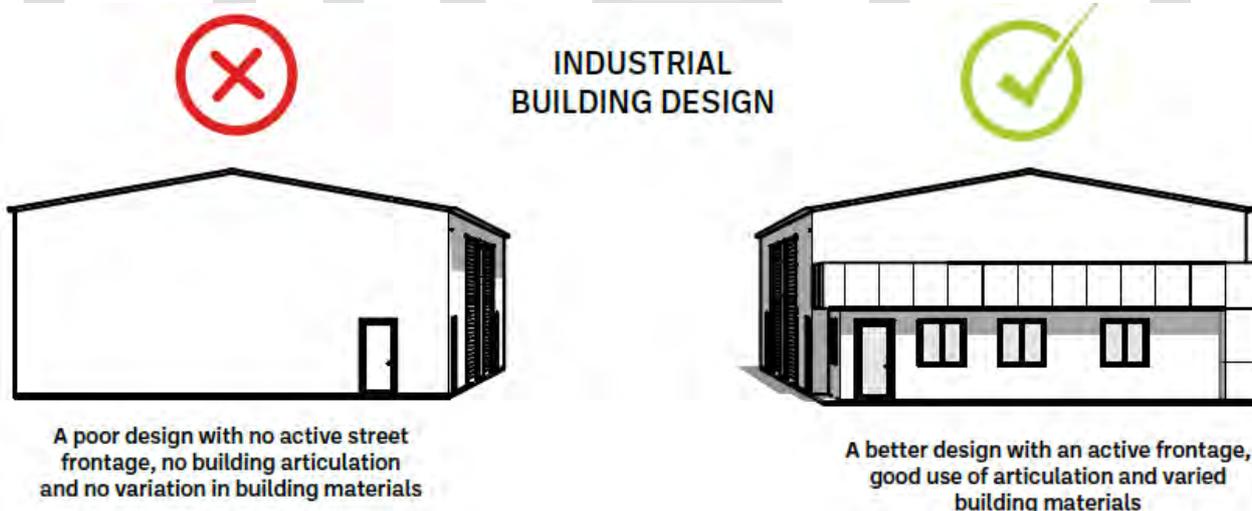
### 7.3.4 Building Design, Facades, Materials & Colours

#### Objective(s)

- O1. To encourage high quality, well-articulated, and sympathetic industrial building layout, design & facades that are functional and efficient but also add to and enhance the public domain and street character, identity & safety.
- O2. To ensure that development located on sites having a boundary to or visibility from an **arterial road** demonstrate a higher standard of presentation, building articulation, and integration with the surrounding character than sites located away from these sensitive areas.
- O3. To ensure that materials and colours are used to reduce the visual impact of buildings and integrate with the surrounding built form and street character.

#### Control(s)

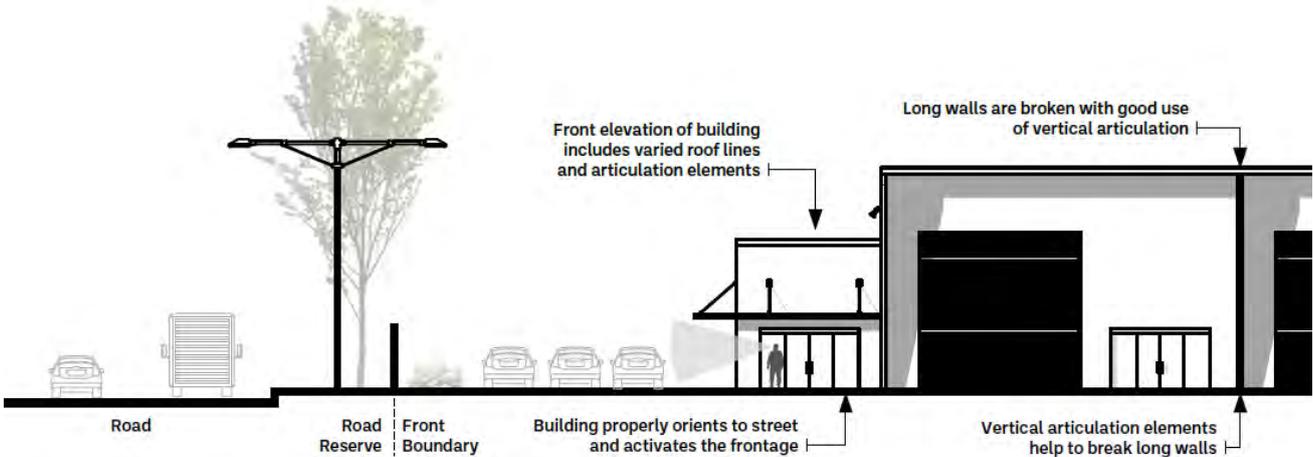
- 1) **Front Façade:** Office components, showrooms, amenities and other low-scale building elements: where applicable (*see diagrams below for examples*):
  - a) Are located at the **primary street frontage** of any industrial building/structure; and
  - b) Provide articulation including (but not limited to) windows, openings and pedestrian entrances to the primary street façade to break up the façade; and
  - c) Are not the dominant use of the building/site (they are ancillary to the industrial activity), AND is either:
    - d) Architecturally differentiated from the main industrial building (in scale, roof line, materials and finishes) to break up the front façade; and/or
    - e) If integrated or internal to the building, provide suitable articulation to break up the front façade (*see following control*).
  
- 2) **Articulation/Variation:** Long blank walls and unbroken roof lines are avoided facing the street or key public spaces. Visual interest can be achieved by incorporating one or more of the following articulation techniques into the building elevations (*see diagram below for examples*):
  - a) Wall plane projection or recesses;
  - b) Windows, doors or other openings;
  - c) Distinctive parapets or variation of roof forms/height;
  - d) Vertical or horizontal features;
  - e) Material and colour changes.



*Poor & better front façade design for industrial buildings (Source: Dean Steward).*

- 3) **Reflectivity:** External materials (particularly metal clad roofs and walls or mirror glass) have low reflectivity if they are visible from a public road, public place or residential area, and/or where there is a reasonable probability of glare affecting driver safety or residential amenity.
  
- 4) **Colour:** All external building materials including roofing are of a neutral colour finish that integrates with the surrounding landscape and streetscape character and avoids high contrast, white or bright colours. Details of proposed colour schemes are to be submitted with the **development application**.

- 5) **Dominance:** Corporate colours, logos, or design features are incorporated into the overall colour scheme but are not the dominant feature. For example, bright logos/ colours are not used across the majority of the front façade or facades visible from the public road.



*Methods to articulate the façade of larger industrial/commercial buildings (Source: Dean Steward).*

**7.3.5 Non-Industrial Uses in the Industrial Zones**

**Objective(s)**

- O1. To ensure that other non-industrial land uses that are permitted in industrial zones:
- a) Protect industrial land predominantly for industrial uses;
  - b) Select sites that minimise conflict with the operations and/or permissible impacts of existing and likely future industrial uses in those industrial zones;
  - c) Support the workforce within those industrial areas with essential services/facilities;
  - d) Do not compete with or undermine the status, viability or retail functions of the business zones, particularly Zone B2 Local Centre, in the town centres of key settlements.

**Control(s)**

An application for a non-industrial use in an industrial zone addresses the following (where relevant):

- 1) The availability of alternative sites in other suitable zones that could support the activity and avoid or minimise take-up of industrial land;
- 2) Information about the type of non-industrial activity including, but not limited to:
  - a) Its accessibility/use by the broader public and its proximity to the town centre;
  - b) The floor area of each component of use, particularly the amount of retail within the activity and the nature of the goods offered for sale;
  - c) Demonstration that any retail activity is not the dominant use of the site (except where it involves permissible specialised retail that needs larger floor-plates and servicing areas or they are support services for the industrial workforce);
  - d) Employee numbers engaged in each component;
  - e) The sensitivity of the proposed use to likely impacts from nearby industrial activities.

## 7.4 Commercial & Community Uses

### Objective(s)

In addition to the objectives in DCP Section 7.1.2-Overarching Objectives (above), the objectives for this Section (*Commercial & Community Uses*) are:

- O1. To reinforce the status of the Central Business District (CBD) of Lithgow, Wallerawang and Portland as the focus of higher-level commercial and retail development.
- O2. To avoid or minimise/mitigate any potential land use conflict(s) with neighbouring land use(s) taking into account the land use zone objective(s) and proximity to sensitive land use(s) whilst facilitating employment and economic growth.
- O3. To integrate proposed development with the existing (and/or desired future) character and building form, siting and layout heights of the surrounding sites, street and locality whilst promoting innovation and function.
- O4. To support the hierarchy of commercial area(s) and ensure development is located where it supports (not undermines) the relevant commercial centres and main streets.
- O5. To encourage **active street frontages** on main streets in town and village centres, particularly at ground level, and promote pedestrian safety, amenity and character for business centres.
- O6. To encourage mixed-use buildings in most business zones or main streets where it does not significantly impact on retail and commercial functions.

*The controls in this Chapter are largely performance-oriented to allow for a broad range of commercial & community uses so no 'Objectives' are provided for each control.*

### 7.4.1 Key Business Precincts

Any development is consistent with:

- a) The objectives of the relevant land use zone in **LLEP2014** and objectives of this Chapter; and
- b) The key business precinct 'character' statements below.

**LLEP2014** has several identified zoned business zones as shown on the **Land Zoning Maps**:

- a) **Zone B2 Local Centre** applies to the 'Central Business District' (CBD) of Lithgow, Portland and Wallerawang. These areas are the focus for compact and walkable retail, office and business areas and supporting services. It is important to ensure other business zoned areas do not impact significantly on the viability of the town centre, particularly retail services. These areas often have historic/heritage character and subdivision patterns that is considered as part of any development and may limit larger floor-plate proposals.
- b) **Zone B4 Mixed Use** is generally used for mixed-use precincts outside the CBD or in 'satellite' large format retail areas that are intended to supplement key town centres (e.g., Portland/ Lithgow - Main St (west) & Lithgow Valley & Pottery Plaza retail developments). Council encourages future development of these areas for larger-format/footprint retail and commercial uses that do not undermine the Zone B2 CBD or main street area(s) and would not otherwise fit within historic town centre areas as well as a mix of appropriate well-designed medium density residential development.
- c) **Zone B1 Neighbourhood Centre** is generally used in Lithgow for retail, community & highway services along the Great Western Highway. These areas service the local needs of the surrounding residential areas and provide highway related services at a scale that would not significantly impact on town centre retail areas.

- d) **Zone B6 Enterprise Corridor** is generally used for business development along the eastern side of the Great Western Highway in Marrangaroo, though this area is transitioning as a new urban release area.
- e) **Zone B7 Business Park** is used in Lithgow for the historic industrial area including the Lithgow Arms Factory and other businesses along Martini Parade to Methven St. The aim is to encourage a range of light industrial, larger footprint buildings that do not compete with town centres and adaptively re-uses heritage items and buildings.
- f) **Zone RU5 Village** is used for the smaller village centres and is a multi-purpose zone permitting a wide variety of land uses – but generally at a lower scale and impact suited to the village character and to service those villages and surrounds. This includes Tarana, Rydal, Cullen Bullen & Capertee.

*In addition to the business zones, some smaller, low-impact businesses or community facilities may be permitted in a wider range of industrial and residential zones. Where this occurs, Council may consider the character and setback controls for those surrounding uses as relevant to the commercial or community use in that precinct.*

## 7.4.2 Building Setbacks (General)

*Setbacks define the relationship between a building and the surrounding public and private spaces. Consistent front setbacks can assist with creating a unified street character and defining the street edge. Setbacks also provide for separation/privacy between buildings, landscape and tree retention, open space and other associated structures.*

**Active street frontage** means building street frontage(s) at street level that provides direct and level entry, and openings to allow physical and visual access that encourage interaction between the inside of a building and the external areas adjoining the building, including footpaths, road reserves or public spaces. Active street frontages support pedestrian safety and amenity and provide an interface between the public and private domain. See Clause 7.9 & the Active Street Frontages Map in [LLEP2014](#).

- 1) **Road Frontages:** Setbacks to primary and secondary road frontages (not rear lanes):
  - a) Reinforce the desired area/street built-form pattern, setbacks, character and functions;
  - b) Match or average the front alignment of adjacent development/adjoining properties and/or the predominant street alignment;
  - c) Provide (where relevant) setbacks to enable appreciation of heritage items or view-lines to key built or landscape features for their protection and appreciation;
  - d) Minimise impacts on adjacent lots, particularly sensitive residential use(s);
  - e) Reinforce **active street frontages** for retail/commercial uses at ground level and minimise setbacks on primary retail streets and/or streets with a high level of pedestrian activity;
  - f) Provide servicing and parking area(s) whilst minimising the impact of large parking, utility, or storage areas on street character/activity or adjacent lots;
  - g) Promote accessibility for all users;
  - h) Encourage (where appropriate) outdoor dining areas and landscaped setbacks;
  - i) Provide adequate sight distances at entries/exits for vehicle and pedestrian safety, particularly on corner lots;
  - j) Allow stormwater management and water infiltration into the soil;
  - k) Avoid and/or minimise impacts on sensitive areas of natural environment or hazards.

- 2) **Rear Lanes:** If a lot has frontage to a rear lane then setbacks from the rear lane consider the following:
  - a) Adjacent building setbacks along that lane, particularly adjacent to or within 40m of the site;
  - b) The potential to service the lot from the rear lane (where suitable) whilst accommodating potential vehicle turning circles on-site or to provide through-site access; and
  - c) Sight-lines for safe access/egress and turning paths for the largest design vehicle to/from the rear lane.
- 3) **Side & Rear Setbacks:** Side and rear setbacks meet the **National Construction Code (NCC)** requirements and may depend on the fire rating of the building materials chosen and the adjacent development and the need for access to the rear of the lot.
- 4) **Additional Zone Setbacks:** In addition, where applicable, the site-specific areas/land use zones controls are addressed in the Sections below.

### 7.4.3 Setbacks – Zone B2 Local Centre

- 1) **Desired Character:** The desired character is for buildings in Central Business Districts (CBDs) to have consistent minimal setbacks to the primary (and secondary) streets (where possible):
  - a) To clearly define the street edge,
  - b) To provide **active street frontages**,
  - c) To provide good pedestrian amenity and weather protection, and
  - d) To limit impacts from car parking and services fronting the main retail street(s) consistent with the level of pedestrian activity along the street frontage.
- 2) **Primary Street Setbacks:**
  - a) New commercial and community buildings fronting any primary retail streets (especially those defined as '*Active Street Frontage*' on the **LLEP2014 Active Street Frontages Map**) generally have zero or limited street setbacks at ground level in the core business district to reinforce active street frontage and allow for continuous footpath awnings weather protection.
  - b) Possible exceptions to zero setbacks may be justified if a new commercial or community building is adjacent to:
    - i) A heritage item that has a greater setback to the street and sight-lines are maintained to this item (subject to heritage advice); or
    - ii) An adjacent building is setback from the street and the proposal would seek to provide the average of the adjacent setbacks.
  - c) Front setbacks are not to be used for the provision of on-site car parking unless it is adaptive re-use of an existing building and Council approves traffic access directly to the primary retail street.
  - d) Upper-level setbacks from the primary retail street frontage (generally above two to three storeys) may be required to ensure consistent street frontage height with adjacent building(s) and to reduce the visual impact of the proposed building.

- 3) **Side Setbacks:** New buildings fronting the primary retail street in the core of the CBD have zero side setbacks to the adjacent lots to reinforce a continuous retail precinct and allow for continuous awnings/weather protection (where it exists on adjacent properties).
- 4) **Rear Setbacks:** Rear setbacks incorporate servicing and off-street parking requirements with access from non-primary retail streets and lanes and the provision of some landscaping to reduce the visual impact of significant parking and service areas.

### 7.4.4 Setbacks – Zone RU5 Village

- 1) **Primary Street Setbacks:**
  - a) Front primary street setbacks generally be the average of the setbacks of buildings on adjacent lots within 40m of the lot boundaries and justified according to the existing street character and setback pattern and the functions of the buildings.
  - b) Views to heritage items and provision of front landscaping is considered where this forms part of the character of the village and streetscape.
- 2) **Side & Rear Setbacks:** Where there is an existing dwelling or community use on an adjacent lot, the applicant demonstrates how side setbacks avoid, minimise or mitigate impacts on that adjacent lot including, but not limited to, overshadowing from buildings higher than 6m, traffic, noise, dust, odour, visual and acoustic privacy, and large blank walls.

### 7.4.5 Setbacks – Other Business Zones or Areas

- 1) **Primary Street Setbacks:** The primary street setback will be dependent on access and off-street parking requirements for the proposed use. Setbacks should respond to and integrate with the setbacks of adjacent buildings (e.g., the average of adjacent setbacks). Council encourages buildings to reinforce primary streets by minimising setbacks and locating parking and servicing areas to secondary streets or rear setback areas.
- 2) **Side & Rear Setbacks:** Side and rear setbacks may be required where loading/unloading facilities and on-site storage need to be accommodated and appropriately screened from public spaces.

## 7.4.6 Building Height, Bulk & Form

*The form and massing of individual buildings, including height, bulk and scale, is a critical element in creating character and unity within a streetscape. To ensure new development is integrated within existing streetscapes and neighbourhoods, it is important to have sympathetic relationships between the form and massing of buildings and for development to be compatible with individual site conditions.*

- 1) **Height:** The maximum height of building from **ground level (existing)** is as follows:
  - a) In *Zone B1 Neighbourhood Centre* – 8.5m;
  - b) In *Zone B2 Local Centre & Zone B4 Mixed Use* – 10m.
- 2) **Site Response:** The applicant demonstrates how the proposed building height, bulk and form will:
  - a) Respond to the topography of the area and site characteristics.
  - b) Comply with DCP *Section 2.2.4 Visually Prominent Sites* and any relevant requirements in DCP *Chapter 4 – Heritage & Cultural Conservation*.
  - c) Integrate with the existing/desired scale and street character for the relevant land use zone and location using proportional elements that are sympathetic to the scale of other buildings in the area, particularly adjacent to or opposite the site;
  - d) Respond to or reinforce key corner sites and 'gateways' to each central business district or town centre (on key roads) or terminate key sight-lines in the public domain where the building will exhibit a high standard of design and articulation;
  - e) Maintain the dominant street frontage façade/wall height(s) to primary retail streets, retain a scale that does not dominate the street, and setback additional height behind this street wall height.
  - f) Be sympathetic to and provide a transition in height to adjacent existing buildings, and public spaces that are unlikely to increase in height;
  - g) Minimise or mitigate impacts on amenity (e.g., overshadowing/privacy) of:
    - i) Adjacent residential accommodation and private open spaces;
    - ii) Any sensitive community facilities, school yards, parks, churches etc.; and
    - iii) Key public spaces (particularly where they provide outdoor seating, dining, or recreation spaces).

### 7.4.7 Building Design, Articulation & Facades

*The design of building facades should relate to adjacent buildings and the streetscape character. Special consideration should be given to heritage buildings and development that adjoins them. Building design features and facades will change with time and changing functions of commercial buildings. New contemporary developments are not required to directly copy existing designs of historic buildings, but should integrate with the surrounding streetscape by incorporating significant design elements from neighbouring buildings which compliment it.*

- 1) **Context:** Development responds to its context and the predominant streetscape qualities including building form, scale and character as well as local cultural or natural elements. Particular regard is given to buildings, streetscapes and localities of identified heritage significance.
- 2) **Orientation:** Buildings orient to, and be well-articulated when viewed from adjacent streets, parks and other public spaces to contribute to the safety, vibrancy and amenity of public spaces and have openings (and preferably access) to/from these spaces.
- 3) **Articulation:** Building elevations (especially for larger buildings or those facing public spaces or vacant land) provide horizontal and vertical articulation/variations (as required) in:
  - a) Building or wall setbacks (including projections or recesses);
  - b) Roof lines;
  - c) Openings (doors and windows);
  - d) Balconies, terraces and shading/projecting elements; and
  - e) Building materials, finishes and colours and detailing,
 to provide visual interest, reduce the perceived bulk and scale of the building, align with adjacent building scale and articulation, and create a sense of 'human-scale' when viewed from the public domain.
- 4) **Blank Walls:** Large expansive blank walls are avoided unless the applicant can demonstrate: the wall would not dominate or affect the amenity of adjacent use(s) or public space (e.g., it abuts the wall of an adjacent (or future) building with limited or no openings).
- 5) **Active Frontages:** Large retail or commercial floor spaces not requiring continuous connection to the street (such as large supermarkets or **specialised retail premises**), are located and design so as to enable smaller retail or business floor spaces to face the street and activate the street frontage or additional articulation/openings are provided that reduces the impact of larger inactive frontage(s).
- 6) **Activation/Safety:** Activation of main streets in town/village centres and improved pedestrian safety is encouraged through:
  - a) Minimal building setbacks to the street;
  - b) Encouragement of awnings in key pedestrian areas for weather protection in accordance with DCP Section 7.4.8 below;
  - c) Windows/glazing areas to the street to encourage casual surveillance and active retail frontages with well-lit views into the shop-fronts;
  - d) Well-defined and lit entrances with good sight-lines for safety and security;

- e) Addressing DCP *Section 2.7 – Designing for Crime Prevention* principles including materials & finishes that are graffiti or vandalism resistant;
  - f) Security grilles are see-through and not solid type structures, discreet, and do not dominate the shopfront whilst providing sufficient security.
  - g) Vehicle parking and servicing areas and fire exits/service cupboards etc. **are** located to the side or rear of developments (where possible).
- 7) **Corner Sites:** New commercial or retail development on corner sites with limited setbacks incorporate splays, curves, building entries and/or other architectural elements to reinforce the corner as a landmark feature of the street and activate both street frontages, whilst maintaining sight-lines for safety.
- 8) **Roof Types:** Roof types reflect similar types, slope and features to adjacent buildings (of similar use) or demonstrate that different roof types integrate with the character of an area. For example, in town centres a strong parapet façade may hide flat or skillion roofs behind.
- 9) **Shopfronts:** Shopfronts incorporate regular entrances and vertical articulation (breaks in the massing/glass) that align with the rhythm of subdivision and street fronts in the area, particularly in heritage conservation areas or historic retail streets.
- 10) **Colour Schemes:**
- a) External building colours and materials are used to express building massing, articulation and detail elements.
  - b) Colour schemes of buildings **are** sympathetic to the period and style of the building and/or adjacent buildings and contribute positively to the streetscape.
  - c) Bright primary or iridescent colours, corporate colours, or use of a single colour are not acceptable on large areas of a building.
- 11) **Utilities:** The visual impact of all external infrastructure/services (including air conditioning units, plant rooms, ducting, solar panels etc.) is minimised when viewed from a public place or road and integrated into the landscape, façade and/or roof design.

## 7.4.8 Structures over Public Footpaths/Roads (Awnings & Balconies)

*The reinstatement of, or repairs to, original building structures over public footpaths is encouraged (where supported by heritage advice). Council may audit existing structures for structural safety.*

*Heritage advice may be required to determine the suitability of a new awning, balcony or verandah on any proposed building in a heritage conservation area or on or in proximity to heritage items.*

*Council's conditions of consent will require public liability insurance to Council's requirements and a Council license for verandahs, balconies or awnings over the public footpath.*

*It is the responsibility of the building owner to ensure the structural capacity of awnings, verandahs, and works in the public domain and that they comply with all relevant standards e.g., **Australian Standard AS1170** and the **National Construction Code**. For further information see:*

- *Department of Local Government Circular to Councils No.99/33 (1999);*
- *NSW Government Planning Circular BS13-001 (8/3/13); and*
- *Association of Consulting Structural Engineers of NSW (2008) Practice Note No.18 – Inspection and Assessment of Existing Tied Awnings.*

- 1) **Locations:** Continuous street frontage awnings are to be provided for all new developments with a zero-front street setback that are adjacent to a building with an existing awning and/or in a high pedestrian activity area (usually along primary retail streets, at Council's discretion).
- 2) **Posts in Public Footpaths:** Posts required to support building extensions over public footpaths do not interfere with vehicle parking or pedestrian movement and safety and are structurally adequate such that if any one of the supporting posts were removed or damaged by vehicle impact, the structure would not collapse.
- 3) **Street Trees:** Building extensions are located to ensure no conflict with street trees.
- 4) **Design:** Building extensions are coordinated with building facades, materials and colours and be complementary in alignment and depth to the adjoining buildings and its building extensions over public footpaths.
- 5) **Dimensions:** These structures comply with the following dimensions, subject to advice from Council's engineers and the specific site circumstances:
  - a) A minimum soffit height of 3.3 metres above the footpath;
  - b) A low profile, with slim vertical fascia or eaves (generally not to exceed 300mm in height);
  - c) A setback minimum of 600mm from the kerb.
- 6) **Lighting:** Under awning recessed lighting may be required to facilitate night use and public safety (subject to Roads & Maritime Services input on arterial roads).
- 7) **Safety:** For new awnings, significant alterations and additions to a building with an existing awning, or when an awning's safety is brought into question – Council will request a **Structural Certificate** for the awning to confirm it meets current standards.

### 7.4.9 Food Premises

*Food safety practices are essential for the health and safety of our community. The design, construction and fit-out of food premises is essential to satisfy relevant standards and ensure good food-handling practices, health and hygiene are maintained where food is prepared and/or sold. All food premises, including temporary food operators/stalls, mobile food vendors, tourist & visitor accommodation servicing food, home businesses, community service groups and charities are required to notify Council of their activities and obtain approval from Council in order to operate.*

- 1) All food premises and food practices are designed and operated to meet the minimum standards for food safety in order to maintain the health and well-being of the community.
- 2) All food premises are designed, constructed and operated in accordance with the following requirements:
  - a) *NSW Food Act 2003 and NSW Food Regulation 2010*; and
  - b) *Australia & New Zealand Food Authority (ANZFA) Food Standards Code*; and
  - c) *Australian Standard AS4674 Design, construction and fit-out of food premises*, and
  - d) **National Construction Code (NCC)**.
- 3) Applications that propose kitchen facilities provide a detailed layout on an appropriately-scaled drawing that adequately identifies the details of the proposed kitchen facilities, and addresses the requirements of *AS4674 Design, construction and fit-out of food premises*.
- 4) Temporary food stalls or vendors being provided as part of a community event provide all relevant details including a copy of the Public Liability Insurance, to the Event Organiser for inclusion in the Festivals and Events Application Form submitted by the Event Organiser to Council for events on public land.

## 7.5 Advertising & Signage

This section applies to all advertising and signage that requires a **development application**.

*Signage can be for the purposes of advertising or navigation. Whilst businesses will often seek to maximise their signage to increase visibility, it can have a significant impact on the street character and result in signage clutter that creates visual impact and safety issues.*

*State Environmental Planning Policy (Exempt and Complying Development Code) 2008 (Codes SEPP) outlines signage that is exempt from the requirement of obtaining development consent. The SEPP Code is available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au). Proposals that do not satisfy the requirements of the Codes SEPP need to lodge a **Development Application (DA)** seeking approval from Council.*

*The method to use this section is to review the following Sections of the DCP:*

- a) Section 7.5.5 - General Controls for Advertising and Signage – to see the types of signs permitted for each use or activity; and
- b) Section 7.5.6 - Types of Signs – to see additional controls for each sign type that is permitted.

### Objective(s)

- O1. To ensure that advertising and signage is consistent with the requirements of *State Environmental Planning Policy No.64 – Advertising and Signage (SEPP 64)*.
- O2. To provide a consistent approach to provision of adequate and effective signage for the identification and promotion of events, buildings, and businesses that enhance the economy and employment in the **LGA**.
- O3. To ensure that signage is appropriately sized and positioned and minimises the visual impact and/or visual clutter caused by a proliferation of excessive signage (number, size or visibility) that is inconsistent with:
  - a) the land use zone objectives;
  - b) the street character and amenity;
  - c) the heritage character of the area or nearby heritage items;
  - d) the scale and proportion of the building and its architecture.
- O4. To ensure that signage does not compromise pedestrian, cyclist or vehicle safety.
- O5. To encourage signage that promotes ease-of-navigation.
- O6. To ensure that signs are structurally safe and well maintained.
- O7. To encourage signage of a high-quality design and finish with robust materials.

## Control(s)

### 7.5.1 General

For new advertising signage and structures, it is important that the **development application** shows the proposed location, supporting structures, and size/area of advertising (including the location of any existing signage on the lot/building). Future uses can then apply (where required) for the actual signage within those locations/structures/areas.

### 7.5.2 SEPP No.64 – Advertising & Signage

Under *State Environmental Planning Policy No.64 – Advertising and Signage (SEPP 64)*, Council cannot grant development consent to an advertising sign or structure unless it is consistent with the aims of the **SEPP 64** and satisfies the assessment criteria listed in Schedule 1 of **SEPP 64**. This policy is available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

### 7.5.3 Prohibited Signs

The following signs are unlikely to be acceptable to Council for all uses:

- 1) Sky or roof-top signage (signage that extends above the roof-line of the building);
- 2) Third-party advertising (not related to businesses operating on the site) unless it is an approved highway or tourist navigation sign;
- 3) Advertising on street furniture or public facilities (unless approved by Council);
- 4) Any pole or pylon sign higher than 8m;
- 5) Flashing and animated (moving) signs that could impact on traffic safety;
- 6) Illuminated signs that cause light-spill to adjacent residential or sensitive development (see External Lighting controls above);
- 7) Permanent inflatable signs for commercial promotions (short-term events may be acceptable).

### 7.5.4 Location of Signage

- 1) Advertising structures may only be erected where they are used in conjunction with a permissible use and situated on the land upon which the use is conducted (unless they are an approved highway or tourist navigation sign).
- 2) Council may consider the erection of a directory/entry board for an industrial estate or larger commercial development upon public land subject to justification and where it is considered to benefit navigation for the wider community.

### 7.5.5 General Controls for Advertising & Signage

Land Use	Advertising and Signage Types Permitted with Development Consent
<p>1) <b>Arterial Road Frontage</b></p>	<p>Where a site fronts onto or is visible from an <b>arterial road</b> (especially a State highway or regional road), the applicant demonstrates that the signage:</p> <ol style="list-style-type: none"> <li>1) Is integrated into the landscaping for the site so as not to detract from the amenity of the area or impact on safety of road users;</li> <li>2) Is not the dominant feature of the site as viewed from the road, particularly at gateways to any settlement.</li> </ol>
<p>3) <b>Commercial and Retail</b></p>	<ol style="list-style-type: none"> <li>1) A single business premises is permitted to have a maximum number of signs on each street frontage of the building (in accordance with the controls below) as follows:                     <ol style="list-style-type: none"> <li>a) One <b>under awning sign</b>;</li> <li>b) One <b>top hamper sign</b> or flush <b>wall sign</b>;</li> <li>c) One <b>fascia</b> or <b>awning fascia sign</b>;</li> <li>d) One <b>A-Frame sign</b> on the footpath;</li> <li>e) Historic <b>building identification</b> signage.</li> </ol> </li> <li>2) <b>Window signs</b> maybe provided in addition to the list above as long as it does not take up more than 20% of the street window or significantly reduce visibility between the inside of the shop and the street.</li> <li>3) Each tenancy in a multiple tenancy in the same ownership or on the same lot may have the same signage as set out above (limited to one (1) <b>A-Frame sign</b> on a public street) as well as a single directory board /<b>pylon sign</b> naming the facility and listing some or all of the tenancies at or near the primary customer entrance.</li> </ol>
<p>4) <b>Industrial or Community Use</b></p>	<ol style="list-style-type: none"> <li>1) For each single occupant industrial site/building advertising signs will be permitted as follows:                     <ol style="list-style-type: none"> <li>a) One (1) free standing advertisement within the front landscaped road setback;</li> <li>b) Two (2) advertisements integrated with the façade of the building (one per wall).</li> </ol> </li> <li>2) For each multiple occupant industrial site/ building, advertising signs will be permitted as follows:                     <ol style="list-style-type: none"> <li>a) One (1) index board near the customer entrance or within the landscaped road setback; and</li> <li>b) Advertisements integrated within the façade of each unit that do not dominate the street frontage (e.g., <b>window signs</b>).</li> </ol> </li> </ol>
<p>5) <b>Highway Services, Service Stations &amp; Highway Restaurants/ Take-Away Food Premises</b></p>	<ol style="list-style-type: none"> <li>1) Up to three (3) <b>facia signs, flush wall signs or logos</b> integrated with the façade of the building (one per wall);</li> <li>2) One (1) free-standing sign integrated into the front landscape or car-parking area of each street frontage of the site;</li> <li>3) One (1) <b>pylon sign</b> at the primary road frontage boundary where the building is setback from the road, with a maximum height of 8 metres.</li> </ol>

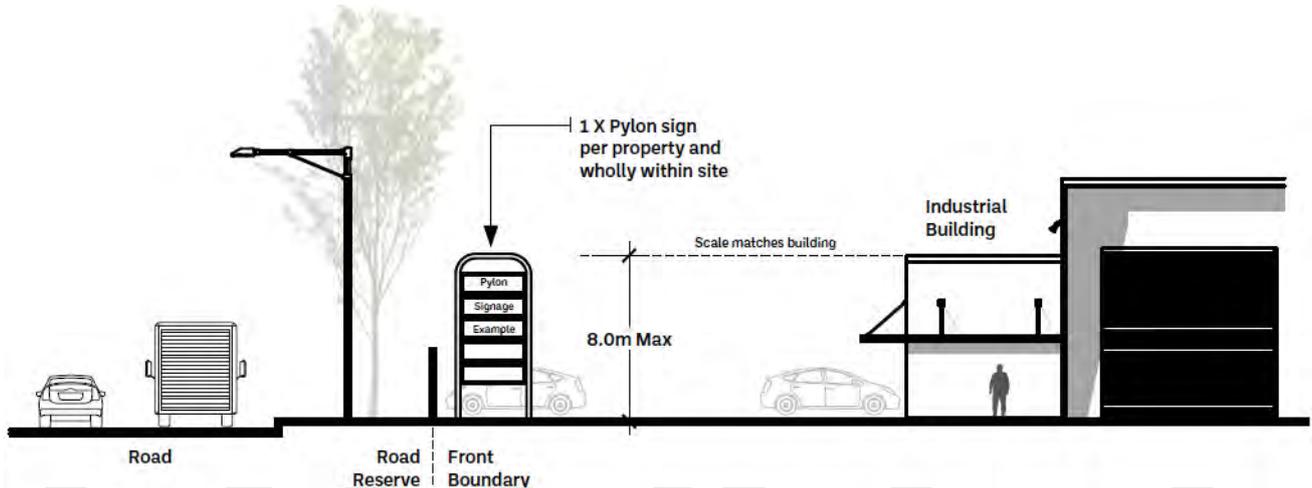
Land Use	Advertising and Signage Types Permitted with Development Consent
<p>6) Temporary Event Sign</p>	<p><b>Temporary signs</b> facing on any road frontage are:</p> <ol style="list-style-type: none"> <li>1) Not to have a surface area of more than 6m<sup>2</sup>;</li> <li>2) Located wholly within the boundaries of the property or, if attached to a building, fence or wall, not project more than 100mm from the building, fence or wall;</li> <li>3) Not higher than 5m above ground level (existing);</li> <li>4) Not permanently fixed to a building, fence or wall;</li> <li>5) If advertising a commercial or retail event - not to be constructed or installed in a residential zone;</li> <li>6) Not illuminated;</li> <li>7) Not displayed earlier than 14 days before the event; and</li> <li>8) Be removed within 2 days after the event.</li> </ol>
<p>7) Home Business, Home Industry or Home Occupation</p>	<ol style="list-style-type: none"> <li>1) One (1) <b>business identification sign</b> is permitted per property to be constructed or installed in relation to a home business, home industry or home occupation.</li> <li>2) Stand-alone signs are no greater than 600mm by 900mm.</li> <li>3) <b>Window signs</b> have a maximum coverage of 20% of the surface of the window in which is displayed or 6m<sup>2</sup>, whichever is the lesser.</li> <li>4) The sign is not illuminated.</li> </ol>
<p>8) Subdivision and Multi Dwelling Development</p>	<p>For multi-dwelling sites, major residential subdivisions, or mixed-use development with frontage to a major local road, <b>the following signs are permitted:</b></p> <ol style="list-style-type: none"> <li>1) One (1) low-level free-standing sign located at the main entrance to the subdivision/ multi-dwelling development that does not interfere with pedestrian pathways, movements or sight-lines;</li> <li>2) The sign is not more than 8m<sup>2</sup> in area (maximum 1.5m high or 5m long) excluding locality/entrance signage for large new residential subdivisions that is integrated into permanent entrance features;</li> <li>3) The sign is not more than 2m above ground level (existing);</li> <li>4) The sign is integrated with landscaping and designed as an entrance feature.</li> </ol>
<p>9) Mixed-Use Development (with residential)</p>	<p>Signage for any commercial component within a mixed-use development is not to be located in or on any residential component of the development and does not interfere with residential amenity.</p>
<p>10) Rural and Environmental Zones</p>	<p>Advertising in <b>rural and/or environmental zones</b> (excluding Zone RU5 Village) is generally only permitted if there is:</p> <ol style="list-style-type: none"> <li>1) One (1) sign per business; and</li> <li>2) Each sign advertises a facility, activity or service located on the land or directs travelling public to a tourist facility/building/place of scientific, historical or scenic interest within the area.</li> </ol>
<p>11) Sign Face Area</p>	<p>means the display area bounded by the framework of a sign case, and includes such area on each side calculated separately if the advertisement has more than one side.</p>

### 7.5.6 Types of Signage

The following additional controls apply to specific types of signage:

#### A. Pole (or Pylon) Sign

**Pole (or pylon) sign** means a sign erected on a pole or pylon independent of any building or other structure.



*Pylon sign example (Source: Dean Steward).*

**Pole and/or pylon sign(s)** are:

- 1) Not to exceed one (1) sign per property street frontage;
- 2) Not located within the main retail streets of urban areas, except for Service Stations which may seek special permission from Council and TfNSW (former RMS);
- 3) A height that is consistent with the scale of surrounding buildings and is a maximum height of 8 metres;
- 4) Designed to reflect the scale of the building to which it relates and the streetscape characteristics of the area;
- 5) Contained wholly within the site and do not overhang any public space or land;
- 6) Not flashing (if illuminated).

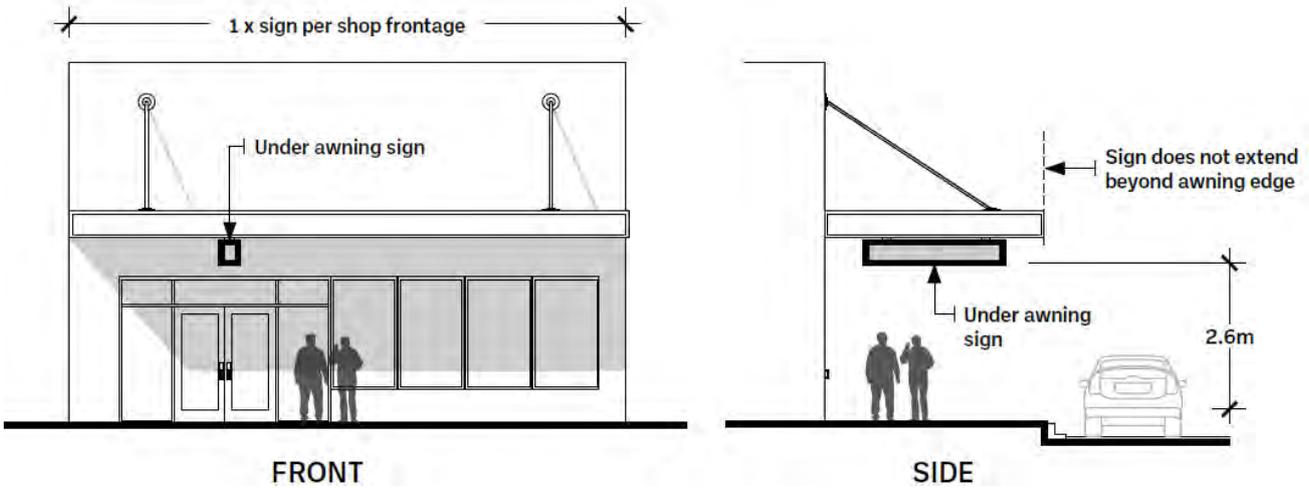
#### B. Under Awning Sign

**Under awning sign** means a sign attached below the awning of a building (i.e., attached to the underside of the awning).

**Under Awning sign(s)** are:

- 1) Not to exceed one (1) sign per property street frontage unless spaced more than 8m apart;
- 2) Attached to the building in which the business identified in the sign is located;
- 3) Not more than 1.5m<sup>2</sup> in area and not more than 2.5m<sup>2</sup> in length;
- 4) Erected with the lower edge at least 2.6m above ground level (existing); and
- 5) Not to extend beyond the edge of the awning or interfere with other street infrastructure or vehicles on the road or parking areas.

UNDER AWNING SIGNAGE



Sign example(s) only (Source: Dean Steward).

C. Above Awning Sign

**Above awning sign** means an advertisement which is attached to and located above an awning or verandah and includes the following:

- a) **Wall (flush) sign** – means a sign that is flat mounted or painted on the exterior wall of an existing building or on an existing boundary fence or wall).
- b) **Projecting wall sign** – means any sign attached to and projecting from a wall (can project no more than 0.3 metres from the wall).

**Roof signage** means an advertisement that is erected on or above the roof, parapet or eaves of a building. These are generally not supported.



Sign example(s) only (Source: Dean Steward).

**Above Awning Sign(s)** are:

- 1) Of a size that is consistent with the bulk and scale of the building and streetscape character.
- 2) Located at first floor level where the building is more than one level.
- 3) Where shop-top housing is part of the building, not to include illuminated above awning signs that would result in light-spill affecting amenity of the dwellings.

**D. Awning Fascia Sign**

**Awning fascia sign** means any sign painted on, or attached to, the front or side face of an awning that doesn't:

- a) project above or below the fascia or return end of the awning to which it is attached;
- b) extend more than 100 mm from the fascia or return end of the awning; and
- c) extend or project beyond the vertical projection of the kerb line.

**Awning (Fascia) sign(s)** are:

- 1) Not to exceed one (1) sign per retail premises/awning fascia with a shopfront facing that street;
- 2) Not to project above or below the fascia to which it is attached; and
- 3) Located at least 600mm behind the alignment of any kerb within the adjacent road.

**FASCIA SIGNAGE**



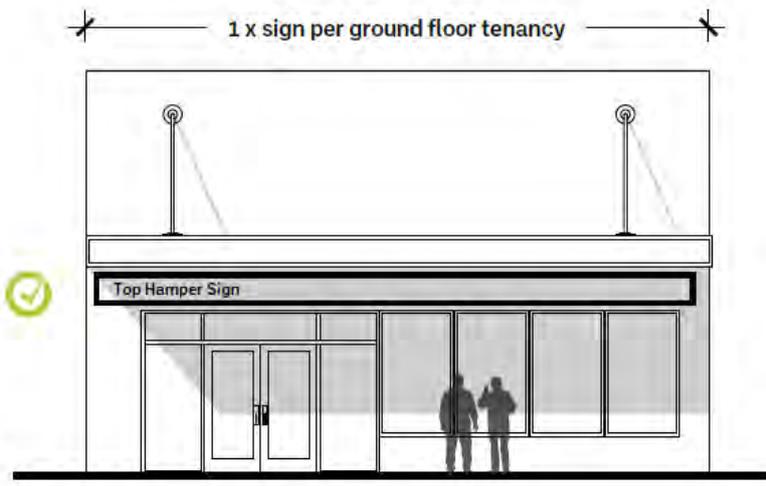
Sign example(s) only (Source: Dean Steward).

**E. Top Hamper Sign**

**Top hamper sign** means a sign that is attached above a display window or attached to the transom of a doorway in a building.

**Top hamper sign(s)** are:

- 1) Not to exceed one (1) sign of this type for each ground floor tenancy; and
- 2) Not to extend beyond any wall/boundary and/or below top of door / window head.



FRONT

Sign example(s) only (Source: Dean Steward).

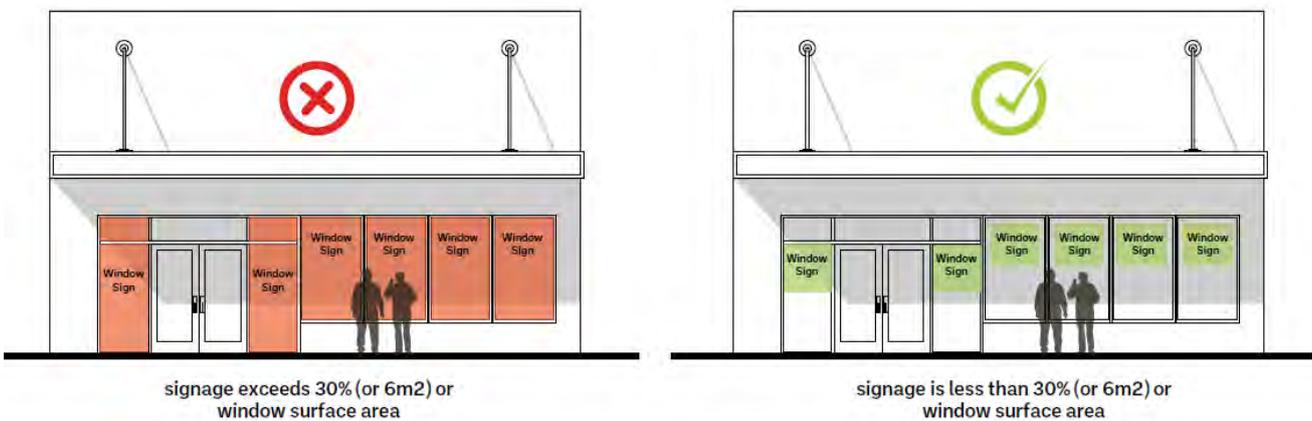
**F. Window Sign**

**Window sign** means a sign painted on or affixed to the window of a building.

**Window sign(s)** are:

- 1) Not to exceed a maximum coverage of 30% of the surface of the window in which is displayed or 6m<sup>2</sup>, whichever is the lesser;
- 2) Primarily for the purpose of business identification signage and may also include the hours of operation of the business;
- 3) Not flashing (if illuminated);
- 4) If it involves a sign advertising a home business, home industry or home occupation - not to exceed one (1) sign per premises.

**WINDOW SIGNAGE**



Sign example(s) only (Source: Dean Steward).

### G. Portable Signs

**Portable sign** means signage that can be readily moved and includes portable flags, trailers and any similar device (not an A-Frame sign).

**Portable sign(s)** are:

- 1) Not displayed on the footpath of any road or in any public place unless the premises of the relevant business or person has direct ground floor frontage and direct ground floor access to that road or public place;
- 2) Not to unreasonably hinder or obstruct the access and use of the footpath or any road or of any public place; Be removed from the road or public place each day at the close of business;
- 3) If displayed on a trailer - not parked on any footpath, road related area, or road, whether attached to a vehicle or not, when the primary purpose for the placement of the trailer is for promotion or advertising.



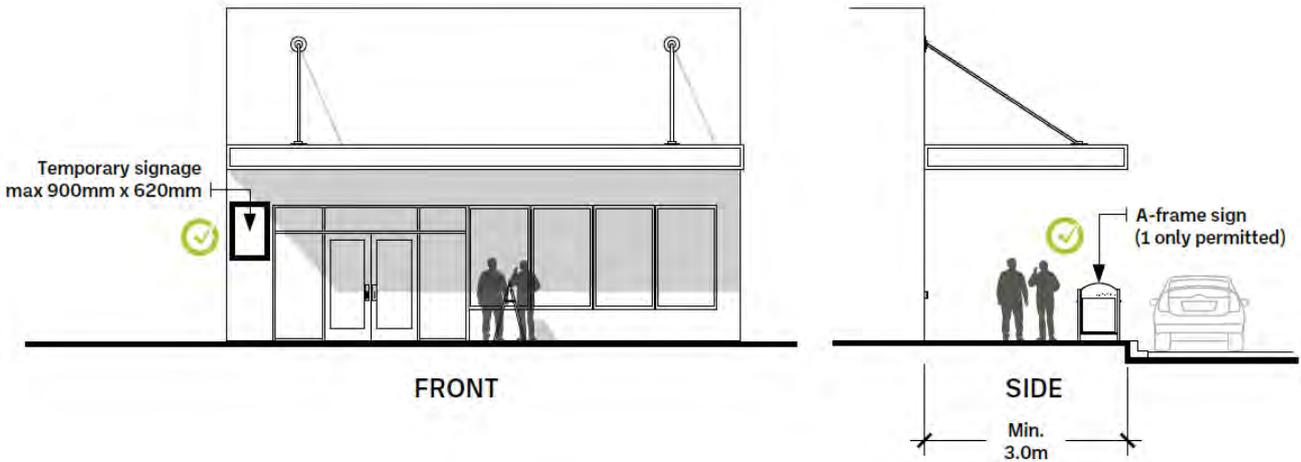
### H. Temporary (Content) Sign or A-Frame Sign

**Temporary content sign(s)** (external to building):

- 1) May be a flush wall permanent sign e.g., blackboards which allow for temporary content such as weekly specials and deals.
- 2) May be moveable e.g., display specials to diners at a restaurant, but is not located on the road reserve at any time (or it will be treated as an **A-Frame Sign** below).
- 3) Have maximum dimensions of 900 x 620mm.

**A-frame signs** are more commonly known as sandwich board signs. A-Frame are free standing structures that are temporarily placed on the footpath outside the business to which they relate. A Footpath Trading Approval is to be sought separately from Council.

A-FRAME AND TEMPORARY SIGNAGE



Sign example(s) only (Source: Dean Steward).

**A-Frame sign(s)** are:

- 1) Not to exceed one (1) sign per commercial business;
- 2) Only to contain content that relates directly to an activity carried out on or associated with the related business premises;
- 3) Of safe and stable construction and comply with the diagram above;
- 4) Only placed on the street during the normal hours of trade of the business to which they relate.
- 5) Not illuminated;
- 6) Only located on footpaths with a minimum footpath width of 3.0m.

**I. Other Signs**

All other signage will be considered on its merits. This may include (if not prohibited above or exempt development):

**Advertising structure** means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

**Banner sign** means a soft plastic, canvas or poly-canvas material bearing letters and numbers and/or pictures, that is visible from a public place. Banners are usually fixed to a solid frame or posts.

**Bill-poster (or fly-poster)** means a bill or poster attached to a wall, fence, power pole, traffic pole, street name sign, public furniture, public property or tree trunk.

**Billboard/bulletin board** means an advertisement that is painted or flat mounted on the outside of a building, or consists of two or more freestanding poster panels supported by one or more columns or posts.

**Community sign** means a sign for a community organisation erected to advertise a community event or place of community interest.

**Free-standing sign** means any sign not attached to a building or structure and includes any three-dimensional replica, object or shape.

**Inflatable sign or structure** means any fixed or captive balloon, blimp, kite or cold air inflatable or the like and includes lighter than air devices used for promotional purposes.

**Moving sign** means any sign, either illuminated or non-illuminated, including rotating, tri-vision, carousel, animated, computer controlled, moving display or message signs with a single or variable message.

**Place entry sign** means an identification sign incorporated into the landscaping and or retaining structures located at the entrance of a major release area or place.

**Temporary sign** means an advertisement for short term promotional purposes that:

- a) announces any local event of a religious, educational, cultural, social or recreational character or relates to any matter in connection with such an event;
- b) the event is organised by a charitable organisation, community group, sporting association or public authority;
- c) does not include advertising of a commercial nature (except for the name(s) of the event sponsor(s)); and
- d) is not displayed earlier than 14 days before the event and is removed within 2 days after the event.

**Real estate sign** means an advertising sign temporarily displayed in respect of a place, land or premises to which it is affixed which contains only a notice that the place or premises is for sale or letting together with particulars of the sale or letting.

**Roof sign** means an advertisement erected on or above the roof of a building that is wholly or partly supported by the building.

**Variable message board** means a device used to display a message by the display of lights that are capable of being programmed to deliver a message to passing pedestrians and motorists.

DRAFT

# Chapter 8:

## Rural & Other Land Uses



## Table of Contents

<b>8.1.</b>	<b>Introduction .....</b>	<b>3</b>
8.1.1.	Application of this Chapter .....	3
8.1.2.	Overarching Objectives .....	3
8.1.3.	Others Relevant Chapters of this DCP .....	3
8.1.4.	Exempt & Complying Development.....	4
<b>8.2.</b>	<b>Tourist Development (Rural &amp; Environmental Zones).....</b>	<b>5</b>
8.2.1.	Tourist Development .....	6
8.2.2.	Tourist & Visitor Accommodation.....	8
8.2.3.	Adaptive Re-Use of Existing Rural Buildings .....	8
8.2.4.	Eco-Tourist Facilities & Larger Rural Tourist Developments.....	9
8.2.5.	Private Camping Grounds in Rural Areas .....	12
8.2.6.	Short-Term Rental Accommodation (STRA).....	12
<b>8.3.</b>	<b>Retail &amp; Business (Rural &amp; Environmental Zones).....</b>	<b>14</b>
<b>8.4.</b>	<b>Temporary Use of Land &amp; Markets/Events .....</b>	<b>16</b>
<b>8.5.</b>	<b>Agricultural Activities &amp; Rural Industry.....</b>	<b>19</b>
8.5.1.	Intensive (Plant & Livestock) Agriculture.....	19
8.5.2.	Rural Industry.....	21
8.5.3.	Farm Buildings & Ancillary Structures.....	22
8.5.4.	Farm Dams .....	24
<b>8.6.</b>	<b>Animal Boarding or Training Establishments .....</b>	<b>25</b>
<b>8.7.</b>	<b>Mining &amp; Extractive Industries .....</b>	<b>26</b>
<b>8.8.</b>	<b>Solar Energy &amp; Wind Farms .....</b>	<b>28</b>

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Title Page: The picture on the title page is of the Emirates One& Only Wolgan Valley & Wolgan Valley Escarpment (Source: Destination NSW - <https://www.visitnsw.com/destinations/blue-mountains/lithgow-area/lithgow>).

## 8.1. Introduction

### 8.1.1. Application of this Chapter

This chapter of the DCP applies to **development applications** for a wide range of 'other' land uses that are permissible with consent, most of which occur in **rural and/or environmental zones**. Please note that rural residential uses are covered in DCP *Chapter 6 – Residential Development*.

### 8.1.2. Overarching Objectives

The objectives for this Chapter are to encourage suitable development in appropriate locations that:

- O1. Contribute to economic growth and employment opportunities within the Local Government Area (LGA).
- O2. Capitalise on existing development and maximise the efficient use of public infrastructure.
- O3. Demonstrate good site planning, layout, functionality and amenity for users.
- O4. Conserve and enhance the historic, architectural and aesthetic character of urban and rural areas (particularly in relation to **heritage items** and **heritage conservation areas**).
- O5. Respond to, reinforce, and sensitively relate to the natural environment and avoid or minimise the impacts of natural hazards.
- O6. Reinforce, complement and enhance the desirable visual and landscape character of the street or the rural landscape setting.
- O7. Integrate with and transition to neighbouring zones/lots/buildings.
- O8. Preserve neighbourhood amenity and safety.

### 8.1.3. Others Relevant Chapters of this DCP

Please remember that this Chapter of the DCP is unlikely to contain ALL of the relevant controls for your development. Please see DCP *Chapter 1 – Introduction & Administration* to review the Section on *How to Use this DCP* including the *Structure of the DCP* (see table below) to determine what other Chapters may be relevant to your development.

**IF YOU ARE UNSURE, PLEASE DISCUSS THIS WITH COUNCIL STAFF PRIOR TO LODGING YOUR APPLICATION.**

We also recommend that you seek a **Planning Certificate** from Council that will detail most of the significant constraints or affectations on the property as different Chapters/Sections of this DCP are relevant where these affectations exist.

*The DCP has the following Chapters:*

<b>Chapter 1:</b>	Introduction & Administration
<b>Chapter 2:</b>	Site Requirements
<b>Chapter 3:</b>	Natural Environment & Hazards
<b>Chapter 4:</b>	Heritage & Cultural Conservation
<b>Chapter 5:</b>	Subdivision & Roads
<b>Chapter 6:</b>	Residential Development
<b>Chapter 7</b>	Commercial, Community & Industrial Development (including Advertising/ Signage for all relevant land uses)
<b>Chapter 8:</b>	Rural & Other Land Uses ( <b>THIS CHAPTER</b> )
<b>Chapter 9:</b>	Location Specific Controls

**8.1.4. Exempt & Complying Development**

Please note that [State Environment Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#) may permit certain development set out in that policy without requiring a **development application** to Council if it complies with the requirements of the **Codes SEPP**. Please discuss this with Council or visit the [NSW Government Planning Portal](#).

## 8.2. Tourist Development (Rural & Environmental Zones)

There is a range of **tourism development** (a collective definition that includes **tourist and visitor accommodation**, other accommodation types, and related tourist facilities that may be permitted with consent in rural and/or environmental zones ('rural areas') including:

### **TOURIST & VISITOR ACCOMMODATION**

**Tourist and visitor accommodation** is defined in **LLEP2014** to mean 'a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

but does not include: (f) camping grounds, or (g) caravan parks, or (h) eco-tourist facilities.

**Bed and breakfast accommodation** means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

See Clause 5.4 of **LLEP2014** for controls relating to the number of bedrooms.

**Farm stay accommodation** means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

See Clause 5.4 of **LLEP2014** for controls relating to the number of bedrooms.

### **OTHER ACCOMMODATION TYPES**

**Camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

**Caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**Eco-tourist facility** means a building or place that:

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items. **Note:** See Clause 5.13 of **LLEP2014** for requirements in relation to the granting of development consent for eco-tourist facilities.

This Section only applies to these types of development in rural and environmental zones (where permitted with consent – see table below). In urban zones these types of development need to address DCP Chapter 7 – Commercial, Community & Industrial Development & Advertising/ Signage.

## Objective(s)

To ensure that all **tourist development** in **rural and/or environmental zones** is encouraged where:

- O1. It addresses site planning requirements set out in *Chapter 2 – Site Requirements* including, but not limited to, avoiding or mitigating against any potential land use conflicts with neighbouring properties (including the 'Right to Farm') and the natural environment and/or hazards;
- O2. It results in an appropriate building density consistent with the land and its setting, and retains and protects productive agricultural use of land and environmental values;
- O3. It encourages suitable access to and appreciation of the environmental and/or cultural values of the **Lithgow Local Government Area (LGA)** whilst protecting and enhancing those values;
- O3. It encourages sustainable design and energy/water consumption.

## Control(s)

### 8.2.1. Tourist Development

All **Tourist Development** in **rural and/or environmental zones** (including **tourist and visitor accommodation**) addresses the following (where relevant):

- 1) **Operations/Management: Tourist development** provides a **Management Plan** that address the operational and management requirements including, but not limited to:
  - a) Maximum capacity of people;
  - b) Range of facilities offered including meals and entertainment;
  - c) Management and booking system;
  - d) Vehicle access, traffic and parking impacts and requirements;
  - e) Disabled accessibility and parking (as required);
  - f) Environmental impacts, natural hazards & safe refuge or evacuation routes;
  - g) Drinking water provision & safety;
  - h) Food preparation and safety (if required) (see DCP *Section 7.4.9 Food Premises*);
  - i) Wastewater (effluent) management;
  - j) Solid waste management;
  - k) Electricity provision (grid or solar power);
  - l) Fire safety and smoke detector systems (if required).
- 2) **Land Use Conflict: Tourist development:**
  - a) Is integrated with, but does not impact significantly on, the agricultural use of the land and/or rural industries on the site and/or adjacent sites.
  - b) It is setback from property boundaries to avoid and/or minimise potential for conflicts and allow adjacent primary production land to be used for a wide range of agricultural activities.
  - c) It considers site planning of any proposed or existing building to maintain a reasonable level of acoustic and visual privacy and views for dwellings on adjoining properties.

- d) It provides minimum setbacks of 20m to boundaries (or 100m to dwelling(s) on adjoining land, whichever is greater) unless the applicant can justify smaller setbacks will have no impact on adjoining land (existing or future) agricultural uses.
- 3) **Character: Tourist development** addresses and is consistent with the zone objectives and the rural and landscape character of the area by minimising visual impacts and integrating with the topography and landscape. It specifically addresses the requirements of *DCP Section 2.2 Site Analysis, Local Character & Context*, especially (if relevant) *Section 2.2.4 – Visually Prominent Sites*.
- 4) **Environment: Tourist development** minimises impacts on the natural environment and avoids or mitigates any natural hazards such as flooding or bushfire and provides suitable 2WD all year access and safe emergency egress.

**Bushfire:** *Tourist facilities in rural areas will often be located on or near bushland settings with an associated bushfire risk. If located on bushfire prone land, the application will require a Bushfire Assessment to address the relevant requirements in DCP Chapter 3.2 Bush Fire Prone Land and demonstrate any required **asset protection zones (APZs)** will not result in significant impacts to existing significant vegetation.*

*Tourist facilities may be assessed as a Special Fire Protection Purpose under the Rural Fires Act 1997. They may require substantial evidence relating to emergency bushfire protection and/or evacuation – including the potential for suitably protected bush fire refuge(s) in the event bushfire cuts access roads.*

**Flooding:** *When the facility is located near a watercourse or on land that is known/likely to be affected by flooding, Council may require a Flood Study to demonstrate the tourist development is located at or above the **Flood Planning Level** (1:100 Annual Recurrence Interval (ARI)/ 1% Annual Exceedance Probability (AEP) flood level plus 500mm freeboard) (see DCP Chapter 3.5 Flood Prone Land).*

### 8.2.2. Tourist & Visitor Accommodation

In addition to the controls above, all **Tourist and Visitor Accommodation** (including **Bed and Breakfast** and **Farm Stay Accommodation**) in **rural and/or environmental zones** addresses the following (where relevant):

- 1) **Capacity:** Must not exceed the capacity/ number of bedrooms set out in *Clause 5.4 of LLEP2014*.
- 2) **Lot Size (Bed & Breakfast):** As a bed and breakfast requires use of an existing dwelling in accordance with the definition of '**bed and breakfast accommodation**' (see above), a dwelling is permissible on the land taking into account the minimum lot size and *Clause 4.2A of LLEP2014*.
- 3) **Primary Production (Farm Stay):** In accordance with the definition of '**farm stay accommodation**' (see above), the applicant demonstrates:
  - a) That the subject land is used as 'a working farm'; and
  - b) That the accommodation business is 'secondary' to the primary production role of the land.  
This does not necessarily mean that the farm produces more gross or net income than the accommodation business, but that it needs to be the primary use of the majority of the land. Some records of recent agriculture-related income and expenses may be required.
- 4) **Signage Plan(s):** There is a limit of 4m<sup>2</sup> of signage on the property near any public road in addition to building identification and navigation signage. Please see *DCP Section 7.6 Advertising & Signage* requirements for additional requirements.

### 8.2.3. Adaptive Re-Use of Existing Rural Buildings

Adaptive re-use of existing farm buildings (or other rural buildings) for **tourist and visitor accommodation** or tourist facilities may be considered if:

- a) The proposal is a use permitted with consent in the relevant land use zone;
- b) The farm buildings to be adapted are no longer required for agricultural use;
- c) There are no significant impacts on any existing or likely future agricultural activities, operations or management;
- d) Domestic laundry facilities are not provided in these buildings such that they could be used as residential accommodation;
- e) They cannot be later converted to a dwelling or used for long-term residential use without development consent (if permissible);
- f) A preliminary site contamination investigation is provided to demonstrate the site is suitable for the proposed use in accordance with *DCP Section 3.4 Land & Soils*.

## 8.2.4. Eco-Tourist Facilities & Larger Rural Tourist Developments

**LLEP2014** Clause 5.13 - Eco-tourist facilities sets out the requirements for these specialist forms of tourist and visitor accommodation and ancillary uses.

It is important to note that there are significant challenges to defining a **tourist development** as an **eco-tourist facility** and there may be a higher standard required from a proposal compared to other **tourist and visitor accommodation** uses, particularly in **rural and environmental zones**.

This is in part due to the fact that eco-tourist facilities are permitted in **rural and environmental zones** potentially on land where a dwelling (and therefore some **tourist and visitor accommodation**) is prohibited. Applicants cannot define a small-scale tourist development as an **eco-tourist facility** as a means to achieve a prohibited use.

The requirements in **LLEP2014** Clause 5.13 - Eco-tourist facilities are set out in detail in that clause, but summarised here to clarify Council and the community's expectations. An applicant needs to demonstrate:

- a) A connection between the proposed development and the ecological, environmental and cultural values of the site or area, and
- b) The development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and
- c) The development will enhance an appreciation of the environmental and cultural values of the site or area, and
- d) The development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal, and
- e) The site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and
- f) Waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and
- g) The development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora, and
- h) Any infrastructure services to the site will be provided without significant modification to the environment, and
- i) Any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and
- j) The development will not adversely affect the agricultural productivity of adjoining land, and
- k) The following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment:
  - i) measures to remove any threat of serious or irreversible environmental damage,
  - ii) the maintenance (or regeneration where necessary) of habitats,
  - iii) efficient and minimal energy and water use and waste output,
  - iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,
  - v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.

Satisfying the requirements of *Clause 5.13(3) of LLEP2014* requires the following to be addressed in detail in the application:

- 1) **Values:** The protection/enhancement of the environmental and/or cultural values relied upon:
  - a) Must be clearly set out in the application and more than just:
    - i) a rural or landscape setting; or
    - ii) significant vegetated area; or
    - iii) an area with potential archaeology or cultural association.
  - b) Must be a dominant aspect of the development proposal and not ancillary to the provision of tourist and visitor accommodation or other tourist facilities.
  - c) Should be locally or regionally significant.
  - d) Do not necessarily need to be on the subject land but ideally are within five (5) kilometres' drive of the subject land (e.g., adjacent National Park).
  - e) Must be demonstrated through a significant component of information, education and interpretation of these values. This is unlikely to be met by limited signage or education/engagement by property managers. It requires significant investment in dedicated spaces and/or buildings for education and/or a clear program and activities that are clearly linked to the local environmental or cultural values.
  - f) Should not single out one environmental or cultural aspect for protection and enhancement whilst having significant impacts on other key values of the land. There needs to be a holistic approach to the land character, values and cultural history and associations.
- 2) **Land Use Conflict & Hazards:** In addition to the requirements of DCP *Section 7.5.1 – Tourist Development* above, the applicant addresses the following:
  - a) That the land size is sufficient to maintain significant buffers to adjacent agriculture and/or environmental land. Generally, a minimum of 10 hectares of land is required to accommodate a substantial eco-tourist facility and allow for 50-100m buffers to adjacent land but this may be varied with significant justification.
  - b) May be required to provide a **Land Use Conflict Risk Assessment (LUCRA)** in accordance with NSW Government guidelines (see *Department of Primary Industries website*).
- 3) **Sustainability:** The **Eco-Tourist Facility** will also have a greater onus:
  - a) To protect and enhance existing significant trees and vegetation including:
    - i) Proposed site planning and buildings demonstrate that all reasonable efforts have been made to retain, protect and enhance significant vegetation and minimise impacts;
    - ii) Where there are unavoidable impacts, significant off-set planting and regeneration programs may be required;
    - iii) A **Landscape Plan** is likely to be required demonstrating use of native and endemic species and drought tolerant species;
    - iv) A **Vegetation Management Plan** or **Biodiversity Conservation Management Plan** may be required to support environmental repair and enhancement of the property.
  - b) To protect existing sensitive water resources including:
    - i) Demonstration of appropriate setbacks from watercourses and drainage corridors;
    - ii) Additional requirements to minimise erosion and control sediment entering watercourses;
    - iii) Avoiding or minimising reliance on groundwater by including rainwater harvesting;

- iv) High quality/low-impact/ tested & certified on-site effluent management systems.
  - c) To protect existing sensitive land areas including:
    - i) Avoiding steep lands or development that involves significant cut and/or fill;
    - ii) Minimising access roads and infrastructure impacts through clustering of buildings and consolidation of access roads and infrastructure;
    - iii) Minimising the impact on the land and its soils.
  - d) To minimise impacts from lighting on dark night sky and adjacent development by minimising lighting and light-spill.
  - e) To demonstrate significantly reduced energy and water consumption by including:
    - i) Report(s) that address *Section J* of the **National Construction Code (NCC)** (where required);
    - ii) Water efficiency – Council may require evidence relating to the minimum *Water Efficiency Labelling and Standards (WELS)* or water rating of all water using appliances and fixtures (see [www.waterrating.gov.au](http://www.waterrating.gov.au));
    - iii) Water re-use and recycling may be required for non-potable connections such as garden irrigation and toilets;
    - iv) Energy efficiency – Council may require evidence relating to the minimum energy efficiency of all energy using appliances, lighting and fixtures (see [www.energy.gov.au](http://www.energy.gov.au)).
    - v) Buildings demonstrate that they have addressed passive solar design principles to minimise energy consumption for heating and cooling;
    - vi) Renewable energy sources are utilised, where possible.
  - f) To demonstrate significant reductions in material usage, solid waste production, and increased re-use and recycling in accordance with waste minimisation and recycling guidelines.
- 4) **Management:** The application provides an **Operational Management Plan** explaining the proposed operations and management of the facility (beyond that required by DCP *Section 8.2.1 – Tourist Development* above) as follows:
- a) The application addresses the requirements of, and achieve accreditation under, *ISO14000 – Environmental Management Systems*. This is a range of standards that help organisation to:
    - i) minimise how their operations (processes, etc.) negatively affect the environment;
    - ii) comply with applicable laws, regulations, and other environmentally oriented requirements; and
    - iii) continually improve in the above.

They may require substantial additional management systems including, but not limited to: audits, communications, labelling, life-cycle analysis, and addressing environmental challenges such as climate change. It should only be addressed by a suitably qualified person;
  - b) A **Soil & Water Management Plan** is submitted with the proposal;
  - c) A **Waste Management Plan** is submitted with the proposal with recycling forming part of the plan (even if a Council run recycling pick-up service is not available).

### 8.2.5. Private Camping Grounds in Rural Areas

*This Section is concerned with private camping ground that are used on a regular basis for commercial camping. It is not concerned with camping on properties by owners and their friends that is not commercial in nature or with irregular low-impact camping.*

*Camping grounds are largely regulated under the Local Government Act 1993 and Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. Caravan Parks may also be addressed by other State Environmental Planning Policies.*

Camping grounds (that are not **eco-tourist facilities**) will need:

- 1) To address the requirements of DCP *Section 7.5.1 – Tourist Development* above.
- 2) To demonstrate the land size is sufficient to maintain significant buffers to adjacent agriculture and/or environmental land, as follows:
  - a) Generally, a minimum of 10 hectares of land is required to accommodate a substantial camping ground and allow for >100m buffers to adjacent land but this may be varied with significant justification.
  - b) Council may require a **Land Use Conflict Risk Assessment (LUCRA)** in accordance with NSW Government guidelines (see Department of Primary Industries website).
- 3) To provide a **Site Plan** and/or **Landscape Plan** that breaks up or conceals consolidated or larger camping areas.

### 8.2.6. Short-Term Rental Accommodation (STRA)

**Short-term rental accommodation** means the commercial use of an existing dwelling, either wholly or partially, for the purposes of short-term accommodation, but does not include tourist and visitor accommodation.

The NSW Government has passed legislation in August 2019 for new planning pathways for **Short-Term Rental Accommodation (STRA)** that will be permissible in all zones in which 'dwellings' are permissible. Traditionally, an STRA has been an 'ancillary use' to a dwelling.

This new land use definition is likely to be added to **LLEP2014**. STRAs usually utilise existing or permitted dwellings. It is expected that the new planning instruments will introduce both 'exempt' and 'complying' approval pathways for STRA that meet certain criteria but will not permit any alterations or additions to existing dwellings. Where an STRA is unable to meet those criteria then a development application will need to be lodged with Council.

Council is seeking to balance the economic and social benefits of permitting STRAs across a wide-variety of zones including increasing tourist accommodation options, contributing to household and farm income, and wider tourism benefits - whilst minimising impacts on the environment, neighbouring properties, and other tourist and visitor accommodation that sometimes have more regulation and costs.

**Short-Term Rental Accommodation (STRA)** applications address the following:

- 1) **Capacity:** The maximum number of guests permitted in an **STRA** in an **Urban Area** is two (2) people per bedroom and six (6) bedrooms (i.e., maximum of up to twelve (12) beds/people excluding babies).
- 2) **Hosts/Maximum Nights:** Hosts are not required to live on the Site (and there is no maximum number of nights a property can be used as an **STRA**, but each property has a Property Manager that is contactable at all times with their details clearly shown at the **STRA**).
- 3) **Existing Dwellings:**
  - a) Adaptive re-use of existing dwellings is encouraged for STRAs where they are in appropriate and accessible locations.
  - b) New **STRAs** are not permitted where there is not an existing dwelling and/or a new dwelling is not permitted.
  - c) Adaptive re-use of other existing buildings or creation of new buildings for STRAs is only permissible where a **dwelling** is permitted (sometimes in the form of a '**dual occupancy**' or '**secondary dwelling**') or there is an existing approved '**tourist and visitor accommodation**' use on the subject land.
- 4) **Signage:** Each STRA can have:
  - a) One (1) business identification sign located on the property near the entrance from the public road; and
  - b) One (1) sign on the relevant building; and
  - c) Navigation signs (that do not cause signage clutter) along driveways (if required).

See DCP *Chapter 7.6 Advertising & Signage* for additional requirements.
- 5) **Code of Conduct:** All **STRAs** will need to adopt, comply with and provide a signed **Code of Conduct** to Council as set out by the NSW Government and addressing **STRA** policy and procedures. The **Code of Conduct** will apply to hosts, guests, online booking platforms and letting agents.
- 6) **Noise: STRAs** demonstrate that they can minimise or mitigate noise impacts on neighbouring properties and where there may be impacts, noise can be limited in accordance with the *Protection of the Environment Operations (Noise Control) Regulation 2017*.
- 7) **Bushfire: STRAs** will be required to address the relevant bushfire planning controls in accordance with the Fire Safety Standard set out in the **EP&A Regulations** (where applicable) and they may be a *Special Fire Protection Purpose* under the **Rural Fires Act**.
- 8) **Fire Alarms/Lighting:**
  - a) A smoke alarm will be installed in each bedroom and each smoke alarm interconnected where there is more than one alarm (or in accordance with the **National Construction Code/RFS** requirements).
  - b) A lighting system will be installed in hallways that is activated by the smoke alarm system.

### 8.3. Retail & Business (Rural & Environmental Zones)

There are a range of 'other' quasi-retail/business activities (sometimes tourism related) in rural and environmental zones ('rural areas') that may be permitted with consent including:

**Cellar door premises** means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

**Home business** means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any signage (other than a business identification sign), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises. See Clause 5.4 of LLEP2014 for controls relating to the floor area used for a home business.

**Home industry** means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) the employment of more than 2 persons other than those residents,
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (d) the exhibition of any signage (other than a business identification sign),
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.

See Clause 5.4 of LLEP2014 for controls relating to the floor area used for a home industry.

**Plant nursery** means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.

**Roadside stall** means a place or temporary structure used for the retail sale of agricultural produce or hand-crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property. See Clause 5.4 of LLEP2014 for controls relating to the gross floor area of roadside stalls.

This definition/section does not cover mobile stalls and sale of produce/goods on or adjacent to a public road. You may require a Section 68 application to Council for these uses.

**Rural supplies** means a building or place used for the display, sale or hire of stock feeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

### Objective(s)

- O1. To allow limited retail activities to occur in rural and environmental zone(s) that are related to the rural activities, produce and needs in these areas but do not significantly undermine retail and business activity in nearby town or village centres.
- O2. To promote locally grown produce and hand-crafted goods.
- O3. To ensure that any retail activities are located on private land, provide safe access and egress from the nearest public road, and have sufficient parking to avoid any significant conflicts with traffic and safety on the adjacent public road.
- O4. To ensure that rural retail activity avoids or minimises/mitigates any significant impacts on adjacent sensitive uses including dwellings and does not impact on the 'right-to-farm' and agricultural activities.
- O5. The design of any retail activity (including signage) should be in keeping with the rural and landscape character of the area and not dominate the public road frontage.

### Control(s)

For any retail or business-like activity in a rural or environmental zone(s):

- 1) The building or place used for the activity is located on the holding from which the produce originates and sited wholly within its boundaries.
- 2) The building design is in keeping with the rural character.
- 3) All activities selling produce for human consumption comply with the requirements of the *Australia New Zealand Food Standards Code* and will be kept clean and tidy at all times.
- 4) They are located in a manner that allows safe turning in and out of the property.
- 5) All parking is on-site (off any road reserve).
- 6) Any proposed signage is kept to a minimum and complies with the requirements in DCP *Section 7.5 - Advertising & Signage* and *SEPP 64 – Advertising and Signage*. One (1) designed advertising sign within the property boundary provides effective identification of the roadside stall.
- 7) The requirements of **TfNSW** (former **Roads and Maritime Services**) are complied with where the roadside stall is adjacent to or requires access from a **classified road**.

## 8.4. Temporary Use of Land & Markets/Events

*Temporary use of land or events with **temporary structures** are a form of 'development' and, as such, may require development consent in accordance with State Environmental Planning Policy (Temporary Structures) 2007, **LLEP2014** (Clause 2.8), & this DCP.*

*Temporary use of land is permitted with consent in any zone. Even if a development consent is not required, Council may still require notification of the event details and procedures well in advance of the event and may be required to provide other approvals.*

*Major events have the potential to attract a large number of people, increased vehicle and pedestrian traffic, temporary structures and buildings, and potentially cause impacts such as noise, light, dust and traffic. They require safe access/egress/parking; safe pedestrian areas; food catering; toilets and amenities; recycling and waste management, emergency support, risk management, and much more.*

*This Section does not require the lodgement of development applications for regular use of approved entertainment venues or spaces.*

***Market** means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.*

***Temporary structure** includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.*

### Objective(s)

To ensure that **temporary use of land / events**:

O1. Address the requirements of **LLEP2014** Clause 2.8 – *Temporary use of land* ensuring:

- a) The temporary use will not prejudice the subsequent carrying out of development on the land in accordance with **LLEP2014** and any other applicable environmental planning instrument; and
- b) The temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood; and
- c) The temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land; and
- d) At the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

O2. Have adequate plans/strategies in place to adequately address:

- a) public safety, health, risk and security contingencies; and
- b) access, traffic & parking strategies; and
- c) bushfire and/or natural hazard strategies.

## Control(s)

If Council requires an application for a temporary use of land / event then an **Event Application** addresses the following information (either in the **Statement of Environmental Effects** or in a separate report):

- 1) **Site Plan** providing the location of all structures, to scale with distances to boundaries, and any other relevant items to the application;
- 2) **Description and plans** addressing the following:
  - a) Description of event;
  - b) Date and times of event opening and closing & daily schedules;
  - c) Event promotion, ticketing, and capacity;
  - d) Any temporary buildings or structures;
  - e) Date and times of set up/removal and hours of operation;
  - f) Details of music, amplification or other potential noise emissions;
  - g) Alcohol licensing and requirements;
  - h) Lighting and signage;
  - i) Details of food sold/served/provided, including premises setup;
  - j) Details of parking, including owner's permission if off-site;
  - k) Details of amenities e.g., water, toilets and sewerage management;
  - l) Details of waste management including general garbage and recycling;
  - m) Power & water supply;
  - n) Site selection.
- 3) An assessment of any potential **environmental impacts** that may arise from the event including, but not limited to, vegetation removal, pedestrian and vehicle impacts, noise and odours, lights & fireworks, erosion and sediment control, signage etc.;
- 4) **Risk Assessment** including emergency and security protocols that may include (where relevant) illegal drug use and alcohol abuse, removal of event patrons, liquor licencing emergency medical attention, unruly social behaviour, evacuation contingencies, bushfire, flooding & other emergency evacuation plans, and bad weather contingencies etc.;
- 5) **Noise mitigation** measures including an assessment of the nearest residences and the likely noise levels and other likely impacts at the boundary of the property holding the event;
- 6) Review of traffic issues or **Traffic Assessment/Plan** that review the provision of parking, road access for 2WD vehicles, public transport availability, emergency access provision, disabled access provision, dust suppression measures on public roads and at the venue, and emergency escape routes (e.g., in a bushfire situation);
- 7) Relevant **insurance** documents if the event is located on Council/Crown land, for example, public liability;
- 8) **Site Plans** for all food stalls;

- 9) **Signage Plans** for all event signage;
- 10) Internal **layout plan** to scale for large (floor area >50m<sup>2</sup>) tents, stages and platforms:
- a) Details of compliance with **National Construction Code (NCC)** – particularly with regards to structural adequacy, egress and fire safety;
  - b) Documentation that specifies the live/dead loads that the temporary structure is designed to meet;
  - c) A list of any proposed fire safety measures to be provided in connection with the use of the temporary structure,
  - d) Documentation describing any accredited building product or system sought to be relied on for the purposes of Section 79C(4) of the Act;
  - e) Copies of any compliance certificates to be relied on.
- 11) **Consultation** may be required with:
- a) **Emergency services** such as the NSW Ambulance Service, Rural Fires Service; NSW Police; Roads and Maritime Services - where these services may be used or form part of an emergency response for the event or where permits are required; and/or
  - b) **Key stakeholders** such as Workcover, electricity authority, bus and taxi companies, security personnel, local businesses etc. where staffing and support services may be required.
- 12) **Other Approvals** that may be required:
- a) Road closures will require approval under *Section 138 of the Roads Act 1993* from Council;
  - b) Events involving sale of liquor require an approved licence from the *Office of Liquor Gaming and Racing* and may be subject to approval of NSW Policy and Council;
  - c) Events involving fireworks require approvals from *NSW WorkSafe Authority*;
  - d) Events involving **Amusement Devices** require separate approval under *Section 68 of the Local Government Act 1993* (that can be addressed at the same time as the **Development Application**).

## 8.5. Agricultural Activities & Rural Industry

**Extensive agriculture** means any of the following:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
- (b) the grazing of livestock (other than pigs and poultry) for commercial purposes on living grasses and other plants on the land as their primary source of dietary requirements, and any supplementary or emergency feeding, or temporary agistment or housing for weaning, dipping, tagging or similar husbandry purposes, of the livestock,
- (c) bee keeping,
- (d) a dairy (pasture-based) where the animals generally feed by grazing on living grasses and other plants on the land as their primary source of dietary requirements, and any supplementary or emergency feeding, or temporary agistment or housing for weaning, dipping, tagging or similar husbandry purposes, of the animals.

Extensive agriculture is generally permissible without consent in all rural and environmental zones (except Zone RU5 Village).

**Farm building** means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

**Intensive livestock agriculture** means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses, sheep or other livestock, and includes any of the following: (a) dairies (restricted), (b) feedlots, (c) pig farms, (d) poultry farms, but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief.

**Intensive plant agriculture** means any of the following: (a) the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops), (b) horticulture, (c) turf farming, (d) viticulture.

**Rural industry** means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following: (a) agricultural produce industries, (b) livestock processing industries, (c) composting facilities and works (including the production of mushroom substrate), (d) sawmill or log processing works, (e) stock and sale yards, (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.

See **LLEP2014** for definitions of the detailed types listed above.

### 8.5.1. Intensive (Plant & Livestock) Agriculture

#### Objective(s)

- O1. To promote intensive agricultural development in appropriate locations.
- O2. To minimise potential impacts upon surrounding properties and the environment.
- O3. To ensure intensive agriculture has sufficient secure water supplies to meet the needs of the development, whilst minimising impacts on surface and ground-water systems.
- O4. To manage potential solid and liquid waste-water from intensive agriculture to protect the natural environment and water systems.

## Control(s)

- 1) **Guidelines:** Relevant industry guidelines (see list below) are followed in the design of intensive agricultural developments and will form an important part of Council's assessment of proposed developments.

*Refer to the NSW Department of Primary Industries document, preparing a development application for intensive agriculture in NSW when preparing a **Development Application (DA)**.*

- 2) **Site Selection:** Applications demonstrate that the subject site is capable of supporting the proposed intensive agriculture use and any ancillary development including, but not limited to:
  - a) Lot size for efficient and profitable agricultural development and to support all required development, infrastructure and water and waste management; and buffers;
  - b) Suitable, reliable water resources (taking into account climate variability/change);
  - c) Suitable soil resources and slope of land/drainage;
  - d) Land use conflict risks;
  - e) Additional sustainability factors (economic and environmental).
- 3) **Land Use Conflict:** Separation of intensive agricultural developments from existing off-farm dwellings (or other **sensitive land uses**) may require a **Site (Analysis) Plan** and a **Land Use Conflict Risk Assessment (LUCRA)** in accordance with NSW Government Guidelines that addresses all potential impacts as well as site planning requirements in DCP *Chapter 2 – Site Requirements*, particularly DCP *Section 2.12 Amenity/Buffers for Sensitive Uses*.
- 4) **Environmental Impact:** Applications are accompanied by any relevant environmental assessment reports (in accordance with Council's **DA Guide**) prepared by a suitably qualified practitioner considering the environmental standards of the NSW Government. Consideration is given to amelioration techniques and the location of existing **sensitive land uses** and environmental conditions that may affect those impacts.

*It may also be relevant to consider other NSW Government legislation/policies including, but not limited to:*

- 1) *Environmental Planning & Assessment Act 1979 which sets out thresholds and regulations for 'designated development' which includes, amongst others, some forms of intensive agriculture;*
- 2) *Protection of the Environment Operations Act 1997 including licensing under Schedule 1;*
- 3) *State Environmental Planning Policy (Rural Lands) 2008 ('SEPP Rural Lands') which sets out Subdivision and Planning Principles for the development of rural lands; and*
- 4) *State Environmental Planning Policy No.30 (Intensive Agriculture) ('SEPP Intensive Ag.') which, amongst other matters, sets sizes for cattle feedlots or piggeries which require development consent;*
- 5) *Central West & Orana Regional Plan;*
- 6) *Mapping of agricultural lands including, but not limited to: important agricultural lands; biophysical strategic agricultural lands; and soil types etc.*

*In addition, the Department of Primary Industries (DPI) has created relevant guidelines for the agricultural component including, but not limited to:*

- 1) *DPI (2006) Preparing a development application for intensive agriculture in NSW;*
- 2) *Factsheet (December 2011) Preparing intensive plant agriculture development applications;*
- 3) *Factsheet (December 2011) Assessing intensive plant agriculture developments;*
- 4) *Planning for turf farms;*

- 5) *Factsheet (October 2011) Land Use Conflict Risk Assessment (LUCRA) Guide;*
- 6) *DPI (2007) Living and working in rural areas;*
- 7) *DPI (2005) Guidelines for the development of controlled environment horticulture;*
- 8) *Primefact 144 (2006) Sustainable Horticulture;*
- 9) *Better site selection for meat poultry developments;*
- 10) *Agricultural Impact Statement technical notes; and*
- 11) *Other water related guidelines referred to in the above documents.*

## 8.5.2. Rural Industry

### Objective(s)

- O1. To promote rural industry development in appropriate locations.
- O2. To minimise potential impacts upon surrounding properties and the environment.
- O3. To ensure rural industry is located with suitable access and connections to major transport links to minimise transport costs to markets and minimise impacts on local and regional infrastructure.
- O4. To ensure rural industry has sufficient secure water and energy supplies to meet the needs of the development, whilst minimising impacts on surface and ground-water systems and local electricity infrastructure.
- O5. To manage potential solid and liquid waste from rural industry to protect the natural environment and water systems.

### Control(s)

- 1) **Site Selection:** Applications demonstrate that the subject site is capable of supporting the proposed rural industry and any ancillary development including, but not limited to:
  - a) Location with proximity and access to agricultural produce and transport systems;
  - b) Lot size for efficient and profitable development and to support all required development, infrastructure and water and waste management; and buffers;
  - c) Suitable, reliable water resources (taking into account climate variability/change);
  - d) Suitable, reliable energy resources (depending on the needs of the development);
  - e) Land use conflict risks;
  - f) Additional sustainability factors (economic and environmental).
- 2) **Land Use Conflict:** Separation of rural industry from existing off-farm dwellings (or other **sensitive land uses**) may require a **Site (Analysis) Plan** and a **Land Use Conflict Risk Assessment (LUCRA)** in accordance with NSW Government Guidelines that addresses all potential impacts as well as site planning requirements in DCP *Chapter 2 – Site Requirements*, particularly DCP *Section 2.12 Amenity/Buffers for Sensitive Uses*.
- 3) **Environmental Impact:** Applications are accompanied by any relevant environmental assessment reports (in accordance with Council's **DA Guide**) *prepared* by a suitably qualified practitioner considering the environmental standards of the NSW Government. Consideration is given to amelioration techniques and the location of existing **sensitive land uses** and environmental conditions that may affect those impacts.

### 8.5.3. Farm Buildings & Ancillary Structures

Many farm buildings and ancillary structures may be either exempt or complying development under the Code SEPP and not require a development application.

This Section does not relate to garages or carports ancillary to a dwelling or buildings that are ancillary to animal boarding or training establishments or rural industries.

Farm buildings & sheds are a class 10a (non-habitable) building under the National Construction Code (NCC) and cannot be used as a dwelling without approval from Council.

Generally, installation of a toilet, wash basin and/or shower in an outbuilding would NOT make these a 'habitable' room or dwelling. However, if a kitchen, bathroom and laundry are provided this would be considered a 'dwelling' and can only be approved if it meets the relevant controls.

Regardless, any building requiring a sewerage/waste-water connection will require an approval from Council. A floor plan/internal arrangement may be required.

See also DCP Section 6.7.2 Temporary Accommodation & Section 6.7.3 Conversion/Use of Non-Habitable Buildings.

#### Objective(s)

- O1. To ensure that farm buildings & ancillary structures are of a size, height & bulk that is suited to the site area & minimise the visual impact of larger buildings on rural & landscape character.
- O2. To minimise impacts on the landscape and rural/scenic character, particularly for Visually Prominent Site(s).

#### Control(s)

- 1) **Use:** Any application clearly nominates the use for any farm building or ancillary structure and cannot be used for residential purposes without approval.
- 2) **Building Height:** The maximum ridge height above ground level (existing) is:
  - a) Farm building - 10m;
  - b) Outbuilding or garage/carport – 6.0m with a maximum wall height of 4.2m.
- 3) **Location & Setbacks:** Demonstrate that any one (1) proposed farm building(s) (other than stock holding yards, grain silos and grain bunkers) meet the following table:

Land Area	Max. Building Area/ Footprint (m <sup>2</sup> )	Front Setback from Primary Road Frontage (m)	Side/Rear Setback (m)
<2,000m <sup>2</sup>	80	Behind any existing dwelling or 10m (whichever is greater)	On merits/NCC
2,000m <sup>2</sup> to 1ha	110		3m
1ha to <2ha	270	15m	5m
2ha to <4ha	325	20m	10m
4ha to <40ha	450	20m	10m to boundary or 50m from adjoining dwelling (whichever is greater)
40ha to <100ha	600	20m	
>100ha	1,200	50m	

*The maximum building area is the cumulative total of the enclosed floor area and does not include verandahs, awnings or the like that are open on two or more sides.*

*Any variation to the maximum building area will have to be justified in terms of the use of the building and its link to the agricultural needs of the land as well as its visual impact.*

4) **Cumulative Building Area:** The cumulative building area/footprint of all farm buildings (other than grain bunkers) on any landholding and does not exceed:

Land Area	Max. Building Area/ Footprint (m <sup>2</sup> )
<4ha	2.5% of the lot
4ha to <10ha	1,000
10ha to <100ha	2,000
>100ha	4,000

5) **Visual Impact:** Applications demonstrate that the proposed development will:

- a) Address the objectives of *DCP Section 2.2.4 Visually Prominent Sites* (where applicable);
- b) Address *DCP Chapter 4 – Heritage & Cultural Conservation* (where applicable);
- c) Provide details of building height above **ground level (existing)** and lengths/dimensions and minimise bulk/scale as required by the proposed building use;
- d) Provide details of building materials and colours that reduce the visibility of the building(s) and are consistent with the rural or landscape setting;
- e) Try to cluster buildings together to minimise additional access and other infrastructure requirements.
- f) Shipping containers comply with *DCP Section 6.7.8 Shipping Containers*.

6) **Use & Layout/Design:** Applications are required to:

- a) Apply for a use of the building that is linked to the permissible agricultural or residential activities on the land;
- b) Provide plans showing the layout and fit-out in accordance with the **National Construction Code (NCC)**;
- c) Provide details of any associated vehicle parking and manoeuvring areas;
- d) Address any storage of hazardous materials or chemicals.

7) **Environmental Impact:** Applications are required to:

- a) Address the relevant requirements in *DCP Chapter 2 – Site Requirements*;
- b) Minimise the removal of significant native vegetation and provide buffers to environmentally sensitive areas and watercourses;
- c) Minimise the amount of cut/fill required to support the building(s) and associated area(s);
- d) Minimise impacts from natural hazards.

#### 8.5.4. Farm Dams

The following is summarised from the WaterNSW website - <https://www.waternsw.com.au/customer-service/water-licensing/basic-water-rights/harvestable-rights-dams>.

Rural landholders in NSW can build dams on minor streams and capture 10 per cent of the average regional rainfall run-off on land in the Central and Eastern Divisions. The maximum harvestable right dam capacity (MHRDC) is the total dam capacity allowed under the harvestable right for your property and takes into account rainfall and variations in rainfall pattern. The Harvestable Rights Orders are published in the [NSW Government Gazette 40 dated 31 March 2006](#) (pages 1628 to 1631).

If you want to construct a dam that is larger than the MHRDC, you will need to licence the volume of water that exceeds the MHRDC. You will also need to hold an approval for a dam which exceeds the MHRDC.

When building a dam, it is important that the appropriate approval or licence has been obtained if this is required. Make sure that the dam is carefully located so it is effective, safe and has minimal impacts on neighbours and the environment. You will also need to ensure construction of the dam meets any other legal requirements, such as local council regulations, or consents from government agencies.

Also ensure that during all stages of construction you provide adequate erosion control and minimise disturbance to waterways, areas of native vegetation, sites of cultural significance and avoid disturbing acid sulphate soils in coastal areas.

Under the Fisheries Management Act 1994, any new dam or modification to an existing dam may require the owner to provide for fish passage.

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## 8.6. Animal Boarding or Training Establishments

This Section applies to facilities that have significant numbers of animals and would not be defined as **intensive livestock agriculture** but may be defined as follows:

**animal boarding or training establishment** means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

**veterinary hospital** means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

### Objective(s)

To ensure that all animal boarding or training establishments and veterinary hospitals in **rural and environmental zone(s)**:

- O1. Consider site selection to minimise potential conflict with adjoining land uses;
- O2. Implement best practice with regards to design and management; and
- O3. Avoid and/or minimise the impacts on the natural environment and rural landscape and amenity.

### Control(s)

- 1) Noise levels from the premises are not to exceed the relevant noise levels set out in the *EPA Noise Policy for Industry 2017, as amended*) and may require a **Noise Assessment** from a suitably qualified acoustic engineer.

*Whilst animal boarding and training establishments are not a listed Scheduled Activity under Schedule 1 of the POEO Act, the EPA Noise Policy for Industry 2017 is still a relevant guideline.*

- 2) No parts of the establishment will be permitted within 200 metres of the property boundary or 500m of the nearest dwelling house (or suitable distance determined by a **Noise Assessment**).
- 3) Establishments provide a **Business & Management Plan** that addresses the relevant industry guidelines for the design of these facilities including mechanisms to manage noise etc including, but not limited to: *NSW Department of Primary Industries document, NSW Animal Welfare Code of Practice No.5 – Dogs and Cats in animal boarding establishments*.
- 4) Establishments demonstrate there is an adequate water supply and adequate methods for disposal of solid and liquid wastes so these will not impact on adjacent properties or watercourses/ground-water systems. An **Effluent Study** may be required.
- 5) Council may require a **Sediment & Soil Erosion Plan** if an establishment is located near a watercourse or environmentally sensitive area and is likely to result in significant topsoil disturbance from animals.

### Relevant Policies

- *Protection of the Environment Operations Act 1997;*
- *Prevention of Cruelty to Animals Act 1979;*
- *Companion Animals Act 1988;*
- *NSW Department of Primary Industries document, NSW Animal Welfare Code of Practice No.5 – Dogs and Cats in animal boarding establishments.*

## 8.7. Mining & Extractive Industries

**Extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

**Extractive material** means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the [Mining Act 1992](#).

**Mine** means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

**Mining** means mining carried out under the [Mining Act 1992](#) or the recovery of minerals under the [Offshore Minerals Act 1999](#), and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

This section should be read in conjunction with:

- Schedule 3 of the Environmental Planning and Assessment Regulation 2000 with respect to Designated Development – Extractive Industries;
- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007;
- State Environmental Planning Policy (Major Projects) 2005.

In the event that the proposed extractive industry is not determined as a **major project** by the Minister for Planning under State Environmental Planning Policy (Major Projects) 2005, the formal development consent for the proposal will be required to be obtained from Council, as the relevant consent authority.

In the event that the proposal is classified as a **Designated Development – Extractive Industries** under Schedule 3 of the Environmental Planning and Assessment Regulation 2000, the preparation of an **Environmental Impact Statement (EIS)** will be required instead of a **Statement of Environmental Effects (SEE)**.

Council's DA Guide provides the requirements for the preparation and submission of a Development Application and a **SEE** or **EIS** where appropriate. Alternatively, contact Council's Planning and Environmental Department.

### Objective(s)

- O1. To ensure that development does not adversely impact on areas of conservation value.
- O2. To ensure that development is designed to minimise risks associated with geotechnical hazards.
- O3. To provide an effective barrier between quarrying and mining operations and other sensitive land uses.
- O4. To maintain the character and amenity of existing rural land uses.
- O5. To facilitate mining and extractive industries in suitable locations that facilitate employment and the local economy.
- O6. To ensure development accords with best-practice operations and management.

### Control(s)

- 1) The preparation of a **traffic impact assessment report** (prepared by a suitably qualified and experienced traffic engineer) will be required and address the following (but are not limited to):
  - a) Estimated average and maximum hourly, daily and weekly truck movements, based upon the truck type and size proposed for the operation;
  - b) Proposed truck routes (for both laden and unladen trucks) and possible alternative routes or other alternative transport modes such a rail transport;
  - c) The physical condition of existing roads and / or bridges on the proposed truck routes to / from the site and any proposals to upgrade public or private roads to reduce dust and other impacts;
  - d) The traffic generation impact of both laden and unladen truck movements along the proposed truck routes to / from the site;
  - e) Potential road safety impacts upon other road users arising from the additional truck movements occurring along the proposed truck routes to / from the site; and
  - f) Assessment of sight distances for trucks entering / exiting the site and at other key intersections along the proposed truck routes to / from the site.
- 2) Applications for mining or extractive industry activities address the following matters and identify proposed mitigation measures where adverse impacts are identified:
  - a) Impact on vegetation, biodiversity & flora/fauna as a result of the development. This may require **Biodiversity Development Assessment Report** (and possibly offsets); **Flora &/or Fauna Report; Vegetation Management Plans** etc.
  - b) Efficient and safe movement of the extractive material from the source of supply to the end user;
  - c) Noise, dust and vibration abatement measures including any blasting or explosive use;
  - d) Visual impact assessment with particular reference to major roads, tourist routes / interest points and surrounding properties / structures;
  - e) Drainage implications including surface and groundwater impacts;
  - f) Rehabilitation of the site including materials, staging, source materials, re-contouring, replacement of topsoil, screen planting and vegetation;
  - g) Management techniques to address potential conflict with surrounding land uses and protection of environmental attributes; Any other assessment Council may require including heritage assessments, contaminated land assessments, ecological assessments and acid sulphate soil assessments.
  - h) A **Workforce Management Plan** including workforce accommodation considerations are detailed in the application for the construction and operation phases of the project.

## 8.8. Solar Energy & Wind Farms

*This Section has kindly been adapted from the Mid-Western Regional Council DCP.*

### **State Significant Development**

*Due to the high capital investment value of larger solar energy or wind farms, they may be categorised as **State Significant Development**. In these circumstances the assessment of the application is undertaken by the NSW Government. To determine if a proposal falls within this category, reference should be made to State Planning Policy (State and Regional Development 2011).*

*In the event that a proposal falls within the category of **State Significant Development** such that Council is not the approving authority, Council will request (during consultation) that consistency with this section of the Development Control Plan is still required.*

### **Exempt & Complying Development**

*Smaller-scale **electricity generating works** may also be exempt or complying development under Part 3, Division 4 of State Environmental Planning Policy (Infrastructure) 2007.*

### **Solar Energy Farms requiring a Development Application**

*All other solar farm developments require Council's consent. If so, then the placement of inverters and associated infrastructure to support the solar energy or wind farm system needs to comply with this DCP. It is highly recommended that a pre-application meeting with Council is held prior to submitting a **Development Application**.*

### **Wind Farms requiring a Development Application**

*For the purpose of the DCP, commercial wind power generation turbine(s) or towers with a peak capacity power rated output greater than 10kW require development consent and complies with the provisions of this plan. For the purposes of this DCP, commercial wind power generation includes wind power generation. Turbine(s) or towers with a peak capacity of power rated output greater than 10kW. The erection of a wind monitoring tower also requires Council's consent.*

### **Road Upgrades**

*Much of Council's road network is generally not capable of sustaining the increase in large scale construction traffic and may require substantial upgrading to accommodate construction vehicles. Appropriate bonds will be required to ensure any road damage is repaired to Council's satisfaction. Such bonds are payable prior to commencement of any works on the site. Road sealing shall be required where appropriate on unsealed public roads utilised by the proponent.*

### **Consultation with State Government Authorities**

*Proponents are advised to consult with public authorities that may have a role in assessing the Development Application. Council may also consult with those relevant public authorities during the application process.*

### **Developer Contributions**

*Council will seek to negotiate voluntary planning agreements for major solar energy farm developments in accordance with Section 7.4 of the Environmental Planning and Assessment Act 1979. However, this does not exclude application of Section 7.11 or 7.12 Developer Contributions in accordance with the relevant **Contributions Plan** in force at the time of determination.*

### **Remediation of Site at Closure**

*Council is likely to require the following conditions:*

*Within six months of the Solar Energy or Wind Farm ceasing to operate, any rights of carriageways that were created to enable maintenance to be conducted are to be extinguished by the developer and the land made good, unless otherwise agreed with the landowner.*

*Within twelve months of the Solar Energy or Wind Farm ceasing to operate, all infrastructure is to be fully dismantled and removed from the site.*

### Objective(s)

- O1. To minimise potential land use conflicts.
- O2. To ensure that there is no unreasonable interference with the comfort or use of adjoining land.
- O3. To ensure that impacts on agricultural land, businesses and tourism are appropriately considered.
- O4. To ensure road access, visual impacts, noise, health, waste, construction management and environmental constraints are identified and sufficient information is included with each development application to enable proper assessment.
- O5. To ensure that adequate provisions are made to restore developed land at the end of the life of the development.

### Control(s)

- 1) **Lodgement (for both Solar & Wind Farms):** The application is supported by a **Statement of Environmental Effects (SoEE)** or other relevant documents that address all relevant legislation and applicable policies including the following matters:
  - a) The location of the property, land contours, boundary dimensions and site area including:
    - i) Topographic map of 1:25,000 scale showing the location of the solar/wind farm;
    - ii) The route of transmission lines to the electricity grid;
    - iii) The service roads on and to the site; and
    - iv) The proximity to significant features such as main townships or villages, main roads, other solar farm developments, dwellings, environmentally and visually sensitive land, watercourses or drainage lines, crop and pasture land, forests, national parks, heritage items or conservation areas.
  - b) A **Site Plan** or plans showing the position of the proposed solar panel arrays or wind turbines, inverters, battery storages and all construction facilities from site boundaries, the land contours, native vegetation to be removed or retained, the proposed vehicular access points, the location and uses of all existing and proposed buildings, power lines, sub-station and fences on the land.
  - c) A description of the proposed solar arrays or wind turbine(s) including all relevant design details such as number, dimensions, generation capacity, overall height once mounted, rotational information and materials / colour (including for solar arrays if mirror or lenses are proposed). This may also be supported by an **Elevation Plan**; or
  - d) Management of temporary facilities, waste, numbers of contractors/employees, etc.
  - e) Details of the proposed connection to the electricity reticulation network.
  - f) A **Land Use Conflict Risk Assessment (LUCRA)** shall be prepared in accordance with the *Land Use Conflict Risk Assessment Guide* produced by the NSW Department of Primary

Industries and provide a land use description of the adjoining land and/or affected lands and landscape and assessment of the likely future impact.

- g) A **Noise Assessment** demonstrating compliance with the *NSW Noise Policy for Industry 2017*, Noise Construction Guidelines and any other NSW Acts, Rules or Regulations applicable to solar or farm noise including during construction and decommissioning (e.g., DECC (2012) *NSW Wind Farm Guidelines*).
- h) A **Visual Impact Assessment** should assess:
  - i) the visual impact of the project including an assessment of the development on the scenic value and character of the locality; and
  - ii) how the proposal will maintain the unique local character of the area, all significant vistas and also examine local community values towards key elements which form the identity of the area being impacted by the proposal; and
  - iii) infrastructure should be located in low visual impact locations and interconnection cables/wiring and the like should be underground.
- i) A **Construction Program** and **Environmental Management Plan** incorporating the proposed staging of the project, erosion and sedimentation controls, heavy vehicle movements, site access including all service roads, substation, underground wiring, construction phase impacts including facilities, waste disposal, staff/contractor numbers etc., weed control, farm impacts and all other works.
- j) A **Workforce Management Plan** including workforce accommodation considerations are detailed in the application for the construction and operation phases of the project.
- k) A **Traffic Assessment** that details the impact of construction vehicles on the proposed route having regard to public safety especially school bus hours and citizens' peak hour travel to work. Detailed road condition reports will be required as part of any consent.
- l) A **Flora & Fauna Assessment** (where relevant) with specific mention of migratory species potentially impacted by the development. Where the development is in close proximity to known habitats of threatened species (Flora or Fauna), early consultation with the Office of Environment and Heritage is highly recommended.
- m) A **Decommissioning & Site Restoration Plan** should be included that provides measures to remediate the land in accordance with *SEPP No 55 – Remediation of Land* along with details of appropriate disposal methods for all infrastructure.
- n) Details of **Consultation** with all State Agencies and how any feedback has been addressed (e.g., CASA for aviation safety, DPI Water for water impacts, OEH for flora and fauna impacts; AAA for aerial agriculture implications etc.).

- o) A **Statement of Heritage Impact** (where DCP *Chapter 4 – Heritage & Cultural Conservation* applies).
  - p) Additional information may be required depending upon the circumstances of the development proposal and level of detail, and accuracy provided within the development application.
- 2) **Lodgement (for Solar Farms only):**
- a) A **Preliminary Risk Screening** in accordance with *SEPP No. 33 – Hazardous and Offensive Development* shall be included, particularly if battery storage is proposed onsite. If the proposal is deemed “potentially hazardous”, a **Preliminary Hazard Analysis (PHA)** shall be prepared and submitted with mitigation measures to manage the risks including but not limited to spontaneous ignition, bushfire and electro-magnetic fields in accordance with relevant Australian Guidelines.
  - b) A **Glint and Glare Assessment**, including full details on night lighting shall be submitted with the DA.
- 3) **Lodgement (for Wind Farms only):**
- a) The **Noise Assessment** (mentioned above) shall also detail proposed monitoring program(s) for full spectrum noise testing (including low frequency sound and infrasound) to validate predicted noise impacts on neighbouring properties. The impact of The Van Den Berg effect (i.e., the effects of the wind profile at night on wind turbine sound) is also to be specified.
  - b) An **Electromagnetic Radiation Study** including interference from the wind turbines and/or transmission lines. This should include impacts on human and animal health, emergency services, RFS, Police, Ambulance etc. and local television and radio reception and other local communications.
  - c) A **Communications Study** should identify the existing status of communications and detail the proposed method of dealing with potential communication interference. The development should not detract from the reception of radio, TV, internet or other communication methods. Where necessary, it may be required to install additional services (boosters/communication towers/ re-transmission towers etc.) to maintain such services in the vicinity of the development. Where this is determined to be necessary, the work and equipment shall be at the developers cost.
- 4) **Design (Solar & Wind):** The following are included as part of the design criteria and assessment of any related **development application**:
- a) The development should be sited and carried out to minimise impacts on, or restrictions to grazing, farming, residential, tourism, business and forestry practices.

- b) The development should be carried out in a way that minimises any physical adverse effects on adjoining land and the development site, including, but not limited to:
    - i) land degradation;
    - ii) native vegetation loss;
    - iii) alteration to drainage patterns;
    - iv) pollution of surface and ground water;
    - v) spread of noxious plants and animals; and
    - vi) bushfire hazard.
  - c) The applicant should assess the cumulative impact of the development having regard to solar energy or wind farms already built and those approved but not yet constructed within 10km of the Site. Council does not favour large expanses of land being covered with solar energy or wind farms where there is significant cumulative impact.
  - d) Proposed solar farms should consider the NSW Department of Planning and Environment *Solar Energy Guidelines*, *NSW Noise Policy for Industry* and any other NSW Acts, Rules or Regulations applicable to solar energy farms.
  - e) Proposed wind farms should comply with the *NSW Wind farm Guidelines* and any other NSW Acts, Rules or Regulations applicable to wind farm noise. Note that where noise levels are found to exceed those guidelines, Council shall require remediation work and may require the cessation or decommissioning of the turbines to reduce the noise impacts on sensitive receptors such as non-related dwellings.
- 5) **Design (Solar Energy Farms):**
- a) Where the proposal is located within a 5km radius from main townships and villages, the proposal demonstrates that it will not impact on the scenic value and character of the locality.
  - b) Solar Energy Farms should not be located within 200m of any dwelling not associated with the development or from any lot upon which a dwelling may be constructed unless they can demonstrate there are no significant impacts.
  - c) Solar Energy Farms should not be located within 100m from a formed Local Public Road or 200m from a Regional or State Road. A greater distance may be required by the road authority where visual impact mitigation is necessary.
  - d) Solar Energy Farms should not be located within 10m from a non-related property boundary; existing and proposed screenings may be used to minimise visual impacts to non-related properties. However, screening is not the only preferred method of minimising visual impact. Solar arrays shall be located in positions so as to have minimal visual impact on nearby properties, especially existing dwellings and lots on which dwellings may be constructed.

6) **Design (Wind Farms):**

- a) Turbines shall not be located within 5km of any dwelling not associated with the development or from any lot upon which a dwelling may be constructed. The 5km setback proposes utilising a precautionary principle in addressing perceived visual, noise and health concerns;
- b) Turbines shall not be located within a distance two times the height of the turbine (including the tip of the blade) from a formed public road. A greater distance may be required by the road authority;
- c) Turbines shall not be located within a distance 2km from a non-related property boundary;
- d) Existing and proposed screenings may be used to minimise visual impacts to non-related properties. However, due to the height of turbines, screening is not the preferred method of minimising visual impact. Turbines shall be located in positions so as to have minimal visual impact on nearby properties, especially existing dwellings and lots on which dwellings may be constructed;
- e) Turbine locations are to be sensitive to existing related dwellings on the subject site. Noise and shadow flicker should be minimised and turbines should not be located in close proximity to existing dwellings;
- f) Turbine locations shall not surround a non-related property. Turbines shall be located with the specified setbacks from property boundaries to minimise the visual impact of the development on adjacent and nearby non-related property. Cumulative impacts, having regard to existing turbines, turbines approved but yet to be constructed, those for which a Development Application has been lodged with a planning authority and those for which written licenses have been granted to a developer for wind farm assessment purposes should be assessed.