

Lithgow City Local Environmental Plan 1994

[1994-626]



New South Wales

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The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Previously named**
Greater Lithgow Local Environmental Plan 1994
- **Does not include amendments by**
[Drinking Water Catchments Regional Environmental Plan No 1 \(2006-289\)](#) (GG No 75 of 9.6.2006, p 4016) (not commenced — to commence on 1.1.2007)

Authorisation

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Lithgow City Local Environmental Plan 1994



New South Wales

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Lithgow City Local Environmental Plan 1994



New South Wales

Part 1 Introduction

1 Name of Plan

This Plan is called *Lithgow City Local Environmental Plan 1994*.

1A References to **Greater Lithgow Local Environmental Plan 1994**

A reference in any environmental planning instrument to *Greater Lithgow Local Environmental Plan 1994* is taken to be a reference to *Lithgow City Local Environmental Plan 1994*, whether the instrument was made before or after the commencement of *Greater Lithgow Local Environmental Plan 1994 (Amendment No 9)*.

2 Aims of the Plan

This Plan aims:

- (a) to recognise and promote the City of Lithgow as a desirable and viable place in which to live and to visit and invest,
- (b) to encourage the proper management, development and conservation of natural resources and the built environment within the City of Lithgow by protecting, enhancing or conserving:
 - (i) prime crop and pasture land,
 - (ii) timber, minerals, soil, water quality, stream environment and other natural resources,
 - (iii) places of significance for nature or heritage conservation,
 - (iv) places or features of high scenic or recreational value, and
- (c) to replace the former local planning controls with a comprehensive local environmental plan to help facilitate growth and development of the City of Lithgow in a manner which is consistent with the aims specified in paragraph (a) and which:
 - (i) minimises the environmental cost to the community of fragmented and isolated development of rural land which has less than full provision of services,

- (ii) facilitates the efficient and effective provision of amenities and services,
- (iii) facilitates a range of residential and employment opportunities in accordance with demand,
- (iv) facilitates farm adjustments,
- (v) ensures that the safety and efficiency of arterial roads is not adversely affected by development on adjacent land,
- (vi) minimises the impact of flooding and bushfires,
- (vii) encourages the separation of conflicting land uses,
- (viii) establishes measures to preserve water quality in the City's streams and waterways, and
- (ix) facilitates the protection of the catchment areas within and downstream of the City area in accordance with the principles of total catchment management.

3 Where this Plan applies

This Plan applies to all land in the City of Lithgow.

4 How this Plan affects other plans

This Plan repeals *Interim Development Order No 1—City of Greater Lithgow* and *Interim Development Order No 1—Shire of Blaxland* to the extent that they applied to the land to which this Plan applies.

4A Covenants, agreements, etc

- (1) If any agreement, covenant or similar instrument prohibits a use of land allowed by this Plan, then that agreement does not apply to that use to the extent necessary to allow that use.
- (2) Nothing in subclause (1) affects the rights or interests under any registered instrument of the Council or any other public authority.
- (3) In accordance with section 28 of the Act, the Governor approved of subclauses (1) and (2) before *Greater Lithgow Local Environmental Plan 1994 (Amendment No 3)* was made.

5 Adoption of Model Provisions

This Plan adopts the *Environmental Planning and Assessment Model Provisions 1980* except for the definition of **arterial road**, **map**, **residential flat building** and **rural worker's dwelling** in clause 4 (1), and clauses 15, 17, 18, 19, 29 and 34.

The adopted provisions apply as well as the provisions of this Plan.

6 Definitions

(1) In this Plan:

abattoir means a building or place used for the slaughter of animals or for the processing of animal carcasses or by-products.

agriculture means the use of land for the grazing of livestock, the production of annual crops or the keeping or breeding of livestock, including bees (but does not include the use of land for an intensive livestock keeping establishment).

alter, in relation to a heritage item or to a building or work within a heritage conservation area, means:

- (a) make structural changes to the outside of the heritage item, building or work, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, not including changes resulting from maintenance.

animal boarding or training establishment means a place used for the commercial boarding, breeding, keeping or training of animals, and includes a riding school.

aquaculture means cultivation (including propagation and rearing) of the living resources of the sea and inland waters, whether or not that cultivation is carried out in a farm established for that purpose using an artificially created body of water.

arterial road means the Great Western Highway, Bells Line of Road or Mudgee Road, as shown on the Map, and includes realignments as they occur.

bed and breakfast means a dwelling-house used by its permanent residents for the provision of short term accommodation for commercial purposes, which may include meals.

bulky goods salesroom or showroom means a building or place used primarily for the sale by retail or auction, the hire or the display of items (whether goods or materials) which are of such size, shape or weight as to require:

- (a) a large area for handling, storage or display, or
- (b) direct vehicular access to the site of the building or place by members of the public, for the purpose of loading items into their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing.

conservation plan means a document establishing the significance of a heritage item and identifying the policies that are appropriate to enable that significance to be retained in its future use and development.

Council means the Council of the City of Lithgow.

demolition, in relation to a heritage item, means the damaging, defacing, destruction, pulling down or removal of the heritage item in whole or in part.

destruction, in relation to a tree, means the ringbarking, cutting down, felling, poisoning, topping, lopping, removing or injuring of a tree.

environmentally sensitive land means land shown diagonally hatched with blue lines on the Map.

existing holding means:

- (a) except as provided by paragraph (b), the area of a lot, portion or parcel of land as it was as at the date of gazettal of this Plan,
- (b) if, as at the date of gazettal of this Plan, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the combined area of these lots, portions or parcels as they were on that date.

flood liable land means land identified by the Council as being inundated by the 1% AEP Flood event and shown edged heavy black on the map marked "*Flood Liable Land Map*".

heritage item means a building, work, relic, tree or place described in Schedule 1.

heritage significance means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

home based child care means providing care for up to seven children (including the caregiver's own children) in the dwelling occupied by the caregiver.

intensive livestock keeping establishment means a building or place in which or on which cattle, sheep, goats, poultry or other livestock are held for the purpose of nurturing by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes:

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farms (including places at which crustaceans or oysters are farmed),

but does not include an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land.

maintenance, in relation to a heritage item, means the continuous protective care of the existing detail, fabric, finish or appearance of the outside of the heritage item.

prime crop and pasture land means land within an area identified, on a map prepared by or on behalf of the Director-General of the Department of Agriculture deposited in the office of the Council, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses, but does not include land which the Director-General has notified the Council in writing is not prime crop and pasture land for the purposes of this Plan.

recreation area means:

- (a) a children's playground,
- (b) an area for sporting activities or sporting facilities, including ancillary buildings for the purpose of supporting sporting facilities, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
 - (i) a public authority, or
 - (ii) a body of persons associated for the purpose of promoting the physical, cultural or intellectual welfare of persons within the community,but does not include a racecourse or showground.

relic means any deposit, object or material evidence relating to:

- (a) the use or settlement of the area, not being Aboriginal settlement, which is more than 50 years old, and
- (b) Aboriginal habitation of the area both prior to and concurrent with its occupation by persons of European extraction, including human remains.

residential units means three or more dwellings, whether attached or detached, on an allotment of land.

the Map means the map consisting of 6 sheets marked "*Greater Lithgow Local Environmental Plan 1994*" as amended by the maps (or, if sheets are specified, by the sheets of the maps) marked as follows:

Greater Lithgow Local Environmental Plan 1994 (Amendment No 1)

Greater Lithgow Local Environmental Plan 1994 (Amendment No 2)

Greater Lithgow Local Environmental Plan 1994 (Amendment No 5)

Greater Lithgow Local Environmental Plan 1994 (Amendment No 7)

Greater Lithgow Local Environmental Plan 1994 (Amendment No 8)

Greater Lithgow Local Environmental Plan 1994 (Amendment No 9)

tree includes a sapling and a shrub.

vacant land means land on which no building is erected, except fences.

veterinary clinic means a building or place used for diagnosing or surgically or medically treating animals, whether or not the animals are kept on the premises for treatment.

(2) In this Plan:

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose, and
- (b) a reference to a map is a reference to a map deposited in the office of the Council.

7 Who determines development applications

The Council of the City of Lithgow is the consent authority for development permitted only with the development consent by this Plan.

Part 2 Development control by zoning

8 Zones shown on the map

Land is within a zone described below if it is shown on the Map as being within the zone:

Zone No 1 (a)—Rural (General)

Zone No 1 (c)—Rural (Small holdings)

Zone No 1 (d)—Rural (Future urban)

Zone No 1 (f)—Rural (Forestry)

Zone No 2 (a)—Residential

Zone No 2 (v)—Village

Zone No 3—Business

Zone No 4—Industrial

Zone No 6—Open space

Zone No 8—National Parks and Nature Reserves

9 Zone objectives and development control

- (1) Set out below for each zone are:
 - (a) the objectives of the zone,
 - (b) the development that may be carried out without development consent,
 - (c) the development that may be carried out only with development consent, and
 - (d) the development that is prohibited.
- (2) The Council must not grant consent to development unless it is of the opinion that such development is consistent with the objectives for the zone in which it is proposed to be carried out.

Zone No 1 (a) Rural (General)

1 Objective of the zone

The objective of the zone is to promote the proper management and utilisation of natural resources by:

- (a) protecting, enhancing and conserving:
 - (i) rural land, in particular prime crop and pasture land, in a manner which sustains its efficient and effective agricultural production potential,
 - (ii) soil, by controlling and locating development in accordance with soil capability,
 - (iii) forests of existing and potential commercial value for timber production,
 - (iv) valuable deposits of minerals, coal and extractive materials, by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,
 - (v) trees and other vegetation in environmentally sensitive areas, where the conservation of the vegetation is significant for scenic amenity or natural wildlife habitat or is likely to control land degradation,
 - (vi) water resources for use in the public interest, preventing the pollution of water supply catchment and major water storages,
 - (vii) localities of significance for nature conservation, including places

- with rare plants, wetlands and significant wildlife habitat, and
- (viii) items of heritage significance,
 - (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
 - (c) facilitating farm adjustments,
 - (d) minimising the cost to the community of:
 - (i) fragmented and isolated development of rural land, and
 - (ii) providing, extending and maintaining public amenities and services,
 - (e) providing land for other non-agricultural purposes, in accordance with the need for that development, and
 - (f) providing for the separation of conflicting land uses.

2 Without development consent

Development for the purpose of agriculture (other than intensive livestock keeping establishments or ancillary dwellings); bushfire hazard reduction; forestry (other than ancillary dwellings); home based child care.

3 Only with development consent

Any development except that permitted without consent or prohibited.

4 Prohibited

Development for the purpose of boarding houses; bulky goods salesrooms and showrooms; commercial premises; motor showrooms; residential units; shops (other than general stores).

Zone No 1 (c) Rural (Small holdings)

1 Objectives of the zone

The objectives of the zone:

- (a) to allow development of land for rural small holdings if the land is identified as suitable for that purpose,
- (b) to ensure that allotments created for rural small holdings are of an area and subject to arrangements that:

- (i) enable the provision of an adequate water supply,
 - (ii) enable effective disposal of domestic waste,
 - (iii) minimise the creation of traffic hazards,
 - (iv) do not contribute to pollution of water supply catchments, and
 - (v) do not impact unfavourably on water quality within the Nepean-Hawkesbury River System,
- (c) to ensure that development is carried out in a way that is sensitive to the environmental characteristics of the land,
- (d) to minimise the cost to the community of providing, extending and maintaining public amenities and services,
- (e) to ensure that rural small holdings development does not prejudice the interests of agricultural producers in the vicinity, and
- (f) to allow development for a range of purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect land or other development in the vicinity or create unscheduled demands for service infrastructure.

2 Without development consent

Development for the purpose of agriculture (other than ancillary dwellings); single dwellings, where:

- (a) a sewer is available, or
- (b) the Council is satisfied by a geotechnical or water balance assessment (or both) that disposal of domestic waste water within the boundaries of the allotment is feasible.

3 Only with development consent

Any development except that permitted without consent or prohibited.

4 Prohibited

Development for the purpose of abattoirs; animal boarding or training establishments; bulk stores; car repair stations; commercial premises; extractive industries; industries (other than home industries and light industries); intensive livestock keeping establishments; junk yards; motor

showrooms; offensive or hazardous industries; residential units; shops (other than general stores).

Zone No 1 (d) Rural (Future urban)

1 Objectives of the zone

The objectives of the zone are:

- (a) to identify land for future urban purposes,
- (b) to enable interim development which will not compromise eventual urban development,
- (c) to ensure effective disposal of solid and liquid waste,
- (d) to maintain the rural appearance of the future urban lands of Lithgow, while awaiting urban development, and
- (e) to ensure that development does not create unreasonable or uneconomic demands for the provision or extension of public amenities or services.

2 Without development consent

Development for the purpose of agriculture (other than intensive livestock keeping establishments or animal boarding or training establishments); bushfire hazard reduction; home based child care.

3 Only with development consent

Any development except that permitted without consent or prohibited.

4 Prohibited

Development for the purpose of abattoirs; animal boarding or training establishments; bulk stores; car repair stations; commercial premises; extractive industries; intensive livestock keeping establishments; junk yards; mines; motor showrooms; offensive or hazardous industries; residential units; shops.

Zone No 1 (f) Rural (Forestry)

1 Objectives of the zone

The objectives of the zone are:

- (a) to identify land managed by the Forestry Commission under the *Forestry Act 1916*,
- (b) to preserve existing forests within the City of Lithgow, while allowing compatible development, and
- (c) to prevent pollution of water supply catchments and water quality in major water storages.

2 Without development consent

Development for any purpose authorised by the Forestry Commission under the *Forestry Act 1916*.

3 Only with development consent

Development for the purpose of extractive industries; mining; veterinary clinics.

4 Prohibited

Any development except that permitted without consent or only with consent.

Zone 2 (a) Residential

1 Objectives of the zone

The objectives of the zone are:

- (a) to provide for housing and associated development, where such development is feasible,
- (b) to allow a variety of housing types,
- (c) to ensure that development does not create unreasonable demands for the provision or extension of public amenities or services, and
- (d) to allow other uses in the zone which are compatible with housing.

2 Without development consent

Development for the purpose of single dwelling-houses on serviced allotments; home based child care.

3 Only with development consent

Any development except that permitted without consent or prohibited.

4 Prohibited

Development for the purpose of abattoirs; animal boarding or training establishments; bulk stores; extractive industries; forestry; generating works; offensive or hazardous industries; heliports; industries (other than home or light industries); intensive livestock keeping establishments; junk yards; liquid fuel depots; mines; motor showrooms; saw mills; shops (other than general stores); stock and sale yards; timber yards; transport terminals; veterinary clinics; warehouses.

Zone No 2 (v) Village

1 Objectives of the zone

The objectives of the zone are:

- (a) to promote development which is compatible with an urban function within a rural area,
- (b) to maintain the rural atmosphere of the village,
- (c) to safeguard residential amenity within the village, and
- (d) to prevent pollution of water supply catchments and water quality in major water storages.

2 Without development consent

Development for the purpose of single dwellings, where:

- (a) a sewer is available, or
- (b) the Council is satisfied by a geotechnical assessment that disposal of domestic waste water within the boundaries of the allotment is feasible.

3 Only with development consent

Any development except that permitted without consent or prohibited.

4 Prohibited

Development for the purpose of extractive industries; intensive livestock keeping establishments; junk yards; mines; offensive or hazardous

industries.

Zone No 3 Business

1 Objectives of the zone

The objectives of the zone are:

- (a) to encourage a range of retail and commercial uses within the central business district,
- (b) to encourage high density residential development in conjunction with business development, and
- (c) to accommodate retail, commercial and allied services within the City.

2 Without development consent

Nil.

3 Only with development consent

Any development except that prohibited.

4 Prohibited

Development for the purpose of abattoirs; animal boarding or training establishments; extractive industries; forestry; generating works; offensive or hazardous industries; heliports; industries (other than home or light industries); intensive livestock keeping establishments; junk yards; liquid fuel depots; mines; saw mills; stock and sale yards; transport terminals; warehouses.

Zone No 4 Industrial

1 Objectives of the zone

The objectives of the zone are:

- (a) to designate sufficient land for industrial uses,
- (b) to allow a wide range of industrial activities which by the nature of their operation may require a large portion of the activities to be comprised of commercial, office or shop purposes in conjunction with industry, and
- (c) to allow appropriate bulky goods retailing.

2 Without development consent

Nil.

3 Only with development consent

Development for the purpose of bulky goods salesrooms or showrooms; commercial premises; shops operated in conjunction with other development permitted within this zone or which, in the opinion of the Council, primarily serve the daily convenience needs of the workforce in the locality; any other development except that prohibited.

4 Prohibited

Development for the purpose of caravan parks, dwelling-houses (other than those used in conjunction with development permissible in this zone); offensive or hazardous industries; residential units (other than those used in conjunction with development permissible in this zone); shops (other than those described in item 3).

Zone No 6 Open space

1 Objectives of the zone

The objectives of the zone are:

- (a) to identify land which is owned, controlled or managed by the Council, is proposed for open space or public recreational purposes or is privately owned and used for recreational purposes,
- (b) to maximise the value of community land and promote its multiple use to satisfy the diverse recreational needs of the community,
- (c) to enable development, including clubs, only if associated with, ancillary to, or supportive of recreational uses,
- (d) to offer opportunities for recreational pursuits within residential neighbourhoods,
- (e) to provide opportunities to enhance the total environment of Lithgow,
- (f) to retain significant features and ensure that the visual impact is not unnecessarily reduced,
- (g) to ensure that water quality is maintained in watercourses and wetlands,

and

- (h) to maintain or enhance the ecological biodiversity of watercourses and wetlands.

2 Without development consent

Development for the purpose of landscaping; gardening and bushfire hazard control.

3 Only with development consent

Development for the purpose of community facilities; drainage; racecourses; recreation areas; refreshment rooms; roads; showgrounds; sportsgrounds; utility installations (other than gas holders and generating works).

4 Prohibited

Development except that permitted without consent or permitted only with consent.

Zone No 8 National Parks and Nature Reserves

1 Objectives of the zone

The objectives of the zone are:

- (a) to identify land managed by the National Parks and Wildlife Service, and
- (b) to preserve existing natural areas, aboriginal sites and historic sites, while allowing compatible development.

2 Without development consent

Development authorised to be carried out by the National Parks and Wildlife Service under the [*National Parks and Wildlife Act 1974*](#).

3 Only with development consent

Nil.

4 Prohibited

Any development except that permitted without development consent.

Part 3 Special provisions

10 Subdivision of land generally

A person shall not subdivide land to which this plan applies except with the consent of the Council.

11 General considerations for development in rural areas

- (1) Before determining a development application relating to land within Zone No 1 (a) or 1 (c), the Council must take into consideration the effect that the proposed development would have on:
 - (a) the present use of the land, and the potential for sustained agricultural production of so much (if any) of the land as is prime crop and pasture land,
 - (b) vegetation, timber production, land capability and water resources (including the quality of the water, stability of water courses, ground water storage and riparian rights),
 - (c) the future recovery from known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials,
 - (d) the protection of areas of nature conservation significance or of high scenic or recreational value, and of items of heritage significance,
 - (e) the cost of providing, extending and maintaining public amenities and services,
 - (f) development on adjoining land and on other land in the locality, including any cumulative impact, and
 - (g) the future expansion of settlements in the locality.
- (2) These considerations do not apply to proposed development which is:
 - (a) an addition to a building or work,
 - (b) ancillary to a purpose for which development may be carried out with the permission of the Council under this Plan, or
 - (c) the erection of a dwelling-house on an allotment of land that the Council is satisfied was created in accordance with this Plan for a dwelling.

12 Subdivision in Zone No 1 (a)

- (1) **General restriction** The Council may consent to a subdivision of land within Zone No 1 (a) in accordance with either subclause (2), (3) or (4) and not otherwise. Each of those subclauses provides a separate and mutually exclusive set of requirements. Such a consent can be granted only if the land to be subdivided does not comprise the whole

or any part of an allotment or portion of land previously subdivided in accordance with a consent granted after the commencement of this plan. However, a further subdivision under subclause (2) may be permitted to a parcel of land notwithstanding that a previous subdivision has been approved under that subclause.

- (2) **Creation of “40 hectare allotments”** The Council may consent to a subdivision of land within Zone No 1 (a) if each allotment to be created by the subdivision will have an area of not less than 40 hectares.
- (3) **Excision of dwelling allotment from smaller holdings** The Council may consent to the excision of one (but not more than one) allotment from an existing holding within Zone No 1 (a), being an existing holding that has a total area of not less than 50 and not more than 80 hectares, if:
- (a) the Council is satisfied that the allotment will be used for the purpose of a dwelling house, and
 - (b) the allotment does not comprise prime crop and pasture land, and
 - (c) the allotment will have an area of not less than 2 and not more than 10 hectares, and
 - (d) the residue of the existing holding is consolidated into one allotment, and
 - (e) the Council is satisfied that effective disposal of domestic waste water within the boundaries of the allotment is achievable, and
 - (f) the excision of the allotment is, in the opinion of Council, unlikely to have a significant adverse effect on the existing and potential capability and use, for agricultural purposes, of the residue land and adjacent land.
- (4) **Excision of allotments from larger holdings** The Council may consent to the excision of one allotment from an existing holding within Zone No 1 (a) for every 80 hectares of that existing holding if:
- (a) the Council is satisfied that each allotment will be used for the purpose of a dwelling-house, and
 - (b) each allotment excised by the subdivision will have an area of not less than 2 and not more than 10 hectares, and
 - (c) the residue of the existing holding is consolidated into one allotment, and
 - (d) the Council is satisfied that effective disposal of domestic waste water within the boundaries of each allotment is achievable, and
 - (e) the excision of each allotment is, in the opinion of the Council, unlikely to have a significant adverse effect on the existing and potential capability and use, for

agricultural purposes, of the residue land and adjacent land.

- (5) **Exception for family dwelling allotments** Despite subclause (1), the Council may consent to the excision of an allotment from land within Zone No 1 (a) if the Council is satisfied that the allotment will be used for the purpose of a dwelling-house, but only if:
- (a) the allotment is required for the erection or use of a dwelling-house the Council is satisfied will be occupied by the person who owned that land on 24 April 1969 (being when *Interim Development Order No 1—Shire of Blaxland*, which permitted a similar subdivision, commenced) or by a brother, sister, son, daughter, grandson or granddaughter of that owner, and
 - (b) only one such allotment is excised for each 10 hectares of a parcel of contiguous land, with a maximum of three (3) allotments permitted including all allotments created for relatives under *Interim Development Order No 1—Shire of Blaxland* and any consented to in accordance with subclause (3), and
 - (c) the Council is satisfied that effective disposal of domestic waste water within the boundaries of each allotment is achievable, and
 - (d) the allotment does not comprise prime crop and pasture land.
- (6) **Exception for subdivisions to allow agriculture** Nothing in this clause prevents the Council from granting consent to the creation of an allotment of vacant land of any area if the Council is satisfied that the allotment will be used for the purpose of agriculture. The Council may decline to grant consent pursuant to this subclause if it has not been satisfied that agricultural production will be viable on any proposed allotment that will have an area of less than 40 hectares.

13 Subdivision for other purposes in Zone No 1 (a)

- (1) The Council may consent to the subdivision of land within Zone No 1 (a) that the Council is satisfied will be used primarily for purposes other than agriculture or a dwelling-house only if the Council is satisfied that:
- (a) the land is not prime crop and pasture land, and
 - (b) the area of each allotment to be created by the subdivision is appropriate having regard to the purpose for which the Council considers it is being created.
- (2) Despite subclause (1), the Council may consent to the subdivision of such land to create an allotment if it is satisfied that:
- (a) the proposed allotment will be used for the purpose of supplying goods or services for which there is a demand,
 - (b) no other land in the locality could reasonably be used for that purpose, and

- (c) the level of demand for the goods or services and the extent of the use justifies the creation of the allotment regardless of its agricultural value.

14 Subdivision for residential purposes in Zone No 1 (c)

- (1) The Council may consent to the subdivision of land within Zone No 1 (c) for the purpose of a dwelling if it is satisfied that:
 - (a) each allotment to be created will have an area of not less than 1 hectare,
 - (b) after the subdivision, the average area of the allotments that have been and will be created from the existing holding concerned by all subdivisions, including all allotments created since 8 May 1992 and those effected in accordance with this clause will be not less than 2 hectares,
 - (c) a geotechnical survey indicates the capacity of the land for septic disposal of effluent within the boundaries of each allotment or a water balance assessment indicates that effluent can be disposed of within the boundaries of each allotment using domestic aerated sewerage or similar treatment,
 - (d) the land capability is classified as predominantly Class I to V, inclusive, as defined on maps prepared by the Department of Conservation and Land Management and deposited in the office of the Council,
 - (e) appropriate measures will be undertaken to prevent pollution of water catchment areas from each allotment,
 - (f) appropriate measures will be taken to control soil erosion and stormwater flows across each allotment or onto adjoining land,
 - (g) the subdivision is so arranged that the number of new vehicular access points to main roads is minimised,
 - (h) adequate measures will be taken, in relation to each allotment, for the provision of a water supply, power supply, access and disposal of domestic waste water, and
 - (i) development on each allotment is unlikely to be exposed to significant risks from natural hazards, or to increase those risks to other land.

15 Development in Zone No 1 (d)

- (1) The Council may consent to the subdivision of land in Zone No 1 (d) to create allotments it is satisfied will be used for the purposes of a dwelling only if each allotment has an area of not less than 10 hectares.
- (2) In determining any application for consent to development in Zone No 1 (d), the Council must consider:
 - (a) the strategic implications of the development on likely future land use patterns,

- (b) the relationship to surrounding uses,
- (c) provision for the effective disposal of solid and liquid waste, and
- (d) the availability of suitably zoned land elsewhere in the City.

16 Subdivision in the Village Zone

- (1) All new lots in Zone No 2 (v), are to be 2,000 square meters or greater in area, where sewer is unavailable.
- (2) The Council must not consent to subdivision of land in Zone No 2 (v) unless it has considered a geotechnical survey indicating the capacity of the land for disposal of effluent within the boundaries of each allotment or a water balance assessment indicating that effluent can be disposed of within the boundaries of each allotment using domestic aerated sewerage or similar treatment.

17 Erection of a dwelling in Zone No 1 (a)

The Council may consent to the erection of a dwelling on land within Zone No 1 (a) which is:

- (a) 40 hectares or more in area, or
- (b) the whole of an existing holding, or
- (c) an allotment less than 40 hectares in area created under clause 12 (6) provided that the agricultural use of the land has been established and the Council is satisfied that the agricultural use requires the residential occupation of the site,
- (d) an allotment created under clause 12 (3), (4) or (5), or
- (e) an allotment created by a subdivision consented to or approved by the Council prior to the gazettal of this Plan, being an allotment on which a dwelling could have been lawfully erected or consented to immediately before that gazettal, but only if any requirements relating to use or occupation of the dwelling are complied with.

18 Erection of a dwelling in Zone No 1 (c)

The Council may consent to the erection of a dwelling on a separate, existing parcel of land in Zone No 1 (c), provided that the land is greater than one hectare in area and that the parcel meets the requirements for an allotment created by a subdivision of land within that zone after the commencement of this Plan.

19 Dual occupancy development

- (1) In this clause, **dual occupancy** means development which would result in two dwellings but no more on an allotment of land.

- (2) The Council may consent to dual occupancy on land which a dwelling-house may be erected.
- (3) The Council may consent to dual occupancy on land within Zone Nos 1 (a), 1 (d) or 1 (c), provided that:
 - (a) a dwelling may be or has been lawfully erected on the land,
 - (b) the proposed development will not interfere substantially with the prime purpose for which the land is intended to be used,
 - (c) a single or no additional access to a public road is required from the land, and
 - (d) the effective disposal of domestic waste water is achievable within the boundaries of the land.
- (4) The Council may consent to dual occupancy on land within Zone No 2 (a) or sewerage land within Zone No 2 (v), provided that:
 - (a) where the development will result in the creation of 2 attached dwellings—the area of the allotment on which the dwellings are or will be created is not less than 400 square metres, or
 - (b) where the development will result in the erection of 2 dwelling-houses—the area of the allotment on which the dwellings are or will be erected is not less than 600 square metres.

20 Temporary accommodation for workers in Zone No 1 (a)

The Council may consent to temporary accommodation being erected on land within Zone No 1 (a) for workers engaged in major construction projects, notwithstanding any other provision in this Plan.

21 Notification of certain development and development in Residential and Village Zones

- (1) If the Council receives an application for consent to the carrying out of:
 - (a) development specified in Schedule 2, or
 - (b) development on land within Zone No 2 (a) or 2 (v),the Council must notify owners of the land adjoining the land the subject of the application (and any other person the Council considers to be affected by the proposed development), and must allow the persons notified a minimum of 14 days to comment before the Council determines the application.
- (2) However, this clause does not apply to designated development.

22 Residential development in the Business Zone

Residential development in Zone No 3 is permitted with the consent of the Council provided that the main street frontage of the site is so designed and constructed that any residential premises at ground level on that frontage may be readily adapted for business usage.

23 Demolition control in the Business Zone

Demolition of buildings in Zone No 3 requires consent from the Council. Consent is not required where an Order has been served under the [Local Government Act 1993](#) requiring demolition of the building.

24 Consideration of development in the Open Space Zone

Before granting consent for development of land in Zone No 6, the Council must consider:

- (a) the need for the proposed development on that land,
- (b) the impact of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

25 Acquisition of Open Space

The owner of any land within Zone No 6 may by notice in writing require the Council to acquire that land. On receipt of any such notice, the Council must acquire the land to which the notice relates.

26 Development along arterial roads

- (1) Development on land fronting an arterial road must not be carried out unless:
 - (a) direct access to that land is provided from a road other than the arterial road, wherever practicable, and
 - (b) in the opinion of the Council, the safety and efficiency of the arterial road will not be adversely affected by:
 - (i) the design of the access to the proposed development,
 - (ii) the emission of smoke or dust from the proposed development, or
 - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.

27 Access

A person, other than the Council, must not construct a road which has access to a public

road except with the consent of the Council.

28 Environmentally sensitive land

- (1) A person must not carry out development on environmentally sensitive land for the purposes of:
 - (a) hazardous storage establishments,
 - (b) intensive livestock keeping establishments,
 - (c) junk yards,
 - (d) liquid fuel depots,
 - (e) offensive or hazardous industries,
 - (f) sawmills, or
 - (g) stock and sale yards.
- (2) A person must not cause the destruction of trees on environmentally sensitive land except with the consent of the Council.
- (3) The Council must not grant consent to the destruction of trees on any such land unless the Council has considered:
 - (a) the risk of soil erosion or other land degradation on that and adjacent land,
 - (b) the loss of scenic amenity, and
 - (c) the loss of important vegetation systems and natural wildlife habitats.
- (4) However, a person may prune trees or allow stock to feed off trees in drought times without the consent of the Council.

29 Flood liable land

- (1) A person must not erect a building or carry out a work on flood liable land except with the consent of the Council.
- (2) This clause does not apply to minor extensions to single dwelling-houses where the total area of such extensions carried out since the date of gazettal of this Plan is less than 30 square metres.

30 Land subject to bushfire hazards

The Council must not consent to the subdivision of land or to the erection of a building on land which, in the opinion of the Council, is subject to bushfire hazards unless:

- (a) adequate provision is made for access for fire fighting vehicles,

- (b) adequate safeguards are adopted in the form of fire breaks, reserves and fire radiation zones, and
- (c) adequate water supplies are available for fire fighting purposes.

31 Minor variations to zoning boundaries

- (1) This clause applies to land which is within 50 metres of a boundary between any 2 zones or of a boundary between a zone and environmentally sensitive land.
- (2) Subject to subclause (3), development may, with the consent of the Council, be carried out on land to which this clause applies for any purpose for which development may be carried out in the adjoining zone on the other side of the boundary, or on the environmentally sensitive land on the other side of the boundary.
- (3) The Council shall not consent to the carrying out of development referred to in subclause (2) unless, in the opinion of the Council, the carrying out of the development is desirable due to planning, design, ownership, servicing, or similar requirements relating to the optimum development of land to which this Plan applies or for minimising land degradation.
- (4) This clause does not apply to certain land northwest of Kirkley Street, South Bowenfels, as shown edged heavy black on the map marked "*Greater Lithgow Local Environmental Plan 1994 (Amendment No 9)*".

32 Temporary use of land

The Council may consent to the carrying out on any land, for a maximum period of 28 days whether consecutive or not in any 12 month period, of development otherwise prohibited on that land.

33 Community use of schools

The Council may consent to the community use of schools, colleges and other educational establishments, whether or not the use is ancillary to use of the land for those purposes or is of a commercial nature.

34 Existing dwellings on unsubdivided land

- (1) This clause applies to the following land:
 - (a) Doctors Gap, being the land in Part Portions 86 and 130, Parish Lett, County Cook,
 - (b) East Corney Town, being the land in Part Portion 100, Parish Lett, County Cook and Lot 12, DP 239627,
 - (c) State Mine Gully, being the land in Portion 93 and 102, Parish Marrangaroo, County Cook,

(d) Windy Gully, being the land in DP 312780, including land to the north and Part Portion 5, Parish Cullen Bullen, County Roxburgh.

(2) Notwithstanding any other provision of this Plan, land to which this clause applies may be subdivided into allotments of any size provided that:

(a) each lot created contains one or more existing dwellings,

(b) the Council is satisfied that domestic waste water can be disposed of within the boundaries of each allotment,

(c) satisfactory access to public roads is provided, minimising access to main roads, and

(d) likely future development is not prejudiced by the subdivision.

35 Bed and breakfast establishments

Development for the purpose of bed and breakfast is prohibited unless the dwelling-house in which it is carried out:

(a) is connected to a reticulated sewerage system, or

(b) is located on an allotment on which the Council is satisfied by a geotechnical or water balance assessment that disposal of waste water within the boundaries of the allotment is feasible.

36 Land shown uncoloured

Notwithstanding any other provision of this Plan, the Council may consent to development of land shown uncoloured on the Map for a purpose which is permissible on land adjoining that land.

37 Contaminated land

Notwithstanding any other provision of this Plan, the Council may consent to development of land that the Environment Protection Authority has advised the Council is contaminated or potentially contaminated only if the development includes measures to deal with the remediation of the land.

38 Clubs on open space land

(1) This clause applies to the following land while the land is being used for private recreational purposes:

(a) Lithgow Bowling Club, being the land in DP 332058 and Lot 1, DP 557641,

(b) Lithgow Greyhound Racing Association land, being Part DP 327930.

(2) Notwithstanding any other provision of this Plan, the Council may consent to

development for the purpose of clubs on land to which this clause applies.

38A Habitat of Purple Copper Butterfly

- (1) The Council must not grant consent to the carrying out of development on any land within the relevant area unless:
 - (a) a survey has been undertaken to verify the location of all utilised habitat of the Purple Copper Butterfly (*Paralucia spinifera*) in the relevant area and, in the opinion of the Council, the survey has been undertaken by a person who was suitably qualified to do so, and
 - (b) a plan of management has been prepared in consultation with Council officers and the Department of Environment and Conservation that:
 - (i) is based on the survey, and
 - (ii) sets out measures for the conservation of the Purple Copper Butterfly in the relevant area or a program for the establishment of a viable compensatory habitat on land that is within Zone No 6—Open space, and
 - (c) the Council is satisfied that the proposed development is consistent with the plan of management.
- (2) In this clause:

relevant area means land that is within so much of Zone No 2 (a)—Residential as is shown edged heavy black on the map marked “*Greater Lithgow Local Environmental Plan 1994 (Amendment No 7)*”.

Part 4 Heritage provisions

39 Heritage objectives

The heritage objectives of this Plan are:

- (a) to conserve the environmental heritage of the City of Lithgow,
- (b) to better integrate heritage conservation into the planning and development control processes,
- (c) to provide for public involvement in matters relating to the conservation of the area’s environmental heritage, and
- (d) to ensure that new development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of heritage items and their settings, as well as streetscapes and landscapes and the distinctive character that they impart to the City of Lithgow.

40 Heritage items

- (1) In respect of a building, work, place, tree, relic or land that is a heritage item, a person must not, except with the consent of the Council:
 - (a) demolish or alter the building or work,
 - (b) damage, despoil or destroy the place, tree, or relic,
 - (c) erect a building on, or subdivide, the land.
- (2) Before granting consent to the demolishing, defacing or damaging of a heritage item, the Heritage Council must be notified by the Council of the application and the Council must take into consideration any comments by the Heritage Council received within 28 days after the notice is sent.
- (3) Before granting such a consent, the Council must consider the impact of the development on the heritage significance of the item.
- (4) Development consent is not required if the Council considers the proposed development would not adversely affect the heritage significance of the item concerned.
- (5) The Council may decline to determine a development application required by this clause unless it has considered a conservation plan explaining the heritage significance of the item and the impact of the proposed development on the significance of the item and its setting.

41 Development in the vicinity of heritage items

The Council must not grant consent to development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

42 Development of known or potential archaeological sites

- (1) The Council may grant consent to development on a known potential archaeological site:
 - (a) that has European heritage significance, only if the Council is satisfied that any necessary excavation permit under the *Heritage Act 1977* has been granted, or
 - (b) that is the location of a relic or an Aboriginal place, within the meaning of the *National Parks and Wildlife Act 1974*, only if the Council has notified the Director-General of National Parks and Wildlife of its intention to do so and the Council has taken into consideration any comments received from the Director-General within 28 days after the notice was sent.
- (2) The Council may decline to determine a development application relating to a known

or potential archaeological site unless it has considered an assessment of how the site would be affected by the proposed development and how the site could be conserved.

43 Conservation incentives

The Council may grant consent to the use, for any purpose, of a building that is a heritage item or the land on which such a building is erected, even if the use is otherwise prohibited by this Plan, if it is satisfied that:

- (a) the proposed use would have little or no adverse effect on the conservation of the building, or on the amenity of the locality in which it is situated, and
- (b) the conservation of the item depends upon the granting of consent.

44 (Repealed)

Schedule 1 Heritage items

(Clause 6 (1))

Locality	Item
Bowenfels	
Tweed Road	Lithgow Woollen Mill
Main Western Line	Railway Station Group
Evans Place	Methven
Great Western Highway	Coerwull
Clarence	
Main West Line:	Railway items Newnes Junction—Sodwalls
Dark Corner	
Sunny Corner—Capertee Road	General Cemetery
Glen Davis	
	Oil Shale Works and Refinery
Hampton	
Wicketty War Road	St Thomas's Church
Hartley	
Great Western Highway	St John Anglican Church
Great Western Highway	Old Roman Catholic Cemetery
Jenolan Caves Road	Grave of Eliza Rodd
Old Bathurst Road	Courthouse

Old Bathurst Road	St Bernard's Roman Catholic Church Group
Old Bathurst Road	Former Royal Hotel
Hartley Vale	
Gap Road	Blackman and Merrick Family Cemetery
Hartley Vale Road	Lockyers Pass
Hartley Vale Road	Shale Mining and Works Remains
Hartley Vale Road (330m south of Collits Inn)	Collits/Mt York Burial Ground
Hartley Vale Road	Collits, formerly Golden Fleece Inn
Mid Hartley Road	Slab Cottage
Lidsdale	
Mudgee Road	Lidsdale House Gardens
Lithgow	
Bells Road	Oakey Park Colliery Site
Bennett Street	Eskbank House
Bent Street	Lithgow Valley Colliery and Pottery Site
Bragg Street, 1-13 and 2-12	Houses
Brewery Lane	Former Zig Zag Brewery
Bridge Street	Union Theatre
Bridge Street/Cnr Mort Street	Lithgow Court House
Bridge Street/Cnr Mort Street	Hoskins Memorial Presbyterian Church
Brisbane Street, 1-9 and 2-12	Houses
Coalbrook Street, 8	Hermitage Colliery Managers Residence
Commonwealth Avenue	Staff Cottages, Small Arms Factory
Coerwull Road	Andrew Brown's Private Cemetery
Eskbank Street/Cnr Main Street	ANZ Bank
Farmers Creek	Lithgow No 2 Dam
Great Western Highway	Coerwull Presbyterian Church
Great Western Highway	Lithgow Cemetery
Inch Street	Blast Furnace Coke Ovens
Inch Street	Blast Furnace Site

Lithgow Street, 8-24	Houses
Lithgow Valley Reserve	Great Zig Zag
Main Street, 31	Office
Main Street, 156	Bank
Main Street, cnr Eskbank Street	Bank
Mort Street	Lithgow Primary School Residence
Rabaul Street	La Salle College, formerly Coerwull Academy
Railway Parade	Lithgow Co-operative Society Buildings
State Mine Gully	State Mine Site
Little Hartley	
Cox's River Road	Moyne Farm and Cemetery
Great Western Highway	Ambermere
Great Western Highway	Rosedale
Great Western Highway	Harp of Erin
Great Western Highway	Meades Farm
Lowther	
Jenolan Caves Road	Lowther Park and Cemetery
Marrangaroo	
Great Western Highway	Anglican Church
Main West Line:	Railway Items Newnes Junction—Sodwalls
Meadow Flat	
Mead Street	Cemetery
Megalong Valley	
	Six Foot Track
Mt Victoria	
Great Western Highway	Victoria Pass (Mitchell's Pass)
Newnes	
Wolgan Road	Newnes Hotel
Wolgan Valley	Coke Ovens
Wolgan Valley	Village

Wolgan Valley	Associated Works
Wolgan Valley	Wolgan Valley Railway
Wolgan Valley	Shale-Oil Refinery Group
Newnes Junction	
Main West Line:	Railway Items Newnes Junction—Sodwalls
Main West Line	Wolgan Valley Railway
Pipers Flat	
Portland Road	Railway Cottage
Portland	
Quarry Road/Williwa Street	Portland Cement Group
Rydal	
Bathurst Street	Railway Station
Cartwright Street	Anglican Church
0.5km north of Town	General Store
Main West Line:	Railway Items Newnes Junction—Sodwalls General Cemetery
Sodwalls	
Main West Line:	Railway Items Newnes Junction—Sodwalls
Sodwalls-Tarana Road	Sodwalls House
South Bowenfels	
Kirkley Street	Airdrie Formerly Presbyterian Manse
Off Kirkley Street	Gun Emplacements
Great Western Highway	Umera Formerly Bowenfels Inn
Great Western Highway	Sweet Briars
Great Western Highway	Somerset House
Great Western Highway	Royal Hotel
Great Western Highway	Former National School
Great Western Highway	Forty Bends Formerly Monte Vista (including graves)
Great Western Highway	Fernhill
Great Western Highway	Emoh Formerly Emu Store (including stone culvert)

Great Western Highway

Ben Avon Formerly Royal Hotel

Sunny Corner

Dark Corner Road

Sunny Corner General Cemetery

Sunny Corner PO 1km North/East

Sunny Corner Smelter Ruins

Tarana

Rydal Road

School Residence Formerly School & Residence

Wallerawang

Walker/Barton Private Cemetery

Main Street

School and Residence

Main Street

St John the Evangelist Church

Main West Line

Railway Items Newnes Junction—Sodwalls

Portland Road

Willowvale

Wolgan Road

Wolgan Valley Station

Schedule 2 Development requiring notification

(Clause 21)

- 1 Demolition of a building or work that is a heritage item.
- 2 Development for the purpose of boarding-houses, hotels, motels, residential units or tourist facilities.
- 3 Development for the purpose of industries (other than rural industries) in Zone No 1 (a).
- 4 Development for the purpose of abattoirs, hazardous storage establishment, intensive livestock keeping establishments, junk yards, offensive or hazardous industries, sawmills, stock and sale yards.