



11 June 2021

Attention: Craig Butler and Paul Cashel
The General Manager,
Lithgow City Council,
PO Box 19 LITHGOW NSW 2790,

RE: Lithgow City Council Development Control Plan 2021

Please see below submissions against certain items in Chapter 2, Chapter 6, Chapter 8 of the Draft Development Control Plan 2021

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Objection is

This is considered this overly onerous, and conflicting, when the future character may not be defined and it restricts innovative construction.

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This is likely to devalue land that has been purchased for the view

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The requirement for surveillance may conflict with other laws



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- 1a) Highway 100meters

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Kind Regards

[Redacted signature]

Craig Butler
General Manager, Lithgow Council
council@lithgow.nsw.gov.au

6 June 2021

Dear Craig,

As business owners and farmers in the Capertee Valley who are committed to the removal of roadblocks to improving economic development and life in the Capertee Valley community, we strongly urge Lithgow Council to support the adoption of the NSW Government *Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies* in full into the Lithgow Development Control Plan, within LEP Zone RU1.

Support for the proposed amendments

The NSW Government *Agritourism and small-scale agriculture development: Proposed amendments to support farm businesses and regional economies* offer a great start to improving the economic opportunities for owners of rural land in the Capertee Valley.

Including these amendments in the Lithgow Development Control Plan would enable the development of a range of agritourism enterprises. Landowners could undertake these enterprises to increase their business revenue and provide themselves with something of a buffer against economically negative events with possibly less outlay and in a shorter time, and possibly make use of redundant farm infrastructure.

The proposed amendments offer the opportunity to expand farm activities and therefore economic and work opportunities which would be of particular benefit to women and young people.

We strongly support the preservation of the current agricultural and natural environment in the Capertee Valley, and the values included in the proposed amendments:

- Balancing the impacts of tourism and commercial uses on the environment, infrastructure, amenity and adjoining land use
- Maintaining a focus on environmental values
- Appropriate waste management
- Safe traffic management
- Noise control

In the Capertee Valley the subdivision of farmland into smaller lots, with many being 40 hectares, greatly increases the need for these planning amendments to be put in place by Lithgow Council. Landowners need a reasonable prospect of residing and making a living on the small scale properties which Lithgow Council has approved.

Given the unrealised tourism potential of the Capertee Valley, the development of planning controls appropriate to an area with properties ranging from many thousands of acres to just 100 acres is critical. As the Lithgow tourism Marketing Strategy 2021-2024 has baked-in a focus on Lithgow city, it is even more vital to rural businesses in Lithgow Council that these planning amendments provide

opportunities for rural residents to develop their own agritourism assets and promotion to increase visitor awareness of the Capertee Valley and other rural districts in the region.

In an earlier Agribusiness Bulletin¹, Deloitte projected “For some regional economies, the expenditure by agritourists can be a major driver of economic activity. In some regions, the economic value of agritourism is likely to be bigger than the value of the primary produce. And if visitation growth continues to increase like it has over the past five years, agritourism could become an important sector in its own right.”

Our concerns about the Lithgow Development Control Plan 2021

Our concerns are that:

The Lithgow Development Control Plan does not include or reflect the proposed NSW amendments to agritourism development on rural land. For example, there is no indication of the development approval pathway thresholds being available to make development for agricultural businesses easier.

The plan includes measures which significantly restrict economic development in the Capertee Valley. For instance, the arbitrary restrictions in the retail and business section on employment numbers, the type of goods allowed to be sold, and that the goods come from only the property they are sold from. These restrictions unduly prevent economic development through collaboration among landowners, or the involvement of non-landowners in a business, and they restrict access to employment for women, young people and the indigenous community. For example, indigenous community members providing goods to a farm business which do not come from the property but reflect their connection to the land.

Objective 1 in 8.3 Retail and Business is objectionable in our society, and planning decisions applying this objective could be illegal as the objective is anti-competitive. In our free market economy the market decides what it needs and wants and businesses try to meet those needs and wants. This objective could for example; lead to decisions which restrict a primary producer’s opportunities to vertically integrate, protect businesses which provide inadequate services to rural residents, and force rural residents to travel further to get what they need.

Rural Zones central to economic development in Lithgow Council Area

We are most concerned that Lithgow Council takes a view of the planning needs in its rural areas (RU1) which is appropriate to the needs of its residents and landowners. Rural zones make up the majority of the land in the council area. In the Lithgow Council area the facilitation of economic development is critical:

- Employment opportunities need to be available to retain younger residents
- Landowners who want to reside in the area need to be able to develop the income to support being permanent residents.
- Planning should also support the advancement of the economic interests of the indigenous community
- Tourism is a growing opportunity as the weekend and retirement getaway market has moved from a “2 hour drive” to taking breaks away at longer drive distances. Development of a variety of attractive and interesting products and services in Lithgow Council’s rural zones is required to take advantage of this opportunity. These opportunities include but are not limited to history, indigenous culture, natural environment, creative and physical activities, as well as the products of agricultural activity and tourist accommodation.

¹ <https://www2.deloitte.com/au/en/pages/consumer-industrial-products/articles/agritourism.html>

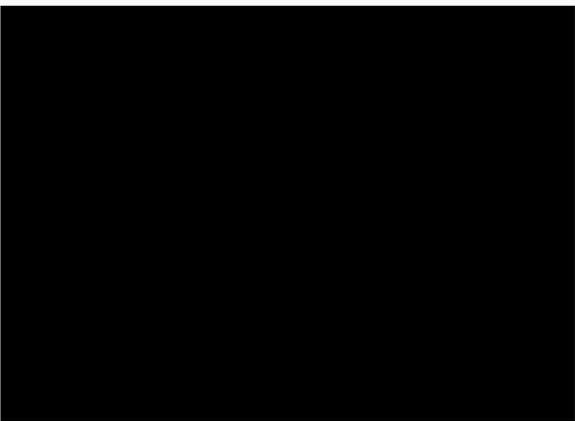
Planning which relies on Lithgow city as a hub for all tourism activity will unnecessarily deprive rural residents of economic opportunities and is unlikely to meet the expectations of the tourist market who largely undertake independent travel by car.

We look forward to learning more about progress on the Lithgow Development Control Plan review and the opportunity to contribute productively and intelligently to the efforts of our local government.

This letter is from the following members of the business and farming community in the Capertee Valley, those marked with an asterisk have been nominated to liaise with Lithgow Council on behalf of everyone if you need a point of contact.

Kind regards

[Redacted signature block containing multiple lines of blacked-out text]



Sunday, 13 June 2021

And by email: gm@lithgow.nsw.gov.au;

council@lithgow.nsw.gov.au

Mr Craig Butler
General Manager
Lithgow City Council
PO Box 19
Lithgow NSW 2790

Dear Mr Butler,

Draft Lithgow Development Control Plan (draft DCP)

 appreciates the opportunity to comment on the draft DCP although ideally, we would have preferred longer to consult with our members, especially as this is Lithgow's first DCP and as it covers the whole LGA.

Our principal comments are:

- Overall, it is critical that the planning controls for the LGA laid down in Lithgow's LEP are refined and elaborated through a DCP. We also believe that the draft DCP contains appropriate provisions for the majority of development applications likely to be made pending the next review of the LEP.
 - Given the enormity and speed of the economic changes facing the LGA, it would have been preferable to undertake a fundamental review of the LEP prior to settling the DCP controls.
 - Parts of the DCP, at least as they apply to the Wolgan Valley, are inconsistent with the current LEP and may therefore create confusion as to whether they are operative and how they should be applied.
 - A whole of LGA DCP is less than ideal given both the sensitivity and diversity of LGA's landscapes, environments, industries, and uses, and where the DCP's treatment is general and takes little account of these differences other than in Lithgow's town centre and a limited number of precincts. Since the coverage of the
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DCP is so geographically broad, keeping its controls general is unavoidable and appropriate, especially given the pace at which some land uses and industries are changing.

In making our submission, we are conscious that there are controls in the draft DCP which, by their nature, must apply across the whole LGA. We also recognise that Council has resource constraints and that many of the DCP's controls and guidance are both necessary and overdue. We are also conscious of the complexity of the inter-relationship between Council's controls and other aspects of the planning system, especially State level plans, Commonwealth regulation, and the biodiversity regime and that this complexity makes the process of drafting a DCP especially difficult.

However, the challenges which Lithgow's economy is facing will not be aided by a planning scheme that does not reflect a clear and forward-looking vision which is rooted in the present reality. It must be a scheme that gives potential investors confidence that Council genuinely believes in the future of its own LGA.

For its part, [REDACTED], despite the 2019 fires and other challenges, believes that Lithgow's underlying natural assets and strategic position can see the LGA emerge as one of the most dynamic and successful regions in the country over the next two decades. This will only happen if Council embraces the opportunity by thinking creatively with its constituents and others who share that belief.

As Council's own strategic report, *A Case for Economic Change, the Lithgow Regional Economic Development Strategy 2018-2022*, highlights the drivers of change and the opportunities presented include:

- The speed at which the world is now responding to the threats of climate change and its implications for coal and power generation and the shift to alternatives.
- The development of the Western Sydney Airport which, over the next two decades, is expected to emerge as the principal air interchange for the country, especially for air freight.
- Existing extensive power transmission infrastructure and a location that is close to Sydney while enjoying much higher rates of sunshine and with land suitable for renewable generation. This has implications for the location of data centres and other power dependent technologies.
- Changes in infrastructure technology, especially water, communications and information technologies, which will drive a move to decentralisation, especially in response to the pandemic and housing affordability in the metropolis.
- The existing strategic transport advantage the Lithgow enjoys, especially in relation to electrified rail and road linkages between Sydney with its international ports and inland NSW.
- Land and water suitable for intensive horticulture that can supply both Sydney and air freight dependent markets.
- Magnificent scenic landscapes and wilderness adventure opportunities that can offer very attractive lifestyles for those living in the LGA or wanting to visit it.

These assets and opportunities could easily see Lithgow eclipse Bathurst, Orange and Mudgee in years to come while drawing investment from Sydney which is already heavily constrained by land prices, flooding and biodiversity values and traffic congestion.

Because LEPs tend to be rather blunt instruments, much of the nuance around any new vision must be communicated through the DCP(s). Yet little of this vision is apparent from the draft DCP. The present draft tends to adopt an older style approach of minimising conflicts in existing uses and by focusing on what Council does not want to see rather than encouraging development that will support the vision and lay the base for the LGA's future.

To that extent, this draft DCP is a stopgap pending the work necessary to carefully articulate that future vision in more fine-grained plans, and in a way where the community has more fully participated in their preparation. In the interim, we acknowledge, however, that the plan strikes an appropriate balance between hinting at the vision without generally being too constrictive or mandatory in how that loosely framed vision might be realised.

Comments on the draft DCP's application to the Wolgan Valley

Following on from the comments made above, each of the valleys in the LGA share common features but also have critical differences. The Wolgan, for example, is separated by a narrow plateau from its cousin, the Capertee, but its opportunities, challenges and uses are very different. They both share magnificent scenic escarpments which offer tourism opportunities, but the Capertee can support much more viable agricultural development given the width of the valley and the size of landholdings. It currently has a mine in operation and has alternative road access. The Wolgan sees its future in low scale wilderness tourism, conservation, outdoor recreation, and education. Hartley, Kanimbla, and Tarana are very different again. And yet their LEP and proposed DCP controls are essentially the same.

In the Wolgan, private lands are zoned either RU1-Primary Production or RU2-Rural Landscape. Both these zonings prohibit "tourist and visitor accommodation" as defined in the standard LEP and the Lithgow LEP 2014. "Tourist and visitor accommodation" is also prohibited in all of the LEP's environmental zones. And yet the draft DCP's treatment of Tourist Development in Chapter 8, Rural and Other Land Uses, is premised on such development, as defined in the LEP, being allowed with consent.

Perhaps this treatment is in anticipation of changes to the LEP but, if it is, it remains inappropriate and confusing. For example, hotel and motel accommodation is not something that is considered appropriate in the Wolgan given the 40-100ha size of most of the holdings. Similarly, cabin development is technically considered a form of serviced apartment development, as defined in the standard instrument and the LEP, but which is commonly understood as high-density apartments. It is here that the DCP becomes critical in distinguishing between different types of development that fall within the same general category. However, the draft DCP does not address these subtleties. Presumably, if the LEP is amended, the commencement of any changes will need to coincide with an update to the DCP to manage fears and expectations around what types of development are being allowed.

An example at the other end of the scale is clause 8.2.1(1)(c) of the draft DCP which requires tourism development proponents to address management and booking systems in making a development application. One wonders how this is not overreach on the part of the Council and a signal to investors that Council proposes to descend to a level of scrutiny (and obstruction) that will discourage or frustrate otherwise appropriate development. It has the

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This may not be practicable with the shape of a block.

Page 24**2.5.7 Bicycle Parking****Objection is**

This is considered an overly onerous additional cost to a development when a garage is provided as a part of the development.

The requirement for surveillance may conflict with other laws

Page 26

Entrances: Entrances to buildings are clearly visible from primary street frontages and enhanced as appropriate to improve legibility and accessibility.

Objection is

This is not practical with a multi unit development

Page 27

Provided appropriate lighting that enhances safety and security whilst minimising impacts from light-spill or inappropriate lighting on neighbouring properties

Objection is

Enhancement may not be practicable

Page 28

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)

Objection is

This may limit the saving via relocation of historic buildings.

CHAPTER 6

Page 7

Retention: To encourage the retention of trees and other significant vegetation

Objection is

Significant vegetation may be undesirable, ie blackberry infestation

Page 8

Unacceptable design

Objection is

A high fence and secured access may be appropriate to comply with prevention of crime requirements

Page 9

3) Solid Metal Fencing: Metal (solid) fencing (e.g., Colorbond) is not to be installed in the following locations:

Objection is

This style of fence may be appropriate to meet security requirements

Page 12

- 1) Dwelling Setbacks
- 1a) Highway 100meters

Objection is

If you own a block of land that is narrow on the highway, how would you build a dwelling? Most properties on the Great Western Highway in Lithgow are around 60 meters deep. Could more information be provided on this control.

Page 14

b) Any detached garages, carports, outbuildings or sheds do not exceed a total cumulative floor area of 300m² and no one detached building exceeds a floor area of 150m²

Objection is

Size restriction is unreasonable, each application should be considered on merit, a person may have a significant collection of historic vehicles to display within a garage built to a similar external standard of a house.

Page 14

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

Objection is

Earthworks in the area should be taken into account

Page 25

Cumulative Floor Area:

Objection is

Size restriction is unreasonable, each application should be considered on merit, a person may have a significant collection of historic vehicles to display within a garage built to a similar external standard of a house

Page 26

5) Garage Door Widths/Setbacks: Garage doors facing a public road do not exceed (see diagrams above):

Objection is

The requirements here may not be reasonable depending on the shape of a block

Page 37

3) Pools are to be located in the rear yard and have a minimum set back of 1 meter from any side or rear boundary.

Objection is

Some properties have more space at the front of the existing dwelling to accommodate a pool than they have in the rear.

Page 38

3) Number of buildings

Objection is

1 shed is not sufficient storage and is there a maximum size limit on the shed?

Page 42

6.6.7) Shipping containers

Objection is

Is there a restriction to the amount of shipping containers if they do not visually impact public domain?

R3 Zoning – Has there been any restriction been put on the height.

CHAPTER 8**Page 23**

4) Cumulative Building Area: The cumulative building area/footprint of all farm buildings (other than grain bunkers) on any landholding and does not exceed:

Objection is

The allowance for building areas is a significantly low a common standard of 2.5% of the lot size would be fairer and support future development.

Kind Regards

[REDACTED]
[REDACTED]