

General Manager
Penrith City Council
PO Box 60
Penrith NSW 2751

Attention: Concurrence Referral Team

15 June 2022

**STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021
DEVELOPMENT APPLICATION – DA22/0318 (CNR-39362)
158-164 Old Bathurst Road, Emu Plains NSW 2750**

Dear Sir/Madam,

I refer to Council's referral requesting concurrence for the above development application in accordance with Clause 2.98 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)*.

Council is advised that TfNSW (Sydney Trains), via Instruments of Delegation, has been delegated to act as the rail authority for the heavy rail corridor, including infrastructure, and to process the concurrence for this development application.

As such, TfNSW (Sydney Trains) advises that the proposed development has been assessed in accordance with the requirements of Clause 2.98(4) of the Transport and 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.*

TfNSW (Sydney Trains) has taken the above requirements into consideration and has decided to grant its concurrence to the development proposed in development application **DA22/0318** subject to Council imposing the operational conditions as written in Attachment A that will need to be complied with.

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

In the event that this proposed development 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. TfNSW (Sydney Trains) therefore requests that Council comply with this requirement should such an event occur.

Council is also advised that this concurrence is not to be amended, replaced, or superseded by any concurrence issued by any other rail authority, without further agreement from TfNSW (Sydney Trains).

Please contact TfNSW (Sydney Trains) Town Planning Management via email to DA_sydneytrains@transport.nsw.gov.au should you wish to discuss this matter. Finally, it is requested that when the proposed development's Determination is issued by the Council, a copy of the Notice of Determination and conditions of consent are provided.

Sincerely,

A digital signature of Steven Heapy, appearing as a stylized cursive line.

Digitally signed
by Steven Heapy
Date: 2022.06.15
11:19:29 +10'00'

Steven Heapy
Manager Property Services
Transport for NSW

Attachment A

- The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- Prior to the commencement of works, the Applicant shall provide certification from a qualified Geotechnical and Structural Engineer stating that the proposed works are to have no negative impact on the rail corridor and associated rail infrastructure.
- Prior to the issue of a Construction Certificate, the Applicant shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains' representative.
- Prior to the issue of a Construction Certificate the Applicant is to provide structural details that the concrete slab or footings will be protected by a vapour barrier membrane. A copy of this detail is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- No work is permitted within the rail corridor or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant. 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 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.
- During all stages of the development the Applicant must take extreme care to prevent any form of pollution entering the rail 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.

- The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the rail corridor unless prior written approval has been obtained from Sydney Trains.
- If required by Sydney Trains, prior to the issue of a Construction Certificate, the Applicant shall provide a Validation Contamination Response report to Sydney Trains for review. Any cross contamination identified shall be removed by the Applicant under instructions from Sydney Trains. The Principal Certifying Authority is not to issue an Occupation Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- Sydney Trains advises there is a 11kV High Voltage Aerial Transmission Line in close proximity to the proposed works. All works within 6 metres of the nearest transmission line conductor must comply with:
 - i. ISSC 20 – Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure.
 - ii. The Safe Approach Distances (SADs) in the Sydney Trains Document titled “SMS-06-GD-0268 – Working Around Electrical Equipment”.
 - iii. “WorkCover Code of Practice – Work near Overhead Power Lines (The Code)”
- There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor and High Voltage Aerial Transmission Line(s) do not have an impact on the rail corridor, rail operations, or infrastructure assets. All Landscaping shall be in accordance with the Sydney Trains High Voltage Powerline Tree Management Plan. A final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Trains. No construction certificate can be issued until written confirmation has been received from Sydney Trains confirming that this condition has been complied with.
- 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 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.
- 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.

- 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 Interface Management team. In this instance the relevant interface team is West Interface, and they can be contacted via email on West_Interface@transport.nsw.gov.au.
- Sydney Trains or Transport for NSW, 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.