

The General Manager
Penrith City Council
concurrence.referral@penrith.city

28 March 2024

**STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021
DEVELOPMENT APPLICATION – Rev 23/0007 (CNR-64808)**

Stage 1: 184 Lord Sheffield Circuit, Penrith

Dear Sir/Madam,

I refer to Council's referral requesting concurrence for the above Development Application in accordance with Section 2.99 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 Section 2.99(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 **Rev 23/0007** subject to Council imposing the conditions as written in Attachment A that will need to be complied with.

Should Council choose not to impose the 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Council is also advised that this concurrence is not to be amended, replaced, or superseded by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 handwritten signature in black ink, appearing to be "Kylie Clarke".

Kylie Clarke

Acting Director Land and Maritime Planning
Transport for NSW

Attachment A

- *Prior to the issue of any Construction Certificate, an Accessible Path for pedestrians, that is compliant with the relevant DDA, DSAPT and BCA requirements is to be provided between the existing TfNSW multi-storey car park on Dunshea Street and the existing TAHE owned commuter car park shared zone on Lot 2, DP 1010950 (adjacent to the southern boundary of the subject site). This Accessible Path is to be designed in consultation with TfNSW. The final design is to be approved by TfNSW prior to the issue of any Construction Certificate.*
- *Prior to the commencement of any works, an Accessible Path for pedestrians, that is compliant with the relevant DDA, DSAPT and BCA requirements and approved by TfNSW is to be constructed between the existing TfNSW multi-storey car park on Dunshea Street and the existing TAHE owned commuter car park shared zone on Lot 2, DP 1010950 (adjacent to the southern boundary of the site). This path is to be constructed and fully operational with any associated traffic calming devices, signage, pedestrian safety crossings and the like, prior to the commencement of any works on site and is to be retained permanently as a secondary Accessible Path in addition to the proposed main path via the public access link through the Site that is the subject of this application.*
- *Prior to the issue of a Construction Certificate, detailed design information must be provided to and approved by TfNSW for an Accessible Path between the existing TfNSW multi-storey car park entrance on Dunshea Street and the main public access link through the subject site. The path of travel must be compliant with relevant DDA, DSAPT and BCA requirements.*
- *Prior to the issue of a Construction Certificate, a public right of way must be registered on the title(s) of the property that is the subject of this application, as marked in pink on the Plan prepared by Crone Architects, Drawing Plan No. DA-01-10510, Rev A, dated 17 November 2021, marked 'Proposed Easement for Public Access Plan', as uploaded to the NSW Planning Portal on 12 March 2024. The easement terms must allow for suitable accessible paths of travel to TfNSW and Council's satisfaction.*
- *TfNSW must be consulted during the Road Safety Audits (RSA) and CPTED Security Workshops for the proposed development, which involve pedestrian and bicycle access to and from Penrith Railway Station and the commuter car parks. The relevant RSA and Security risk workshop reports are to be issued to TfNSW for review and comments, prior to Construction.*
- *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 commencement of any works a Registered Surveyor shall peg-out the common property boundary between the development site and TAHE (Transport Asset Holding Entity) land and easements. A copy of the survey report indicating the location of pegs must be provided to Sydney Trains prior to the commencement of works.*
- *Prior to the issue of a Construction Certificate, the Applicant shall undertake a Dial Before You Dig search to establish the existence and location of any rail services. Persons performing the Dial Before You Dig search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with Sydney Trains as to whether these services are to be relocated or incorporated within the development site.*
- *Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority, Council and Sydney Trains certifying that the completed development meets the requirements of State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" as set down in the subject condition of this consent. Such a report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development, and that internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent.*
- *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.*
- *The Applicant shall provide a Geotechnical Engineering report to Sydney Trains for review by Sydney Trains' Geotechnical section prior to the commencement of works. The report shall demonstrate that the development has no negative impact on the*

rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by Sydney Trains. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on Sydney Trains Facilities by the development.

- *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.*
- *Prior to the issuing of a Construction Certificate, the following final version rail specific items are to be submitted to Sydney Trains for review, comment, and written endorsement:*
 - *Machinery to be used during excavation/construction.*
 - *Excavation/construction methodology and staging.*

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

- *Prior to the issuing of a Construction Certificate, a Rail Impact Assessment in compliance with AMB Standard T HR CI 12090 ST (Airspace and External Developments) shall to be submitted to Sydney Trains for review, comment, and written endorsement. The rail impact assessment shall demonstrate that the proposed development will not adversely impact on the rail corridor or rail infrastructure facilities (including 11kV & 66kV electrical cables). The Certifier is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- *The development must be designed and constructed so that supporting elements comply with the redundancy requirements or the minimum collision loads specified in Australian Standard AS5100. Prior to the issue of a Construction Certificate, the Applicant is to provide Sydney Trains with a report from a qualified structural engineer demonstrating that the structural design of the development satisfies the requirements of AS5100. The Principal Certifying Authority shall not issue the Construction Certificate until it has received written confirmation from Sydney Trains that it has received this report and the Principal Certifying Authority has also confirmed that the measures recommended in engineers report have been indicated on the Construction Drawings.*
- *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.

- *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.*
 - *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 the Sydney Trains confirming that this condition has been satisfied.*
 - *During all stages of the development the Applicant must take extreme care to prevent any form of pollution (including dust) 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.*
 - *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*
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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.

- *Prior to the issuing of any Occupation Certificate the Applicant must provide to Sydney Trains for review and endorsement a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The Principal Certifying Authority is not to issue any Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied. The maintenance plan must be implemented for the life of the approved development.*
- *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.*
- *No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed into TAHE (Transport Asset Holding Entity)/Sydney Trains property or easements. 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/Developer shall not at any stage block the corridor access gate on XXXX Street and should make provision for easy and ongoing 24/7 access by rail vehicles, plant, and equipment to support maintenance and emergency activities.*
- *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.*
- *Sydney Trains has a High Voltage Substation near this site. It is advised that the applicant consult a relevant expert to prepare an EMF (Electromagnetic Fields) report and implement any recommendations.*
- *Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a*

Registered Surveyor confirming that there has been no encroachment into TAHE (Transport Asset Holding Entity) property or easements, unless agreed to by TAHE (Transport Asset Holding Entity). 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.

- *If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for public liability insurance cover. If insurance cover is deemed necessary, this insurance must be for a sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure, and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains External Interface Management team to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains' written advice to the Applicant on the level of insurance required.*
- *If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.*
- *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.