

APPENDIX ONE

COUNCIL REPORT AND MINUTE

**ITEM-4 ECDEV- 23/07/18- PLANNING PROPOSAL- 88 PIPERS FLAT ROAD
WALLERAWANG**

REPORT BY: DIRECTOR ENVIRONMENT AND ECONOMIC DEVELOPMENT

SUMMARY

A Draft Planning Proposal has been received for Lot Y DP 407106, being 88 Pipers Flat Road Wallerawang. The draft proposal seeks the following changes to the Lithgow Local Environmental Plan, 2014:

- to amend the land zone of the site from R5 Large Lot Residential to R2 Low Density Residential
- to amend the lot size from 2ha to 800m²

to enable the subdivision of the land for residential purposes.

The Draft Planning Proposal has been prepared by Anthony Daintith Town Planning on behalf of the landowners being Mr R and Mrs McLaughlan and Mr A and Mrs J Cinat.

This report recommends that Council support the preparation of a Planning Proposal under Section 3.33 of the Environmental Planning and Assessment Act, and refer such proposal to the Western Region office of NSW Department of Planning for Gateway Determination under Section 3.34 of the Act.

COMMENTARY

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Under Section 10.4(4) of the Environmental Planning and Assessment Act a person who makes a relevant planning application including a planning proposal to a Council, is required to disclose the following reportable donations and gifts (if any) made by any person with a financial interest in the application within the period commencing two (2) years before the application is made and ending when the application is determined:

1. all reportable political donations made to any local councillor of that Council;
2. all gifts made to any local councillor employee of that Council.

No disclosure has been made in relation to this proposal.

LOCAL ENVIRONMENTAL PLAN MAKING PROCESS

- The plan making process normally involves the following key components:
- The preparation of 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.)
- The issuing of a Gateway determination. (A Gateway Determination is assessed by the Regional office of the Department of Planning and Environment in the first instance and it specifies whether or not planning proposal is to proceed and if so, in what circumstances. The Gateway is a checkpoint for planning proposals before resources are committed to carrying out investigative research, preparatory work and consultation with agencies and the community.)

- Community and other consultation on the planning proposal (as required; exhibition periods are either 14 days for low impact proposals or 28 days for all other proposals)
- Finalising the planning proposal
- Drafting of the LEP legal instrument
- Making the plan
- Notifying the LEP on the NSW Government Legislation Website.

A flow chart detailing the LEP plan making process is provided in Attachment 1.

This report is concerned with the first stage of this process.

SITE DESCRIPTION

The subject site is Lot Y DP 407106 and has an area of 1.366ha. It is located on the western corner of Brays Lane and Pipers Flat Road Wallerawang to the west of the Wallerawang town centre as highlighted in Figure 1 below:

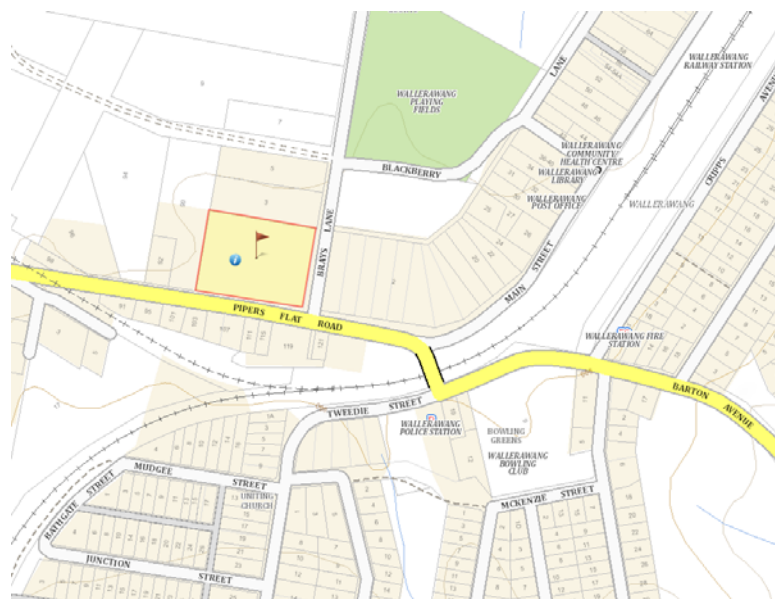


Figure 1 Locality Plan

The site is a regular shaped allotment that slopes gently to the northwest and is generally cleared of vegetation with the exception of some scattered trees towards the northern boundary.

The site contains a number of existing buildings as shown in Figure 2 below that are used by a group home for respite day activities.

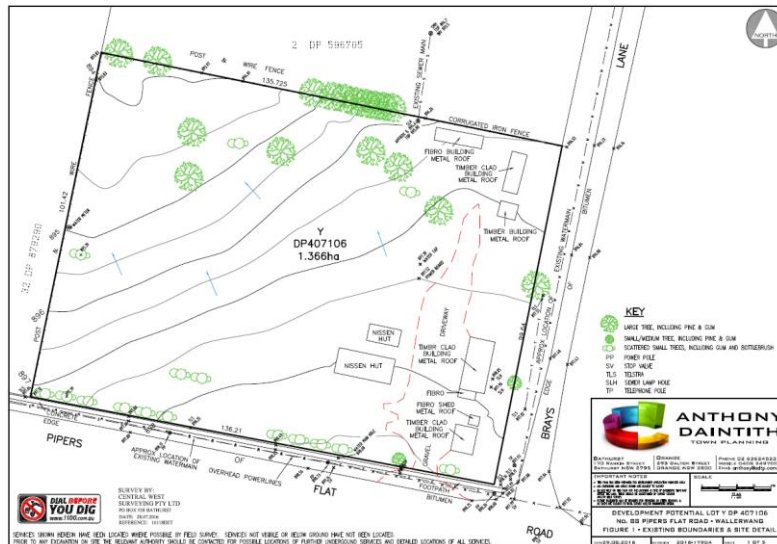


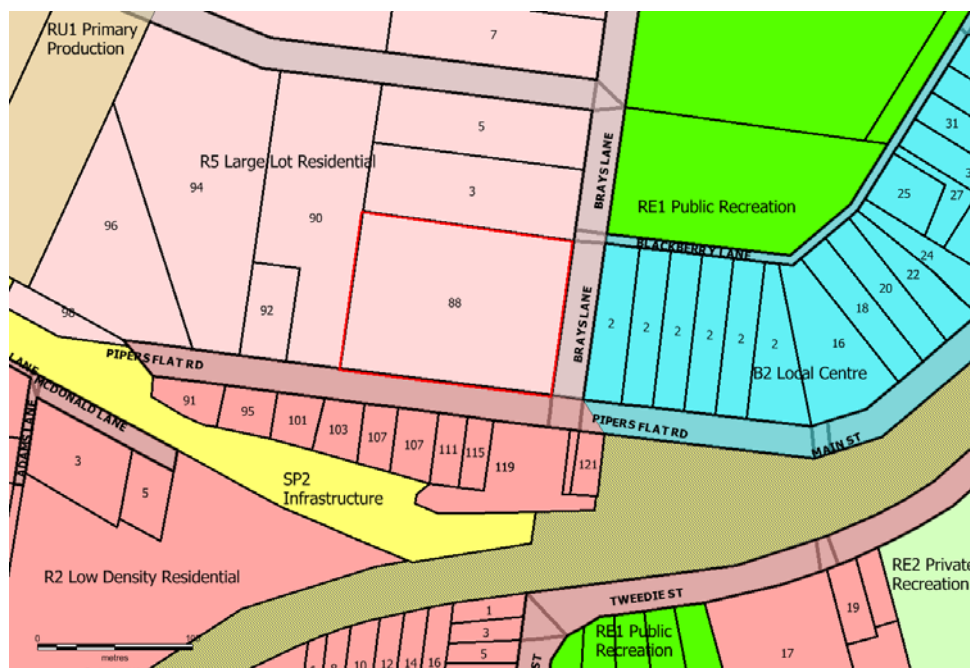
Figure 2 Site Detail

DRAFT PLANNING PROPOSAL INTENDED OUTCOMES AND EXPLANATION OF PROVISIONS

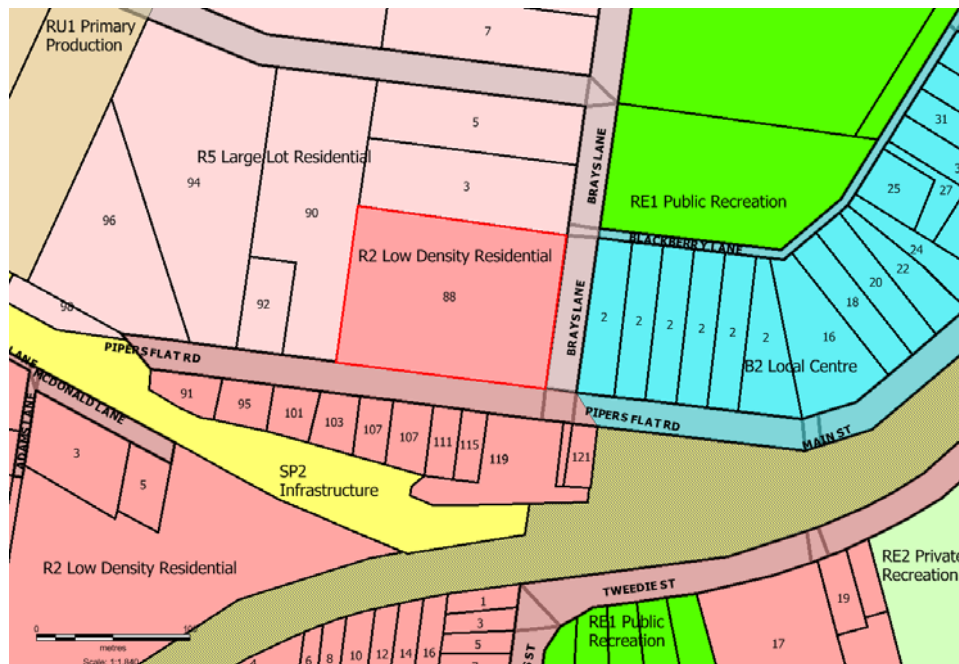
The objective of the Draft Planning Proposal is to amend Lithgow Local Environmental Plan to enable Lot Y DP 407106 to be further subdivided into residential allotments.

The Draft Planning Proposal seeks to amend the Lithgow Local Environmental Plan to rezone the land from R5 Large Lot Residential to R2 Low Density Residential and change the applicable lot size from 2ha to 800m². Figure 3 below shows the existing and proposed land use zones and development controls.

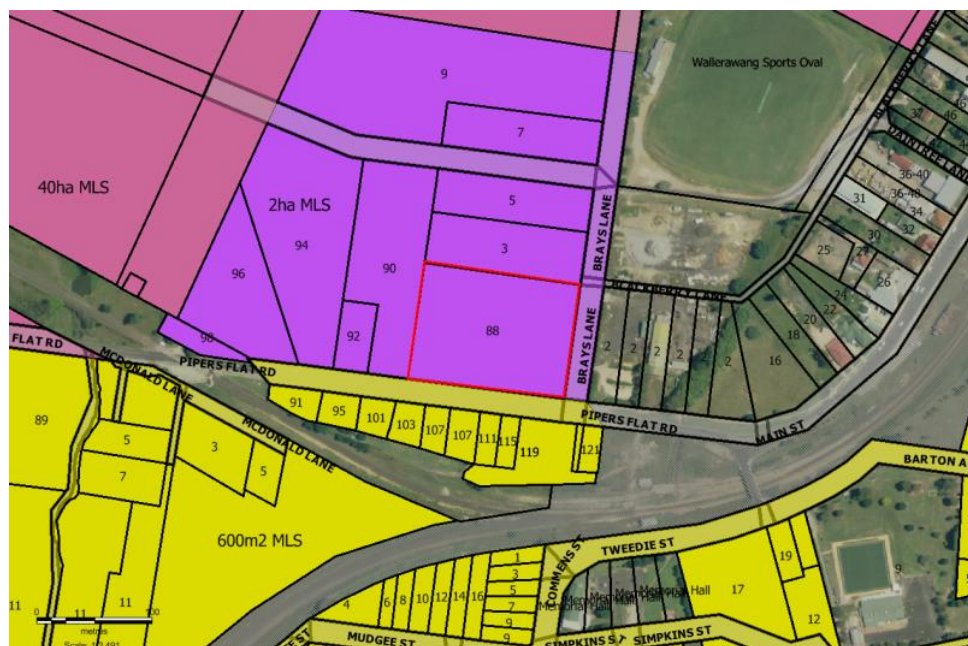
If supported as proposed, the proposal has the potential to enable approximately 12 new lots to be created at this location predominantly of a size to cater for single dwellings.



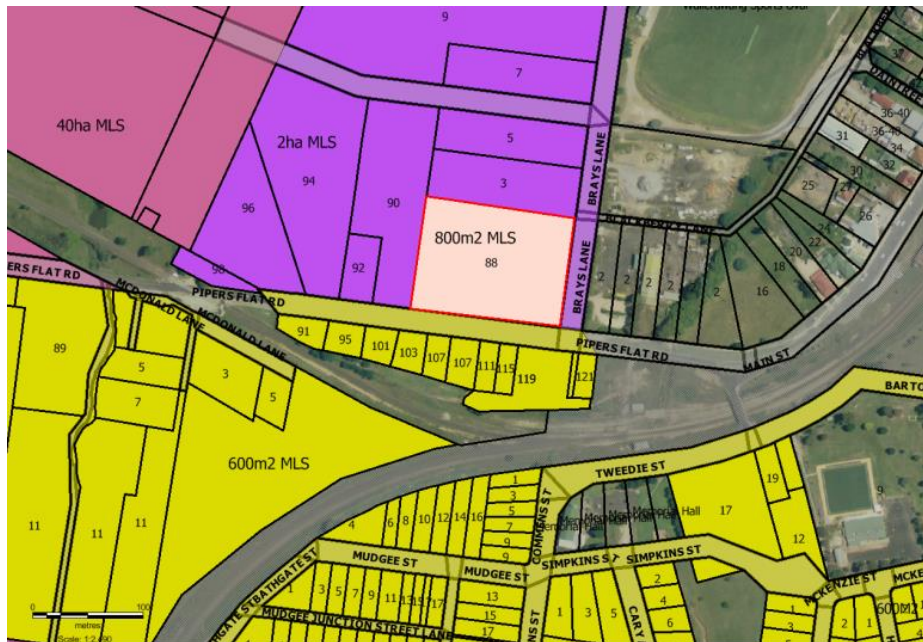
Current Zone



Proposed Zone



Current Lot Size (2ha)



Proposed Lot Size (800m²)

Figures 3 (above four maps) Existing and Proposed Zone and Lot Size

SITE SPECIFIC SUITABILITY/MERIT

Site Locality Context

The land is an infill site on the western fringe of the Wallerawang town centre and is surrounded by residential land use to the north and west, business/light industrial and public recreation land use to the east separated by Brays Lane. The proposed development of the site should not create nor increase land use conflict within the area.

The site is separated from the older residential areas of Wallerawang to the south by the Main Road and Main Western Rail Line. A new residential estate, “Mountain View Estate” is located to the south west of the site that has seen ongoing development activity since being released to the market.

Past Land use and Contamination

State Environmental Planning Policy 55 Remediation of Land requires consideration of contamination issues when rezoning land. If a rezoning allows a change of use that may increase the risk to health or the environment from contamination, then Council or the Planning Authority must be satisfied that the land is suitable for the all the proposed uses or can be remediated to make it suitable.

A preliminary contamination investigation in accordance with the *Managing Land Contamination Planning Guidelines SEPP 55 Remediation of Land* has been undertaken by Envirowest Consulting Pty Ltd to determine the contamination status of the land and its suitability for residential land use.

The investigation report has revealed that site has in the past been used as an electricity commission storage depot and contained possibly two underground storage tanks (UST) that have since been removed.

The report identified that the site is not listed on the EPA register of Contaminated Sites.

Ground penetrating radar was undertaken to determine the approximate location of the historic USTs. The location was identified south of the south eastern function room and was identified as being removed.

The contamination status of the site was assessed from a soil sampling and laboratory analysis program. Twenty five locations were sampled within the general site. The site was sampled for potential contaminants based on site inspections and historical land use.

The soil sampling program identified one sample containing levels of carcinogenic PAH slightly above the adopted threshold for human health. The carcinogenic PAH is expected to be contained within the gravel with coal/chitter layer. One sample contained levels of nickel slightly above the adopted threshold for human health. The 95% confidence interval of samples within each area was below the threshold for residential land use for carcinogenic PAH and nickel.

All other analytes were recorded less than the adopted thresholds for residential land use.

The report recommended no further investigation is necessary and the site is suitable for residential activities.

Council officers have reviewed this report and are satisfied that it meets the relevant sampling, analysis and reporting requirements. There is still potential that unidentified contamination can be found during excavation or as part of building demolition on the site. Should that occur, further investigation or validation may be required during the development phase.

Traffic Management

The site can be developed without creating further ribbon development along Main Road 531, Pipers Flat Road by constructing a new public road within the site intersecting with Brays Lane.

The new road design and intersection treatment with both Brays Lane and Pipers Flat Road will be a matter for the development assessment phase.

A pedestrian footpath runs parallel to Pipers Flat Road adjacent to the site linking it to the Wallerawang Town Centre.

Site Hazards and Constraints

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. As the site will be fully serviced with water and sewer and stormwater it is not expected that the proposed use will negatively impact groundwater.

The site is also located to the south of the existing Wallerawang Wastewater Treatment Plant buffer zone and should not negatively impact upon the ordinary operations of the plant.

The site is not identified as being bush fire prone, flood liable or within a declared mine subsidence district.

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.

Essential Services/Infrastructure

Essential services of water, sewer, electricity, stormwater and telecommunications are all available in the vicinity of the site. Augmentation of reticulation or connection to these services will be addressed in the development assessment phase.

There will be minimal impact upon capacity of the head infrastructure systems increasing demand by approximately thirty (30) equivalent persons at full build out of lots created.

JUSTIFICATION OF PLANNING PROPOSAL AND RELATIONSHIP TO STRATEGIC FRAMEWORK

Need for Planning Proposal

The Planning Proposal is not the result of any strategic study or report. It has arisen as a private proposal for the development of the site.

A change in zoning and the applicable minimum lot size is the only means of achieving the objectives of this proposal.

Central West Orana Regional Plan

The proposal is not inconsistent with the Directions and Actions of the Central West and Orana Regional Plan.

It is consistent with the relevant *Direction 25 – Increase housing diversity and choice* in particular Action 25.4 to *locate higher density development close to town centres to capitalise on existing infrastructure and increase housing choice*.

Planning Directions

Preliminary assessment of the Planning Proposal indicates that it is consistent with the applicable Section 9.1 Planning Directions issued by the Minister for Planning in particular the following most relevant directions:

Relevant Planning Direction	Comment
Direction 3.1 Residential Zones	<p>The Planning Proposal is consistent with this direction.</p> <p>The proposal will:</p> <ul style="list-style-type: none">• broaden the choice of new housing locations in the housing market of Wallerawang and in particular provide housing within close proximity to the town centre and sporting areas;• be capable of being serviced with existing infrastructure and services;• enable an infill site on the fringe of established urban development to be used to a higher capacity thereby reducing the consumption of land for housing;• provide opportunity for the site to be developed using good design principles;• be subject to Clause 7.10 of Lithgow Local Environmental Plan 2014 requiring essential services to be provided; and• increase the permissible housing density of the site which currently only allows for a

	maximum of two dwellings, one of which would be required to be dual occupancy.
Direction 3.4 Integrating Land Use Transport	<p>The Planning Proposal through providing housing choice in close proximity and connectivity to the Wallerawang Town Centre and established sporting areas and public transport nodes will reduce car dependency for the residents and enable cycling or walking or public transport to be transport of choice.</p> <p>The access to Brays Lane provides opportunity for planned vehicular access to the development without negatively impacting upon the Main Road traffic route on Pipers Flat Road or the nearby major rail overhead bridge (Black Bridge).</p>
Direction 5.2 Sydney Drinking Water Catchment	<p>The site is located within the Sydney Water Drinking Catchment. The site is capable of being fully serviced. The proposed subdivision and development will be required to achieve a neutral or 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 4A Residential Sewered.</p> <p>Council will be required to consult with Water NSW (formerly Sydney Catchment Authority) and include a copy of any information received prior to a final Gateway Determination being made.</p>

State Environmental Planning Policies

Preliminary assessment of the Planning Proposal indicates that it is generally consistent with all applicable and relevant State Environmental Planning Policies (SEPP's).

The key relevant SEPP's are SEPP 55 Remediation of land and Sydney Drinking Water Catchment SEPP 2011.

The preliminary investigation report accompanying the Planning Proposal has indicated that the subject land is suitable for residential land use without further investigation consistent with SEPP 55 Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land.

The site is within the Sydney Drinking Water Catchment and therefore any development resulting from the Planning Proposal will need to achieve a neutral or beneficial effect on water quality. Consultation with the Water NSW (Sydney Catchment Authority) prior to the issuing of the final Gateway Determination will determine the extent and timing of investigations such as MUSIC modelling that will be required.

Lithgow Land Use Strategy 2010-2030 (LUS)

Supply and Demand for Land Wallerawang

In 2010, Mountain View Estate located to the south-west off Rydal Road Wallerawang was considered a sufficient standard residential supply over the life of the LUS to meet the demand for housing that was estimated at approximately six 6 houses per year.

Since 2010, the take-up of housing lots within Wallerawang has taken place at a greater than predicted rate. Mountain View Estate has already sold out with re-selling only active in small numbers according to a local real estate agent. According to a local real estate agent the demand for housing lots within the area is not being met by current supply.

The LUS predicted that supply of residential land in the Mountain View Estate and other infill sites would take approximately 30 years to be exhausted. With significant take –up in 2013/14 and more recently 2016/17 the supply years have been substantially reduced.

The potential development yield of this site may provide a further two years of residential land supply before consideration may need to be given to other greenfield sites in the identified future urban areas beyond 2030 in the periodic review of the LUS and LEP scheduled for 19/20.

LUS Growth Management and Sustainability Principles

The Lithgow Land Use Strategy 2010-2030 recommended that the subject site be zoned R5 Large Lot Residential to reflect the development pattern of land to the immediate west and north of the site and to prevent further land use conflict and ribbon growth development along Main Road 531. The R5 zoning also supported the strategy to consolidate standard urban residential lands to the south of Pipers Flat Road and the Main Western Rail Line.

The Planning Proposal represents a shift in this localised strategy; however it is not materially inconsistent with the planning framework of the LUS as set out in the growth management and sustainability principles.

The Planning Proposal is consistent with the growth management and sustainability and residential land use planning principles of the endorsed local Lithgow Land Use Strategy 2010-2030. The site is already zoned residential and the proposed change to zoning and minimum lots size to increase the development yield of the site is in response to changing land supply and development demand drivers in the localised centre of Wallerawang experienced since the development of the LUS in 2010.

The proposed R2 Low Density Residential zone and minimum lot of 800m² whilst providing increased density above that of the R5 zone, still reflects that the site is on the periphery, and is physically separated from, the established standard residential areas of Wallerawang that enjoy a 600m² minimum lot size. It is considered that this density will enable the development to be designed so as to not add to land use conflict with the developed adjoining R5 lands by limiting development to single and secondary dwellings.

The Planning Proposal is demonstratively consistent with the following key principles:

LUS Growth Management Principle	Guiding Principle	Comment
GM1 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.	<p>Consistent</p> <p>The development site reinforces the established settlement hierarchy by providing further housing opportunity in established town centres.</p> <p>The development site is an infill site located within the identified urban core of Wallerawang and has direct road and pedestrian links to the local commercial centre. The site can be serviced by existing infrastructure.</p>

GM2 Land Use Suitability and Capability	<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 development site is suitable for residential development.</p> <p>It is not affected by environmental or natural hazards or constraints.</p>
GM3 Infrastructure Provision	<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 development 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 in close proximity to the commercial centre and local sporting areas promotes and encourages cycling and walking and less car dependency.</p>

COMMUNITY AND GOVERNMENT AUTHORITY CONSULTATION

The Gateway Determination will confirm community consultation requirements. It is likely that if this Planning Proposal is supported it would be a “low impact” proposal in accordance with Section 5.5.2 of *“A Guide to Preparing LEPs”* that would require exhibition for a period of not less than 14 days. Should public exhibition fall over a holiday period the exhibition period would be extended to take into account public holidays accordingly.

A “low impact” proposal is defined as “a planning proposal that, in the opinion of the person making the Gateway Determination is:

- Consistent with the pattern of surrounding land use zones/and or land uses;
- Consistent with the strategic planning framework;
- Presents no issues with regard to infrastructure servicing;
- Not a principal LEP;
- Does not re-classify public land.”

It is proposed that the Planning Proposal will be publicly notified by:

- A notice in the Village Voice in each week of the exhibition

- Adjoining landowners
- Notification on Councils website
- Display at Councils customer service centre and libraries

Council will also notify the government agencies concurrently with the public exhibition period unless directed otherwise through the Gateway Determination. In particular Council will consult with Water NSW and Roads and Maritime Services.

TIMELINE TO COMPLETE PLAN MAKING PROCESS

An indicative timeline to complete the plan making process is outlined below:

Key Stages of Consultation and Approval	Estimated Timeframe
Stage 1 Submission of Draft Planning Proposal to Department Regional Office	July 2018
Stage 2 Gateway Determination	August/September 2018
Stage 3 Public Exhibition and Government Agency Consultation	October 2018
Stage 4 Review/consideration of submissions	November 2018
Stage 5 Council Report	November 2018
Stage 6 Plan Making and Legal Drafting – (Council delegated functions)	December/January 2018
Stage 7 Notification of the LEP	February 2019

USE OF DELEGATED POWERS TO MAKE LOCAL ENVIRONMENTAL PLAN

Following a Gateway Determination some plan making powers (S. 3.36(2)-(4) statutory steps of the process) may be delegated back to Council to finalise should Council request it or where the matters are determined to be of local planning significance as determined by the Gateway. This would increase Councils involvement and decision making in the process and streamline the administrative processing and making of the plan.

As this Planning Proposal is a spot rezoning of local significance and is not materially inconsistent with the endorsed local strategy being Lithgow Land Use Strategy 2010-2030, it is recommended that Council indicate that it will be seeking to use its delegated plan making powers to finalise the plan following Gateway Determination.

RECORDING OF VOTING ON PLANNING MATTERS

Under Section 375A of the Local Government Act, 1993 a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.

A Planning Proposal is a planning decision for the purposes of this provision.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – The staff costs of administering the Planning Proposal will be met by the applicable fee/charge of \$15,000.00 paid by the proponent.

LEGAL IMPLICATIONS

Nil

The Planning Proposal is required to be undertaken in accordance with Part 3 of the Environmental Planning and Assessment Act, 1979.

ATTACHMENTS

1. Local Environmental Plan Making Process Flowchart – Please note the chart references the Pre-March 2018 EP & A Act, 1979 numbering.

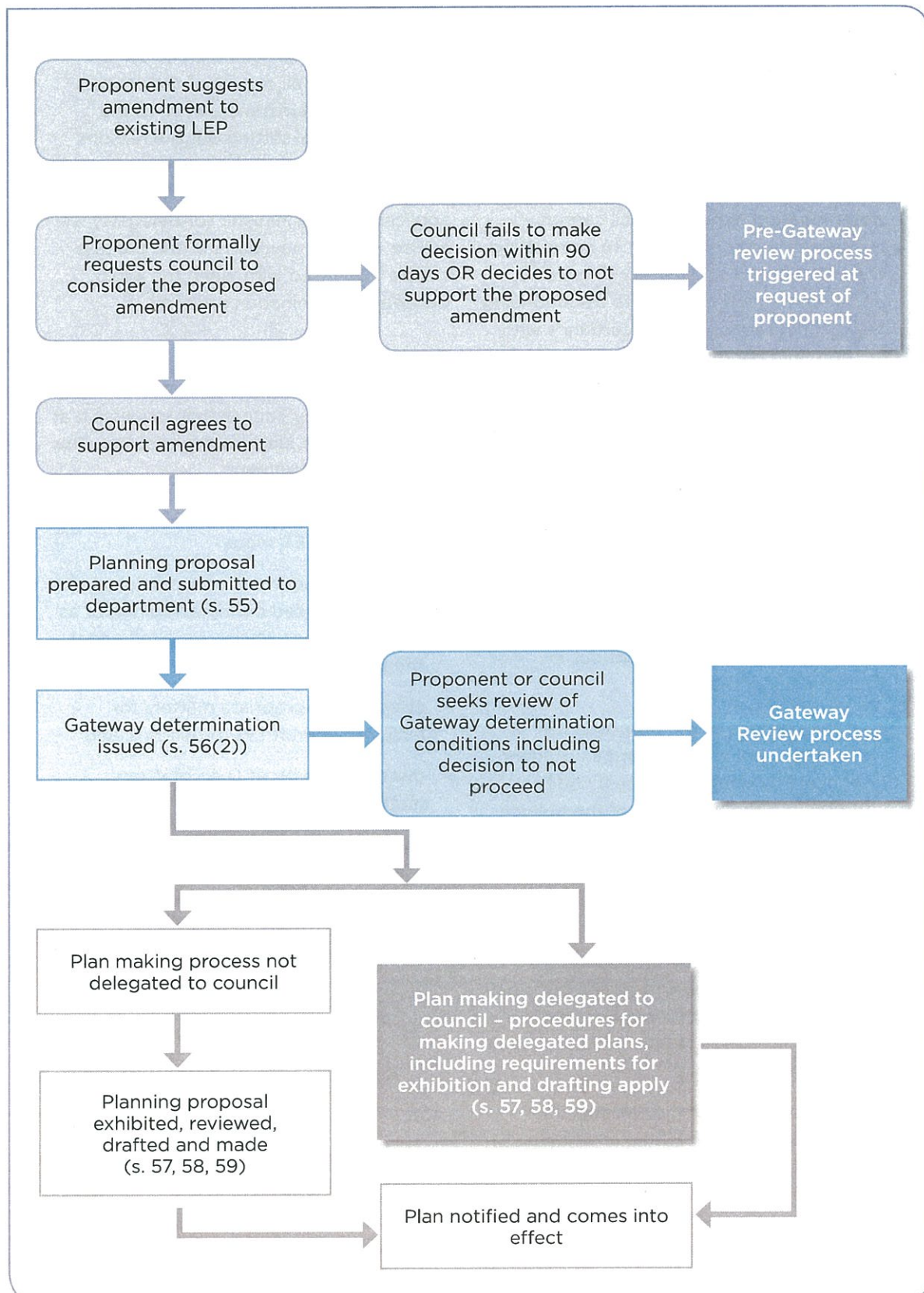
RECOMMENDATION

THAT

1. Council supports the preparation of a Planning Proposal for Lot Y DP 407106, being 88 Pipers Flat Road Wallerawang to amend Lithgow Local Environment Plan 2014 as follows:
 - a. amend the land zone of the site from R5 Large Lot Residential to R2 Low Density Residential;
 - b. amend the lot size from 2ha to 800m²;to enable the subdivision of the land for residential purposes.
2. The Planning Proposal documentation once prepared be forwarded to the Western Region office of NSW Department of Planning and Environment for a Gateway Determination.
3. Council advise NSW Department of Planning and Environment that it proposes to seek approval to use its delegated functions under S. 3.36(2)-(4) of the Act to make the plan following compliance with a Gateway Determination.
4. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.



Attachment 1 – LEP plan making process



**ITEM-4 ECDEV- 23/07/18- PLANNING PROPOSAL- 88 PIPERS FLAT ROAD
 WALLERAWANG**

18 – 187 RESOLVED

THAT

1. Council supports the preparation of a Planning Proposal for Lot Y DP 407106, being 88 Pipers Flat Road Wallerawang to amend Lithgow Local Environment Plan 2014 as follows:
 - a. amend the land zone of the site from R5 Large Lot Residential to R2 Low Density Residential;
 - b. amend the lot size from 2ha to 800m²;
to enable the subdivision of the land for residential purposes.
2. The Planning Proposal documentation once prepared be forwarded to the Western Region office of NSW Department of Planning and Environment for a Gateway Determination.
3. Council advise NSW Department of Planning and Environment that it proposes to seek approval to use its delegated functions under S. 3.36(2)-(4) of the Act to make the plan following compliance with a Gateway Determination.
4. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

MOVED: Councillor M Statham

SECONDED: Councillor S Ring

CARRIED - Unanimously

A **DIVISION** was called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

Divisions

FOR

Councillor S Lesslie
Councillor W McAndrew
Councillor C Coleman

Councillor D Goodsell
Councillor D Goodwin
Councillor S Ring
Councillor J Smith
Councillor M Statham
Councillor R Thompson

AGAINST

Nil