

**DRAFT PLANNING PROPOSAL**

***LITHGOW LOCAL ENVIRONMENTAL PLAN 2014***

***(Local Amendment No. 6)***

## Contents

INTRODUCTION .....	3
What is a Planning Proposal?.....	4
SITE DESCRIPTION .....	4
LOCALITY AND CONTEXT .....	5
PART 1 OBJECTIVE OR INTENDED OUTCOMES.....	7
PART 2 EXPLANATION OF PROVISIONS .....	7
PART 3 JUSTIFICATION .....	8
Section A Need for Planning Proposal .....	8
Is the planning proposal a result of any strategic study or report?.....	8
Supply and Demand for Industrial Land in Lidsdale.....	8
Supply and Demand for Residential Land in Lidsdale .....	8
Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?.....	8
Section B Relationship to strategic planning framework.....	9
Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including Sydney Metropolitan Strategy and exhibited draft strategies)? .....	9
Is the Planning Proposal consistent with a Council’s local strategy or other local strategic plan? .....	9
Is the planning proposal consistent with applicable State Environmental Planning Policies? .....	12
Is the planning proposal consistent with applicable Ministerial Directions (S.9.1cf previous S117 directions)? .....	13
Section C Environmental, social and economic impact .....	16
Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal. ....	16
Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?.....	17
Has the planning proposal adequately addressed any social and economic effects?.....	17
Section D State and Commonwealth interests .....	17
Is there adequate public infrastructure for the planning proposal? .....	17
What were the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?.....	17
PART 4 MAPPING.....	18

PART 5 COMMUNITY CONSULTATION .....	18
PART 6 PROJECT TIMELINE .....	18
APPENDIX LIST.....	19

## INTRODUCTION

A planning proposal has been initiated and prepared by Council as part of an investigation into the industrial zoned lands in Lidsdale. This planning proposal was considered by Council at its **Ordinary Meeting of Council 28 June 2021**. Council resolved the following:

### Minute No 21-141

1. Council notes that Planning Proposal 2021-2808 as supported by Council Minute 21-8 has been withdrawn.
2. Council supports the preparation of a revised Planning Proposal for Lot 1 DP 914028 to amend Lithgow Local Environmental Plan 2014 as follows:
  - a. Council insert a new clause in Schedule 1 Additional Permitted Uses to identify development for the purposes of one dwelling-house as permitted with development consent upon Lot 1 DP 914028 and as shown on an APU Map.
3. The Planning Proposal documentation, once prepared, be forwarded to NSW Department of Planning, Industry and Environment for a Gateway Determination.
4. Council consults with the relevant government agencies as required. Council would consult with Water NSW prior to the issuing of Gateway Determination and Rural Fire Service prior to undertaking community consultation.
5. Council advise NSW Department of Planning, Industry and Environment that it proposes to seek approval to use the delegated functions under S3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
6. Council advises the relevant owner, in writing, that should any further technical reports be required to support the Planning Proposal that Council will require the landowner to incur the full costs of any such reports. If agreement cannot be reached in this regard the matter be reported back to Council.
7. A DIVISION be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

## **What is a Planning Proposal?**

A planning proposal is a document that explains the intended effect of a proposed local environmental plan (LEP) and sets out the justification for making that plan. It will be used and read by a wide audience including the general community as well as those who are responsible for deciding whether or not the proposal should proceed. As such it must be concise and accessible to its audience. It must also be technically competent - founded on an accurate assessment of the likely impacts of the proposal and supported where necessary by technical studies and investigations.

The preparation of a planning proposal is the first step in preparing a LEP. Throughout the course of preparing the proposed LEP, the planning proposal evolves. This is particularly the case for complex proposals in which the initial gateway determination will confirm the technical studies and consultation required to justify the proposal. As the studies and consultation are undertaken, relevant parts of the planning proposal will be updated, amended, and embellished.

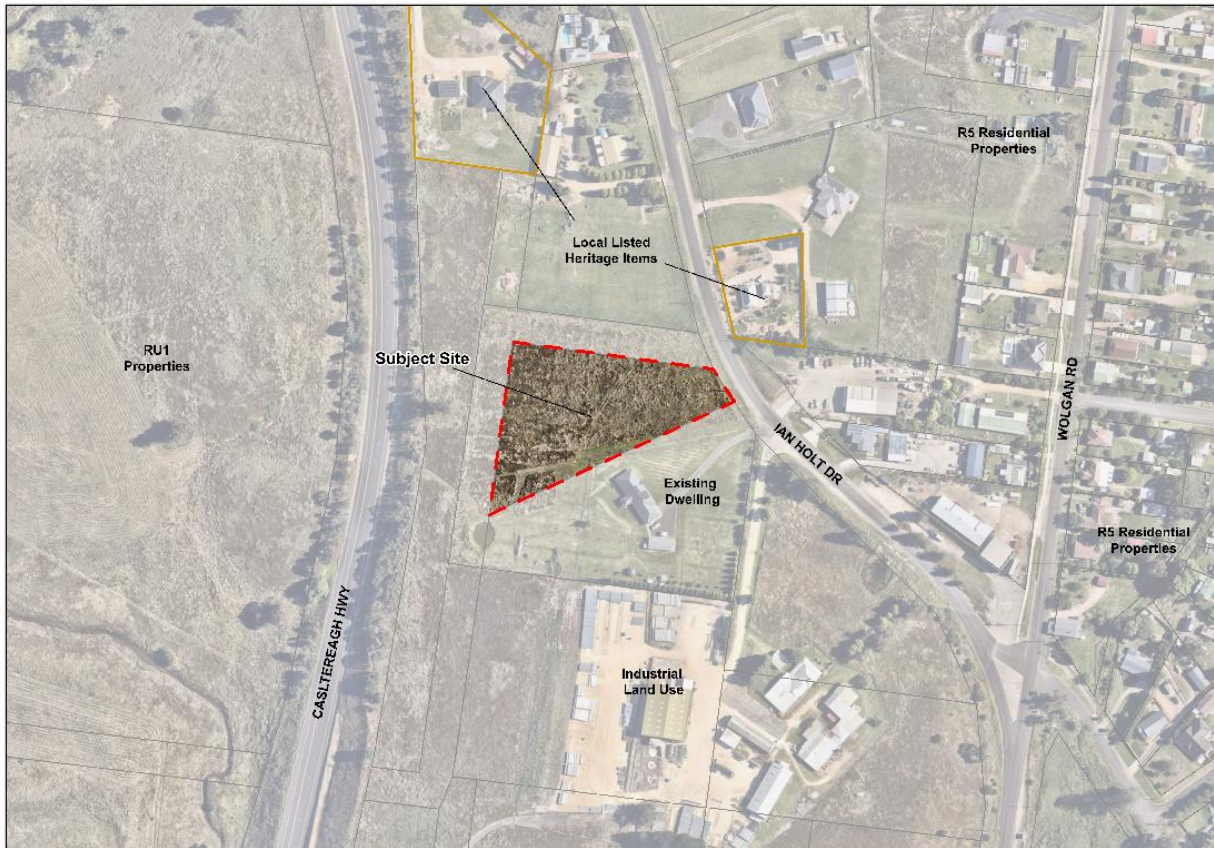
## **SITE DESCRIPTION**

This Planning Proposal relates to land legally described as Lot 1 DP 914028 and known as 32 Ian Holt Drive, Lidsdale. The site is an irregular triangular shape with an area of 8,127m<sup>2</sup> and has approximately 23m of frontage to Ian Holt Drive on its north-eastern boarder. The subject site itself is currently vacant with no existing structures and has been cleared of all vegetation.

Immediately to the north of the subject site are existing detached houses on allotments ranging from 6,000m<sup>2</sup> to 2ha. These allotments have their primary access to Ian Holt Drive and are zoned R5 Large Lot Residential.

Immediately to the east and south of the subject site is an existing residential dwelling on 1.18 hectares. Across the roadway to the east are small existing operational industrial land uses including a landscaping business, machinery shed and an industrial supplies outlet. Further south of the subject site is a piping manufacturer/supplier business, the footprint of which is predominantly in the northern section of the property with a large portion of the site left undeveloped. All land as identified above have primary access to Ian Holt Drive and are currently zoned IN2 Light Industrial.

Immediately to the west of the subject site are two narrow allotments prior to the Castlereagh Highway, one held in private ownership and held by crown lands over which there is an enclosure permit (EP). Both allotments are vacant and are zoned IN2 Light Industrial.



**Figure 1 Site Location**

## **LOCALITY AND CONTEXT**

The site is within the locality of Lidsdale which is a small rural suburb of Lithgow located 4km north-east from the closest town centre of Wallerawang, 12km north-west from the regional strategic town of Lithgow and 117km west from the Sydney.

The site is located within the Lidsdale Light Industrial Precinct, abutting Large Lot Residential zone to the north. The area is generally characterised by a mix of large lot residential dwellings ranging from 6,000sqm to 20,000sqm along the northern boundary, containing a varying age of construction dating back to the 1800's.

In close proximity to the site there are two locally listed heritage items, the Windmill Lad Stud (previously named Junction Inn) and the former Square and Compass Inn, both of which have local significance, located further to the north of the site.

Since the adoption of the Lithgow Local Environmental Plan 2014, there has been no further development of industrial land in the Lidsdale Industrial Precinct. In contrast, there has been four residential dwelling development applications (DA's) approved by Council since 2015 in the



adjacent R5 zone and a further three land subdivisions. These subdivisions under current planning controls allow for an additional 37 dwelling entitlements. This includes a recent large residential subdivision for 34 new allotments at 111 Ian Holt Drive.

The area can be accessed from the Castlereagh Highway by three local access roads; Wolgan Road and Skelly Street from the south and Ian Holt Drive from the west.

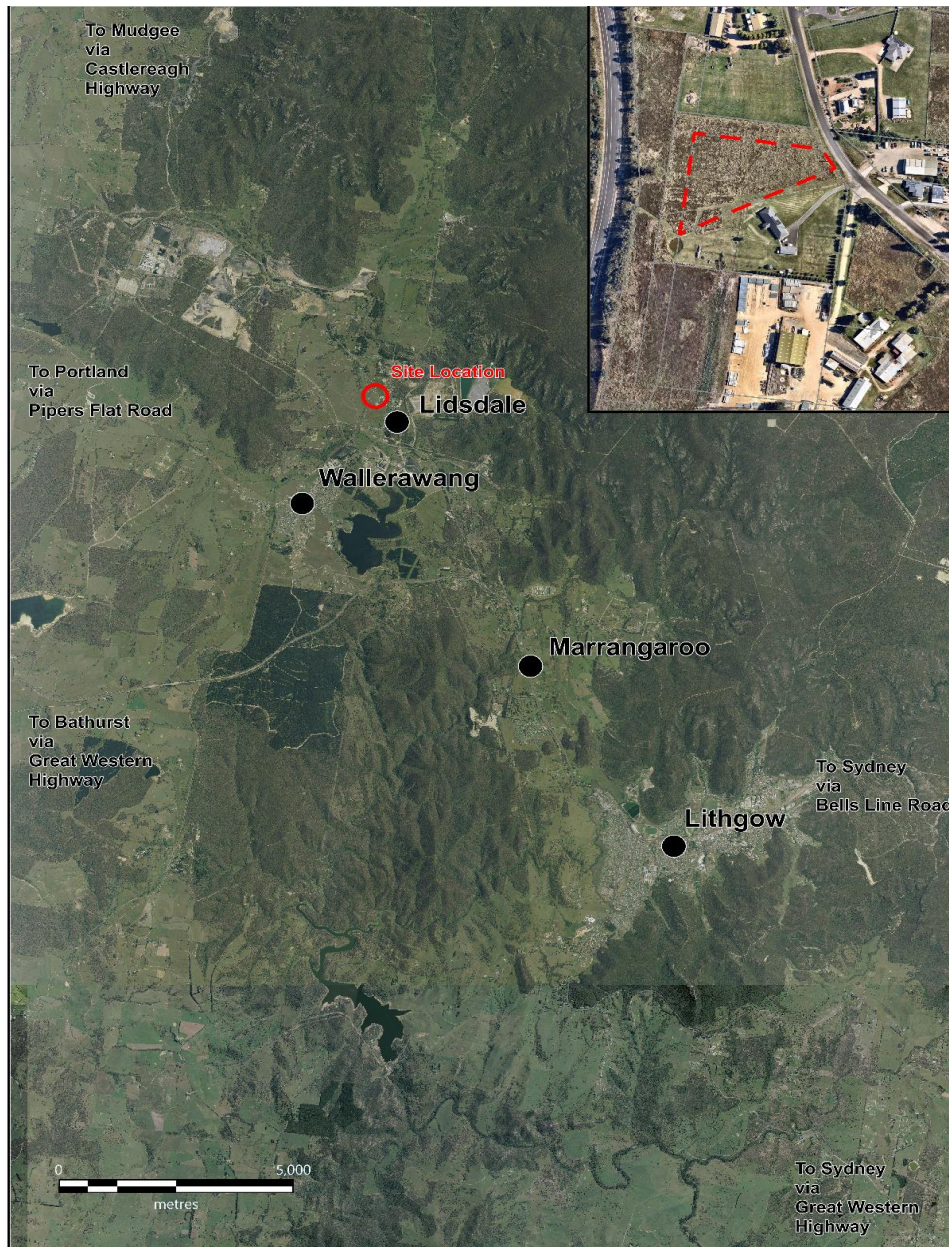


Figure 2 Locality Context of Site Area to Important Population Centres.

## PART 1 OBJECTIVE OR INTENDED OUTCOMES

The objective of the Draft Planning Proposal is to amend the Lithgow Local Environmental Plan 2014 to

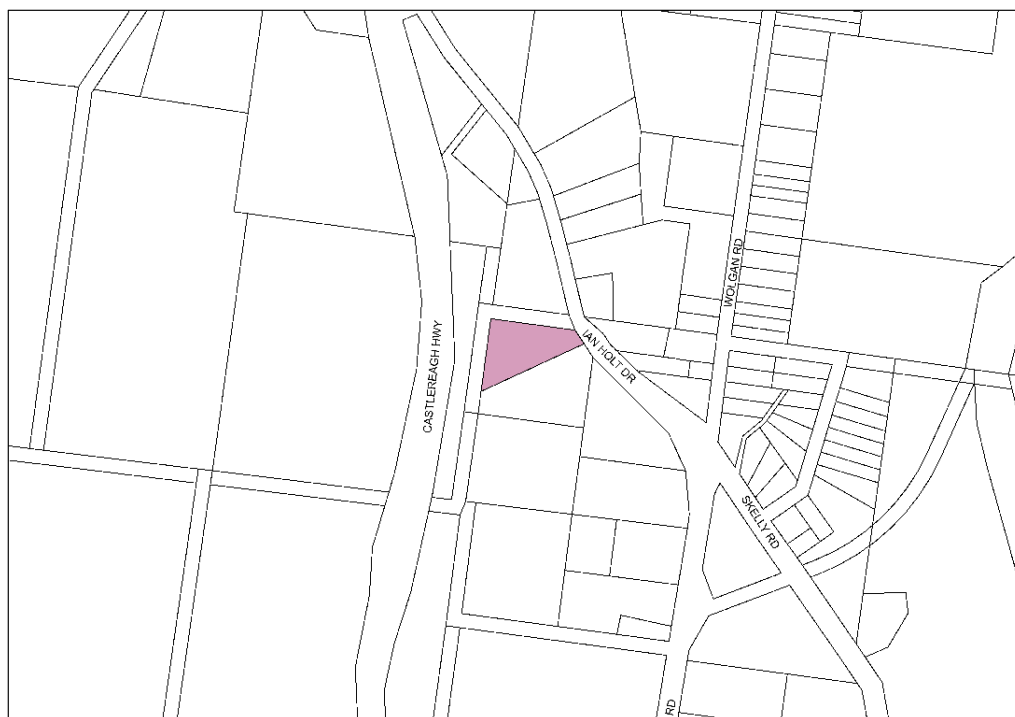
- Add an Additional Permitted Use (APU) to enable the erection of one (1) dwelling house on Lot 1 DP 914028.

The purpose, or intended outcome, of the Planning Proposal is to allow the orderly development of the subject site by permitting a single residential dwelling in a manner which reflects the immediate character and density of the sites surroundings while addressing the constraints of the site.

## PART 2 EXPLANATION OF PROVISIONS

The Draft Planning Proposal seeks to amend the Lithgow Local Environmental Plan 2014 to identify the cadastral boundaries of the subject site on a APU Map in addition to inserting a new clause in Schedule 1 to allow development with consent for the purposes of a singular dwelling house on Lot 1, DP 914028.

The site will remain in the Light Industrial IN2 zone. **Figure 4** below shows the location and extent of the additional permitted use.



**Figure 4 Proposed APU applicable to the Site Area**

## **PART 3 JUSTIFICATION**

### **Section A Need for Planning Proposal**

#### ***Is the planning proposal a result of any strategic study or report?***

The Planning Proposal is not the result of any strategic study or report. Council has undertaken a review of the planning controls for the development site at the request of a landowner who felt they had been disenfranchised during the creation, consultation, and subsequent adoption of the Lithgow Local Environmental Plan 2014. The review included assessing the suitability of zoning and provisions for all lands within the Lidsdale industrial precinct.

#### ***Supply and Demand for Industrial Land in Lidsdale***

To date, there has been no additional development or take-up of the industrial zone lands within the investigation area since the commencement of the LLEP2014. Landowners in the investigation area, that have vacant land potential, did not report that they wish to develop their land further for industrial land use during initial consultation. Further, neither Council nor the landowners have received investor enquiries for this area of employment zoned lands.

Given the proximity of the GreenSpot major development site to the Lidsdale Industrial Precinct and the opportunities to be gained from the clustering of industrial land use, the Lidsdale site may be placed at a severe disadvantage in attracting investment dollars to develop from a greenfield site. This coupled with the lack of landowner willingness to speculatively release the land for industrial land use may effectively stall this land supply.

#### ***Supply and Demand for Residential Land in Lidsdale***

There is no evidence to suggest that demand is not being met by the current zoned supply of large lot residential land within the Wallerawang/Lidsdale precinct. In the past five years, there have been 37 new lots created within the zone. Once developed, this supply would satisfy future dwelling demand, based on current take-up levels, ensuring Council's policy of maintaining a five year forward supply is achieved.

#### ***Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

As the IN2 Light Industrial zoning prohibits residential land use under the Lithgow Local Environmental Plan (LLEP) 2014, a Planning Proposal is the only means of achieving the objective. The use of Schedule 1 – Additional Permitted Use is the planning tool that will have the least impact upon future land use and will minimise potential land use conflict.



## Section B Relationship to strategic planning framework

### *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including Sydney Metropolitan Strategy and exhibited draft strategies)?*

The applicable regional plan is the Central West and Orana Regional Plan. The proposal is consistent with the direction and actions of this plan as shown in **Table 2** below.

Table 2

<b>CWORP Action</b>	<b>Comment</b>
25.2 - Increase housing choice in regional cities and strategic centres at locations near or accessible to services and jobs.	The planning proposal responds directly to this action. The subject land is located no more than 5 minutes from the Wallerawang Town Centre and even closer to the former Wallerawang Power Station which is currently undergoing re-development into a new industrial precinct.

### *Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?*

The Planning Proposal is generally consistent with the wider strategic land use directions of both the Lithgow 2040 Local Strategic Planning Statement and Lithgow Land Use Strategy 2010-2030 as outlined in **Table 3** below.

Table 3

<b>Lithgow LUS 2010-2030</b>		
<b>LUS Growth Management Principle</b>	<b>Relevant Guiding Principle</b>	<b>Assessment/Comment</b>
GMP 1. Thresholds to Growth	Future development should strengthen the desired settlement hierarchy, support and maintain strong commercial centres, minimise urban sprawl and environmental footprints and maximise infrastructure and service efficiencies.	Consistent The development site reinforces the established settlement hierarchy by providing development opportunity near established town centres.  The subject site is a small greenfield infill site located in

		<p>an established village of Lidsdale, in close proximity to the core population centre of Wallerawang. The site can be serviced by existing infrastructure.</p>
<p>GMP 2. Land Use Suitability and Capability</p>	<p>Future development should be located on land that is suitable for the development and capable of supporting the proposed uses.</p> <p>Future development should avoid areas of environmental significance, significant natural and/or economic resource, potential hazard, high landscape or cultural heritage value, or potential increased risk associated with impacts of climate change.</p>	<p>Consistent</p> <p>The subject site is suitable for residential development as to the best of Councils knowledge the site has had no previous land uses that could impact the viability of residential accommodation.</p> <p>The site has no environmental constraints or hazards outside bushfire risk which will need to be suitably addressed at a development assessment stage.</p>
<p>GMP 3. Infrastructure Provision</p>	<p>Future development should only be permitted where it can be provided with adequate, cost effective physical and social infrastructure to match the expected population of each settlement area.</p> <p>Future development should not create the demand for the uneconomic provision of infrastructure.</p> <p>Future development should be designed and located to have well connected and accessible urban areas increasing the opportunity for public transport, cycling and walking for residents and visitors.</p>	<p>Consistent</p> <p>The subject site can be fully serviced by existing head infrastructure and will not create the demand for uneconomic provision of infrastructure.</p> <p>The location of the site is in close proximity to the commercial centre of Wallerawang and is well connected to other important centres such as Lithgow via the Great Western Highway.</p>
<p>GMP 4. Diversity of Lifestyle</p>	<p>Future residential development should provide for a variety of dwelling types</p>	<p>Consistent</p> <p>The large lot residential product that this site could</p>

	<p>and a choice in location, form and affordability.</p> <p>Future rural residential development should be planned to strengthen the desired settlement hierarchy. It should be located close to existing centres and away from areas that may in the future have values for urban expansion.</p> <p>Future rural residential development should provide a limited alternative to urban growth in urban centres and not be provided so as to detract from such growth.</p>	<p>provide is consistent with the desired residential character of the Lidsdale area. As the Lidsdale area is buffered from the Wallerawang town centre by the Great Western Highway and industrial/energy generating industries, it does not hinder future expansion of the Wallerawang town centre while providing a unique residential product that can easily access services provided by the township.</p>
GMP 5. Character, Identity and Urban Design	<p>Future development should retain and enhance the rural character of local areas and not lead to a blurring of urban settlement and the surrounding rural hinterland.</p>	<p>Consistent</p> <p>The proposed additional permitted use clause is consistent with the adjacent residential zoned lands to the north of the site, meaning that any future development within the subject site cannot be of a greater density than residential properties in adjacent Large Lot Residential zone can achieve.</p>
<b>Lithgow 2040 Local Strategic Planning Statement</b>		
<b>Planning Priority</b>	<b>Assessment /Comment</b>	
PP 1 – Establish a framework for sustainable growth	<p>The proposal will provide for a single dwelling on a large lot, consistent with adjoining lands in close to the population centre of Wallerawang.</p> <p>While this rezoning proposal would deviate from the envisaged land use as depicted in the Wallerawang Structure Plan, the residential land use would be highly sympathetic to the surrounding land use and given its location and scale would not materially jeopardies the directions for the existing industrial area.</p>	

<p>PP 3 – Plan and appropriately manage rural lifestyle development</p>	<p>While the Planning Proposal is not consistent with the directions of the LSPS structure plans, the proposal is consistent with the design principles and location of large lot residential as identified in PP 3 of the LSPS and the LLEP 2014.</p> <p>The subject land is closely located to the population centre of Wallerawang and will rely primarily on the services and facilities of the established town. The single dwelling house would not compromise the appropriate and orderly development of the Lidsdale area.</p>
<p>PP 5 – Align development with essential infrastructure</p>	<p>The Planning Proposal is consistent with this direction as the subject area is located within the Lithgow Development Servicing Plan area and can be easily serviced by head infrastructure.</p>

***Is the planning proposal consistent with applicable State Environmental Planning Policies?***

***Relevant State Environmental Planning Policies (“SEPPs”)***

The proposal has been assessed against the applicable and relevant State Environmental Planning Policies (SEPPs) that apply to the land and in particular the additional permitted use to be facilitated through this proposal as outlined in **Table 4** below:

**Table 4**

<b>Policy</b>	<b>Comment</b>
<p>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</p>	<p>The future development of the site will need to ensure any stormwater leaving the site achieves the neutral or beneficial effect qualities required by WaterNSW.</p> <p>Any future development on the site will be required to address the WaterNSW current recommended practices and standards (as listed on WaterNSW’s website) at the development assessment stage.</p>
<p>State Environmental Planning Policy 55 Remediation of Land</p>	<p>Pursuant to SEPP 55, a preliminary contamination report has been undertaken for Lot 1 DP914028, 32 Ian Holt Drive, Lidsdale NSW in accordance with the Contaminated Land Management Act 1997 and State Environmental Planning Policy 55.</p> <p>The result of the report concluded that the levels of all contaminants present at the sample sites are below the</p>



	adopted thresholds for residential land-use with access to soil.
State Environmental Planning Policy (Koala Habitat Protection) 2020	Pursuant to Part 2 of the SEPP, any future development of land greater than 1 hectare (including adjoining land if in the same ownership) must satisfy Council to whether the land is a potential koala habitat by a suitably qualified and experienced person in tree identification. This is to be addressed at the development assessment stage.

***Is the planning proposal consistent with applicable Ministerial Directions (S.9.1cf previous S117 directions)?***

***Relevant Ministerial Directions***

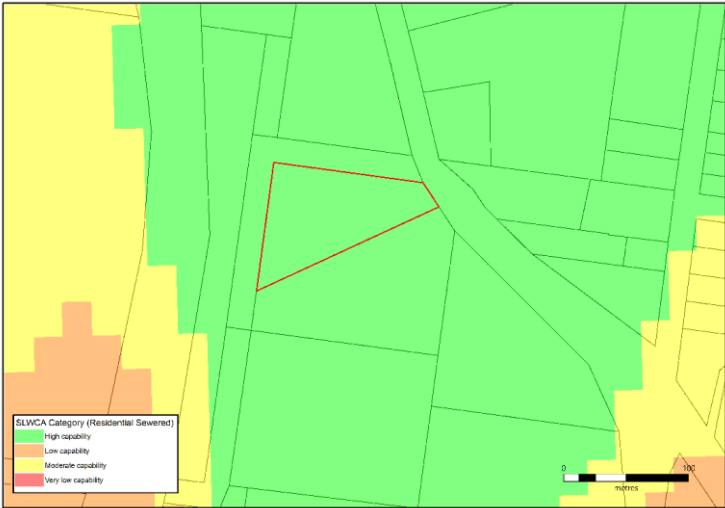
Assessment of the Planning Proposal indicates that is generally consistent, or where there is inconsistency, it is of minor significance, with the applicable and relevant Section 9.1 Planning Directions issued by the Minister of Planning as outlined in Table 5 below:

**Table 5**

<b>Relevant Planning Direction</b>	<b>Comment</b>
<b>Employment and Resources</b>	
1.1 Business and Industrial Zones	The outcomes of this PP are inconsistent with the objectives of this direction. The inconsistency is considered to be of minor significance due to the small portion of land being impacted in comparison to the existing industrial precinct and the potential net gain of industrial land from the proposed redevelopment of the former Wallerawang Power Station.
<b>Environment and Heritage</b>	
2.3 Heritage Conservation	<p>The subject site adjoins the Junction Inn that is listed as item I197 in schedule 5 of the Lithgow Local Environmental Plan 2014. The curtilage of this site is identified as within its cadastral boundaries.</p> <p>The listing of these items in Schedule 5 and associated provisions of Clause 5.10 of the Lithgow Local Environmental Plan provides adequate regulatory protection for the conservation of heritage on these sites. Any impact from development will be considered at the</p>

Relevant Planning Direction	Comment
	development assessment phases through appropriate development controls.
2.6 Remediation of Contaminated Land	<p>As directed per condition 1 of the Gateway Determination, a preliminary contamination report has been undertaken for Lot 1 DP914028, 32 Ian Holt Drive, Lidsdale NSW in accordance with the Contaminated Land Management Act 1997 and State Environmental Planning Policy 55 by a suitably qualified contamination consultant Greg Madafiglio, Envirowest Consulting.</p> <p>The scope of the report includes an investigation of past contaminating activities undertaken on the site in addition to the analysis of two soil samples taken at locations of known soil disturbance. The result of the report concluded that the levels of all contaminants present at the sample sites are below the adopted thresholds for residential land-use with access to soil.</p>
<b>Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	<p>The Planning Proposal is consistent with this direction. The proposal will:</p> <ul style="list-style-type: none"> <li>• Be capable of using existing infrastructure and services;</li> <li>• Enable greenfield infill development opportunities thereby reducing the need for further consumption of land for housing towards the periphery of the established R5 zone in Lidsdale;</li> <li>• Provide opportunity for the site to be developed in an orderly fashion using good design principles;</li> <li>• Be subject to clause 7.10 of the Lithgow Local Environmental Plan 2014, requiring essential services to be provided; and</li> <li>• Enable the permissibility of a dwelling house on the land which is of a lower or equivalent density than surrounding residentially zoned land.</li> </ul>
3.4 Integrating Land Use and Transport	The Planning Proposal is consistent with this direction as the potential additional dwelling house can provide for new residential accommodation in close proximity to the Wallerawang Town Centre and public transport nodes

Relevant Planning Direction	Comment
	such as the bus stop directly across the road and on Wolgan Road.
<b>Hazard and Risk</b>	
4.4 Planning for Bushfire Protection	<p>The subject site is mapped as being predominantly within Bushfire Prone Land category 3 under Section 146 of the Environmental Planning and Assessment Act 1979.</p> <p>Under this Planning Direction, Council is required to consult with the Commissioner of NSW Rural Fire Service following receipt of a gateway determination, and prior to undertaking community consultation and consider any comments so made in proceeding with the Planning Proposal.</p> <p>The Planning Proposal is of minor impact and the consideration of Planning for Bushfire Protection may, with the advice of the RFS, be addressed within the development assessment phase.</p>
<b>Regional Planning</b>	
5.2 Sydney Drinking Water Catchment	<p>This direction applies to this site as it is located within the Sydney Water Drinking Catchment. It is not within a Special Area.</p> <p>The site as identified in the Lithgow City Council Development Servicing Plan for Water Supply and Sewerage demonstrates that it can be fully serviced. Any future subdivision or development will be required to achieve a neutral or net beneficial effect on water quality as part of the development assessment process.</p> <p>The Lithgow Strategic Land and Water Capability Assessment 2009 has identified that the land has high capability for the land use category <b>4A Residential Sewered</b>.</p> <p>This Planning Proposal is a revised version of a recently withdrawn Planning Proposal which covered the subject site in addition to adjacent lands. Council, as required by</p>

Relevant Planning Direction	Comment
	<p>this direction, consulted with WaterNSW prior to the submission for Gateway Determination. As the changes to the revised Planning Proposal are minimal in scope, WaterNSW has advised Council that previous correspondence is sufficient for the purposes of assessment and requests that the Planning Proposal be referred to WaterNSW when it is publicly exhibited.</p> 

## Section C Environmental, social and economic impact

*Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.*

The site is not a declared critical habitat under the Threatened Species Conservation Act 1995 or area of Outstanding Biodiversity Value (AOBV) under the Biodiversity Conservation Act 2016.

The site is not identified as having biodiversity values under the Biodiversity Values Map prepared under Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

A search of BioNet Atlas has revealed that there are no endangered populations of flora and fauna within a 10km radius of the site.

The site is within the environmentally sensitive areas mapping for groundwater vulnerability under Lithgow Local Environmental Plan 2014. As the site is expected to have access to mains sewer and water, it is envisaged that there will be minimal to no impact to groundwater from



residential land uses. Notwithstanding, any future development would need to satisfy Part 7.5 *Groundwater Vulnerability* of the Lithgow Local Environmental Plan.

***Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?***

The subject site has not been identified within the environmentally sensitive areas mapping for biodiversity or sensitive lands. It is, however, identified as having moderately high groundwater vulnerability.

The site is not identified as being flood liable or within a declared mine subsidence district but is identified as being bush fire prone. As per Ministerial Direction 4.4, Council will consult with RFS upon receipt of the gateway determination.

The site is located within the Sydney Water Drinking Catchment and any future development must be able to demonstrate a neutral or beneficial effect on water quality in accordance with Sydney Drinking Water Catchment 2011 State Environmental Planning Policy. This matter will be addressed at the development assessment phase.

***Has the planning proposal adequately addressed any social and economic effects?***

The Planning Proposal outcomes being of a minor local scale will not create any negative social or economic impacts.

The proposal will minimise the creation of future land use conflict by reinforcing separation between residential and industrial land use.

## **Section D State and Commonwealth interests**

***Is there adequate public infrastructure for the planning proposal?***

The relatively small scale of the proposal, resulting in only 1 potential new residential dwelling house is not significant enough to trigger any new or augmented state or commonwealth public infrastructure.

The site is currently serviced by essential water, sewer and electricity services and a road frontage to Ian Holt Drive.

Any impact upon local essential infrastructure will be considered as part of the development assessment phase and mitigated through either development consent conditions or development servicing contributions.

***What were the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?***

Relevant state and government public authorities will be consulted as part of the process and/or considered prior to final Gateway Determination.

## PART 4 MAPPING

The Planning Proposal will require the addition of the following maps to the Lithgow Local Environmental Plan 2014 as indicated in **Figure 4**:

- Additional Permitted Uses Map

## PART 5 COMMUNITY CONSULTATION

The Gateway Determination will confirm the community consultation requirements for the proposal. Unless determined as a “low impact” proposal the proposal will be publicly exhibited for a period no less than 28 days in accordance with the Lithgow Community Participation Plan 2020. Should public exhibition fall over a public holiday period the exhibition period would be extended accordingly.

The Draft Planning Proposal will be publicly notified by:

- A notice in the Village Voice publications during exhibition.
- Written notification to adjoining and potentially affected landowners.
- Notification on Council’s website
- Display at Council’s customer service centre and libraries (subject to Covid 19 protocols and public health orders at the time)

Council will also notify relevant government agencies concurrently with the public exhibition period unless directed otherwise through the Gateway Determination. Key agencies will include:

- Water NSW (Sydney Catchment Authority)
- Rural Fire Services
- NSW Crown Lands

## PART 6 PROJECT TIMELINE

Provided no delays are experienced, for example through public consultation and government agency responses, an indicative timeline to complete the plan making process is outlined below:

Key Stages of Consultation and Approval	Estimated Timeframe
<b>Stage 1</b> Submission of Draft Planning Proposal to the Online Planning Portal	July 2021
<b>Stage 2</b> Gateway Determination	September 2021
<b>Stage 3</b> Public Exhibition and Government Agency Consultation	December 2021/January 2022

<b>Stage 4</b> Review/Consideration of Submissions	February 2021
<b>Stage 5</b> Council Report	February 2022
<b>Stage 6</b> Plan Making and Legal Drafting – (Council Delegated Functions)	March/April 2022
<b>Stage 7</b> Notification of the LEP	May/June 2022

## APPENDIX LIST

### Appendix 1

Copy of Report to Ordinary Meeting of Council held on 28 June 2021 and Minute No 21-141

### Appendix 2

Completed Delegation Checklist

### Document Control

Version	Date	Description	Responsible Officer
1.0	2/08/2021	Planning Proposal – Pre Gateway	Christian Matthews
2.0	11/11/2021	Addition of Ministerial Direction 2.6 – Remediation of Contaminated Land	Christian Matthews

APPENDIX ONE  
COUNCIL REPORT AND  
MINUTES



### 9.1.1.5. ECDEV- 28/06/2021- Lidsdale Planning Proposal PP 2021-2808 - Update following Gateway Referral

**Prepared by** Sherilyn Hanrahan - Strategic Land Use Planner  
**Department** Economic Development & Environment  
**Authorised by** Director of Economic Development & Environment

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#### Reference

Min No 18-313 Ordinary Meeting of Council held on 29 October 2018  
Min No 18-376 Ordinary Meeting of Council held on 26 November 2018  
Min No 21-8 Ordinary Meeting of Council held on 25 January 2021

#### Summary

The purpose of this report is to:

- Update Council on the progress of Planning Proposal 2021-2808 through the Gateway process.
- Advise that the Planning Proposal in its current form has been withdrawn following detailed discussion with the Western Region office of Department of Planning, Industry and Environment (DPIE).
- Seek a Council resolution to prepare a new Planning Proposal to insert a new additional permitted use clause in Schedule 1 of Lithgow Local Environmental Plan to permit, with development consent, a dwelling-house on Lot 1 DP 914028 retaining the IN2 Light Industrial zone.

#### Commentary

#### Background

In accordance with Council resolution 21-8, Council officers prepared a Planning Proposal over Lot 1 DP 914208, Lot DP 914209, Pt EP 327367, Lot 1 DP 1122488, Lot 52DP 1218864, Pt Lot 102 DP 1137972, to amend Lithgow LEP (Local Environmental Plan) as follows:

- a. Amend the land use zone from IN2 Light Industrial to R 5 Large Lot Residential
- b. Amend the minimum lot size (MLS) from 0 to 2000 square metres.

This Planning Proposal was uploaded to the NSW Planning Portal requesting a Gateway Determination on 25 March 2021.

#### Update

On 26 April 2021, Council received a request for further information in relation to the strategic and site-specific merit of Site 1 (being the land off Castlereagh Highway) of the proposal (Attachment 1). The Department raised concerns that Council has not demonstrated strategic merit to change the current zoning given:

- Council's Local Strategic Planning Statement (LSPS) confirms the land is identified as industrial in the Wallerawang Structure Plan.
- Council indicates that there is 40 years supply of large lot residential land in the Wallerawang/Lidsdale precinct and demand for more large lot residential land at Lidsdale is not demonstrated in the planning proposal.

Further, the Department contended that Council has not adequately identified or addressed the potential for land use conflict between the adjoining and established industrial uses and existing and proposed residential uses. Council officers responded to this request for further information in a letter dated 4 May 2021 (Attachment 2).

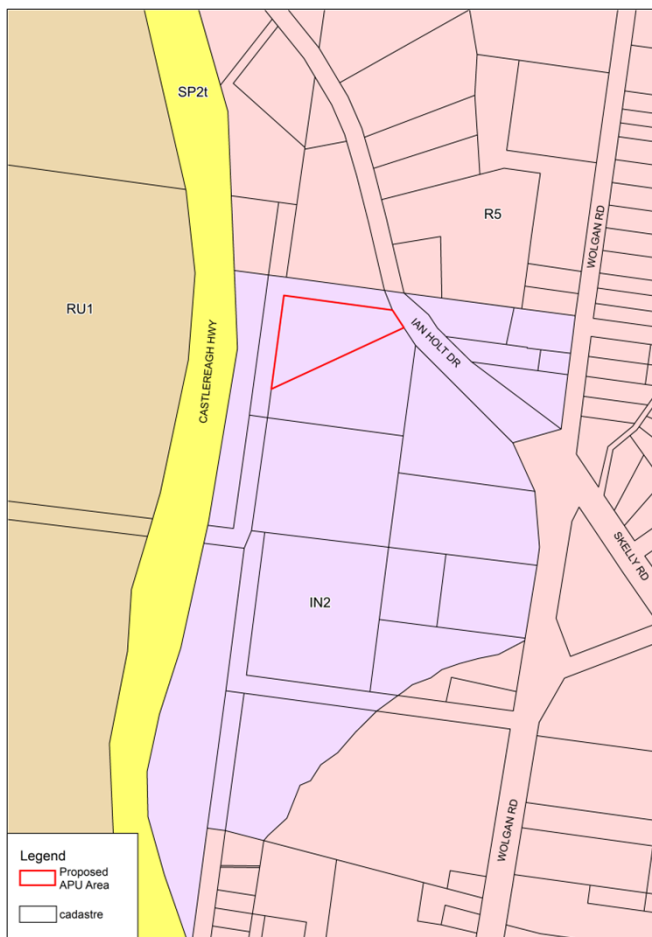
Council officers continued to engage with DPIE making additional representations to address and resolve these concerns without success. Whilst it was made clear that re-zoning Site 1 would not be supported, it was suggested that perhaps a revised proposal (outlined below) would have more likelihood of success.

Council's resolution in relation to the planning proposal was very specific which meant that a new resolution and planning proposal would be required. Consequently, the proposal in its current form was withdrawn to enable the matter to be reported to Council with a resolution for a new proposal to be sought.

### Revised Planning Proposal

NSW DPIE have indicated that a new revised Planning Proposal retaining the IN2 zone and seeking an additional permitted use (APU) of only one (1) additional dwelling-house on Lot 1 DP 914028 would be an option for Council to better address the planning concerns of this area.

This option is indicated in the Figure below:



This option has been discussed with the relevant landowner of 32 Ian Holt Drive, Lidsdale who has advised that this option would be an acceptable compromise if the rezoning to R5 Large Lot Residential could not be achieved.

### Policy Implications

Nil arising from this report.

### Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact - Should Council continue to a Planning proposal; Council is committing to the full costs of any technical reports which could be up to \$15,000 (if required by Gateway) and the loss of fees that would normally accompany an owner-initiated planning proposal of this scale of \$15,000. Council should ensure, through Council resolution, that the full costs of any technical reports be charged to the benefitting landowner.

### Legal and Risk Management Implications

Nil. The Planning Proposal process is governed by Part 3 of the Environmental Planning and Assessment Act 1979.

### Attachments

1. Gateway- Request for further information [9.1.1.5.1 - 2 pages]
2. LCC Response to DPIE - PP 2021-2808 - Further Information [9.1.1.5.2 - 2 pages]

### Recommendation

THAT:

1. Council notes that Planning Proposal 2021-2808 as supported by Council Minute 21-8 has been withdrawn.
2. Council supports the preparation of a revised Planning Proposal for Lot DP 914028 to amend Lithgow Local Environmental Plan 2014 as follows:
  - a. Council insert a new clause in Schedule 1 *Additional Permitted Uses* to identify development for the purposes of one dwelling-house as permitted with development consent upon Lot 1 DP 914028 and as shown on an APU Map.
3. The Planning Proposal documentation, once prepared, be forwarded to NSW Department of Planning, Industry and Environment for a Gateway Determination.
4. Council consults with the relevant government agencies as required. Council would consult with Water NSW prior to the issuing of Gateway Determination and Rural Fire Service prior to undertaking community consultation.
5. Council advise NSW Department of Planning, Industry and Environment that is proposes to seek approval to use the delegated functions under S3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
6. Council advises the relevant owner, in writing, that should any further technical reports be required to support the Planning Proposal that Council will require the landowner to incur the full costs of any such reports. If agreement cannot be reached in this regard the matter be reported back to Council.
7. A DIVISION be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

**9.1.1.4. ECDEV - 28/06/2021 - DA196/18 Planning Agreement- Subdivision 1 into 34 Lots, 'Woodlands' 111 Ian Holt Drive, Lidsdale**

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**21 -140 RESOLVED**

THAT:

1. Council endorse the Voluntary Planning Agreement for DA196/18 involving the contribution by the developer of \$3,000 per lot to Council for the purpose of providing open space and community facilities, plus \$5,000 per allotment (Stage 2) to go towards future upgrade works on Maddox Lane.
2. The Voluntary Planning Agreement, upon endorsement by both parties, be forwarded to NSW Department of Planning, Industry and Environment.
3. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**MOVED:** Councillor J Smith

**SECONDED:** Councillor S Ring

**CARRIED:** Unanimously

**Divisions**

**FOR:** Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith

**AGAINST:** nil

**9.1.1.5. ECDEV- 28/06/2021- Lidsdale Planning Proposal PP 2021-2808 - Update following Gateway Referral**

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**21 -141 RESOLVED**

THAT:

1. Council notes that Planning Proposal 2021-2808 as supported by Council Minute 21-8 has been withdrawn.
2. Council supports the preparation of a revised Planning Proposal for Lot DP 914028 to amend Lithgow Local Environmental Plan 2014 as follows:
  - a. Council insert a new clause in Schedule 1 *Additional Permitted Uses* to identify development for the purposes of one dwelling-house as permitted with development consent upon Lot 1 DP 914028 and as shown on an APU Map.
3. The Planning Proposal documentation, once prepared, be forwarded to NSW Department of Planning, Industry and Environment for a Gateway Determination.
4. Council consults with the relevant government agencies as required. Council would consult with Water NSW prior to the issuing of Gateway Determination and Rural Fire Service prior to undertaking community consultation.
5. Council advise NSW Department of Planning, Industry and Environment that it proposes to seek approval to use the delegated functions under S3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
6. Council advises the relevant owner, in writing, that should any further technical reports be required to support the Planning Proposal that Council will require the landowner to incur the full costs of any such reports. If agreement cannot be reached in this regard the matter be reported back to Council.
7. A DIVISION be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.



**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor J Smith

**CARRIED:** Unanimously

**Divisions**

**FOR:** Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith

**AGAINST:** nil

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## 9.2. Water and Wastewater Reports

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### 9.2.1. WWW - 28/06/2021 - Water and Wastewater Report

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**21 -142 RESOLVED**

THAT Council note the June 2021 Water Report as an update on water and wastewater management.

**MOVED:** Councillor S Ring

**SECONDED:** Councillor S Lesslie

**CARRIED:** Unanimously

**Divisions**

**FOR:** Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith

**AGAINST:** nil

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## 9.3. People and Services Reports

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### 9.3.2. PS - 28/06/2021 - Delivery Program 2017-2022 and Operational Plan 2021/22

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Original Motion

THAT Council:

1. Note the receipt of 14 submissions received prior to the closing date of the 25 May 2021 included in the Community Engagement Strategy Feedback Report attached.
2. Note that operational issues or general queries from the submissions have been responded to or referred to staff to action.

APPENDIX TWO  
DELEGATION EVALUATION  
CHECKLIST

**Evaluation criteria for the delegation of plan making functions**

Checklist for the review of a request for delegation of plan making functions to councils

**Local Government Area:**

Lithgow City Council

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**Name of draft LEP:**

Lithgow Local Environmental Plan 2014 (Local Amendment No. 6)

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**Address of Land (if applicable)**

32 Ian Holt Drive Lidsdale, Lot 1 DP 914028

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**Intent of draft LEP:**

The Planning Proposal seeks to amend Lithgow Local Environmental Plan 2014 to add an Additional Permitted Use (APU) to Schedule 1 to permit, with development consent, one (1) Dwelling House that will apply to Lot 1 DP 914028.

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**Additional Supporting Point/Information:**

Attached Planning Proposal

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<b>Evaluation criteria for the issuing of an Authorisation</b>				
(NOTE – where the matter is identified as relevant and the requirements has been met, council is to attach information to explain why the matter has not been addressed)	Council Response		Department Assessment	
	Y/N	Not Relevant	Agree	Disagree
Is the planning proposal consistent with the Standard instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details relate to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning stagey or a local strategy endorsed but the Secretary?	Y			
Does the planning proposal adequately address any consistency with relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
<b>Minor Mapping Error Amendments</b>				
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
<b>Heritage LEPs</b>				
Does the planning seek to add or remove a local heritage item and is it supported by a strategy/ study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage office if there is no supporting strategy/study?	N			
Does the planning proposal potentially impact on an item of Stage Heritage Significance and if so, the views of the Heritage Office been obtained?	N			
<b>Reclassifications</b>				
Is there an associated spot rezoning with the reclassification?		N/A		

If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or other strategy?		N/A		
Is the planning proposal proposed to rectify an anomaly in a classification?		N/A		
Will the planning proposal be consistent with an adopted POM or strategy related to the site?		N/A		
Has Council confirmed whether there are any trusts, estates, interests, dedications, conditions, restrictions or covenants on the public land and included a copy of the title with the planning proposal?		N/A		
Has council confirmed that there will be no change or extinguishment of interests and that the proposal does not require the Governor's approval?		N/A		
Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note regarding <i>classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		N/A		
Has the council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		N/A		
<b>Spot Rezoning</b>				
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		N/A		
Does the planning proposal create an exception to a mapped development standard?	N			