



Chapter 9:

Pottery Estate Precinct

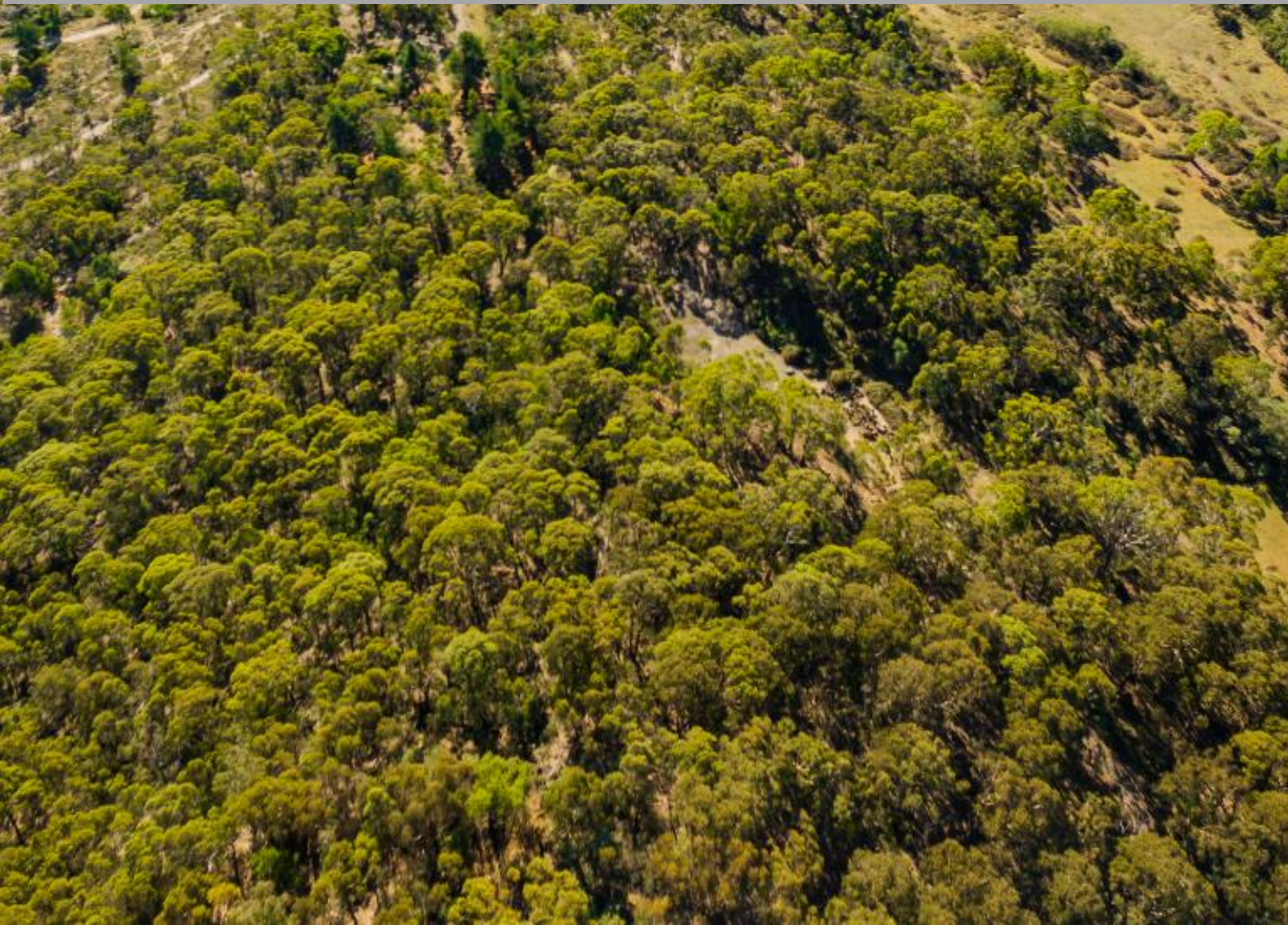


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Document Control

Version	Date in Force	Date Approved by Council	Notes
1.0	17 November 2021	25 October 2021	Commencement

Title Page: The picture on the title page is of an aerial photo of the Pottery Estate precinct (Source: Midson Group).

9.1 Introduction

9.1.1 Application of this Chapter

This Chapter contains site specific controls that apply to development in the “Pottery Estate”, off Silcock Street, Lithgow. The Pottery Estate Precinct applies to development located within the dark yellow shaded area of the Pottery Estate Local Environmental Plan (LEP) precinct as shown in **Figure 1** below;

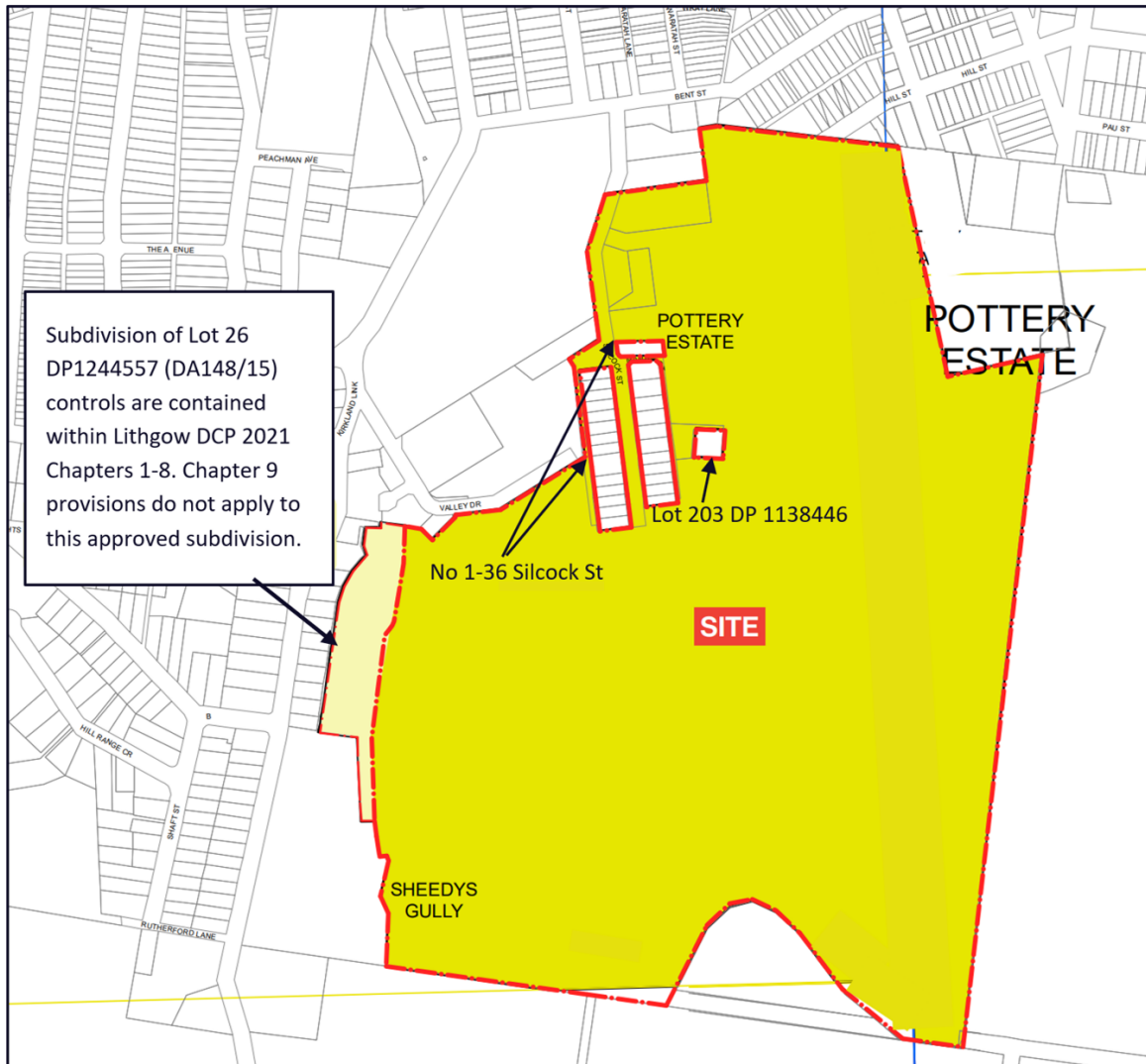


Figure 1: “Pottery Estate” Precinct

Source: LLEP2014

Note: Lot 203 DP 1138446 and Nos 1-36 Silcock Street lots are excluded from the area covered by the Pottery Estate Precinct Chapter 9. It is further noted that the subdivision created under DA148/2015 (shaded light yellow) is intended to be removed from the Pottery Estate LEP Map so that future controls to be applied for new development within the “Stage 4” subdivision lots created under DA148/2015 will be contained within the Lithgow Development Control Plan (DCP) 2021 Chapters 1-8.

The “Pottery Estate Precinct” was produced alongside the *Pottery Estate Indicative Structure Plan* (the “Structure Plan”) which details the overall vision for the precinct. The Structure Plan is informed by a detailed site analysis and review of relevant documents and forms the basis for the “Pottery Estate Precinct”.

The Structure Plan at **Figure 3** shows how the overall precinct may develop over time. It is intended as a guide to demonstrate how the vision, development principles and key elements for the precinct may be achieved. It is recognised that there may be other options for the site’s layout which may be as effective in achieving the desired outcomes for the precinct. As such, a Consent Authority may grant consent to a proposal that differs from the Structure Plan where the variation is considered to still achieve the vision, principles and key elements set out in this DCP Chapter. In accordance with section 4.15(3A)(b) of the Act, a consent authority is required to be flexible in applying the standards within a DCP and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.

9.1.2 Purpose of this Chapter

The controls in this Chapter have been developed to provide further detail in relation to the future development in the “The Pottery Estate”. The DCP Chapter 9 focuses on a range of locality specific requirements to guide site/building/subdivision design in this unique and historical area of Lithgow.

Lithgow DCP Chapter 9 supplements the *Lithgow Local Environmental Plan 2014* (LLEP2014) and in particular guides the future development of the “Pottery Estate” by providing site specific controls to ensure that it achieves the objectives of LLEP2014 Cl. 7.12.

The provisions of this chapter should be read in conjunction with other relevant Chapters 1-8 of Lithgow Development Control Plan 2021.

Where there is an inconsistency between Chapter 9 “Pottery Estate Precinct” and requirements within Chapters 1-8 of the Lithgow Development Control Plan 2021, the provisions contained within Chapter 9 – Pottery Estate Precinct will prevail.

9.1.3 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:

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

9.1.4 Exempt & Complying Development

State Environmental Planning Policy (Exempt and Complying Development Code) 2008 (Code SEPP) does not apply to State listed heritage items including A124 which contains historical archaeological relics at or just below the surface and remnant Pottery Estate structures. Where the site is listed as a state heritage item, an applicant will need to first obtain an approval/exemption from the NSW Heritage Council under subsection 57(1) & (2) of the NSW Heritage Act 1977.

Certain activities and works are exempt from approval under the Heritage Act 1977 for heritage items listed on the State Heritage Register or subject to an Interim Heritage Order. The activities and works must have little to no impact on the item's heritage significance and support its management. An explanation on what activities and works that are considered as exempt can be found in the [NSW Government Gazette on 13 November 2020](#).

Minor works to heritage items and works to buildings within Heritage Conservation Area “C11” (“Heritage Conservation Area (HCA) C11”) can be undertaken without development consent pursuant to Lithgow LEP2014 clause 5.10(3).

9.2 Site Requirements (All Development)

9.2.1 Vision

The Pottery Estate represents a development opportunity of a site located adjacent to the Valley Plaza and in close proximity to the Lithgow town centre. It is well positioned to provide a mix of housing, employment, and retail services with access to public transport, the local and regional road network and existing services and facilities.

A key feature of the Pottery Estate is that the “North Precinct” (being the northern portion of the R1 zone) denoted in **Figure 2** below partly overlaps an archaeologically significant area listed on the State Heritage Register (Heritage Item A124) and Heritage Conservation Area “C11” under the Lithgow LEP 2014. This results in a distinctly different vision for above and below ground development compared to remainder areas in the Pottery Estate.

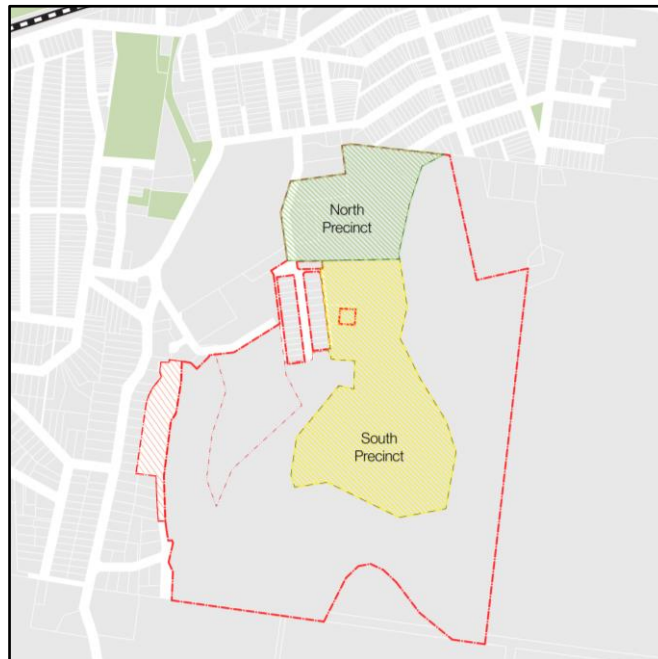


Figure 2: “Pottery Estate” Residential Zones Source: Group GSA

9.2.2 Development Principles

Objective(s)

To achieve this vision, development within the Pottery Estate is to:

- *appropriately respond to historical assets, both above and below ground, and to consider potential ongoing uses and management of the Pottery Estate buildings / historical archaeological relics.*
- *occur sensitively in the context of the site’s natural constraints with consideration for existing watercourses, riparian corridors, and biodiversity characteristics.*
- *provide a variety of housing types to increase housing choice including provision of affordable rental housing and/or seniors housing.*

- *comprise a diverse built form that provides a high-quality living and working environment with appropriate regard to heritage assets.*
- *incorporate sustainability measures that reduce impacts on the natural environment.*

9.2.3 Indicative Structure Plan

Objective(s)

- a) To ensure that development occurs in a coordinated manner consistent with the vision and development principles for the Pottery Estate.
- b) To ensure development appropriately responds to environmental site constraints/ attributes including mine subsidence, site excavations/disturbance, contamination, bushfire, flooding & drainage, ecology, and building/archaeological heritage.
- c) To support the continued growth of Lithgow within the current urban footprint by providing a mix of housing, retail, employment, and services for the benefit of the local and regional community.
- d) To ensure the key elements of the structure plan are delivered whilst providing a degree of flexibility in the final layout and design of the Pottery Estate.
- e) To locate residential uses close to the existing town centre and local services to optimise access to facilities, outlook, and amenity.
- f) To develop a local activity centre in and around the existing Pottery Estate buildings to facilitate their refurbishment and encourage public activation of the space.

Development is to be generally consistent with the Indicative Structure Plan as shown in **Figure 3** and key elements in Table 1.

Table 1 Key elements

Element	Description
Environment	<ul style="list-style-type: none"> ▪ Protection and management of the E3 zoned lands that surround the residential and business zones. ▪ Ensure that new development can occur sensitively in the context of existing watercourses, and biodiversity characteristics of the site. ▪ Promote the remediation of the Residential and Business zoned lands impacted by mine subsidence and contamination. ▪ Protection and management of ecologically significant bushland and watercourses that traverse the site.

Heritage	<ul style="list-style-type: none"> ▪ Achieve appropriate conservation of the site's values including historical archaeological relics associated with the former Lithgow Pottery. ▪ The retention and adaptive re-use of heritage significant buildings/structures (Lithgow Pottery). ▪ To ensure protection of historical archaeological relics in-situ via appropriate forms of subdivision and development. ▪ To embrace the unique heritage value of the A124 State Heritage Register (SHR) site by encouraging appropriate land uses within a single allotment that can more readily manage and promote the site's history/heritage assets. ▪ To maintain the significance of the Heritage Conservation Areas. ▪ Maintain suitable curtilage to heritage significant areas. ▪ Communicate the site's history through signage, public art, and incorporation of interpretive design elements at appropriate publicly accessible locations.
Residential	<ul style="list-style-type: none"> ▪ Creation of an urban community consistent with the nominated objectives of the R1 Residential Zone. ▪ Maximise development opportunities, where appropriate, taking advantage the site's proximity to Lithgow town centre, existing public transport infrastructure and surrounding services and amenity ▪ Provide design guidelines that respond to the site's state and local listed heritage assets (comprising both historical archaeological relics below ground and buildings above ground). ▪ Provide design guidelines that respond to key environmental constraints imposed by mine subsidence, contamination, and bushfire. ▪ Private and communal open space for residents
Business	<ul style="list-style-type: none"> ▪ To provide a mixture of compatible land uses that do not detract from the role of the Lithgow town centre, Lithgow Valley Estate Plaza and surrounding business and retail. ▪ Provide an opportunity to expand the local and regional economy by attracting businesses and employment opportunities to Lithgow. ▪ To promote a built form compatible with large retail format character established on the northern side of Valley Drive. ▪ Ensure a built form with suitable height and provision for landscaped setbacks that does not detract from the outlook from, or visually impact on the adjacent Heritage Conservation Area "C11" (Silcock Street). ▪ Ensure that new development provides adequate vehicular access and parking arrangements for proposed land uses.

<p>Open Space And Landscape</p>	<ul style="list-style-type: none"> ▪ To provide a range of public spaces to support new residential and employment uses, including parks, walkways, and bushland areas. ▪ Adopt a 'soft landscape' approach to flood and stormwater management, particularly in relation to water quality, quantity, and discharge. Use screening vegetation to minimise the visual impact of any engineering structures such as concrete culverts and other drainage related infrastructure. ▪ Facilitate the retention and protection of ecologically significant flora/fauna.
<p>Movement network</p>	<ul style="list-style-type: none"> ▪ New streets & pedestrian pathways to create a permeable movement network that links into the existing streets adjoining the site. ▪ The inclusion of a perimeter road between the developable areas and the adjacent bushland. ▪ Provide linkages to surrounding fire trails. ▪ Provide linkages that promote pedestrian access to heritage assets located within and immediately adjoining the DCP precinct.

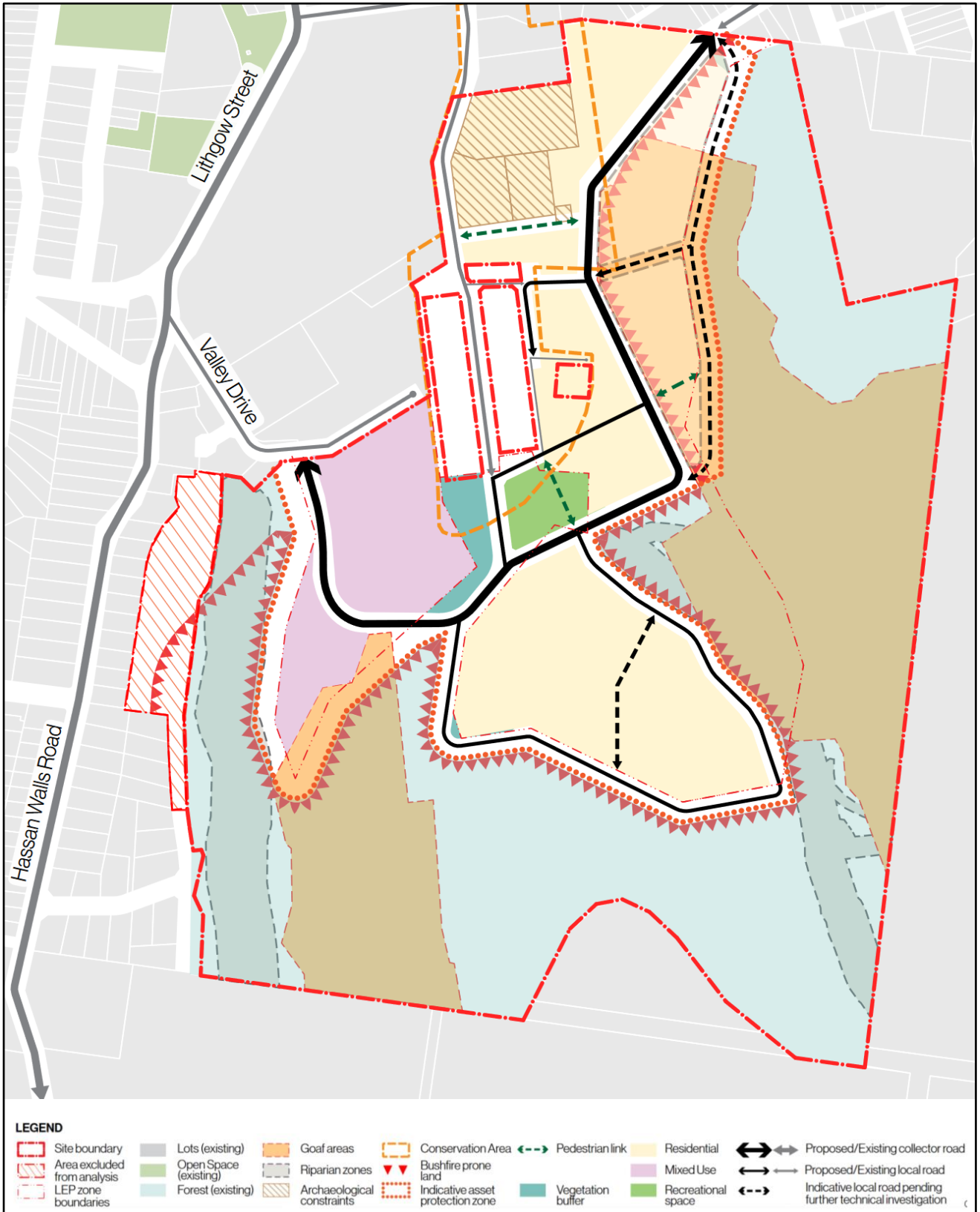


Figure 3: Pottery Estate Indicative Structure Plan

Source: Group GSA

9.2.4 Local Character and Context

Local character is not limited to the architectural style. The layout and form is critical as is the relationship to the environment and its local context. Refer **Figure 4** Local Context Plan below and **Figure 5** Built Form below;

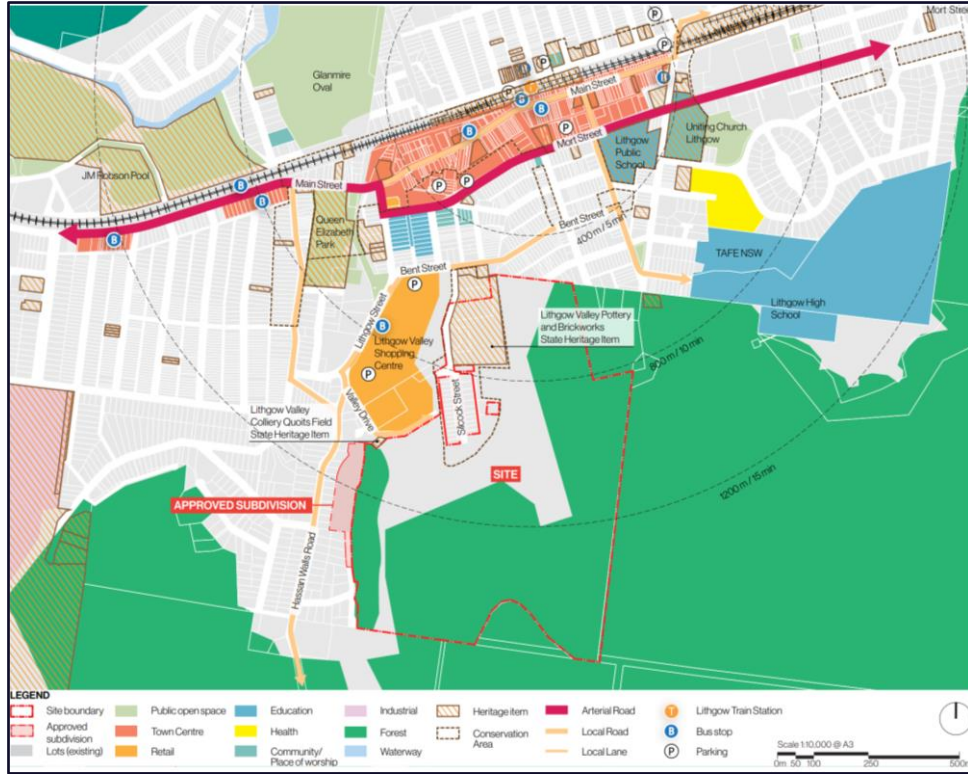


Figure 4: Pottery Estate Local Context Plan

Source: Group GSA



Figure 5: Pottery Estate Local Built Form Plan

Source: Group GSA

The key development areas in the Pottery Estate are comprised of;

- B4 Mixed Use zone to the west of Silcock Street HCA “C11”;
- Southern R1 zoned residential precinct (“South Precinct”); and (to a limited extent)
- Northern R1 zoned residential precinct (“North Precinct”) to the north of the Silcock Street cottages which incorporates heritage significant areas and potential goaf (under-mined) areas.

Objective(s)

- a) To retain and enhance unique qualities of the Pottery Estate by responding to the key elements that contribute to the character of the site and surrounds.
- b) Ensure new development is responsive and sympathetic to the surrounding context particularly having regard to heritage assets (both above and below ground)
- c) Ensure conservation of heritage values is a key component of any development within the A124 SHR precinct
- d) To ensure new development promotes a vibrant, safe, and attractive place for activity and community interaction.
- e) Ensure protection and management of the E3 zoned lands that complement the development precincts

Control(s)

1. Character of the B4 Mixed Use zoned area

The existing B4 zoned land in the west of the site extends over an area of some 3.64 hectares that would provide ordinarily permit up to 36,000m² of complying Commercial and Industrial floorspace under Part 5A of SEPP (Exempt and Complying) Development at an FSR of 1:1.

Large retail format along Valley Drive is consistent in scale with the Lithgow Valley Shopping Centre – high single storey buildings with limited street activation. This is consistent with the public realm in this area which is oriented toward vehicular traffic rather than pedestrians. Consideration should be given to the B4 site’s proximity to the adjacent Silcock Street Heritage Conservation Area with respect to landscape setbacks/building height/roof design/plant/signage and resulting outlook from the neighbouring single storey houses; and to the heritage significance of the adjacent (former) Quoits Field RE1 zoned parcel which sites immediately outside the Pottery Estate Precinct.

While Shop-top housing is permissible in the B4 zone, given the limited area available in the Pottery Estate, and its location opposite the existing shopping village, fully commercial development is preferable on this commercial zoned site. Any development should not detract from the HCA “C11” and should aim to utilize appropriate building setbacks/landscape screening along the eastern boundary to ensure new development does not have a detrimental impact on the heritage precinct.

Objectives / controls for slope response, earthworks and retaining walls are detailed in Chapter 2.3 of the Lithgow DCP 2021. Additional, site-specific objectives/controls for the Pottery Estate northern residential precinct are outlined in this Chapter.

Development applications that apply to state listed items triggers Clause 4.46 integrated development provisions of the EP&A Act 1979. Any works to or upon a state heritage item requires section 60 (S.60) approval or exemption under the Heritage Act 1977 and may require archaeological supervision during works.

Objective(s)

O1. To ensure that earthworks will not have a detrimental impact on heritage significant areas.

Control(s)

- 1) Sites located within the Heritage Conservation Area to the east of Silcock Street are of state heritage significance and historical archaeological relics within this area should be conserved. Planning for future use of this area must be informed by knowledge of the extent and integrity of the relics. Areas affected by future plans must be investigated and treated appropriately to ensure historical archaeological relics are retained/protected and interpreted.
- 2) Preference is given to managed developments **on a single lot** within the area covered by state heritage listing (A124) east of Silcock Street, which can better manage/monitor site excavation in the vicinity of historical archaeological relics both during the initial construction phase and thereafter. Where a development proposal within the A124 SHR precinct extends outside of the Pottery Estate (LEP) boundary to the north (e.g., RFS/SES properties), the applicant shall also have regard to heritage controls within the Lithgow DCP 2021 which applies to those areas outside of this “Pottery Estate Precinct”.

9.2.6 Stormwater and Water Quality Management

Existing watercourses traverse the Pottery Estate site as denoted in Figure 7 below and overland stormwater flows (not a defined watercourse pursuant to Water NSW advice) traverse the area to the south of the Silcock Street houses and B4 zoned site in a westerly direction. Figure 7 below.

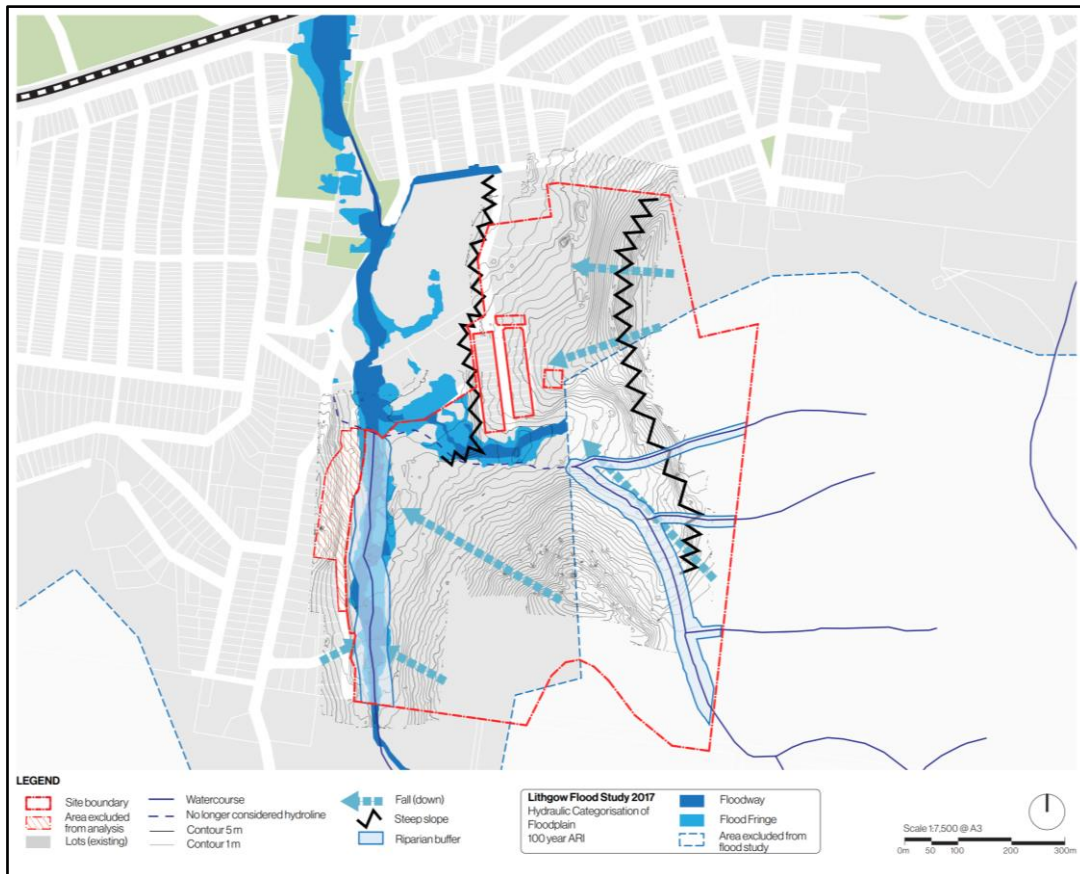


Figure 7: Pottery Estate Local Topography and Hydrology

Source: Group GSA

Objectives / controls for stormwater and water quality management are detailed in Chapter 2.4 of the Lithgow DCP 2021.

9.2.7 Vehicle Access and Parking

Objectives / controls for Vehicle Access and Parking are detailed in Chapter 2.5 of the Lithgow DCP. Additional site-specific objectives/controls for the Pottery Estate northern residential precinct are outlined in this Chapter.

Objective(s)

O1. To ensure development within the North Residential Precinct does not detrimentally impact on historical archaeological relics.

Control(s)

1) Basement parking is not permitted within the area covered by **A124** state heritage listing due to the potential of disturbing historical archaeological relics. Approval must be sought from

Heritage NSW prior to any earthworks, sub-surface works or archaeological investigations take place.

9.2.8 Utilities Easements and Infrastructure

Objectives / controls for Utilities, Easements and Infrastructure are detailed in Chapter 2.8 of the Lithgow DCP 2021. Additional, site-specific controls for the Pottery Estate northern residential precinct are outlined in this Chapter.

Objective(s)

O1. To minimise visual, environmental and/or heritage impact of new utilities, connections, or associated structures.

Control(s)

- 1) Installation of utilities must not interfere with historical archaeological relics located in A124 state heritage area to the east of Silcock Street.

9.3 Natural Environment and Hazard Management

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 Chapter 3 of the Lithgow DCP 2021. Environmental hazards that exist on the Pottery Estate site include mine subsidence, flooding and stormwater management, contamination. Other environmental constraints include bushfire and heritage/ historical archaeological relics.

9.3.1 Mine Subsidence and Site Stability Constraints

Objectives / controls for Land & Soils and Mine subsidence risk are detailed in Chapters 3.4 & 3.7 of the Lithgow DCP 2021.

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.*

The ePlanning portal 2020 maps the whole of the Pottery Estate as “Underground Coal Mining”. **Figure 8** map indicates generally where underground coal mining has occurred, and likely location of goaf areas based on the above records. Notably, goafs traverse the southern part of the B4 zone and the eastern part of the R1 zone as identified on the Indicative Structure Plan at **Figure 3**. These areas may be structurally unstable due to mining and require detailed investigation prior to any development in these affected areas (or in the vicinity of these mapped goaf areas).

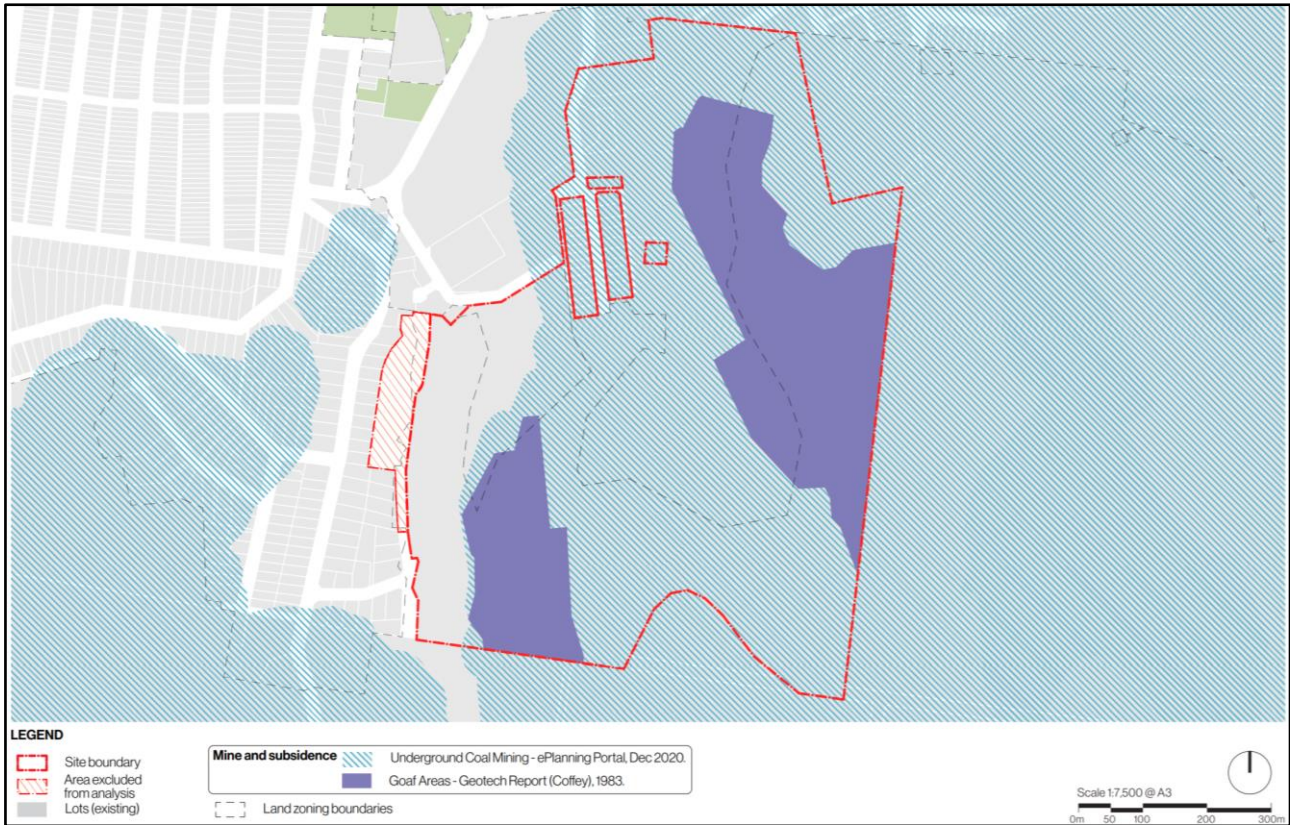


Figure 8: Pottery Estate Local Mining and Subsidence Map

Source: Group GSA

There has also been excavation/site disturbance in various parts of the Pottery Estate including works within the B4 zone and within in the “North Precinct” which would require investigation for structural stability and potentially compaction works, prior to any development.

9.3.2 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.

The Pottery Estate incorporated the Lithgow Valley Colliery Company (LVC Co) Coal Mine for a century until 1977. Three industries occupied the north-east of the Pottery Estate - the LVC Co. brick and pipe manufacturing works and associated clay quarry operated from 1876 to 1946 when the Sercombe brick kiln was demolished. The LVC Co. Pottery started in 1879 and ran intermittently until it liquidated in 1907. Given the Pottery Estate site’s industrial use history which may have resulted in varying levels of contamination.

Figure 9 provides an overview of known areas of past contamination. These are not definitive, given the past uses of the site which may have resulted in contamination and some areas have undergone partial remediation.

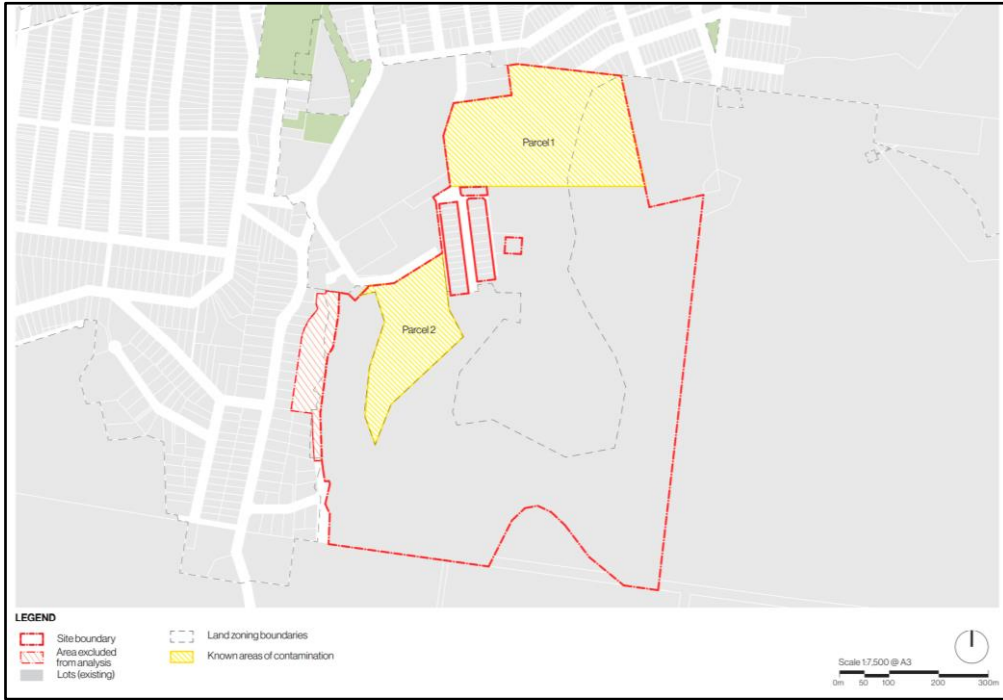


Figure 9: Pottery Estate Local Contamination Map

Source: Group GSA

Objectives / controls for Contaminated land risk are detailed in Chapter 3.4 of the Lithgow DCP 2021. Additional site-specific objectives/controls for the Pottery Estate precinct are outlined in this Chapter.

Objective(s)

O1. Ensure site remediation objectives are appropriately balanced against heritage protection for areas located within the Heritage Conservation Area ‘C11’, including the SHR heritage item 0078).

Control(s)

1) Any subdivision /development proposal within the Pottery Estate would need to address site contamination and any remediation necessary for their intended purpose. The northern R1 zoned area (denoted as “North Precinct” in **Figure 2**) is also underlain by state listed heritage historical archaeological relics of which may impact site remediation/future development potential.

9.3.3 Sensitive Land Areas

Part of the Pottery Estate is identified as “Sensitive Land Areas” on the Environmentally Sensitive Areas – Land Overlay Map where LLEP 2014 Clause 7.7 applies.

Objectives / controls for sensitive land areas are detailed in Chapter 3.4 of the Lithgow DCP 2021.

9.3.4 Vegetation Management and Biodiversity

Objectives / controls for Vegetation Management and Biodiversity are detailed in Chapter 3.3 of the Lithgow DCP 2021. Additional site-specific objectives/controls for the Pottery Estate precinct are outlined in this Chapter.

The Lithgow LEP Biodiversity map includes most of the land zoned E3 on the Pottery Estate and therefore LEP clause 7.4 Biodiversity applies.

Previous studies have identified one Biodiversity Conservation (BC) Act listed vulnerable species *Callocephalon fimbriatum* (**Gang-gang Cockatoo**) and one BC Act listed Endangered species historically recorded *Paralucia spinifera* (**Purple Copper Butterfly, Bathurst Copper Butterfly**). Refer **Figure 10** Ecological Constraints area map below.

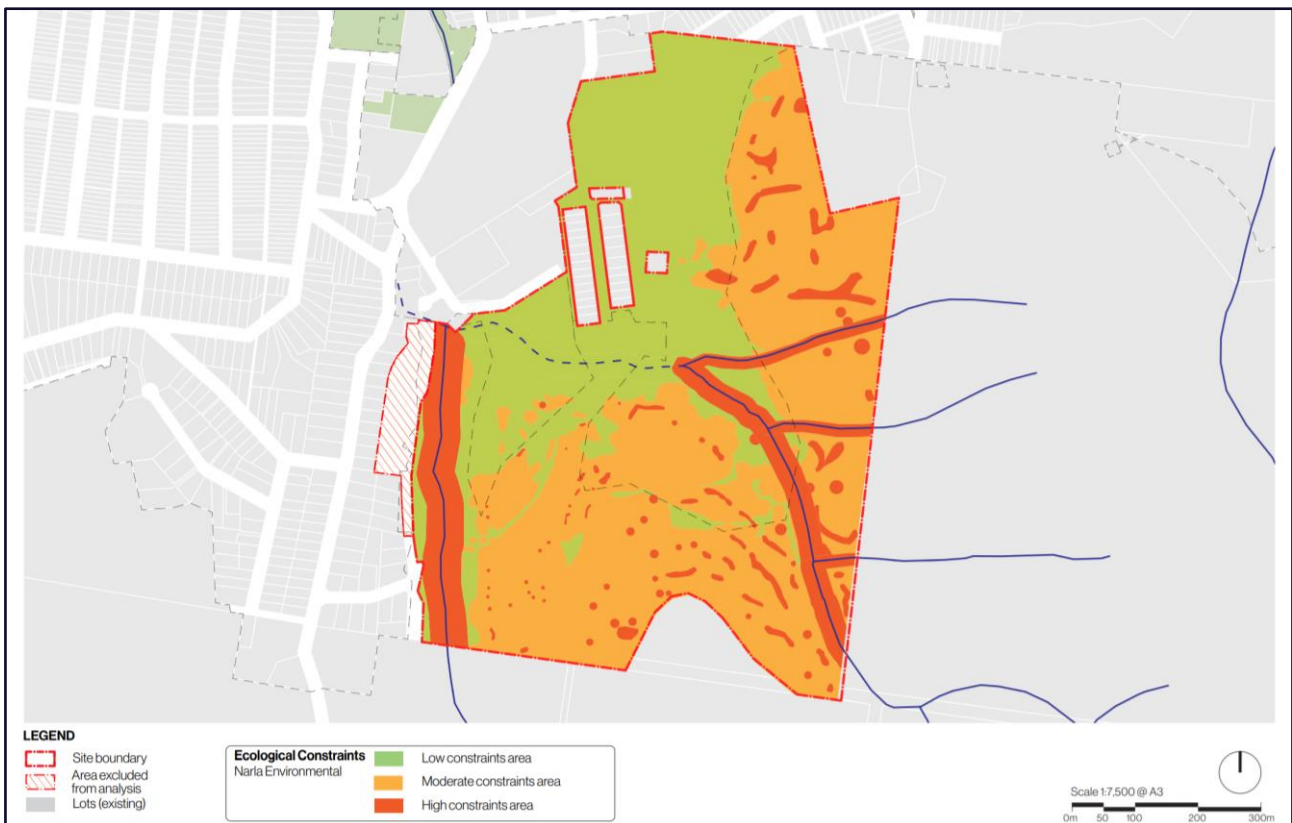


Figure 10: Pottery Estate Ecological Constraints Map

Source: Group GSA

Objective(s)

O1. To protect and enhance significant native vegetation, ecological corridors/processes and support biodiversity and native fauna within the Pottery estate.

Control(s)

- 1) Parts of the Pottery Estate R1 zone contain pockets of areas mapped as being “high constraints” ecological area, some of which fall within the R1 zoned areas. These “high constraints” areas are deemed to have low potential for future development without the implementation of detailed mitigation impact strategies and/or potential off-sets and management plans. **Any development application for development/subdivision of these areas should be accompanied by a detailed Ecological assessment of the “high constraint” areas to confirm their location and any requirements for retention/protection.**

- 2) Any clearing of vegetation of land identified within **Figure 10 – Pottery Estate Ecological Constraints Map** as Moderate or High Ecological Constraint (not exceeding the BOS threshold and not associated with development) will require a permit to be issued by Council under Part 3 of the SEPP (Vegetation in Non-Rural Areas) 2017.
- 3) Due to the important habitat within the Pottery Estate for the Endangered BC Act 2016 listed *Paralucia spinifera* (**Purple Copper Butterfly, Bathurst Copper Butterfly**), future developments are to incorporate the native shrub *Bursaria spinosa* (**Blackthorn**) into all landscape plans, to ensure habitat gains across the site.
- 4) Hollow-bearing trees should be avoided where possible. Where hollow-bearing trees cannot be avoided they are to be replaced at a ratio of 2:1 with augmented hollows or artificial nest boxes of the same size as the hollows lost, to ensure no net loss of habitat for threatened species across the Pottery Estate.
- 5) The majority of significant native vegetation is located in the E3 zone of the Pottery Estate. This E3 zone comprises an area of approximately 34 hectares which is less than the minimum 40 hectare subdivision lot size permitted under the Lithgow LEP 2014. LLEP2014 clause 4.1AA facilitates any new lot zoned E3 (less than 40ha) to be a **“community lot” as part of a community title subdivision.** In addition, LLEP2014 clause 4.1B **split zone provisions can be applied to create an E3 lot which is less than the 40ha minimum if that land is to be used for a “public purpose”** provided the consent authority is satisfied the use will not have significant adverse environmental impacts or compromise continued protection of land in the E3 zone.

Any development application for the Pottery Estate that includes the E3 zoned portion is to be accompanied by Biodiversity Management Plan (BMP), which will guide all rehabilitation efforts within the E3 zone including exotic vegetation removal, landscaping, and habitat replacement.

9.3.5 Bushfire Prone Land

The Lithgow *Bushfire Prone Land Map* shows land that can be prone to a bush fire or is likely to be subject to bush fire / ember attack in the Lithgow LGA. **Figure 11** below map extract covers the Pottery Estate.

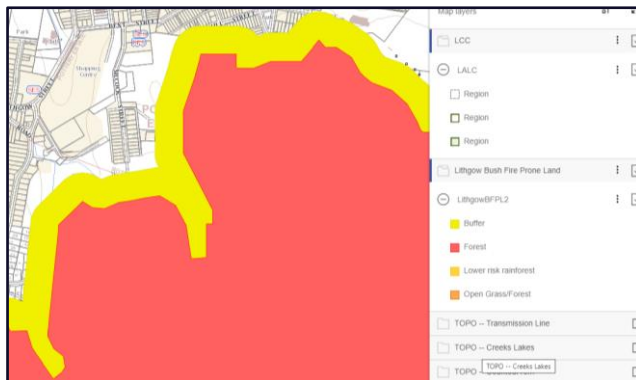


Figure 11: Bushfire Prone Land Map Extract *Source: Lithgow Council Website August 2020*

Objectives / controls for Bushfire Prone Land are detailed in Chapter 3.2 of the Lithgow DCP 2021. Additional site-specific controls for the Pottery Estate precinct are outlined in this Chapter.

Objective(s)

O1. Provision of gated access to fire trails on surrounding properties including Hassans Wall Reserve.

9.3.6 Flood Prone Land

The provisions in Clause 5.21 of the Lithgow LEP 2014 applies to land within the flood planning area as identified in the Lithgow Flood Study Review 2017.

Objectives / controls for Flood Prone Land are detailed in Section 3.5 of the Lithgow DCP 2021.

Control(s)

- 1) Refer to controls located in Section 3.5.2 and 3.5.3 of the Lithgow Development Control Plan 2021.

9.3.7 Ground and Surface Water Protection

The Pottery Estate is located within the area covered by State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011. The southern part of the Pottery Estate is also included on the Lithgow LEP Environmentally Sensitive Areas – Water Overlay Map as a ‘groundwater vulnerable’ locality.

Objectives for Ground and Surface Water Protection are contained in LLEP 2014 clause 7.5 – Groundwater Vulnerability and Clause 7.6 Riparian Land and Watercourses, and related controls are detailed in Chapter 3.6 of the Lithgow DCP 2021.

9.4 Heritage and Cultural Conservation

9.4.1 Introduction

Figure 12A indicates the items of environmental heritage, including both local and state items within the Pottery Estate Precinct.

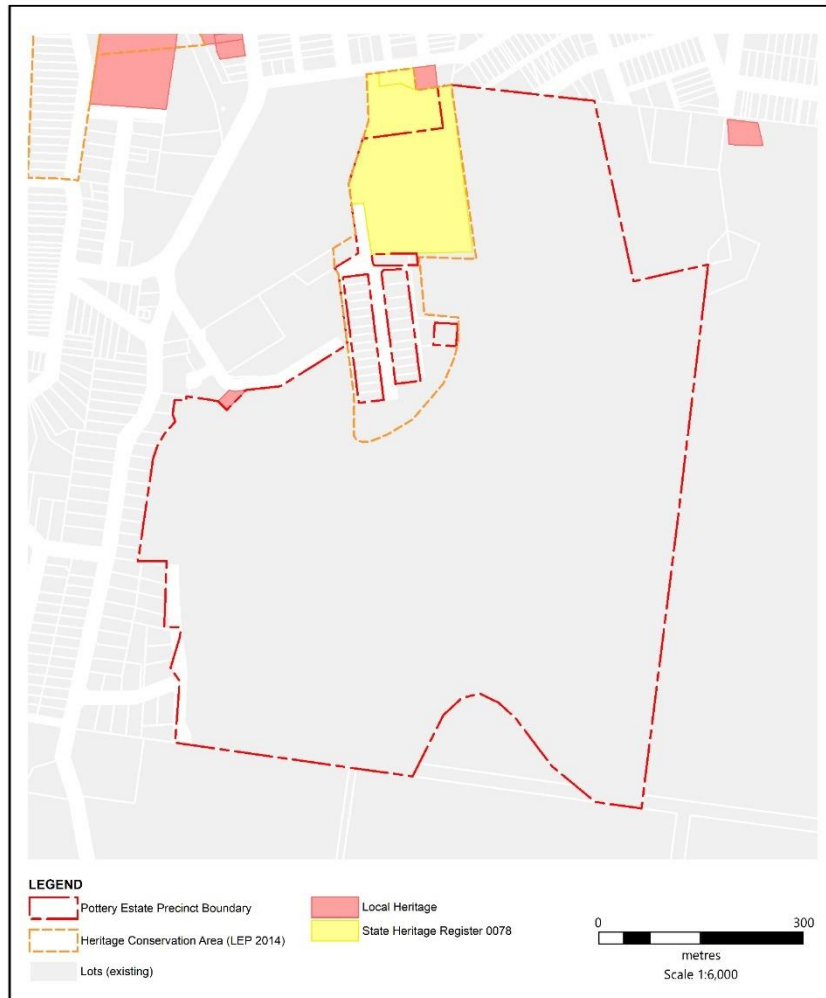


Figure 12A: Pottery Estate and Immediate Surroundings Heritage Status Source: Lithgow City Council

The “Pottery Estate” precinct heritage controls apply to those areas within the “Pottery Estate” precinct as denoted in the below **Figure 12B** which excludes areas shaded **dark purple**. The dark purple areas are located within HCA “C11” but are outside the Lithgow LEP mapped “Pottery Estate” precinct so that they are addressed under Lithgow DCP 2021 Chapter 4 heritage provisions. This includes the Silcock Street cottages and former Pottery buildings at 67-69 Bent Street (I272 & I273).

Where development/subdivision/works are proposed within the heritage significant parts of the Pottery Estate, particularly within the A124 State Heritage Register (SHR) lands, detailed site investigations must be undertaken at the outset to ascertain site suitability. The area within the A124 SHR site cannot be further subdivided and any future development on the site is to focus on showcasing the site’s historical archaeological relics and promoting access to the community.

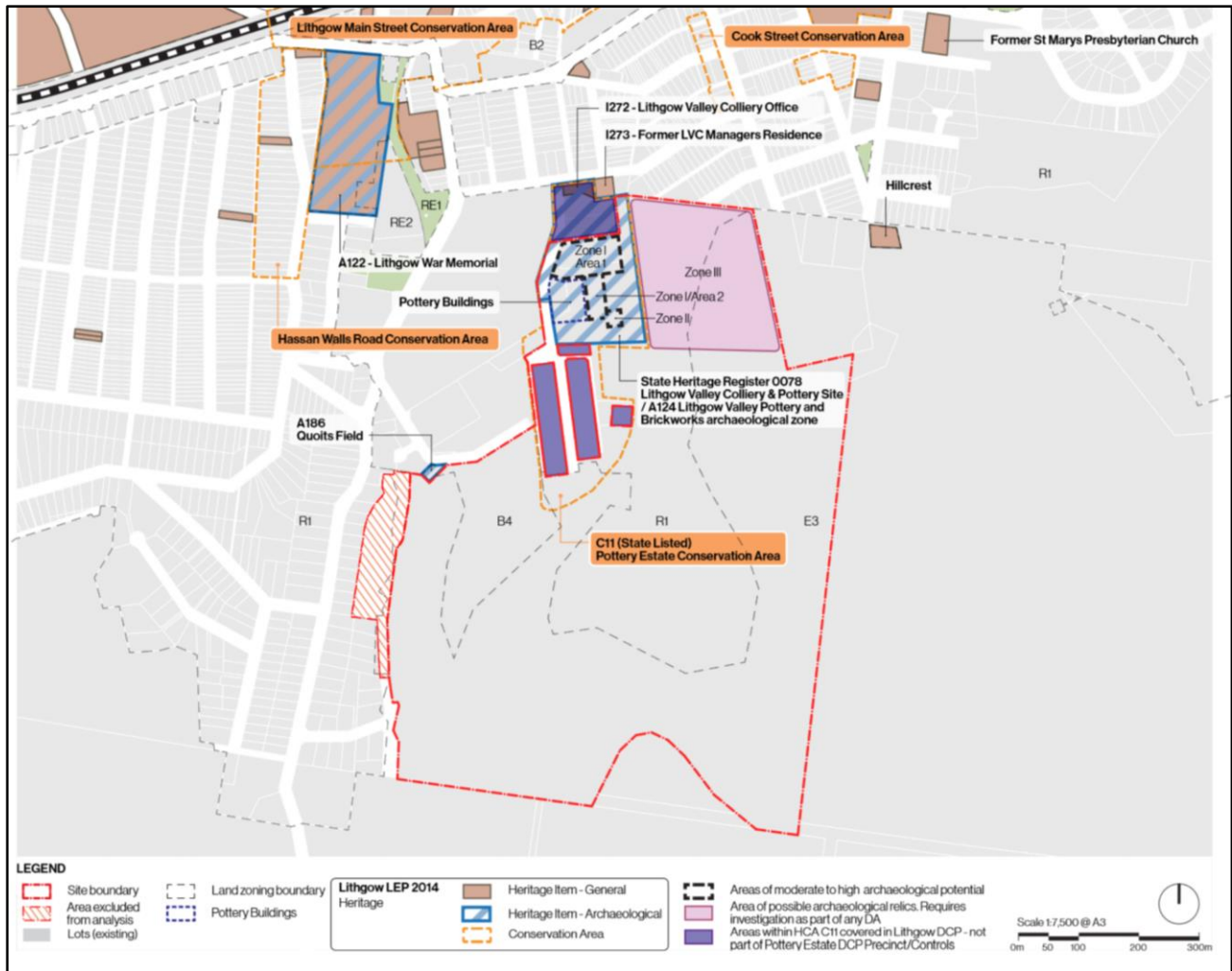


Figure 12B: Non-Indigenous Heritage Overview

Source: Group GSA

Objectives / controls for Heritage and Cultural Conservation in Lithgow LGA are detailed in Chapter 4 of the Lithgow DCP 2021. Additional site-specific objectives/controls for the Pottery Estate precinct are outlined in this Chapter.

Note: Where there is an inconsistency, the controls within Chapter 9 site specific controls prevail.

Objectives of Heritage Conservation in the Pottery Estate Precinct

- To conserve the heritage significance of the built and natural environments and ensure new development is sympathetic to and embraces the identified heritage values both above and below ground.
- 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.
- To implement the objectives and controls contained within LLEP2014 and any relevant heritage legislation.
- To provide planning and design guidelines for developments associated with heritage items or a heritage conservation area.

9.4.2 Development Consent Requirements

9.4.2.1 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. The Pottery Estate incorporates both heritage item A124 and Heritage Conservation Area "C11". Development Applications within the Pottery Estate that relate to state listed heritage items triggers clause 4.46 "Integrated Development" provisions of the Environmental Planning and Assessment Act 1979.

9.4.2.2 Development Not Requiring Consent

The Lithgow LEP2014 clause 5.10(3) contains some exemptions where development consent is not required such as minor non-structural maintenance and repairs. Written response must be received from Council prior to commencement of works. Any works to a State Heritage Item (including demolition) requires S.60 Approval or exemption under the Heritage Act 1977 and may require archaeological supervision during works. This will include buildings and/or historical archaeological relics covered by A124 state heritage listing.

9.4.2.3 Documents to be submitted with a Development Application

When lodging a DA for development on land on which heritage item A124 is sited or within "HCA 11" or within the vicinity of A124/HCA"11" Council may require a Heritage Management Document (HMD) to be prepared and submitted for assessment. Typically, the HMD will form either:

- Heritage Impact Statement (HIS) which considers the extent to which a proposal would impact the heritage significance of the heritage item/HCA or (known or suspected) historical archaeological relics. The HIS is to be prepared by a qualified heritage consultant.
- Heritage Conservation Management Plan (HCMP) which identifies conservation policies and management frameworks and mechanism to enable heritage significance to be retained. This would be particularly useful where building fabric has deteriorated (e.g., Pottery Estate building/stacks) and to facilitate master planning and asset management for the areas listed in the State Heritage Register.
- For relevant proposals, an assessment of the proposed development on known or suspected archaeological relics (i.e., including reference to archaeological zones on site etc.) should also accompany the relevant development application.

In the context of the Pottery Estate, the HMD would be an essential mechanism to ensure appropriate management and protection for both above ground heritage buildings and below ground archaeological relics within the area covered by A124 state heritage listing.

9.4.3 Aboriginal Places of Heritage Significance

The Pottery Estate has been significantly impacted by high levels of disturbance associated with quarrying and mining activities that have occurred over the past 150 years or more. In such heavily disturbed areas where the soil profile has been affected by past land use practices, the potential for finding in-situ Aboriginal objects is reduced.

Part 6 of the National Parks and Wildlife Act 1974 (NPW Act) provides specific protection for Aboriginal objects and declared Aboriginal places by establishing offences of 'harm'. Harm is defined to mean destroying, defacing, damaging, or moving an object from the land. Works that cause harm to an Aboriginal Object can only be done in accordance with Section 87 of the NPW Act 1974. In most cases, an Aboriginal Heritage Impact Permit will be required prior to any activity that may cause harm to an Aboriginal Object.

9.4.4 Non-Indigenous Archaeology and Heritage

A large section of the former Lithgow Valley Pottery and Brick Works is located within the Pottery Estate precinct. A group of remaining buildings and potential archaeological deposits known to be remnants of the Pottery and Brick Works are listed on the New South Wales State Heritage Register (SHR) as Lithgow Valley Colliery & Pottery Site (SHR No 00078 - Heritage NSW Data Base No 5045511). The character of the Pottery Estate is largely defined by the presence of historical archaeological relics relating to the former Lithgow Valley Colliery and Pottery. These historical archaeological relics represent an important aspect of the story of Lithgow and New South Wales and are to be celebrated within future development of the Pottery Estate. Interaction with the sections of the estate listed in the State Heritage Register must be informed by more detailed archaeological investigations. Plans for this area must consider how best to conserve and interpret the historical archaeological relics.

The SHR listing describes the significance of the Pottery Estate below;

Lithgow Pottery and brickworks is of State heritage significance as an important producer of basic industrial products for wide-ranging markets over a period of 69 years and distinguished tableware for 20 years. The pottery founded by James Silcock in 1879 continued by other skilled potters and refounded in 1905 by Arthur Brownfield, brought Staffordshire skills to create colonial wares capable of competing with British imports. However, it was not a financial success and the high collectability of Lithgow wares today gives the pottery a higher national profile than it enjoyed whilst operating. Industrial and agricultural pipes remained an economic strength of the Lithgow Valley Colliery Co. for more than thrice the life of the pottery. Despite strong competition from Sydney makers of ceramic pipes and from the Hoskins firm's iron pipes, Lithgow products were used in many important drainage and sewerage plants throughout New South Wales. The brick production was very large, up to 50,000 bricks a day after the Sercombe kiln was installed in 1901 and is reflected in many major public works in the state as well as private houses in Lithgow.

The site is historically rare because of its relationship of clay products with a major colliery and an adjacent clay pit; the exceptionally high esteem in which its domestic pottery products are held and its economic importance within the Lithgow region.

It is also representative of pipeworks and of successful brickworks in the state showing investment in up-to-date technology after 1901 as well as traditional brick-kiln technology.

The site's significance of its potential contribution to understanding clay-products technology in the period 1876 to 1945 is dependent entirely on the integrity of the subsurface archaeological record. A great deal of disturbance has diminished the practicality of realising the archaeological potential of much of the area.

There are however two small areas containing substantial intact portions of brickwork an important concretion of pipewares and other industrial remains. These are probably not in-situ but should be investigated before any development takes place.

The pottery produced enjoys extremely high local esteem, as evidenced by the new building opened in 1996 at Eskbank House Museum in Lithgow specially to house its collection of pottery from this site. Although the pottery was in fact of minor economic significance and survived for only twenty years on a site used for other clay products for 69 years, its products are visible and collectable where pipes, chimney pots, tiles and bricks have for the most part remained functional and less well regarded. As an aspect of Lithgow Valley Colliery, the most long-lived of all Lithgow enterprises, the clay products division offered employment and company facilities (such as quoiting) which were a significant part of Lithgow life for a century. (Jack 1996)

Figure 13 provides schematic plan which indicates the possible nature and extent of historical archaeological relics buried in the locality. **Figure 14** overleaf provides an overlay of the schematic plan on an aerial photo with SHR and Pottery Estate boundaries denoted to provide greater clarity on the likely location of historical archaeological relics:

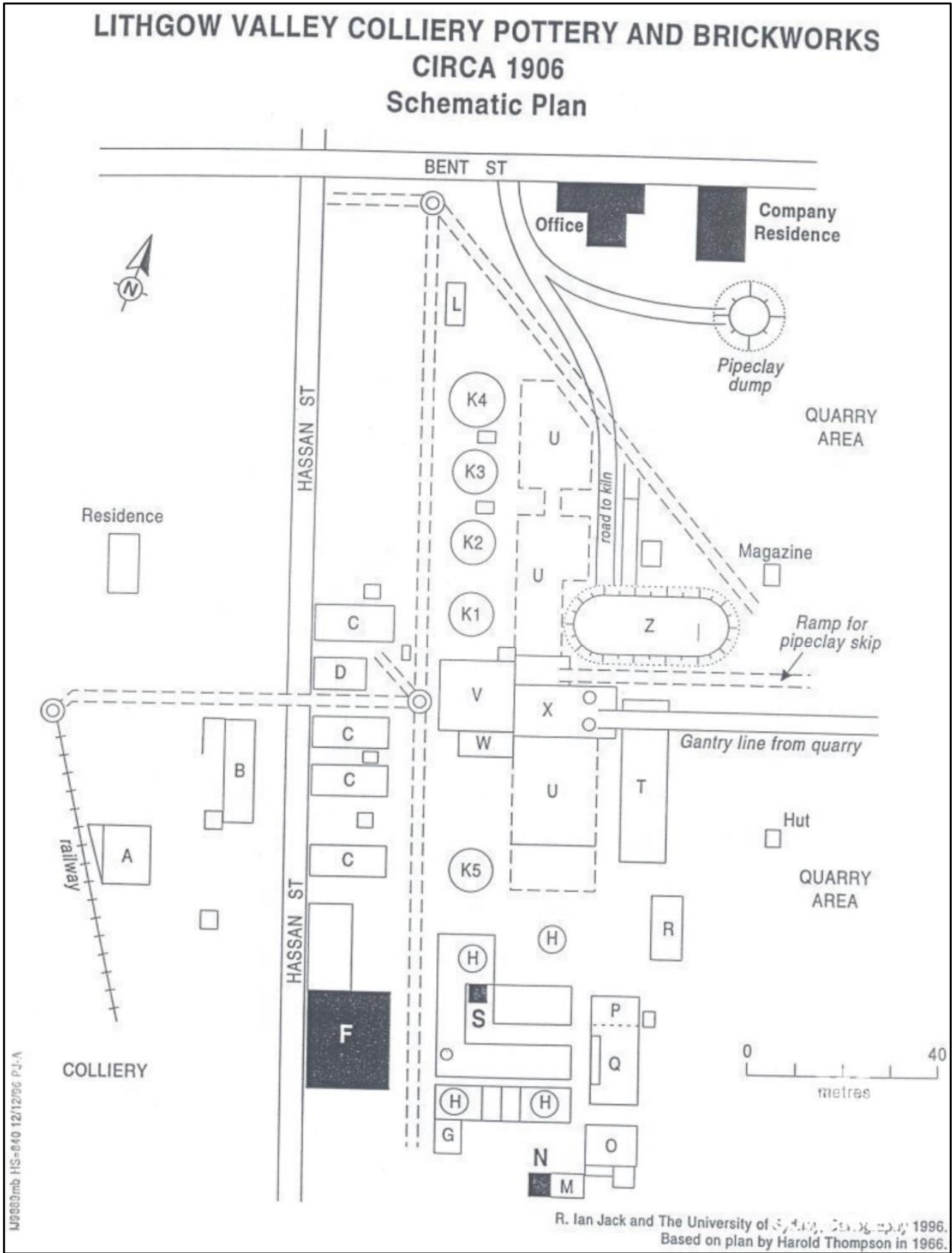


Figure 13: Lithgow Valley Colliery Pottery & Brickworks Schematic Plan (circa 1906) Source: R. Ian Jack & University of Sydney

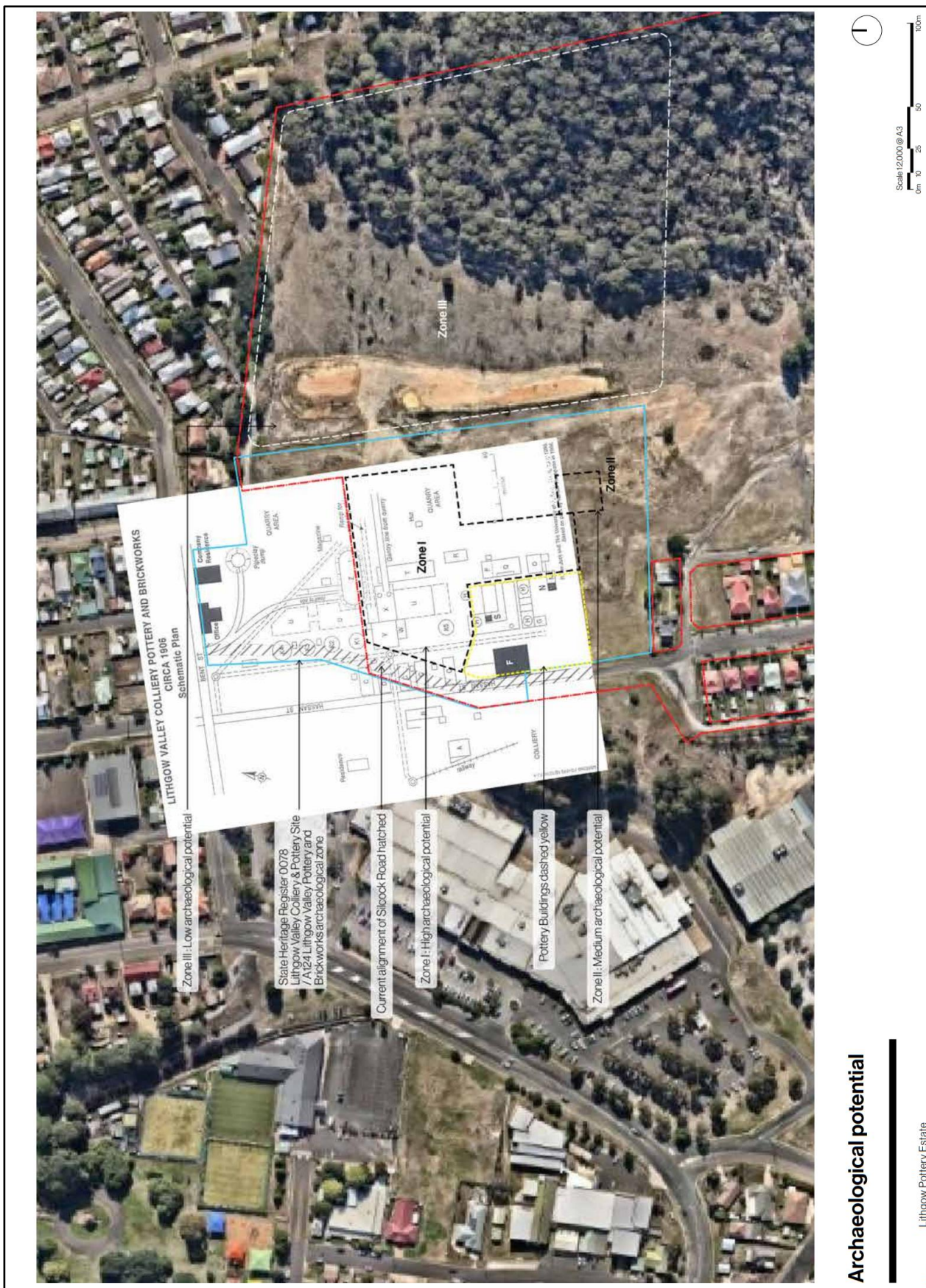


Figure 14: Lithgow Valley Colliery Pottery & Brickworks Schematic Plan overlain on aerial photo

Source: Group GSA

On 31 July 1981 the Heritage Council of NSW in recognition of the sites State heritage significance placed a Permanent Conservation Order over part of the Pottery Estate site. Refer Conservation Order with existing structures map extract below.

Note: The “old offices” “offices” and “laboratory” denoted on Lots 1,2,3 in **Figure 15** below is located within the SHR but are outside of the Pottery Estate LEP/DCP precinct. The “store”, “stack”, “kiln” and “magazine” (historical archaeological relics) are located on separate Torrens title lots and are within the Pottery Estate DCP Chapter 9 precinct.

The “store”, “stack”, “kiln”, “clay store” and “magazine” (Historical archaeological relics) are within the Pottery Estate DCP Chapter 9 precinct

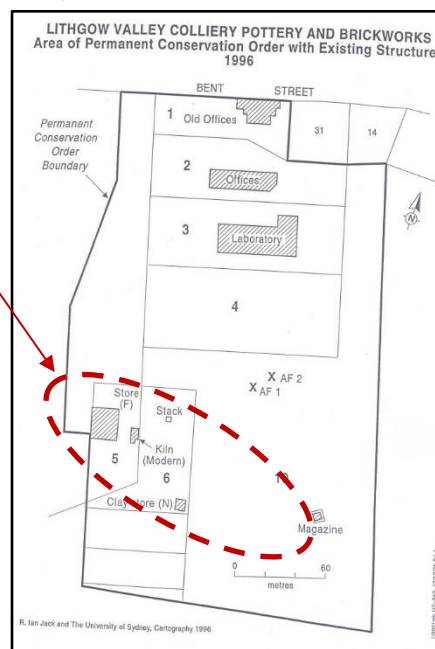


Figure 15: Source: SHR listing Source: Heritage NSW

The site was subsequently transferred to the State Heritage Register on 2 April 1999.

The site is listed as a Local Heritage Conservation Area (HCA) pursuant to Lithgow LEP 2014 and contains the SHR curtilage of item 0078. HCA C11 (*Pottery Estate Heritage Conservation Area*) overlays the former *Lithgow Valley Pottery and Brick Works* site. The northern part of the HCA is predominantly sited within the Pottery Estate DCP Chapter 9 precinct and largely overlaps the state listed archaeological heritage item **A124** (*Lithgow Valley Pottery and Brickworks*). Refer **Figure 16** LEP extracts overleaf.

Note: State listed heritage item I272 (*No 69 Bent Street Former LVC Managers Residence*) and local listed heritage item I273 (*No 67 Bent Street Former LVC Managers Residence*) are located outside of the Pottery Estate DCP Chapter 9 precinct. Further, the former Lithgow Valley Colliery Quoits Field is local listed heritage item **A186** is Council owned and is located on Lot 603 in DP1051775 Valley Drive but is also outside of the Pottery Estate DCP Chapter 9 precinct.

Parts of the southern HCA **C11** area are located outside the Pottery Estate DCP Chapter 9 precinct. Notably, Nos 1-36 Silcock Street houses/lots and Lots 202 & 203 DP 1138446 are all within the HCA.

Only Lot 202 and laneways/areas surrounding the 1-36 Silcock Street house lots are located within the Pottery Estate DCP Chapter 9 precinct. Refer **Figure 16B** overleaf.

Accordingly, Lithgow DCP 2021 Chapter 9 “Pottery Estate” controls do not apply to the Silcock Street houses, the heritage items I272 and I273 or Lot 203 DP1138446 which are addressed under Chapter 4 of the Lithgow DCP 2021.

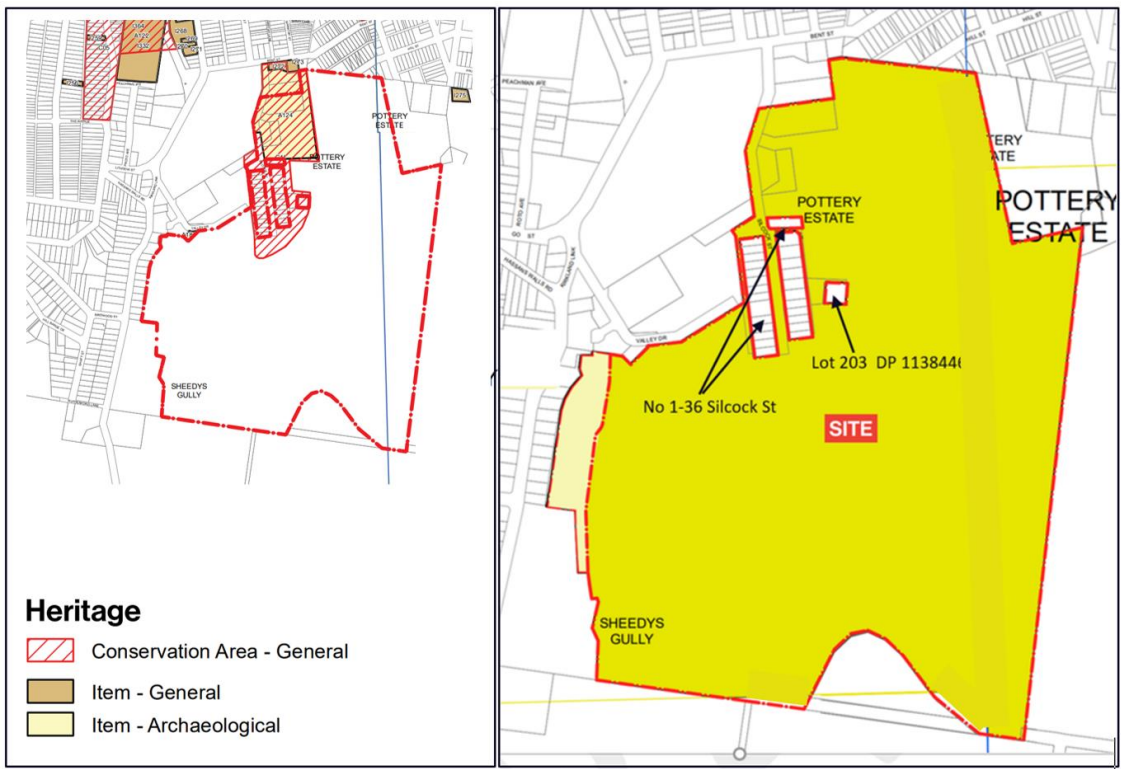


Figure 16A: Heritage Map extract - Source: LLEP 2014 Figure 16B: LEP map “Pottery Estate” extract Source: LLEP 2014

Archaeology (Non-Indigenous):

The Lithgow Valley Brickworks and Pottery Site comprises three zones of archaeological sensitivity graded according to their level of archaeological potential. The allocated grades reflect the likely extent of disturbance and the existence of earlier structures or features. These zones are:

- Zone I (high archaeological sensitivity) comprising less disturbed areas where earlier sites were once located;
- Zone II (moderate archaeological sensitivity) including areas associated with less substantial remains and areas of greater disturbance; and
- Zone III (areas of low or no archaeological sensitivity). In **Figure 17**, areas of high and moderate archaeological sensitivity have been outlined in black dashed outline.

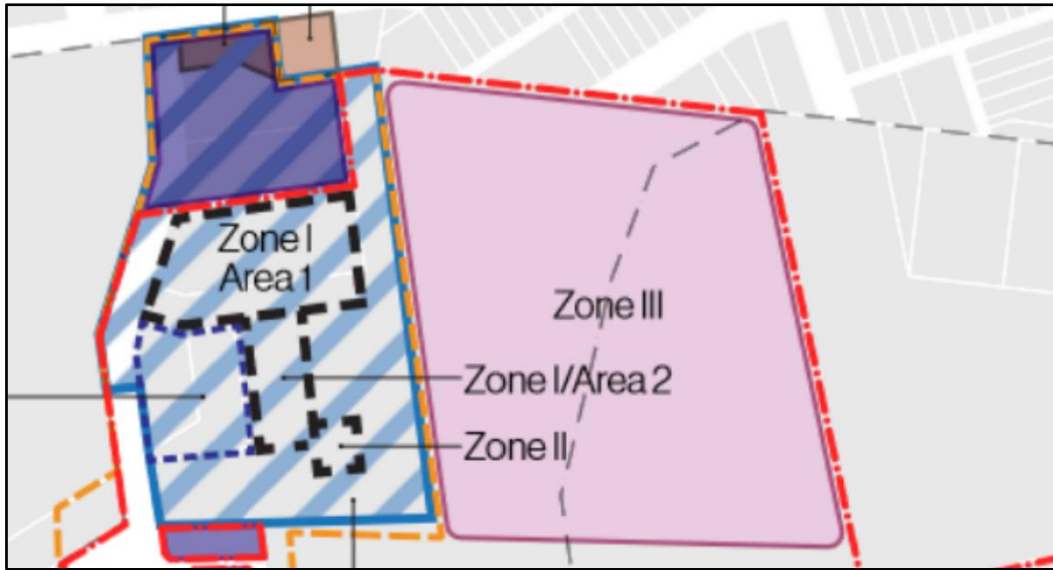


Figure 17: Archaeological Zoning Plan

Source: Group GSA

9.4.4.1 Vehicle Access & Driveways

For development within these heritage significant areas, the heritage conservation provisions in Clause 5.10 of the Lithgow Local Environmental Plan 2014 are relevant when considering new development.

Note: Any works to a State Heritage Item (including demolition) requires approval (or exemption) under the Heritage Act 1977. When a DA is lodged with Council for demolition or development of any type for a State Heritage Register listed item, the Integrated Development Process (s4.46 EP&A Act 1979) commences and the application will be referred to the Heritage Council for concurrence.

The Pottery Estate Precinct Chapter 9 provisions seek to supplement those statutory provisions and provide a coordinated vision for future development of the Pottery Estate given the state significant historical context of the site for Lithgow and NSW.

Objectives

- a) Encourage appropriate uses / development on the SHR (**A124**) site that responds positively to the unique cultural heritage values of the archaeology located within and around the SHR precinct.
- b) Encourage the refurbishment and adaptive reuse of the existing Pottery Estate buildings for a purpose that is appropriate to their heritage significance.
- c) To emphasize and reinforce the relevant heritage conservation provisions including conservation incentives, contained within Clause 5.10 of the *Lithgow Local Environmental Plan 2014*.
- d) Ensure that appropriate development can take place following consideration of potential impacts by relevant authorities.
- e) Ensure that development sympathetically considers historical characteristics of the site (both above ground structures and below ground historical archaeological relics).

- f) Ensure new Development in the vicinity of heritage significant structures within/adjacent to the Pottery Estate precinct incorporates appropriate curtilage, built form, scale, height, setbacks, landscaping, materials, colours to ensure new structures to protect the heritage significance of the heritage items.
- g) Ensure that adequate research and investigation can occur to broaden knowledge and understanding of historic activities on site.
- h) Communicate the site's history through the availability of information, design interpretation and public art wherever possible.
- i) Use the Burra Charter as a guiding document. (*The Burra Charter is a national charter that establishes principles for the management and conservation of cultural sites in Australia. The Charter is particularly significant for its definition of cultural significance and the standards it outlines for using cultural significance to manage and conserve cultural sites*). In particular the Burra Charter imperative to do "as much as necessary and as little as possible" in relation to impact on culturally significant places should inform any planning to this site.

Development Controls - Archaeological Sites (Non-Indigenous)

Land uses within the SHR (A124) site

- 1) Any works requires approval (or exemption) under the Heritage Act 1977. When a DA is lodged with Council for demolition/ development, the Integrated Development Process (s4.46 EP&A Act 1979) commences and the application will be referred to the Heritage Council for concurrence.
- 2) Where any use/development of the A124 SHR site in the Pottery Estate is proposed, consideration is to be given to land uses/built form that are capable of embracing and celebrating the unique Lithgow history and the heritage significant archaeology. This may potentially involve education/tourism components that can communicate the site's important history and historical archaeological relics.
- 3) Where an initial development/subdivision is proposed within the area covered by A124 SHR, an "**Integrated Interpretation Plan**" shall be prepared by a qualified Heritage Consultant to provide key guidance and better coordination of the Pottery Estate interpretation.

Works involving Ground Disturbance

- 4) Future building works/excavation within the SHR area must be informed by an understanding of the extent and nature of the archaeology. This will require future investigations of the historical archaeological relics located within the SHR site, with a view to ensuring the long-term conservation of SHR listed State significant archaeology.
- 5) Test excavations are to be carried out in those areas considered to have high or moderate archaeological potential (Zone I) to clarify the extent of existing subsurface disturbance and the intactness of surviving archaeology. As part of this investigation, spoil heaps, 'traces of foundations' and archaeological features should be examined. The spoil heaps and features are located in Zone I of the previously prepared Archaeological Zoning Plan. Depending on the results of any testing, further investigations (e.g., an open area excavation) may be required prior to any future works involving ground disturbance.

Note: Archaeological excavations are a form of mitigation rather than conservation. It is HNSW standard practice to conserve State significant archaeology *in situ*.

- 6) Given the high display potential of subsurface remains, it is important that architectural and structural drawings be finalized following the results of archaeological investigations so that archaeology may be integrated at the design stage to achieve a conservation outcome.
- 7) Where future works may involve the disturbance or destruction of surface or sub-surface deposits, works or historical archaeological relics, approval will be required under an Integrated Development Application (IDA) and/or a Section 60 approval under the NSW Heritage Act 1977 prior to the commencement of those works. Appropriate management documents such as an Archaeological Research Design and Methodology and a nominated Excavation Director would be required to support those applications.

Based on the prior Archaeological Zoning Plan for the site, the methodology would be likely to include monitoring by a qualified archaeologist for areas of moderate archaeological potential (Zone II). The monitoring program may need to apply during the initial stages of construction, including during bulk excavation works and the digging of service, footing and pier trenches.

Note: Given the heritage significance of A124 and HNSW principle of conserving archaeological sites *in situ*, a methodology to mitigate impact through a monitoring program only may not be sufficient.

- 8) In all areas of the site, the unanticipated discovery of substantial or potentially significant historical archaeological relics are to be reported immediately to the designated archaeologist.

Note: Section 146 of the Heritage Act 1977 states that the discovery of historical archaeological relics in any circumstances are to be reported immediately to the NSW Heritage Council (Heritage Act 1977, section 146).

NOTE: While the Zone III area to the east of A124 SHR is not a heritage item or within a HCA, there is still some potential for significant archaeological evidence.



Figure 18: Aerial photo identifying medium to high archaeological areas within the Pottery Estate Source: Group GSA

Development Controls - Subdivision

- 9) With respect to the area within the archaeological heritage item **A124 (Lithgow Valley Pottery and Brickworks)** there is a strong view by Heritage NSW that the **SHR site within the Pottery Estate precinct should not be further subdivided and should be within a single lot ownership to ensure a more co-ordinated management/protection of historical archaeological relics in the context of any future development.** Subdivision within the A124 site or in close proximity, is required to have regard to preliminary test excavations by a qualified

heritage consultant to ascertain suitable lot layout/areas that mitigate segregation of key historical archaeological relics onto separate lots.

Subdivision elsewhere in the Pottery Estate (in the vicinity of the A124 site) that includes areas containing historical archaeological relics is not permitted unless it can be established that proposed or future likely development on the created allotment(s) will not unreasonably impact historical archaeological relics or are managed appropriately, as determined by a qualified heritage consultant. Consideration is to be given at subdivision stage as to facilitating development that will have reduced potential / likelihood to interfere with any historical archaeological relics to mitigate risk of unexpected finds/imposts on future subdivided lot owners.

Any subdivision elsewhere within the Pottery Estate precinct that includes a heritage building/structure, is not permitted unless it can be demonstrated that the heritage item will maintain adequate curtilage (buffer) as determined by a qualified heritage consultant.

Development Controls - former Lithgow Valley Pottery and Brickworks buildings

- 10) For new works and/or adaptive re-use of remnant Pottery Estate heritage buildings (Pottery building and brick stacks), consideration is to be given to the following;
- a) **Use:** - the adaptive reuse of the Pottery Estate heritage buildings for a purpose that is appropriate to their heritage significance. Adaptive re-use must have regard to the relevant legislation of the National Construction Code (NCC) and other relevant Australian standards.
 - b) **Protection:** - Building works are to minimise removal and/or interference with significant heritage fabric or historical archaeological relics. New services to be sympathetically installed, especially where upgrading is required to satisfy fire or BCA requirements.
 - c) **Facade:** - Changes to the façade are to be avoided unless the change will help to restore or protect previous or existing characteristics of the building that affects heritage significance.
 - d) **Siting of new work:** - New work, where appropriate, is located behind the original building section.
 - e) **Design:** - The design of new work must respect the building street alignment, scale, design, massing, proportions, and period of the heritage structure and does not visually dominate the original building/structure.
 - f) **Repairs/reconstruction/detailing:** - Retain and repair original doors, windows, and other decorative elements to principal elevations. Where original windows, doors, facade detailing have been removed and replaced with modern materials, consideration is to be given to reconstructing original features. Authentic reconstruction is encouraged. Decorative elements are not to be introduced unless documentary or physical evidence indicates the decorative elements previously existed.
 - g) **Roof:** - The original roof line or characteristic roof elements are retained and remain identifiable and not dwarfed by any new works. The details and materials of the original roof (including ridge height and slopes) are complemented while allowing interpretation of the original form.
 - h) **Materials/Colours:** - New work must blend into the original building, but is still recognisable as new, by not attempting to mimic heritage details of the building. New materials and colour schemes are to be compatible with the existing finishes/period of the heritage listed pottery

estate buildings. **Note:** Materials can be used to differentiate new work from original building sections where appropriate (e.g., the use of weatherboards where the original building is brick or by use of transitional materials between old and new). Painting and rendering face brick are to be avoided. Materials for pathways and driveways must be consistent with the character of the heritage item.

- i) **Fencing:** - New and replacement front fences are to have regard to not obscuring building facades. New fence heights and materials/design/colour are to be appropriate to the character of the heritage item. Side fencing visible to the street are to be simple with a level of detail/height/materials that are compatible with the heritage item. Colour bond fences are not appropriate.
- j) **Landscaping:** - Garden and ancillary structures must be appropriate to the heritage item in terms of scale, style, and materials. Large areas of hard paving are to be minimised.
- k) **Service and new technologies:** - Air exhaust or ventilation systems, air conditioning, TV antennae and the like shall not be visible on the main elevation(s) of the building. Services and equipment are to be installed at the rear and/or within the roof space. Essential changes to cater for electrical or communications wiring, plumbing or other services should be limited to what is essential to permit the new use to proceed. Rainwater tanks are to be located at the rear, screened and not readily visible from any street frontage.
- l) **Disabled Access:** - modifications to facilitate accessibility must be sympathetic to the heritage values and heritage fabric of the original building.
- m) **Photographic records:** - Photographic records of buildings are to be provided prior to the commencement of any demolition works.
- n) **Historical Interpretation:** - The adaptive re-use is to incorporate interpretation of the original Pottery & Brickworks use. An Interpretation Plan is to be prepared and submitted with each Development Application to allow the historical context of the site to be interpreted as part of new development through design elements such as landscaping, visual storyboards and / public art installations

Development Controls - Development In vicinity of Pottery Estate heritage buildings

- 11) For new buildings adjacent to the Pottery Estate DCP precinct heritage buildings, consideration is to be given to the following:
- a) Providing an adequate area around the heritage item to allow its interpretation.
 - b) Protecting and allowing the interpretation of archaeological features associated with the heritage item.

Development Controls - Development In vicinity of Silcock Street heritage houses

The Silcock Street houses (Nos 1-36 Silcock Street inclusive) are not part of the Pottery Estate DCP Chapter 9 precinct and are therefore addressed under Chapter 4 of the Lithgow DCP 2021 heritage controls.

- 12) For development in the adjacent B4 zone, suitable landscape setbacks (minimum 5m width) and maximum building heights set below that of the Silcock Street cottages are required to ensure visual outlook from the cottages and adjacent 6m wide laneway is not dominated by commercial built form.

- 13) For new buildings within HCA “C11” located adjacent to the Silcock Street heritage houses, consideration is to be given to the following:
- Height** – new development along Silcock Street and adjacent to the heritage houses are to have regard to being single storey in form.
 - Facades** – New development are to incorporate facades facing the street.
 - Materials** – New developments are to use materials that are consistent with traditional palette used for the adjacent Silcock Street heritage cottages including face brick facades, corrugated iron roofs, brick fences and traditionally portioned joinery.
 - Landscape** – Landscaping is to be designed to be consistent with the Silcock houses heritage precinct.
 - Fences** – New fences are to be constructed in brick to a scale that matches the height of existing fences in Silcock Street.
 - Driveways**: - For lots fronting Silcock Street and adjacent to No 1-36 Silcock Street houses are to have regard to having vehicular access from the rear (i.e., no driveways off Silcock Street).
 - Kerbing and Street elements** – (Silcock Street) – outbuildings and/or garages are to be sited at the rear of the property and scaled in proportion to adjacent structures.

Development Controls - Development In vicinity of heritage items (not within Pottery Estate DCP precinct)

There are three (3) heritage items that immediately adjoin the Pottery Estate DCP precinct comprising:

State listed heritage item I272	No 69 Bent Street Former LVC Managers Residence
Local listed heritage item I273	No 67 Bent Street Former LVC Managers Residence
Local listed archaeological heritage item A186	Lot 603 in DP1051775 Valley Drive former Lithgow Valley Colliery Quoits Field

- 14) For new buildings/structures/works adjacent to the above heritage listed sites, consideration is to be given to the following;
- Providing an adequate area around the heritage item to allow its interpretation.
 - Protecting and allowing the interpretation of archaeological features associated with the heritage item.
 - Integration of interpretation across the historically linked sites.

NOTE: Specific controls relating to adjacent heritage items located outside the Pottery Estate LEP mapped precinct are provided in Chapter 4 of the Lithgow DCP 2021. While these sites are historically linked, the planning controls within Chapter 9 of the DCP are limited to the area defined in the statutory “Pottery Estate” LEP map, so that the Chapter 9 provisions do not apply heritage items I272, I273 or A186.

9.4.4.2 *Conservation Incentives*

Council recognizes the need to be flexible with heritage items in terms of achieving long term conservation facilitated through LLEP2014 Clause 5.10(10) Conservation Incentives.

If an applicant seeks approval for development under the conservation incentives clause, in particular with respect to **A124** SHR archaeologically significant site and/or remnant Pottery heritage buildings, Council must be satisfied that the development is in accordance with an approved Heritage Management Document (HMD) and ensure that the necessary conservation work will be carried out in conjunction with the development.

9.4.4.3 *Conservation Incentives*

- 1) **All demolition work within A124 SHR and HCA “C11” requires development consent.**
- 2) **Pottery Estate heritage buildings must not be demolished due to their rarity and state heritage significance.** Partial demolition only to be considered when it can be established in an HMD that the partial demolition will not have a substantial impact on the significance of the heritage item.
- 3) Outbuildings associated with the heritage item can only be demolished where an HMD has established that the outbuilding does not contribute to the heritage significance of the Pottery Estate and Integrated Development consent has been obtained.
- 4) Photographic records of buildings are to be provided to Council prior to the commencement of approved demolition works.

9.5 Subdivision, Roads and Public Domain

9.5.1 Introduction

This section provides objectives and development controls for subdivision and the public domain within the Pottery Estate. This section should be addressed in conjunction with Chapters 1-8 of the Lithgow DCP 2021 whenever a Development Application in the Pottery Estate includes subdivision and/or boundary adjustment and should reflect the road layouts denoted in the Pottery Estate Indicative Structure Plan at **Figure 3**.

Additional site-specific controls for the Pottery Estate precinct are outlined in this Chapter.

9.5.2 Site Selection and Design Response

Control(s)

- 1) Any subdivision must demonstrate curtilages are provided to heritage listed buildings and the protection of the A124 archaeological site within the Pottery Estate precinct should be retained as a single lot/single ownership to limit potential interference of historical archaeological relics.

9.5.3 Lot Area, Dimensions and Suitability

Control(s)

- 1) The A124 site should not be further subdivided to **meet the requirements of Heritage NSW to retain the historical archaeological relics within A124 on a single lot/single ownership site.**
- 2) Any lots created by Torrens subdivision and/or boundary adjustment (excluding A124 site) must comply with LLEP2014 controls relating to minimum lot size.
- 3) LLEP2014 clause 4.1AA facilitates any new lot zoned E3 (less than 40ha) to be a “community lot” as part of a community title subdivision. In addition, LLEP2014 clause 4.1B split zone provisions can be applied to create an E3 lot which is less than the 40ha minimum if that land is to be used for a “public purpose” provided the consent authority is satisfied the use will not have significant adverse environmental impacts or compromise continued protection of land in the E3 zone.

Any development application/subdivision that includes the E3 zoned portion is to be accompanied by Biodiversity Management Plan (BMP), which will guide all rehabilitation efforts within the E3 zone including exotic vegetation removal, landscaping, and habitat replacement.

9.5.4 Utilities and Easements

Control(s)

- 1) Utilities must be sited where they have least impact on historical archaeological relics, site stability, significant native vegetation, watercourses, or riparian corridors.
- 2) New or relocated utilities should be located underground particularly within the HCA “C11” and in the vicinity of heritage significant Pottery Estate. Underground utilities shall be installed so as to minimise impacts on underground historical archaeological relics.

9.5.5 Residential Subdivision (R1 zones excluding State Heritage Register “A124” site)

Control(s)

- 1) All subdivision stages to incorporate an outer bushfire ring road to facilitate required access for emergency vehicles.
- 2) Applications for subdivision in the vicinity of, or within the goaf areas (areas extensively mined and likely to have structural instability) must be accompanied by a geotechnical report prepared by qualified engineers to ascertain whether the site can be safely developed and/or any requirements for subdivision/building works to ensure structural integrity and mitigate risk of structural failure (e.g., roads and future buildings).
- 3) Pedestrian connectivity is to be maximised throughout the precinct with a focus on pedestrian connective to the Lithgow town centre, public open space, bus stops, the Lithgow Valley Plaza and Pottery Plaza precincts.

9.5.6 Road Hierarchy and Design

Control(s)

- 1) The street network is to be generally consistent with the “Pottery Estate” Indicative Structure Plan at **Figure 3** and **Access & Circulation Plan** below.

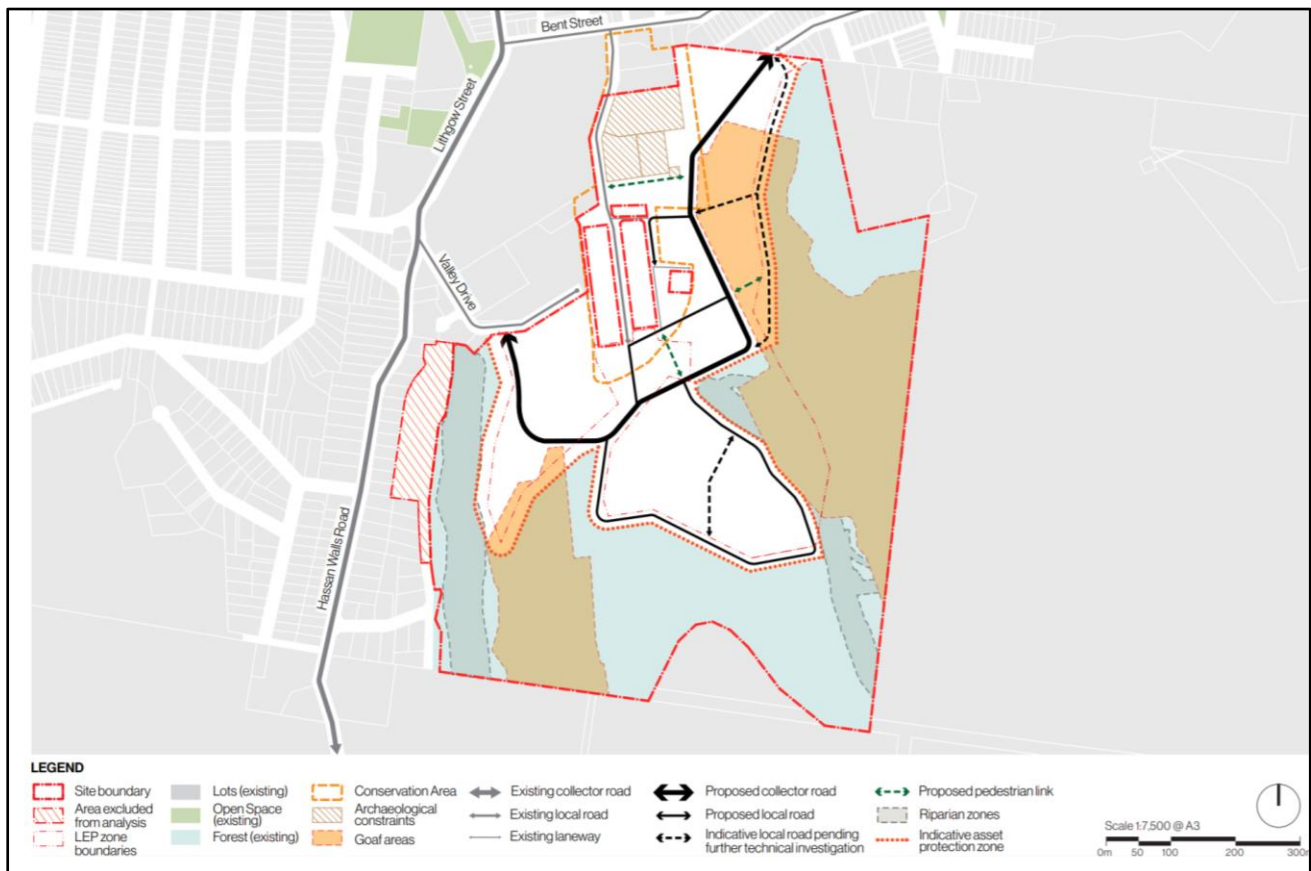


Figure 19: Access and Circulation Plan

Source: Group GSA

NOTE: The layout has been designed to avoid roads/development in the goaf (mined area) and to link with Hill Street/Valley Drive. Development within the goaf may be possible subject to geotechnical investigations to ascertain suitable site stability.

- 2) The future Silcock Street “through-road” linking Bent Street to Valley Drive is to be within a 20m road reserve from Silcock Street houses (northern end) through to the Valley Drive intersection. The existing 18m wide road reserve north of the Silcock houses is to be maintained to minimise impacts on heritage buildings/ historical archaeological relics within the A124 heritage listed precinct.
- 3) The future “through-road” connecting Hill Street to the future Silcock Street extension and then into Valley Drive is to be within a 20m wide road reserve. All other local roads in the Pottery Estate area are to be within road reserves no less than 15m wide reserve (with 8m carriageways) or up to 18m road reserve to facilitate a wider verge for services and landscaping.
- 4) All roads are to be designed and constructed in accordance with Council’s Engineering Guidelines.

9.5.7 Pedestrian and Cycle Networks

Control(s)

- 1) The pedestrian and cycle network are to be developed generally in accordance with **Figure 19** including road linkages to Hill Street, Silcock Street and Valley Drive. Pathway linkage is to be provided to Hill Street with a continuous path constructed in Hill Street to Cook Street within the existing road reserve in that location.

9.5.8 Community and Open Space Network

Control(s)

- 1) Open space is to be provided generally in accordance with **Figure 20** below.

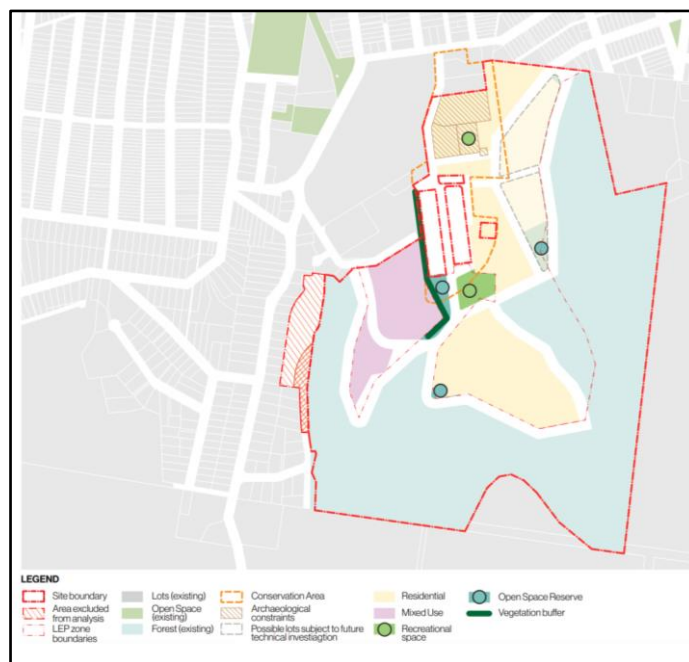


Figure 20: Open space and landscape buffer/bushland areas

- 2) A new park and stormwater detention basin is to be developed at the end of Silcock Street that provides for a variety of heritage interpretation and information, recreational activities, landscaping, and stormwater detention functions.

9.6 Residential Development

Objectives / controls for Residential Development are detailed in Chapter 6 of the Lithgow DCP 2021. Additional site-specific objectives/controls for the Pottery Estate precinct are outlined in this Chapter.

9.6.1 Residential Design and Siting

Objective(s)

- O1. To ensure building setbacks respond to individual site constraints and opportunities including site catchment capacity and maintaining view corridors to iconic heritage structures in the Pottery Estate.
- O2. Conservation of heritage elements above and below ground

Control(s)

Site Coverage

- 1) Due catchment drainage constraints, the maximum site coverage of buildings within the “Northern Catchment Area” that drains to Silcock Street is **30%** (all lots) with hardstand ground works to be of a pervious material.

Site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage: (a) any basement, (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, (c) any eaves, (d) unenclosed balconies, decks, pergolas, and the like.

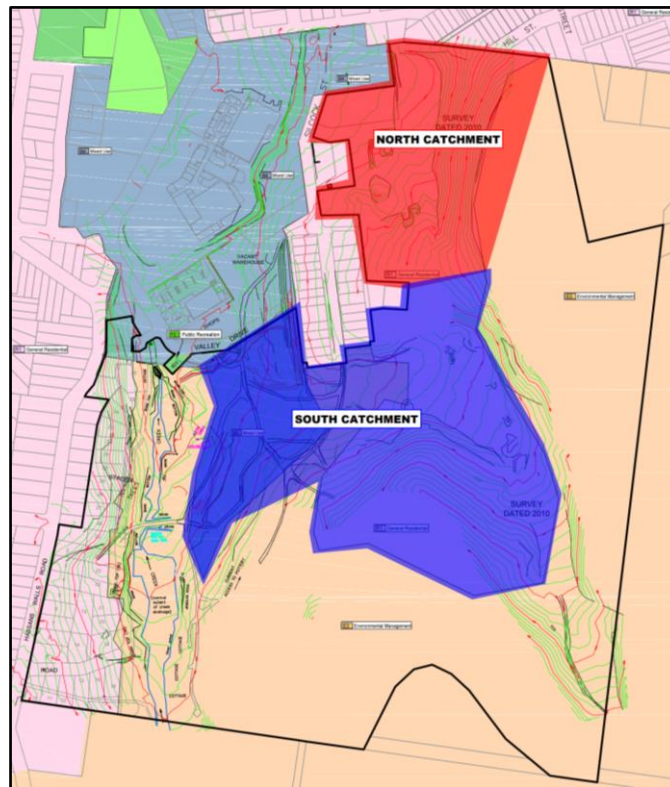


Figure 21: Drainage Catchment Area Plan

Height and Scale

- 2) Single storey dwelling forms are encouraged within the Pottery Estate and are **required for sites located within the Heritage Conservation Area “C11”** situated near the Silcock Street heritage cottages and Pottery Estate heritage buildings (Heritage Item A124).

Note: Elsewhere in the Pottery Estate where the 2 storey height controls apply, building heights may be limited to single storey to be compatible with Mine Subsidence constraints.

Garages/carports and outbuildings

- 3) Buildings comprising metal components are to be constructed using low reflectivity / factory pre-coloured external materials (or galvanised iron). Additional controls may be applied where the site is located within HCA “C11” or in close proximity to heritage items within or near the Pottery Estate precinct to mitigate impacts on heritage streetscapes/items.

9.6.2 Additional Controls for Low Rise Medium to Higher Density Housing

The R1 zone in the Pottery Estate permits various forms of low-rise medium to higher density development including residential flat buildings as detailed in Chapter 6.5 of Lithgow DCP 2021 and Low-Rise Housing Diversity Design Guide for development applications (July 2020).

Control(s)

- 1) Due to the presence of historical archaeological relics in the SHR A124 within the Northern R1 zone precinct, this form of development may not be readily achievable and will require extensive archaeological investigation and design analysis with input from a qualified heritage/archaeological consultant prior to determining site suitability.
- 2) No basements/inground pools or other building works that require excavation are permitted within the A124 state heritage item due to existence of historical archaeological relics unless the development has been the subject of detailed archaeological investigations and has been designed to the satisfaction of a qualified heritage consultant and Heritage NSW.

9.7 Business/ Mixed Use Development

9.7.1 Introduction

The B4 Mixed Use business zone (Pottery Estate Business Precinct) is located at the western side of the Pottery Estate fronting Valley Drive. A subdivision to create a separate B4 Mixed Use lot was approved under DA003/07 as denoted in **Figure 22** below.

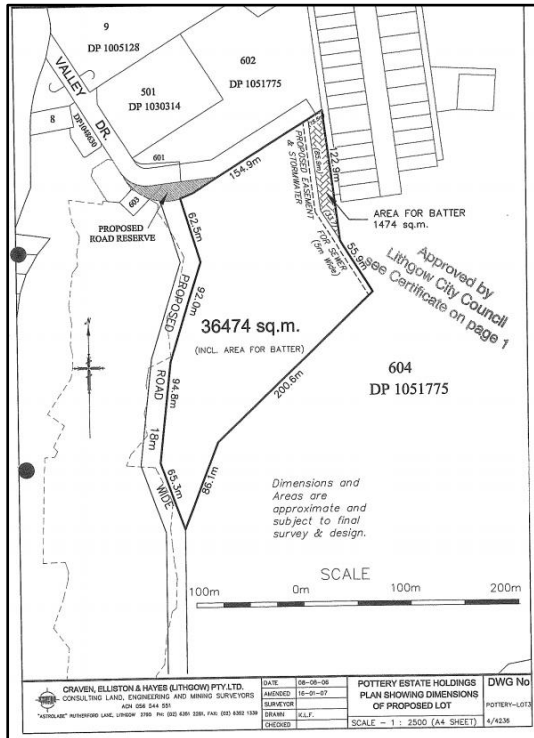


Figure 22: Extract Approved 2 Lot Subdivision DA 003/07

The Pottery Estate Business Precinct is an extension of the existing B4 zone which includes the Lithgow Valley Plaza and Pottery Estate Plaza to the north. The remainder Business Precinct is surrounded by E3 ‘Environmental Management’ lands to the west and south, with the north-eastern boundary abutting Silcock Street houses Heritage Conservation Area (HCA “11”). The Business Precinct sits several metres below the Silcock Street houses and is separated by a steep batter slope. The B4 ‘Mixed Use’ zone permits a broad range of compatible land uses.

Given the variety of possible outcomes for the precinct, the following objectives and design controls supplement Lithgow DCP 2021 Chapter 7.1.2 Over-arching Objectives & Chapter 7.4 Commercial & Community Uses to ensure that the commercial precinct does not detract from the heritage significance of the Pottery Estate.

9.7.2 Additional Controls for B4 Zone

Objective(s)

- O1. Respond to, reinforce, and sensitively relate to the spatial and environmental characteristics of the surrounding environment including adjacent HCA “C11” and single storey Silcock Street cottages.
- O2. To ensure suitable landscape buffer and appropriate fencing style is provided between the B4 zone commercial buildings and the adjacent heritage precinct

Control(s)

Building height, bulk, scale, and design

- 1) Building height is 10m maximum in accordance with Lithgow DCP Chapter 9 controls except within 20m of the eastern boundary of the B4 zone, any building shall be set below the eave height of the adjacent Silcock Street cottages located within the adjacent HCA “C11”.
- 2) The visual impact of external infrastructure/services (including air conditioning units, plant rooms, ducting etc) must be minimised when viewed from the adjacent HCA “C11”.

Building setbacks

- 3) A minimum 5m wide landscape buffer and minimum 10m setbacks to the main building are to be provided along the eastern boundary of the B4 zone where the site abuts the HCA “C11”

Landscape

- 4) A minimum 5m wide buffer landscape strip is to be provided along the eastern edge of the B4 zone where it abuts the HCA “C11” and Silcock Street cottages.

Fencing

- 5) Any fencing abutting the “HCA 11”, must not exceed 1.8m above existing ground level of the shared boundary with the Silcock Street cottages. Design/colour/materials requirements shall be sympathetic to the heritage significant cottages.

Signage

- 6) Signage is to be of a high-quality design that does not detract from the heritage character and amenity of the adjacent housing.