

# **DEVELOPMENT ASSESSMENT REPORT - 009/12DACC**

## **REPLACEMENT OF FUEL TANKS AND NEW AWNING - MORT STREET LITHGOW NSW 2790**

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### **PROPOSAL**

Council is in receipt of a combined Development Application/Construction Certificate from Council's Operations Department who are seeking development approval for the replacement of fuel tanks and an awning at Councils Works Depot, Mort Street Lithgow NSW 2790.

The site currently retains three underground storage tanks which are proposed to be replaced with new above ground tanks. The existing tanks currently consist of:

- 4,200 Litres of Unleaded Petrol
- 16,400 Litres of diesel in volume.
- The other tank is currently not in use and has a volume of 2,200 Litres for leaded petrol.

The petrol tanks are estimated to have been installed 40 years ago and the diesel tank 30 years ago.

In place of the three storage tanks, it is proposed to install a 30,500 Litre diesel above ground self bounded storage tank and a 6000 Litre above ground self bounded tank for unleaded petrol.

New fuel bowsers are also proposed on the site and are expected to make it easier for vehicles to refuel. Above this refuelling area it is proposed to construct a 13.2m by 9.6m awning.

A 2m by 2m "AdBlue" Fuel Shed (concrete block and colourbond roof) is proposed to be located adjacent to the new fuel tank. This will involve the storage of non hazardous and non combustible fuel additive for the diesel plant, as its storage requires it to be unaffected by sunlight.

Past DA's  
DA 325/03 Subdivision into 3 lots  
DA 407/05 Subdivision into 3 lots  
BA 172/95 Washdown Bay

### **SUMMARY**

To assess and recommend determination of DA 009/12 Recommendation will be for approval subject to conditions

### **LOCATION OF THE PROPOSAL**

Legal Description : Lot 21 DP 773810  
Property Address : MORT STREET LITHGOW NSW 2790

The subject land is known as the Lithgow City Councils Work Depot. Lot 21 DP 773810 has an area of 1.282ha. The Lot has a frontage facing Mort Street and backs onto Gas Works Lane. There are a number of existing buildings on the site including offices, workshops, a washdown bay etc. The site has a gentle slope towards the rear of the property. There are no watercourses traversing the site and no existing landscape.

**ZONING:** The land is zoned no. 4 Industrial in accordance with Lithgow City Local Environmental Plan 1994.

**PERMISSIBILITY:** The development is considered permissible under Lithgow City Council's Local Environmental Plan 1994 Zone 4, subject to development consent.

### ***Environmental Planning and Assessment Model Provisions 1980***

***Car Repair Station*** means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery not being:

- (a) Body building,*
- (b) Panel beating which involves dismantling, or*
- (c) Spray painting other than of a touching-up character.*

### **POLICY IMPLICATIONS (OTHER THAN DCP's)**

There is no policy implications associated with the proposal.

### **FINANCIAL IMPLICATIONS (eg Section 94)**

None.

### **LEGAL IMPLICATIONS**

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979. These matters for consideration are as follows:

#### **Any Environmental Planning Instrument**

*Consider SEPPs, REPs & LEPs. RELEVANT Provisions of LEP (eg permissibility, development standards, heritage listing, advertising requirements of another authority who administers a SEPP or REP). Is a SEPP1 objection required?*

### **LITHGOW LEP 1994 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).*

**Comment:** The proposal is considered to be consistent with the objectives of the zone, as it will continue to facilitate Lithgow Councils Works Depot on the site. The site has historically been used as the Works Depot with the proposed developments expected to improve the efficiency of the site.

**State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

**10 Development consent cannot be granted unless neutral or beneficial effect on water quality**

*(1) A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment unless it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.*

*(2) For the purposes of determining whether the carrying out of the proposed development on land in the Sydney drinking water catchment would have a neutral or beneficial effect on water quality, the consent authority must, if the proposed development is one to which the NorBE Tool applies, undertake an assessment using that Tool.*

**11 Development that needs concurrence of Chief Executive**

*(1) A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment except with the concurrence of the Chief Executive.*

*(2) For the purposes of section 30 (3) of the Act, the matters that are to be taken into consideration by the Chief Executive in deciding whether to grant concurrence are:*

*(a) whether the development incorporates the Authority's current recommended practices and standards, and*

*(b) if the development does not incorporate those practices and standards, whether the alternative practices that relate to the protection of water quality that have been adopted in relation to the development will achieve outcomes not less than those achieved by the Authority's current recommended practices and standards, and*

(c) whether the development would have a neutral or beneficial effect on water quality.

(3) A consent authority must forward a copy of its determination of a development application that requires the concurrence of the Chief Executive to the Chief Executive within 10 days after the determination is made.

(4) This clause does not apply if:

(a) the Minister is the consent authority, or

(b) the consent authority is satisfied that the proposed development has no identifiable potential impact on water quality.

**Comment:** The development was referred to the Sydney Catchment Authority requesting the concurrence of the Chief Executive under Clause 11 of the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 (the SEPP) with a proposal for the removal of existing underground fuel storage tanks and bowzers and installation of self-bunded above-ground fuel storage tanks, new bowzers, a fuel shed and an awning over the new bowser area and an existing above-ground fuel tank.

Based on the SCA's site inspection and the information provided, the proposed development has been assessed by the SCA as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. The Chief Executive would therefore concur with Council granting consent to the application subject to the conditions being imposed and subsequently implemented. These conditions are found later in this report.

## **State Environmental Planning Policy No 33—Hazardous and Offensive Development**

### 3 Definitions of "potentially hazardous industry" and "potentially offensive industry"

**potentially hazardous industry** means a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality:

(a) to human health, life or property, or

(b) to the biophysical environment,

and includes a hazardous industry and a hazardous storage establishment.

**potentially offensive industry** means a development for the purposes of an industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment.

### **12 Preparation of preliminary hazard analysis**

A person who proposes to make a development application to carry out development for the purposes of a potentially hazardous industry must prepare (or cause to be

prepared) a preliminary hazard analysis in accordance with the current circulars or guidelines published by the Department of Planning and submit the analysis with the development application.

### **13 Matters for consideration by consent authorities**

*In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development):*

- (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*
- (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*
- (e) any likely future use of the land surrounding the development.*

**Comment:** The development is for the storage of potentially hazardous material; however it is not considered to be an industry. It is proposed to install a 30,500L diesel above ground self bunded storage tank. Safety and environmental protection features will be implemented at the site.

It is considered that the development is of lower risk than the current underground tanks operating at the site because of the environmental protection features that will be implemented.

The detailed contamination report submitted with the application included that some ground water monitoring was undertaken and it concluded that the offsite migration of contaminants is not at a level considered unacceptable to human health.

It is deemed that the development complies with the provisions of SEPP 33.

### **State Environmental Planning Policy No 55—Remediation of Land**

#### *7 Contamination and remediation to be considered in determining development application*

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary*

*investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

*(4) The land concerned is:*

*(a) land that is within an investigation area,*

*(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*

*(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*

*(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

*(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

**Comment:** An Environmental Contamination Investigation has been undertaken by Envirowest Consulting Pty Ltd with respect to the subject land as the site is potentially contaminated. The investigation recommends the following:

*The site is suitable for on-going use as a council depot with fuel refilling facilities.*

*On-going monitoring of the groundwater in the monitoring wells is recommended at six monthly intervals in accordance with the Office of Environment and Heritage (OEH90 guidelines).*

*Decommissioning of the disused UST is recommended in accordance with WorkCover NSW.*

**Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority**

If applicable, is the development consistent with the objectives of the draft instrument?

None.

**Any Development Control Plan**

Is the proposal consistent with the DCP? If not, is a variance warranted and has it been justified?

Councils Industrial DCP and off street car parking DCP is related to this development. As the development is located within the village zone, the Industrial DCP can be used as a guide in assessing this application.

## **Lithgow City Councils Development Control Plan No. 6 – Industrial Development.**

### **PART C-DEVELOPMENT STANDARDS**

#### 4.1 Design and Appearance of Buildings

*Aim: To provide industrial buildings which are both functional and attractive in the context of their local environment. This can be achieved through the selective use of materials and colour compatible with design and context.*

*Requirements:*

- i) The external walls of industrial buildings shall be of profiled colour-treated cladding or masonry materials, or a combination of both;*
- ii) Particular consideration shall be given to the design and use of the above materials in the street elevation of industrial buildings, particularly where such buildings are in close proximity to residential or commercial neighbourhoods or front main roads.*
- iii) Where the side or rear elevation of an industrial building is visible from residential areas, colours and wall profiles should be selected to minimise their visual impact.*

**Comment:** The development will not be easily viewed by the public or from Mort Street. Therefore the development will not create any impacts.

#### 4.2 Landscaping

*Aim: To improve the visual quality and amenity of industrial development through the effective, low maintenance landscaping of industrial development sites.*

*Requirements:*

- 1) The following areas of the site should be landscaped:*
  - i) The front setback area to a minimum depth of 5 metres;*
  - ii) The side and rear setbacks if visible from residential areas or a public place;*
  - iii) The perimeters of open storage areas are to be landscaped as necessary to provide screening from public view;*
  - iv) Car parking areas are to be landscaped to provide shade and to soften the visual impact or parking facilities.*
- 2) A physical barrier of kerb is to be constructed between all landscaped and grassed areas, and areas for the standing or manoeuvring of vehicles on the site.*
- 3) A detailed plan is to be submitted with the development application and is to show the location and species of all plantings and all other landscaping works to be carried out.*
- 4) Landscaping treatment should be designed to complement any existing vegetation and any landscaping of roads and other public spaces.*

**Comment:** No additional landscaping is proposed.

#### 4.3 Parking and Access

*Parking-Aim: To provide adequate on-site vehicular parking which is located in close proximity to building entrances.*

*Requirements:*

- i) Vehicular parking shall be provided at the rate of 1 space per 100 square metres of the gross floor area used for industrial purposes; 1 space per 300 square metres of gross floor area used for warehouse purposes; and 1 space per 40 square metres of gross floor area used for office purposes;*
- ii) All car parking facilities shall be located behind the front 5 metre landscaped area;*
- iii) Where it is proposed to locate parking facilities behind an industrial building or to the rear of an industrial site, separate provision for visitor parking shall be made in front of the building and behind the front 5 metre landscaped area.*
- iv) Car parking bays are to have a minimum construction standard of a two coat bitumen seal, be clearly delineated, and have dimensions of 2.6 metres width x 5.5 metres length.*

*Access – Aims: to prevent delay or obstruction to traffic by vehicles waiting to gain access to the site; to accommodate the movement of employees and visitor traffic to and from the site in a forward direction.*

*Requirements:*

- i) Access drives shall have a minimum width of 6 metres;*
- ii) Access drives shall not be located in close proximity to an intersection;*
- iii) Loading and unloading facilities appropriate to the particular development are to be provided on site such that service vehicles are located wholly within the site, and do not create conflicts with parking areas;*
- iv) All development shall be designed and operated so a standard truck may complete a three point turn or semi circular turn on site without interfering with parked vehicles, buildings, landscaping or outdoor storage and work areas. Large developments should be designed to accommodate semi-trailers.*

**Comment:** No change to the current access arrangement are proposed.

Additional accesses will be constructed to the rear of the site as a result of the construction of the new shed.

#### 4.4 Setbacks

*Aims:*

- 1. To provide space around buildings and separation between buildings, having regard to the relative bulk of industrial structures;*
- 2. To provide opportunities for landscape screening;*
- 3. To ensure access for emergency vehicles;*
- 4. To restrict the spread of fire between buildings.*

*Requirements:*

- 1. Front building setback shall be determined on the following criteria:*
  - i) Provision of landscaped area to a minimum depth of 5 metres;*
  - ii) Provision of car parking facilities;*
  - iii) Building height, bulk and layout;*
  - iv) The nature and needs of the industrial activity;*
  - v) The general streetscape.*
- 2. Side and rear setbacks shall be as specified by the Building Code of Australia.*

**Comment:** the side and rear setbacks comply with Councils setback requirements as the development will be located in front of other buildings that exist on the site.

#### 4.5 Storage Areas

*External storage areas are to be located to the rear of the site and be screened from public view by means of fencing and/or landscaping.*

**Comment:** No additional external storage areas are proposed.

#### 4.6 Advertising Signs

**Comment:** No advertising signs are proposed.

#### 4.7 Drainage

*Aims: i) To ensure adequate drainage facilities are provided within the site to collect and carry stormwater to external drainage systems; to prevent or reduce the hazard of flooding and diverting or concentration of water onto adjoining properties.*

*Requirements:*

*Stormwater runoff from roofs and paved areas is to be collected and disposed of to the street drainage system, drainage easement, natural drainage course or infiltration trench, to the satisfaction of Council's Engineer.*

**Comment:** Stormwater (site and roof) will be collected and disposed of to the existing system.

#### 4.8 Security Fencing

*Security fencing, wherever possible is to be located within or behind the front 5 metre landscaped area.*

**Comment:** There is an existing security fence around the perimeter of the whole property site.

### **Lithgow City Councils Off Street Car Parking Development Control Plan**

Industrial Development: driveways, turning areas and loading areas – concrete, bituminous or asphaltic concrete; car parking areas – 2 coat bitumen seal, provided such area is not used as a driveway, turning or loading area. In rural areas paving materials for driveways, turning areas, loading areas and car parking areas shall be considered on their individual merits.

All parking spaces shall be suitably marked by lines or other approved means.

**Comment:** The existing driveway, turning areas and loading area is made of concrete.

**Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?**

No.

**Any matters prescribed by the regulations that apply to the land**

Refer to clause 92, 93, & 94 of the Regulation. If a DA for demolition, the provisions of AS 2601-1991; The Demolition of Structures. Fire Safety considerations – DA that does not seek the rebuilding, alteration, enlargement or extension of the building. Consent Authority may require buildings to be upgraded – DA comprising the rebuilding, alteration enlargement or extension, take into consideration whether it is appropriate to require the building to be brought into conformity with the BCA.

No dwellings are proposed to be demolished, rebuilt, altered or extended as part of this application.

**The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The relevant matters are up to assessment and merit. **As a guide only**, the following may be considered if they are considered to be of relevance to the proposal. Amenity, streetscape, scenic quality, bulk, scale character, density, design, adjacent landuse compatibility, solar access, noise, access & traffic, utility services, heritage, water, soils, air, flora & fauna, wastes, safety, security, crime prevention, natural hazards, social, economic & cumulative impacts.

**Context and setting:** The surrounding area is characterised by commercial and light industrial developments

The proposal is considered compatible with the surrounding area and will have minimal impact to adjoining land uses as the property contains a number of existing structures and will provide similar uses to the current operations of the site.

**Access and Transport:** There will be no change to the existing access arrangements as a result of the proposed development. As such the new bowers will be more easily accessed. The existing entry and exit will remain from the front of the property which is off Mort Street. There will also be no additional traffic generation. Accordingly there is no need to upgrade the surrounding road network as a result of the development.

**Utility Services:** There will be no changes to the existing water supply or sewerage system. Water and sewer is connected to Councils mains. Stormwater (site and roof) will be collected and disposed of to the existing system. Electricity and telecommunication service will not be changed due to the development.

**Heritage:** There are no listed heritage items on the subject land.

**Flora and Fauna:** No vegetation removal is considered necessary as a result of the proposed development and there are no signs of flora and fauna within the locality.

**Soils:** The development will have an impact on soils as it involves the risk of contamination. As the site has for many years contained fuel tanks the soil may have already been impacted upon. A contamination report was submitted with the application which states that the new fuel tanks will ensure that soil will be protected as much as possible. Therefore the development will be more beneficial than the existing tanks as more protecting measures will be undertaken to minimise all possible risks of contamination. Any contaminated soils will be removed from the site which will help to improve the soil.

**Air and Microclimate:** There will be no significant impact on air or microclimate that currently already exists on the property. The new fuel tanks will be provided with equipment that will ensure that impacts (e.g. fumes) to the air will be minimised.

**Energy:** A BASIX Certificate is not required as part of this development.

**Noise and Vibration:** The Railway Line is located at the rear of the property, on the other side of Gas Works Lane. As the development is located between buildings the Railway noise will not be of impact. There are no other nearby sources of noise or vibration that would impact detrimentally on the proposed development. The proposal will therefore not cause any noise issues then what currently exists on the property. Furthermore, it is advised within the submitted Statement of Environmental Effects that all construction machinery would be fitted with appropriate muffling devices to limit noise generation during construction.

**Bushfire:** The land is not bushfire prone land and no other natural, nor industrial and technological hazards, have been identified as applying to the land.

**Public Domain:** The development will not impact on the public domain.

**Other Land Resources:** The development will not impact on the value of the land in terms of agricultural potential. The site is located within the mine subsidence area therefore the development was referred to the Mine Subsidence Board who had no objections to the development.

**Water:** There will be no significant impact on water resources.

**Safety, security & crime prevention:** No specific safety or security measures are proposed to be implemented as part of the development. The whole site is already protected by a security fence.

**Waste:** All waste generated during construction would be taken and disposed of at Council's Waste Disposal Facility.

### **The Suitability of the site for the development**

Does the proposal suit the site? Bulk/Scale/Sensitivity? Are there any natural or man made hazards?

The size and nature of the development will be consistent with the existing uses on the property.

Contamination may have an impact on the property. A contamination report was submitted with the application and measures and tests will continually be undertaken throughout the construction and operation process. As such contamination issues will be minimised where possible. The new fuel tanks will further be upgraded to a better quality than the current tanks.

Hence, the site is considered to be suitable for the proposed development. The proposal is compatible with the objectives of the zone and is considered to have minimal impact on the surrounding land uses.

### **Any submissions made in accordance with this Act or the Regulations**

If relevant, consider public and authority submissions. Do submissions relate to valid Planning issues?

The proposal was sent to the Mine Subsidence Board, the Sydney Catchment Authority (SCA), Council's Building Surveyors, Council's Water and Wastewater Manager and Council's Environmental Officer for commenting. The proposal was also sent to adjoining neighbours and placed on public display in Council's Administration Building for a period of 14 days.

### **MINE SUBSIDENCE BOARD**

The Mine Subsidence Board raised no objection to the Development.

### **SYDNEY CATCHMENT AUTHORITY**

The subject property, which has been inspected by the Sydney Catchment Authority (SCA), is located within the Warragamba catchment, which forms part of Sydney's water supply.

The following documents have been considered in the assessment of the application:

- a Statement of Environmental Effects (dated 14 November 2011) and Site Plans (dated 28 October 2011) both prepared by Anthony Daintith Town Planning Pty Ltd, and
- a Groundwater Investigation Report prepared by Envirowest Consulting Pty Ltd (dated 23 May 2011).

Based on the SCA's site inspection and the information provided, the proposed development has been assessed by the SCA as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. The Chief Executive would therefore concur with Council granting consent to the application subject to the following conditions being imposed and subsequently implemented:

#### General

1. The proposed development shall be as per the Site Plans (Drawing No. 2012-013DA; Sheets 1 to 6; dated 28.10.2011) and the Statement of Environmental Effects (dated 14 November 2011) both prepared by Anthony Daintith Town Planning Pty Ltd, and the following conditions. Any revision to the proposed works shall be agreed to by the Sydney Catchment Authority.

*Reason for Condition 1 - The Sydney Catchment Authority has based its assessment under the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

#### Fuel Storage and Contaminated Stormwater

2. All fuel stored in the shed shall be contained within self contained storage unit underlain by concrete floor to ensure spills are fully contained within the storage unit.

3. All contaminated stormwater runoff including any spills from the bowser area shall be captured by employing appropriately sized capture devices that directs all contaminated runoff to an oil-water separator. Treated water shall be directed to the Council's reticulated sewer system in accordance with any Council trade waste requirement.

*Reason for Conditions 2 & 3 – To ensure that fuel storage and refuelling is appropriately managed so as to have a sustainable neutral or beneficial effect on water quality over the longer term.*

#### Stormwater

4. All roof runoff from the awning over the bowser area as shown on the Site Plans prepared by Anthony Daintith Town Planning Pty Ltd (Drawing No. 2012-013DA; Sheet 2 of 6; dated 28.10.2011) shall be directed to the site stormwater drainage system.

5. There shall be no treatment or disposal of stormwater by infiltration methods on the site.

*Reason for Conditions 4 & 5 – To ensure uncontaminated water is separately managed so as to have a sustainable neutral or beneficial effect on water quality over the long term.*

#### Operational Environmental Management Plan

6. An Operational Environmental Management Plan (OEMP) for the site shall be prepared (or if there is an existing OEMP, it shall be updated) in consultation with the Sydney Catchment Authority by a person with knowledge and experience in the preparation of such plans. The OEMP shall be finalised prior to the commissioning of new bowzers and shall include, but not limited to, the following:

- an emergency liquids spill management procedure which includes notification of Sydney Catchment Authority and other relevant agencies
- an inspection and maintenance program for the contaminated water management system including oil-water separator
- an inspection and maintenance program for the above ground fuel tanks, monitoring equipment and fuel shed.

*Reason for Condition 6 – To ensure the operational stage of the development is appropriately managed and maintained so as to ensure a sustainable neutral or beneficial impact on water quality over the longer term.*

## Excavation and Construction Activities

7. All construction and excavation works as part of this development involving potentially contaminated soil, such as the replacement of underground fuel storage tanks and the bowzers shall be carried out in accordance with the NSW Department of Environment & Conservation Environmental Guidelines: Assessment Classification & Management of Liquid and Non-Liquid Wastes (1999). Such excavation may require an Erosion and Sediment Control Plan consistent with the requirements outlined in Chapter 2 of the NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual – the "Blue Book".

8. Effective erosion and sediment controls shall be installed prior to any construction activity and shall prevent sediment or polluted water leaving the site or entering any stormwater drainage system and shall be regularly maintained and retained until the works have been completed.

9. The following specific requirements are also required for the removal of existing underground fuel tanks and bowzers on the site:

- the perimeter of the construction area shall be fenced off and surrounded by geotextile covered straw bales, and shall have a stabilised entry point for the entry and exit of machinery
- excavated material shall be tested for contaminants as defined by the Office of Environment & Heritage <http://www.environment.nsw.gov.au/clm/servicestation.htm>. Any contaminated material shall be disposed of at a properly licensed facility as soon as possible after identification
- any temporarily stockpiled material shall be located within the construction area and shall be underlain by plastic and covered by weighted or heavy plastic to avoid wind or water erosion
- all stormwater drains and inlet points that drain from the construction site shall be covered with geotextile fabric and surrounded by silt socks or protected by other sediment control measures as appropriate
- the sediment management measures for stormwater drains and inlet points on the site that drain from the construction site shall be checked and maintained weekly and cleaned as necessary following rainfall events
- appropriate measures shall be taken to minimise the infiltration of stormwater into the subsurface soil during the excavation and construction phase at the site
- the construction site shall be cleaned up at the end of each day.

Reason for Conditions 7 to 9 – To manage adverse environmental and water quality impacts during the construction phase of a potentially contaminated site so as to minimise the risk of erosion, sedimentation and pollution within or from a potentially contaminated site during this phase.

## **COUNCILS BUILDING SURVEYOR**

Reference is made to the abovementioned application and to your referral dated 15 February 2012.

The proposal in its current form generally complies with the requirements of the Building Code of Australia and therefore it is recommended that the application be approved subject to the conditions of consent below being placed on the development consent.

#### General Requirements

1. The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.
2. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
3. That the external cladding and roofing of the proposed awning and 'Adblue' fuel shed are of a natural tone, non-reflective condition.

#### Requirements Prior to Commencement of Work

4. Prior to commencing any construction works, Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.
5. All exposed earthworks and disturbed areas shall have suitable sediment control measures in place **prior** to the commencement of construction to prevent soil erosion and the transport of sediment off the site during rainfall and runoff. The sediment control measures shall be continually monitored and maintained for the duration of construction and for six months after completion. All disturbed areas shall be revegetated with native vegetation endemic to the area.
6. Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:
  - a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
  - b. Stating that unauthorised entry to the work site is prohibited and
  - c. Showing the name, address and telephone number of the principle certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

#### Requirements During Construction

7. To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period. These stages are:
  - a) Pier holes/pad footings before filling with concrete.
  - b) Reinforcing steel in position and before concrete is poured (footings, lintels, beams, columns, floors, walls and the like).
  - c) Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
  - d) Completion of the development and sign off to all conditions of the consent

including landscaping, prior to occupation and use.  
At each inspection, erosion and sediment control measures and site management will be inspected.

**Note: forty-eight (48) hours notice shall be given to Council prior to inspections.**

8. All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

9. That all footings/piers are taken through filled ground to foundation material of uniform adequate bearing pressure.

10. That the structure is securely bolted at its supports and fixed rigidly at its base.

11. That the proposed rainwater drains are connected to the existing rainwater disposal system.

12. That existing plumbing and drainage fixtures affected by the building works are modified or relocated in accordance with the requirements of the Council.

13. That all plumbing and drainage work be carried out by a licensed plumber and drainer and inspected by Council officers.

#### Requirements Prior to Use

14. Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority.

### **COUNCILS WATER AND WASTEWATER MANAGER**

The development appears to have no impact on water and sewerage infrastructure. Therefore there is no comment in regard to this application.

### **COUNCILS ENVIRONMENTAL OFFICER**

The proposal includes:

- Removal of three (3) underground fuel storage tanks (2 active and 1 disused) and the installation of a 30,500 litre diesel above ground self bunded storage tank and to install a 6,000L above ground self bunded tank for unleaded petrol,
- Removal of existing fuel dispensers and installation of new fuel dispensers,
- Construction of a new awning over the new bowsers,
- Construction of a new AdBlue Fuel shed.

Environmental health as assessed the DA 009/12DA and has no objections subject to the following comments and conditions:

#### Comments

The environmental soil contamination investigation undertaken by Envirowest Consulting Pty Ltd revealed that no Hydrocarbon odours were detected in the soil boreholes and additionally there were negligible levels of VOC.

Ground water sampling and analysis revealed low levels of lead (possibly from a previous use) that were less than the adopted thresholds. Groundwater samples contained no hydrocarbons or odours.

UPSS Precision Testing (Leighton O'Brien Field Services 18 March 2011)

All tanks and lines passed the test with the exception of LRP Tank 3 and it was recommended that this tank be decommissioned.

It was recommended in the report that on-going monitoring of the groundwater in the monitoring wells at six monthly intervals in accordance with Office of Environment and Heritage (OEH) guidelines. And that decommissioning of the disused UST is conducted in accordance with WorkCover NSW.

The site will be suitable for the proposed of ongoing use as a fuel facility.

## **Underground Petroleum Storage System**

### **1. Decommissioning and Removal**

Decommissioning and removal of the unused underground storage tank(s) shall be undertaken in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, Australian Standard 4976 – 2008: Removal and Disposal of Underground Petroleum Storage Tanks* and the Environment Protection Authority's Contaminated Sites Guidelines.

Following the decommissioning of the underground storage tank(s), a clearance certificate is required to be submitted to Council as well as NSW WorkCover confirming that the underground storage system has been decommissioned/removed by a "duly qualified person" in accordance with *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, Australian Standard 4976 – 2008: Removal and Disposal of Underground Petroleum Storage Tanks* and the Environment Protection Authority's contaminated sites Guidelines for Assessing Service Station Sites, 1994.

### **2. Validation Report**

Within sixty (60) days of the removal of the underground petroleum storage system **or**, where site remediation is required, within sixty (60) days of its completion, submit to Lithgow City Council a validation report undertaken by a suitably qualified contaminated land consultant.

The validation report shall be conducted with reference to the Environmental Protection Authority's Contaminated Sites Series and the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*.

### **3. Remedial Action Plan**

Should the validation report deem that remediation is required; a Remedial Action Plan (RAP) shall be developed by a suitably qualified contaminated land consultant and be submitted to Lithgow City Council for approval.

Subsequent to the completion of approved remediation works, a further site validation report is to be submitted to Lithgow City Council. The report shall confirm whether the goals set in the RAP have been achieved.

#### Installation of Above ground Tank and Bowers

The proposed Self-Bunded Aboveground Tank (LogiTank) is to be installed to the manufacturers specifications, and recommendations of the wind loading report (report number: FE-100511-2 Rev.0. Dated14/10/2010)) prepared by FEC FE Consultants, WorkCover, EPA, and Australian Standards for the installation and operation of above ground storage tanks.

The proposed new fuel bowsers are to be installed to the manufacturers' specifications.

#### **ADJOINING NEIGHBOURS**

The development was sent to adjoining neighbours for a period of 14 days. During this time no submissions were received.

#### **The public interest**

Have any genuine Planning issues been raised in by the wider public? Is there genuine irrefutable concerns relating to public health & safety?

There has been no issues raised from the public regarding planning issues.

#### **DISCUSSION AND CONCLUSIONS**

The proposal is considered to generally comply with the relevant provisions of the applicable Environmental Planning Instruments. The proposal is not considered likely to have any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

#### **RECOMMENDATION**

**THAT** development application DACC 009/12 is approved subject to the following conditions.

#### **Administrative Conditions**

1. That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans submitted with the application and any further information provided during the process unless otherwise amended by the following conditions.
2. The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated

documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.

3. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

4. That the external cladding and roofing of the proposed awning and 'Adblue' fuel shed are of a natural tone, non-reflective condition.

5. The proposed development shall be as per the Site Plans (Drawing No. 2012-013DA; Sheets 1 to 6; dated 28.10.2011) and the Statement of Environmental Effects (dated 14 November 2011) both prepared by Anthony Daintith Town Planning Pty Ltd, and the following conditions. Any revision to the proposed works shall be agreed to by the Sydney Catchment Authority.

6. All fuel stored in the shed shall be contained within self contained storage unit underlain by concrete floor to ensure spills are fully contained within the storage unit.

7. All contaminated stormwater runoff including any spills from the bowser area shall be captured by employing appropriately sized capture devices that directs all contaminated runoff to an oil-water separator. Treated water shall be directed to the Council's reticulated sewer system in accordance with any Council trade waste requirement.

8. All roof runoff from the awning over the bowser area as shown on the Site Plans prepared by Anthony Daintith Town Planning Pty Ltd (Drawing No. 2012-013DA; Sheet 2 of 6; dated 28.10.2011) shall be directed to the site stormwater drainage system.

9. There shall be no treatment or disposal of stormwater by infiltration methods on the site.

10. An Operational Environmental Management Plan (OEMP) for the site shall be prepared (or if there is an existing OEMP, it shall be updated) in consultation with the Sydney Catchment Authority by a person with knowledge and experience in the preparation of such plans. The OEMP shall be finalised prior to the commissioning of new bowzers and shall include, but not limited to, the following:

- an emergency liquids spill management procedure which includes notification of Sydney Catchment Authority and other relevant agencies
- an inspection and maintenance program for the contaminated water management system including oil-water separator
- an inspection and maintenance program for the above ground fuel tanks, monitoring equipment and fuel shed.

11. Decommissioning and removal of the unused underground storage tank(s) shall be undertaken in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, Australian Standard 4976 – 2008: Removal and Disposal of Underground Petroleum Storage Tanks* and the Environment Protection Authority's Contaminated Sites Guidelines.

12. Following the decommissioning of the underground storage tank(s), a clearance certificate is required to be submitted to Council as well as NSW WorkCover confirming that the underground storage system has been decommissioned/removed by a "duly qualified person" in accordance with *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008, Australian*

*Standard 4976 – 2008: Removal and Disposal of Underground Petroleum Storage Tanks* and the Environment Protection Authority's contaminated sites Guidelines for Assessing Service Station Sites, 1994.

13. Within sixty (60) days of the removal of the underground petroleum storage system **or**, where site remediation is required, within sixty (60) days of its completion, submit to Lithgow City Council a validation report undertaken by a suitably qualified contaminated land consultant.

14. The validation report shall be conducted with reference to the Environmental Protection Authority's Contaminated Sites Series and the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*.

15. Should the validation report deem that remediation is required; a Remedial Action Plan (RAP) shall be developed by a suitably qualified contaminated land consultant and be submitted to Lithgow City Council for approval.

16. Subsequent to the completion of approved remediation works, a further site validation report is to be submitted to Lithgow City Council. The report shall confirm whether the goals set in the RAP have been achieved.

17. The proposed Self-Bunded Aboveground Tank (LogiTank) is to be installed to the manufacturers specifications, and recommendations of the wind loading report (report number: FE-100511-2 Rev.0. Dated 14/10/2010) prepared by FEC FE Consultants, WorkCover, EPA, and Australian Standards for the installation and operation of above ground storage tanks.

18. The proposed new fuel bowsers are to be installed to the manufacturers' specifications.

19. In conjunction with the proposed works, the applicant shall undertake further investigation of groundwater, particularly in regard to potential off-site migration, to determine if there is any potential for "significant risk or harm" under the Contaminated Land Management Act that would necessitate notification to the EPA. Investigations shall be undertaken in accordance with the EPA "Guidelines for Assessing Service Station Sites". The report shall be provided to Council for approval prior to commissioning the new tank.

#### **PRIOR TO COMMENCEMENT OF WORK**

20. Prior to commencing any construction works, Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.

21. All exposed earthworks and disturbed areas shall have suitable sediment control measures in place **prior** to the commencement of construction to prevent soil erosion and the transport of sediment off the site during rainfall and runoff. The sediment control measures shall be continually monitored and maintained for the duration of construction and for six months after completion. All disturbed areas shall be revegetated with native vegetation endemic to the area.

22. Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
- b. Stating that unauthorised entry to the work site is prohibited and
- c. Showing the name, address and telephone number of the principle certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

23. To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period. These stages are:

- a) Pier holes/pad footings before filling with concrete.
- b) Reinforcing steel in position and before concrete is poured (footings, lintels, beams, columns, floors, walls and the like).
- c) Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
- d) Completion of the development and sign off to all conditions of the consent including landscaping, prior to occupation and use.

At each inspection, erosion and sediment control measures and site management will be inspected.

**Note: forty-eight (48) hours notice shall be given to Council prior to inspections.**

24. Effective erosion and sediment controls shall be installed prior to any construction activity and shall prevent sediment or polluted water leaving the site or entering any stormwater drainage system and shall be regularly maintained and retained until the works have been completed.

25. The following specific requirements are also required for the removal of existing underground fuel tanks and bowsers on the site:

- the perimeter of the construction area shall be fenced off and surrounded by geotextile covered straw bales, and shall have a stabilised entry point for the entry and exit of machinery
- excavated material shall be tested for contaminants as defined by the Office of Environment & Heritage <http://www.environment.nsw.gov.au/clm/servicestation.htm>. Any contaminated material shall be disposed of at a properly licensed facility as soon as possible after identification
- any temporarily stockpiled material shall be located within the construction area and shall be underlain by plastic and covered by weighted or heavy plastic to avoid wind or water erosion
- all stormwater drains and inlet points that drain from the construction site shall be covered with geotextile fabric and surrounded by silt socks or protected by other sediment control measures as appropriate
- the sediment management measures for stormwater drains and inlet points on the site that drain from the construction site shall be checked and maintained weekly and cleaned as necessary following rainfall events
- appropriate measures shall be taken to minimise the infiltration of stormwater into the subsurface soil during the excavation and construction phase at the site

- the construction site shall be cleaned up at the end of each day.

### **DURING CONSTRUCTION**

26. . All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

27. That all footings/piers are taken through filled ground to foundation material of uniform adequate bearing pressure.

28. That the structure is securely bolted at its supports and fixed rigidly at its base.

12. That the proposed rainwater drains are connected to the existing rainwater disposal system.

29. That existing plumbing and drainage fixtures affected by the building works are modified or relocated in accordance with the requirements of the Council.

30. That all plumbing and drainage work be carried out by a licensed plumber and drainer and inspected by Council officers.

31. All construction and excavation works as part of this development involving potentially contaminated soil, such as the replacement of underground fuel storage tanks and the bowsers shall be carried out in accordance with the NSW Department of Environment & Conservation Environmental Guidelines: Assessment Classification & Management of Liquid and Non-Liquid Wastes (1999). Such excavation may require an Erosion and Sediment Control Plan consistent with the requirements outlined in Chapter 2 of the NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual – the "Blue Book".

### **PRIOR TO USE/OCCUPATION**

32. Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority.

Report prepared by:..... Supervisor:.....

Dated:..... Dated:.....

## **REASONS FOR CONDITIONS**

To protect the environment.

To ensure construction and operation of development is undertaken with minimal impact to the locality.

To prevent, minimise, and/or offset adverse environmental impacts.

To provide for the on-going environmental management of the development.

To ensure orderly development to the site.

To facilitate the manoeuvring of vehicles.

To ensure lots are adequately serviced.

To maintain the amenity of the local area.

To ensure there is no unacceptable impact on the water quality.

To ensure appropriate management of traffic.

To ensure adequate soil conservation and protect against movement of soil and sediments.