

# **DEVELOPMENT ASSESSMENT REPORT – DA084/22 - PROPOSED WAREHOUSE, LOT 22 DP 773810, 140 MORT STREET LITHGOW**

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## **1. PROPOSAL**

Council is in receipt of a Development Application DA084/22 from Lithgow City Council for a warehouse (Council depot) on land known as Lot 22 DP 773810, 140 Mort Street, Lithgow. The development site is currently vacant of buildings and is used for outdoor storage of items by Lithgow City Council in association with the Council's works depot on the adjoining site to the west. The proposal involves associated roadworks, servicing, car parking and drainage works.

The proposed warehouse area is 20m by 25m, being 500m<sup>2</sup> in size. In addition, a reception area, two offices and a bathroom facility are proposed with an internal area of 42m<sup>2</sup>. The building will be of steel construction with metal cladding and will have a pitched roof. The building has a wall height of 5.5m and a maximum height to the top of the roof of 6.935m.

A new crossover to Mort Street will be constructed along with an internal driveway that will surround the warehouse building and connect through to Gas Works Lane across Lot 21 DP 773810 (also owned by Lithgow City Council). Four parking spaces will be provided on site, including one disabled parking space. The crossover to Mort Street requires the concurrence of Transport for NSW under s138 of the Roads Act 1993. Traffic movements are proposed to be one way with the entrance from Mort Street and exit at Gas Works Lane. This will require the provision of a right of carriageway over Lot 21 DP 773810. One existing street tree (currently heavily pruned due to overhead power lines) is proposed to be removed to facilitate the new access from Mort Street.

The subject land is located in a low hazard flood area. To ensure floor levels are above the flood level plus freeboard, and to create a level pad for the building, fill of up to 1.4m is proposed. To compensate for this fill, a 1400m<sup>2</sup> flood storage basin is proposed to be provided on the site to the rear of the warehouse building.

The proposed development will be connected to the existing sewer, water and stormwater services that cross or are in the vicinity of the site.

## **2. SUMMARY**

To assess and recommend determination of DA084/22 with recommendation for approval subject to conditions.

## **3. LOCATION OF THE PROPOSAL**

Legal Description : Lot 22 DP 773810  
Property Address : 140 Mort Street, LITHGOW

The location of the proposal is shown in the following map.



#### 4. ZONING

The land is zoned B4 Mixed Use in accordance with the *Lithgow Local Environmental Plan 2014* (LEP), as shown below.



#### 5. PERMISSIBILITY

The proposed use is defined as a 'warehouse or distribution centre', as defined below.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, but does not include local distribution premises.

A warehouse or distribution centre is permissible in the B4 zone under Lithgow Local Environmental Plan 2014, subject to development consent.

## **5.1 POLICY IMPLICATIONS (OTHER THAN DCPs)**

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

The proposed development is located on Council owned land. The development application is therefore proposed to be reported to Council for consideration and determination.

### **Lithgow Community Participation Plan**

The Lithgow Community Participation Plan applies to all land within the Lithgow Local Government Area (LGA) and prescribes certain types of development as exempt from requiring notification. The proposed development is not exempt and was therefore notified in accordance with the Community Participation Plan. No submissions were received.

## **5.2 FINANCIAL IMPLICATIONS**

### **Section 94A (Section 7.12) Development Contributions Plan 2015**

Council's Section 94A (Section 7.12) Development Contributions Plan 2015 applies to this development given it is for a warehouse or distribution centre at an estimated cost of \$954,937.23, using the below levies:

<b>Estimated cost of development</b>	<b>Levy applicable</b>
\$0 to \$100,000	0%
\$100,001 to \$200,000	0.5%
\$200,001 and over	1%

The development is exempted from the levy by virtue of Part C7 of the 2015 Plan.

## **5.3 LEGAL IMPLICATIONS**

### ***Conveyancing Act 1919***

The subject land contains easements to drain water and sewer. The proposed development is to be located clear of these easements. As a result of the development, an easement to drain water and a right of carriageway will be required over Lot 21 DP 773810 (also owned by Lithgow City Council).

### ***Biodiversity Conservation Act 2016***

Section 7.2 of the *Biodiversity Conservation Act 2016* (BC Act) prescribes the circumstances in which the Biodiversity Offset Scheme (BOS) is required to be applied to development.

#### ***Biodiversity Conservation Act 2016***

#### ***7.2 Development or activity "likely to significantly affect threatened species"***

*(1) For the purposes of this Part, development or an activity is likely to significantly affect threatened species if:*

*(a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or*

- (b) the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or*
- (c) it is carried out in a declared area of outstanding biodiversity value.*

The site is clear of native vegetation and no trees or other vegetation will be directly or indirectly affected by the proposed development. The proposal will have no impact on any threatened species or ecological communities.

Further, for the purpose of Section 7.2(1)(b) of the BC Act, Clause 7.1 of the *Biodiversity Conservation Regulation 2017* (BC Regulation 2017), defines the BOS thresholds, as below:

***Biodiversity Conservation Regulation 2017***

***7.1 Biodiversity offsets scheme threshold (section 7.4)***

*(1) Proposed development exceeds the biodiversity offsets scheme threshold for the purposes of Part 7 of the Act if it is or involves:*

- (a) the clearing of native vegetation of an area declared by clause 7.2 as exceeding the threshold, or*
- (b) the clearing of native vegetation, or other action prescribed by clause 6.1, on land included on the Biodiversity Values Map published under clause 7.3.*

Clause 7.2 of the BC Regulation 2017, declares that where the following areas of clearing are exceeded the BOS will be applicable:

***Biodiversity Conservation Regulation 2017***

***7.2 Clearing of area of land that exceeds threshold***

*(1) Clearing of native vegetation is declared by this clause to exceed the biodiversity offsets scheme threshold if the area proposed to be cleared is the area set out in Column 2 of the Table to this clause opposite the minimum lot size applicable to the land to be cleared in Column 1 of that Table.*

***Table***

***Column 1***

***Minimum lot size of land***

*Less than 1 hectare*

*Less than 40 hectares but not less than 1 hectare*

*Less than 1,000 hectares but not less than 40 hectares*

*1,000 hectares or more*

***Column 2***

***Area of clearing***

*0.25 hectare or more*

*0.5 hectare or more*

*1 hectare or more*

*2 hectares or more*

There is no MLS applicable to the land. With a site area of approximately 9235m<sup>2</sup>, the applicable threshold is 0.25ha. With only one street tree to be removed, the BOS is not applicable to the development under Clause 7.1(1)(a) of the BC Regulation.

Further, the proposed clearing is not to be undertaken on land included on the Biodiversity Values Map under Clause 7.1(1)(b) of the BC Regulation. Therefore, the BOS is not applicable to the development under Section 7.2(b) of the BC Act.

Lastly, the proposed development is not proposed to be carried out in a declared area of outstanding biodiversity value under Section 7.2(c) of the BC Act.

### **Coal Mine Subsidence Compensation Act 2017**

The subject land is in a coal mine subsidence district and the proposed development is Integrated Development as approval is required from Subsidence Advisory NSW. The development application was referred to Subsidence Advisory NSW who have provided General Terms of Approval.

### ***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 4.15 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***

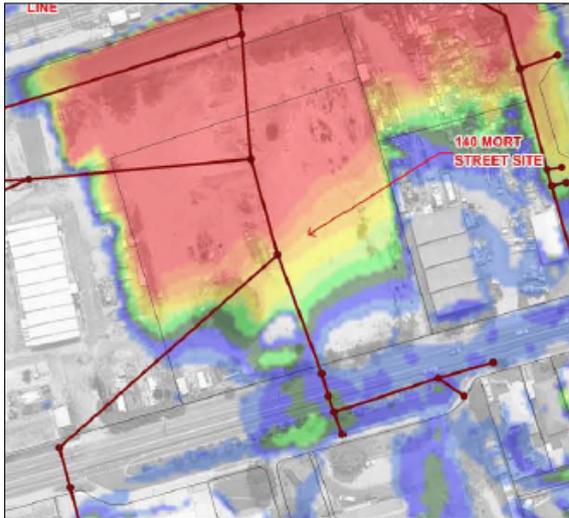
LEP 2014 – Compliance Check		
Clause		Compliance
<b>Land Use table</b>	B4 Mixed Use	Yes
<b>5.21</b>	Flood Planning	Yes
<b>7.1</b>	Earthworks	Yes
<b>7.3</b>	Stormwater management	Yes
<b>7.10</b>	Essential Services	Yes

**Comment:** The objectives of the B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To promote development that does not detract from the role of the town centre core commercial precincts.*
- *To promote the retention and reuse of heritage items as well as the retention of established buildings that contribute positively to the heritage and cultural values of lands at Portland.*
- *To maintain or improve the water quality of receiving water catchments.*

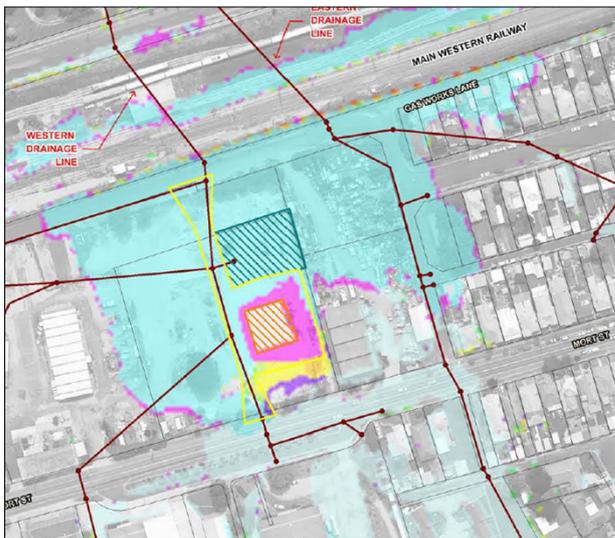
The proposal is effectively an extension of the existing use of the premises and the adjoining land by Lithgow City Council for storage purposes. The use is considered appropriate in the location and compatible with surrounding uses. The proposal will not detract from the role of the Lithgow town centre. The site does not contain a heritage item and is currently vacant of buildings. The development was referred to Water NSW who have advised that it can achieve a neutral or beneficial effect on water quality subject to conditions. The proposal is considered to be consistent with the zone objectives.

**Clause 5.21 Flood Planning** – The subject land is located in a low hazard flood area. A flood impact assessment was provided with the development application. The assessment identifies the 1% AEP flood extent as shown in the following map.



The proposed building is located predominantly in the orange to blue areas on the above map, which are areas of inundation of between 0.1 and 0.9m in depth. Fill of up to 1.4m is proposed to ensure the floor level of the building will be above the 1%AEP flood level plus 500mm freeboard.

To compensate for this extent of fill, a flood storage basin is proposed to be provided to the rear of the warehouse building. As shown in the following map, the impact of the proposed development on flood behaviour is a slight reduction in flood impact on adjoining properties (pink areas) and a minor increase in flood impact on the subject lot (purple area).



**Clause 7.1 – Earthworks** – The site has a gentle slope from Mort Street to Gas Works Lane with a fall of approximately 2m. In the location of the proposed building, fill of up to 1.4m is proposed. Additional earthworks is required for the proposed flood storage basin. Consent is sought for these earthworks as part of this DA.

The scale of earthworks proposed is considered reasonable given the size of the site and will not detrimentally affect drainage patterns or soil stability. The earthworks are required to facilitate the development of the land. A condition is recommended to require all fill to be virgin excavated natural material. The earthworks will have no

impact on the amenity of adjoining properties or the environment. Given the previous use of the site as a gas works and remediation activities already undertaken, it is unlikely that the proposed development will disturb any relics. The proposal is considered acceptable in relation to clause 7.1.

**Clause 7.3 Stormwater** – Stormwater from new roofed and sealed areas will be collected in a series of pits and pipes under the hardstand area and driveway and discharged to the existing system in Gas Works Lane. An easement will be required over the new line in Lot 21 DP 773810. The proposal is considered acceptable in relation to relation to clause 7.3.

**Clause 7.10 Essential Services** - The development will be connected to all available and necessary essential services. The proposal is considered acceptable in relation to clause 7.10.

***State Environmental Planning Policy (Biodiversity and Conservation) 2021***  
Chapter 8 of the SEPP relates to the Sydney Drinking Water Catchment. The subject land is in the Sydney Drinking Water Catchment. The development application was referred to Water NSW who have provided concurrence to the issuing of development consent subject to conditions.

***State Environmental Planning Policy (Resilience and Hazards) 2021***  
The subject land was previously used as a gas works and has a recent history of use for outdoor storage purposes by Lithgow City Council. A gas works is identified in Table 1 of the Managing Land Contamination Planning Guidelines as a use that has the potential to cause land contamination. Previous contamination assessments and remediation works have been undertaken on the site.

An Addendum to Remediation Options Assessment report was submitted with the development application. The report describes the history of use and remediation of the site. Of note are the following statements in the report:

*"In 2004 and 2005 it is understood that Council commissioned limited soil remediation works at the site by excavating fill on the eastern side of the site and disposing of solid waste to landfill and relocating hazardous waste onto the western portion of the site. The resulting excavation was subsequently backfilled with validated soil (New Environmental, 2004, 2005a, 2005b and 2005c).*

*However, test pitting undertaken by Environmental Earth Sciences (2009) identified ash, coke and rubble material between 0.00 – 0.50 metres below ground level (mBGL) at two locations (TPe1 and TPe18) in this remediated area."*

The report finds as follows:

*"A review of historical site use and previous environmental investigations and remediation works undertaken at the site, indicate that soil and groundwater conditions within the footprint of the proposed development area are deemed not to pose a significant risk to identified receptors both during the development or post completion. This is in part due to the remediation and validation works already undertaken and also the location of the proposed development away from the main process areas of the former gasworks.*

*Historical contamination to the north of the proposed building poses a low to moderate risk that VOC vapours could be generated that migrate through the sub-surface to the proposed development area. In addition, there is a possibility that localised pockets of fill material are still impacted by ash, coke and clinker, however it is recommended that these materials could be managed during the construction works through the use of an appropriately prepared construction and environmental management plan (CEMP)."*

The report recommends the following:

***Soil assessment***

*Prior to proposed construction works commencing it is recommended to conduct additional in situ chemical characterisation of soil within the proposed works footprint (including internal access road), targeting areas of deeper soil disturbance. This would aim to quantify the risk to construction workers and provide provisional waste classification for any soils which are opted to be managed offsite as waste (if required).*

***Soil vapour investigation***

*The presence of elevated benzene and TPH concentrations at locations to the north of the proposed building, poses the potential for VOC vapours to migrate from the historical contamination sources to the proposed development. It is recommended a limited soil vapour survey be undertaken to assess the presence / absence beneath the proposed building footprint. This is to prevent future utility trenches acting as a preferential pathway for vapour migration, should they exist, which could ultimately infiltrate the proposed building and collect in enclosed spaces.*

***Groundwater assessment***

*Prior to proposed construction works commencing it is recommended that a round of groundwater monitoring be undertaken. This is due to the likely destruction of groundwater monitoring well BHe2 during the construction of the base slab for the depot building. The data collected from the well will provide confirmation of groundwater contaminant concentrations below the proposed building, which can be used to update the previous CSM [Conceptual Site Model].*

***Preparation of CEMP***

*In NSW, pollution from building and construction sites is regulated under the POEO Act. Under this it is an offence to allow substances other than rainwater to enter a waterway or a stormwater system, covering requisite procedures for mitigation of potential erosion, sedimentation and dust generation ensuring potential nuisance, health issues and harm to the environment are appropriately managed throughout the project. This CEMP covers requisite procedures for:*

- mitigating sedimentation of drains and waterways;*
- ensuring appropriate physical and chemical quality of discharge waters such that there will be no adverse ecological, aesthetic or recreation impact to nearby receiving water bodies;*
- providing advice for management of noise and vibration during construction;*
- providing advice on the management of general waste;*
- to ensure the effectiveness of environmental controls, and should there be an environmental incident, the emergency contact and response procedure; and*

- *Unexpected finds protocol (UFP) for new contamination and/or hazardous materials encountered.*

*This CEMP would be a living document and as such should undergo review, corrective action and continual improvement as required.*

Council then commissioned an in-site soil assessment of the area of proposed excavation on site, being the flood detention basin. This report made the following recommendations:

### ***Management of gasworks contamination***

*Material located as FILL-1 / Area A outlined in Figure 3 is unsuitable to remain onsite. The following options can be utilised to better manage the material:*

- *The material as it stands can be disposed of offsite at a licensed facility as GSW (385 m<sup>3</sup>)*

*If council deems the volume of material requiring offsite in Area A is too costly to dispose of Environmental Earth Sciences recommends three alternative methods:*

- *Additional delineation of the Area A around TP06 and TP07 to refine the volume estimate.*
- *Excavate the material for onsite remediation treatment.*
- *Excavate the material for offsite remediation treatment.*

### ***Construction environmental management plan***

*In NSW pollution from building and construction sites is regulated under the Protection of the Environment Operations Act 1997 (POEO Act). Under the POEO Act it is an offence for anyone to let substances other than rainwater enter a waterway or a stormwater system.*

*Lithgow City Council and the NSW EPA can issue notices and penalties on building and construction sites to protect the environment. There are three kinds of notices:*

- *clean-up notices can be issued to require clean-up of sites;*
- *prevention notices can be issued if an activity is being carried out or is suspected to be carried out in an environmentally unsatisfactory manner. The prevention notice requires certain action to be taken and can be appealed in the Land and Environment Court; and*
- *prohibition notices can be issued to require work to cease for a given time.*

*It is recommended to prepare a construction environmental management plan (CEMP) prior to commencement of rectification works to document environmental management procedures which will mitigate potential harm to the environment during pavement demolition and construction phases of the rectification project.*

*Other key aspects of a CEMP include:*

- *Mitigating erosion and sedimentation of external roads, drains and waterways.*
- *Odour controls to reduce the exposure of onsite workers and neighbour while tar/ hydrocarbon impacted material is being excavated.*
- *Onsite / offsite management of soil, and management of general construction waste.*
- *Establish monitoring of environmental controls to ensure their effectiveness.*

- *Environmental requirements for soil/contaminated land, offsite disposal of soil, offsite material tracking, air quality, dust management, stormwater, erosion and sediment controls (ESC), noise, waste management and traffic/access management.*
- *Document procedure for handling of environmental incidents, emergency contact and response procedure.*
- *Management of any unexpected findings of contamination and/or hazardous materials (HAZMAT) (including asbestos).*

### ***Unexpected findings protocol***

*During any proposed development, the potential for unexpected subsurface finds exists, and Environmental Earth Sciences recommends that the CEMP should also consider:*

- *Management of soil including environmental controls for mitigation of erosion, sedimentation, dust generation.*
- *Excavation management.*
- *Onsite / off-site soil material tracking.*
- *Soil/ spoil stockpile management.*
- *Procedures for soil disposal and waste classification in accordance with the Waste Guidelines (if required).*
- *Unexpected finds protocol (UFP) procedure for managing instances where gross contamination and/or hazardous materials are encountered, with appropriate consideration of WH&S controls for mitigating risk to construction workers.*

### ***General offsite soil management***

*The following general information in-line with the POEO Act should be considered if offsite management is opted:*

- *Only material classified as VENM and/or ENM can be beneficially re-used at an offsite location.*
- *Where disposal of VENM is required landfill, it has achieved the pre-classification of General Solid Waste (non-putrescible) and must be transported to a facility that is licensed to accept the class of waste.*
- *Approval to accept the material must be provided by the receiving facility prior to being removed from the generating site. Material must be weighed prior to dispatch or upon receipt at the receiving facility (as standard).*
- *This waste classification advice letter and any waste tracking documentation (including weighbridge dockets) must be kept by the generator and receiver of this waste for a minimum period of 4 years.*

Subject to the above recommendations being implemented, the land is considered to be suitable for the proposed development and use.

### **State Environmental Planning Policy (Transport & Infrastructure) 2021**

Clause 2.122 of this SEPP relates to traffic generating development. The proposed development is traffic generating development as the site area is greater than 8000m<sup>2</sup>. The development application was therefore referred to Transport for NSW, who provided the following comments on the development application:

### **"Driveway Crossing**

- a. *The widened driveway crossing will impact upon an existing kerb inlet pit and stormwater drainage regime fronting Mort Street.*
- b. *TfNSW concurrence is required in accordance with Section 138 of the Roads Act 1993 for the driveway and associated treatment on Mort Street. As such, the works are to be designed in accordance with the current version of Austroads Guide to Road Design and relevant Australian Standards (with Transport for NSW supplements) to the satisfaction of both TfNSW and Council.*
- c. *The length of the BAR (and associated regulatory signage) needs to be increased to comply with Austroads Guide to Road Design Part 4A, with consideration given to the necessary design vehicle and swept turning path.*
- d. *Lane lines and right turn arrows are unnecessary for a BAR turn treatment.*
- e. *Adequate distance prior to and after the access point needs to be provided for the widened area, as per Austroads.*

### **Advice to Council**

- *Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.*
- *Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements."*

The above comments and advice have been included in Schedule A.

### **State Environmental Planning Policy (Planning Systems) 2021**

Chapter 2 of this SEPP relates to State and regional development. The proposed development does not meet any of the criteria for State or regional development. Therefore, this SEPP does not apply to the development.

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

<b>Development Control</b>	<b>Assessment Comments</b>
<b>Chapter 2 – Site Requirements</b>	
<b>2.2 Site Analysis, Local Character &amp; Context</b>	
2.2.1 Site Selection	The site has a gentle slope to the rear, is vacant of buildings and adjoins Council's works depot. The location of the proposed development is considered appropriate having

	regard to the existing use of the site and surrounding development.
2.2.2 Site Analysis & Development Response	The development responds adequately to the site and surrounding development. In particular, the proposed development has adequately responded to the low hazard flood extent and results in a slight reduction in flood extent on adjoining properties.
2.2.3 Local Character & Context	The proposal will have no significant impact on local character.
2.2.4 Visually Prominent Sites	The subject land is not visually prominent.
2.2.5 Reflective Materials	The building is not proposed to use reflective materials.
<b>2.3 Slope Response, Earthworks and Retaining Walls</b>	
2.3.1 Earthworks	In the location of the proposed building, fill of up to 1.4m is proposed. Additional earthworks is required for the proposed flood storage basin. The scale of earthworks proposed is considered reasonable given the size of the site and will not detrimentally affect drainage patterns. The earthworks will have no impact on the amenity of adjoining properties or the environment.
2.3.2 Retaining Walls	No retaining walls are proposed.
<b>2.4 Stormwater Management</b>	Stormwater from new roofed and sealed areas will be collected in a series of pits and pipes under the hardstand area and driveway and discharged to the existing system in Gas Works Lane. An easement will be required over the new line in Lot 21 DP 773810.
<b>2.5 Vehicle Access &amp; Parking</b>	
2.5.1 Guidelines & Standards	The proposed new parking spaces will comply with the relevant standards.
2.5.2 Vehicle Access & Driveways	Access is satisfactory, subject to conditions recommended by Transport for NSW.

2.5.3 Loading/Unloading, Delivery & Servicing Facilities	Loading and unloading of goods can be fully accommodated on site.
2.5.4 Parking Location, Design & Circulation	The location of the proposed new parking spaces is considered appropriate.
2.5.5 On-Site Parking Numbers	<p>For warehouse or distribution centres, the DCP requires 1 space per 300m<sup>2</sup> gross floor area or 1 space per employee (peak staff level) whichever is the greater.</p> <p>The proposed building has a GFA of 542m<sup>2</sup>, requiring two spaces. The peak staff level of the development will be 4 staff, requiring 4 spaces.</p> <p>Therefore, 4 spaces are required. Four spaces have been identified on the plans.</p>
2.5.6 Exemptions to Off-Street Car Parking Requirements	Not applicable.
2.5.7 Bicycle Parking	Not applicable.
<b>2.6 Pedestrian Access, Mobility &amp; Safety</b>	
2.6.1 Accessibility	The proposal will comply with the relevant disability access standards and the Disability Discrimination Act 1992.
2.6.2 Pedestrians	Safe access is available from the parking area to the building entrances.
2.6.3 Street Numbering & Letterboxes	Not applicable.
<b>2.7 Designing for Crime Prevention</b>	
2.7.1 Crime Risk Assessment	The proposed development is not a publicly accessible space and adequate security fencing and gates will be provided on property boundaries. The building will be subject to regular security patrols consistent with other Council buildings. The proposal is considered acceptable having regard to the principles of crime prevention.
<b>2.8 Utilities, Easements &amp; Infrastructure</b>	
2.8.1 Connection to Utilities	The development will be connected to all required utilities.

2.8.2 Building Near Utilities/Easements/Drainage Lines	Not applicable.
2.8.3 On-Site Sewage Management	Not applicable.
2.8.4 Liquid Trade Waste	No new liquid trade waste facilities are proposed.
2.8.5 Re-Use of Waste Water	Not applicable.
2.8.6 Water Supply	Reticulated water is available to the site.
<b>2.9 Solid Waste Management</b>	
2.9.1 Hazardous Materials & Asbestos	Not applicable.
2.9.2 Solid Waste Management Plan – Larger Developments	A Waste Management Plan was submitted with the development application.
2.9.3 Waste Storage & Collection – Larger Developments	Waste generated by the development (during construction and ongoing use) will be managed in accordance with Council's normal procedures.
<b>2.10 Amenity/Buffers for Sensitive Uses</b>	
2.10.1 Noise & Vibration	The proposal is considered acceptable as the development is not likely to cause significant noise impacts and is unlikely to be significantly affected by noise from surrounding developments.
2.10.2 Air Emissions, Odour & Dust	A standard condition will be applied with regards to suppression of dust during construction. The proposal is unlikely to cause any air pollution or odour impacts.
2.10.3 Buffers to Sensitive Land Uses	Not applicable.
2.10.4 Buffers & Landscaping	None required.
2.10.5 Agriculture & Right to Farm	Not applicable.
<b>2.11 Water &amp; Energy Efficiency</b>	A Section J assessment was included with the application for a Construction Certificate and was assessed as satisfactory by Council's Building Surveyor.
<b>Chapter 3 – Natural Environment &amp; Hazards</b>	
<b>3.2 Bush Fire Prone Land</b>	Not applicable.
<b>3.3 Biodiversity &amp; Vegetation Clearing</b>	Not applicable.

<p><b>3.4 Land &amp; Soils</b></p>	<p>The subject land has a history of potentially contaminating activities and remediation has previously been undertaken. Further assessment has revealed that there may be residual contamination and conditions to address this matter are recommended.</p> <p>The land is not identified as sensitive land. Earthworks proposed will have no significant impacts and standard erosion and sediment control conditions are recommended.</p>
<p><b>3.5 Flood Prone Land</b></p>	<p>The subject land is known to be flood prone. The proposed development will involve land filling to ensure the building is above the flood level. To compensate for this, a flood storage basin is proposed to be provided. The impact of the proposed development on flood behaviour is a slight reduction in flood impact on adjoining properties and a minor increase in flood impact on the subject lot.</p>
<p><b>3.6 Ground &amp; Surface Water Protection</b></p>	<p>The subject land is not mapped as groundwater vulnerable and there are no watercourses in the vicinity of the development. The proposal is unlikely to have a significant impact on ground or surface water.</p>
<p><b>3.7 Mine Subsidence Risk</b></p>	<p>The subject land is in a coal mine subsidence district and the proposed development is Integrated Development as approval is required from Subsidence Advisory NSW. The development application was referred to Subsidence Advisory NSW who have provided General Terms of Approval.</p>
<p><b>Chapter 7 – Commercial and Industrial</b></p>	
<p>7.2.1 Site Analysis &amp; Potential Land Use Conflicts</p>	<p>The site is relatively flat, vacant of buildings and adjoining Council's works depot. The location of the proposed development is considered appropriate having regard to the existing use of the site and surrounding development.</p>
<p>7.2.2 Open (Outdoor) Storage, Utility, Waste &amp; Service Areas</p>	<p>The only outdoor storage proposed is along the rear wall of the warehouse building and will not be visible from</p>

	public domain as a result of the building and proposed landscaping.
7.2.3 Landscaping & Tree Protection	A landscape plan was submitted with the development application showing landscaping along all site boundaries. Adequate setbacks to the building and hardstand areas to all side boundaries provide for sufficient landscaping of the site. One street tree is proposed to be removed to facilitate the site access to Mort Street. The only significant existing tree on the site will be retained. Given the additional site planting, the proposal is considered acceptable in relation to landscaping and tree protection.
7.2.4 Fencing	The subject land is already fenced and no changes are proposed other than upgrading of the gate access. The proposal is considered satisfactory in relation to fencing.
7.2.5 Ancillary Dwelling(s)	Not applicable.
<b>7.3 Commercial and Community Uses</b>	
7.4.1 Key Business Precincts	The proposal is located in the B4 Zone and is consistent with the character statement in the DCP as it provides a large footprint use that will not undermine the role of the Lithgow Town Centre.
7.4.2 Building Setbacks (General)	The proposed building has large setbacks that exceed the minimum requirements.
7.4.3 Setbacks – Zone B2 Local Centre	Not applicable.
7.4.4 Setbacks – Zone RU5 Village	Not applicable.
7.4.5 Setbacks – Other Business Zones or Areas	The subject land is a large site and the proposed building will have setbacks similar to some other buildings on large sites in the vicinity, including the lot immediately to the west and directly across Mort Street. Proposed setbacks are considered acceptable.
7.4.6 Building Height, Bulk & Form	The proposed building will be significantly lower than the maximum height of 10m. The bulk and form of the proposed building is appropriate

	and consistent with the bulk and form of other buildings in the vicinity.
7.4.7 Building Design, Articulation & Facades	The building design is appropriate for the use and consistent with similar large buildings in the vicinity. The design includes offices in the front façade facing Mort Street to provide some articulation.
7.4.8 Structures over Public Footpaths/Roads (Awnings & Balconies)	Not applicable.
7.4.9 Food Premises	Not applicable.
<b>7.5 Advertising and Signage</b>	No signage is proposed as part of this development application.

5.3.4 Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4?

No.

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

The development consent, if granted, will be appropriately conditioned in relation to demolition and fire safety requirements.

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 site is located in a mixed use commercial and industrial precinct. The proposal is consistent with the existing use of the land and is compatible with surrounding land uses. No land use conflicts are envisioned.

**Services:** The development will be connected to all available and necessary essential services.

**Context and Setting:** The proposed development will be located within an established mixed commercial/industrial area and will have no major impact on the context and setting of the area. The development has been designed to complement existing features of similar development in the area.

**Access:** Access to the site will be improved to cater for larger vehicles. The development was referred to Council's Traffic Committee and Transport for NSW. No objection has been raised to the access improvements subject to appropriate conditions.

**Heritage:** The site does not contain a heritage item and is not in a heritage conservation area. The proposal will have no impact on any heritage item in the vicinity of the site.

**Flora and Fauna:** The proposal involves the clearing of one heavily pruned street tree. It is considered that the proposal will have no detrimental impact on flora or fauna.

**Social and Economic Impact:** As the proposed development will be generally in keeping with the provisions of the planning instrument and is reasonably compatible with other similar development in the locality, it is expected a generally positive social and economic impact will result.

**Soils:** It is considered that the proposal will have no significant impact on soils. Conditions regarding potential residual contamination are recommended. Standard erosion and sediment control conditions are recommended.

**Water:** The subject land is not mapped as groundwater vulnerable and there are no watercourses in the vicinity of the development. The application was referred to Water NSW who have advised that the development can achieve a neutral or beneficial effect (NorBE) on water quality provided appropriate conditions are included in any development consent.

**Air and Microclimate:** The proposal will have no significant impacts on air quality or the microclimate. A standard condition regarding dust suppression during construction is recommended.

**Waste:** Waste generated by the development (during construction and ongoing use) will be managed in accordance with Council's normal procedures. Standard waste management conditions during construction are recommended.

**Natural Hazards:** The subject land is not bushfire prone. The land is known to be flood prone. The proposed development will involve land filling to ensure the building is above the flood level. To compensate for this, a flood storage basin is proposed to be provided. The impact of the proposed development on flood behaviour is a slight reduction in flood impact on adjoining properties and a minor increase in flood impact on the subject lot.

**Noise and Vibration:** The proposal is considered acceptable as the development is not likely to cause significant noise impacts and is unlikely to be significantly affected by noise from surrounding developments.

**Other Land Resources:** The proposal will have no impacts on any land resources on or in the vicinity of the site.

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

The surrounding land uses are for a mix of commercial and industrial pursuits with the size and nature of the development consistent with those in the surrounding area. The development will have minimal impact to the surrounding amenity. The proposed development complies with the objectives of the zone and the site is considered to be suitable for the proposal.

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

#### **Water NSW**

The subject land is in the Sydney Drinking Water Catchment. The development application was referred to Water NSW who have provided concurrence to the issuing of development consent subject to conditions. Conditions recommended by Water NSW have been included in Schedule 1.

#### **Transport for NSW**

The subject land adjoins a classified road (Mort Street) and works in Mort Street are proposed to improve access arrangements. The application was referred to Transport for NSW for comment. Conditions recommended by TfNSW have been included in Schedule 1.

#### **Subsidence Advisory NSW**

The subject land is in a coal mine subsidence district and the proposed development is Integrated Development as approval is required from Subsidence Advisory NSW. The development application was referred to Subsidence Advisory NSW who have provided General Terms of Approval. The GTA's have been included in Schedule 1.

#### **Council's Building Officer**

Council's Building Officer has reviewed the proposal and recommended conditions of consent. The conditions have been included in Schedule A.

#### **Council's Engineering Officer**

Council's Engineering Officer has reviewed the proposal and recommended conditions of consent. The conditions have been included in Schedule A.

#### **Council's Water and Wastewater Officer**

Council's Water and Wastewater Officer has reviewed the proposal and recommended conditions of consent. The conditions have been included in Schedule A.

#### **Council's Plumbing Officer**

Council's Plumbing Officer has reviewed the proposal and recommended conditions of consent. The conditions have been included in Schedule A.

#### **PUBLIC SUBMISSIONS**

No public submissions were received.

#### 5.3.9 The public interest

The public interest is best served by the orderly and economic use of land for permissible uses and that does not impact unreasonably on the use and development of surrounding land.

The proposal facilitates improved Council services to the Lithgow community in a manner that has minimal environmental or amenity impacts and is therefore considered to be in the public interest.

## **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 DA 084/22 is approved subject to conditions set out in Schedule A.

Report prepared by: Mark Hitchenson      Supervisor: Jim Sheehan

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 the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants 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 (Subsidence Advisory NSW)

**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.

Plan No. and Title	Prepared/Drawn by	Rev	Date
A001 Site Plan	Structor Projects Pty Ltd	F	17/01/23
A100 Part-Site and Floor Plans	Structor Projects Pty Ltd	F	17/01/23
A200 Elevations and Section	Structor Projects Pty Ltd	B	24/08/22
37261 H01 External Water and Sewer Servicing Plan	Barnson Pty Ltd	0	11/10/21
37261 H02 Internal Water and Sewer Servicing Plan	Barnson Pty Ltd	0	11/10/21
37261 H03 Typical Details and Notes Water and Sewer Services Design	Barnson Pty Ltd	0	11/10/21
37261 S00 Title Page	Barnson Pty Ltd	0	11/10/21
37261 S01 Slab and Footing Plan and Details	Barnson Pty Ltd	0	08/10/21
37261 S02 Pavement Plan and Details	Barnson Pty Ltd	0	08/10/21
37261 C01 Stormwater Management Plan	Barnson Pty Ltd	1	05/07/22
37261 C02 Stormwater Details General Notes	Barnson Pty Ltd	0	11/10/21
37261 C11 Existing Site Plan	Barnson Pty Ltd	B	05/07/22
37261 C12 Proposed Site Plan	Barnson Pty Ltd	D	27/09/22
37261 C13 Proposed Basin Plan	Barnson Pty Ltd	C	13/09/22
37261 C14 Proposed Basin Sections and Stormwater Specifications	Barnson Pty Ltd	B	05/07/22
37261 C15 Bulk Earthworks Specifications	Barnson Pty Ltd	B	05/07/22
37261-CD01 Erosion and Sediment Control Plan	Barnson Pty Ltd	0	11/10/21

37261-CD02 Construction Details	ESCP	Barnson Pty Ltd	0	11/10/21
Stormwater Drainage Design Certificate		Barnson Pty Ltd		27/10/22
Landscaping Plan		Unnamed		Undated
A1.01 Floor Plan		Central Steel Build	2	08/09/21
A1.02 Roof Sheeting Plan		Central Steel Build	2	08/09/21
A2.01 Elevations		Central Steel Build	2	08/09/21
A3.01 Section and Details		Central Steel Build	2	08/09/21
S0.01 General Notes		Central Steel Build	2	08/09/21
S1.01 Footing Plan		Central Steel Build	2	08/09/21
S1.02 Structural Roof Plan		Central Steel Build	2	08/09/21
S2.01 Structural Elevations		Central Steel Build	2	08/09/21
S3.01 Typical Details		Central Steel Build	2	08/09/21
CF002 Street Hydrant Coverage Drawing		Decisive Fire Design	1	12/10/22
EF001 Fire Hose Reel Drawing		Decisive Fire Design	1	12/10/22
Fire System Design Statement		Decisive Fire Design	1	12/10/22
Statement of Environmental Effects		Structor Projects Pty Ltd	3	14/04/22
Waste Management Plan		Structor Projects Pty Ltd		Undated
Environmental Management Plan		Structor Projects Pty Ltd	A	26/10/21
Addendum to Remediation Options Assessment		Environmental Earth Sciences	2	31/07/19
In-Situ Soil Assessment for Construction of Onsite Storage Detention Basin		Environmental Earth Sciences	2	11/01/23
Flood Impact and Water Quality Assessment		Lyall and Associates		23/03/22
Traffic Impact Assessment Report		Barnson Pty Ltd	0	11/07/22
Lithgow Store – Access from Mort Street, Lithgow		Unnamed		Undated
General Architectural Specification		Unnamed		07/10/21
Structural Certificate		Laker Group		08/09/22

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

## **CONCURRENCE CONDITIONS – WATER NSW**

### **3. General**

The site layout and works shall be as specified in the Statement of Environmental Effects (Revision 2.0, dated 26/10/2021) prepared by Structor Projects Pty Ltd and shown on the Proposed Site Plan (Drawing Number: 37261-C12, Revision C, dated 08-07-2022) prepared by Barnson Pty Ltd. No revised site layout, staging or external works that will have any impact on water quality, shall be permitted without the agreement of Water NSW.

### **4. Stormwater Management**

All stormwater treatment and management measures shall be implemented as specified in the MUSIC Model Report (Project No. 37261, Report Ref: 37261 ER01\_A, Revision A, dated 23/06/2022) and shown on the Proposed Basin Plan and Section & Stormwater Ref: 22079-a1 Specifications (Drawing Number: 37261-C13, Revision C, dated 13-09-2022 & Drawing Number: 37261-C14, Revision C, dated 05-07-2022) both prepared by Barnson Pty Ltd.

Stormwater management measures shall include:

- pits and pipes
- inlet filters (Stormsacks or Water NSW endorsed equivalent), and
- detention basin.

5. The driveway and truck hardstand areas shall be sealed and shall drain to stormwater pits fitted with inlet filters (Stormsacks or Water NSW endorsed equivalent) and directed to Council's stormwater infrastructure on the site.

6. No truckwash water or other industrial wash-down water shall be discharged to the stormwater system without pre-treatment through an oil-water separator.

7. No variation to stormwater treatment or management that will have any impact on water quality shall be permitted without prior agreement of Water NSW.

8. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Principal Certifying Authority (PCA) prior to the issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

### **9. Operational Environmental Management Plan**

An Operational Environmental Management Plan shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans prior to the issuance of an Occupation Certificate. The Plan shall:

- include details on the location, description, and nature of stormwater management structures such as pits, pipes, inlet filters, and detention basin.
- outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
- identify the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
- include checklists for recording inspections and maintenance activities.

10. All stormwater treatment devices shall be monitored, maintained, and managed as per the Operational Environmental Management Plan.
11. **Construction Activities**  
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 required as part of the development. The Plan shall:
- be based on the Erosion and Sediment Control Plan and Details (Drawing Numbers: 37261-CD01 and 02, Revision 0, dated 11.10.21) prepared by Barnson Pty Ltd
  - be to the satisfaction of PCA
  - meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004), and
  - include controls that prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system.
12. The Soil and Water Management Plan shall be implemented, and no works shall commence until effective erosion and sediment controls have been installed. The controls shall be regularly inspected, maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

## **GENERAL TERMS OF APPROVAL – SUBSIDENCE ADVISORY NSW**

13. **GENERAL Plans, Standards and Guidelines**  
The development being undertaken strictly in accordance with the details set out on the application form, any information submitted with the application and the plans submitted, as amended or as modified by the conditions of this approval.
- Note: Any proposal to modify the terms or conditions of this approval, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application for consideration by Subsidence Advisory NSW. If amendments to the design result in the development not remaining substantially the same as that approved by this approval, a new application must be submitted to Subsidence Advisory NSW.
14. This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.
15. **POST CONSTRUCTION**  
Upon completion, forward works-as-executed certification to Subsidence Advisory NSW confirming that construction was in accordance with the plans approved by Subsidence Advisory NSW.

## **TRANSPORT FOR NSW CONDITIONS**

16. **Driveway Crossing**
- a. The widened driveway crossing will impact upon an existing kerb inlet pit and stormwater drainage regime fronting Mort Street.
  - b. TfNSW concurrence is required in accordance with Section 138 of the Roads Act 1993 for the driveway and associated treatment on Mort Street. As such, the works are to be designed in accordance with the current version of Austroads Guide to Road Design and

relevant Australian Standards (with Transport for NSW supplements) to the satisfaction of both TfNSW and Council. TfNSW concurrence must be obtained prior to the issue of a Construction Certificate.

- c. The length of the BAR (and associated regulatory signage) needs to be increased to comply with Austroads Guide to Road Design Part 4A, with consideration given to the necessary design vehicle and swept turning path.
- d. Lane lines and right turn arrows are unnecessary for a BAR turn treatment.
- e. Adequate distance prior to and after the access point needs to be provided for the widened area, as per Austroads.

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### ***Section 94***

17. ~~Prior to the issue of a Construction Certificate the applicant shall pay to Council a Section 94A contribution of \$0.00, in accordance with the Lithgow City Council Section 94A Development Contribution Plan 2015.~~

### ***Erosion & Sedimentation Control***

18. An Erosion and Sediment Control Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works required as part of the development (of each stage for staged development).

The Plan shall:

- meet the requirements outlined in Chapter 2 of the NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual
- be prepared prior to issuance of a Construction Certificate and be to the satisfaction of Council, and
- include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage system or stormwater drain.

### ***Access***

19. Prior to issue of any Construction Certificate, plans demonstrating that vehicular access, circulation, manoeuvring and parking areas associated with the subject development are in accordance with AS2890.1, AS2890.2 and AS2890.6 must be prepared to the satisfaction of Council.

Note: the size of the driveway crossing on Mort St needs to be checked to ensure that the largest designed vehicle can access the subject site.

## **PRIOR TO THE COMMENCEMENT OF WORKS**

20. Prior to commencing any construction works, the following requirements of the Environmental Planning and Assessment Act 1979 are to be complied with:
  - a. A principal certifier is appointed in accordance with section 6.6(1) of the Act, and
  - b. If the principal certifier is not Council, Council has been notified of the appointment of the principal certifier no later than 2 days before building work commences in accordance with section 6.6(2) of the Act, and
  - c. A construction certificate has been issued for the building works in accordance with section 6.7 of the Act, and
  - d. Council has been given at least 2 days' notice of the intention to commence building works in accordance with section 6.6(2)(e) of the Act.

21. To contain soil and sediment on the property, controls are to be implemented prior to clearing of the site vegetation and the commencement of site works. This will include:
- a. The installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.
  - b. To prevent the movement of soil off site, a single entry/exit point to the property shall be constructed of 40mm blue metal aggregate or recycled concrete to a depth of 150mm. The length must be at least 5 metres with the width at least 3 metres.
- Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving, revegetation.

22. Prior to commencement of any building works, a suitable lidded waste container for the deposit of all building rubbish and litter must be provided onsite. The waste container must be emptied at a licensed waste disposal facility when full. All building rubbish and litter must be contained on the building site and the site left clear of waste and debris upon completion of works.

23. 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.

24. Prior to commencement of any building works, toilet facilities must be provided for construction personnel on the site on the basis of 1 toilet for every 20 workers. Amenities are to be installed and operated in an environmentally responsible and sanitary manner. Toilets cannot remain on site for any longer than 12 months, without the further approval of Council.

25. **Contract Works Insurance**

The Applicant is to ensure that Contract Works Insurance is kept current for the duration of the development, and must also ensure that all Contractors and Subcontractors working within Council road reserves possess and maintain adequate Public Liability Insurance (\$20 million), with copies to be provided to Council prior to commencement of any works. Any potential claims that result from negligent actions performed by Contractors / Subcontractors engaged by the Applicant within Council road reserves will be borne by the Applicant and not Lithgow City Council.

26. **Traffic Control**

Prior to the commencement of works, details of the proposed installation of any prescribed traffic control devices and traffic control facilities are required to be prepared and referred to and endorsed by Council's Traffic Authority Local Committee (TALC), with a recommendation to Council for action. Approval can only be granted upon Council resolution.

27. **Plumbing and Drainage Requirements**

Prior to commencement of any plumbing and/or drainage work, a Notice of Works is to be submitted to Council from the licensed plumbing contractor in accordance with the Plumbing and Drainage Act 2011.

28. **Water and Sewer Requirements**

Prior to commencement of any building works, the applicant will need to provide a water and sewer connection application to Council for any new connections to serve the development. Any connection for fire services, potable water or sewerage will need to be noted on the application with sizing proven from the applicant's hydraulic assessment.

29. **Soil assessment**

Prior to commencement of construction works, additional in situ chemical characterisation of soil within the proposed works footprint (including internal access road) is to be undertaken, targeting areas of deeper soil disturbance. This would aim to quantify the risk to construction workers and provide provisional waste classification for any soils which are opted to be managed offsite as waste (if required). A report of this assessment is to be prepared to Council's satisfaction.

30. **Soil vapour investigation**

Prior to commencement of construction works a limited soil vapour survey shall be undertaken to assess the presence / absence of benzene and TPH concentrations beneath the proposed building footprint. This is to prevent future utility trenches acting as a preferential pathway for vapour migration, should they exist, which could ultimately infiltrate the proposed building and collect in enclosed spaces. A report of this assessment is to be prepared to Council's satisfaction.

31. **Groundwater assessment**

Prior to the commencement of construction works, groundwater monitoring shall be undertaken. The data collected from the well will provide confirmation of groundwater contaminant concentrations below the proposed building, which can be used to update the previous CSM [Conceptual Site Model]. A report of this assessment is to be prepared to Council's satisfaction.

32. **Management of gasworks contamination**

Material located as FILL-1 / Area A outlined in Figure 3 of the In-Situ Soil Assessment for Construction of Onsite Storage Detention Basin by Environmental Earth Sciences dated 11/01/2023 is considered to be unsuitable to remain onsite. The following two options are to be utilised to best manage this material:

Option 1 -The material as it stands can be disposed of offsite at a licensed facility as GSW (385 m3); or

Option 2 - If the offsite removal of material in Area A is considered too costly the following methodology is to apply

- Additional delineation of the Area A around TP06 and TP07 to refine the volume estimate.
- Excavate the material for onsite remediation treatment.
- Excavate the material for offsite remediation treatment.

The above removal or remediation must be completed prior to construction works commencing. A report validating the removal or remediation of this area is to be prepared to Council's satisfaction.

33. **Construction environmental management plan (CEMP)**

Prior to the commencement of works a construction environmental management plan shall be prepared to document environmental management procedures which will mitigate potential

harm to the environment during pavement demolition and construction phases of the project. The CEMP is to also address:

- Mitigating erosion and sedimentation of external roads, drains and waterways.
- Odour controls to reduce the exposure of onsite workers and neighbour while tar/ hydrocarbon impacted material is being excavated.
- Onsite / offsite management of soil, and management of general construction waste.
- Establish monitoring of environmental controls to ensure their effectiveness.
- Environmental requirements for soil/contaminated land, offsite disposal of soil, offsite material tracking, air quality, dust management, stormwater, erosion and sediment controls (ESC), noise, waste management and traffic/access management.
- Document procedure for handling of environmental incidents, emergency contact and response procedure.
- Management of any unexpected findings of contamination and/or hazardous materials (HAZMAT) (including asbestos).

34. **Unexpected findings protocol**

To address the potential for unexpected subsurface finds the CEMP should also consider:

- Management of soil including environmental controls for mitigation of erosion, sedimentation, dust generation.
- Excavation management.
- Onsite / off-site soil material tracking.
- Soil/ spoil stockpile management.
- Procedures for soil disposal and waste classification in accordance with the Waste Guidelines (if required).
- Unexpected finds protocol (UFP) procedure for managing instances where gross contamination and/or hazardous materials are encountered, with appropriate consideration of WH&S controls for mitigating risk to construction workers.

35. **General offsite soil management**

The following general information in-line with the POEO Act should be considered if offsite management is opted:

- Only material classified as VENM and/or ENM can be beneficially re-used at an offsite location.
- Where disposal of VENM is required landfill, it has achieved the pre-classification of General Solid Waste (non-putrescible) and must be transported to a facility that is licensed to accept the class of waste.
- Approval to accept the material must be provided by the receiving facility prior to being removed from the generating site. Material must be weighed prior to dispatch or upon receipt at the receiving facility (as standard).
- This waste classification advice letter and any waste tracking documentation (including weighbridge dockets) must be kept by the generator and receiver of this waste for a minimum period of 4 years.

## **DURING CONSTRUCTION**

36. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times.

37. 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
38. Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – “Soils and Construction” (2004) (Bluebook).
39. A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin, and must be kept in place until after the completion of works, if the works—  
a. could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or  
b. could cause damage to adjoining lands by falling objects, or  
c. involve the enclosure of a public place or part of a public place.
40. Fill imported to the site must be certified as uncontaminated by a Geotechnical Engineer and suitable for the design compaction requirements.
41. The following survey reports (prepared by a practising registered Surveyor) are to be submitted to the Principal Certifying Authority to accurately demonstrate compliance with approved Construction Certificate drawings and to demonstrate that the building (with the exception of the proposed deck) has been erected clear of any easement affecting the land:  
a) A Set-out survey showing the location of slab formwork/footings is to be submitted (prior to pouring of concrete);  
b) An Identification Survey (upon completion of external walls / eaves construction and prior to any Completion inspection being carried out).
42. **Plumbing and Drainage Requirements**  
All plumbing and drainage work must be carried out by a licensed plumber and drainer in accordance with the requirements of Australian Standard 3500 1 &2 and Comply with the Plumbing Code of Australia (PCA).
43. That all plumbing and drainage work be carried out by a licensed plumber and drainer and inspected by Council officers.  
Forty - eight (48) hours’ notice shall be given to Council for inspection of the following:  
  - Internal and external drainage lines prior to prior to backfilling.
  - The licensed plumber/drainer shall be on site at the time of the inspection, and the drainage lines shall be charged and under test.
  - Hot and cold water installations under test bucket pressure of 1500Kpa
  - On completion of all plumbing drainage and sanitary fixture installations.
44. Plumber to determine correct point of connection into Council’s sewer and sewer heights.
45. Thermostatic mixing vales shall be installed and comply to AS3500.
46. **Stormwater Requirements**  
The stormwater drainage system shall be provided generally in accordance with the concept plans lodged for development approval, prepared by Barnson Pty Ltd, drawing number: 37261 C01 – C02, revision O, dated 11.10.2021.

The section of stormwater drainage pipe from proposed stormwater pit (P7) to the existing pit in Gas Works Ln shall be a minimum Class 4 RCP or equivalent.

47. **Flood Storage Basin**

The flood storage basin shall be provided generally in accordance with the concept plans lodged for development approval, prepared by Barnson Pty Ltd, drawing number: 37261 C12 – C16, revision D, dated 27.09.2022.

48. **Access Requirements**

Any driveway construction works (new or replacement of existing driveway access) needs to comply with Council's Policy 10.18 – Specification for the Construction of Driveways, Footpath / Gutter Crossing and Footpaving (available on Council's website). The application fee for the inspection is required to be paid prior to inspection being undertaken. Notification of at least 48 hours is required to arrange inspections (no inspection undertaken on Fridays). Further information can be obtained regarding Driveway approvals by contacting Council's Infrastructure Services Department on (02) 6354 9904 during business hours.

Any redundant driveway crossing within site frontage shall be removed. Kerb reinstatement is required.

Any works that will have an impact on pedestrian or vehicle use of footpath / roads will require a Temporary Road / Footpath Closing Application to be submitted, with the submission of appropriate documents and fees paid. Approvals need to be submitted for assessment at least 4 weeks prior to proposed works for adequate referral and assessment. Further information can be obtained regarding Temporary Road / Footpath Closing Applications by contacting Council's Infrastructure Services Department on (02) 6354 9904 during business hours.

A minimum one (1) metre clearance shall be provided between proposed driveway crossings and any street tree/existing services. All existing services conflicting with the proposed driveway are to be relocated in accordance with the relevant Authority's regulations and standards.

49. **Traffic Control Plan**

A fully certified traffic control plan will be required where machinery may obstruct traffic on public roads whilst construction work is being undertaken. Failure to comply may result in SafeWork intervention and may also include Stop Work orders from Council until such time the Applicant complies with suitable traffic management procedures.

## **REQUIREMENTS PRIOR TO USE**

50. Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifier (PC). In this regard an application must be lodged with the PC in conjunction with any request to carry out a final inspection.

51. Prior to issue of any Occupation Certificate, the performance of fire safety measures listed in the current Fire Safety Schedule must be assessed and verified by the issue of a fire safety certificate that is prepared by suitably accredited practitioner (Fire Safety), engaged by the owner.

Such fire safety certificate is to be issued to the Principal Certifier in accordance with Clause 86 of the Environmental Planning & Assessment (Development Certificate and Fire Safety) Regulation 2021 (the Regulation).

Unless nominated otherwise by the current Fire Safety Schedule, at least once in every twelve (12) month period following the issue of the relevant Occupation Certificate, an Annual Fire Safety Statement must be issued to Council and to Fire & Rescue NSW (Locked Mail Bag 12, GREENACRE NSW 2190). A copy of such Fire Safety Schedule together with the current Annual Fire Safety Statement must be prominently displayed and maintained within the subject building. The Annual Fire Safety Statement issued by or on behalf of the owner of the building must state that:

- a. Each essential fire safety measure specified in the statement has been assessed by an accredited practitioner (fire safety) as capable of performing:
  - i. For an essential fire safety measure specified in the fire safety schedule – to a standard no less than that specified in the schedule, or
  - ii. For an original measure within the meaning of section 81 – to a standard no less than that specified in the schedule, and
- b. The building has been inspected by an accredited practitioner (fire safety) and was found, when it was inspected, to be in a condition that did not disclose grounds for a prosecution under s10.13(1)(d) of the Environmental Planning & Assessment Act 1979 and Part 15 of the Regulation.

52. **Plumbing and Drainage Requirements**

Prior to issuing the Certificate of Compliance for all sanitary plumbing and drainage, the plumbing and drainage works are to be inspected and approved by Council as the delegated regulatory authority for plumbing and drainage work within the Lithgow City Council area.

53. Prior to the issue of an Occupation Certificate the applicant shall furnish Council with a Certificate of Compliance and approved drainage diagram (SSD) for all sanitary plumbing and drainage installations.

54. **Water and Sewer Requirements**

Prior to the issue of an Occupation Certificate, the locations of water and sewer services should be noted and completed on Works as Executed drawings.

55. **Easements and Right of Carriageway**

Prior to the issue of an occupation certificate, an easement to drain water and a right of carriageway shall be provided over Lot 21 DP 773810.

## **ADVISORY NOTES**

AN1. That the building is to be protected from the attack of subterranean termites by employing construction methods conforming with Australian Standard 3660.1. A durable notice must be permanently fixed to the building in a prominent location (such as the meter box) indicating:

- (i) the method of protection and
- (ii) the date of installation of the system and
- (iii) the installer's or manufacturers recommendations for the scope and frequency of future inspections for termite activity.

AN2. 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) Trenches complete with reinforcing and prior to filling with concrete.

- c) Reinforcing steel in position and before concrete is poured (footings, lintels, beams, columns, floors, walls and the like).
- d) Slab base if no piers required and prior to placement of the membrane.
- e) Floor frame, dampcourse, antcapping, foundation walls before floor material is laid.
- f) Framing when external wall and roof cladding is in place and prior to internal linings.
- g) Wet area flashing prior to tiling or covering.
- h) Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
- i) 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.

AN3. That all "wet area" floors, including concrete, shall be flashed to walls with approved material so as to effectively prevent moisture entering the structure. Particular attention is to be paid to the flashing of the shower recess. Any wet area flashing shall comply with AS 3740 "Waterproofing of Wet Areas within Residential Buildings".

### **Transport for NSW Advice**

AN4. Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.

AN5. Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.