

Transport for NSW Referral

Iain Watt
City of Newcastle Council
PO Box 489
NEWCASTLE NSW 2300

**State Environmental Planning Policy (Transport and Infrastructure) 2021 Concurrence
Development Application DA2023/01154 – 237 Wharf Road Newcastle- Concurrence
Letter**

Transport for NSW (TfNSW) refers to Development Application DA2023/01154 (DA) submitted by *EJE Architecture* (Applicant) that has been referred to TfNSW via the NSW Planning Portal on 27 December 2023 in accordance with clauses 2.98(2) and 2.99 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (TISEPP).

TfNSW is empowered to assess and determine whether to provide concurrence to the DA under the TISEPP as it is the rail authority for the Newcastle Light Rail (NLR) rail corridor for the purpose of the TISEPP.

TfNSW is the rail authority for the Newcastle Light Rail (NLR). Keolis Downer (KD) has been appointed by TfNSW to operate and manage the CRN to ensure any potential impacts to NLR corridor are considered and addressed.

This **DA** is seeking approval for Demolition of existing commercial building, and construction of new six storey residential apartment building, residential facilities including a swimming pool, and associated car parking at 37 Wharf Road Newcastle. The site is located immediately adjacent to NLR corridor.

Protection of Newcastle Light rail

TfNSW has assessed the development proposed by the DA in accordance with the requirements of clause 2.99 (4) of the TISEPP.

In this regard, TfNSW has taken into account:

- (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on—
 - (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
 - (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and

(b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

Concurrence granted subject to conditions

TfNSW has reviewed the application and decided to grant its concurrence to the proposed work (**DA2023/01154**), subject to the consent authority imposing the conditions provided in **TAB A**.

Should the consent authority determine not to impose the conditions provided in **TAB A**, in the form provided, then concurrence from TfNSW has not been granted to the DA.

The consent authority is also advised that TfNSW's concurrence is not to be amended, replaced or superseded by any concurrence which may be issued by any other authority, without further agreement from TfNSW.

Next Steps

If, at any point, the DA is amended prior to the consent authority's determination, please ensure that the amended DA and any new or amended supporting documents are provided to TfNSW for further assessment. Any amendments to the DA may alter the impacts of the proposed development on the rail corridor assessed by TfNSW, and TfNSW may need to amend (or refuse) its concurrence.

TfNSW would be grateful if a copy of the Notice of Determination and any conditions of consent for the DA be forwarded to TfNSW should the consent authority determine to grant consent to the DA.

In the event that the proposed development is the subject of a Land and Environment Court appeal, the consent authority's attention is also drawn to Section 8.12 of the Environmental Planning and Assessment Act 1979 which requires the consent authority to give notice of that appeal to a concurrence authority.

TfNSW thanks Council for its assistance.

Should you require further clarification regarding this matter, please don't hesitate to contact Kumar Kuruppu, Senior Transport Planner via email at kumar.kuruppu2@transport.nsw.gov.au.

Yours sincerely



18/4/2024

Mark Ozinga

A/Director Corridor and Network Protection

Strategic Transport Planning

CD24/00143

**TAB A – DA2023/01154 –
Required Conditions of Consent – Protection of TfNSW Infrastructure and Light
Rail Operations**

General Conditions

1. The applicant must comply with all Keolis Downer or any subsequent operator of Newcastle Light Rail (NLR Operator) policies, rules and procedures when working in and about the Newcastle Light Rail corridor;
2. The applicant must comply with the requirements of T HR CI 12090 ST Airspace and External Developments (Link: <https://www.transport.nsw.gov.au/industry/asset-standards-authority/find-a-standard/airspace-and-external-developments-1>) and Development Near Rail Corridors and Busy Roads- Interim Guidelines (Link [development-near-rail-corridors-and-busy-roads-interim-guideline-2008.ashx](https://www.transport.nsw.gov.au/industry/asset-standards-authority/find-a-standard/development-near-rail-corridors-and-busy-roads-interim-guideline-2008) (nsw.gov.au));
3. Activities of the applicant must not affect and/or restrict Newcastle Light Rail operations without prior written agreement between the applicant, and the NLR Operator, and it is a condition precedent that such written agreement must be obtained no later than two (2) months prior to the activity. Any requests for agreement are to include as a minimum the proposed duration, location, scope of works, and other information as required by the NLR Operator;
4. The applicant must apply to the NLR Operator for any required network shutdowns four (4) months prior to each individual required network shutdown event. Each request for network shutdown must include as a minimum the proposed shutdown dates, duration, location, scope of works, and other information as required by the Newcastle Light Rail Operator. The Newcastle Light Rail Operator may grant or refuse a request for network shutdown at its discretion;
5. The applicant shall provide safe and unimpeded access for NLR patrons traversing to and from the NLR stops at all times;
6. All associated costs incurred by the NLR Operator borne from any required network shutdown events including (but not limiting) management, bus replacement services, isolations and maintenance support must be reimbursed within thirty (30) days by the Applicant;
7. The relocation of any TfNSW services or infrastructure is to be at the applicant's cost and to TfNSW and/or NLR Operator Requirements and Standards;
8. All works/regulatory signage associated with the proposed development are to be at no cost to TfNSW;
9. TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the

approved development or the owner or occupier of the part of the site to which access is sought;

10. The applicant must hold current public liability insurance cover of minimum AUD\$ 250 million, unless otherwise advised by TfNSW, for the entire period of the construction programme. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. Prior to issuing the first Construction Certificate the Certifier must witness written proof of this insurance in conjunction with TfNSW's written advice to the applicant on the level of insurance required; and
11. All TfNSW and NLR operator's costs associated with review of plans, designs and legal must be borne by the applicant.

Prior to issue of subdivision works certificate or prior to the commencement of any works (whichever is the earlier):

12. Excavation in, above, below, and adjacent to rail corridors

The applicant should consult with TfNSW, and the Newcastle Light Rail (NLR) Operator to confirm the timing of each construction certificate and associated documentation and activities prior to preparation of requested documentation. The applicant should provide the information to TfNSW for review and endorsement. The Principal Certifying Authority (PCA) is not to issue the relevant Construction Certificate until received written confirmation from the NLR Operator and TfNSW that the following conditions have been complied with:

- Prior to the issue of any Construction Certificates, the applicant is to confirm in writing with TfNSW and/or NLR Operator what each Construction Certificate stage will involve;
- Prior to issue of the first construction certificate, or commencement of any preparatory, demolition or excavation works, whichever occurs first, the applicant shall provide the following to TfNSW and/or NLR Operator for review and endorsement:
 - Demolition and excavation plans;
 - Final geo-technical and structural report / drawings. Geotechnical reports should include any potential impact on the light rail corridor, easement and substratum;
 - Final construction methodology with construction details pertaining to structural support during excavation or ground penetration. Any temporary components, for example, shoring systems, formwork and falsework, that are located such that their failure has the potential to affect rail infrastructure facilities or operations shall have a minimum service life of 10 years;
 - Final cross-sectional drawings showing ground surface, rail tracks, sub soil profile, proposed demolition work, excavation and structural design of sub ground support adjacent to the Rail Corridor. Cross sectional drawings should also include the accurate RL depths and horizontal distances from assets (tracks, overhead lines, structures and cables) to the nearest point of excavation or ground penetration works. All measurements are to be verified by a Registered Surveyor;

- Details of the vibration and movement monitoring system that will be in place before excavation commences;
- Final Track Monitoring; and
- Detailed survey plan with location of services and NLR boundary

13. Process of Endorsement of Conditions

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever occurs first, the applicant shall:

- Consult with TfNSW, and the NLR Operator to ascertain requirements in relation to the protection of TfNSW's infrastructure and to confirm the timing of each construction certificate and associated documentation and activities prior to preparation of requested documentation;
- Sign Interface Agreement with TfNSW and/or the NLR Operator;
- Confirm in writing with TfNSW what each Construction Certificate stage will involve; and
- Submit all relevant documentation to TfNSW and NLR Operator as requested by TfNSW and obtain its written endorsement for each construction stage. A summary report for each construction stage shall also be provided to TfNSW and NLR Operator to demonstrate the following:
 - No adverse impacts to the light rail corridor and light rail operation by clearly identifying impacts and mitigation measures; and
 - Submitted documentation has satisfied the relevant conditions.

The PCA is not to issue the relevant Construction Certificate until they have received written confirmation from TfNSW that the relevant conditions have been complied with for each Construction Certificate.

Prior to the issue of the Construction Certificate or prior to the commencement of any works (whichever is the earlier):

14. Prior to the Issue of the relevant Construction Certificate, or prior to the commencement of any works (whichever is the earlier) the applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have impact on rail services and signalling. In the event rail services are identified within the subject development site or within close proximity to the development site, the applicant must discuss with NLR operator to whether these services could be affected by the works proposed or if they are to be relocated or incorporated within the site;

15. Prior to the issue of the relevant Construction Certificate or prior to the commencement of any works (whichever is the earlier), the applicant shall provide an engineering drawing which illustrates the delineation of the NLR Corridor located adjacent to the subject development site in relation to the work site. This engineering drawing shall include any site fencing, hoarding and scaffolding within ten (10) metres of the NLR Corridor;
16. Prior to the issue of the relevant Construction Certification or prior to the commencement of any works (whichever is the earlier), a final Cranage Layout Plan is to be submitted to TfNSW and the NLR Operator for review and endorsement. The final Cranage Layout Plan will include details of aerial cranage installation locations, mobilisation and erection plans, radial jib lengths, details of slew restrictions for prevention of cranage operations over the NLR Corridor boundary;
17. Prior to the issue of the relevant Construction Certificate or prior to the commencement of any works (whichever is the earlier), a pre-construction work Dilapidation Report of the Newcastle Light Rail and its assets shall be prepared by a qualified structural engineer. The dilapidation survey shall be undertaken via a joint site inspection by the representatives of the NLR Operator, and the applicant. These dilapidation surveys will establish the extent of existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report to TfNSW and the NLR Operator will be required unless otherwise notified by TfNSW.
18. Prior to the issue of the relevant Construction Certificate, the final acoustic assessment is to be submitted to PCA demonstrating how the proposed development will comply with the Department of Planning's document titled *"Development Near Rail Corridors and Busy Roads- Interim Guidelines"*. The Final Acoustic Report will detail existing noise levels, modelled noise and vibration levels generated by the building and building systems and any mitigations or acoustic treatments proposed for the building shell including doors, glazing and acoustic sealing; All recommendations of the acoustic assessment are to be incorporated in the construction documentation;
19. Prior to the issue of the relevant Construction Certificate, the applicant is to engage an Electrolysis Consultant to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the PCA with the application for the relevant Construction Certificate;
20. Prior to the issue of the relevant Construction Certificate or prior to the commencement of any works (whichever is the earlier), the applicant shall design lighting, signs and surfaces with reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor limiting glare, light spill and reflectivity to the satisfaction of TfNSW and/or the NLR Operator;
21. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of TfNSW (eg awning windows, louvres,

enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor or as otherwise agreed by TfNSW. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from TfNSW and NLR Operator confirming that this condition has been satisfied;

22. Prior to the issue of the relevant Construction Certificate, a detailed regime is to be prepared for consultation with and approval by, TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW and NLR Operator.
23. Prior to the issue of the relevant Construction Certificate or prior to the commencement of any works (whichever is the earlier), an Interface Agreement between the NLR Operator and the applicant must be signed and accepted by all parties. This agreement will include, but is not limited to:
 - Newcastle Light Rail Operational requirements;
 - Newcastle Light Rail access requirements;
 - Pre and post construction dilapidation reports;
 - The need for track possessions;
 - Review of the machinery to be used during excavation/ground penetration / construction works;
 - The need for track monitoring;
 - Design and installation of lights, signs and reflective material;
 - Endorsement of Risk Assessment/Management Plan and Safe Work Method Statements (SWMS);
 - Endorsement of plans regarding proposed craneage and other aerial operations;
 - Erection of scaffolding/hoarding;
 - Alteration of rail assets such as the OHW along of track and associated hoarding demarcation system, if undertaken by the applicant.
 - NLR Operator policies, rules and procedures compliance requirements;
 - Indemnities and releases;
 - Insurance requirements and conditions;
 - TfNSW and the NLR Operator's recovery of costs from the applicant for costs incurred by these parties in relation to the development (e.g. review of designs, shutdown /power outages costs including alternative transport, customer communications, loss of revenue etc) risk assessments and configuration change processes;
 - Interface coordination between the NLR Operator and the subject development construction works;

- The NLR Operator's reviews and impact assessment of the applicant's proposal, engineering design and construction works methodology on Newcastle Light Rail Operations and assets;
- Attendance and participation in the construction works risk assessment of construction activities to be performed in, above, about, and/or below the NLR Corridor;
- Arrangements for shutdowns; and
- Newcastle Light Rail restricted operations related costs attributed to the applicant requested and approved NLR site works access approval and access permit to work.

During Construction

24. All piling and excavation works are to be supervised by a geotechnical engineer experienced with such excavation projects;
25. No rock anchors/bolts (temporary or permanent) are to be installed into TfNSW's property or easements and the NLR corridor;
26. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 metres measured horizontally of any live electrical equipment unless a physical barrier such as a hoarding or structure provides separation;
27. During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant;
28. The applicant must mitigate all noise and vibration to the extent possible and provide vibration monitoring equipment and provide the results to the NLR Operator at intervals required by TfNSW and the NLR Operator, and immediately implement corrective actions in the event that the noise or vibration exceeds acceptable limits;
29. Rainwater from the roof must not be projected and/or falling into the rail corridor/assets and must be piped down the face of the building which faces the rail corridor. Given the site's location next to the rail property, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from TfNSW and the NLR Operator (or the delegated authority); and
30. No scaffolding is to be used within 6 horizontal metres of the rail corridor unless prior written approval has been obtained from the Newcastle Light Rail Operator and TfNSW and a physical barrier such as a hoarding or structure provides separation. To obtain approval the applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor.

Prior to the issue of the Occupation Certificate

31. The final (post-construction) dilapidation survey shall be undertaken via a joint inspection with representatives from the NLR Operator and/or TfNSW and the applicant. The dilapidation survey will be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report to TfNSW and the NLR Operator will be required unless otherwise notified by TfNSW. The final occupation certificate shall not be issued until written confirmation has been received from TfNSW and NLR Operator confirming their satisfaction with the dilapidation survey and/or rectification of any damage; and
32. Prior to the issue of the Occupation Certificate, the applicant shall demonstrate that lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor were installed limiting glare and reflectivity to the satisfaction of TfNSW and NLR Operator.

Ausgrid Referral



3/01/2024

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NSW 2300

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Wallsend NSW 2287
All mail to PO Box 487
Newcastle NSW 2300
T +61 2 131 525
www.ausgrid.com.au

Dear Iain

Proposed Development at 237 WHARF ROAD, NEWCASTLE 2300
Development Application No. DA2023/01154

I refer to your application CNR63931 concerning the above development. This letter is Ausgrid's response under clause 45(2) of the *State Environmental planning Policy (Infrastructure) 2007*.

As you would be aware, the assessment and evaluation of environmental impacts for a new development consent (or where a development consent is modified) is undertaken in accordance with requirements of Section 79C of the *Environmental Planning and Assessment Act 1979*.

In this regard, Ausgrid has assessed this DA with consideration of the existing Ausgrid's infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.

Please note the following information in relation to the construction of the development:

Supply Of Electricity

We recommend engaging an electrical professional who knows how to design your connection and the type of connection to apply for. To apply for a connection the developer will need to visit Ausgrid's website <https://www.ausgrid.com.au/Connections/Get-connected>. An assessment will be carried out based on the information provided which may include whether or not the existing network can support the expected electrical load of the development.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au for information regarding connecting to Ausgrid's network.

Underground Mains

The works described in your notification are also in the vicinity of underground electricity assets. In addition to DBYD searches I recommend that you to conduct a ground search to locate electricity assets immediately prior to commencing work to check for updates of installed utilities.

Please refer to Ausgrid's Network Standard 156 - Working near or around underground cables which can be found on Ausgrid's website at www.ausgrid.com.au and Workcover Document– 'Work Near Underground Assets'

I note Ausgrid has a kiosk substation and low voltage pillar located on the property. Any alterations to Ausgrid's underground electricity mains will be Contestable Works and funded by Developer.

Please do not hesitate to contact me if you require any further information or assistance.

Yours sincerely

Damien Schweinberger

Damien Schweinberger
Engineering Officer
Newcastle Design & Planning Portfolio

☎: 49101443

✉: dschweinberger@ausgrid.com.au

☎ (02) 4951 9459

🌐 www.ausgrid.com.au

Ausgrid Reference: 1900126049

NSW Government
Subsidence Advisory

Attention: EJE Architecture
Via email: mail@eje.com.au

Lot/DP: 102//736173 & 1//747803
Address: 237 WHARF ROAD NEWCASTLE
District: NEWCASTLE
Proposal: NEW RESIDENTIAL APARTMENT BUILDING AND BASEMENT CARPARK

Dear EJE Architecture,

Notice of Determination

I refer to your development application for the above property.

Your application has been assessed and approval is granted for the proposed development under section 22 of the *Coal Mine Subsidence Compensation Act 2017*.

Determination Date: 20 November 2023
Approval to Lapse on: 20 November 2028

Approval has been granted, subject to the conditions set out in the attached determination under Schedule 1. The plans stamped with conditional approval are attached.

This determination only applies to the development described in the plans and associated documentation relating to this application and provided to Subsidence Advisory NSW.

If the proposed development is amended, Subsidence Advisory must be notified to determine if any variations to the determination are required.

To satisfy the conditions of approval please submit documentation confirming the conditions under Schedule 1 have been met via email to subsidedevelopment@customerservice.nsw.gov.au, quoting reference number TBA23-03018.

Should you have any questions regarding the determination, please contact me on (02) 4908 4300 or at subsidedevelopment@customerservice.nsw.gov.au

Kind Regards,



Shane McDonald
Senior Risk Engineer

SCHEDULE 1

CONDITIONS OF APPROVAL

Application No: TBA23-03018
Applicant: EJE ARCHITECTURE
Lot and DP: 102//736173 & 1//747803
Site Address: 237 WHARF ROAD NEWCASTLE
Mine Subsidence District: NEWCASTLE
Proposal: NEW RESIDENTIAL APARTMENT BUILDING AND BASEMENT
CARPARK
Date: 20/11/2023

GENERAL

Plans, Standards and Guidelines

- | | |
|----|---|
| 1. | These conditions of approval under s.22 of the <i>Coal Mine Subsidence Compensation Act 2017</i> (the Act) only apply to the development described in the plans and associated documentation relating to TBA23-03018 .
Any amendments or subsequent modifications to the development renders this approval invalid. |
| 2. | This approval expires 5 years after the date the approval was granted if building, engineering or construction work relating to the application has not physically commenced on the land. |

POST CONSTRUCTION

- | | |
|----|--|
| 3. | Survey Monitoring
Establish 4 survey monitoring reference marks on and around the circumference of the building(s) so that building movement can be monitored should mine subsidence occur. |
| 4. | Certification of Works
Upon completion of construction, submit certification from a qualified builder or certifier that confirms construction is in accordance with the plans approved by Subsidence Advisory. |