

DEVELOPMENT ASSESSMENT REPORT – DA105/19 TWO STOREY CLAD DWELLING AND DEMOLITION OF EXISTING SHED REAR OF 37 INCH STREET LITHGOW

1. PROPOSAL

Council is in receipt of a Development Application DA105/19 for a small two storey dwelling on land identified as Lot 1 DP 1063404 and Lot 1 DP 176505. The land comprises two separate Torrens title lots currently associated with 37 Inch Street Lithgow although the site of the proposed development has frontage only to Inch Lane.

The development is for the construction of a two-storey dwelling over a land area of 202.57m² (the aggregation of Lot 1 DP 1063404 and Lot 1 DP 176505). Currently on the site is a dilapidated shed that is proposed to be demolished. The floor area of the dwelling is approximately 93.91m².

The proposed dwelling contains 3 bedrooms and will be constructed of weatherboard cladding with a metal roof. It will be setback 3.56m from the northern side boundary, 3m from the boundary to Inch Lane, 1.9m from the southern side boundary and 1.5m from the rear boundary.

The two allotments will be consolidated as part of the development application.

The property is relatively flat land as shown in Image 1 below.



Image 1 – Site of proposed development including shed to be demolished

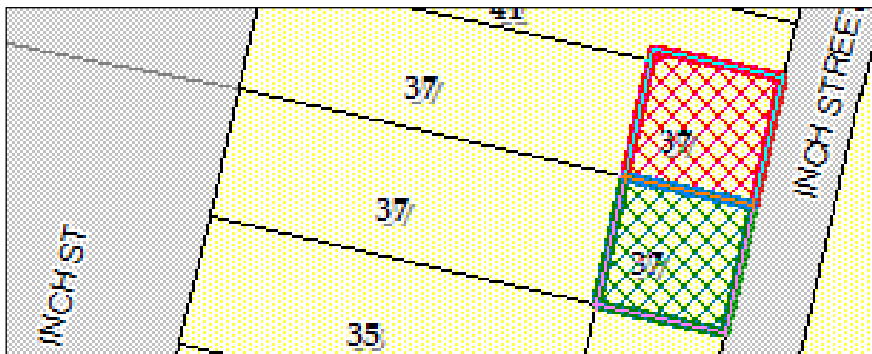
2. SUMMARY

To assess and recommend determination of DA105/19 with recommendation for approval subject to conditions.

3. LOCATION OF THE PROPOSAL

Legal Description: Lot 1 DP 1063404 and Lot 1 DP 176505
Property Address: 37 Inch Street LITHGOW NSW 2790

The land subject to the development is identified on the map below.



4. ZONING:

The land is zoned R1 General Residential under the *Lithgow Local Environmental Plan (LEP) 2014*.

5. PERMISSIBILITY:

The proposal is for a dwelling house (defined below) which is permitted with consent on land zoned R1 General Residential.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling house means a building containing only one dwelling.

Note. Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Policy 3.1 Water Service and Meter Installation

This policy specifies Council's minimum acceptable standards for water service connections and the installation of water meters. As discussed above, the proposed development is supported subject to the provision of a water main extension and water meter for the site at its Inch Lane frontage. The development application is recommended for approval subject to conditions of consent that will ensure compliance with the requirements of this policy.

Policy 3.5 Sewer Connection

This policy specifies Council's standards for connection to its gravity sewer reticulation system. As discussed above, the proposed development is supported subject to the provision of suitable sewer connection. The development application is recommended for approval subject to conditions of consent that will ensure compliance with the requirements of this policy.

Policy 3.6 Fire Service Installation

This policy specifies Council's standards for fire services. The assessment of the proposed development has identified the potential requirement for additional fire hydrants to service the site in accordance with the NSW Fire and Rescue Guidelines. The development application is recommended for approval subject to conditions of consent that will ensure compliance with the requirements of this policy.

Policy 7.1 Filling and Levelling of Land

This Policy states:

Unless otherwise provided by an Environmental Planning Instrument or Development Control Plan, a development application be 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.

A development Application was submitted to Council for the proposed earthworks although the earthworks do not exceed 900mm.

This is adequate for the development with sediment and erosion control measures to be in place during construction.

Policy 7.5 Notification Of Development Applications

Council Policy 7.5 is applicable to all land within the Lithgow Local Government Area (LGA). The development is not defined as being exempt from requiring notification and therefore the following clause applies:

3.2 NOTIFICATION PERIOD

The minimum notification period is in accordance with this Policy is 14 days. The notification period commences on the date shown on the notification letter. Submissions will be received at any time within the notification period up to and including the last day as detailed in the notice given.

The development was notified to surrounding landowners for a period of 14 days as per the above policy. No submissions were received in response to the notification.

Policy 7.7 Calling In Of Development Applications by Councillors

This application was "called in" under this policy by notice received on 16 September 2019. As a result, the application will be reported to an Ordinary Meeting of Council for determination.

5.2 FINANCIAL IMPLICATIONS (eg Section 94)

Section 94A (Section 7.12) Development Contributions Plan 2015

Council's Section 94A (Section 7.12) Development Contributions Plan 2015 **does not** apply to this development given it is for a dwelling at an estimated cost of \$98,500, using the below levies:

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

5.3 LEGAL IMPLICATIONS

Local Government Act 1993

If this application is approved, the applicant must obtain approval under Section 68 of this Act for the required connections to Council's water and sewerage infrastructure. This approval is to be obtained prior to commencement of any work on site and shall be at full cost to the applicant.

The Section 68 application requires the submission of all detailed engineering drawings/design, specifications and any applicable supporting information for the proposed works. All conditions of the Section 68 Approval must be complied with prior to the release of the Occupation Certificate.

Coal Mine Subsidence Compensation Act 2017

The site is subject to the integrated development provisions under section 4.48 of the EP&A Act 1979 and requires the necessary consideration and approval under section 22 of the *Coal Mine Subsidence Compensation Act 2017*.

The proposed development has been assessed by Council's Building Surveyor and it has been determined the proposal complies with Subsidence Advisory NSW's requirements under Guideline 2. In this regard, based on proposal's compliance with the SA NSW Guideline 2 requirements, no further approval under this Act is required.

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
Land Use table	R1 General Residential	Yes
5.10	Heritage conservation	Yes
7.3	Stormwater management	Yes
7.10	Essential services	Yes

The land is within the R1 General Residential zone under the *Lithgow Local Environmental Plan 2014* (LEP). The objectives of the R1 zone are:

1 Objectives of zone

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain or improve the water quality of receiving water catchments.*

The proposed use, being a dwelling house, is permissible with consent in the R1 zone and is generally consistent with the zone objectives.

The land is within the Inch Street Heritage Conservation Area as specified in Schedule 5 of the LEP and the provisions of clause 5.10 are applicable. The proposal has been designed to be sympathetic to and compatible with the heritage characteristics of the conservation area. Heritage considerations are discussed in further detail below.

The development is a dwelling on a residential allotment. Services and facilities exist in the area as the surrounding land uses are for residential purposes. The proposal will require the extension of infrastructure to service the site (see further detail below). Water quality is not expected to be impacted upon by the development as a Norbe Assessment (see below) was undertaken and shows that the development would have a neutral or beneficial effect on water quality.

Drainage is proposed to be connected to Council’s on street drainage system via a new proposed internal connection on the property. This is adequate for the development.

State Environmental Planning Policy No. 55 – Remediation of Land

The site has a long history of residential and ancillary uses. There is no expectation that the land is contaminated or potentially contaminated and is generally considered suitable for ongoing residential use.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004	
Clause	Compliance
6 Buildings to which Policy applies	Yes
7 Relationship with other environmental planning instruments	Yes
8 Other environmental planning instruments do not apply to BASIX commitments	Yes

Comment: A BASIX Certificate (No. 1024639S, dated 23 June 2019) has been submitted with the Development Application which demonstrates that the development will comply with water, thermal comfort and energy targets. The development therefore complies with the requirements of SEPP (BASIX) 2004.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

Clause 10 of this SEPP requires that consent must not be granted to development within the Sydney Drinking Water Catchment unless a neutral or beneficial effect on water quality will be achieved.

The proposal has been assessed using the Water NSW NorBE tool with a satisfactory result as indicated below.

NorBE Assessment Assessment Summary

General Information

Consultancy	-
Consultant	-
Consultant reference number	-
DA number	DA105/19
Assessing officer	lachlan.sims@lithgow.nsw.gov.au
Council	Lithgow City
Development class	New dwelling/dual occ sewer
Date of assessment	9/27/2019 10:10:32 AM

Lot	Section	Plan
1		1063404
1		176505

Assessment Summary

NorBE status	Submitted		
System outcome	Satisfied	User outcome	Satisfied
SCA concurrence outcome			
Determination outcome	Pending	Determination date	

Pre-Assessment

Located within Sydney drinking water catchment?	Yes
Is development consistent with any existing SCA S88 instruments on title?	N/A
Crown perpetual leasehold land?	No
Water quality impact ?	No
Concentration of flow of water?	No
Flow of water impeded?	No
Discharge of pollutants?	No
Any other matter?	No
Documentation is complete?	Yes
Does Water Cycle Management Study meet SCA/Council requirements?	Yes
Description	New infill dwelling with connections to urban infrastructure services

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 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 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 Landuses: The land is within an established residential area and is located at the rear of a typical urban streetscape. Adjoining uses are characterised by urban backyards, garages and sheds. Adjacent to the site on the eastern side of Inch Lane is a large undeveloped land parcel beyond which is the heritage listed site and public open space surrounding the Lithgow Blast Furnace. Generally, the proposal is consistent and compatible with the character and dominant land uses of the immediate locality. No land use conflicts are expected as a result of the proposal.

The dwelling is proposed to have a setback of 3.56m from the northern side boundary, 3m from the southern, Inch Street Lane boundary, 1.9m from the southern side boundary and 1.5m from the rear boundary.

The modest and small-scale design of the dwelling means there are no overshadowing, visual or privacy impacts to the adjoining properties expected.

Services: The land is currently unserviced. It is proposed to connect electricity and telecommunications as well as stormwater discharge via a private easement through to Inch Street for access to these services. A public sewer main runs parallel to the western boundary of the site and connection is readily available. Water servicing will require an extension of the existing public mains to service the site.

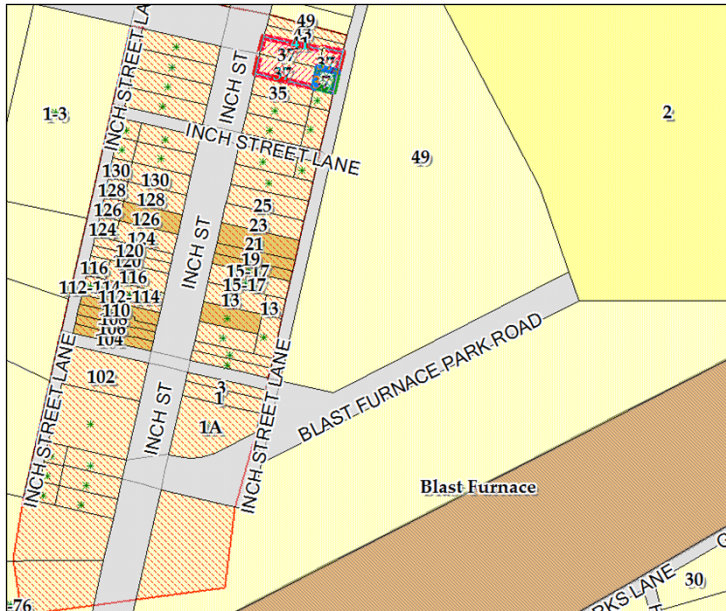
The development was referred to Council's Water and Sewer Officer for comment. These comments are found later in this report.

Context and Setting: The proposed development will be located within an established residential 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 and will not be visually prominent or dominate the built landscape.

Access: Access is proposed off Inch Lane which is considered adequate in the circumstances. Standard conditions for new vehicle access can be imposed. The subject lots were formerly associated with the adjoining lots fronting Inch Street and provided alternative vehicle access and parking for these properties. While in the same ownership, the Inch Street properties have been fenced off as separate properties and no longer provide direct access or parking for the dwellings facing Inch Street.

The development is unlikely to create traffic in the vicinity as the development is for a single dwelling.

Heritage: The land is within the Inch Street Heritage Conservation Area (HCA) and in close proximity (although not visible from) the Lithgow Blast Furnace heritage site as listed in the *Lithgow Local Environmental Plan 2014* (see map extract below). The applicant has submitted information in support of the DA indicating how the design has been undertaken in consideration of the heritage character of the locality.



The listing of the Inch Street HCA is based on the Lithgow Heritage Development Control Plan Study prepared by Paul Davies Pty Ltd in September 2010. This study identifies the following key elements of the HCA that are recommended for consideration as part of the assessment of any infill development:

- New development should follow the existing development pattern;
- Principal facades should be oriented to the street;
- Built form should comprise single storey construction; and
- Vehicle access, garages and driveways are to be at the rear and not from the street.

The above study does not envisage infill development within the rear of existing lots, however, the above principles have been considered in the assessment. The proposal is not inconsistent with the existing development pattern which does include a range of outbuildings fronting the lane in various configurations. The proposal is of a small and modest scale that will not dominate the streetscape or be visible from Inch Street where the primary character of the HCA is focused. Although having a second storey, the proposed dwelling integrates a high pitched roof with the upper level integrated within the roof structure resulting in a lessened visual impact through reduced bulk and scale. It is noted also that the HCA does include several older two storey structures. As noted above, the semi-detached dwellings fronting Inch Street do not enjoy vehicular access or garages off Inch Street and for some time have not had direct access of Inch Lane. Due to the established built form on the site, no additional opportunities or demands for vehicle access, driveways or garages off the street will result from the proposal.

From a heritage impact perspective, the proposal is considered to adequately address the heritage character of the locality and will not negatively impact on this character.

Flora and Fauna: The site is clear of significant vegetation and no clearing is required. The development will have no direct impacts 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 to have minimal social and economic impact.

Soils: The proposed development will have no significant impact on soils and the existing soil conditions are suitable for the proposal. 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 using the NorBE tool as required by the *State Environmental Planning Policy (Sydney Catchment Drinking Water) 2011* with a result of satisfied (see above). Therefore, with appropriate conditions of consent it is considered that the development will have minimal impact on water quality.

Air and Microclimate: There will be no significant impact on air or microclimate as a result of the proposal.

Waste: Waste generated during construction will be subject to consent conditions requiring appropriate containment and disposal. Following the issue of an Occupation Certificate, the site will be eligible for access to Council's domestic waste collection service.

Natural Hazards: The land is not bushfire prone land or flood prone. No other natural, nor industrial and technological hazards have been identified.

Noise and Vibration: There are no nearby sources of noise or vibration that would impact detrimentally on residents of the proposed dwelling. The proposal is not expected to cause any noise issues in the surrounding area, given it is for residential use.

Other Land Resources: The development will not impact on the value of the land in terms of agricultural potential or mining as it is zoned for residential use and adjacent to an established residential area.

5.3.7 The Suitability of the site for the development

The site is considered generally suitable for the proposed development which has been appropriately designed having regard for the opportunities and constraints of the site. The land is the result of an unusual cadastral history which resulted in the creation of separate Torrens title allotments without servicing or direct street access. As urban infill development, the proposal is considered appropriate and will contribute to housing diversity in the Lithgow area.

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

The proposal was referred to Council's building surveyor, development engineer and water and wastewater engineer for comment. The matter was discussed with the development engineer and no objection was raised. It is recommended that the private easement for services be 1.5m wide and that standard conditions for access to a public road (Inch Lane) be included in any development consent issued.

Council's building surveyor noted that in the original design drawings for the development, the ceiling height within the bedrooms and bathroom at first floor level do not comply with Part 3.8.2 of the Building Code of Australia. Whilst not specifically required to be addressed as part of the Development Application, revised architectural drawings were requested from the applicant to demonstrate that ceiling heights at first floor level will comply with Part 3.8.2 of the Building Code of Australia. These revised drawings were provided on 23 July 2019.

The building surveyor provided the following comments and recommendations which will be included in recommended conditions of consent.

Points to Consider

- *It is noted that the proposed dwelling is located over two Torrens Title allotments. It is recommended that the allotments be consolidated into one Torrens Title Allotment prior to the issue of an Occupation Certificate.*
- *The site is within a Guideline 2 Mine Subsidence Area. The proposal is considered to generally satisfy the Guideline 2 requirements and therefore does not require separate approval from SA NSW.*
- *It is unclear as to whether the allotments have connection to council's reticulated water and sewer supply. The application should be referred to Water and Wastewater for comment in this regard. It is requested that upon receipt of the advice from Water and Wastewater, it be referred to the undersigned for review of the sanitary drainage to ensure gravity fall to the sewer junction can be achieved.*

Subject to item a (above) being addressed, no objections are raised to the proposal subject to the following conditions being imposed on the development consent:

General Requirements

1. The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.

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

3. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

- a) *in the case of work to be done by a Licensee under that Act:
 - i) has been informed in writing of the licensee's name and contractor Licence Number, and*

- ii) it is satisfied that the Licensee has complied with the requirements of Part 6 of that Act, or*
- b) in the case of work to be done by any other person:*
- i) has been informed in writing of the persons name and Owner-Builder Permit Number, or*
- ii) has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in work is less than the amount prescribed for the purposes of the definition of Owner-Builder Work in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.*

4. A separate development application shall be submitted and approved for any retaining walls that exceed 600mm in height.

5. That rainwater drains are connected to the lane gutter to the satisfaction of Council.

Requirements Prior to Commencement of Work

6. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 are to be complied with:

- a) a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act, and*
- b) a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and Form 7 of the Regulations, and*
- c) Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.*

7. 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:

- 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.*
- 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.*

8. 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.

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

- 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.
- Stating that unauthorised entry to the work site is prohibited and
- 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.

10. Before work starts, 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.

Requirements During Construction

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

12. The new works shall be constructed in accordance with, and comply with the undertakings given on BASIX Certificate Number 1024639S as obtained on 23 June 2019 from the Department of Planning.

Appropriate certification is to be submitted to Council prior to issue of the occupation certificate indicating that all BASIX requirements have been undertaken.

13. 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

14. Measures shall be implemented to minimize wind erosion and dust nuisance in accordance with the requirements of the manual – "Soils and Construction" (2004) (Bluebook).

15. The following survey reports (prepared by a Registered Surveyor) are to be submitted to the Principal Certifying Authority to accurately demonstrate compliance with approved drawings:

- A Set-out survey showing the location of slab formwork is to be submitted (prior to pouring of concrete);

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

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

Requirements Prior to Use

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

19. The occupation certificate shall not be issued until Council as the certifying authority for water and sewer inspections has undertaken and approved the final installation of all plumbing and drainage fixtures and the Certificate of Compliance has been supplied by the licensed installer.

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:

1. the method of protection and
2. the date of installation of the system and
3. 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:

- Pier holes/pad footings before filling with concrete.
- Trenches complete with reinforcing and prior to filling with concrete.
- Internal drainage carried out by licensed plumber prior to covering
- Reinforcing steel in position and before concrete is poured (footings, lintels, beams, columns, floors, walls and the like.
- Slab base if no piers required and prior to placement of the membrane.
- Floor frame, dampcourse, antcapping, foundation walls before floor material is laid.
- Framing when external wall and roof cladding is in place and prior to internal linings.
- External drainage (including onsite waste disposal system) installed by a licensed plumber and prior to covering.
- Wet area flashing prior to tiling or covering.
- Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
- 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 truss validation details supplied by the truss manufacturer shall be provided to Council or the accredited certifier at or prior to the time of frame inspection (**alternatively, full design details are to be submitted prior to commencement of construction**).

Details shall include:

- (i) job address and builder's name;*
- (ii) design wind velocity of N2;*
- (iii) minimum ground snow load (Sg) 1.46kPa;*
- (iv) terrain category;*
- (v) truss spacing;*
- (vi) roof pitch;*
- (vii) material of roof;*
- (viii) roof batten/purlin spacing;*
- (ix) material of ceiling;*
- (x) job number*

This includes design wind speed of the site incorporating tie-down details and bracing details in accordance with AS 1684.2-2006 (Residential Timber Framed Construction). Also includes window assembly being certified to AS 1288 (Glazing) and AS 2047 (Wind Speed Pressure).

AN4. That all timber sizes, spacings and spans used in the construction of the building shall comply with the requirements of Australian Standard 1684 – 2010 "Timber Framing Code".

AN5. That stairways and balustrades comply with the following requirements:

- That the stairway and construction (including flight, landings, goings, risers, slip resistance and the like) shall comply with the requirements of Part 3.9.1 of the Building Code of Australia, Housing Provisions.*
- That the balustrades to balconies, more than one metre above the ground, are to comply with the requirements of Part 3.9.2, Building Code of Australia, Housing Provisions. The space between balusters or the width of any opening in the balustrade or the width of any opening in the balustrade is not more than 125 mm except where the space between rails or the height of the opening is not more than 125 mm. Where wire balustrades are used, certification indicating compliance with the Building Code of Australia of is required prior to inspection.*
- That the height of balustrades to stairways, must comply with the requirements of Part 3.9.2, Building Code of Australia, Housing Provisions following. The balustrade has a height of not less than 865 mm above the nosing of the stair treads and the floor of the landing, access bridge or the like; and the space between the balusters or the width of any opening in balustrades (including any openable window or panel) is not more than 125mm. Where wire balustrades are used, certification indicating compliance with the Building Code of Australia of is required prior to inspection.*

AN6. That every glazed door, glazed panel that is capable of being mistaken for a doorway or unimpeded path of travel and other glazed panel is to be glazed with safety glazing complying with the provisions of Part 3.6, Building Code of Australia, Housing Provisions.

AN7. The installation of hard wired and interconnected smoke alarm/s is required to be carried out in accordance with AS3786 and the Building Code of Australia. The licensed electrical contractor is required to submit to the Principal certifying authority a certificate certifying compliance with AS 3000 and AS 3786.

AN8. 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".

Council's Water and Wastewater Engineers provided comments and recommendations with regard to the water and sewer servicing of the land. Council's position with regard to water servicing means that connection cannot be provided via the proposed easement and an extension to existing mains will be required to service the Inch Lane frontage of the land. This aspect of the proposal was discussed at length with the applicant who raised concerns relating to the cost of the works required to extend the mains and the reasonableness of this requirement.

The Water and Wastewater Engineers have provided the following comments and are prepared to support a conditional approval.

Water and Wastewater will not permit the proposed water servicing through the private easement to service a Torrens titled lot. A water main extension would be required to service the lot as there is road frontage from Inch Lane

The attached conditions do not constitute approval under section 68 of the Local Government Act 1998 required prior to the commencement of works. The developer must obtain written Section 68 approval from Council prior to the issue of a Construction Certificate. The Section 68 application requires the submission of all detailed engineering drawings/design, specifications and any applicable supporting information for the proposed works.

If the Section 68 application is approved, Council will issue an approval with conditions that must be complied with during construction.

Water and Wastewater raised no objection to the proposal subject to the following conditions of consent:

- *The applicant is to provide a 100mm water main extension along inch lane and connect to council's reticulation system under the conditions of a S68 approval at owners cost.*
- *Install fire hydrants in accordance with the requirements of NSW Fire and Rescue Guidelines and Councils Fire Service Installation Policy 3.6.*
- *The applicant is to provide an individual metered water property service (Main to meter) to the proposed dwelling in accordance with LCC Water Service and Meter Installation Policy 3.1. at owners cost.*
- *The applicant is to provide a concept/ design water layout plan with the Section 68 application showing all detailed engineering drawings/design, specifications and any applicable supporting information for the proposed works.*
- *Prior to the issue of any Occupation Certificate all works are to be completed in compliance with the terms of a S68 approval and must be completed to the*

satisfaction of Councils Water & Wastewater Director. Council's written approval must be obtained in this regard.

The applicant was advised of the above requirements and raised concerns with the extent of works required. As a consequence of the above, the applicant has been "called in" for determination at an Ordinary Meeting of Council in accordance with Council Policy 7.7. The reason for the call in relate to the required conditions above and the "inconsistency of demands of the Water and Wastewater Directorate with Policy 3.1 Water Service and Meter Installation".

5.3.9 The public interest

There have been no issues raised by the public regarding planning issues. The proposal is generally considered to be in the public interest and can be approved subject to appropriate consent conditions.

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 105/19 is approved subject to conditions set out in Schedule A.

Report prepared by:
Lachlan Sims
Development Planner

Authorised by:
Andrew Muir
Director Economic Development &
Environment

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 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

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.
2. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
 - a) in the case of work to be done by a Licensee under that Act:
 - i) has been informed in writing of the licensee's name and contractor Licence Number, and
 - ii) it is satisfied that the Licensee has complied with the requirements of Part 6 of that Act, or
 - b) in the case of work to be done by any other person:
 - i) has been informed in writing of the person's name and Owner-Builder Permit Number, or
 - ii) has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in work is less than the amount prescribed for the purposes of the definition of Owner-Builder Work in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
3. A separate development application shall be submitted and approved for any retaining walls that exceed 600mm in height.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Section 68 Approval

4. Prior to the issue of a Construction Certificate, an application for approval under section 68 of the *Local Government Act 1993* is to be submitted to Lithgow City Council for the following works:
 - A water main extension (100mm diameter) along Inch Lane that forms a ring main and connects to Council's existing water reticulation system; and
 - The installation of fire hydrants in accordance with the requirements of NSW Fire and Rescue Guidelines and Council's Fire Service Installation Policy No. 3.6; and
 - The provision of an individual water meter to service the dwelling (from the extended water main) in accordance with Council's Water Service and Meter Installation Policy No. 3.1; and
 - The provision of a new sewer junction and connection to the existing main to service the dwelling in accordance with Council's Sewer Connections Policy No. 3.5.

The section 68 application is to be supported by sufficient concept/design water layout engineering drawings, design specifications and any applicable supporting information for the proposed works.

All water and sewer extension and connection works to service the site are to be undertaken at the applicant's expense.

DEMOLITION CONDITIONS

5. Demolition works are to be carried out in accordance with Australian Standard 2601- "Demolition of structures".

Note: Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carried on a business of such removal work in accordance with a licence under clause 318 of the Occupational Health and Safety Regulation 2001.

6. Demolition works must be executed by competent persons with due regard at all times for safe working practices and in accordance with the approved work plan, a copy of which shall be kept on site. Any modifications to the work plan, which may be necessary as the work progresses, shall be made by a competent person in accordance with Clause 2.1 AS2601. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
7. Security fencing shall be provided around the perimeter of the demolition site to prevent unauthorised entry into the demolition area and protect public and employees from injury. Warning notices displaying the words "WARNING DEMOLITION IN PROGRESS" shall be fixed to fencing to warn the public.
8. Demolition waste and materials are to be disposed of lawfully at an authorised waste disposal facility. No demolition waste or materials are to be stockpiled or burnt on the site.

PRIOR TO COMMENCEMENT OF CONSTRUCTION WORK

9. Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act, and
 - b) a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and Form 7 of the Regulations, and
 - c) Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.
10. 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.

11. 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.
12. Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:
 - 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.
 - Stating that unauthorised entry to the work site is prohibited and
 - 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.

13. Before work starts, 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.

DURING CONSTRUCTION

14. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times.
15. The new works shall be constructed in accordance with, and comply with the undertakings given on BASIX Certificate Number 1024639S as obtained on 23 June 2019 from the Department of Planning.

Appropriate certification is to be submitted to Council prior to issue of the occupation certificate indicating that all BASIX requirements have been undertaken.

16. 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
17. Measures shall be implemented to minimize wind erosion and dust nuisance in accordance with the requirements of the manual – "Soils and Construction" (2004) (Bluebook).
18. A set-out survey prepared by a registered surveyor showing the location of slab formwork (prior to the pouring of concrete) is to be submitted to the Principal Certifying Authority to accurately demonstrate compliance with approved drawings.
19. Any existing plumbing and drainage fixtures affected by the building works are modified or relocated in accordance with the requirements of the Council.

20. All plumbing and drainage work is to be carried out by a licensed plumber and drainer and inspected by Council officers.
21. All civil works (including driveways, road connections and crossings into the public road reserve) is to be constructed in accordance with Council's Guidelines for Civil Engineering Design and Construction for Development".

PRIOR TO OCCUPATION

22. Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority (PCA). In this regard an application must be lodged with the PCA in conjunction with any request to carry out a final inspection.
23. The occupation certificate shall not be issued until Council as the certifying authority for water and sewer inspections has undertaken and approved the final installation of all plumbing and drainage fixtures and the Certificate of Compliance has been supplied by the licensed installer.
24. An official street address for the property is to be obtained from Council with the assigned street number clearly displayed on the premises prior to the issue of an Occupation Certificate.
25. Consolidation of the existing lots (Lot 1 DP 1063404 and Lot 1 DP 176505) is to be effected with documentary evidence of the plan of consolidation and its registration with the NSW Land Registry submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate. The plan of consolidation is to show the official street address assigned by Council and referenced in Condition 22 above.
26. An easement is to be created and registered over Lot 1 DP 661076 benefiting the consolidated lots (Lot 1 DP 1063404 and Lot 1 DP 176505) as shown on the approved plans and in accordance with the requirements of section 88B of the *Conveyancing Act 1919*. The easement is to be a minimum width of 1.5 metres and is to make provision for the nominated essential service connections to the subject land. Documentary evidence of the instrument creating the easement and its registration with the NSW Land Registry is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Engineering Requirements

27. The driveway access to Inch Lane is to be constructed in accordance with Lithgow City Council's "Specification for the Construction of Driveways, Footpath/Gutter Crossings and Footpaving" (Policy 10.8). Satisfactory driveway access to the site in accordance with the above is to be completed prior to the issue of an Occupation Certificate.
28. Prior to the issue of an Occupation Certificate, all water and sewer works (as required under Condition 4) are to be completed in compliance with the terms of the section 68 approval. Written certification that the works have been completed to the satisfaction of Council's Water and Wastewater Director are to be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

ADVISORY NOTES

Building Code of Australia Compliance

- AN1. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

- AN2. 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:
- the method of protection and
 - the date of installation of the system and
 - the installer's or manufacturers recommendations for the scope and frequency of future inspections for termite activity.

- AN3. 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:

- Pier holes/pad footings before filling with concrete.
- Trenches complete with reinforcing and prior to filling with concrete.
- Internal drainage carried out by licensed plumber prior to covering
- Reinforcing steel in position and before concrete is poured (footings, lintels, beams, columns, floors, walls and the like).
- Slab base if no piers required and prior to placement of the membrane.
- Floor frame, dampcourse, antcapping, foundation walls before floor material is laid.
- Framing when external wall and roof cladding is in place and prior to internal linings.
- External drainage (including onsite waste disposal system) installed by a licensed plumber and prior to covering.
- Wet area flashing prior to tiling or covering.
- Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
- 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.

- AN4. That truss validation details supplied by the truss manufacturer shall be provided to Council or the accredited certifier at or prior to the time of frame inspection (**alternatively, full design details are to be submitted prior to commencement of construction**).

Details shall include:

- (i) job address and builder's name;
- (ii) design wind velocity of N2;
- (iii) minimum ground snow load (Sg) 1.46kPa;
- (iv) terrain category;
- (v) truss spacing;
- (vi) roof pitch;
- (vii) material of roof;
- (viii) roof batten/purlin spacing;
- (ix) material of ceiling;

- job number

This includes design wind speed of the site incorporating tie-down details and bracing details in accordance with AS 1684.2-2006 (Residential Timber Framed Construction). Also includes window assembly being certified to AS 1288 (Glazing) and AS 2047 (Wind Speed Pressure).

- AN5. That all timber sizes, spacings and spans used in the construction of the building shall comply with the requirements of Australian Standard 1684 – 2010 "Timber Framing Code".
- AN6. That stairways and balustrades comply with the following requirements:
- That the stairway and construction (including flight, landings, goings, risers, slip resistance and the like) shall comply with the requirements of Part 3.9.1 of the Building Code of Australia, Housing Provisions.
 - That the balustrades to balconies, more than one metre above the ground, are to comply with the requirements of Part 3.9.2, Building Code of Australia, Housing Provisions. The space between balusters or the width of any opening in the balustrade or the width of any opening in the balustrade is not more than 125 mm except where the space between rails or the height of the opening is not more than 125 mm. Where wire balustrades are used, certification indicating compliance with the Building Code of Australia of is required prior to inspection.
 - That the height of balustrades to stairways, must comply with the requirements of Part 3.9.2, Building Code of Australia, Housing Provisions following. The balustrade has a height of not less than 865 mm above the nosing of the stair treads and the floor of the landing, access bridge or the like; and the space between the balusters or the width of any opening in balustrades (including any openable window or panel) is not more than 125mm. Where wire balustrades are used, certification indicating compliance with the Building Code of Australia of is required prior to inspection.
- AN7. That every glazed door, glazed panel that is capable of being mistaken for a doorway or unimpeded path of travel and other glazed panel is to be glazed with safety glazing complying with the provisions of Part 3.6, Building Code of Australia, Housing Provisions.
- AN8. The installation of hard wired and interconnected smoke alarm/s is required to be carried out in accordance with AS3786 and the Building Code of Australia. The licensed electrical contractor is required to submit to the Principal certifying authority a certificate certifying compliance with AS 3000 and AS 3786.
- AN9. 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".

Construction Certificate

- 1N10. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.