

10.1.1.2. ECDEV - 25/07/2022 - DA070/22 - Geotechnical Investigation Works, Lake Lyell

Prepared by	Lachlan Sims – Team Leader Development
Department	Economic Development and Environment
Authorised by	Director of People & Services
Property Details	Lot 103 DP 751651 – Lake Lyell, Magpie Hollow Road, Bowenfels
Property Owner	Energy Australia NSW Pty Ltd
Applicant	Energy Australia NSW Pty Ltd

Reference

Minute No. 22-94 Ordinary Meeting of Council held on 23 May 2022.

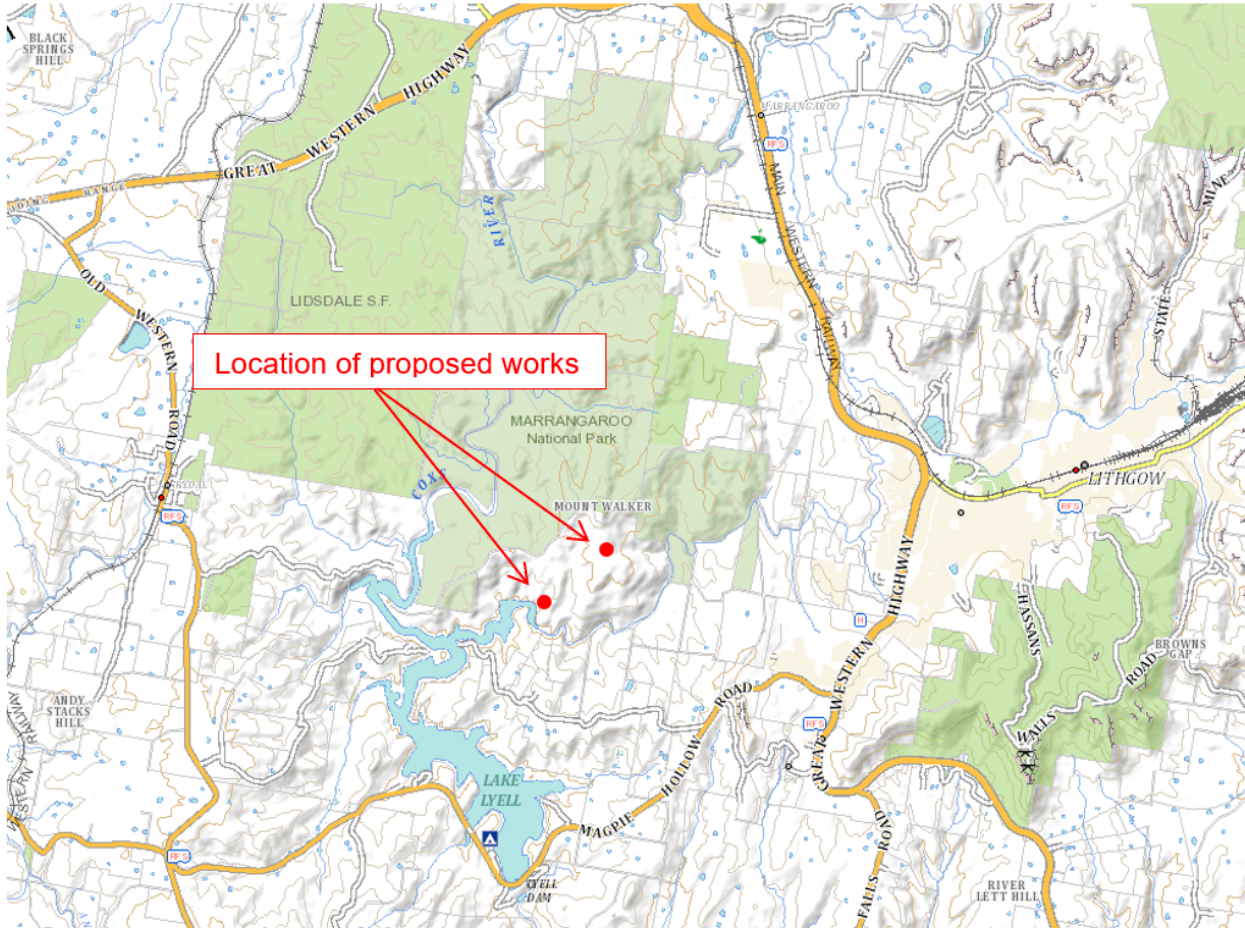
Summary

The purpose of this report is to inform Council of the assessment of Development Application 070/22 and provide a recommendation for its determination. DA (Development Application) 070/22 was lodged by Energy Australia on 31 March 2022 and seeks consent to undertake geotechnical investigation works on land adjacent to Lake Lyell and Mount Walker. The application is being reported to this Ordinary Meeting of Council for determination following its call in.

Commentary

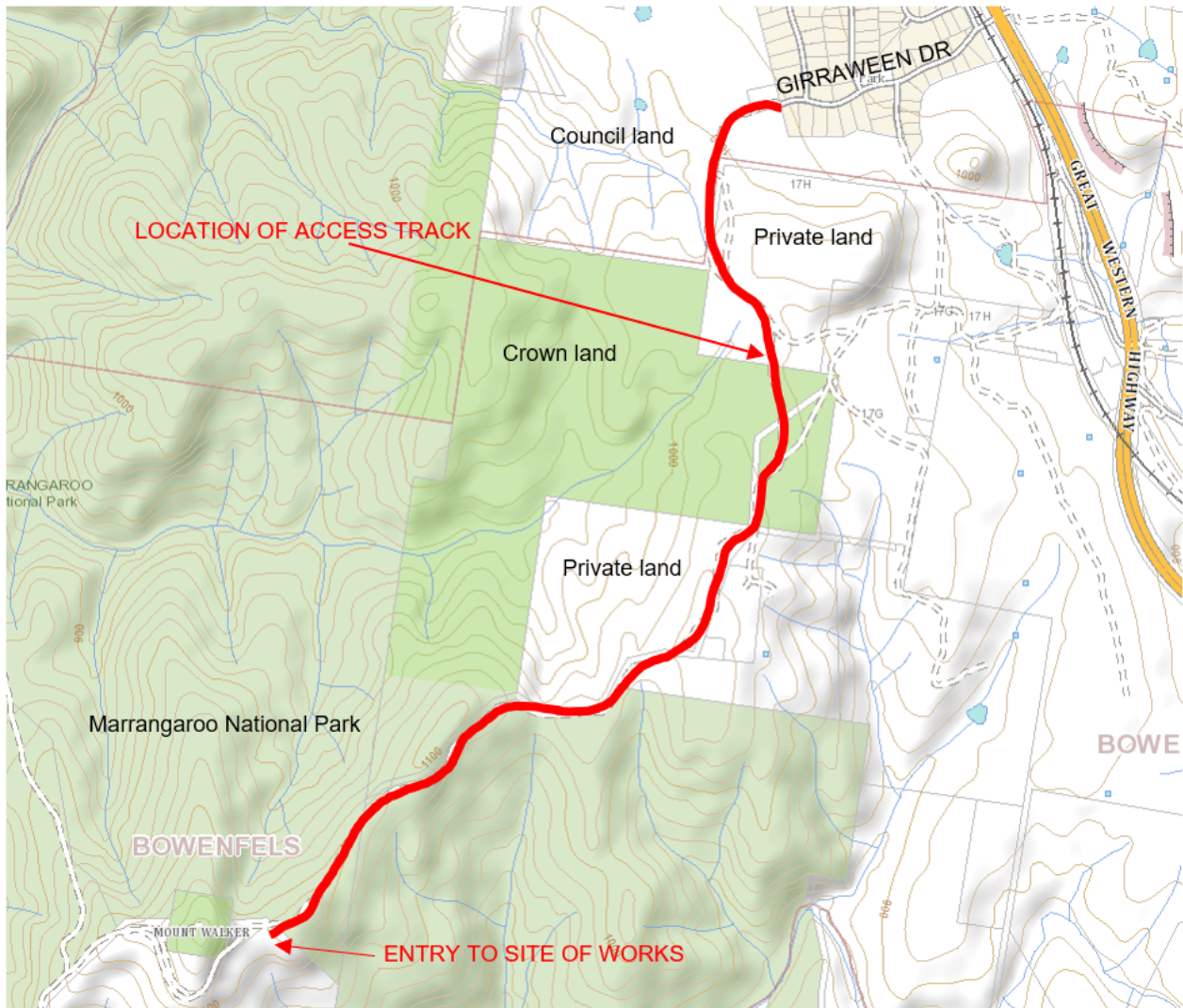
Notification of the "call-in" of DA070/22 was received on 27 April 2022 from Councillors Eric Mahony, Stephen Lesslie and Cassandra Coleman. In accordance with Council's Policy 7.7 Calling In of Development Applications by Councillors, a call-in report was presented to Council at its Ordinary Meeting held on 23 May 2022 (Minute No. 22-94). This application is being reported to Council for determination based on the above.

The development application seeks consent for the temporary use of land to undertake geotechnical investigation on land owned by Energy Australia. The works are proposed to take place over 3-6 months and are for the purposes of assessing the feasibility of the site for a future Pumped Hydro Energy Storage (PHES) system. The location of the proposal is in an isolated location adjacent to the foreshore of Lake Lyell and below Mount Walker in the locality of Bowenfels as illustrated on the map below.



The specifics of the geotechnical investigation works proposal involve the installation of nine temporary boreholes from seven drill pad locations on the site. Associated with the works are the creation of access tracks and site preparation to enable the drilling, which involves disturbance of less than 1 hectare. The information gathered from the works will enable the assessment of surface and subsurface conditions, site geology and hydrology to inform the feasibility investigations for the PHES.

Access to the site is proposed via existing access tracks and rights of way over private land, Crown land and Marrangaroo National Park. The primary entry point for access is from Girraween Drive, Marrangaroo. The proposed access point and access track to the site is illustrated in the map below:



Access of machinery and plant to the site is limited by the constraints of the existing access track. Following site establishment, machinery will be transported to, and will remain, on site for the duration of works. During the activities, the only recurring vehicular movement to and from the site will be via light vehicles.

The full details of the proposal, including the location of the borehole sites, access road construction and a full environmental assessment has been provided in the Statement of Environmental Effects and other supporting documentation submitted with the application. A copy of these documents is attached.

Policy Implications

Policy 7.7 Calling In of Development Applications by Councillors

This development application was called in under the provisions of this policy by Councillors Eric Mahony, Stephen Lesslie and Cassandra Coleman on 27 April 2022.

Lithgow Community Participation Plan

The development application was subject to community consultation in accordance with the Lithgow Community Participation Plan. Given the particulars of the proposal and its sensitive nature, additional consultation measures were undertaken beyond the requirements in the Community Participation Plan. The consultation undertaken included:

- Written notification to owners of land adjoining the site;
- Written notification to owners of land who may experience visual impacts from the works;
- Written notification to owners of land in Girraween Drive who may be impacted by the proposed site access;
- Written notification to owners of land containing the proposed access track (including the Department of Planning and Environment – Crown Land and the National Parks and Wildlife Service);
- Written notification of the proposal to recorded stakeholders in the local Aboriginal community;
- Exhibition of application documentation in hard copy form at Council's customer service counter;
- Exhibition of application documentation on Council's website.

In response to the public exhibition of the proposal, 10 public submissions were received as well as a response from the Department of Planning and Environment (Crown Land). Of the submissions received, one indicated support for the proposal while nine raised concerns and objections. Issues raised in the submissions were provided to the applicant who responded on 31 May 2022 with further clarification and additional information (see attached). The issues raised in the submissions are summarised in the table below.

Issue Raised	Comments/Response
Safety of access, one lane bridge, weight limit on bridge	The bridge over the Main Western Railway is not a Council asset and is the responsibility of UGL Regional Linx as the appointed management entity for the country rail network. They have advised Council the load rating for the bridge was completed in 2020 and has been confirmed as suitable and safe for all "general access vehicles" under the National Heavy Vehicle Regulations.
Use of Girraween Drive for heavy vehicle	The applicant has provided further clarification detailing proposed vehicle movements which

access	<p>indicates some heavy machinery accessing the site for establishment, then to transport drilling rigs. Once established, there will be no regular ongoing heavy vehicle access with daily/regular access by 4WD vehicles only.</p> <p>In addition to the above, all heavy vehicle road use approvals are required through the National Heavy Vehicle Regulator (NHVR) who informs all impacted authorities and provides for the issue of conditions of consent (or the rejection) for approval of individual vehicles. In this case, the relevant impacted authorities who would be informed include Lithgow City Council, Transport for NSW and UGL Regional Linx. The NHVR is the regulatory authority to monitor and for residents to report any illegal access to. The NHVR will investigate and impose appropriate penalties for any infringements substantiated.</p> <p>To ensure traffic impacts of the development activity are minimised, it is recommended that the applicant provide a Traffic Management Plan to Council for approval prior to works commencing.</p>
Inadequacy of Girraween Drive, poor state of repair	<p>The condition of Girraween Drive has been raised with Council's Infrastructure Services team. The current road surface and width are considered acceptable to enable the limited and short-term use of Girraween Drive for access to the site.</p>
Increased traffic movements, public safety risk	<p>The increased traffic movements will not be significant and although increased from current conditions are not sufficient to restrict or prevent access to the site based on the minimal and short-term access arrangements proposed.</p> <p>To ensure traffic impacts of the development activity are minimised, it is recommended that the applicant provide a Traffic Management Plan to Council for approval prior to works commencing.</p>
Vehicle noise	<p>Some additional vehicle noise is acknowledged. As noted above, heavy vehicles will only access the site during site establishment and demobilisation. Based on this, the additional noise generated will be minimal and negligible.</p>
Alternative access options	<p>Neither Sugarman's Road (through Lidsdale State Forest) or Sir Thomas Mitchell Drive are</p>

	considered to provide practical or feasible access to the site in the circumstances. Given the scale and temporary nature of the development, it would be unreasonable to require access via either of these options.
Improvements to access track will attract recreational users	The access track traverses private land, Council land, Crown land and national park land under existing agreements. The access track is not open to the public and access is restricted. No public access will be facilitated by the proposal.
Poor state of access track, inadequacy for vehicle access, continuing erosion	Minor improvements will be made to the existing access track as required to facilitate access. The applicant has evaluated the condition of the track and considers it acceptable for access to the site for the proposed works.
Approval required under Roads Act 1993	The development does not propose direct access to a classified (main) road or any works on a public road, therefore approval under the Roads Act 1993 is not required.
Limitations on consultation	Public consultation has been undertaken by Council in accordance with the requirements in the Lithgow Community Participation Plan. In the circumstances of the case, additional consultation has been undertaken by Council given the particulars of the proposed development. Any additional consultation by the applicant has been undertaken on their own volition separate from the development assessment process.
Insufficient flora and fauna assessment	The flora and fauna assessment and other environmental impact assessment considerations for the proposal has been undertaken by reputable and qualified consultants on behalf of the applicant. Council is satisfied with the quality and extent of the environmental assessment undertaken.
No local Aboriginal consultation	The application is supported by an Aboriginal Heritage Due Diligence Assessment Report which has addressed potential impacts on cultural heritage. The report has been undertaken by qualified and reputable consultants who have engaged with relevant Aboriginal stakeholders. In addition, Council specifically notified key stakeholders in the local Aboriginal community providing the opportunity to comment and review the proposal.
Unacceptable noise levels	The noise impacts of the development have been addressed in accordance with accepted standards and regulatory requirements. Given

	the isolated location of the works and its relative low scale and short duration, no significant noise impacts are expected.
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Many of the submissions above raise valid concerns due to uncertainties with the use of Girraween Drive for access, the movement of heavy vehicles to and from the site and impact on local amenity and traffic movements. In this regard, it is recommended the applicant provide further details to Council's satisfaction detailing how traffic access to and from the site will be managed during site establishment, the geotechnical works and during demobilisation. A condition of consent is recommended that requires the submission of a Traffic Management Plan to Council for approval prior to works commencing to aid in addressing these issues.

Financial Implications

- Budget approved - N/A for the assessment of the development application.
- Cost centre - N/A for the assessment of the development application.
- Expended to date - N/A
- Future potential impact – N/A

Legal and Risk Management Implications

Environmental Planning and Assessment Act 1979

The proposed development requires consent in accordance with the *Environmental Planning and Assessment Act 1979* and under the *Lithgow Local Environmental Plan 2014*. In determining a development application, Council as the consent authority is required to take into consideration the matters of relevance under Section 4.15 of the Act. These are addressed in the attached Planning Assessment Report. The application is recommended for approval and has been assessed as achieving compliance with relevant regulatory requirements.

Attachments

1. Statement of Environmental Effects - DA070/22 [**10.1.1.2.1** - 69 pages]
2. Engineering Design Drawings - DA070/22 [**10.1.1.2.2** - 23 pages]
3. Flora and Fauna Assessment - DA070/22 [**10.1.1.2.3** - 106 pages]
4. Aboriginal Heritage Due Diligence Assessment - DA070/22 [**10.1.1.2.4** - 46 pages]
5. Applicant's Response to Issues Raised in Submissions - DA070/22 [**10.1.1.2.5** - 9 pages]
6. Planning Assessment Report and Recommended Consent Conditions - DA070/22 [**10.1.1.2.6** - 20 pages]

Recommendation

THAT:

1. Development Application DA070/22 be APPROVED subject to conditions of consent as detailed in the attached planning assessment report.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.