

24 August 2021

The General Manager  
Strathfield Council  
65 Homebush Road  
Strathfield NSW 2135

**ATTENTION: JOSEPH GILLIES**

**STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007  
CONCURRENCE DEVELOPMENT APPLICATION DA2020/256 CNR-16845  
2 PILGRIM AVENUE & 11-13 ALBERT ROAD, STRATHFIELD NSW**

I refer to Council's Referral requesting concurrence for the above development application in accordance with Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007 (**Infrastructure SEPP**) and our previous discussions regarding a request for land owner's consent from the Transport Asset Holding Entity of NSW (**TAHE**) in relation to the development application.

**1 Background**

As Council is aware, the Development Application proposes the construction of the proposed development's driveway access and pedestrian access and the carrying out of landscaping works on Lot 2 DP862623 (**Lot 2**).

Lot 2 is owned by TAHE.

At the time that the development application was lodged, Sydney Trains was exercising two functions under instruments of delegation in relation to the development application:

1. as the owner of Lot 2 that is the subject of the development application, on behalf of TAHE; and
2. as the rail authority for the Inner West and Western Lines heavy rail corridor (including infrastructure) with concurrence functions in respect of the proposed development pursuant to the Infrastructure SEPP.

## 2 Concurrency

Sydney Trains has assessed the proposed development in accordance with the requirements of Clause 86(4) of the Infrastructure SEPP, being:

- 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.

Sydney Trains has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in development application **DA2020/256**, subject to Council imposing the Deferred Commencement condition provided in Attachment A, and operational conditions listed in Attachment B that will need to be complied with upon satisfaction of the Deferred Commencement Condition.

Should Council choose not to impose the Deferred Commencement condition in Attachment A, and the operational conditions provided in Attachment B (as written), then concurrence from Sydney Trains has not been granted to the proposed development.

In the event that this development proposal is the subject of a Land and Environment Court appeal, Council's attention is drawn to Section 8.12 of the *Environmental Planning and Assessment Act 1979* which requires Council to give notice of that appeal to a concurrence authority. Sydney Trains therefore requests that Council comply with this requirement should such an event occur.

Council is also advised that Sydney Trains' concurrence is not to be amended, replaced or superseded by any concurrence issued by any other rail authority, without further agreement from Sydney Trains.

## 3 Land owner consent

As of 1 July 2021, the land owner consent function and land disposal function for Lot 2 on behalf of TAHE was transferred from Sydney Trains to Transport for NSW (TfNSW).

As such, Sydney Trains no longer exercises any land owner consent function(s) on behalf of TAHE in relation to Lot 2 for the purpose of the development application.

However, it is the understanding of Sydney Trains that until such time as a Contract for Sale of Land between TAHE and the Applicant is exchanged for Lot 2, TfNSW, on behalf of TAHE, is unable to provide land owner's consent to the development application as there is no certainty that the land will be sold to the Applicant to provide the required development site access.

The TfNSW representative who is managing this matter is Richard Wolfson, Property Portfolio Manager (CBD & South), Property and Commercial Services (Email: [richard.wolfson@transport.nsw.gov.au](mailto:richard.wolfson@transport.nsw.gov.au)). It is understood that Richard Wolfson has contacted the Applicant to seek to progress the land sale negotiations to determine whether agreement can be reached regarding the sale of Lot 2 by TAHE to the Applicant and land owner consent can be provided to the development application.

For clarity, the exercise of Sydney Trains' concurrence function under the Infrastructure SEPP is separate to and independent of the land owner consent function of TfNSW/TAHE. Should TfNSW/TAHE and the Applicant not reach agreement on the sale of Lot 2 and, as a result a design change is required to the proposed development, then Council is advised that any new design will need to be reviewed by Sydney Trains before a new concurrence can be issued.

Please contact Sydney Trains Town Planning Management via email to [DA\\_sydneytrains@transport.nsw.gov.au](mailto:DA_sydneytrains@transport.nsw.gov.au) should you wish to discuss this matter. Finally, it is requested that a copy of any Notice of Determination and conditions of consent be forwarded to Sydney Trains.

Yours sincerely,

**Aidan Cahill**  
**A/ Director, Property & Commercial Services**  
**Sydney Trains**

***Deferred Commencement Condition***

*This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:*

**A1.** *The Applicant shall prepare and provide to Sydney Trains for review, comment and written endorsement the following final version items in compliance with relevant ASA Standards (<https://www.transport.nsw.gov.au/industry/asset-standards-authority>):*

- 1. Geotechnical and Structural report/drawings that meet Sydney Trains' requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.*
- 2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.*
- 3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.*
- 4. Detailed Survey Plan showing the relationship of the proposed development with respect to Sydney Trains' easement and rail corridor land.*
- 5. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.*
- 6. If required by Sydney Trains, a Monitoring Plan.*

*Any conditions issued as part of Sydney Trains endorsement of the above documents will also form part of the consent conditions that the Applicant is required to comply with.*

**ATTACHMENT B**

- *If required by Sydney Trains, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. 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 will be required within 10 days following the undertaking of the inspection, unless otherwise notified by Sydney Trains.*
- *If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- *The Applicant shall prepare an acoustic assessment 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 Applicant must incorporate in the development all the measures recommended in the report. A copy of the report is to be provided to the Principal Certifying Authority and Council prior to the issuing of a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the acoustic assessment are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.*
- *Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert 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 Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.*
- *Prior to the commencement of any works appropriate fencing must be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.*

- *The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary or design and construction of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.*
- *Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (e.g. 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 Sydney Trains (e.g. awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- *If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on the rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- *No metal ladders, tapes, and plant, machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.*
- *Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- *The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the railway corridor unless prior written approval has been obtained from Sydney Trains.*



- *During all stages of the development the Applicant must take extreme care to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.*
- *Excess soil is not allowed to enter, be spread or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.*
- *No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. 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. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.*
- *The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- *Prior to the issuing of a Construction Certificate, the following rail specific items are to be submitted to Sydney Trains for review and endorsement:*
  - *Machinery to be used during excavation/construction.*

*The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.*

- *The Applicant shall not at any stage block the corridor access gate/s and should make provision for easy and ongoing 24/7 access by rail vehicles, plant and equipment to support maintenance and emergency activities.*
- *No work (by personnel or machinery) is permitted within the rail corridor, or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, or access into the rail corridor, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant.*

- *Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.*
- *Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.*
- *Any conditions issued as part of Sydney Trains' approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.*
- *The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:*
  - *oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;*
  - *acts as the authorised representative of the Applicant; and*
  - *is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.*
- *Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.*
- *Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains external party interface team. In this instance the relevant interface team is Central Interface and they can be contacted via email on [Central\\_Interface@transport.nsw.gov.au](mailto:Central_Interface@transport.nsw.gov.au).*

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