

DEVELOPMENT ASSESSMENT REPORT – DA099/16 - PROPOSED DELIVERY, SPREADING & COMPACTING OF CLEAN FILL ON LOT 931 DP 868140, STATE MINE GULLY ROAD LITHGOW NSW 2790

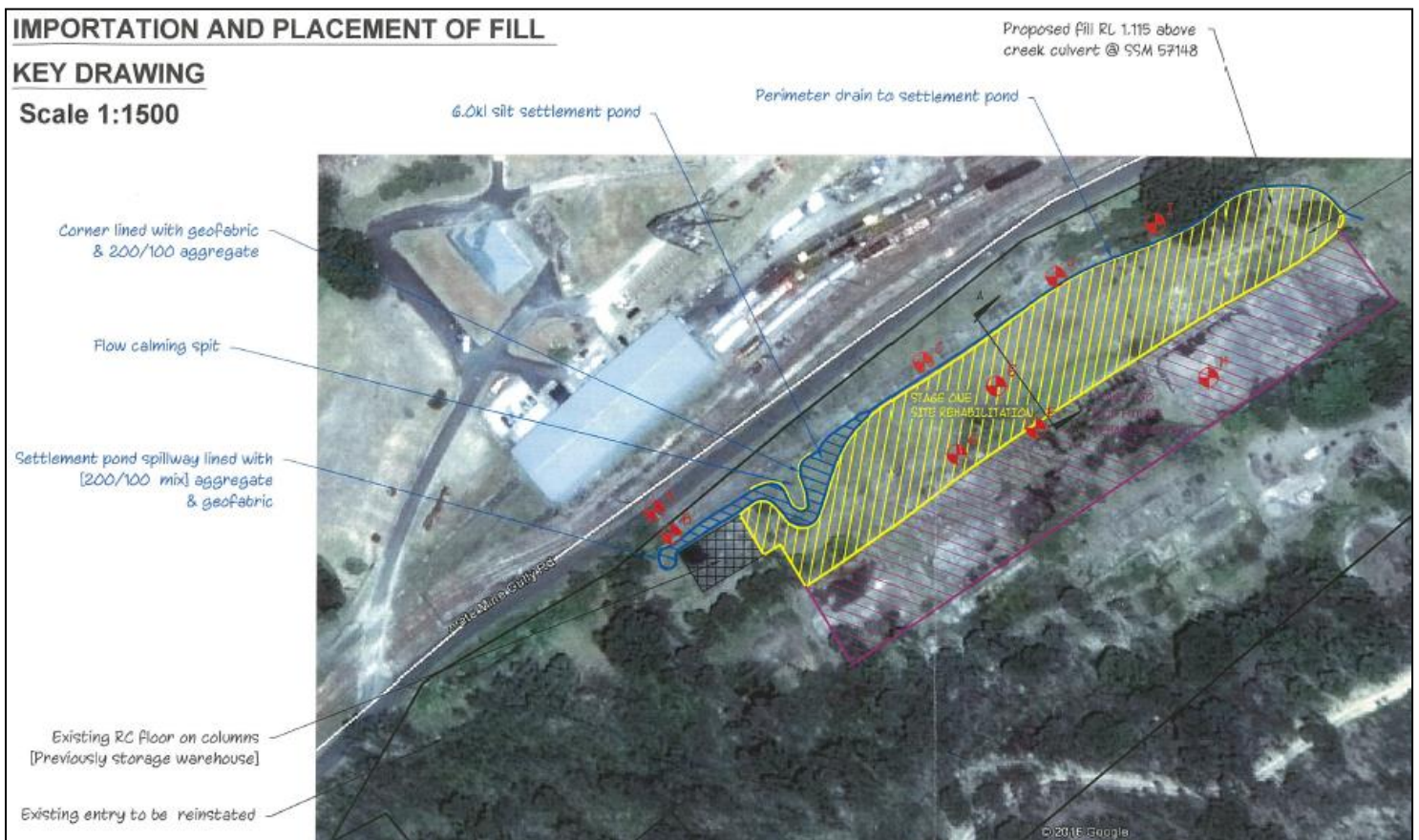
1. PROPOSAL

Council is in receipt of a Development Application DA099/16 from COC Limited for the delivery, spreading and compacting of clean fill on land known as Lot 931 DP 868140, State Mine Gully Road Lithgow NSW 2790.

The proposal is for the placement of 10,000 tonnes of clean fill (materials from Bells Line of Road upgrade works) at the old Lithgow Power Station site. The material will be levelled to a height less than 3m with the provision of suitable drainage. Some vegetation (approximately 0.25ha) will be removed from the site as part of the process.

Works will be undertaken from 7am to 6pm Monday to Friday and 8am to 1pm Saturdays with no works on Sunday or Public Holidays. The fill will be trucked to site in 30t loads which will require between 300 and 350 truck movements.

Below is a site plan showing the proposed fill area:



2. SUMMARY

To assess and recommend determination of DA099/16 with recommendation for approval subject to conditions.

3. LOCATION OF THE PROPOSAL

Legal Description : Lot 931 DP 868140
Property Address : State Mine Gully Road Lithgow NSW 2790

4. ZONING: The land is zoned E3 Environmental Management in accordance with Lithgow Local Environmental Plan (LEP) 2014.

5. PERMISSIBILITY: The development being earthworks is considered permissible under Lithgow Local Environmental Plan 2014.

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Policy 7.1 Filling and Levelling of Land

This policy applies to fill and levelling of land as below:

Unless otherwise provided by an Environmental Planning Instrument or Development Control Plan, a development application is required in the following circumstances:

- 1. Where land is subject to inundation by floodwaters, or*
- 2. Where excavation or the depth of fill exceeds 900mm.*

Separate development applications are not required where the cut and/or fill is identified in a development application for a structure on the land.

The proposal is for more than 900mm of fill, therefore the development requires consent in accordance with the Policy.

Policy 7.5 Notification Of Development Applications

This policy applies to all applications as below:

5. Who will be notified under this Policy and how long is the notification period?

5.1 Except for specified types of development outlined in 6.3 below, written notice of a development application will be given to landowners adjoining the Lithgow City Council Policy 7.5 – Notification of Development Applications land on which the development is proposed for a period of 14 calendar days. For the purposes of this policy adjoining land is land that directly abuts the subject site; shares a common boundary; or is situated directly opposite to the site where separated by a road, pathway or driveway.

Therefore the proposal was notified to surrounding landowners and placed on display for a period of 14 days as required by the Policy. The proposal was also required to be advertised due to requirements under the *Water Management Act 2000* and *Environmental Planning & Assessment Regulations 2000*.

Policy 7.6 Development Applications By Councillors And Staff Or On Council Owned Land

This policy requires:

- 1. That, subject to the exemptions in Part 2 of this Policy, any development application lodged where the applicant is a Councillor or a member of staff, or where a Councillor or member of staff is the owner of the land to which the application relates, or where the development application is on Council owned land, that such an application be referred to Council for consideration and determination.*

As Lot 931 DP868140 is owned by Lithgow City Council the policy applies and the application will be required to be determined at a Council meeting.

5.2 FINANCIAL IMPLICATIONS (eg Section 94)

Section 94A Development Contributions Plan 2015

The Section 94A Plan applies to this development; however, no levy is applicable for the development as the estimated cost is less than the minimum prescribed in the Section 94A Plan.

5.3 LEGAL IMPLICATIONS

Environmental Protection and Biodiversity Conservation Act 1991

No federally listed Threatened Species or Endangered Ecological Community is required to be cleared as a result of this application. Accordingly, there are no legal implications of this Act on the proposed development.

Native Vegetation Act 2003

There is some native vegetation required to be removed as a result of this proposal including mature trees, acacia shrubs and juvenile trees as below:



Revegetation will occur to replant native vegetation along the property boundary and drainage channel. Subject to conditions of consent it is considered that due to the minor removal of vegetation that the development complies with the provisions of the Act.

Water Management Act 2000

The proposed earthworks are within close proximity to a watercourse and a referral to Department of Primary Industries- Water was required under this Act to advise that a controlled activity approval was being sought for the proposal as below:

91 Activity approvals

(2) A controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land.

DPI Water have provided their requirements in relation to the proposal with no objections which complies with the provisions of the Act. Additionally, the following Clause is applicable from the *Environmental Planning & Assessment Regulations 2000*:

5 Advertised development

- (1) For the purposes of the definition of advertised development in section 4 (1) of the Act, the following types of development (not being designated development or State significant development) are identified as advertised development:*
- (ii) a provision of the Water Management Act 2000 specified in section 91 (1) of the Act,*

The application requires an approval under Section 91(1) of the Act and the application was advertised in accordance with the regulations.

Environmental Planning and Assessment Act 1979

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:

5.3.1 Any Environmental Planning Instruments

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		Compliance
Land Use table	E3 Environmental Management	Yes
7.1	Earthworks	Yes
7.4	Terrestrial biodiversity	Yes
7.7	Sensitive lands	Yes

Comment: The proposed earthworks will not have an adverse effect on the values of the area and complies with the objectives of the E3 Environmental management zoning. The proposal has been assessed by Water NSW in relation to impacts to receiving waters and found to be acceptable subject to conditions of consent.

The proposal will include drainage works to ensure the stability of the site and conditions of consent will be imposed to ensure erosion and sedimentation controls are in place.

The proposal may allow for a better reuse of the site into the future by levelling the land with clean fill. The quality of fill will be appropriate for the area as it has been classified as excavated natural materials from the Roads and Maritime Services as a result of road works upgrades at Bells Line of Road.

The land is within the terrestrial biodiversity and sensitive lands areas under the LEP. However, with appropriate conditions of consent and revegetation it is expected that the development will be of minor impact to these areas. The land is previously disturbed and the proposal will allow for the potential reuse of the site.

The development complies with the requirements of the LEP.

State Environmental Planning Policy 44 – Koala Habitat Protection

SEPP 44 is applicable to the site given that it exceeds 1ha and is located within the Lithgow Local Government Area to which the SEPP applies. Part 2 of the SEPP requires Council to consider whether the land the subject of the application retains potential and subsequently core koala habitat.

Many of the trees listed within Schedule 2 of the SEPP are common within the Lithgow Local Government Area, however core koala habitat within this area is rare, with only 12 koala sightings ever reported on private land within the LGA.

Comment: There are minimal mature trees to be removed as part of the development with the surrounding area being of more significance and a core koala habitat than this disturbed land. It is considered that the development will have minimal impact to core koala habitat and complies with the requirements of this SEPP.

State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 – Compliance Check	
Clause	Compliance
7 Contamination and remediation to be considered in determining development application	Yes
17 Guidelines and notices: all remediation work	Yes

Comment: The land was previously used as a coal fired power station known as Lithgow Power Station. The land has been previously remediated with excavations and removal of materials offsite with the residual soils being validated to human health criteria for residential land use with gardens and accessible soil. This is provided in the Remediation Validation Report Lithgow Power Station by HLA EnviroScience Pty Limited dated 2 September 1999. It is not known or expected that any further potential contaminating land use has occurred on the site since this report was issued and therefore the land complies with the requirements of this SEPP.

State Environmental Planning Policy (Infrastructure) 2007

SEPP (Infrastructure) 2007 – Compliance Check	
Clause	Compliance
Development likely to affect an electricity transmission or distribution network	
45 Determination of development applications—other development	Yes
Railways	
85 Development immediately adjacent to rail corridors	Yes

Comment: The proposed application is within close proximity to a rail corridor and an electricity easement known to be Endeavour Energy's. Therefore, as per the SEPP Council sought the concurrence of Sydney Trains (Railcorp) and Endeavour Energy on the proposed development. Sydney Trains have provided requirements for the development and no correspondence was received from Endeavour Energy. Council has met its requirements in relation to the SEPP.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

SEPP (Sydney Drinking Water Catchment) 2011 – Compliance Check		
	Clause	Compliance
10	Development consent cannot be granted unless neutral or beneficial effect on water quality	Yes
11	Development that needs concurrence of the Chief Executive	Yes

Comment: The application is required to be assessed under this SEPP to ensure that the proposal would have a neutral or beneficial effect on water quality. Therefore the application was referred to Water NSW for recommendations which were received with no objection to the proposal. The application, subject to conditions of consent will comply with the provisions of the SEPP.

5.3.2 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

Nil.

5.3.3 Any Development Control Plan

Nil.

5.3.4 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?

Nil.

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

The development has been forwarded to Council's Building Officer for assessment under appropriate regulations. It is considered that as a result of this assessment the development will comply with the provisions of the regulations subject to conditions of consent.

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

Adjoining Landuse: The surrounding area is generally for residential/rural and commercial/industrial development. The proposal will not cause any land use conflicts as it is for earthworks only with no change in land use proposed at this stage.

Access/ traffic: The proposal will gain access from State Mine Gully Road and has been assessed by Council's engineers and found to be sufficient subject to conditions of consent. The ongoing traffic of trucks may cause dilapidation of the road network and therefore it will be requested that the developer provide a report on the roads and undertake upgrade works where required.

Heritage: The land is across from the State Mine Heritage Park which is a locally significant heritage listed item. Given the development is for earthworks only, it is not expected to have any impact on the significance of the heritage site. Additionally, the works will be screened from view of the State Mine Heritage Park from existing industrial shed on the heritage listed site.

Flora and Fauna: The development requires removal of some vegetation onsite, however the area has been previously disturbed with minimal mature trees. The area is located close to residential areas with fauna limited and maintained within the bushland close by. The development is expected to have minimal impact to flora or fauna.

Soils: The proposed development will have no significant impact on soils. The land has been previously remediated and a validation report has shown that the land as existing could be used for residential use. The proposed fill will require VENM reports to ensure the fill is clean of any contaminants prior to being brought to the site. Conditions of consent will be imposed to control erosion and sedimentation impacts on the site and therefore it is considered there will be minimal impacts on soils.

Water: The proposed development has been assessed by Water NSW as required by the *State Environmental Planning Policy (Sydney Catchment Drinking Water) 2011* and found that with conditions of consent the development meets the requirements of the SEPP. Therefore, it is considered that the development will have minimal impact on water.

Air and Microclimate: There will be no significant impact on air or microclimate. However, a condition of consent will be imposed requiring that dust suppression be used during construction works to minimise impacts on the surrounding area as below:

- *The operator is at all times required to minimise dust through mitigation measures (for example the use of a water truck). The dust suppression measures are to include the unloading of fill, truck movements, spreading of fill onsite and maintaining the land until substantial groundcover has been established.*

Noise and Vibration: The development has potential to cause noise due to large machinery being used and truck movements onsite. However, the hours of operation will be limited to Monday to Saturday and no works Sunday or public holidays. Additionally, to reduce potential impacts further, the following conditions of consent will be imposed:

- *The operator at all times must take all measures to minimise noise and reduce community annoyance. Council may request additional mitigation measures be undertaken if ongoing validated concerns are raised in relation to noise as a result of the development.*

- *Timing of truck movements is to be undertaken so as to have minimal disturbance on surrounding residential landowners. This may include restricting movements per hour and /or per day.*
- *All truck drivers associated with the development are to be educated on the sensitivity of residential land within the area to ensure that all measures are taken to minimise impact on the surrounding residential streets.*

5.3.7 The Suitability of the site for the development

The surrounding land uses are for rural, residential and commercial/industrial uses and no land use has been proposed for the site at this stage. The development is for earthworks to level the site to allow suitability of a land use in the future. The proposal is compatible with the objectives of the zone and is considered to have minimal impact on the surrounding amenity subject to conditions of consent and it is suitable for the proposed development.

5.3.8 Any submissions made in accordance with this Act or the Regulations

The proposal was sent to Water NSW, Sydney Trains, Endeavour Energy, NSW Office of Water, Council's Building Officer and Engineers for commenting with recommendations detailed below. The proposal was also sent to surrounding landowners, advertised in the local paper and placed on public display in Council's Administration Building with one submission received detailed below.

WATER NSW

I refer to your letter received 19 May 2016 requesting the concurrence of Water NSW under Clause 11 of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 (the SEPP) with a proposal for the delivery, spreading and compacting of clean fill at the above site.

The subject property, which has been inspected by Water NSW, 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 report accompanying the development application (dated August 2016) and Amendment Report (dated 15 September 2016) both prepared by First Field Environmental
- Plans showing Rehabilitation of the Lithgow Power Station Site, Stage 1 – Placement of Certified Fill prepared by LandTeam Australia Pty Ltd (dated 18 April 2016), and
- a letter from COC Limited outlining the proposed works (dated 15 July 2015).

Water NSW requires the spillway from the proposed settlement pond to be managed to ensure that flow from the pond does not exceed pre-development levels.

Water NSW also noted that the proposed new access point to the site required vegetation removal up to 0.25ha including along the riparian corridor at the south east corner of the site. Discussions with the consultant and the Amendment Report (dated 15 September 2016) confirmed that vegetation will not be removed along the riparian corridor, reducing the area of vegetation removal to 0.12ha, and that 0.13ha of revegetation will occur along the eastern boundary to offset the impacts from proposed clearing.

These matters have been included in the below conditions.

Based on Water NSW's site inspection and the information provided, the proposed development has been assessed by Water NSW 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. Water NSW would therefore concur with Council granting consent to the application subject to the following conditions being imposed:

1. The earthworks shall be undertaken as specified in the report accompanying the development application prepared by First Field Environmental (dated August 2016) and as shown on the Plans for Rehabilitation of the Lithgow Power Station Site, Stage 1 – Placement of Certified Fill Key Drawing (Dwg No. LPS_PD_016; Amend B; Sheet 1; dated 18 April 2016) and Typical Section and Reduced Level Details Plan (Dwg No. LPS_PD_026; Amend B; Sheet 2; dated 18 April 2016) both prepared by Phil Day Drafting Service, except where modified by the following:
 - any fill material used on the site shall comply with the Department of Environment, Climate Change and Water Guidelines on Resource Recovery Exemptions (Land application of Waste Material as Fill)
 - all stormwater drainage structures shall be designed and managed to ensure that flow from the settlement pond does not exceed pre-development levels and the spillway shall incorporate appropriate armouring and stabilisation with suitable energy dissipation prior to directing flows towards the open State Mine Gully Creek, and
 - the fill area, batters and settlement pond shall be stabilised and vegetated with a minimum 70% ground cover within 30 days after fill placement.

Reason for Condition 1 – To ensure that the works are undertaken and the disturbed site is left in a condition so as to achieve a sustainable neutral or beneficial effect on water quality over the longer term.

2. Revegetation along the eastern boundary of the site to offset proposed vegetation clearing in the north and south of the site shall be undertaken, as per the Amendment Report prepared by First Field Environmental (dated 15 September 2016).
3. A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works proposed or required as part of the development. The Plan shall be implemented and shall incorporate the drainage structures illustrated on the Plans for Rehabilitation of the Lithgow Power Station Site, Stage 1 – Placement of Certified Fill prepared by Phil Day Drafting Service (Dwg No. LPS_PD_016; Amend B; Sheet 1; dated 18 April 2016) and shall also meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book". The Plan shall be prepared prior to issuance of construction certificate and shall be to the satisfaction of Council.
4. Effective erosion and sediment controls shall be installed in accordance with the Soil and Water Management Plan prior to any earthworks and shall prevent sediment or polluted water leaving the site or entering State Mine Gully Creek. The controls shall be regularly maintained and retained until works have been completed and groundcover established.

Reason for Conditions 2 to 4 – To manage adverse environmental and water quality impacts for the duration of the development so as to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.

ENDEAVOUR ENERGY

No response received.

SYDNEY TRAINS

I refer to the above development application requiring RailCorp's concurrence in accordance with clause 86(1) of the above SEPP. As of 1 July 2014 the property functions of RailCorp have been transferred to Sydney Trains. Whilst RailCorp still exists as the legal land owner of the rail corridor, its concurrence function under the above SEPP has been delegated to Sydney Trains. Sydney Trains has reviewed this proposal under Clause 85 of *State Environmental Planning Policy (Infrastructure) 2007* and asks that the following issues be addressed in the conditions for this proposed development.

1. High Voltage Transmission Line

Sydney Trains have a 66kV high voltage aerial transmission cable near to this site and advises Council to add the following condition of consent:

- Sydney Trains advises they have a 66kV H/V aerial transmission line near to this site and any works, excavation and crane movements underneath or near to this transmission line are not permitted unless they have been discussed and approved by Sydney Trains beforehand.

2. Working Around the High Voltage Transmission Line

During Construction, there is a need to ensure that there will be no adverse impact on the integrity of Sydney Trains facilities, or the operation of the network, It is required that Council include the following conditions of consent:

- Prior to the commencement of work a Risk Assessment/Management Plan and detailed Safe Work Method Statement (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on the rail infrastructure. Work is not to commence until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- Prior to the commencement of work the Applicant must demonstrate to Sydney Trains satisfaction how the development complies with Australian Standard AS7000. In addition, all works near to the transmission line must comply with ISSC 20- Guideline for the Management of Activities within Electricity Easements and Close Electricity Infrastructure. The development will also need to comply with the safe Approach Distances (SADs) in Sydney Trains Document titled "SMS-06-GD-0268- Working Around Electrical Equipment".
- Prior to the commencement of work a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- The developer is to be issued with the attached documentation in order to conduct the risk assessment in accordance the risk assessment in accordance with Sydney Trains safe working guidelines relating to working safely around electrical equipment and keeping safe clearance distanced to the transmissions lines.
 - These relevant documents are labelled 'Working around Electrical Equipment' and 'Judgement of Significance Tool for Working around Electrical Equipment'.
- The existing ground Reduced Levels (RL's) around the transmission line are not to be altered in any way by the proposed works/activities.

Finally, it is asked that Council forward to Sydney Trains a copy of the final development consent to enable Sydney Trains to monitor the Applicants compliance with rail related conditions of consent.

NSW OFFICE OF WATER

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, DPI Water will ascertain if the amended plans require review or variations/to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.
- DPI Water should be notified if Council received an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water request notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval after consent has been issued by Council and before the commencement of any work or activity on waterfront land. Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from DPI Water's website: www.water.nsw.gov.au.

Planning comments: The proposed development does not require a Construction certificate and therefore the following condition of consent will be imposed for DPI Water requirements:

- A Controlled Activity Approval is to be sought from Department of Primary Industries Water (DPI-Water) in accordance with Attachment 1 General Terms of Approval, prior to any works being undertaken. A copy of the approval is to be provided to Council prior to any works being undertaken onsite.

COUNCIL'S BUILDING OFFICER

I refer to the abovementioned development application in regards to your referral dated 22 August 2016 and provide the following comments.

The proposal generally provides for:

- a) The placement and compaction of up to 10,000 tonnes of clean fill material onsite
- b) The levelling of the clean filled material to a height of approximately 3 metres above natural ground level in anticipation for a future use
- c) The removal of vegetation
- d) The provision of surface water drainage systems.

Due to the nature of the proposal (no construction work proposed), a Construction Certificate is not required to facilitate this work.

As such, no objection is given to the proposal subject to the following conditions being imposed on the Development Consent:

1. Certification prepared by a Practising Civil Engineer is to be submitted to Council attesting to the structural stability of all unprotected embankments upon completion of work.
2. All work must preserve and protect the existing structure(s) onsite and if necessary, support the structure(s) in accordance with written advice obtained from a Practising Structural Engineer and to the satisfaction of Council.
3. An appropriate fence preventing public access to the site shall be erected for the duration of development works.
4. Any removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
 - Only competent persons, or competent and registered persons shall carry out removal.
 - Removal of asbestos or materials containing asbestos fibres, shall be in accordance with the NOHSC code of practice.Precautions to be observed and procedures to be adopted during the removal of dangerous or hazardous materials other than asbestos, shall be in accordance with the relevant State regulations pertaining to those materials

5. 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 |

COUNCIL'S ENGINEERS

I refer to the abovementioned Development Application in regards to your referral dated 22 August 2016 and provide the following comments.

It is suggested that the following conditions be placed on any Development Consent:

- The applicant shall ensure that during the construction works all measures are taken to eliminate/suppress any dust nuisance emanating from the site.
- Effective erosion and sediment controls shall be installed prior to any construction activity including site access. The controls must prevent sediment entering drainage depressions and watercourses, and shall be regularly maintained and retained until works have been completed and groundcover established.
- A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on State Mine Gully Road whilst construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on State Mine Gully Road. Failure to comply may result in Work Cover intervention and may also include Stop Work orders from Council until such time the developer complies with suitable traffic management procedures.
- All road and right of carriageway construction is to be to the standard specified in Council's "Guidelines for Civil Engineering Design and Construction for Development". This document is available on Council's website or upon request from Council's administration desk.
- A dilapidation survey of the road at the proposed site access is to be undertaken prior to the commencement of the project. Subsequently after completion of the project a subsequent assessment/survey of the road is to be undertaken at the site access. Any damage caused by the project is to be rectified at the applicants cost.

PUBLIC SUBMISSION

- 1 inch poly pipe water line and water main that runs up to house through the property. This is roughly 2 foot below ground and follows the old concrete strip and comes around to a hollow where it is going to be filled. Inspection holes are also along the line. When the area is filled it will make it harder to access the water line. Will I have to raise the water line up to make it easier?

Planning comment: The development is not expected to impact on this water pipe however the following condition will be imposed:

- That the developer ensure that the existing water pipe/service to residential area is maintained. Any works required to maintain these services are to be borne by the developer of the land, including raising the line and/or realignment in accordance with requirements of Council's Water & Wastewater Department. All measures are to be taken to ensure that there is minimal disturbance to services.

5.3.9 The public interest

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

6. 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.

7. ATTACHMENTS

Schedule A- Conditions of consent.

8. RECOMMENDATION

THAT development application DA099/16 is approved subject to conditions set out in Schedule A.

Report prepared by:

Supervisor:

Signed:.....

Signed:.....

Dated:.....

Dated:.....

REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure there is no unacceptable impact on the water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority) and General Terms of Approval (Integrated Approval Body)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

ADMINISTRATIVE CONDITIONS

1. That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.

Amenity

2. The operator at all times must take all measures to minimise noise and reduce community annoyance. Council may request additional mitigation measures be undertaken if ongoing validated concerns are raised in relation to noise as a result of the development.
3. The operator is at all times required to minimise dust through mitigation measures (for example the use of a water truck). The dust suppression measures are to include the unloading of fill, truck movements, spreading of fill onsite and maintaining the land until substantial groundcover has been established.
4. Timing of truck movements is to be undertaken so as to have minimal disturbance on surrounding residential landowners. This may include restricting movements per hour and/or per day.
5. All truck drivers associated with the development are to be educated on the sensitivity of residential land within the area to ensure that all measures are taken to minimise impact on the surrounding residential streets.

Engineering requirements

6. The applicant shall ensure that during the construction works all measures are taken to eliminate/suppress any dust nuisance emanating from the site.
7. A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on State Mine Gully Road whilst construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on State Mine Gully Road. Failure to comply may result in Work Cover intervention and may also include Stop Work orders from Council until such time the developer complies with suitable traffic management procedures.
8. All road and right of carriageway construction is to be to the standard specified in Council's "Guidelines for Civil Engineering Design and Construction for Development". This document is available on Council's website or upon request from Council's administration desk.
9. A dilapidation survey of the road at the proposed site access is to be undertaken prior to the commencement of the project. Subsequently after completion of the project a subsequent assessment/survey of the road is to be undertaken at the site access. Any damage caused by the project is to be rectified at the applicants cost.

10. That the developer ensure that the existing water pipe/service to residential area is maintained. Any works required to maintain these services are to be borne by the developer of the land, including raising the line and/or realignment in accordance with requirements of Council's Water & Wastewater Department. All measures are to be taken to ensure that there is minimal disturbance to services.

Building Requirements

11. Certification prepared by a Practising Civil Engineer is to be submitted to Council attesting to the structural stability of all unprotected embankments upon completion of work.
12. All work must preserve and protect the existing structure(s) onsite and if necessary, support the structure(s) in accordance with written advice obtained from a Practising Structural Engineer and to the satisfaction of Council.
13. An appropriate fence preventing public access to the site shall be erected for the duration of development works.
14. Any removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
 - Only competent persons, or competent and registered persons shall carry out removal.
 - Removal of asbestos or materials containing asbestos fibres, shall be in accordance with the NOHSC code of practice.Precautions to be observed and procedures to be adopted during the removal of dangerous or hazardous materials other than asbestos, shall be in accordance with the relevant State regulations pertaining to those materials
15. 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

WATER NSW REQUIREMENTS

16. The earthworks shall be undertaken as specified in the report accompanying the development application prepared by First Field Environmental (dated August 2016) and as shown on the Plans for Rehabilitation of the Lithgow Power Station Site, Stage 1 – Placement of Certified Fill Key Drawing (Dwg No. LPS_PD_016; Amend B; Sheet 1; dated 18 April 2016) and Typical Section and Reduced Level Details Plan (Dwg No. LPS_PD_026; Amend B; Sheet 2; dated 18 April 2016) both prepared by Phil Day Drafting Service, except where modified by the following:
 - any fill material used on the site shall comply with the Department of Environment, Climate Change and Water Guidelines on Resource Recovery Exemptions (Land application of Waste Material as Fill)
 - all stormwater drainage structures shall be designed and managed to ensure that flow from the settlement pond does not exceed pre-development levels and the spillway shall incorporate appropriate armouring and stabilisation with suitable energy dissipation prior to directing flows towards the open State Mine Gully Creek, and
 - the fill area, batters and settlement pond shall be stabilised and vegetated with a minimum 70% ground cover within 30 days after fill placement.

17. A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works proposed or required as part of the development. The Plan shall be implemented and shall incorporate the drainage structures illustrated on the Plans for Rehabilitation of the Lithgow Power Station Site, Stage 1 – Placement of Certified Fill prepared by Phil Day Drafting Service (Dwg No. LPS_PD_016; Amend B; Sheet 1; dated 18 April 2016) and shall also meet the requirements outlined in Chapter 2 of NSW Landcom’s Soils and Construction: Managing Urban Stormwater (2004) manual - the “Blue Book”. The Plan shall be prepared prior to issuance of construction certificate and shall be to the satisfaction of Council.
18. Revegetation along the eastern boundary of the site to offset proposed vegetation clearing in the north and south of the site shall be undertaken, as per the Amendment Report prepared by First Field Environmental (dated 15 September 2016).
19. Effective erosion and sediment controls shall be installed in accordance with the Soil and Water Management Plan prior to any earthworks and shall prevent sediment or polluted water leaving the site or entering State Mine Gully Creek. The controls shall be regularly maintained and retained until works have been completed and groundcover established.

SYDNEY TRAINS REQUIREMENTS

High Voltage Transmission Line

20. Sydney Trains advises they have a 66kV H/V aerial transmission line near to this site and any works, excavation and crane movements underneath or near to this transmission line are not permitted unless they have been discussed and approved by Sydney Trains beforehand.

Working Around the High Voltage Transmission Line

21. Prior to the commencement of work a Risk Assessment/Management Plan and detailed Safe Work Method Statement (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on the rail infrastructure. Work is not to commence until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
22. Prior to the commencement of work the Applicant must demonstrate to Sydney Trains satisfaction how the development complies with Australian Standard AS7000. In addition, all works near to the transmission line must comply with ISSC 20- Guideline for the Management of Activities within Electricity Easements and Close Electricity Infrastructure. The development will also need to comply with the safe Approach Distances (SADs) in Sydney Trains Document titled “SMS-06-GD-0268- Working Around Electrical Equipment”.
23. Prior to the commencement of work a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
24. The developer is to be issued with the attached documentation in order to conduct the risk assessment in accordance the risk assessment in accordance with Sydney Trains safe working guidelines relating to working safely around electrical equipment and keeping safe clearance distanced to the transmissions lines.
 - These relevant documents are labelled ‘Working around Electrical Equipment’ and ‘Judgement of Significance Tool for Working around Electrical Equipment’.

25. The existing ground Reduced Levels (RL's) around the transmission line are not to be altered in any way by the proposed works/activities.

DEPARTMENT OF PRIMARY INDUSTRIES- WATER REQUIREMENTS

26. A Controlled Activity Approval is to be sought from Department of Primary Industries Water (DPI-Water) in accordance with Attachment 1 General Terms of Approval, prior to any works being undertaken. A copy of the approval is to be provided to Council prior to any works being undertaken onsite.

ADVISORY NOTES

DPI Water Requirements

- AN1. The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval after consent has been issued by Council and before the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from DPI Water's website: www.water.nsw.gov.au.

ATTACHMENT 1

General Terms of Approval

**for work requiring a controlled activity approval
under s91 of the *Water Management Act 2000***

Number	Condition	File No:
Site Address:	DA099/16 Lot 931 DP868140 State Mine Gully Road Lithgow	
DA Number:	DA099/16	
LGA:	Lithgow City Council	
Plans, standards and guidelines		
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA099/16 and provided by Council: (i) Site plan, map and/or surveys Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.	
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.	
3	The consent holder must prepare or commission the preparation of: (i) Vegetation Management Plan (ii) Erosion and Sediment Control Plan (iii) Soil and Water Management Plan (iv) Amendments to Plans - Fill/works to be no less than 15m from top of bank of open watercourse	
4	All plans must be prepared by a suitably qualified person and submitted to the DPI Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at www.water.nsw.gov.au/ Water-Licensing/Approvals . (i) Vegetation Management Plans (ii) Riparian Corridors	
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.	
Rehabilitation and maintenance		
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DPI Water.	
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.	
Reporting requirements		

Number	Condition	File No:
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.	
Security deposits		
9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to DPI Water as and when required.	
Access-ways		
10	N/A	
11	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.	
12-13	N/A	
Disposal		
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.	
Drainage and Stormwater		
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.	
16	N/A	
Erosion control		
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
Excavation		
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.	
19-21	N/A	
River bed and bank protection		
22	The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect and maintain a riparian corridor with a width of 15 metres measured horizontally landward from the highest bank of the river for the length of the site directly affected by the controlled activity in accordance with a plan approved by DPI Water.	
END OF CONDITIONS		