COUNCIL ASSESSMENT REPORT

Panel Reference	2019WES002
DA Number	DA016/19
LGA	City of Lithgow Council
Proposed Development	Asbestos Disposal Area
Street Address	Lot 3 and Part Lot 5 DP829137, within the Wallerawang Ash Repository site to the south of Kerosene Vale Ash Repository.
Applicant/Owner	Aurecon Australasia Pty Ltd / EnergyAustralia NSW Pty Ltd
Date of DA lodgement	31 January 2019
Number of Submissions	One (1)
Recommendation	Approval subject to conditions.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	The development is Designated Development requiring the application to be submitted to the Western Regional Planning Panel for determination as the proposal is for 'Particular designated development' being for the purposes of *waste management facilities or works*, which meet the requirements for designated development under Clause 32 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000.*
List of all relevant s4.15(1)(a) matters	• Contaminated Land Management Act 1997, • Conveyancing Act 1919, • Crown Land Management Act 2016, • Native Title Act 1993 • Roads Act 1993, • Environment Protection and Biodiversity Conservation Act 1991, • Biodiversity Conservation Act 2016, • Protection of the Environment Operations Act 1997, • Waste Avoidance and Resource Recovery Act 2001 (WARR Act), • Rural Fires Act 1997 • Water Management Act 2000 • State Environmental Planning Policy No 33—Hazardous & Offensive Development • State Environmental Planning Policy No 44 – Koala Habitat Protection • State Environmental Planning Policy No 55—Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007, • State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, • Lithgow Local Environmental Plan 2014; SP2 Land Use Table, Clauses 7.1, 7.4, 7.5 and 7.7.
List all documents submitted with this report for the Panel's consideration	• **Assessment Report and conditions** • **Attachment 1** • **Attachment 2** • **Pubic Submission (one) 4 parts** • **RMS submission 2 parts** • **Response to Submissions by EnergyAustralia** • **Section 4.16 Response**
Report prepared by	Paul Cashel
Report date	**28/08/19**

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	**Yes**
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? *e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*	**Yes**
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	**Not Applicable**
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**Not Applicable**
Conditions Have draft conditions been provided to the applicant for comment? *Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*	**Yes, & with agreement from owner.**

Executive Summary

Lithgow Council is in receipt of Designated Development Application DA016/19 from Aurecon Australasia Pty Ltd on behalf of owner EnergyAustralia NSW Pty Ltd for an additional asbestos disposal area to be located within the existing 'Wallerawang Coal Ash Repository' site to the south of Kerosene Vale Ash Repository on Part Lot 5 DP 829137, north of the Wallerawang Power Station, Main Street Wallerawang NSW 2845. The site is proposed to be accessed from the former Wallerawang Power Station site via the Angus Place Coal Haul Road.

In November 2014, EnergyAustralia announced that it would close Wallerawang Power Station (WWPS) due to ongoing lower energy demand, lack of access to competitively priced coal and high operating costs. EnergyAustralia has commenced the decommissioning, demolition and rehabilitation of the power station, which is known as the WWPS Closure Project.

EnergyAustralia propose to construct and operate a new asbestos disposal area that would have sufficient capacity to receive all the asbestos waste that is expected to be generated during the WWPS Closure project.

The development is Designated Development requiring the application to be submitted to the Western Regional Planning Panel for determination as the proposal is for 'Particular designated development' being for the purposes of *waste management facilities or works*, which meet the requirements for designated development under Clause 32 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000.* See Part 7 of Schedule 7 - Regionally significant development of State Environmental Planning Policy (State and Regional Development) 2011.

The land is zoned SP2 (Electricity Generating Works) in accordance with Council's planning instrument, being *Lithgow Local Environmental Plan* (LEP) *2014.*

The development, being a 'waste or resource management facility', is permissible under the Infrastructure SEPP.

The application has been assessed against the relevant Acts and Environmental Planning Policies, including:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000 (EP&A Regulation);
- Contaminated Land Management Act 1997,
- Conveyancing Act 1919,
- Crown Land Management Act 2016,
- Native Title Act 1993
- Roads Act 1993,
- Environment Protection and Biodiversity Conservation Act 1991,
- Biodiversity Conservation Act 2016,
- Protection of the Environment Operations Act 1997,
- Waste Avoidance and Resource Recovery Act 2001 (WARR Act),
- Rural Fires Act 1997
- Water Management Act 2000

- State Environmental Planning Policy No 33—Hazardous & Offensive Development
- State Environmental Planning Policy No 44 – Koala Habitat Protection
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007,
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011,
- Lithgow Local Environmental Plan 2014; SP2 Land Use Table, Clauses 7.1, 7.4, 7.5 and 7.7.

The development has been assessed against the environmental impacts on both the natural and built environments, and social and economic impacts in the locality; including:

- Adjoining land uses,
- Context and Setting,
- Safety and Security,
- Rehabilitation,
- Access/traffic,
- Heritage,
- Social and Economic Impact
- Soils,
- Water quality,
- Air and Microclimate,
- Natural Hazards,
- Flora and Fauna,
- Noise and Vibration.

The proposal was referred to the Department of Planning and Environment – Resources & Energy, Environment Protection Authority (EPA), NSW Department of Planning & Environment-Division of Resources & Geoscience, Geological Survey of NSW (GSNSW), Department of Primary Industries – Crown Lands, Water NSW, NSW Rural Fire Service, NSW Roads and Maritime Services, Endeavour Energy, Transgrid, John Holland Rail, and Council's Environment Officer.

The proposal was notified to surrounding landowners and placed on public display in Council's Administration Building and on the Planning Panel's web site for a period of 30 days to coincide with the required newspaper advertising period. The notification area was extensive and included the entire village of Lidsdale. Following a community onsite meeting, notification for a further 14 days occurred. During the notification periods one (1) submission was received.

The proposal is considered to comply with the relevant provisions of the applicable Acts and Environmental Planning Instruments. The development would be developed in accordance with relevant guidelines and appropriate management measures to avoid long-term environmental impacts to the surrounding area. The development would not conflict with any land uses in surrounding areas or affect any nearby residences.

The development is contained within the Wallerawang Power Station site vicinity and would not affect any environmentally sensitive areas, areas of high environmental values, or have adverse impacts to archaeological or cultural heritage sites.

The application is forwarded for determination by the Western Regional Planning Panel. The **recommendation** of Lithgow City Council is for **approval** subject to conditions of consent.

DEVELOPMENT ASSESSMENT REPORT – DA016/19 - PROPOSED ADDITIONAL ASBESTOS DISPOSAL AREA, LOT 3 & PART LOT 5 DP 829137, WALLERAWANG (COAL) ASH REPOSITORY SITE WALLERAWANG NSW 2845

1. PROPOSAL

Council is in receipt of Development Application DA016/19 from Aurecon Australasia Pty Ltd on behalf of owner EnergyAustralia NSW Pty Ltd for an additional asbestos disposal area to be located within the existing 'Wallerawang Coal Ash Repository' site located to the south of 'Kerosene Vale Coal Ash Repository' on Part Lot 5 DP 829137. This site is located to the north of the permanently closed Wallerawang Power Station (to be decommissioned & demolished and the source of the additional asbestos). The disposal area is proposed to be accessed directly from the non-operating Wallerawang Power Station site via the privately owned Angus Place Coal Haul Road on Lot 3 DP 829137 (which passes under the Castlereagh Highway).

The proposal is for the disposal of asbestos waste that will be generated by the separate development application for the 'Wallerawang Power Station Closure Project'. It is estimated that 7,000 cubic metres of asbestos waste would be generated which requires a landfill of approximately 11,000 cubic metres capacity due to packing inefficiencies once plastic wrapped and also to provide for a factor of error (variation) in the *estimated* amount of 'asbestos containing material' derived from the demolition.

The asbestos disposal area is proposed to have a footprint of up to 1.8 hectares. It would comprise six parallel, 250-metre long trenches each three (3) metres wide and three (3) metres deep. Each trench would be excavated and filled progressively as the need arose. The trenches would be excavated progressively and be filled to a depth of two-and-a-half (2.5) metres with bagged or wrapped asbestos waste.

This trench and fill method would enable the length of open trench to be matched to the volume of asbestos waste being generated by the Wallerawang Power Station Closure Project at any one time. This would also simplify the day-to-day maintenance of the proposed asbestos disposal area by minimising the need for management of erosion and sediment control, soil stockpiles and dust.

The additional new asbestos disposal area is proposed in a level area that is mostly cleared of vegetation being located in an area of a former open-cut (and underground) coal mine. There exists some sparse vegetation across the area comprising exotic grasses and shrubs that are of no biodiversity value.

The Wallerawang Power Station has been deregistered as an electricity generation facility and EnergyAustralia has commenced its decommissioning, demolition and rehabilitation, which is referred to as the 'WWPS Closure Project'. It should be noted that Lithgow City Council is also in receipt of DA015/19 being for the demolition and deconstruction of the remainder of the Wallerawang Power Station. The Closure Project will generate asbestos waste comprising **asbestos containing materials and insulation** that will require disposal. In the past, asbestos waste generated at the site has been disposed of at two on-site asbestos disposal areas adjacent the existing Wallerawang Coal Ash Repository. One of these areas reached capacity in

1989 and is closed and has revegetated; and the current disposal area is nearing capacity. Therefore, there is a need for a new location to dispose of asbestos waste generated by the Closure Project and this is proposed to continue on-site. It is estimated to take approximately two years to implement with the proposed asbestos disposal area to be operational throughout this period. A workforce of approximately 10 people is proposed.

It is proposed that the site ultimately be capped and revegetated.

The project area is shown in the photograph below (in the middle ground and extending to the left with the proposed trenches roughly parallel to the track):

2. SUMMARY

To assess DA016/19. It is recommended that the application be approved, subject to conditions.

3. LOCATION OF THE PROPOSAL

Legal Description:	Lot 3 and Part Lot 5 DP 829137
Council's Rating Property Address:	Wallerawang Ash Repository site (accessed via the private haul road (on Lot 3) from Wallerawang Power Station), Main Street WALLERAWANG NSW 2845

4. ZONING: The land is zoned SP2-(Special Purpose)-Infrastructure with an LEP map annotation of *Electricity Generating Works* in accordance with Council's planning instrument, being *Lithgow Local Environmental Plan* (LEP) *2014*.

5. PERMISSIBILITY: The development, being a 'waste disposal facility' is a prohibited land use under LEP 2014, however a 'waste or resource management facility', is permissible under State Environmental Planning Policy (Infrastructure) 2007 (ISEPP). Clause 121 of the ISEPP allows any person with consent to carry out a 'waste or resource management facility' (which includes a waste disposal facility) on land in a prescribed zone which includes SP2 infrastructure.

The development is defined under Council's LEP 2014, the Standard Instrument and ISEPP as:

waste disposal facility means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

waste or resource management facility *means any of the following:*
(a) a resource recovery facility,
(b) a waste disposal facility,
(c) a waste or resource transfer station,
(d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

This application is for **Integrated Development** because it will require a minor variation to environment protection licence (EPL) 766 to include the proposed asbestos disposal area as an additional asbestos disposal area if approved. As such the proposal is Integrated Development (with the *Protection of the Environment Operations Act 1997 (POEO Act))* under Division 4.8 of the Environmental Planning and Assessment Act.

This application is for **Designated Development** because the facility is located within a Sydney Drinking Water Catchment and additionally because it is proposed to dispose of waste that comprises more than 200 tonnes per year of waste material under Clause 32, Schedule 3 of the Environmental Planning and Assessment Regulation 2000.

5.1 COMMONWEALTH AND STATE LEGISLATION

Contaminated Land Management Act 1997

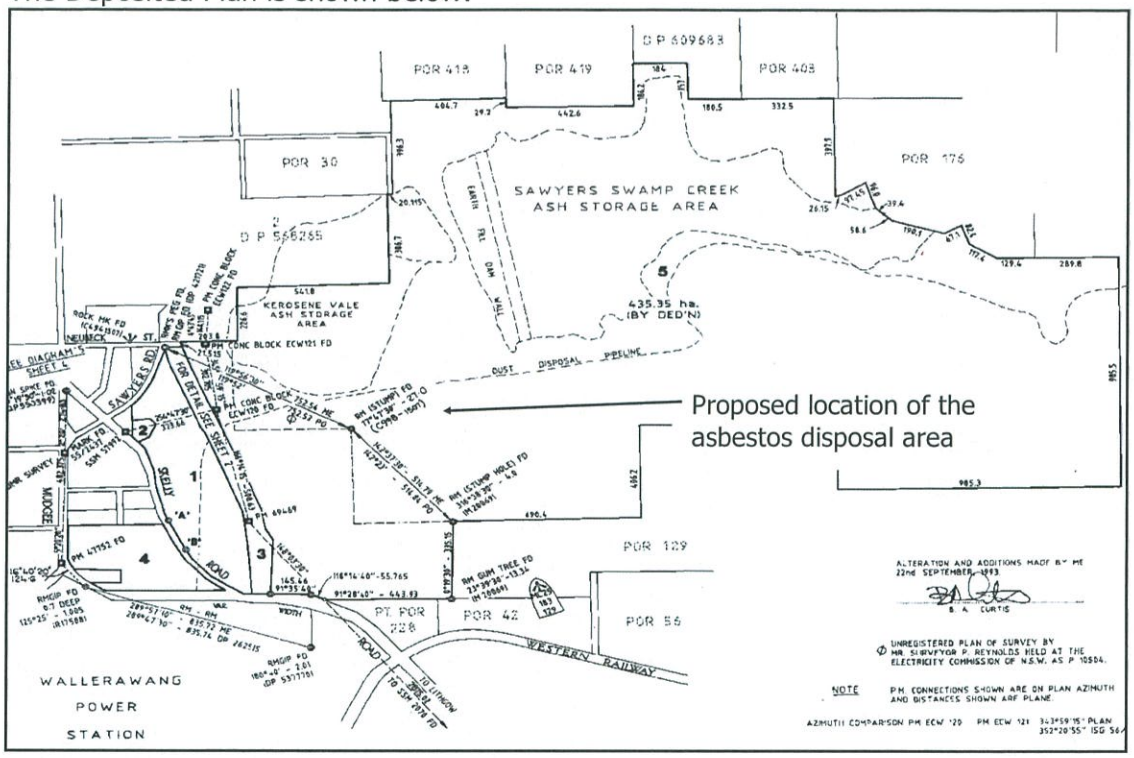
This applies to land with current contamination issues dealt with by the Environment Protection Authority (EPA) and registered as a contaminated site.

The subject site is not registered as a contaminated site by the EPA and does not involve the disturbance of a contaminated site and is therefore not subject to the Contaminated Land Management Act. The proposal will however be subject to licensing under the Protection of the Environment Operations Act 1997 (POEO Act).

Conveyancing Act 1919

The Deposited Plan indicates the haul road (Lot 3, owned by Energy Australia NSW Pty Ltd), a wet dust disposal pipeline and Sawyers Swamp Creek Ash Storage. The proposed location of the asbestos disposal area will not impact the haul road and be located approximately 100m away from the pipeline and Sawyers Swamp Creek.

The Deposited Plan is shown below:



Crown Land Management Act 2016

Council's rating system indicates that Lot 10 in DP 847372, being a very small parcel of land forming the coal haul road directly underneath the Castlereagh Highway, is owned by the Department of Lands. The Crown Lands Department were notified of the proposal and have raised no objections.

Native Title Act 1993

The Proposal is located on freehold land and not on Crown Land.

Roads Act 1993

The development proposes to utilise the existing Angus Place Coal Haul Road from the Wallerawang Power Station (the source of the asbestos containing materials). The Castlereagh Highway which is owned and controlled by the Roads and Maritime Services (RMS) would be utilised for truck movements of soil. Not all capping material will be available from within the site. The shortfall of about 15,000 cubic metres of capping material would need to be sourced from off-site. The EIS states that 'about 750 truckloads would be required to transport capping material to the site'. This is most likely to be transported in from major transport infrastructure projects in greater Sydney. Therefore Clause 77 of the Environmental Planning and Assessment Regulation 2000 states:

'the consent authority must give written notice of a development application for designated development to such public authorities (other than relevant concurrence authorities or approval bodies) as, in the opinion of the consent authority, may have an interest in the determination of that development application'.

As such the development was referred to the RMS. No particular objections are raised. The Services' full comments are reproduced later in this report.

Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)
Two threatened ecological communities, 32 threatened species and 12 migratory species are present within one kilometre of the proposed asbestos disposal area. The site consists of highly disturbed vegetation with some disturbance tolerant native species and only one native (non-threatened) tree. As such, there is limited removal of vegetation and biodiversity impacts are unlikely.

Accordingly, as there are no legal implications of this Act on the proposed development. A referral to the Commonwealth Department of the Environment and Energy under the Environmental Protection and Biodiversity Conservation Act is not required.

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.

The Proposal does not exceed the clearing threshold as set out in Section 7.2 of the *Biodiversity Conservation Regulation 2017* (BC Regulation 2017) as it involves clearing of under two hectares of vegetation on a lot that is between 40 and 1,000 hectares (the Proposal is located on a lot that is 438.8 hectares).

The Proposal is also not in an area identified on the 'Biodiversity Values Map' and therefore no further assessment under the Act is required.

Protection of the Environment Operations Act 1997
The applicant has stated in their EIS that:
"The Protection of the Environment Operations Act 1997 (POEO Act) is the principal legislation governing pollution and waste management in NSW. All activities listed in Schedule 1 of the POEO Act require an EPL to be obtained prior to commencement of construction.

EnergyAustralia holds Environmental Protection Licence 766 to carry out the scheduled activity of 'electricity generation' at the Wallerawang Power Station. The licence also applies to other ancillary activities carried out at the premises including chemical storage facilities, coal works, crushing, grinding or separating works, energy recovery and waste storage. Limit condition L4.4 requires that asbestos waste only be disposed 'at the approved asbestos burial site'. The licence will need to be varied to include the new asbestos area.

An Asbestos Management Plan, as described in the EIS, would be produced for the operation, closure and rehabilitation of the proposed asbestos disposal area. The plan would address the requirements for the disposal of asbestos waste outlined in Clause 80 of the *Protection of the Environment Operations (Waste) Regulation 2014* and would include correct operational procedures and handling and control measures to minimise the health risks to workers and the community during the unloading and disposal of asbestos waste, procedures for backfilling trenches filled with asbestos waste and environmental and personal [PPE] air monitoring."

No objection is raised to this approach.

The development was referred to the Environment Protection Authority for comment, who raise no objections. The full EPA comments are reproduced later in this report.

Waste Avoidance and Resource Recovery Act 2001 (WARR Act)

The applicant's EIS states:

"The primary aim of the Act is to reduce the volume of waste disposed of in NSW and to establish a hierarchy of avoidance, reuse, recycling and reprocessing and, as a last resort, disposal.

The proposal would generate minor waste streams which would be managed in accordance with the waste management hierarchy set out in the Act. It is noted that the PoEO (Waste) Regulation 2014 and the NSW Waste Avoidance and Resource Recovery Strategy 2014-21 (EPA 2014) details that asbestos containing materials cannot be re-used or recycled and direct treatment or disposal is the most appropriate management option. Note that the asbestos waste that is the subject of the Proposal is generated by the WWPS Closure Project and is not considered in this EIS in the context of the WARR Act."

The EPA has reviewed the EIS and is satisfied that the DA as proposed is worthy of support. Council raises no further concern in this regard.

Rural Fires Act 1997

Section 63 of the Rural Fires Act 1997 requires owners and occupiers of land to take practicable steps to prevent the occurrence of bush fires on, and to minimise the danger of the spread of a bush fire on or from land in their control.

The proposed asbestos disposal area is mapped as bush fire prone land. As any vegetation at the proposed asbestos disposal area would be removed in the short term, the bushfire hazard would be minimised.

The development is therefore not defined as being Integrated Development under this Act and approval from the Rural Fire Service is not required, however advice was sought from the Rural Fire Service (RFS) in relation to the emergency evacuation of employees via bushfire prone land in the event of a bushfire. No objection was raised subject to the imposition of a standard condition. The RFS's full comments are reproduced later in this report.

Water Management Act 2000

The development does not require works on or within waterfront land and therefore a Controlled Activity Approval is not required. The development is not proposed to require dewatering or use any new water resources and therefore the Water Management Act is not applicable.

Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) regulates development in NSW. Under this Act, the development is classified as 'designated development', as the development is within a Sydney Drinking Water Catchment and also because it is proposed to dispose of waste that comprises more than 200 tonnes per year of waste material under Clause 32, Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). Accordingly, approval for the Proposal is required under Division 4.1 of the Act.

Secretary's Environmental Assessment Requirements (SEARS)

The Secretary issued their requirements on 18 January 2018 (SEAR 1194). A copy is found at Attachment 1.

The EIS satisfactorily responds to the SEARs and also meets all the requirements of the EP&A Regulation 2000 for required content.

Strategic Context

The applicant has satisfactorily detailed the need for the proposal including a consideration of alternative options. It is agreed that the option selected is the most appropriate for the safe disposal of the asbestos generated by the necessary decommissioning of the Power Station.

An EIS is required to include, but is not limited to address, *the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).* The principles of ecologically sustainable development (as defined in the Regulation) have been addressed by the applicant and are considered to be most satisfactory for this proposal.

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:

5.1.1 Environmental Planning Instruments

State Environmental Planning Policy No 33—Hazardous and Offensive Development

SEPP 33 – Compliance Check		
	Clause	**Compliance**
3	Definitions of "potentially hazardous industry" and "potentially offensive industry"	NA

Comment: Asbestos is not specifically defined as a dangerous good or as potentially hazardous or potentially offensive under the *Hazardous and Offensive DA Guidelines - DoP 2011* and, therefore, does not trigger the storage threshold levels identified under SEPP 33 Table 1 or the requirement for a preliminary hazard analysis.

State Environmental Planning Policy 44 – Koala Habitat Protection

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

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

Comment: Given that there is one native tree proposed to be removed as part of the application and there have been no sightings of koala habitat within the area, it is considered unnecessary to proceed any further with the SEPP 44 assessment.

State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 – Compliance Check		
	Clause	**Compliance**
7	Contamination and remediation to be considered in determining development applications	NA

Comment: SEPP 55 promotes the remediation of contaminated land to reduce the risk of harm to human health or any other aspect of the environment. It specifies when consent is required for remediation work and provides considerations for determining development applications.

There has been no evidence of site contamination in any historical investigations or in the soil and water investigations undertaken for the development. As there are no known contamination issues at the proposed asbestos disposal area, this SEPP does not need further consideration or assessment.

State Environmental Planning Policy (Infrastructure) 2007

SEPP (Infrastructure) 2007 – Compliance Check		
	Clause	**Compliance**
45	Development likely to affect an electricity transmission or distribution network.	Yes, given written notice to the electricity supply authority.
Division 23 Waste or resource management facilities (120 – 123)		
120	Definitions	Yes.
121	Development permitted with consent	Yes, see body of this report.
123	Determination of development applications	Yes

Comment: The development requires written notice be given to the electricity supply authority for the area. Their comments are detailed later in this report.

As discussed previously, Clause 120 and 121 of the SEPP permits development on various land for the purpose of *waste or resource management facilities* to be carried out by any person with consent on land in a prescribed zone. The prescribed zones include SP2 Infrastructure.
The Proposal would occur on land zoned SP2 Infrastructure and therefore the proposal is permissible in the zone subject to consent.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

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

Comment: The proposed development was referred to Water NSW under the SEPP and also because the development is 'designated development' due to the property being located within the Sydney Drinking Water Catchment and adjacent to the Coxs River.

Water NSW has assessed the development and determined that it can achieve a neutral or beneficial effect on water quality subject to conditions of consent if approved. Therefore the development will comply with the provisions of the SEPP.

Water NSW's comments and conditions are reproduced later in this report.

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		**Compliance**
Land Use table	SP2 Infrastructure – (Electricity Generating Works)	Yes
7.1	Earthworks	Yes
7.4	Terrestrial biodiversity	Yes
7.5	Groundwater vulnerability	Yes
7.7	Sensitive lands	Yes

Permissibility has been discussed previously and falls within the authority of the ISEPP.

The development meets the objectives of the zone. The objectives being:

Objectives of zone

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To maintain or improve the water quality of receiving water catchments.*

The aims of the zone are to promote the orderly and economic development of *electricity generating works* and to prevent development that would detract from that provision or that would have a detrimental impact on water quality. The power station has reached the end of its functioning life and the site now requires rehabilitation. Part of this process is to effectively dispose of asbestos. It is considered that burying the identified asbestos adjacent to existing asbestos disposal areas and ash dams will not impact on the provision of any future electricity generating works on this large site.

Part 7 of the Lithgow LEP 2014 contains various environmental controls. The applicant has addressed these indirectly within their EIS (within its Part 6) being the assessment of all environmental factors. For the sake of completeness the relevant LEP Clauses and any associated maps are itemised below with a brief commentary. Further detail and assessment of the EIS is found later in this report (as relevant).

Clause 7.1 Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions

and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

(b) the effect of the development on the likely future use or redevelopment of the land,

(c) the quality of the fill or the soil to be excavated, or both,

(d) the effect of the development on the existing and likely amenity of adjoining properties,

(e) the source of any fill material and the destination of any excavated material,

(f) the likelihood of disturbing relics,

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,

(i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site or heritage conservation area.

It is considered that the proposed development satisfies all these requirements as addressed under 'Soils, geology and contamination' within the EIS.

Soils: The Environmental Impact Statement states that up to 13,500 cubic metres of material would be excavated from the site to create the trenches. This material will be excavated natural material and would be temporarily stockpiled in the northern portion of the site for later reuse as capping material.

Based on the maximum use of the disposal area, it is estimated that 28,000 cubic metres of material would be required to cap each trench to the existing ground level and to form the minimum 2.5 metres deep final capping layer.

The shortfall of 15,000 cubic metres of capping material would need to be sourced from off-site.

Construction of the proposed asbestos disposal area including vegetation removal, topsoil stripping and excavation of trenches would expose soils and increase the risk of soil erosion. Soil erosion can adversely impact the surrounding environment including being transported to downstream aquatic environments and affecting terrestrial vegetation.

A soil and water management plan is required for the development and includes erosion and sediment controls for construction activities as well as requirements to divert all surface runoff away from areas of soil disturbance and manage disturbed ground surfaces to prevent dust, erosion and sediment runoff.

There is the potential that construction of the proposed asbestos disposal area could disturb contaminated soils. However, as the potential contamination would be from the refuelling of machinery and vehicles, this would be localised contamination and

not widespread. Any impacts are considered to be very minor as earthmoving equipment would be used to excavate the landfill with minimal direct handling of soil.

The operation of the proposed asbestos disposal area has the potential to contaminate areas beyond the landfill site with asbestos. However, the area to the north of the site has been used for the purposes of ash storage dams and truck haulage of ash between the Power Station and the ash dams along the west and north of the site.

Some management strategies to help prevent earthworks from impacting the surrounding environment include:

- prior to commencement of works, stormwater management controls are to be installed to minimise erosion and sedimentation.
- once all asbestos waste disposal has occurred, a mound would be placed over the trenches, dressed with topsoil and vegetated.
- minimise areas of disturbance by only clearing the site progressively in line with the rate at which the Wallerawang Power Station Closure Project generates a need for landfill capacity at the site.
- install earth banks upslope of soil stockpiles, trenches and disturbed areas to divert water around the work site and thereby minimise water ingress to the site.
- install catch drains downslope of work areas to prevent sediment-laden runoff from the site.

Clause 7.4 Terrestrial biodiversity

The objective of this clause is to maintain terrestrial biodiversity by:

(a) protecting native fauna and flora, and

(b) protecting the ecological processes necessary for their continued existence, and

(c) encouraging the conservation and recovery of native fauna and flora and their habitats.

In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

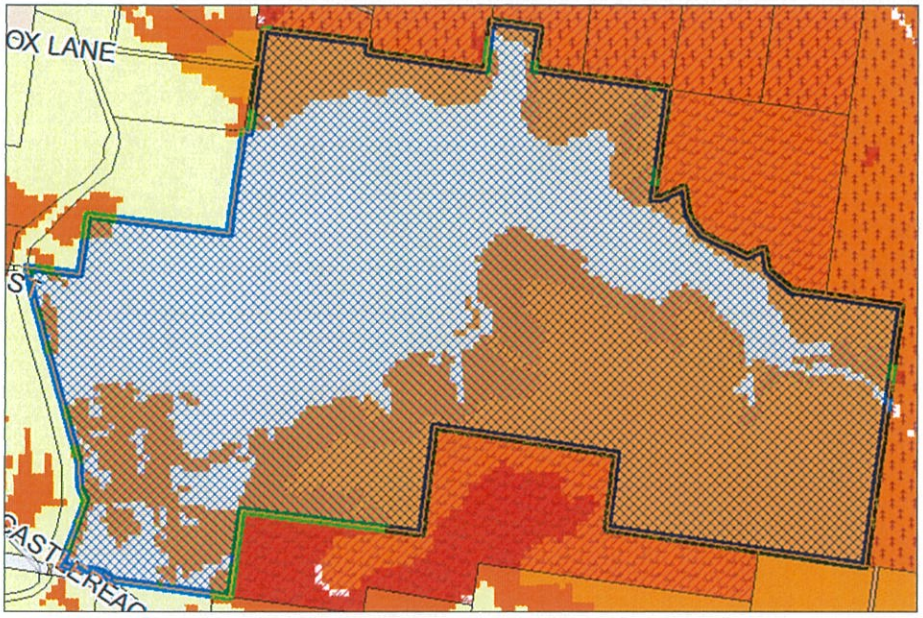
Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The property is located within the biodiversity mapped area as shown below. The area proposed for the asbestos disposal area is completely cleared of native vegetation and the proposal would not adversely impact biodiversity function, ecological value or significant flora or native fauna on the property. The area has previously been disturbed by open cut coal mining and other very large disposal areas and contains numerous weeds.



Clause 7.5 Groundwater vulnerability

The objectives of this clause are as follows:

(a) to maintain the hydrological functions of key groundwater systems,

(b) to protect vulnerable groundwater resources from depletion and contamination as a result of development.

In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following:

(a) the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),

(b) any adverse impacts the development may have on groundwater dependent ecosystems,

(c) the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),

(d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The property is identified as Groundwater Vulnerable. Groundwater dependent ecosystems would not be impacted upon by the development.

The proposed development was referred to Water NSW to assess the development and has determined that it can achieve a neutral or beneficial effect on water quality.

The Proposal does not include the construction of any water storage areas or the extraction of water from waterways. Dust controls at the proposed asbestos disposal area would be sourced from existing water storage areas at the Wallerawang Ash Repository and the Wallerawang Power Station site.

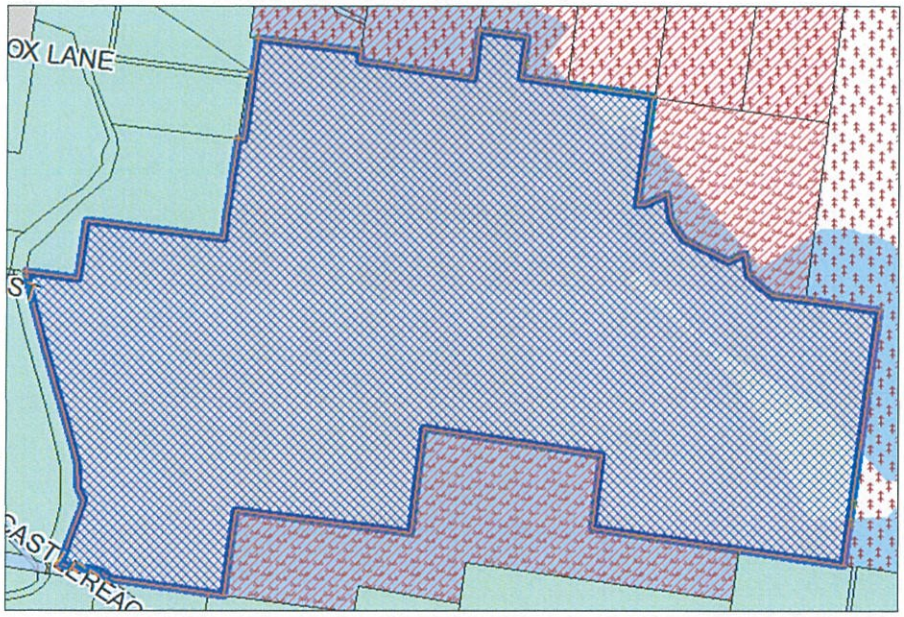
Groundwater quality within the Sawyers Swamp Creek catchment is affected by historic land use such as the surrounding open cut and underground coal mining, Sawyers Swamp Creek Ash Dam, Kerosene Vale Ash Dam and Kerosene Vale Ash Repository.

First order drainage lines traverse the proposed asbestos disposal area with a drainage divide running north to south through the centre of the site. Two second-order drainage lines run to the south-east and south-west and also facilitates drainage from the site towards the Power Station.

A Site Water Balance assessment has been prepared for the drainage basin and includes the proposed asbestos disposal area. This will help to determine the catchment inputs, partitioning, through flow and outputs of water. The water balance includes rainfall, surface run-off and surface water discharge, evapotranspiration, groundwater recharge and anthropogenic activities such as local pumping and discharges into the catchment from off-site sources.

The development is designed, sited and will be managed to avoid any significant adverse environmental impact. The applicant proposes three (3) mitigation measures and a continuation of the existing Water Quality Monitoring Program. The proposal is considered to contain adequate water quality measures and controls. If the proposal is approved, conditions of consent will be imposed to ensure that any groundwater impacts are minimised.

Water vulnerability is as mapped below:



Clause 7.7 Sensitive lands

The objective of this clause is to protect, maintain and improve the diversity and stability of landscapes including the restriction of:

- *(a) development on land generally unsuitable for development due to steep slopes or shallow soils, and*
- *(b) development on land subject to salinity, and*
- *(c) the removal of native vegetation, and*
- *(d) development on land that is subject to regular or permanent inundation, and*
- *(e) development on land that is within significant karst environments.*

Before determining a development application for development on land to which this clause applies, the consent authority must consider whether the development is likely to have any adverse impact on the following:

- *(a) any land with slopes greater than 25%,*
- *(b) any land subject to high erosion potential,*
- *(c) any land subject to salinity or impeded drainage,*
- *(d) any land subject to regular or permanent inundation,*
- *(e) any significant karst environment (including ecological, air quality and movement, water quality, biodiversity, geodiversity (geomorphical and geological), heritage, recreational and sociological values).*

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- *(a) the development is designed, sited and will be managed to avoid significant adverse environmental impact, or*
- *(b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- *(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The property contains sensitive land under Council's LEP 2014. The location of the development is flat. The development site is not subject to high erosion potential,

salinity, impeded drainage or expected to be subject to regular or permanent inundation. The development is designed, sited and will be managed to avoid significant adverse environmental impact. The sensitive land map is shown below:

The development complies with Council's LEP 2014.

5.1.2 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.

5.1.3 Any Development Control Plan

Nil.

5.1.4 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

Council has a Section 94A (now 7.12) Development Contributions Plan in place. It is considered that the proposal satisfies the exemptions under Part C7 and therefore no levy need be applied.

5.1.5 Any matters prescribed by the regulations that apply

None relevant.

5.1.6 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 for the asbestos disposal area is part of the greater power station site complex, being located within the Wallerawang Ash Repository, which is located approximately 2.5 kilometres north-east of the power station.

Wallerawang Ash Repository comprises Kerosene Vale Ash Repository, Sawyers Swamp Creek Ash Dam, Lidsdale Cut landfill area and a closed and current asbestos disposal area.

The site of the proposed asbestos disposal area is located on a large parcel of land measuring 438.8 hectares known as the Wallerawang Ash Repository and is surrounded by Centennial Coal Mine land. The Wallerawang Power Station site covers an area of approximately 80 hectares. It has a frontage to the Castlereagh Highway to the north, the Main Western Railway Line to the south and Main Street to the west. The Coxs River also bisects the site.

Surrounding land uses also include two active and one decommissioned switchyards owned by TransGrid. TransGrid also operate several transmission lines in the area, for which there are easements and right of access corridors.

The Lidsdale village is approximately 5 kilometres from the proposed asbestos site with the closest dwelling being located approximately 2 kilometres away.

The proposal is consistent with the surrounding land uses on EnergyAustralia Land and Centennial Coal land. The proposal will not cause any land use conflicts. This is partly due to the site being very isolated from public areas and residential zones.

Services: The development is not required to be connected to any services in the area. Services provided such as those by Transgrid and other electricity easements would not be impacted upon.

Context and Setting: The proposed development will be located within an established disposal area and will have no major impact on the context and setting in the vicinity.

The development would cause a negligible change to the visual character of the locality, as the area would continue, as present, to remain permanently closed to the public to prevent unauthorised access. A perimeter fence and signage would be located around the disposal site (which cannot be seen from outside the Lot) as well as the existing fencing to the private haul road.

Safety and Security: the site will be fenced around the boundary of the proposed asbestos disposal area with security signage to be erected at the entrance. The greater site is already secured with fencing and signage.

Rehabilitation: rehabilitation of the site would occur progressively as the open trench is backfilled following placement of asbestos waste. The ground surface rehabilitation would occur once the trench is capped with at least 0.5 metres of capping material to achieve the pre-existing ground level. Mulch or topsoil seeded with a cover crop or other suitable material would be used to establish a stable surface that would reduce the potential for erosion and sedimentation.

The final landform would depend on the extent of the footprint of the proposed asbestos disposal area and the volume of asbestos waste disposed. On completion of the asbestos disposal the trench will be capped with at least 2.5 metres deep of material, be dressed with topsoil and vegetated to provide a stable final surface.

Access/traffic: The asbestos waste would be transported from the Wallerawang Power Station site to the proposed asbestos disposal area along the existing internal (private) access roads including, principally, the Angus Place Coal Haul Road. The proposal does not include the development of any new access roads.

No asbestos waste is proposed to be transported on public roads.

The following plant and equipment would be used intermittently during construction and operation of the proposed asbestos disposal area:

- articulated dump truck, to transport asbestos waste from the Power Station,
- 20-tonne excavator, to excavate, fill and backfill asbestos disposal trenches and to shape the final capping layer
- 45-tonne tracked dozer, to clear vegetation and strip topsoil
- workforce vehicles, to transport people and equipment between the Power Station and the proposed asbestos disposal area.

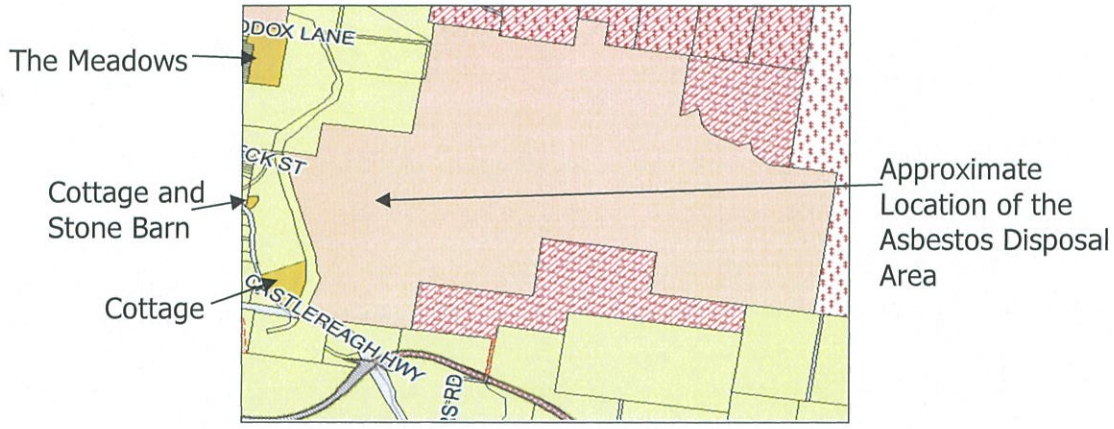
Plant and equipment use would vary during the operational phase of the proposal depending on the timing and rate at which the Wallerawang Power Station Closure Project generates asbestos waste.

As all the above vehicles will travel on private haul roads there will be no impact on traffic, however additional road trucks will be required to deliver imported fill material to the site for the final capping layer. The applicant has stated that these truck movements will fall within an existing Transitional Major Project development consent being Project Approval 07_0005 Mod 1. See Attachment 2 for a copy of this consent. See the RMS' agreement later in this report.

The access road into the site from the haul road is shown in the photograph below:

Heritage: The subject site is not heritage listed or in a heritage conservation area under Council's Local Environment Plan 2014.

The surrounding heritage items are shown on the map below:



There will be no impact to these surrounding items.

Social and Economic Impact: The proposed asbestos disposal area will have negligible social and economic impacts on the surrounding community.

The project would employ approximately 10 people during construction and operation of the development, including ongoing maintenance.

As the proposed development is compatible with other similar development in the locality (the other two asbestos disposal sites), it is expected to have minimal social and economic impact.

Air and Microclimate: Dust management strategies include having water carts and water available when required. Vehicles would be covered when delivering products from the power station site to the asbestos disposal area. The POEO would regulate dust impacts.

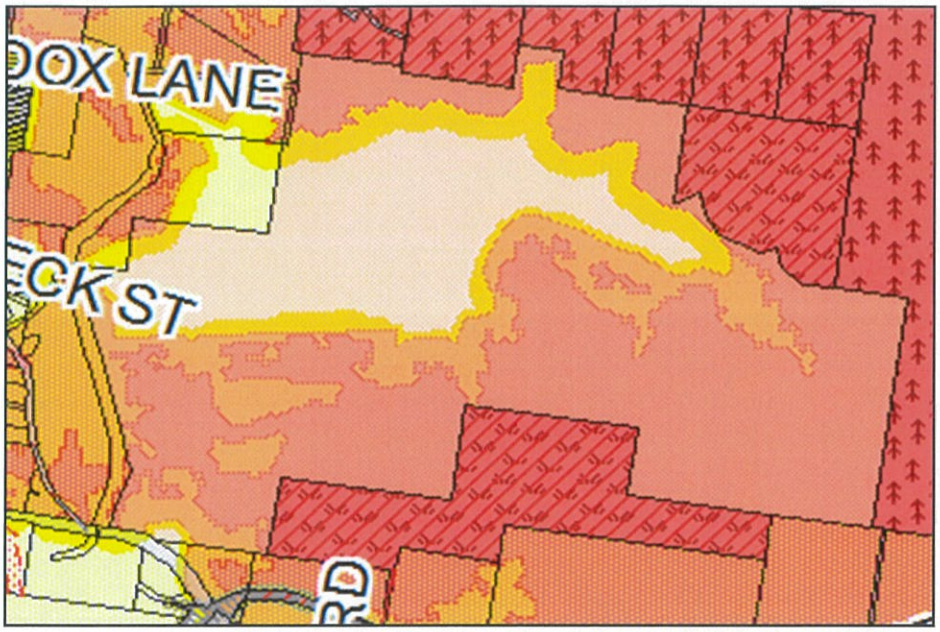
The development was referred to the Environmental Protection Authority (EPA) for comment. These comments are reproduced later in this report.

Natural Hazards: The property is identified as being bushfire prone on Council's bushfire map. The property is mapped as both category 1 (high bushfire risk) and category 2 (low bushfire risk).

The proposed asbestos disposal area is mapped as 'Vegetation Buffer' and delineates a 100-metre external buffer to the mapped Vegetation Category 1.

As the development does not involve a habitable building or a special fire protection purpose, a bushfire report is not required. However the development was referred to the Rural Fire Service for comment. These comments are reproduced later in this report.

The bushfire map is shown below:



Flora and Fauna: The applicant undertook a flora and fauna assessment that included species within a one-kilometre radius of the proposed asbestos disposal area. The assessment revealed two threatened ecological communities (Natural Temperate Grassland of the South-Eastern Highlands and White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland), 32 threatened species and 12 migratory species.

The Atlas of NSW Wildlife revealed two endangered species and 185 vulnerable species within a 10km radius of the site.

The proposed asbestos disposal area is in an area of previously disturbed vegetation dominated by low shrubs. There is no overstorey and contains scattered regrowth of Monterey Pines and a single Silver Wattle, trees are found to be absent from the site.

The dominant vegetation on the site is common native shrub associated with disturbed areas, Blackberry and exotic weed species with no Weeds of National Significance detected.

Due to the highly disturbed nature of the vegetation within the proposed asbestos disposal area its condition is not considered to be consistent with any threatened ecological community listed under the EPBC Act or BC Act.

The development involves clearing degraded vegetation. It is expected that no threatened species would be impacted upon or result in any negative impacts to the ecological value of the area.

It is expected that the development would have minimal impact to flora and fauna.

Noise and Vibration: The proposal is not expected to cause any noise issues to any residential land uses in the surrounding area as detailed in the EIS.

The Suitability of the site for the development

The surrounding land uses immediately within the site boundaries are mainly for waste disposal uses. The proposal is compatible with the objectives of the zone and is considered to have minimal impact on the surrounding amenity. Therefore, the site is considered to be suitable for the proposed development.

Any submissions made in accordance with this Act or the Regulations

The proposal was referred to the Department of Planning – Resources & Energy, Environment Protection Authority (EPA), NSW Department of Planning & Environment-Division of Resources & Geoscience, Geological Survey of NSW (GSNSW), Department of Primary Industries – Crown Lands, Water NSW, NSW Rural Fire Service, NSW Roads and Maritime Services, Endeavour Energy, Transgrid, John Holland Rail, and Council's Environmental Officer for commenting with recommendations detailed below.

The development is defined as being Designated Development under the Environmental Planning and Assessment Regulation 2000 that states:

78 Information to be contained in notice for designated development
(2) The period referred to under subclause (1) (e) must include the period of 30 days commencing on the day after which notice of the development application is first published in a newspaper under clause 80.

Therefore the proposal was notified to surrounding landowners and placed on public display in Council's Administration Building and on the Planning Panel's web site for a period of 30 days to coincide with the required newspaper advertising period. The notification area was extensive and included the entire village of Lidsdale. Following a community onsite meeting, notification for a further 14 days occurred. During the notification periods one (1) submission was received.

The submissions are summarised below:

DEPARTMENT OF PLANNING AND ENVIRONMENT – RESOURCES AND ENERGY
"Reference is made to Council's letter dated 12 February 2019 in relation to DA016/19, the Department has no comments to make on this application."

NSW DEPARTMENT OF PLANNING & ENVIRONMENT-DIVISION OF RESOURCES & GEOSCIENCE, GEOLOGICAL SURVEY OF NSW (GSNSW)
"GSNSW have no issues or comments."

ENVIRONMENT PROTECTION AUTHORITY (EPA)
"Reference is made to the Development Application DA016/19 for an Asbestos Disposal Area at lot 5 DP829137 within the Wallerawang Power Station premises adjacent to the Power Station Kerosene Vale Ash Emplacement Area received by EPA on 15 February 2019.

The EPA had previously provided its environmental assessment requirements for this proposal to the Department of Planning and Environment (DPE) on 17 January 2018.

Prior to that, the EPA was also consulted in relation to the proposal which included an onsite inspection of the various disposal options on 7 September 2017.

It is advised that the proposal to establish an asbestos disposal area at Lot 5 DP829137 will require a minor variation to environment protection licence (EPL) 766 to include the proposed asbestos disposal area as an additional asbestos disposal area if approved, and as such the proposal is Integrated Development (IDA) for the purposes of the EPA.

As Energy Australia holds environment protection licence 766 for the Wallerawang Power Station which includes the proposed asbestos area, the EPA will remain the ARA for the premises under the Protection of the Environment Operations Act 1997.

The EPA preferred position regarding asbestos disposal is that where asbestos disposal occurs outside of 'existing licenced waste landfill' facilities, that the creation of new areas for asbestos disposal should be kept at a minimum unless absolutely necessary. However, taking into consideration:

- The likely volumes of asbestos contaminated waste involved,
- The risk associated with transporting such volumes to an existing facility licensed to accept asbestos for disposal,
- That Power Station asbestos disposal area(s) have previously been approved and appropriately managed within the Power Station ash emplacement area in accordance with EPL 766, and
- That to further accommodate asbestos waste associated with the demolition and deconstruction of the Wallerawang Power Station, expanding the existing approved asbestos disposal area presents a risk to nearby residents of Lidsdale,

The EPA supports DA016/19 as proposed.

The EPA has also reviewed the Environmental Impact Statement (EIS) in support of DA016/19 and is satisfied that the environmental assessment requirements provided by the EPA have been addressed.

Having reviewed the EIS the EPA's recommended conditions of consent for the proposal are:

- That the development be undertaken in accordance with the management practices identified to avoid, mitigate or remedy potential impacts as identified in Section 7 of the Wallerawang Power Station Closure Project-Asbestos Disposal Area Environmental Impact Statement-Reference 253779 dated 28 October 2018.

- That the hours of operation be restricted to daytime hours in accordance with the Interim Construction Noise Guideline 2009 "recommended standard hours for construction work".

- That the proponent should apply all feasible and reasonable work practices to mitigate noise as described in the project Acoustic Assessment (Appendix F, Section 5, Table 5.1).

- That the proponent should inform all potentially impacted residents of the nature of the works to be carried out and of a readily accessible contact point for complaints as described in the project Acoustic Assessment (Appendix F, Section 5, Table 5.1).

- That the activity be undertaken in compliance with environment protection licence 766."

OFFICE OF ENVIRONMENT AND HERITAGE

Heritage Division

"Thank you for Development Application referral received on the 14/2/19 relating to DA016/19 - Wallerawang Power Station, requesting permission for an Asbestos Disposal Area, to the Heritage Division for comment.

A preliminary review based on the land description provided by Council has indicated that the subject site is neither within the curtilage, or adjacent to, a State Heritage Register (SHR) items, or known historical archaeology. Consequently, no specific comments will be provided as no impacts to SHR items or State or local archaeological remains have been identified."

DEPARTMENT OF PRIMARY INDUSTRIES- CROWN LANDS

"Reference is made to Council's letter of 12 February 2019 and request for comments on the proposed Asbestos Disposal Area on Lot 5 DP 829137. Department of Industry, Crown Lands has reviewed the proposal. The Department does not offer any comments or objections to the proposal."

WATER NSW

"Reference is made to Council's email received 14 February 2019 requesting the concurrence of Water NSW under Clause 11 of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* (the SEPP) in relation to a proposal for construction of a new asbestos disposal area for asbestos-containing waste generated from the demolition of Wallerawang Power Station.

The subject property, which has been inspected by Water NSW, is located within the Warragamba catchment which forms part of Sydney's water supply. Water NSW has considered the Environmental Impact Statement prepared by Aurecon Australasia Pty Ltd (dated 26 October 2018) in its assessment of the application.

Based on Water NSW's site inspection and the information provided, the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.

Water NSW concurs with Council granting consent to the application subject to the following conditions.

If, after receipt of this letter, revisions are made to any of the DA plans, Council does not need to refer the plans to Water NSW if the revisions would have no impact on water quality. Council is requested to amend the relevant Water NSW condition/s to reference the revised plans and notify the assessing officer by email.

General

1. The site layout and works shall be as outlined in the Environmental Impact Statement (Reference: 253776, Revision: 2, dated 26 October 2018) prepared by Aurecon Australasia Pty Ltd. No revisions to site layout, works or staging of the development that will have any impacts on water quality, shall be permitted without the agreement of Water NSW.

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

Construction Activities

2. A Soil and Water Management Plan shall be prepared for all works by a person with knowledge and experience in the preparation of such plans. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book". The Plan shall be prepared in consultation with Water NSW prior to issuance of a Construction Certificate and shall be to the satisfaction of Council. The Plan shall include controls to:

- prevent sediment or polluted water leaving the construction site or entering any natural drainage lines
- appropriate measures taken to prevent the infiltration of stormwater into the soil during the excavation and construction phase, and
- ensure that the construction site is regularly inspected, monitored and maintained until works have been completed and groundcover established.

3. The Soil and Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall be updated according to the staged works.

Reason for Conditions 2 & 3 – To manage adverse environmental and water quality impacts during the construction phase of the development so as to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase."

Council comment: As there will not be a construction certificate associated with this development the recommended condition No. 2 above has been amended to delete this reference.

RURAL FIRE SERVICE (RFS)

"Reference is made to Council's correspondence dated 14 February 2019 seeking advice regarding bush fire protection for the above Development Application in accordance with Section 4.14 of the 'Environmental Planning and Assessment Act 1979'.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

1. The property access road shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'."

ROADS AND MARITIME SERVICES

The RMS initially raised some concerns about additional truck movements. The EIS was not particularly clear that the applicant was relying on a previous approval for the importation of capping materials. That has now been clarified as below.

"Thank you for email correspondence received on 09 April 2019 forwarding Response to Submissions (RtS) for DA016/19 to Roads and Maritime Services for comment.

The RtS has been reviewed. It is noted from the documentation submitted that concerns raised in previous correspondence relating to the transport related impacts resulting from the short fall in capping material, which would need to be sourced off-site is subject to and consistent with all applicable conditions outlined in Project Approval 07_0005 Mod 1.

In relation to capping material transport impacts, this includes but is not limited to the proponent:

- Not importing more than 100 heavy vehicle movements of capping material to the site per day.
- Notify the Department (NSW Planning and Environment) before commencing the importation of capping material from sources outside of the Lithgow local government area.
- Implement warning signage on the Castlereagh Highway (HW18) on the approaches to the Castlereagh Highway/Wallerawang Power Station Haul Road intersection prior to importing capping material to the site to the satisfaction of Roads and Maritime.
- As part of the Construction Environmental Management Plan for the project a Construction Traffic Management Plan is to be prepared in consultation with Roads and Maritime.
- An Operational Transport Management Plan, including but not limited to a Driver Code of Conduct is to be prepared in consultation with Roads and Maritime prior to importing capping material from sources outside of the Lithgow local government area.

Noteworthy is that on the 6 November 2018, Roads and Maritime provided comments on an Operations Transport Management Plan that was forwarded directly from Energy Australia prior to it being forwarded to the Department of Planning and Environment.

Further to this, it is understood from recent correspondence directly with Energy Australia that alternate options for heavy vehicle type and routes are being considered."

ENDEAVOUR ENERGY

"Reference is made to Council's letter of 12 February 2019 regarding Development Application DA016/19 at Wallerawang Ash Repository Site Power Station - Main Street Wallerawang NSW 2845 (Lot 5 DP 829137) for 'Proposed Asbestos Disposal Area'.

As shown in the site plan from Endeavour Energy's G/Net master facility model 'Proposed Asbestos Disposal Area' there are:

- No easements over the site benefitting Endeavour Energy (active easements are indicated by red hatching).
- No existing electricity infrastructure on or in proximity of the site.

Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts/132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines/cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point/point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the *Electricity Supply Act 1995* (NSW).
Based on the foregoing, in regards to Endeavour Energy's role as an electricity supply authority, Endeavour Energy has no objection to the Development Application.

As an adjoining or nearby owners and occupiers, Endeavour Energy has noted that as shown in the extract of Figure 1-2; Key features of WWPS and Wallerawang Ash Repository ' included in the Environmental Impact Statement, the Blackmans Flat Zone Substation located at View Street Lidsdale (Lot 1 DP 711895) is approximately 1.2 kilometres to the north west along the Castlereagh Highway from the end of Maddox Lane 'Nearest residential receivers' area.

With Endeavour Energy's Blackmans Flat Zone Substation being a non-habitable building/site is comparatively less impacted. Whilst Endeavour Energy is not necessarily opposed to the Development Application, it will leave the determination in regards to the environmental impact and the appropriate development controls to the Council."

TRANSGRID

"Thank you for referring the abovementioned Development Application to TransGrid for review.

Please be advised after reviewing the proposal, TransGrid has no objections to the proposed development as it does not affect TransGrid's infrastructure. "

JOHN HOLLAND RAIL

"Reference is made to Council's letter dated 12 February 2019 notifying receipt of Development Application no. 016/19 (DA) and requesting TfNSW comment.

JHR have no objection to the proposed development on the condition that Council consider State Environmental Planning Policy (SEPP) (Infrastructure) 2007 and Development Near Rail Corridors and Busy Roads – Interim Guideline (2008) which is available at http://www.rms.nsw.gov.au/documents/projects/guideto-infrastructure-development-near-rail-corridors-busy-roads.pdf in its assessment of the DA."

Council's comment - The development would not be impacted upon by rail noise or vibration. The development (and earthwork) is also over 25m from the rail corridor as specified in the ISEPP.

ENVIRONMENTAL OFFICER

"Council's Environmental Officer has no comment in relation to the application and concurs with the Environmental Protection Authority (EPA) comments and conditions."

PUBLIC SUBMISSIONS

During the notification period, one (1) submission was received with the following concerns:

1. How will you ensure that all safety measures are met for the people of Lidsdale and Wallerawang?,

2. The development will have detrimental effects on people's health and safety.

Applicant's Response to Submissions:

"The proposed asbestos disposal area is located in a semi-rural area with few residential and commercial land uses nearby. The nearest residential properties are around 300 metres from the proposed disposal area. The Environmental Impact Statement (EIS) for the Asbestos Disposal Area found that the proposal would have a minimal impact on the community due to the large distance between the proposed asbestos disposal area and the nearest sensitive receivers. Neighbouring residents would be provided with a contact number for enquiries any complaints during the project.

EnergyAustraliaNSW has a Community Consultative Committee (CCC) which was formed in 2007 to share information and build relations with the local community. The group meets quarterly. EnergyAustraliaNSW has consulted with the CCC since 2016 regarding the Wallerawang DDR project, including the asbestos repository. This group would provide a forum for the people of Lidsdale and Wallerawang to raise any concerns regarding health and safety.

One of the objectives of the project is 'avoid the need for asbestos waste to be transported on public roads', which would minimise the safety risk of the project. Asbestos waste generated by the closure of WWPS would be buried and encapsulated within the asbestos disposal area.

The proposed asbestos disposal area would have a footprint of up to about 1.8 hectares. It would comprise six 250-metre long trenches that would be excavated to a depth of about three metres and width of about three metres. The trenches would be spaced about three metres apart. If more waste is generated by the WWPS Closure Project than currently estimated, additional trenches would be excavated in the temporary stockpile area, in the northern section of the footprint of the proposal.

The trenches would be excavated progressively and would be filled to a depth of about 2.5 metres with bagged or wrapped asbestos waste. This trench-and-fill method would enable the length of open trench to be matched to the volume of asbestos waste being generated by the WWPS Closure Project at any one time.

This would simplify the day-to-day maintenance of the proposed asbestos disposal area by minimising the need for management of erosion and sediment control, soil stockpiles and dust.

The management of asbestos materials and disposal of asbestos contaminated waste material to ensure the safety of works and the community is described in detail under Section 2 in the EIS.

As described in the EIS the key works to construct and operate the proposed asbestos disposal area to ensure public safety include:

- fencing the boundary of the proposed asbestos disposal area and erecting signage at the entrance(s) to the area;
- prior to ground disturbance works commencing, installing stormwater management controls to minimise erosion and sedimentation at the proposed asbestos disposal area;
- progressively clearing the proposed asbestos disposal area and mulching the removed vegetation;
- progressively stripping topsoil and temporarily stockpiling it nearby;
- progressively excavating trenches and temporarily stockpiling the excavated material.
- disposing of asbestos waste into the open trench to within 0.5 metres of the existing ground level; and
- backfilling the trench with capping material and once all asbestos waste disposal has occurred, placing a mound over the trenches and dressing it with topsoil and vegetating it.

As described in the EIS, to ensure the safety of the work force and community, asbestos waste will be managed in accordance with two separate plans, these will include the Asbestos Removal Control Plan and the Asbestos Management Plan.

The Asbestos Removal Control Plan, as described in the EIS, will be prepared by a licenced asbestos contractor and in accordance with the requirements of the Code of Practice, *How to Safely Remove Asbestos (SafeWork NSW 2016b).* The Asbestos Removal Control Plan would include measures such as:

- asbestos waste and soiled personal protective equipment would be double-bagged or double-wrapped in 0.2-millimetre thick heavy duty, low density polyethylene plastic bags or wrapping, marked 'asbestos waste' and sealed by tape;
- sealing of work areas;
- dust suppression and decontamination procedures for staff and bagged material leaving the removal area;
- environmental and personal air monitoring requirements to ensure the controls that are implemented are adequately managing the risk;
- requirements for transporting the asbestos waste from WWPS to the landfill, including that trucks be lined, leak proof and always covered.

An Asbestos Management Plan, as described in the SEE, would be produced for the operation, closure and rehabilitation of the proposed asbestos disposal area. The plan would address the requirements for the disposal of asbestos waste outlined in Section 80 of the *Protection of the Environment Operations (Waste) Regulation 2014* and would include correct operational procedures and handling and control measures to minimise the health risks to workers and the community during the unloading and disposal of asbestos waste, procedures for backfilling trenches filled with asbestos waste and environmental and personal air monitoring.

Specifically, the Asbestos Management Plan will address matters such as:

- once asbestos waste has been disposed of into the trench, applying an immediate covering of natural site soil at a minimum thickness of 150 millimetres;
- at the end of each day, applying a cap of at least 500 millimetres at the top of the trench;
- once all trenches are completed, applying a final capping layer of at least 2.5 metres to form the final landform;
- asbestos waste and no other waste materials including incompatible waste materials would be disposed of within the disposal area.

The Asbestos Management Plan would identify a range of measures to make sure that the site remains intact and is not subject to any disturbance, including appropriate fencing and warning signs displayed, appropriate design and stabilisation of the capping layer including a marking layer, and ongoing monitoring for dust and fibres as required. The Asbestos Management Plan would consider preparation of the site for future use, which includes protecting people, flora and fauna on or near the site from exposure to pollutants.

With these measures in place, it is not expected that the development will have detrimental effects on people's health and safety."

Council's comment – It is considered that the applicant has adequately addressed the concerns of the submitter.

5.3.9 The public interest

The proposal is considered to satisfy the public interest by avoiding the transportation of asbestos by road and selecting a location that has previously been disturbed which adjoins other large disposal areas that are located remotely from residential or commercial uses.

6. DISCUSSION AND CONCLUSIONS

The Wallerawang Power Station has been progressively developed since construction in 1957. The industrial site has been modified overtime with few remaining natural features. The development is for the disposal of asbestos waste for the closure of the power station under the Power Station Closure Project which is essentially a demolition and rehabilitation project.

An assessment was undertaken against ecological communities in the area. It was found that the development is consistent with the principles of ecologically sustainable development. The development provides an efficient way of disposing asbestos waste generated by the Wallerawang Power Station Closure Project.

The proposal is considered to comply with the relevant provisions of the applicable Acts and Environmental Planning Instruments. The development would be developed in accordance with relevant guidelines and appropriate management measures to avoid long-term environmental impacts to the surrounding area. The development would not conflict with any land uses in surrounding areas or affect any nearby residences.

The development is contained within the Wallerawang Power Station site vicinity and would not affect any environmentally sensitive areas, areas of high environmental values, or have adverse impacts to archaeological or cultural heritage sites.

As such it is recommended that development consent is issued subject to the conditions outlined below.

7. ATTACHMENTS

Attachment 1 – Secretary's Environmental Assessment Requirements (SEARS 1194).
Attachment 2 – Project Approval 07_0005.

Schedule A- Conditions of consent.

8. RECOMMENDATION

THAT development application DA016/19 is approved subject to conditions set out in Schedule A.

Report prepared by: Paul Cashel

Signed: Paul Cashel

Dated: 27/8/19

Development Manager: Jim Nichols

Signed: T. Nichols

Dated: 27/8/19

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 and the Environmental Planning and Assessment Act
- 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 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 compliance with the requirements of the Rural Fire Services.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A
Conditions of Consent (Consent Authority)

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, Environmental Impact Statement, and any further information provided during the process unless otherwise amended by the following conditions.

2. This approval shall lapse five years after the date on which it is granted, unless the works that are the subject of this approval are physically commenced on or before that time.

3. The developer shall ensure that all licences, permits and approvals are obtained as required by law and maintained as required with respect to the project. No condition of this approval removes the obligation for the developer to obtain, renew or comply with such licences, permits or approvals.

Construction Hours

4. Construction activities associated with the project shall only be undertaken during the following hours:
   a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive;
   b) 8:00 am to 1:00 pm on Saturdays; and
   c) at no time on Sundays or public holidays.
   as per Condition No. 14.

5. Activities resulting in impulsive or tonal noise emission (such as rock breaking or rock hammering) shall be limited to 9:00 am to 1:00 pm, Monday to Saturday and 2:00 pm to 5:00 pm, Monday to Friday. The developer shall not undertake such activities for more than three continuous hours and must provide a minimum one-hour respite period.

Water Quality

6. All equipment, machinery and vehicles associated with the construction and operation of the project shall be operated and maintained in a manner that minimises the potential for oil and grease spills/leaks.

Air Quality Impacts

7. The developer shall construct and operate the project in a manner that minimises dust impacts generated by construction works and operational activities, including wind-blown and traffic-generated dust, on the receiving environment. All activities on the site shall be undertaken with the objective of preventing visible emissions of dust from the site. Should such visible dust emissions occur at any time, the developer shall identify and implement all practicable dust mitigation measures, including cessation of relevant works, as appropriate, such that emissions of visible dust cease.

Waste Management

8. The developer shall not cause, permit or allow any waste generated outside the site to be received at the site for storage or disposal on the site, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*.

Only asbestos material from the Wallerawang Power Station is permitted.

Complaints and Enquiries Procedure

9. The developer shall record the details of all complaints received in an up-to-date **Complaints Register**. The Register shall record, but not necessarily be limited to:
   a) the date and time of the complaint;
   b) the means by which the complaint was made (e.g. telephone, email, mail, in person);
   c) any personal details of the complainant that were provided, or if no details were provided a note to that effect;
   d) the nature of the complaint;
   e) the time taken to respond to the complaint;
   f) any investigations and actions taken by the Developer in relation to the complaint;
   g) any follow-up contact with, and feedback from, the complainant; and
   h) if no action was taken by the Developer in relation to the complaint, the reason(s) why no action was taken.

   The Complaints Register shall be made available for inspection by Council upon request.

Environmental Management

10. The developer shall prepare and implement the following Management Plans:

    a) an Asbestos Removal Control Plan that addresses the removal of asbestos during the demolition of the Wallerawang Power Station;
    b) an Asbestos Management Plan for the operation, closure and rehabilitation of the proposed asbestos disposal area.

    The Management Plan is to be submitted and approved by Council prior to works commencing.

Capping Material Transport Management

11. Transportation of capping material sourced externally from the site shall only occur within the terms of Project Approval 07_0005 Mod 1.

Environmental Incident Reporting

12. The developer shall notify Council of any environmental incident within 12 hours of becoming aware of the incident. The Developer shall provide full written details of the incident to Council within seven days of the date on which the incident occurred.

ENVIRONMENT PROTECTION AUTHORITY (EPA)

13. That the development be undertaken in accordance with the management practices identified to avoid, mitigate or remedy potential impacts as identified in Section 7 of the Wallerawang Power Station Closure Project-Asbestos Disposal Area Environmental Impact Statement-Reference 253779 dated 28 October 2018.

14. That the hours of operation be restricted to daytime hours in accordance with the Interim Construction Noise Guideline 2009 "recommended standard hours for construction work".

15. That the proponent should apply all feasible and reasonable work practices to mitigate noise as described in the project Acoustic Assessment (Appendix F, Section 5, Table 5.1).

16. That the proponent should inform all potentially impacted residents of the nature of the works to be carried out and a readily accessible contact point for complaints as described in the project Acoustic Assessment (Appendix F, Section 5, Table 5.1).

17. That the activity be undertaken in compliance with environment protection licence 766.

WATER NSW

General

18. The site layout and works shall be as outlined in the Environmental Impact Statement (Reference: 253776, Revision: 2, dated 26 October 2018) prepared by Aurecon Australasia Pty Ltd.
No revisions to site layout, works or staging of the development that will have any impacts on water quality, shall be permitted without the agreement of Water NSW.

Reason for Condition 18 - Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.

Construction Activities

19. A Soil and Water Management Plan shall be prepared for all works by a person with knowledge and experience in the preparation of such plans. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book". The Plan shall be prepared in consultation with Water NSW prior to construction and shall be to the satisfaction of Council. The Plan shall include controls to:
    - prevent sediment or polluted water leaving the construction site or entering any natural drainage lines
    - appropriate measures taken to prevent the infiltration of stormwater into the soil during the excavation and construction phase, and
    - ensure that the construction site is regularly inspected, monitored and maintained until works have been completed and groundcover established.

20. The Soil and Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall be updated according to the staged works.

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

RURAL FIRE SERVICE (RFS)

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following condition shall apply:

21. The property access road and haul road shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.